SPONSOR: Rep. Phillips & Sen. Hansen
Reps. Morrison, Parker Selby, Carson, Spiegelman, Harris, Heffernan, Lambert; Sen. Huxtable

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

# HOUSE BILL NO. 431
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO THE USE AND REGULATION OF LIVE BAIT IN TIDAL AND NONTIDAL WATERS OF THE STATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 903, Title 7 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 903. Department of Natural Resources and Environmental Control; authority; permits; regulations.

(e) The Department, in accordance with the procedures under subchapters I and II of the Administrative Procedures Act (Chapter 101 of Title 29), has the authority to promulgate regulations, which shall have the force and effect of law, to enhance the conservation and management of coastal finfisheries, including the biological and socioeconomic aspects of coastal finfisheries. Any regulation pertaining to fishing for food fish shall require a statement addressing whether or not said regulation will have a significant impact upon the conservation of the fishery in question. Except where otherwise provided in this section, such regulations shall be consistent with this chapter, and may only include, and encompass, the following areas:

(1) a. Add legal fishing equipment or methods to fish for bait fish in addition to the provisions of § 908 of this title.

b. Closed and/or open areas to fish for bait fish according to the provisions of § 909 of this title.

c. Add legal fishing equipment or methods to fish for food fish in addition to § 910 of this title.

d. Restrict fishing within areas designated as striped bass spawning areas according to § 930 of this title; provided that any restriction on fishing is consistent with fishing restrictions imposed by other states adjoining designated striped bass spawning areas located in Delaware.

e. Closed or open areas within Rehoboth Bay and its tributaries, Indian River and Indian River Bay and their tributaries, Little Assawoman Bay and its tributaries, Big Assawoman Bay and its tributaries, Nanticoke River and its tributaries and all tributaries entering the Delaware River and Delaware Bay to fishing with gill nets for food fish.


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f. Restrict the mesh size of recreational drift gill nets that may be fished for American shad in the Delaware River.

g. Regulate and/or restrict the type of fishing gear or methods which may be used within the geographical boundaries of permitted artificial reef sites within the Delaware Bay and within Delaware's territorial sea (defined as 0 to 3 miles seaward of Delaware's ocean coastline).

h. Regulate and/or restrict which species of live bait, including bait fish, as defined in § 906 of this title, may be harvested, imported, transported, sold, or used as bait to fish in the tidal waters of this State, for the purpose of controlling invasive species or pathogens.

(k) The Department shall have the authority to issue permits, licenses, and applications for the harvesting, importing, transporting, sale, or use of live bait for fishing in tidal waters of the State.

(l) The Department may, by regulation, prohibit the importation or sale of any live bait species originating from another state or country, for the purpose of controlling invasive species or pathogens.

Section 2. Amend § 942, Title 7 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 942. Control of invasive finfish ~~species.~~ species, including for use as bait.

(a) Definitions.

(1) "Invasive finfish species" means a non-native finfish species, including the eggs thereof or other biological material, capable of spread, reproduction or propagation, whose introduction or proliferation causes or is likely to cause, as determined by the Department, economic or environmental harm or harm to human health or safety.

(2) "Non-native finfish species" means finfish species that are not naturally occurring in Delaware but are capable of living and reproducing in the wild without continued human agency, including invasive finfish species. Non-native finfish species may include genetically modified native species.

(b) The Department is authorized to authorize, regulate, prohibit, prescribe, or restrict anywhere in the State the acquisition, importation, introduction, possession, transportation, disposition, or release into public or private tidal waters of any invasive finfish ~~species.~~ species, including for use as bait in tidal waters. The Department is further authorized to prescribe and regulate the methods used to take or eliminate invasive finfish species from tidal waters.

(c) All regulations promulgated under this section must be published in a public notice on the Department's website.

Section 3. Amend Chapter 11, Title 7 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1108. Live bait.

(a) The Department shall determine which species of live bait, including bait fish as defined in § 906 of this title, may be harvested, imported, transported, sold, or used as bait to fish or be released in the non-tidal waters of this State.

(b) The Department shall have the authority to issue permits, licenses, and applications for the harvesting, importing, transporting, sale or use of live bait for fishing in the non-tidal waters of the State.

(c) The Department may by regulation prohibit the importation or sale of any live bait species originating from another state or country.

(d) All regulations published under this section must be published in a public notice on the Department's website.

(e) Any action taken pursuant to this section shall be undertaken for the purpose of controlling invasive species or pathogens.

Section 4. This Act is effective immediately and is to be implemented the earlier of the following:

(1) Six months from the date of the Act's enactment.

(2) Notice by the Secretary of the Department of Natural Resources and Environmental Control published in the Register of Regulations that final regulations to implement this Act have been adopted.