
By: **Senator Colburn**

Introduced and read first time: February 1, 2002

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Environment - Wetlands - Marinas and Community Piers**

3 FOR the purpose of providing for an exception to a certain restriction on marinas for
4 certain community piers that comply with the Chesapeake Bay Critical Area
5 Protection Program; defining a certain term; requiring the Department of the
6 Environment to adopt certain regulations regarding permit requirements for the
7 construction of a community pier; and generally relating to community piers.

8 BY repealing and reenacting, with amendments,
9 Article - Environment
10 Section 9-333(a) and (c) and 16-105
11 Annotated Code of Maryland
12 (1996 Replacement Volume and 2001 Supplement)

13 BY repealing and reenacting, without amendments,
14 Article - Environment
15 Section 9-333(b)
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 2001 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article - Natural Resources
20 Section 8-1808.5
21 Annotated Code of Maryland
22 (2000 Replacement Volume and 2001 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article - Environment**

26 9-333.

27 (a) (1) In this section the following words have the meanings indicated.

1 (2) "COMMUNITY PIER" HAS THE MEANING STATED IN § 8-1808.5 OF THE
2 NATURAL RESOURCES ARTICLE.

3 (3) "Pump-out facility" means a facility that pumps or receives human
4 body wastes out of type III marine sanitation devices (holding tanks) on vessels.

5 [(3)] (4) (i) "Waste reception facility" means a facility specifically
6 designed to receive wastes from portable toilets carried on vessels.

7 (ii) "Waste reception facility" does not include a rest room facility.

8 (b) This section applies to any public or private marina that is located on the
9 navigable waters of the State.

10 (c) A person may not construct any additional slips at an existing marina that
11 is capable of berthing vessels 22 feet or larger that would result in a total slip capacity
12 of more than 10 slips or construct a new marina that is capable of berthing vessels 22
13 feet or larger with more than 10 slips on the navigable waters of the State unless:

14 (1) The wastewater collection and treatment system at the marina is
15 adequate to handle any existing and increased [flow;] FLOW and

16 [(2) There] THERE is a pump-out station on-site at the marina that is
17 adequate to handle the increased sewage capacity from vessels that use the marina
18 and that is operable and accessible at reasonable [times.] TIMES; OR

19 (2) THE MARINA IS BEING OPERATED AS A COMMUNITY PIER THAT
20 COMPLIES WITH THE CHESAPEAKE BAY CRITICAL AREA PROTECTION PROGRAM OF
21 TITLE 8, SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE.

22 16-105.

23 (a) The Department, jointly with the Chesapeake Bay Critical Area
24 Commission, shall:

25 (1) Review existing regulations applicable to the construction of piers
26 and bulkheads in the tidal wetlands of the State and in the Chesapeake Bay Critical
27 Area; and

28 (2) By regulation, develop a procedure to avoid duplication of regulatory
29 jurisdiction by the State and local jurisdictions concerning the construction of piers
30 and bulkheads in the tidal wetlands of the State and in the Chesapeake Bay Critical
31 Area.

32 (b) The procedure that the Department and Commission develop under
33 subsection (a) of this section shall include provision for recognition of:

34 (1) State jurisdiction over the construction of piers and bulkheads in
35 state and private wetlands designated under this title; and

36 (2) Local jurisdiction over:

1 (i) The construction of piers and bulkheads landward of the
2 boundary lines of State and private wetlands as mapped under this title; and

3 (ii) Zoning divisional lines and building codes.

4 (C) THE DEPARTMENT SHALL ADOPT REGULATIONS REGARDING PERMIT
5 REQUIREMENTS FOR THE CONSTRUCTION OF A COMMUNITY PIER THAT ARE
6 CONSISTENT WITH TITLE 8, SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE.

7 **Article - Natural Resources**

8 8-1808.5.

9 (a) (1) In this section the following words have the meanings indicated.

10 (2) "Buffer" means an existing, naturally vegetated area, or an area
11 established in vegetation and managed to protect aquatic, wetlands, shoreline, and
12 terrestrial environments from man-made disturbances.

13 (3) (i) "Community pier" means a boat docking facility associated with
14 a subdivision or similar residential area, or with condominiums, apartments, or other
15 multiple-family dwelling units.

16 (ii) "Community pier" does not include a private pier or a mooring.

17 (b) This section applies notwithstanding:

18 (1) Any other provision of this subtitle; and

19 (2) Any criteria or regulation adopted by the Commission under this
20 subtitle.

21 (c) Subject to the requirements under subsection (d) of this section, a new or
22 expanded community pier or other noncommercial boat docking or storage facility
23 may be permitted in the buffer if:

24 (1) The facility:

25 (i) Is water dependent;

26 (ii) Meets a recognized private right or public need;

27 (iii) Is community-owned and established and operated for the
28 benefit of the residents of a platted and recorded riparian subdivision; and

29 (iv) Is associated with a residential development approved by the
30 local jurisdiction for the Critical Area and is consistent with all criteria and local
31 regulations for the Critical Area;

32 (2) Adverse effects on water quality and fish, plant, and wildlife habitat
33 are minimized;

1 (3) Insofar as possible, nonwater dependent structures or operations
2 associated with water dependent projects or activities are located outside the buffer;

3 (4) Disturbance to the buffer is the minimum necessary to provide a
4 single point of access to the facility;

5 (5) Food, fuel, or other goods and services are not offered for sale, and
6 adequate and clean sanitary facilities are provided; and

7 (6) When a community pier with slips is provided as part of a new
8 development project, private piers are not permitted in the development area.

9 (d) The number of slips permitted at a facility shall be the lesser of the
10 following:

11 (1) One slip for each 50 feet of shoreline in a subdivision located in an
12 intense or limited development area, and one slip for each 300 feet of shoreline in a
13 subdivision located in a resource conservation area; or

14 (2) A density of slips to platted lots or dwellings within a subdivision in
15 the Critical Area in accordance with the following schedule:

| 16 Platted Lots or Dwellings in | Slips |
|---------------------------------|---------------------------------|
| 17 the Critical Area | |
| 18 Up to 15 | 1 for each lot |
| 19 16 - 40 | 15 or 75%, whichever is greater |
| 20 41 - 100 | 30 or 50%, whichever is greater |
| 21 101 - 300 | 50 or 25%, whichever is greater |
| 22 More than 300 | 75 or 15%, whichever is greater |

23 (e) A local jurisdiction may grant a variance from the provisions of this section
24 in accordance with regulations adopted by the Commission concerning variances as
25 part of local program development set forth in COMAR 27.01.11 and notification of
26 project applications set forth in COMAR 27.03.01.

27 (f) On or before December 31, 1994, a local jurisdiction shall amend its local
28 critical area protection program to meet the provisions of this section.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
30 effect October 1, 2002.