

HB1053/520818/1

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL 1053
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, after “State;” insert “transferring the Seafood Marketing and Aquaculture Development Program, the Division of Market Development, the Seafood Marketing Fund, the Seafood Program Management Team, the Innovative Seafood Technologies Program, the Seafood Marketing Advisory Commission, the Aquaculture Coordinating Council, and the Aquaculture Review Board from the Department of Agriculture to the Department of Natural Resources;”; in line 9, after “requirement;” insert “altering certain provisions relating to the issuance of submerged land leases;”; and in line 14, after “circumstances;” insert “providing for the continuity of certain licenses, leases, certifications, and permits; providing that certain leaseholders, license holders, permittees, and certified persons shall continue to be valid leaseholders, license holders, permittees, and certified persons, and shall comply with certain requirements; requiring that certain pending applications be transferred to the Department of Natural Resources; requiring the publisher of the Annotated Code of Maryland, in consultation with, and subject to the approval of, the Department of Legislative Services, to correct certain cross-references and terminology;”.

AMENDMENT NO. 2

On page 1, in line 19, strike “4-11A-19” and substitute “4-11A-22”; in line 20, strike “4-11A-20” and substitute “4-11A-23”; after line 22, insert:

“BY repealing

Article – Agriculture

Section 10-1301 and 10-1302

Annotated Code of Maryland

(2007 Replacement Volume and 2010 Supplement)

(Over)

BY transferring

Article – Agriculture

Section 10-1001 and 10-1002 and the subtitle “Subtitle 10. Seafood Marketing and Aquaculture Development Program and Division of Market Development”; 10-10A-01 and the subtitle “Subtitle 10A. Seafood Program Management Team”; 10-10B-01 and the subtitle “Subtitle 10B. Innovative Seafood Technologies Program”; 10-1101 and the subtitle “Subtitle 11. Seafood Marketing Advisory Commission”; and 10-1303, respectively

Annotated Code of Maryland

(2007 Replacement Volume and 2010 Supplement)

to be

Article – Natural Resources

Section 4-11B-01 and 4-11B-02 and the subtitle “Subtitle 11B. Seafood Marketing and Aquaculture Development Program and Division of Market Development”; 4-11C-01 and the subtitle “Subtitle 11C. Seafood Program Management Team”; 4-11D-01 and the subtitle “Subtitle 11D. Innovative Seafood Technologies Program”; 4-11E-01 and the subtitle “Subtitle 11E. Seafood Marketing Advisory Commission”; and 4-11A-03.2, respectively

Annotated Code of Maryland

(2005 Replacement Volume and 2010 Supplement)”;

and in line 25, strike “10-1301 and 10-1302” and substitute “2-106(a)”.

On page 2, in line 12, after “Section” insert “4-701(e)(3).”; in line 17, after “Section” insert “4-701(a) and (b) and”; in line 22, after “4-11A-01(r)” insert “, 4-11A-03, 4-11A-03.1.”; in line 32, strike “4-11A-19” and substitute “4-11A-22”; and in line 34, strike “4-11A-20” and substitute “4-11A-23”.

AMENDMENT NO. 3

On page 2, after line 34, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 10-1001 and 10-1002 and the subtitle “Subtitle 10. Seafood Marketing and Aquaculture Development Program and Division of Market Development”; 10-10A-01 and the subtitle “Subtitle 10A. Seafood Program Management Team”; 10-10B-01 and the subtitle “Subtitle 10B. Innovative Seafood Technologies Program”; 10-1101 and the subtitle “Subtitle 11. Seafood Marketing Advisory Commission”; and 10-1303, respectively, of Article – Agriculture of the Annotated Code of Maryland be transferred to be Section(s) 4-11B-01 and 4-11B-02 and the subtitle “Subtitle 11B. Seafood Marketing and Aquaculture Development Program and Division of Market Development”; 4-11C-01 and the subtitle “Subtitle 11C. Seafood Program Management Team”; 4-11D-01 and the subtitle “Subtitle 11D. Innovative Seafood Technologies Program”; 4-11E-01 and the subtitle “Subtitle 4-11E. Seafood Marketing Advisory Commission”; and 4-11A-03.2, respectively, of Article – Natural Resources of the Annotated Code of Maryland.”;

in line 35, strike “2.” and substitute “3.”; and after line 37, insert:

“2-106.

- (a) The following positions and units are included within the Department:
- (1) The Maryland Agricultural Fair Board;
 - (2) The Chief of Weights and Measures;
 - (3) The State Chemist;
 - (4) The State Veterinarian;
 - (5) The State Board of Veterinary Medical Examiners;
 - (6) The State Soil Conservation Committee;

(Over)

(7) The Board of Review of the Department of Agriculture;

(8) The Maryland Agricultural Commission;

(9) The Maryland Horse Industry Board;

[(10) The Seafood Marketing and Aquaculture Development Program and Division of Market Development;

(11) The Seafood Marketing Advisory Commission;]

[(12)](10) The Maryland Winery and Grape Growers' Advisory Board[;

(13) The Aquaculture Review Board; and

(14) The Aquaculture Coordinating Council].”;

and in line 38, strike “10-1301.”.

AMENDMENT NO. 4

On pages 3 and 4, strike in their entirety the lines beginning with line 1 on page 3 through line 21 on page 4, inclusive.

AMENDMENT NO. 5

On page 6, after line 12, insert:

“4-701.

(a) This section applies to any person who is required under Subtitle 2, 7, 8, 9, or 10 of this title to be licensed to guide fishing parties or to catch, sell, buy, process, transport, export, or otherwise deal in fish caught in tidal waters.

(b) (1) The Department shall utilize a single, commercial license, to be known and designated as a tidal fish license.

(2) A tidal fish license authorizes a licensee:

(i) To engage in each activity indicated on the license; and

(ii) For catching crabs, to utilize the number of crew members indicated on the license.

(3) Except for a person receiving a license under subsection (i)(2)(ii) of this section, the Department may not issue a tidal fish license to an individual who is younger than 14 years of age.

(4) A person may not guide fishing parties or catch, sell, buy, process, transport, export, or otherwise deal in fish caught in tidal waters unless licensed under this section.

(e) (3) In addition to the normal license fees imposed under subsection (d)(2)(ii)2 and 4 of this section, a licensee shall pay to the Department an annual surcharge of \$10 to be credited to the Seafood Marketing Office of the Department [of Agriculture] to fund seafood marketing programs which have been approved by the Department.”.

AMENDMENT NO. 6

On page 7, strike beginning with “§ 10-1303” in line 25 down through “Article” in line 26 and substitute “**§ 4-11A-03.2 OF THIS SUBTITLE**”.

AMENDMENT NO. 7

On page 8, after line 5, insert:

“4-11A-03.

(Over)

(A) (1) THE GENERAL ASSEMBLY DEFINES AQUACULTURE AS AN AGRICULTURAL AND FISHERIES MANAGEMENT ACTIVITY.

(2) "AQUACULTURE" INCLUDES THE COMMERCIAL REARING OF FINFISH, SHELLFISH, AND AQUATIC PLANTS FOR SALE, TRADE, BARTER, OR SHIPMENT.

(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO CREATE:

(1) AN AQUACULTURE REVIEW BOARD AND AN AQUACULTURE COORDINATING COUNCIL TO PROMOTE THE DEVELOPMENT OF AN AQUACULTURE INDUSTRY IN THIS STATE; AND

(2) AN AQUACULTURE COORDINATOR, EMPLOYED BY THE DEPARTMENT, TO ASSIST PERSONS IN OBTAINING THE PERMITS AND LICENSES NECESSARY TO CONDUCT AQUACULTURE IN THE STATE.

(C) THE DEPARTMENT IS THE LEAD AGENCY FOR:

(1) PROMOTING, COORDINATING, AND MARKETING AQUACULTURE AND AQUACULTURE PRODUCTS;

(2) COORDINATING AND STREAMLINING THE PROCESS OF APPLYING FOR A STATE AQUACULTURE PERMIT; AND

(3) ENFORCING LAWS, REGULATIONS, AND RULES.

(D) THE UNIVERSITY OF MARYLAND IS THE LEAD AGENCY FOR RESEARCH IN AQUACULTURE PRODUCTION AND SHALL BE RESPONSIBLE FOR

DEVELOPMENT OF EDUCATION AND EXTENSION PROGRAMS WHICH PROMOTE
AQUACULTURE AS AN INDUSTRY.

4-11A-03.1.

(A) THERE IS AN AQUACULTURE REVIEW BOARD.

(B) (1) THE REVIEW BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS, EACH OF WHOM SHALL REPRESENT ONE OF THE FOLLOWING STATE DEPARTMENTS CHARGED WITH RESPONSIBILITY FOR AN ASPECT OF THE STATE AQUACULTURE PERMITTING PROCESS OR OVERSIGHT OF PERMIT COMPLIANCE:

(I) THE DEPARTMENT OF NATURAL RESOURCES, TO BE REPRESENTED BY THE AQUACULTURE COORDINATOR, WHO SHALL SERVE AS CHAIR;

(II) ONE REPRESENTATIVE OF THE DEPARTMENT OF THE ENVIRONMENT, DESIGNATED BY THE SECRETARY OF THE ENVIRONMENT;

(III) ONE REPRESENTATIVE OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, DESIGNATED BY THE SECRETARY OF HEALTH AND MENTAL HYGIENE; AND

(IV) ONE REPRESENTATIVE OF THE DEPARTMENT OF AGRICULTURE, DESIGNATED BY THE SECRETARY OF AGRICULTURE.

(2) THE NATIONAL MARINE FISHERIES SERVICE SHALL BE INVITED TO DESIGNATE A REPRESENTATIVE TO THE REVIEW BOARD.

(Over)

(3) THE UNITED STATES ARMY CORPS OF ENGINEERS SHALL BE INVITED TO DESIGNATE A REPRESENTATIVE TO THE REVIEW BOARD.

(c) (1) THE AQUACULTURE COORDINATOR SHALL BE THE SINGLE POINT OF CONTACT FOR AN APPLICANT FOR ALL PERMITS AND LICENSES NECESSARY TO CONDUCT AQUACULTURE IN THE STATE.

(2) THE REVIEW BOARD SHALL:

(i) COORDINATE THE DEVELOPMENT OF STATEWIDE AQUACULTURE POLICY AND, TO THE MAXIMUM EXTENT FEASIBLE, THE STREAMLINING OF THE APPLICATION PROCESS;

(ii) TRACK EACH APPLICATION AS IT IS PROCESSED; AND

(iii) ENSURE FULL AND MEANINGFUL DEPARTMENTAL COMMUNICATION WITH AN APPLICANT DURING EACH STAGE OF THE APPLICATION PROCESS.”.

AMENDMENT NO. 8

On page 8, in line 11, strike the first “APPROVED” and substitute “:

(i) APPROVED”;

in the same line, after “HARVEST” insert “; **OR**

(ii) PROHIBITED, PROVIDED THAT THE LEASE IS USED EXCLUSIVELY FOR THE PLANTING AND GATHERING OF SEED FOR AQUACULTURE AND THE LEASEHOLDER COMPLIES WITH THE REQUIREMENTS

OF THE NATIONAL SHELLFISH SANITATION PROGRAM AS IMPLEMENTED BY THE DEPARTMENT”;

in line 28, strike the first “APPROVED” and substitute “:

(1) APPROVED”;

and in the same line, after “HARVEST” insert “;OR

(2) PROHIBITED, PROVIDED THAT THE LEASE IS USED EXCLUSIVELY FOR THE PLANTING AND GATHERING OF SEED FOR AQUACULTURE AND THE LEASEHOLDER COMPLIES WITH THE REQUIREMENTS OF THE NATIONAL SHELLFISH SANITATION PROGRAM AS IMPLEMENTED BY THE DEPARTMENT”.

On page 9, in line 3, strike “APPROVED” and substitute “:

(1) APPROVED”;

and in line 4, after “HARVEST” insert “;OR

(2) PROHIBITED, PROVIDED THAT THE LEASE IS USED EXCLUSIVELY FOR THE PLANTING AND GATHERING OF SEED FOR AQUACULTURE AND THE LEASEHOLDER COMPLIES WITH THE REQUIREMENTS OF THE NATIONAL SHELLFISH SANITATION PROGRAM AS IMPLEMENTED BY THE DEPARTMENT”.

AMENDMENT NO. 9

On page 9, in line 5, after “(C)” insert “**(1)**”; in lines 6, 9, 11, 13, 14, 16, and 17, strike “**(1)**”, “**(2)**”, “**(3)**”, “**(4)**”, “**(5)**”, “**(6)**”, and “**(7)**”, respectively, and substitute “**(1)**”,

(Over)

“(II)”, “(III)”, “(IV)”, “(V)”, “(VI)”, and “(VII)”, respectively; in line 14, strike “IN” and substitute “SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN”; and after line 18, insert:

“(2) THE PROVISIONS OF PARAGRAPH (1)(V) OF THIS SUBSECTION DO NOT APPLY TO THE RIPARIAN OWNER OR A LAWFUL OCCUPANT OF THE RIPARIAN PROPERTY.”.

AMENDMENT NO. 10

On page 12, after line 12, insert:

“SECTION 4. AND BE IT FURTHER ENACTED, That all wetlands licenses, water column leases, aquaculture leases, certifications, or other permits issued by the Board of Public Works for aquaculture related projects and in effect as of June 30, 2011, shall remain in effect under the Department of Natural Resources until completed, withdrawn, canceled, modified, or otherwise changed.

SECTION 5. AND BE IT FURTHER ENACTED, That any person who holds a valid aquaculture or water column lease, or is licensed, permitted, or certified by the Board of Public Works or the Department of the Environment to use the water column for an aquaculture related project, is considered for all purposes to be a valid aquaculture or water column leaseholder, or licensed, authorized, permitted, or certified for the duration of the term for which the lease, license, authorization, permit, or certification was issued, and may renew that authorization in accordance with the appropriate renewal provisions provided by the Department of Natural Resources. Any person who entered into a valid lease agreement, or was originally licensed, authorized, permitted, or certified under a provision of law that has been repealed by this Act as obsolete or inconsistent shall continue to meet the requirements to the same extent as if that provision had not been repealed, or to the extent required by the Department of Natural Resources.

SECTION 6. AND BE IT FURTHER ENACTED, That all applications for water column leases and wetlands licenses for aquaculture related projects currently pending before the Department of the Environment or the Board of Public Works as of the effective date of this Act shall be and hereby are transferred to the Department of Natural Resources for processing in accordance with its terms and procedures.

SECTION 7. AND BE IT FURTHER ENACTED, That the publishers of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2011 that affects provisions enacted by this Act. The publishers shall adequately describe any such correction in an editor's note following the section affected.”;

and in line 13, strike “3.” and substitute “8.”.