

HOUSE BILL 306

M2

EMERGENCY BILL

3lr1086
CF 3lr1603

By: **Delegates O'Donnell, Haddaway-Riccio, and Lafferty**

Introduced and read first time: January 24, 2013

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Aquaculture – Shellfish Nursery Permits**

3 FOR the purpose of prohibiting a person from engaging in the commercial rearing of
4 shellfish seed outside certain leased areas without first obtaining a shellfish
5 nursery permit from the Department of Natural Resources; placing certain
6 limitations on the issuance and scope of a permit for land-based and in-water
7 shellfish nursery operations; providing that certain water quality classifications
8 and restrictions established by the Department of the Environment may not
9 affect certain in-water shellfish nursery operations; clarifying that a person is
10 not required to obtain a water column lease or a submerged land lease for
11 in-water shellfish nursery operations; establishing a certain application process
12 and a certain application fee for permit applications; authorizing the
13 Department of Natural Resources to deny a permit application for reasonable
14 cause or to include conditions in a permit; establishing a certain term for a
15 permit; authorizing the Department of Natural Resources to suspend or revoke
16 a permit for certain reasons; requiring a permit holder to allow certain
17 inspections by the Department of Natural Resources; authorizing the
18 Department of Natural Resources to adopt regulations implementing this Act;
19 defining a certain term; making this Act an emergency measure; and generally
20 relating to shellfish nursery permits.

21 BY adding to

22 Article – Natural Resources
23 Section 4-11A-23
24 Annotated Code of Maryland
25 (2012 Replacement Volume)

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

28 **Article – Natural Resources**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 4-11A-23.

2 (A) IN THIS SECTION, "PERMIT" MEANS A SHELLFISH NURSERY PERMIT.

3 (B) A PERSON MAY NOT ENGAGE IN THE COMMERCIAL REARING OF
4 SHELLFISH SEED OUTSIDE AN AREA LEASED UNDER THIS SUBTITLE WITHOUT
5 FIRST OBTAINING A PERMIT FROM THE DEPARTMENT.

6 (C) FOR A SHELLFISH NURSERY TO BE LOCATED ON LAND, THE
7 DEPARTMENT MAY ISSUE A PERMIT ONLY TO THE OWNER OR LEGAL TENANT OF
8 THE PROPERTY OR TO A PERSON WITH THE PERMISSION OF THE PROPERTY
9 OWNER.

10 (D) (1) FOR A SHELLFISH NURSERY TO BE LOCATED IN WATERS OF
11 THE STATE OUTSIDE A LEASED AREA, THE DEPARTMENT MAY ISSUE A PERMIT
12 ONLY:

13 (I) TO THE OWNER OF A WHARF OR OTHER STRUCTURE
14 CONSTRUCTED ON OR ABOUT THE WATER AND APPROVED BY THE U.S. ARMY
15 CORPS OF ENGINEERS, OR TO A PERSON WITH THE PERMISSION OF THE OWNER
16 OF THE WHARF OR OTHER STRUCTURE; AND

17 (II) FOR THE CULTIVATION OF SHELLFISH SEED WITHIN 20
18 FEET OF THE WHARF OR OTHER STRUCTURE, IN AN AREA OF WATER NOT
19 EXCEEDING 200 SQUARE FEET.

20 (2) A PERSON IS NOT REQUIRED TO OBTAIN A WATER COLUMN
21 LEASE OR A SUBMERGED LAND LEASE FOR A PERMITTED IN-WATER SHELLFISH
22 NURSERY OPERATION.

23 (3) WATER QUALITY CLASSIFICATIONS AND RESTRICTIONS
24 ESTABLISHED BY THE DEPARTMENT OF THE ENVIRONMENT UNDER THE
25 NATIONAL SHELLFISH SANITATION PROGRAM OR § 4-742 OF THIS TITLE MAY
26 NOT AFFECT A PERMITTED IN-WATER SHELLFISH NURSERY OPERATION.

27 (E) (1) TO OBTAIN A PERMIT, A PERSON SHALL:

28 (I) COMPLETE AND SUBMIT AN APPLICATION TO THE
29 DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT; AND

1 **(II) PAY A NONREFUNDABLE APPLICATION FEE**
2 **ESTABLISHED BY THE DEPARTMENT IN CONSULTATION WITH THE**
3 **AQUACULTURE COORDINATING COUNCIL.**

4 **(2) THE APPLICATION FEE MAY NOT EXCEED THE COST OF**
5 **PROCESSING THE PERMIT.**

6 **(F) THE DEPARTMENT MAY, AS IT CONSIDERS NECESSARY TO PROTECT**
7 **THE PUBLIC HEALTH, SAFETY, AND WELFARE:**

8 **(1) DENY A PERMIT APPLICATION FOR REASONABLE CAUSE; OR**

9 **(2) INCLUDE CONDITIONS IN A PERMIT.**

10 **(G) (1) THE TERM OF A SHELLFISH NURSERY PERMIT IS 5 YEARS.**

11 **(2) THE DEPARTMENT MAY REVOKE OR SUSPEND A PERMIT**
12 **ISSUED UNDER THIS SECTION AT ANY TIME FOR NONCOMPLIANCE WITH THE**
13 **REQUIREMENTS OF THIS SECTION, REGULATIONS ADOPTED UNDER THIS**
14 **SECTION, OR THE CONDITIONS OF THE PERMIT.**

15 **(H) A PERMIT HOLDER SHALL ALLOW THE DEPARTMENT TO INSPECT AT**
16 **REASONABLE HOURS ANY FACILITIES, EQUIPMENT, OR SHELLFISH THAT ARE**
17 **PART OF THE PERMIT HOLDER'S SHELLFISH NURSERY OPERATIONS.**

18 **(I) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS**
19 **SECTION.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
21 measure, is necessary for the immediate preservation of the public health or safety,
22 has been passed by a ye and nay vote supported by three-fifths of all the members
23 elected to each of the two Houses of the General Assembly, and shall take effect from
24 the date it is enacted.