

SENATE BILL 464

M2

EMERGENCY BILL

3lr1603
CF HB 306

By: **Senator Klausmeier**

Introduced and read first time: January 30, 2013

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 26, 2013

CHAPTER _____

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; exempting shellfish nursery products
12 from certain water quality classifications and restrictions; establishing a certain
13 application process and a certain application fee for permit applications;
14 authorizing the Department of Natural Resources to deny a permit application
15 for reasonable cause or to include conditions in a permit; establishing a certain
16 term for a permit; authorizing the Department of Natural Resources to suspend
17 or revoke a permit for certain reasons; requiring a permit holder to allow
18 certain inspections by the Department of Natural Resources; authorizing the
19 Department of Natural Resources to adopt regulations implementing this Act;
20 defining a certain term; making this Act an emergency measure; and generally
21 relating to shellfish nursery permits.

22 BY adding to

23 Article – Natural Resources

24 Section 4-11A-23

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2012 Replacement Volume)

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

5 **Article – Natural Resources**

6 **4–11A–23.**

7 (A) IN THIS SECTION, “PERMIT” MEANS A SHELLFISH NURSERY PERMIT.

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

11 (C) FOR A SHELLFISH NURSERY TO BE LOCATED ON LAND, THE
12 DEPARTMENT MAY ISSUE A PERMIT ONLY TO THE OWNER OR LEGAL TENANT OF
13 THE PROPERTY OR TO A PERSON WITH THE PERMISSION OF THE PROPERTY
14 OWNER.

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

18 (I) TO THE OWNER OF A WHARF OR OTHER STRUCTURE
19 CONSTRUCTED ON OR ABOUT THE WATER AND APPROVED BY THE U.S. ARMY
20 CORPS OF ENGINEERS, OR TO A PERSON WITH THE PERMISSION OF THE OWNER
21 OF THE WHARF OR OTHER STRUCTURE; AND

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

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

28 (3) ~~WATER SHELLFISH NURSERY PRODUCTS ARE EXEMPT FROM~~
29 ~~WATER QUALITY CLASSIFICATIONS AND RESTRICTIONS ESTABLISHED BY THE~~
30 ~~DEPARTMENT OF THE ENVIRONMENT UNDER THE NATIONAL SHELLFISH~~
31 ~~SANITATION PROGRAM OR § 4-742 OF THIS TITLE MAY NOT AFFECT A~~
32 ~~PERMITTED IN-WATER SHELLFISH NURSERY OPERATION.~~

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

1 **(I) COMPLETE AND SUBMIT AN APPLICATION TO THE**
2 **DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT; AND**

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

6 **(2) THE APPLICATION FEE MAY NOT EXCEED THE COST OF**
7 **PROCESSING THE PERMIT.**

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

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

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

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

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

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

20 **(I) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS**
21 **SECTION.**

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