

SENATE BILL 920

M2

EMERGENCY BILL

3lr2996

By: **Senator Dyson**

Introduced and read first time: February 13, 2013

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, February 21, 2013

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 2013

CHAPTER _____

1 AN ACT concerning

2 ~~Chesapeake Bay~~ **Natural Resources – Submerged Land and Water Column**
3 **Leases – ~~Riparian Owners~~ Herring Creek**

4 FOR the purpose of exempting certain ~~Chesapeake Bay~~ submerged land leases and
5 water column leases from a certain setback requirement; authorizing a
6 submerged land lease or a water column lease of a riparian owner or a lawful
7 occupant of the riparian property to be located ~~a certain minimum distance from~~
8 ~~a shallow draft federal navigational channel~~ in Herring Creek in St. Mary's
9 County; making this Act an emergency measure; and generally relating to
10 submerged land leases and water column leases in ~~the Chesapeake Bay~~ Herring
11 Creek in St. Mary's County.

12 BY repealing and reenacting, with amendments,

13 Article – Natural Resources
14 Section 4-11A-06 and 4-11A-08
15 Annotated Code of Maryland
16 (2012 Replacement Volume)

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

19 **Article – Natural Resources**

20 4-11A-06.

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 (a) This section applies to a submerged land lease in the Chesapeake Bay
2 that is not in an Aquaculture Enterprise Zone.

3 (b) (1) (i) Subject to subparagraph (ii) of this paragraph, the
4 Department may issue to a person a submerged land lease in waters of the
5 Chesapeake Bay after the Department of the Environment classifies the waters as:

6 1. Approved, conditionally approved, or restricted for
7 harvest; or

8 2. Prohibited, provided that the lease is used exclusively
9 for the planting and gathering of seed for aquaculture and the leaseholder complies
10 with the requirements of the National Shellfish Sanitation Program as implemented
11 by the Department.

12 (ii) The Department may issue a submerged land lease in the
13 waters of the Chesapeake Bay to a corporation only if:

14 1. The corporation is organized under the laws of the
15 State; and

16 2. More than 50% of the stock in the corporation is
17 owned by residents of the State.

18 (2) A submerged land lease may not be located:

19 (i) Within a minimum of 50 feet of shoreline or any pier without
20 the written permission of the riparian owner at the time of initial application for the
21 lease;

22 (ii) Within 150 feet of the public shellfish fishery or a registered
23 pound net site;

24 (iii) Within 150 feet of an oyster reserve or any Yates Bar located
25 in an oyster sanctuary;

26 (iv) **[Within] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF**
27 **THIS SUBSECTION, WITHIN** 150 feet of a federal navigational channel;

28 (v) Subject to paragraph (3) of this subsection, in any creek,
29 cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide; or

30 (vi) In an SAV Protection Zone.

31 (3) Paragraph (2)(v) of this subsection does not apply to a riparian
32 owner or a lawful occupant of the riparian property.

1 (4) A SUBMERGED LAND LEASE OF A RIPARIAN OWNER OR A
2 ~~LAWFUL OCCUPANT OF THE RIPARIAN PROPERTY MAY BE LOCATED 50 FEET OR~~
3 ~~MORE FROM A SHALLOW DRAFT FEDERAL NAVIGATIONAL CHANNEL IN~~
4 HERRING CREEK IN ST. MARY'S COUNTY.

5 (c) A person with a submerged land lease in the Chesapeake Bay may
6 cultivate shellfish on the submerged land, in temporary protective enclosures
7 approved by the Department on the surface of the submerged land, or in any other
8 manner authorized by the Department.

9 (d) Notwithstanding any other provision of this subtitle, a lease of
10 submerged land located within a sanctuary must be compatible with oyster restoration
11 and must satisfy the criteria for permissible leasing within a sanctuary as provided in
12 regulations adopted under this subtitle.

13 4-11A-08.

14 (a) This section applies to a water column lease in the waters of the State.

15 (b) The Department may issue to a person a water column lease in waters of
16 the State after the Department of the Environment classifies the waters as:

17 (1) Approved, conditionally approved, or restricted for harvest; or

18 (2) Prohibited, provided that the lease is used exclusively for the
19 planting and gathering of seed for aquaculture and the leaseholder complies with the
20 requirements of the National Shellfish Sanitation Program as implemented by the
21 Department.

22 (c) (1) A water column lease may not be located:

23 (i) Within a minimum of 50 feet of shoreline or any pier without
24 the written permission of the riparian owner at the time of initial application for the
25 lease;

26 (ii) Within 150 feet of the public shellfish fishery or a registered
27 pound net site;

28 (iii) Within 150 feet of an oyster reserve or any Yates Bar located
29 in an oyster sanctuary;

30 (iv) **[Within] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF**
31 **THIS SUBSECTION, WITHIN** 150 feet of a federal navigational channel;

1 (v) Subject to paragraph (2) of this subsection, in any creek,
2 cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide;

3 (vi) In an SAV Protection Zone; or

4 (vii) In a setback or buffer from the Assateague Island National
5 Seashore established by the Department.

6 (2) The provisions of paragraph (1)(v) of this subsection do not apply to
7 the riparian owner or a lawful occupant of the riparian property.

8 (3) A WATER COLUMN LEASE OF A RIPARIAN OWNER OR A
9 LAWFUL OCCUPANT OF THE RIPARIAN PROPERTY MAY BE LOCATED ~~50 FEET OR~~
10 ~~MORE FROM A SHALLOW DRAFT FEDERAL NAVIGATIONAL CHANNEL IN~~
11 HERRING CREEK IN ST. MARY'S COUNTY.

12 (d) A person with a water column lease in the waters of the State may
13 cultivate shellfish:

14 (1) Subject to approval by the United States Army Corps of Engineers,
15 on or under the surface of the water in a floating structure; or

16 (2) In any other manner authorized by the Department.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.