

## Chapter 57

(Senate Bill 464)

AN ACT concerning

### Natural Resources – Aquaculture – Shellfish Nursery Permits

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

BY adding to

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

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

#### Article – Natural Resources

#### 4-11A-23.

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) DENY A PERMIT APPLICATION FOR REASONABLE CAUSE; OR**
- (2) INCLUDE CONDITIONS IN A PERMIT.**

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

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

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

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

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

**Approved by the Governor, April 9, 2013.**