

# HOUSE BILL 1426

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By: **Delegate Adams**

Introduced and read first time: February 9, 2018

Assigned to: Environment and Transportation

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 30, 2018

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Natural Resources – Aquaculture Leases – ~~Location~~ and Public Shellfish**  
3 **Fishery Areas**

4 FOR the purpose of ~~prohibiting an Aquaculture Enterprise Zone, certain submerged land~~  
5 ~~leases, a water column lease, and a demonstration lease from being located within a~~  
6 ~~certain distance of a Yates Bar; providing for the application of this Act requiring~~  
7 ~~the Tidal Fisheries Advisory Commission, in consultation with the Aquaculture~~  
8 ~~Coordinating Council, to establish a certain workgroup to review commercial oyster~~  
9 ~~harvest activity and oyster aquaculture production since the establishment of the~~  
10 ~~public shellfish fishery areas and make certain findings and recommendations;~~  
11 ~~requiring the Commission and the Council to report the findings of the workgroup to~~  
12 ~~the Department of Natural Resources and certain committees of the General~~  
13 ~~Assembly on or before a certain date; providing for the termination of this Act; and~~  
14 ~~generally relating to the location of aquaculture leases and public shellfish fishery~~  
15 ~~areas.~~

16 ~~BY repealing and reenacting, without amendments,~~  
17 ~~Article – Natural Resources~~  
18 ~~Section 4-11A-01(a) and (q), 4-11A-07(a), and 4-11A-11(a)~~  
19 ~~Annotated Code of Maryland~~  
20 ~~(2012 Replacement Volume and 2017 Supplement)~~

21 ~~BY repealing and reenacting, with amendments,~~  
22 ~~Article – Natural Resources~~  
23 ~~Section 4-11A-05(b)(2), 4-11A-06(b), 4-11A-07(e), 4-11A-08(e), and 4-11A-11(d)~~

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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.



~~Annotated Code of Maryland  
(2012 Replacement Volume and 2017 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the ~~Laws of Maryland read as follows:~~ Tidal Fisheries Advisory Commission, in  
consultation with the Aquaculture Coordinating Council, shall:

(1) establish a workgroup of commercial oyster harvesters, representatives  
of oyster aquaculture in the State, and other interested stakeholders to:

(i) review commercial oyster harvest activity and oyster  
aquaculture production, including specific areas of harvest and production, since the  
establishment of the public shellfish fishery areas; and

(ii) make findings and recommendations with respect to standards  
for determining areas appropriate for commercial oyster harvest and aquaculture; and

(2) on or before December 1, 2018, report the findings and  
recommendations of the workgroup as approved by the Commission to the Department of  
Natural Resources and, in accordance with § 2-1246 of the State Government Article, the  
Senate Education, Health, and Environmental Affairs Committee and the House  
Environment and Transportation Committee.

### ~~Article — Natural Resources~~

~~4-11A-01.~~

~~(a) In this subtitle the following words have the meanings indicated.~~

~~(q) “Yates Bar” means any submerged oyster bar, reef, rock, or area represented  
as an oyster bar on the charts of the Oyster Survey of 1906 to 1912, not including any  
amendments.~~

~~4-11A-05.~~

~~(b) (2) An Aquaculture Enterprise Zone may not be located:~~

~~(i) Within a minimum of 50 feet of shoreline or any pier without the  
written permission of the riparian owner at the time of designation of the Aquaculture  
Enterprise Zone;~~

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

~~(iii) Within 150 feet of an oyster reserve [or any Yates Bar located in  
an oyster sanctuary];~~

1                   ~~(iv)   **WITHIN 1,000 FEET OF A YATES BAR;**~~

2                   ~~(v)    Within 150 feet of a federal navigational channel;~~

3                   ~~[(v)] **(VI)**    In any creek, cove, bay, or inlet less than 300 feet wide at~~  
4 ~~its mouth at mean low tide; or~~

5                   ~~[(vi)] **(VII)**   In an SAV Protection Zone.~~

6 ~~4-11A-06.~~

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

10                   ~~1.    Approved, conditionally approved, or restricted for~~  
11 ~~harvest; or~~

12                   ~~2.    Prohibited, provided that the lease is used exclusively for~~  
13 ~~the planting and gathering of seed for aquaculture and the leaseholder complies with the~~  
14 ~~requirements of the National Shellfish Sanitation Program as implemented by the~~  
15 ~~Department.~~

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

18                   ~~1.    The corporation is organized under the laws of the State;~~  
19 ~~and~~

20                   ~~2.    More than 50% of the stock in the corporation is owned by~~  
21 ~~residents of the State.~~

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

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

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

27                   ~~(iii)   Within 150 feet of an oyster reserve [or any Yates Bar located in~~  
28 ~~an oyster sanctuary];~~

29                   ~~(iv)   **WITHIN 1,000 FEET OF A YATES BAR;**~~

~~(v) Except as provided in paragraph (4) of this subsection, within 150 feet of a federal navigational channel;~~

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

~~[(vi)] (VII) In an SAV Protection Zone.~~

~~(3) Paragraph [(2)(v)] (2)(VI) of this subsection does not apply to a riparian owner or a lawful occupant of the riparian property.~~

~~(4) A submerged land lease of a riparian owner or a lawful occupant of the riparian property may be located in Herring Creek in St. Mary's County.~~

~~4-11A-07.~~

~~(a) This section applies to a submerged land lease in the waters of the Atlantic Coastal Bays.~~

~~(e) (1) A submerged land lease may not be located:~~

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

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

~~(iii) Within 150 feet of any oyster reserve [or a Yates Bar located in an oyster sanctuary];~~

~~(iv) **WITHIN 1,000 FEET OF A YATES BAR;**~~

~~(v) Within 150 feet of a federal navigational channel;~~

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

~~[(vi)] (VII) In an SAV Protection Zone; or~~

~~[(vii)] (VIII) In a setback or buffer from the Assateague Island National Seashore established by the Department.~~

~~(2) Paragraph [(1)(v)] (1)(VI) of this subsection does not apply to a riparian owner or a lawful occupant of the riparian property.~~

~~4-11A-08.~~

- 1           (e)   (1) ~~A water column lease may not be located:~~
- 2                           (i) ~~Within a minimum of 50 feet of shoreline or any pier without the~~  
3 ~~written permission of the riparian owner at the time of initial application for the lease;~~
- 4                           (ii) ~~Within 150 feet of the public shellfish fishery or a registered~~  
5 ~~pound net site;~~
- 6                           (iii) ~~Within 150 feet of an oyster reserve [or any Yates Bar located in~~  
7 ~~an oyster sanctuary];~~
- 8                           (iv) ~~**WITHIN 1,000 FEET OF A YATES BAR;**~~
- 9                           (v) ~~Except as provided in paragraph (3) of this subsection, within~~  
10 ~~150 feet of a federal navigational channel;~~
- 11                           ~~[(v)] (VI) Subject to paragraph (2) of this subsection, in any creek,~~  
12 ~~cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide;~~
- 13                           ~~[(vi)] (VII) In an SAV Protection Zone; or~~
- 14                           ~~[(vii)] (VIII) In a setback or buffer from the Assateague Island National~~  
15 ~~Seashore established by the Department.~~
- 16                           (2) ~~The provisions of paragraph [(1)(v)] (1)(VI) of this subsection do not~~  
17 ~~apply to the riparian owner or a lawful occupant of the riparian property.~~
- 18                           (3) ~~A water column lease of a riparian owner or a lawful occupant of the~~  
19 ~~riparian property may be located in Herring Creek in St. Mary's County.~~
- 20 ~~4-11A-11.~~
- 21           (a) ~~This section applies to demonstration leases.~~
- 22           (d) ~~The proposed lease area may not be located:~~
- 23                           (1) ~~Within a minimum of 50 feet of shoreline or any pier without the~~  
24 ~~written permission of the riparian owner at the time of application for the lease;~~
- 25                           (2) ~~Within 150 feet of the public shellfish fishery or a registered pound net~~  
26 ~~site;~~
- 27                           (3) ~~Within 150 feet of an oyster reserve [or any Yates Bar located in an~~  
28 ~~oyster sanctuary];~~

1           ~~(4)    **WITHIN 1,000 FEET OF A YATES BAR;**~~

2           ~~(5)    Within 150 feet of a federal navigational channel;~~

3           ~~[(5)] (6)    In any creek, cove, bay, or inlet less than 300 feet wide at its~~  
4 ~~mouth at mean low tide;~~

5           ~~[(6)] (7)    In an SAV Protection Zone; or~~

6           ~~[(7)] (8)    In a setback or buffer from the Assateague Island National~~  
7 ~~Seashore established by the Department.~~

8           ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to~~  
9 ~~apply only prospectively and may not be applied or interpreted to have any effect on or~~  
10 ~~application to any submerged land lease, water column lease, or demonstration lease issued~~  
11 ~~before the effective date of this Act.~~

12           SECTION ~~2.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 July June 1, 2018. It shall remain effective for a period of 1 year and, at the end of May 31,  
14 2019, this Act, with no further action required by the General Assembly, shall be abrogated  
15 and of no further force and effect.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.