

HOUSE BILL 1323

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2000 Regular Session
(01r2479)

ENROLLED BILL

-- Environmental Matters/Economic and Environmental Affairs --

Introduced by **Delegate Weir**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Natural Resources - Critical Areas - Reasonable Accommodations**

3 FOR the purpose of ~~adding an element to the list of elements that are included in a~~
4 ~~local government's critical areas program; requiring the Chesapeake Bay~~
5 ~~Critical Area Commission to approve a local government's amendment that~~
6 ~~allows for reasonable accommodations to avoid discrimination on the basis of~~
7 ~~physical disability; providing that a local government's critical area program~~
8 ~~shall include provisions for reasonable accommodations in policies and~~
9 ~~procedures when the accommodations are necessary to avoid discrimination on~~
10 ~~the basis of physical disability, including provisions that authorize a local~~
11 ~~jurisdiction to require removal of a certain structure at a certain time; and~~
12 generally relating to the Critical Area Protection Program.

13 ~~BY renumbering~~

14 ~~Article - Natural Resources~~

15 ~~Section 8-1809(k) through (s), respectively~~

16 ~~to be Section 8-1809(l) through (t), respectively~~

1 Annotated Code of Maryland
 2 (~~1990 Replacement Volume and 1999 Supplement~~)

3 BY repealing and reenacting, with amendments,
 4 Article - Natural Resources
 5 Section ~~8-1808(b) and 8-1809(j)~~ 8-1808(c)
 6 Annotated Code of Maryland
 7 (1990 Replacement Volume and 1999 Supplement)

8 ~~BY repealing and reenacting, without amendments,~~
 9 ~~Article - Natural Resources~~
 10 ~~Section 8-1809(h) and (i)~~
 11 ~~Annotated Code of Maryland~~
 12 (~~1990 Replacement Volume and 1999 Supplement~~)

13 ~~BY adding to~~
 14 ~~Article - Natural Resources~~
 15 ~~Section 8-1809(k)~~
 16 ~~Annotated Code of Maryland~~
 17 (~~1990 Replacement Volume and 1999 Supplement~~)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 19 MARYLAND, That ~~Section(s) 8-1809(k) through (s), respectively, of Article - Natural~~
 20 ~~Resources of the Annotated Code of Maryland be renumbered to be Section(s)~~
 21 ~~8-1809(l) through (t), respectively.~~

22 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland~~
 23 ~~read as follows:~~

24 **Article - Natural Resources**

25 ~~8-1808.~~

26 (b) ~~A program shall consist of those elements which are necessary or~~
 27 ~~appropriate:~~

28 (1) ~~To minimize adverse impacts on water quality that result from~~
 29 ~~pollutants that are discharged from structures or conveyances or that have run off~~
 30 ~~from surrounding lands;~~

31 (2) ~~To conserve fish, wildlife, and plant habitat; [and]~~

32 (3) ~~To establish land use policies for development in the Chesapeake Bay~~
 33 ~~Critical Area which accommodate growth and also address the fact that, even if~~
 34 ~~pollution is controlled, the number, movement, and activities of persons in that area~~
 35 ~~can create adverse environmental impacts; AND~~

1 (4) ~~TO MAKE REASONABLE ACCOMMODATIONS IN POLICIES OR~~
 2 ~~PROCEDURES WHEN THE ACCOMMODATIONS ARE NECESSARY TO AVOID~~
 3 ~~DISCRIMINATION ON THE BASIS OF PHYSICAL DISABILITY.~~

4 ~~8-1809.~~

5 (h) (1) ~~As often as necessary but not more than 4 times per calendar year,~~
 6 ~~each local jurisdiction may propose program amendments and program refinements~~
 7 ~~to its adopted program.~~

8 (2) (i) ~~Except for program amendments or program refinements~~
 9 ~~developed during program review under subsection (g) of this section, a zoning map~~
 10 ~~amendment may be granted by a local approving authority only on proof of a mistake~~
 11 ~~in the existing zoning.~~

12 (ii) ~~The requirement in paragraph (2)(i) of this subsection that a~~
 13 ~~zoning map amendment may be granted only on proof of a mistake does not apply to~~
 14 ~~proposed changes to a zoning map that:~~

15 1. ~~Are wholly consistent with the land classifications in the~~
 16 ~~adopted program; or~~

17 2. ~~Propose the use of a part of the remaining growth~~
 18 ~~allocation in accordance with the adopted program.~~

19 (i) ~~A program may not be amended except with the approval of the~~
 20 ~~Commission.~~

21 (j) ~~The Commission shall approve programs and program amendments that~~
 22 ~~meet:~~

23 (1) ~~The standards set forth in § 8-1808(b)(1) through [(3)] (4) of this~~
 24 ~~subtitle; and~~

25 (2) ~~The criteria adopted by the Commission under § 8-1808 of this~~
 26 ~~subtitle.~~

27 (K) ~~THE COMMISSION SHALL APPROVE A PROGRAM AMENDMENT THAT~~
 28 ~~ALLOWS FOR REASONABLE ACCOMMODATIONS IN POLICIES OR PROCEDURES IN~~
 29 ~~ORDER TO AVOID DISCRIMINATION ON THE BASIS OF PHYSICAL DISABILITY UNLESS~~
 30 ~~THE COMMISSION CAN DEMONSTRATE THAT THE AMENDMENT WOULD~~
 31 ~~FUNDAMENTALLY ALTER THE NATURE OF THE PROGRAM.~~

32 8-1808.

33 (c) At a minimum, a program sufficient to meet the goals stated in subsection
 34 (b) of this section includes:

35 (1) A map designating the critical area in a local jurisdiction;

36 (2) A comprehensive zoning map for the critical area;

- 1 (3) As necessary, new or amended provisions of the jurisdiction's:
- 2 (i) Subdivision regulations;
- 3 (ii) Comprehensive or master plan;
- 4 (iii) Zoning ordinances or regulations;
- 5 (iv) Provisions relating to enforcement; and
- 6 (v) Provisions as appropriate relating to grandfathering of
7 development at the time the program is adopted or approved by the Commission;
- 8 (4) Provisions requiring that project approvals shall be based on findings
9 that projects are consistent with the standards stated in subsection (b) of this section;
- 10 (5) Provisions to limit the amount of land covered by buildings, roads,
11 parking lots, or other impervious surfaces, and to require or encourage cluster
12 development, where necessary or appropriate;
- 13 (6) Establishment of buffer areas along shorelines within which
14 agriculture will be permitted only if best management practices are used, provided
15 that structures or any other use of land which is necessary for adjacent agriculture
16 shall also be permitted in any buffer area;
- 17 (7) Requirements for minimum setbacks for structures and septic fields
18 along shorelines;
- 19 (8) Designation of shoreline areas, if any, that are suitable for parks,
20 hiking, biking, wildlife refuges, scenic drives, public access or assembly, and
21 water-related recreation such as boat slips, piers, and beaches;
- 22 (9) Designation of shoreline areas, if any, that are suitable for ports,
23 marinas, and industries that use water for transportation or derive economic benefits
24 from shore access;
- 25 (10) Provisions requiring that all harvesting of timber in the Chesapeake
26 Bay Critical Area be in accordance with plans approved by the district forestry board;
27 [and]
- 28 (11) Provisions establishing that the controls in a program which are
29 designed to prevent runoff of pollutants will not be required on sites where the
30 topography prevents runoff from directly or indirectly reaching tidal waters; AND
- 31 (12) PROVISIONS FOR REASONABLE ACCOMMODATIONS IN POLICIES OR
32 PROCEDURES WHEN THE ACCOMMODATIONS ARE NECESSARY TO AVOID
33 DISCRIMINATION ON THE BASIS OF PHYSICAL DISABILITY, INCLUDING PROVISIONS
34 THAT AUTHORIZE A LOCAL JURISDICTION TO REQUIRE REMOVAL OF A STRUCTURE
35 THAT WAS INSTALLED OR BUILT TO ACCOMMODATE A PHYSICAL DISABILITY AND

1 REQUIRE RESTORATION WHEN THE ACCOMMODATION PERMITTED BY THIS
2 PARAGRAPH IS NO LONGER NECESSARY.

3 SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take
4 effect July 1, 2000.