
By: ~~Senator Stone~~ **Senators Stone, Greenip, and Harris**
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 Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments
 Senate action: Adopted
 Read second time: March 15, 2006

CHAPTER_____

1 AN ACT concerning

2 **Wetlands - Licenses - Individual Residential and Community Piers**

3 FOR the purpose of prohibiting the Board of Public Works from requiring certain
 4 compensation exceeding a certain amount for a license issued to a community
 5 pier or individual residential pier; providing for the application of certain
 6 provisions of this Act; defining certain terms; and generally relating to licenses
 7 for dredging or filling on State wetlands.

8 BY repealing and reenacting, with amendments,
 9 Article - Environment
 10 Section 16-101 and 16-205
 11 Annotated Code of Maryland
 12 (1996 Replacement Volume and 2005 Supplement)

13 BY repealing and reenacting, without amendments,
 14 Article - Environment
 15 Section 16-202
 16 Annotated Code of Maryland
 17 (1996 Replacement Volume and 2005 Supplement)

18 BY adding to
 19 Article - Environment
 20 Section 16-205.1
 21 Annotated Code of Maryland
 22 (1996 Replacement Volume and 2005 Supplement)

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

3 **Article - Environment**

4 16-101.

5 (a) In this title the following words have the meaning indicated.

6 (b) "Board" means the Board of Public Works.

7 (C) "COMMUNITY PIER" HAS THE MEANING STATED IN § 8-1808.5 OF THE
8 NATURAL RESOURCES ARTICLE.

9 [(c)] (D) "County" includes Baltimore City unless otherwise indicated.

10 [(d)] (E) "Department" means the Department of the Environment.

11 [(e)] (F) "Dredging" means the removal or displacement by any means of soil,
12 sand, gravel, shells, or other material, whether or not of intrinsic value, from any
13 State or private wetlands.

14 [(f)] (G) (1) "Filling" means:

15 (i) The displacement of navigable water by the depositing into
16 State or private wetlands of soil, sand, gravel, shells, or other materials; or

17 (ii) The artificial alteration of navigable water levels by any
18 physical structure, drainage ditch, or otherwise.

19 (2) "Filling" includes storm drain projects which flow directly into tidal
20 waters of the State.

21 (3) "Filling" does not include:

22 (i) Drainage of agricultural land;

23 (ii) In-place replacement or repair of shore erosion control
24 structures using substantially similar materials and construction design; or

25 (iii) Planting of wetlands vegetation when no grading or fill in State
26 or private wetlands is necessary.

27 (H) "INDIVIDUAL RESIDENTIAL PIER" MEANS A NONCOMMERCIAL PIER THAT
28 BELONGS TO A RIPARIAN OWNER.

29 [(g)] (I) "Landward boundary of wetlands" means the common boundary
30 between wetlands, as defined in this section, and lands not included within the
31 definitions of wetlands appearing in this section.

1 [(h)] (J) (1) "Pier" means any pier, wharf, dock, walkway, bulkhead,
2 breakwater, piles, or other similar structure.

3 (2) "Pier" does not include any structure on pilings or stilts that was
4 originally constructed beyond the landward boundaries of State or private wetlands.

5 [(i)] (K) "Person" means any natural person, partnership, joint-stock
6 company, unincorporated association or society, the State, any unit of the State, a
7 political subdivision, or other corporation of any type.

8 [(j)] (L) (1) "Private wetlands" means any land not considered "State
9 wetland" bordering on or lying beneath tidal waters, which is subject to regular or
10 periodic tidal action and supports aquatic growth.

11 (2) "Private wetlands" includes wetlands, transferred by the State by a
12 valid grant, lease, patent, or grant confirmed by Article 5 of the Maryland Declaration
13 of Rights, to the extent of the interest transferred.

14 [(k)] (M) (1) "Public notice" means the public notice and public informational
15 hearing procedures established in § 5-204(b) through (e) of this article.

16 (2) "Public notice" does not mean notice as provided for in § 16-303 of
17 this title.

18 [(l)] (N) "Regular or periodic tidal action" means the rise and fall of the sea
19 produced by the attraction of the sun and moon uninfluenced by wind or any other
20 circumstance.

21 [(m)] (O) "Secretary" means the Secretary of the Environment.

22 [(n)] (P) "State wetlands" means any land under the navigable waters of the
23 State below the mean high tide, affected by the regular rise and fall of the tide.
24 Wetlands of this category which have been transferred by the State by valid grant,
25 lease, patent or grant confirmed by Article 5 of the Maryland Declaration of Rights
26 shall be considered "private wetland" to the extent of the interest transferred.

27 16-202.

28 (a) A person may not dredge or fill on State wetlands without a license.

29 (b) The Secretary shall assist the Board in determining whether to issue a
30 license to dredge or fill State wetlands. The Secretary shall submit a report indicating
31 whether the license should be granted and, if so, the terms, conditions, and
32 consideration required after consultation with any interested federal, State, and local
33 unit, and after issuing public notice, holding any requested hearing, and taking any
34 evidence the Secretary thinks advisable.

35 (c) (1) Upon receipt of a report by the Secretary, the Board shall decide if
36 issuance of the license is in the best interest of the State, taking into account the
37 varying ecological, economic, developmental, recreational, and aesthetic values each

1 application presents. If the Board decides to issue the license, the issuance of the
2 license shall be for consideration and on terms and conditions the Board determines.
3 Every license shall be in writing.

4 (2) With respect to an application for a license to fill or construct a shore
5 erosion control structure other than riprap on State wetlands, the Board may issue
6 the license without public notice if the fill area is less than 300 feet in length parallel
7 to the fast land as close to the fast land as structurally feasible but not more than 10
8 feet channelward of the mean high water line and if after a site visit the report of the
9 Secretary recommends that the license be granted. The Board may issue a license
10 without public notice where an emergency exists caused by act of God, natural
11 disaster, catastrophe, or other similar natural event when the health, safety, or
12 welfare of the citizens of the State would be jeopardized by a delay caused by time
13 requirements for public notice. However, the license may be granted by the Board
14 only with the concurrence of the Secretary. The Secretary shall provide prompt public
15 notice of the emergency license issuance and the opportunity to submit written
16 comments or to request a hearing to determine whether the emergency license shall
17 be revoked or made permanent. If a hearing is requested, the hearing shall be
18 scheduled within 30 days of the emergency issuance of the license.

19 (3) If the report of the Secretary recommends that a license be granted,
20 the Board may issue the license without public notice:

21 (i) To fill or construct a shore erosion control structure of riprap on
22 State wetlands if the fill area is less than 500 feet in length parallel to the fast land
23 as close to the fast land as structurally feasible but not more than 10 feet
24 channelward of the mean high water line;

25 (ii) To repair or replace a bulkhead for the purpose of shore erosion
26 control where the bulkhead is presently functional, but is deteriorating or damaged,
27 provided that the repair or replacement structure does not extend more than 18
28 inches channelward of the existing structure. Repair or replacement may include
29 riprap placed along the base of the bulkhead, provided that the riprap shall not
30 extend more than 10 feet channelward of the bulkhead;

31 (iii) To fill near shore shallow water bottom extending no more than
32 35 feet channelward of the mean high water line provided the fill area is less than 500
33 feet in length parallel to the fast land for the purpose of shore erosion control by
34 landscaping and wetland plant establishment;

35 (iv) To construct or repair a private noncommercial boat ramp
36 provided the ramp does not exceed 12 feet in width and extend more than 30 feet
37 channelward of the mean high water line; or

38 (v) To maintenance dredge a mooring, private or commercial boat
39 ramp, mobile boat hoist slip, or marine railway when no more than 100 cubic yards of
40 material nor an area greater than 1,500 square feet need to be dredged.

41 (4) With respect to the maintenance dredging of projects in State
42 wetlands for which a license is to be issued, the license may include provision for

1 periodic maintenance dredging if recommended by the report of the Secretary
2 provided that the maintenance dredging be effected:

3 (i) Within the area, depth, and in conformity with other limitations
4 contained in the license;

5 (ii) That no more than 500 cubic yards of material be dredged at
6 each maintenance dredging to restore licensed works;

7 (iii) That the material from maintenance dredging be deposited
8 upon the designated or other upland site approved by the Secretary; and

9 (iv) That the Secretary be notified and approve of each maintenance
10 dredging operation.

11 (5) The provisions for periodic maintenance dredging under paragraph
12 (4) of this subsection shall be effective for no more than 6 years beyond the date of
13 issuance of the license.

14 (6) If the licensee desires to continue maintenance dredging beyond the
15 expiration date authorized in paragraph (5) of this subsection, the licensee must
16 obtain a new license by submitting an application to the Board for review in
17 accordance with the procedures of this section.

18 (d) The provisions of this section do not apply to any operation for:

19 (1) Dredging and filling being conducted as of July 1, 1970, as authorized
20 under the terms of an appropriate permit or license granted under the provisions of
21 existing State and federal law;

22 (2) Dredging of seafood products by any licensed operator, harvesting of
23 seaweed, or mosquito control and abatement as approved by the Department of
24 Agriculture;

25 (3) Improvement of wildlife habitat or agricultural drainage ditches as
26 approved by an appropriate unit; or

27 (4) Routine maintenance or repair of existing bulkheads, provided that
28 there is no addition or channelward encroachment.

29 (e) (1) The Board may not approve a license or an amendment to a license
30 authorizing the dredge material deposited in the Hart-Miller Island Dredged
31 Material Containment Facility to exceed an elevation of:

32 (i) 44 feet above the mean low water mark in the north cell; and

33 (ii) 28 feet above the mean low water mark in the south cell.

34 (2) On or after January 1, 2010, the Board may not approve a license or
35 an amendment to a license authorizing the deposit of dredge material at the
36 Hart-Miller Dredged Material Containment Facility.

1 16-205.

2 (a) [The] EXCEPT AS PROVIDED IN § 16-205.1 OF THIS SUBTITLE, THE Board
3 may require as a condition to issuance of a wetlands license that compensation be
4 made to the State, of a kind and in an amount deemed appropriate by the Board.

5 (b) Monetary compensation received by the State in conjunction with a
6 wetlands license may not be applied to the State Annuity Bond Fund Account.

7 (c) (1) There is created a special fund, known as the Tidal Wetlands
8 Compensation Fund.

9 (2) The following money shall be deposited in the Tidal Wetlands
10 Compensation Fund:

11 (i) Any monetary compensation paid to the State in conjunction
12 with a wetlands license, including compensation paid by an applicant instead of
13 engaging in the creation, restoration, or enhancement of a tidal wetland;

14 (ii) Any penalty imposed by a court in accordance with this title;
15 and

16 (iii) Any penalty imposed by the Department under this title.

17 (d) Funds in the Tidal Wetlands Compensation Fund may be appropriated
18 only for acquisition and conservation of wetland areas by the State, including cost
19 sharing assistance to landowners in the management and control of phragmites
20 under Title 8, Subtitle 21 of the Natural Resources Article.

21 (e) Funds appropriated in the budget for wetlands acquisition and
22 conservation under this section:

23 (1) Shall remain available until expended; and

24 (2) May not be reverted under any other provision of law.

25 16-205.1.

26 (A) FOR A LICENSE THAT IS APPROVED IN ACCORDANCE WITH § 16-202(C) OF
27 THIS SUBTITLE, IF THE LICENSE IS FOR A COMMUNITY PIER OR INDIVIDUAL
28 RESIDENTIAL PIER AND THE ACTIVITY IS NOT INTENDED FOR A COMMERCIAL
29 ENTERPRISE:

30 (1) THE BOARD MAY REQUIRE THAT COMPENSATION BE MADE TO THE
31 STATE BEFORE ISSUING A WETLANDS LICENSE; AND

32 (2) THE LEVEL OF COMPENSATION REQUIRED BY THE BOARD MAY NOT
33 EXCEED \$50 PER LICENSE.

34 (B) THIS SECTION APPLIES REGARDLESS OF WHETHER THE LICENSED
35 ACTIVITY WILL IMPROVE NAVIGATION.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2006.