

SENATE BILL 673

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8lr1243

By: **Senators Colburn, Pipkin, and Stoltzfus**

Introduced and read first time: February 1, 2008

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Clammers – Clamming Appliances and Income – Compensation**

3 FOR the purpose of establishing a Clammers' Compensation Program in the
4 Department of Natural Resources; requiring the Department to compensate
5 certain eligible clammers for equipment and diminished earning capacity due to
6 the prohibition on the use of certain equipment; requiring the Department to
7 adopt certain regulations to ensure that certain clammers receive compensation
8 for certain equipment and diminished earning capacity due to the prohibition on
9 the use of certain equipment; establishing a Clammers' Compensation
10 Committee in the Department to provide for the payment of compensation to
11 clammers; providing for the membership of the Committee; requiring
12 Committee appointees to take a certain oath; setting the terms of members of
13 the Committee; providing for the removal of members on certain grounds;
14 providing for the election of the Committee Chair; specifying that a majority of
15 the authorized membership is a quorum; prohibiting a member of the
16 Committee from receiving compensation as a member; providing that a member
17 is entitled to reimbursement for certain expenses; requiring the Department to
18 provide staff for the Committee; authorizing the Committee to determine which
19 clammers may receive compensation; authorizing the Committee to determine
20 the amount of compensation each clammer may receive; authorizing the
21 Department to use certain funds to carry out the section; requiring the
22 Secretary to adopt regulations to carry out the purposes of the section; defining
23 certain terms; providing for the termination of this Act; and generally relating
24 to compensation for certain clammers.

25 BY adding to

26 Article – Natural Resources

27 Section 4–1002.1

28 Annotated Code of Maryland

29 (2005 Replacement Volume and 2007 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Natural Resources**

4 **4–1002.1.**

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
6 MEANINGS INDICATED.

7 (2) “CLAMMER” MEANS AN INDIVIDUAL WHO:

8 (I) HOLDS OR HAS HELD A LICENSE TO CATCH CLAMS FOR
9 COMMERCIAL PURPOSES UNDER § 4–1004 OF THIS SUBTITLE; AND

10 (II) OWNS A CLAMMING APPLIANCE.

11 (3) (I) “CLAMMING APPLIANCE” MEANS A TOOL OR APPLIANCE
12 USED TO CATCH OR ATTEMPT TO CATCH CLAMS BY DREDGING THAT IS
13 PROHIBITED BY THIS TITLE.

14 (II) “CLAMMING APPLIANCE” INCLUDES:

15 1. A CLAM CHAIN;

16 2. A CLAM CONVEYOR;

17 3. A CLAM HEAD;

18 4. A CLAM POLE;

19 5. A CLAM PUMP MOTOR; AND

20 6. A CLAM RIG.

21 (B) (1) THERE IS A CLAMMERS’ COMPENSATION PROGRAM IN THE
22 DEPARTMENT.

23 (2) THE DEPARTMENT SHALL COMPENSATE ELIGIBLE CLAMMERS
24 AS PROVIDED IN THIS SUBSECTION.

25 (3) TO BE ELIGIBLE FOR COMPENSATION A CLAMMER SHALL:

1 (I) **SUBMIT A SHELLFISH BUY TICKET OR TAX RECEIPT**
2 **SHOWING THE CLAMMER FISHED FOR CLAMS BETWEEN SEPTEMBER 15, 1994,**
3 **AND OCTOBER 1, 2008; OR**

4 (II) **PROVIDE EVIDENCE OF ACTIVE PARTICIPATION IN THE**
5 **CLAM FISHERY TO THE SATISFACTION OF THE CLAMMERS' COMPENSATION**
6 **PROGRAM.**

7 (C) **THE CLAMMERS' COMPENSATION PROGRAM:**

8 (1) **SHALL PAY A CLAMMER COMPENSATION EQUAL TO THE FAIR**
9 **MARKET VALUE OF CLAMMING APPLIANCES OWNED BY THE CLAMMER; AND**

10 (2) **MAY PAY A CLAMMER COMPENSATION FOR THE CLAMMER'S**
11 **DIMINISHED EARNING CAPACITY.**

12 (D) (1) **THERE IS A CLAMMERS' COMPENSATION COMMITTEE IN THE**
13 **DEPARTMENT TO PROVIDE FOR THE PAYMENT OF COMPENSATION TO**
14 **CLAMMERS.**

15 (2) **THE CLAMMERS' COMPENSATION COMMITTEE IS COMPOSED**
16 **OF THE FOLLOWING SEVEN MEMBERS:**

17 (I) **ONE MEMBER OF THE HOUSE OF DELEGATES,**
18 **APPOINTED BY THE SPEAKER OF THE HOUSE;**

19 (II) **ONE MEMBER OF THE SENATE OF MARYLAND,**
20 **APPOINTED BY THE PRESIDENT OF THE SENATE;**

21 (III) **ONE REPRESENTATIVE OF THE DEPARTMENT,**
22 **APPOINTED BY THE GOVERNOR ON THE RECOMMENDATION OF THE**
23 **SECRETARY;**

24 (IV) **ONE REPRESENTATIVE OF THE CLAMMERS, APPOINTED**
25 **BY THE GOVERNOR; AND**

26 (V) **THREE REPRESENTATIVES OF THE MARYLAND**
27 **WATERMEN'S ASSOCIATION, APPOINTED BY THE GOVERNOR.**

28 (3) **BEFORE TAKING OFFICE, AN APPOINTEE TO THE CLAMMERS'**
29 **COMPENSATION COMMITTEE SHALL TAKE THE OATH REQUIRED BY ARTICLE I,**
30 **§ 9 OF THE MARYLAND CONSTITUTION.**

1 (4) THE TERM OF AN APPOINTED MEMBER IS 2 YEARS AND
2 BEGINS ON OCTOBER 1, 2008.

3 (5) THE GOVERNOR MAY REMOVE A MEMBER FOR
4 INCOMPETENCE OR MISCONDUCT.

5 (6) FROM AMONG ITS MEMBERS, THE CLAMMERS'
6 COMPENSATION COMMITTEE SHALL ELECT A CHAIR.

7 (7) A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE
8 CLAMMERS' COMPENSATION COMMITTEE IS A QUORUM.

9 (8) A MEMBER OF THE CLAMMERS' COMPENSATION COMMITTEE:

10 (I) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF
11 THE CLAMMERS' COMPENSATION COMMITTEE; BUT

12 (II) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES
13 UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE
14 STATE BUDGET.

15 (9) THE DEPARTMENT SHALL PROVIDE STAFF TO THE
16 CLAMMERS' COMPENSATION COMMITTEE IN ACCORDANCE WITH THE STATE
17 BUDGET.

18 (E) THE CLAMMERS' COMPENSATION COMMITTEE SHALL:

19 (1) SUBJECT TO SUBSECTION (B)(3) OF THIS SECTION,
20 DETERMINE WHICH CLAMMERS MAY RECEIVE COMPENSATION; AND

21 (2) SUBJECT TO SUBSECTION (C) OF THIS SECTION, DETERMINE
22 THE AMOUNT OF COMPENSATION THAT A CLAMMER MAY RECEIVE.

23 (F) IN CARRYING OUT THIS SECTION, THE DEPARTMENT MAY USE ANY
24 GENERAL, SPECIAL, STATE REIMBURSABLE, OR FEDERAL REIMBURSABLE
25 FUNDS APPROPRIATED IN THE BUDGET.

26 (G) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THE
27 PURPOSES OF THIS SECTION.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2008. It shall remain effective for a period of 2 years and, at the end of
30 September 30, 2010, with no further action required by the General Assembly, this Act
31 shall be abrogated and of no further force and effect.