

SENATE BILL 1128

M3

EMERGENCY BILL

0lr3639
CF HB 1568

By: **Senator Colburn**

Constitutional Requirements Complied with for Introduction in the last 35 Days of
Session

Introduced and read first time: March 27, 2010

Rules suspended

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 6, 2010

CHAPTER _____

1 AN ACT concerning

2 **Board of Public Works – Licenses to Dredge and Fill on State Wetlands –**
3 **Working Marinas**

4 FOR the purpose of authorizing the Board of Public Works to issue a certain license to
5 dredge and fill on State wetlands for a certain development project at certain
6 marinas if the development project meets certain criteria or the license will
7 authorize dredging to improve certain navigational access; prohibiting the
8 Board from issuing a certain license for a certain development project unless the
9 applicant for the license has obtained certain other authorizations if required by
10 local, State, or federal law; providing for the application of this Act; making this
11 Act an emergency measure; and generally relating to the authority of the Board
12 of Public Works to issue a license to dredge and fill in State wetlands.

13 BY adding to

14 Article – Environment

15 Section 16–106

16 Annotated Code of Maryland

17 (2007 Replacement Volume and 2009 Supplement)

18 Preamble

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.



1 WHEREAS, Chapters 173 and 174 of the Acts of 2009 established a process
2 administered by the Department of Natural Resources for granting aquaculture and
3 submerged land leases; and

4 WHEREAS, It is the policy of the State to expand aquaculture opportunities to
5 restore the Chesapeake Bay, bring back the State's native oyster, create new jobs, and
6 improve economic activity in the State; and

7 WHEREAS, Aquaculture operations may require improved access to navigable
8 waters and development of working marinas; and

9 WHEREAS, To develop a marina on State wetlands a person must obtain a
10 license to dredge or fill on State wetlands from the Board of Public Works; and

11 WHEREAS, The Department of the Environment has established marina siting
12 guidelines designed to minimize impacts to the State natural resources, including
13 water quality, from development projects at marinas; now, therefore,

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

16 **Article – Environment**

17 **16-106.**

18 (A) (1) **THIS SECTION APPLIES TO A DEVELOPMENT PROJECT ~~AT TO~~ TO**
19 **EXPAND A MARINA THAT HISTORICALLY OPERATED AS A WORKING MARINA FOR**
20 **THE SOLE PURPOSE OF SUPPORTING AQUACULTURE OR SEAFOOD OPERATIONS.**

21 (2) **THIS SECTION DOES NOT APPLY TO A DEVELOPMENT**
22 **PROJECT ~~AT TO EXPAND~~ A MARINA IF THE ~~PRINCIPAL PURPOSE OF THE~~**
23 **~~DEVELOPMENT PROJECT~~ EXISTING OR EXPANDED MARINA IS USED TO ALLOW A**
24 **PERSON TO MOOR, DOCK, OR STORE RECREATIONAL OR PLEASURE VESSELS ~~AT~~**
25 **THE MARINA.**

26 (B) (1) **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,**
27 **THE BOARD MAY ISSUE A LICENSE UNDER THIS TITLE FOR A DEVELOPMENT**
28 **PROJECT ~~AT TO EXPAND~~ A MARINA ~~WITH A~~ THAT IS LOCATED IN AN AREA WHERE**
29 **~~THE WATER DEPTH OF IS LESS THAN 4 1/2 FEET, NO FLUSHING LIMIT, AND NO~~**
30 **~~HISTORIC WATER QUALITY ISSUES IF:~~**

31 **(1) ~~THE~~ AT MEAN LOW WATER AND ON A WATERWAY WITHOUT**
32 **STRONG FLUSHING IF THE DEVELOPMENT PROJECT:**

33 (I) **ENHANCES AQUACULTURE ACTIVITIES OR SEAFOOD**
34 **OPERATIONS;**

1 **(II) IS LOCATED IN A MARINA OR SEAFOOD OPERATION AT A**
2 **MARINA OPERATED BY A NONPROFIT ORGANIZATION TO PROMOTE**
3 **AQUACULTURE ACTIVITIES OR OYSTER RESTORATION IN THE STATE;**

4 **(III) DOES NOT ~~SIGNIFICANTLY~~ ADVERSELY IMPACT**
5 **SUBMERGED AQUATIC VEGETATION; AND**

6 **(IV) WILL FURTHER THE POLICIES OF THE STATE RELATED**
7 **TO AQUACULTURE;~~OR.~~**

8 **(2) THE LICENSE ~~WILL~~ AUTHORIZED UNDER PARAGRAPH (1) OF**
9 **THIS SUBSECTION MAY AUTHORIZE DREDGING TO IMPROVE NAVIGATIONAL**
10 **ACCESS TO THE MARINA OR MARINA FACILITY OPERATIONS.**

11 **(C) THE BOARD MAY NOT ISSUE A LICENSE UNDER THIS TITLE UNLESS**
12 **THE APPLICANT FOR THE LICENSE HAS OBTAINED THE FOLLOWING**
13 **AUTHORIZATIONS IF REQUIRED BY LOCAL, STATE, OR FEDERAL LAW:**

14 **(1) LOCAL PLANNING OR ZONING AUTHORIZATION;**

15 **(2) AN AQUACULTURE LEASE;**

16 **(3) A WATER COLUMN LEASE ISSUED BY THE BOARD OR A**
17 **SUBMERGED LAND LEASE ISSUED BY THE DEPARTMENT OF NATURAL**
18 **RESOURCES; AND**

19 **(4) A PERMIT ISSUED BY THE U.S. ARMY CORPS OF ENGINEERS**
20 **UNDER § 404 OF THE FEDERAL CLEAN WATER ACT OR UNDER § 10 OF THE**
21 **FEDERAL RIVERS AND HARBORS ACT.**

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