

HOUSE BILL 1306

M2

2lr0014

By: **Chair, Environmental Matters Committee (By Request – Departmental – Natural Resources)**

Introduced and read first time: February 15, 2012

Assigned to: Rules and Executive Nominations

Re-referred to: Environmental Matters, February 27, 2012

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2012

CHAPTER _____

1 AN ACT concerning

2 **Department of Natural Resources – Aquaculture Leasing**

3 FOR the purpose of authorizing the Department of Natural Resources, in consultation
4 with the Aquaculture Coordinating Council, to charge an application fee, rent,
5 and an aquaculture development surcharge for water column leases; reducing
6 the length of time that the Department is required to advertise an aquaculture
7 lease application in a local newspaper; prohibiting a leaseholder from placing
8 certain oysters on a lease; altering a certain restriction on the location of a
9 demonstration lease; repealing provisions of law that authorize and govern the
10 dredging of oysters on leased ground in certain areas of the State; repealing
11 provisions of law that restrict the Department's authority to regulate the
12 taking, possession, transportation, or sale of certain oysters; and generally
13 relating to aquaculture leasing.

14 BY repealing and reenacting, with amendments,
15 Article – Natural Resources
16 Section 4–11A–09(a), (d), and (g)(1), 4–11A–10(c), 4–11A–11(d), and 4–11A–19
17 Annotated Code of Maryland
18 (2005 Replacement Volume and 2011 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – Natural Resources
21 Section 4–11A–11(a)

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
(2005 Replacement Volume and 2011 Supplement)

BY repealing

Article – Natural Resources

Section 4–11A–15

Annotated Code of Maryland

(2005 Replacement Volume and 2011 Supplement)

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

Article – Natural Resources

4–11A–09.

(a) [(1)] A person who wishes to obtain an aquaculture, **WATER COLUMN**, or submerged land lease shall pay a nonrefundable application fee established by the Department, **IN CONSULTATION WITH THE AQUACULTURE COORDINATING COUNCIL**, and complete and submit an application to the Department.

[(2)] A person who wishes to obtain a water column lease that does not apply in an Aquaculture Enterprise Zone shall complete and submit an application to the Department.]

(d) (1) The term of a lease is 20 years.

(2) Except for a demonstration lease under § 4–11A–11 of this subtitle, a lease may be of any size provided that the leaseholder actively uses the area.

(3) The Department shall establish, **IN CONSULTATION WITH THE AQUACULTURE COORDINATING COUNCIL**, an annual amount of rent and an aquaculture development surcharge for an aquaculture, **WATER COLUMN**, or submerged land lease.

(4) The Department, as it considers necessary to protect the public health, safety, and welfare, may:

(i) Deny a lease application for reasonable cause; or

(ii) Include any conditions in a lease.

(g) (1) If an application for a submerged land or water column lease in the Chesapeake Bay or in the Atlantic Coastal Bays meets the requirements of this subtitle:

(i) The applicant for the lease shall mark the proposed area with a stake; and

(ii) The Department shall:

1. Advertise the application on the website of the Department and once a week for [4 successive] 2 weeks in a newspaper published in the county or counties where the proposed lease is to be located;

2. Notify the owners of property directly in front of the proposed activity;

3. Notify each Chair of an Oyster Committee in the county in which the proposed activity is located; and

4. Notify other interested parties that the Department deems appropriate.

4-11A-10.

(c) A leaseholder may not:

(1) Place shellfish, bags, nets, or structures on submerged aquatic vegetation;

(2) Plant or harvest shellfish within 500 yards of any stationary blind or blind site that is occupied and being used for hunting migratory waterfowl;

(3) Sublease a lease;

(4) Transfer a lease without the approval of the Department; [or]

(5) Harvest shellfish between the hours of sunset and sunrise; OR

(6) PLACE UNLAWFULLY HARVESTED OYSTERS ON A LEASE.

4-11A-11.

(a) This section applies to demonstration leases.

(d) The proposed lease area may not be located:

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

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

(3) Within 150 feet of an [oyster sanctuary or] oyster reserve OR ANY YATES BAR LOCATED IN AN OYSTER SANCTUARY;

(4) Within 150 feet of a federal navigational channel;

(5) In any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide;

(6) In an SAV Protection Zone; or

(7) In a setback or buffer from the Assateague Island National Seashore established by the Department.

[4-11A-15.

(a) To enable private planters more effectively to compete for seed oysters and more economically produce oysters through cleaning of grounds, a person may dredge by power boat on grounds he leases for cultivation of oysters in the Wicomico and Nanticoke rivers in Wicomico County.

(b) Notwithstanding the licensing provisions in Subtitle 10, a person desiring to dredge on leased grounds first shall obtain from the Department a special permit for the dredge boat. The fee for this special permit is \$15.

(c) A holder of a permit may dredge on any day except Sunday. Notice of intention to dredge shall be given in writing to every leasehold owner adjoining the leasehold area to be dredged.

(d) Before dredging, the leasehold area to be dredged shall be marked with a stake at each corner. Between each corner and along the boundary of the leasehold area, line stakes shall be placed at 100 foot intervals.

(e) In addition to any other penalty imposed by this title, any captain of a boat convicted of having an unlicensed dredge on board while in a leasehold area may not dredge under his license for at least one year after the date of the conviction.]

4-11A-19.

Notwithstanding any other provision of this title, the Department may adopt regulations that allow taking, possession, transport, or sale of oysters, from leased oyster bottoms [only for the purpose of replanting on leased bottoms,] that are less than the minimum size limit in §§ 4-1015 and 4-1015.1 of this title. [This section may not be construed to permit the sale of oysters for human consumption that are less than the minimum size limit specified in §§ 4-1015 and 4-1015.1 of this title.]

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 June 1, 2012.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.