

Chapter 333

(Senate Bill 920)

AN ACT concerning

~~Chesapeake Bay~~ Natural Resources – Submerged Land and Water Column Leases – Riparian Owners Herring Creek

FOR the purpose of exempting certain ~~Chesapeake Bay~~ submerged land leases and water column leases from a certain setback requirement; authorizing a submerged land lease or a water column lease of a riparian owner or a lawful occupant of the riparian property to be located ~~a certain minimum distance from a shallow draft federal navigational channel~~ in Herring Creek in St. Mary's County; making this Act an emergency measure; and generally relating to submerged land leases and water column leases in ~~the Chesapeake Bay~~ Herring Creek in St. Mary's County.

BY repealing and reenacting, with amendments,

Article – Natural Resources
Section 4–11A–06 and 4–11A–08
Annotated Code of Maryland
(2012 Replacement Volume)

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

Article – Natural Resources

4–11A–06.

(a) This section applies to a submerged land lease in the Chesapeake Bay that is not in an Aquaculture Enterprise Zone.

(b) (1) (i) Subject to subparagraph (ii) of this paragraph, the Department may issue to a person a submerged land lease in waters of the Chesapeake Bay after the Department of the Environment classifies the waters as:

1. Approved, conditionally approved, or restricted for harvest; or

2. Prohibited, provided that the lease is used exclusively for the planting and gathering of seed for aquaculture and the leaseholder complies with the requirements of the National Shellfish Sanitation Program as implemented by the Department.

(ii) The Department may issue a submerged land lease in the waters of the Chesapeake Bay to a corporation only if:

1. The corporation is organized under the laws of the State; and

2. More than 50% of the stock in the corporation is owned by residents of the State.

(2) A submerged land lease may not be located:

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

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

(iii) Within 150 feet of an oyster reserve or any Yates Bar located in an oyster sanctuary;

(iv) **[Within] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, WITHIN** 150 feet of a federal navigational channel;

(v) Subject to paragraph (3) of this subsection, in any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide; or

(vi) In an SAV Protection Zone.

(3) Paragraph (2)(v) of this subsection does not apply to a riparian owner or a lawful occupant of the riparian property.

(4) A SUBMERGED LAND LEASE OF A RIPARIAN OWNER OR A LAWFUL OCCUPANT OF THE RIPARIAN PROPERTY MAY BE LOCATED ~~50 FEET OR MORE FROM A SHALLOW DRAFT FEDERAL NAVIGATIONAL CHANNEL~~ IN HERRING CREEK IN ST. MARY'S COUNTY.

(c) A person with a submerged land lease in the Chesapeake Bay may cultivate shellfish on the submerged land, in temporary protective enclosures approved by the Department on the surface of the submerged land, or in any other manner authorized by the Department.

(d) Notwithstanding any other provision of this subtitle, a lease of submerged land located within a sanctuary must be compatible with oyster restoration

and must satisfy the criteria for permissible leasing within a sanctuary as provided in regulations adopted under this subtitle.

4-11A-08.

(a) This section applies to a water column lease in the waters of the State.

(b) The Department may issue to a person a water column lease in waters of the State after the Department of the Environment classifies the waters as:

(1) Approved, conditionally approved, or restricted for harvest; or

(2) Prohibited, provided that the lease is used exclusively for the planting and gathering of seed for aquaculture and the leaseholder complies with the requirements of the National Shellfish Sanitation Program as implemented by the Department.

(c) (1) A water column lease may not be located:

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

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

(iii) Within 150 feet of an oyster reserve or any Yates Bar located in an oyster sanctuary;

(iv) **[Within] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, WITHIN** 150 feet of a federal navigational channel;

(v) Subject to paragraph (2) of this subsection, in any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide;

(vi) In an SAV Protection Zone; or

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

(2) The provisions of paragraph (1)(v) of this subsection do not apply to the riparian owner or a lawful occupant of the riparian property.

(3) A WATER COLUMN LEASE OF A RIPARIAN OWNER OR A LAWFUL OCCUPANT OF THE RIPARIAN PROPERTY MAY BE LOCATED ~~50 FEET OR~~

~~**MORE FROM A SHALLOW DRAFT FEDERAL NAVIGATIONAL CHANNEL IN HERRING CREEK IN ST. MARY'S COUNTY.**~~

(d) A person with a water column lease in the waters of the State may cultivate shellfish:

(1) Subject to approval by the United States Army Corps of Engineers, on or under the surface of the water in a floating structure; or

(2) In any other manner authorized by the Department.

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

Approved by the Governor, May 2, 2013.