

HOUSE BILL 1426

M2

8lr1982

By: **Delegate Adams**

Introduced and read first time: February 9, 2018

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Aquaculture Leases – Location**

3 FOR the purpose of prohibiting an Aquaculture Enterprise Zone, certain submerged land
4 leases, a water column lease, and a demonstration lease from being located within a
5 certain distance of a Yates Bar; providing for the application of this Act; and
6 generally relating to the location of aquaculture leases.

7 BY repealing and reenacting, without amendments,

8 Article – Natural Resources

9 Section 4–11A–01(a) and (q), 4–11A–07(a), and 4–11A–11(a)

10 Annotated Code of Maryland

11 (2012 Replacement Volume and 2017 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article – Natural Resources

14 Section 4–11A–05(b)(2), 4–11A–06(b), 4–11A–07(c), 4–11A–08(c), and 4–11A–11(d)

15 Annotated Code of Maryland

16 (2012 Replacement Volume and 2017 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

18 That the Laws of Maryland read as follows:

19 **Article – Natural Resources**

20 4–11A–01.

21 (a) In this subtitle the following words have the meanings indicated.

22 (q) “Yates Bar” means any submerged oyster bar, reef, rock, or area represented
23 as an oyster bar on the charts of the Oyster Survey of 1906 to 1912, not including any
24 amendments.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 4-11A-05.

2 (b) (2) An Aquaculture Enterprise Zone may not be located:

3 (i) Within a minimum of 50 feet of shoreline or any pier without the
4 written permission of the riparian owner at the time of designation of the Aquaculture
5 Enterprise Zone;

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

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

10 (iv) **WITHIN 1,000 FEET OF A YATES BAR;**

11 (v) Within 150 feet of a federal navigational channel;

12 [(v)] (vi) In any creek, cove, bay, or inlet less than 300 feet wide at
13 its mouth at mean low tide; or

14 [(vi)] (vii) In an SAV Protection Zone.

15 4-11A-06.

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

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

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

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

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

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

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

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

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

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

8 (iv) **WITHIN 1,000 FEET OF A YATES BAR;**

9 (v) Except as provided in paragraph (4) of this subsection, within
10 150 feet of a federal navigational channel;

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

13 [(vi)] (vii) In an SAV Protection Zone.

14 (3) Paragraph [(2)(v)] **(2)(VI)** of this subsection does not apply to a riparian
15 owner or a lawful occupant of the riparian property.

16 (4) A submerged land lease of a riparian owner or a lawful occupant of the
17 riparian property may be located in Herring Creek in St. Mary's County.

18 4-11A-07.

19 (a) This section applies to a submerged land lease in the waters of the Atlantic
20 Coastal Bays.

21 (c) (1) A submerged land lease may not be located:

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

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

26 (iii) Within 150 feet of any oyster reserve [or a Yates Bar located in
27 an oyster sanctuary];

28 (iv) **WITHIN 1,000 FEET OF A YATES BAR;**

1 (v) Within 150 feet of a federal navigational channel;

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

4 [(vi)] (VII) In an SAV Protection Zone; or

5 [(vii)] (VIII) In a setback or buffer from the Assateague Island
6 National Seashore established by the Department.

7 (2) Paragraph [(1)(v)] (1)(VI) of this subsection does not apply to a riparian
8 owner or a lawful occupant of the riparian property.

9 4–11A–08.

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

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

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

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

17 (iv) **WITHIN 1,000 FEET OF A YATES BAR;**

18 (v) Except as provided in paragraph (3) of this subsection, within
19 150 feet of a federal navigational channel;

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

22 [(vi)] (VII) In an SAV Protection Zone; or

23 [(vii)] (VIII) In a setback or buffer from the Assateague Island
24 National Seashore established by the Department.

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

27 (3) A water column lease of a riparian owner or a lawful occupant of the
28 riparian property may be located in Herring Creek in St. Mary's County.

29 4–11A–11.

1 (a) This section applies to demonstration leases.

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

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

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

7 (3) Within 150 feet of an oyster reserve [or any Yates Bar located in an
8 oyster sanctuary];

9 (4) **WITHIN 1,000 FEET OF A YATES BAR;**

10 (5) Within 150 feet of a federal navigational channel;

11 [(5)] (6) In any creek, cove, bay, or inlet less than 300 feet wide at its
12 mouth at mean low tide;

13 [(6)] (7) In an SAV Protection Zone; or

14 [(7)] (8) In a setback or buffer from the Assateague Island National
15 Seashore established by the Department.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
17 apply only prospectively and may not be applied or interpreted to have any effect on or
18 application to any submerged land lease, water column lease, or demonstration lease issued
19 before the effective date of this Act.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
21 1, 2018.