

HOUSE BILL 857

M2

4r1630
CF 4r2041

By: **Delegate D. Jones**

Introduced and read first time: February 2, 2024

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Shellfish Aquaculture – Harvest Hours**

3 FOR the purpose of repealing a certain restriction on the hours for harvesting shellfish
4 from certain areas leased for aquaculture; requiring the Department of Natural
5 Resources to establish by regulation the hours for harvesting shellfish within leased
6 areas; and generally relating to shellfish aquaculture.

7 BY repealing and reenacting, with amendments,
8 Article – Natural Resources
9 Section 4–11A–10
10 Annotated Code of Maryland
11 (2023 Replacement Volume and 2023 Supplement)

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

14 **Article – Natural Resources**

15 4–11A–10.

16 (a) A leaseholder shall:

17 (1) Subject to subsection (b) of this section, actively use the lease and
18 comply with any standards for planting, harvesting, and use of the leased area established
19 by the Department;

20 (2) Mark each lease area with an 8–inch by 12–inch marker displaying the
21 initials of the leaseholder and posted on a minimum of four poles;

22 (3) Comply with any other marking requirements established by the
23 Department for the protection of navigation;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (4) Comply with the regulations established by the Maryland Department
2 of Health in consultation with the Department of the Environment to carry out the mandate
3 of the National Shellfish Sanitation Program; and

4 (5) Pay the rent and the aquaculture development surcharge for the lease
5 at the time established by the Department.

6 (b) The Department may waive the requirements for active use of a lease on a
7 showing that conditions not present at the time of execution of the lease, including the
8 unavailability of shellfish seed, prevent active use of the leased area.

9 (c) A leaseholder may not:

10 (1) Place shellfish, bags, nets, or structures on submerged aquatic
11 vegetation without prior written approval from the Department;

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

14 (3) Sublease a lease;

15 (4) Transfer a lease without the approval of the Department;

16 (5) Harvest shellfish [between the hours of sunset and sunrise] **OUTSIDE**
17 **THE HOURS ESTABLISHED BY THE DEPARTMENT IN REGULATION;** or

18 (6) Place unlawfully harvested oysters on a lease.

19 (c-1) In approving the placement of shellfish, bags, nets, or structures on
20 submerged aquatic vegetation under subsection (c)(1) of this section, the Department:

21 (1) May not authorize harvesting by dredge in areas where submerged
22 aquatic vegetation is present;

23 (2) Shall authorize for water column leases the placement of shellfish,
24 bags, nets, or structures in at least 10% of the area where submerged aquatic vegetation is
25 present; and

26 (3) Shall authorize harvest by diving in areas on any submerged land lease
27 where submerged aquatic vegetation is present.

28 (d) Shellfish planted or harvested in accordance with a lease issued under this
29 subtitle are subject to inspection by the Department.

1 (e) (1) A person who wishes to renew a lease issued under this subtitle or an
2 existing shellfish lease or oyster lease shall submit an application that meets the
3 requirements for an initial application in § 4-11A-09 or § 4-11A-11 of this subtitle.

4 (2) Before the termination or expiration of a lease issued under this
5 subtitle, the leaseholder shall have the right of first refusal with respect to future leases of
6 the leased area.

7 (f) (1) The Department may terminate a lease issued under this subtitle for
8 failure to comply with the requirements of this subtitle.

9 (2) The Department shall notify a leaseholder by registered mail of its
10 intention and proposed decision to terminate a lease for failure to comply with the
11 requirements of this subtitle.

12 (3) A leaseholder who wishes to contest the Department's proposed
13 decision may request a review of the decision by the Secretary, which shall be filed not later
14 than 30 days after receipt of the Department's decision.

15 (4) Failure of a leaseholder to respond to the Department's proposed
16 decision within 30 days of the date of the decision shall cause the leasehold to revert to the
17 State.

18 **(G) IN CONSULTATION WITH THE AQUACULTURE COORDINATING COUNCIL,**
19 **THE DEPARTMENT SHALL ESTABLISH BY REGULATION THE HOURS FOR**
20 **HARVESTING SHELLFISH WITHIN LEASED AREAS.**

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
22 1, 2024.