

# SENATE BILL 637

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By: **Senators Hershey and Bailey**

Introduced and read first time: January 25, 2025

Assigned to: Education, Energy, and the Environment

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## A BILL ENTITLED

1 AN ACT concerning

2 **State and Private Wetlands – Nonwater–Dependent Project – Definition**

3 FOR the purpose of establishing that a certain vessel is not a nonwater–dependent project  
4 for the purpose of certain provisions of law regarding construction on State or private  
5 wetlands; and generally relating to State and private wetlands.

6 BY repealing and reenacting, without amendments,  
7 Article – Environment  
8 Section 16–101(a) and 16–104(b) and (c)  
9 Annotated Code of Maryland  
10 (2014 Replacement Volume and 2024 Supplement)

11 BY repealing and reenacting, with amendments,  
12 Article – Environment  
13 Section 16–101(i)  
14 Annotated Code of Maryland  
15 (2014 Replacement Volume and 2024 Supplement)

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

18 **Article – Environment**

19 16–101.

20 (a) In this title the following words have the meanings indicated.

21 (i) (1) “Nonwater–dependent project” means a temporary or permanent  
22 structure that, by reason of its intrinsic nature, use, or operation, does not require location  
23 in, on, or over State or private wetlands.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) “Nonwater–dependent project” includes:

2 (i) A dwelling unit on a pier;

3 (ii) A restaurant, a shop, an office, or any other commercial building  
4 or use on a pier;

5 (iii) A temporary or permanent roof or covering on a pier;

6 (iv) A pier used to support a nonwater–dependent use; and

7 (v) A small–scale renewable energy system on a pier, including:

8 1. A solar energy system and its photovoltaic cells, solar  
9 panels, or other necessary equipment;

10 2. A geothermal energy system and its geothermal heat  
11 exchanger or other necessary equipment; and

12 3. A wind energy system and its wind turbine, tower, base,  
13 or other necessary equipment.

14 (3) “Nonwater–dependent project” does not include:

15 (i) A fuel pump or other fuel–dispensing equipment on a pier;

16 (ii) A sanitary sewage pump or other wastewater removal equipment  
17 on a pier;

18 (iii) A pump, a pipe, or any other equipment attached to a pier and  
19 associated with a shellfish nursery operation under a permit issued by the Department of  
20 Natural Resources under § 4–11A–23 of the Natural Resources Article; [or]

21 (iv) An office on a pier for managing marina operations, including  
22 monitoring vessel traffic, registering vessels, providing docking services, and housing  
23 electrical or emergency equipment related to marina operations; **OR**

24 **(v) A VESSEL REGISTERED UNDER TITLE 8, SUBTITLE 7 OF THE**  
25 **NATURAL RESOURCES ARTICLE, REGARDLESS OF HOW THE VESSEL IS USED OR**  
26 **OPERATED.**

27 16–104.

28 (b) (1) Except as provided in paragraphs (2) and (3) of this subsection and  
29 notwithstanding any other provision of law, the Board of Public Works may not issue a  
30 license to authorize a nonwater–dependent project located on State wetlands.

1           (2) The Board of Public Works may issue a license to authorize a  
2 nonwater-dependent project located on State wetlands if the project:

3                   (i) 1. Involves a commercial activity that is permitted as a  
4 secondary or accessory use to a permitted primary commercial use;

5                               2. Is not located on a pier that is attached to residentially,  
6 institutionally, or industrially used property;

7                               3. Avoids and minimizes impacts to State or private  
8 wetlands and other aquatic resources;

9                               4. Is located in:

10                                   A. An intensely developed area and the project is authorized  
11 under a program amendment to a local jurisdiction's critical area program approved on or  
12 after July 1, 2013, if the approved program amendment includes necessary changes to the  
13 local jurisdiction's zoning, subdivision, and other ordinances so as to be consistent with or  
14 more restrictive than the requirements provided under this paragraph; or

15                                   B. An area that has been excluded from a local critical area  
16 program if the exclusion has been adopted or approved by the Critical Area Commission for  
17 the Chesapeake and Atlantic Coastal Bays;

18                               5. Is approved by the local planning and zoning authorities  
19 after the local jurisdiction's program amendment under item 4A of this item, if applicable,  
20 has been approved;

21                               6. Allows or enhances public access to State wetlands;

22                               7. Does not expand beyond the length, width, or channelward  
23 encroachment of the pier on which the project is constructed;

24                               8. Has a height of up to 18 feet unless the project is located  
25 at a marina and the Secretary recommends additional height;

26                               9. Is up to 1,000 square feet in total area;

27                               10. Is not located in, on, or over vegetated tidal wetlands,  
28 submerged aquatic vegetation, a natural oyster bar, a public shellfish fishery area, a Yates  
29 Bar, or an area with rare, threatened, or endangered species or species in need of  
30 conservation; and

31                               11. Does not adversely impact a fish spawning or nursery area  
32 or an historic waterfowl staging area; or

1 (ii) 1. Is located on a pier that was in existence on or before  
2 December 31, 2012;

3 2. Satisfies all of the requirements under item (i)1 through 8  
4 of this paragraph; and

5 3. If applicable, has a temporary or permanent roof or  
6 covering that is up to 1,000 square feet in total area.

7 (3) (i) The Board of Public Works may issue a license to authorize a  
8 nonwater-dependent project for a small-scale renewable energy system on a pier located  
9 on State wetlands if the project:

10 1. Involves the installation or placement of a small-scale  
11 renewable energy system that is permitted as a secondary or accessory use on a pier that  
12 is authorized under this title;

13 2. Avoids and minimizes impacts to State or private  
14 wetlands and other aquatic resources;

15 3. Is located in:

16 A. The Chesapeake and Atlantic Coastal Bays Critical Area  
17 and the project is authorized under a program amendment to a local jurisdiction's critical  
18 area program approved on or after July 1, 2013, if the approved program amendment  
19 includes necessary changes to the local jurisdiction's zoning, subdivision, and other  
20 ordinances so as to be consistent with or more restrictive than the requirements provided  
21 under this paragraph; or

22 B. An area that has been excluded from a local critical area  
23 program if the exclusion has been adopted or approved by the Critical Area Commission for  
24 the Chesapeake and Atlantic Coastal Bays;

25 4. Is approved by the local planning and zoning authorities  
26 after the local jurisdiction's program amendment under item 3A of this subparagraph, if  
27 applicable, has been approved;

28 5. Is not located in, on, or over vegetated tidal wetlands,  
29 submerged aquatic vegetation, a natural oyster bar, a public shellfish fishery area, a Yates  
30 Bar, or an area with rare, threatened, or endangered species or species in need of  
31 conservation; and

32 6. Does not adversely impact a fish spawning or nursery area  
33 or an historic waterfowl staging area.

34 (ii) A license issued under subparagraph (i) of this paragraph may  
35 include the installation or placement of:

1                   1.     A solar energy system attached to a pier if the device or  
2 equipment associated with that system does not extend more than:

3                   A.     4 feet above or 18 inches below the deck of the pier; or

4                   B.     1 foot beyond the length or width of the pier;

5                   2.     A solar energy system attached to a piling if there is only  
6 one solar panel per boat slip;

7                   3.     A solar energy system attached to a boathouse roof if the  
8 device or equipment associated with that system does not extend beyond the length, width,  
9 or height of the boathouse roof;

10                  4.     A closed-loop geothermal heat exchanger under a pier if  
11 the geothermal heat exchanger or any associated devices or equipment do not:

12                  A.     Extend beyond the length, width, or channelward  
13 encroachment of the pier;

14                  B.     Deleteriously alter long shore drift; or

15                  C.     Cause significant individual or cumulative thermal  
16 impacts to aquatic resources; or

17                  5.     A wind energy system attached to a pier if there is only  
18 one wind energy system per pier for which:

19                  A.     The height from the deck of the pier to the blade extended  
20 at its highest point is up to 12 feet;

21                  B.     The rotor diameter of the wind turbine is up to 4 feet; and

22                  C.     The setbacks of the wind energy system from the nearest  
23 property line and from the channelward edge of the pier to which that system is attached  
24 are at least 1.5 times the total height of the system from its base to the blade extended at  
25 its highest point.

26                  (c)   (1)   Except as provided in paragraph (2) of this subsection and  
27 notwithstanding any other provision of law, the Secretary may not issue a permit to  
28 authorize a nonwater-dependent project located on private wetlands.

29                  (2)   Except for the public access requirement under subsection (b)(2)(i)6 of  
30 this section, the Secretary may issue a permit to authorize a nonwater-dependent project  
31 located on private wetlands if the project satisfies all of the requirements under subsection  
32 (b)(2) or (3) of this section.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
2 1, 2025.