

**SB442\_COA\_Support.pdf**

Uploaded by: Alliance, Chesapeake Oyster

Position: FAV



Chesapeake  
**OYSTER ALLIANCE**  
*10 Billion for the Bay*

ANNAPOLIS AQUACULTURE - ARUNDEL RIVERS FEDERATION - BIG ISLAND AQUACULTURE - BLUE OYSTER ENVIRONMENTAL - CHESAPEAKE BAY FOUNDATION - CHESSIE SEAFOOD - COASTAL CONSERVATION ASSOCIATION MARYLAND - FRIENDS OF ST. CLEMENTS BAY - FRIENDS OF THE WICOMICO RIVER - GROW OYSTER REEFS - HOLLYWOOD OYSTER CO. - HOOPERS ISLAND OYSTER CO. - LAMBERT SHELLFISH - LYNNHAVEN RIVER NOW - ORCHARD POINT OYSTERS - OYSTER COMPANY OF VIRGINIA - OYSTER NINJA/S.S. SHUCKING - SHORE THING SHELLFISH - SHORERIVERS - ST. MARY'S RIVER WATERSHED ASSOCIATION - TIDEWATER OYSTER GARDENERS ASSOCIATION - VIRGINIA WESLEYAN UNIVERSITY - WARD OYSTER

**Senate Bill 442**

Aquaculture Leases and Shellfish Nursery Operations - Wetlands

DATE: February 10, 2021

POSITION: **SUPPORT**

The Chesapeake Oyster Alliance is a broad coalition of non-profits, community organizations, oyster growers, and business owners with the shared goal of adding 10 billion oysters in the Bay by the year 2025. With a focus on oyster restoration, science-based fishery management, and increased aquaculture, the Chesapeake Oyster Alliance aims to accelerate oyster recovery efforts and in so doing the recovery of the Chesapeake Bay.

**The Chesapeake Oyster Alliance strongly supports Senate Bill 442 and respectfully requests a favorable report from the Senate Education, Health, and Environmental Affairs Committee.**

In 2010, the Maryland Legislature revised our fisheries laws to encourage aquaculture operations to broaden their businesses and increase the harvest of oysters. The most dynamic of these new businesses were those that chose water column leases for their concentrated focus on selling into the lucrative restaurant industry. Sales increased quickly for these oysters which require special equipment and sorting methods to produce consistent and attractive oysters for serving on the half shell market. For these efforts, their oysters typically sell for 3 to 10 times the price for wild or bottom grown oysters.

These businesses invested their capital on the gear required to handle these oysters and each of the growers, based on their unique leases and facilities, honed their operations to minimize labor and equipment costs. These oyster growers have to manage their stock of oysters and one aspect is to periodically run their oysters through a piece of equipment called a tumbler two or three times before they are harvested so that their shells have the fast growth, sharp shell chipped off encouraging the oysters to develop a deep cup favored by restaurants. The tumbler rinses the oysters at the same time to remove algal growth and then can help sort the batch of oysters by size before replacing them in the water for more grow out.

In 2019, this body unanimously passed HB 28/SB 939 to allow oyster growers to operate oyster nursery equipment on their docks, recognizing that it presented no impairment to water quality and likely resulted in improved water quality. This action placed oversight of these nursery operations under the Department of Natural Resources, the agency that oversees permitting of aquaculture operations.

SB 442 builds upon this action by allowing aquaculture leaseholders to place equipment used in their oyster growing operations on their docks. This will allow them to increase the safety of their workers handling these cages of oysters and minimize the cost of labor from removing them from the dock to handle them at the tumbler and then replace them back out to the boat for deployment on their lease. The requirement that the activity

associated with this equipment be related to a lease minimizes any risk of this policy being abused by those other than oyster growers.

For these reasons, the Chesapeake Oyster Alliance respectfully recommends a favorable report on Senate Bill 442 from the Education, Health and Environmental Affairs Committee. **Please contact David Sikorski (david@ccamd.org; (443) 621-9186) with any questions.**

# **Draft Written testimony from True Chesapeake Oyste**

Uploaded by: Hudson, Patrick

Position: FAV

# TRUE CHESAPEAKE OYSTER CO

Written Testimony from True Chesapeake Oyster Co  
Aquaculture Leases and Shellfish Nursery Operations - Wetlands  
SB 0442  
Position: SUPPORT  
Date: February

Since 2011 True Chesapeake Oyster Co has operated an oyster aquaculture business with water column leases in St. Jerome Creek, St. Mary's County. In 2012 we invested in a piece of equipment referred to as a "tumbler" or "grader" in order to increase our output, improve the quality of our product to meet the demands of the market, and protect our oysters against threats like the cliona boring sponge and today - after investing more than \$1,000,000 in our growing business - our employees rely on this piece equipment to do their job, and our entire company relies on this piece of equipment to operate everyday.

Both DNR and MDE have been fully aware that we use a tumbler/grader since 2012, as evidenced by countless site visits by MDE and DNR personnel (including MDE's bi-weekly site visits to our lease for water quality testing). It wasn't until recently - in December 2019 - more than eight years after MDE became aware of our tumbler/grader that MDE cited us for noncompliance.

Over the last two years, DNR and MDE officials have communicated about the use of the equipment. MDE has continued to disrupt our business while DNR has maintained the use the equipment is permitted.

Now, therefore, we are asking for a simple legislative fix: allow the experts at DNR - together with the well established Aquaculture Coordinating Council (that includes MDE) - to manage the use of oyster aquaculture equipment.

Supporting this legislation would provide clarity and consistency to the industry - an industry that will continue to evolve. Equipment will evolve. Operations will evolve. And the industry - as taxpayers, as employers, and as uniquely exemplary stewards of our environment - deserve clarity and consistency from our government.

Additional notes:

- Many other oyster aquaculture operations use tumblers/graders on boats or shore without dispute.
- If we were forced to move the equipment our labor costs would increase exponentially, and so would the likelihood of workplace injury.

For these reasons True Chesapeake Oyster Co respectfully recommends a favorable report on Senate Bill 442 from the Education, Health and Environmental Affairs Committee. Please contact Patrick Hudson (410615885 [patrick@truechesapeake.com](mailto:patrick@truechesapeake.com)) with any questions.

# **SB442\_OysterOperations.pdf**

Uploaded by: Lewis, Bob

Position: FAV

*Joe Anderson*  
President

February 8, 2021

*Patricia Samford*  
Vice President

Subject: SB0442: Aquaculture Leases and Shellfish Nursery Operations - Wetlands  
Environmental and Transportation Committee – February 10th, 2021

*Larry O'Brien*  
Secretary

FAVORABLE

*Chandler Wyatt*  
Treasurer

*Melina Cavathas*  
Director

Dear Senator Klausmeier and members of the Committee,

*Captain Will Gates*  
Director

We request a favorable finding for SB0442, Aquaculture Leases and Shellfish  
Nursery Operations - Wetlands.

*John Giusti*  
Director

The St. Mary's River Watershed Association is an engaged partner with the  
state on several fronts including the large-scale oyster restoration of the St.  
Mary's River shellfish sanctuary. Our work requires a setting facility on the shore  
with access and operations from an adjacent pier. While we do not utilize a  
tumbler, we do use other equipment from time to time including power washers  
and pumps.

*Emily Jackson*  
Director

*Captain Paul Kellam*  
Director

*David Lewis*  
Director

*Bob Paul*  
Director

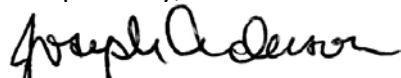
*John Spinicchia*  
Director

*Elaine Szymkowiak*  
Director

In 2019, the Maryland General Assembly unanimously passed (and the  
Governor signed) HB 28/SB 939 to allow oyster growers to operate oyster nursery  
equipment on their docks, recognizing that it presented no impairment to water  
quality and likely resulted in improved water quality. At the time emphasis was  
placed on ending the need for nursery operations to seek permits from MDE as  
well as from DNR. This bill, SB0442, adds further clarity to this policy change and  
provides MDE with clear legal language to end requirement for any permits  
through their Department. This will further streamline the permitting process and  
clarify MDE's role in authorizing oyster aquaculture and oyster nursery operations  
on piers and shorelines. This bills has no cost associated with it although it will  
greatly save taxpayer dollars by moving all permitting under one Department  
(DNR Aquaculture Division). It will save oyster farmers and restoration advocates  
money as well.

We request the Committee return a FAVORABLE report on SB0442.

Respectfully,



Joseph Anderson, president

# **SB442\_OysterOperations.pdf**

Uploaded by: Lewis, Bob

Position: FAV



*Joe Anderson*  
President

February 8, 2021

*Patricia Samford*  
Vice President

Subject: SB0442: Aquaculture Leases and Shellfish Nursery Operations - Wetlands Education, Health, and Environmental Affairs Committee – February 10th, 2021

*Larry O'Brien*  
Secretary

FAVORABLE

*Chandler Wyatt*  
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*Melina Cavathas*  
Director

Dear Senator Klausmeier and members of the Committee,

*Captain Will Gates*  
Director

We request a favorable finding for SB0442, Aquaculture Leases and Shellfish Nursery Operations - Wetlands.

*John Giusti*  
Director

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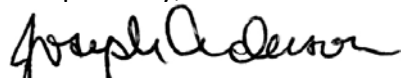
*John Spinicchia*  
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In 2019, the Maryland General Assembly unanimously passed (and the Governor signed) HB 28/SB 939 to allow oyster growers to operate oyster nursery equipment on their docks, recognizing that it presented no impairment to water quality and likely resulted in improved water quality. At the time emphasis was placed on ending the need for nursery operations to seek permits from MDE as well as from DNR. This bill, SB0442, adds further clarity to this policy change and provides MDE with clear legal language to end requirement for any permits through their Department. This will further streamline the permitting process and clarify MDE's role in authorizing oyster aquaculture and oyster nursery operations on piers and shorelines. This bills has no cost associated with it although it will greatly save taxpayer dollars by moving all permitting under one Department (DNR Aquaculture Division). It will save oyster farmers and restoration advocates money as well.

We request the Committee return a FAVORABLE report on SB0442.

Respectfully,



Joseph Anderson, president

**SB0442\_DNR\_SUP EHEA 2-10-21.pdf**

Uploaded by: McKittrick, James

Position: FAV



Larry Hogan, Governor  
Boyd Rutherford, Lt. Governor  
Jeannie Haddaway-Riccio, Secretary

February 10, 2021

The Honorable Paul G. Pinsky  
Chair, Education, Health and Environmental Affairs Committee  
2 West Miller Senate Office Building  
Annapolis, MD 21401

The Honorable Cheryl C. Kagan  
Vice Chair, Education, Health and Environmental Affairs Committee  
2 West Miller Senate Office Building  
Annapolis, MD 21401

***Re: Letter of Support – Senate Bill 442 – Aquaculture Leases and Shellfish Nursery Operations – Wetlands***

Dear Chair, Vice Chair, and Committee Members,

The department supports Senate Bill 442. The bill would ease the restrictions on leaseholders from using shellfish aquaculture equipment on their docks, by exempting them from having to obtain Tidal Wetlands License authorization approval from the Board of Public Works for these activities and equipment.

This action will help resolve a longstanding permitting issue that has created operational difficulties for shellfish aquaculture businesses and restricted these activities and equipment to upland sites. The department plans to consult with the Aquaculture Coordinating Council and shellfish aquaculture industry members and stakeholders to clearly identify and describe the activities and use of equipment associated with shellfish aquaculture leasing, which are approved for use on a dock.

The department anticipates the bill would streamline the aquaculture approval process and provide for a more efficient approval process, and help this burgeoning industry. For the above reasons, the department respectfully requests the committee to grant Senate Bill 442 a favorable report.

Respectfully submitted,

James W. McKitrick  
Director, Legislative and Constituent Services

Contact: James McKitrick, Director, Legislative and Constituent Services  
JamesW.McKitrick@maryland.gov ♦ 443-510-5013

**SB442\_MDE\_FWA.pdf**

Uploaded by: abbott, tyler

Position: FWA



# Maryland

## Department of the Environment

Larry Hogan, Governor  
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary  
Horacio Tablada, Deputy Secretary

February 10, 2021

The Honorable Paul G. Pinsky, Chair  
Education, Health, and Environmental Affairs Committee  
2 West, Miller Senate Office Building  
Annapolis, Maryland 21401

### **Re: SB 442 - Aquaculture Leases and Shellfish Nursery Operations - Wetlands**

Dear Chairman Pinsky and Members of the Committee:

The Maryland Department of the Environment (MDE) has reviewed Senate Bill 442 - Aquaculture Leases and Shellfish Nursery Operations - Wetlands - and would like to express our support for this legislation, if amended.

SB 442 seeks to create additional exemptions to the Title 16 tidal wetlands license requirement for: (1) use of equipment (a pump, pipe, or other structure) on or attached to a pier associated with an aquaculture lease, and (2) activities associated with an aquaculture lease issued by the Department of Natural Resources (DNR) under Maryland Annotated Code, Natural Resources Article, Title 4 § 11A.

The bill provides for an overly broad exemption of other activities, which may include structures and activities such as a commercial building from which the oysters are sold, parking lots and roads. Granting this broad exemption would eliminate the ability to consider any other factors, such as other commercial/recreational fishing and shellfish, human health and safety, wildlife habitat, aesthetics, and navigational access such as roofed structures or other structures that are prohibited and/or do not conform to regulations. This may harm resources held in the public trust and undermine other goals associated with tidal waters and wetlands. Loss of tidal wetlands may be extensive under the overly broad exemption proposed in SB 442.

Over the Fall of 2020, MDE worked with the aquaculture community and DNR on developing a policy with regard to allowing an aquaculture operation who is already permitted to have a tumbler located on a pier for nursery activities to use that same tumbler for husbandry. MDE views using those existing oyster tumblers occasionally for larger oysters (husbandry) to be de minimis in nature with regard to impacts to tidal wetlands and should not trigger the need for review under the tidal wetlands permitting program. The Department suggests amending the bill to specifically to allow the use of tumblers for husbandry, only for those operations already permitted to have a tumbler on a pier under a DNR nursery permit as of January 1, 2021. MDE is committed to continuing discussion with DNR and the aquaculture community on how we can further streamline the permitting process for this ever growing and evolving industry.

Thank you for considering the Department's concerns regarding this legislation. We will continue to monitor Senate Bill 442 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me by e-mail at [tyler.abbott@maryland.gov](mailto:tyler.abbott@maryland.gov).

Sincerely,

Tyler Abbott