

SENATE BILL 437

M2

3lr2046

By: **Senator Klausmeier**

Introduced and read first time: February 2, 2023

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Aquaculture – Tidal Fisheries Advisory Commission, Oyster Advisory**
3 **Commission, and Leases**

4 FOR the purpose of altering the composition of the Tidal Fisheries Advisory Commission
5 and the Oyster Advisory Commission; requiring the Department of Natural
6 Resources, in coordination with the Aquaculture Coordinating Council, the
7 Department of the Environment, the Wetlands Administrator for the Board of Public
8 Works, and the Department of General Services to identify State-owned land that is
9 adjacent to certain waterways; requiring the Department of Natural Resources to
10 coordinate with the U.S. Army Corps of Engineers to preapprove certain land for
11 aquaculture leasing; requiring the Department of Natural Resources to accelerate
12 the review of a certain aquaculture lease and the issuance of the lease; altering
13 provisions of law relating to the notification of, public meetings held for, and survey
14 of a proposed leased area identified in an application for certain aquaculture leases;
15 and generally relating to aquaculture.

16 BY repealing and reenacting, without amendments,
17 Article – Natural Resources
18 Section 4–204(a)(1) and (2) and (c)(1)
19 Annotated Code of Maryland
20 (2018 Replacement Volume and 2022 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Natural Resources
23 Section 4–204(a)(3) and (c)(2) and 4–11A–09(g)
24 Annotated Code of Maryland
25 (2018 Replacement Volume and 2022 Supplement)

26 BY adding to
27 Article – Natural Resources
28 Section 4–11A–04

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2018 Replacement Volume and 2022 Supplement)

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

Article – Natural Resources

4–204.

(a) (1) There is a Tidal Fisheries Advisory Commission in the Department.

(2) The Commission is composed of up to 16 members appointed and
serving in accordance with the procedures adopted under § 1–102(c) of this article.

(3) (i) The Commission consists of:

1. Up to [14] **12** commercial watermen;

2. One member of the Sport Fisheries Advisory Commission;

and

3. [One representative] **THREE REPRESENTATIVES** of the
aquaculture industry in the State.

(ii) The composition of the Commission shall reflect the geographic
regions of the State where the commercial fishing industry is operating.

(c) (1) There is an Oyster Advisory Commission in the Department.

(2) (i) On or before April 1, 2020, and subject to subparagraph (ii) of
this paragraph, the Department shall, in coordination with the University of Maryland
Center for Environmental Science, convene the members of the Commission.

(ii) The Commission shall include only:

1. [A representative from each county oyster committee
established under § 4–1106(b) of this title designated by the committee] **THREE
COMMERCIAL WATERMEN**;

2. A representative from the Maryland Watermen's
Association, designated by the Association;

3. A representative from the Maryland Oystermen's
Association, designated by the Association;

4. A representative from the Blacks of the Chesapeake

1 Foundation, designated by the Foundation;

2 5. [A representative] **THREE REPRESENTATIVES** from the
3 aquaculture industry, designated by the Aquaculture Coordinating Council;

4 6. A representative from the commercial seafood buyer
5 industry, designated by the Secretary;

6 7. A representative from the Coastal Conservation
7 Association of Maryland, designated by the Association;

8 8. A representative from the Chesapeake Bay Foundation,
9 designated by the Foundation;

10 9. A representative from the Nature Conservancy,
11 designated by the Conservancy;

12 10. A representative from the ShoreRivers Riverkeeper
13 Association, designated by the Association;

14 11. A representative from the Arundel Rivers Federation,
15 designated by the Federation;

16 12. [A representative from the Oyster Recovery Partnership,
17 designated by the Partnership;

18 13.] A representative from the Chesapeake Bay Commission,
19 designated by the Chesapeake Bay Commission;

20 [14.] 13. A representative from Blue Oyster Environmental,
21 designated by Blue Oyster Environmental;

22 [15. A representative from the Chesapeake BaySavers,
23 designated by the Chesapeake BaySavers;

24 16.] 14. A representative from the National Aquarium,
25 designated by the National Aquarium;

26 [17.] 15. A representative from the University of Maryland
27 Center for Environmental Science, designated by the Center; and

28 [18.] 16. A representative from the Patuxent Environmental
29 and Aquatic Research Laboratory, Morgan State University, designated by the Research
30 Laboratory.

31 **4-11A-04.**

(A) THE DEPARTMENT, IN COORDINATION WITH THE AQUACULTURE COORDINATING COUNCIL, THE DEPARTMENT OF THE ENVIRONMENT, THE WETLANDS ADMINISTRATOR FOR THE BOARD OF PUBLIC WORKS, AND THE DEPARTMENT OF GENERAL SERVICES, SHALL IDENTIFY STATE-OWNED LAND THAT IS ADJACENT TO WATERWAYS THAT:

(1) COULD SUPPORT AQUACULTURE IN A MANNER THAT IS COMPATIBLE WITH THE EXISTING USES OF THE WATERWAYS; AND

(2) HAVE ENVIRONMENTAL CONDITIONS THAT COULD SUPPORT THE CULTIVATION OF BIVALVE MOLLUSKS.

(B) THE DEPARTMENT SHALL:

(1) COORDINATE WITH THE U.S. ARMY CORPS OF ENGINEERS TO PREAPPROVE FOR AQUACULTURE LEASING THE LAND IDENTIFIED UNDER SUBSECTION (A) OF THIS SECTION;

(2) ACCELERATE THE REVIEW OF AN AQUACULTURE LEASE APPLICATION FOR LAND IDENTIFIED UNDER SUBSECTION (A) OF THIS SECTION; AND

(3) ACCELERATE THE ISSUANCE OF AN AQUACULTURE LEASE FOR LAND IDENTIFIED UNDER SUBSECTION (A) OF THIS SECTION.

(C) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

4-11A-09.

(g) (1) If an application for a submerged land or water column lease in the Chesapeake Bay or in the Atlantic Coastal Bays meets the requirements of this subtitle:

(i) The applicant for the lease shall mark the proposed area with a stake; and

(ii) The Department shall:

1. Advertise the application on the website of the Department [and once a week for 2 weeks in a newspaper published in the county or counties where the proposed lease is to be located] **WITHIN 30 DAYS AFTER RECEIPT OF THE COMPLETE APPLICATION;**

2. Notify the owners of property directly in front of the

1 proposed activity;

2 3. Notify each Chair of an Oyster Committee in the county in
3 which the proposed activity is located; and

4 4. Notify other interested parties that the Department
5 deems appropriate.

6 (2) (i) Within 30 days [of publication of the last advertisement] **AFTER**
7 **THE APPLICATION IS ADVERTISED** under paragraph (1) of this subsection, any person
8 who has a specific right, duty, privilege, or interest that is different from that held by the
9 general public and may be adversely affected by the proposed lease may file a petition with
10 the Department protesting the issuance of the lease.

11 (ii) The protest shall be heard in accordance with the requirements
12 of the Administrative Procedure Act under Title 10, Subtitle 2 of the State Government
13 Article.

14 (iii) The Department [shall] **MAY** hold a public informational
15 meeting on the issuance of a lease on the request of any person **WHO HAS A SPECIFIC**
16 **RIGHT, DUTY, PRIVILEGE, OR INTEREST THAT IS DIFFERENT FROM THAT HELD BY**
17 **THE GENERAL PUBLIC.**

18 (iv) [Immediately] **WITHIN 180 DAYS** after termination of the
19 period prescribed in subparagraph (i) of this paragraph for filing a petition or after a final
20 decision dismissing a protest, the Department shall survey the proposed leased area and
21 issue a lease to the applicant.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
23 1, 2023.