

# HOUSE BILL 1284

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By: **Delegates Stein, Frush, Healey, Holmes, and Lafferty**

Introduced and read first time: February 10, 2017

Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Aquaculture Leases – National Register of Historic Places**

3 FOR the purpose of prohibiting an Aquaculture Enterprise Zone and certain aquaculture  
4 leases from being located within a certain distance of the shoreline of certain  
5 property listed on the National Register of Historic Places; requiring, instead of  
6 authorizing, the Department of Natural Resources to take certain actions to protect  
7 the public health, safety, and welfare; and generally relating to aquaculture leases.

8 BY repealing and reenacting, without amendments,

9 Article – Natural Resources

10 Section 4–11A–05(a), 4–11A–06(a), 4–11A–07(a), 4–11A–08(a), and 4–11A–11(a)

11 Annotated Code of Maryland

12 (2012 Replacement Volume and 2016 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – Natural Resources

15 Section 4–11A–05(b)(2), 4–11A–06(b)(2), 4–11A–07(c)(1), 4–11A–08(c)(1),  
16 4–11A–09(d), and 4–11A–11(d)

17 Annotated Code of Maryland

18 (2012 Replacement Volume and 2016 Supplement)

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

21 **Article – Natural Resources**

22 4–11A–05.

23 (a) This section applies to leasing in an Aquaculture Enterprise Zone in the  
24 Chesapeake Bay.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

(iv) Within 150 feet of a federal navigational channel;

**(v) WITHIN 300 FEET OF THE MEAN HIGH WATERMARK OF THE SHORELINE OF PROPERTY LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES;**

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

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

4–11A–06.

(a) This section applies to a submerged land lease in the Chesapeake Bay that is not in an Aquaculture Enterprise Zone.

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

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

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

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

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

**(v) WITHIN 300 FEET OF THE MEAN HIGH WATERMARK OF THE SHORELINE OF PROPERTY LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES;**

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

3                    ~~[(vi)] (VII)~~    In an SAV Protection Zone.

4 4–11A–07.

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

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

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

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

12                   (iii)    Within 150 feet of any oyster reserve or a Yates Bar located in an  
13 oyster sanctuary;

14                   (iv)    Within 150 feet of a federal navigational channel;

15                   **(V)     WITHIN 300 FEET OF THE MEAN HIGH WATERMARK OF THE**  
16 **SHORELINE OF PROPERTY LISTED ON THE NATIONAL REGISTER OF HISTORIC**  
17 **PLACES;**

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

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

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

23 4–11A–08.

24            (a)     This section applies to a water column lease in the waters of the State.

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

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

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

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

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

**(V) WITHIN 300 FEET OF THE MEAN HIGH WATERMARK OF THE SHORELINE OF PROPERTY LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES;**

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

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

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

4–11A–09.

(d) (1) The term of a lease is 20 years.

(2) Except for a demonstration lease under § 4–11A–11 of this subtitle, a lease may be of any size provided that the leaseholder actively uses the area.

(3) The Department shall establish, in consultation with the Aquaculture Coordinating Council, an annual amount of rent and an aquaculture development surcharge for an aquaculture, water column, or submerged land lease.

(4) **[The Department, as it considers necessary to protect the public health, safety, and welfare, may] TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE, THE DEPARTMENT SHALL:**

(i) Deny a lease application for reasonable cause; or

(ii) Include any conditions in a lease.

4–11A–11.

(a) This section applies to demonstration leases.

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

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

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

3                   (3)     Within 150 feet of an oyster reserve or any Yates Bar located in an  
4 oyster sanctuary;

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

6                   **(5)     WITHIN 300 FEET OF THE MEAN HIGH WATERMARK OF THE**  
7 **SHORELINE OF PROPERTY LISTED ON THE NATIONAL REGISTER OF HISTORIC**  
8 **PLACES;**

9                   **[(5)] (6)**     In any creek, cove, bay, or inlet less than 300 feet wide at its  
10 mouth at mean low tide;

11                   **[(6)] (7)**     In an SAV Protection Zone; or

12                   **[(7)] (8)**     In a setback or buffer from the Assateague Island National  
13 Seashore established by the Department.

14                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 2017.