

Shellfish Legislation 2011

HB 208 - Aquaculture – Shellfish Leasing Areas- Expansion - PASSED

This bill serves to correct minor references and text and removes text that were made obsolete by Senate Bill 271/House Bill 312, passed unanimously by the General Assembly in 2009. This bill makes definitions and terms consistent throughout the Fisheries Service title of Natural Resources law. This bill removes existing sanctuary leasing restrictions on bottom that are not historically charted Yates Bars. This bill also restricts aquaculture leasing to a corporation if the corporation is organized in Maryland and more than 50% of the stock in the corporation is owned by residents of Maryland.

HB 273 - Natural Resources – Oyster Poaching – Hearing – Cross-filed as SB 159 (Cross over – 3d reader passed Senate 4/5, Returned Passed 4/6) - PASSED

The bill allows the Department to revoke a commercial license if that licensee is issued a citation for taking oysters more than 200 feet within a closed or prohibited area, using illegal oyster gear, harvesting oysters outside of a legal time by more than 1 hour, harvesting oysters outside of a season, and taking oysters illegally from a leased area. The bill requires the Department to revoke the license through a contested case hearing process with the Office of Administrative Hearings (OAH). This hearing is required to occur within 60 days of the receiving a citation.

HB 966 - Natural Resources - Restricted Waters for Shellfish Harvesting - Method of Testing - PASSED

This bill requires the Department of Environment to use the most reliable available test to determine whether a shellfish production area poses a risk to consumer health and to rule out contaminants that do not pose a risk to consumer health before determining whether to restrict or lift restrictions on areas for catching/storing shellfish. The bill requires MDE to reconsider designated waters that are currently restricted from shellfish harvesting on or before Dec. 31, 2011.

HB 1053 – Natural Resources – Aquaculture – Cross-filed as SB 847 - PASSED

The bill transfers Seafood Marketing and Aquaculture Program and other seafood commissions from the Department of Agriculture to the Department of Natural Resources. This bill clarifies that DNR is responsible for employing an Aquaculture Coordinator, refines the position's responsibilities, and designates membership of the Aquaculture Review Board with the Aquaculture Coordinator to serve as chair. The bill requires Department of Environment to classify a submerged land lease in the Chesapeake Bay or Atlantic Coastal Bays as approved or prohibited before DNR may issue a submerged land lease. The bill also allows DNR to issue water column leases after obtaining approval by Department of Environment, setting out certain prohibited areas for leases and providing for the means to cultivate shellfish. The bill adds water

column leases to the section setting forth requirements for lease applications, and provides that DNR give notice to other interested parties of the application. The bill provides that certain leaseholders and licensees continue to be valid, and that certain pending applications be transferred to DNR.

HB 1244 – Patuxent River – Oysters – Use of Patent Tongs - Previously filed as HB 154/10 – ENV (Hearing 3/18 at 1pm) Environmental Matters - **FAILED**

This bill would alter an area in the Patuxent River in which the prohibition on the use of patent tongs to catch oysters applies, moving the line where patent tongs are prohibited in the Patuxent River from the line joining Sotterly Wharf and the beacon at St. Leonard Creek to the line joining the southern shore of the entrance to Cole Creek and the beacon at Broomes Island.

HB 1249 – Public Oyster Fishery – South River – Hand Tonging (Unfavorable Report 4/1) Environmental Matters - **FAILED**

This bill would authorize a person to take or catch oysters by hand tong only in specified waters of the South River in Anne Arundel County. These restrictions would not apply to a creek that branches out from the South River and to which an aquaculture lease applied on January 1, 2011.

HB 1340 – Natural Resources - Oyster Sanctuaries - Designation – Cross-filed as SB 538 (Hearing 3/22 at 1pm) Environmental Matters - **FAILED**

The bill would prohibit the Department from designating more than 25% of the available oyster habitat in the waters of the State as oyster sanctuaries unless the Department first conducts a public hearing during which it presents scientific evidence of a significant increase in the harvestable oyster population. It would also allow the Department to revoke a commercial license if the licensee is issued a citation for taking oysters more than 200 feet within a closed or prohibited area, using prohibited oyster gear, harvesting oysters outside of a time restriction by more than one hour, harvesting oysters during closed season, and taking oysters illegally from a leased area. The bill requires the Department to revoke the license through a contested case hearing process with the Office of Administrative Hearings (OAH). This hearing is required to occur within 60 days after issuing the citation.

SB 159 – Natural Resources – Oyster Poaching – Hearing – Cross-filed as HB 273 - **PASSED**

The bill allows the Department to revoke a commercial license if that licensee is issued a citation for taking oysters more than 200 feet within a closed or prohibited area, using illegal oyster gear, harvesting oysters outside of a legal time by more than 1 hour, harvesting oysters outside of a season, and taking oysters illegally from a leased area. The bill requires the Department to revoke the license through a contested case hearing process with the Office of Administrative Hearings (OAH). This hearing is required to occur within 60 days of the receiving a citation.

SB 538 – Natural Resources - Oyster Sanctuaries - Designation – Cross-filed as HB 1340 (Cross over – hearing 4/6 at 1pm) Environmental Matters - **FAILED**

The bill would prohibit the Department from designating more than 25% of the quality oyster habitat in the waters of the State as oyster sanctuaries unless the Department first conducts a public hearing during which it presents scientific evidence of a significant increase in the harvestable oyster population.

SB 847 – Natural Resources – Aquaculture – Cross-filed as HB 1053 - **PASSED**

The bill transfers Seafood Marketing and Aquaculture Program and other seafood commissions from the Department of Agriculture to the Department of Natural Resources. This bill clarifies that DNR is responsible for employing an Aquaculture Coordinator, refines the position's responsibilities, and designates membership of the Aquaculture Review Board with the Aquaculture Coordinator to serve as chair. The bill requires Department of Environment to classify a submerged land lease in the Chesapeake Bay or Atlantic Coastal Bays as approved or prohibited before DNR may issue a submerged land lease. The bill also allows DNR to issue water column leases after obtaining approval by Department of Environment, setting out certain prohibited areas for leases and providing for the means to cultivate shellfish. The bill adds water column leases to the section setting forth requirements for lease applications, and provides that DNR give notice to other interested parties of the application. The bill provides that certain leaseholders and licensees continue to be valid, and that certain pending applications be transferred to DNR.