

Chapter 550

(House Bill 857)

AN ACT concerning

Shellfish Aquaculture – Harvest Hours

FOR the purpose of repealing a certain restriction on the hours for harvesting shellfish from certain areas leased for aquaculture; requiring the Department of Natural Resources to establish by regulation the hours for harvesting shellfish within leased areas; and generally relating to shellfish aquaculture.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–11A–10
Annotated Code of Maryland
(2023 Replacement Volume and 2023 Supplement)

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

Article – Natural Resources

4–11A–10.

(a) A leaseholder shall:

(1) Subject to subsection (b) of this section, actively use the lease and comply with any standards for planting, harvesting, and use of the leased area established by the Department;

(2) Mark each lease area with an 8–inch by 12–inch marker displaying the initials of the leaseholder and posted on a minimum of four poles;

(3) Comply with any other marking requirements established by the Department for the protection of navigation;

(4) Comply with the regulations established by the Maryland Department of Health in consultation with the Department of the Environment to carry out the mandate of the National Shellfish Sanitation Program; and

(5) Pay the rent and the aquaculture development surcharge for the lease at the time established by the Department.

(b) The Department may waive the requirements for active use of a lease on a showing that conditions not present at the time of execution of the lease, including the unavailability of shellfish seed, prevent active use of the leased area.

(c) A leaseholder may not:

(1) Place shellfish, bags, nets, or structures on submerged aquatic vegetation without prior written approval from the Department;

(2) Plant or harvest shellfish within 500 yards of any stationary blind or blind site that is occupied and being used for hunting migratory waterfowl;

(3) Sublease a lease;

(4) Transfer a lease without the approval of the Department;

(5) Harvest shellfish [between the hours of sunset and sunrise] **OUTSIDE THE HOURS ESTABLISHED BY THE DEPARTMENT IN REGULATION**; or

(6) Place unlawfully harvested oysters on a lease.

(c-1) In approving the placement of shellfish, bags, nets, or structures on submerged aquatic vegetation under subsection (c)(1) of this section, the Department:

(1) May not authorize harvesting by dredge in areas where submerged aquatic vegetation is present;

(2) Shall authorize for water column leases the placement of shellfish, bags, nets, or structures in at least 10% of the area where submerged aquatic vegetation is present; and

(3) Shall authorize harvest by diving in areas on any submerged land lease where submerged aquatic vegetation is present.

(d) Shellfish planted or harvested in accordance with a lease issued under this subtitle are subject to inspection by the Department.

(e) (1) A person who wishes to renew a lease issued under this subtitle or an existing shellfish lease or oyster lease shall submit an application that meets the requirements for an initial application in § 4-11A-09 or § 4-11A-11 of this subtitle.

(2) Before the termination or expiration of a lease issued under this subtitle, the leaseholder shall have the right of first refusal with respect to future leases of the leased area.

(f) (1) The Department may terminate a lease issued under this subtitle for failure to comply with the requirements of this subtitle.

(2) The Department shall notify a leaseholder by registered mail of its intention and proposed decision to terminate a lease for failure to comply with the requirements of this subtitle.

(3) A leaseholder who wishes to contest the Department's proposed decision may request a review of the decision by the Secretary, which shall be filed not later than 30 days after receipt of the Department's decision.

(4) Failure of a leaseholder to respond to the Department's proposed decision within 30 days of the date of the decision shall cause the leasehold to revert to the State.

(G) IN CONSULTATION WITH THE AQUACULTURE COORDINATING COUNCIL, THE DEPARTMENT SHALL ESTABLISH BY REGULATION THE HOURS FOR HARVESTING SHELLFISH WITHIN LEASED AREAS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2024.

Approved by the Governor, May 9, 2024.