

# HOUSE BILL 1434

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By: **Delegate Clark**

Introduced and read first time: February 7, 2020

Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Aquaculture Leases – Marking Requirements and Use of Lease – Alterations**

3 FOR the purpose of establishing certain circumstances under which a leaseholder of certain  
4 aquaculture leases is not required to mark a lease area; repealing the authority for  
5 the Department of Natural Resources to waive the requirements for active use of a  
6 lease due to the unavailability of shellfish seed; requiring the Department to waive  
7 the requirements for active use of a lease on a showing that shellfish larvae or  
8 shellfish seed is unavailable; and generally relating to aquaculture leases.

9 BY repealing and reenacting, with amendments,  
10 Article – Natural Resources  
11 Section 4–11A–10(a) and (b)  
12 Annotated Code of Maryland  
13 (2018 Replacement Volume and 2019 Supplement)

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

16 **Article – Natural Resources**

17 4–11A–10.

18 (a) A leaseholder shall:

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

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1                   **(I) THE LEASEHOLDER HAS NOT BEGUN USE OF THE LEASE;**

2                   **(II) THE LEASE AREA DOES NOT CONTAIN:**

3                               **1. OYSTER SHELLS;**

4                               **2. SPAT ON SHELL;**

5                               **3. OYSTER CAGES;**

6                               **4. BAGS;**

7                               **5. NETS;**

8                               **6. FLOATING STRUCTURES;**

9                               **7. PIPES; OR**

10                              **8. SEED OYSTERS; OR**

11                              **(III) WITHIN THE IMMEDIATELY PRECEDING 30 DAYS OF THE**  
12 **LEASE AREA NOT BEING MARKED ONE OF THE FOLLOWING OCCURRED:**

13                                      **1. A NAMED STORM EVENT;**

14                                      **2. A NORTHEASTER STORM EVENT LASTING MORE THAN**  
15 **24 HOURS;**

16                                      **3. ICING CONDITIONS; OR**

17                                      **4. A CRIMINAL ACT OF THEFT OR DESTRUCTION OF**  
18 **PROPERTY WITHIN THE LEASE AREA;**

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

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

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

1           (b)   **(1)**   [The] **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**  
2 Department may waive the requirements for active use of a lease on a showing that  
3 conditions not present at the time of execution of the lease[, including the unavailability of  
4 shellfish seed,] prevent active use of the leased area.

5                   **(2)   THE DEPARTMENT SHALL WAIVE THE REQUIREMENTS FOR**  
6 **ACTIVE USE OF A LEASE ON A SHOWING THAT SHELLFISH LARVAE OR SHELLFISH**  
7 **SEED IS UNAVAILABLE.**

8           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2020.