

Chapter 372

(Senate Bill 434)

AN ACT concerning

Natural Resources – Restorative Aquaculture Pilot Program

FOR the purpose of requiring the Department of Natural Resources to establish and implement a Restorative Aquaculture Pilot Program to provide financial incentives to certain holders of aquaculture leases; authorizing a holder of an aquaculture lease who is participating in the Pilot Program to meet certain requirements by shellfish seed planting only; providing for the financing of the financial incentives under the Pilot Program; and generally relating to the Restorative Aquaculture Pilot Program.

BY adding to

Article – Natural Resources

Section 4–11A–24

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

4–11A–24.

(A) IN THIS SECTION, “PILOT PROGRAM” MEANS THE RESTORATIVE AQUACULTURE PILOT PROGRAM.

(B) THE GENERAL ASSEMBLY FINDS THAT, WITH APPROPRIATE SITING, ACTIVE USE REQUIREMENTS THAT REQUIRE ANNUAL SHELLFISH SEED PLANTINGS, AND APPROPRIATE HUSBANDRY, SHELLFISH AQUACULTURE IS A RESTORATIVE ACTIVITY THAT BENEFITS WATER QUALITY, OYSTER PRODUCTIVITY, AND HABITAT.

(C) (1) THE DEPARTMENT SHALL ESTABLISH AND IMPLEMENT A RESTORATIVE AQUACULTURE PILOT PROGRAM.

(2) THE PILOT PROGRAM SHALL BE DESIGNED TO PROVIDE FINANCIAL INCENTIVES TO A HOLDER OF AN AQUACULTURE LEASE WHO:

(I) MAINTAINS THE LEASE, IN WHOLE OR IN PART, IN ACCORDANCE WITH THE CRITERIA FOR RESTORATIVE AQUACULTURE IDENTIFIED BY THE DEPARTMENT UNDER SUBSECTION (D) OF THIS SECTION; ~~AND~~

(II) MAINTAINS THE RESTORATIVE CONDITIONS FOR AT LEAST 4 YEARS; AND

(III) MEETS ANY CRITERIA THE DEPARTMENT, IN CONSULTATION WITH THE AQUACULTURE COORDINATING COUNCIL, CONSIDERS NECESSARY.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT SHALL IDENTIFY CRITERIA AND METRICS FOR RESTORATIVE AQUACULTURE THAT TAKE INTO CONSIDERATION:

(I) OYSTER DENSITY;

(II) OYSTER BIOMASS;

(III) HABITAT COMPLEXITY; AND

(IV) ANY OTHER CRITERIA AND METRICS DEVELOPED OR IDENTIFIED IN COORDINATION WITH THE AQUACULTURE COORDINATING COUNCIL, THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE, OR OTHER INTERESTED STAKEHOLDERS.

(2) THE CRITERIA AND METRICS IDENTIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE AT LEAST AS STRINGENT AS THE TARGET CRITERIA AND METRICS USED IN LARGE-SCALE OYSTER RESTORATION PROJECTS OVERSEEN OR SUPPORTED BY THE CHESAPEAKE BAY PROGRAM.

(E) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE DEPARTMENT SHALL ESTABLISH ELIGIBILITY REQUIREMENTS AND FINANCIAL INCENTIVES FOR THE PILOT PROGRAM.

(2) THE FINANCIAL INCENTIVES ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE DESIGNED IN A MANNER THAT PAYS ELIGIBLE LEASE HOLDERS:

(I) 1. ON A PER-ACRE BASIS; AND

2. AT A RATE DETERMINED BY THE DEPARTMENT IN CONSULTATION WITH THE AQUACULTURE COORDINATING COUNCIL; OR

(II) FOR OYSTERS PURCHASED BY THE DEPARTMENT FOR USE IN OYSTER RESTORATION SANCTUARY PROJECTS.

(3) THE DEPARTMENT MAY CONSULT WITH INTERESTED STAKEHOLDERS IN ESTABLISHING THE FINANCIAL INCENTIVES UNDER THIS SUBSECTION.

(4) FINANCIAL INCENTIVES UNDER THIS SUBSECTION SHALL BE FINANCED THROUGH:

(I) PRIVATE DONATIONS;

(II) FEDERAL FUNDING;

(III) MONEY APPROPRIATED IN THE STATE BUDGET SPECIFICALLY FOR THE PAYMENT OF THE INCENTIVES; OR

(IV) ANY OTHER FUNDING FROM ANY OTHER SOURCE ACCEPTED FOR THE PAYMENT OF THE INCENTIVES.

(F) A HOLDER OF AN AQUACULTURE LEASE WHO IS PARTICIPATING IN THE PILOT PROGRAM MAY MEET ANY REQUIREMENTS FOR THE ACTIVE USE OF THE LEASE BY SHELLFISH SEED PLANTING ONLY.

(G) (1) ON OR BEFORE OCTOBER 1, 2024, THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

(2) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE PROVISIONS FOR THE VERIFICATION OF EXISTING AND IMPROVED CONDITIONS ON AQUACULTURE LEASES THAT ARE PART OF THE PILOT PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023. It shall remain effective for a period of 6 years and, at the end of September 30, 2029, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Approved by the Governor, May 3, 2023.