

**MARYLAND DEPARTMENT OF THE ENVIRONMENT**

**Shari T. Wilson, Secretary**

**BILL NO:** Senate Bill 1128

**COMMITTEE:** Education, Health, and Environmental Affairs

**POSITION:** Support with Amendments

-----  
**TITLE:** Board of Public Works – License to Dredge and Fill on State Wetlands –  
Working Marinas

**BILL ANALYSIS:** Senate Bill 1128 adds a new section, section 106, to Title 16 of the Environment Article authorizing the Board of Public Works (Board) to issue tidal wetland licenses for certain development projects at marinas that enhance aquaculture activities or seafood operations but are not authorized under current law by specifically authorizing licenses at marinas that historically operated as working marinas “for the sole purpose of supporting aquaculture or seafood operations” and where the sole purpose of the proposed development project is not to “moor, dock, or store recreational or pleasure vessels.” The Board may issue a license if the proposed project enhances aquaculture activities or seafood operations, is located at a marina or seafood operation operated by a “nonprofit organization to promote aquaculture activities or oyster restoration,” furthers the aquaculture policies of the State, and does not “significantly adversely impact submerged aquatic vegetation.” In addition, the applicant must obtain all other local, State, and federal authorizations before applying for a license from the Board.

**POSITION AND RATIONALE:** The Maryland Department of the Environment (MDE) supports SB 1128 with amendments. The purpose of the Bill is to support State aquaculture policy and provide certain unique aquaculture operations a limited exemption from the marina siting requirements established in regulation. SB 1128 is a logical extension of the State’s oyster restoration and aquaculture development policies designed to enhance oyster restoration for ecological purposes and encourage the development of aquaculture businesses. These policies help restore the Chesapeake Bay, bring back Maryland’s native oyster, and create new jobs and economic activity in the State.

The amendments offered by MDE are necessary to ensure the Bill is limited to marina expansion projects that are working marinas that meet certain requirements. The Bill does not define several critical terms. First, § 16-106(a) does not define or provide guidance as to the meaning of “development project at a marina.” As drafted the bill is not limited to marina expansion projects (e.g.,

adding additional boat slips at existing marinas). The term “development project” could mean almost any kind of work proposed at a site. Second, § 16-106(b) allows the Board to issue a license for a development project at a marina if the marina has “no flushing limit.” The extent of flushing (i.e., weak or strong) of a waterway, however, is a result of a number of characteristics of the waterway itself. Third, “historic water quality issues” is vague and may encompass certain characteristics, such as low dissolved oxygen, which may inadvertently limit the applicability of the Bill. Finally, it likely will be difficult to clarify in regulation what “significant” adverse impacts are to submerged aquatic vegetation (“SAV”). The current marina siting guidelines provide that new or existing marinas may not be located in areas which “adversely impact submerged aquatic vegetation.” These issues should be clarified.

The bill should be limited to operations which operated as working marinas in the past and, in the future, will operate as working marinas. § 16-106(a)(2) should be drafted more narrowly to achieve that purpose. As written, one limitation on the proposed project is that it cannot be located at a marina where “the principal purpose” of the project is to moor, dock, or store recreational boats. Instead, to ensure that the expanded marina is a working marina, § 16-106(a)(2) should clarify that the marina where the proposed project is located may not moor, dock, or store any recreational or pleasure boats. Second, § 16-106(b)(2) states that the license “will” authorize dredging to improve navigational access to the marina. Since every proposed marina expansion project does not involve dredging, each license “will” not authorize dredging.

**FOR MORE INFORMATION,**  
**CONTACT LISA NISSLEY**  
**410-260-6301 ANNAPOLIS**  
**410-537-3812 BALTIMORE**

BY: Department of the Environment

AMENDMENT TO SENATE BILL NO. 1128  
(First Reading File Bill)

AMENDMENT NO. 1

On page 2, in lines 12, 16, and 21, in each instance, strike “AT” and substitute “**TO EXPAND**”;

in lines 16 and 17, strike “**PRINCIPAL PURPOSE OF THE DEVELOPMENT PROJECT**” and substitute “**EXISTING OR EXPANDED MARINA**”;

in line 17, before “TO ALLOW”, insert “**USED**”;

in line 18, strike “AT THE MARINA”;

in line 19, before “EXCEPT” insert “**(1)**”;

in line 21, strike “WITH A” and substitute “**IN AN AREA WHERE THE**”;

in line 21, strike “OF” and substitute “**IS**”;

in line 21, after “FEET” insert “**AT MEAN LOW WATER**”;

strike beginning with “, NO” in line 21 down through “PROJECT” in line 23 and substitute “**AND ON A WATERWAY WITHOUT STRONG FLUSHING IF THE DEVELOPMENT PROJECT**”;

in line 29, strike “SIGNIFICANTLY”;

On page 3 in line 2, strike “AQUACULTURE; OR” and substitute “**AQUACULTURE.**”; and

in line 3, strike “WILL” and substitute “**AUTHORIZED UNDER PARAGRAPH (1) MAY**”.