



SENATE BILL 410: Marine Aquaculture Development Act.

2017-2018 General Assembly

Committee:	Senate Finance. If favorable, re-refer to Rules and Operations of the Senate	Date:	May 23, 2017
Introduced by:	Sens. Cook, Sanderson, Tillman	Prepared by:	Nicholas Giddings, Committee Co-Counsel
Analysis of:	PCS to Second Edition S410-CSBAf-20		Jeff Hudson, Staff Attorney

OVERVIEW: *The PCS to Senate Bill 410 would create a definition for marine aquaculture leases which would combine the public bottom and superadjacent water column in one lease and establish a program for administering these leases. The PCS would also require members of the Marine Fisheries Commission to use official email accounts for all electronic communications related to the work of the Commission.*

[As introduced, this bill was identical to H524, as introduced by Reps. Boswell, Shepard, which is currently in House Environment.]

CURRENT LAW:

Under current law, the State has a program for leasing public bottoms under coastal fishing waters and the water columns above them for the production of shellfish. These leased areas are subject to certain suitability criteria and fees, must be terminated under certain circumstances, and are protected from the unauthorized taking of shellfish.

BILL ANALYSIS:

Section 1 would create definitions as follows:

- **Marine Aquaculture:** The propagation and rearing of marine aquatic species in controlled or selected environments, including, but not limited to, ocean ranching, marine hatcheries, and other deep water fish farming operations in the coastal fishing waters of the State and, to the extent not inconsistent with federal law, to the limits of the United States exclusive economic zone.
- **Marine aquaculture lease:** A lease of the public bottom and superadjacent water column granted by the Secretary for marine aquaculture.
- **Marine aquatic species:** Any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant found exclusively or for part of its life cycle in coastal fishing waters.

Section 1 would also authorize the Secretary of Environmental Quality to grant marine aquaculture leases as follows:

- The area leased must meet certain criteria in order to be suitable for leasing.
- Leases are capped at 100 acres per lease and no person, corporation, or single family may lease or purchase more than 1,500 acres total.

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- Leases are subject to the following fees:
 - Initial lease application filing fee: \$200.00.
 - Renewal lease application filing fee: \$100.00.
 - Lease rental fee: \$210.00 per acre, per year.
- The Secretary must terminate a lease under certain circumstances.
- It is unlawful for any person, other than the holder of the marine aquaculture operation lease, to take species produced from the operation without the written authorization of the lease holder and with actual knowledge it is a leased area. Violation of this provision would be a Class A1 misdemeanor, which could include a fine of up to \$5,000.

Section 2 would direct the Division of Marine Fisheries of the Department of Environmental Quality (DMF) to:

- Request that the Mid Atlantic and South Atlantic Fishery Management Councils develop a Fishery Management Plan for regulating offshore aquaculture in federal waters offshore from the North Carolina coast.
- Petition the National Oceanic and Atmospheric Administration to initiate rule making proceedings to implement a comprehensive regulatory program for managing the development of an environmentally sound and economically sustainable aquaculture fishery in federal waters offshore from the North Carolina coast.

Section 2 would also direct DMF to provide an interim report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than February 1, 2018, regarding its progress in implementing this section and a final report on or before May 1, 2018, that includes the request and petition required by this section.

Section 3 would direct the Marine Fisheries Commission to establish official e-mail accounts for all Commission members as follows:

- Commission members would be required to use the official e-mail accounts for all electronic communications related to the work of the Commission.
- Such communications would be considered public records, unless protected by any common law or statutory privilege.
- If made among a majority of members of the Commission, such communications would be an official meeting for purposes of the open meetings law, except if the communication is a routine communication sent from Division staff to all Commission members.
- Failure to comply with these requirements would subject a member to investigation by the State Ethics Commission for unethical conduct and to removal from the Commission for misfeasance.

EFFECTIVE DATE:

The new leasing program would become effective October 1, 2017. The remainder of the bill would become effective when the bill becomes law.