



# SENATE BILL 434: Amend Environmental Laws 2.

**This Bill Analysis  
reflects the  
contents of the bill  
as it was presented  
in committee.**

2017-2018 General Assembly

<b>Committee:</b>	Senate Agriculture/Environment/Natural Resources. If favorable, re-refer to Appropriations/Base Budget. If favorable, re-refer to Rules and Operations of the Senate	<b>Date:</b>	April 20, 2017
<b>Introduced by:</b>	Sens. Sanderson, Cook, Wells	<b>Prepared by:</b>	Jeff Hudson Jennifer McGinnis Committee Counsel
<b>Analysis of:</b>	First Edition		

**OVERVIEW:** Senate Bill 434 would make various changes to State environmental and natural resources laws.

### BILL ANALYSIS:

#### REPEAL YARD WASTE PERMITTING REQUIREMENTS

Under current law, facilities that accept yard waste could, depending on the type and amount of material accepted and the size of the facility, be required to obtain a solid waste permit for a treatment and processing facility, a land clearing and inert debris landfill, or could be required to file a Yard Waste Notification.

Section 1(a) would define "yard waste" as land-clearing debris, including stumps, limbs, leaves, grass, and untreated wood, and yard trash, including brush, grass, tree limbs, and similar vegetative material.

Section 1(b) would provide that yard waste diverted from the waste stream or collected as source separated material would not be subject to a solid waste permit for transfer, treatment, processing, storage, or disposal in a permitted solid waste management facility. The provision, however, would not limit the authority of any local government to manage yard waste. Yard waste as defined under the bill would include land-clearing debris, including stumps, limbs, leaves, grass, and untreated wood, and yard trash including brush, grass, tree limbs, and similar vegetative material.

Section 1(c) would provide that the section becomes effective July 1, 2017, and would apply to the transfer, treatment, processing, storage, or disposal of yard waste occurring on or after that date.

#### LOCAL GOVERNMENT RIPARIAN BUFFER UNIFORMITY

Under current law, a local government can receive the approval of the Environmental Management Commission (EMC) to enact, implement, and enforce a local government ordinance that establishes riparian buffer requirements that exceed the requirements of State and federal law if the EMC determines that the riparian buffers are necessary for the protection of water quality.

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Section 2 would repeal the ability of local governments to enact, implement, and enforce ordinances that establish riparian buffer requirements that exceed the requirements of State and federal law. Section 2 would also prohibit local governments from applying for or renewing permits issued by State or federal agencies that require riparian buffers that exceed riparian buffer requirements directly imposed by State or federal law.

## **SHELLFISH ENTERPRISE AREAS**

Section 3 would authorize the Marine Fisheries Commission (MFC) to adopt rules to provide for advanced siting and preapprovals of shellfish aquaculture leases.

## **MARINE FISHERIES CLARIFYING CHANGES**

Current State law on shellfish aquaculture provides:

- It is unlawful to transplant shellfish from public grounds or permitted aquaculture operations utilizing waters in the restricted or conditionally approved classification to private beds.
- It is lawful to transplant shellfish in the seed stage from permitted aquaculture operations that use waters in the restricted or conditionally approved classification to private beds as approved by the Secretary of Environmental Quality (Secretary).
- It is lawful to sell oysters or clams from a hatchery or aquaculture operation to the holder of an Aquaculture Operation Permit, an Underdock Culture Permit, or a shellfish cultivation lease.

Section 4 would make the following changes to State law on shellfish aquaculture:

- It is unlawful to transplant shellfish from public grounds or permitted aquaculture operations utilizing waters in the prohibited classification to private beds.
- It is lawful to transplant shellfish in the seed stage from permitted aquaculture operations that use waters in the prohibited, restricted, or conditionally approved classification unless the Secretary determines that it would present a risk to public health.
- It is lawful to sell fish reared in a hatchery or aquaculture operation to the holder of an Aquaculture Operation Permit, an Underdock Culture Permit, or a shellfish cultivation lease.

## **RIVER HERRING FISHERIES MANAGEMENT**

Section 5 would direct the Division of Marine Fisheries (DMF) to review its Fishery Management Plan (FMP) for River Herring regarding the validity and scientific basis for the status of the species as overfished. If DMF determines that it does not have an adequate scientific basis to review the status of the species, then DMF should develop costs estimates for the restoration of spawning and nursery area surveys and age composition work for all coastal streams within the State that historically contained significant river herring fisheries.

## **STATE PARTICIPATION IN SITING OF ATLANTIC INTRACOASTAL WATERWAY DREDGED MATERIAL DISPOSAL EASEMENTS**

Section 6 would authorize the Division of Coastal Management of the Department of Environmental Quality and the State Property Office to negotiate an agreement with appropriate agencies of the federal government for the State to assume responsibility for acquiring dredged material easement sites appropriate for maintenance dredging of the Atlantic Intracoastal Waterway between Beaufort Inlet and the border with the Commonwealth of Virginia in exchange for the reduction in size and possible change in location of dredged material disposal easement sites currently held by the federal government. The agreement shall provide for the federal government to relinquish certain dredged material disposal easements that are excess to maintenance project needs in exchange for the acquisition and furnishing to the federal government other easements that are sited and permitted by the Division and acquired by the

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State Property Office under its powers of condemnation or otherwise using such funds as may be appropriated by the General Assembly from the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund (Fund). Section 6 modifies the statutory permissible uses of the Fund for this purpose.

## **INVASIVE SERIES MANAGEMENT TO PRESERVE ECOSYSTEM DIVERSITY**

Section 7 would require the Wildlife Resources Commission (WRC) to issue rules establishing open seasons and manner of take requirements applicable to all counties for all invasive species that the Commission determines to be game animals or game birds. For those invasive species that the WRC finds are not game animals or game birds, the WRC must develop programs to encourage control of those species by State agencies, local governments, private landowners, hunters, and trappers. The provision would repeal any conflicting local acts.

The bill would define invasive species as all of the following:

- Brown tree snake
- Bullfrog
- Burmese python
- Coyote
- European starling
- Feral swine
- House sparrow
- Nutria
- Red fox

Current law defines: (i) "game animals" as "[b]ear, fox, rabbit, squirrel, white-tailed deer, and, except when trapped in accordance with provisions relating to fur-bearing animals, bobcat, opossum, and raccoon."; and (ii) "game birds" as "[m]igratory game birds and upland game birds."

**EFFECTIVE DATE:** Except as otherwise provided, the bill would become effective when it becomes law.