

HOUSE BILL 353  
EMERGENCY BILL

Unofficial Copy  
M2

2002 Regular Session  
(2r1372)

**ENROLLED BILL**

-- Environmental Matters/Education, Health, and Environmental Affairs --

Introduced by **Delegates Schisler, Oaks, W. Baker, Eckardt, Cane, Walkup,  
Crouse, and DeCarlo**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER 508

1 AN ACT concerning

2 **Oysters - Nonnative and Native Species - Research for ~~Possible Cultivation~~**  
3 **in Maryland Waters and Report**

4 FOR the purpose of requiring the Department of Natural Resources to ~~study the~~  
5 ~~potentiality and feasibility of cultivating the species of oyster Crassostrea~~  
6 ~~ariakensis in Maryland waters~~ authorize a certain study of certain nonnative  
7 species of oyster; requiring the study to include a certain analysis and *proceed in*  
8 *accordance with certain findings*; authorizing, ~~with prior approval of the~~  
9 ~~Department~~ under a certain circumstance, certain research and  
10 experimentation in Maryland waters with certain oysters; requiring the  
11 Department to ensure that certain biosecurity measures are followed in order to  
12 ensure that certain research with certain oysters does not result in de facto  
13 introduction of a nonnative species; requiring the Department to study the  
14 condition and viability of native oysters and certain measures to increase their  
15 health and survival rate; requiring the Department to seek certain funding and  
16 to develop a certain plan; requiring the Department to report to the Governor

1 and certain legislative committees of the General Assembly by certain dates;  
 2 making this Act an emergency measure; providing for the termination of this  
 3 Act; and generally relating to live, nonnative certain research and certain  
 4 reports concerning certain oyster species.

5 ~~BY adding to~~  
 6 ~~Article—Natural Resources~~  
 7 ~~Section 4-1019.3~~  
 8 ~~Annotated Code of Maryland~~  
 9 ~~(2000 Replacement Volume and 2001 Supplement)~~

10 ~~BY repealing and reenacting, with amendments,~~  
 11 ~~Article—Natural Resources~~  
 12 ~~Section 4-11A-02(a)(2)~~  
 13 ~~Annotated Code of Maryland~~  
 14 ~~(2000 Replacement Volume and 2001 Supplement)~~

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

17 **~~Article—Natural Resources~~**

18 ~~4-1019.3.~~

19 (A) (1) ~~THE DEPARTMENT OF NATURAL RESOURCES SHALL, IN~~  
 20 ~~COOPERATION WITH BOTH PRIVATE AND PUBLIC MARYLAND RESEARCH~~  
 21 ~~INSTITUTIONS WITH EXPERTISE IN THE FIELD, STUDY THE POTENTIALITY AND~~  
 22 ~~FEASIBILITY OF CULTIVATING THE SPECIES OF OYSTER CRASSOSTREA ARIAKENSIS~~  
 23 ~~IN MARYLAND WATERS.~~

24 (2) ~~THE STUDY REQUIRED IN PARAGRAPH (1) OF THIS SUBSECTION~~  
 25 ~~SHALL INCLUDE AN ANALYSIS OF THE ECOLOGICAL BENEFITS AND RISKS~~  
 26 ~~ASSOCIATED WITH THE INTRODUCTION OF REPRODUCTIVELY CAPABLE NONNATIVE~~  
 27 ~~OYSTER SPECIES IN MARYLAND WATERS.~~

28 (B) ~~WITH PRIOR APPROVAL OF THE DEPARTMENT, A PERSON MAY ENGAGE IN~~  
 29 ~~RESEARCH AND EXPERIMENTATION IN MARYLAND WATERS WITH LIVE, NONNATIVE~~  
 30 ~~OYSTERS.~~

31 (C) ~~THE DEPARTMENT SHALL ENSURE THAT ANY RESEARCH IT APPROVES~~  
 32 ~~INVOLVING LIVE, NONNATIVE OYSTERS IN MARYLAND WATERS WILL NOT RESULT IN~~  
 33 ~~THE DE FACTO INTRODUCTION OF A NONNATIVE SPECIES.~~

34 ~~4-11A-02.~~

35 (a) (2) ~~[The] EXCEPT AS SPECIFICALLY AUTHORIZED IN § 4-1019.3 OF THIS~~  
 36 ~~ARTICLE, THE Department may not issue a permit for the raising of nonnative~~  
 37 ~~species, including hybrids of striped bass, or nonnative stocks unless:~~

1 (i) The permit limits the aquaculture operation to nontidal ponds,  
2 lakes, or impoundments; and

3 (ii) The aquaculture operation is constructed in a manner that  
4 assures that nonnative stocks are precluded from entering the tidal waters or  
5 contaminating the native species of the State.

6 SECTION 2. AND BE IT FURTHER ENACTED, That:

7 (a) ~~On or before December 1, 2003, the Department of Natural Resources shall~~  
8 ~~submit an interim report to the Governor, the House Environmental Matters~~  
9 ~~Committee and the Senate Education, Health, and Environmental Affairs Committee~~  
10 ~~concerning the status of on going research and interim findings in accordance with §~~  
11 ~~2-1246 of the State Government Article.~~

12 (b) ~~On or before December 1, 2004, the Department of Natural Resources shall~~  
13 ~~submit a final report to the Governor, the House Environmental Matters Committee~~  
14 ~~and the Senate Education, Health, and Environmental Affairs Committee concerning~~  
15 ~~the potentiality and feasibility of cultivating the species of oyster Crassostrea~~  
16 ~~ariakensis in Maryland waters in accordance with § 2-1246 of the State Government~~  
17 ~~Article.~~

18 (a) (1) The Department of Natural Resources shall authorize the study of  
19 the Suminoe oyster (Crassostrea ariakensis) and other nonnative species by both  
20 private and public research institutions with expertise in the field.

21 (2) The study required under paragraph (1) of this subsection shall  
22 include:

23 (i) An Include an analysis of the ecological benefits and risks  
24 associated with the introduction of:

25 1. Reproductively capable nonnative oyster species in  
26 Maryland waters, for purposes of fisheries restoration or any other purpose; and

27 2. Sterile nonnative species in Maryland, for purposes of the  
28 development of aquaculture or any other purpose; and

29 (ii) ~~To the extent possible as the study progresses, Proceed in~~  
30 ~~accordance with the findings of the National Academy of Sciences review of the~~  
31 ~~Suminoe oyster.~~

32 (3) Notwithstanding the provisions of § 4-11A-02(a)(2) of the Natural  
33 Resources Article, with prior approval of the Department, a person may engage in  
34 research and experimentation in Maryland waters with live, nonnative oysters.

35 (4) The Department shall ensure that proper biosecurity measures, as  
36 defined by the protocols of the International Council for the Exploration of the Sea,  
37 are followed in order to ensure to the greatest extent practicable that any research

1 the Department approves involving live, nonnative oysters in Maryland waters will  
2 not result in the de facto introduction of a nonnative species.

3 (b) The Department shall also study the current condition and ongoing  
4 viability of oysters native to Maryland waters and new measures to protect and  
5 increase the overall health and survival rate of native oysters.

6 (c) The Department shall seek funding for, and develop a plan to implement,  
7 the study required under this section.

8 (d) The Department shall submit to the Governor and, in accordance with §  
9 2-1246 of the State Government Article, to the House Environmental Matters  
10 Committee and the Senate Education, Health, and Environmental Affairs Committee:

11 (1) By December 1, 2002, an interim report on the status of ongoing  
12 research and all interim findings available to the Department, including findings to  
13 date of the National Academy of Sciences review of the Suminoe oyster; and

14 (2) By December 1, 2004, a final report on all findings available to date  
15 from the National Academy of Sciences review and from studies conducted under this  
16 Act.

17 SECTION ~~3-2.~~ AND BE IT FURTHER ENACTED, That this Act is an  
18 emergency measure, is necessary for the immediate preservation of the public health  
19 or safety, has been passed by a yea and nay vote supported by three-fifths of all the  
20 members elected to each of the two Houses of the General Assembly, and shall take  
21 effect from the date it is enacted. It shall remain effective through December 31, 2004  
22 and, at the end of December 31, 2004, with no further action required by the General  
23 Assembly, this Act shall be abrogated and of no further force and effect.