

HOUSE BILL 758

M2

6lr2956

By: **Delegates O'Donnell, Arentz, Bromwell, Frush, Holmes, Impallaria, Jacobs, Mautz, and Otto**

Introduced and read first time: February 8, 2016

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2016

CHAPTER _____

1 AN ACT concerning

2 **Natural Resources – County Oyster Committees**

3 FOR the purpose of altering the structure, membership, and duties of county oyster
4 committees in the State; repealing provisions of law providing for the membership
5 of a statewide advisory committee on oyster propagation; repealing certain statewide
6 advisory committees on the propagation of oysters in certain areas of the State;
7 repealing certain selection processes for county oyster committees and establishing
8 an election process for county oyster committees; altering the process for filling a
9 vacancy on a county oyster committee; altering the information that the Department
10 of Natural Resources is required to report annually to each county oyster committee;
11 requiring the Department to make certain information available on its Web site;
12 authorizing the Department to open ~~any natural oyster bar~~ certain natural oyster
13 bars on the request of a county oyster committee; requiring the Department to adopt
14 certain regulations; and generally relating to county oyster committees.

15 BY repealing and reenacting, with amendments,
16 Article – Natural Resources
17 Section 4–1106
18 Annotated Code of Maryland
19 (2012 Replacement Volume and 2015 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Natural Resources

1
2 4–1106.

3 (a) The Department may transplant oysters, shells, or other cultch from one
4 closed area to another, transplant or otherwise utilize within the State seed oysters
5 produced on shells or other cultch planted by the Department, or transplant or utilize any
6 other seed oyster which may accumulate on areas where seed oysters are not likely to
7 develop into desirable marketable oysters.

8 [(b) (1) The Department shall have licensed oystermen in each tidewater
9 county of this State select a county committee of five representative licensed tongers, who
10 earn their livelihood by catching oysters, to confer with the Department concerning oyster
11 propagation conducted by the Department in that county. Each county committee shall
12 elect a chairman to serve on a statewide committee of oystermen to advise the Department
13 on statewide issues concerning oyster propagation.

14 (2) A similar advisory committee that includes licensed dredgers shall be
15 selected to confer with the Department concerning the propagation of oysters in the
16 dredging areas. The committee shall elect a chairman to serve on a statewide committee of
17 oystermen to advise the Department on statewide issues concerning oyster propagation.

18 (3) The Department shall appoint 5 representative, licensed oystermen of
19 this State who earn their livelihood catching oysters by using diving apparatus as a
20 committee to confer with the Department concerning oyster propagation conducted by the
21 Department in the areas of the State where the catching of oysters by using diving
22 apparatus is permitted. The committee shall select a chairman to serve on a statewide
23 committee of oystermen to advise the Department on statewide issues concerning oyster
24 propagation.

25 (4) The Department shall appoint 5 representative, licensed oystermen of
26 this State who earn their livelihood catching oysters by using patent tongs as a committee
27 to confer with the Department concerning oyster propagation conducted by the Department
28 in the areas of the State where the catching of oysters by using patent tongs is permitted.
29 The committee shall select a chairman to serve on a statewide committee of oystermen to
30 advise the Department on statewide issues concerning oyster propagation.

31 (5) The term of membership for each committee is four years, except that
32 of the original committeemen, three are to serve a four–year term and two are to serve a
33 two–year term. Each term begins on March 1.

34 (6) If a vacancy occurs because a member is unable or unwilling to serve,
35 the Department immediately shall notify in writing each member of the committee of the
36 vacancy. The committee shall arrange for a new election to fill the vacancy. If the vacancy
37 is not filled within 60 days after the vacancy occurs, the Department shall make the
38 necessary appointments to fill each vacancy. When committee members are selected or
39 when any vacancy is filled, the Department shall notify promptly the members of the

1 General Assembly from the county of the names of the committee members selected or
2 appointed to fill a vacancy in that county. An appointment to a vacancy in an unexpired
3 term is limited to the remainder of the term.

4 (7) The Department shall prescribe by rule and regulation the time, place,
5 and manner of selection of the oyster committees.

6 (8) The Fisheries Administration shall submit an annual summary of the
7 Fisheries Research and Development Fund to the committee of oystermen for each county.
8 The summary shall include an accounting of receipts and expenditures.]

9 **(B) (1) (I) THERE IS A COUNTY OYSTER COMMITTEE IN EACH**
10 **TIDEWATER COUNTY IN THE STATE.**

11 **(II) EACH COUNTY OYSTER COMMITTEE SHALL CONSULT WITH**
12 **THE DEPARTMENT ON MATTERS CONCERNING OYSTER MANAGEMENT, HARVEST,**
13 **AND RESTORATION IN THE RESPECTIVE COUNTY WATERS.**

14 **(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A COUNTY**
15 **OYSTER COMMITTEE CONSISTS OF THE FOLLOWING FIVE MEMBERS ELECTED IN**
16 **ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT BY A MAJORITY**
17 **VOTE OF OYSTER HARVESTERS WHO ARE COUNTY RESIDENTS AND HAVE PAID THE**
18 **OYSTER SURCHARGE AT LEAST ONCE IN THE PREVIOUS 4 YEARS:**

19 **(I) ONE MEMBER WHO HARVESTS PRIMARILY USING HAND**
20 **TONGS;**

21 **(II) ONE MEMBER WHO HARVESTS PRIMARILY USING PATENT**
22 **TONGS;**

23 **(III) ONE MEMBER WHO HARVESTS PRIMARILY USING DIVING**
24 **APPARATUS;**

25 **(IV) ONE MEMBER WHO HARVESTS PRIMARILY BY DREDGING;**
26 **AND**

27 **(V) 1. ONE MEMBER WHO HARVESTS PRIMARILY BY SAIL**
28 **DREDGE; OR**

29 **2. IF NO SAIL DREDGE HARVESTER IS WILLING OR**
30 **AVAILABLE TO SERVE ON THE COMMITTEE, ONE AT-LARGE MEMBER WHO MAY USE**
31 **ANY GEAR TYPE TO HARVEST OYSTERS.**

32 **(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF A**
33 **COUNTY DOES NOT HAVE SUFFICIENT CANDIDATES TO REPRESENT EACH GEAR TYPE**

1 DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION, THE COMMITTEE MAY CONSIST
2 OF MORE THAN ONE MEMBER WHO IS NOT AN AT-LARGE MEMBER FOR EACH GEAR
3 TYPE.

4 (II) COMMITTEE MEMBERSHIP SHALL INCLUDE A
5 REPRESENTATIVE OF EACH GEAR TYPE THAT WAS USED FOR HARVEST BY A COUNTY
6 RESIDENT IN THE HARVEST SEASON PRECEDING THE COMMITTEE ELECTION.

7 (III) IF FEWER THAN FIVE LICENSED OYSTER HARVESTERS
8 RESIDE IN A COUNTY, THE COMMITTEE SHALL CONSIST OF THE LICENSED OYSTER
9 HARVESTERS WHO RESIDE IN THE COUNTY.

10 (4) (I) THE TERM OF A COMMITTEE MEMBER IS 4 YEARS.

11 (II) THE TERMS OF THE COMMITTEE MEMBERS ARE STAGGERED
12 AS REQUIRED BY THE TERMS OF THE MEMBERS SERVING ON OCTOBER 1, 2016.

13 (III) IF THERE IS A VACANCY ON A COMMITTEE, A REPLACEMENT
14 SHALL BE ELECTED BY A PUBLIC MEETING PROCESS ESTABLISHED BY THE
15 DEPARTMENT BY REGULATION.

16 (5) ON OR BEFORE FEBRUARY 28 OF EACH YEAR, THE DEPARTMENT
17 SHALL PROVIDE EACH COUNTY OYSTER COMMITTEE WITH A REPORT ON:

18 (I) THE TOTAL AMOUNT OF THE OYSTER SURCHARGE
19 COLLECTED FROM COUNTY OYSTER HARVESTERS IN THE PREVIOUS CALENDAR
20 YEAR;

21 (II) THE TOTAL AMOUNT OF THE OYSTER TAXES COLLECTED
22 FROM PERSONS WITHIN THE COUNTY IN THE PREVIOUS CALENDAR YEAR; AND

23 (III) THE STATEWIDE REVENUES, INCLUDING GRANTS, AND
24 EXPENDITURES USED, AND ACTIVITIES UNDERTAKEN FOR THE RESTORATION AND
25 MANAGEMENT OF THE OYSTER POPULATION IN THE CHESAPEAKE BAY, BROKEN
26 DOWN BY COUNTY WHERE FEASIBLE.

27 (6) THE DEPARTMENT SHALL MAKE THE STATEWIDE REPORT
28 REQUIRED UNDER PARAGRAPH (5)(III) OF THIS SUBSECTION AVAILABLE ON ITS
29 WEB SITE.

30 (c) The Department shall expend any fund appropriated in the budget for oyster
31 propagation for the planting of oyster shells, other cultch, or seed oysters on natural oyster
32 bars or seed areas, or for the purchase of necessary equipment.

1 (d) [The] ON THE REQUEST OF THE APPROPRIATE COUNTY OYSTER
2 COMMITTEE, THE Department may:

3 (1) OPEN OR close [without holding a public hearing] any natural oyster
4 bar [in the waters of the State with the approval of the appropriate committee of
5 oystermen] THAT IS:

6 (I) IN THE COUNTY WATERS OF THAT COMMITTEE; AND

7 (II) NOT DESIGNATED AS OR LOCATED WITHIN AN OYSTER
8 SANCTUARY; AND

9 (2) DESIGNATE BY PUBLIC NOTICE THE GEAR TYPES AND THE HOURS
10 AND DAYS ALLOWED FOR HARVEST ON ANY NATURAL OYSTER BAR.

11 (E) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS
12 SECTION, INCLUDING REGULATIONS THAT ESTABLISH:

13 (1) AN ELECTION PROCESS FOR COUNTY OYSTER COMMITTEES,
14 INCLUDING PROVISIONS AUTHORIZING NOTICE AND VOTING BY MAIL OR
15 ELECTRONICALLY; AND

16 (2) A PUBLIC MEETING PROCESS FOR FILLING A VACANCY ON A
17 COUNTY OYSTER COMMITTEE.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2016.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.