

# SENATE BILL 448

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CF HB 298

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By: **Senators Pinsky, Augustine, Beidle, Benson, Carter, Elfreth, Ellis, Feldman, Ferguson, Griffith, Guzzone, Hayes, Kagan, Kelley, King, Klausmeier, Kramer, Lam, Lee, McCray, Nathan–Pulliam, Patterson, Rosapepe, Smith, Waldstreicher, Washington, West, Young, and Zucker**

Introduced and read first time: February 4, 2019

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Oysters – Tributary–Scale Sanctuaries – Protection and Restoration**

3 FOR the purpose of establishing a network of oyster sanctuaries in certain tributaries to  
4 the Chesapeake Bay; codifying the boundaries of certain oyster sanctuaries;  
5 prohibiting a person from catching oysters in or removing oysters from a certain  
6 oyster sanctuary, subject to a certain exception; requiring the Department of Natural  
7 Resources, in coordination with certain groups and stakeholders, to develop and  
8 implement restoration plans for certain oyster sanctuaries; specifying the required  
9 contents of a restoration plan; requiring the Department to report to certain  
10 committees of the General Assembly on or before a certain date; requiring the  
11 Department, in consultation with certain groups and stakeholders, to finalize certain  
12 restoration plans on or before a certain date; requiring the Department to fully  
13 implement certain restoration plans on or before a certain date; and generally  
14 relating to tributary–scale oyster sanctuaries.

15 BY renumbering

16 Article – Natural Resources  
17 Section 4–1014 through 4–1014.3, respectively  
18 to be Section 4–1014.1 through 4–1014.4, respectively  
19 Annotated Code of Maryland  
20 (2018 Replacement Volume)

21 BY adding to

22 Article – Natural Resources  
23 Section 4–1014  
24 Annotated Code of Maryland  
25 (2018 Replacement Volume)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



## Preamble

WHEREAS, Under the 2014 Chesapeake Bay Watershed Agreement, Maryland and the other Chesapeake Bay Program partners have committed to restoring native oyster habitat and populations in 10 tributaries by 2025 and ensuring their protection; and

WHEREAS, Significant public money from both State and federal sources has already been spent in these tributaries for the explicit purpose of ecological restoration; and

WHEREAS, Early monitoring results from the Harris Creek oyster sanctuary indicate that restored reefs there are thriving and removing approximately 100,000 pounds of nitrogen pollution from State waters annually; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 4–1014 through 4–1014.3, respectively, of Article – Natural Resources of the Annotated Code of Maryland be renumbered to be Section(s) 4–1014.1 through 4–1014.4, respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

**Article – Natural Resources****4–1014.**

**(A) THERE IS ESTABLISHED A NETWORK OF OYSTER SANCTUARIES IN THE FIVE TRIBUTARIES IDENTIFIED BY THE DEPARTMENT FOR LARGE-SCALE RESTORATION IN ACCORDANCE WITH THE 2014 CHESAPEAKE BAY WATERSHED AGREEMENT.**

**(B) IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION:**

**(1) THERE IS AN OYSTER SANCTUARY IN HARRIS CREEK THAT INCLUDES ALL OF THE WATERS OF HARRIS CREEK ENCLOSED BY A LINE BEGINNING AT A POINT ON THE EAST SHORE OF TILGHMAN ISLAND DEFINED BY LATITUDE 38 DEGREES 42.241 MINUTES NORTH, LONGITUDE 76 DEGREES 19.997 MINUTES WEST; THEN RUNNING NORTHERLY TO A POINT ON THE SOUTH SHORE OF KNAPPS NARROWS, DEFINED BY LATITUDE 38 DEGREES 42.925 MINUTES NORTH, LONGITUDE 76 DEGREES 19.709 MINUTES WEST; THEN RUNNING 49 DEGREES TRUE TO A POINT ON THE NORTH SHORE OF KNAPPS NARROWS, DEFINED BY LATITUDE 38 DEGREES 43.035 MINUTES NORTH, LONGITUDE 76 DEGREES 19.547 MINUTES WEST; THEN RUNNING NORTHERLY ALONG THE WEST SHORE OF HARRIS CREEK TO ITS HEADWATERS AND THEN SOUTHERLY ALONG THE EAST SHORE OF HARRIS CREEK TO A POINT ON THE SHORE OF CHANGE POINT DEFINED BY LATITUDE 38**

1 DEGREES 43.008 MINUTES NORTH, LONGITUDE 76 DEGREES 17.656 MINUTES WEST;  
2 THEN RUNNING 247 DEGREES TRUE TO THE POINT OF BEGINNING;

3 (2) THERE IS AN OYSTER SANCTUARY IN THE LITTLE CHOPTANK  
4 RIVER THAT INCLUDES ALL OF THE WATERS OF THE LITTLE CHOPTANK RIVER  
5 UPSTREAM OF A LINE BEGINNING AT A POINT ON THE SHORE OF SUSQUEHANNA  
6 POINT DEFINED BY LATITUDE 38 DEGREES 30.642 MINUTES NORTH, LONGITUDE 76  
7 DEGREES 15.492 MINUTES WEST; THEN RUNNING 329 DEGREES TRUE TO A POINT ON  
8 SHORE AT THE SOUTH END OF RAGGED POINT ISLAND, DEFINED BY LATITUDE 38  
9 DEGREES 31.886 MINUTES NORTH, LONGITUDE 76 DEGREES 16.440 MINUTES WEST;

10 (3) THERE IS AN OYSTER SANCTUARY IN THE TRED AVON RIVER  
11 THAT INCLUDES ALL OF THE WATERS OF THE TRED AVON RIVER NORTH AND EAST  
12 OF A LINE BEGINNING AT A POINT ON THE SHORE ON THE EAST SIDE OF TOWN  
13 CREEK, DEFINED BY LATITUDE 38 DEGREES 41.835 MINUTES NORTH, LONGITUDE  
14 76 DEGREES 9.923 MINUTES WEST; THEN RUNNING 255 DEGREES TRUE TO A POINT  
15 DEFINED BY LATITUDE 38 DEGREES 41.823 MINUTES NORTH, LONGITUDE 76  
16 DEGREES 9.981 MINUTES WEST; THEN RUNNING 0 DEGREES TRUE TO A POINT ON  
17 THE SHORE OF THE EAST SIDE OF PLAINDEALING CREEK, DEFINED BY LATITUDE 38  
18 DEGREES 42.576 MINUTES NORTH, LONGITUDE 76 DEGREES 9.978 MINUTES WEST;

19 (4) THERE IS AN OYSTER SANCTUARY IN THE ST. MARY'S RIVER THAT  
20 INCLUDES ALL OF THE WATERS OF THE ST. MARY'S RIVER BEGINNING AT A POINT  
21 ON THE SHORE SOUTHWEST OF DEEP POINT DEFINED BY LATITUDE 38 DEGREES  
22 11.279 MINUTES NORTH, LONGITUDE 76 DEGREES 26.639 MINUTES WEST; THEN  
23 RUNNING 89 DEGREES TRUE TO A POINT ON THE SHORE AT CHURCH POINT DEFINED  
24 BY LATITUDE 38 DEGREES 11.286 MINUTES NORTH, LONGITUDE 76 DEGREES  
25 26.263 MINUTES WEST; AND

26 (5) THERE IS AN OYSTER SANCTUARY IN THE MANOKIN RIVER THAT  
27 INCLUDES ALL OF THE WATERS OF THE MANOKIN RIVER UPSTREAM OF A LINE  
28 BEGINNING AT A POINT ON THE SHORE OF HAZARD POINT DEFINED BY LATITUDE  
29 38 DEGREES 4.571 MINUTES NORTH, LONGITUDE 75 DEGREES 52.694 MINUTES  
30 WEST; THEN RUNNING 306 DEGREES TRUE TO A POINT ON THE SHORE AT PIN POINT  
31 ON LITTLE DEAL ISLAND, DEFINED BY LATITUDE 38 DEGREES 6.750 MINUTES  
32 NORTH, LONGITUDE 75 DEGREES 56.552 MINUTES WEST; AND EAST OF A LINE  
33 BEGINNING AT A POINT ON THE SHORE AT THE NORTH END OF LITTLE DEAL ISLAND,  
34 DEFINED BY LATITUDE 38 DEGREES 7.695 MINUTES NORTH, LONGITUDE 75  
35 DEGREES 56.816 MINUTES WEST; THEN RUNNING 209 DEGREES TRUE TO A POINT ON  
36 THE SHORE ON THE WEST SIDE OF LOWER THOROFARE, DEFINED BY LATITUDE 38  
37 DEGREES 7.652 MINUTES NORTH, LONGITUDE 75 DEGREES 56.847 MINUTES WEST;  
38 AND SOUTHEAST OF A LINE BEGINNING ON THE SHORE ON THE EAST SIDE OF LAWS  
39 THOROFARE, DEFINED BY LATITUDE 38 DEGREES 8.904 MINUTES NORTH,

1 LONGITUDE 75 DEGREES 55.964 MINUTES WEST; THEN RUNNING 251 DEGREES  
2 TRUE TO A POINT ON THE WEST SIDE OF LAWS THOROFARE, DEFINED BY LATITUDE  
3 38 DEGREES 8.873 MINUTES NORTH, LONGITUDE 75 DEGREES 56.077 MINUTES  
4 WEST.

5 (C) (1) THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO ENGAGES  
6 IN AQUACULTURE ACTIVITIES WITHIN AN OYSTER SANCTUARY IN ACCORDANCE  
7 WITH A VALID LEASE ISSUED UNDER SUBTITLE 11A OF THIS TITLE.

8 (2) A PERSON MAY NOT CATCH OYSTERS IN OR REMOVE OYSTER SEED  
9 FROM AN OYSTER SANCTUARY:

10 (I) DESCRIBED IN SUBSECTION (B) OF THIS SECTION; OR

11 (II) ESTABLISHED BY THE DEPARTMENT IN REGULATION.

12 (D) (1) THE DEPARTMENT, IN COORDINATION WITH THE OYSTER  
13 ADVISORY COMMISSION, THE OYSTER INTERAGENCY WORKGROUP, AND  
14 INTERESTED STAKEHOLDERS, SHALL DEVELOP AND IMPLEMENT RESTORATION  
15 PLANS FOR EACH OF THE OYSTER SANCTUARIES DESCRIBED IN SUBSECTION (B) OF  
16 THIS SECTION.

17 (2) EACH RESTORATION PLAN SHALL:

18 (I) ESTABLISH ACREAGE TARGETS THAT EXCEED 50% OF THE  
19 CURRENTLY RESTORABLE OYSTER HABITAT IN THE SANCTUARY, AS DEFINED BY  
20 THE OYSTER INTERAGENCY WORKGROUP;

21 (II) FOR REEF CONSTRUCTION, REQUIRE THE USE OF  
22 SUBSTRATE THAT HAS BEEN DEMONSTRATED IN PREVIOUS TRIBUTARY-SCALE  
23 OYSTER RESTORATION PROJECTS TO MAXIMIZE OYSTER DENSITY;

24 (III) ESTABLISH A PROJECT IMPLEMENTATION TIMELINE THAT  
25 DEMONSTRATES HOW RESTORATION TARGETS WILL BE ACHIEVED BY 2025, IN  
26 ACCORDANCE WITH THE 2014 CHESAPEAKE BAY WATERSHED AGREEMENT; AND

27 (IV) INCLUDE PLANS FOR CONTINUED MONITORING OF THE  
28 SANCTUARY AND CORRECTIVE ACTIONS TO BE TAKEN BY THE DEPARTMENT IF  
29 FUTURE MONITORING INDICATES THAT A SANCTUARY IS NO LONGER MEETING THE  
30 FOLLOWING MINIMUM REQUIREMENTS:

31 1. ON RESTORED REEFS:

- 1                   **A. A MINIMUM DENSITY OF 15 OYSTERS PER SQUARE**  
2 **METER;**
- 3                   **B. A MINIMUM BIOMASS OF 15 GRAMS DRY WEIGHT PER**  
4 **SQUARE METER;**
- 5                   **C. A MINIMUM OF AT LEAST 2-YEAR CLASSES OF**  
6 **OYSTERS; AND**
- 7                   **D. SUBSTRATE OR OYSTERS PRESENT ON AT LEAST 30%**  
8 **OF THE REEF AREA; AND**
- 9                   **2. WITHIN THE WHOLE SANCTUARY, A MINIMUM OF 50%**  
10 **OF REEF HABITAT, CONSTITUTING AT LEAST 8% OF HISTORIC OYSTER HABITAT,**  
11 **MEETING THE REQUIREMENTS OF ITEM 1 OF THIS ITEM.**

12           SECTION 3. AND BE IT FURTHER ENACTED, That:

13           (a) On or before December 1, 2019, the Department of Natural Resources shall  
14 report to the Senate Education, Health, and Environmental Affairs Committee and the  
15 House Environment and Transportation Committee, in accordance with § 2-1246 of the  
16 State Government Article, on the development and implementation of restoration plans for  
17 the five oyster sanctuaries described in Section 2 of this Act.

18           (b) On or before July 1, 2020, the Department of Natural Resources, in  
19 consultation with the Oyster Advisory Commission, the Oyster Interagency Workgroup,  
20 and interested stakeholders, shall finalize restoration plans for the St. Mary's River and  
21 Manokin River oyster sanctuaries, in accordance with Section 2 of this Act.

22           (c) On or before December 1, 2021, the Department of Natural Resources shall  
23 fully implement existing restoration plans for the Tred Avon River and the Little Choptank  
24 River oyster sanctuaries.

25           SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
26 1, 2019.