

# HOUSE BILL 911

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EMERGENCY BILL

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CF SB 808

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By: **Delegates Gilchrist, Barve, Boyce, and Stein**

Introduced and read first time: February 5, 2020

Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Fishery Management Plans – Oysters**

3 FOR the purpose of altering the date by which the Department of Natural Resources is  
4 required to convene in a certain manner the Oyster Advisory Commission; altering  
5 the version of the fishery management plan for oysters that the Department is  
6 required to develop before taking certain management action governing oyster  
7 sanctuaries; repealing a certain provision of law authorizing the Commission to meet  
8 and deliberate in closed session under certain circumstances; altering the dates by  
9 which certain interim reports related to oyster management are required to be  
10 submitted to the Governor and the General Assembly; requiring the Department to  
11 implement a certain version of the fishery management plan for oysters consistent  
12 with certain law; making certain technical corrections; making this Act an  
13 emergency measure; and generally relating to fishery management plans for oysters.

14 BY repealing and reenacting, without amendments,  
15 Article – Natural Resources  
16 Section 4–204(c)(1) and 4–215(b)(6)  
17 Annotated Code of Maryland  
18 (2018 Replacement Volume and 2019 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article – Natural Resources  
21 Section 4–204(c)(2)(i) and 4–215(e)(4) and (5)  
22 Annotated Code of Maryland  
23 (2018 Replacement Volume and 2019 Supplement)  
24 (As enacted by Chapters 5 and 9 of the Acts of the General Assembly of 2020)

25 BY repealing and reenacting, with amendments,  
26 Chapter 5 of the Acts of the General Assembly of 2020  
27 Section 3

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Chapter 9 of the Acts of the General Assembly of 2020  
3 Section 3

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

6 **Article – Natural Resources**

7 4–204.

8 (c) (1) There is an Oyster Advisory Commission in the Department.

9 (2) (i) On or before [June 1, 2019] **APRIL 1, 2020**, and subject to  
10 subparagraph (ii) of this paragraph, the Department shall, in coordination with the  
11 University of Maryland Center for Environmental Science, convene the members of the  
12 Commission.

13 4–215.

14 (b) The Department shall prepare fishery management plans for the following  
15 species:

16 (6) Oysters;

17 (e) (4) (i) Subject to subparagraph (ii) of this paragraph, the Department  
18 may not take any action to reduce or alter the boundaries of the oyster sanctuaries  
19 established in “Oyster Sanctuaries of the Chesapeake Bay and its Tidal Tributaries  
20 (September 2010)” until the Department has developed [a] **AN UPDATED** fisheries  
21 management plan for the scientific management of the oyster stock based on management  
22 strategies and measurements recommended by the Oyster Advisory Commission under  
23 paragraph (5) of this subsection and determined by the Department in consultation with  
24 the University of Maryland Center for Environmental Science.

25 (ii) The fishery management plan developed in accordance with  
26 paragraph (5) of this subsection shall:

27 1. End the overfishing of oysters in all areas and regions of  
28 the Chesapeake Bay and its tributaries where overfishing has occurred according to  
29 biological reference points established by the most recent oyster stock assessment while  
30 maintaining a harvest in the fishery;

31 2. Achieve fishing mortality rates at target levels;

32 3. Increase oyster abundance;

33 4. Increase oyster habitat; and

1                                   5.     Facilitate the long-term sustainable harvest of oysters,  
2 including the public fishery.

3                                   (iii)   This paragraph may not be construed to prevent the Department  
4 from:

5                                   1.     Selecting the final two tributaries for tributary-scale  
6 oyster restoration sanctuary projects in accordance with the 2014 Chesapeake Bay  
7 Agreement; or

8                                   2.     Establishing, in the discretion of the Department, any  
9 dimensions for a tributary-scale oyster restoration sanctuary project.

10                               (5)   (i)     The Department shall:

11                                   1.     In coordination with the University of Maryland Center  
12 for Environmental Science and the Oyster Advisory Commission, develop a package of  
13 consensus recommendations for enhancing and implementing the fishery management  
14 plan for oysters that will be informed by a collaboratively developed, science-based  
15 modeling tool to quantify the long-term impacts of identified management actions and  
16 possible combinations of management actions on:

17                                   A.     Oyster abundance;

18                                   B.     Oyster habitat;

19                                   C.     Oyster harvest;

20                                   D.     Oyster harvest revenue; and

21                                   E.     Nitrogen removal; and

22                                   2.     Hold public listening sessions throughout the State to  
23 identify possible management actions for use in the public oyster fishery.

24                                   (ii)   The Oyster Advisory Commission, with the assistance of external  
25 conflict resolution and facilitation specialists, shall:

26                                   1.     Develop a package of consensus recommendations through  
27 a facilitated consensus solutions process, based on a 75% majority agreement level for each  
28 recommendation;

29                                   2.     Recommend management actions or combinations of  
30 management actions to achieve the targets identified in the oyster stock assessment with  
31 the goal of increasing oyster abundance; and

1                   3.     Review model results for each management action or  
2 combination of management actions to inform its recommendations.

3                   (iii)   [Notwithstanding § 3–305 of the General Provisions Article, and  
4 with the consent of a 75% majority of its members, the Oyster Advisory Commission may  
5 meet and deliberate in closed session to develop the package of consensus recommendations  
6 for enhancing and implementing the fishery management plan for oysters under this  
7 paragraph.

8                   (iv)] 1.     The Department shall submit interim reports on the  
9 development of the package of consensus recommendations by [December 1, 2019, August  
10 1, 2020, and December 1, 2020] **AUGUST 1, 2020, AND DECEMBER 1, 2020**, to the  
11 Governor and, in accordance with § [2–1246] **2–1257** of the State Government Article, the  
12 General Assembly.

13                   2.     The Department shall provide a final report by July 1,  
14 2021, which will include an implementation schedule for the consensus recommendations,  
15 to the Governor and, in accordance with § [2–1246] **2–1257** of the State Government  
16 Article, the General Assembly.

17                   [(v)] (IV)   To be responsive to changes in the oyster resource due to  
18 environmental conditions, the Department shall:

19                   1.     Review the status of the stock relative to reference points  
20 every 2 years and conduct a benchmark stock assessment every 6 years with consideration  
21 of new methods and with external peer review; and

22                   2.     With the input of interested stakeholders, implement  
23 management actions that increase oyster habitat, maintain harvest, and grow the oyster  
24 stock.

### 25                   **Chapter 5 of the Acts of 2020**

26                   SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Natural  
27 Resources shall implement the 2019 Fishery Management Plan for Oysters **CONSISTENT**  
28 **WITH § 4–215(E)(4)(I) OF THE NATURAL RESOURCES ARTICLE** pending the  
29 development of consensus recommendations in accordance with this Act.

### 30                   **Chapter 9 of the Acts of 2020**

31                   SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Natural  
32 Resources shall implement the 2019 Fishery Management Plan for Oysters **CONSISTENT**  
33 **WITH § 4–215(E)(4)(I) OF THE NATURAL RESOURCES ARTICLE** pending the  
34 development of consensus recommendations in accordance with this Act.

35                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency

1 measure, is necessary for the immediate preservation of the public health or safety, has  
2 been passed by a ye and nay vote supported by three-fifths of all the members elected to  
3 each of the two Houses of the General Assembly, and shall take effect from the date it is  
4 enacted.