

SENATE BILL 493
EMERGENCY BILL

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2002 Regular Session
2lr2437
CF HB 353

By: **Senators Harris, Baker, Colburn, Dyson, and Stoltzfus**

Introduced and read first time: February 1, 2002

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 6, 2002

CHAPTER _____

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

21 ~~BY adding to~~
22 ~~Article Natural Resources~~
23 ~~Section 4-1019.3~~
24 ~~Annotated Code of Maryland~~
25 ~~(2000 Replacement Volume and 2001 Supplement)~~

26 ~~BY repealing and reenacting, with amendments,~~

1 ~~Article—Natural Resources~~
 2 ~~Section 4-11A-02(a)(2)~~
 3 ~~Annotated Code of Maryland~~
 4 ~~(2000 Replacement Volume and 2001 Supplement)~~

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

7 ~~Article—Natural Resources~~

8 ~~4-1019.3.~~

9 (A) (1) ~~THE DEPARTMENT OF NATURAL RESOURCES SHALL, IN~~
 10 ~~COOPERATION WITH BOTH PRIVATE AND PUBLIC MARYLAND RESEARCH~~
 11 ~~INSTITUTIONS WITH EXPERTISE IN THE FIELD, STUDY THE POTENTIALITY AND~~
 12 ~~FEASIBILITY OF CULTIVATING THE SPECIES OF OYSTER CRASSOSTREA ARIAKENSIS~~
 13 ~~IN MARYLAND WATERS.~~

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

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

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

24 ~~4-11A-02.~~

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

28 (i) ~~The permit limits the aquaculture operation to nontidal ponds,~~
 29 ~~lakes, or impoundments; and~~

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

33 ~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

34 (a) ~~On or before December 1, 2003, the Department of Natural Resources shall~~
 35 ~~submit an interim report to the Governor, the House Environmental Matters~~
 36 ~~Committee and the Senate Education, Health, and Environmental Affairs Committee~~

1 ~~concerning the status of on-going research and interim findings in accordance with §~~
2 ~~2-1246 of the State Government Article.~~

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

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

12 (2) The study required under paragraph (1) of this subsection shall:

13 (i) Include an analysis of the ecological benefits and risks
14 associated with the introduction of:

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

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

19 (ii) Proceed in accordance with the findings of the National
20 Academy of Sciences review of the Suminoe oyster.

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

24 (4) The Department shall ensure that proper biosecurity measures, as
25 defined by the protocols of the International Council for the Exploration of the Sea,
26 are followed in order to ensure to the greatest extent practicable that any research
27 the Department approves involving live, nonnative oysters in Maryland waters will
28 not result in the de facto introduction of a nonnative species.

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

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

34 (d) The Department shall submit to the Governor and, in accordance with §
35 2-1246 of the State Government Article, to the House Environmental Matters
36 Committee and the Senate Education, Health, and Environmental Affairs Committee:

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

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

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