

SB0148/804435/1

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL 148
(First Reading File Bill)

AMENDMENT NO. 1

On pages 1 and 2, strike beginning with “authorizing” in line 3 on page 1 down through “definition” in line 7 on page 2 and substitute “establishing the Oyster Advisory Commission in the Department of Natural Resources; providing for the membership of the Commission; establishing the duties of the Commission; requiring the Commission to report to the Governor and the General Assembly by a certain date; requiring the Department of Natural Resources to publish certain information with respect to areas closed to shellfish harvesting; requiring the Department to provide certain publications to certain persons under certain circumstances; prohibiting a person from catching oysters for sale without providing certain certification to the Department; authorizing certain organizations to lease certain submerged land in Anne Arundel County for oyster restoration; authorizing certain holders of certain oyster bottom leases to renew the leases; requiring a certain holder of an oyster bottom lease to adhere to a certain plan and to plant a certain amount and density of oyster seed; prohibiting a certain holder of an oyster bottom lease from transferring or attempting to transfer a certain interest in submerged land; providing for reversion of a lease to the State if a certain transfer is made or attempted; establishing that certain penalties apply for unlawfully taking oysters in certain areas; repealing the penalty of license suspension for certain unlawful takings of oysters; requiring a certain amount of the oyster seed or spat produced at a certain laboratory to be made available to certain leaseholders for purchase; requiring the Department to adopt certain regulations establishing a certain administrative process for license suspension or revocation for unlawfully taking oysters; providing for the effective dates of this Act”.

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AMENDMENT NO. 2

On page 2, strike beginning with “4-11A-05(a)(1),” in line 11 down through “(c)(1),” in line 12 and substitute “4-204(c), 4-701(e)(2), 4-11A-05(a)(2),”; and in line 17, strike “4-1201(g)” and substitute “4-1006.2”.

AMENDMENT NO. 3

On pages 2 through 6, strike beginning with line 23 on page 2 through line 25 on page 6, inclusive, and substitute:

“4-204.

(c) [Notwithstanding any other provision of this section, a member of the Fish and Wildlife Commission as of June 30, 1972, may serve the unexpired remainder of his term as a member of an advisory commission created by law.]

(1) THERE IS AN OYSTER ADVISORY COMMISSION IN THE DEPARTMENT.

(2) THE COMMISSION CONSISTS OF MEMBERS APPOINTED BY THE SECRETARY.

(3) THE COMMISSION SHALL:

(i) PROVIDE THE DEPARTMENT WITH ADVICE ON MATTERS RELATED TO OYSTERS IN THE CHESAPEAKE BAY;

(ii) REVIEW THE BEST POSSIBLE SCIENCE AND RECOMMEND CHANGES TO THE FRAMEWORK AND STRATEGIES FOR REBUILDING AND MANAGING THE OYSTER POPULATION IN THE CHESAPEAKE BAY UNDER THE CHESAPEAKE BAY OYSTER MANAGEMENT PLAN;

(III) REVIEW THE LATEST FINDINGS RELEVANT TO THE ENVIRONMENTAL IMPACT STATEMENT EVALUATING OYSTER RESTORATION ALTERNATIVES FOR THE CHESAPEAKE BAY;

(IV) REVIEW ANY OTHER SCIENTIFIC, ECONOMIC, OR CULTURAL INFORMATION RELEVANT TO OYSTERS IN THE CHESAPEAKE BAY; AND

(V) BY DECEMBER 31, 2007 AND TO THE EXTENT REASONABLY APPROPRIATE, REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

1. STRATEGIES TO MINIMIZE THE IMPACT OF OYSTER DISEASE, INCLUDING THE STATE REPLETION PROGRAM AND BAR CLEANING;

2. THE FRAMEWORK AND EFFECTIVENESS OF THE OYSTER SANCTUARY, HARVEST RESERVE, AND REPLETION PROGRAMS, AND THE OVERALL MANAGEMENT OF NATURAL OYSTER BARS, AFTER PERFORMING A COST-BENEFIT ANALYSIS THAT CONSIDERS BIOLOGICAL, ECOLOGICAL, ECONOMIC, AND CULTURAL ISSUES;

3. STRATEGIES TO MAXIMIZE THE ECOLOGICAL BENEFITS OF NATURAL OYSTER BARS; AND

4. STRATEGIES TO IMPROVE ENFORCEMENT OF CLOSED OYSTER AREAS.

(e) (2) (I) A person may not catch oysters for sale without [possessing]:

1. POSSESSING a valid license under this section [and paying];

2. PAYING an annual surcharge of \$300 [which shall be used by the Department only for oyster repletion activities]; AND

3. CERTIFYING TO THE DEPARTMENT THAT THE PERSON RECEIVED THE PUBLICATIONS REQUIRED UNDER § 4-1006.2 OF THIS TITLE.

(II) THE DEPARTMENT SHALL USE THE SURCHARGES COLLECTED UNDER THIS PARAGRAPH ONLY FOR OYSTER REPLETION ACTIVITIES.

4-1006.2.

(A) THE DEPARTMENT ANNUALLY SHALL PUBLISH MAPS AND COORDINATES OF OYSTER SANCTUARIES, CLOSED OYSTER HARVEST RESERVE AREAS, AND AREAS CLOSED TO SHELLFISH HARVEST BY THE DEPARTMENT OF THE ENVIRONMENT.

(B) (1) THE DEPARTMENT SHALL PROVIDE THE PUBLICATIONS REQUIRED UNDER THIS SECTION TO EACH TIDAL FISH LICENSEE WHO PAYS THE OYSTER SURCHARGES REQUIRED UNDER § 4-701(E) OF THIS TITLE.

(2) BEFORE A PERSON MAY CATCH OYSTERS UNDER A TIDAL FISH LICENSE THAT HAS AN OYSTER AUTHORIZATION AND FOR WHICH THE OYSTER SURCHARGES HAVE BEEN PAID, THE PERSON SHALL CERTIFY TO THE DEPARTMENT ON A FORM THE DEPARTMENT PRESCRIBES THAT THE PERSON RECEIVED THE PUBLICATIONS REQUIRED UNDER THIS SECTION.

4-11A-05.

(a) (2) (i) Except as provided in this paragraph, a corporation or joint stock company may not lease or acquire by assignment or otherwise any submerged land of the State for the purposes of this section.

(ii) A 4-H club in the State may lease or acquire not more than 10 acres of submerged land for the purposes of this section.

(iii) 1. An incorporated college or university within the State having an enrollment of at least 700 undergraduate, degree-seeking students may acquire, by assignment, gift, or bequest, submerged land for education and research purposes only.

2. An incorporated college or university may not transfer or attempt to transfer any interest in submerged land acquired under the provision of item 1 of this subparagraph to any person, corporation, or joint stock company.

3. Any transfer or attempt to transfer an interest in submerged land acquired under the provisions of item 1 of this subparagraph shall be void, and the interest in submerged land shall revert to the State without the necessity of any action by the State.

(iv) 1. A. A nonstock, nonprofit corporation organized under the laws of this State exclusively for educational purposes may lease or acquire

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not more than two leases consisting of not more than 30 acres each of submerged land in the Severn River for educational or ecological purposes.

B. A NONSTOCK, NONPROFIT CORPORATION MAY RENEW A LEASE ACQUIRED UNDER THIS SUBPARAGRAPH.

2. A. Except as provided in sub-sub-subparagraph B of this sub-subparagraph, a nonstock, nonprofit corporation organized exclusively for educational purposes may not transfer or attempt to transfer any interest in submerged land acquired under the provisions of sub-subparagraph 1 of this subparagraph to any person, corporation, or joint stock company.

B. The nonprofit, nonstock corporation may harvest oysters in accordance with a harvesting program approved by the Department provided that any revenues from harvesting are maintained by the nonstock, nonprofit corporation exclusively for educational or ecological purposes and for the maintenance and preservation of submerged lands leased by the nonprofit, nonstock corporation.

(V) 1. A. A NONSTOCK, NONPROFIT CORPORATION ORGANIZED UNDER THE LAWS OF THIS STATE EXCLUSIVELY FOR CONSERVATION OR ECOLOGICAL PURPOSES MAY LEASE OR ACQUIRE BY LEASE NOT MORE THAN 30 ACRES OF SUBMERGED LAND IN ANNE ARUNDEL COUNTY FOR THE PURPOSE OF OYSTER RESTORATION.

B. A NONSTOCK, NONPROFIT CORPORATION MAY RENEW A LEASE ACQUIRED UNDER THIS SUBPARAGRAPH.

2. THE NONSTOCK, NONPROFIT CORPORATION SHALL ADHERE TO A MANAGEMENT PLAN APPROVED BY THE DEPARTMENT FOR THE LEASED SUBMERGED LAND.

3. THE NONSTOCK, NONPROFIT CORPORATION SHALL PLANT A MINIMUM OF 250,000 OYSTERS AT A DENSITY OF 1,000,000 OYSTERS PER ACRE.

4. A. A NONSTOCK, NONPROFIT CORPORATION MAY NOT TRANSFER OR ATTEMPT TO TRANSFER ANY INTEREST IN SUBMERGED LAND ACQUIRED UNDER ITEM 1 OF THIS SUBPARAGRAPH TO ANY PERSON, CORPORATION, OR JOINT STOCK COMPANY.

B. ANY TRANSFER OR ATTEMPT TO TRANSFER AN INTEREST IN SUBMERGED LAND ACQUIRED UNDER ITEM 1 OF THIS SUBPARAGRAPH SHALL BE VOID, AND THE INTEREST IN SUBMERGED LAND SHALL REVERT TO THE STATE WITHOUT THE NECESSITY OF ANY ACTION BY THE STATE.

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

Article – Natural Resources”.

AMENDMENT NO. 4

On page 6, in line 27, strike “(1)”; in line 28, strike “AND NOTWITHSTANDING § 4-215(H) OF THIS TITLE”; in line 29, after “from” insert “A LEASED OYSTER BOTTOM,”; in line 30, before “OYSTER” insert “AN”; in the same line, after “OR” insert “AN”; and in line 31, after “WHEN” insert “THE AREA IS”.

AMENDMENT NO. 5

On page 7, in line 1, strike beginning with “signage,” down through “who” and substitute “SIGNAGE OR THE PERSON”; in lines 1 and 2, strike “the sanctuary or

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reserve” and substitute “**THE AREA**”; and in line 2, strike “shall be subject to a] **IS SUBJECT TO:**” and substitute “**IS SUBJECT TO A FINE NOT EXCEEDING \$3,000.**”.

On pages 7 through 10, strike in their entirety the lines beginning with line 3 on page 7 through line 5 on page 10, inclusive.

AMENDMENT NO. 6

On page 10, after line 5, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That one-tenth of the oyster seed or spat produced for planting in accordance with Section 1 of this Act at the University of Maryland Center for Environmental Science Horn Point Laboratory shall be made available for purchase to any leaseholder of land beneath the waters of the Chesapeake Bay and its tributaries who leased in accordance with Title 4, Subtitle 11A of the Natural Resources Article.”;

in line 6, strike “3.” and substitute “4.”; strike beginning with “That,” in line 6 down through “purposes.” in line 10 and substitute “That:”

(a) By October 1, 2007, the Department of Natural Resources shall adopt regulations relating to the suspension and revocation of licenses and authorizations issued under Title 4, Subtitle 7 of the Natural Resources Article.

(b) The regulations shall require the suspension of a person’s tidal fish license or authorization for a period of not less than 180 days and not exceeding 365 days during the oyster harvest season for:

(1) the unlawful harvest of oysters from a leased oyster bottom or from more than 150 feet within an oyster sanctuary, oyster reserve, or area closed to harvest by the Department of the Environment, when the area is designated and marked with buoys or other signage or the person knew or should have known that the harvest of oysters from the area was unlawful; or

(2) a violation of a time restriction for the harvest of oysters by more than 2 hours.”;

in line 11, strike “4.” and substitute “5.”; in the same line, after “That” insert “Section 2 of”; in line 12, strike “June” and substitute “October”; strike beginning with “Sections” in line 12 down through “effect.” in line 15; and after line 15, insert:

“SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in Section 5 of this Act, this Act shall take effect June 1, 2007.”.