

SENATE BILL 148

M2

71r0174
CF HB 133

By: **The President (By Request - Administration) and Senators Frosh and Miller**

Introduced and read first time: January 25, 2007

Rules suspended

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 2007

CHAPTER _____

1 AN ACT concerning

2 **Natural Resources - Chesapeake Bay - Oyster Restoration**

3 FOR the purpose of ~~authorizing the Department of Natural Resources to lease land~~
4 ~~under certain waters of the Chesapeake Bay for oyster restoration; requiring~~
5 ~~the Department to adopt regulations and condition the leases to require a~~
6 ~~holder of certain oyster bottom to plant a certain minimum amount of seed~~
7 ~~oyster on certain surfaces within a certain time frame; authorizing the~~
8 ~~Department to extend the time frame for planting oyster seed on certain leased~~
9 ~~oyster bottom under certain circumstances; authorizing a holder of certain~~
10 ~~leased oyster bottom to catch oysters for certain purposes; establishing that a~~
11 ~~holder of certain leased oyster bottom may only restore a certain species of~~
12 ~~oyster; establishing that certain penalties apply for certain unlawful taking of~~
13 ~~oysters; establishing that certain penalties apply for unlawfully taking oysters~~
14 ~~in certain areas; altering a certain element of the criminal offense of unlawfully~~
15 ~~taking oysters; altering the range of time for a tidal fish license suspension that~~
16 ~~applies to a person who unlawfully takes oysters; establishing a certain~~
17 ~~additional penalty for a violation of certain time restrictions on catching or~~
18 ~~landing oysters; requiring the Department to impose certain license suspensions~~
19 ~~in a certain manner; requiring the Department to adopt certain regulations;~~

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.



~~establishing the Task Force on Oyster Restoration in the Chesapeake Bay; providing for the membership of the Task Force; requiring the Secretary of Natural Resources to appoint the chair of the Task Force; requiring the Task Force to examine certain issues related to oysters in the Chesapeake Bay and to formulate a certain action plan; providing for reimbursement for the expenses of a member of the Task Force; providing that certain provisions of the Maryland Public Ethics Law do not apply under certain circumstances to certain regulated lobbyists who serve on the Task Force; providing for the staff of the Task Force; requiring the Task Force to report to the Governor and the General Assembly by a certain date; providing for the termination of certain provisions of this Act; making certain technical corrections; making certain stylistic changes; altering a certain definition~~ 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; and generally relating to oyster restoration in the Chesapeake Bay.

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section ~~4-11A-05(a)(1), (b), and (f)(1) and (2), 4-11A-07, 4-11A-11,~~

~~4-11A-12(a), 4-11A-13(a), (b), and (e)(1), 4-204(c), 4-701(e)(2),~~

4-11A-05(a)(2), and 4-1201(f)

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

1 BY adding to
 2 Article – Natural Resources
 3 Section ~~4-1201(e)~~ 4-1006.2
 4 Annotated Code of Maryland
 5 (2005 Replacement Volume and 2006 Supplement)

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

8 **Article – Natural Resources**

9 ~~4-11A-05.~~

10 ~~(a) (1) (I) The Department may lease, in the name of the State, tracts~~
 11 ~~or parcels of land beneath the waters of the State to residents of the State for~~
 12 ~~protecting, sowing, bedding, or cultivating oysters or other shellfish, subject to the~~
 13 ~~provisions of this [section] SUBTITLE.~~

14 ~~(II) THE DEPARTMENT MAY LEASE, IN THE NAME OF THE~~
 15 ~~STATE, TRACTS OR PARCELS OF LAND BENEATH THE WATERS OF THE~~
 16 ~~CHESAPEAKE BAY AND ITS TRIBUTARIES TO RESIDENTS OF THE STATE FOR~~
 17 ~~OYSTER RESTORATION, SUBJECT TO THE PROVISIONS OF THIS SUBTITLE.~~

18 ~~(III) These submerged lands when leased shall be known as~~
 19 ~~leased oyster bottoms.~~

20 ~~(b) (1) The Department may not lease any of the submerged areas of the~~
 21 ~~State within the jurisdictional boundaries of Dorchester, Kent, Queen Anne's,~~
 22 ~~Somerset and Talbot counties for oyster RESTORATION OR cultivation. The~~
 23 ~~Department also may not lease any of the submerged areas of the State in the~~
 24 ~~tidewater tributaries of Charles County, except the Patuxent River, for oyster~~
 25 ~~RESTORATION OR cultivation. This subsection does not affect any existing lease in~~
 26 ~~Somerset County made prior to and effective on June 1, 1952; any lease in Dorchester~~
 27 ~~County made prior to and effective on June 1, 1957; in Charles County made prior to~~
 28 ~~and effective on July 1, 1968 and in Kent, Queen Anne's and Talbot counties made~~
 29 ~~prior to July 1, 1973. This subsection also does not prevent any lessee from renewing,~~
 30 ~~assigning, devising by will or prohibit the descendants of any lessee, his heirs, or next~~
 31 ~~of kin, from inheriting rights by the operation of the laws of descent and distribution.~~
 32 ~~If an existing lease does not provide for renewal, the Department may grant renewal~~
 33 ~~when the lease terminates unless good cause to the contrary is shown. However, a~~

1 ~~person may not lease more acreage than now authorized by law regardless of the~~
 2 ~~manner in which the lease or the rights under the lease are obtained.~~

3 ~~(2) THE DEPARTMENT MAY LEASE A SUBMERGED AREA OF THE~~
 4 ~~STATE FOR OYSTER RESTORATION ONLY;~~

5 ~~(I) IN THE CHESAPEAKE BAY AND ITS TRIBUTARIES; AND~~

6 ~~(II) IF, ON JUNE 1, 2007, THE AREA WAS OR HAD~~
 7 ~~PREVIOUSLY BEEN CONSIDERED A LEASED OYSTER BOTTOM.~~

8 ~~(f) (1) If a person applies to the Department for a lease of submerged land~~
 9 ~~for oyster RESTORATION OR cultivation, the Department shall determine if the~~
 10 ~~submerged land is a productive natural clam bar.~~

11 ~~(2) Notwithstanding any other provision of this subtitle, if the~~
 12 ~~Department determines that the submerged land is a productive natural clam bar, the~~
 13 ~~Department may not lease the submerged land for purposes of oyster RESTORATION~~
 14 ~~OR cultivation.~~

15 ~~4-11A-07.~~

16 ~~(a) Except as provided in subsection (c)(2) of this section the term of leases~~
 17 ~~for submerged lands shall be 20 years at an annual rent the Department deems proper~~
 18 ~~and commensurate with the value of the leased land.~~

19 ~~(b) If the Department ascertains that any leased area is affected by~~
 20 ~~environmental factors which destroy or seriously impede the culture and growth of~~
 21 ~~oysters and threaten the potential of the area for continued oyster production, it may~~
 22 ~~reduce or abate the annual rent by an amount and for a period the Department deems~~
 23 ~~equitable and reasonable in view of the degree of damage.~~

24 ~~(e) (1) In this subsection, "utilize" [includes] INCLUDES:~~

25 ~~(I) FOR CULTIVATING OYSTERS OR CLAMS, the planting or~~
 26 ~~harvesting of not less than 25 bushels of oysters or 25 bags of clams per lease during 1~~
 27 ~~year of each 3-year period; AND~~

28 ~~(II) FOR RESTORING OYSTERS, THE PLANTING OF NOT LESS~~
 29 ~~THAN 250,000 CULTCHED OYSTERS ON SUITABLE GROUND OR SUBSTRATE IN AN~~
 30 ~~AREA THAT IS ECOLOGICALLY SUITABLE FOR OYSTER GROWTH.~~

1 (2) ~~If any part of the rent required by a lease remains unpaid for more~~
2 ~~than 60 days after it becomes due, the Department may declare the lease null and void~~
3 ~~in accordance with subsection (c) of this section and the land shall revert to the State~~
4 ~~and may be leased again. The Department may cancel any lease, either in whole or in~~
5 ~~part, and may diminish or cancel the annual rental to an extent commensurate with~~
6 ~~the area remaining under lease on the written request of the lessee.~~

7 (3) ~~(I) The Department shall adopt regulations and condition each~~
8 ~~lease to require a leaseholder to actively utilize the leased area [within] WITHIN:~~

9 ~~1. FOR OYSTER OR CLAM CULTIVATION, any 3 year~~
10 ~~period commencing July 1, 1990, or the effective date of a lease after July 1, 1990; OR~~

11 ~~2. FOR OYSTER RESTORATION, 1 YEAR AFTER THE~~
12 ~~EFFECTIVE DATE OF THE LEASE.~~

13 ~~(II) The Department may allow a longer period than 3 years~~
14 ~~[upon] FOR THE CULTIVATION OR 1 YEAR FOR THE RESTORATION OF THE~~
15 ~~LEASED AREA ON a showing that natural conditions, including unavailability of~~
16 ~~oyster shell or seed, prevented utilization.~~

17 (4) ~~If a leaseholder fails to actively utilize leased bottom in accordance~~
18 ~~with regulations promulgated under [paragraph (2)] PARAGRAPH (3) of this~~
19 ~~subsection, the leasehold shall revert to the State and may be leased again. A~~
20 ~~leaseholder shall maintain records documenting activities which show that the lease is~~
21 ~~being used for shellfish production as required by the Department.~~

22 (d) ~~A lease may not be invalidated in any way by facts determined in any~~
23 ~~resurvey under § 4-1102 of this title unless the lessee forfeits [his] THE LESSEE'S~~
24 ~~lease voluntarily, fails to pay rental or other fees, or fails to actively utilize the lease~~
25 ~~areas [within a period of 3 years] UNDER SUBSECTION (C)(3) OF THIS SECTION.~~

26 (e) (1) ~~The provisions of Title 8 of the Real Property Article do not apply~~
27 ~~to leases under this subtitle.~~

28 (2) ~~[Upon] ON a determination under subsection (c) of this section, the~~
29 ~~Department shall notify a lessee of the lessee's opportunity to contest the~~
30 ~~Department's action in a hearing under Title 10, Subtitle 2 of the State Government~~
31 ~~Article.~~

1 ~~4-11A-11.~~

2 ~~(a) The lessee of any leased oyster bottom shall have exclusive ownership of~~
3 ~~and title to all the oysters planted by [him] THE LESSEE or existing on the leasehold.~~
4 ~~Lessees shall have the rights to use their lease subject to the following conditions:~~

5 ~~(1) Land leased under this subtitle shall be used only for the purpose~~
6 ~~of planting and cultivating oysters, OR RESTORING OYSTERS;~~

7 ~~(2) Persons may fish on all leased oyster bottoms, if they do not~~
8 ~~remove or destroy oysters on the areas; and~~

9 ~~(3) A person may not redeem or purchase any leased oyster bottom.~~

10 ~~(b) (1) [A] IF A LEASED OYSTER BOTTOM IS USED FOR OYSTER~~
11 ~~CULTIVATION, THE lessee may catch oysters at any time from [his] THE leased~~
12 ~~[oyster bottom] AREA for private use, planting or cultivating, or for sale for planting~~
13 ~~by other lessees.~~

14 ~~(2) IF A LEASED OYSTER BOTTOM IS USED FOR OYSTER~~
15 ~~RESTORATION, THE LESSEE MAY CATCH OYSTERS AT ANY TIME FROM THE~~
16 ~~LEASED AREA AS NECESSARY TO FACILITATE OYSTER RESTORATION.~~

17 ~~(c) (1) In Wicomico and Somerset counties, any State resident holding a~~
18 ~~current tonging license may catch oysters on any leased oyster bottom USED FOR~~
19 ~~CULTIVATION if the State resident first obtains the written permission of the lessee of~~
20 ~~the leased oyster bottom.~~

21 ~~(2) A lessee or a bona fide representative of a lessee who has written~~
22 ~~permission from the lessee is not required to have a tonging license in the Manokin~~
23 ~~River.~~

24 ~~(d) The season for catching oysters from leased oyster bottoms of the State~~
25 ~~for sale shall be between sunrise and sunset of any day, except Sunday, throughout~~
26 ~~the year, if the leased oyster bottoms are marked as prescribed in this subtitle.~~

27 ~~4-11A-12.~~

28 ~~(a) A lessee may plant, cultivate, sow, or protect oysters, OR RESTORE~~
29 ~~OYSTERS, only of the species known as Crassostrea virginica in the waters of the~~
30 ~~State.~~

1 ~~4-11A-13.~~

2 (a) ~~A lessee may cultivate or remove oysters planted on [his] THE LESSEE'S~~
 3 ~~leased oyster bottom in any manner [he] THE LESSEE deems proper, if [he] THE~~
 4 ~~LESSEE complies with the provisions of this subtitle relating to dredging and tonging~~
 5 ~~when transplanting oysters or catching them for commercial purposes.~~

6 (b) ~~Each lessee shall keep accurate records concerning the seeding and~~
 7 ~~planting of cultch and oysters on, and the harvesting, and selling of oysters from [his]~~
 8 ~~THE LESSEE'S leased oyster bottom. Each lessee shall report this information to the~~
 9 ~~Department on forms the Department prescribes.~~

10 (e) (1) ~~In that water area in Somerset County of Pocomoke Sound and~~
 11 ~~Pocomoke River, east of Tull's Point, and Marumseo natural oyster bar eastward to~~
 12 ~~William's Point, IF THE OYSTER BOTTOM IS LEASED FOR CULTIVATION a lessee~~
 13 ~~may authorize a nonresident to take oysters by tong as provided by this section.~~

14 ~~4-204.~~

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

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

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

22 (3) THE COMMISSION SHALL:

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

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

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

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

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

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

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

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

21 **4. STRATEGIES TO IMPROVE ENFORCEMENT OF**
22 **CLOSED OYSTER AREAS.**

23 4-701.

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

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

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

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

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

7 **4-1006.2.**

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

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

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

20 **4-11A-05.**

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

24 **(ii) A 4-H club in the State may lease or acquire not more than**
25 **10 acres of submerged land for the purposes of this section.**

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

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

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

8 (iv) 1. A. A nonstock, nonprofit corporation organized
9 under the laws of this State exclusively for educational purposes may lease or acquire
10 not more than two leases consisting of not more than 30 acres each of submerged land
11 in the Severn River for educational or ecological purposes.

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

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

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

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

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

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

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

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

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

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

15 **Article – Natural Resources**

16 4–1201.

17 (f) ~~(1)~~ In addition to any other applicable penalty set forth in this title
 18 ~~AND NOTWITHSTANDING § 4-215(H) OF THIS TITLE~~, a person who unlawfully takes
 19 oysters from A LEASED OYSTER BOTTOM, an [oyster sanctuary or oyster reserve that
 20 is] OYSTER SANCTUARY, AN OYSTER RESERVE, OR AN AREA CLOSED TO
 21 SHELLFISH HARVEST BY THE DEPARTMENT OF THE ENVIRONMENT, WHEN THE
 22 AREA IS designated and marked by buoys or other signage, ~~[and who~~ SIGNAGE OR
 23 THE PERSON knew or should have known that taking the oysters from ~~the sanctuary~~
 24 ~~or reserve~~ THE AREA was unlawful, ~~shall be subject to a]~~ ~~IS SUBJECT TO:~~ IS
 25 SUBJECT TO A FINE NOT EXCEEDING \$3,000.

26 ~~(I)~~ A fine not exceeding ~~[\$3,000]~~ \$3,000; and

27 ~~(II)~~ [immediate] ~~IMMEDIATE~~ suspension of the person's tidal
 28 fish license for a period not less than ~~[6 months but not more than 1 year]~~ 180 DAYS
 29 ~~AND NOT EXCEEDING 365 DAYS.~~

30 ~~(2)~~ A SUSPENSION IMPOSED UNDER THIS SUBSECTION SHALL:

1 ~~(I) APPLY ON CONSECUTIVE DAYS DURING THE OPEN~~
2 ~~OYSTER SEASON FOR WHICH THE VIOLATOR IS LICENSED; AND~~

3 ~~(H) CONTINUE INTO SUCCESSIVE OPEN SEASONS UNTIL THE~~
4 ~~SUSPENSION IS FULLY SERVED.~~

5 ~~(G) (1) IN ADDITION TO ANY OTHER APPLICABLE PENALTY SET~~
6 ~~FORTH IN THIS TITLE AND NOTWITHSTANDING § 4-215(H) OF THIS TITLE, A~~
7 ~~PERSON WHO VIOLATES THE TIME RESTRICTIONS ON CATCHING OR LANDING~~
8 ~~OYSTERS UNDER § 4-1008 OF THIS TITLE IS SUBJECT TO IMMEDIATE~~
9 ~~SUSPENSION OF THE PERSON'S TIDAL FISH LICENSE FOR A PERIOD NOT LESS~~
10 ~~THAN 180 DAYS AND NOT EXCEEDING 365 DAYS.~~

11 ~~(2) A SUSPENSION IMPOSED UNDER THIS SUBSECTION SHALL:~~

12 ~~(I) APPLY ON CONSECUTIVE DAYS DURING THE OPEN~~
13 ~~OYSTER SEASON FOR WHICH THE VIOLATOR IS LICENSED; AND~~

14 ~~(H) CONTINUE INTO SUCCESSIVE OPEN SEASONS UNTIL THE~~
15 ~~SUSPENSION IS FULLY SERVED.~~

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

17 ~~(a) There is a Task Force on Oyster Restoration in the Chesapeake Bay.~~

18 ~~(b) The Task Force shall consist of the following members:~~

19 ~~(1) one member of the House of Delegates, appointed by the Speaker of~~
20 ~~the House;~~

21 ~~(2) one member of the Senate of Maryland, appointed by the President~~
22 ~~of the Senate;~~

23 ~~(3) the following eight members, appointed by the Secretary of~~
24 ~~Natural Resources:~~

25 ~~(i) a representative of the Department of Natural Resources~~
26 ~~Fisheries Service;~~

27 ~~(ii) a representative of the Department's Oyster Restoration and~~
28 ~~Repletion Programs;~~

- 1 (iii) ~~a representative of the Natural Resources Police;~~
- 2 (iv) ~~a representative of the Maryland seafood industry;~~
- 3 (v) ~~a representative with scientific expertise on oyster disease;~~
- 4 (vi) ~~a representative with scientific expertise on oyster~~
5 ~~restoration;~~
- 6 (vii) ~~a representative of the Maryland recreational fishing or~~
7 ~~fishing guide community; and~~
- 8 (viii) ~~a representative of a nongovernmental organization engaged~~
9 ~~in oyster restoration in the Chesapeake Bay and its tributaries; and~~
- 10 (4) ~~a representative of the Maryland Watermen's Association,~~
11 ~~appointed by the President of the Association.~~
- 12 (e) ~~The Secretary of Natural Resources shall appoint the chair of the Task~~
13 ~~Force.~~
- 14 (d) ~~The Task Force shall:~~
- 15 (1) ~~formulate an action plan regarding the necessary methodology,~~
16 ~~time frame, and costs of:~~
- 17 (i) ~~minimizing the impact of oyster disease in the Chesapeake~~
18 ~~Bay and its tributaries;~~
- 19 (ii) ~~maximizing the ecological benefits of natural oyster bars;~~
- 20 (iii) ~~promoting oyster aquaculture in Maryland; and~~
- 21 (iv) ~~increasing the native oyster population of the Chesapeake~~
22 ~~Bay and its tributaries; and~~
- 23 (2) ~~include in its deliberations:~~
- 24 (i) ~~an examination of the practice of bar cleaning;~~
- 25 (ii) ~~an examination of State oyster restoration and repletion~~
26 ~~programs;~~

1 (iii) ~~an examination of current management practices of natural~~
2 ~~oyster bars, including:~~

3 1. ~~the fairness and equitability of the quality and~~
4 ~~percentage of these areas that are currently designated as sanctuaries; and~~

5 2. ~~current restrictions on the leasing and use of these~~
6 ~~areas for aquaculture;~~

7 (iv) ~~the most recent findings related to the nonnative oyster~~
8 ~~Environmental Impact Statement; and~~

9 (v) ~~any other scientific, economic, or cultural information~~
10 ~~relevant to oyster management practices.~~

11 (e) (1) ~~A member of the Task Force:~~

12 (i) ~~may not receive compensation; but~~

13 (ii) ~~is entitled to reimbursement for expenses under the~~
14 ~~Standard State Travel Regulations, as provided in the State budget.~~

15 (2) ~~If a regulated lobbyist is appointed to serve as a member of the~~
16 ~~Task Force, the lobbyist:~~

17 (i) ~~is not subject to § 15-504(d) of the State Government Article~~
18 ~~with respect to that service; and~~

19 (ii) ~~is not subject to § 15-703(f)(3) of the State Government~~
20 ~~Article as a result of that service.~~

21 (f) ~~The Department of Natural Resources shall provide staff support for the~~
22 ~~Task Force.~~

23 (g) ~~The Task Force shall issue a final report of its findings and~~
24 ~~recommendations to the Governor and, subject to § 2-1246 of the State Government~~
25 ~~Article, to the General Assembly on or before December 1, 2007.~~

26 SECTION 3. AND BE IT FURTHER ENACTED, That one-tenth of the oyster
27 seed or spat produced for planting in accordance with Section 1 of this Act at the
28 University of Maryland Center for Environmental Science Horn Point Laboratory
29 shall be made available for purchase to any leaseholder of land beneath the waters of

1 the Chesapeake Bay and its tributaries who leased in accordance with Title 4, Subtitle
2 11A of the Natural Resources Article.

3 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, ~~That, as required under §~~
4 ~~4-11A-07(e) of the Natural Resources Article, as enacted by Section 1 of this Act, the~~
5 ~~Department of Natural Resources shall adopt regulations on or before December 31,~~
6 ~~2007, to establish standards for determining whether a leased oyster bottom is being~~
7 ~~actively utilized for sound restoration purposes. That:~~

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

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

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

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

21 SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act
22 shall take effect June October 1, 2007. Sections 2 and 3 of this Act shall remain
23 effective for a period of 9 months and, at the end of February 29, 2008, with no further
24 action required by the General Assembly, Sections 2 and 3 of this Act shall be
25 abrogated and of no further force and effect.

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