

# HOUSE BILL 177

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9lr1093

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By: **Delegates Lafferty, O'Donnell, Bohanan, V. Clagett, Holmes, Kullen, Levy, Murphy, and Wood**

Introduced and read first time: January 26, 2009

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Oyster Shell Purchase Program – Fair Market Value**

3 FOR the purpose of requiring the Department of Natural Resources to set, in  
4 consultation with the Oyster Advisory Commission and the Tidal Fisheries  
5 Advisory Commission, the annual fair market value the Department will pay for  
6 certain oyster shells and for the transport and placement of certain oyster shells  
7 under the Oyster Shell Purchase Program; requiring the Department to adopt  
8 certain regulations; repealing a certain oyster shell price ceiling under the  
9 Program; and generally relating to the Oyster Shell Purchase Program.

10 BY repealing and reenacting, with amendments,  
11 Article – Natural Resources  
12 Section 4–1019.2  
13 Annotated Code of Maryland  
14 (2005 Replacement Volume and 2008 Supplement)

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

17 **Article – Natural Resources**

18 4–1019.2.

19 (a) This section does not apply to:

20 (1) An individual who takes or uses oysters for personal use or  
21 consumption purposes; or

22 (2) Old oyster shells that are dredged from the Chesapeake Bay or its  
23 tributaries.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) Except as provided in subsection (c) of this section, any licensed oyster  
2 dealer shall reserve for 8 months after the opening of each annual harvest season all  
3 shells of oysters harvested from the Chesapeake Bay or its tributaries and  
4 commercially shucked in the State for purchase by the Department for replanting on  
5 public oyster areas unless the dealer plants these oyster shells:

6 (1) On private leased ground or riparian bottom for the propagation of  
7 oysters; or

8 (2) On public oyster areas designated by the Department.

9 (c) (1) The Department shall determine whether sufficient funds are  
10 available for the Oyster Shell Purchase Program under this section.

11 (2) The Department shall notify every licensed oyster dealer not later  
12 than September 1 of each year whether the Oyster Shell Purchase Program will be  
13 carried out during the ensuing license year.

14 (3) If the Department does not notify licensed oyster dealers that the  
15 Oyster Shell Purchase Program will be carried out during the ensuing license year, a  
16 licensed oyster dealer may sell or dispose of fresh oyster shell at any time to any  
17 person for any lawful purpose.

18 (4) The Department shall:

19 (i) Establish procedures for the expeditious notice, payment,  
20 and removal of shells purchased; and

21 (ii) Provide for the transportation, storage, and placement on  
22 public oyster bars in State waters.

23 (d) All existing contracts executed prior to July 1, 1988 concerning the  
24 purchase of oyster shell shall be valid and exempt from the provisions of this section  
25 for the length of time for which the contract covers.

26 (e) Unless permission has been obtained from the Department, it shall be  
27 unlawful for any person to take or catch oysters or shell in any of the waters of the  
28 State for the purpose of converting the oysters or shell into lime, chickenmeal, or road  
29 construction materials.

30 (f) (1) In consultation with the [Maryland oyster packers,] **OYSTER**  
31 **ADVISORY COMMISSION AND THE TIDAL FISHERIES ADVISORY COMMISSION,**  
32 the Department shall determine annually the fair market value that the Department  
33 pays for:

34 (I) [fresh] **FRESH** oyster shells; **AND**

1                                   **(II) TRANSPORTATION AND PLACEMENT OF FRESH OYSTER**  
2 **SHELLS.**

3                                   (2) [However, the Department shall pay not more than 25 cents per  
4 bushel of oyster shells to the holder of the shells at the site where the shells are kept.]  
5 **THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THE**  
6 **REQUIREMENT SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION.**

7                                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 July 1, 2009.