

# HOUSE BILL 862

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By: **Delegate Smigiel**

Introduced and read first time: February 12, 2009

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Oyster Harvest – Closure of State Waters**

3 FOR the purpose of requiring the Department of Natural Resources to keep certain  
4 waters of the State open for oyster harvesting unless the Department makes  
5 certain determinations or except as required by law; requiring the Department  
6 to manage certain waters of the State to support, promote, and enhance oyster  
7 harvesting opportunities to a certain extent; requiring the Department to  
8 manage certain waters of the State to prevent any net loss of waters available  
9 for oyster harvesting or of available oyster harvest authorizations; requiring the  
10 Department to submit to the General Assembly a certain annual report; and  
11 generally relating to closures of certain waters of the State to oyster harvesting.

12 BY repealing and reenacting, without amendments,  
13 Article – Natural Resources  
14 Section 4–215(b)(6) and (c)(1)  
15 Annotated Code of Maryland  
16 (2005 Replacement Volume and 2008 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article – Natural Resources  
19 Section 4–215(h)  
20 Annotated Code of Maryland  
21 (2005 Replacement Volume and 2008 Supplement)

22 BY adding to  
23 Article – Natural Resources  
24 Section 4–215.5  
25 Annotated Code of Maryland  
26 (2005 Replacement Volume and 2008 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Natural Resources**

4 4–215.

5 (b) The Department shall prepare fishery management plans for the  
6 following species:

7 (6) Oysters;

8 (c) (1) Conservation and management measures adopted under a fishery  
9 management plan, to the extent possible:

10 (i) Shall prevent overfishing while attempting to achieve the  
11 best and most efficient utilization of the State’s fishery resources;

12 (ii) Shall be based on the best information available;

13 (iii) May not discriminate unfairly among groups of fishermen or  
14 have economic allocation as its sole purpose;

15 (iv) Shall take into account and allow for variations among, and  
16 contingencies in, fisheries, fishery resources, and catches; and

17 (v) Shall avoid duplication of regulatory efforts and unnecessary  
18 costs to the State and to any other person.

19 (h) Notwithstanding any other provision of this title, except [§ 4–1002] §§  
20 **4–215.5 AND 4–1002** of this title, once a fishery management plan has been adopted  
21 by regulation, the State’s fishery resources shall be harvested in accordance with the  
22 conservation and management measures in the fishery management plan and any  
23 regulations implementing or amending that plan.

24 **4–215.5.**

25 **(A) THE DEPARTMENT SHALL:**

26 **(1) KEEP TIDAL WATERS OF THE STATE OPEN FOR OYSTER**  
27 **HARVESTING UNLESS THE DEPARTMENT DETERMINES THAT A SPECIFIC AREA**  
28 **OF WATER MUST BE CLOSED FOR REASONS OF PUBLIC SAFETY OR HOMELAND**  
29 **SECURITY, OR AS OTHERWISE REQUIRED BY LAW;**

1           **(2) MANAGE TIDAL WATER RESOURCES TO SUPPORT, PROMOTE,**  
2 **AND ENHANCE OYSTER HARVEST OPPORTUNITIES TO THE EXTENT AUTHORIZED**  
3 **UNDER STATE LAW; AND**

4           **(3) MANAGE TIDAL WATER RESOURCES TO PREVENT, TO THE**  
5 **GREATEST PRACTICAL EXTENT, ANY NET LOSS OF:**

6                   **(I) TIDAL WATERS OF THE STATE AVAILABLE FOR OYSTER**  
7 **HARVESTING; OR**

8                   **(II) OYSTER HARVEST AUTHORIZATIONS AVAILABLE TO**  
9 **TIDAL FISH LICENSEES IN THE STATE.**

10           **(B) BY OCTOBER 1, 2010, AND EACH YEAR THEREAFTER, THE**  
11 **DEPARTMENT SHALL SUBMIT TO THE GENERAL ASSEMBLY, IN ACCORDANCE**  
12 **WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, A REPORT DESCRIBING**  
13 **THE TIDAL WATERS OF THE STATE THAT:**

14                   **(1) THE DEPARTMENT CLOSED TO OYSTER HARVEST DURING THE**  
15 **PREVIOUS YEAR AND THE REASONS FOR THE CLOSURES; AND**

16                   **(2) TO COMPLY WITH SUBSECTION (A) OF THIS SECTION, THE**  
17 **DEPARTMENT OPENED TO OYSTER HARVEST DURING THE PREVIOUS YEAR TO**  
18 **COMPENSATE FOR THE TIDAL WATERS CLOSED AS DESCRIBED UNDER ITEM (1)**  
19 **OF THIS SUBSECTION.**

20           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 2009.