

CHAPTER 318

(Senate Bill 810)

AN ACT concerning

Natural Resources – Oyster Shell Purchase Program – Fair Market Value

FOR the purpose of requiring certain dealers to reserve oyster shells for a certain period after the opening of each annual public shellfish fishery season; altering the conditions under which a certain dealer shall reserve certain oyster shells; requiring the Department of Natural Resources to set, in consultation with the Oyster Advisory Commission and the Tidal Fisheries Advisory Commission, the annual fair market value the Department will pay for certain oyster shells and for the transport and placement of certain oyster shells under the Oyster Shell Purchase Program; requiring the Department to adopt certain regulations; repealing a certain oyster shell price ceiling under the Program; and generally relating to the Oyster Shell Purchase Program.

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

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

Article – Natural Resources

4–1019.2.

(a) This section does not apply to:

- (1) An individual who takes or uses oysters for personal use or consumption purposes; or
- (2) Old oyster shells that are dredged from the Chesapeake Bay or its tributaries.

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

~~shells~~ **OYSTER RESTORATION, UNLESS THE DEALER PLANTS OR PROVIDES THE SHELLS FOR PLANTING:**

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

~~(2) On public oyster areas designated by the Department~~

(1) IN AN AREA PRIVATELY LEASED FOR AQUACULTURE PURPOSES;

(2) ON RIPARIAN BOTTOM AS PROVIDED IN § 4-11A-16 OF THIS TITLE FOR THE PROPAGATION OF OYSTERS; OR

(3) ON PUBLIC SHELLFISH FISHERY AREAS DESIGNATED BY THE DEPARTMENT.

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

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

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

(4) The Department shall:

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

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

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

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

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

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

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

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

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

Approved by the Governor, May 7, 2009.