

# SENATE BILL 964

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By: **Senators Eckardt, Hershey, and Mathias**

Introduced and read first time: February 5, 2016

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Oysters – County Oyster Committees**

3 FOR the purpose of repealing certain provisions of law relating to county oyster committees  
4 and a statewide committee of oystermen; requiring the active licensed oyster  
5 harvesters of each tidewater county to elect a county oyster committee; providing for  
6 the composition of a county oyster committee; establishing the terms of the members  
7 of the county oyster committee; specifying the terms of the initial members of the  
8 county oyster committee; requiring the Department of Natural Resources to  
9 establish a certain process for the election of members to each county oyster  
10 committee; requiring each county oyster committee to consult with the Department  
11 on certain matters; requiring the Fisheries Service to provide an annual report on or  
12 before a certain date to each county oyster committee; specifying the contents of a  
13 certain report; requiring the Department to make a certain report available to the  
14 public; repealing the authority of the Department to close certain oyster bars with  
15 the approval of a county oyster committee; authorizing the Department, on request  
16 of a county oyster committee, to take certain oyster harvesting actions by public  
17 notice; authorizing the Department to adopt certain regulations; defining certain  
18 terms; and generally relating to county oyster committees.

19 BY repealing and reenacting, with amendments,  
20 Article – Natural Resources  
21 Section 4–1106  
22 Annotated Code of Maryland  
23 (2012 Replacement Volume and 2015 Supplement)

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

26 **Article – Natural Resources**

27 4–1106.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) The Department may transplant oysters, shells, or other cultch from one  
2 closed area to another, transplant or otherwise utilize within the State seed oysters  
3 produced on shells or other cultch planted by the Department, or transplant or utilize any  
4 other seed oyster which may accumulate on areas where seed oysters are not likely to  
5 develop into desirable marketable oysters.

6 [(b) (1) The Department shall have licensed oystermen in each tidewater  
7 county of this State select a county committee of five representative licensed tongers, who  
8 earn their livelihood by catching oysters, to confer with the Department concerning oyster  
9 propagation conducted by the Department in that county. Each county committee shall  
10 elect a chairman to serve on a statewide committee of oystermen to advise the Department  
11 on statewide issues concerning oyster propagation.

12 (2) A similar advisory committee that includes licensed dredgers shall be  
13 selected to confer with the Department concerning the propagation of oysters in the  
14 dredging areas. The committee shall elect a chairman to serve on a statewide committee of  
15 oystermen to advise the Department on statewide issues concerning oyster propagation.

16 (3) The Department shall appoint 5 representative, licensed oystermen of  
17 this State who earn their livelihood catching oysters by using diving apparatus as a  
18 committee to confer with the Department concerning oyster propagation conducted by the  
19 Department in the areas of the State where the catching of oysters by using diving  
20 apparatus is permitted. The committee shall select a chairman to serve on a statewide  
21 committee of oystermen to advise the Department on statewide issues concerning oyster  
22 propagation.

23 (4) The Department shall appoint 5 representative, licensed oystermen of  
24 this State who earn their livelihood catching oysters by using patent tongs as a committee  
25 to confer with the Department concerning oyster propagation conducted by the Department  
26 in the areas of the State where the catching of oysters by using patent tongs is permitted.  
27 The committee shall select a chairman to serve on a statewide committee of oystermen to  
28 advise the Department on statewide issues concerning oyster propagation.

29 (5) The term of membership for each committee is four years, except that  
30 of the original committeemen, three are to serve a four-year term and two are to serve a  
31 two-year term. Each term begins on March 1.

32 (6) If a vacancy occurs because a member is unable or unwilling to serve,  
33 the Department immediately shall notify in writing each member of the committee of the  
34 vacancy. The committee shall arrange for a new election to fill the vacancy. If the vacancy  
35 is not filled within 60 days after the vacancy occurs, the Department shall make the  
36 necessary appointments to fill each vacancy. When committee members are selected or  
37 when any vacancy is filled, the Department shall notify promptly the members of the  
38 General Assembly from the county of the names of the committee members selected or  
39 appointed to fill a vacancy in that county. An appointment to a vacancy in an unexpired  
40 term is limited to the remainder of the term.

1           (7)    The Department shall prescribe by rule and regulation the time, place,  
2 and manner of selection of the oyster committees.

3           (8)    The Fisheries Administration shall submit an annual summary of the  
4 Fisheries Research and Development Fund to the committee of oystermen for each county.  
5 The summary shall include an accounting of receipts and expenditures.]

6           **(B) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE**  
7 **MEANINGS INDICATED.**

8                       **(II) "ACTIVE LICENSED OYSTER HARVESTER" MEANS AN**  
9 **OYSTER HARVESTER WHO HAS PAID THE OYSTER SURCHARGE REQUIRED UNDER §**  
10 **4-701(G) OF THIS TITLE AT LEAST ONCE WITHIN THE LAST 4 YEARS BEFORE THE**  
11 **ELECTION IN WHICH THE OYSTER HARVESTER INTENDS TO VOTE.**

12                      **(III) "OYSTER COMMITTEE" MEANS A COUNTY OYSTER**  
13 **COMMITTEE.**

14           **(2) (I) THE ACTIVE LICENSED OYSTER HARVESTERS OF EACH**  
15 **TIDEWATER COUNTY SHALL ELECT AN OYSTER COMMITTEE.**

16                      **(II) THE MEMBERS OF AN OYSTER COMMITTEE SHALL BE**  
17 **ELECTED BY A MAJORITY VOTE OF THE ACTIVE LICENSED OYSTER HARVESTERS**  
18 **RESIDING WITHIN THE COUNTY.**

19                      **(III) AN ELECTION OF AN OYSTER COMMITTEE SHALL BE**  
20 **CONDUCTED IN ACCORDANCE WITH AN ELECTION PROCESS ESTABLISHED BY THE**  
21 **DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION.**

22           **(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**  
23 **PARAGRAPH, AN OYSTER COMMITTEE SHALL CONSIST OF THE FOLLOWING FIVE**  
24 **MEMBERS:**

25                               **1. ONE MEMBER WHO IS A LICENSED OYSTER**  
26 **HARVESTER AND HARVESTS OYSTERS PRIMARILY USING HAND TONGS;**

27                               **2. ONE MEMBER WHO IS A LICENSED OYSTER**  
28 **HARVESTER AND HARVESTS OYSTERS PRIMARILY USING PATENT TONGS;**

29                               **3. ONE MEMBER WHO IS A LICENSED OYSTER**  
30 **HARVESTER AND HARVESTS OYSTERS PRIMARILY USING A DIVING APPARATUS;**

1                   **4. ONE MEMBER WHO IS A LICENSED OYSTER**  
2 **HARVESTER AND HARVESTS OYSTERS PRIMARILY BY POWER DREDGING; AND**

3                   **5. ONE MEMBER WHO IS A LICENSED OYSTER**  
4 **HARVESTER AND HARVESTS OYSTERS PRIMARILY BY SAIL DREDGE, IF AVAILABLE,**  
5 **OR ONE AT-LARGE MEMBER WHO MAY USE ANY ALLOWABLE METHOD TO HARVEST**  
6 **OYSTERS.**

7                   **(II) 1. IF A COUNTY DOES NOT HAVE SUFFICIENT**  
8 **CANDIDATES TO REPRESENT EACH GEAR TYPE DESCRIBED IN SUBPARAGRAPH (I) OF**  
9 **THIS PARAGRAPH, THE OYSTER COMMITTEE MAY INCLUDE MORE THAN ONE**  
10 **MEMBER FOR A PARTICULAR GEAR TYPE IF EACH GEAR TYPE THAT EXISTS IN THE**  
11 **COUNTY AND THAT HARVESTED DURING THE HARVEST SEASON PRECEDING AN**  
12 **ELECTION OF THE OYSTER COMMITTEE IS REPRESENTED BY A LICENSED OYSTER**  
13 **HARVESTER ON THE OYSTER COMMITTEE.**

14                   **2. IF A COUNTY HAS LESS THAN FIVE LICENSED OYSTER**  
15 **HARVESTERS RESIDING WITHIN THE COUNTY, THE OYSTER COMMITTEE SHALL**  
16 **CONSIST OF ALL OF THE LICENSED OYSTER HARVESTERS RESIDING WITHIN THE**  
17 **COUNTY.**

18                   **(4) (I) THE TERM OF A MEMBER IS 4 YEARS.**

19                   **(II) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY**  
20 **THE TERMS PROVIDED FOR MEMBERS OF THE COMMITTEE ON JULY 1, 2016.**

21                   **(III) IF A MEMBER IS UNABLE TO COMPLETE THE MEMBER'S**  
22 **TERM, A SUCCESSOR SHALL BE ELECTED FOR THE REMAINDER OF THE TERM AT A**  
23 **PUBLIC MEETING.**

24                   **(5) (I) THE DEPARTMENT SHALL ESTABLISH A PROCESS FOR THE**  
25 **ELECTION OF MEMBERS TO EACH OYSTER COMMITTEE.**

26                   **(II) THE DEPARTMENT MAY AUTHORIZE AN OYSTER**  
27 **COMMITTEE TO USE DIRECT MAIL OR E-MAIL TO:**

28                   **1. NOTIFY ACTIVE LICENSED OYSTER HARVESTERS**  
29 **ABOUT AN UPCOMING ELECTION OR THE ELECTION PROCESS; AND**

30                   **2. HOLD AN ELECTION AND SOLICIT VOTES.**

1           **(6) EACH OYSTER COMMITTEE SHALL CONSULT WITH THE**  
2 **DEPARTMENT ON THE RESTORATION, HARVEST, AND MANAGEMENT OF OYSTERS IN**  
3 **THE OYSTER COMMITTEE'S COUNTY.**

4           **(7) (I) ON OR BEFORE FEBRUARY 28 OF EACH YEAR, THE**  
5 **FISHERIES SERVICE SHALL PROVIDE EACH OYSTER COMMITTEE WITH AN ANNUAL**  
6 **REPORT ON:**

7                   **1. THE SUM OF THE OYSTER SURCHARGES COLLECTED**  
8 **FROM COUNTY OYSTERMEN DURING THE PREVIOUS YEAR IN ACCORDANCE WITH §**  
9 **4-701(G) OF THIS TITLE;**

10                   **2. THE SUM OF THE OYSTER TAXES COLLECTED FROM**  
11 **INDIVIDUALS WITHIN THE COUNTY DURING THE PREVIOUS YEAR IN ACCORDANCE**  
12 **WITH § 4-1020 OF THIS TITLE; AND**

13                   **3. A STATEWIDE OVERVIEW, ITEMIZED BY COUNTY AS**  
14 **APPROPRIATE, OF THE REVENUES, GRANTS, EXPENDITURES, AND ACTIVITIES**  
15 **ASSOCIATED WITH THE RESTORATION AND MANAGEMENT OF THE OYSTER**  
16 **POPULATION IN THE CHESAPEAKE BAY.**

17                   **(II) THE DEPARTMENT SHALL MAKE THE ANNUAL REPORT**  
18 **AVAILABLE TO THE PUBLIC.**

19           (c) The Department shall expend any fund appropriated in the budget for oyster  
20 propagation for the planting of oyster shells, other cultch, or seed oysters on natural oyster  
21 bars or seed areas, or for the purchase of necessary equipment.

22           (d) **(1) [The] ON REQUEST OF AN OYSTER COMMITTEE, THE Department**  
23 **may, BY PUBLIC NOTICE:**

24                   **(I) OPEN OR close [without holding a public hearing] any natural**  
25 **oyster bar in the waters of the [State with the approval of the appropriate committee of**  
26 **oystermen] OYSTER COMMITTEE'S COUNTY;**

27                   **(II) DESIGNATE OR LIMIT THE GEAR TYPES AUTHORIZED FOR**  
28 **HARVESTING IN THE WATERS OF THE OYSTER COMMITTEE'S COUNTY; AND**

29                   **(III) DESIGNATE OR LIMIT THE PERIODS DURING WHICH A GIVEN**  
30 **GEAR TYPE MAY BE USED IN THE WATERS OF THE OYSTER COMMITTEE'S COUNTY.**

31           **(2) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT**  
32 **THIS SUBSECTION.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial  
2 members of each county oyster committee shall expire as follows:

3 (1) two members in 2018; and

4 (2) two members in 2020.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
6 1, 2016.