

HOUSE BILL 298

M2

9lr1329
CF SB 448

By: **Delegates Busch, Bagnall, Barve, Branch, Cain, Dumais, Fraser-Hidalgo, Gaines, Gilchrist, Healey, Holmes, Jones, Lafferty, Luedtke, McIntosh, Stein, and Wilkins**

Introduced and read first time: January 28, 2019

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 10, 2019

CHAPTER _____

1 AN ACT concerning

2 **Oysters – Tributary-Scale Sanctuaries – Protection and Restoration**

3 FOR the purpose of establishing a network of oyster sanctuaries in certain tributaries to
4 the Chesapeake Bay; codifying the boundaries of certain oyster sanctuaries;
5 prohibiting a person from catching oysters in or removing oysters from a certain
6 oyster sanctuary, subject to a certain exception; requiring the Department of Natural
7 Resources, in coordination with certain groups and stakeholders, to develop and
8 implement restoration plans for certain oyster sanctuaries; specifying the required
9 contents of a restoration plan; requiring the Department to ~~report~~ provide certain
10 reports to certain committees of the General Assembly on or before ~~a certain date~~
11 certain dates; requiring the Department, in consultation with certain groups and
12 stakeholders, to finalize certain restoration plans on or before a certain date;
13 requiring the Department to fully implement certain restoration plans on or before
14 a certain date; and generally relating to tributary-scale oyster sanctuaries.

15 BY renumbering

16 Article – Natural Resources

17 Section 4-1014 through 4-1014.3, respectively

18 to be Section 4-1014.1 through 4-1014.4, respectively

19 Annotated Code of Maryland

20 (2018 Replacement Volume)

21 BY adding to

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.



1 Article – Natural Resources
2 Section 4–1014
3 Annotated Code of Maryland
4 (2018 Replacement Volume)

5 Preamble

6 WHEREAS, Under the 2014 Chesapeake Bay Watershed Agreement, Maryland and
7 the other Chesapeake Bay Program partners have committed to restoring native oyster
8 habitat and populations in 10 tributaries by 2025 and ensuring their protection; and

9 WHEREAS, Significant public money from both State and federal sources has
10 already been spent in these tributaries for the explicit purpose of ecological restoration; and

11 WHEREAS, Early monitoring results from the Harris Creek oyster sanctuary
12 indicate that restored reefs there are thriving and removing approximately 100,000 pounds
13 of nitrogen pollution from State waters annually; now, therefore,

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
15 That Section(s) 4–1014 through 4–1014.3, respectively, of Article – Natural Resources of
16 the Annotated Code of Maryland be renumbered to be Section(s) 4–1014.1 through
17 4–1014.4, respectively.

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

20 Article – Natural Resources

21 4–1014.

22 (A) THERE IS ESTABLISHED A NETWORK OF OYSTER SANCTUARIES IN THE
23 FIVE TRIBUTARIES IDENTIFIED BY THE DEPARTMENT FOR LARGE–SCALE
24 RESTORATION IN ACCORDANCE WITH THE 2014 CHESAPEAKE BAY WATERSHED
25 AGREEMENT.

26 (B) IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION:

27 (1) THERE IS AN OYSTER SANCTUARY IN HARRIS CREEK THAT
28 INCLUDES ALL OF THE WATERS OF HARRIS CREEK ENCLOSED BY A LINE BEGINNING
29 AT A POINT ON THE EAST SHORE OF TILGHMAN ISLAND DEFINED BY LATITUDE 38
30 DEGREES 42.241 MINUTES NORTH, LONGITUDE 76 DEGREES 19.997 MINUTES WEST;
31 THEN RUNNING NORTHERLY TO A POINT ON THE SOUTH SHORE OF KNAPPS
32 NARROWS, DEFINED BY LATITUDE 38 DEGREES 42.925 MINUTES NORTH,
33 LONGITUDE 76 DEGREES 19.709 MINUTES WEST; THEN RUNNING 49 DEGREES TRUE
34 TO A POINT ON THE NORTH SHORE OF KNAPPS NARROWS, DEFINED BY LATITUDE
35 38 DEGREES 43.035 MINUTES NORTH, LONGITUDE 76 DEGREES 19.547 MINUTES

1 WEST; THEN RUNNING NORTHERLY ALONG THE WEST SHORE OF HARRIS CREEK TO
2 ITS HEADWATERS AND THEN SOUTHERLY ALONG THE EAST SHORE OF HARRIS
3 CREEK TO A POINT ON THE SHORE OF CHANGE POINT DEFINED BY LATITUDE 38
4 DEGREES 43.008 MINUTES NORTH, LONGITUDE 76 DEGREES 17.656 MINUTES WEST;
5 THEN RUNNING 247 DEGREES TRUE TO THE POINT OF BEGINNING;

6 (2) THERE IS AN OYSTER SANCTUARY IN THE LITTLE CHOPTANK
7 RIVER THAT INCLUDES ALL OF THE WATERS OF THE LITTLE CHOPTANK RIVER
8 UPSTREAM OF A LINE BEGINNING AT A POINT ON THE SHORE OF SUSQUEHANNA
9 POINT DEFINED BY LATITUDE 38 DEGREES 30.642 MINUTES NORTH, LONGITUDE 76
10 DEGREES 15.492 MINUTES WEST; THEN RUNNING 329 DEGREES TRUE TO A POINT ON
11 SHORE AT THE SOUTH END OF RAGGED POINT ISLAND, DEFINED BY LATITUDE 38
12 DEGREES 31.886 MINUTES NORTH, LONGITUDE 76 DEGREES 16.440 MINUTES WEST;

13 (3) THERE IS AN OYSTER SANCTUARY IN THE TRED AVON RIVER
14 THAT INCLUDES ALL OF THE WATERS OF THE TRED AVON RIVER NORTH AND EAST
15 OF A LINE BEGINNING AT A POINT ON THE SHORE ON THE EAST SIDE OF TOWN
16 CREEK, DEFINED BY LATITUDE 38 DEGREES 41.835 MINUTES NORTH, LONGITUDE
17 76 DEGREES 9.923 MINUTES WEST; THEN RUNNING 255 DEGREES TRUE TO A POINT
18 DEFINED BY LATITUDE 38 DEGREES 41.823 MINUTES NORTH, LONGITUDE 76
19 DEGREES 9.981 MINUTES WEST; THEN RUNNING 0 DEGREES TRUE TO A POINT ON
20 THE SHORE OF THE EAST SIDE OF PLAINDEALING CREEK, DEFINED BY LATITUDE 38
21 DEGREES 42.576 MINUTES NORTH, LONGITUDE 76 DEGREES 9.978 MINUTES WEST;

22 (4) THERE IS AN OYSTER SANCTUARY IN THE ST. MARY'S RIVER THAT
23 INCLUDES ALL OF THE WATERS OF THE ST. MARY'S RIVER BEGINNING AT A POINT
24 ON THE SHORE SOUTHWEST OF DEEP POINT DEFINED BY LATITUDE 38 DEGREES
25 11.279 MINUTES NORTH, LONGITUDE 76 DEGREES 26.639 MINUTES WEST; THEN
26 RUNNING 89 DEGREES TRUE TO A POINT ON THE SHORE AT CHURCH POINT DEFINED
27 BY LATITUDE 38 DEGREES 11.286 MINUTES NORTH, LONGITUDE 76 DEGREES
28 26.263 MINUTES WEST; AND

29 (5) THERE IS AN OYSTER SANCTUARY IN THE MANOKIN RIVER THAT
30 INCLUDES ALL OF THE WATERS OF THE MANOKIN RIVER UPSTREAM OF A LINE
31 BEGINNING AT A POINT ON THE SHORE OF HAZARD POINT DEFINED BY LATITUDE
32 38 DEGREES 4.571 MINUTES NORTH, LONGITUDE 75 DEGREES 52.694 MINUTES
33 WEST; THEN RUNNING 306 DEGREES TRUE TO A POINT ON THE SHORE AT PIN POINT
34 ON LITTLE DEAL ISLAND, DEFINED BY LATITUDE 38 DEGREES 6.750 MINUTES
35 NORTH, LONGITUDE 75 DEGREES 56.552 MINUTES WEST; AND EAST OF A LINE
36 BEGINNING AT A POINT ON THE SHORE AT THE NORTH END OF LITTLE DEAL ISLAND,
37 DEFINED BY LATITUDE 38 DEGREES 7.695 MINUTES NORTH, LONGITUDE 75
38 DEGREES 56.816 MINUTES WEST; THEN RUNNING 209 DEGREES TRUE TO A POINT ON
39 THE SHORE ON THE WEST SIDE OF LOWER THOROFARE, DEFINED BY LATITUDE 38
40 DEGREES 7.652 MINUTES NORTH, LONGITUDE 75 DEGREES 56.847 MINUTES WEST;

1 AND SOUTHEAST OF A LINE BEGINNING ON THE SHORE ON THE EAST SIDE OF LAWS
2 THOROFARE, DEFINED BY LATITUDE 38 DEGREES 8.904 MINUTES NORTH,
3 LONGITUDE 75 DEGREES 55.964 MINUTES WEST; THEN RUNNING 251 DEGREES
4 TRUE TO A POINT ON THE WEST SIDE OF LAWS THOROFARE, DEFINED BY LATITUDE
5 38 DEGREES 8.873 MINUTES NORTH, LONGITUDE 75 DEGREES 56.077 MINUTES
6 WEST.

7 (C) (1) THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO ENGAGES
8 IN AQUACULTURE ACTIVITIES WITHIN AN OYSTER SANCTUARY IN ACCORDANCE
9 WITH A VALID LEASE ISSUED UNDER SUBTITLE 11A OF THIS TITLE.

10 (2) A PERSON MAY NOT CATCH OYSTERS IN OR REMOVE OYSTER SEED
11 FROM AN OYSTER SANCTUARY:

12 (I) DESCRIBED IN SUBSECTION (B) OF THIS SECTION; OR

13 (II) ESTABLISHED BY THE DEPARTMENT IN REGULATION.

14 (D) (1) THE DEPARTMENT, IN COORDINATION WITH THE OYSTER
15 ADVISORY COMMISSION, THE OYSTER INTERAGENCY WORKGROUP, AND
16 INTERESTED STAKEHOLDERS, SHALL DEVELOP AND IMPLEMENT RESTORATION
17 PLANS FOR EACH OF THE OYSTER SANCTUARIES DESCRIBED IN SUBSECTION (B) OF
18 THIS SECTION.

19 (2) EACH RESTORATION PLAN SHALL:

20 (I) ESTABLISH ACREAGE TARGETS THAT EXCEED 50% OF THE
21 CURRENTLY RESTORABLE OYSTER HABITAT IN THE SANCTUARY, AS DEFINED BY
22 THE OYSTER INTERAGENCY WORKGROUP;

23 (II) FOR REEF CONSTRUCTION, REQUIRE THE USE OF
24 SUBSTRATE THAT HAS BEEN DEMONSTRATED IN PREVIOUS TRIBUTARY-SCALE
25 OYSTER RESTORATION PROJECTS TO MAXIMIZE OYSTER DENSITY;

26 (III) ESTABLISH A PROJECT IMPLEMENTATION TIMELINE THAT
27 DEMONSTRATES HOW RESTORATION TARGETS WILL BE ACHIEVED BY 2025, IN
28 ACCORDANCE WITH THE 2014 CHESAPEAKE BAY WATERSHED AGREEMENT; AND

29 (IV) INCLUDE PLANS FOR CONTINUED MONITORING OF THE
30 SANCTUARY AND CORRECTIVE ACTIONS TO BE TAKEN BY THE DEPARTMENT IF
31 FUTURE MONITORING INDICATES THAT A SANCTUARY IS NO LONGER MEETING THE
32 FOLLOWING MINIMUM REQUIREMENTS:

33 1. ON RESTORED REEFS:

- 1 A. A MINIMUM DENSITY OF 15 OYSTERS PER SQUARE
2 METER;
- 3 B. A MINIMUM BIOMASS OF 15 GRAMS DRY WEIGHT PER
4 SQUARE METER;
- 5 C. A MINIMUM OF AT LEAST 2-YEAR CLASSES OF
6 OYSTERS; AND
- 7 D. SUBSTRATE OR OYSTERS PRESENT ON AT LEAST 30%
8 OF THE REEF AREA; AND
- 9 2. WITHIN THE WHOLE SANCTUARY, A MINIMUM OF 50%
10 OF REEF HABITAT, CONSTITUTING AT LEAST 8% OF HISTORIC OYSTER HABITAT,
11 MEETING THE REQUIREMENTS OF ITEM 1 OF THIS ITEM.

12 SECTION 3. AND BE IT FURTHER ENACTED, That:

13 (a) On or before December 1, 2019, the Department of Natural Resources shall
14 report to the Senate Education, Health, and Environmental Affairs Committee and the
15 House Environment and Transportation Committee, in accordance with § 2-1246 of the
16 State Government Article, on the development and implementation of restoration plans for
17 the five oyster sanctuaries described in Section 2 of this Act.

18 (b) On or before July 1, 2020, the Department of Natural Resources, in
19 consultation with the Oyster Advisory Commission, the Oyster Interagency Workgroup,
20 and interested stakeholders, shall finalize restoration plans for the St. Mary's River and
21 Manokin River oyster sanctuaries, in accordance with Section 2 of this Act.

22 (c) On or before December 1, 2021, the Department of Natural Resources shall
23 fully implement existing restoration plans for the Tred Avon River and the Little Choptank
24 River oyster sanctuaries.

25 (d) On or before July 1, 2029, the Department of Natural Resources shall review
26 the results of the continued monitoring of the five oyster sanctuaries required under Section
27 2 of this Act and provide a report on the success of large-scale restoration projects in the
28 five sanctuaries to the Senate Education, Health, and Environmental Affairs Committee
29 and the House Environment and Transportation Committee in accordance with § 2-1246
30 of the State Government Article.

31 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
32 1, 2019.