

# HOUSE BILL 720

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9lr1328  
CF SB 830

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By: **Delegates Barve, Busch, and Stein**

Introduced and read first time: February 8, 2019

Assigned to: Environment and Transportation

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2019

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Natural Resources – Fishery Management Plans – Oysters**

3 FOR the purpose of requiring the Department of Natural Resources to convene the Oyster  
4 Advisory Commission, in coordination with the University of Maryland Center for  
5 Environmental Science, on or before a certain date; providing for the membership of  
6 the Commission; requiring certain persons to provide information to the Commission  
7 under certain circumstances but prohibiting certain persons from participating as  
8 voting members; establishing certain requirements for the fishery management plan  
9 for oysters; requiring the Department of Natural Resources, in coordination with the  
10 University of Maryland Center for Environmental Science, to convene a certain  
11 stakeholder workgroup Science and the Commission, to develop a certain package of  
12 consensus recommendations for enhancing and implementing the fishery  
13 management plan for oysters; providing for the membership of the stakeholder  
14 workgroup; requiring the stakeholder workgroup Commission, with certain  
15 assistance, to develop certain recommendations based on a certain process, review  
16 certain oyster management actions and recommend certain oyster management  
17 actions to achieve certain goals, and review certain results for certain oyster  
18 management actions; authorizing the Commission to meet and deliberate in closed  
19 session for a certain purpose under certain circumstances, notwithstanding a certain  
20 provision of law; requiring the Department to submit a certain interim report and a  
21 final report by certain dates to the Governor and General Assembly; requiring the  
22 Department to perform certain reviews of the oyster stock and, with certain input,  
23 implement certain management actions; providing for the termination of the terms  
24 of certain members of the Commission; requiring the Secretary of Natural Resources  
25 to convene the Commission in a certain manner; requiring the Department to

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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 implement a certain Fishery Management Plan for Oysters subject to certain  
 2 requirements; and generally relating to a fishery management plan for oysters.

3 BY repealing and reenacting, with amendments,

4 Article – Natural Resources  
 5 Section 4–204(c) and 4–215(e)(4)  
 6 Annotated Code of Maryland  
 7 (2018 Replacement Volume)

8 BY repealing and reenacting, without amendments,

9 Article – Natural Resources  
 10 Section 4–215(b)(6)  
 11 Annotated Code of Maryland  
 12 (2018 Replacement Volume)

13 ~~BY repealing and reenacting, with amendments,~~

14 ~~Article – Natural Resources~~  
 15 ~~Section 4–215(e)(4)~~  
 16 ~~Annotated Code of Maryland~~  
 17 ~~(2018 Replacement Volume)~~

18 BY adding to

19 Article – Natural Resources  
 20 Section 4–215(e)(5)  
 21 Annotated Code of Maryland  
 22 (2018 Replacement Volume)

23 Preamble

24 WHEREAS, Large connected oyster populations provide a number of environmental  
 25 benefits to the Chesapeake Bay ecosystem, including reef habitat for finfish, shellfish, and  
 26 other marine life, improved water quality, reduced sedimentation, carbon storage, and  
 27 increased shellfish propagation; and

28 WHEREAS, The oyster population in the Bay is languishing at ~~1% of historic~~  
 29 ~~populations~~ a historic low; and

30 WHEREAS, The oyster resource is a valuable resource to the State of Maryland; and

31 WHEREAS, Chapter 703 of the Acts of the General Assembly of 2016 required the  
 32 Department of Natural Resources to conduct a stock assessment and, based on this  
 33 assessment, identify management strategies to address the maintenance of a sustainable  
 34 oyster population and fishery; and

35 WHEREAS, With the completion of the oyster stock assessment, new regulations  
 36 and policies for oyster management in Maryland are needed to sustain and grow the oyster  
 37 resource, industry, and ecosystem; and

1 WHEREAS, A consensus-based process, as demonstrated by the OysterFutures  
 2 model which utilizes a 60-40 balance of stakeholders, can be used to develop regulations  
 3 and policies for oyster management that have broad stakeholder support and are informed  
 4 by the oyster stock assessment, stakeholder knowledge, and scientific evidence; ~~now,~~  
 5 ~~therefore,~~ and

6 WHEREAS, It is the intent of the General Assembly that the recommendations of  
 7 this Commission be the fishery management plan for oysters; now, therefore.

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

10 **Article – Natural Resources**

11 4-204.

12 (c) (1) There is an Oyster Advisory Commission in the Department.

13 (2) (I) [The Commission consists of members appointed by the  
 14 Secretary] ON OR BEFORE JUNE 1, 2019, AND SUBJECT TO SUBPARAGRAPH (II) OF  
 15 THIS PARAGRAPH, THE DEPARTMENT SHALL, IN COORDINATION WITH THE  
 16 UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE, CONVENE  
 17 THE MEMBERS OF THE COMMISSION.

18 (II) THE COMMISSION SHALL INCLUDE ONLY:

19 1. A REPRESENTATIVE FROM EACH COUNTY OYSTER  
 20 COMMITTEE ESTABLISHED UNDER § 4-1106(B) OF THIS TITLE DESIGNATED BY THE  
 21 COMMITTEE;

22 2. A REPRESENTATIVE FROM THE MARYLAND  
 23 WATERMEN'S ASSOCIATION, DESIGNATED BY THE ASSOCIATION;

24 3. A REPRESENTATIVE FROM THE MARYLAND  
 25 OYSTERMEN'S ASSOCIATION, DESIGNATED BY THE ASSOCIATION;

26 4. A REPRESENTATIVE FROM THE BLACKS OF THE  
 27 CHESAPEAKE FOUNDATION, DESIGNATED BY THE FOUNDATION;

28 5. A REPRESENTATIVE FROM THE AQUACULTURE  
 29 INDUSTRY, DESIGNATED BY THE AQUACULTURE COORDINATING COUNCIL;

30 6. A REPRESENTATIVE FROM THE COMMERCIAL  
 31 SEAFOOD BUYER INDUSTRY, DESIGNATED BY THE SECRETARY;

1                   **7. A REPRESENTATIVE FROM THE COASTAL**  
2 **CONSERVATION ASSOCIATION OF MARYLAND, DESIGNATED BY THE ASSOCIATION;**

3                   **8. A REPRESENTATIVE FROM THE CHESAPEAKE BAY**  
4 **FOUNDATION, DESIGNATED BY THE FOUNDATION;**

5                   **9. A REPRESENTATIVE FROM THE NATURE**  
6 **CONSERVANCY, DESIGNATED BY THE CONSERVANCY;**

7                   **10. A REPRESENTATIVE FROM THE SHORERIVERS**  
8 **RIVERKEEPER ASSOCIATION, DESIGNATED BY THE ASSOCIATION;**

9                   **11. A REPRESENTATIVE FROM THE ARUNDEL RIVERS**  
10 **FEDERATION, DESIGNATED BY THE FEDERATION;**

11                   **12. A REPRESENTATIVE FROM THE OYSTER RECOVERY**  
12 **PARTNERSHIP, DESIGNATED BY THE PARTNERSHIP;**

13                   **13. A REPRESENTATIVE FROM THE CHESAPEAKE BAY**  
14 **COMMISSION, DESIGNATED BY THE CHESAPEAKE BAY COMMISSION;**

15                   **14. A REPRESENTATIVE FROM BLUE OYSTER**  
16 **ENVIRONMENTAL, DESIGNATED BY BLUE OYSTER ENVIRONMENTAL;**

17                   **15. A REPRESENTATIVE FROM THE CHESAPEAKE**  
18 **BAYSAVERS, APPOINTED BY THE CHESAPEAKE BAYSAVERS;**

19                   **16. A REPRESENTATIVE FROM THE NATIONAL**  
20 **AQUARIUM, DESIGNATED BY THE NATIONAL AQUARIUM; AND**

21                   **17. A REPRESENTATIVE FROM THE UNIVERSITY OF**  
22 **MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE, DESIGNATED BY THE**  
23 **CENTER.**

24                   **(3) THE FOLLOWING PERSONS SHALL PROVIDE INFORMATION TO THE**  
25 **COMMISSION AT THE REQUEST OF THE COMMISSION BUT MAY NOT PARTICIPATE AS**  
26 **VOTING MEMBERS:**

27                   **(1) STATE AND FEDERAL AGENCIES TASKED WITH OYSTER**  
28 **MANAGEMENT AND RESTORATION RESPONSIBILITIES, INCLUDING THE**  
29 **DEPARTMENT, THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,**  
30 **AND THE U.S. ARMY CORPS OF ENGINEERS;**

1                   **(II) THE PATUXENT ENVIRONMENTAL AND AQUATIC**  
2 **RESEARCH LABORATORY, MORGAN STATE UNIVERSITY;**

3                   **(III) TWO MEMBERS OF THE SENATE, ONE FROM EACH**  
4 **POLITICAL PARTY, APPOINTED BY THE PRESIDENT OF THE SENATE; AND**

5                   **(IV) TWO MEMBERS OF THE HOUSE OF DELEGATES, ONE FROM**  
6 **EACH POLITICAL PARTY, APPOINTED BY THE SPEAKER OF THE HOUSE.**

7                   **[(3)] (4) The Commission shall:**

8                   (i) Provide the Department with advice on matters related to  
9 oysters in the Chesapeake Bay;

10                   (ii) Review the best possible science and recommend changes to the  
11 framework and strategies for rebuilding and managing the oyster population in the  
12 Chesapeake Bay under the Chesapeake Bay Oyster Management Plan;

13                   (iii) Review the latest findings relevant to the Environmental Impact  
14 Statement evaluating oyster restoration alternatives for the Chesapeake Bay;

15                   (iv) Review any other scientific, economic, or cultural information  
16 relevant to oysters in the Chesapeake Bay; [and]

17                   **(V) DEVELOP A PACKAGE OF CONSENSUS RECOMMENDATIONS,**  
18 **IN COORDINATION WITH THE DEPARTMENT, FOR ENHANCING AND IMPLEMENTING**  
19 **THE FISHERY MANAGEMENT PLAN FOR OYSTERS UNDER § 4-215 OF THIS SUBTITLE;**  
20 **AND**

21                   **[(v)] (VI) By December 31, 2007 and to the extent reasonably**  
22 **appropriate, report to the Governor and, in accordance with § 2-1246 of the State**  
23 **Government Article, the General Assembly on:**

24                   1. Strategies to minimize the impact of oyster disease,  
25 including the State repletion program and bar cleaning;

26                   2. The framework and effectiveness of the oyster sanctuary,  
27 harvest reserve, and repletion programs, and the overall management of natural oyster  
28 bars, after performing a cost-benefit analysis that considers biological, ecological,  
29 economic, and cultural issues;

30                   3. Strategies to maximize the ecological benefits of natural  
31 oyster bars; and

32                   4. Strategies to improve enforcement of closed oyster areas.

1 4–215.

2 (b) The Department shall prepare fishery management plans for the following  
3 species:

4 (6) Oysters;

5 (e) (4) (i) Subject to subparagraph (ii) of this paragraph, the Department  
6 may not take any action to reduce or alter the boundaries of the oyster sanctuaries  
7 established in “Oyster Sanctuaries of the Chesapeake Bay and its Tidal Tributaries  
8 (September 2010)” until the Department has developed a fisheries management plan for  
9 the scientific management of the oyster stock [following the completion of its reports in  
10 accordance with paragraph (3) of this subsection] **BASED ON MANAGEMENT STRATEGIES  
11 AND MEASUREMENTS RECOMMENDED BY THE OYSTER ADVISORY COMMISSION  
12 UNDER PARAGRAPH (5) OF THIS SUBSECTION AND DETERMINED BY THE  
13 DEPARTMENT IN CONSULTATION WITH THE UNIVERSITY OF MARYLAND CENTER  
14 FOR ENVIRONMENTAL SCIENCE.**

15 (ii) **THE FISHERY MANAGEMENT PLAN DEVELOPED IN  
16 ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION SHALL:**

17 **1. END THE OVERFISHING OF OYSTERS IN ALL AREAS  
18 AND REGIONS OF THE CHESAPEAKE BAY AND ITS TRIBUTARIES WHERE  
19 OVERFISHING HAS OCCURRED ACCORDING TO BIOLOGICAL REFERENCE POINTS  
20 ESTABLISHED BY THE MOST RECENT OYSTER STOCK ASSESSMENT WHILE  
21 MAINTAINING A HARVEST IN THE FISHERY;**

22 **2. ACHIEVE FISHING MORTALITY RATES AT TARGET  
23 LEVELS;**

24 **3. INCREASE OYSTER ABUNDANCE;**

25 **4. INCREASE OYSTER HABITAT; AND**

26 **5. FACILITATE THE LONG-TERM SUSTAINABLE  
27 HARVEST OF OYSTERS, INCLUDING THE PUBLIC FISHERY.**

28 (iii) This paragraph may not be construed to prevent the Department  
29 from:

30 1. Selecting the final two tributaries for tributary-scale  
31 oyster restoration sanctuary projects in accordance with the 2014 Chesapeake Bay  
32 Agreement; or

2. Establishing, in the discretion of the Department, any dimensions for a tributary-scale oyster restoration sanctuary project.

(5) (I) THE DEPARTMENT SHALL:

1. IN COORDINATION WITH THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE AND THE OYSTER ADVISORY COMMISSION, ~~CONVENE A STAKEHOLDER WORKGROUP TO~~ DEVELOP A PACKAGE OF CONSENSUS RECOMMENDATIONS FOR ENHANCING AND IMPLEMENTING THE FISHERY MANAGEMENT PLAN FOR OYSTERS THAT WILL BE INFORMED BY A COLLABORATIVELY DEVELOPED, SCIENCE-BASED MODELING TOOL TO QUANTIFY THE LONG-TERM IMPACTS OF IDENTIFIED MANAGEMENT ACTIONS AND POSSIBLE COMBINATIONS OF MANAGEMENT ACTIONS ON:

- A. OYSTER ABUNDANCE;
- B. OYSTER HABITAT;
- C. OYSTER HARVEST;
- D. OYSTER HARVEST REVENUE; AND
- E. NITROGEN REMOVAL; AND

2. HOLD PUBLIC LISTENING SESSIONS THROUGHOUT THE STATE TO IDENTIFY POSSIBLE MANAGEMENT ACTIONS FOR USE IN THE PUBLIC OYSTER FISHERY.

~~(II) THE STAKEHOLDER WORKGROUP SHALL INCLUDE:~~

- ~~1. A REPRESENTATIVE FROM EACH COUNTY WATERMEN'S ASSOCIATION;~~
- ~~2. A REPRESENTATIVE FROM THE MARYLAND WATERMEN'S ASSOCIATION;~~
- ~~3. A REPRESENTATIVE FROM THE COASTAL CONSERVATION ASSOCIATION OF MARYLAND;~~
- ~~4. A REPRESENTATIVE FROM THE CHESAPEAKE BAY FOUNDATION;~~
- ~~5. A REPRESENTATIVE FROM THE NATURE CONSERVANCY;~~

1                   6.    ~~A REPRESENTATIVE OF A COMMERCIAL SEAFOOD~~  
2 ~~ORGANIZATION;~~

3                   7.    ~~A REPRESENTATIVE FROM THE AQUACULTURE INDUSTRY;~~  
4 ~~AND~~

5                   8.    ~~STATE AND FEDERAL AGENCIES TASKED WITH OYSTER~~  
6 ~~MANAGEMENT AND RESTORATION RESPONSIBILITIES.~~

7                   ~~(H)~~ (II)    THE ~~STAKEHOLDER WORKGROUP~~ OYSTER  
8 ADVISORY COMMISSION, WITH THE ASSISTANCE OF EXTERNAL CONFLICT  
9 RESOLUTION AND FACILITATION SPECIALISTS, SHALL:

10                   1.    DEVELOP A PACKAGE OF CONSENSUS  
11 RECOMMENDATIONS THROUGH A FACILITATED CONSENSUS SOLUTIONS PROCESS,  
12 BASED ON A 75% MAJORITY AGREEMENT LEVEL FOR EACH RECOMMENDATION;

13                   2.    ~~REVIEW CURRENT AND PROPOSED MANAGEMENT~~  
14 ~~ACTIONS FOR COMPLETENESS AND RECOMMEND ADDITIONAL~~ RECOMMEND  
15 MANAGEMENT ACTIONS OR COMBINATIONS OF MANAGEMENT ACTIONS TO ACHIEVE  
16 THE TARGETS IDENTIFIED IN THE OYSTER STOCK ASSESSMENT WITH THE GOAL OF  
17 INCREASING OYSTER ABUNDANCE; AND

18                   3.    REVIEW MODEL RESULTS FOR EACH MANAGEMENT  
19 ACTION OR COMBINATION OF MANAGEMENT ACTIONS TO INFORM ~~STAKEHOLDER~~  
20 ~~WORKGROUP~~ ITS RECOMMENDATIONS.

21                   (III) NOTWITHSTANDING § 3-305 OF THE GENERAL PROVISIONS  
22 ARTICLE, AND WITH THE CONSENT OF A 75% MAJORITY OF ITS MEMBERS, THE  
23 OYSTER ADVISORY COMMISSION MAY MEET AND DELIBERATE IN CLOSED SESSION  
24 TO DEVELOP THE PACKAGE OF CONSENSUS RECOMMENDATIONS FOR ENHANCING  
25 AND IMPLEMENTING THE FISHERY MANAGEMENT PLAN FOR OYSTERS UNDER THIS  
26 PARAGRAPH.

27                   (IV) 1.    THE DEPARTMENT SHALL SUBMIT INTERIM REPORTS  
28 ON THE DEVELOPMENT OF THE PACKAGE OF CONSENSUS RECOMMENDATIONS BY  
29 DECEMBER 1, 2019, AUGUST 1, 2020, AND DECEMBER 1, 2020, TO THE GOVERNOR  
30 AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE  
31 GENERAL ASSEMBLY.

32                   2.    THE DEPARTMENT SHALL PROVIDE A FINAL REPORT  
33 BY JULY 1, 2021, WHICH WILL INCLUDE AN IMPLEMENTATION SCHEDULE FOR THE  
34 CONSENSUS RECOMMENDATIONS, TO THE GOVERNOR AND, IN ACCORDANCE WITH §  
35 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.



1 (v) TO BE RESPONSIVE TO CHANGES IN THE OYSTER RESOURCE  
2 DUE TO ENVIRONMENTAL CONDITIONS, THE DEPARTMENT SHALL:

3 1. REVIEW THE STATUS OF THE STOCK RELATIVE TO  
4 REFERENCE POINTS EVERY 2 YEARS AND CONDUCT A BENCHMARK STOCK  
5 ASSESSMENT EVERY 6 YEARS WITH CONSIDERATION OF NEW METHODS AND WITH  
6 EXTERNAL PEER REVIEW; AND

7 2. WITH THE INPUT OF INTERESTED STAKEHOLDERS,  
8 IMPLEMENT MANAGEMENT ACTIONS THAT INCREASE OYSTER HABITAT, MAINTAIN  
9 HARVEST, AND GROW THE OYSTER STOCK.

10 SECTION 2. AND BE IT FURTHER ENACTED, That:

11 (a) The terms of the members serving on the Oyster Advisory Commission  
12 established under § 4-204(c) of the Natural Resources Article before the effective date of  
13 this Act shall terminate on the effective date of this Act.

14 (b) The Secretary of Natural Resources shall convene the new members of the  
15 Oyster Advisory Commission in accordance with the provisions of Section 1 of this Act.

16 (c) The terms of the new members convened under subsection (b) of this section  
17 shall begin on the effective date of this Act.

18 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Natural  
19 Resources shall implement the 2019 Fishery Management Plan for Oysters pending the  
20 development of consensus recommendations in accordance with this Act.

21 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 June 1, 2019.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.