

SENATE BILL 830

M2

(9lr3106)

ENROLLED BILL

— Education, Health, and Environmental Affairs/Environment and Transportation —

Introduced by **Senator Elfreth**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

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~~

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.

Italics indicate opposite chamber/conference committee amendments.



1 ~~certain oyster management actions and~~ recommend certain oyster management
 2 actions to achieve certain goals, and review certain results for certain oyster
 3 management actions; *prohibiting the Department from using certain funds for a*
 4 *certain purpose; prohibiting the Department from using certain funds for a certain*
 5 ~~purpose;~~ authorizing the Commission to meet and deliberate in closed session for a
 6 *certain purpose under certain circumstances, notwithstanding a certain provision of*
 7 *law;* requiring the Department to submit certain interim reports and a final report
 8 by certain dates to the Governor and General Assembly; requiring the Department
 9 to perform certain reviews of the oyster stock and, with certain input, implement
 10 certain management actions; *providing for the termination of the terms of certain*
 11 *members of the Commission; requiring the Secretary of Natural Resources to*
 12 *convene the Commission in a certain manner; requiring the Department to*
 13 *implement a certain Fishery Management Plan for Oysters subject to certain*
 14 *requirements;* and generally relating to a fishery management plan for oysters.

15 BY repealing and reenacting, with amendments,

16 Article – Natural Resources
 17 Section 4–204(c) and 4–215(e)(4)
 18 Annotated Code of Maryland
 19 (2018 Replacement Volume)

20 BY repealing and reenacting, without amendments,

21 Article – Natural Resources
 22 Section 4–215(b)(6)
 23 Annotated Code of Maryland
 24 (2018 Replacement Volume)

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

26 ~~Article – Natural Resources~~
 27 ~~Section 4–215(e)(4)~~
 28 ~~Annotated Code of Maryland~~
 29 ~~(2018 Replacement Volume)~~

30 BY adding to

31 Article – Natural Resources
 32 Section 4–215(e)(5)
 33 Annotated Code of Maryland
 34 (2018 Replacement Volume)

35 Preamble

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

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

3 WHEREAS, The oyster resource is a valuable resource to Maryland; and

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

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

11 WHEREAS, A consensus-based process, as demonstrated by the Oyster Futures
12 model which utilizes a 60-40 balance of stakeholders, can be used to develop regulations
13 and policies for oyster management that have broad stakeholder support and are informed
14 by the oyster stock assessment, stakeholder knowledge, and scientific evidence; ~~now,~~
15 ~~therefore,~~ and

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

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

20 **Article – Natural Resources**

21 4-204.

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

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

28 (II) THE COMMISSION SHALL ~~ONLY INCLUDE~~ INCLUDE ONLY:

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

32 2. A REPRESENTATIVE FROM THE MARYLAND
33 WATERMEN'S ASSOCIATION ASSOCIATION, DESIGNATED BY THE ASSOCIATION;

1 3. A REPRESENTATIVE FROM THE MARYLAND
 2 OYSTERMEN'S ASSOCIATION ASSOCIATION, DESIGNATED BY THE ASSOCIATION;

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

5 5. A REPRESENTATIVE FROM THE AQUACULTURE
 6 INDUSTRY INDUSTRY, DESIGNATED BY THE AQUACULTURE COORDINATING
 7 COUNCIL;

8 5. 6. A REPRESENTATIVE FROM THE COMMERCIAL
 9 SEAFOOD BUYER INDUSTRY INDUSTRY, DESIGNATED BY THE SECRETARY;

10 6. 7. A REPRESENTATIVE FROM THE COASTAL
 11 CONSERVATION ASSOCIATION OF MARYLAND MARYLAND, DESIGNATED BY THE
 12 ASSOCIATION;

13 7. 8. A REPRESENTATIVE FROM THE CHESAPEAKE BAY
 14 FOUNDATION FOUNDATION, DESIGNATED BY THE FOUNDATION;

15 8. 9. A REPRESENTATIVE FROM THE NATURE
 16 CONSERVANCY CONSERVANCY, DESIGNATED BY THE CONSERVANCY;

17 9. 10. A REPRESENTATIVE FROM THE SHORERIVERS
 18 RIVERKEEPER ASSOCIATION ASSOCIATION, DESIGNATED BY THE ASSOCIATION;

19 10. 11. A REPRESENTATIVE FROM THE ARUNDEL RIVERS
 20 FEDERATION FEDERATION, DESIGNATED BY THE FEDERATION;

21 11. 12. A REPRESENTATIVE FROM THE OYSTER RECOVERY
 22 PARTNERSHIP, DESIGNATED BY THE PARTNERSHIP;

23 12. 13. A REPRESENTATIVE FROM THE CHESAPEAKE BAY
 24 COMMISSION COMMISSION, DESIGNATED BY THE CHESAPEAKE BAY COMMISSION;

25 13. 14. A REPRESENTATIVE FROM BLUE OYSTER
 26 ENVIRONMENTAL ENVIRONMENTAL, DESIGNATED BY BLUE OYSTER
 27 ENVIRONMENTAL;

28 15. A REPRESENTATIVE FROM THE CHESAPEAKE
 29 BAYSAVERS, DESIGNATED BY THE CHESAPEAKE BAYSAVERS;

1 ~~14.~~ 16. A REPRESENTATIVE FROM THE NATIONAL
2 ~~AQUARIUM AQUARIUM, DESIGNATED BY THE NATIONAL AQUARIUM; AND~~

3 ~~15.~~ 17. A REPRESENTATIVE FROM THE UNIVERSITY OF
4 MARYLAND CENTER FOR ENVIRONMENTAL ~~SCIENCE~~ SCIENCE, DESIGNATED BY
5 THE CENTER; AND

6 18. A REPRESENTATIVE FROM THE PATUXENT
7 ENVIRONMENTAL AND AQUATIC RESEARCH LABORATORY, MORGAN STATE
8 UNIVERSITY, DESIGNATED BY THE RESEARCH LABORATORY.

9 (3) THE FOLLOWING PERSONS SHALL PROVIDE INFORMATION TO THE
10 COMMISSION AT THE REQUEST OF THE COMMISSION BUT MAY NOT PARTICIPATE AS
11 VOTING MEMBERS:

12 (I) STATE AND FEDERAL AGENCIES TASKED WITH OYSTER
13 MANAGEMENT AND RESTORATION RESPONSIBILITIES, INCLUDING THE
14 DEPARTMENT, THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,
15 AND THE U.S. ARMY CORPS OF ENGINEERS;

16 (II) TWO MEMBERS OF THE SENATE, ONE FROM EACH
17 POLITICAL PARTY, APPOINTED BY THE PRESIDENT OF THE SENATE; AND

18 (III) TWO MEMBERS OF THE HOUSE OF DELEGATES, ONE FROM
19 EACH POLITICAL PARTY, APPOINTED BY THE SPEAKER OF THE HOUSE.

20 [(3)] (4) The Commission shall:

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

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

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

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

30 (V) DEVELOP A PACKAGE OF CONSENSUS RECOMMENDATIONS,
31 IN COORDINATION WITH THE DEPARTMENT, FOR ENHANCING AND IMPLEMENTING
32 THE FISHERY MANAGEMENT PLAN FOR OYSTERS UNDER § 4-215 OF THIS SUBTITLE;
33 AND

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

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

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

10 3. Strategies to maximize the ecological benefits of natural
 11 oyster bars; and

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

13 (5) THE DEPARTMENT MAY NOT USE FUNDS ALLOCATED TO A COUNTY
 14 OYSTER COMMITTEE FOR THE COMMISSION ESTABLISHED UNDER THIS
 15 SUBSECTION.

16 ~~(5) THE DEPARTMENT MAY NOT USE FUNDS ALLOCATED TO A~~
 17 ~~COUNTY OYSTER COMMITTEE FOR THE COMMISSION ESTABLISHED UNDER THIS~~
 18 ~~SUBSECTION.~~

19 4-215.

20 (b) The Department shall prepare fishery management plans for the following
 21 species:

22 (6) Oysters;

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

1 (ii) THE FISHERY MANAGEMENT PLAN DEVELOPED IN
 2 ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION SHALL:

3 1. END THE OVERFISHING OF OYSTERS IN ALL AREAS
 4 AND REGIONS OF THE CHESAPEAKE BAY AND ITS TRIBUTARIES WHERE
 5 OVERFISHING HAS OCCURRED ACCORDING TO BIOLOGICAL REFERENCE POINTS
 6 ESTABLISHED BY THE MOST RECENT OYSTER STOCK ASSESSMENT WHILE
 7 MAINTAINING A HARVEST IN THE FISHERY;

8 2. ACHIEVE FISHING MORTALITY RATES AT TARGET
 9 LEVELS;

10 3. INCREASE OYSTER ABUNDANCE;

11 4. INCREASE OYSTER HABITAT; AND

12 5. FACILITATE THE LONG-TERM SUSTAINABLE
 13 HARVEST OF OYSTERS, INCLUDING THE PUBLIC FISHERY.

14 (iii) This paragraph may not be construed to prevent the Department
 15 from:

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

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

21 (5) (i) THE DEPARTMENT SHALL:

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

30 A. OYSTER ABUNDANCE;

31 B. OYSTER HABITAT;

32 C. OYSTER HARVEST;

1 D. OYSTER HARVEST REVENUE; AND

2 E. NITROGEN REMOVAL; AND

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

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

7 1. ~~A REPRESENTATIVE FROM EACH COUNTY~~
8 ~~WATERMAN'S ASSOCIATION;~~

9 2. ~~A REPRESENTATIVE FROM THE MARYLAND~~
10 ~~WATERMAN'S ASSOCIATION;~~

11 3. ~~A REPRESENTATIVE FROM THE COASTAL~~
12 ~~CONSERVATION ASSOCIATION OF MARYLAND;~~

13 4. ~~A REPRESENTATIVE FROM THE CHESAPEAKE BAY~~
14 ~~FOUNDATION;~~

15 5. ~~A REPRESENTATIVE FROM THE NATURE~~
16 ~~CONSERVANCY;~~

17 6. ~~A REPRESENTATIVE OF A COMMERCIAL SEAFOOD~~
18 ~~ORGANIZATION;~~

19 7. ~~A REPRESENTATIVE FROM THE AQUACULTURE~~
20 ~~INDUSTRY; AND~~

21 8. ~~STATE AND FEDERAL AGENCIES TASKED WITH~~
22 ~~OYSTER MANAGEMENT AND RESTORATION RESPONSIBILITIES.~~

23 ~~(III) (II) THE STAKEHOLDER WORKGROUP~~ OYSTER ADVISORY
24 COMMISSION, WITH THE ASSISTANCE OF EXTERNAL CONFLICT RESOLUTION AND
25 FACILITATION SPECIALISTS, SHALL:

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

1 2. ~~REVIEW CURRENT AND PROPOSED MANAGEMENT~~
2 ~~ACTIONS FOR COMPLETENESS AND RECOMMEND ADDITIONAL~~ RECOMMEND
3 MANAGEMENT ACTIONS OR COMBINATIONS OF MANAGEMENT ACTIONS TO ACHIEVE
4 THE TARGETS IDENTIFIED IN THE OYSTER STOCK ASSESSMENT WITH THE GOAL OF
5 INCREASING OYSTER ABUNDANCE; AND

6 3. REVIEW MODEL RESULTS FOR EACH MANAGEMENT
7 ACTION OR COMBINATION OF MANAGEMENT ACTIONS TO INFORM ~~STAKEHOLDER~~
8 ~~WORKGROUP~~ ITS RECOMMENDATIONS.

9 (iii) NOTWITHSTANDING § 3-305 OF THE GENERAL PROVISIONS
10 ARTICLE, AND WITH THE CONSENT OF A 75% MAJORITY OF ITS MEMBERS, THE
11 OYSTER ADVISORY COMMISSION MAY MEET AND DELIBERATE IN CLOSED SESSION
12 TO DEVELOP THE PACKAGE OF CONSENSUS RECOMMENDATIONS FOR ENHANCING
13 AND IMPLEMENTING THE FISHERY MANAGEMENT PLAN FOR OYSTERS UNDER THIS
14 PARAGRAPH.

15 (iv) 1. THE DEPARTMENT SHALL SUBMIT INTERIM REPORTS
16 ON THE DEVELOPMENT OF THE PACKAGE OF CONSENSUS RECOMMENDATIONS BY
17 DECEMBER 1, 2019, AUGUST 1, 2020, AND DECEMBER 1, 2020, TO THE GOVERNOR
18 AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE
19 GENERAL ASSEMBLY.

20 2. THE DEPARTMENT SHALL PROVIDE A FINAL REPORT
21 BY JULY 1, 2021, WHICH WILL INCLUDE AN IMPLEMENTATION SCHEDULE FOR THE
22 CONSENSUS RECOMMENDATIONS, TO THE GOVERNOR AND, IN ACCORDANCE WITH §
23 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

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

26 1. REVIEW THE STATUS OF THE STOCK RELATIVE TO
27 REFERENCE POINTS EVERY 2 YEARS AND CONDUCT A BENCHMARK STOCK
28 ASSESSMENT EVERY 6 YEARS WITH CONSIDERATION OF NEW METHODS AND WITH
29 EXTERNAL PEER REVIEW; AND

30 2. WITH THE INPUT OF INTERESTED STAKEHOLDERS,
31 IMPLEMENT MANAGEMENT ACTIONS THAT INCREASE OYSTER HABITAT, MAINTAIN
32 HARVEST, AND GROW THE OYSTER STOCK.

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

1 (a) The terms of the members serving on the Oyster Advisory Commission
2 established under § 4–204(c) of the Natural Resources Article before the effective date of
3 this Act shall terminate on the effective date of this Act.

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

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.