HB 1388

Department of Legislative Services

Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1388 (Delegate Jacobs, *et al.*)
Environment and Transportation

Oysters - Rotational Harvest - Pilot Program

This bill establishes a five-year rotational harvest pilot program for oysters, implemented by the Department of Natural Resources (DNR) in four specified rotational harvest areas in the Chesapeake Bay. **The bill takes effect July 1, 2026, and terminates June 30, 2032.**

Fiscal Summary

State Effect: General fund expenditures are expected to increase, beginning in FY 2027, and special fund revenues may increase annually, beginning in FY 2027, as discussed below.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The pilot program applies to four designated areas of the Chesapeake Bay (geographically defined in detail in the bill): (1) the Lower Choptank Rotational Harvest Area; (2) the Lower Main Stem Chesapeake Bay Rotational Harvest Area; (3) the Herring Bay Rotational Harvest Area; and (4) the Lower Chester Rotational Harvest Area.

The geographic boundaries described in the bill for the four harvest areas are the same boundaries for the Lower Choptank River, Lower Main Stem Bay, Herring Bay, and Lower Chester River oyster sanctuaries, respectively, established in DNR's *Oyster Sanctuaries of the Chesapeake Bay and Its Tidal Tributaries (September 2010)*, which is incorporated by reference in DNR regulations.

Under the pilot program, in the Lower Choptank River Sanctuary, DNR must, in its discretion:

- open one different oyster bar for each of the 2026-2027, 2027-2028, and 2028-2029 oyster seasons;
- reopen the same oyster bar for the 2029-2030 oyster season that it had opened for the 2026-2027 oyster season; and
- reopen the same oyster bar for the 2030-2031 oyster season that it had opened for the 2027-2028 oyster season.

Of the three oyster bars located within the Lower Main Stem Chesapeake Bay Rotational Harvest Area, DNR must, in its discretion:

- open one different oyster bar for each of the 2026-2027, 2027-2028, and 2028-2029 oyster seasons;
- reopen the same oyster bar for the 2029-2030 oyster season that it had opened for the 2026-2027 oyster season; and
- reopen the same oyster bar for the 2030-2031 oyster season that it had opened for the 2027-2028 oyster season.

DNR must open the Holland Point oyster bar in the Herring Bay Rotational Harvest Area in the 2026-2027 and 2029-2030 oyster seasons.

Of the Hickory Thicket oyster bar and Hunting Field oyster bar located within the Lower Chester River Rotational Area, DNR must, in its discretion:

- open one different oyster bar for each of the 2026-2027 and 2027-2028 oyster seasons;
- reopen the same oyster bar for the 2029-2030 oyster season that it had opened for the 2026-2027 oyster season; and
- reopen the same oyster bar for the 2030-2031 oyster season that it had opened for the 2027-2028 oyster season.

A tidal fish licensee who holds an oyster authorization may catch oysters in areas of the four rotational harvest areas that are open for harvest and must ensure that the oyster shells are replaced on the bar where they were caught in an amount of bushels equal to the amount of bushels of oysters caught.

Under the pilot program, DNR must, in its discretion, manage the oyster harvest and may adjust catch limits, limit the hours and days for harvest, and restrict the gear that may be used.

Before opening an area to oyster harvesting under the pilot program, DNR must survey and investigate the area to collect baseline data on (1) water quality; (2) habitat quality, including the presence of finfish species and other shellfish species; (3) the presence of silt and sediment on the oyster bar, submerged aquatic vegetation on or near the oyster bar, and diseased or dead oysters on the oyster bar; and (4) any other relevant matter in the discretion of the department. After closing an area in the rotational harvest areas to oyster harvesting under the pilot program, DNR must continue to monitor the area to collect additional data on the matters for which baseline data was collected.

By December 1, 2031, DNR must report to the Governor and General Assembly on its findings and recommendations under the pilot program.

Current Law:

The Department of Natural Resources' Authority to Open and Close Areas to Oyster Harvest

Under DNR regulations, in order to implement the Maryland Chesapeake Bay Oyster Management Plan, the Secretary of Natural Resources is authorized to issue a public notice to (1) establish or modify the season, daily catch limits, days of the week, or times for catching oysters for recreational or commercial purposes or (2) open or close an oyster harvest area for the harvesting or conservation of oysters. A public notice opening or closing an oyster harvest area must state (1) the specific area; (2) the specific period of time that the area is opened or closed; (3) daily bushel limits; and (4) the days of the week a person may catch oysters in the area.

"Oyster harvest area" means submerged ground where an individual may catch oysters and does not include an area leased for aquaculture, restricted by the Maryland Department of the Environment, or designated as a submerged aquatic vegetation protection zone, harvest reserve area, or sanctuary.

State law prohibits a person from catching oysters in or removing oyster seed from an oyster sanctuary described in statute or established by DNR in regulation.

Oyster Authorization

For most commercial fishing, DNR uses a single, commercial license, known as a tidal fish license, which authorizes a licensee to engage in each activity indicated on the license. The department may issue authorizations for activities listed in statute for which the indicated fee has been paid. The authorization for harvesting oysters for sale, for example, has a fee of $250 for a dredge boat and $100 for harvesting other than from a dredge boat.

State Expenditures: General fund expenditures are expected to increase, beginning in fiscal 2027, for DNR to administer the pilot program. DNR indicates that it incurs relatively significant costs to conduct the program, totaling approximately $1.5 million in fiscal 2027 and in the range of $600,000 to $800,000 in future years. DNR's fiscal 2027 estimate consists of:

- $1.0 million – data logger beacons and associated data storage and Wi-Fi, for each tidal fish licensee authorized to catch oysters in a given season, to ensure that oyster harvest only occurs from the designated oyster bars opened to harvest and not from surrounding closed sanctuary areas;
- $276,957 – surveys and investigation required by the bill;
- $36,180 – buoys to mark the oyster bars; and
- $149,725 – capital funding that was used to plant spat on shell on the Holland Point oyster bar that may need to be paid back if it is opened to harvest.

The Department of Legislative Services is not able to verify whether this level of spending is needed to implement the bill, including whether data logger beacons must be purchased and used by every tidal fish licensee authorized to catch oysters in a season. Presumably there may be other, more cost-effective means of managing the pilot program and enforcing the existing prohibition against harvesting in surrounding sanctuary areas closed to harvest, including use of existing enforcement resources.

State Revenues: Special fund revenues may increase annually, beginning in fiscal 2027, due to collection of additional oyster severance and inspection tax revenues collected as a result of harvesting under the pilot program; however, the extent of any increase cannot be reliably estimated. A severance tax of $2 per bushel is levied on every bushel of oysters caught within the limits of the natural oyster bars of the State exclusive of the Potomac River. An inspection tax of $1 per bushel is levied on marketable oysters shipped in the shell to any place outside the State and must be paid by the shipper. The tax is levied in addition to the severance tax. The severance and inspection tax revenues are credited to the Fisheries Research and Development Fund and used only for the repletion of the natural oyster bars of the State.

Small Business Effect: Small business oyster harvesters may meaningfully benefit to the extent harvesting oysters under the pilot program increases their overall harvest in a given season.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 492 and HB 932 of 2023.

Designated Cross File: SB 875 (Senator Carozza, *et al.*) - Education, Energy, and the Environment.

Information Source(s): Department of Natural Resources; Department of Legislative Services

Fiscal Note History: First Reader - March 4, 2026
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