

SENATE BILL 808

M2

EMERGENCY BILL

0lr2395
CF HB 911

By: **Senator Elfreth**

Introduced and read first time: February 3, 2020

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 6, 2020

CHAPTER _____

1 AN ACT concerning

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

3 FOR the purpose of altering the date by which the Department of Natural Resources is
4 required to convene in a certain manner the Oyster Advisory Commission; altering
5 the version of the fishery management plan for oysters that the Department is
6 required to develop before taking certain management action governing oyster
7 sanctuaries; repealing a certain provision of law authorizing the Commission to meet
8 and deliberate in closed session under certain circumstances; altering the dates by
9 which certain interim reports related to oyster management are required to be
10 submitted to the Governor and the General Assembly; requiring the Department to
11 include certain information in a certain interim report; altering the date by which a
12 certain final report related to oyster management is required to be submitted to the
13 Governor and the General Assembly; requiring the Department to implement a
14 certain version of the fishery management plan for oysters consistent with certain
15 law; making certain technical corrections; making this Act an emergency measure;
16 and generally relating to fishery management plans for oysters.

17 BY repealing and reenacting, without amendments,

18 Article – Natural Resources

19 Section 4–204(c)(1) and 4–215(b)(6)

20 Annotated Code of Maryland

21 (2018 Replacement Volume and 2019 Supplement)

22 BY repealing and reenacting, with amendments,

23 Article – Natural Resources

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 Section 4–204(c)(2)(i) and 4–215(e)(4) and (5)
2 Annotated Code of Maryland
3 (2018 Replacement Volume and 2019 Supplement)
4 (As enacted by Chapters 5 and 9 of the Acts of the General Assembly of 2020)

5 BY repealing and reenacting, with amendments,
6 Chapter 5 of the Acts of the General Assembly of 2020
7 Section 3

8 BY repealing and reenacting, with amendments,
9 Chapter 9 of the Acts of the General Assembly of 2020
10 Section 3

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

13 **Article – Natural Resources**

14 4–204.

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

16 (2) (i) On or before [June 1, 2019] **APRIL 1, 2020**, and subject to
17 subparagraph (ii) of this paragraph, the Department shall, in coordination with the
18 University of Maryland Center for Environmental Science, convene the members of the
19 Commission.

20 4–215.

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

23 (6) Oysters;

24 (e) (4) (i) Subject to subparagraph (ii) of this paragraph, the Department
25 may not take any action to reduce or alter the boundaries of the oyster sanctuaries
26 established in “Oyster Sanctuaries of the Chesapeake Bay and its Tidal Tributaries
27 (September 2010)” until the Department has developed [a] **AN UPDATED** fisheries
28 management plan for the scientific management of the oyster stock based on management
29 strategies and measurements recommended by the Oyster Advisory Commission under
30 paragraph (5) of this subsection and determined by the Department in consultation with
31 the University of Maryland Center for Environmental Science.

32 (ii) The fishery management plan developed in accordance with
33 paragraph (5) of this subsection shall:

1 1. End the overfishing of oysters in all areas and regions of
2 the Chesapeake Bay and its tributaries where overfishing has occurred according to
3 biological reference points established by the most recent oyster stock assessment while
4 maintaining a harvest in the fishery;

5 2. Achieve fishing mortality rates at target levels;

6 3. Increase oyster abundance;

7 4. Increase oyster habitat; and

8 5. Facilitate the long-term sustainable harvest of oysters,
9 including the public fishery.

10 (iii) This paragraph may not be construed to prevent the Department
11 from:

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

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

17 (5) (i) The Department shall:

18 1. In coordination with the University of Maryland Center
19 for Environmental Science and the Oyster Advisory Commission, develop a package of
20 consensus recommendations for enhancing and implementing the fishery management
21 plan for oysters that will be informed by a collaboratively developed, science-based
22 modeling tool to quantify the long-term impacts of identified management actions and
23 possible combinations of management actions on:

24 A. Oyster abundance;

25 B. Oyster habitat;

26 C. Oyster harvest;

27 D. Oyster harvest revenue; and

28 E. Nitrogen removal; and

29 2. Hold public listening sessions throughout the State to
30 identify possible management actions for use in the public oyster fishery.

1 (ii) The Oyster Advisory Commission, with the assistance of external
2 conflict resolution and facilitation specialists, shall:

3 1. Develop a package of consensus recommendations through
4 a facilitated consensus solutions process, based on a 75% majority agreement level for each
5 recommendation;

6 2. Recommend management actions or combinations of
7 management actions to achieve the targets identified in the oyster stock assessment with
8 the goal of increasing oyster abundance; and

9 3. Review model results for each management action or
10 combination of management actions to inform its recommendations.

11 (iii) [Notwithstanding § 3–305 of the General Provisions Article, and
12 with the consent of a 75% majority of its members, the Oyster Advisory Commission may
13 meet and deliberate in closed session to develop the package of consensus recommendations
14 for enhancing and implementing the fishery management plan for oysters under this
15 paragraph.

16 (iv)] 1. The Department shall submit interim reports on the
17 development of the package of consensus recommendations by [December 1, 2019, August
18 1, 2020, and December 1, 2020] **AUGUST 1, 2020, AND DECEMBER 1, 2020, AND**
19 **AUGUST 1, 2021**, to the Governor and, in accordance with § [2–1246] **2–1257** of the State
20 Government Article, the General Assembly.

21 **2. IN ADDITION TO THE REQUIREMENTS UNDER**
22 **SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE DEPARTMENT SHALL INCLUDE**
23 **IN THE INTERIM REPORT SUBMITTED BY AUGUST 1, 2021:**

24 **A. THE STATUS OF THE DEVELOPMENT OF THE**
25 **SCIENCE–BASED MODELING TOOL USED TO QUANTIFY THE LONG–TERM IMPACTS OF**
26 **IDENTIFIED MANAGEMENT ACTIONS; AND**

27 **B. A SUMMARY OF THE MODEL RESULTS OF ANY**
28 **ACTIONS IDENTIFIED BY THE OYSTER ADVISORY COMMISSION ON OR BEFORE THE**
29 **DATE OF THE INTERIM REPORT.**

30 ~~2.~~ **3.** The Department shall provide a final report by ~~July~~
31 **DECEMBER** 1, 2021, which will include an implementation schedule for the consensus
32 recommendations, to the Governor and, in accordance with § [2–1246] **2–1257** of the State
33 Government Article, the General Assembly.

34 [(v)] **(IV)** To be responsive to changes in the oyster resource due to
35 environmental conditions, the Department shall:

1 1. Review the status of the stock relative to reference points
2 every 2 years and conduct a benchmark stock assessment every 6 years with consideration
3 of new methods and with external peer review; and

4 2. With the input of interested stakeholders, implement
5 management actions that increase oyster habitat, maintain harvest, and grow the oyster
6 stock.

7 **Chapter 5 of the Acts of 2020**

8 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Natural
9 Resources shall implement the 2019 Fishery Management Plan for Oysters **CONSISTENT**
10 **WITH § 4-215(E)(4)(I) OF THE NATURAL RESOURCES ARTICLE** pending the
11 development of consensus recommendations in accordance with this Act.

12 **Chapter 9 of the Acts of 2020**

13 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Natural
14 Resources shall implement the 2019 Fishery Management Plan for Oysters **CONSISTENT**
15 **WITH § 4-215(E)(4)(I) OF THE NATURAL RESOURCES ARTICLE** pending the
16 development of consensus recommendations in accordance with this Act.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
18 measure, is necessary for the immediate preservation of the public health or safety, has
19 been passed by a yea and nay vote supported by three-fifths of all the members elected to
20 each of the two Houses of the General Assembly, and shall take effect from the date it is
21 enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.