

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

A BILL ENTITLED

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 implement a certain version of the fishery management plan for oysters consistent
12 with certain law; making certain technical corrections; making this Act an
13 emergency measure; and generally relating to fishery management plans for oysters.

14 BY repealing and reenacting, without amendments,
15 Article – Natural Resources
16 Section 4–204(c)(1) and 4–215(b)(6)
17 Annotated Code of Maryland
18 (2018 Replacement Volume and 2019 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Natural Resources
21 Section 4–204(c)(2)(i) and 4–215(e)(4) and (5)
22 Annotated Code of Maryland
23 (2018 Replacement Volume and 2019 Supplement)
24 (As enacted by Chapters 5 and 9 of the Acts of the General Assembly of 2020)

25 BY repealing and reenacting, with amendments,
26 Chapter 5 of the Acts of the General Assembly of 2020
27 Section 3

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

6 **Article – Natural Resources**

7 4–204.

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

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

13 4–215.

14 (b) The Department shall prepare fishery management plans for the following
15 species:

16 (6) Oysters;

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

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

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

31 2. Achieve fishing mortality rates at target levels;

32 3. Increase oyster abundance;

33 4. Increase oyster habitat; and

1 5. Facilitate the long-term sustainable harvest of oysters,
2 including the public fishery.

3 (iii) This paragraph may not be construed to prevent the Department
4 from:

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

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

10 (5) (i) The Department shall:

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

17 A. Oyster abundance;

18 B. Oyster habitat;

19 C. Oyster harvest;

20 D. Oyster harvest revenue; and

21 E. Nitrogen removal; and

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

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

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

29 2. Recommend management actions or combinations of
30 management actions to achieve the targets identified in the oyster stock assessment with
31 the goal of increasing oyster abundance; and

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

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

8 (iv)] 1. The Department shall submit interim reports on the
9 development of the package of consensus recommendations by [December 1, 2019, August
10 1, 2020, and December 1, 2020] **AUGUST 1, 2020, AND DECEMBER 1, 2020**, to the
11 Governor and, in accordance with § [2–1246] **2–1257** of the State Government Article, the
12 General Assembly.

13 2. The Department shall provide a final report by July 1,
14 2021, which will include an implementation schedule for the consensus recommendations,
15 to the Governor and, in accordance with § [2–1246] **2–1257** of the State Government
16 Article, the General Assembly.

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

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

22 2. With the input of interested stakeholders, implement
23 management actions that increase oyster habitat, maintain harvest, and grow the oyster
24 stock.

25 **Chapter 5 of the Acts of 2020**

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

30 **Chapter 9 of the Acts of 2020**

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

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency

1 measure, is necessary for the immediate preservation of the public health or safety, has
2 been passed by a ye and nay vote supported by three-fifths of all the members elected to
3 each of the two Houses of the General Assembly, and shall take effect from the date it is
4 enacted.