

HOUSE BILL 720

M2

(9lr1328)

ENROLLED BILL

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

Introduced by **Delegates Barve, Busch, and Stein**

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.

Speaker.

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.



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

BY repealing and reenacting, with amendments,

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

BY repealing and reenacting, without amendments,

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

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

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

BY adding to

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

Preamble

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

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

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

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

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

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

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

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

18 **Article – Natural Resources**

19 4-204.

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

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

26 (II) THE COMMISSION SHALL INCLUDE ONLY:

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

30 2. A REPRESENTATIVE FROM THE MARYLAND
31 WATERMEN'S ASSOCIATION, DESIGNATED BY THE ASSOCIATION;

1 **3. A REPRESENTATIVE FROM THE MARYLAND**
2 **OYSTERMEN'S 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, DESIGNATED BY THE AQUACULTURE COORDINATING COUNCIL;**

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

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

11 **8. A REPRESENTATIVE FROM THE CHESAPEAKE BAY**
12 **FOUNDATION, DESIGNATED BY THE FOUNDATION;**

13 **9. A REPRESENTATIVE FROM THE NATURE**
14 **CONSERVANCY, DESIGNATED BY THE CONSERVANCY;**

15 **10. A REPRESENTATIVE FROM THE SHORERIVERS**
16 **RIVERKEEPER ASSOCIATION, DESIGNATED BY THE ASSOCIATION;**

17 **11. A REPRESENTATIVE FROM THE ARUNDEL RIVERS**
18 **FEDERATION, DESIGNATED BY THE FEDERATION;**

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

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

23 **14. A REPRESENTATIVE FROM BLUE OYSTER**
24 **ENVIRONMENTAL, DESIGNATED BY BLUE OYSTER ENVIRONMENTAL;**

25 **15. A REPRESENTATIVE FROM THE CHESAPEAKE**
26 **BAYSAVERS, ~~APPOINTED~~ DESIGNATED BY THE CHESAPEAKE BAYSAVERS;**

27 **16. A REPRESENTATIVE FROM THE NATIONAL**
28 **AQUARIUM, DESIGNATED BY THE NATIONAL AQUARIUM; ~~AND~~**

1 17. A REPRESENTATIVE FROM THE UNIVERSITY OF
2 MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE, DESIGNATED BY THE
3 CENTER; AND

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

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

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

14 ~~(II) THE PATUXENT ENVIRONMENTAL AND AQUATIC~~
15 ~~RESEARCH LABORATORY, MORGAN STATE UNIVERSITY;~~

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

18 ~~(IV)~~ (III) TWO MEMBERS OF THE HOUSE OF DELEGATES, ONE
19 FROM 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 4-215.

17 (b) The Department shall prepare fishery management plans for the following
 18 species:

19 (6) Oysters;

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

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

32 1. END THE OVERFISHING OF OYSTERS IN ALL AREAS
 33 AND REGIONS OF THE CHESAPEAKE BAY AND ITS TRIBUTARIES WHERE

1 OVERFISHING HAS OCCURRED ACCORDING TO BIOLOGICAL REFERENCE POINTS
 2 ESTABLISHED BY THE MOST RECENT OYSTER STOCK ASSESSMENT WHILE
 3 MAINTAINING A HARVEST IN THE FISHERY;

4 2. ACHIEVE FISHING MORTALITY RATES AT TARGET
 5 LEVELS;

6 3. INCREASE OYSTER ABUNDANCE;

7 4. INCREASE OYSTER HABITAT; AND

8 5. FACILITATE THE LONG-TERM SUSTAINABLE
 9 HARVEST OF OYSTERS, 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
 19 MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE AND THE OYSTER ADVISORY
 20 COMMISSION, CONVENE A STAKEHOLDER WORKGROUP TO DEVELOP A PACKAGE OF
 21 CONSENSUS RECOMMENDATIONS FOR ENHANCING AND IMPLEMENTING THE
 22 FISHERY MANAGEMENT PLAN FOR OYSTERS THAT WILL BE INFORMED BY A
 23 COLLABORATIVELY DEVELOPED, SCIENCE-BASED MODELING TOOL TO QUANTIFY
 24 THE LONG-TERM IMPACTS OF IDENTIFIED MANAGEMENT ACTIONS AND POSSIBLE
 25 COMBINATIONS OF MANAGEMENT ACTIONS ON:

26 A. OYSTER ABUNDANCE;

27 B. OYSTER HABITAT;

28 C. OYSTER HARVEST;

29 D. OYSTER HARVEST REVENUE; AND

30 E. NITROGEN REMOVAL; AND

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

4 ~~(H) THE STAKEHOLDER WORKGROUP SHALL INCLUDE:~~

5 ~~1. A REPRESENTATIVE FROM EACH COUNTY~~
 6 ~~WATERMEN'S ASSOCIATION;~~

7 ~~2. A REPRESENTATIVE FROM THE MARYLAND WATERMEN'S~~
 8 ~~ASSOCIATION;~~

9 ~~3. A REPRESENTATIVE FROM THE COASTAL CONSERVATION~~
 10 ~~ASSOCIATION OF MARYLAND;~~

11 ~~4. A REPRESENTATIVE FROM THE CHESAPEAKE BAY~~
 12 ~~FOUNDATION;~~

13 ~~5. A REPRESENTATIVE FROM THE NATURE CONSERVANCY;~~

14 ~~6. A REPRESENTATIVE OF A COMMERCIAL SEAFOOD~~
 15 ~~ORGANIZATION;~~

16 ~~7. A REPRESENTATIVE FROM THE AQUACULTURE INDUSTRY;~~
 17 ~~AND~~

18 ~~8. STATE AND FEDERAL AGENCIES TASKED WITH OYSTER~~
 19 ~~MANAGEMENT AND RESTORATION RESPONSIBILITIES.~~

20 ~~(H) (II) THE STAKEHOLDER WORKGROUP~~ OYSTER
 21 ADVISORY COMMISSION, WITH THE ASSISTANCE OF EXTERNAL CONFLICT
 22 RESOLUTION AND FACILITATION SPECIALISTS, SHALL:

23 1. **DEVELOP A PACKAGE OF CONSENSUS**
 24 **RECOMMENDATIONS THROUGH A FACILITATED CONSENSUS SOLUTIONS PROCESS,**
 25 **BASED ON A 75% MAJORITY AGREEMENT LEVEL FOR EACH RECOMMENDATION;**

26 2. ~~REVIEW CURRENT AND PROPOSED MANAGEMENT~~
 27 ~~ACTIONS FOR COMPLETENESS AND RECOMMEND ADDITIONAL~~ RECOMMEND
 28 MANAGEMENT ACTIONS OR COMBINATIONS OF MANAGEMENT ACTIONS TO ACHIEVE
 29 THE TARGETS IDENTIFIED IN THE OYSTER STOCK ASSESSMENT WITH THE GOAL OF
 30 INCREASING OYSTER ABUNDANCE; AND

1 **3. REVIEW MODEL RESULTS FOR EACH MANAGEMENT**
2 **ACTION OR COMBINATION OF MANAGEMENT ACTIONS TO INFORM ~~STAKEHOLDER~~**
3 **~~WORKGROUP~~ ITS RECOMMENDATIONS.**

4 **(III) NOTWITHSTANDING § 3-305 OF THE GENERAL PROVISIONS**
5 **ARTICLE, AND WITH THE CONSENT OF A 75% MAJORITY OF ITS MEMBERS, THE**
6 **OYSTER ADVISORY COMMISSION MAY MEET AND DELIBERATE IN CLOSED SESSION**
7 **TO DEVELOP THE PACKAGE OF CONSENSUS RECOMMENDATIONS FOR ENHANCING**
8 **AND IMPLEMENTING THE FISHERY MANAGEMENT PLAN FOR OYSTERS UNDER THIS**
9 **PARAGRAPH.**

10 **(IV) 1. THE DEPARTMENT SHALL SUBMIT INTERIM REPORTS**
11 **ON THE DEVELOPMENT OF THE PACKAGE OF CONSENSUS RECOMMENDATIONS BY**
12 **DECEMBER 1, 2019, AUGUST 1, 2020, AND DECEMBER 1, 2020, TO THE GOVERNOR**
13 **AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE**
14 **GENERAL ASSEMBLY.**

15 **2. THE DEPARTMENT SHALL PROVIDE A FINAL REPORT**
16 **BY JULY 1, 2021, WHICH WILL INCLUDE AN IMPLEMENTATION SCHEDULE FOR THE**
17 **CONSENSUS RECOMMENDATIONS, TO THE GOVERNOR AND, IN ACCORDANCE WITH §**
18 **2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.**

19 **(V) TO BE RESPONSIVE TO CHANGES IN THE OYSTER RESOURCE**
20 **DUE TO ENVIRONMENTAL CONDITIONS, THE DEPARTMENT SHALL:**

21 **1. REVIEW THE STATUS OF THE STOCK RELATIVE TO**
22 **REFERENCE POINTS EVERY 2 YEARS AND CONDUCT A BENCHMARK STOCK**
23 **ASSESSMENT EVERY 6 YEARS WITH CONSIDERATION OF NEW METHODS AND WITH**
24 **EXTERNAL PEER REVIEW; AND**

25 **2. WITH THE INPUT OF INTERESTED STAKEHOLDERS,**
26 **IMPLEMENT MANAGEMENT ACTIONS THAT INCREASE OYSTER HABITAT, MAINTAIN**
27 **HARVEST, AND GROW THE OYSTER STOCK.**

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

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

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

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.