

# SENATE BILL 808

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EMERGENCY BILL

0lr2395  
CF HB 911

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By: **Senator Elfreth**

Introduced and read first time: February 3, 2020

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 6, 2020

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## 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

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### 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.



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

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

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

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

### Article – Natural Resources

4–204.

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

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

4–215.

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

(6) Oysters;

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

(ii) The fishery management plan developed in accordance with  
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.

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

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

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

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

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

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

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

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

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

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

[(v)] **(IV)** To be responsive to changes in the oyster resource due to 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:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.