

HOUSE BILL 638

M2

5lr2438
CF 5lr2137

By: **Delegates Holmes and Frush**

Introduced and read first time: February 12, 2015

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Oysters – Shell Seeding, Shell Replenishment, and**
3 **Rotational Harvest**

4 FOR the purpose of authorizing a person to use a power dredge to harvest oysters from any
5 natural oyster bar in the State during a certain time period, subject to certain
6 requirements and exceptions; establishing certain harvest limits for certain natural
7 oyster bars during certain oyster seasons; authorizing the licensed oyster harvesters
8 of each county to elect a county commercial oyster committee; providing for the
9 composition and chair of an oyster committee; establishing certain procedures for
10 electing the members of an oyster committee; establishing the term of a member of
11 an oyster committee; requiring an oyster committee to develop and submit to the
12 Department of Natural Resources a certain rotational harvest plan on or before a
13 certain date, beginning in a certain year; specifying the contents of a rotational
14 harvest plan; requiring an oyster committee to mark certain oyster bars in a certain
15 manner; authorizing the Department to mark certain oyster bars under certain
16 circumstances; authorizing the Department to close up to a certain percentage of
17 certain oyster bars to power dredging at the request of an oyster committee, prior to
18 a certain year; authorizing a licensed harvester to obtain shell from certain oysters
19 from certain sources and to deposit the shell in any public shellfish fishery area,
20 subject to certain requirements; requiring a certain licensed oyster dealer to make a
21 certain report to the Department at a certain interval; requiring the Department to
22 designate certain oyster bars as public seed areas based on certain information on or
23 before a certain date each year; requiring the Department to designate a certain time
24 when licensed oyster harvesters may remove seed oysters from certain public seed
25 areas and deposit the seed oysters on certain oyster bars, subject to certain
26 requirements; requiring the Department to limit by regulation the total quantity of
27 shell seed that may be removed from a public seed area in a year; authorizing an
28 oyster committee to designate certain oyster bars as county planting areas or county
29 propagation areas, under certain circumstances; authorizing a licensed oyster
30 harvester to remove certain oyster shell from a county planting area and deposit the
31 shell on a county propagation area at a certain time, subject to certain requirements;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 requiring the Department to use certain surcharges and taxes in a certain manner;
 2 requiring the Department to adopt regulations to implement provisions of this Act;
 3 authorizing the Department to adopt regulations to implement certain provisions of
 4 this Act; providing that certain oyster sanctuaries and harvest reserve areas shall
 5 cease to exist on the taking effect of this Act; defining certain terms; repealing certain
 6 provisions of law; making stylistic changes; and generally relating to oysters.

7 BY repealing

8 Article – Natural Resources

9 Section 4–1001(l), 4–1009.1, 4–1014 through 4–1014.3, 4–1015.1(c), 4–1019, and
 10 4–1103.1

11 Annotated Code of Maryland

12 (2012 Replacement Volume and 2014 Supplement)

13 BY renumbering

14 Article – Natural Resources

15 Section 4–1101(j) through (l), respectively

16 to be Section 4–1101(k) through (m), respectively

17 Annotated Code of Maryland

18 (2012 Replacement Volume and 2014 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article – Natural Resources

21 Section 4–701(g)(1), 4–1006.2(a), 4–1009, 4–1012, 4–1019.2(b), 4–1020(c), 4–1103,
 22 4–1106, 4–1107, 4–11A–05(b)(2)(iii), 4–11A–06(b)(2)(iii), 4–11A–07(c)(1)(iii),
 23 4–11A–08(c)(1)(iii), 4–11A–11(d)(3), and 4–1201(f)

24 Annotated Code of Maryland

25 (2012 Replacement Volume and 2014 Supplement)

26 BY adding to

27 Article – Natural Resources

28 Section 4–1012.1, 4–1019, 4–1101(j), 4–1108, and 4–1109

29 Annotated Code of Maryland

30 (2012 Replacement Volume and 2014 Supplement)

31 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

32 That Section(s) 4–1001(l), 4–1009.1, 4–1014 through 4–1014.3, 4–1015.1(c), and 4–1103.1
 33 of Article – Natural Resources of the Annotated Code of Maryland be repealed.

34 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 4–1101(j) through
 35 (l), respectively, of Article – Natural Resources of the Annotated Code of Maryland be
 36 renumbered to be Section(s) 4–1101(k) through (m), respectively.

37 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 38 as follows:

39 **Article – Natural Resources**

1 4-701.

2 (g) (1) (i) A person may not catch oysters for sale without:

3 1. Possessing a valid license under this section;

4 2. Paying an annual surcharge of \$300; and

5 3. Certifying to the Department that the person received the
6 publications required under § 4-1006.2 of this title.

7 (ii) The Department shall use the surcharges collected under this
8 paragraph only [for oyster repletion activities] **TO FUND THE SHELL SEEDING AND**
9 **SHELL REPLENISHMENT ACTIVITIES OF THE COUNTY COMMERCIAL OYSTER**
10 **COMMITTEES, IN ACCORDANCE WITH § 4-1107 OF THIS TITLE.**

11 4-1006.2.

12 (a) The Department annually shall publish maps and coordinates of oyster
13 sanctuaries, [closed oyster harvest reserve areas,] **AREAS CLOSED TO HARVEST BY A**
14 **COUNTY COMMERCIAL OYSTER COMMISSION UNDER § 4-1012.1 OF THIS SUBTITLE,**
15 and areas closed to shellfish harvest by the Department of the Environment.

16 4-1009.

17 (a) During the closed season for taking oysters, a person may take seed oysters
18 from [the natural bars of the State marked by the Department for a period not exceeding
19 one month in any one year, at times designated by the Department. The seed oysters shall
20 be taken only in accordance with rules and regulations the Department prescribes, sold
21 only to lessees of private oyster grounds, delivered only on leased oyster bottoms and
22 subject to the provisions of § 4-1103(c) of this title]:

23 (1) **AQUACULTURE SEED AREAS, SUBJECT TO THE PROVISIONS OF §**
24 **4-1103 OF THIS TITLE; OR**

25 (2) **PUBLIC SEED AREAS, SUBJECT TO THE PROVISIONS OF § 4-1108**
26 **OF THIS TITLE.**

27 (b) (1) [The] **SUBJECT TO THE PROVISIONS OF § 4-1012 OF THIS**
28 **SUBTITLE, THE** Secretary may establish by rule or regulation daily catch limits on the
29 quantities of oysters which may be caught from the waters of the State except leased areas
30 and aquaculture enterprise zones, and may amend the daily catch limits to conserve the
31 public oyster resource.

1 **(2)** Notice of the establishment or amendment of these catch limits,
2 including all applicable reasons for the Department's action, shall be given before
3 publication, to the Joint Committee on Administrative, Executive, and Legislative Review
4 and by publication of the notice in at least one newspaper of general circulation in the State,
5 in at least one newspaper of general circulation in each county in which the affected waters
6 are located, and on the web site of the Department not less than one week prior to the
7 effective date.

8 4-1012.

9 (a) [A person may not catch oysters by dredge in the Atlantic Coastal Bays, as
10 defined in § 8-1802 of this article, or in the following areas of the Chesapeake Bay: the area
11 bounded by a line drawn from Lowes Point towards the Bloody Point Lighthouse for a
12 distance of 1.8 miles, and then direct to North Point on Poplar Island; then southerly
13 around the westerly shore of Poplar Island to the southwesterly most point; then running
14 in a straight line to the Department marker on the northern shore of Pawpaw Cove which
15 area shall be reserved for catching of oysters with shaft tongs only; all the area lying within
16 one-fourth mile of the western shore of Poplar Island; all the area within one-half mile of
17 Plum Point; all the area within one and one-half miles of Sandy Point, Hackett Point, Tolly
18 Point, and Thomas Point within Anne Arundel County waters; and the following oyster
19 bars: 2-9, 2-10, 5-1, 5-2, 5-3A, 5-3B, 8-2, 8-6, and 8-9, as defined by the charts of the
20 Oyster Survey of 1906 to 1912, and its amendments] **EXCEPT AS PROVIDED IN**
21 **SUBSECTION (B) OF THIS SECTION, FROM NOVEMBER 1 TO THE END OF THE OYSTER**
22 **SEASON, INCLUSIVE, A PERSON MAY USE A POWER DREDGE TO HARVEST OYSTERS**
23 **FROM ANY NATURAL OYSTER BAR IN THE STATE, SUBJECT TO THE REQUIREMENTS**
24 **OF § 4-1013 OF THIS PART.**

25 **(B) A PERSON MAY NOT USE A POWER DREDGE TO HARVEST OYSTERS IN:**

26 **(1) THE ATLANTIC COASTAL BAYS, AS DEFINED IN § 8-1802 OF THIS**
27 **ARTICLE;**

28 **(2) EXCEPT AS AUTHORIZED UNDER SUBTITLE 11A OF THIS TITLE,**
29 **AN AQUACULTURE LEASE OR DEMONSTRATION LEASE AREA, AS DEFINED IN §**
30 **4-11A-01 OF THIS TITLE;**

31 **(3) AN AREA CLOSED TO POWER DREDGING BY A COUNTY**
32 **COMMERCIAL OYSTER COMMITTEE UNDER § 4-1012.1 OF THIS PART;**

33 **(4) AN AREA CLOSED TO SHELLFISH HARVEST BY THE DEPARTMENT**
34 **OF THE ENVIRONMENT UNDER § 4-742 OF THIS TITLE; OR**

35 **(5) THE FOLLOWING OYSTER SANCTUARIES, AS DEFINED BY**
36 **REGULATIONS ADOPTED BY THE DEPARTMENT AND IN EFFECT ON JANUARY 1,**
37 **2015:**

1 (I) THE HARRIS CREEK SANCTUARY;

2 (II) THE LITTLE CHOPTANK RIVER SANCTUARY;

3 (III) THE OXFORD LABORATORY SANCTUARY; AND

4 (IV) THE SANDY HILL SANCTUARY.

5 (C) SUBJECT TO THE REQUIREMENTS OF § 4-1013 OF THIS PART, THE
6 DEPARTMENT SHALL AUTHORIZE A PERSON TO USE A POWER DREDGE TO HARVEST:

7 (1) FROM THE 2015-2016 OYSTER SEASON THROUGH THE
8 2018-2019 OYSTER SEASON, INCLUSIVE:

9 (I) NOT LESS THAN 6 BUSHEL OF OYSTERS PER DAY FROM ANY
10 NATURAL OYSTER BAR THAT WAS CLOSED TO POWER DREDGING DURING THE
11 2014-2015 OYSTER SEASON; AND

12 (II) NOT LESS THAN 10 BUSHEL OF OYSTERS PER DAY FROM
13 ANY NATURAL OYSTER BAR THAT WAS OPEN TO POWER DREDGING DURING THE
14 2014-2015 OYSTER SEASON; AND

15 (2) BEGINNING IN THE 2019-2020 OYSTER SEASON, NOT LESS THAN
16 10 BUSHEL OF OYSTERS PER DAY FROM ANY NATURAL OYSTER BAR THAT IS OPEN
17 TO POWER DREDGING.

18 [(b)] (D) (1) Any boat sailing over any areas of the State which are exempt
19 from dredging, by this subtitle or by rule or regulation of the Department, with any dredge,
20 scrape, scoop, or similar instrument on board or in tow, may be apprehended by any
21 Natural Resources police officer or any other law enforcement officer.

22 (2) If the boat has on board any wet oysters, dredge, or dredge line, or if the
23 deck is wet and the boat is equipped for catching oysters with dredge or similar instrument,
24 these facts shall be prima facie evidence that the boat has been used to violate the
25 provisions of this section.

26 4-1012.1.

27 (A) IN THIS SECTION, "OYSTER COMMITTEE" MEANS A COUNTY
28 COMMERCIAL OYSTER COMMITTEE ESTABLISHED UNDER § 4-1106 OF THIS TITLE.

29 (B) BEGINNING IN 2021, ON OR BEFORE AUGUST 1 OF EACH YEAR, EACH
30 OYSTER COMMITTEE SHALL DEVELOP AND SUBMIT TO THE DEPARTMENT A

1 ROTATIONAL HARVEST PLAN FOR THE NATURAL OYSTER BARS IN COUNTY WATERS
2 UNDER THE OYSTER COMMITTEE'S JURISDICTION.

3 (C) A ROTATIONAL HARVEST PLAN:

4 (1) SHALL DESIGNATE FOR CLOSURE DURING THE UPCOMING
5 OYSTER SEASON APPROXIMATELY 20% OF THE NATURAL OYSTER BARS UNDER THE
6 COMMITTEE'S JURISDICTION THAT YIELDED HARVESTS OF 50 BUSHEL OR MORE
7 DURING THE PRECEDING 3 OYSTER SEASONS;

8 (2) MAY LIMIT THE TIMES OR DAYS FOR POWER DREDGING ON ANY
9 NATURAL OYSTER BAR UNDER THE COMMITTEE'S JURISDICTION; AND

10 (3) MAY LIMIT THE GEAR A PERSON MAY USE TO HARVEST OYSTERS
11 ON ANY NATURAL OYSTER BAR UNDER THE COMMITTEE'S JURISDICTION.

12 (D) THE DEPARTMENT SHALL ADOPT REGULATIONS IMPLEMENTING THE
13 ROTATIONAL HARVEST PLANS OF THE OYSTER COMMITTEES.

14 (E) (1) BEFORE THE FIRST DAY OF THE OYSTER SEASON, AN OYSTER
15 COMMITTEE SHALL:

16 (I) USE RED MARKERS TO CLEARLY MARK ANY NATURAL
17 OYSTER BAR THAT IS CLOSED TO HARVESTING UNDER A ROTATIONAL HARVEST
18 PLAN; AND

19 (II) USE RED AND YELLOW MARKERS TO CLEARLY MARK ANY
20 NATURAL OYSTER BAR THAT IS SUBJECT TO SPECIAL HARVEST RESTRICTIONS
21 UNDER A ROTATIONAL HARVEST PLAN.

22 (2) IF AN OYSTER COMMITTEE FAILS TO MARK ANY NATURAL OYSTER
23 BAR AS REQUIRED UNDER THIS PARAGRAPH, THE DEPARTMENT MAY MARK THE
24 NATURAL OYSTER BARS ON BEHALF OF THE OYSTER COMMITTEE.

25 (F) PRIOR TO 2021, THE DEPARTMENT MAY, AT THE REQUEST OF AN
26 OYSTER COMMITTEE, CLOSE UP TO 20% OF THE NATURAL OYSTER BARS UNDER THE
27 OYSTER COMMITTEE'S JURISDICTION TO POWER DREDGING.

28 [4-1019.

29 Any person buying or selling oyster shells shall report to the Department, at times
30 the Department prescribes by rule or regulation, every purchase or sale of oyster shells,
31 stating the number of bushels purchased or sold, the date of sale, the name and address of

1 the other party to the transaction, and any other information the Department prescribes
2 by rule or regulation.]

3 **4-1019.**

4 **(A) A LICENSED OYSTER HARVESTER MAY:**

5 **(1) OBTAIN SHELL FROM OYSTERS OF THE SPECIES CRASSOSTREA**
6 **VIRGINICA FROM A LICENSED OYSTER DEALER, SHUCKING HOUSE, SHELL**
7 **COLLECTION PROGRAM, OR ANY OTHER SOURCE; AND**

8 **(2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, DEPOSIT THE**
9 **SHELL IN ANY PUBLIC SHELLFISH FISHERY AREA.**

10 **(B) AT LEAST 14 DAYS BEFORE A LICENSED OYSTER HARVESTER DEPOSITS**
11 **SHELL IN ANY PUBLIC SHELLFISH FISHERY AREA, THE LICENSED OYSTER**
12 **HARVESTER SHALL PROVIDE TO THE DEPARTMENT:**

13 **(1) THE NAME, ADDRESS, AND CONTACT INFORMATION OF THE**
14 **PERSON FROM WHOM THE SHELL WAS OBTAINED;**

15 **(2) THE NAME AND APPROXIMATE COORDINATES OF THE NATURAL**
16 **OYSTER BAR ON WHICH THE SHELL WILL BE DEPOSITED;**

17 **(3) THE NAME AND LICENSE IDENTIFICATION NUMBER OF THE**
18 **PERSON RESPONSIBLE FOR DEPOSITING THE SHELL;**

19 **(4) THE NAME OF THE BOAT THAT WILL BE USED TO DEPOSIT THE**
20 **SHELL;**

21 **(5) THE DATES ON WHICH, WEATHER PERMITTING, THE SHELL WILL**
22 **BE TRANSPORTED AND DEPOSITED; AND**

23 **(6) THE APPROXIMATE QUANTITY OF SHELL THAT WILL BE**
24 **DEPOSITED.**

25 **(C) AT LEAST ONCE EACH YEAR, A LICENSED OYSTER DEALER THAT**
26 **ENGAGES IN SHUCKING OYSTERS SHALL REPORT TO THE DEPARTMENT ON THE**
27 **QUANTITY AND DISPOSITION OF ANY SHELL THE DEALER PRODUCED IN THE**
28 **PRECEDING YEAR.**

29 **(D) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS**
30 **SECTION.**

1 4-1019.2.

2 (b) Except as provided in subsection (c) of this section, any licensed oyster dealer
3 shall reserve for 8 months after the opening of each annual public shellfish fishery season
4 all shells of oysters harvested from the Chesapeake Bay or its tributaries and commercially
5 shucked in the State for purchase by the Department for oyster restoration, unless the
6 dealer plants or provides the shells for planting:

7 (1) In an area privately leased for aquaculture purposes;

8 (2) On riparian bottom as provided in § 4-11A-17 of this title for the
9 propagation of oysters; or

10 (3) On public shellfish fishery areas [designated by the Department], IN
11 **ACCORDANCE WITH § 4-1019 OF THIS SUBTITLE.**

12 4-1020.

13 (c) All taxes collected under this section shall be credited to the Fisheries
14 Research and Development Fund and used only [for the repletion of the natural oyster bars
15 of the State. The tax increase effective July 1, 1982, shall be used solely for the oyster seed
16 program, with a minimum of 5 percent of the increase being used in each of the following
17 counties:

18 Anne Arundel;

19 Calvert;

20 Charles;

21 Dorchester;

22 Kent;

23 Queen Anne's;

24 Somerset;

25 St. Mary's;

26 Talbot; and

27 **Wicomico] TO FUND THE SHELL SEEDING AND SHELL REPLENISHMENT**
28 **ACTIVITIES OF THE COUNTY COMMERCIAL OYSTER COMMITTEES, IN ACCORDANCE**
29 **WITH § 4-1107 OF THIS TITLE.**

1 4-1101.

2 (J) "OYSTER COMMITTEE" MEANS A COUNTY COMMERCIAL OYSTER
3 COMMITTEE ESTABLISHED UNDER § 4-1106 OF THIS PART.

4 4-1103.

5 (a) The Department shall take measures which in its judgment seem best
6 calculated to increase the productivity or utility of oyster resources in the State, including:

7 (1) Identifying and using effective methods of cleaning diseased oyster
8 bars;

9 (2) Providing clean shell for the bars;

10 (3) Using hatchery produced oysters to replant sites; and

11 (4) Applying for a permit to dredge buried oyster shells.

12 (b) (1) The Department may select and reserve for its own use areas, to be
13 known as **AQUACULTURE** seed areas, within the waters of the State for the propagation of
14 seed oysters **FOR AQUACULTURE PURPOSES**.

15 (2) The number, size, and location of these areas shall be determined from
16 time to time by the Department.

17 (3) (I) The Department shall, before publication, deliver a notice of
18 reservation, including all applicable reasons for the Department's act, to the Joint
19 Committee on Administrative, Executive, and Legislative Review and publish the notice
20 not less than 30 days before the closing date of any seed area in one newspaper of general
21 circulation in the State and at least one newspaper of general circulation in each county in
22 which the affected waters are located, and on the web site of the Department.

23 (II) The Department shall schedule a public hearing on the proposal
24 not less than 15 days before the proposed closing date.

25 (III) The hearing shall be held at the county seat of the county in
26 which the affected waters are located.

27 (IV) If the affected waters are located in more than one county, the
28 hearing shall be held in that county seat closest to the affected waters, but if the area
29 affected is totally within State waters, the hearing shall be held in Annapolis.

30 (c) The State may sell seed oysters to persons who hold a valid aquaculture or
31 submerged land lease for no less than the prevailing price of seed oysters of similar quality

1 in nearby states. Conditions of sale may be prescribed by rule or regulation of the
2 Department. The proceeds from these sales shall be credited by the Comptroller to the
3 Fisheries Research and Development Fund.

4 (d) (1) In addition to the provisions of subsections (b) and (c) of this section
5 concerning the establishment of [oyster] AQUACULTURE seed areas and the sale of seed
6 oysters to a leaseholder, the Department may:

7 (i) Sell or remove seed oysters from [oyster] AQUACULTURE seed
8 areas if the sale or removal is made under disease protocols; and

9 (ii) Adopt regulations necessary to implement the provisions of this
10 subsection.

11 (2) The Department shall credit the proceeds of any sale of seed oysters
12 under this subsection to the Fisheries Research and Development Fund in the Department.

13 (3) The Department shall:

14 (i) Sell, at prevailing market prices, seed oysters produced in an
15 aquaculture [oyster] seed area to a person who holds a valid lease issued under Subtitle
16 11A of this title, or an aquaculture permit to cultivate shellfish; and

17 (ii) Use any revenue derived from the sale of seed oysters to
18 reimburse the Fisheries Research and Development Fund for any expenditure needed to
19 create the aquaculture [oyster] seed areas under this subsection.

20 4-1106.

21 (a) The Department may transplant oysters, shells, or other cultch from one
22 closed area to another, transplant or otherwise utilize within the State seed oysters
23 produced on shells or other cultch planted by the Department, or transplant or utilize any
24 other seed oyster which may accumulate on areas where seed oysters are not likely to
25 develop into desirable marketable oysters.

26 [(b) (1) The Department shall have licensed oystermen in each tidewater
27 county of this State select a county committee of five representative licensed tongers, who
28 earn their livelihood by catching oysters, to confer with the Department concerning oyster
29 propagation conducted by the Department in that county. Each county committee shall
30 elect a chairman to serve on a statewide committee of oystermen to advise the Department
31 on statewide issues concerning oyster propagation.

32 (2) A similar advisory committee that includes licensed dredgers shall be
33 selected to confer with the Department concerning the propagation of oysters in the
34 dredging areas. The committee shall elect a chairman to serve on a statewide committee of
35 oystermen to advise the Department on statewide issues concerning oyster propagation.

1 (3) The Department shall appoint 5 representatives, licensed oystermen of
2 this State who earn their livelihood catching oysters by using diving apparatus as a
3 committee to confer with the Department concerning oyster propagation conducted by the
4 Department in the areas of the State where the catching of oysters by using diving
5 apparatus is permitted. The committee shall select a chairman to serve on a statewide
6 committee of oystermen to advise the Department on statewide issues concerning oyster
7 propagation.

8 (4) The Department shall appoint 5 representatives, licensed oystermen of
9 this State who earn their livelihood catching oysters by using patent tongs as a committee
10 to confer with the Department concerning oyster propagation conducted by the Department
11 in the areas of the State where the catching of oysters by using patent tongs is permitted.
12 The committee shall select a chairman to serve on a statewide committee of oystermen to
13 advise the Department on statewide issues concerning oyster propagation.

14 (5) The term of membership for each committee is four years, except that
15 of the original committeemen, three are to serve a 4-year term and two are to serve a
16 2-year term. Each term begins on March 1.

17 (6) If a vacancy occurs because a member is unable or unwilling to serve,
18 the Department immediately shall notify in writing each member of the committee of the
19 vacancy. The committee shall arrange for a new election to fill the vacancy. If the vacancy
20 is not filled within 60 days after the vacancy occurs, the Department shall make the
21 necessary appointments to fill each vacancy. When committee members are selected or
22 when any vacancy is filled, the Department shall notify promptly the members of the
23 General Assembly from the county of the names of the committee members selected or
24 appointed to fill a vacancy in that county. An appointment to a vacancy in an unexpired
25 term is limited to the remainder of the term.

26 (7) The Department shall prescribe by rule and regulation the time, place,
27 and manner of selection of the oyster committees.

28 (8) The Fisheries Administration shall submit an annual summary of the
29 Fisheries Research and Development Fund to the committee of oystermen for each county.
30 The summary shall include an accounting of receipts and expenditures.]

31 **(B) (1) THE LICENSED OYSTER HARVESTERS OF EACH COUNTY MAY**
32 **ELECT A COUNTY COMMERCIAL OYSTER COMMITTEE.**

33 **(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (II) AND (III) OF**
34 **THIS PARAGRAPH, AN OYSTER COMMITTEE SHALL CONSIST OF THE FOLLOWING FIVE**
35 **MEMBERS:**

36 **1. ONE MEMBER WHO HARVESTS OYSTERS PRIMARILY**
37 **USING HAND TONGS;**

1 2. **ONE MEMBER WHO HARVESTS OYSTERS PRIMARILY**
2 **USING PATENT TONGS;**

3 3. **ONE MEMBER WHO HARVESTS OYSTERS PRIMARILY**
4 **USING A DIVING APPARATUS;**

5 4. **ONE MEMBER WHO HARVESTS OYSTERS PRIMARILY**
6 **BY POWER DREDGING; AND**

7 5. **ONE AT-LARGE MEMBER WHO MAY USE ANY**
8 **ALLOWABLE METHOD TO HARVEST OYSTERS.**

9 **(II) IF A COUNTY DOES NOT HAVE SUFFICIENT CANDIDATES TO**
10 **REPRESENT EACH GEAR TYPE DESCRIBED IN SUBPARAGRAPH (I) OF THIS**
11 **PARAGRAPH, THE OYSTER COMMITTEE MAY INCLUDE MORE THAN ONE MEMBER FOR**
12 **A PARTICULAR GEAR TYPE.**

13 **(III) IF THERE ARE FEWER THAN FIVE LICENSED OYSTER**
14 **HARVESTERS IN A COUNTY WHO ARE WILLING TO SERVE ON AN OYSTER COMMITTEE,**
15 **THE OYSTER COMMITTEE MAY CONSIST OF AS FEW AS THREE MEMBERS.**

16 **(IV) THE MEMBERS OF THE OYSTER COMMITTEE SHALL SELECT**
17 **THE CHAIR OF THE OYSTER COMMITTEE.**

18 **(3) (I) THE MEMBERS OF AN OYSTER COMMITTEE SHALL BE**
19 **ELECTED BY A MAJORITY VOTE OF ALL THE LICENSED OYSTER HARVESTERS**
20 **RESIDING WITHIN THE COUNTY TAKEN AT A PUBLIC MEETING HELD FOR THAT**
21 **PURPOSE.**

22 **(II) THE PUBLIC MEETING SHALL BE:**

23 1. **ADVERTISED AT LEAST TWICE IN A NEWSPAPER OF**
24 **GENERAL CIRCULATION IN THE COUNTY DURING THE 2 WEEKS PRECEDING THE**
25 **PUBLIC MEETING; AND**

26 2. **HELD DURING EVENING HOURS IN A PUBLIC OR**
27 **QUASI-PUBLIC BUILDING, SUCH AS A COUNTY OR MUNICIPAL BUILDING, PUBLIC**
28 **LIBRARY, OR PUBLIC FIRE HALL.**

29 **(III) NOMINATIONS, INCLUDING SELF-NOMINATIONS, FOR EACH**
30 **POSITION ON THE OYSTER COMMITTEE SHALL BE TAKEN AT THE START OF THE**
31 **PUBLIC MEETING.**

1 **(IV) FOLLOWING A PUBLIC MEETING TO ELECT AN OYSTER**
2 **COMMITTEE, THE OYSTER COMMITTEE SHALL SUBMIT TO THE DEPARTMENT:**

3 **1. A LIST OF EACH LICENSED OYSTER HARVESTER WHO**
4 **ATTENDED THE PUBLIC MEETING;**

5 **2. A RECORD OF THE VOTES CAST FOR EACH NOMINEE;**
6 **AND**

7 **3. A LIST OF EACH MEMBER ELECTED TO THE OYSTER**
8 **COMMITTEE AND, IF APPLICABLE, THE GEAR TYPE REPRESENTED BY EACH**
9 **MEMBER.**

10 **(4) (I) THE TERM OF A MEMBER IS 3 YEARS.**

11 **(II) IF A MEMBER IS UNABLE TO SERVE A FULL TERM, A**
12 **REPLACEMENT MEMBER MAY BE ELECTED IN ACCORDANCE WITH THE PROCEDURE**
13 **SET FORTH IN PARAGRAPH (3) OF THIS SUBSECTION.**

14 (c) The Department shall expend any fund appropriated in the budget for oyster
15 propagation for the planting of oyster shells, other cultch, or seed oysters on natural oyster
16 bars or seed areas, or for the purchase of necessary equipment.

17 (d) [The Department may close without holding a public hearing any natural
18 oyster bar in the waters of the State with the approval of the appropriate committee of
19 oystermen] **THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT ANY**
20 **DECISION OF AN OYSTER COMMITTEE RELATING TO HARVEST CLOSURES, HARVEST**
21 **RESTRICTIONS, OR GEAR RESTRICTIONS FOR NATURAL OYSTER BARS UNDER THE**
22 **COMMITTEE'S JURISDICTION, IN ACCORDANCE WITH § 4-1012.1 OF THIS SUBTITLE.**

23 4-1107.

24 **(A) (1) The Department may cooperate with any county or political subdivision**
25 **providing funds to purchase and plant shells and transplant seed oysters.**

26 **(2) The appropriate governing body of any county or political subdivision**
27 **that expends funds for this purpose may designate the planting areas for the purchased**
28 **shells.**

29 **(B) (1) THE DEPARTMENT SHALL EVENLY DISTRIBUTE TO EACH OYSTER**
30 **COMMITTEE THE TOTAL AMOUNT OF THE SURCHARGES AND TAXES REQUIRED TO BE**
31 **USED FOR THE SHELL SEEDING AND SHELL REPLENISHMENT ACTIVITIES OF THE**
32 **OYSTER COMMITTEES UNDER §§ 4-701 AND 4-1020 OF THIS TITLE.**

1 **(2) ON OR BEFORE MAY 15 OF EACH YEAR, THE DEPARTMENT SHALL**
2 **PROVIDE TO EACH OYSTER COMMITTEE AN ACCOUNTING OF THE TOTAL AMOUNT OF**
3 **SURCHARGES AND TAXES COLLECTED DURING THE PREVIOUS FISCAL YEAR AND THE**
4 **AMOUNT OF FUNDS HELD BY THE DEPARTMENT FOR USE BY THE OYSTER**
5 **COMMITTEE.**

6 **(3) WITHIN 30 DAYS AFTER RECEIVING A WRITTEN REQUEST SIGNED**
7 **BY THE CHAIR OF AN OYSTER COMMITTEE, THE DEPARTMENT SHALL PAY TO ANY**
8 **PERSON INDICATED IN THE WRITTEN REQUEST ALL OR A PORTION OF THE FUNDS**
9 **BEING HELD FOR THE OYSTER COMMITTEE.**

10 **4-1108.**

11 **(A) ON OR BEFORE MAY 15 OF EACH YEAR, THE DEPARTMENT SHALL**
12 **DESIGNATE SEVERAL OF THE MOST PRODUCTIVE NATURAL OYSTER BARS AS PUBLIC**
13 **SEED AREAS, BASED ON HARVEST REPORTS FROM THE PRECEDING OYSTER SEASON.**

14 **(B) THE DEPARTMENT SHALL DESIGNATE 1 MONTH DURING THE CLOSED**
15 **SEASON FOR HARVESTING OYSTERS WHEN LICENSED OYSTER HARVESTERS MAY**
16 **REMOVE SEED OYSTERS FROM THE PUBLIC SEED AREAS AND DEPOSIT THE SEED**
17 **OYSTERS ON LESS PRODUCTIVE NATURAL OYSTER BARS.**

18 **(C) THE DEPARTMENT SHALL DESIGNATE PUBLIC SEED AREAS IN:**

19 **(1) SOUTHERN ANNE ARUNDEL COUNTY, CALVERT COUNTY,**
20 **DORCHESTER COUNTY, AND TALBOT COUNTY TO PROVIDE SHELL SEED FOR**
21 **NATURAL OYSTER BARS IN NORTHERN ANNE ARUNDEL COUNTY, BALTIMORE**
22 **COUNTY, HARFORD COUNTY, KENT COUNTY, AND QUEEN ANNE'S COUNTY; AND**

23 **(2) ST. MARY'S COUNTY, SOMERSET COUNTY, AND WICOMICO**
24 **COUNTY TO PROVIDE SHELL SEED FOR NATURAL OYSTER BARS IN SOUTHERN ANNE**
25 **ARUNDEL COUNTY, CALVERT COUNTY, DORCHESTER COUNTY, AND TALBOT**
26 **COUNTY.**

27 **(D) THE DEPARTMENT SHALL BY REGULATION LIMIT THE TOTAL QUANTITY**
28 **OF SHELL SEED THAT MAY BE REMOVED FROM A PUBLIC SEED AREA IN A YEAR.**

29 **(E) AT LEAST 14 DAYS BEFORE TRANSPLANTING SEED OYSTERS UNDER**
30 **THIS SECTION, A LICENSED OYSTER HARVESTER SHALL SUBMIT TO THE**
31 **DEPARTMENT:**

32 **(1) THE NAME AND APPROXIMATE COORDINATES OF THE PUBLIC**
33 **SEED AREA FROM WHICH THE SEED OYSTERS WILL BE TAKEN;**

1 **(2) THE NAME AND APPROXIMATE COORDINATES OF THE NATURAL**
2 **OYSTER BAR ON WHICH THE SEED OYSTERS WILL BE DEPOSITED;**

3 **(3) THE NAME AND LICENSE IDENTIFICATION NUMBER OF THE**
4 **PERSON RESPONSIBLE FOR TRANSPLANTING THE SEED OYSTERS;**

5 **(4) THE NAME OF THE BOAT THAT WILL BE USED TO TRANSPLANT THE**
6 **SEED OYSTERS;**

7 **(5) THE DATES ON WHICH, WEATHER PERMITTING, THE SEED**
8 **OYSTERS WILL BE TRANSPLANTED; AND**

9 **(6) THE APPROXIMATE QUANTITY OF SEED OYSTERS THAT WILL BE**
10 **TRANSPLANTED.**

11 **(F) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT**
12 **THIS SECTION.**

13 **(2) THE DEPARTMENT MAY BY REGULATION ESTABLISH**
14 **PROCEDURES FOR VERIFYING THAT SEED SHELL IS TRANSPLANTED ONLY IN**
15 **ACCORDANCE WITH THIS SECTION.**

16 **4-1109.**

17 **(A) (1) AN OYSTER COMMITTEE MAY DESIGNATE ANY NATURAL OYSTER**
18 **BAR IN COUNTY WATERS UNDER THE JURISDICTION OF THE OYSTER COMMITTEE**
19 **THAT IS OPEN TO DREDGING:**

20 **(I) AS A COUNTY PLANTING AREA IF THE OYSTER COMMITTEE**
21 **DETERMINES THAT THE NATURAL OYSTER BAR IS NATURALLY UNPRODUCTIVE; OR**

22 **(II) AS A COUNTY PROPAGATION AREA IF THE OYSTER**
23 **COMMITTEE DETERMINES THAT THE NATURAL OYSTER BAR IS NATURALLY**
24 **PRODUCTIVE.**

25 **(2) A COUNTY COMMERCIAL OYSTER COMMITTEE SHALL CLEARLY**
26 **MARK ANY BAR DESIGNATED AS A COUNTY PLANTING AREA OR COUNTY**
27 **PROPAGATION AREA UNDER THIS SECTION.**

28 **(3) THE DEPARTMENT SHALL ADOPT REGULATIONS IMPLEMENTING**
29 **THE DESIGNATIONS OF AN OYSTER COMMITTEE MADE UNDER THIS SECTION.**

1 **(B) (1) AT ANY TIME BETWEEN THE END OF THE OYSTER SEASON AND**
2 **JULY 7 OF EACH YEAR, A LICENSED OYSTER HARVESTER MAY REMOVE OYSTER**
3 **SHELL FROM A COUNTY PLANTING AREA AND DEPOSIT THE SHELL ON A COUNTY**
4 **PROPAGATION AREA SO THAT NATURAL SPAT MAY STRIKE ON THE SHELL AND BEGIN**
5 **TO GROW.**

6 **(2) WITHIN 15 MONTHS AFTER DEPOSITING SHELL FROM A COUNTY**
7 **PLANTING AREA ON A COUNTY PROPAGATION AREA, BUT NOT BETWEEN THE**
8 **MONTHS OF JUNE THROUGH SEPTEMBER, INCLUSIVE, THE LICENSED OYSTER**
9 **HARVESTER MAY REMOVE UP TO 80%, BY VOLUME, OF SEEDED SHELL FROM THE**
10 **COUNTY PROPAGATION AREA AND REDEPOSIT THE SEEDED SHELL ON THE COUNTY**
11 **PLANTING AREA.**

12 **(C) AT LEAST 14 DAYS BEFORE TRANSPLANTING OYSTER SHELL FROM A**
13 **COUNTY PLANTING AREA TO A COUNTY PROPAGATION AREA UNDER THIS SECTION,**
14 **A LICENSED OYSTER HARVESTER SHALL PROVIDE TO THE DEPARTMENT:**

15 **(1) THE NAME AND APPROXIMATE COORDINATES OF THE COUNTY**
16 **PLANTING AREA FROM WHICH THE OYSTER SHELL WILL BE TAKEN;**

17 **(2) THE NAME AND APPROXIMATE COORDINATES OF THE COUNTY**
18 **PROPAGATION AREA ON WHICH THE OYSTER SHELLS WILL BE DEPOSITED;**

19 **(3) THE NAME AND LICENSE IDENTIFICATION NUMBER OF THE**
20 **PERSON RESPONSIBLE FOR TRANSPLANTING THE OYSTER SHELLS;**

21 **(4) THE NAME OF THE BOAT THAT WILL BE USED TO TRANSPLANT THE**
22 **OYSTER SHELLS;**

23 **(5) THE DATES ON WHICH, WEATHER PERMITTING, THE OYSTER**
24 **SHELLS WILL BE TRANSPLANTED; AND**

25 **(6) THE APPROXIMATE QUANTITY OF OYSTER SHELLS THAT WILL BE**
26 **TRANSPLANTED.**

27 **(D) AT LEAST 14 DAYS BEFORE TRANSPLANTING SEEDED SHELLS FROM A**
28 **COUNTY PROPAGATION AREA TO A COUNTY PLANTING AREA UNDER THIS SECTION,**
29 **A LICENSED OYSTER HARVESTER SHALL PROVIDE TO THE DEPARTMENT:**

30 **(1) THE NAME AND APPROXIMATE COORDINATES OF THE COUNTY**
31 **PROPAGATION AREA FROM WHICH THE SEEDED SHELLS WILL BE TAKEN;**

1 **(2) THE NAME AND APPROXIMATE COORDINATES OF THE COUNTY**
2 **PLANTING AREA ON WHICH THE SEEDED SHELLS WILL BE DEPOSITED;**

3 **(3) THE DATE ON WHICH THE SHELLS WERE ORIGINALLY**
4 **TRANSPLANTED FROM THE COUNTY PLANTING AREA TO THE COUNTY PROPAGATION**
5 **AREA;**

6 **(4) THE NAME AND LICENSE IDENTIFICATION NUMBER OF THE**
7 **PERSON RESPONSIBLE FOR TRANSPLANTING THE SEEDED SHELLS;**

8 **(5) THE NAME OF THE BOAT THAT WILL BE USED TO TRANSPLANT THE**
9 **SEDED SHELLS;**

10 **(6) THE DATES ON WHICH, WEATHER PERMITTING, THE SEEDED**
11 **SHELLS WILL BE TRANSPLANTED; AND**

12 **(7) THE APPROXIMATE QUANTITY OF SEEDED SHELLS THAT WILL BE**
13 **TRANSPLANTED.**

14 4-11A-05.

15 (b) (2) An Aquaculture Enterprise Zone may not be located:

16 (iii) Within 150 feet of [an oyster reserve or] any Yates Bar located
17 in an oyster sanctuary;

18 4-11A-06.

19 (b) (2) A submerged land lease may not be located:

20 (iii) Within 150 feet of [an oyster reserve or] any Yates Bar located
21 in an oyster sanctuary;

22 4-11A-07.

23 (c) (1) A submerged land lease may not be located:

24 (iii) Within 150 feet of [any oyster reserve or] a Yates Bar located in
25 an oyster sanctuary;

26 4-11A-08.

27 (c) (1) A water column lease may not be located:

1 (iii) Within 150 feet of [an oyster reserve or] any Yates Bar located
2 in an oyster sanctuary;

3 4-11A-11.

4 (d) The proposed lease area may not be located:

5 (3) Within 150 feet of [an oyster reserve or] any Yates Bar located in an
6 oyster sanctuary;

7 4-1201.

8 (f) In addition to any other applicable penalty set forth in this title, a person who
9 unlawfully takes oysters from a leased oyster bottom, an oyster sanctuary, [an oyster
10 reserve,] **AN AREA CLOSED TO HARVEST BY A COUNTY COMMERCIAL OYSTER**
11 **COMMITTEE UNDER § 4-1012.1 OF THIS TITLE**, or an area closed to shellfish harvest by
12 the Department of the Environment, when the area is designated and marked by buoys or
13 other signage or the person knew or should have known that taking the oysters from the
14 area was unlawful, is subject to a fine not exceeding \$3,000.

15 SECTION 4. AND BE IT FURTHER ENACTED, That any oyster sanctuary or
16 harvest reserve area not described in § 4-1012 of the Natural Resources Article, as enacted
17 by Section 3 of this Act, shall cease to exist on the taking effect of this Act.

18 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July
19 1, 2015.