

# SENATE BILL 931

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By: **Senator Eckardt**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session  
Introduced and read first time: March 12, 2015

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Oysters – Oyster Committees and Harvest Reserve Areas**

3 FOR the purpose of repealing certain provisions of law relating to the designation of a  
4 harvest reserve area for oysters; repealing certain provisions of law relating to  
5 county oyster committees and a statewide committee of oystermen; requiring the  
6 licensed oyster harvesters of each tidewater county to elect a county commercial  
7 oyster committee; providing for the composition and chair of a county commercial  
8 oyster committee; requiring a county commercial oyster committee to establish a  
9 certain sustainable oyster harvest plan; establishing a State oyster committee;  
10 providing for the composition of the State oyster committee; requiring the State  
11 oyster committee to coordinate with the county commercial oyster committees to  
12 identify certain issues and harvest rotation sites and make certain  
13 recommendations; requiring the Department of Natural Resources to coordinate  
14 with the State oyster committee to implement certain provisions of this Act; defining  
15 a certain term; making a conforming change; and generally relating to oyster  
16 committees and harvest reserve areas for oysters.

17 BY repealing

18 Article – Natural Resources  
19 Section 4–1009.1  
20 Annotated Code of Maryland  
21 (2012 Replacement Volume and 2014 Supplement)

22 BY repealing and reenacting, with amendments,

23 Article – Natural Resources  
24 Section 4–1106  
25 Annotated Code of Maryland  
26 (2012 Replacement Volume and 2014 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 That the Laws of Maryland read as follows:

2 **Article – Natural Resources**

3 [4–1009.1.

4 (a) The Department may adopt regulations which designate an area as a harvest  
5 reserve area for oysters.

6 (b) Notwithstanding any other provision of law, by publishing public notice, the  
7 Department may establish for a harvest reserve area:

8 (1) The opening or closure of an area for the harvesting or conservation of  
9 oysters;

10 (2) The harvest limit;

11 (3) The seasons, days, and times when oysters may be harvested;

12 (4) A minimum size limit of not less than 3 inches; and

13 (5) A maximum size limit.

14 (c) (1) An action of the Department under subsection (b) of this section may  
15 not become effective until:

16 (i) A copy of the notice to be published under item (ii) of this  
17 paragraph has been delivered to the Joint Committee on Administrative, Executive, and  
18 Legislative Review; and

19 (ii) 48 hours after notice has been published:

20 1. In at least one newspaper of general circulation in the  
21 State;

22 2. In at least one newspaper of general circulation in each  
23 county in which the affected waters are located; and

24 3. On the website of the Department.

25 (2) The notice required under paragraph (1) of this subsection shall state  
26 all applicable reasons for the Department's action.

27 (d) The Department shall use the following biological criteria for the opening and  
28 closing of a harvest reserve area:

29 (1) Growth rates;

1 (2) Disease prevalence and intensity;

2 (3) Mortality thresholds; and

3 (4) Biomass thresholds.]

4 4-1106.

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

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

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

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

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

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

1           (6) If a vacancy occurs because a member is unable or unwilling to serve,  
2 the Department immediately shall notify in writing each member of the committee of the  
3 vacancy. The committee shall arrange for a new election to fill the vacancy. If the vacancy  
4 is not filled within 60 days after the vacancy occurs, the Department shall make the  
5 necessary appointments to fill each vacancy. When committee members are selected or  
6 when any vacancy is filled, the Department shall notify promptly the members of the  
7 General Assembly from the county of the names of the committee members selected or  
8 appointed to fill a vacancy in that county. An appointment to a vacancy in an unexpired  
9 term is limited to the remainder of the term.

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

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

15           **(B) (1) IN THIS SUBSECTION, "OYSTER COMMITTEE" MEANS A COUNTY**  
16 **COMMERCIAL OYSTER COMMITTEE.**

17           **(2) (I) THE LICENSED OYSTER HARVESTERS OF EACH TIDEWATER**  
18 **COUNTY SHALL ELECT A COUNTY COMMERCIAL OYSTER COMMITTEE.**

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

22           **(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**  
23 **PARAGRAPH, AN OYSTER COMMITTEE SHALL CONSIST OF THE FOLLOWING FIVE**  
24 **MEMBERS WHO HAVE PAID THE APPLICABLE LICENSING FEES:**

25                   **1. ONE MEMBER WHO IS A LICENSED OYSTER**  
26 **HARVESTER AND HARVESTS OYSTERS PRIMARILY USING HAND TONGS;**

27                   **2. ONE MEMBER WHO IS A LICENSED OYSTER**  
28 **HARVESTER AND HARVESTS OYSTERS PRIMARILY USING PATENT TONGS;**

29                   **3. ONE MEMBER WHO IS A LICENSED OYSTER**  
30 **HARVESTER AND HARVESTS OYSTERS PRIMARILY USING A DIVING APPARATUS;**

31                   **4. ONE MEMBER WHO IS A LICENSED OYSTER**  
32 **HARVESTER AND HARVESTS OYSTERS PRIMARILY BY POWER DREDGING; AND**

33                   **5. ONE MEMBER WHO IS A LICENSED OYSTER**  
34 **HARVESTER AND HARVESTS OYSTERS PRIMARILY BY SAIL DREDGE, IF AVAILABLE,**

1 OR ONE AT-LARGE MEMBER WHO MAY USE ANY ALLOWABLE METHOD TO HARVEST  
2 OYSTERS.

3 (II) IF A COUNTY DOES NOT HAVE SUFFICIENT CANDIDATES TO  
4 REPRESENT EACH GEAR TYPE DESCRIBED IN SUBPARAGRAPH (I) OF THIS  
5 PARAGRAPH, THE OYSTER COMMITTEE MAY INCLUDE MORE THAN ONE MEMBER FOR  
6 A PARTICULAR GEAR TYPE IF EACH GEAR TYPE THAT EXISTS IN THE COUNTY AND  
7 THAT HARVESTED DURING THE HARVEST SEASON PRECEDING AN ELECTION OF THE  
8 OYSTER COMMITTEE IS REPRESENTED BY A LICENSED OYSTER HARVESTER ON THE  
9 COMMITTEE.

10 (III) THE MEMBERS OF THE OYSTER COMMITTEE SHALL SELECT  
11 THE CHAIR OF THE OYSTER COMMITTEE FROM THE MEMBERS OF THE OYSTER  
12 COMMITTEE.

13 (4) THE OYSTER COMMITTEE SHALL ESTABLISH A 5-YEAR  
14 SUSTAINABLE OYSTER HARVEST PLAN THAT:

15 (I) PROVIDES AN OVERVIEW OF THE SEEDING AND PLANTING  
16 AREAS IN THE COUNTY;

17 (II) PROVIDES AN OVERVIEW OF THE HARVESTING AREAS IN  
18 THE COUNTY;

19 (III) IDENTIFIES SOURCES THAT HAVE AVAILABLE OYSTER  
20 SHELL;

21 (IV) ESTABLISHES A HARVEST ROTATION FOR OYSTER BARS IN  
22 THE COUNTY; AND

23 (V) IF DETERMINED APPROPRIATE BY THE OYSTER  
24 COMMITTEE, OPENS SANCTUARIES IN THE COUNTY FOR HARVESTING WITHIN 5  
25 YEARS FROM THE FOURTH YEAR SPAT SET SURVEY.

26 (c) (1) THERE IS A STATE OYSTER COMMITTEE.

27 (2) THE CHAIR OF EACH OYSTER COMMITTEE OR THE CHAIR'S  
28 DESIGNEE SHALL SERVE AS A MEMBER OF THE STATE OYSTER COMMITTEE.

29 (3) THE STATE OYSTER COMMITTEE SHALL COORDINATE WITH THE  
30 OYSTER COMMITTEES TO:

1                   **(I) IDENTIFY ISSUES ASSOCIATED WITH HARVEST SITE**  
2 **BOUNDARIES;**

3                   **(II) IDENTIFY HARVEST ROTATION SITES WITH BOUNDARIES IN**  
4 **MULTIPLE COUNTIES; AND**

5                   **(III) MAKE RECOMMENDATIONS TO THE DEPARTMENT FOR**  
6 **ACTIONS THAT THE STATE OYSTER COMMITTEE AND THE OYSTER COMMITTEES**  
7 **CONSIDER NECESSARY FOR THE DEPARTMENT TO TAKE TO ADDRESS THE ISSUES**  
8 **IDENTIFIED IN THIS PARAGRAPH.**

9                   **(4) THE DEPARTMENT SHALL COORDINATE WITH THE OYSTER**  
10 **COMMITTEES AND THE STATE OYSTER COMMITTEE TO IMPLEMENT ANY ACTIONS**  
11 **RECOMMENDED UNDER PARAGRAPH (3)(III) OF THIS SUBSECTION.**

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

15           **[(d)] (E)** The Department may close without holding a public hearing any  
16 natural oyster bar in the waters of the State with the approval of the appropriate  
17 **[committee of oystermen] OYSTER COMMITTEE.**

18           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
19 1, 2015.