

Chapter 17

(House Bill 298)

AN ACT concerning

Oysters – Tributary–Scale Sanctuaries – Protection and Restoration

FOR the purpose of establishing a network of oyster sanctuaries in certain tributaries to the Chesapeake Bay; codifying the boundaries of certain oyster sanctuaries; prohibiting a person from catching oysters in or removing oysters from a certain oyster sanctuary, subject to a certain exception; requiring the Department of Natural Resources, in coordination with certain groups and stakeholders, to develop and implement restoration plans for certain oyster sanctuaries; specifying the required contents of a restoration plan; requiring the Department to ~~report~~ provide certain reports to certain committees of the General Assembly on or before ~~a certain date~~ certain dates; requiring the Department, in consultation with certain groups and stakeholders, to finalize certain restoration plans on or before a certain date; requiring the Department to fully implement certain restoration plans on or before a certain date; and generally relating to tributary–scale oyster sanctuaries.

BY renumbering

Article – Natural Resources
 Section 4–1014 through 4–1014.3, respectively
 to be Section 4–1014.1 through 4–1014.4, respectively
 Annotated Code of Maryland
 (2018 Replacement Volume)

BY adding to

Article – Natural Resources
 Section 4–1014
 Annotated Code of Maryland
 (2018 Replacement Volume)

Preamble

WHEREAS, Under the 2014 Chesapeake Bay Watershed Agreement, Maryland and the other Chesapeake Bay Program partners have committed to restoring native oyster habitat and populations in 10 tributaries by 2025 and ensuring their protection; and

WHEREAS, Significant public money from both State and federal sources has already been spent in these tributaries for the explicit purpose of ecological restoration; and

WHEREAS, Early monitoring results from the Harris Creek oyster sanctuary indicate that restored reefs there are thriving and removing approximately 100,000 pounds of nitrogen pollution from State waters annually; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 4–1014 through 4–1014.3, respectively, of Article – Natural Resources of the Annotated Code of Maryland be renumbered to be Section(s) 4–1014.1 through 4–1014.4, respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Natural Resources

4–1014.

(A) THERE IS ESTABLISHED A NETWORK OF OYSTER SANCTUARIES IN THE FIVE TRIBUTARIES IDENTIFIED BY THE DEPARTMENT FOR LARGE–SCALE RESTORATION IN ACCORDANCE WITH THE 2014 CHESAPEAKE BAY WATERSHED AGREEMENT.

(B) IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION:

(1) THERE IS AN OYSTER SANCTUARY IN HARRIS CREEK THAT INCLUDES ALL OF THE WATERS OF HARRIS CREEK ENCLOSED BY A LINE BEGINNING AT A POINT ON THE EAST SHORE OF TILGHMAN ISLAND DEFINED BY LATITUDE 38 DEGREES 42.241 MINUTES NORTH, LONGITUDE 76 DEGREES 19.997 MINUTES WEST; THEN RUNNING NORTHERLY TO A POINT ON THE SOUTH SHORE OF KNAPPS NARROWS, DEFINED BY LATITUDE 38 DEGREES 42.925 MINUTES NORTH, LONGITUDE 76 DEGREES 19.709 MINUTES WEST; THEN RUNNING 49 DEGREES TRUE TO A POINT ON THE NORTH SHORE OF KNAPPS NARROWS, DEFINED BY LATITUDE 38 DEGREES 43.035 MINUTES NORTH, LONGITUDE 76 DEGREES 19.547 MINUTES WEST; THEN RUNNING NORTHERLY ALONG THE WEST SHORE OF HARRIS CREEK TO ITS HEADWATERS AND THEN SOUTHERLY ALONG THE EAST SHORE OF HARRIS CREEK TO A POINT ON THE SHORE OF CHANGE POINT DEFINED BY LATITUDE 38 DEGREES 43.008 MINUTES NORTH, LONGITUDE 76 DEGREES 17.656 MINUTES WEST; THEN RUNNING 247 DEGREES TRUE TO THE POINT OF BEGINNING;

(2) THERE IS AN OYSTER SANCTUARY IN THE LITTLE CHOPTANK RIVER THAT INCLUDES ALL OF THE WATERS OF THE LITTLE CHOPTANK RIVER UPSTREAM OF A LINE BEGINNING AT A POINT ON THE SHORE OF SUSQUEHANNA POINT DEFINED BY LATITUDE 38 DEGREES 30.642 MINUTES NORTH, LONGITUDE 76 DEGREES 15.492 MINUTES WEST; THEN RUNNING 329 DEGREES TRUE TO A POINT ON SHORE AT THE SOUTH END OF RAGGED POINT ISLAND, DEFINED BY LATITUDE 38 DEGREES 31.886 MINUTES NORTH, LONGITUDE 76 DEGREES 16.440 MINUTES WEST;

(3) THERE IS AN OYSTER SANCTUARY IN THE TRED AVON RIVER THAT INCLUDES ALL OF THE WATERS OF THE TRED AVON RIVER NORTH AND EAST

OF A LINE BEGINNING AT A POINT ON THE SHORE ON THE EAST SIDE OF TOWN CREEK, DEFINED BY LATITUDE 38 DEGREES 41.835 MINUTES NORTH, LONGITUDE 76 DEGREES 9.923 MINUTES WEST; THEN RUNNING 255 DEGREES TRUE TO A POINT DEFINED BY LATITUDE 38 DEGREES 41.823 MINUTES NORTH, LONGITUDE 76 DEGREES 9.981 MINUTES WEST; THEN RUNNING 0 DEGREES TRUE TO A POINT ON THE SHORE OF THE EAST SIDE OF PLAINDEALING CREEK, DEFINED BY LATITUDE 38 DEGREES 42.576 MINUTES NORTH, LONGITUDE 76 DEGREES 9.978 MINUTES WEST;

(4) THERE IS AN OYSTER SANCTUARY IN THE ST. MARY'S RIVER THAT INCLUDES ALL OF THE WATERS OF THE ST. MARY'S RIVER BEGINNING AT A POINT ON THE SHORE SOUTHWEST OF DEEP POINT DEFINED BY LATITUDE 38 DEGREES 11.279 MINUTES NORTH, LONGITUDE 76 DEGREES 26.639 MINUTES WEST; THEN RUNNING 89 DEGREES TRUE TO A POINT ON THE SHORE AT CHURCH POINT DEFINED BY LATITUDE 38 DEGREES 11.286 MINUTES NORTH, LONGITUDE 76 DEGREES 26.263 MINUTES WEST; AND

(5) THERE IS AN OYSTER SANCTUARY IN THE MANOKIN RIVER THAT INCLUDES ALL OF THE WATERS OF THE MANOKIN RIVER UPSTREAM OF A LINE BEGINNING AT A POINT ON THE SHORE OF HAZARD POINT DEFINED BY LATITUDE 38 DEGREES 4.571 MINUTES NORTH, LONGITUDE 75 DEGREES 52.694 MINUTES WEST; THEN RUNNING 306 DEGREES TRUE TO A POINT ON THE SHORE AT PIN POINT ON LITTLE DEAL ISLAND, DEFINED BY LATITUDE 38 DEGREES 6.750 MINUTES NORTH, LONGITUDE 75 DEGREES 56.552 MINUTES WEST; AND EAST OF A LINE BEGINNING AT A POINT ON THE SHORE AT THE NORTH END OF LITTLE DEAL ISLAND, DEFINED BY LATITUDE 38 DEGREES 7.695 MINUTES NORTH, LONGITUDE 75 DEGREES 56.816 MINUTES WEST; THEN RUNNING 209 DEGREES TRUE TO A POINT ON THE SHORE ON THE WEST SIDE OF LOWER THOROFARE, DEFINED BY LATITUDE 38 DEGREES 7.652 MINUTES NORTH, LONGITUDE 75 DEGREES 56.847 MINUTES WEST; AND SOUTHEAST OF A LINE BEGINNING ON THE SHORE ON THE EAST SIDE OF LAWS THOROFARE, DEFINED BY LATITUDE 38 DEGREES 8.904 MINUTES NORTH, LONGITUDE 75 DEGREES 55.964 MINUTES WEST; THEN RUNNING 251 DEGREES TRUE TO A POINT ON THE WEST SIDE OF LAWS THOROFARE, DEFINED BY LATITUDE 38 DEGREES 8.873 MINUTES NORTH, LONGITUDE 75 DEGREES 56.077 MINUTES WEST.

(C) (1) THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO ENGAGES IN AQUACULTURE ACTIVITIES WITHIN AN OYSTER SANCTUARY IN ACCORDANCE WITH A VALID LEASE ISSUED UNDER SUBTITLE 11A OF THIS TITLE.

(2) A PERSON MAY NOT CATCH OYSTERS IN OR REMOVE OYSTER SEED FROM AN OYSTER SANCTUARY:

(I) DESCRIBED IN SUBSECTION (B) OF THIS SECTION; OR

(II) ESTABLISHED BY THE DEPARTMENT IN REGULATION.

(D) (1) THE DEPARTMENT, IN COORDINATION WITH THE OYSTER ADVISORY COMMISSION, THE OYSTER INTERAGENCY WORKGROUP, AND INTERESTED STAKEHOLDERS, SHALL DEVELOP AND IMPLEMENT RESTORATION PLANS FOR EACH OF THE OYSTER SANCTUARIES DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

(2) EACH RESTORATION PLAN SHALL:

(I) ESTABLISH ACREAGE TARGETS THAT EXCEED 50% OF THE CURRENTLY RESTORABLE OYSTER HABITAT IN THE SANCTUARY, AS DEFINED BY THE OYSTER INTERAGENCY WORKGROUP;

(II) FOR REEF CONSTRUCTION, REQUIRE THE USE OF SUBSTRATE THAT HAS BEEN DEMONSTRATED IN PREVIOUS TRIBUTARY-SCALE OYSTER RESTORATION PROJECTS TO MAXIMIZE OYSTER DENSITY;

(III) ESTABLISH A PROJECT IMPLEMENTATION TIMELINE THAT DEMONSTRATES HOW RESTORATION TARGETS WILL BE ACHIEVED BY 2025, IN ACCORDANCE WITH THE 2014 CHESAPEAKE BAY WATERSHED AGREEMENT; AND

(IV) INCLUDE PLANS FOR CONTINUED MONITORING OF THE SANCTUARY AND CORRECTIVE ACTIONS TO BE TAKEN BY THE DEPARTMENT IF FUTURE MONITORING INDICATES THAT A SANCTUARY IS NO LONGER MEETING THE FOLLOWING MINIMUM REQUIREMENTS:

1. ON RESTORED REEFS:

A. A MINIMUM DENSITY OF 15 OYSTERS PER SQUARE METER;

B. A MINIMUM BIOMASS OF 15 GRAMS DRY WEIGHT PER SQUARE METER;

C. A MINIMUM OF AT LEAST 2-YEAR CLASSES OF OYSTERS; AND

D. SUBSTRATE OR OYSTERS PRESENT ON AT LEAST 30% OF THE REEF AREA; AND

2. WITHIN THE WHOLE SANCTUARY, A MINIMUM OF 50% OF REEF HABITAT, CONSTITUTING AT LEAST 8% OF HISTORIC OYSTER HABITAT, MEETING THE REQUIREMENTS OF ITEM 1 OF THIS ITEM.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) On or before December 1, 2019, the Department of Natural Resources shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Environment and Transportation Committee, in accordance with § 2-1246 of the State Government Article, on the development and implementation of restoration plans for the five oyster sanctuaries described in Section 2 of this Act.

(b) On or before July 1, 2020, the Department of Natural Resources, in consultation with the Oyster Advisory Commission, the Oyster Interagency Workgroup, and interested stakeholders, shall finalize restoration plans for the St. Mary's River and Manokin River oyster sanctuaries, in accordance with Section 2 of this Act.

(c) On or before December 1, 2021, the Department of Natural Resources shall fully implement existing restoration plans for the Tred Avon River and the Little Choptank River oyster sanctuaries.

(d) On or before July 1, 2029, the Department of Natural Resources shall review the results of the continued monitoring of the five oyster sanctuaries required under Section 2 of this Act and provide a report on the success of large-scale restoration projects in the five sanctuaries to the Senate Education, Health, and Environmental Affairs Committee and the House Environment and Transportation Committee in accordance with § 2-1246 of the State Government Article.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

Gubernatorial Veto Override, April 8, 2019.