



April 1, 2019

The Honorable Larry Hogan  
Governor of Maryland  
100 State Circle  
Annapolis, Maryland 21401

Re: Veto Request – HB 298 (cf SB 448)  
Oysters - Tributary-Scale Sanctuaries - Protection and Restoration

Dear Governor Hogan:

For the reasons explained in our opposition written testimony to the House Environment and Transportation Committee (copy enclosed) and as reiterated herein, the Maryland Rural Counties Coalition (“Coalition”) hereby respectfully requests your veto of House Bill 298 (and/or cross-filed SB 448).

The Coalition is a Chapter Organization of the Maryland Association of Counties (MACo) and occasionally takes positions on bills dealing with more regional or localized issues where involvement by MACo is not appropriate. Currently, 16 counties, representing 1.3 million Maryland residents and covering most of the shoreline of the Chesapeake Bay, are Coalition members.

The Coalition agrees that oysters and a prudently managed oyster fishery can be one of the most cost-effective best management practices to meet State and local Total Maximum Daily Load water quality goals. However, the Coalition is concerned with the myopic focus of State policy on aquaculture in sanctuaries at the expense of maintaining a viable public commercial oyster fishery – an important part of many rural county economies. This legislation hurts the men and women who work the waters of the Chesapeake Bay and the fishing communities in which they live by codifying certain oyster restoration sanctuaries located in the local waters of Coalition counties. The lopsided approach embodied in HB 298 will seriously harm the seafood industry, costing both revenue and job losses.

This enactment is another concerted step by the General Assembly at the behest of special interest groups touting suspect “evidence” and pseudo-science to privatize the Chesapeake Bay and limit access for a select few. Allowing individuals/entities with aquaculture leases to harvest oysters and seed in chosen sanctuaries while all others are prohibited - which HB 298 does - is an affront to the Public Trust Doctrine and flies in the face of constitutional principles. The State holds the tidal waters of the Bay and its tributaries in public trust for all the citizens of Maryland.

**MARYLAND RURAL COUNTIES COALITION**

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While the State can adopt reasonable regulatory limits equally applicable to all, it cannot confer special rights and privileges on favored persons. The General Assembly has done just that with the passage of HB 298, rendering insubordinate broad public use and enjoyment of the State's waters by permanently removing a large percentage of the viable oyster resource and Bay bottom from the public fishery. Adding insult to injury, HB 298 selectively permits those holding aquaculture leases to harvest oysters and oyster seed with impunity in the same sanctuaries. And for what general public benefit?

When "they" say Harris Creek is a restoration success, consider the following: NOAA spent the following for "seeding" in Harris Creek: \$1.2 M in 2012, \$1.1 M in 2013, \$715K in 2014, \$832K in 2015 and \$80,000 in 2016. According to the "partners" 2017 Oyster Restoration Update, roughly \$52 million was spent between 2011-2017 in the Choptank River complex and a supposed "3.94 billion" oyster seed planted. At a 5% survival rate for hatchery seed in the wild (a generous percentage), how many of those seed oysters survived, grew and were counted in the recent Stock Assessment?

There is no independent peer-reviewed study or report on the efficacy of the existing restoration sanctuaries (Harris Creek, Tred Avon or Little Choptank). We've only heard from the architects and implementers of the restoration sanctuaries and those who wrote the "success" matrix that they are successful. What we can look at to compare the "success" of the Harris Creek sanctuary to non-sanctuary (wild fishery) area is DNR's 2017 Fall Survey re Oysters (see attached) and the Spatfall Intensity (spat count per bushel) in Harris Creek vs. Broad Creek...even with all the public money spent and seed plantings in Harris Creek, the Broad Creek spat counts are even or better. The DNR 2017 Fall Survey reaffirms that with the 5 restoration tributaries they are indeed taking some of the best areas for natural recruitment. DNR's 2017 Fall Survey debunks what NOAA and others are claiming about the success of the Harris Creek sanctuary.

The seafood industry and related businesses contributes nearly \$600 million each year<sup>1</sup> to Maryland's total gross domestic product. Rather than further disenfranchising the men and women who work the waters of the Chesapeake Bay, why not recognize that sanctuaries work best when they are co-located in tributaries that incorporate traditional rotational harvest strategies?

For these reasons, we respectfully request your veto of House Bill 298. Not because we oppose oyster sanctuaries or aquaculture; but for the deliberate imbalance of favoring one small subset of businesses (aquaculture lease holders) over the wild commercial fishery/industry and for putting too much reliance on the efficacy of the restoration sanctuaries to result in more oysters in the water – which has yet to be scientifically proven.

Sincerely,

  
Jack Wilson, RCC Chairman  
Queen Anne's County

cc: Jeannie Haddaway-Riccio, Secretary, DNR  
Clean Chesapeake Coalition  
Delmarva Fisheries Association  
Enclosure

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<sup>1</sup> <https://msa.maryland.gov/msa/mdmanual/01glance/html/seafoodp.html>

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