

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Daniel J. Ryan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing a program for oyster restoration.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>11/3/2015</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>	<i>7/18/2019</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>7/18/2019</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>7/18/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>11/12/2015</i>
<i>Mathew Muratore</i>	<i>1st Plymouth</i>	<i>7/18/2019</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>7/18/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>7/18/2019</i>
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>	<i>11/17/2015</i>

HOUSE No.

By Mr. Ryan of Boston, a petition (subject to Joint Rule 12) of Daniel J. Ryan and others for legislation to establish the oyster restoration for environmental purposes program. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act establishing a program for oyster restoration.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 130 of the General Laws, as appearing in the 2014 Official Edition, is hereby
2 amended by inserting after section 20A, the following section:-

3 Section 20B. (a) As used in this section, the following words shall, unless the context
4 clearly requires otherwise, have the following meanings:-

5 “Acting entity”, an organization, including but not limited to an academic institution,
6 nonprofit, or local organization that partners with a municipality to place and maintain oysters in
7 an area designated under the OREP program.

8 “Eligible coastal waters”, all classifications of coastal water including waters classified as
9 open for shell fishing, conditionally open for shell fishing, conditionally closed for shell fishing,
10 and closed for shell fishing.

11 (b) Notwithstanding any general or special law to the contrary, the division shall
12 establish a program to be known as the Oyster Restoration for Environmental Purposes program,
13 or OREP, for the purpose of placing oysters in any eligible coastal waters, regardless of
14 classification, to improve water quality and environmental conditions by offsetting run-off
15 pollution, attracting and sustaining other sea life, improving the local environment for subaquatic
16 flora, including eelgrass, through water quality enhancement, and creating or enhancing fish
17 habitat. Under the OREP program, municipalities or acting entities may place oysters in any
18 OREP area designated by a municipality and approved by the division pursuant to subsection (c).

19 (c) A municipality, by vote of the board of selectmen, in the case of a town, or by vote of
20 the city council, in the case of a city, may designate any eligible coastal water as an OREP area.
21 Following such designation, the municipality or the acting entity shall file an application with the
22 division. The application shall include:

23 (i) proof of municipal designation;

24 (ii) site location;

25 (iii) plan for placement, including the number of oysters, substrate, and a timetable;

26 (iv) description of the acting entity, if any;

27 (v) municipal oversight and posting ;

28 (vi) approvals from other relevant regulatory authorities, if needed; and

29 (vii) if the site is in waters less than fully open to shell fishing, a municipal contaminated
30 area management plan, through which the municipality or acting entity shall minimize risk by
31 seeking locations with limited access, establishing suitable monitoring, and, if necessary, a

32 method for warning the public of the inadvisability of shell fishing and consumption of shellfish
33 from the area through multi-lingual posting and other public media.

34 The division shall review the application but shall not unreasonably deny the application
35 on the basis of water classification. The division may reply with questions and ask for
36 clarifications within 30 consecutive calendar days. Once the acting entity has responded to the
37 questions, the division shall have another 30 days to review and respond. Failure of the division
38 to respond in 45 consecutive calendar days to any application shall be deemed an approval.

39 Upon any approval, the division shall issue the necessary permits or licenses required .

40 (d) The town or municipality may establish and oversee an OREP area directly, or may
41 partner with an acting entity to carry out the planting and upkeep of said area.

42 (e) The acting entity shall provide annually to the division and the municipality a report
43 on the progress of the location with estimates of the population and reproduction of shellfish, the
44 involvement of the community, and any other quantifiable benefits or notable observations.
45 Failure to comply may result in the municipality's curtailment or revocation of the acting entity's
46 permits .

47 (f) Once placed, the oysters are viewed as property of the municipality, and shall not be
48 moved or removed without the permission of the municipality.

49 (g) Oysters placed under this program shall not be eligible for commercial harvest at any
50 time, unless: (1) the placed waters are classified or re-classified as approved for harvest by the
51 division; (2) the oysters are acceptable for harvest according to federal regulations; and (3) the
52 acting entity is amenable to such change .

53 (h) Nothing in this section shall be construed to limit any requirements of the National
54 Shellfish Sanitation Program.

55 (i) The division may promulgate rules and regulations necessary to implement the
56 requirements of this section.