fresh oyster shell is a renewable biological resource and provides the substrate for future generations of oysters; and

WHEREAS, Fresh shell should be returned to the Chesapeake Bay to assist in the recovery of the oyster industry by providing a substrate for natural oyster repopulation; and

WHEREAS, In the case of Leonard v. Earle, 155 Md 252 (1928), 279 U.S. 392 (1929), both the Court of Appeals of Maryland and the Supreme Court of the United States determined that oysters in the waters of the State are property of the State on behalf of all of its citizens, and that therefore compensation is not constitutionally mandated in connection with a requirement that oyster shell taken from the waters of the State be returned to the State for use in oyster propagation; and

WHEREAS, The General Assembly recognizes that oyster shell is a tradeable commodity for purposes other than oyster propagation and is a source of profit for oyster packers; and

WHEREAS, Many small oysters or spat remain viable for several days once harvested on marketable oysters, especially during cool weather, and they should be treated as a source of seed as well as cultch for future generations; and

WHEREAS, By rapidly planting fresh oyster shell, small oysters that adhere to the shell will have an opportunity to survive and produce harvestable oysters in a shorter time period; and

WHEREAS, Oyster shells taken from public oyster bars are a natural resource of the State; and

WHEREAS, The perpetuation of future stocks of oysters are dependent on the replacement of natural oyster shells on the public oyster bars of the State, and the State desires that not less than 50 percent of the natural oyster shells from each annual harvest be returned to the public oyster bars of the State; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article - Natural Resources

4-1019.2.

(A)   THIS SECTION DOES NOT APPLY TO:

(1)   AN INDIVIDUAL WHO TAKES OR USES OYSTERS FOR PERSONAL USE OR CONSUMPTION PURPOSES; OR