

Chapter 235

(House Bill 287)

AN ACT concerning

Natural Resources – Aquaculture – Liability for Trespass

FOR the purpose of establishing certain damages for which certain persons are liable for entering an area leased to another person for aquaculture purposes, ~~without the written permission of the leaseholder,~~ to harvest, damage, or transfer shellfish ~~in any manner~~ or to alter, damage, or remove any markings or equipment; requiring a person who enters an area leased to another person for aquaculture purposes and engages in certain acts to display ~~the written permission of the leaseholder~~ certain documentation on the request of a law enforcement officer; providing for the application of certain provisions of this Act; and generally relating to liability for trespass on areas leased for aquaculture purposes.

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 4–11A–16
Annotated Code of Maryland
(2012 Replacement Volume and 2014 Supplement)

BY adding to
Article – Natural Resources
Section 4–11A–16.1
Annotated Code of Maryland
(2012 Replacement Volume and 2014 Supplement)

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

Article – Natural Resources

4–11A–16.

(a) (1) A person, other than the leaseholder, may not willfully and without authority catch oysters on any aquaculture or submerged land lease area, or willfully destroy or transfer oysters on this land in any manner.

(2) The Department shall request the office of the local State’s Attorney or the Attorney General to bring a criminal action under § 7–104 of the Criminal Law Article against a person found to be in violation of this subsection provided that the leased area is designated and marked with buoys and other signage or the person knew or should have known that the harvest of oysters from the area was unlawful.

(3) (i) On conviction of a person for a violation of this subsection, the Department may suspend all existing tidal fish licenses issued to that person for a period not to exceed:

1. 1 year for a first conviction; or
2. 2 years for a second or subsequent conviction.

(ii) Before suspending any license under this section, the Department shall give the licensee written notice of the right to request a hearing.

(iii) A licensee may request a hearing within 15 days from the date that the notice required by this section is mailed.

(iv) The Department shall hold a hearing within 30 days of the date of the request and render a decision within 30 days of the hearing.

(b) A person, other than a leaseholder, may not remove, alter, transfer, or destroy any marker, shellfish, equipment, or structures on any aquaculture or submerged land lease area.

(c) A person, other than an aquaculture or submerged land leaseholder, while he is in default in payment of any rent or fee, may not use for any purpose any submerged land of the State.

4-11A-16.1.

(A) ~~A~~ SUBJECT TO SUBSECTION (B) OF THIS SECTION, A PERSON WHO WILLFULLY, NEGLIGENTLY, RECKLESSLY, WRONGFULLY, OR MALICIOUSLY ENTERS ANY AREA LEASED TO ANOTHER PERSON UNDER THIS SUBTITLE, ~~WITHOUT THE WRITTEN PERMISSION OF THE LEASEHOLDER,~~ TO HARVEST, DAMAGE, OR TRANSFER SHELLFISH ~~IN ANY MANNER~~ OR TO ALTER, DAMAGE, OR REMOVE ANY MARKINGS OR EQUIPMENT IS LIABLE TO THE LEASEHOLDER FOR DAMAGES IN AN AMOUNT OF:

(1) THREE TIMES THE VALUE OF THE SHELLFISH HARVESTED, DAMAGED, OR TRANSFERRED;

(2) THE ACTUAL RESTORATION COSTS FOR THE LEASED AREA AND ANY ALTERED, DAMAGED, OR REMOVED MARKINGS OR EQUIPMENT; AND

(3) ANY ATTORNEY FEES OR COURT COSTS INCURRED BY THE LEASEHOLDER IN THE MATTER.

(B) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO A PERSON ENGAGING IN AQUACULTURE ACTIVITY ON A LEASED AREA IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF:

(1) A SHELLFISH AQUACULTURE HARVESTER REGISTRATION CARD THAT IS IN THE PERSON'S POSSESSION; OR

(2) AN OPERATOR CARD THAT IS IN THE POSSESSION OF THE PERSON OR ANOTHER PERSON PRESENT IN THE LEASE AREA.

(C) ON THE REQUEST OF A LAW ENFORCEMENT OFFICER, A PERSON WHO ENTERS AN AREA LEASED TO ANOTHER PERSON UNDER THIS SUBTITLE AND ENGAGES IN ANY ACT SPECIFIED IN SUBSECTION (A) OF THIS SECTION SHALL DISPLAY ~~THE WRITTEN PERMISSION OF THE LEASEHOLDER~~ A SHELLFISH AQUACULTURE HARVESTER REGISTRATION CARD OR AN OPERATOR CARD FOR THE LEASE AREA.

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

Approved by the Governor, May 12, 2015.