

HOUSE BILL 1005

M2

5lr1548

By: **Delegates Mautz, Adams, Hornberger, Impallaria, Metzgar, Otto, Rey, Shoemaker, Vitale, and B. Wilson**

Introduced and read first time: February 13, 2015

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Commercial Fisheries Offenses – Stay of Revocation**

3 FOR the purpose of requiring a presiding officer after a certain administrative finding on
4 certain commercial fisheries offenses related to oysters, crabs, or striped bass to stay
5 a license revocation pending conviction for the offense, unless the presiding officer
6 finds or concludes that the licensee wantonly or willfully committed the offense; and
7 generally relating to administrative penalties for commercial fisheries offenses
8 related to oysters, crabs, or striped bass.

9 BY repealing and reenacting, with amendments,
10 Article – Natural Resources
11 Section 4–1210 and 4–1211
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2014 Supplement)

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

16 **Article – Natural Resources**

17 4–1210.

18 (a) (1) In addition to any other penalty or fine provided in this title, a person
19 who holds a license to catch oysters under § 4–701 of this title and receives a citation for an
20 offense listed under paragraph (2) of this subsection may have the license revoked in
21 accordance with this section.

22 (2) The following offenses, committed in violation of this title or of any
23 regulation adopted under this title, are grounds for revocation of a license to catch oysters
24 under this section:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (i) Taking oysters located more than 200 feet within a closed or
2 prohibited area;
- 3 (ii) Taking oysters with gear that is prohibited in that area;
- 4 (iii) Taking oysters outside of a time restriction for the harvest of
5 oysters by more than 1 hour;
- 6 (iv) Taking oysters during closed seasons; and
- 7 (v) Taking oysters from a leased area by a person other than the
8 leaseholder or the leaseholder's designee.

9 (b) (1) Within 60 days after a person who holds a license to catch oysters under
10 § 4-701 of this title receives a citation for an offense listed under subsection (a) of this
11 section, the Department shall hold a hearing on the matter in accordance with the
12 Administrative Procedure Act under Title 10, Subtitle 2 of the State Government Article.

13 (2) (I) [After] **SUBJECT TO SUBPARAGRAPH (II) OF THIS**
14 **PARAGRAPH, AFTER** a hearing is conducted under paragraph (1) of this subsection, if the
15 presiding officer finds or concludes that the person knowingly has committed an offense
16 listed under subsection (a)(2) of this section, the Department shall revoke the person's
17 license to catch oysters.

18 (II) **UNLESS THE PRESIDING OFFICER FINDS OR CONCLUDES**
19 **THAT THE PERSON WANTONLY OR WILLFULLY COMMITTED THE OFFENSE, THE**
20 **PRESIDING OFFICER SHALL STAY THE REVOCATION UNDER SUBPARAGRAPH (I) OF**
21 **THIS PARAGRAPH PENDING A CONVICTION FOR THE OFFENSE.**

22 (c) A person who is aggrieved by the final decision of the Department may obtain
23 judicial review of the decision in accordance with the Administrative Procedure Act under
24 Title 10, Subtitle 2 of the State Government Article.

25 (d) A person whose license has been revoked in accordance with this section may
26 not engage or work in the fishery for which the license was revoked whether or not it
27 requires the use of another license.

28 4-1211.

29 (a) (1) In addition to any other penalty or fine provided in this title, a person
30 who is authorized to catch striped bass or crabs under § 4-701 of this title and who commits
31 an offense established under paragraph (2) of this subsection may have the authorization
32 to catch striped bass or crabs revoked in accordance with this section.

1 (2) The Department, in consultation with the Tidal Fisheries Advisory
2 Commission and the Sport Fisheries Advisory Commission, shall adopt regulations that
3 establish grounds for the revocation of an authorization to catch striped bass or crabs under
4 § 4-701 of this title, which shall include egregious or repeat violations in the following
5 categories:

- 6 (i) Using illegal gear;
- 7 (ii) Harvesting during closed seasons;
- 8 (iii) Harvesting from a closed area;
- 9 (iv) Violating established harvest, catch, or size limits; and
- 10 (v) Violating tagging and reporting requirements.

11 (b) (1) Before the revocation of an authorization to catch striped bass or crabs
12 under this section, the Department shall hold a hearing on the matter in accordance with
13 the Administrative Procedure Act under Title 10, Subtitle 2 of the State Government
14 Article.

15 (2) **(I) [After] SUBJECT TO SUBPARAGRAPH (II) OF THIS**
16 **PARAGRAPH, AFTER** a hearing is conducted under paragraph (1) of this subsection, if the
17 presiding officer finds or concludes that the person knowingly has committed an offense
18 listed under subsection (a)(2) of this section, the Department shall revoke the person's
19 authorization to catch striped bass or crabs.

20 **(II) UNLESS THE PRESIDING OFFICER FINDS OR CONCLUDES**
21 **THAT THE PERSON WANTONLY OR WILLFULLY COMMITTED THE OFFENSE, THE**
22 **PRESIDING OFFICER SHALL STAY THE REVOCATION UNDER SUBPARAGRAPH (I) OF**
23 **THIS PARAGRAPH PENDING A CONVICTION FOR THE OFFENSE.**

24 (c) A person who is aggrieved by the final decision of the Department may obtain
25 judicial review of the decision in accordance with the Administrative Procedure Act under
26 Title 10, Subtitle 2 of the State Government Article.

27 (d) A person whose authorization has been revoked in accordance with this
28 section may not engage or work in the fishery for which the authorization was revoked
29 whether or not it requires the use of another authorization.

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