

SENATE BILL 808

M2

5lr2916
CF HB 287

By: **Senators Klausmeier, Bates, Brochin, Montgomery, Pinsky, and Reilly**
Introduced and read first time: February 20, 2015
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Aquaculture – Liability for Trespass**

3 FOR the purpose of establishing certain damages for which certain persons are liable for
4 entering an area leased to another person for aquaculture purposes to harvest,
5 damage, or transfer shellfish or to alter, damage, or remove any markings or
6 equipment; requiring a person who enters an area leased to another person for
7 aquaculture purposes and engages in certain acts to display certain documentation
8 on the request of a law enforcement officer; providing for the application of certain
9 provisions of this Act; and generally relating to liability for trespass on areas leased
10 for aquaculture purposes.

11 BY repealing and reenacting, without amendments,
12 Article – Natural Resources
13 Section 4–11A–16
14 Annotated Code of Maryland
15 (2012 Replacement Volume and 2014 Supplement)

16 BY adding to
17 Article – Natural Resources
18 Section 4–11A–16.1
19 Annotated Code of Maryland
20 (2012 Replacement Volume and 2014 Supplement)

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

23 **Article – Natural Resources**

24 4–11A–16.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



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

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

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

12 1. 1 year for a first conviction; or

13 2. 2 years for a second or subsequent conviction.

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

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

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

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

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

26 **4-11A-16.1.**

27 **(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A PERSON WHO**
28 **WILLFULLY, NEGLIGENTLY, RECKLESSLY, WRONGFULLY, OR MALICIOUSLY ENTERS**
29 **ANY AREA LEASED TO ANOTHER PERSON UNDER THIS SUBTITLE TO HARVEST,**
30 **DAMAGE, OR TRANSFER SHELLFISH OR TO ALTER, DAMAGE, OR REMOVE ANY**
31 **MARKINGS OR EQUIPMENT IS LIABLE TO THE LEASEHOLDER FOR DAMAGES IN AN**
32 **AMOUNT OF:**

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

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

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

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

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

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

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

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