

HOUSE BILL 469

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M2

2002 Regular Session  
(2r0072)

ENROLLED BILL

-- Environmental Matters/Education, Health, and Environmental Affairs --

Introduced by **Chairman, Environmental Matters Committee (Departmental -  
Natural Resources)**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **~~Natural Resources - Oysters~~ Oyster Sanctuaries and Reserves - Penalties for**  
3 **Taking Oysters**

4 FOR the purpose of establishing certain penalties to be imposed on a person who  
5 ~~intentionally and~~ unlawfully takes oysters from ~~an oyster sanctuary, oyster~~  
6 ~~reserve, or private leased bottom under certain circumstances~~ certain oyster  
7 sanctuaries or certain oyster reserves under certain circumstances; and  
8 generally relating to certain penalties for the intentional and unlawful taking of  
9 oysters from certain sanctuaries and reserves.

10 BY repealing and reenacting, with amendments,  
11 Article - Natural Resources  
12 Section 4-1201  
13 Annotated Code of Maryland  
14 (2000 Replacement Volume and 2001 Supplement)

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

3 **Article - Natural Resources**

4 4-1201.

5 (a) Except as otherwise specifically provided in this title, a person who  
6 violates any provision of this title is guilty of a misdemeanor and, upon conviction, is  
7 subject to a fine not exceeding \$500, with costs imposed in the discretion of the court.

8 (b) Unless another penalty is specifically provided elsewhere in this title, any  
9 person found guilty of a second or subsequent violation of any provision of this title is  
10 subject to a fine not exceeding \$1,000, or imprisonment not exceeding one year, or  
11 both, with costs imposed in the discretion of the court. For the purpose of this  
12 subsection, a second or subsequent violation is one which has occurred within two  
13 years of any prior violation of this title.

14 (c) In addition to any administrative penalty provided in this title, violation of  
15 any rule or regulation adopted by any unit within the Department pursuant to the  
16 provisions of this title is a misdemeanor and is punishable as provided in subsections  
17 (a) and (b).

18 (d) In addition to any other applicable penalty set forth in subsections (a) and  
19 (b) of this section, a person who violates any provision of this title or any regulations  
20 adopted by the Secretary under the authority of this title concerning the taking of or  
21 creel limits for striped bass, commonly known as rockfish, shall be subject to the  
22 following penalties:

23 (1) For a first violation, a fine not exceeding \$1,500 per fish;

24 (2) For a second violation, within a 2-year period, a fine not exceeding  
25 \$2,500 per fish and revocation of the fishing license for a period not less than 1 year  
26 but not more than 2 years; and

27 (3) For a third violation within a 4-year period, a fine not exceeding  
28 \$2,500 per fish and revocation of the fishing license for a period not less than 2 years  
29 but not more than 5 years.

30 (e) A common carrier transporting fish who is not the buyer, seller, or catcher  
31 of the fish or is not controlled by the buyer, seller, or catcher of the fish is not subject  
32 to any penalty under this section for transporting fish which is either unlawfully  
33 caught or of unlawful size provided that the operator of the common carrier has in his  
34 possession a valid bill of lading, stating the origin, shipper, destination and receiver of  
35 the fish and the common carrier does not know or have reason to know that the fish  
36 were unlawfully caught or of unlawful size.

37 (F) IN ADDITION TO ANY OTHER APPLICABLE PENALTY SET FORTH IN THIS  
38 TITLE, A PERSON WHO ~~INTENTIONALLY AND~~ UNLAWFULLY TAKES OYSTERS FROM

1 AN OYSTER SANCTUARY, AN OYSTER RESERVE, OR A PRIVATE LEASED BOTTOM  
2 SHALL BE SUBJECT TO THE FOLLOWING PENALTIES:

3           (1)     FOR A FIRST VIOLATION FOR REMOVING OYSTERS FROM AN  
4 UNMARKED OYSTER SANCTUARY OR AN UNMARKED OYSTER RESERVE DESIGNATED  
5 BY THE DEPARTMENT IN A PUBLIC NOTICE, OR A PRIVATE LEASED BOTTOM, A FINE  
6 NOT EXCEEDING \$500 AND SUSPENSION OF THE PERSON'S TIDAL FISH LICENSE FOR  
7 A PERIOD OF 30 DAYS.

8           (2)     FOR A SECOND VIOLATION WITHIN A 2-YEAR PERIOD FOR TAKING  
9 OYSTERS FROM AN UNMARKED OYSTER SANCTUARY OR AN UNMARKED OYSTER  
10 RESERVE DESIGNATED BY THE DEPARTMENT IN A PUBLIC NOTICE, OR A PRIVATE  
11 LEASED BOTTOM, A FINE NOT EXCEEDING \$1,000 AND SUSPENSION OF THE PERSON'S  
12 TIDAL FISH LICENSE FOR A PERIOD OF 60 DAYS.

13           (3)     FOR A THIRD VIOLATION WITHIN A 4-YEAR PERIOD FOR TAKING  
14 OYSTERS FROM AN UNMARKED OYSTER SANCTUARY OR AN UNMARKED OYSTER  
15 RESERVE DESIGNATED BY THE DEPARTMENT IN A PUBLIC NOTICE, OR A PRIVATE  
16 LEASED BOTTOM, A FINE NOT EXCEEDING \$2,000 AND REVOCATION OF THE PERSON'S  
17 TIDAL FISH LICENSE FOR A PERIOD NOT LESS THAN 1 YEAR BUT NOT MORE THAN 2  
18 YEARS.

19           (4)     FOR TAKING OYSTERS FROM AN OYSTER SANCTUARY OR OYSTER  
20 RESERVE THAT IS DESIGNATED AND MARKED BY BUOYS, BUOYS OR OTHER SIGNAGE,  
21 AND WHO KNEW OR SHOULD HAVE KNOWN THAT TAKING THE OYSTERS FROM THE  
22 SANCTUARY OR RESERVE WAS UNLAWFUL, SHALL BE SUBJECT TO A FINE NOT  
23 EXCEEDING \$3,000 AND IMMEDIATE REVOCATION SUSPENSION OF A THE PERSON'S  
24 TIDAL FISH LICENSE FOR A PERIOD NOT LESS THAN 2-YEARS 6 MONTHS BUT NOT  
25 MORE THAN 5-YEARS 1 YEAR.

26     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
27 effect July 1, 2002.