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By: **Chairman, Environmental Matters Committee (Departmental - Natural Resources)**

Introduced and read first time: January 30, 2002

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources - Oysters - Penalties for Taking Oysters**

3 FOR the purpose of establishing certain penalties to be imposed on a person who  
4 unlawfully takes oysters from an oyster sanctuary, oyster reserve, or private  
5 leased bottom under certain circumstances; and generally relating to the  
6 unlawful taking of oysters.

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

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

14 **Article - Natural Resources**

15 4-1201.

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

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

25 (c) In addition to any administrative penalty provided in this title, violation of  
26 any rule or regulation adopted by any unit within the Department pursuant to the

1 provisions of this title is a misdemeanor and is punishable as provided in subsections  
2 (a) and (b).

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

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

9 (2) For a second violation, within a 2-year period, a fine not exceeding  
10 \$2,500 per fish and revocation of the fishing license for a period not less than 1 year  
11 but not more than 2 years; and

12 (3) For a third violation within a 4-year period, a fine not exceeding  
13 \$2,500 per fish and revocation of the fishing license for a period not less than 2 years  
14 but not more than 5 years.

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

22 (F) IN ADDITION TO ANY OTHER APPLICABLE PENALTY SET FORTH IN THIS  
23 TITLE, A PERSON WHO UNLAWFULLY TAKES OYSTERS FROM AN OYSTER SANCTUARY,  
24 AN OYSTER RESERVE, OR A PRIVATE LEASED BOTTOM SHALL BE SUBJECT TO THE  
25 FOLLOWING PENALTIES:

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

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

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

1           (4)     FOR TAKING OYSTERS FROM AN OYSTER SANCTUARY OR OYSTER  
2 RESERVE DESIGNATED AND MARKED BY BUOYS, A FINE NOT EXCEEDING \$3,000 AND  
3 IMMEDIATE REVOCATION OF A PERSON'S TIDAL FISH LICENSE FOR A PERIOD NOT  
4 LESS THAN 2 YEARS BUT NOT MORE THAN 5 YEARS.

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