

HOUSE BILL 1419

M1

9lr0135

By: **Chair, Environmental Matters Committee (By Request – Departmental – Environment)**

Introduced and read first time: February 25, 2009

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Natural Resources – Fish and Fisheries Laws Violations**
3 **– Penalties**

4 FOR the purpose of altering the penalties for certain violations of certain fish and
5 fisheries laws; requiring the Department of Natural Resources to adopt
6 regulations establishing a certain value for certain species for a certain purpose;
7 authorizing the Secretary of Natural Resources to order restitution under
8 certain circumstances; and generally relating to the State fish and fisheries
9 laws.

10 BY repealing and reenacting, with amendments,
11 Article – Natural Resources
12 Section 4–1201
13 Annotated Code of Maryland
14 (2005 Replacement Volume and 2008 Supplement)

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

17 **Article – Natural Resources**

18 4–1201.

19 (a) Except as otherwise specifically provided in this title, a person who
20 violates any provision of this title is guilty of a misdemeanor and, upon conviction, is
21 subject to a fine not exceeding [\$500] **\$1,000**, with costs imposed in the discretion of
22 the court.

23 (b) Unless another penalty is specifically provided elsewhere in this title, any
24 person found guilty of a second or subsequent violation of any provision of this title is

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 subject to a fine not exceeding [\$1,000] **\$2,000**, or imprisonment not exceeding one
2 year, or both, with costs imposed in the discretion of the court. For the purpose of this
3 subsection, a second or subsequent violation is one which has occurred within two
4 years of any prior violation of this title.

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

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

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

15 (2) For a second violation, within a 2-year period, a fine not exceeding
16 \$2,500 per fish and revocation of the fishing license for a period not less than 1 year
17 but not more than 2 years; and

18 (3) For a third violation within a 4-year period, a fine not exceeding
19 \$2,500 per fish and revocation of the fishing license for a period not less than 2 years
20 but not more than 5 years.

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

28 (f) In addition to any other applicable penalty set forth in this title, a person
29 who unlawfully takes oysters from a leased oyster bottom, an oyster sanctuary, an
30 oyster reserve, or an area closed to shellfish harvest by the Department of the
31 Environment, when the area is designated and marked by buoys or other signage or
32 the person knew or should have known that taking the oysters from the area was
33 unlawful, is subject to a fine not exceeding \$3,000.

34 (g) (1) **IF A PERSON IS CONVICTED OF VIOLATING ANY PROVISION OF**
35 **THIS TITLE AND THE VIOLATION CAUSES OR RESULTS IN THE INJURY, DEATH,**
36 **OR DESTRUCTION OF ANY FISH, INCLUDING A PROTECTED SPECIES OF ANIMAL,**
37 **IN ADDITION TO ANY OTHER PENALTY PROVIDED IN THIS TITLE, THE**
38 **SECRETARY MAY ORDER THE PERSON TO PAY RESTITUTION TO THE**
39 **DEPARTMENT FOR THE RESOURCE VALUE OF THE FISH, AS DETERMINED BY**

1 THE REGULATIONS ADOPTED BY THE DEPARTMENT UNDER PARAGRAPH (2) OF
2 THIS SUBSECTION.

3 (2) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT
4 ESTABLISH A SCHEDULE OF RESOURCE VALUES FOR INDIVIDUAL SPECIES.

5 (3) IF TWO OR MORE DEFENDANTS ARE CONVICTED FOR THE
6 SAME VIOLATION CAUSING OR RESULTING IN THE INJURY, DEATH, OR
7 DESTRUCTION OF PROTECTED SPECIES OF ANIMALS, THE COURT MAY IMPOSE
8 RESTITUTION AGAINST THE DEFENDANTS JOINTLY AND EQUALLY.

9 (4) (I) RESTITUTION UNDER THIS SECTION SHALL BE PAID
10 WITHIN 30 DAYS OR A TIME PRESCRIBED BY REGULATION.

11 (II) IN EACH INSTANCE, RESTITUTION PAID UNDER THIS
12 SECTION SHALL BE CREDITED TO THE DEPARTMENT TO BE USED ONLY FOR THE
13 REPLACEMENT, HABITAT MANAGEMENT, OR ENFORCEMENT PROGRAMS FOR
14 INJURED, KILLED, OR DESTROYED FISH OR PROTECTED SPECIES OF ANIMALS.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 July 1, 2009.