

HOUSE BILL 273

M2
HB 1191/10 – ENV

11r1059
CF SB 159

By: **Delegates Gilchrist, McIntosh, Barkley, Beidle, Cane, Carr, Cullison, Frush, Healey, Holmes, Ivey, Kach, Lafferty, Lee, A. Miller, Norman, S. Robinson, Stein, and Weir**

Introduced and read first time: January 31, 2011

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Oyster Poaching – Hearing**

3 FOR the purpose of providing that a certain person who receives a citation for a
4 certain offense related to unlawfully taking oysters may have a certain license
5 revoked under certain circumstances; establishing certain grounds for the
6 revocation of a certain license; requiring the Department of Natural Resources
7 to hold a certain hearing under certain circumstances in accordance with the
8 Administrative Procedure Act; requiring the Department to revoke a person's
9 license to catch oysters under certain circumstances; authorizing certain
10 aggrieved persons to obtain judicial review of a certain decision; prohibiting a
11 certain person from engaging or working in a certain fishery under certain
12 circumstances; and generally relating to unlawfully taking oysters and license
13 revocation.

14 BY adding to
15 Article – Natural Resources
16 Section 4–1210
17 Annotated Code of Maryland
18 (2005 Replacement Volume and 2010 Supplement)

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

21 **Article – Natural Resources**

22 **4–1210.**

23 **(A) (1) IN ADDITION TO ANY OTHER PENALTY OR FINE PROVIDED IN**
24 **THIS TITLE, A PERSON WHO HOLDS A LICENSE TO CATCH OYSTERS UNDER §**

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



1 4-701 OF THIS TITLE AND RECEIVES A CITATION FOR AN OFFENSE LISTED
2 UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY HAVE THE LICENSE REVOKED
3 IN ACCORDANCE WITH THIS SECTION.

4 (2) THE FOLLOWING OFFENSES, COMMITTED IN VIOLATION OF
5 THIS TITLE OR OF ANY REGULATION ADOPTED UNDER THIS TITLE, ARE
6 GROUNDS FOR REVOCATION OF A LICENSE TO CATCH OYSTERS UNDER THIS
7 SECTION:

8 (I) TAKING OYSTERS LOCATED MORE THAN 200 FEET
9 WITHIN A CLOSED OR PROHIBITED AREA;

10 (II) TAKING OYSTERS WITH GEAR THAT IS PROHIBITED IN
11 THAT AREA;

12 (III) TAKING OYSTERS OUTSIDE OF A TIME RESTRICTION
13 FOR THE HARVEST OF OYSTERS BY MORE THAN 1 HOUR;

14 (IV) TAKING OYSTERS DURING CLOSED SEASONS; AND

15 (V) TAKING OYSTERS FROM A LEASED AREA BY A PERSON
16 OTHER THAN THE LEASEHOLDER OR THE LEASEHOLDER'S DESIGNEE.

17 (B) (1) WITHIN 60 DAYS AFTER A PERSON WHO HOLDS A LICENSE TO
18 CATCH OYSTERS UNDER § 4-701 OF THIS TITLE RECEIVES A CITATION FOR AN
19 OFFENSE LISTED UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT
20 SHALL HOLD A HEARING ON THE MATTER IN ACCORDANCE WITH THE
21 ADMINISTRATIVE PROCEDURE ACT UNDER TITLE 10, SUBTITLE 2 OF THE
22 STATE GOVERNMENT ARTICLE.

23 (2) AFTER A HEARING IS CONDUCTED UNDER PARAGRAPH (1) OF
24 THIS SUBSECTION, IF THE PRESIDING OFFICER FINDS OR CONCLUDES THAT THE
25 PERSON KNOWINGLY HAS COMMITTED AN OFFENSE LISTED UNDER SUBSECTION
26 (A)(2) OF THIS SECTION, THE DEPARTMENT SHALL REVOKE THE PERSON'S
27 LICENSE TO CATCH OYSTERS.

28 (C) A PERSON WHO IS AGGRIEVED BY THE FINAL DECISION OF THE
29 DEPARTMENT MAY OBTAIN JUDICIAL REVIEW OF THE DECISION IN
30 ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT UNDER TITLE 10,
31 SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

32 (D) A PERSON WHOSE LICENSE HAS BEEN REVOKED IN ACCORDANCE
33 WITH THIS SECTION MAY NOT ENGAGE OR WORK IN THE FISHERY FOR WHICH
34 THE LICENSE WAS REVOKED WHETHER OR NOT IT REQUIRES THE USE OF
35 ANOTHER LICENSE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2011.