

# SENATE BILL 159

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SB 342/10 – EHE

11r0858  
CF HB 273

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By: **Senators Frosh, Benson, Conway, Forehand, King, Klausmeier, Montgomery, Pinsky, Ramirez, Robey, Rosapepe, ~~and Young Young, Simonaire, and Ferguson~~**

Introduced and read first time: January 24, 2011

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 23, 2011

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## CHAPTER \_\_\_\_\_

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:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



## 1 Article – Natural Resources

2 4-1210.

3 (A) (1) IN ADDITION TO ANY OTHER PENALTY OR FINE PROVIDED IN  
4 THIS TITLE, A PERSON WHO HOLDS A LICENSE TO CATCH OYSTERS UNDER §  
5 4-701 OF THIS TITLE AND RECEIVES A CITATION FOR AN OFFENSE LISTED  
6 UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY HAVE THE LICENSE REVOKED  
7 IN ACCORDANCE WITH THIS SECTION.

8 (2) THE FOLLOWING OFFENSES, COMMITTED IN VIOLATION OF  
9 THIS TITLE OR OF ANY REGULATION ADOPTED UNDER THIS TITLE, ARE  
10 GROUNDS FOR REVOCATION OF A LICENSE TO CATCH OYSTERS UNDER THIS  
11 SECTION:

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

14 (II) TAKING OYSTERS WITH GEAR THAT IS PROHIBITED IN  
15 THAT AREA;

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

18 (IV) TAKING OYSTERS DURING CLOSED SEASONS; AND

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

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

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

32 (C) A PERSON WHO IS AGGRIEVED BY THE FINAL DECISION OF THE  
33 DEPARTMENT MAY OBTAIN JUDICIAL REVIEW OF THE DECISION IN

1 ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT UNDER TITLE 10,  
2 SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

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

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.