

HOUSE BILL 287

M2

5lr1137
CF SB 808

By: **Delegate O'Donnell**

Introduced and read first time: February 4, 2015

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 3, 2015

CHAPTER _____

1 AN ACT concerning

2 **Natural Resources – Aquaculture – Liability for Trespass**

3 FOR the purpose of establishing certain damages for which certain persons are liable for
4 entering an area leased to another person for aquaculture purposes, ~~without the~~
5 ~~written permission of the leaseholder,~~ to harvest, damage, or transfer shellfish ~~in~~
6 ~~any manner~~ or to alter, damage, or remove any markings or equipment; requiring a
7 person who enters an area leased to another person for aquaculture purposes and
8 engages in certain acts to display ~~the written permission of the leaseholder~~ certain
9 documentation on the request of a law enforcement officer; providing for the
10 application of certain provisions of this Act; and generally relating to liability for
11 trespass on areas leased for aquaculture purposes.

12 BY repealing and reenacting, without amendments,
13 Article – Natural Resources
14 Section 4–11A–16
15 Annotated Code of Maryland
16 (2012 Replacement Volume and 2014 Supplement)

17 BY adding to
18 Article – Natural Resources
19 Section 4–11A–16.1
20 Annotated Code of Maryland
21 (2012 Replacement Volume and 2014 Supplement)

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

3 **Article – Natural Resources**

4 4–11A–16.

5 (a) (1) A person, other than the leaseholder, may not willfully and without
6 authority catch oysters on any aquaculture or submerged land lease area, or willfully
7 destroy or transfer oysters on this land in any manner.

8 (2) The Department shall request the office of the local State’s Attorney or
9 the Attorney General to bring a criminal action under § 7–104 of the Criminal Law Article
10 against a person found to be in violation of this subsection provided that the leased area is
11 designated and marked with buoys and other signage or the person knew or should have
12 known that the harvest of oysters from the area was unlawful.

13 (3) (i) On conviction of a person for a violation of this subsection, the
14 Department may suspend all existing tidal fish licenses issued to that person for a period
15 not to exceed:

16 1. 1 year for a first conviction; or

17 2. 2 years for a second or subsequent conviction.

18 (ii) Before suspending any license under this section, the
19 Department shall give the licensee written notice of the right to request a hearing.

20 (iii) A licensee may request a hearing within 15 days from the date
21 that the notice required by this section is mailed.

22 (iv) The Department shall hold a hearing within 30 days of the date
23 of the request and render a decision within 30 days of the hearing.

24 (b) A person, other than a leaseholder, may not remove, alter, transfer, or destroy
25 any marker, shellfish, equipment, or structures on any aquaculture or submerged land
26 lease area.

27 (c) A person, other than an aquaculture or submerged land leaseholder, while he
28 is in default in payment of any rent or fee, may not use for any purpose any submerged
29 land of the State.

30 **4–11A–16.1.**

31 **(A) ~~A~~ SUBJECT TO SUBSECTION (B) OF THIS SECTION, A PERSON WHO**
32 **WILLFULLY, NEGLIGENTLY, RECKLESSLY, WRONGFULLY, OR MALICIOUSLY ENTERS**
33 **ANY AREA LEASED TO ANOTHER PERSON UNDER THIS SUBTITLE, ~~WITHOUT THE~~**

1 ~~WRITTEN PERMISSION OF THE LEASEHOLDER,~~ TO HARVEST, DAMAGE, OR TRANSFER
2 SHELLFISH ~~IN ANY MANNER~~ OR TO ALTER, DAMAGE, OR REMOVE ANY MARKINGS OR
3 EQUIPMENT IS LIABLE TO THE LEASEHOLDER FOR DAMAGES IN AN AMOUNT OF:

4 (1) THREE TIMES THE VALUE OF THE SHELLFISH HARVESTED,
5 DAMAGED, OR TRANSFERRED;

6 (2) THE ACTUAL RESTORATION COSTS FOR THE LEASED AREA AND
7 ANY ALTERED, DAMAGED, OR REMOVED MARKINGS OR EQUIPMENT; AND

8 (3) ANY ATTORNEY FEES OR COURT COSTS INCURRED BY THE
9 LEASEHOLDER IN THE MATTER.

10 (B) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO A PERSON
11 ENGAGING IN AQUACULTURE ACTIVITY ON A LEASED AREA IN ACCORDANCE WITH
12 THE TERMS AND CONDITIONS OF:

13 (1) A SHELLFISH AQUACULTURE HARVESTER REGISTRATION CARD
14 THAT IS IN THE PERSON’S POSSESSION; OR

15 (2) AN OPERATOR CARD THAT IS IN THE POSSESSION OF THE PERSON
16 OR ANOTHER PERSON PRESENT IN THE LEASE AREA.

17 (C) ON THE REQUEST OF A LAW ENFORCEMENT OFFICER, A PERSON WHO
18 ENTERS AN AREA LEASED TO ANOTHER PERSON UNDER THIS SUBTITLE AND
19 ENGAGES IN ANY ACT SPECIFIED IN SUBSECTION (A) OF THIS SECTION SHALL
20 DISPLAY ~~THE WRITTEN PERMISSION OF THE LEASEHOLDER~~ A SHELLFISH
21 AQUACULTURE HARVESTER REGISTRATION CARD OR AN OPERATOR CARD FOR THE
22 LEASE AREA.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2015.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.