

HOUSE BILL 1036

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5lr1814
CF SB 696

By: **Delegates Jacobs, Adams, Anderton, Arentz, Carozza, Ghrist, Hornberger,
S. Howard, Impallaria, Kipke, Mautz, Otto, and Szeliga**

Introduced and read first time: February 13, 2015

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Oyster Poaching – Administrative Penalties**

3 FOR the purpose of altering the administrative penalties that apply to a person for
4 knowingly committing certain offenses related to oyster poaching by authorizing the
5 Department of Natural Resources to suspend the person's oyster license for a first
6 offense; clarifying that any one of certain oyster poaching offenses qualifies as a
7 second or subsequent offense for certain purposes under certain circumstances; and
8 generally relating to administrative penalties for oyster poaching.

9 BY repealing and reenacting, with amendments,
10 Article – Natural Resources
11 Section 4–1210
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2014 Supplement)

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

16 **Article – Natural Resources**

17 4–1210.

18 (a) (1) In addition to any other penalty or fine provided in this title, a person
19 who holds a license to catch oysters under § 4–701 of this title and receives a citation for an
20 offense listed under paragraph (2) of this subsection may have the license **SUSPENDED OR**
21 revoked in accordance with this section.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) The following offenses, committed in violation of this title or of any
2 regulation adopted under this title, are grounds for **SUSPENSION OR** revocation of a license
3 to catch oysters under this section:

4 (i) Taking oysters located more than 200 feet within a closed or
5 prohibited area;

6 (ii) Taking oysters with gear that is prohibited in that area;

7 (iii) Taking oysters outside of a time restriction for the harvest of
8 oysters by more than 1 hour;

9 (iv) Taking oysters during closed seasons; and

10 (v) Taking oysters from a leased area by a person other than the
11 leaseholder or the leaseholder's designee.

12 (b) (1) Within 60 days after a person who holds a license to catch oysters under
13 § 4-701 of this title receives a citation for an offense listed under subsection (a) of this
14 section, the Department shall hold a hearing on the matter in accordance with the
15 Administrative Procedure Act under Title 10, Subtitle 2 of the State Government Article.

16 (2) After a hearing is conducted under paragraph (1) of this subsection, if
17 the presiding officer finds or concludes that the person knowingly has committed [an] ANY
18 offense listed under subsection (a)(2) of this section, the Department:

19 **(I) FOR A FIRST OFFENSE, MAY SUSPEND THE PERSON'S**
20 **LICENSE TO CATCH OYSTERS; AND**

21 **(II) FOR A SECOND OR SUBSEQUENT OFFENSE THAT ARISES OUT**
22 **OF A SEPARATE SET OF CIRCUMSTANCES,** shall revoke the person's license to catch
23 oysters.

24 (c) A person who is aggrieved by the final decision of the Department may obtain
25 judicial review of the decision in accordance with the Administrative Procedure Act under
26 Title 10, Subtitle 2 of the State Government Article.

27 (d) A person whose license has been **SUSPENDED OR** revoked in accordance with
28 this section may not engage or work in the fishery for which the license was **SUSPENDED**
29 **OR** revoked whether or not it requires the use of another license.

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