

HOUSE BILL 1036

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5l1814
CF SB 696

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

Introduced and read first time: February 13, 2015
Assigned to: Environment and Transportation

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 14, 2015

CHAPTER _____

1 AN ACT concerning

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

3 FOR the purpose of repealing the offense for taking oysters with gear that is prohibited in
4 a certain area; establishing an offense for taking oysters with a power dredge in a
5 certain area; altering the administrative penalties that apply to a person for
6 knowingly committing certain offenses related to oyster poaching by ~~authorizing~~
7 requiring the Department of Natural Resources under certain circumstances to
8 suspend the person's oyster license for a ~~first offense~~ certain time period if the person
9 has not been convicted of a certain violation within a certain time period; clarifying
10 that any one of certain oyster poaching offenses qualifies as ~~a second or subsequent~~
11 ~~offense for certain purposes under certain circumstances~~ grounds for suspension of
12 an oyster license; and generally relating to administrative penalties for oyster
13 poaching.

14 BY repealing and reenacting, with amendments,
15 Article – Natural Resources
16 Section 4–1210
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2014 Supplement)

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

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 this title, a person
4 who holds a license to catch oysters under § 4–701 of this title and receives a citation for an
5 offense listed under paragraph (2) of this subsection may have the license **SUSPENDED OR**
6 **revoked** in accordance with this section.

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

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

12 (ii) Taking oysters with ~~gear that is prohibited in that area~~ **A POWER**
13 **DREDGE IN AN AREA RESERVED FOR ANOTHER TYPE OF GEAR;**

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

16 (iv) Taking oysters during closed seasons; and

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

19 (b) (1) Within 60 days after a person who holds a license to catch oysters under
20 § 4–701 of this title receives a citation for an offense listed under subsection (a) of this
21 section, the Department shall hold a hearing on the matter in accordance with the
22 Administrative Procedure Act under Title 10, Subtitle 2 of the State Government Article.

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

26 ~~(i) FOR A FIRST OFFENSE, MAY SUSPEND THE PERSON'S~~
27 ~~LICENSE TO CATCH OYSTERS; AND~~

28 ~~(ii) FOR A SECOND OR SUBSEQUENT OFFENSE THAT ARISES OUT~~
29 ~~OF A SEPARATE SET OF CIRCUMSTANCES, shall revoke the person's license to catch~~
30 ~~oysters.~~

31 **(i) IF THE PERSON HAS NOT BEEN CONVICTED OF A VIOLATION**
32 **OF ANY PROVISION OF THIS TITLE OR ANY REGULATION ADOPTED UNDER THIS TITLE**
33 **WITHIN THE PRECEDING 5 YEARS:**

1 **1. SUSPEND THE PERSON’S LICENSE TO CATCH OYSTERS**
2 **FOR A PERIOD OF 1 YEAR; OR**

3 **2. IF THE PRESIDING OFFICER FINDS OR CONCLUDES**
4 **THAT THE VIOLATION IS AN EGREGIOUS VIOLATION, REVOKE THE PERSON’S**
5 **LICENSE TO CATCH OYSTERS; OR**

6 **(II) FOR ANY OTHER OFFENSE, REVOKE THE PERSON’S LICENSE**
7 **TO CATCH OYSTERS.**

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.