

# SENATE BILL 696

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5lr2739  
CF HB 1036

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By: **Senator Hershey**

Introduced and read first time: February 6, 2015

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 2015

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## 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 to suspend or revoke the person's  
8 oyster license for a first offense under certain circumstances; clarifying that any one  
9 of certain oyster poaching offenses qualifies as a second or subsequent offense for  
10 certain purposes under certain circumstances; requiring the Department to report  
11 certain information each year in accordance with certain requirements to certain  
12 committees of the General Assembly; providing for the termination of this Act; and  
13 generally relating to administrative penalties for oyster 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:

21 **Article – Natural Resources**

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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 4-1210.

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

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

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

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

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

15 (iv) Taking oysters during closed seasons; and

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

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

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

25 (I) **FOR A FIRST OFFENSE, ~~MAY SUSPEND THE PERSON'S~~**  
26 **~~LICENSE TO CATCH OYSTERS~~ IF THE PERSON HAS NOT BEEN CONVICTED WITHIN THE**  
27 **PAST 5 YEARS FOR AN OFFENSE IN VIOLATION OF THIS TITLE OR ANY REGULATION**  
28 **ADOPTED UNDER THIS TITLE, SUSPEND THE PERSON'S LICENSE TO CATCH OYSTERS**  
29 **FOR A PERIOD OF 1 YEAR; AND**

30 (II) **FOR A FIRST OFFENSE, IF THE PERSON HAS BEEN**  
31 **CONVICTED WITHIN THE PAST 5 YEARS FOR AN OFFENSE IN VIOLATION OF THIS**  
32 **TITLE OR ANY REGULATION ADOPTED UNDER THIS TITLE, REVOKE THE PERSON'S**  
33 **LICENSE TO CATCH OYSTERS; AND**

1                   **(III) FOR A SECOND OR SUBSEQUENT OFFENSE THAT ARISES OUT**  
 2 **OF A SEPARATE SET OF CIRCUMSTANCES, shall** revoke the person's license to catch  
 3 oysters.

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

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

10           SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1 of each  
 11 year, the Department of Natural Resources shall report to the Senate Education, Health,  
 12 and Environmental Affairs Committee and the House Environment and Transportation  
 13 Committee, in accordance with § 2-1246 of the State Government Article, on:

14                   (1)    the number of license suspensions in accordance with § 4-1210(b)(2)(i)  
 15 of the Natural Resources Article;

16                   (2)    the number of license revocations in accordance with § 4-1210(b)(2)(ii)  
 17 of the Natural Resources Article;

18                   (3)    the number of license revocations in accordance with § 4-1210(b)(2)(iii)  
 19 of the Natural Resources Article; and

20                   (4)    the nature of the violations that resulted in a license suspension or  
 21 revocation in accordance with § 4-1210(b)(2) of the Natural Resources Article.

22           ~~SECTION 2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 23 October 1, 2015. It shall remain effective for a period of 3 years and, at the end of September  
 24 30, 2018, with no further action required by the General Assembly, this Act shall be  
 25 abrogated and of no further force and effect.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.