

SENATE BILL 956

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6lr3629
CF 6lr3138

By: **Senator Hershey**

Introduced and read first time: February 5, 2016

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of repealing the grounds for revocation of an authorization to catch
4 oysters, in accordance with a tidal fish license, for oyster poaching and requiring the
5 Department of Natural Resources, after certain consultation, to adopt regulations
6 establishing the grounds for certain administrative penalties for oyster poaching;
7 requiring the grounds established by the Department to include certain egregious or
8 repeat violations; altering the administrative penalties that apply to a person for
9 knowingly committing certain oyster poaching offenses by authorizing the
10 Department to suspend the person's authorization to catch oysters; repealing a
11 certain time frame within which the Department is required to hold a hearing on
12 certain matters related to oyster poaching; making certain conforming changes;
13 making certain technical corrections; and generally relating to administrative
14 penalties for oyster poaching.

15 BY repealing and reenacting, with amendments,
16 Article – Natural Resources
17 Section 4–1210
18 Annotated Code of Maryland
19 (2012 Replacement Volume and 2015 Supplement)

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

22 **Article – Natural Resources**

23 4–1210.

24 (a) (1) In addition to any other penalty or fine provided in this title, a person
25 who holds [a license] **AN AUTHORIZATION** to catch oysters under § 4–701 of this title and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 receives a citation for an offense listed under paragraph (2) of this subsection may have the
2 **[license] AUTHORIZATION SUSPENDED OR** revoked in accordance with this section.

3 (2) The **[following offenses, committed in violation of this title or of any**
4 **regulation adopted under this title, are grounds for revocation of a license to catch oysters**
5 **under this section] DEPARTMENT, IN CONSULTATION WITH THE TIDAL FISHERIES**
6 **ADVISORY COMMISSION AND THE SPORT FISHERIES ADVISORY COMMISSION,**
7 **SHALL ADOPT REGULATIONS THAT ESTABLISH GROUNDS FOR THE SUSPENSION OR**
8 **REVOCATION OF AN AUTHORIZATION TO CATCH OYSTERS UNDER § 4-701 OF THIS**
9 **TITLE, WHICH SHALL INCLUDE EGREGIOUS OR REPEAT VIOLATIONS IN THE**
10 **FOLLOWING CATEGORIES:**

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

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

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**
20 **under § 4-701 of this title receives a citation for an offense listed under subsection (a) of**
21 **this section] BEFORE SUSPENDING OR REVOKING AN AUTHORIZATION TO CATCH**
22 **OYSTERS UNDER THIS SECTION,** the Department shall hold a hearing on the matter in
23 accordance with the Administrative Procedure Act under Title 10, Subtitle 2 of the State
24 Government Article.

25 (2) After a hearing is conducted under paragraph (1) of this subsection, if
26 the presiding officer finds or concludes that the person knowingly has committed an offense
27 listed under subsection (a)(2) of this section, the Department shall **SUSPEND OR** revoke
28 the person's **[license] AUTHORIZATION** to catch oysters.

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

32 (d) A person whose **[license] AUTHORIZATION** has been **SUSPENDED OR**
33 **revoked in accordance with this section may not engage or work in the OYSTER fishery [for**
34 **which the license was revoked] whether or not it requires the use of another license OR**
35 **AUTHORIZATION.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2016.