

HOUSE BILL 1137

M2

(8lr3082)

ENROLLED BILL

— *Environment and Transportation/Education, Health, and Environmental Affairs* —

Introduced by **Delegates Jacobs, Arentz, Fisher, Ghrist, Grammer, Long, Mautz, Metzgar, and Otto**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Natural Resources – Fisheries – Commercial Oyster Divers**

3 FOR the purpose of altering the tidal fish license and oyster authorization requirements
4 for persons aboard a boat who are using diving apparatus to catch oysters for
5 commercial purposes from the waters of the State; altering the catch limits for
6 certain commercial oyster divers under certain circumstances; prohibiting more than
7 a certain number of commercial oyster divers from working on a boat at any one
8 time; requiring each commercial oyster diver to have an attendant on the boat;
9 establishing that exceeding certain oyster catch limits under certain circumstances
10 constitutes a violation of this Act; providing for the application of this Act; and
11 generally relating to commercial oyster divers.

12 BY repealing and reenacting, with amendments,
13 Article – Natural Resources

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.

Italics indicate opposite chamber/conference committee amendments.



1 Section 4–1015.1
2 Annotated Code of Maryland
3 (2012 Replacement Volume and 2017 Supplement)

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

6 **Article – Natural Resources**

7 4–1015.1.

8 (a) (1) Notwithstanding any other provision of this subtitle or regulation
9 promulgated thereunder, a person who catches oysters from the waters of this State using
10 any sort of diving apparatus shall cull the oysters on the natural bar from which they were
11 caught, and return to the bar all shells, stones, gravel, and slag. Any oyster whose shell
12 measures less than 3 inches in distance between its longest or widest points, whether or
13 not attached to a marketable oyster, shall be included in the culling and replaced on the
14 bar from which caught. Oyster culling shall be completed before any oyster is thrown or
15 deposited in the hold or bottom of any boat.

16 (2) After culling and placing in the hold or bottom of a boat, a diver's
17 possession of oysters may not include a combined total of more than 5 percent of oysters
18 which measure less than 3 inches between its longest or widest points, and cultch consisting
19 of shells, stones, gravel, and slag. In ascertaining this percentage the Department shall
20 select by random sample an amount of oysters from any pile, hold, bin, house, or place as
21 deemed proper and require it to be culled and disposed of, as provided by this section. All
22 small oysters and cultch that adhere to marketable oysters shall be separated, and the
23 marketable oysters shall be excluded from any measurement of small oysters and cultch.
24 However, a person may possess marketable oysters that have undersized oysters or spat
25 less than 1 inch in distance between their longest or widest points attached to them that
26 cannot be separated without destroying the small oyster.

27 [(b) Notwithstanding any other provision of this subtitle or regulation
28 promulgated pursuant to this subtitle, persons aboard a boat who are using diving
29 apparatus to catch oysters from the waters of this State may not catch more than a total of
30 30 bushels per boat in any day. Any person aboard a boat on which more than 30 bushels
31 have been caught in a day may be charged with violating this subsection.]

32 **(B) (1) THIS SUBSECTION APPLIES TO PERSONS ABOARD A BOAT WHO**
33 **ARE USING DIVING APPARATUS TO CATCH OYSTERS FOR COMMERCIAL PURPOSES**
34 **FROM THE WATERS OF THE STATE.**

35 **(2) NOT MORE THAN TWO DIVERS MAY WORK FROM A BOAT AT ANY**
36 **ONE TIME.**

37 **(3) EACH DIVER SHALL HAVE ONE ATTENDANT ON THE BOAT.**

1 (4) FOR EACH COMBINATION OF A DIVER AND AN ATTENDANT,
2 EITHER THE DIVER OR THE ATTENDANT OR BOTH SHALL POSSESS AN
3 AUTHORIZATION TO CATCH OYSTERS FOR COMMERCIAL PURPOSES.

4 (5) SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION AND
5 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE:

6 (I) IF BOTH THE DIVER AND THE ATTENDANT POSSESS AN
7 OYSTER AUTHORIZATION, THE COMBINATION MAY CATCH UP TO ~~30 BUSHELS OF~~
8 ~~OYSTERS PER DAY~~ THE EQUIVALENT OF TWO TIMES THE DAILY CATCH LIMIT AS SET
9 FORTH IN COMAR 08.02.04.06; OR

10 (II) IF ONLY ONE OF THE DIVER OR ATTENDANT COMBINATION
11 POSSESSES AN OYSTER AUTHORIZATION, THE COMBINATION MAY CATCH UP TO ~~15~~
12 ~~BUSHELS OF OYSTERS PER DAY~~ THE DAILY CATCH LIMIT AS SET FORTH IN COMAR
13 08.02.04.06.

14 (6) PERSONS ON A BOAT MAY NOT CATCH MORE THAN ~~30 BUSHELS OF~~
15 ~~OYSTERS PER BOAT PER DAY~~ THE EQUIVALENT OF TWO TIMES THE DAILY CATCH
16 LIMIT AS SET FORTH IN COMAR 08.02.04.06.

17 (7) (I) ANY PERSON ABOARD A BOAT ON WHICH MORE THAN ~~30~~
18 ~~BUSHELS OF OYSTERS~~ THE EQUIVALENT OF TWO TIMES THE DAILY CATCH LIMIT AS
19 SET FORTH IN COMAR 08.02.04.06 HAVE BEEN CAUGHT IN A DAY MAY BE CHARGED
20 WITH A VIOLATION OF THIS SUBSECTION.

21 (II) ANY PERSON ABOARD A BOAT MAY BE CHARGED WITH A
22 VIOLATION OF THIS SUBSECTION FOR A BOAT ON WHICH:

23 1. ONE DIVER IS WORKING FROM THE BOAT;

24 2. ONLY ONE OF THE DIVER AND ATTENDANT
25 COMBINATION POSSESSES AN OYSTER AUTHORIZATION; AND

26 3. MORE THAN ~~15 BUSHELS OF OYSTERS~~ HAVE THE
27 DAILY CATCH LIMIT AS SET FORTH IN COMAR 08.02.04.06 HAS BEEN CAUGHT IN A
28 DAY.

29 (c) The Department shall by rule and regulation set aside certain waters of this
30 State to be used exclusively by hand tongs in catching oysters. Before adopting the
31 regulations in their final form, the Department shall consult each of the local hand tonger
32 committees.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.