

# HOUSE BILL 1172

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CF SB 558

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By: **Delegates Jacobs, Arentz, Fisher, Ghrist, Long, Mautz, Metzgar, and Otto**

Introduced and read first time: February 8, 2018

Assigned to: Environment and Transportation

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2018

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Oyster Poaching – Administrative Penalties**

3 FOR the purpose of repealing a requirement that the Department of Natural Resources  
4 hold a certain hearing within a certain number of days after a person who holds a  
5 certain license to catch oysters receives a citation for a certain offense; requiring the  
6 Department to hold a certain hearing within a certain time period before the  
7 revocation of an authorization to catch oysters under certain provisions of the law;  
8 requiring the Department to report on administrative penalties imposed for certain  
9 oyster poaching to certain committees of the General Assembly on or before a certain  
10 date each year; making certain technical corrections; providing for the termination  
11 of certain provisions of this Act; and generally relating to administrative penalties  
12 for oyster poaching.

13 BY repealing and reenacting, with amendments,  
14 Article – Natural Resources  
15 Section 4–1210  
16 Annotated Code of Maryland  
17 (2012 Replacement Volume and 2017 Supplement)

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

20 **Article – Natural Resources**

21 4–1210.

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

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

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

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

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

13 (iv) Taking oysters during closed seasons; and

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

16 (b) (1) **(I)** [Within 60 days after a person who holds a license to catch  
17 oysters under § 4–701 of this title receives a citation for an offense listed under subsection  
18 (a) of this section] **BEFORE THE REVOCATION OF AN AUTHORIZATION TO CATCH**  
19 **OYSTERS UNDER THIS SECTION**, the Department shall hold a hearing on the matter in  
20 accordance with the Administrative Procedure Act under Title 10, Subtitle 2 of the State  
21 Government Article.

22 **(II) A HEARING HELD UNDER SUBPARAGRAPH (I) OF THIS**  
23 **PARAGRAPH SHALL BE HELD WITHIN 90 DAYS AFTER THE CITED INDIVIDUAL**  
24 **COMMITTS THE OFFENSE LISTED UNDER SUBSECTION (A)(2) OF THIS SECTION.**

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 revoke the person's  
28 [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 revoked in accordance  
33 with this section may not engage or work in the **OYSTER** fishery [for which the license was  
34 revoked] whether or not it requires the use of another license.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
2 as follows:

3 Article – Natural Resources

4 4–1210.

5 (E) ON OR BEFORE DECEMBER 31 EACH YEAR, THE DEPARTMENT SHALL  
6 REPORT TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS  
7 COMMITTEE AND THE HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE,  
8 IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON:

9 (1) THE NUMBER OF CITATIONS ISSUED DURING THE PREVIOUS YEAR  
10 FOR OFFENSES LISTED UNDER SUBSECTION (A) OF THIS SECTION; AND

11 (2) THE ACTION TAKEN OR PENALTY IMPOSED BY THE DEPARTMENT  
12 FOR EACH OFFENSE.

13 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 July 1, 2018. ~~§~~ Section 2 of this Act shall remain effective for a period of 3 years and, at  
15 the end of June 30, 2021, Section 2 of this Act, with no further action required by the  
16 General Assembly, shall be abrogated and of no further force and effect.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.