

SENATE BILL 558

M2

8lr0335
CF HB 1172

By: **Senators Simonaire and Hershey**

Introduced and read first time: January 31, 2018

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 7, 2018

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~~ altering the number of
5 days within which the Department of Natural Resources is required to hold a certain
6 hearing for a person who holds a ~~certain license~~ an authorization to catch oysters
7 and receives a citation for a certain offense; ~~requiring the Department to hold a~~
8 certain hearing before the revocation of an authorization to catch oysters under
9 certain provisions of law establishing that the Department is not required to hold a
10 certain hearing if an assistant Attorney General assigned to the Department
11 determines that it is unable to establish the facts necessary to succeed in the hearing;
12 requiring the Department to report on administrative penalties imposed for certain
13 oyster poaching to certain committees of the General Assembly on or before a certain
14 date each year; making certain technical changes; providing for the termination of
15 this Act; and generally relating to administrative penalties for oyster poaching.

16 BY repealing and reenacting, with amendments,
17 Article – Natural Resources
18 Section 4–1210
19 Annotated Code of Maryland
20 (2012 Replacement Volume and 2017 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 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] **AN AUTHORIZATION** to catch oysters under § 4–701 of this title and
5 ~~receives a citation for] **COMMITTS** an offense listed under paragraph (2) of this subsection~~
6 may have the [license] **AUTHORIZATION** 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 revocation of [a license] **AN**
9 **AUTHORIZATION** 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;

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) ~~(I) Within EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF~~
19 ~~THIS PARAGRAPH, WITHIN 60 90~~ days after a person who holds ~~a license~~ **AN**
20 **AUTHORIZATION** to catch oysters under § 4–701 of this title receives a citation for an
21 offense listed under subsection (a) of this section] ~~BEFORE THE REVOCATION OF AN~~
22 ~~AUTHORIZATION TO CATCH OYSTERS UNDER THIS SECTION~~, the Department shall hold
23 a hearing on the matter in accordance with the Administrative Procedure Act under Title
24 10, Subtitle 2 of the State Government Article.

25 **(II) THE DEPARTMENT IS NOT REQUIRED TO HOLD A HEARING**
26 **UNDER THIS SUBSECTION IF AN ASSISTANT ATTORNEY GENERAL ASSIGNED TO THE**
27 **DEPARTMENT DETERMINES THAT IT IS UNABLE TO ESTABLISH THE FACTS**
28 **NECESSARY TO SUCCEED IN THE HEARING.**

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

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

4 (d) A person whose [license] AUTHORIZATION has been revoked in accordance
 5 with this section may not engage or work in the OYSTER fishery [for which the license was
 6 revoked] whether or not it requires the use of another license.

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

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

13 (2) THE ACTION TAKEN OR PENALTY IMPOSED BY THE DEPARTMENT
 14 AND THE COURT FOR EACH OFFENSE.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.