

SENATE BILL 558

M2

8lr0335
CF 8lr3097

By: **Senators Simonaire and Hershey**

Introduced and read first time: January 31, 2018

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

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 before the revocation of an authorization to
7 catch oysters under certain provisions of law; requiring the Department to report on
8 administrative penalties imposed for certain oyster poaching to certain committees
9 of the General Assembly on or before a certain date each year; making certain
10 technical changes; providing for the termination of this Act; and generally relating
11 to administrative penalties for oyster poaching.

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

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

19 **Article – Natural Resources**

20 4–1210.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

9 (iv) Taking oysters during closed seasons; and

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

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

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

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

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

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

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

1 **(2) THE ACTION TAKEN OR PENALTY IMPOSED BY THE DEPARTMENT**
2 **FOR EACH OFFENSE.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
4 1, 2018. It shall remain effective for a period of 3 years and, at the end of June 30, 2021,
5 this Act, with no further action required by the General Assembly, shall be abrogated and
6 of no further force and effect.