

Chapter 520

(House Bill 1172)

AN ACT concerning

Oyster Poaching – Administrative Penalties

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

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

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

Article – Natural Resources

4–1210.

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

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

- (i) Taking oysters located more than 200 feet within a closed or prohibited area;
- (ii) Taking oysters with gear that is prohibited in that area;

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

(iv) Taking oysters during closed seasons; and

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

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

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

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

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

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

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

Article – Natural Resources

4-1210.

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

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

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

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

Approved by the Governor, May 8, 2018.