



CHESAPEAKE BAY FOUNDATION

*Environmental Protection and Restoration
Environmental Education*

Senate Bill 689

Unlawful Taking of Oysters From Submerged Land Leases and Water Column Leases – Penalties

DATE: FEBRUARY 25, 2020

POSITION: SUPPORT

The Chesapeake Bay Foundation SUPPORTS Senate Bill 689 to protect the private investments of Maryland’s aquaculture industry in oyster recovery. SB 689 would impose stricter penalties for those who knowingly remove oysters from a marked, submerged land lease or water column lease. The guilty party will be required to forfeit all commercial licenses until completion of a commercial fishery laws class and pay a minimum of \$2,000 but no more than \$3,000. On second offense, the accused may be charged with felony theft under Maryland’s criminal code.

Under current law, there are two sections that address illegal oyster harvest, NR §4-1201 and NR §4-1210, which are differentiated by the violations they include and the legal standards required for prosecution. NR §4-1201 prohibits the taking of oysters from leased oyster bottom, an oyster sanctuary, an oyster reserve or other areas closed to harvest if the individual “should have known” that such taking was unlawful. Although the maximum penalty for a violation under NR §4-1201 is a \$3,000 fine, an analysis of citations from 1959-2010 indicated that the average fine for illegal harvest of oysters was \$179.

In Maryland, the average number of citations per individual is eighteen, and half of those with violations have more than twenty. These often include repeated offenses in the oyster fishery, violations in the crab, striped bass, and clam fisheries as well as hunting violations. At least ten individuals have been cited for multiple violations that, individually, would be subject to revocation or have been caught oystering under suspension or revocation.

Oyster poaching results in direct economic consequences for members of the commercial oyster industry as well as significant environmental impacts to the Chesapeake Bay. According to a new study by Virginia Tech, in 2018, the aquaculture industry contributed nearly \$8.1 million to the state economy and supported hundreds of jobs. The oyster is also a prolific filter feeder and a healthy adult oyster can filter 30-50 gallons of water daily, consuming the phytoplankton that grows on excess nutrients in the Bay. Therefore, oyster theft from marked aquaculture leases shows a blatant disregard for the law and the environment, and infringes on the livelihood of oyster growers.

These strict poaching penalties are imperative for ensuring the future of Maryland’s aquaculture industry and Chesapeake Bay oyster restoration. SB 689 will set an example that oyster poaching in Maryland will not be tolerated and strict consequences will be enforced to those who disregard the law.

For these reasons, the Chesapeake Bay Foundation recommends a FAVORABLE report on SB 689 from the Education, Health and Environmental Affairs Committee. Please contact Dr. Allison Colden at acolden@cbf.org or 443.482.2160 with any questions.

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The Chesapeake Bay Foundation (CBF) is a non-profit environmental education and advocacy organization dedicated to the restoration and protection of the Chesapeake Bay. With over 300,000 members and e-subscribers, including over 107,000 in Maryland alone, CBF works to educate the public and to protect the interest of the Chesapeake and its resources.