



# CHESAPEAKE BAY FOUNDATION

Environmental Protection and Restoration  
Environmental Education

## House Bill 1298

Natural Resources – Hunting and Fishing Offenses - Expungement

Date: March 8, 2022

Position: **OPPOSE**

To: House Judiciary Committee

From: Allison Colden, Sr. Fisheries Scientist

Chesapeake Bay Foundation (CBF) **OPPOSES** HB 1298 which would weaken penalties for poaching by allowing the expungement of any fishing violation, including violations that currently result in a lifetime revocation of fishing privileges due to their egregious nature.

For incidents that do not require the Maryland Department of Natural Resources (DNR) to automatically suspend or revoke an individual's fishing license, penalties are applied as points to an individual's license. Accumulation of a certain number of points can lead to a suspension or revocation when an individual is found guilty of multiple violations.

The points schedule for fishing offenses is set by DNR in consultation with the Penalty Workgroup which consists of representatives from the commercial and recreational fishing industries. HB 1298 would skirt this industry-inclusive process and “reset the clock” on license points, allowing bad actors to re-enter fisheries or clear their license point accumulations in as few as three years, undermining the system currently in place.

HB 1298 is particularly concerning considering Maryland's oyster population is languishing at a small fraction of its historical size and for which poaching was deemed the greatest challenge to recovery by the Maryland Oyster Advisory Commission.

Under current law, there are two sections of the code 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 if the individual “should have known” that such taking was unlawful. The maximum penalty for a violation under NR §4-1201 is a \$3,000 fine. Even when poachers are caught, many of these cases are not prosecuted (see *Attachment*).

Alternatively, NR §4-1210 calls for the revocation of an individual's license when they are found to have “knowingly” poached oysters. The legal standard for having “knowingly” violated the statute requires prosecutors to demonstrate not only that the accused had knowledge that their action was wrong, but also that they had intent to commit the act. Thus, under this legal standard, a person's license can only be revoked if it can be proven they knew their actions were wrong and intended to carry them out regardless. Such action is not a mistake, but a willful disregard for the law and for the natural resources of the State of Maryland.

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Of the individuals with revoked licenses, the average number of DNR citations is 18, and half of those with revoked licenses have more than 20 violations each. 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 10 individuals have been cited for multiple violations that, individually, would be subject to revocation or have been caught oystering under suspension or revocation. These incidents show a pattern of repeated behavior that can only be deterred with strong penalties.

Weakening penalties for fishing violations fails to recognize the extremely high legal standard already required to revoke an individual's license. Individuals that choose to steal oysters are stealing from honest watermen, oyster farmers, and the citizens of Maryland who should be afforded the benefits that oysters provide.

**CBF urges the Committee's UNFAVORABLE report on HB 1298.** For more information, please contact Dr. Allison Colden, Maryland Senior Fisheries Scientist at [acolden@cbf.org](mailto:acolden@cbf.org) and 443.482.2160.