

**SB0076-333826-1.pdf**

Uploaded by: Jack Bailey

Position: FWA



**SB0076/333826/1**

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

22 JAN 25  
10:39:31

BY: Senator Bailey  
(To be offered in the Education, Energy, and the Environment  
Committee)

AMENDMENTS TO SENATE BILL 76

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “Department” in line 5 down through “authorization” in line 6 and substitute “reinstatement of a person’s entitlement to engage in the oyster fishery”.

AMENDMENT NO. 2

On page 3, strike beginning with “**THE**” in line 3 down through “**OYSTERS**” in line 4 and substitute “**A PERSON DESCRIBED IN SUBSECTION (E)(1) OF THIS SECTION SHALL HAVE THEIR ENTITLEMENT TO ENGAGE IN THE OYSTER FISHERY REINSTATED**”.

**SenatorBailey\_FWA\_SB76.pdf**

Uploaded by: Jack Bailey

Position: FWA

JACK BAILEY  
Legislative District 29  
Calvert and St. Mary's Counties

Budget & Taxation Committee



THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

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February 4, 2025

**Senate Bill 76 – Tidal Fish Licenses – Oyster Authorizations – Administrative Penalties**

Dear Chair Feldman and Members of the Committee,

I am writing to introduce Senate Bill 76, which would reform the administrative penalty system for commercial oyster authorizations under §4-1210 of the Natural Resources Article.

Last year, I came before this Committee with legislation based on my concerns that commercial watermen were having their authorizations, and in turn their ability to earn a living, taken away from them permanently without being convicted of a crime. These hard-working people had no ability to receive an expungement or even a Governor's pardon, meaning that they had no second chance at an opportunity to work in their way of life. Following the hearings on that bill last session, the Department of Natural Resources reviewed the administrative penalty system and came back to us with these proposed reforms that will address these concerns.

Senate Bill 76 will end the practice of permanently revoking a commercial oyster authorization through an administrative procedure. Instead, it allows DNR to suspend an individual's authorization for an established period of time. Under this bill, an authorization can be suspended for up to two years for a first offense and up to 10 years for a second or subsequent offense. The bill also provides a pathway for individuals who have previously lost their authorization to participate in the fishery. I am submitting with this bill an amendment to clarify the provisions of the bill to ensure that they align with this intent.

These provisions only apply to revocations under §4-1210 and do not affect licensees who have had received suspensions based on points or on other sections of the Natural Resources Article. As I stated before this Committee last year, I do not believe that a person should have their livelihood permanently taken away without a criminal conviction. This legislation addresses my primary concerns with the law as currently written and strikes a balance between the need to protect the rights of commercial watermen and protect oysters in our waterways.

I want to thank DNR for their willingness to review and consider changes to this process. I respectfully request a favorable report on Senate Bill 76 with this amendment. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Bailey".

Senator Jack Bailey

**SB 76 - CBF - UNF.pdf**

Uploaded by: Allison Colden

Position: UNF



# CHESAPEAKE BAY FOUNDATION

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Environmental Protection and Restoration  
Environmental Education

## Senate Bill 76

### Tidal Fish Licenses – Oyster Authorizations – Administrative Penalties

Date: February 4, 2025  
To: Education, Energy and the Environment Committee

Position: **UNFAVORABLE**  
From: Allison Colden,  
Executive Director

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Chesapeake Bay Foundation (CBF) **OPPOSES** Senate Bill 76 which would strip the Department of Natural Resources (DNR) of its discretion and authority to revoke an individual's authorization to harvest oysters after a finding that the individual did knowingly poach oysters from an oyster sanctuary, aquaculture lease, or area closed due to shellfish sanitation regulations. This action would constitute a significant undermining of the Department's authority and limit their ability to remove 'bad actors' from the oyster fishery whose actions threaten public health, state-funded oyster recovery efforts, and private investments in water quality improvements.

Currently, DNR has the discretion to pursue penalties up to and including revocation of an authorization to harvest oysters after a violation has been established through an administrative hearing process. If, after the conclusion of an administrative hearing and all associated appeals, an administrative law judge determines, on the preponderance of evidence, that the individual *knowingly* harvested oysters illegally, DNR will revoke their authorization to harvest oysters. This administrative process is limited to a small subset of violations in the oyster fishery which are considered most offensive to public health, personal property, and the sustainability of public trust resources. It is also aligned with other professional licensing scenarios (e.g. doctors, lawyers) where a regulatory entity can remove an individual's ability to practice in that industry based on a violation of the standards and norms of the profession.

The administrative process occurs separately from any criminal penalties associated with oyster poaching. Such penalties are rarely assessed – many cases result in a probation before judgment or *nolle prosequi*. Even when fines are assessed, they are minimal (\$118, on average), rendering criminal penalties an accepted "cost of doing business" rather than a significant deterrent to illegal harvest.

Since the passage of legislation in 2011 establishing DNR's administrative revocation authority for oyster authorizations, the General Assembly has amended the law on several occasions. Each time, the General Assembly has afforded DNR additional discretion that allows the department to consider an individual's history in the fishery, the severity of the alleged offense, the hardship a penalty may impose on the individual, and other mitigating circumstances when choosing whether and what type of penalty to pursue for poaching violations. The outcome of these changes has been a significant *decrease* in revocations imposed (less than 1 per year). Further, current law also allows a full-time waterman who has had their oyster authorization revoked to participate in other fisheries so that they may maintain a livelihood in the seafood industry even after revocation of the privilege to harvest oysters.

Maryland Office • Philip Merrill Environmental Center • 6 Herndon Avenue • Annapolis • Maryland • 21403

We believe that prior wise decisions made by the General Assembly have appropriately balanced a need for a strong deterrent from poaching activity and DNR's ability to remove 'bad actors' from the fishery with the discretion to decline to pursue revocation when circumstances or history do not warrant it.

**CBF urges the Committee's UNFAVORABLE report on SB 76.**

For more information, please contact Matt Stegman, Maryland Staff Attorney, at [mstegman@cbf.org](mailto:mstegman@cbf.org).

# **Copy of ShoreRivers Testimony SB76.docx.pdf**

Uploaded by: Benjamin Ford

Position: UNF





**Testimony in Opposition of SB 76  
Natural Resources – Fisheries – Oyster Management**

January 31, 2025

Thank you for this opportunity to submit testimony in **OPPOSITION** to **SB 76**, which pertains to oyster management in Maryland. This bill, if passed, would have detrimental effects on the health and sustainability of our state's oyster population and the Chesapeake Bay ecosystem as a whole.

**This bill would weaken penalties for oyster poaching** and allow reinstatement of a revoked license after five years, as well as **weaken the penalties for oystering with restricted gear types up to 200 feet inside designated areas.**

In its 2009 report, the Maryland Oyster Advisory Commission stated, “there is no single factor more important to the future of ecologic restoration and aquaculture than to address and dramatically reduce the ongoing illegal oyster harvesting activities.” Oyster poaching is a significant impediment to oyster recovery. Over the past 5 years, there have been over 80 citations issued for oystering in sanctuaries, representing a small fraction of poachers who were caught for just one category of poaching violations.

There are five categories of oyster poaching violations that can trigger revocation of an oyster authorization. These include harvesting oysters inside a sanctuary, removing oysters from an aquaculture lease, harvesting oysters in areas closed for water quality, harvesting out of permitted times, and harvesting with a gear type that is not permitted. These are egregious violations that threaten the industry's viability, the recovery of the oyster population, and the safety of Maryland citizens. The statutory requirement that an individual's authorization to catch oysters be revoked if they are found guilty of one of these five violations reflects the seriousness of these actions. **Revocation is intended to be a strong deterrent to those considering skirting these regulations for monetary gain.**

Weakening oyster poaching is **detrimental to the honest efforts of watermen who comply with harvest regulations.**

We urge the Committee to provide an **unfavorable** report on Senate Bill 76 and thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to be 'B Ford', is located below the word 'Sincerely,'.

**Benjamin Ford, Miles-Wye Riverkeeper**, on behalf of ShoreRivers

**ShoreRivers**

Isabel Hardesty, Executive Director  
Annie Richards, Chester Riverkeeper | Matt Pluta, Choptank Riverkeeper  
Ben Ford, Miles Wye Riverkeeper | Zack Kelleher, Sassafras Riverkeeper

**testimony on SB 76.pdf**

Uploaded by: Brian Frosh

Position: UNF

## Testimony of Hon. Brian Frosh in Opposition to SB 76

Senate Committee on Education, Energy and the Environment, February 4, 2025

Chair Feldman, Vice Chair Kagan and members:

I am offering this testimony as a private citizen. In 2010, I was the lead Senate sponsor of the law that SB 76 now seeks to amend. The issue of oyster poaching was brought to my attention during a site visit by the Chesapeake Bay Commission to the Horn Point Laboratory.

The Commission met with Dr. Donald Merritt who was in charge of oyster restoration in the Chesapeake Bay. Dr. Merritt told the Commission that the greatest threat to the oyster population in the Bay was not disease. It was not pollution. It was theft.

The State, at great expense, has grown billions of oysters at the laboratory at Horn Point. It has built reefs. It has placed the oysters in sanctuaries and elsewhere in the Bay.

Dr. Merritt told us that the sanctuaries were being devastated by licensed individuals who dragged oysters from the sanctuaries. Even when caught in the act, the thieves rarely received significant punishment and were absolutely undeterred from stealing oysters from state sanctuaries.

I believe that the law on the books is fundamentally fair. The state grows the oysters. It plants them in strategic areas around the Bay, and it grants a privilege – a license – to competent, law-abiding citizens to harvest oysters once they have reached maturity.

Before someone's license can be revoked under existing law, **an administrative law judge must hold a hearing and determine that the offense was committed knowingly.** See, Natural Resources Article, Sec. 4-1210(b)(2).

When someone is more than 200 feet inside a sanctuary and is **knowingly** scraping oysters from the sea bed, significant punishment is warranted.

When someone is **knowingly** taking oysters in a bed that has been declared off limits because of health threats due to pollution, significant punishment is warranted.

When someone is **knowingly** stealing oysters from an aquaculture operation that belongs to someone else, significant punishment is warranted.

The law you are considering is not a criminal law. It does not provide for jail time for the offenders. It merely allows for the revocation of a privilege if the violation was intentional.

My understanding is that in the nearly 15 years that the law has been in effect, 32 licenses have been revoked. The individuals who have been sanctioned had managed to accumulate, on average, 18 other violations. Moreover, only about 1/3 of those charged ultimately had their licenses revoked.

I believe that the current standards are fair and appropriate. Even if you were to find them to be too harsh, it is critical to set sanctions that are high enough to deter the intentional misconduct that is addressed by the law.

SB 76 certainly does not meet that test. It is too lenient. A maximum penalty of a two year suspension for knowingly stealing oysters is insufficient. A blanket pardon of past misconduct is indiscriminate and inappropriate. DNR ought to have some discretion if those who have intentionally stolen oysters in the past are to be readmitted to the fishery.

I would urge the Committee to give SB 76 an UNFAVORABLE report.

Hon. Brian Frosh  
bfrosh@gmail.com

**COA\_MD GA 02.2025 OPP SB76.pdf**

Uploaded by: Chesapeake Oyster Alliance

Position: UNF



Chesapeake  
**OYSTER ALLIANCE**  
*10 Billion for the Bay*

ADVOCATES FOR HERRING BAY | CAPE CONSERVATION CORPS | CHESAPEAKE BAY FOUNDATION  
CHESAPEAKE BEACH OYSTER CULTIVATION SOCIETY | LIVING CLASSROOMS FOUNDATION  
MAGOTHY RIVER ASSOCIATION | MARK STREET VENTURES | PHILLIPS WHARF ENVIRONMENTAL CENTER  
SHORE THING SHELLFISH | SOLAR OYSTERS | ST. MARY'S RIVER WATERSHED ASSOCIATION  
TRUE CHESAPEAKE OYSTER COMPANY

**Senate Bill 76**

Tidal Fish Licenses - Oyster Authorizations - Administrative Penalties

DATE: February 4, 2025

POSITION: **OPPOSE**

The Chesapeake Oyster Alliance is a broad coalition consisting of 113 partners, including non-profits, academic institutions, oyster aquaculture operations and other businesses with a shared goal of adding 10 billion oysters to the Bay. With a focus on oyster restoration, science-based fishery management, and increasing aquaculture, the Chesapeake Oyster Alliance aims to accelerate oyster recovery efforts and in so doing the recovery of Chesapeake Bay at-large

In its 2009 report, the Maryland Oyster Advisory Commission stated, *“there is no single factor more important to the future of ecologic restoration and aquaculture than to address and dramatically reduce ongoing illegal oyster harvesting activities.”* Oyster poaching is a significant impediment to oyster recovery. Over the past 5 years, there have been more than 90 citations issued for oystering in sanctuaries, which represents a fraction of poachers who were caught. The statutory requirement that an individual’s authorization to catch oysters be revoked if they are found guilty of one of these five violations reflects the seriousness of these actions and are intended to serve as a strong deterrent to those who would consider skirting these regulations for monetary gain.

We, the above-listed members of the Chesapeake Oyster Alliance, **OPPOSE Senate Bill 76** which would weaken deterrents for oyster poaching penalties and undermine oyster recovery.

SB 76 would eliminate the Department of Natural Resources’ most potent deterrent – revocations – by bringing penalties down to a 2-year suspension for a single violation, and up to 10 years for two or more violations. It would also allow for reinstatement of authorizations for individuals currently revoked whose revocation thus far has exceeded the proposed suspensions in the bill.

Those who poach oysters undermine the efforts to remedy overfishing, weaken oyster recovery and threaten the future of the oyster industry. Weakening oyster poaching is a detriment to the honest efforts of watermen who comply with harvest regulations. As of February 2024, there were only 5 active suspensions and 59 revocations, involving a total of 64 citizens. On average individuals with a revoked license have been found guilty of 13 DNR violations, including fishery violations not just of oysters, but clam, striped bass, blue crab, on top of a range of other non-fishery charges, including hunting violations and poaching of deer. Application of the current penalties serves to remove the most serious ‘bad actors’ from the fishery and protects the investments of all Marylander’s and the lease rights of all working people on the water

The Chesapeake Oyster Alliance respectfully requests an **unfavorable on Senate Bill 76**. Please contact Chesapeake Oyster Alliance Senior Manager, Tanner Council ([tcouncil@cbf.org](mailto:tcouncil@cbf.org); 434.882.8266) with any questions.

CHESAPEAKEOYSTERALLIANCE.ORG

# **Boesch testimony on SB76.pdf**

Uploaded by: Donald Boesch

Position: UNF

## **Testimony of Dr. Donald F. Boesch, Annapolis, Maryland, on Senate Bill 76**

Senate Committee on Education, Energy and the Environment

February 4, 2025

I am President Emeritus and Professor Emeritus of the University of Maryland Center for Environmental Science and offer this testimony in opposition to SB 70 in its present form. While heading UMCES I built the hatchery infrastructure and oyster setting pier that has enabled the tremendous success Maryland has experienced in oyster reef restoration. During my service I also served on the Maryland Oyster Advisory Commission and its forerunner, the Oyster Roundtable.

Although now retired and speaking only for myself, with no official capacity, I provide this testimony based on these experiences. Restoration of oyster reefs in no-harvest oyster sanctuaries was vigorously resisted by many oyster harvesters, but the sanctuaries have turned out to provide huge benefits for both oyster populations and the health of the Bay. The public investments restored reefs and in sanctuaries, in general, deserve the strongest protection.

The need for deterrence was recognized during the enactment of legislation that revoked the authority to exploit the state's oyster resources for individuals who knowingly and illegally harvested oysters from such protected areas. I am concerned that substituting short term suspensions of the authority to catch oysters for persons illegally taking oysters from these sanctuaries greatly reduces deterrence. I will leave it to former Attorney General Frosh to testify on the level of deterrence and enforcement required as you consider amending the Commercial Oyster Authorizations statute. I will try to give you a sense the remarkable gains that have been made in oyster restoration and why this requires the utmost protection.

As part of the 2014 Chesapeake Watershed Agreement, Maryland's Department of Natural Resources, together with Federal partners, has worked to restore oyster reefs in five Maryland tributary sanctuaries: Harris Creek and the Little Choptank, Tred Avon, St. Mary's, and Manokin rivers. The last of these will be completed this year. More than \$88 million has been invested, with substantial federal expenditures from the National Oceanic and Atmospheric Administration and the Army Corps of Engineers making this possible. About 8 billion oyster spat attached to shells that were produced by the UMCES hatchery have been planted on top of large amounts of solid substrate, to create 1,332 acres of oyster reefs, equivalent in size to 800 football fields, in Maryland. After 6 years, essentially all of the restored areas have oyster densities and biomass that meet the criteria for success and 83% of these areas greatly exceed these metrics. I should point out that other, community-supported restoration efforts in protected areas outside of the five tributary sanctuaries are also achieving positive results.

Significant and diverse benefits of reef restoration have now been demonstrated. The planted spat grew and coalesced to create strong, vertical reef structures. Because male and female oysters are side-by-side and not scattered feet apart, they are able to spawn synchronously and improve the successful fertilization of eggs released into the water. Consequently, not only have the reefs become self-perpetuating, but, as the larvae develop over two weeks and are carried



by the tides, the sanctuary oysters are seeding much broader areas of the Bay. This has no-doubt contributed to the substantial increase in spat set observed in the last few years.

But there are benefits for other living resources, as well as the health of the Bay beyond those for recovering oyster populations. Abundant populations of small animals are supported by the restored reefs, including worms, shrimps and crabs. They serve as prey for the large numbers of fish that are drawn to these habitats. The filter-feeding oysters improve water clarity and deposit large amounts of organic-rich sediment. Microbes denitrify these materials, much like an advanced sewage treatment plant, sending inert nitrogen gas into the atmosphere and helping us achieve our nitrogen pollution diet.

Early reef restoration in Harris Creek suffered setbacks as a result of illegal power dredging within the sanctuary. The effects were not limited to the loss of harvested oysters but included extensive collateral damage. Large clumps of oysters growing into reefs were overturned or suffocated by muds toxic with hydrogen sulfide. Given the substantial public investments that had been made, replacement costs would be measured in the hundreds of thousands of dollars. Moreover, the value of the broader services these restored reefs were already providing for the Bay are priceless. But, the challenge before the General Assembly is not restitution for damages but to ensure that there is a strong and effective deterrent, including revocation, to prevent those damages in the first place.

# **UMDLaw Oral Testimony.pdf**

Uploaded by: Genevieve Block

Position: UNF

**Oral Testimony in Opposition to Senate Bill 76**

*Tidal Fish Licenses - Oyster Authorizations - Administrative Penalties  
Before the Education, Energy, and the Environment Committee: February 4, 2025*

Thank you, Mr. Chairman, Vice Chairwoman and members of the committee for granting us the opportunity to provide testimony in opposition of SB76 which would change administrative penalties for violations of Maryland's fisheries laws. This position is presented in collaboration with the Chesapeake Bay Foundation and the University of Maryland Francis King Carey School of Law Environmental Clinic.

For years Maryland has vigorously protected and promoted its natural resources, especially its oyster populations which are at historically low population levels. The proposed changes to §4-1210 would undermine these efforts by removing a significant tool for reducing the illegal take of oysters and other economically and ecologically important fin and shellfish. Currently, Maryland stands alongside other Chesapeake Bay states in enforcing penalties against individuals who violate oystering laws. Maryland is not an outlier. Notably, Virginia imposes significantly harsher penalties than Maryland by mandating revocation for serious infractions and issuing multi-year bans for repeat offenders.

Maryland's framework is both effective and equitable in addressing violations. Under the current system, individuals who receive a citation may have the option to prepay the fine and admit guilt or attend a district court hearing to determine guilt. Concurrently, if DNR finds the violation was egregious enough to revoke fisherman's license, DNR has 90 days to notify the poacher that they must go before an administrative law judge. This timeline guarantees that oystermen receive notice from DNR in a timely manner after receiving a citation to prepare a defense.

These administrative hearings mirror judicial proceedings with due process safeguards. For example, the state must prove by a preponderance of the evidence, a significant evidentiary burden, that the poacher knowingly violated the statute. In their defense, the defendant can present evidence, examine witnesses, and engage in cross-examination. As now written, the law ensures due process and equity for all parties.

Moreover, Maryland goes to great lengths to educate fishermen about where, how, and when they can harvest oysters and other shellfish. Each year, DNR provides updated, comprehensive maps in a guidebook to educate fisherman on how to avoid violations. Upon receipt of these materials, they must sign an affidavit acknowledging that they are aware of these laws. At the outset, Maryland provides fisherman with tools for success-they are not left unequipped.

For these reasons and those stated by Dr. Boesch and Mr. Frosh, the University of Maryland Environmental Law Clinic **opposes** SB76 as Maryland's existing framework maintains a fair balance between supporting its oysterman and deterring harmful poachers, thus safeguarding the state's precious oyster population. We request an unfavorable report.

*This testimony is submitted on behalf of the Environmental Law Clinic at the University of Maryland Carey School of Law and not by the School of Law, the University of Maryland, Baltimore, or the University of Maryland System.*

# **UMDLawTestimony.pdf**

Uploaded by: Genevieve Block

Position: UNF

### **Written Testimony in Opposition to Senate Bill 76**

*Tidal Fish Licenses - Oyster Authorizations - Administrative Penalties  
Before the Education, Energy, and the Environment Committee: February 4, 2025*

#### **Introduction:**

Thank you, Mr. Chairman, Vice Chairwoman and members of the committee. The University of Maryland Carey School of Law Environmental Law Clinic **OPPOSES** SB76, which would significantly reduce penalties for oyster poachers.

#### **Overview:**

Maryland is committed to protecting its natural resources, particularly critical oyster populations within its waters. Oysters play an integral role in the Chesapeake Bay by filtering excess nutrients, improving water quality and creating habitats for other aquatic life. Their reefs also help to protect shores from erosion as well as storm surge, protecting coastal communities. Maryland's oyster population is on the verge of extinction. Overharvesting and poaching threaten oyster populations, disrupting ecological benefits as well as impacting local communities. Laws that deter and punish poachers are essential to protecting the Chesapeake Bay and its aquatic inhabitants.

SB76's changes to administrative penalties would undermine these efforts. Currently, Maryland stands alongside other states in enforcing penalties against individuals who violate fishing laws aimed at safeguarding these vital oyster sanctuaries. Notably, Virginia imposes significantly harsher penalties than Maryland. Maryland's Oyster populations remain at risk. Without strong penalties for those who *knowingly* poach oysters, our oyster populations may be depleted.

#### **Current Process and Fairness:**

Maryland is obligated to provide each licensed individual with a rulebook that includes detailed maps outlining designated open and closed fishing areas, as well as established sanctuaries. Each licensed fisherman is required to sign this rulebook, thereby acknowledging both the receipt of the document and their understanding of Maryland's fishing regulations. This signed rulebook serves as an affidavit, affirming the fisherman's commitment to sustainable fishing practices and understanding of the penalties associated with noncompliance. It serves as an essential tool for the State in its case against violators, as it shows the fisherman had knowledge of the regulations and, consequently, should have been aware of any violations.

Maryland's existing administrative process is both effective and fair in addressing violations. Under the current framework, the Maryland Department of Natural Resources (DNR) has 90 days from the issuance of a violation to respond. This time frame allows both due process and adequate time for investigation for both parties. Additionally, DNR has discretion whether to bring enforcement proceedings for oyster poachers.

Genevieve Block, Emily Rudo, and Jack Libby  
Environmental Law Clinic  
University of Maryland Carey School of Law

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Under the current system, individuals who receive a citation may have the option to prepay the fine and admit guilt or attend a district court hearing to determine guilt. Concurrently, if DNR finds the violation was egregious enough under §4-1210 to revoke their license, DNR has 90 days to notify the poacher that they must go before an administrative law judge. This timeline ensures that oystermen receive notice from DNR in a timely manner after receiving a citation.

As part of the investigative process under §4-1210, DNR conducts administrative hearings that mirror legal proceedings. These hearings provide an opportunity for both the state and the defendant to present evidence, examine witnesses—including expert witnesses—and engage in cross-examination. The process adheres to strict rules of evidence, ensuring that all evidence presented is both relevant and probative. Additionally, the state bears the burden of proof of showing the accused *knowingly* violated the law. Further, the state must prove the accused's guilt by a preponderance of the evidence.

### **Conclusion:**

Maryland's current procedures for equipping fishermen with the necessary tools and resources, including comprehensive maps within the rulebook, effectively provide them with the means to avoid violations. Furthermore, the DNR website clearly outlines the administrative hearing process for violators. Maryland's existing administrative framework fairly balances support for sustainable oystermen while also safeguarding the state's vulnerable oyster population.

The University of Maryland Francis King Cary School of Law Environment Clinic strongly **opposes** SB76 as it challenges the integrity of Maryland's equitable and operational system for Administrative Penalties. For these reasons, we request an unfavorable report on Senate Bill 76.

*This testimony is submitted on behalf of the Environmental Law Clinic at the University of Maryland Carey School of Law and not by the School of Law, the University of Maryland, Baltimore, or the University of Maryland System.*

# **SB 76 - Concerned Citizens - UNF.pdf**

Uploaded by: Matt Stegman

Position: UNF

Testimony before the  
Senate Education, Energy, and the Environment Committee  
February 4, 2025

**Senate Bill 76**  
**Tidal Fish Licenses – Oyster Authorizations – Administrative Penalties**  
**Position: OPPOSE**

Dear Chairman Feldman, Vice Chair Kagan, and Members of the Committee:

We, the undersigned organizations and individuals, respectfully request an **unfavorable** report from Senate Education, Energy, and the Environment Committee on Senate Bill 76. This bill would remove the Department of Natural Resources' (DNR) authority to revoke authorizations to harvest oysters, significantly weakening penalties and deterrents for oyster poaching. Further the bill would allow existing revocations to be retroactively reinstated, allowing those with a revoked authorization to bypass those currently on the waiting list.

The Chesapeake Bay oyster population remains at around two percent of historic levels, and oyster poaching is a significant impediment to oyster recovery. Administrative penalties are reserved for the most egregious set of violations, which includes poaching from an oyster sanctuary, poaching from an oyster aquaculture lease, and poaching from areas closed due to sanitation issues, among others. These violations threaten the long-term sustainability of the oyster population, private investment in oyster recovery and public health and safety. The existing statute reflects the seriousness of these specific actions and is intended to serve as a strong deterrent to these illegal activities.

Even if an individual's oyster authorization is revoked, they can continue to participate in other fisheries, meaning their opportunity to earn a livelihood in the fishing industry is not completely shut down. In this regard, Maryland's penalties are less stringent than other states, like Virginia, who has the authority to seize vessels and harvest equipment, preventing individuals from participating at all in commercial fishing.

Removing the ability to revoke a license for the most serious oyster poaching offenses is an undermining of the Department's authority and limits the ability to remove 'bad actors' from the oyster fishery. These 'bad actors' not only damage the resource but undercut honest watermen who adhere to the regulations. Limiting a suspension to not more than 2 years for a first offense significantly weakens the deterrent effect of administrative action as the penalty could be as little as a month, rendering a suspension little more than the cost of doing business. The bill also requires reinstatement of an authorization at the termination of suspension regardless of any other violations that may have occurred. Many of those currently revoked have committed additional offenses while revoked, and this bill would allow them to be reinstated rather than making that license available for those who have been on the waitlist for years.

Oysters are a public resource, belonging to all Marylanders. Regulations and the penalties which reinforce them are put in place to protect these resources, which are held in public trust for the benefit of all. Knowing violation of these regulations in a manner that invokes the most serious penalties the Department can levy should not be taken lightly, as is reflected DNR's thoughtful and limited implementation of their current authority.



We urge the Committee to provide an **unfavorable** report on Senate Bill 76 and thank you for your consideration.

Sincerely,

Elle Basset  
South, West, and Rhode Riverkeeper  
Arundel Rivers Federation

Alice Volpitta  
Baltimore Harbor Waterkeeper  
Blue Water Baltimore

Mark Southerland, PhD  
Vernal Pools Partners

Kevin Sullivan  
Annapolis, MD

Deanna Bauerlein  
Bowie, MD

Michael Brown  
Silver Spring, MD

David Mosher  
Gaithersburg, MD

Cheryl Duvall  
Annapolis, MD

Georgeanne Pinkard  
Baltimore, MD

Maddie Beller  
Baltimore, MD

David Hutton  
Catonsville, MD

Kenneth Lewis  
Cockeysville, MD

Julia Lawrence  
Columbia, MD

William Bua  
Laurel, MD

Benjamin Ford  
Miles-Wye Riverkeeper  
ShoreRivers

Robin Broder  
Waterkeepers Chesapeake

Emma Green Ewing  
St. Mary's River Watershed Association

Worral R. ("Nick") Carter III  
Greensboro, MD

Craig Carlson  
Chevy Chase, MD

Lani Hummel  
Annapolis, MD

Judi Guralnick  
Baltimore, MD

James Mcvey  
Arnold, MD

Martín Herdoiza  
Baltimore, MD

Laura Schmidt  
Baltimore, MD

John Keitt Hane IV  
Baltimore, MD

Eleanor Cook  
Baltimore, MD

Emilia Meyer  
Baltimore, MD

Kevin Sullivan  
St. Michael's, MD

Daniel Johannes  
Bowie, MD

Milo Abrams  
Chevy Chase, MD

Martha Garcia Mowbray  
Churchville, MD

Larry Jennings  
Cape St. Claire, MD

Ronald Hartman  
Elkton, MD

# **SB 76 - Oyster Gardeners - UNF.pdf**

Uploaded by: Matt Stegman

Position: UNF

February 4, 2025

Senate Education, Energy and the Environment Committee  
2 West  
Miller Senate Office Building  
Annapolis, Maryland 21401

**RE: Senate Bill 76 – Tidal Fish Licenses – Oyster Authorizations – Administrative Penalties**

Position: **OPPOSE**

Dear Chairman Feldman and Members of the Committee:

Thank you for the opportunity to provide testimony on Senate Bill 76. We, the undersigned, represent the thousands of oyster gardeners participating in community-based restoration of the Bay's oyster resource each year.

The Chesapeake Bay Foundation's Maryland Oyster Gardening Program and the Department of Natural Resources' (DNR) Marylanders Grow Oysters Program were established to empower local citizens who wanted to make a difference in recovering the Bay's oyster populations. Each year, oyster gardeners receive several thousand oyster spat to grow out in cages hanging from their docks or on their property. Oyster gardeners tend these cages carefully during the growing season, cleaning off excess algae, removing sediment and ensuring the oysters are growing well. This close care and dedication pays off at the end of the season when these oysters are collected and placed in oyster sanctuaries throughout the Bay.

Through these innovative programs, oyster gardeners have planted more than 20 million oysters on sanctuary bars throughout Maryland waters. Because these oysters are grown for a year in a protected environment, they are of larger size when placed on sanctuary reefs. This affords them higher survival, greater reproductive capacity, and higher filtration rates than smaller oysters.

Oysters are the Bay's most prodigious filters and an important keystone in the ecosystem. They provide habitat to other fish and shellfish species, they clean our water, and they reduce nutrient pollution. That is why we dedicate countless hours to the care and husbandry of our oyster 'gardens.'

SB 76 would remove a key protection for oyster sanctuaries by removing DNR's ability to revoke an oyster authorization for those caught poaching oysters from oyster sanctuaries. Oyster sanctuaries throughout Maryland have received annual plantings by oyster gardeners which could be under threat if this important deterrent to oyster poaching is removed. While smaller in scale than state-supported restoration projects, we believe our significant investments of time and effort deserve protection from harvest. Protecting these sanctuaries from poaching will allow the oysters to grow, reproduce, and create self-sustaining populations that are so critical to the oyster's recovery.

We urge the Committee to protect the investments of the hundreds of Maryland citizens contributing to oyster restoration annually, and we respectfully request an unfavorable report on Senate Bill 76.

Sincerely,

Rebecca Cluster  
North Beach, MD  
Herring Bay

Jason Goodman  
Pasadena, MD  
Black Hole Creek

Cindy Kim  
Lusby, MD  
Patuxent River

Julie Kurland  
Takoma Park, MD

Donna Williams  
Rockville, MD

Don Adams  
Reisterstown, MD  
Carroll County Public Schools

Jill King  
Annapolis, MD  
Podickory Creek

Ruthellen Sheldon  
Annapolis, MD  
Chesapeake Bay

Tara Smith  
Garrett Park, MD  
West River

Ryan Johnson  
Annapolis, MD  
Weems Creek

Helene Fox  
Annapolis, MD  
Weems Creek

Michael Lungociu  
Annapolis, MD  
Blackwalnut Creek

Andrew Moe  
Annapolis, MD  
Severn River

Nicole Love  
Shady Side, MD  
West River

Taylor Janish  
Essex, MD  
Back River

Harold Collinson  
Leonardtown, MD  
Breton Bay

Howard Dent  
Newburg, MD  
Cuckold Creek

Patricia Mansfield  
Brookeville, MD

Mark Streger  
Annapolis, MD  
Duvall Creek

Madelyn Knowles  
Annapolis, MD  
Blackwalnut Creek

Megan Deppe  
Davidsonville, MD

William Wirth  
Easton, MD  
Miles River

Andrea Youngk  
Cape St. Claire, MD  
Magothy River

Susan Benac  
Crownsville, MD  
Severn River

Kimberly Price  
Crownsville, MD  
Severn River

Dave Hassett  
Chester, MD

Hiram Larew  
Churchton, MD  
Broadwater Creek

Jeff DeHart  
Ocean Pines, MD  
St. Martins River

Jacqueline Agnew  
Crownsville, MD  
Severn River

Danielle Barlow  
Stevensville, MD  
Eastern Bay

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Position: INFO



Wes Moore, Governor  
Aruna Miller, Lt. Governor  
Josh Kurtz, Secretary  
David Goshorn, Deputy Secretary

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February 4, 2025

**BILL NUMBER: Senate Bill 76 – First Reader**

**SHORT TITLE: Tidal Fish Licenses - Oyster Authorizations - Administrative Penalties**

**DEPARTMENT’S POSITION: INFORMATIONAL**

**EXPLANATION OF DEPARTMENT’S POSITION**

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Currently, the Department revokes licenses and authorizations under the definition of revocation as described in COMAR 08.02.13.01. “Revocation” means the act of the Department permanently rescinding a fishing license, authorization, or entitlement and thereby permanently prohibiting a person from engaging in a fishing activity or activities under any circumstances. The Department defines “Suspension” as the act of the Department temporarily rescinding a fishing license, authorization, or entitlement and thereby temporarily prohibiting a person from engaging in a fishing activity or activities under any circumstances.

Under its current authority enumerated in Natural Resources Article, §4-1210, Annotated Code of Maryland, when a citation is issued for one of the enumerated offenses the Department assesses the circumstances and makes a decision whether to move forward with pursuing a revocation action against the individual or not. If the Department initiates a revocation action against the individual, the Department must prove its case in a civil proceeding in front of the Office of Administrative Hearings. If the Department is successful, the individual is permanently revoked from the commercial oyster fishery, subject to appeals to the Circuit Court and beyond. The outcome of the criminal case in the District Court has no bearing on the case in front of the Office of Administrative Hearings because they have different evidentiary standards, one being a criminal matter (District Court) and one being a civil administrative matter (Office of Administrative Hearings). If the Department chooses to not initiate a revocation action against the individual, and the individual is convicted in District Court (subject to appeals, etc.), the Department may elect to initiate an administrative action in accordance with COMAR 08.02.13.02 and .03, which were promulgated under the authority of Natural Resources Article, §4-701, Annotated Code of Maryland. If the individual receives any disposition other than guilty or nolo contendere, the Department is not able to take any administrative action against the individual.

This bill would remove the Department’s ability to revoke an individual based on the enumerated offenses and instead replace that authority with the ability to suspend an individual for either two or 10 years, depending on whether the individual had previously been adjudicated as having committed a knowing violation under Natural Resources Article, §4-1210, Annotated Code of Maryland. The Department believes that the suspensions provided for in this bill still present a meaningful deterrent effect on potential offenders while providing an avenue for individuals to return to the fishery in the hope that they have been rehabilitated. The decade-long suspension for second or subsequent offenses,

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while not as permanent as a revocation, would effectively remove bad actors for a significant amount of time. Additionally, violators who are convicted in criminal court of committing egregious offenses may still be revoked under the points system established in COMAR and are not eligible for reinstatement under the terms of this bill.

#### **BACKGROUND INFORMATION**

There have been a number of recent bills similar to this one. House Bill 725 in 2023, House Bill 1310 in 2022, Senate Bill 637 in 2021, House Bill 856 in 2020, and House Bill 1153 in 2019 are a few of the past bills related to removing the revocation under Natural Resources Article, Section 4-1210.

Additionally the Department engaged in an iterative process over the interim to address the concerns that we heard that legislative session.

#### **BILL EXPLANATION**

HB 76 removes the Department's ability to revoke an individual for certain offenses on issuance of a citation and replaces it with a tiered suspension based on an individual's past offenses. The bill also requires the Department to reinstitute the authorization of individuals who had previously been revoked so long as the duration of the revocation has been at least equivalent to the period of suspension that would be instituted under the new structure.