

SenatorBailey_FAV_SB166.pdf

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Position: FAV

JACK BAILEY
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Budget & Taxation Committee



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February 3, 2026

Senate Bill 166 - Shellfish Aquaculture – Penalties – Suspension or Revocation of Permit or Registration Card

Dear Chair Feldman and Members of the Committee,

I am writing to introduce Senate Bill 166. This bill would create an administrative process to suspend or revoke the licenses of individuals participating in shellfish aquaculture if they commit egregious violations of State law.

Senate Bill 166 authorizes the Department of Natural Resources (DNR) to suspend a Shellfish Aquaculture Harvester Permit or a Shellfish Aquaculture Harvester Registration Card for five years for a first offense and revoke a permit or registration card for a second offense. The offenses that this process would apply to are identical to the offenses for holders of an oyster authorization with one difference. An oyster authorization can be suspended for taking oysters during closed seasons; since aquaculture does not have closed seasons, that is not included in this bill. In its place, the bill would allow an aquaculture permit or registration card to be suspended or revoked if the holder takes oysters for commercial purposes from a natural oyster bar or the public shellfish fishery area without a valid authorization. The administrative procedure is otherwise unchanged from the existing procedure for tidal fish licensees.

Both the holder of a tidal fish license with an oyster authorization and an aquaculture permit holder are licensed by DNR to harvest and sell oysters. However, currently a tidal fish licensee is subject to administrative penalties that can result in the suspension or revocation of their authorization for violating State law protecting the public oyster fishery, such as catching oysters in a sanctuary, while a person licensed to engage in aquaculture activities is not. This bill is intended to treat both license holders equally under the law.

The provisions of this bill are modeled after the existing statute for tidal fish licensees who hold an oyster authorization as this statute was amended by House Bill 893, which became law last year. As I heard from the watermen who were affected and concerned by the penalties that could be administered under that procedure as it existed prior to last year, one concern I heard come up often was that these watermen were being held to a standard that did not apply to others who committed similar offenses, particularly those who engaged in aquaculture. Last year's legislation created a much fairer penalty for administrative violations by watermen who hold oyster authorizations, and now that this process has been improved, I believe it is appropriate to apply it to all who are engaged in commercial activities related to oysters in Maryland's waterways.

I respectfully request a favorable report on Senate Bill 166. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Bailey', written over a horizontal line.

Senator Jack Bailey

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Position: FWA



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

February 3, 2026

BILL NUMBER: SENATE BILL 166

SHORT TITLE: SHELLFISH AQUACULTURE - PENALTIES - SUSPENSION OR REVOCATION OF PERMIT OR REGISTRATION CARD

DEPARTMENT'S POSITION: SUPPORT WITH AMENDMENTS

EXPLANATION OF DEPARTMENT'S POSITION

Senate Bill 166 creates a system by which the Department may pursue a five-year suspension of an individual's Shellfish Aquaculture Harvester Permit or Shellfish Aquaculture Harvester Registration Card for a first offense and a revocation of a permit or registration card for a second offense for certain enumerated violations.

At face value, this is a similar system as designed in Natural Resources Article, §4-1210, Annotated Code of Maryland, which applies to violations in the wild oyster fishery. The Department appreciates the effort to hold bad actors in the shellfish industry accountable in a way similar to bad actors in the wild oyster fishery. However, to address concerns regarding the approach taken in this bill, we are proposing amendments.

The first concern is that the list of violations, while similar to the list of violations in Natural Resources Article, §4-1210, Annotated Code of Maryland, is not tailored specifically to the types of serious violations potentially seen in the aquaculture industry. The original list penalizes an aquaculture harvester who is not additionally licensed to harvest wild oysters more significantly than an aquaculture harvester who is additionally licensed to harvest wild oysters. The proposed amendments remove the gear violation, since gear violations are not a significant concern in the aquaculture setting, modify the time-related violation to be specific to serious public health violations, and add a scenario where an individual who is licensed to harvest wild oysters illegally plants wild oysters on their lease, to ensure equal treatment between those licensed and those not licensed to harvest wild oysters.

The second concern is that the language in Section E of the bill, while mirroring the language of Natural Resources Article, §4-1210, Annotated Code of Maryland, does not reflect the very different natures of the aquaculture industry and the wild oyster fishery. In the wild oyster fishery, harvesters are required to sell to Department of Natural Resources-licensed and Department of Health-certified dealers, or be licensed and certified themselves and sell directly to the public under those licenses/certifications. In reality, most harvesters sell their oysters directly to a dealer who is waiting for them at the dock. When someone is prohibited from engaging in the wild oyster fishery as a result of the penalty in Natural Resources Article, §4-1210, Annotated Code of Maryland, that sale which is the culmination of harvest is the primary action from which they are prohibited. In the aquaculture context, because the oysters they are selling are not wild oysters, there are situations where they do not need a dealer's license from the Department of Natural Resources to sell

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their own product. The primary example of this would be an aquaculture business selling their product directly to consumers. Additionally, the business may also engage in sales of oysters which will be produced in the future (i.e., entering a sales contract with a restaurant group at a trade show). Because the language in Section E refers to the “use of a license” and the only Department “license” which is used by an aquaculture operation is the Tidal Fish Dealer License, the proposed language is potentially overbroad and would essentially eliminate the individual from the operations of the aquaculture business entirely, including from aspects of the business that have nothing to do with on-water violations. The proposed amendment would prevent penalized individuals from all on-water work, whether or not that work required the use of a permit or registration card, thereby ensuring that individuals who committed significant on-water violations are removed from the water. The ultimate effect of the amendment would be that those individuals could remain part of the business end of the operation, which is of significant concern when dealing with leases where only one individual owns and operates the entire business. Without this provision, sole proprietors would likely lose their entire investment in their business. By applying the penalty to aquaculture activities on the lease, it makes the penalty more consistent with Natural Resources Article, §4-1210, Annotated Code of Maryland, where an individual harvester could still participate in other aspects of their business that were not related to oystering under an authorization such as crabbing or finfishing.

BACKGROUND INFORMATION

The way that the Department licenses aquaculture operators is not identical to how the Department licenses its commercial harvesters. The amendments listed above create more parity for the penalties that exist between those who have a Shellfish Aquaculture Harvester Permit and those who have a Shellfish Aquaculture Harvester Registration Card, while also taking into consideration the legal differences that exist between these two industries.

BILL EXPLANATION

Senate Bill 166 creates additional penalties for shellfish aquaculture violations.

SB 166 - CBF - INFO.pdf

Uploaded by: Matt Stegman

Position: INFO



CHESAPEAKE BAY FOUNDATION

Senate Bill 166 Shellfish Aquaculture – Penalties – Suspension or Revocation of Permit or Registration Card

Date: February 3, 2026

Position: Information

To: Education, Energy and the Environment Committee

From: Allison Colden, Executive Director

During the 2025 General Assembly session, CBF worked closely with this committee and with Senator Bailey to develop an alternative approach to administrative penalties in the public oyster fishery for a subset of violations listed in natural Resources Art. §4-1210. The resulting statute provides the Department of Natural Resources (DNR) the discretion to impose a 5-year suspension on the first offense while maintaining the revocation requirement upon a subsequent violation. This allows the Department additional flexibility while maintaining a significant deterrent to oyster poaching violations that threaten public health and the sustainability of Maryland’s oyster resource.

Senate Bill 166 seeks to impose the same administrative penalty schedule to permit holders or authorized harvesters in Maryland’s shellfish aquaculture (“oyster farming”) industry. While CBF believes that oyster poaching by any individual, including oyster farmers, is a serious offense that should result in significant penalties, the bill as drafted fails to recognize key differences between shellfish aquaculture and the public oyster fishery. These differences would render the bill difficult to implement and could result in negative unintended consequences for Maryland waterways.

For example, the bill requires suspension or revocation of an aquaculture permit or harvester card for harvesting from an oyster sanctuary; however, aquaculture leases are permitted in sanctuaries, so harvest from a permitted lease could be considered a violation. Additionally, aquaculture harvest is permitted from areas closed due to shellfish sanitation restrictions through a process known as “relay.” This allows aquaculturists to move oysters from a lease located in a closed area to a lease in an open area for a period of 2-3 weeks before sale so they can purge any bacteria that could be harmful to public health.

The bill is also silent on what happens to a permittee’s lease, equipment, and oysters under a suspension or revocation. Unlike the public fishery, where the oysters are a public resource of the state, equipment and oysters in the aquaculture industry are privately owned. Without the ability to properly maintain or remove this equipment and oyster stock, it could become derelict and a hazard for both navigation and the environment.

These are a select few examples of how leasing laws and standard husbandry practices within the aquaculture industry could be interpreted as revocable offenses under the provisions of SB 166, which we do not believe is the bill sponsor’s intent. CBF stands ready to work with this Committee, the bill sponsor, and the responsible actors within the aquaculture industry to develop amendments to this bill that would preserve the intent to provide a serious deterrent to poaching while not having an adverse impact on water quality or unduly impacting standard industry operating practices.

For more information, please contact Matt Stegman, Maryland Staff Attorney, at mstegman@cbf.org.

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