

**HB1400JAJ.pdf**

Uploaded by: Jay Jacobs

Position: FAV

JAY A. JACOBS  
*Legislative District 36*  
Caroline, Cecil, Kent, and  
Queen Anne's Counties

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Environment and Transportation  
Committee

*Subcommittees*

Motor Vehicle and Transportation

Natural Resources, Agriculture,  
and Open Space

Local Government and Bicounty Agencies

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Joint Committee on Administrative,  
Executive, and Legislative Review



The Maryland House of Delegates  
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THE MARYLAND HOUSE OF DELEGATES  
ANNAPOLIS, MARYLAND 21401

## **HB 1388 Oysters- Rotational Harvest-Pilot Program**

Chair Korman and members of the Environment and Transportation Committee: This legislation is for the purpose of establishing a 5-year Rotational Harvest Pilot Program for oysters in 4 areas of the Chesapeake Bay and implemented by the Department of Natural Resources as specified. Before opening an area for harvesting under the program, the Department will survey and investigate the area to collect certain baseline data and after closing the area, to continue to monitor the area.

There are 51 sanctuaries in Maryland of which the Big 5 known as Harris Creek, Little Choptank, Tred Avon, St. Mary's and Manokin River are not part of this legislation. The remaining 46 have had little to no investment from the State and this legislation intends to open 4 of these sanctuaries under specific criteria for rotational harvest and investment by the County Oyster Committees. These sanctuaries were established in 2009 with a 5-year time span. It has now been 16 years and most of the 46 sanctuaries have either stayed in the same condition or gotten worse.

The last several years have seen good spat sets in the Chesapeake Bay. In 2023 the spat set was the fifth highest in the last 39 years. Making good investments in the oyster sanctuaries at this time under these conditions may prove to be good for the industry, the water quality and habitat of the Chesapeake Bay and tributaries. **I ask for your favorable vote for HB 1388**

JAY A. JACOBS  
*Legislative District 36*  
Caroline, Cecil, Kent, and  
Queen Anne's Counties

Environment and Transportation  
Committee

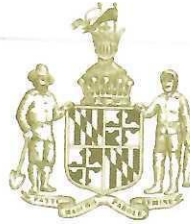
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**HB 1400 Shellfish Aquaculture-Penalties-Suspension or  
Revocation of Permit or Registration Card**

Chair Korman and members of the Environment & Transportation Committee:

This legislation brings parity between the Public Commercial Oyster Fishery and the Aquaculture Oyster Fishery in terms of suspension or revocation for certain violations listed in the bill.

In 2011 legislation was passed that someone possessing a TFL with an oyster authorization could have a lifetime revocation for certain violations. Last year legislation was passed that changed that law for someone convicted for a first offense could receive a 5-year suspension and for a second offense a lifetime revocation. At no time did the Shellfish Aquaculture Harvesters have a similar penalty provision. This legislation basically puts the 2 fisheries in a similar and fair penalty scheme for the same types of offenses.

I ask for your favorable vote for HB 1400

**HB 1400 - CBF - FWA.pdf**

Uploaded by: Allison Colden

Position: FWA



# CHESAPEAKE BAY FOUNDATION

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## House Bill 1400 Shellfish Aquaculture – Penalties – Suspension or Revocation of Permit or Registration Card

**Date:** March 4, 2026

**To:** Environment and Transportation Committee

**Position:** Favorable with Amendment

**From:** Dr. Allison Colden,  
Executive Director

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The Chesapeake Bay Foundation (CBF) **SUPPORTS House Bill 1400 WITH AMENDMENTS**. As drafted, HB 1400 would require a 5-year aquaculture permit suspension on first violation and an aquaculture permit revocation upon a subsequent violation of a certain oyster harvesting restrictions. CBF supports amendments developed with the Senate sponsor and DNR that maintain the intent of the bill, to provide a significant deterrent against poaching and public health violations, while ensuring routine husbandry activities associated with aquaculture do not result in unintended revocations.

During the 2025 General Assembly session, CBF worked closely with this committee 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.

House Bill 1400 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.

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.

CBF recommends the attached amendments to address the above concerns. For more information, please contact Matt Stegman, Maryland Staff Attorney, at [mstegman@cbf.org](mailto:mstegman@cbf.org).

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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 200,000 members and e-subscribers, including 71,000 in Maryland alone, CBF works to educate the public and to protect the interest of the Chesapeake and its resources.*

AMENDMENT NO. 1

On page 1, in line 8, after “revocation;” insert “authorizing a certain leaseholder and the Department of Natural Resources to undertake a certain process within certain time periods to transfer a shellfish aquaculture lease;”.

AMENDMENT NO. 2

On page 2, in line 16, strike “LOCATED” and substitute “FROM A CLOSED OR PROHIBITED AREA”; strike beginning with “WITHIN” in line 17 down through “AREA” in line 17 and substitute “OUTSIDE OF A SHELLFISH AQUACULTURE LEASE”; strike beginning with “TAKING” in line 18 down through “TAKING” in line 20 and substitute “DELIVERING”; strike beginning with “OUTSIDE” in line 20 down through “BY” in line 21 and substitute “TO A DEALER”; in line 21, after “HOUR” insert “AFTER THE TIME REQUIRED BY THE STATE’S VIBRIO PARAHAEMOLYTICUS CONTROL PLAN”; in lines 22 and 24, strike “(IV)” and “(V)”, respectively, and substitute “(III)” and “(IV)”, respectively; in line 23, strike “AND”; in line 25, strike “THE” and substitute “A”; and in line 26, strike “TITLE” and substitute “TITLE; AND”

**(V) ILLEGALLY TAKING OYSTERS FOR COMMERCIAL PURPOSES FROM A NATURAL OYSTER BAR OR A PUBLIC SHELLFISH FISHERY AREA AND PLANTING THOSE OYSTERS ON A SHELLFISH AQUACULTURE LEASE**.

On page 3, in line 15, strike “LICENSE” and substitute “REGISTRATION OR PERMIT CARD”; and after line 15, insert:

**(F) (1) THIS SUBSECTION APPLIES TO A PERSON WHO IS THE SOLE HOLDER OF A SHELLFISH AQUACULTURE LEASE UNDER SUBTITLE 11A OF THIS TITLE AND HAS HAD THEIR PERMIT OR REGISTRATION CARD SUSPENDED OR REVOKED UNDER THIS SECTION.**

**(i) WITHIN 90 DAYS FOLLOWING THE CONCLUSION OF AN ADMINISTRATIVE PROCEEDING UNDER § 4-11A-10 OF THIS TITLE AND ANY SUBSEQUENT APPEAL, A PERSON MAY PROVIDE TO THE DEPARTMENT A PLAN TO REMOVE ANY GEAR OR OTHER EQUIPMENT FROM THE LEASED AREA OR TRANSFER THE LEASE TO ANOTHER PERSON.**

**(ii) WITHIN 60 DAYS OF RECEIPT OF THE PLAN UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH, THE DEPARTMENT SHALL REVIEW THE PLAN AND NOTIFY THE PERSON OF ANY REQUIRED PLAN REVISIONS OR THAT THE PLAN IS COMPLETE.**

**(iii) WITHIN 30 DAYS OF THE DEPARTMENT’S NOTIFICATION UNDER SUBPARAGRAPH (ii) OF THIS PARAGRAPH, THE PERSON SHALL SUBMIT ANY REQUIRED PLAN REVISIONS AND A LEASE TRANSFER APPLICATION TO THE DEPARTMENT.**

**(iv) WITHIN 90 DAYS OF RECEIPT OF THE PERSON’S COMPLETED LEASE TRANSFER APPLICATION, THE DEPARTMENT SHALL APPROVE THE LEASE TRANSFER.**

**(2) THE DEPARTMENT MAY NOT TERMINATE A PERSON’S LEASE BEFORE THE CONCLUSION OF THE PROCESS UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

**(3) A PERSON’S FAILURE TO COMPLETE THE PROCESS UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY RESULT IN THE FORFEITURE OF ANY GEAR AND EQUIPMENT ON THE LEASED AREA TO THE STATE.**

**HB1400\_DNR\_SWA\_ENT\_3-4-26.pdf**

Uploaded by: Lydia McPherson

Position: FWA



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

February 27, 2026

**BILL NUMBER: HOUSE BILL 1400 – FIRST READER**

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

**DEPARTMENT'S POSITION: SUPPORT WITH AMENDMENTS**

**EXPLANATION OF DEPARTMENT'S POSITION**

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The Department supports House Bill 1400 with amendments.

House Bill 1400 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.

This bill creates 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. The Department proposes the following amendments to address several concerns.

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

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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 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**

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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 Shellfish Aquaculture Harvester Registration Card and those who have a commercial oyster harvester license, while also taking into consideration the legal differences that exist between these two industries.

#### **BILL EXPLANATION**

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House Bill 1400 creates additional penalties for shellfish aquaculture violations.

BY:

(To be offered in the Environment and Transportation Committee)

#### **AMENDMENTS TO HOUSE BILL 1400** (First Reading File Bill)

#### **AMENDMENT NO. 1**

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AMENDMENT NO. 2

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