

HOUSE BILL 1191

M2

0lr2947
CF SB 342

By: **Delegates McIntosh, Bobo, Cane, Carr, V. Clagett, Glenn, Healey, Holmes, Lafferty, Niemann, Shewell, Sossi, and Stein**
Introduced and read first time: February 18, 2010
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Oyster Poaching – Hearing**

3 FOR the purpose of providing that a certain person who receives a citation for a
4 certain offense related to unlawfully taking oysters may have a certain license
5 revoked under certain circumstances; establishing certain grounds for the
6 revocation of a certain license; requiring the Department of Natural Resources
7 to hold a certain hearing under certain circumstances in accordance with the
8 Administrative Procedure Act; requiring the Department to revoke a person's
9 license to catch oysters under certain circumstances; authorizing certain
10 aggrieved persons to obtain judicial review of a certain decision; prohibiting a
11 certain person from using or receiving a certain license under certain
12 circumstances; and generally relating to unlawfully taking oysters and license
13 revocation.

14 BY adding to
15 Article – Natural Resources
16 Section 4–1210
17 Annotated Code of Maryland
18 (2005 Replacement Volume and 2009 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Natural Resources**

22 **4–1210.**

23 **(A) (1) IN ADDITION TO ANY OTHER PENALTY OR FINE PROVIDED IN**
24 **THIS TITLE, A PERSON WHO HOLDS A LICENSE TO CATCH OYSTERS UNDER §**
25 **4–701 OF THIS TITLE AND RECEIVES A CITATION FOR AN OFFENSE LISTED**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY HAVE THE LICENSE REVOKED
2 IN ACCORDANCE WITH THIS SECTION.

3 (2) THE FOLLOWING OFFENSES, COMMITTED IN VIOLATION OF
4 THIS TITLE OR OF ANY REGULATION ADOPTED UNDER THIS TITLE, ARE
5 GROUNDS FOR REVOCATION OF A LICENSE TO CATCH OYSTERS UNDER THIS
6 SECTION:

7 (I) TAKING OYSTERS FROM CLOSED OR PROHIBITED
8 AREAS;

9 (II) TAKING OYSTERS WITH ILLEGAL GEAR;

10 (III) TAKING OYSTERS AT TIMES WHEN TAKING OYSTERS IS
11 PROHIBITED;

12 (IV) TAKING OYSTERS DURING CLOSED SEASONS; AND

13 (V) TAKING OYSTERS FROM A LEASED AREA BY A PERSON
14 OTHER THAN THE LEASEHOLDER.

15 (B) (1) WITHIN 60 DAYS AFTER A PERSON WHO HOLDS A LICENSE TO
16 CATCH OYSTERS UNDER § 4-701 OF THIS TITLE RECEIVES A CITATION FOR AN
17 OFFENSE LISTED UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT
18 SHALL HOLD A HEARING ON THE MATTER IN ACCORDANCE WITH THE
19 ADMINISTRATIVE PROCEDURE ACT UNDER TITLE 10, SUBTITLE 2 OF THE
20 STATE GOVERNMENT ARTICLE.

21 (2) AFTER A HEARING IS CONDUCTED UNDER PARAGRAPH (1) OF
22 THIS SUBSECTION, IF THE PRESIDING OFFICER FINDS OR CONCLUDES THAT THE
23 PERSON KNOWINGLY HAS COMMITTED AN OFFENSE LISTED UNDER SUBSECTION
24 (A)(2) OF THIS SECTION, THE DEPARTMENT SHALL REVOKE THE PERSON'S
25 LICENSE TO CATCH OYSTERS.

26 (C) A PERSON WHO IS AGGRIEVED BY THE FINAL DECISION OF THE
27 DEPARTMENT MAY OBTAIN JUDICIAL REVIEW OF THE DECISION IN
28 ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT UNDER TITLE 10,
29 SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

30 (D) A PERSON WHOSE LICENSE HAS BEEN REVOKED IN ACCORDANCE
31 WITH THIS SECTION MAY NOT USE A TIDAL FISH LICENSE ISSUED TO THE
32 PERSON TO CATCH OYSTERS OR RECEIVE A TRANSFER OF A TIDAL FISH LICENSE
33 TO CATCH OYSTERS AFTER REVOCATION.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2010.