

SENATE BILL 342

M2

0lr1097
CF HB 1191

By: **Senators Frosh, Conway, Forehand, Harrington, Lenett, Pinsky, Raskin,
~~and Rosapepe~~ Rosapepe, and Klausmeier**

Introduced and read first time: January 28, 2010

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 25, 2010

CHAPTER _____

1 AN ACT concerning

2 **Natural Resources – ~~Oyster Poaching – Hearing~~ Oysters – Hearing for**
3 **Poaching and Designation of Sanctuaries**

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

17 BY adding to

18 Article – Natural Resources

19 Section 4–1210

20 Annotated Code of Maryland

21 (2005 Replacement Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 Article – Natural Resources

4 4–1210.

5 (A) (1) IN ADDITION TO ANY OTHER PENALTY OR FINE PROVIDED IN
6 THIS TITLE, A PERSON WHO HOLDS A LICENSE TO CATCH OYSTERS UNDER §
7 4–701 OF THIS TITLE AND RECEIVES A CITATION FOR AN OFFENSE LISTED
8 UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY HAVE THE LICENSE REVOKED
9 IN ACCORDANCE WITH THIS SECTION.

10 (2) THE FOLLOWING OFFENSES, COMMITTED IN VIOLATION OF
11 THIS TITLE OR OF ANY REGULATION ADOPTED UNDER THIS TITLE, ARE
12 GROUNDS FOR REVOCATION OF A LICENSE TO CATCH OYSTERS UNDER THIS
13 SECTION:

14 (I) TAKING OYSTERS FROM LOCATED MORE THAN 200 FEET
15 WITHIN A CLOSED OR PROHIBITED AREAS AREA;

16 (II) TAKING OYSTERS WITH ~~ILLEGAL~~ GEAR THAT IS
17 PROHIBITED IN THAT AREA;

18 (III) TAKING OYSTERS ~~AT TIMES WHEN TAKING OYSTERS IS~~
19 ~~PROHIBITED~~ OUTSIDE OF A TIME RESTRICTION FOR THE HARVEST ~~OR~~
20 ~~POSSESSION~~ OF OYSTERS BY MORE THAN 1 HOUR;

21 (IV) TAKING OYSTERS DURING CLOSED SEASONS; AND

22 (V) TAKING OYSTERS FROM A LEASED AREA BY A PERSON
23 OTHER THAN THE LEASEHOLDER OR LEASEHOLDER'S DESIGNEE.

24 (B) (1) WITHIN 60 DAYS AFTER A PERSON WHO HOLDS A LICENSE TO
25 CATCH OYSTERS UNDER § 4–701 OF THIS TITLE RECEIVES A CITATION FOR AN
26 OFFENSE LISTED UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT
27 SHALL HOLD A HEARING ON THE MATTER IN ACCORDANCE WITH THE
28 ADMINISTRATIVE PROCEDURE ACT UNDER TITLE 10, SUBTITLE 2 OF THE
29 STATE GOVERNMENT ARTICLE.

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

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

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

9 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of
10 Natural Resources may not designate a new oyster sanctuary in State waters before
11 April 1, 2011.

12 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
13 effect ~~October~~ June 1, 2010.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.