

SENATE BILL 390

M2
SB 957/16 – EHE

7lr2655
CF 7lr3190

By: **Senators Hershey, Eckardt, and Mathias**

Introduced and read first time: January 26, 2017

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Oyster Poaching – Administrative Penalties – Gear Violations**

3 FOR the purpose of repealing the offense of taking oysters with certain gear in certain areas
4 that is subject to certain enhanced administrative penalties; establishing the offense
5 of taking oysters with a power dredge in certain areas that is subject to certain
6 enhanced administrative penalties; and generally relating to administrative
7 penalties for oyster poaching gear violations.

8 BY repealing and reenacting, with amendments,
9 Article – Natural Resources
10 Section 4–1210
11 Annotated Code of Maryland
12 (2012 Replacement Volume and 2016 Supplement)

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

15 **Article – Natural Resources**

16 4–1210.

17 (a) (1) In addition to any other penalty or fine provided in this title, a person
18 who holds a license to catch oysters under § 4–701 of this title and receives a citation for an
19 offense listed under paragraph (2) of this subsection may have the license revoked in
20 accordance with this section.

21 (2) The following offenses, committed in violation of this title or of any
22 regulation adopted under this title, are grounds for revocation of a license to catch oysters
23 under this section:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(i) Taking oysters located more than 200 feet within a closed or prohibited area;

(ii) Taking oysters with [gear that is prohibited in that area] A
POWER DREDGE IN AN AREA RESERVED FOR ANOTHER TYPE OF GEAR;

(iii) Taking oysters outside of a time restriction for the harvest of oysters by more than 1 hour;

(iv) Taking oysters during closed seasons; and

(v) Taking oysters from a leased area by a person other than the leaseholder or the leaseholder's designee.

(b) (1) Within 60 days after a person who holds a license to catch oysters under § 4-701 of this title receives a citation for an offense listed under subsection (a) of this section, the Department shall hold a hearing on the matter in accordance with the Administrative Procedure Act under Title 10, Subtitle 2 of the State Government Article.

(2) After a hearing is conducted under paragraph (1) of this subsection, if the presiding officer finds or concludes that the person knowingly has committed an offense listed under subsection (a)(2) of this section, the Department shall revoke the person's license to catch oysters.

(c) A person who is aggrieved by the final decision of the Department may obtain judicial review of the decision in accordance with the Administrative Procedure Act under Title 10, Subtitle 2 of the State Government Article.

(d) A person whose license has been revoked in accordance with this section may not engage or work in the fishery for which the license was revoked whether or not it requires the use of another license.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.