

SENATE BILL 76

M2

(PRE-FILED)

5lr1446

CF 5lr1447

By: **Senator Bailey**

Requested: October 29, 2024

Introduced and read first time: January 8, 2025

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Tidal Fish Licenses – Oyster Authorizations – Administrative Penalties**

3 FOR the purpose of requiring the Department of Natural Resources to suspend for certain
4 time periods, rather than revoke, a person's oyster authorization for knowingly
5 committing certain violations in the oyster fishery; requiring the Department to
6 reinstate a person's revoked oyster authorization under certain circumstances;
7 altering a certain offense related to the use of prohibited gear that serves as grounds
8 for suspension of an oyster authorization; repealing a certain time period within
9 which a certain administrative hearing must be held; and generally relating to
10 administrative penalties for oyster authorizations.

11 BY repealing and reenacting, with amendments,
12 Article – Natural Resources
13 Section 4–1210
14 Annotated Code of Maryland
15 (2023 Replacement Volume and 2024 Supplement)

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

18 **Article – Natural Resources**

19 4–1210.

20 (a) (1) In addition to any other penalty or fine provided in this title, a person
21 who holds an authorization to catch oysters under § 4–701 of this title and receives a
22 citation for an offense listed under paragraph (2) of this subsection may, **IN ACCORDANCE**
23 **WITH THIS SECTION**, have the authorization [revoked in accordance with this section]:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(I) FOR A FIRST VIOLATION, SUSPENDED FOR UP TO 2 YEARS;

AND

(II) FOR A SECOND OR SUBSEQUENT VIOLATION, SUSPENDED FOR UP TO 10 YEARS.

(2) The following offenses, committed in violation of this title or of any regulation adopted under this title, are grounds for [revocation] **SUSPENSION** of an authorization to catch oysters under this section:

(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 **WHILE MORE THAN 200 FEET WITHIN THE PROHIBITED AREA**;

(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) [(i)] Before the [revocation] **SUSPENSION** of an authorization to catch oysters under 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.

[(ii)] A hearing held under subparagraph (i) of this paragraph shall be held within 90 days after the cited individual commits the offense listed under subsection (a)(2) of this section.]

(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] **SUSPEND** the person's authorization to catch oysters **IN ACCORDANCE WITH SUBSECTION (A)(1) OF THIS SECTION**.

(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 authorization has been [revoked] **SUSPENDED** in accordance with this section may not engage or work in the oyster fishery **WHILE SUSPENDED** whether or not [it] **THE WORK** requires the use of another license.

1 **(E) (1) THIS SUBSECTION APPLIES TO A PERSON'S AUTHORIZATION TO**
2 **CATCH OYSTERS THAT WAS REVOKED UNDER THIS SECTION BEFORE JULY 1, 2025.**

3 **(2) THE DEPARTMENT SHALL REINSTATE A PERSON'S**
4 **AUTHORIZATION TO CATCH OYSTERS IF:**

5 **(I) 1. THE AUTHORIZATION HAS BEEN REVOKED FOR AT**
6 **LEAST 2 YEARS; AND**

7 **2. THE REVOCATION WAS THE PERSON'S FIRST OFFENSE**
8 **ADJUDICATED AS A KNOWING VIOLATION UNDER THIS SECTION; OR**

9 **(II) 1. THE AUTHORIZATION HAS BEEN REVOKED FOR AT**
10 **LEAST 10 YEARS; AND**

11 **2. THE REVOCATION WAS THE PERSON'S SECOND OR**
12 **SUBSEQUENT OFFENSE ADJUDICATED AS A KNOWING VIOLATION UNDER THIS**
13 **SECTION.**

14 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**
15 **1, 2025.**