

Legislation 2011 – Final Update April 15, 2011

HB 111 - Department of Natural Resources - Fishing - Regulatory Authority - PASSED

This bill establishes regulatory authority for the Department to define and govern the use of recreational fishing gear, as well as commercial use of fish pots, bank traps, fyke nets, and hoop nets, in consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission.

HB 208 - Aquaculture – Shellfish Leasing Areas- Expansion - PASSED

This bill serves to correct minor references and text and removes text that were made obsolete by Senate Bill 271/House Bill 312, passed unanimously by the General Assembly in 2009. This bill makes definitions and terms consistent throughout the Fisheries Service title of Natural Resources law. This bill removes existing sanctuary leasing restrictions on bottom that are not historically charted Yates Bars. This bill also restricts aquaculture leasing to a corporation if the corporation is organized in Maryland and more than 50% of the stock in the corporation is owned by residents of Maryland.

HB 273 - Natural Resources – Oyster Poaching – Hearing – Cross-filed as SB 159 (Cross over – 3d reader passed Senate 4/5, Returned Passed 4/6) - PASSED

The bill allows the Department to revoke a commercial license if that licensee is issued a citation for taking oysters more than 200 feet within a closed or prohibited area, using illegal oyster gear, harvesting oysters outside of a legal time by more than 1 hour, harvesting oysters outside of a season, and taking oysters illegally from a leased area. The bill requires the Department to revoke the license through a contested case hearing process with the Office of Administrative Hearings (OAH). This hearing is required to occur within 60 days of the receiving a citation.

HB 396 – Natural Resources – Administrative Procedures – Electronic Citations, Inspections, and Hearings – Cross-filed as SB 414 - PASSED

This bill allows the Natural Resources Police officers to issue electronic citations and provides for an acknowledgment receipt to be signed by the violator. The bill repeals a section that requires the Department to hold a hearing before it can suspend a recreational or tidal fishing license, and replaces it with the requirement that the Department provide notice of a right to a hearing on request. If the licensee requests a hearing within the required time frame of 30 days of notice, the bill requires the Department to conduct a hearing, providing 10 days notice to the licensee. As amended, the Department may suspend a recreational or commercial license without a hearing if the licensee does not request a hearing or if he doesn't appear for the scheduled hearing. The bill also specifies the scope of authorized inspections by the Department for a tidal fishing licensee or transferee, exempting dwelling houses, and authorizes seizure of fishing gear related to a violation found upon inspection.

HB 966 - Natural Resources - Restricted Waters for Shellfish Harvesting - Method of Testing - PASSED

This bill requires the Department of Environment to use the most reliable available test to determine whether a shellfish production area poses a risk to consumer health and to rule out contaminants that do not pose a risk to consumer health before determining whether to restrict or lift restrictions on areas for catching/storing shellfish. The bill requires MDE to reconsider

designated waters that are currently restricted from shellfish harvesting on or before Dec. 31, 2011.

HB 1042 - Hunting and Recreational Fishing Licenses - Issuance by Agent - Service Charge – Cross-filed as SB 420 (Unfavorable Report 3/21/11) Environmental Matters - **FAILED**

The bill would authorize an agent who issues angler's licenses, Chesapeake Bay and coastal sport fishing licenses, or hunting licenses to add a service charge not exceeding \$5 for each license issued.

HB 1053 – Natural Resources – Aquaculture – Cross-filed as SB 847 - **PASSED**

The bill transfers Seafood Marketing and Aquaculture Program and other seafood commissions from the Department of Agriculture to the Department of Natural Resources. This bill clarifies that DNR is responsible for employing an Aquaculture Coordinator, refines the position's responsibilities, and designates membership of the Aquaculture Review Board with the Aquaculture Coordinator to serve as chair. The bill requires Department of Environment to classify a submerged land lease in the Chesapeake Bay or Atlantic Coastal Bays as approved or prohibited before DNR may issue a submerged land lease. The bill also allows DNR to issue water column leases after obtaining approval by Department of Environment, setting out certain prohibited areas for leases and providing for the means to cultivate shellfish. The bill adds water column leases to the section setting forth requirements for lease applications, and provides that DNR give notice to other interested parties of the application. The bill provides that certain leaseholders and licensees continue to be valid, and that certain pending applications be transferred to DNR.

HB 1142 - Natural Resources - Atlantic Menhaden - Restrictions on Products from Reduction (Hearing 3/16/11 at 1pm) Environmental Matters - **FAILED**

This bill would prohibit a person from manufacturing, selling, or distributing a product or product component obtained from the reduction of an Atlantic menhaden and would require the Department of Natural Resources to adopt specified regulations in consultation with the Department of Labor, Licensing, and Regulation. The penalty for violating this law would be a misdemeanor subject to a fine not exceeding \$100 for each offense.

HB 1154 – Natural Resources – Striped Bass and Crabs – Revocation – Cross-filed as SB 635 - **PASSED**

This bill provides that a person who receives a citation for a specified offense related to unlawfully taking striped bass or crabs may have a their striped bass or crab authorization revoked. It also requires the Department of Natural Resources, in consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, to adopt regulations that establish grounds for the revocation of the striped bass and crab authorizations, including egregious or repeat violations of using illegal gear, harvesting during closed seasons, harvesting from a closed area, violating established harvest, catch, or size limits, and violating tagging and reporting requirements. Before an authorization to catch striped bass or crabs could be revoked a hearing must be held. If the presiding officer of the hearing finds or concludes that the person knowingly has committed one of the specified offenses, the Department shall revoke the person's authorization to catch striped bass or crabs. If the person whose authorization is revoked so chooses, they may appeal the administrative decision. A person whose authorization has been revoked under this section may not engage or work in the fishery for which the authorization was revoked, whether or not it requires the use of another authorization.

HB 1225 – Natural Resources – Commercial Fishing Violations – Enhanced Penalties – Cross-Filed as SB 655 - PASSED

This bill establishes enhanced penalties for a person who commits a specified separate commercial fisheries violation while the person's commercial fishing license or authorization is suspended or revoked or who engages in commercial fishing activities without an appropriate license or authorization. Any fines imposed under the Act must be paid into the Fisheries Research and Development Fund.

HB 1238 – Department of Natural Resources – Tracking Device on Vessel – Prohibition without Court Order (Hearing 3/18 at 1pm) Environmental Matters - FAILED

This bill would prohibit the Secretary of Natural Resources or a Natural Resources police officer from placing or installing a tracking device on a vessel without first obtaining a court order. The court order must be from a court in the county where the device will be placed. The court is to issue such an order if the court finds that the information likely to be obtained by the placement or installation of the tracking device is relevant to an ongoing criminal investigation. The order must specify the identity of the owner of the vessel, the person who is the subject of the criminal investigation, the geographic limits of the tracking device, a description of the offense to which the information likely to be obtained by the tracking device relates, and direct any assistance necessary to accomplish the placement or installation of the tracking device, should such assistance be requested. A device placed under such an order shall be authorized for up to 60 days, although extensions of the order may be granted upon a new application. Such an extension shall not exceed 60 days. The court order would be sealed until further order of the court

HB 1240 – Natural Resources – Right to Harvest Seafood and Engage in the Seafood Industry - PASSED

This bill expands the application of the provision to authorize counties to adopt an ordinance, resolution, or regulation to authorize a person to engage in specified activities related to the seafood industry and to harvest seafood to apply to all counties in the State, rather than a few specified counties.

HB 1244 – Patuxent River – Oysters – Use of Patent Tongs - Previously filed as HB 154/10 – ENV (Hearing 3/18 at 1pm) Environmental Matters - FAILED

This bill would alter an area in the Patuxent River in which the prohibition on the use of patent tongs to catch oysters applies, moving the line where patent tongs are prohibited in the Patuxent River from the line joining Sotterly Wharf and the beacon at St. Leonard Creek to the line joining the southern shore of the entrance to Cole Creek and the beacon at Broomes Island.

HB 1249 – Public Oyster Fishery – South River – Hand Tonging (Unfavorable Report 4/1) Environmental Matters - FAILED

This bill would authorize a person to take or catch oysters by hand tong only in specified waters of the South River in Anne Arundel County. These restrictions would not apply to a creek that branches out from the South River and to which an aquaculture lease applied on January 1, 2011.

HB 1252 – Natural Resources – Large-Scale Striped Bass Poaching – Penalties - PASSED

Establishing that a person who commits specified fishing violations with respect to striped bass, and the violation results in the unlawful capture of striped bass worth over \$20,000 as determined by the proceeds of the unlawful capture, is subject to imprisonment not exceeding 2 years.

HB 1340 – Natural Resources - Oyster Sanctuaries - Designation – Cross-filed as SB 538 (Hearing 3/22 at 1pm) Environmental Matters - **FAILED**

The bill would prohibit the Department from designating more than 25% of the available oyster habitat in the waters of the State as oyster sanctuaries unless the Department first conducts a public hearing during which it presents scientific evidence of a significant increase in the harvestable oyster population. It would also allow the Department to revoke a commercial license if the licensee is issued a citation for taking oysters more than 200 feet within a closed or prohibited area, using prohibited oyster gear, harvesting oysters outside of a time restriction by more than one hour, harvesting oysters during closed season, and taking oysters illegally from a leased area. The bill requires the Department to revoke the license through a contested case hearing process with the Office of Administrative Hearings (OAH). This hearing is required to occur within 60 days after issuing the citation.

SB 159 – Natural Resources – Oyster Poaching – Hearing – Cross-filed as HB 273 - **PASSED**

The bill allows the Department to revoke a commercial license if that licensee is issued a citation for taking oysters more than 200 feet within a closed or prohibited area, using illegal oyster gear, harvesting oysters outside of a legal time by more than 1 hour, harvesting oysters outside of a season, and taking oysters illegally from a leased area. The bill requires the Department to revoke the license through a contested case hearing process with the Office of Administrative Hearings (OAH). This hearing is required to occur within 60 days of the receiving a citation.

SB 188 - Recreational Fishing Licenses – Exemption for Disabled Armed Forces Members - **PASSED**

The bill allows individuals with physical or mental disabilities fishing in tidal or nontidal waters, and requires stating the location, time, and day on the application. It also authorizes the Department to issue an annual license exemption to a government entity or nonprofit to take individuals with physical or mental disabilities in tidal or nontidal waters. The entity must submit a report to the Department by January 1 of the following year of the exemption period stating the location, dates, and number of individual exempted. Both types of exemptions cover the primary representative/caregiver of the organization or entity and require them to have in possession the letter of exemption while fishing. The bill also makes an exception to the angler's license requirement for veterans with a service-connected disability carrying a permit issued by the Red Cross, persons who are under treatment by state mental health facility, as well as the latter's caregiver requiring certain documentation.

SB 414 – Natural Resources – Administrative Procedures – Electronic Citation, Inspections, and Hearings – Cross-filed as HB 396 - **PASSED**

This bill alters procedures for citations issued by Natural Resources Police officers by permitting electronic citations and providing for an acknowledgment receipt to be signed by the violator. The bill also repeals a section that required the Department to hold a hearing before it could suspend a recreational fishing, and instead requires the Department to provide notice of a right to a hearing on request. If the licensee requests a hearing within the required time frame of 30 days of the notice, the bill requires the Department to conduct a hearing and provide 10 days notice to the licensee. The Department may suspend the license without a hearing if the licensee does not request a hearing or if he doesn't appear for the scheduled hearing. The bill also specifies the

scope of authorized inspections by the Department where a tidal fishing licensee has transferred his license to include commercial fishing vessels, vehicles used to transport fish, and fish businesses. It also specifies what fishing gear may be seized if possessed in connection with a violation. As amended, the bill exempts dwelling houses from exemptions and includes times the licensee is engaged in an activity that requires a license as “reasonable times” an officer may inspect.

SB 420 – Hunting and Recreational Fishing Licenses – Issuance by Agent – Service Charge – Cross-filed as HB 1042 (Unfavorable Report 3/21/11) Education, Health, and Environmental Affairs - **FAILED**

The bill would authorize an agent who issues angler’s licenses, Chesapeake Bay and coastal sport fishing licenses, or hunting licenses to add a service charge not exceeding \$5 for each license issued.

SB 538 – Natural Resources - Oyster Sanctuaries - Designation – Cross-filed as HB 1340 (Cross over – hearing 4/6 at 1pm) Environmental Matters - **FAILED**

The bill would prohibit the Department from designating more than 25% of the quality oyster habitat in the waters of the State as oyster sanctuaries unless the Department first conducts a public hearing during which it presents scientific evidence of a significant increase in the harvestable oyster population.

SB 635 - Natural Resources - Striped Bass and Crabs - Revocation - Cross-filed as HB 1154 - **PASSED**

This bill provides that a person who receives a citation for a specified offense related to unlawfully taking striped bass or crabs may have a their striped bass or crab authorization revoked. It also requires the Department of Natural Resources, in consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, to adopt regulations that establish grounds for the revocation of the striped bass and crab authorizations, including egregious or repeat violations of using illegal gear, harvesting during closed seasons, harvesting from a closed area, violating established harvest, catch, or size limits, and violating tagging and reporting requirements. Before an authorization to catch striped bass or crabs could be revoked a hearing must be held. If the presiding officer of the hearing finds or concludes that the person knowingly has committed one of the specified offenses, the Department shall revoke the person’s authorization to catch striped bass or crabs. If the person whose authorization is revoked so chooses, they may appeal the administrative decision. A person whose authorization has been revoked under this section may not engage or work in the fishery for which the authorization was revoked, whether or not it requires the use of another authorization.

SB 655 - Natural Resources - Commercial Fishing Violations - Enhanced Penalties – Cross-filed as HB 1225 - **PASSED**

This bill establishes enhanced penalties for a person who commits a specified separate commercial fisheries violation while the person's commercial fishing license or authorization is suspended or revoked or who engages in commercial fishing activities without an appropriate license or authorization. Any fines imposed under the Act must be paid into the Fisheries Research and Development Fund.

SB 720 - Commercial Fishing Apprenticeship Permit – Eligibility- **PASSED**

This bill allows for practical commercial fishing experience obtained in another state or federal fishery by commercially licensed individuals, or individuals who served as crew members to commercially

licensed individuals, to apply toward the requirements for obtaining a commercial tidal fishing license through the commercial fishing apprenticeship permit. The apprenticeship permittee must have obtained the required practical experience within 10 years before applying for a commercial fishing license or authorization. This practical experience must be documented by both stating the number of days spent engaged in a particular fishing activity up to the minimum number of days required of the permittee and submitting any fishing activity reports required by the jurisdiction in which the experience was gained.

SB 847 – Natural Resources – Aquaculture – Cross-filed as HB 1053 - PASSED

The bill transfers Seafood Marketing and Aquaculture Program and other seafood commissions from the Department of Agriculture to the Department of Natural Resources. This bill clarifies that DNR is responsible for employing an Aquaculture Coordinator, refines the position's responsibilities, and designates membership of the Aquaculture Review Board with the Aquaculture Coordinator to serve as chair. The bill requires Department of Environment to classify a submerged land lease in the Chesapeake Bay or Atlantic Coastal Bays as approved or prohibited before DNR may issue a submerged land lease. The bill also allows DNR to issue water column leases after obtaining approval by Department of Environment, setting out certain prohibited areas for leases and providing for the means to cultivate shellfish. The bill adds water column leases to the section setting forth requirements for lease applications, and provides that DNR give notice to other interested parties of the application. The bill provides that certain leaseholders and licensees continue to be valid, and that certain pending applications be transferred to DNR.