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Legislation 2011 – Final Update April 12, 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 certain commercial gear, in consultation with certain commissions.

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**

Prohibiting a person from manufacturing, selling, or distributing a product or product component obtained from the reduction of an Atlantic menhaden; requiring the Department of Natural Resources to adopt specified regulations in consultation with the Department of Labor, Licensing, and Regulation; and establishing a specified penalty.

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

Providing that a person who receives a citation for a specified offense related to unlawfully taking striped bass or crabs may have a specified authorization revoked; requiring 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 a specified authorization, including specified categories of egregious or repeat violations.

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

Establishing specified 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; requiring that specified fines imposed under the Act be paid into the Fisheries Research and Development Fund; and clarifying specified commercial fishing violations.

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

Prohibiting 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 specified court order; authorizing the Secretary or a Natural Resources police officer to apply for a specified court order in a specified manner; requiring a court to enter a specified order under specified circumstances; authorizing extensions of a specified order under specified circumstances; etc.

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

Expanding the application of specified provisions 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; making other clarifying changes; etc.

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

Altering a specified area in the Patuxent River in which the prohibition on the use of patent tongs to catch oysters applies.

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

Authorizing a person to take or catch oysters by hand tong only in specified waters of the South River in Anne Arundel County; excepting specified areas of the South River from the authorization; and providing for the application of provisions of the Act relating to fishery management plans.

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

Providing that a person who receives a citation for a specified offense related to unlawfully taking striped bass or crabs may have a specified authorization revoked; requiring 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 a specified authorization, including specified categories of offenses; etc.

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

Establishing specified 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; requiring that specified fines imposed under the Act be paid into the Fisheries Research and Development Fund; and clarifying specified commercial fishing violations.

SB 720 - Commercial Fishing Apprenticeship Permit – Eligibility- PASSED

Providing that specified practical commercial fishing experience obtained in specified jurisdictions by specified individuals applies toward the requirements for obtaining a commercial tidal fishing license through the commercial fishing apprenticeship permit; requiring an apprenticeship permittee to obtain the required practical experience within 10 years before applying for a commercial fishing license or authorization; etc.

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.