

be a tonger, the burden shall be upon said person to show that he is a tonger only. In case there is an appeal or waiver of trial before a Justice of the Peace, in order to provide for the disposition of any oysters that have been declared unmerchantable, the cargo of oysters shall remain in the possession or custody of the deputy commander, inspector or other officer making the arrest until the captain of the boat or the packer shall have reculled the oysters in question; and the officer under whose supervision the reculling is done, after ascertaining the quantity of unmerchantable oysters and shells so culled out, shall give the captain or other person in charge of said boat or packing house, a certificate showing the number of bushels of such unmerchantable oysters so culled out to the natural beds or bars under the supervision of the officer. The cost of reculling and expenses incident to same shall be borne by the violator. Provided, that this section shall not apply to seed oysters or plants taken under other provisions of this Act from that portion of the Potomac River above a straight line drawn from North Point at the mouth of Upper Machodoc Creek in the County of King George, Virginia, to lower Cedar Point in Charles County, Maryland.

(d) It shall be lawful between the first day of October and the fifteenth day of April of each year, and at no other time, to take marketable oysters with ordinary or patent tongs, and in no other manner, from the natural rocks, beds and shoals in the Potomac River above a straight line drawn from North Point at the mouth of Upper Machodoc Creek in the County of King George, Virginia, to Lower Cedar Point in Charles County, Maryland. Any citizen of Maryland or of Virginia who has complied with all the requirements of the oyster laws of his State entitling him to the privilege for a certain period of taking and catching oysters with ordinary or patent tongs in such State, shall have the right without further license tax to take marketable oysters with such tongs above said line during the open season provided for in the waters above said line.

It shall be unlawful to dredge or scrape on the natural rocks, beds and shoals of the Potomac River at any time with any boat propelled other than by sail, or with a power boat from which the shaft and propeller have not been withdrawn, and the penalties otherwise prescribed for unlawful dredging shall be imposed under this section for any violation of this sub-title.

(e) It shall be lawful for any citizen of Maryland or of Virginia, after having obtained a permit as hereinafter provided, to buy and carry out of the Potomac River to be planted in the waters of either Maryland or Virginia, oysters whose shells measure less than three inches from hinge to mouth