

1904, art. 72, sec. 8. 1894, ch. 380, sec. 8. 1900, ch. 380.

9. Any person who shall have oysters in his possession which contain more than five per cent. of shells, and oysters less than two and one-half inches from hinge to mouth, which for the purpose of this article are declared to be unmerchable oysters, shall be guilty of a misdemeanor, and in ascertaining such percentage the officers of the oyster police force and the measurers and inspectors are hereby authorized and directed to select such amount of oysters from any pile, hold, bin, house or other place as he may think proper and to require the same to be culled and disposed of, as provided in section 11 of this article; and any person violating any of the provisions of this section shall be subject to the penalties and fines as provided in section 11 of this article, in precisely the same manner as if he were a captain of a boat.

This section applies only to oysters taken from the waters of this state and not to oysters taken in another state and brought here. The object and intent of the act of 1900, ch. 380. *Tyler v. State*, 93 Md. 310; *Windsor v. State*, 103 Md. 614. And see *State v. Insley*, 64 Md. 29.

This section applies to oysters taken from private beds as well as from natural beds. This section is constitutional. *Windsor v. State*, 103 Md. 616.

It is not necessary for the officer to cull an entire cargo of oysters; he may select and cull any number of bushels he sees fit, the amount of the fine being determined by the court from the evidence and admissions. *Dean v. State*, 98 Md. 82.

See sec. 17.

Cf. art. 39, sec. 85, and art. 99, sec. 26, and notes.

1906, ch. 439, sec. 8A.

10. It shall be unlawful for any person to transport, or attempt to transport, outside of this State, for any purpose whatsoever, unmerchable oysters as declared in the preceding section of this article, whether the unmerchable oysters be taken from or caught on the natural bars or beds of this State, or from private beds and lots in this State; and any violation of the provisions of this section shall be deemed a misdemeanor, and the captain or person in charge of any boat or vessel used in violation of the same shall upon the conviction of violating the provisions of this section before any justice of the peace or court of competent jurisdiction be sentenced to the house of correction for a period of not less than three months nor more than six months, and the boat or vessel so used shall be forfeited, but shall be released upon the payment of a fine of not less than \$100 and not more than \$300, and the cargo of such vessel shall be confiscated to the State and shall be distributed under the supervision of the commander or some deputy commander, or general oyster inspector of the State fishery force, upon the natural rocks and bars.

Ibid. sec. 10. 1894, ch. 380, sec. 9. 1900, ch. 380.

11. It shall be unlawful for any packer, commission man or other person to purchase or receive any cargo or any part of a cargo of oysters unless a general inspector, measurer or special inspector shall be present, and said inspector or measurer shall cause to be culled any portion or all of the cargo necessary to determine the percentage of