

in which they sail to take or catch oysters with scoop, scrape, drag or dredge or similar instruments, the said boat or vessel shall be pursued by any officer authorized by this article to make arrests, and if said boat or vessel apprehended by said officers shall be found to have on board any wet oysters, or the dredges, or dredge line, or deck wet, indicating the taking of oysters at said time, and properly equipped for taking or catching oysters with scoop, scrape, drag or dredge or similar instrument, such fact shall be *prima facie* evidence that the said boat or vessel has been used in violation of the provisions of this article; and it shall be the duty of the officer to arrest the person in command of said boat or vessel, together with all her equipments, and bring the same before a judge or justice of the peace of the county having jurisdiction, or, if in the Chesapeake bay, in the county most accessible or convenient, to be dealt with according to law; provided that nothing in this article shall be construed to prohibit vessels from seeking harbor in any waters of this State. The provisions of this section shall extend to all boats licensed to take oysters with scoop or scrape by any county of this State.

See notes to sec. 22.

State Fishery Force.¹

An. Code, 1924, sec. 36. 1912, sec. 34. 1904, sec. 33. 1894, ch. 380, sec. 32.

37. The board of public works are empowered and directed to purchase for each of the guard boats such arms and ammunition as may be necessary to make them efficient, and the officers of such boats shall be authorized to use such arms, in their discretion, for the enforcement of the provisions of this article.

Under sec. 25 of art. 72 of the Code of 1888, neither board of public works nor commander of state fishery force was personally liable for abuse by a deputy commander of discretion vested in him in use of fire arms. An objection addressed not to constitutionality of said section but to consequences of its possible abuse, overruled. *Mister v. Brown*, 59 Fed. 909. And see *Riggin v. Brown*, 59 Fed. 1005.

As to fish and fisheries, see art. 39.

An. Code, 1924, sec. 37. 1912, sec. 35. 1904, sec. 34. 1894, ch. 380, sec. 33.

38. For the more efficient working of the state fishery force, the waters of this State shall be divided into seven districts, of which the waters of Kent and Queen Anne's shall be the first; the waters of Queen Anne's and Talbot shall be the second; the waters of Talbot and Dorchester, the third; the waters of Wicomico, the fourth; the waters of Somerset, the fifth; the waters of Anne Arundel, the sixth; the waters of St. Mary's, Charles and Calvert, the seventh; each of the said districts shall be guarded by one sailing vessel, except the second, which shall be guarded by two; and the third, which shall be guarded by four; and the sixth and seventh, which shall be guarded by two each; and it shall be the duty of the deputy commander of the first district to guard the waters of Chester river belonging to Queen Anne's County, and the waters of Kent County, including Swan Point bar; and the duty of the first commander of the second district to guard the waters of Eastern bay and its tributaries; and the duty of the second commander of the second district to guard the tonging reservation of Poplar Island narrows and the waters of Talbot County as far down as Black Walnut Point; and it shall be the duty of

¹ Secs. 37-49 repealed by Ch. 353, 1939, but as this Act will be voted on at the November election, 1940, under petition, these sections will not be repealed unless said Ch. 353 is approved at said election. If said Act is approved, these sections will be repealed as of Dec. 5, 1940.