

in said culling and replaced upon said rocks, beds or shoals ; provided, that oysters once passed from the culler less than the prohibited size, and all shells shall be considered as not having been culled, according to the provisions of this sub-title ; provided, that when small oysters are adhering so closely to the shell of a marketable oyster as to render removal impossible without destroying the young oyster, then it shall not be necessary to remove it. And it shall be unlawful for any person to take, buy or sell the small oysters and shells from the natural rocks, beds and shoals as aforesaid, or to take, buy, sell or have in possession oysters less than two and one-half inches in length from hinge to mouth. Whenever any inspector or other officer shall have reason to believe that this sub-title has been violated with reference to the culling of oysters, said inspector or other officer is hereby authorized to examine the cargo of any boat or vessel, and if upon examination of said cargo the said inspector or other officer shall find that five per centum or more of said cargo shall consist of shells and oysters whose shells measure less than two and one-half inches in length, measuring from hinge to mouth, the captain of the boat or other person in charge of said boat shall be deemed to have violated this sub-title, and upon conviction, if of a dredge-boat or a vender of oysters, shall be fined not less than one hundred dollars nor more than two hundred and fifty dollars, and confined in jail not less than thirty days or more than six months, and said cargo confiscated and returned to the natural beds under the supervision of the oyster inspector or other officer making the arrest, and the boat or vessel on which said oysters are found shall be held as security for the payment of said fine ; if a boat in which only oyster tongs are used, the said captain or other person in charge shall be fined not less than fifty dollars nor more than one hundred and twenty-five dollars, and confined in jail not less than fifteen days nor more than three months, and said cargo confiscated and returned to the natural beds under the supervision of the oyster inspector or other officer making the arrest. And the boat or vessel on which said oysters are found shall be held as security for the payment of said fine ; provided, however, that when any person shall be found with oysters in violation of this sub-title, he shall be presumed to be a dredger or vender of oysters, and if he claims to be a tonger the burden shall be upon said person to show that he is a tonger. Because of the necessity that