

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1419

(Chair, Environmental Matters Committee)(By Request -
Departmental - Environment)

Environmental Matters

Education, Health, and Environmental Affairs

**Department of Natural Resources - Fish and Fisheries Laws Violations -
Penalties**

This departmental bill increases the maximum fines applicable to misdemeanor violations of State fish and fisheries laws, rules, or regulations (unless otherwise specified under State fish and fisheries laws) from \$500 to \$1,000 for an initial violation, and from \$1,000 to \$2,000 for a second or subsequent violation. The bill also allows the Secretary of Natural Resources to order a person convicted of a violation of State fish and fisheries laws, which causes or results in the injury, death, or destruction of any fish, to pay restitution to the Department of Natural Resources (DNR) for the resource value of the fish. DNR, in consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, must adopt regulations that establish a schedule of resource values for individual species. Restitution paid is credited to DNR to be used only for the replacement, habitat management, or enforcement programs for injured, killed, or destroyed fish or protected species.

The bill takes effect July 1, 2009.

Fiscal Summary

State Effect: General fund revenues may increase due to collection of additional fine revenue from cases heard in the District Court. Special fund revenues may also increase due to collection of restitution paid by a person convicted of violating any provision of State fish and fisheries laws that causes or results in the injury, death, or destruction of any fish. The extent of any revenue increases cannot be reliably estimated at this time.

Local Effect: None.

Small Business Effect: DNR has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law: Except as otherwise specifically provided in law, a person who violates State fish and fisheries laws, rules, or regulations is guilty of a misdemeanor and subject to a fine of up to \$500, with costs imposed in the discretion of the court. For a second or subsequent violation, a person can be subject to a fine of up to \$1,000 and/or imprisonment for up to one year, with costs imposed in the discretion of the court. A second or subsequent violation is one which has occurred within two years of any prior violation.

Background: The bill implements a recommendation of the Task Force on Fishery Management created under Chapter 217 of 2007, and DNR indicates the Tidal Fisheries Advisory Commission/Sport Fishery Advisory Commission Penalties Workgroup also recommends the changes.

DNR indicates the current maximum fines are low enough that they no longer serve as a deterrent. Restitution values exist in State regulations, but they were established under authority under the Environment Article (§ 4-405) to establish environmental monetary values of resources damaged by the discharge or spillage of pollutants. DNR indicates the values are low and do not reflect the actual ecosystem loss.

State Fiscal Effect: General fund revenues may increase due to collection of additional fine revenue from cases heard in the District Court as a result of the increased maximum fines. In 2008, DNR wrote 2,586 citations for fisheries offenses, 28 of which were for second offenses. DNR indicates it does not track how many of the citations resulted in a guilty verdict with a maximum fine paid.

Special fund revenues may increase due to collection of restitution paid by a person convicted of violating any provision of State fish and fisheries laws that causes or results in the injury, death, or destruction of any fish. DNR, however, will need to adopt regulations establishing a schedule of resource values on which restitution would be based, and the future number of convictions under State fish and fisheries laws that may result in the injury, death, or destruction of fish cannot be reliably estimated at this time.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Caroline County, Calvert County, Prince George's County, Anne Arundel County, Baltimore County, Department of Natural Resources, Harford County, Department of Legislative Services

Fiscal Note History: First Reader - March 17, 2009
mlm/ljm Revised - Enrolled Bill - May 13, 2009

Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Department of Natural Resources – Fish and Fisheries Laws Violations

BILL NUMBER: HB 1419

PREPARED BY: Department of Natural Resources

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.