

Department of Legislative Services  
Maryland General Assembly  
2011 Session

FISCAL AND POLICY NOTE

House Bill 1225

(Delegate Gilchrist, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

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Natural Resources - Commercial Fishing Violations - Enhanced Penalties

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This bill establishes a new misdemeanor charge for (1) committing a separate commercial fishing violation while a commercial fishing license or authorization to fish or deal in fish is suspended or revoked; and (2) engaging in commercial fishing without holding the appropriate license or authorization. In addition to other applicable penalties, violators are guilty of a misdemeanor and, upon conviction, subject to a fine of up to \$25,000 or imprisonment for up to one year, or both, with costs imposed in the discretion of the court. Fines imposed by the District Court for such violations must be paid, less the costs of collection, to the Department of Natural Resources' (DNR) Fisheries Research and Development Fund.

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Fiscal Summary

**State Effect:** DNR special fund revenues increase, potentially significantly, to the extent convictions result in fines. Expenditures are not materially affected.

**Local Effect:** Potential minimal increase in expenditures due to the bill's criminal penalty provision. Revenues are not affected.

**Small Business Effect:** Potential meaningful. To the extent the bill results in additional fines being levied, it has a meaningful impact on small fishing businesses.

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Analysis

**Current Law:** According to the Natural Resources Fine Schedule of the District Court, effective October 1, 2010, there are numerous prepayable fines associated with commercial fishing violations. If a prepayable fine is not available, or the individual

chooses to appear in court, the fines that appear in the Natural Resources Article are applied by the court upon conviction. Generally, for a first offense, a person who violates Fish and Fisheries provisions of the Natural Resources Article is guilty of a misdemeanor and, upon conviction, is subject to a fine of up to \$1,000, with costs imposed in the discretion of the court. For a second or subsequent offense, a person is subject to a fine of up to \$2,000 or imprisonment for up to one year, or both, 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 of the fish and fisheries title of the Natural Resources Article.

Any fine imposed by the District Court for a violation of specified fish or fisheries provisions must be collected pursuant to the provisions of law of the District Court system. Generally, any fine imposed by the circuit court of any county must be paid, less the costs of any collection, to the Fisheries Research and Development Fund.

Revenue generated from the sale of tidal fishing licenses is deposited into the Fisheries Research and Development Fund to (1) finance the replenishment of fisheries resources and related research; and (2) match federal funds that are made available for research and development of fisheries resources.

**Background:** A tidal fishing license is the single commercial license issued by DNR with respect to fishing and fisheries in tidal waters. A person must obtain authorizations on the license, for which various fees apply, to engage in different types of fishing or commercial activity. The annual fee for an unlimited authorization is \$300. The fee for catching finfish for sale by hook and line only, as an example of a more specific authorization, is \$37.50. The license year for each tidal fish license is from September 1 through August 31 of the following year.

As discussed above, different specific fishing activities (*e.g.*, clamming and crabbing) are “authorized” within one tidal fishing license. Generally, when a suspension or revocation is issued, the suspension or revocation is targeted to the specific fishing activity the watermen was engaged in when the violation occurred, and not all authorized fishing activities within the tidal fishing license.

Recently, there have been several egregious commercial fishing violations in the Chesapeake Bay. On January 31, 2011, Natural Resources Police (NRP) officers confiscated more than 10 tons of illegally caught striped bass from four illegally anchored gill nets near Bloody Point Light, south of Kent Island in the Chesapeake Bay. This event forced DNR to shut down the striped bass gill net season. On February 7, 2011, NRP confiscated more than 1,100 pounds of illegally caught striped bass from 1,200 yards of illegally anchored gillnet at the mouth of Eastern Bay, a mile

south of the previously located Bloody Point gill nets. On February 11, 2011, two 900-yard strings of illegal anchored gill nets were located in Eastern Bay that contained a total of 3,879 pounds of striped bass. These incidents have heightened public concern about illegal fishing in Maryland waters.

DNR is aware of two individuals within the past year who have been caught harvesting with a suspended license. Court hearings associated with these violations have not yet occurred.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 655 (Senator Pinsky, *et al.*) - Education, Health, and Environmental Affairs.

**Information Source(s):** Department of Natural Resources, Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - February 28, 2011  
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