

Department of Legislative Services  
 Maryland General Assembly  
 2013 Session

FISCAL AND POLICY NOTE  
 Revised

House Bill 1253

(Delegate Jacobs, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

Natural Resources - Commercial Fishing - Licensing

This bill modifies fees and other terms of existing annual commercial fishing licenses and establishes new annual commercial fishing authorizations, registrations, and associated fees. The bill repeals the Department of Natural Resources' (DNR) tidal fish license apprenticeship program and instead, requires DNR to accept applications from qualified individuals for specified tidal fishing authorizations and maintain a waiting list in order of the date and time that applications are received. Beginning in fiscal 2014, the Governor is authorized to include in the State budget an appropriation from the general fund to augment the increase in revenues DNR receives as a result of the bill.

The bill takes effect July 1, 2013.

Fiscal Summary

**State Effect:** DNR special fund revenues increase by at least \$1.6 million in FY 2014 and future years as a result of new commercial fishing license fees and charges. The bill does not require additional expenditures.

(\$ in millions)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
SF Revenue	\$1.6	\$1.6	\$1.6	\$1.6	\$1.6
Expenditure	0	0	0	0	0
Net Effect	\$1.6	\$1.6	\$1.6	\$1.6	\$1.6

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** The bill is not expected to materially affect local operations or expenditures.

**Small Business Effect:** Meaningful.

## Analysis

**Bill Summary:** Exhibit 1 illustrates how annual commercial fishing license requirements are modified under the bill. Generally, eight new tidal licenses with fees are established: a harvesters registration, a yellow perch permit, a horseshoe crab permit, a black sea bass permit, a summer flounder permit, a snapping turtle permit, a bait harvesters permit, and a pound net registration.

The bill expands the number of entities required to obtain a tidal fish dealer authorization by repealing several exemptions. Specifically, individuals with a tidal fish license that deal in their own catch are required to obtain a dealer authorization to deal in fish caught in tidal waters of the State. While the bill repeals an exemption for a retail market, restaurant, or other establishment where finfish or shellfish are sold or served to ultimate consumers, and are not for resale, an exemption is established for individuals who buy finfish, crabs, or shellfish from a person with a seafood dealer authorization. In addition, the dealer authorization is modified to apply to crabs and to apply only to the activity of buying for resale. Furthermore, the bill modifies dealer authorization fees by creating a \$50 fee for individuals with a tidal fish license and a \$250 fee for individuals without a tidal fish license.

The bill establishes a harvester registration that a tidal fish licensee with a specified finfish, crab, clam, oyster, or conch/turtle/lobster authorization must obtain from DNR before catching fish for sale. A harvester registration is nontransferable and a \$215 annual fee is established. Also, a bait harvester permit is established that individuals without a specified tidal fishing license who harvest and sell finfish or shellfish species defined as bait must secure annually at a cost of \$25.

The bill modifies the seafood marketing surcharge fee structure by creating two separate surcharge amounts, a \$20 fee for individuals with specified tidal fish licenses and no dealer authorization, and a \$50 fee for licensed individuals with a dealer authorization. The bill also modifies the striped bass permit fee structure by creating two separate fees, a \$200 fee for a licensee with a finfish authorization, and a \$150 fee for an unlimited tidal fish licensee.

**Exhibit 1**  
**Current and Proposed Annual Commercial Fishing License Fees**

<u>License/Authorization Type</u>	<u>No. in 2011- 2012 (Actuals and Estimates)</u>	<u>2011-2012 Fee</u>	<u>Proposed Fee</u>	<u>Additional Revenue</u>
Fishing Guide – Nonresident	35	\$100.00	\$200.00	\$3,500
Fishing Guide – Resident	371	50.00	100.00	18,550
Fishing Guide – Master	13	50.00	100.00	650
Finfish – Harvester	230	100.00	150.00	11,500
Finfish – Hook and Line	223	37.50	100.00	13,938
Oyster Harvester (No dredge boat)	544	50.00	100.00	27,200
Conch/Turtle/Lobster	8	50.00	100.00	400
Nonresident Surcharge	20 pay base fee	350.00	450.00	2,000
Seafood Landing	19	150.00	350.00	3,800
Tidal Fish Dealer	219	150.00	250.00	21,900
Tidal Fish Dealer (With TFL)	n/a	n/a	50.00	unknown
<i>Harvesters Registration*</i>	<i>5,412</i>	<i>n/a</i>	<i>215.00</i>	<i>1,163,580</i>
Seafood Marketing Surcharge (Dealers Only)	219	10.00	50.00	8,760
Seafood Marketing Surcharge	5,449	10.00	20.00	54,490
Striped Bass Permit (With Unlimited TFL)	1,096	100.00	150.00	54,800
<i>Yellow Perch Permit</i>	<i>68</i>	<i>0</i>	<i>25.00</i>	<i>1,700</i>
<i>Horseshoe Crab Permit</i>	<i>10</i>	<i>0</i>	<i>25.00</i>	<i>250</i>
<i>Black Sea Bass Permit</i>	<i>14</i>	<i>0</i>	<i>25.00</i>	<i>350</i>
<i>Summer Flounder Permit</i>	<i>7</i>	<i>0</i>	<i>25.00</i>	<i>175</i>
<i>Snapping Turtle Permit</i>	<i>79</i>	<i>0</i>	<i>25.00</i>	<i>1,975</i>
<i>Permits for Other Species via Regulation</i>	<i>n/a</i>	<i>n/a</i>	<i>up to 25</i>	<i>unknown</i>
<i>Pound Net Activity Registration</i>	<i>250 est.</i>	<i>n/a</i>	<i>20.00</i>	<i>5,000</i>
<i>Bait Harvester</i>	<i>13</i>	<i>n/a</i>	<i>25.00</i>	<i>325</i>
Limited Crab Catcher (up to 50 pots)	2,886	50.00	100.00	144,300
Crab Harvester (up to 600 pots)	219	20.00	100.00	17,520
Crab Harvester (up to 900 pots)	393	40.00	150.00	<u>43,230</u>
<b>New Fee Revenue</b>				<b>\$1,599,893</b>

TFL=Tidal Fish License

*Italics indicate a new type of license, authorization, or permit.*

\*Assumes 5,412 individuals must pay, which is the total number of tidal fish licensees (excludes fishing guides) during the 2011-2012 season.

Source: Department of Natural Resources; Department of Legislative Services

The bill authorizes DNR to issue the following annual permits and fees to a person with a tidal fish license: yellow perch (\$25), horseshoe crab (\$25), black sea bass (\$25), summer flounder (\$25), or snapping turtle (\$25). DNR is authorized to establish, via regulation, an annual permit and fee of up to \$25 for any species not subject to a permit under specified tidal fishing provisions in the Natural Resources Article. The bill also modifies crab harvester authorizations to apply to the number of pots per vessel rather than the number of crew members per vessel.

An annual surcharge for nonresident fishing licenses is increased from \$350 to \$450 and specified nonresident fishing guides are exempted from the surcharge.

The bill repeals an obsolete provision authorizing the conversion of specified commercial fishing authorizations to an unlimited tidal fishing license.

At least seven days before setting a pound net, the bill requires a licensee to (1) notify DNR that the pound net will be set and actively fished and (2) ensure that DNR receives a \$20 pound net activity registration fee.

### **Current Law:**

#### *Fishing Licenses*

Numerous license fees and surcharges must be paid prior to fishing in nontidal (fresh) waters and in the tidal waters of the Chesapeake Bay and its tributaries. The various fishing licenses authorize fishing during different time periods, for specific aquatic species, and within specific geographic locations. These fees are used to support DNR's fisheries management program.

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. An example of a more specific authorization is a \$50 fee to catch crabs by using up to 50 pots, trotlines, and other specified gear. The license year for each tidal fish license is from September 1 through August 31 of the following year.

#### *Fisheries Research and Development Fund*

Some fishing license and surcharge revenue must be allocated to specific programs within the Fisheries Service. Oyster surcharge revenue must be used only for oyster repletion activities. All fees from tidal fish licenses and apprenticeship permits must be

deposited in the Fisheries Research and Development Fund (FRDF). Striped bass license revenue must be used for enforcement purposes during the open season for striped bass.

FRDF is composed of revenue from, among other things, Chesapeake Bay and coastal sport fishing licenses; commercial fishing licenses and permits; specified oyster and clam shell payments; the sale of seed oysters; specified fines or forfeitures; and general fund appropriations. FRDF revenues must be used for (1) replenishing fisheries resources and related research; (2) matching federal funds available for research and development of fishing resources; and (3) administrative costs.

### *Tidal Fish License Apprenticeship Program*

Maryland operates under a limited entry program for commercial tidal fish licensees. DNR may issue an apprenticeship permit to authorize an individual to gain practical commercial fishing experience in the presence of a tidal fish licensee. DNR may accept applications for apprenticeship permits from individuals who are older than age 13 and do not qualify for a tidal fish license or authorization. DNR may issue a permit only if the number of tidal fish authorizations issued for a fishing activity is less than the target number established by regulation. An apprenticeship permit is valid for up to three years and may be renewed for an additional year. Annual apprenticeship permit fees for certain fishing activities correspond to the annual tidal fishing license fee amount for that fishing activity.

Before DNR may issue a tidal fish license or authorization to an individual with an apprenticeship permit, the individual must have certain experience. For each specified commercial fishing activity, the practical experience must include 150 days of experience in the fishing activity for which an authorization/license is applied. For multiple fishing activities and an unlimited tidal fish authorization, the practical experience must include 180 days of experience in at least two commercial fishing activities, of which at least 60 days of practical experience must be spent in separate commercial fishing activities.

### *Pound Nets*

DNR is authorized to adopt regulations on the placement of pound or stake nets, including a limit of up to eight pound net locations per licensee.

**Background:** The Secretary of Natural Resources is responsible for conservation management of the fish, fisheries, fish resources, and aquatic life within the State. DNR's Fisheries Service is responsible for managing commercial and recreational fishing in the State. The Fisheries Service seeks to develop a management framework for the conservation and equitable use of fishery resources; manage fisheries in balance with the

ecosystem for present and future generations; monitor and assess the status and trends of fishery resources; and provide high-quality, diverse, and accessible fishing opportunities.

DNR's commercial fishing license fees have not been increased since 1994. In response to diminishing resources and concerns about the extent to which recreational and commercial fishing fees are covering associated management costs, DNR completed a cost-recovery analysis of the Fisheries Service's revenues and expenditures in 2011. The analysis focused on the funds generated by each of the three management sectors: recreational, commercial, and aquaculture. The overall findings of the cost-recovery analysis included that:

- 93% of recreational fishery management costs are supported with user fees from recreational fishing (*e.g.*, State fishing licenses and the federal excise tax on sport fishing equipment);
- 57% of commercial fishery management costs are supported with general funds, with user fees from commercial fishing (*e.g.*, State fishing licenses) covering only 20% and federal and reimbursable fund sources covering 23% of the remaining costs; and
- 78% of aquaculture management costs are supported with general funds, with user fees from aquaculture covering only 9% of the operating costs, and federal and reimbursable fund sources covering 13% of the remaining costs.

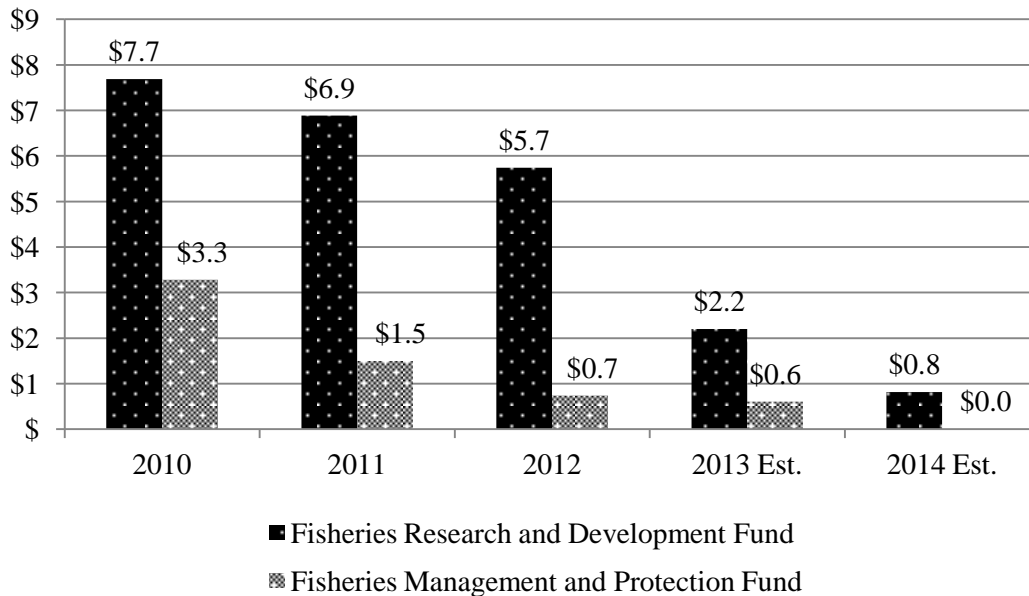
Chapter 435 of 2012 (HB 1372) required DNR to, among other things, review the existing laws, regulations, fees, and processes associated with commercial fishing licenses and to report findings and recommendations for changes to the commercial fish license and permit fee structure. In response, DNR worked with stakeholders over the past year to identify strategies to address the projected budget deficit and develop a commercial license fee structure that achieves a higher level of cost recovery. DNR submitted the required report in January 2013 and the report's findings and recommendations are summarized below.

- Special funds that support Fisheries Service programs are projected to be significantly depleted by the end of fiscal 2014, as shown in **Exhibit 2**.
- A total of \$2.7 million in additional funding is required for the commercial fishing sector to recover commercial fisheries program costs.
- A total of \$576,400 in additional general funds is required to provide necessary fisheries programs to the general public.

- DNR is amenable to increasing commercial fishing license fees over time in order to achieve cost recovery.
- The Tidal Fisheries Advisory Commission recommends, among other things, increasing commercial fishing license fees by \$1.6 million, securing \$800,000 in additional general funds, eliminating the commercial apprenticeship program, and establishing a harvester registration.
- The Sport Fisheries Advisory Commission generally supports having the commercial fishing sector achieve 100% cost recovery, but recommends a \$1.6 million increase in commercial fishing fees and an \$800,000 increase in general funds.

Generally, the bill implements the recommendations contained in DNR’s report.

**Exhibit 2**  
**Fisheries Service Special Funds Closing Balances**  
**Fiscal 2010-2014**  
**(\$ in Millions)**



Note: The Fisheries Management and Protection Fund consists of revenue generated from the sale of angler’s licenses and is used only for the scientific investigation, protection, propagation, and management of nontidal finfish.

Source: Department of Budget and Management; Department of Legislative Services

**State Fiscal Effect:** As previously illustrated in Exhibit 1, the bill establishes new fees and increases many existing fees. Therefore, DNR special fund revenues increase by *at least* \$1.6 million in fiscal 2014 and future fiscal years as a result of establishing new fees and increasing existing fees. This estimate is based on the number of licenses and authorizations distributed during the 2011-2012 fishing season, as shown in Exhibit 1, and it assumes that increasing fee amounts does not materially affect the number of commercial fishing licenses sold. However, the estimate does not reflect potential additional revenue from the sale of (1) the \$50 dealer authorization for tidal fish licenses or (2) any fishing permits for other species that DNR establishes in regulation. Therefore, to the extent that such authorizations and permits are sold, DNR special fund revenues increase further.

Because the bill expands the number of entities that must obtain the existing tidal fish dealer authorization, dealer authorization and seafood marketing surcharge revenues may increase, potentially significantly, in fiscal 2014 and future years. DNR advises that the number of licensees that will decide to sell their catch directly to consumers is not known and that any revenue increase cannot be reliably estimated.

Finally, revenues increase further to the extent more commercial fishing licenses are sold as a result of eliminating requirements associated with the apprenticeship program.

DNR advises that it may realize some workload savings as a result of the apprenticeship program being repealed, but that any potential savings are offset by increased responsibilities under the bill, including administering the new fishing authorizations. DNR further advises that any potential costs associated with reprogramming the COMPASS licensing system and adjusting commercial fishing license materials are likely minimal and absorbable.

Although the bill does not require additional expenditures, it is assumed that DNR uses the additional revenue generated under the bill to support its ongoing costs related to commercial fisheries management.

**Small Business Effect:** The bill has a significant impact on small fishing businesses and other small businesses in the fishing industry. Small fishing businesses benefit to the extent they can obtain a commercial fishing license after submitting an application and waiting on a list, rather than completing the apprenticeship program. Small fishing guide businesses benefit to the extent that they are no longer required to pay the surcharge on nonresident fishing licenses.

DNR advises that small businesses benefit to the extent that the bill allows DNR to continue to provide services to the commercial fishing industry and prevents any limitations on the State's commercial fishery.



However, small fishing businesses are negatively affected to the extent that they must pay more for fishing licenses and must obtain additional licenses as a result of the bill. For example, under the bill, to sell what they catch, a tidal fish licensee must pay a \$50 dealer authorization and a \$215 harvester's registration to sell to an entity that is not a licensed seafood dealer.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 662 (Senators Mathias and Colburn) - Education, Health, and Environmental Affairs.

**Information Source(s):** Department of Budget and Management, Department of Natural Resources, Department of Legislative Services

**Fiscal Note History:** First Reader - February 24, 2013  
mc/lgc Revised - House Third Reader - March 25, 2013

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Analysis by: Amanda Mock

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