

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 1005 (Delegate Mautz, *et al.*)
Environment and Transportation

Natural Resources - Commercial Fisheries Offenses - Stay of Revocation

This bill modifies the authority of the Department of Natural Resources (DNR) to revoke a person's license to catch oysters or authorization to catch striped bass or crabs for knowingly committing one of several specified offenses related to illegal harvesting. After a hearing is conducted pursuant to current law, unless the presiding officer finds or concludes that the person wantonly or willfully committed an offense, the presiding officer must stay the revocation pending a conviction for the offense.

Fiscal Summary

State Effect: The bill does not materially affect State finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Oyster Poaching

In addition to any other penalty or fine, a person who holds a license to catch oysters and receives a citation for any of the following offenses may have the license revoked: (1) taking oysters located more than 200 feet within a closed or prohibited area; (2) taking oysters with gear that is prohibited in that area; (3) taking oysters outside of a time restriction for the harvest of oysters by more than one hour; (4) taking oysters during closed

seasons; and (5) taking oysters from a leased area by a person other than the leaseholder or the leaseholder's designee.

Within 60 days after a licensee receives a citation for one of those offenses, DNR must hold a hearing on the matter. After a hearing, if the presiding officer finds or concludes that the person knowingly has committed an offense, DNR must revoke the person's license to catch oysters. A person who is aggrieved by DNR's final decision may obtain judicial review of the decision in accordance with the Administrative Procedure Act.

A person whose license has been revoked may not engage or work in the fishery for which the license was revoked whether or not it requires the use of another license.

Illegally Harvesting Striped Bass or Crabs

In addition to any other penalty or fine, a person who is authorized to catch striped bass or crabs and who commits one of the following offenses may have the authorization revoked: (1) using illegal gear; (2) harvesting during closed seasons; (3) harvesting from a closed area; (4) violating established harvest, catch, or size limits; and (5) violating tagging and reporting requirements.

Pursuant to current regulations, DNR may schedule a hearing to revoke a person's commercial authorization to catch striped bass or crabs from a person who "knowingly" commits an offense, commits an "egregious" offense, or commits "repeat" offenses in the categories listed above. When DNR seeks to revoke an authorization for an egregious offense, the presiding officer must consider the person's history of offenses in the striped bass or crab fishery, the amount of striped bass or crabs unlawfully caught, and several other specified factors to determine whether the offense warrants revocation. If, after a hearing, the presiding officer finds or concludes that a person committed an egregious offense, committed repeat offenses, or knowingly committed an offense, DNR must revoke that person's commercial authorization to catch striped bass or crabs. A person who is aggrieved by DNR's final decision may obtain judicial review of the decision in accordance with the Administrative Procedure Act.

"Knowingly" means the specific intent to violate a requirement of the striped bass or crab fishery. "Egregious" means an offense which displays a wanton disregard for a requirement of the striped bass or crab fishery. "Repeat" means (1) three or more offenses on separate days in a single season; (2) a series of offenses which are part of an ongoing scheme or conspiracy; or (3) a series of similar offenses committed over any period of time which collectively display a wanton disregard for the requirements of the striped bass or crab fishery.

A person whose authorization has been revoked may not engage or work in the fishery for which the authorization was revoked whether or not it requires the use of another authorization.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Department of Legislative Services

Fiscal Note History: First Reader - March 5, 2015
md/lgc

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