

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 956 (Senator Hershey)
Education, Health, and Environmental Affairs

Natural Resources - Oyster Poaching - Administrative Penalties

This bill modifies provisions that establish grounds, and a process, for the revocation of a person's license to catch oysters. In place of the existing grounds for revocation, the Department of Natural Resources (DNR), in consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, must adopt regulations that establish grounds for suspension or revocation of an authorization to catch oysters, which must include egregious or repeat violations in the categories of offenses which are the existing grounds for revocation. A requirement that a hearing be held within 60 days of a citation for an offense is repealed, but DNR must hold a hearing before suspending or revoking an authorization to catch oysters.

Fiscal Summary

State Effect: General fund expenditures may decrease minimally beginning in FY 2017 due to a decrease in hearings held regarding oyster poaching violations. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

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A person whose license has been revoked may not engage or work in the fishery for which the license was revoked whether or not it requires the use of another license.

State Expenditures: General fund expenditures may decrease minimally each year beginning in fiscal 2017, due to a decrease in hearings held regarding oyster poaching violations. DNR indicates that a relatively small number of revocations occur under the provisions amended by the bill (approximately four per year, on average) and that each hearing costs approximately \$3,500. DNR advises that it would have more discretion under the bill to consider the facts of each case or agree to a lesser penalty, which may result in fewer hearings.

Additional Information

Prior Introductions: None.

Cross File: HB 953 (Delegate Jacobs, *et al.*) - Environment and Transportation.

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

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