

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 948 (Senator Pinsky)
 Education, Health, and Environmental Affairs

Natural Resources - Commercial Oyster Authorizations - Requirements

This bill limits the number of tidal fish license holders that are authorized to harvest oysters for sale going forward to those who (1) paid the oyster surcharge, before September 1, 2019, to participate in either or both of the 2018-2019 and 2019-2020 seasons and (2) continue to pay the oyster surcharge each season from the 2020-2021 season forward. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: Special fund revenues decrease by at least \$170,900 annually, beginning in FY 2021. Special fund expenditures increase by \$51,900 in FY 2021 only.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
SF Revenue	(\$170,900)	(\$170,900)	(\$170,900)	(\$170,900)	(\$170,900)
SF Expenditure	\$51,900	\$0	\$0	\$0	\$0
Net Effect	(\$222,800)	(\$170,900)	(\$170,900)	(\$170,900)	(\$170,900)

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

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill modifies provisions governing the number of tidal fish (commercial) license holders that are authorized to harvest oysters for sale by:

- modifying the unlimited tidal fish license so that it no longer authorizes a license holder to harvest oysters for sale;
- allowing for an unlimited tidal fish license holder who also holds an oyster authorization to not have to pay an annual fee for the oyster authorization;
- requiring the Department of Natural Resources (DNR), for the license year beginning on September 1, 2020, to issue a commercial authorization to harvest oysters only to a licensee who (1) during the immediately preceding license year, possessed a commercial oyster authorization or an unlimited tidal fish license and (2) on or before September 1, 2019, paid the oyster surcharge to participate in either or both of the 2018-2019 and 2019-2020 oyster harvest seasons;
- requiring DNR to allow a tidal fish licensee who possesses an unlimited tidal fish license and who meets the criteria just above to obtain a commercial oyster authorization for the license year beginning on September 1, 2020, regardless of any target established in regulation for the number of oyster authorizations issued;
- requiring DNR, for the license year beginning September 1, 2021, and each license year thereafter, to allow a licensee to renew a commercial oyster authorization only if the licensee paid the oyster surcharge to participate in the immediately preceding oyster harvest season; and
- requiring DNR to (1) deem the commercial oyster authorization of an individual who is barred from renewing the authorization under the bill to be relinquished; (2) permanently retire each such relinquished commercial oyster authorization; and (3) reduce the target number for commercial oyster authorizations set in regulation to reflect the retirement of those authorizations.

The bill requires DNR, by regulation, to modify the total number of commercial authorizations to harvest oysters based on (1) the number of oyster authorizations issued to holders of unlimited tidal fish licenses in 2020 (pursuant to the above requirement that DNR allow an unlimited tidal fish licensee to obtain a commercial oyster authorization) and (2) the number of authorizations relinquished to DNR and retired.

Current Law/Background:

Tidal Fish License Authorizations

DNR uses a single, commercial license, known as a tidal fish license, which authorizes a licensee to engage in each activity indicated on the license. The department may issue authorizations for activities listed in statute for which the indicated fee has been paid. The authorization for harvesting oysters for sale, for example, has a fee of \$250 for a dredge boat and \$100 for harvesting other than from a dredge boat. The unlimited tidal fish license authorization, which generally encompasses all other authorizations, including the authorization for harvesting oysters for sale, has a fee of \$300.

DNR is authorized to set, by regulation, specified targets for the number of tidal fish license authorizations and may modify the target number of authorizations for specified reasons. The department must provide for reallocation of any authorizations that are revoked or voluntarily relinquished and, pursuant to DNR regulations, those authorizations are reallocated to individuals on the commercial waiting list maintained by the department.

Oyster Surcharge

In addition to possessing a tidal fish license authorization to harvest oysters for sale a person must pay an annual surcharge of \$300, which, along with other funding, is used for public oyster fishery replenishment plantings of seed and substrate.

Participation in the Oyster Fishery

DNR's [2019 Oyster Management Plan](#) indicates that, at that time of the preparation or publishing of the plan, there were more than 2,800 total combined oyster authorizations and unlimited tidal fish license authorizations. However, only a portion of those licensees authorized to harvest oysters pay the oyster surcharge in a given year. The plan indicates that, since 1994, an average of 804 individuals have paid the annual surcharge for oyster harvest each year, but that number can fluctuate with changes in oyster abundance. The plan gives as an example, an increase in the number surcharges from 599 in the 2011-2012 season to 1,134 in the 2014-2015 season. DNR indicates that 1,001 surcharges have been paid to date in the 2019-2020 season.

For a discussion of latent effort in the oyster fishery, please see [Oyster Restoration in Maryland](#), p. 31, Department of Legislative Services (December 2019). "Latent effort" refers to the number of people who possess the necessary licenses and authorizations to participate in a particular fishery but who do not regularly participate in the fishery.

State Revenues: Special fund revenues decrease by at least \$170,883 annually, beginning in fiscal 2021, reflecting an estimated minimum loss in revenue from (1) oyster surcharges; (2) annual fees from relinquished oyster harvester authorizations; (3) bushel and export tax revenue; and (4) tidal fish license harvester registration fees and marketing surcharges from those individuals who relinquish their oyster harvester authorization and do not hold other authorizations. This estimate is based on calculations using the following figures:

- 1,001 – the number of oyster surcharges that have been paid to date for the 2019-2020 season;
- 791 – the number of licensees who paid an oyster surcharge for the 2018-2019 season and/or for the 2019-2020 season, before September 1, 2019;
- 640 – the current number of oyster harvester authorizations;

- 276 – the number of oyster harvester authorization holders that DNR indicates paid the oyster surcharge for the 2018-2019 season and/or for the 2019-2020 season, before September 1, 2019; and
- 357 – the number of oyster harvester authorization holders that solely hold an oyster harvester authorization and no other authorizations (who are assumed to no longer pay the harvester registration fee or marketing surcharge required of tidal fish licensees if they have to relinquish their oyster harvester authorization).

The majority of the special fund revenue decrease consists of the loss in oyster surcharge revenues (\$63,000 annually) and bushel and export tax revenues (\$52,448 annually), which are used for public oyster fishery replenishment activities.

State Expenditures: Special fund expenditures increase by \$51,900 in fiscal 2021 only, reflecting the cost of modifying DNR’s licensing system (\$50,000) and the cost to reimburse 19 individuals (\$100 each) on the waiting list for an oyster harvester authorization (\$1,900).

Small Business Effect: The bill has a meaningful effect on small businesses by limiting access to the oyster fishery to those who recently paid the oyster surcharge for the 2018-2019 or 2019-2020 seasons, prior to September 1, 2019, and continue to do so each year in the future. The bill has a negative impact on those denied access to the fishery and may benefit those that do have access under the bill to the extent the reduced number of authorized harvesters increases the harvest available to each authorized licensee.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

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

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