

hb725.pdf

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Position: FAV



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Date: February 19, 2024

To: Chair Korman, Vice Chair Boyce & Committee Members
Environmental and Transportation Committee
Room 251
House Office Building
Annapolis, MD 21401

From: Jim Mullin, Executive Director, Maryland Oystermen's Association
Re: Support for HB-725 Oysters, Striped Bass, and Crabs – Commercial Authorizations-
Suspensions and Revocations.

Dear Chair Korman, Vice Chair Boyce & Committee Members

The Maryland Oystermen Association's wishes to support HB-725, our society allows for second chances in life and the ability to show proof that a second chance maybe warranted with proper guidance and education on the subject matter at hand. Presently as written the laws the govern the Commercial Authorizations does not allow for a second chance or the ability to demonstrate the ability to be rehabilitated.

The state of Maryland has demonstrated the ability in other walks of life to be given a second chance or be rehabilitated, the Commercial Authorization is the last arena in Maryland where a revocation for life ends an individual's ability to work and make a living.

We respectfully request a favorable recommendation of HB-725. Our association is most appreciative of your leadership, guidance and representation.

Respectfully submitted,

Jim Mullin,

MOA BOD Members

Jim Mullin

Executive Director

Bunky Chance

Jimmy Kline

Jimmy Reihl

Chuckie White

Wayne Wilson

**"The Bay's A Big Place
And There's Room For
Everybody"**

HB725 2024.pdf

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Position: FAV

HB725

Oysters, Striped Bass, and Crabs – Commercial Authorizations – Suspensions and Revocations

Chairperson Korman and Committee Members

The Maryland Watermen's Association is in favor of HB 725. This is a lifetime sentence for Commercial Harvesting of Seafood. When this Bill was written back in 2011, says the Judge SHALL Revoke that License and that leaves no room for suspension of said License. This also causes hardship for families.

The Captain of the vessel is responsible for the vessel and should have been the only one charged, not the Crew and some of them were a first-time offender. Which lost their license for Life. It's time to correct this injustice and I ask for your support of HB725.

Very Respectfully,

Robert T. Brown, Sr.

President, Maryland Watermen's Association, Inc

240-925-9377

HB 725 - CBF - UNF.pdf

Uploaded by: Allison Colden

Position: UNF



CHESAPEAKE BAY FOUNDATION

Environmental Protection and Restoration
Environmental Education

House Bill 725

Oysters, Striped Bass, and Crabs – Commercial Authorizations – Suspensions and Revocations

Date: February 21, 2024

Position: **Opposed**

To: House Environment & Transportation Committee

From: Allison Colden

MD Executive Director

Chesapeake Bay Foundation (CBF) **OPPOSES** House Bill 725, which would prohibit the Department of Natural Resources (DNR) from revoking an authorization to catch oysters, striped bass, or crabs unless an individual is convicted of a certain crime. These changes would significantly alter the process by which DNR conducts hearings and renders administrative penalties to those who violate fishing laws and regulations.

Though there are strong natural resources laws on the books, lack of enforcement has led to repeat offenses which damage Maryland's natural resources and economy. For example, in a 2018 review of oyster poaching violations dating back to 2013, CBF found that enforcement of laws is uneven across counties, with Somerset County declining to prosecute in one-third of cases while Talbot County dropped poaching charges in only five percent of cases. District Courts also frequently assessed fines on offenders at a fraction of what state laws permit or for court costs only. Due to this uneven record of prosecution and penalties frequently assessed at levels far lower than allowed by current law, CBF supported legislation last year to develop the Environmental and Natural Resources Crimes Unit in the office of the Attorney General ([2023 Md. Laws, Chap. 689](#)).

While Maryland's oyster population has benefitted in recent years from favorable environmental conditions and increased production, striped bass and blue crab populations are struggling. For example, 2023 marked the fifth consecutive year of juvenile striped bass numbers far below average with an index of 1.0 compared to the long-term average of 11.3. Concerns over striped bass reproduction are compounded by overfishing of adult striped bass, which has spurred recent action at both the state and regional levels to reduce recreational and commercial fishing mortality.^{1,2}

Similarly, certain segments of the Bay's blue crab population are showing concerning trends. Juvenile blue crabs have remained below the long-term average for four consecutive years and the number of adult male blue crabs was the lowest ever recorded in 2022. Based on these results, the Chesapeake Bay Stock Assessment Committee, which reviews the annual DNR blue crab winter dredge survey results and provides

¹ Maryland Department of Natural Resources. [Maryland Enacts Striped Bass Emergency Regulations to Increase Protections for the Spawning Population](#). Accessed 16 February 2024.

² Atlantic States Marine Fisheries Commission. [ASMFC Atlantic Striped Bass Board Approves Addendum II Establishes Measures to Continue Progress Towards Stock Rebuilding](#). Accessed 16 February 2024.

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management recommendations, kicked off a new crab stock assessment with the hopes of uncovering some of the underlying causes of blue crab decline and recommending any changes needed to crab management.

Given the opportunity for more consistent and timely handling of natural resources cases by the newly-formed Environmental and Natural Resources Crime Unit and the current poor stock status of both striped bass and blue crabs, now is not the appropriate time to make significant changes to fisheries revocations law. To successfully rebuild our iconic striped bass and blue crab populations, we will need all tools available to ensure compliance with critical regulations meant to reduce mortality and bring these species back to sustainable levels.

CBF urges the Committee's UNFAVORABLE report on HB 725.

For more information, please contact Matt Stegman, Maryland Staff Attorney, at mstegman@cbf.org.

COA_MD GA 02.2024 OPP HB725.pdf

Uploaded by: Chesapeake Oyster Alliance

Position: UNF



Chesapeake
OYSTER ALLIANCE
10 Billion for the Bay

ADVOCATES FOR HERRING BAY | ANNAPOLIS AQUACULTURE | ANNAPOLIS MARITIME MUSEUM | ARUNDEL RIVERS FEDERATION
BLACK GIRLS DIVE FOUNDATION | BLUE OYSTER ENVIRONMENTAL | CHESAPEAKE BAY FOUNDATION | CHESAPEAKE BEACH OYSTER CULTIVATION
SOCIETY | COASTAL CONSERVATION ASSOCIATION – MARYLAND | FRIENDS OF ST. CLEMENTS BAY | LIVING CLASSROOMS FOUNDATION
MARINE SCIENCE FOUNDATION | MARK STREET VENTURES | OYSTER GIRL OYSTERS | PIRATES COVE OYSTER COMPANY
SEVERN RIVER ASSOCIATION | SHORERIVERS | TRUE CHESAPEAKE OYSTER COMPANY

House Bill 725

Oysters, Striped Bass, and Crabs - Commercial Authorizations - Suspensions and Revocations
Testimony before Environment and Transportation Committee

DATE: February 19, 2024

POSITION: **OPPOSE**

The Chesapeake Oyster Alliance is a broad coalition of 111 (and counting) non-profits, academic institutions, oyster growers, and business owners with the shared goal of adding 10 billion oysters in the Bay by the year 2025. With a focus on oyster restoration, science-based fishery management, and increased aquaculture, the Chesapeake Oyster Alliance aims to accelerate oyster recovery efforts and in so doing the recovery of Chesapeake Bay.

In its 2009 report, the Maryland Oyster Advisory Commission stated, *“there is no single factor more important to the future of ecologic restoration and aquaculture than to address and dramatically reduce ongoing illegal oyster harvesting activities.”* Oyster poaching is a significant impediment to oyster recovery. Over the past 5 years, there have been nearly 90 citations issued for oystering in sanctuaries, which represents a fraction of poachers who were caught. The statutory requirement that an individual’s authorization to catch oysters be revoked if they are found guilty of one of these five violations reflects the seriousness of these actions and are intended to serve as a strong deterrent to those who would consider skirting these regulations for monetary gain.

We, the above-listed members of the Chesapeake Oyster Alliance, **strongly OPPOSE House Bill 725** which would weaken deterrents for oyster poaching penalties and undermine oyster recovery:

House Bill 725 allows a person whose oyster authorization has been revoked to apply for reinstatement after five years and the completion of an education course. This action muddies the definition of a revocation and instead likens it to a five-year suspension, reducing the efficacy of revocation as a deterrent to poaching. Additionally, Maryland’s oyster fishery is a limited entry fishery with a lengthy waitlist. Holding revoked licenses in perpetuity due to the possibility of future reinstatement prevents those on the waitlist from being able to enter the fishery while those with revoked licenses due to poaching are allowed to re-enter despite their illegal actions.

Those who poach oysters undermine the efforts to remedy overfishing, weaken oyster recovery and threaten the future of the oyster industry. Weakening oyster poaching is a detriment to the honest efforts of watermen who comply with harvest regulations.

The Chesapeake Oyster Alliance respectfully requests an **unfavorable on House Bill 725**. Please contact COA Senior Manager, Tanner Council (tcouncil@cbf.org; 434.882.8266) with any questions.

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Uploaded by: Dylan Behler

Position: UNF



Wes Moore, Governor
Aruna Miller, Lt. Governor
Josh Kurtz, Secretary
David Goshorn, Deputy Secretary

February 21, 2024

BILL NUMBER: House Bill 725 – First Reader

SHORT TITLE: Oysters, Striped Bass, and Crabs – Commercial Authorizations – Suspensions and Revocations

DEPARTMENT’S POSITION: OPPOSE

EXPLANATION OF DEPARTMENT’S POSITION

Currently, the Department revokes licenses and authorizations under the definition of revocation as described in COMAR 08.02.13.01. “Revocation” means the act of the department permanently rescinding a fishing license, authorization, or entitlement and thereby permanently prohibiting a person from engaging in a fishing activity or activities under any circumstances. The department defines “Suspension” as the act of the department temporarily rescinding a fishing license, authorization, or entitlement and thereby temporarily prohibiting a person from engaging in a fishing activity or activities under any circumstances.

Under its current authority, when a citation is issued for one of the enumerated offenses the Department assesses the circumstances and makes a decision whether to move forward with pursuing a revocation action against the individual or not. If the Department initiates a revocation action against the individual, the Department must prove its case in front of the Office of Administrative Hearings. If the Department is successful, the individual is permanently revoked from the commercial oyster fishery, subject to appeals to Circuit Court and beyond. The outcome of the criminal case in District Court has no bearing on the case in front of the Office of Administrative Hearings because they have different evidentiary standards, one being a criminal matter (District Court) and one being a civil administrative matter (Office of Administrative Hearings). If the Department chooses to not initiate a revocation action against the individual, and the individual is convicted in District Court (subject to appeals, etc.), the Department may elect to initiate an administrative action in accordance with COMAR 08.02.13.02 and .03, which were promulgated under the authority of Natural Resources Article, §4-701, Annotated Code of Maryland. If the individual receives any disposition other than guilty or nolo contendere, the Department is not able to take any administrative action against the individual.

The current authority requires the Department to hold a hearing on a revocation action under Natural Resources Article, §4-1210, Annotated Code of Maryland within 90 days of the date of the offense. In practice that time period may be waived by the accused in order to better prepare their defense. Under the proposed legislation, the Department would first hold a hearing to suspend a license or authorization. That hearing would have to be within 90 days of the offense, just as the current revocation hearing. There are many times that the criminal case is heard before the administrative case. Under current authority, the criminal case has no bearing on the administrative case. Under the proposed legislation, depending on the outcome of that criminal case – which is held under a different evidentiary

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standard than the administrative case – the Department would either schedule a second hearing (to convert the suspension to a revocation if the disposition is guilty and the initial suspension hearing has been completed), attempt to modify the agency action from a suspension to a revocation (if the disposition is guilty or nolo contendere and the suspension hearing has not been held), or withdraw the action (if the disposition is an acquittal, dismissal, not guilty, or entry of nolle prosequi). It is possible, based on timing and other circumstances, that the Department would not be able to modify the agency action from a suspension to a revocation. In those cases, the Department would first have to hold the hearing to suspend the individual, then hold a second hearing to revoke the individual.

The proposed legislation requires the revocation hearing to occur within 90 days of the disposition. The Department waits 30 days from the date of disposition to ensure that the appeal rights of the defendant have run out without appeal before sending a Notice of Agency Action (if the disposition is appealed, the Department waits for those appeals to be exhausted). Upon mailing a Notice of Agency Action, the Administrative Procedures Act requires the defendant to be given 30 days to request a hearing on the matter. That means in an absolute best case scenario, the Department would be attempting to schedule a hearing with the Office of Administrative Hearings on less than 30 days' notice. In practice, it would be incredibly challenging - possibly impossible - for the Department to continue to revoke individuals under this section.

There would also be additional operational impacts related to the entry of data and restrictions in the agency's licensing system and other databases, as well as the Interstate Wildlife Violator Compact. This would be handled by existing staff.

Lastly, the Department anticipates the potential for future fiscal impacts based on the clause which would allow the Department to reinstate individuals who had previously been revoked under Natural Resources Article, 4-1210, Annotated Code of Maryland. If the Department were to choose to create a program by which revoked individuals could be reinstated, or if the Department were required to create such a program based on a court order, there would be the potential for significant operational and fiscal impacts. The details of those impacts would depend heavily on the structure of the program, but if revocation were no longer permanent and a license could be reinstated, the Department would no longer be able to reissue to the waitlist the license of an individual who had been revoked.

BACKGROUND INFORMATION

There have been a number of recent bills similar to this one. Senate Bill 637 in 2021. House Bill 1310 in 2022, House Bill 856 in 2020, and House Bill 1153 in 2019 are a few of the past bills related to removing the revocation under Natural Resources Article, Section 4-1210.

BILL EXPLANATION

HB 725 removes the Department's ability to revoke an individual for certain offenses on issuance of a citation, requires the Department to go through a two-step process to achieve a revocation dependent on certain outcomes in District Court, requires the Department to end suspensions based on certain outcomes in court, and authorizes the Department to reinstate individuals whose authorizations had previously been revoked.

HB 725 - Sign-on - UNF.pdf

Uploaded by: Matt Stegman

Position: UNF

Testimony before the
House Environment and Transportation Committee
February 21, 2024

House Bill 725
Position: **OPPOSE**

Dear Chairman Korman, Vice Chair Boyce, and Members of the Committee:

We, the undersigned organizations and individuals, respectfully request an **unfavorable** report from the House Environment and Transportation Committee on House Bill 725. This bill would weaken penalties for oyster poaching by allowing for suspension in place of revocation of an oyster harvest authorization and allowing for reinstatement of an oyster authorization at any time following a District Court ruling other than a guilty verdict.

In its 2009 report, the Maryland Oyster Advisory Commission stated, “there is no single factor more important to the future of ecologic restoration and aquaculture than to address and dramatically reduce the ongoing illegal oyster harvesting activities.” Oyster poaching is a significant impediment to oyster recovery. The statutory requirement that an individual’s authorization to catch oysters be revoked reflects the seriousness of these actions and is intended to serve as a strong deterrent to those who would consider skirting these regulations for monetary gain.

Even if an individual’s oyster authorization is revoked, they can continue to operate in other fisheries, meaning their opportunity to earn a livelihood in the fishing industry is not completely shut down. In this regard, Maryland’s penalties are less stringent than other states’, like Virginia, who has the authority to seize vessels and harvest equipment, preventing individuals from participating at all in commercial harvesting.

Requiring a suspension in place of a revocation is a serious undermining of the Department’s authority and muddies the definition of a suspension versus a revocation. It limits a suspension to not more than 3 years, at which time the person’s license is reinstated regardless of administrative or criminal penalties. The bill also fails to acknowledge that oyster poaching cases frequently result in *nolle prosequi* verdicts as prosecutors defer to administrative action which must be taken no more than 90 days following the citation. By conditioning administrative penalties on the outcome of criminal cases, this bill simultaneously complicates the process for both the Department and the parties involved while weakening the Department’s ability to deter poaching of the state’s natural resources.

Oysters are a public resource, belonging to all Marylanders. Regulations and the penalties which reinforce them are put in place to protect these resources, which are held in public trust for the benefit of all. Violation of these regulations in a manner that invokes the most serious penalties the Department can levy should not be taken lightly, as is reflected in the current statute.

We urge the Committee to provide an **unfavorable** report on House Bill 725 and thank you for your consideration.

Sincerely,

Matt Pluta
Director of Riverkeeper Programs, ShoreRivers

Benjamin Ford
Miles-Wye Riverkeeper, ShoreRivers

David Sikorski
Executive Director
CCA Maryland

Elle Bassett
South, West and Rhode Riverkeeper
Arundel Rivers Federation

Larry Jennings
Government Relations Committee
CCA Maryland

Liz Curtz
Friends of St. Clements Bay

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Valliant Shellfish and Seafood, LLC

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