

**Department of Legislative Services**  
 Maryland General Assembly  
 2024 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 317 (Senator Bailey)  
 Education, Energy, and the Environment

**Oysters, Striped Bass, and Crabs - Commercial Authorizations - Suspensions and Revocations**

This bill modifies existing provisions that allow for the revocation of a person’s authorization to catch oysters, striped bass, or crabs if the person receives a citation for (or commits) any one of several specified offenses, so that the provisions (1) instead allow for a specified initial suspension, and a subsequent extension of an initial suspension, or a revocation, under specified circumstances; (2) require the Department of Natural Resources (DNR) to end an initial suspension if all criminal charges related to the cited offense result in acquittal, dismissal, a not guilty verdict, or an entry of *nolle prosequi*; and (3) authorize DNR to reinstate a revoked authorization.

**Fiscal Summary**

**State Effect:** General fund and special fund expenditures are expected to increase annually by at least \$6,440 and \$7,560, respectively, beginning in FY 2025. Special fund revenues may decrease, relatively minimally, beginning in FY 2025.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
SF Revenue	(-)	(-)	(-)	(-)	(-)
GF Expenditure	\$6,400	\$6,400	\$6,400	\$6,400	\$6,400
SF Expenditure	\$7,600	\$7,600	\$7,600	\$7,600	\$7,600
Net Effect	(\$14,000)	(\$14,000)	(\$14,000)	(\$14,000)	(\$14,000)

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

**Local Effect:** None.

**Small Business Effect:** Potential meaningful.

## Analysis

**Bill Summary:** The bill modifies existing statutory provisions that allow for the revocation of a person's authorization to catch oysters, striped bass, or crabs if the person receives a citation for (or commits) any one of several specified offenses. Under the bill, a person's authorization may be revoked *or suspended* if a person receives a citation, and DNR may not revoke an authorization unless the violation results in a criminal conviction or an accepted plea of *nolo contendere*.

The bill makes existing procedures for revocation of a person's authorization, including a hearing in accordance with the Administrative Procedure Act (APA), instead applicable to an initial suspension of a person's authorization. The bill limits an initial suspension to a period of not more than three years. The bill also modifies those procedures, with respect to an authorization to catch striped bass or crabs, to require that a hearing be held within 90 days after the cited individual commits the offense (consistent with the existing procedures applicable to a revocation of an authorization to catch oysters).

DNR must immediately end a period of an initial suspension if the person subject to the suspension submits documentation satisfactory to DNR demonstrating that all criminal charges related to the cited offense have resulted in (1) acquittal; (2) dismissal; (3) a not guilty verdict; or (4) an entry of *nolle prosequi*.

If the department finds or concludes that a person has been convicted of or entered an accepted plea of *nolo contendere* to a crime related to one of the specified offenses for which an authorization may be suspended or revoked, DNR may (1) extend any period of suspension previously imposed or (2) revoke the person's authorization. Unless a person waives the right to a hearing, before extending a suspension or imposing a revocation, DNR must hold a hearing on the matter in accordance with APA, within 90 days after the disposition of criminal proceedings related to the offense.

The bill also authorizes DNR, subject to any regulation that the department adopts, to reinstate an authorization to catch oysters, striped bass, or crabs that has been revoked.

The bill expands a prohibition against a person engaging or working in the applicable (oyster, striped bass, or crab) fishery, whether or not it requires the use of another license or authorization, if a person's authorization has been revoked. The bill expands the prohibition so that it also applies to a suspension of an authorization.

## **Current Law:**

### *Revocation of an Authorization to Catch Oysters, Striped Bass, or Crabs*

In addition to any other penalty or fine provided for under State fisheries law, a person who holds an authorization (or is authorized) to catch oysters, striped bass, or crabs and receives a citation for (or commits) any one of several specified offenses (listed in statute, with respect to oysters, and established in specified regulations, with respect to striped bass or crabs) may have the authorization revoked.

Before the revocation of an authorization, DNR must hold a hearing on the matter in accordance with APA. With respect to revocation of an authorization to catch oysters, statute specifies that the hearing must be held within 90 days after the cited individual commits the offense. After a hearing is conducted, if the presiding officer finds or concludes that the person knowingly has committed one of the specified offenses, DNR must revoke the person's authorization. A person aggrieved by the final decision of the department may obtain judicial review of the decision in accordance with APA.

A person whose authorization has been revoked may not engage or work in the applicable (oyster, striped bass, or crab) fishery whether or not it requires the use of another license or authorization.

### *Tidal Fish License Authorizations*

With the exception of commercial licenses to fish for northern snakeheads and blue and flathead catfish, 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 – which include specified authorizations for oysters, finfish, and blue crabs – for which the indicated fee has been paid. 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.

**State Expenditures:** General fund and special fund expenditures are expected to increase annually, on average, by at least \$6,440 and \$7,560, respectively, beginning in fiscal 2025, for DNR to hold additional hearings with the Office of Administrative Hearings. General fund and special fund expenditures are expected to increase annually by those amounts due to the bill's (1) authorization of initial suspensions in place of revocations; (2) requirement that a hearing be held before extending an initial suspension or imposing a revocation; and (3) authorization for DNR to reinstate a revoked authorization.

DNR indicates that there may be circumstances in which it seeks an initial suspension of an authorization under the bill (requiring a hearing) when, in the absence of the bill, under current law, it declines to seek a revocation, not viewing the offense as warranting a revocation. In addition, under circumstances in which, under current law, DNR revokes an authorization after one hearing, under the bill a second hearing will have to be held in order to revoke the authorization, assuming there is a criminal conviction or accepted plea of *nolo contendere*. Finally, DNR may have to hold additional hearings for individuals who have had their authorizations revoked who seek reinstatement, whether individuals who have had their authorizations revoked in the past or that have their authorizations revoked in the future.

DNR pays a minimum of \$3,500 per hearing (46% of which is paid for with general funds and 54% of which is paid for with special funds) and estimates it pays for at least four additional hearings per year, on average, under the bill, resulting in a combined general fund and special fund increase of \$14,000 annually (\$6,440 in general funds and \$7,560 in special funds).

**State Revenues:** Special fund revenues may decrease, relatively minimally, beginning in fiscal 2025, due to the bill's modifications of existing law that (1) allow for suspension of an authorization instead of a revocation and (2) authorize DNR to reinstate a revoked authorization. DNR sets targets for the number of tidal fish license authorizations issued by the department, limiting the number available. Authorizations that are revoked or voluntarily relinquished are reallocated to individuals on the commercial license waiting list maintained by DNR. If the bill's suspension and reinstatement provisions instead result in authorizations that otherwise are revoked and reallocated instead being held and reserved for the person who committed an offense in case a suspension is ended or a revoked authorization is reinstated, fee and surcharge revenues associated with an authorization may decrease if they are not paid to any extent during a period of suspension or revocation. Any decrease in special fund revenues, however, is expected to be relatively minimal.

DNR indicates that 25 individuals have had their oyster authorizations revoked under the provisions modified by the bill (the department conducts approximately three revocation actions per year) and the department has not revoked any authorizations to catch striped bass or crabs under the provisions modified by the bill.

**Small Business Effect:** The bill may meaningfully affect small business opportunities of individuals on the commercial license waiting list, to the extent fewer oyster authorizations are made available to those on the list as a result of (1) the bill's suspension and reinstatement provisions causing authorizations that otherwise are revoked and reallocated to instead be held and reserved for the person who committed an offense in case a suspension is ended or a revoked authorization is reinstated or (2) authorizations being allocated to individuals whose authorizations were revoked in the past and are reinstated.

## Additional Information

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** HB 725 (Delegate Jacobs, *et al.*) - Environment and Transportation.

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

**Fiscal Note History:** First Reader - February 20, 2024  
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