

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE
Revised

House Bill 469

(Chairman, Environmental Matters Committee)
(Departmental – Natural Resources)

Environmental Matters

Education, Health, and Environmental Affairs

Oyster Sanctuaries and Reserves - Penalties for Taking Oysters

This departmental bill provides that a person who unlawfully takes oysters from an oyster sanctuary or oyster reserve that is designated and marked by buoys or other signs, and who knew or should have known that taking oysters was unlawful, is subject to a fine not exceeding \$3,000 and immediate suspension of the person's tidal fish license for at least six months but not more than one year. The penalties would be in addition to existing applicable penalties.

The bill takes effect July 1, 2002.

Fiscal Summary

State Effect: General fund revenues could increase as a result of the bill's monetary penalty provisions for those cases heard in the District Court. Special fund revenues could increase for those cases heard in the circuit court. Because the deterrent effect, if any, of the bill cannot be predicted, a reliable estimate of any increase in revenues cannot be made at this time. However, any such increase is not anticipated to be significant. Expenditures would not be materially affected.

Local Effect: The bill would not materially affect local operations or finances.

Small Business Effect: The Department of Natural Resources (DNR) has determined that this bill will have minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law: A person may not catch oysters in specified oyster sanctuaries or on any area closed or reserved for propagation of oyster seed. There are no penalties specific to unlawfully taking oysters from an oyster sanctuary or an oyster reserve. However, a person who violates any provision relating to fish and fisheries is guilty of a misdemeanor, and upon conviction is subject to a fine not exceeding \$500, with costs imposed in the discretion of the court. Unless another penalty is specifically provided elsewhere in the law, any person found guilty of a second or subsequent violation is subject to a fine not exceeding \$1,000, or imprisonment not exceeding one year, or both, with costs imposed in the discretion of the court. A second or subsequent violation is one that has occurred within two years of any prior violation.

If a fine is imposed by the District Court for a violation of fish and fisheries provisions, the fine must be collected pursuant to the provisions of law of the District Court system. If a fine is imposed by the circuit court of any county, the fine, less the costs of collection, must be paid into the Fisheries Research and Development Fund, unless otherwise provided for.

DNR has the authority to suspend a person's entitlement to engage in a particular activity or activities under a tidal fish license for a period of not less than ten days or more than one year.

Background: Chesapeake Bay oyster populations have experienced a modest recovery in the last few years after hitting record lows in the early 1990s. However, the population remains far below historical highs from the late 19th century. In November 2000 the Maryland oyster population was 39% greater than at its low point in 1993-94, while the population in 1985 was about 2.2 times larger than in 2000. Commercial harvest for the 2000 season was estimated at 340,000 bushels or more than four times the 1993-94 harvest. Comparatively, the 1985-86 harvest was 1.6 million bushels.

The parasitic oyster diseases, MSX and Dermo, which are responsible for most of the oyster population decline of the last 20 years, continued to plague oysters at moderately high rates in 2000. Oyster reproduction, which is largely dependent upon natural factors such as rainfall and salinity, was below the long-term average in 2000. The 2000 Chesapeake Bay agreement goal is to achieve a tenfold increase in bay oyster populations from a 1994 baseline by 2010. According to DNR, the population in late 2000 was estimated to be at 1.4 times the baseline.

In 1999 the Governor made a ten-year commitment of \$25 million to help rebuild oyster populations through the development of a network of oyster reef sanctuaries. DNR initiated that work in fiscal 2001, and Maryland now has 24 oyster sanctuaries. The

federal government and nonprofit organizations are also investing large sums of money and time into oyster sanctuaries and reserve areas for the benefit of the ecology of the Chesapeake Bay and to sustain the commercial oyster fishery and related businesses. Oysters grown in protected areas are intended to be in place for long periods of time to provide water quality benefits, brood oyster stock, and add to the general oyster spat set in the Chesapeake Bay. However, DNR reports that currently there is an economic incentive for individuals to take oysters illegally from protected areas and sell them. DNR advises that because the Natural Resources Police is not capable of enforcing the existing prohibitions in all areas at all times, an additional measure of deterrence is needed.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 4, 2002
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