

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 98 (Chair, Environmental Matters Committee)(By Request -
Departmental - Natural Resources)

Environmental Matters Education, Health, and Environmental Affairs

Department of Natural Resources - Tidal Fish Licenses - Transfer and Suspension

This departmental bill prohibits individuals – who are convicted or receive an accepted plea of *nolo contendere* (no contest) for a violation of federal or State fisheries law that results in a license suspension – from using and receiving temporarily transferred tidal fish licenses during the period of suspension. The grounds for suspension or revocation of a tidal fish license are altered to include a serious violation of a State or federal commercial fisheries law that results in a conviction or an accepted plea of *nolo contendere*. Regulatory requirements concerning suspension and revocation of fishing licenses and authorizations are altered to include a serious violation of a State or federal commercial fisheries law that results in an individual receiving a conviction or an accepted plea of *nolo contendere*.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: The bill does not materially impact State finances.

Local Effect: None.

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

Analysis

Current Law: Tidal fishing licenses may be transferred from one individual to another. DNR is authorized to approve the permanent transfer of a tidal fishing license or an authorization to a person who is the licensee's spouse, daughter, son, stepchild, grandchild, step-grandchild, parent, sister, brother, grandparent, father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, or brother-in-law, under two circumstances: (1) if the licensee applies for transfer and the transferee has paid the fee for the license or authorization; or (2) upon death of the licensee, if the licensee or their representative indicates the transferee's name to DNR. DNR may approve a temporary transfer of a tidal fishing license for a period of 30 to 90 days, and such licenses may not be transferred in exchange for any type of payment.

Grounds for suspension or revocation of a tidal fish license or an authorization include making any false statement in an application for a tidal fish license, conviction for a State fisheries violation, failure to submit specified fisheries-related reports, and failure of a nonresident to appear in court in response to a citation.

DNR, in consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, must adopt regulations relating to the suspension and revocation of fisheries licenses and authorizations, including suspension or revocation of a license or authorization or conviction of an offense in accordance with the Fish and Fisheries provisions of the Natural Resources Article.

Background: A tidal fishing license is the single, commercial license issued by DNR with respect to fishing and fisheries in tidal waters. A person must obtain authorizations on the license, for which various fees apply, to engage in different types of fishing or commercial activity. The annual fee for an unlimited authorization is \$300. The fee for catching finfish for sale by hook and line only, as an example of a more specific authorization, is \$37.50. The license year for each tidal fish license is from September 1 through August 31 of the following year.

Currently, fishing license suspensions correspond to a particular license, not the specific individual who committed the offense. Therefore, if an individual using a temporarily transferred license commits an offense that causes that license to be suspended, the individual may still fish with another temporarily transferred license from someone else. Since penalties are primarily levied on the person who transferred the license, it could be argued that the current system does not effectively punish offending individuals. This bill clarifies DNR's suspension authority and seeks to improve deterrence and ensure that individuals who actually commit offenses are penalized.

Small Business Effect: To the extent small fishing businesses are no longer able to use a temporarily transferred license when another fishing license is suspended, or violate federal law and have their license suspended, the bill has a meaningful effect. However, assuming compliance with State and federal fisheries laws, the bill has no impact on small businesses.

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, 2010
ncs/lgc Revised - House Third Reader - March 25, 2010
Revised - Enrolled Bill - April 12, 2010

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Department of Natural Resources – Tidal Fish License – Transfer and Suspension

BILL NUMBER: HB 98

PREPARED BY: Department of Natural Resources

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.