

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

House Bill 357

(Delegate Wood, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

Potomac River Fisheries Commission - Inspection Tax and Penalty

This bill alters the Potomac River Fisheries Commission's (PRFC) oyster inspection tax amount to \$2.00 per bushel and requires all oyster inspection tax proceeds to be used solely for planting seed or shell oyster on working bottom. The bill also increases the maximum fine amount for violations of PRFC regulations from \$1,000 to \$3,000.

The oyster inspection tax provision takes effect July 1, 2013, and the maximum fine provision takes effect October 1, 2013, but the bill may not take effect until similar legislation is enacted by Virginia.

Fiscal Summary

State Effect: None. PRFC is a semi-autonomous agency.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Current Law: PRFC operates under the Potomac River Compact of 1958 which Maryland ratified in 1959. Generally, PRFC works to conserve and improve seafood resources of the Potomac River. PRFC is authorized to make, adopt, and publish rules and regulations for authorizing and regulating the dredging of oysters in areas of the Potomac River within its geographical jurisdiction and may levy license and repletion fees.

PRFC is a semi-autonomous agency, but its work and policies are coordinated closely with the Maryland Department of Natural Resources and the Virginia Marine Resources Commission. PRFC regulations and orders must be enforced by the law enforcement agencies of Maryland and Virginia.

The compact authorizes PRFC to impose an inspection tax on all oysters caught in the Potomac River; however, the tax amount may not exceed the severance tax per bushel imposed by either Virginia or Maryland, whichever is higher. PRFC's current oyster inspection tax amount is \$1.00 per bushel and is paid by the buyer at the place in Maryland or Virginia where the oysters are unloaded from vessels and are to be shipped no further in bulk in vessel.

A person who violates PRFC regulations is guilty of a misdemeanor and, unless lesser punishment is provided by PRFC, is subject to a fine of up to \$1,000, jail for up to one year, or both, in the discretion of the court.

Generally, a person who violates fish and fishery provisions of the Natural Resources Article is guilty of a misdemeanor and, upon conviction, subject to a fine of up to \$1,000. A person who commits a second or subsequent offense is subject to a fine of up to \$2,000 or imprisonment for up to one year, or both. A second or subsequent offense is one which has occurred within two years of any prior violation.

Background: PRFC convened a Blue Ribbon Oyster Panel in 2011 to develop a revitalization plan for the public oyster fishery in the Potomac River. The panel recommended development of a financially self-sustaining "put and take" public oyster fishery program called the Oyster Management Reserve Program. The program began in June 2012, when oyster larvae were planted in a protected oyster management reserve area in the Potomac River. The program is characterized by a rotational oyster planting and harvest plan on two oyster bars located in a protected area. PRFC anticipates that oysters planted last June will be ready for harvest in about two years. Approximately 20 watermen have made a three-year financial commitment to the program.

PRFC's maximum penalty of \$1,000 for illegal fishing and poaching was established in 1958 and is less than comparable fines in Maryland and Virginia. Because there have been several cases of poaching and illegal fishing in the Potomac River, increasing the penalty fine amount may deter violations in the future and protect Oyster Management Reserve Program participants. In addition, increasing the maximum penalty amount will make PRFC fines more comparable to similar fines levied in neighboring states.

Recently, two bills were considered by the Virginia General Assembly proposing PRFC policy changes the same as those in this bill. Virginia's SB 1110 of 2013 alters the oyster

inspection tax amount and Virginia's SB 1108 of 2013 increases the maximum fine amount for violations. As of early March 2013, both the Virginia Senate and House had passed SB 1108 and SB 1110 in the same posture.

Small Business Effect: The bill has a meaningful impact on small commercial fishing businesses that buy oysters harvested from the Potomac River and must pay the oyster inspection tax. Currently, PRFC licenses 11 oyster buyers in Maryland and Virginia that pay oyster inspection taxes.

Additional Comments: PRFC revenues increase in fiscal 2014 and future years to the extent additional oyster inspection tax revenue is collected. PRFC oyster replenishment program expenditures increase in fiscal 2014 and future years to the extent additional oyster inspection tax revenue is collected.

Additional Information

Prior Introductions: None.

Cross File: SB 344 (Senators Middleton and Frosh) - Education, Health, and Environmental Affairs.

Information Source(s): Department of Natural Resources, Chesapeake Bay Commission, Potomac River Fisheries Commission, Virginia Legislative Information System, Department of Legislative Services

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