

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1488
(Delegate Mautz, *et al.*)
Environment and Transportation

Tidal Fish Licenses - Oyster Authorizations - Revocation

This bill modifies provisions that establish grounds and a process for the revocation of a person's license to catch oysters. References to a "license to catch oysters" are replaced with references to an "authorization to catch oysters." Under the bill, the Department of Natural Resources (DNR) is no longer required to revoke a person's license to catch oysters after a hearing, if the presiding officer finds or concludes that the person knowingly has committed an offense. DNR is instead authorized to revoke a person's authorization to catch oysters in that circumstance. A person whose authorization to catch oysters is revoked may apply for reinstatement of the authorization at any time after two years from the date of revocation.

The bill takes effect June 1, 2017.

Fiscal Summary

State Effect: Special fund expenditures may increase in FY 2017 by not more than \$15,000 for computer programming. Special fund revenues may decrease minimally due to the bill's reinstatement provision.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Revocation of a Person's License to Catch Oysters

In addition to any other penalty or fine, a person who holds a license to catch oysters and receives a citation for any of the following offenses may have the license revoked: (1) taking oysters located more than 200 feet within a closed or prohibited area; (2) taking oysters with gear that is prohibited in that area; (3) taking oysters outside of a time restriction for the harvest of oysters by more than one hour; (4) taking oysters during closed seasons; and (5) taking oysters from a leased area by a person other than the leaseholder or the leaseholder's designee.

Within 60 days after a licensee receives a citation for one of those offenses, DNR must hold a hearing on the matter. After a hearing, if the presiding officer finds or concludes that the person knowingly has committed an offense, DNR must revoke the person's license to catch oysters. A person who is aggrieved by DNR's final decision may obtain judicial review of the decision in accordance with the Administrative Procedure Act.

A person whose license has been revoked may not engage or work in the fishery for which the license was revoked, whether or not it requires the use of another license.

"License" and "Authorization"

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 for which the indicated fee has been paid. The authorization for harvesting oysters for sale, for example, has a fee of \$250 for a dredge boat and \$100 for harvesting other than from a dredge boat.

State Expenditures: Special fund expenditures may increase in fiscal 2017 (due to the bill's June 1, 2017 effective date), for a one-time computer programming cost to reconfigure DNR's COMPASS licensing system to allow for revoked oyster authorizations to be held for potential reinstatement. DNR indicates that any increase in special fund expenditures is not expected to be more than \$15,000.

State Revenues: Special fund revenues may decrease minimally due to the bill's reinstatement provision. 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 reinstatement provision

may instead require DNR to hold revoked oyster authorizations for two years or more, during which time fees and/or surcharges associated with them are not paid, special fund revenues may decrease minimally. DNR has revoked approximately four oyster authorizations, on average, each year. Since the bill changes the *requirement* that DNR revoke a license to catch oysters to *an authorization* for DNR to revoke an authorization to catch oysters, presumably fewer revocations may occur.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources; Office of Administrative Hearings; Department of Legislative Services

Fiscal Note History: First Reader - March 6, 2017
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