

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 1137

(Delegate Jacobs, *et al.*)

Environment and Transportation

Education, Health, and Environmental Affairs

Natural Resources - Fisheries - Commercial Oyster Divers

This bill modifies requirements applicable to persons aboard a boat who are using diving apparatus to catch oysters for commercial purposes from the waters of the State, allowing either the diver or the attendant to possess an authorization to catch oysters for commercial purposes (subject to a reduced daily catch limit), instead of requiring both to have an authorization.

Fiscal Summary

State Effect: None. The bill does not affect State finances.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: For each combination of a diver and an attendant, either the diver or the attendant or both must possess an authorization to catch oysters for commercial purposes. If both the diver and the attendant possess an oyster authorization, the combination may catch up to the equivalent of two times the daily catch limit set forth in a specified Department of Natural Resources (DNR) regulation – COMAR 08.02.04.06 – which sets a daily catch limit for harvesting using diving apparatus of 15 bushels per licensee, not to exceed 30 bushels per boat. If only one of the diver or attendant combination possesses an oyster authorization, the combination may catch up to the daily catch limit set forth in COMAR 08.02.04.06.

The bill also codifies certain requirements in DNR regulations by specifying that no more than two divers may work from a boat at any one time and that each diver must have one attendant on the boat.

The bill establishes a per boat catch limit of the equivalent of two times the daily catch limit set forth in COMAR 08.02.04.06 (which currently equals the existing statutory per boat catch limit of 30 bushels of oysters per day). The bill also retains a provision that specifies that any person aboard a boat on which more than the per boat catch limit has been caught in a day may be charged with a violation of the catch limit. The bill adds a provision that specifies that any person aboard a boat may be charged with a violation for a boat on which (1) one diver is working from the boat; (2) only one of the diver and attendant combination possesses an oyster authorization; and (3) more than the daily catch limit set forth in COMAR 08.02.04.06 has been caught in a day.

Current Law:

Requirements Applicable to Oyster Harvesting Using Diving Apparatus

Pursuant to statute, persons aboard a boat who are using diving apparatus to catch oysters from the waters of the State may not catch more than a total of 30 bushels per boat in any day. Any person aboard a boat on which more than 30 bushels have been caught in a day may be charged with a violation of the catch limit. Pursuant to DNR regulations, (1) each person engaged in the diving operation, including the diver and the attendant, must possess a license to catch oysters for commercial purposes; (2) not more than two divers may work from a boat at one time; and (3) each diver must have one attendant on the boat.

COMAR 08.02.04.06 establishes daily catch limits for the taking of oysters from the waters of the State, based on the means by which the oysters are harvested. If oysters are harvested using diving apparatus, the daily catch limit is 15 bushels per licensee, not to exceed 30 bushels per boat.

“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.

Small Business Effect: Small business oyster harvesters may meaningfully benefit if the bill provides harvesters business flexibility to be able to work with a diver and/or attendant who does not possess an oyster authorization. DNR indicates that the number of oyster

harvesters each year who use diving apparatus to catch oysters has ranged from 28 to 81 over the past nine oyster seasons, including 38 in the 2017-2018 season.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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