HOUSE BILL 1310

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HB 1153/19 – ENT

By: Delegates Mautz, Adams, Arentz, Buckel, Hornberger, Jacobs, and McComas
Introduced and read first time: February 11, 2022
Assigned to: Environment and Transportation

A BILL ENTITLED

AN ACT concerning

Tidal Fish Licenses – Oyster Authorizations – Revocation

FOR the purpose of authorizing, rather than requiring, the Department of Natural Resources to revoke a person’s authorization to catch oysters if the Department finds or concludes that the person has knowingly committed one of certain offenses; authorizing a person whose authorization to catch oysters is revoked under certain provisions of law to apply for reinstatement of the authorization after a certain period of time; and generally relating to revocation of an authorization to catch oysters.

BY repealing and reenacting, with amendments,

Article – Natural Resources
Section 4–1210
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Natural Resources

4–1210.

(a) (1) In addition to any other penalty or fine provided in this title, a person who holds an authorization to catch oysters under § 4–701 of this title and receives a citation for an offense listed under paragraph (2) of this subsection may have the authorization revoked in accordance with this section.

(2) The following offenses, committed in violation of this title or of any regulation adopted under this title, are grounds for revocation of an authorization to catch oysters under this section:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
(i) Taking oysters located more than 200 feet within a closed or prohibited area;

(ii) Taking oysters with gear that is prohibited in that area;

(iii) Taking oysters outside of a time restriction for the harvest of oysters by more than 1 hour;

(iv) Taking oysters during closed seasons; and

(v) Taking oysters from a leased area by a person other than the leaseholder or the leaseholder’s designee.

(b) (1) (i) Before the revocation of an authorization to catch oysters under this section, the Department shall hold a hearing on the matter in accordance with the Administrative Procedure Act under Title 10, Subtitle 2 of the State Government Article.

(ii) A hearing held under subparagraph (i) of this paragraph shall be held within 90 days after the cited individual commits the offense listed under subsection (a)(2) of this section.

(2) After a hearing is conducted under paragraph (1) of this subsection, if the presiding officer finds or concludes that the person knowingly has committed an offense listed under subsection (a)(2) of this section, the Department [shall] MAY revoke the person’s authorization to catch oysters.

(c) A person who is aggrieved by the final decision of the Department may obtain judicial review of the decision in accordance with the Administrative Procedure Act under Title 10, Subtitle 2 of the State Government Article.

(d) (1) A person whose authorization has been revoked in accordance with this section may not engage or work in the oyster fishery [whether or not it requires the use of another license] WHILE THE AUTHORIZATION IS REVOKED.

(2) A PERSON WHOSE AUTHORIZATION TO CATCH OYSTERS IS REVOKED UNDER THIS SECTION MAY APPLY FOR REINSTATEMENT OF THE AUTHORIZATION AT ANY TIME AFTER 5 YEARS FROM THE DATE OF REVOCATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2022.