

**Department of Legislative Services**  
 Maryland General Assembly  
 2023 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 945 (Delegate Jacobs, *et al.*)  
 Environment and Transportation

**Tidal Fish Licenses - Oyster Authorizations - Reinstatement**

This bill authorizes a person whose authorization to catch oysters is revoked to apply for reinstatement of the authorization at any time after five years from the date of revocation. The Department of Natural Resources (DNR) must establish an Oyster Harvester Education Program to provide rehabilitation to individuals whose authorizations have been revoked, and DNR must require an applicant for reinstatement to successfully complete the program. The bill requires DNR to determine the contents of the program and authorizes DNR to charge a reasonable fee, based on the cost of operating the program, to participating individuals. **The bill takes effect July 1, 2023.**

**Fiscal Summary**

**State Effect:** General fund expenditures increase by at least \$50,100 in FY 2024. Future years reflect minimum ongoing costs and inflation. Special fund expenditures may increase, and special fund revenues likely decrease minimally, as discussed below. General fund revenues may increase minimally from any fees charged for the education program (not reflected below).

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
SF Revenue	(-)	(-)	(-)	(-)	(-)
GF Expenditure	\$50,100	\$43,300	\$45,200	\$47,300	\$49,900
SF Expenditure	-	-	-	-	-
Net Effect	(-)	(-)	(-)	(-)	(-)

*Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** None.

**Small Business Effect:** Potential meaningful.

## Analysis

**Current Law:** With the exception of a commercial northern snakehead license established in 2016, 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 – which include catching oysters for sale – for which the indicated fee has been paid. DNR is authorized to set, by regulation, specified targets for the number of tidal fish license authorizations and may modify the target number of authorizations for specified reasons. The department must provide for reallocation of any authorizations that are revoked or voluntarily relinquished and, pursuant to DNR regulations, those authorizations are reallocated to individuals on the commercial waiting list maintained by the department.

In addition to any other penalty or fine provided, a person who holds an authorization to catch oysters and receives a citation for one of several specified offenses may have the authorization revoked. Within 90 days after the cited individual commits the offense, and before the revocation, DNR must hold a hearing in accordance with the Administrative Procedure Act (APA). A person aggrieved by DNR’s final decision may obtain judicial review in accordance with APA. A person whose authorization has been revoked may not engage or work in the oyster fishery whether or not it requires the use of another license.

### State Expenditures:

#### *Oyster Harvester Education Program*

General fund expenditures increase by \$50,125 in fiscal 2024, which accounts for the bill’s July 1, 2023 effective date. This estimate reflects the cost to hire a part-time administrative officer to run the Oyster Harvester Education Program. DNR indicates that existing staff are not able to absorb the work associated with the program. The estimate includes a part-time salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	0.5
Salary and Fringe Benefits	\$42,981
Operating Expenses	<u>7,144</u>
<b>Total FY 2024 Education Program Expenditures</b>	<b>\$50,125</b>

Future year expenditures reflect a part-time salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

## *Reinstatement Hearings*

General fund and special fund expenditures may increase for DNR to hold reinstatement hearings with the Office of Administrative Hearings (as is currently done for revocations) to ensure due process for those applying for reinstatement. The approximate cost per hearing is \$3,500, split between special funds (54%) and general funds (46%). DNR indicates that there are 24 individuals who have had their authorization revoked who would either be immediately eligible for reinstatement following participation in the education program or would become eligible to apply for reinstatement in the next four years.

**State Revenues:** Special fund revenues are expected to be affected by the potential for reinstatement of authorizations under the bill. 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 instead requires DNR to hold revoked oyster authorizations for five years or more for potential reinstatement, during which time fees and surcharges associated with the authorizations are not paid, special fund revenues decrease.

Based on recent numbers of offenders, DNR estimates that it revokes an average of three authorizations per year, with a loss under the bill of either \$400 or \$635 of revenue per authorization. The \$400 loss consists of the \$100 fee for the oyster authorization and the \$300 oyster surcharge to catch oysters for sale. The \$635 loss consists of the \$100 authorization fee and the \$300 oyster surcharge plus the \$215 harvester registration fee and the \$20 seafood marketing surcharge, if the individual does not hold any other authorizations for which they would continue to pay the harvester registration fee and seafood marketing surcharge.

General fund revenues may increase minimally if DNR charges a fee for the Oyster Harvester Education Program. Although DNR is authorized to charge a reasonable fee, based on the cost of operating the program, because the number of individuals participating in the program in any given year is likely minimal, it is unlikely that DNR could set the fee at a level to offset its costs of operating the program.

**Small Business Effect:** The bill may meaningfully affect the small business opportunities of individuals on the commercial license waiting list, to the extent fewer oyster authorizations are made available to those on the list as a result of (1) newly revoked authorizations being held for potential reinstatement instead of redistributed to the waiting list and (2) authorizations being allocated to reinstated individuals instead of those on the waiting list.

## **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** SB 637 (Senator Mautz) - Education, Energy, and the Environment.

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

**Fiscal Note History:** First Reader - March 2, 2023  
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