

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 76 (Senator Bailey)
 Education, Energy, and the Environment

Tidal Fish Licenses - Oyster Authorizations - Administrative Penalties

This bill modifies existing provisions that allow for the revocation of a person’s authorization to catch oysters so that the provisions instead allow for suspension of an authorization. The bill also (1) modifies one of the offenses for which, under the bill, an authorization can be suspended; (2) repeals a time period within which a required hearing must be held; and (3) requires reinstatement of authorizations revoked prior to July 1, 2025, after specified time periods. **The bill takes effect July 1, 2025.**

Fiscal Summary

State Effect: General fund and special fund expenditures are expected to increase annually by approximately \$5,300 and \$6,200, respectively, beginning in FY 2026. Special fund revenues may be minimally affected beginning in FY 2026.

| (in dollars) | FY 2026 | FY 2027 | FY 2028 | FY 2029 | FY 2030 |
|----------------|------------|------------|------------|------------|------------|
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 |
| GF Expenditure | 5,300 | 5,300 | 5,300 | 5,300 | 5,300 |
| SF Expenditure | 6,200 | 6,200 | 6,200 | 6,200 | 6,200 |
| Net Effect | (\$11,500) | (\$11,500) | (\$11,500) | (\$11,500) | (\$11,500) |

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

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Suspensions Replace Revocations

The bill modifies existing provisions that allow for the revocation of a person's authorization to catch oysters if the person receives a citation for any one of several specified offenses, so that the provisions instead allow for (1) a suspension of up to 2 years, for a first violation and (2) a suspension of up to 10 years, for a second or subsequent violation.

The bill also modifies one of the specified offenses – “taking oysters with gear that is prohibited in [a closed or prohibited] area” – to be “taking oysters with gear that is prohibited in [a closed or prohibited] area while more than 200 feet within the prohibited area.”

The bill removes a requirement that a hearing that must be held prior to a revocation (under current law) or suspension (under the bill) be held within 90 days after the cited individual commits the offense.

The bill makes provisions that apply to a revocation under current law applicable to a suspension under the bill, including the following:

- if the presiding officer of a hearing finds or concludes that the person knowingly committed the offense, the Department of Natural Resources (DNR) must suspend the person's authorization to catch oysters; and
- a person whose authorization has been suspended may not engage or work in the oyster fishery while suspended whether or not the work requires the use of another license.

Reinstatements

DNR must reinstate the authorization of a person whose authorization to catch oysters was revoked before July 1, 2025, if:

- (1) the authorization has been revoked for at least 2 years and (2) the revocation was the person's first offense adjudicated as a knowing violation; or
- (1) the authorization has been revoked for at least 10 years and (2) the revocation was the person's second or subsequent offense adjudicated as a knowing violation.

Current Law:

Tidal Fish License Authorizations

Apart from commercial licenses to fish for Chesapeake Channa and blue and flathead catfish, 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.

Oyster Authorization Revocation

In addition to any other penalty or fine provided, a person who holds an authorization to catch oysters and receives a citation for any one of several specified offenses may have the authorization revoked. The specified offenses include (1) taking oysters located more than 200 feet within a closed or prohibited area and (2) taking oysters with gear that is prohibited in that area.

Before the revocation of an authorization, DNR must hold a hearing in accordance with the Administrative Procedure Act (APA) within 90 days after the cited individual commits the offense. If the presiding officer of a hearing finds or concludes that the person knowingly committed the offense, DNR must revoke the person's authorization to catch oysters. 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: General fund and special fund expenditures are expected to increase annually, on average, by approximately \$5,290 and \$6,210, respectively, beginning in fiscal 2026, for DNR to hold additional hearings with the Office of Administrative Hearings.

General fund and special fund expenditures are expected to increase annually by those amounts due to the bill's allowance for suspension of an authorization to catch oysters, instead of revocation, each of which require a hearing. DNR indicates that over the last five years, it has revoked authorizations in 4 cases and declined to pursue revocation in another 14 cases, indicating that it generally declines to pursue revocation for a number of reasons, including the individual's past violation history and the egregiousness of the

offense. Under the bill, DNR likely pursues additional cases; those that are not egregious enough to warrant a permanent revocation under current law but that warrant a suspension.

DNR pays approximately \$3,500 per hearing (46% of which is paid for with general funds and 54% of which is paid for with special funds) and indicates it may pay for approximately three additional hearings per year, on average, under the bill, resulting in a combined general fund and special fund increase of \$11,500 annually (\$5,290 in general funds and \$6,210 in special funds).

State Revenues: Special fund revenues may be minimally affected beginning in fiscal 2026, due to the offsetting effects of:

- oyster authorizations that are revoked under current law (and allocated to individuals on the commercial license waiting list) instead, under the bill, being suspended and held for the suspended individual, potentially without fees being paid during the suspension; and
- the bill's requirement that revoked authorizations be reinstated, potentially requiring DNR to increase the target number of oyster authorizations made available to the oyster industry in order to do so and collecting fees associated with the additional authorizations.

Small Business Effect: The bill may meaningfully affect 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 the bill's allowance for suspension of authorizations instead of revocation causing authorizations that otherwise are revoked and reallocated to instead be suspended and held for the individual.

Additional Information

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

Designated Cross File: HB 893 (Delegate Jacobs, *et al.*) - Environment and Transportation.

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

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