

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 76

(Senator Bailey)

Education, Energy, and the Environment

Environment and Transportation

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 for a first violation and revocation for a second or subsequent violation. The bill also (1) modifies one of the offenses for which, under the bill, an authorization can be suspended or revoked; (2) repeals a time period within which a required hearing must be held; and (3) requires reinstatement of a person's entitlement to engage or work in the oyster fishery for a person whose authorization was revoked prior to July 1, 2025, beginning five years after the revocation. **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 decrease minimally 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, for a First Violation

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 for up to five years, for a first violation and (2) revocation, 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 or revocation (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 or revocation 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 or revoke the person's authorization to catch oysters; and
- a person whose authorization has been suspended or revoked may not engage or work in the oyster fishery while suspended or revoked whether or not the work requires the use of another license.

Reinstatement

DNR must reinstate a person's entitlement to engage or work in the oyster fishery for a person whose authorization to catch oysters was revoked before July 1, 2025, beginning five years after the date of revocation. The department may accept an application for and issue an oyster authorization to a person whose oyster authorization was revoked before July 1, 2025, beginning five years after the date of revocation.

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 license 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 a first violation – 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, for a first violation; 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 decrease minimally, beginning in fiscal 2026, due to 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.

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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