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Caroline, Dorchester, Talbot,
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Economic Matters Committee



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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

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SPONSOR TESTIMONY
DELEGATE JOHNNY MAUTZ
DIST. 37B – CAROLINE, DORCHESTER, TALBOT & WICOMICO COUNTIES

HB 1310 – TIDAL FISH LICENSES – OYSTER AUTHORIZATIONS – REVOCATION

Summary

HB1310 replaces the “lifetime revocation” requirement contained in Natural Resources Article 4-1210, with a minimum revocation of five years subject to the discretion of the Attorney General for the Department of Natural Resources.

Background

Currently, after an individual is cited for harvesting oysters from a sanctuary an administrative hearing is scheduled with the Office of Administrative Hearings (OAH). The burden of proof is preponderance of the evidence (51-49) and if it’s determined at that hearing the individual knew that he or she was fishing in a sanctuary, an “lifetime revocation” is instituted.

Later there is a criminal trial where the burden of proof is beyond a reasonable doubt which can result in a different verdict or affirm the OAH findings. A conviction would ultimately result in penalty points against the individual’s Tidal Fishing License.

Rationale

The lifetime revocation standard is intended to serve as a deterrent to oyster poaching and to eliminate bad actors from the fishery. Unfortunately, there are situations when individuals mistakenly wander into prohibited areas and situations where those prohibited areas are either not clearly distinguished or are mistaken by Natural Resources Police.

This occurs in the public fishery and in areas where aquaculture bottom leases exist within sanctuaries.

It is important to note that the Attorney General (AG) has not requested this legislation or flexibility in implementing license revocations. It is also important to note that this legislation will not inhibit the ability of the AG's office to seek a "lifetime revocation."

Our oyster fishery is shrinking along with our oyster population. Many wonder how long the fishery can sustain continual catch reductions and regulations limiting harvest options. If no other reason this legislation is needed, it is to prevent a young, honest, hardworking individual from being forever punished for a mistake and being forced out of the fishery.

Conclusion

We respectfully request a **favorable report on HB1310** from the Committee and thank you for considering this important legislation. In addition, we would be happy to provide expert legal opinions or any other information that may be of assistance.