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March 2, 2023

**BILL NUMBER: Senate Bill 637 – First Reader**

**SHORT TITLE: Tidal Fish Licenses - Oyster Authorizations - Reinstatement**

**DEPARTMENT’S POSITION: OPPOSE**

**EXPLANATION OF DEPARTMENT’S POSITION:**

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The Department opposes Senate Bill 637. Since the law has been amended to allow the Department greater discretion to bring cases under the law, the agency has reduced the average number of cases of revocation. The agency can now factor into account circumstances relating to potentially unintentional law violations when considering to pursue a case of revocation.

The new text in (e)(1) is unclear. Under the proposed text, it appears that the individual’s authorization is not actually revoked but suspended for a period of at least five years during which the agency shall hold the license for potential reinstatement. This means that authorizations will be held indefinitely or until an individual asks for, and the Department grants, the reinstatement of that authorization after five or more years. Individuals on the waitlist (under Natural Resources Article, Section 4-701) will not be able to obtain these authorizations and the fishery will not be efficiently maximized. Furthermore, it does not limit the number of times a person could apply for reinstatement. An individual could continually apply for reinstatement leading to continual hearings on the matter.

This ‘temporary’ revocation also only applies to actions taken under this section. The Department has separate authority under Natural Resources Article, Section 4-701 to take action against an individual’s authorization due to the accumulation of points on their licensing record. The courts may also revoke an individual’s license. It is possible an individual may be revoked under one or both sections of law. This would potentially result in the individual being eligible for the rescission of the revocation taken under Natural Resources Article, Section 4-1210 but still revoked under the revocation taken under Natural Resources Article, Section 4-701. Additionally, this will create two differing definitions from the term “revocation” in terms of commercial fishing licenses.

Currently, the Department revokes licenses and authorizations under the definition of revocation as described in COMAR 08.02.13.01. “Revocation” means the act of the Department permanently rescinding a fishing license, authorization, or entitlement and thereby permanently prohibiting a person from engaging in a fishing activity or activities under any circumstances. The Department defines “Suspension” as the act of the Department temporarily rescinding a fishing license, authorization, or entitlement and thereby temporarily prohibiting a person from engaging in a fishing activity or activities under any circumstances.

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If revocation is now considered like a ‘suspension’ for the purposes of actions taken under this section, the Department will have to hold revoked authorizations until such time that the individual is ‘reinstated.’ That time may or may not ever come depending on the circumstances of an offense. This means that the fishery is not working at maximum capacity because the revoked authorization would not be reissued to an individual on the waitlist. It also means that the Department would not be able to collect the license fees that would otherwise be paid by a functioning member of the fishery for that authorization.

Additionally, a reasonable fee for an education program for reinstating individuals would not cover the costs of staffing an education program for reinstatement. This results in either pulling staff from existing programs and stopping those programs or hiring additional staff to administer the education program.

For these reasons, the Maryland Department of Natural Resources respectfully requests the Committee to grant an unfavorable report.

**BACKGROUND INFORMATION:**

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There have been a number of recent bills similar to this one. House Bill 1310 in 2022, House Bill 856 in 2020, and House Bill 1153 in 2019 are a few of the past bills related to removing the revocation under Natural Resources Article, Section 4-1210.

**BILL EXPLANATION:**

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The bill provides that the Department may reinstate a revoked authorization after a five-year period if an individual requests a reinstatement. The Department shall also provide a class for a reasonable fee to the individual as part of reinstatement.