



Wes Moore, Governor
Aruna Miller, Lt. Governor
Josh Kurtz, Secretary
David Goshorn, Deputy Secretary

February 4, 2025

BILL NUMBER: Senate Bill 76 – First Reader

SHORT TITLE: Tidal Fish Licenses - Oyster Authorizations - Administrative Penalties

DEPARTMENT’S POSITION: INFORMATIONAL

EXPLANATION OF DEPARTMENT’S POSITION

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.

Under its current authority enumerated in Natural Resources Article, §4-1210, Annotated Code of Maryland, when a citation is issued for one of the enumerated offenses the Department assesses the circumstances and makes a decision whether to move forward with pursuing a revocation action against the individual or not. If the Department initiates a revocation action against the individual, the Department must prove its case in a civil proceeding in front of the Office of Administrative Hearings. If the Department is successful, the individual is permanently revoked from the commercial oyster fishery, subject to appeals to the Circuit Court and beyond. The outcome of the criminal case in the District Court has no bearing on the case in front of the Office of Administrative Hearings because they have different evidentiary standards, one being a criminal matter (District Court) and one being a civil administrative matter (Office of Administrative Hearings). If the Department chooses to not initiate a revocation action against the individual, and the individual is convicted in District Court (subject to appeals, etc.), the Department may elect to initiate an administrative action in accordance with COMAR 08.02.13.02 and .03, which were promulgated under the authority of Natural Resources Article, §4-701, Annotated Code of Maryland. If the individual receives any disposition other than guilty or nolo contendere, the Department is not able to take any administrative action against the individual.

This bill would remove the Department’s ability to revoke an individual based on the enumerated offenses and instead replace that authority with the ability to suspend an individual for either two or 10 years, depending on whether the individual had previously been adjudicated as having committed a knowing violation under Natural Resources Article, §4-1210, Annotated Code of Maryland. The Department believes that the suspensions provided for in this bill still present a meaningful deterrent effect on potential offenders while providing an avenue for individuals to return to the fishery in the hope that they have been rehabilitated. The decade-long suspension for second or subsequent offenses,

Contact: Dylan Behler, Director, Legislative and Constituent Services
dylan.behler@maryland.gov ♦ 410-260-8113 (office) ♦ 443-924-0891 (cell)

while not as permanent as a revocation, would effectively remove bad actors for a significant amount of time. Additionally, violators who are convicted in criminal court of committing egregious offenses may still be revoked under the points system established in COMAR and are not eligible for reinstatement under the terms of this bill.

BACKGROUND INFORMATION

There have been a number of recent bills similar to this one. House Bill 725 in 2023, House Bill 1310 in 2022, Senate Bill 637 in 2021, 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.

Additionally the Department engaged in an iterative process over the interim to address the concerns that we heard that legislative session.

BILL EXPLANATION

HB 76 removes the Department's ability to revoke an individual for certain offenses on issuance of a citation and replaces it with a tiered suspension based on an individual's past offenses. The bill also requires the Department to reinstitute the authorization of individuals who had previously been revoked so long as the duration of the revocation has been at least equivalent to the period of suspension that would be instituted under the new structure.