



CHESAPEAKE BAY FOUNDATION

Environmental Protection and Restoration
Environmental Education

House Bill 893

Tidal Fish Licenses – Oyster Authorizations – Administrative Penalties

Date: February 19, 2025
To: Environment and Transportation Committee

Position: **UNFAVORABLE**
From: Allison Colden,
Executive Director

Chesapeake Bay Foundation (CBF) **OPPOSES** House Bill 893 which would strip the Department of Natural Resources (DNR) of its discretion and authority to revoke an individual's authorization to harvest oysters after a finding that the individual did knowingly poach oysters from an oyster sanctuary, aquaculture lease, or area closed due to shellfish sanitation regulations. This action would constitute a significant weakening of the Department's ability to address 'bad actors' in the oyster fishery whose actions threaten public health, oyster recovery efforts, and private investments in water quality improvements.

Currently, DNR has the discretion to pursue penalties up to and including revocation of an authorization to harvest oysters after a violation has been established through an administrative hearing process. If, after the conclusion of an administrative hearing and all associated appeals, an administrative law judge determines, on the preponderance of evidence, that the individual *knowingly* harvested oysters illegally, DNR will revoke their authorization to harvest oysters. This administrative process is limited to a small subset of violations in the oyster fishery which are considered most dangerous to public health, personal property, and the sustainability of public trust resources.

This administrative process is analogous to other professional licenses and oversight processes. In many professions (e.g. doctors, lawyers, etc.) a regulatory entity reviews complaints or reports of misconduct and, after reviewing evidence and hearing any appeals, may remove an individual's ability to practice in that industry based on a violation of the standards and norms of the profession. In the case of oyster authorizations, an individual is authorized to harvest and sell oysters according to the standards and norms (i.e. regulations) determined by the Department which are reviewed and agreed to by the licensee each year through the Shellfish Closure Book.

Since the passage of legislation in 2011 establishing DNR's administrative authority for oyster authorizations, the General Assembly has amended the law on several occasions. Each time, the General Assembly has afforded DNR additional discretion that allows the department to consider an individual's history in the fishery, the severity of the alleged offense, the hardship a penalty may impose on the individual, and other mitigating circumstances when choosing whether and what type of penalty to pursue for poaching violations. The outcome of these changes has been a significant *decrease* in revocations imposed (less than 1 per year). Further, current law also allows a full-time waterman who has had their oyster authorization revoked to participate in other fisheries so that they may maintain a livelihood in the seafood industry even after revocation of the privilege to harvest oysters.

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We believe that prior wise decisions made by the General Assembly have appropriately balanced a need for a strong deterrent from poaching activity and DNR's ability to address 'bad actors' in the fishery with the discretion to decline to pursue revocation when circumstances or history do not warrant it.

CBF urges the Committee's UNFAVORABLE report on House Bill 893.

For more information, please contact Matt Stegman, Maryland Staff Attorney, at mstegman@cbf.org.