

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1036

(Delegate Jacobs, *et al.*)

Environment and Transportation

Education, Health, and Environmental Affairs

Natural Resources - Oyster Poaching - Administrative Penalties

This bill modifies a penalty for knowingly committing specified oyster poaching offenses by requiring the Department of Natural Resources (DNR) to suspend a person's license to catch oysters for one year if the person has *not* been convicted of a violation of fisheries laws or regulations in the preceding five years and the presiding officer in the hearing on the matter does *not* find or conclude that the violation is egregious. This requirement takes the place of the current requirement to revoke the person's license to catch oysters, which continues to apply in other circumstances. A person whose license has been suspended may not engage or work in the fishery for which the license was suspended whether or not it requires the use of another license. The bill also modifies one of the offenses for which a person's license to catch oysters is subject to suspension or revocation, regarding taking oysters with gear that is prohibited in an area. Under the bill, the offense specifically applies to taking oysters with *a power dredge in an area reserved for another type of gear.*

Fiscal Summary

State Effect: General fund expenditures may be affected minimally by any increase or decrease in hearings held regarding oyster poaching violations. Revenues are not materially affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: In addition to any other penalty or fine, a person who holds a license to catch oysters and receives a citation for any of the following offenses may have the license revoked: (1) taking oysters located more than 200 feet within a closed or prohibited area; (2) taking oysters with gear that is prohibited in that area; (3) taking oysters outside of a time restriction for the harvest of oysters by more than one hour; (4) taking oysters during closed seasons; and (5) taking oysters from a leased area by a person other than the leaseholder or the leaseholder's designee.

Within 60 days after a licensee receives a citation for one of those offenses, DNR must hold a hearing on the matter. After a hearing, if the presiding officer finds or concludes that the person knowingly has committed an offense, DNR must revoke the person's license to catch oysters. A person who is aggrieved by DNR's final decision may obtain judicial review of the decision in accordance with the Administrative Procedure Act.

A person whose license has been revoked may not engage or work in the fishery for which the license was revoked whether or not it requires the use of another license.

Background: DNR advises that it has revoked 14 commercial oyster authorizations under the provisions of current law amended by the bill since their enactment in 2011.

State Expenditures: General fund expenditures may be affected minimally by any increase or decrease in hearings held regarding oyster poaching violations. The modification of the offense of taking oysters with gear that is prohibited in an area to specifically apply to taking oysters with a power dredge in an area reserved for another type of gear, may reduce the number of hearings held. On the other hand, additional hearings may be held to revoke licenses to catch oysters of repeat offenders that receive an initial suspension, where under current law those persons' licenses are revoked after a first offense. DNR's cost per hearing is approximately \$3,500.

Additional Information

Prior Introductions: None.

Cross File: SB 696 (Senator Hershey) - Education, Health, and Environmental Affairs.

Information Source(s): Department of Natural Resources, Department of Legislative Services

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