

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 390 (Senator Hershey, *et al.*)
Education, Health, and Environmental Affairs

Oyster Poaching - Administrative Penalties - Gear Violations

This bill modifies an offense for which a person's license to catch oysters is subject to revocation. The offense is modified from taking oysters with *gear that is prohibited in an area* to taking oysters with *a power dredge in an area reserved for another type of gear*.

Fiscal Summary

State Effect: General fund expenditures may decrease minimally beginning in FY 2018 due to a decrease in hearings held regarding oyster poaching violations. Revenues are not 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, the Department of Natural Resources (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A person whose license has been revoked may not engage or work in the fishery for which the license was revoked, whether or not it requires the use of another license.

State Expenditures: General fund expenditures may decrease minimally each year, beginning in fiscal 2018, due to a decrease in hearings held regarding oyster poaching violations. DNR indicates it has held six hearings involving a person taking oysters with gear that is prohibited in an area since 2011 (with an additional four hearings pending), and that each hearing costs approximately \$3,500. The modification of that offense to apply only to taking oysters with a power dredge in an area reserved for another type of gear may reduce the number of hearings held by DNR.

Additional Information

Prior Introductions: SB 957 of 2016 received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee. Its cross file, HB 918, passed with amendments in the House but received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee.

Cross File: None.

Information Source(s): Department of Natural Resources; Judiciary (Administrative Office of the Courts); Office of Administrative Hearings; Department of Legislative Services

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