

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 613

(Delegate Boyce, *et al.*)

Environment and Transportation

Education, Energy, and the Environment

Natural Resources - Recreational Catching of Oysters or Clams - Requirements

This bill repeals and modifies existing provisions authorizing recreational catching of oysters and clams and establishes a recreational oyster license available only to residents, with a portion of license application fee revenues used to replenish public fishery oyster bars.

Fiscal Summary

State Effect: Special fund revenues increase annually, potentially significantly, beginning in FY 2025. *For illustrative purposes*, special fund revenues increase by approximately \$100,000 for every 10,000 recreational oyster licenses issued (excluding complimentary/discounted licenses discussed below). Special fund expenditures also increase annually, beginning as early as FY 2025, due to the required use of a portion of the special fund revenues to replenish public fishery oyster bars.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Repeal/Modification of Existing Recreational Oyster and Clam Provisions

The bill repeals a provision authorizing a resident to catch up to one bushel each of oysters and clams a day for the person's own use and consumption without a license, in places and

at times prescribed by Department of Natural Resources (DNR) regulations. In place of that provision, the bill (1) establishes a recreational oyster license, available only to residents and (2) authorizes a resident to catch clams in accordance with DNR regulations, without specifying a daily catch limit in statute. The bill also modifies a provision that authorizes a nonresident to catch, in the tidal bays of Worcester County, up to one bushel of hard clams per day for the nonresident's own use and consumption. Under the modified provision, a nonresident may catch, in the tidal bays of Worcester County, hard clams for the nonresident's own use and consumption in accordance with regulations adopted by DNR (removing the daily catch limit specified in statute).

Establishment of Recreational Oyster License

In General

The bill establishes a recreational oyster license, available only to residents, and generally requires a person at least age 16 to secure the license to harvest oysters in the tidal waters of the State. DNR must develop and publish an application form for obtaining a recreational oyster license. To obtain a license, a State resident at least age 16 must submit to DNR an application using the form developed and published by the department. The application must include (1) the last four digits of the applicant's Social Security number, if the applicant has a Social Security number; (2) payment of a \$10 application fee; and (3) any other information requested by DNR. An applicant may not willfully make a false statement or representation to the department on the application.

A licensee must physically possess the license while harvesting or attempting to harvest oysters. The license is valid for one year following the date of issuance and may not be transferred.

DNR may designate a person engaged in a commercial enterprise as an agent to sell recreational oyster licenses, and an agent may retain 50 cents for each recreational oyster license issued by the agent.

DNR must use a portion, as determined by the department, of the application fee to replenish public fishery oyster bars by planting shell and juvenile oysters.

DNR may adopt regulations to implement the bill's recreational oyster license provisions (including the provisions below).

Complimentary/Discounted Licenses

DNR must issue a complimentary recreational oyster license to a resident of the State who certifies that the resident is (1) a former prisoner of war; (2) an American veteran who is

determined to be unemployable by the U.S. Department of Veterans Affairs; (3) a 100% service-connected disabled American veteran; or (4) blind. DNR must also (1) issue a discounted recreational oyster license to a resident of the State who is a recipient of the Purple Heart Award and (2) determine the cost of the discounted application fee.

Authorization to Catch Oysters Without a License

An individual may catch oysters without a recreational oyster license if the individual (1) owns or leases property bordering tidal waters of the State or (2) is the spouse or immediate family member of an individual who owns or leases property bordering tidal waters of the State and resides on the property. An individual must register with DNR and provide all information requested by the department before catching oysters under this authorization. DNR may not establish a fee to register.

Current Law:

Authorizations in Statute to Catch Oysters and Clams

Statute specifies that any resident of the State may catch oysters or clams on any area in the waters of the State from which catching oysters or clams is permitted under provisions of State fisheries law relating to oysters and clams. A resident may catch up to one bushel each of oysters (but see regulations below) and clams a day for the person's own use and consumption without a license, in places and at times prescribed by DNR regulations. A nonresident may catch, in the tidal bays of Worcester County, up to one bushel of hard clams per day for the nonresident's own use and consumption.

Regulations – Recreational Oyster Fishery

DNR regulations establish that (1) the recreational season, daily catch limits, days of the week, and times for catching oysters is established, and may be modified, through [public notice](#) and (2) regardless of the authorization in statute (discussed above) for a resident to catch up to one bushel of oysters a day for the person's own use and consumption, the Secretary of Natural Resources, in order to implement the Maryland Chesapeake Bay Oyster Management Plan, may issue a public notice to establish or modify the season, daily catch limits, days of the week, or times for catching oysters for recreational or commercial purposes. DNR must issue a public notice that establishes those parameters for the recreational oyster fishery by July 1 of each year. (Statute relating to fishery management plans establishes that, regardless of other statutory provisions under State fisheries law, once a fishery management plan has been adopted by regulation, the State's fishery resources must be harvested in accordance with the conservation and management

measures in the fishery management plan and any regulations implementing or amending the plan.)

A public notice must state its effective hour and date and must be published on DNR's website at least 48 hours in advance of the effective hour and date.

Regulations – Recreational Clam Fishery

Soft-shell

Under DNR regulations for the recreational soft-shell clam fishery, an individual may not catch more than one standard U.S. bushel of soft-shell clams per day, and an individual may not catch or possess soft-shell clams of the species *Mya arenaria* that are less than two inches in length, measured along the longest part of the shell.

Hard-shell

Under DNR regulations for the recreational hard-shell clam fishery, in general, an individual may not catch more than one standard U.S. bushel of hard-shell clams per day. An individual may not catch more than 250 hard-shell clams per day for personal consumption and use from the waters of Worcester County.

Existing Complimentary/Discounted Licenses and License Exemptions

The bill's provisions establishing complimentary and discounted recreational oyster licenses are similar to existing provisions establishing complimentary and discounted angler's licenses and Chesapeake Bay and coastal sport fishing licenses (recreational licenses for fishing in nontidal waters and fishing for finfish in tidal waters, respectively). In addition, the bill's authorization for specified individuals (owners/lessees of property bordering tidal waters and spouses/family members) to catch oysters without a recreational oyster license is similar to authorizations for similar individuals to fish without an angler's license or Chesapeake Bay and coastal sport fishing license.

State Fiscal Effect: Special fund revenues increase annually, potentially significantly, beginning in fiscal 2025, due to the collection of recreational oyster license application fee revenues. Special fund expenditures also increase annually, beginning as early as fiscal 2025, due to the bill's requirement that a portion of the application fee revenues collected, as determined by DNR, be used to replenish public fishery oyster bars by planting shell and juvenile oysters.

The extent of the increase in special fund revenues, and the related increase in special fund expenditures (equal to some portion of the special fund revenues), cannot be reliably

estimated. For context, approximately 126,000 residents have a Chesapeake Bay and coastal sport fishing license, which authorizes a person to fish for finfish recreationally in tidal waters of the Chesapeake Bay and its tributaries and in the Atlantic Ocean and the Atlantic coastal bays and their tributaries. However, DNR indicates that individuals who enjoy sport fishing may not be the same residents who enjoy catching oysters, and it is likely that only a fraction of Chesapeake Bay and coastal sport fishing licensees participate in the recreational oyster fishery.

For illustrative purposes, for every 10,000 residents that secure a recreational oyster license (excluding those issued complimentary or discounted licenses), special fund revenues increase by approximately \$100,000 (revenues may be slightly less than \$100,000, depending on how many licenses are sold through agents who retain 50 cents of the \$10 application fee).

Because the bill does not expressly indicate where the recreational oyster license application fee revenues are deposited, this analysis assumes the fee revenues are deposited into the Fisheries Management and Protection Fund, which receives money received from fish and fisheries licenses under State fisheries law, unless otherwise provided in statute.

DNR indicates that it can implement the recreational oyster license, and the complimentary/discounted licenses and specified registrations, by adding them to its licensing system, with existing resources.

Small Business Effect: Small businesses in the commercial fishing and seafood industry (in addition to individuals harvesting oysters recreationally) may meaningfully benefit from the bill to the extent replenishment of public fishery oyster bars funded by the recreational oyster license application fee revenues results in an increased amount of oysters harvested in future years.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

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

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km/lgc

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