

HOUSE BILL 725

M2

4lr2695
CF SB 317

By: **Delegates Jacobs, Adams, Arentz, Ghrist, Hornberger, Hutchinson, T. Morgan, and Otto**

Introduced and read first time: January 29, 2024

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Oysters, Striped Bass, and Crabs – Commercial Authorizations – Suspensions**
3 **and Revocations**

4 FOR the purpose of prohibiting the Department of Natural Resources from revoking a
5 person's authorization to catch oysters, striped bass, or crabs unless the person has
6 been convicted of or entered an accepted plea of nolo contendere to a certain crime;
7 altering and establishing certain procedures for the suspension or revocation of an
8 authorization to catch oysters, striped bass, or crabs; authorizing the Department to
9 reinstate an authorization to catch oysters, striped bass, or crabs that has been
10 revoked, under certain circumstances; and generally relating to the suspension or
11 revocation of authorizations to catch oysters, striped bass, or crabs.

12 BY repealing and reenacting, with amendments,
13 Article – Natural Resources
14 Section 4–1210 and 4–1211
15 Annotated Code of Maryland
16 (2023 Replacement Volume and 2023 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That the Laws of Maryland read as follows:

19 **Article – Natural Resources**

20 4–1210.

21 (a) (1) In addition to any other penalty or fine provided in this title, a person
22 who holds an authorization to catch oysters under § 4–701 of this title and receives a
23 citation for an offense listed under paragraph (2) of this subsection may have the
24 authorization **SUSPENDED OR** revoked in accordance with this section.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2) [The] **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE** following offenses, committed in violation of this title or of any regulation adopted under this title, are grounds for **SUSPENSION OR** revocation of an authorization to catch oysters under this section:

(i) Taking oysters located more than 200 feet within a closed or prohibited area;

(ii) Taking oysters with gear that is prohibited in that area;

(iii) Taking oysters outside of a time restriction for the harvest of oysters by more than 1 hour;

(iv) Taking oysters during closed seasons; and

(v) Taking oysters from a leased area by a person other than the leaseholder or the leaseholder's designee.

(3) THE DEPARTMENT MAY NOT REVOKE AN AUTHORIZATION TO CATCH OYSTERS UNDER THIS SECTION UNLESS THE VIOLATION RESULTS IN A CRIMINAL CONVICTION OR AN ACCEPTED PLEA OF NOLO CONTENDERE.

(b) (1) (i) Before the [revocation] **SUSPENSION** of an authorization to catch oysters under this section, the Department shall hold a hearing on the matter in accordance with the Administrative Procedure Act under Title 10, Subtitle 2 of the State Government Article.

(ii) A hearing held under subparagraph (i) of this paragraph shall be held within 90 days after the cited individual commits the offense listed under subsection (a)(2) of this section.

[(2)] **(III)** After a hearing is conducted under [paragraph (1)] **SUBPARAGRAPH (II)** of this [subsection] **PARAGRAPH**, if the presiding officer finds or concludes that the person knowingly has committed an offense listed under subsection (a)(2) of this section, the Department shall [revoke] **SUSPEND** the person's authorization to catch oysters **FOR A PERIOD OF NOT MORE THAN 3 YEARS.**

(IV) THE DEPARTMENT SHALL IMMEDIATELY END A PERIOD OF SUSPENSION IMPOSED UNDER THIS PARAGRAPH IF THE PERSON SUBJECT TO THE SUSPENSION SUBMITS DOCUMENTATION SATISFACTORY TO THE DEPARTMENT DEMONSTRATING THAT ALL CRIMINAL CHARGES RELATED TO THE CITED OFFENSE HAVE RESULTED IN:

1. ACQUITTAL;

1 2. **DISMISSAL;**

2 3. **A NOT GUILTY VERDICT; OR**

3 4. **AN ENTRY OF NOLLE PROSEQUI.**

4 (2) (I) **SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF**
5 **THE DEPARTMENT FINDS OR CONCLUDES THAT A PERSON HAS BEEN CONVICTED OF**
6 **OR ENTERED AN ACCEPTED PLEA OF NOLO CONTENDERE TO A CRIME RELATED TO**
7 **AN OFFENSE LISTED UNDER SUBSECTION (A)(2) OF THIS SECTION, THE**
8 **DEPARTMENT MAY:**

9 1. **EXTEND ANY PERIOD OF SUSPENSION PREVIOUSLY**
10 **IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION; OR**

11 2. **REVOKE THE PERSON'S AUTHORIZATION TO CATCH**
12 **OYSTERS.**

13 (II) 1. **EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF**
14 **THIS SUBPARAGRAPH, BEFORE EXTENDING A SUSPENSION OR IMPOSING A**
15 **REVOCATION UNDER THIS PARAGRAPH, THE DEPARTMENT SHALL HOLD A HEARING**
16 **ON THE MATTER IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT**
17 **UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.**

18 2. **A PERSON MAY WAIVE THE RIGHT TO A HEARING**
19 **UNDER THIS SUBPARAGRAPH.**

20 3. **A HEARING HELD UNDER THIS SUBPARAGRAPH**
21 **SHALL BE HELD WITHIN 90 DAYS AFTER THE DISPOSITION OF CRIMINAL**
22 **PROCEEDINGS RELATED TO THE OFFENSE.**

23 (c) A person who is aggrieved by the final decision of the Department may obtain
24 judicial review of the decision in accordance with the Administrative Procedure Act under
25 Title 10, Subtitle 2 of the State Government Article.

26 (d) **SUBJECT TO ANY REGULATION THAT THE DEPARTMENT ADOPTS, THE**
27 **DEPARTMENT MAY REINSTATE AN AUTHORIZATION TO CATCH OYSTERS THAT HAS**
28 **BEEEN REVOKED UNDER THIS SECTION.**

29 (E) A person whose authorization has been **SUSPENDED OR** revoked in
30 accordance with this section may not engage or work in the oyster fishery **DURING THE**
31 **PERIOD OF SUSPENSION OR REVOCATION**, whether or not it requires the use of another
32 license.

4-1211.

(a) (1) In addition to any other penalty or fine provided in this title, a person who is authorized to catch striped bass or crabs under § 4-701 of this title and who commits an offense established under paragraph (2) of this subsection may have the authorization to catch striped bass or crabs **SUSPENDED OR** revoked in accordance with this section.

(2) **[The] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE** Department, in consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, shall adopt regulations that establish grounds for the **SUSPENSION OR** revocation of an authorization to catch striped bass or crabs under § 4-701 of this title, which shall include egregious or repeat violations in the following categories:

- (i) Using illegal gear;
- (ii) Harvesting during closed seasons;
- (iii) Harvesting from a closed area;
- (iv) Violating established harvest, catch, or size limits; and
- (v) Violating tagging and reporting requirements.

(3) THE DEPARTMENT MAY NOT REVOKE AN AUTHORIZATION TO CATCH STRIPED BASS OR CRABS UNDER THIS SECTION UNLESS THE VIOLATION RESULTS IN A CRIMINAL CONVICTION OR AN ACCEPTED PLEA OF NOLO CONTENDERE.

(b) (1) **(I)** Before the [revocation] **SUSPENSION** of an authorization to catch striped bass or crabs under this section, the Department shall hold a hearing on the matter in accordance with the Administrative Procedure Act under Title 10, Subtitle 2 of the State Government Article.

(II) A HEARING HELD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE HELD WITHIN 90 DAYS AFTER THE CITED INDIVIDUAL COMMITS THE OFFENSE LISTED UNDER SUBSECTION (A)(2) OF THIS SECTION.

[(2)] (III) After a hearing is conducted under [paragraph (1)] **SUBPARAGRAPH (II)** of this [subsection] **PARAGRAPH**, if the presiding officer finds or concludes that the person knowingly has committed an offense listed under subsection (a)(2) of this section, the Department shall [revoke] **SUSPEND** the person's authorization to catch striped bass or crabs **FOR A PERIOD OF NOT MORE THAN 3 YEARS.**

1 **(IV) THE DEPARTMENT SHALL IMMEDIATELY END A PERIOD OF**
2 **SUSPENSION IMPOSED UNDER THIS PARAGRAPH IF THE PERSON SUBJECT TO THE**
3 **SUSPENSION SUBMITS DOCUMENTATION SATISFACTORY TO THE DEPARTMENT**
4 **DEMONSTRATING THAT ALL CRIMINAL CHARGES RELATED TO THE CITED OFFENSE**
5 **HAVE RESULTED IN:**

- 6 1. **ACQUITTAL;**
- 7 2. **DISMISSAL;**
- 8 3. **A NOT GUILTY VERDICT; OR**
- 9 4. **AN ENTRY OF NOLLE PROSEQUI.**

10 **(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF**
11 **THE DEPARTMENT FINDS OR CONCLUDES THAT A PERSON HAS BEEN CONVICTED OF**
12 **OR ENTERED AN ACCEPTED PLEA OF NOLO CONTENDERE TO A CRIME RELATED TO**
13 **AN OFFENSE LISTED UNDER SUBSECTION (A)(2) OF THIS SECTION, THE**
14 **DEPARTMENT MAY:**

- 15 1. **EXTEND ANY PERIOD OF SUSPENSION PREVIOUSLY**
16 **IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION; OR**
- 17 2. **REVOKE THE PERSON'S AUTHORIZATION TO CATCH**
18 **STRIPED BASS OR CRABS.**

19 **(II) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF**
20 **THIS SUBPARAGRAPH, BEFORE EXTENDING A SUSPENSION OR IMPOSING A**
21 **REVOCATION UNDER THIS PARAGRAPH, THE DEPARTMENT SHALL HOLD A HEARING**
22 **ON THE MATTER IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT**
23 **UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.**

24 2. **A PERSON MAY WAIVE THE RIGHT TO A HEARING**
25 **UNDER THIS SUBPARAGRAPH.**

26 3. **A HEARING HELD UNDER THIS SUBPARAGRAPH**
27 **SHALL BE HELD WITHIN 90 DAYS AFTER THE DISPOSITION OF CRIMINAL**
28 **PROCEEDINGS RELATED TO THE OFFENSE.**

29 (c) A person who is aggrieved by the final decision of the Department may obtain
30 judicial review of the decision in accordance with the Administrative Procedure Act under
31 Title 10, Subtitle 2 of the State Government Article.

1 (d) **SUBJECT TO ANY REGULATION THAT THE DEPARTMENT ADOPTS, THE**
2 **DEPARTMENT MAY REINSTATE AN AUTHORIZATION TO CATCH STRIPED BASS OR**
3 **CRABS THAT HAS BEEN REVOKED UNDER THIS SECTION.**

4 **(E)** A person whose authorization has been **SUSPENDED OR** revoked in
5 accordance with this section may not engage or work in the fishery for which the
6 authorization was **SUSPENDED OR** revoked **DURING THE PERIOD OF SUSPENSION OR**
7 **REVOCATION**, whether or not it requires the use of another authorization.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2024.