

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1400

(Delegate Jacobs, *et al.*)

Environment and Transportation

Education, Energy, and the Environment

**Shellfish Aquaculture - Penalties - Suspension or Revocation of Permit or
Registration Card**

This bill allows the Department of Natural Resources (DNR) to suspend or revoke a shellfish aquaculture harvester permit or registration card of a person engaged or working in shellfish aquaculture for knowingly committing specified offenses, similar to authority the department has with respect to those engaged in the public oyster fishery.

Fiscal Summary

State Effect: General/special fund expenditures may increase, likely minimally, beginning in FY 2027, as discussed below. Revenues are not materially affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill establishes provisions, applicable to persons engaged in shellfish aquaculture, that allow for the suspension or revocation of a shellfish aquaculture harvester permit or registration card for knowingly committing specified offenses, similar to existing provisions applicable to those engaged in the public oyster fishery that allow for suspension or revocation of an oyster authorization.

The specified offenses are:

- taking oysters from a closed or prohibited area more than 200 feet outside a shellfish aquaculture lease;
- delivering oysters to a dealer more than one hour after the time required by the Maryland Department of Health's (MDH) *Vibrio Parahaemolyticus* Control Plan as set forth in MDH regulations (which require delivery to a dealer by specified times of the day on the day of harvest, during the months of June through September, ranging from 10:30 a.m. to 12:30 p.m. depending on the month);
- taking oysters from a leased area by a person other than the leaseholder or the leaseholder's designee;
- taking oysters for commercial purposes from a natural oyster bar or a public shellfish fishery area without a valid oyster authorization; and
- unlawfully taking oysters for commercial purposes from a natural oyster bar or a public shellfish fishery area and planting those oysters on a shellfish aquaculture lease.

For a first violation, a shellfish aquaculture harvester permit or registration card may be suspended for up to five years, and for a second or subsequent violation, a permit or registration card may be revoked.

Before the suspension or revocation of a permit or registration card, DNR must hold a hearing in accordance with the Administrative Procedure Act (APA). If the presiding officer of a hearing finds or concludes that the person knowingly committed the offense, DNR must suspend or revoke the person's permit or registration card. A person aggrieved by DNR's final decision may obtain judicial review in accordance with APA. A person whose permit or registration card has been suspended or revoked may not engage or work in any aquaculture activity during the suspension or revocation whether or not the work requires the use of another permit or registration card.

The bill establishes a specified process, for a person who is the sole holder of a shellfish aquaculture lease and whose permit or registration card has been suspended or revoked under the bill, to provide to DNR a plan to remove any gear or other equipment from the leased area, or transfer the lease to another person, prior to a lease termination occurring under existing provisions. The process includes review and, in the case of a lease transfer, approval by the department. A person's failure to complete the process, if subject to a lease termination, may result in the forfeiture of any gear and equipment on the leased area to the State for destruction or disposition as DNR may deem appropriate.

Current Law:

Department of Natural Resources Shellfish Aquaculture Regulations

Shellfish Aquaculture Harvester Permit and Registration Card

DNR regulations require a shellfish aquaculture leaseholder to obtain a shellfish aquaculture harvester permit from the department prior to engaging in commercial aquaculture activities. When a permittee is not present on the leased area and supervising, individuals engaged in aquaculture activities within the leased area must be named as a permittee or permit registrant under the shellfish aquaculture harvester permit and be in possession of a shellfish aquaculture harvester registration card issued by the department to permittees and permit registrants.

Suspension of Permit or Card

Under the DNR regulations, a permit or registration card may be suspended or revoked by the department if the individual:

- violates (1) regulations or statute governing shellfish aquaculture or (2) a term or condition of a permit, registration card, or shellfish lease agreement;
- receives a conviction for taking shellfish (1) from a closed or prohibited area; (2) with illegal gear; (3) more than two hours after sunset or any time before sunrise; (4) during the closed season; or (5) that are under the minimum size limit;
- receives more than one conviction related to illegal harvest of shellfish within a two-year period;
- has commercial fishing privileges that are suspended or revoked for shellfish violations; or
- had all commercial fishing privileges revoked.

Before a suspension or revocation, an individual must be given an opportunity for a hearing conducted in accordance with APA.

Shellfish Aquaculture Lease Termination

Statute authorizes DNR to terminate a shellfish aquaculture lease for failure to comply with applicable statutory requirements, including a requirement that a leaseholder actively use the lease and comply with any department standards for planting, harvesting, and use of the leased area.

Suspension or Revocation of Oyster Authorization (Public Oyster Fishery)

Under the Natural Resources Article, DNR may, for specified offenses, suspend a tidal fish licensee's authorization to catch oysters for up to five years, for a first violation, and revoke their oyster authorization for a second or subsequent violation. (The tidal fish license is DNR's primary commercial fishing license.) The specified offenses are:

- taking oysters located more than 200 feet within a closed or prohibited area;
- taking oysters with gear that is prohibited in that area while more than 200 feet within the prohibited area;
- taking oysters outside of a time restriction for the harvest of oysters by more than one hour;
- taking oysters during closed seasons; and
- taking oysters from a leased area by a person other than the leaseholder or the leaseholder's designee.

Before suspending or revoking an oyster authorization, DNR must hold a hearing on the matter in accordance with APA. If the presiding officer of a hearing finds or concludes that the person knowingly committed the offense, DNR must suspend or revoke the person's oyster authorization. A person aggrieved by DNR's final decision may obtain judicial review in accordance with APA. A person whose authorization has been suspended or revoked may not engage or work in the oyster fishery while suspended or revoked, whether or not the work requires the use of another license.

State Expenditures: General/special fund expenditures may increase annually, likely minimally, beginning in fiscal 2027, to cover the cost of any hearings held in order to suspend or revoke any shellfish aquaculture harvester permits or registration cards under the bill. The number of suspensions or revocations resulting from the bill is expected to be minimal and limited to instances in which the department does not already have authority to suspend or revoke a permit or registration card under the existing shellfish aquaculture regulations.

Under DNR's current suspension/revocation authority under the shellfish aquaculture regulations, the department has suspended or revoked an average of one permit (and no registration cards) per year in the last four years. DNR pays \$3,500 (paid for with a combination of general and special funds) per hearing for the Office of Administrative Hearings to conduct the hearings (in accordance with APA).

Additional Information

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

Designated Cross File: SB 166 (Senator Bailey) - Education, Energy, and the Environment.

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

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