

HOUSE BILL 96

M2

3lr0064

By: **Chair, Environmental Matters Committee (By Request – Departmental – Environment)**

Introduced and read first time: January 15, 2013

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Restricted Shellfish Harvest Areas – Water Testing**

3 FOR the purpose of repealing the requirement that the Department of the
4 Environment test the waters in restricted shellfish harvest areas at certain
5 frequencies under certain circumstances; and generally relating to testing the
6 waters in restricted shellfish harvest areas.

7 BY repealing and reenacting, with amendments,

8 Article – Natural Resources

9 Section 4–742

10 Annotated Code of Maryland

11 (2012 Replacement Volume)

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

14 **Article – Natural Resources**

15 4–742.

16 (a) (1) If the Department of the Environment determines by appropriate
17 investigation that any area of waters of the State devoted to the production or storage
18 of shellfish is polluted so that shellfish produced or stored in the area are a hazard to
19 public health, it shall restrict the area for the catching or storing of shellfish.

20 (2) If the Department of the Environment finds it necessary to restrict
21 an area of water for the taking and storing of shellfish because of the proximity of the
22 area to the point of discharge of a sewage treatment plant or a point of overflow of a
23 sewage pumping station, the Department of the Environment may increase or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 decrease the size of a restricted area in relation to the operational effectiveness of the
2 sewage treatment plant or sewage pumping station.

3 (3) In determining whether to restrict, or lift any restrictions on, an
4 area for the catching or storing of shellfish, the Department of the Environment shall
5 use the most reliable available tests to:

6 (i) Determine whether a shellfish production area poses a risk
7 to consumer health; and

8 (ii) Rule out contaminants that do not pose a risk to consumer
9 health, including bacteria from vegetation.

10 (b) (1) The action of the Department of the Environment to restrict an
11 area of water becomes effective immediately upon giving formal notice of the action to
12 the Department. Notice also shall be given the appropriate governing body and the
13 committee of oystermen of any county affected by the restriction.

14 (2) The Natural Resources Police Force shall patrol the area to warn
15 watermen until public notice is given in newspapers of general circulation in each of
16 the counties whose watermen work the restricted area normally. No arrests may be
17 made until the next workday following the day the notice appeared unless the
18 watermen fail to heed a warning of the officers.

19 (3) (i) If the Department of the Environment closes any area to the
20 catching of shellfish under this section, in addition to the notice required in paragraph
21 (1) of this subsection, the Department of Natural Resources shall mark the area so
22 that the area can be seen from the water.

23 (ii) The Department of Natural Resources shall adopt rules and
24 regulations to provide for the marking in a plain and visibly obvious fashion of any
25 area that is closed to the catching of shellfish because of pollution. Even in the absence
26 of such marking devices, a person may not catch shellfish in a restricted area as
27 designated by the Department of the Environment if notice has been given to the
28 appropriate governing body and the committee of watermen of any county affected by
29 the restriction.

30 (c) (1) After establishing a restriction, the Department of the
31 Environment shall test the water in the restricted area or inspect the source of
32 pollution of the water [at least twice monthly, or more frequently if requested by the
33 appropriate governing body of any county affected by the restriction]. A copy of the
34 report of analysis of every test and inspection shall be filed promptly with the
35 appropriate governing body of every county affected by the restriction.

36 (2) Updated charts of the Chesapeake Bay and its tributaries showing
37 all polluted areas shall be filed promptly with the appropriate governing body and

1 oystermen's committee of every tidewater county. Copies of these charts shall be filed
2 also with the Fisheries Administration and the Natural Resources Police.

3 (d) Whenever samples of water and shellfish of a restricted area indicate
4 that the shellfish and water again comply with standards for harvesting shellfish, the
5 restrictions promptly shall be lifted.

6 (e) The Secretary of the Environment may delegate authority to impose
7 restrictions, or remove restrictions no longer required. These actions, however, shall be
8 reported and consented to by the Secretary.

9 (f) Each violation of this section constitutes a separate offense punishable as
10 provided by the provisions of this title.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 July 1, 2013.