

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 109 (Chair, Environment and Transportation Committee)(By
Request - Departmental - Natural Resources)

Environment and Transportation Education, Energy, and the Environment

**Natural Resources - Submerged Aquatic Vegetation - Alteration or Removal
Requirements**

This departmental bill modifies requirements related to the removal of submerged aquatic vegetation (SAV).

Fiscal Summary

State Effect: The Department of Natural Resources (DNR) can handle the bill's requirements with existing budgeted resources. The bill does not otherwise materially affect State finances or operations.

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: DNR has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary/Current Law:

Submerged Aquatic Vegetation Removal

Current Law: Generally, before a person may harvest, cut, or otherwise remove or eradicate SAV from any land under the tidal waters of the State below the mean high tide, the person must submit to DNR for approval a description of (1) why the removal of SAV

is necessary; (2) the proposed method of removal; (3) a plan showing the site at which the activity is proposed; and (4) the extent of SAV to be removed. A person may only harvest, cut, or otherwise remove or eradicate SAV in accordance with a plan approved by DNR.

There are several exemptions to the requirement to seek DNR approval for SAV removal: (1) for a person to create access from property to a navigable channel; (2) for a person who owns a marina to create access for boat slips in a marina to navigable channels servicing the marina; and (3) for a utility or telecommunications company in order to maintain utility crossings in the water of the State. In each case, the entity may harvest, cut, or otherwise remove or eradicate SAV in a strip up to 60 feet wide. Even so, exempt entities are encouraged to contact DNR for information on best harvesting methods and to use those methods.

Generally, a person may not use a chemical to harvest, cut, or otherwise remove or eradicate SAV.

The Bill: The plan submission and approval requirement for SAV removal is expanded to also include trimming, along with various conforming changes.

The exemptions for property and marina access are altered to encompass the tidal waters of the State (incorporating the Atlantic Coastal Bays) and allow only trimming or cutting of SAV, as opposed to harvesting, cutting, or otherwise removing or eradicating SAV. The utility exemption adds trimming, but still allows for harvesting, cutting, or otherwise removing. The maximum allowable width of the access strip is reduced to 20 feet in all cases except utility emergency work. Finally, exempt entities *must* contact DNR for information on best harvesting methods, *must* use those methods, and must provide DNR with the SAV location and removal or alteration date.

The general prohibition against using chemicals to remove or eradicate SAV is expanded to include trimming.

Approvals Generally Required for Projects in Wetlands

Current Law: Wetlands in the State are protected, and the Wetlands and Waterways Program within the Maryland Department of the Environment (MDE) administers a statewide program for the management, conservation, and protection of Maryland's tidal wetlands and nontidal wetlands and waterways. Generally, a person must obtain a permit or license before working in wetlands in the State. Regulations define the criteria for evaluating tidal wetlands licenses and permits, as well as the property information that permit and license applicants must provide as part of the application process. The Board of Public Works (BPW) has the authority to determine whether to issue a license to dredge, fill, or alter State wetlands; MDE must assist BPW in making such a determination and, in

some cases, BPW delegates the authority to issue such a license to MDE. Authorizations granted to work in privately owned wetlands are issued by MDE.

Background: Because it responds quickly to improvements in water quality, SAV is an important measure of the health of the Chesapeake Bay and an indicator in setting and evaluating progress for Maryland’s restoration goals and water clarity attainment. DNR advises that, currently, SAV coverage is 47% of the 2025 target established in [regulation](#) and only 33% of historical levels.

DNR advises that the bill strengthens and clarifies what can be done within the scope of the SAV removal statute and that requiring, rather than encouraging, DNR notification allows the department to have a better grasp of SAV removal in the State. Also, incorporation of the term “trim” is intended to further separate the removal of SAV (with minimal or no disturbance to the river bottom) from removal of SAV during activities such as dredging, filling, and shoreline alterations, which are regulated by MDE’s Wetlands and Waterways Program.

Additional Information

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

Designated Cross File: SB 281 (Chair, Education, Energy, and the Environment Committee)(By Request - Departmental - Natural Resources) - Education, Energy, and the Environment.

Information Source(s): Department of Natural Resources; Maryland Department of the Environment; Anne Arundel, Dorchester, Kent, Queen Anne’s, St. Mary’s, and Worcester counties; City of Havre de Grace; Maryland Municipal League; Department of Legislative Services

Fiscal Note History: First Reader - January 17, 2024
km/lgc Third Reader - February 23, 2024

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Natural Resources - Submerged Aquatic Vegetation - Alteration or Removal Requirements

BILL NUMBER: HB 109

PREPARED BY: Dylan Behler

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The Department does not believe that this will have an economic impact on small businesses.