

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL NO. 287

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 6, after the semicolon insert “specifying that the provisions of this Act are not applicable to certain aquaculture operations or activities;”; and in line 19, after the semicolon insert “requiring the Department to minimize certain damage and, under a certain circumstance, to repair or reimburse for certain damage; specifying that certain persons may not be held civilly liable for certain damages, except under a certain circumstance;”.

AMENDMENT NO. 2

On page 2, in line 18, after “THAT” insert “WILL”; in lines 19 and 23, in each instance, strike “THREATENS TO ALTER” and substitute “ALTER AND THREATEN TO HARM”; in line 23, after “ORGANISM” insert “WILL”; in line 26, after “(B)” insert “(1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION,”; and after line 29, insert:

“(2) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO:

(I) AN AQUACULTURE OPERATION FOR WHICH THE DEPARTMENT HAS ISSUED A PERMIT UNDER SUBTITLE 11A OF THIS TITLE; OR

(II) THE POSSESSION, IMPORTATION, OR TRANSPORT OF A NONNATIVE AQUATIC ORGANISM FOR PURPOSES RELATED TO A PERMITTED AQUACULTURE OPERATION.”.

AMENDMENT NO. 3

On page 3, in line 1, after “(2)” insert “(I)”; after line 4, insert:

“(II) THE DEPARTMENT SHALL INVESTIGATE AND DETERMINE, TO THE EXTENT POSSIBLE, THE PERSON WHO IS CAUSING OR HAS CAUSED THE

(Over)

STATE OF NUISANCE.”;

and in lines 12, 15, and 16, in each instance, strike “WHO IS CAUSING” and substitute “DETERMINED TO HAVE CAUSED”.

On page 4, in lines 3 and 9, in each instance, strike “BE RESPONSIBLE FOR” and substitute “HAVE CAUSED”; in line 11, strike “THE” and substitute “THAT”; in lines 12, 22, 31, and 36, in each instance, strike “RESPONSIBLE”; in line 22, after “PERSON” insert “DETERMINED TO HAVE CAUSED THE STATE OF NUISANCE”; in line 36, after “OR” insert “ANY”; in the same line, after “PERSON” insert “DETERMINED TO HAVE WILLFULLY OR NEGLIGENTLY CAUSED THE STATE OF NUISANCE”; and after line 37, insert:

“(5) (I) 1. AS SOON AS THE TOTAL COST OF ANY ABATEMENT ACTIVITIES PERFORMED BY THE DEPARTMENT UNDER THIS SUBSECTION HAS BEEN DETERMINED, THE SECRETARY SHALL PROVIDE A FULL STATEMENT OF CHARGES TO ANY PERSON DETERMINED TO HAVE WILLFULLY OR NEGLIGENTLY CAUSED THE STATE OF NUISANCE.

2. IF, WITHIN 90 DAYS AFTER THE RECEIPT OF CHARGES THE PERSON DOES NOT REMIT PAYMENT TO THE SECRETARY, THE SECRETARY MAY FILE SUIT AGAINST THE PERSON IN THE COUNTY WHERE THE STATE OF NUISANCE WAS ABATED.

(II) 1. TO THE EXTENT POSSIBLE, THE DEPARTMENT SHALL MINIMIZE PROPERTY DAMAGE DURING ABATEMENT ACTIVITIES.

2. IF THE DEPARTMENT HAS NOT DETERMINED THAT THE PROPERTY OWNER, OCCUPANT, OR TENANT CAUSED THE STATE OF NUISANCE, THE DEPARTMENT SHALL:

A. MAKE REASONABLE EFFORTS TO REPAIR ANY PROPERTY DAMAGE CAUSED BY ABATEMENT ACTIVITIES; OR

B. REIMBURSE THE OWNER, OCCUPANT, OR TENANT FOR REPAIR OR REPLACEMENT COSTS ASSOCIATED WITH DAMAGES CAUSED BY ABATEMENT ACTIVITIES.”.

On page 5, strike beginning with “(1)” in line 3 down through “ABATED” in line 10 and

substitute “AN OWNER, OCCUPANT, OR TENANT OF A PROPERTY ON WHICH THE DEPARTMENT HAS PERFORMED ABATEMENT ACTIVITIES MAY NOT BE HELD CIVILLY LIABLE FOR DAMAGES CLAIMED BY A THIRD PARTY AS A RESULT OF ABATEMENT ACTIVITIES PERFORMED BY THE DEPARTMENT, UNLESS THE OWNER, OCCUPANT, OR TENANT HAS BEEN DETERMINED TO HAVE WILLFULLY OR NEGLIGENTLY CAUSED THE STATE OF NUISANCE”.