

Department of Legislative Services  
 Maryland General Assembly  
 2011 Session

FISCAL AND POLICY NOTE

House Bill 1142 (Delegates Murphy and Rudolph)  
 Environmental Matters

Natural Resources - Atlantic Menhaden - Restrictions on Products from Reduction

This bill prohibits the manufacture, sale, or distribution of a product or product component obtained from the reduction of an Atlantic menhaden fish. Violators are guilty of a misdemeanor and, upon conviction, subject to a fine of up to \$100 per offense, with costs imposed in the discretion of the court. The Department of Natural Resources (DNR), in consultation with the Department of Labor, Licensing, and Regulation (DLLR), must adopt implementing regulations.

Fiscal Summary

**State Effect:** DNR general fund expenditures increase by \$78,600 in FY 2012 to hire a field auditor. Future year expenditures reflect annualization and inflation. Revenues are not materially affected.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	78,600	70,400	73,900	77,500	81,400
Net Effect	(\$78,600)	(\$70,400)	(\$73,900)	(\$77,500)	(\$81,400)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

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

**Small Business Effect:** Potential meaningful.

## Analysis

**Current Law:** DNR is required to prepare fishery management plans for a number of specified species, including menhaden. A “fishery management plan” is a document or report that contains a systematic description of a given fishery and the objectives and conservation and management measures for the fishery. Conservation and management measures adopted under a fishery management plan seek to prevent overfishing, while attempting to achieve the best and most efficient utilization of the State’s resources; must be based on the best information available; may not discriminate unfairly among groups of fishermen or have economic allocation as their sole purpose; must account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches; and must avoid duplication of regulatory efforts and unnecessary costs to the State and to any other person.

State law does not address the manufacture, sale, or distribution of a product or product component obtained from the reduction of a menhaden fish.

**Background:** Atlantic menhaden are ecologically and economically an important species in the Chesapeake Bay and along the Atlantic coast. Menhaden feed primarily on phytoplankton and zooplankton and they are also prey for top predators such as striped bass, bluefish, and weakfish. While menhaden are small, oily fish that are not edible by humans, they are used for a variety of other purposes, including fish meal for poultry and livestock feed; fish oil for foods, paints, and cosmetics; fertilizer; and bait for other fisheries.

For many years, menhaden have been the highest poundage landings of any fish species on the East Coast, predominantly by purse seines. Historically, they have been abundant in the Chesapeake Bay and are harvested by commercial fishermen (primarily in pound nets) for use as crab pot bait and for recreational fishing bait and chum. Reduction vessels catch large quantities of menhaden and process the fish onboard, reducing their catch to oil and meal used in various products.

The menhaden fishery is managed under a plan developed and adopted by the Atlantic States Marine Fisheries Commission, which represents all coastal states from Maine to Florida. Decisions on the fishery are made by a Menhaden Management Board comprising commissioners from member states, who are supported by State and federal technical experts. In Maryland, menhaden is one of the species to be included in an ecosystem-based fishery management plan being facilitated by the University of Maryland.

**State Expenditures:** To implement the bill, inspections of retail establishments and manufacturing entities would be required to determine whether menhaden are being sold

or used. Thus, DNR general fund expenditures increase by \$78,647 in fiscal 2012 to conduct inspections, which reflects the bill's October 1, 2011 effective date. This estimate reflects the cost of hiring one field auditor to implement the inspection program. It includes a salary, fringe benefits, one-time start-up costs, a vehicle, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- DNR adopts implementing regulations, develops an enforcement scheme, and conducts outreach to encourage compliance;
- DNR conducts random audits in the field to ensure compliance; and
- other State agencies (*e.g.* DLLR and the Maryland Department of Agriculture) refer potential violators to DNR, if violations become apparent during the course of their normal duties.

Position	1
Salary and Fringe Benefits	\$48,318
Vehicle Purchase	22,806
Operating Expenses	<u>7,523</u>
<b>Total Fiscal 2012 DNR Expenditures</b>	<b>\$78,647</b>

Future year expenditures reflect a full salary with 4.4% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses.

**State Revenues:** Penalties are established for violations of the bill's requirements. This estimate assumes that these penalty provisions do not materially affect State revenues; however, any penalties assessed would be paid into the general fund.

**Small Business Effect:** Small businesses are impacted to the extent they manufacture, sell, or distribute products or product components obtained from the reduction of menhaden. Small businesses that sell fertilizer, feed, fish oil, and products containing fish oil are potentially impacted, such as drug, home improvement, and health food stores.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Natural Resources; Department of Labor, Licensing, and Regulation; National Oceanic and Atmospheric Administration (Chesapeake Bay Office); Department of Legislative Services

**Fiscal Note History:** First Reader - March 14, 2011  
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