

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 966

(Delegate O'Donnell, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

Natural Resources - Restricted Waters for Shellfish Harvesting - Testing

This bill requires the Maryland Department of the Environment (MDE) to use the most reliable available tests to determine whether a shellfish production area poses a risk to human health and rule out contaminants that do not pose a risk, including specified bacteria, in determining whether to restrict, or lift any restrictions on, an area used to catch or store shellfish.

MDE must, by December 31, 2011, reconsider the designation of State waters that are currently restricted from shellfish harvesting, giving priority to areas where there are existing or pending shellfish leases or aquaculture permits.

The bill takes effect June 1, 2011.

Fiscal Summary

State Effect: The bill does not materially affect State finances.

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

Small Business Effect: Minimal.

Analysis

Current Law: After determining by appropriate investigation that an area is so polluted that shellfish in the area are a hazard to public health, MDE is authorized to restrict the area for the catching or storing of shellfish. After establishing a restriction, MDE must

test the water in the restricted area or inspect the sources of the pollution at least twice monthly or more frequently if requested by a local governing body.

Background: Sewage wastes can contain microorganisms, nutrients, and chemical products that may have harmful effects upon aquatic life and water quality. Even small amounts of bacteria can contaminate shellfish and make them unsuitable for human consumption. While most strains of *E. coli*, a large and diverse group of bacteria, are harmless, others can cause moderate to severe human illnesses.

The U.S. Food and Drug Administration's (FDA) National Shellfish Sanitation Program (NSSP) is a cooperative federal/state effort to ensure the sanitary control of shellfish produced and sold for human consumption. The purpose of NSSP is to promote and improve the sanitation of shellfish moving in interstate commerce through federal/state cooperation and uniformity of state shellfish programs.

In Maryland, responsibility for the sanitary control of the shellfish industry is split among three State agencies: MDE, the Department of Health and Mental Hygiene (DHMH), and the Department of Natural Resources (DNR). MDE is responsible for identifying and eliminating pollution sources affecting Maryland's shellfish harvesting waters, as well as determining whether the shellfish harvested are safe for human consumption. DHMH is responsible for any food control measures necessary to ensure that shellfish are harvested, processed, packaged, and transported under sanitary conditions. DHMH also regulates shellfish dealers to ensure compliance with sanitary standards. DNR is responsible for posting areas restricted to shellfish harvesting and patrolling areas to prevent illegal harvesting.

MDE regulates shellfish harvesting waters by (1) identifying and eliminating pollution sources; (2) collecting water samples for bacteriological examination; and (3) examining shell stock samples for bacteriological contamination and chemical toxicants. MDE conducts sanitary surveys of each shellfish harvesting area prior to its approval as a source of shellfish for the consumer. The purpose of the sanitary survey is to identify and evaluate factors influencing the sanitary quality of a shellfish harvesting area. Data gathered during the sanitary survey are used to evaluate the shellfish harvesting area and to determine whether a health risk exists. If no health risk is apparent, the area remains open to shellfish harvesting. When the data indicate a health risk, the area is restricted to shellfish harvesting.

Currently, the primary indicator for testing shellfish waters is fecal coliform bacteria. This approach has a good record for protecting public health, as the State has not had any illnesses associated with shellfish (other than two illnesses due to vibrio, a naturally occurring pathogen not associated with pollution sources) in over 60 years.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Maryland Department of the Environment, U.S. Food and Drug Administration, Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2011
mlm/lgc Revised - House Third Reader - March 24, 2011

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