

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

Committee Report: Favorable

House action: Adopted

Read second time: February 26, 2013

CHAPTER _____

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.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2) If the Department of the Environment finds it necessary to restrict
2 an area of water for the taking and storing of shellfish because of the proximity of the
3 area to the point of discharge of a sewage treatment plant or a point of overflow of a
4 sewage pumping station, the Department of the Environment may increase or
5 decrease the size of a restricted area in relation to the operational effectiveness of the
6 sewage treatment plant or sewage pumping station.

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

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

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

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

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

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

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

34 (c) (1) After establishing a restriction, the Department of the
35 Environment shall test the water in the restricted area or inspect the source of
36 pollution of the water [at least twice monthly, or more frequently if requested by the
37 appropriate governing body of any county affected by the restriction]. A copy of the

1 report of analysis of every test and inspection shall be filed promptly with the
2 appropriate governing body of every county affected by the restriction.

3 (2) Updated charts of the Chesapeake Bay and its tributaries showing
4 all polluted areas shall be filed promptly with the appropriate governing body and
5 oystermen's committee of every tidewater county. Copies of these charts shall be filed
6 also with the Fisheries Administration and the Natural Resources Police.

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

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.