

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 799

(Delegate O'Donnell)

Environment and Transportation

Education, Health, and Environmental Affairs

Aquaculture - Liability for Trespass

This bill establishes that a person who willfully, negligently, recklessly, wrongfully, or maliciously enters any area leased to another person for aquaculture purposes to harvest, damage, or transfer shellfish or to alter, damage, or remove any markings or equipment is, in addition to being liable to the leaseholder, liable to any agent, employee, business partner, or contractor of the leaseholder for specified damages, including any attorney fees or court costs incurred in the matter by any agent, employee, business partner, or contractor of the leaseholder. Existing exceptions to liability of a person to a leaseholder also apply to liability of a person to any agent, employee, business partner, or contractor of the leaseholder.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law/Background: Chapter 235 of 2015 established liability of a person, to a holder of a lease for aquaculture purposes, if the person willfully, negligently, recklessly, wrongfully, or maliciously enters the lease area to harvest, damage, or transfer shellfish or to alter, damage, or remove any markings or equipment. A person who engages in those actions is liable to the leaseholder for damages in an amount of (1) three times the value of the shellfish harvested, damaged, or transferred; (2) actual restoration costs for the leased

area and any altered, damaged, or removed markings or equipment; and (3) any attorney fees or court costs incurred by the leaseholder in the matter.

The liability provisions of Chapter 235, however, do not apply to a person engaging in aquaculture activity on a leased area in accordance with the terms and conditions of a shellfish aquaculture harvester registration card that is in the person's possession or an operator card that is in the possession of the person or another person present in the lease area.

Small Business Effect: Small businesses may benefit to the extent the bill allows a given small business to seek damages that are not available to it under current law.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Department of Legislative Services

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min/lgc

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