

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 841

(Delegates Clark and Morgan)

Environment and Transportation

Education, Health, and Environmental Affairs

**Aquaculture - Submerged Aquatic Vegetation - Placement of Shellfish, Bags,
Nets, and Structures**

This bill authorizes an aquaculture leaseholder to, with prior written approval from the Department of Natural Resources (DNR), place shellfish, bags, nets, and structures on submerged aquatic vegetation, subject to specified provisions applicable to DNR's approval. By June 1, 2020, and by each June 1 for the following four years, DNR must report to the Aquaculture Coordinating Council, the Chesapeake Bay Program, and the General Assembly on specified information relating to submerged aquatic vegetation in aquaculture lease areas. **The bill takes effect June 1, 2019, and terminates June 30, 2024.**

Fiscal Summary

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

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill authorizes an aquaculture leaseholder to, with prior written approval from DNR, place shellfish, bags, nets, or structures on submerged aquatic vegetation. In approving the placement of shellfish, bags, nets, or structures on submerged aquatic vegetation, DNR (1) may not authorize harvesting by dredge in areas where submerged aquatic vegetation is present; (2) must authorize for water column leases the placement of shellfish, bags, nets, or structures in at least 10% of the area where submerged

aquatic vegetation is present; and (3) must authorize harvest by diving in areas on any submerged land lease where submerged aquatic vegetation is present.

By June 1, 2020, and by each June 1 for the following four years, DNR must report to the Aquaculture Coordinating Council, the Chesapeake Bay Program, and the General Assembly on (1) the farm-level and cumulative impacts that placing shellfish, bags, nets, or structures on submerged aquatic vegetation with prior written approval has had on submerged aquatic vegetation and leaseholders; (2) the number of leases that have submerged aquatic vegetation present in the lease area and the species, density, and aerial extent of the submerged aquatic vegetation in those leases; (3) characteristics of gear types and the nature and frequency of aquaculture practices used on leases where submerged aquatic vegetation is present; and (4) any other information the department considers necessary.

Current Law/Background: Statute prohibits an aquaculture leaseholder from placing shellfish, bags, nets, or structures on submerged aquatic vegetation.

Chapters 380 and 381 of 2017 required DNR, in consultation with interested stakeholders, to (1) review the conflicts that arise when implementing its policies of protecting submerged aquatic vegetation and promoting aquaculture in the State; (2) develop solutions to those conflicts that take into account the benefits provided by both submerged aquatic vegetation and aquaculture; and (3) report its findings and recommendations, including any proposed legislation, to the Governor and General Assembly. DNR requested the assistance of the Aquaculture Coordinating Council to fulfill the requirements of Chapters 380 and 381, and, through a collaborative stakeholder process, the council prepared a February 2018 [report](#) containing recommended solutions. The bill implements one of the recommendations, which was to modify statute to provide DNR with the flexibility to review aquaculture lease and submerged aquatic vegetation interactions on a case-by-case basis to determine if restrictions should be placed on the lease or if activities can continue based on comprehensive evaluation of actual impacts associated with the activities.

Small Business Effect: The bill may have a meaningful impact on small business aquaculture leaseholders that have had, or may have, their operations restricted due to submerged aquatic vegetation encroachment. DNR indicates the bill may result in positive operational impacts and increased profitability for the businesses. The February 2018 report prepared by the Aquaculture Coordinating Council indicated that in 2017, 49 of 390 active shellfish aquaculture leases were identified as having a potential conflict with submerged aquatic vegetation growth.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 25, 2019
an/lgc Third Reader - March 22, 2019
Revised - Amendment(s) - March 22, 2019

Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510