SENATE BILL 580

By: Senator Bailey
Introduced and read first time: February 2, 2022
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

AN ACT concerning

Sewer Systems and Wastewater Treatment Plants – Water Pollution – Shellfish Harvester Restitution

FOR the purpose of requiring a person responsible for a sewer overflow, treatment plant bypass, or unlawful discharge from a wastewater treatment plant that results in an area being closed to shellfish harvesting to pay restitution to certain shellfish harvesters; and generally relating to water pollution.

BY adding to

Article – Environment
Section 9–342.3
Annotated Code of Maryland
(2014 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,

Article – Natural Resources
Section 4–1006(b)
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That the Laws of Maryland read as follows:

Article – Environment

9–342.3.

(A) THIS SECTION APPLIES TO ANY SEWER OVERFLOW, TREATMENT PLANT BYPASS, OR DISCHARGE FROM A WASTEWATER TREATMENT PLANT IN VIOLATION OF A PERMIT ISSUED UNDER § 9–323 OF THIS SUBTITLE THAT RESULTS IN AN AREA

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
BEING CLOSED TO SHELLFISH HARVESTING UNDER § 4–1006(B) OF THE NATURAL RESOURCES ARTICLE.

(B) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, THE DEPARTMENT SHALL ORDER THE PERSON RESPONSIBLE FOR A SEWER OVERFLOW, TREATMENT PLANT BYPASS, OR DISCHARGE DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION TO PAY RESTITUTION TO SHELLFISH HARVESTERS AFFECTED BY THE RESULTING CLOSURE.

(C) A SHELLFISH HARVESTER IS ELIGIBLE FOR RESTITUTION UNDER THIS SECTION IF THE SHELLFISH HARVESTER:

(1) HOLDS THE APPROPRIATE AUTHORIZATIONS UNDER THE NATURAL RESOURCES ARTICLE TO HARVEST OYSTERS OR CLAMS IN THE AREA AFFECTED BY THE CLOSURE; AND

(2) IS ABLE TO DEMONSTRATE, BASED ON CATCH REPORTS SUBMITTED TO THE DEPARTMENT OF NATURAL RESOURCES, THAT THE SHELLFISH HARVESTER CAUGHT OYSTERS OR CLAMS IN THE AREA AFFECTED BY THE CLOSURE DURING AT LEAST ONE OF THE TWO MOST RECENT HARVEST SEASONS.

(D) FOR EACH ELIGIBLE SHELLFISH HARVESTER, RESTITUTION SHALL BE IN AN AMOUNT EQUAL TO THREE TIMES THE ECONOMIC DAMAGES TO THE SHELLFISH HARVESTER CAUSED BY THE CLOSURE, AS DETERMINED BY THE DEPARTMENT.

Article – Natural Resources

4–1006.

(b) (1) A person may not catch oysters or clams on any area closed by the Department of the Environment due to pollution.

(2) However, oysters may be transplanted from areas deemed polluted during the closed season in accordance with the provisions of § 4–1009 of this subtitle and § 4–1106 of this title.

(3) (i) If the Department of the Environment closes any area to the catching of oysters or clams under this subsection, in addition to the notice required in subparagraph (ii) of this paragraph, the Department of Natural Resources shall mark the area so that the area can be seen from the water.

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2022.