

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 59 (Chair, Education, Health, and Environmental Affairs
Committee)(By Request - Departmental - Natural
Resources)

Education, Health, and Environmental Affairs

Natural Resources - Fish and Fisheries

This departmental bill repeals, clarifies, and modifies provisions of State fish and fisheries laws primarily relating to the allowable manner, places, and times for catching, and size limits applicable to, certain species of fish (including crabs, oysters, and clams) that are inconsistent with State regulations, unnecessary, or obsolete. To ensure consistency with federal requirements under the National Shellfish Sanitation Program (NSSP) and existing NSSP regulations under the Department of Health and Mental Hygiene (DHMH), the bill repeals provisions concerning shellfish buying stations and oyster measurement containers, and instead authorizes the Department of Natural Resources (DNR) to adopt regulations (1) establishing procedures for selling oysters and clams and (2) governing the size, type, and use of containers used to measure oysters harvested or sold in the State.

This bill takes effect July 1, 2013.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances.

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

Small Business Effect: DNR has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary: In addition to the provisions that relate to NSSP consistency, the bill repeals:

- a provision making veteran hospital patients with service-connected disabilities exempt from acquiring an angler's license if a American Red Cross permit is secured, because the permit is obsolete and veterans may fish for free with governmental or nonprofit military organizations;
- provisions requiring DNR to publish open seasons for catching fish in nontidal waters by October 25 annually and listing the specific fish species for which open seasons must be published, because this information is provided in regulations;
- provisions that prohibit and authorize the use of specified fishing equipment, because Chapter 577 of 2011 (HB 111) gave DNR broad authority to adopt regulations governing the use of fishing gear;
- outdated provisions concerning the possession and measurement of peeler crabs and soft shell crab bycatch, because updated information is provided in regulations;
- a provision requiring oyster license applicants to indicate whether diving apparatus will be used to catch oysters, because this information is now provided in harvesters' monthly oyster reports; and
- outdated provisions authorizing and prohibiting patent and hand tonging and dredging for oysters in specified locations, because updated coordinates exist in regulations.

The bill alters (1) the public notice requirements associated with lobster harvest regulations to be consistent with current interstate and federal management procedures and (2) a residency requirement associated with eligibility for a commercial oyster or clam license to apply to any State resident, not just a person who has been a State resident for the immediately preceding 12 months.

Current Law/Background: Generally, the relationship between State fish and fisheries statutes and regulations has led to management difficulties for DNR, as some statutes conflict with regulations and others are no longer applicable or have obsolete references. In response to recommendations from the Task Force on Fishery Management, which was created under Chapter 217 of 2007 (SB 1012), Chapter 208 of 2009 (SB 169) removed language in conflicting laws as well as other laws that were no longer applicable

or had obsolete references. DNR advises that the bill alters and repeals additional statutory provisions that are inconsistent with regulations, unnecessary, or obsolete.

National Shellfish Sanitation Program

The U.S. Food and Drug Administration's 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: the Maryland Department of the Environment (MDE), DHMH, and 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. DNR advises that the bill repeals provisions in the Natural Resources Article that are not consistent with federal NSSP requirements or existing DHMH regulations.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - January 10, 2013
ncs/lgc

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Department of Natural Resources – Antiquated Fish and Fisheries Laws –
Repeal and Modify

BILL NUMBER: SB 59

PREPARED BY: Maryland Department of Natural Resources

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.