

HOUSE BILL REPORT

HB 1453

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to commercial shellfish enforcement.

Brief Description: Regarding commercial shellfish enforcement.

Sponsors: Representatives Rolfes, Chandler, Blake, Van De Wege, Upthegrove, Stanford, Jinkins and Kretz; by request of Department of Health.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/1/11, 2/8/11 [DPS].

Brief Summary of Substitute Bill

- Requires all commercial shellfish to be accompanied by a shellfish tag attached at the harvest site that is consistent with a federal model ordinance.
- Creates a new class C felony for a person who engages in the commercial industry after having his or her license revoked.
- Provides direction to the Board of Health as it adopts rules relating to commercial shellfish production.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.
Signed by 13 members: Representatives Blake, Chair; Stanford, Vice Chair; Chandler, Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Dunshee, Hinkle, Kretz, Lytton, Orcutt, Pettigrew, Rolfes and Van De Wege.

Staff: Jason Callahan (786-7117).

Background:

The Department of Health (DOH) is the state agency responsible for providing licenses to commercial shellfish operations. Commercial shellfish growers must be licensed and must

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be able to match certificates of compliance with the state's sanitary standards to shellfish sold or offered for sale. The sanitary shellfish standards are established in rule by the Board of Health.

Commercial shellfish may only legally be removed from shellfish beds that have been certified by the DOH as an area that meets all sanitation standards. A person intended to commercially harvest shellfish must apply to the DOH for a certificate for the growing area. An approved certificate is valid for 12 months, but is subject to revocation should the sanitation of the area degrade. Shellfish being harvested that are not intended for human consumption must also be monitored by the DOH to ensure that the shellfish being harvested are not diverted for human consumption.

Once issued, the DOH can deny, revoke, or modify a license or a certificate of approval if the holder fails or refuses to comply with all relevant rules. In the event of a denial or revocation, the affected person is prohibited from participating in any shellfish operation.

A violation of the sanitary shellfish rules is punishable as a gross misdemeanor. The rules are enforceable by both personnel of the DOH and the enforcement personnel of the Washington Department of Fish and Wildlife (WDFW).

Washington is a participant in the National Shellfish Sanitation Program (NSSP), which is a cooperative program between states and the federal government for the sanitary control of shellfish. The stated purpose of the NSSP is to promote and improve the sanitation of shellfish moving in interstate commerce through uniformity of state shellfish programs and regulations. Components of the NSSP include program guidelines, growing area classification and dealer certification programs, and the evaluation of state program elements by the United States Food and Drug Administration.

Summary of Substitute Bill:

A specific requirement is added to the state's sanitary shellfish requirements that require an approved shellfish tag or label be affixed to each container of shellfish prior to removal from the growing area. The approved tag must meet the requirements of the NSSP model ordinance and may be applied in bulk to mollusks still in their shell. Any shellfish removed from a growing area without a tag may be seized by the DOH or the WDFW.

The ability to modify a license or certificate of approval is removed from the DOH if a person is found operating in violation of the rules governing shellfish production. However, the DOH may still deny, revoke, or suspend the license or certificate of approval. In addition, a denial, revocation, or suspension can occur should a person harass or threaten an employee of the DOH.

Persons found in violation of shellfish requirements are prohibited from brokering the sale of shellfish or in any way participating in the shellfish sales. This is in addition to the prohibition against working in shellfish production. Any person found engaging in any of the

prohibited activities following a license revocation can be prosecuted for a class C felony and have his or her license revoked for at least five years.

Substitute Bill Compared to Original Bill:

The substitute bill: (1) removes language that expanded the definition for "person;" (2) allows for the bulk tagging of shellstock; (3) changes the new crime of unlawful behavior of interfering with a shellfish investigation by either the DOH or the WDFW to making the unlawful act the making of threats or the harassment of DOH personnel; (4) subjects directors and officers of shellfish companies to the prohibition against industry activities when a license is suspended; (5) removes terms "directly or indirectly" as they relate to the engagement of shellfish business practices while under license suspension; (6) allows the DOH to issue equivalent substitutes to shellfish harvest site certificates of approval; and (7) removes the modifier "prompt" for the direction as to how the DOH must dispose of potentially unsanitary shellfish.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) It is important to make sure that shellfish are safe to consume and are harvested only from sanitary shellfish beds. Shellfish safety is a public health issue because the consequences of unhealthy shellfish can be significant. A shellfish survives by filtering water and contaminants, which concentrate in the animal and can be passed along to someone who eats the animal.

A few companies have been found cutting corners, exploiting loopholes, and endangering public health. Just a few instances of shellfish consumers getting sick can damage the image of the entire industry. There needs to be certainty that bad actors are taken out of business during all periods of suspension and the state needs enforcement authority to protect the industry.

(Opposed) None.

Persons Testifying: Representative Rolfs, prime sponsor; Maryanne Guichard, Washington State Department of Health; Mike Cenci, Washington Department of Fish and Wildlife; and Jim Jesernig, Pacific Coast Shellfish Growers.

Persons Signed In To Testify But Not Testifying: None.