

HOUSE BILL REPORT

HB 1404

As Reported By House Committee On:

Natural Resources

Title: An act relating to seafood safety enhancement.

Brief Description: Revising shellfish sanitation requirements to enhance the safety of recreationally and commercially harvested seafood.

Sponsors: Representatives Fuhrman, Buck and Basich; by request of Department of Health.

Brief History:

Committee Activity:

Natural Resources: 2/15/95, 2/17/95 [DPS].

HOUSE COMMITTEE ON NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Fuhrman, Chairman; Buck, Vice Chairman; Pennington, Vice Chairman; Basich, Ranking Minority Member; Regala, Assistant Ranking Minority Member; Beeksma; Cairnes; Elliot; G. Fisher; Jacobsen; Romero; Sheldon; Stevens; B. Thomas and Thompson.

Staff: Rick Anderson (786-7114).

Background: The Department of Health's Office of Shellfish Programs is responsible for protecting the public from illnesses caused by eating contaminated oysters, mussels and clams. The office monitors and classifies the sanitary condition of major commercial shellfish growing areas and over 140 recreational beaches.

Commercial shellfish beds that do not meet federal shellfish sanitation standards are de-certified by the department. State law does not allow commercial shellfish harvesting in areas that are de-certified. Recent changes in the national shellfish program, administered by U.S. Food and Drug Administration, allows certain harvests in de-certified beds if procedures are in place to ensure that the shellfish will not be used for human consumption.

The department's shellfish program does not have authority to restrict shellfish harvests at recreational beaches if a public health threat is present. The department

does operate a toll-free hotline to warn the public of a public health threat. Also, the department does not have authority to restrict the harvest of non-shellfish marine species that may pose a public health threat.

In 1992, the U.S. Food and Drug Administration (FDA), included scallops as a species requiring public health controls. State law does not define scallops as a shellfish for purposes of the state shellfish sanitation program.

The FDA also requires state's shellfish sanitation programs to have clear statutory authority to inspect commercial shellfish operations, including the ability to impose administrative inspection warrants.

A person convicted of illegally harvesting, possessing, or selling shellfish from a commercial bed is guilty of a gross misdemeanor and may be fined, imprisoned, or both. Current law specifies that any fine may not be less than \$25 or more than \$1,000 and that any imprisonment may not be less than 30 days or more than one year.

Summary of Substitute Bill: Scallops are included in the definition of shellfish covered under the department's shellfish protection program.

Commercial shellfish growers are allowed to harvest shellfish in a de-certified bed, if certain conditions are met to ensure that the harvested shellfish will not be used for human consumption.

The department is explicitly authorized to have access to all areas of a commercial shellfish operation during an inspection, and may issue an administrative inspection warrant if certain conditions are met. The department must conduct inspections during normal working hours and days.

The Department of Health is given authority to close, by administrative order, commercial or recreational harvest of any marine species, if it is found that a public health threat exists. "Marine species" is defined as any marine fish, invertebrate, or plant. The department may not restrict the harvest of shellfish taken from private tidelands.

Any person found to be illegally selling marine species that has been restricted by the department is guilty of a gross misdemeanor and to civil penalties. Any person found to be illegally in possession of a restricted marine species is subject to civil penalties. The specific references to the minimum and maximum fines and jail terms are removed.

Substitute Bill Compared to Original Bill: The substitute bill adds the following provisions. Harvests in de-certified commercial beds are allowed to occur at night if

the shellfish grower reports the time of harvest to the department. "Fish and wildlife enforcement officers" are defined by reference. The Department of Health may not inspect buildings when investigating potential sources of pollution. The department's authority to inspect business records is limited to shellfish-related records. The department may not use its separate enforcement authorities to impose duplicate charges on violators.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill incorporates changes to make it more consistent with federal Food and Drug Administration policies. Scallops need to be included in the state's shellfish sanitation program because the whole animal is now being marketed and is susceptible to red tides and other biotoxins. The bill was developed collaboratively with the Department of Fish and Wildlife and other agencies.

Testimony Against: None.

Testified: Maryanne Guichard, Washington Department of Health; Cyreis Schmitt, Washington Department of Fish and Wildlife; and Bill Dewey, Taylor United, Ltd., (all in favor).