

HOUSE BILL REPORT

HB 1508

As Reported by House Committee On:
Rural Development, Agriculture & Natural Resources

Title: An act relating to the sanitary control of shellfish.

Brief Description: Concerning the sanitary control of shellfish.

Sponsors: Representatives Chapman and Pollet.

Brief History:

Committee Activity:

Rural Development, Agriculture & Natural Resources: 2/10/21, 2/12/21 [DPS].

Brief Summary of Substitute Bill

- Provides that the Department of Health has authority to regulate health and safety of commercially harvested crab in relation to biotoxin contamination.
- Requires the State Board of Health to adopt rules regulating crab harvesting, tracking, and recalls by July 2023.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Chapman, Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Fitzgibbon, Klicker, Kloba, Kretz, Lekanoff, McEntire, Morgan, Orcutt, Ramos, Schmick and Springer.

Staff: Rebecca Lewis (786-7339).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

The Department of Fish and Wildlife (DFW) and the Department of Health (DOH) both have a role in managing the state's shellfish resources. Primary responsibilities of the DFW include season setting, administering and issuing shellfish licenses, and enforcement. Primary responsibilities of the DOH include administering regulations governing the sanitary control of shellfish.

Commercial Shellfishing Licenses.

In order to commercially fish for and harvest shellfish, including crab, a person must acquire a license from the DFW. The DFW has authority to set fishing seasons by species, geography, and gear type by rule. Examples of commercial crab licenses include coastal Dungeness crab, Puget Sound crab ring net, and Puget Sound Dungeness crab licenses.

Sanitary Control of Shellfish.

The State Board of Health (BOH) establishes, and the DOH administers, regulations governing the sanitary control of shellfish. This includes minimum performance standards for the growing, harvesting, processing, packing, storage, transport, and sale of shellfish for human consumption. Shellfish are defined as all varieties of fresh or frozen oysters, mussels, clams, and scallops, whether shucked or in the shell. Additionally, 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 molluscan 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 (FDA).

The sanitary shellfish standards, as well as rules and regulations governing shellfish growing areas and shellfish plant facilities and operations to protect the public health, are established in rule by the Board of Health (BOH). In addition to requirements established by the BOH, any person engaged in a shellfish operation or possessing a commercial quantity of shellfish or any quantity of shellfish for sale for human consumption must comply with:

- the NSSP; and
- federal regulations adopted by the FDA requiring processors of fish and shellfish, to implement Hazard Analysis Critical Control Point (HACCP) plans.

If a provision of either the NSSP model ordinance or regulations requiring HACCP plans are inconsistent with state law, the more stringent provision, as determined by the DOH, must apply.

Summary of Substitute Bill:

The Department of Health has authority to regulate the health and safety of commercially harvested crab in relation to biotoxin contamination. The State Board of Health must develop rules regulating crab harvesting, tracking, and recalls by July 2023.

Substitute Bill Compared to Original Bill:

The substitute bill provides that the State Board of Health must develop rules regulating crab harvesting, tracking, and recalls, instead of providing that the Department of Health must develop such rules.

Appropriation: None.

Fiscal Note: Requested on February 6, 2021.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) This is a good bill for southwest Washington and anyone who likes eating Dungeness crab. The commercial coastal crab fishery is the most valuable single-species fishery on the West Coast and is important to coastal communities and keeping ports viable. High levels of domoic acid have delayed the coastal crab fishing season. Further delay could risk pushing the season into the spring when gray and humpback whales arrive, increasing risk of entanglements. The closure adds to the negative economic impacts the COVID-19 pandemic has caused. Domoic acid tends to only impact the viscera of crab and not the meat, so an evisceration requirement would allow the fishery to open safely. Evisceration is a last resort in the industry as it has some impact too, but it is a tool that can be employed to ensure crab is safe to consume. Currently, the Department of Health (DOH) is limited in how they can regulate crab. There is an urgent need for the DOH to have the authority to do rulemaking. The bill provides time for the DOH, Department of Fish and Wildlife, and Department of Agriculture to coordinate on policies. The industry would like to see either a shorter rulemaking timeline or phased implementation. The bill could be improved to add more protections for the industry. There also should be an intent section declaring support for the industry stating that evisceration is a safe way to ensure public health and safety.

(Opposed) None.

(Other) The DOH is neutral on the bill because funding is not provided in the Governor's budget. Additionally, there should be an amendment clarifying the rulemaking authority between the DOH and the Board of Health. However, rulemaking to ensure the safety of commercial crab is important new work within the sanitary shellfish program. Biotoxins

are produced by microorganisms and can severely impact consumers and thus the commercial shell fishing industry.

Persons Testifying: (In support) Representative Chapman, prime sponsor; Heather Hall, Department of Fish and Wildlife; Larry Thevik, Washington Dungeness Crab Fishermen's Association; and Dale Beasley, Coalition of Coastal Fisheries.

(Other) Todd Phillips, Department of Health.

Persons Signed In To Testify But Not Testifying: None.