

HOUSE BILL REPORT

2SHB 1010

As Passed House:

March 3, 2023

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

Brief Description: Concerning the sanitary control of shellfish.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Chapman, McEntire, Dent, Reed, Griffey, Reeves and Kloba).

Brief History:

Committee Activity:

Agriculture and Natural Resources: 1/13/23, 1/17/23 [DPS];

Appropriations: 1/30/23, 2/2/23 [DP2S(w/o sub AGNR)].

Floor Activity:

Passed House: 3/3/23, 95-0.

Brief Summary of Second Substitute Bill

- Grants the Washington Department of Health authority to create regulations governing commercially harvested crab in relation to biotoxin contamination.
- Authorizes the Washington State Board of Health to adopt rules regulating crab harvesting, tracking, and recalls by June 30, 2025.

HOUSE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Chapman, Chair; Morgan, Vice Chair; Reeves, Vice Chair; Dent, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Kloba, Kretz, Lekanoff, Orcutt, Schmick and Springer.

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.

Staff: Matthew Williamson (786-7291) and Rebecca Lewis (786-7339).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Agriculture and Natural Resources. Signed by 31 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg, Chandler, Chopp, Connors, Couture, Davis, Dye, Fitzgibbon, Hansen, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Steele, Stonier and Tharinger.

Staff: Lily Smith (786-7175).

Background:

The Department of Fish and Wildlife (DFW) and the Department of Health (DOH) both regulate commercial shellfish harvesting in Washington. The DFW creates and administers rules governing certain aspects of harvesting such as the timing of seasons, required gear, and harvesting limits, while the DOH, in conjunction with the State Board of Health, creates sanitization standards and requirements for harvesting processes. Federal regulations also apply to some aspects of shellfish sanitization.

While the DFW's authority to regulate these aspects of commercial shellfish harvesting expressly includes the authority to regulate crabbing, the DOH's authority does not, as the DOH is only directly authorized by statute to regulate sanitization standards in relation to oysters, mussels, clams, and scallops, animals commonly referred to as bivalves. Similarly, federal shellfish sanitization regulations only expressly apply to bivalves.

State Regulation of Shellfish Sanitization.

The DOH administers regulations that specify sanitization processes and standards associated with harvesting shellfish. These regulations touch on many aspects of shellfish harvesting, including the quality of shellfish growing waters and areas, boat and barge sanitation, sewage and wastewater disposal, ventilation, insect and rodent control, shell disposal, garbage and waste disposal, and the handling, storage and refrigeration of shellfish. These regulations are created by the State Board of Health and administered by the DOH.

The DOH is not expressly authorized to regulate sanitization standards for commercial crab harvesting, as crab is not included in the definition of shellfish found in the statute that empowers the DOH's regulation of shellfish sanitization.

Federal Regulation of Shellfish Sanitization.

In addition to the state regulations administered by the DOH, Washington is a participant in the National Shellfish Sanitation Program (NSSP), which is a cooperative program between states and the federal government intended to regulate sanitary controls for shellfish. The program is designed 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 programs by the United States Food and Drug Administration (FDA).

Any person engaged in shellfish harvesting, possessing a commercial quantity of shellfish, or possessing any quantity of shellfish for sale for human consumption, must comply both with the requirements of 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 Washington law, the more stringent provision, as determined by the DOH, will apply.

The NSSP's definition of shellfish only includes bivalves, so its standards are not expressly applicable to commercial crabbing.

Department of Fish and Wildlife Regulation of Commercial Crabbing.

The DFW both has the express authority to regulate aspects of commercial crabbing in Washington, and actively regulates this industry. The DFW issues and controls commercial crabbing licenses, and sets the time, geographic limits, gear requirements, and species controls of crab seasons.

Summary of Second Substitute Bill:

The Department of Health may create regulations governing biotoxin contamination of commercially harvested crab and the State Board of Health is authorized to adopt rules regulating crab harvesting, tracking, and recalls by June 30, 2025.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony (Agriculture and Natural Resources):

(In support) Dungeness Crab harvesting represents a significant economic interest for numerous stakeholders across the state, including producers and coastal communities.

Marine biotoxins represent a serious threat to consumers of crab. There is currently a significant gap in the regulatory authority needed to address the threat of marine biotoxins. Biotoxin events like the recent influx of domoic acid can be dealt with, but without the action this bill represents, the Department of Health (DOH) is hamstrung in effectively reacting to such events. This inability to respond could result in fishery closures and season delays such as have occurred in recent years. Season delays could result in more interaction between crabbing vessels and humpback whales in the spring and summer. The bill would address this gap and help protect both consumers of crab and those who harvest. The bill would give the DOH, the Department of Fish and Wildlife, and the Department of Agriculture time needed to work with stakeholders to develop effective standards. Funding for this bill is in the Governor's budget.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) There is broad industry support for this bill. When a biotoxin event occurs now, threatening both the industry and public health, there is a void in crab harvesting management tools. This bill will fill that void, maintaining public safety while keeping crab in the marketplace.

(Opposed) None.

Persons Testifying (Agriculture and Natural Resources): Tom McBride and Heather Hall, Washington Department of Fish and Wildlife; Larry Thevik, Washington Dungeness Crab Fishermen's Association; Tom Echols, Purse Seine Vessel Owners Association; Stuart Glasoe, Washington State Board of Health; and Todd Phillips, Washington State Department of Health.

Persons Testifying (Appropriations): Tom Echols, Coalition of Coastal Fisheries.

Persons Signed In To Testify But Not Testifying (Agriculture and Natural Resources): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.