



House of Representatives

File No. 521

General Assembly

February Session, 2006

(Reprint of File No. 357)

House Bill No. 5571
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 17, 2006

**AN ACT CONCERNING THE INTERSTATE SHIPMENT OF SHELLFISH
AND SHELLFISH HARVESTING AND RELAY.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 26-192f of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 Any person, firm or corporation (1) harvesting or taking shellfish
4 from an area closed and posted by the Department of Agriculture
5 against the removal of shellfish, except as provided in section 26-192h,
6 or an area closed by commercial shellfish transplant license issuance or
7 by order of the local director of health with the approval of the
8 department, (2) misusing any shipping tag or license in violation of
9 section 26-192c, (3) mislabeling shellfish shipments or deliveries with
10 any false information, (4) failing to identify shellfish shipments or
11 deliveries in accordance with [regulations adopted by the department]
12 the National Shellfish Sanitation Program Model Ordinance, as
13 amended from time to time, (5) harvesting shellfish from undesignated
14 grounds, or (6) harvesting shellfish from designated grounds not listed
15 on a license issued by the Department of Agriculture to such person,

16 firm or corporation shall be fined (A) one thousand dollars, or (B) three
17 times the market value of any shellfish taken, based on the quantity
18 and type involved in the violation if such amount is greater than one
19 thousand dollars, or imprisoned not more than twelve months. The
20 Commissioner of Agriculture may revoke any license issued by said
21 commissioner for up to sixty days for the second violation of this
22 section within six months and up to ninety days for a third violation of
23 this section within nine months. Any person who defaces or removes a
24 sign posted by the Department of Agriculture in accordance with the
25 provisions of section 26-192e, as amended, shall be fined not more than
26 five hundred dollars or imprisoned not more than six months. The
27 provisions of this section are in addition to and in no way derogate any
28 other enforcement provisions or penalties contained in any other
29 section of the general statutes.

30 Sec. 2. (NEW) (*Effective from passage*) (a) The Department of
31 Agriculture shall allow the relay of shellfish from shellfish grounds
32 classified as restricted relay to other grounds in accordance with the
33 National Shellfish Sanitation Program Model Ordinance, as amended
34 from time to time, regarding restricted shellfish relay. The department
35 shall allow the harvest of shellfish from shellfish grounds classified as
36 approved for market on the same day using the same vessel, provided
37 the harvester first harvests the approved market product and lands the
38 product to shore. A harvester shall not begin the relay of shellfish from
39 shellfish grounds classified as restricted relay until all shellfish
40 harvested first from approved market grounds, in market quantities,
41 have been removed from the vessel. Such harvester shall not begin
42 such relay until after the harvester has notified the Department of
43 Environmental Protection of such relay. The harvester shall provide all
44 information required by the Department of Agriculture regarding
45 shellfish relays to the Department of Environmental Protection at the
46 time of such notification. For the remainder of the day, the harvester
47 shall not harvest approved market shellfish after beginning such relay.

48 (b) All tag identification information regarding shellfish harvest
49 locations shall be confidential, provided the harvester of the shellfish

50 marks the tag with a unique code corresponding to the shellfish
51 harvest location. Such harvester shall provide the Department of
52 Agriculture and the Department of Environmental Protection with a
53 written code key detailing the harvest location and corresponding code
54 used by the harvester.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	26-192f
Sec. 2	<i>from passage</i>	New section

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Department of Agriculture	GF - None	See Below	See Below
Department of Environmental Protection	GF - None	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill’s requirements concerning the relay of shellfish and tag identification will increase the workload of the Department of Agriculture. The increase is estimated to be handled within normal budgetary resources at this time.

It is anticipated that there will be no fiscal impact to the Department of Environmental Protection due to the receipt of information from shellfish harvesters.

House “A” adds the provisions concerning the relay and tag identification and associated workload increase and deletes a penalty for shellfish violators which had no fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**HB 5571 (as amended by House "A")*****AN ACT CONCERNING THE INTERSTATE SHIPMENT OF SHELLFISH.****SUMMARY:**

This bill requires the Agriculture Department (DOAg) to allow the relay (transplant) of shellfish from shellfish grounds classified as "restricted" relay to other grounds, in accordance with the National Shellfish Sanitation Program (NSSP) Model Ordinance. The department must also allow harvesting of shellfish grounds classified as "approved" for market on the same day (as the relay, it appears) using the same vessel, provided the harvester first harvests the approved market product and brings it to shore. By law, all shellfish operations involving relay, aquaculture, scientific studies, market harvesting, shucking, repacking, or sale of shellfish to markets or restaurants must obtain a license from DOAg.

The bill requires all tag identification information about shellfish harvest locations to be confidential, if the harvester marks the tag with a unique code corresponding to the shellfish harvest location.

The bill replaces department regulations with the U.S. Food and Drug Administration's NSSP Model Ordinance as the standard for determining violations of the requirement to identify shellfish shipments and deliveries.

*House Amendment "A" adds the provisions on shellfish relay and tag identification information and eliminates an additional penalty for violators of shellfish law.

EFFECTIVE DATE: Upon passage

SHELLFISH RELAY AND CONFIDENTIAL TAG INFORMATION

A harvester cannot begin the shellfish relay from shellfish grounds classified as restricted relay until (1) he has first removed from the vessel all shellfish harvested from approved market grounds in market quantities and (2) after he notifies the Department of Environmental Protection (DEP) of the action. The harvester must provide all information required by the DOAg regarding shellfish relays to DEP when he provides notice. The harvester cannot harvest approved market shellfish for the remainder of the day after beginning such a relay.

By law, no one may take or harvest shellfish from areas (1) classified as conditional-closed, restricted, conditionally restricted, or prohibited; (2) closed because of a health emergency; or (3) or parts of areas where shellfish have been transplanted or relayed, except in accordance with the terms and conditions of licenses DOAg issues.

The bill requires all tag identification information about shellfish harvest locations to be confidential, if the harvester marks the tag with a unique code corresponding to the shellfish harvest location. The harvester must provide DOAg and DEP with a written code key detailing the harvest location and corresponding code that he used.

BACKGROUND

NSSP

PA 04-223 required the agriculture department to promulgate health standards for shellfish testing based on the NSSP Model Ordinance. The law specifies that the department (1) must enforce compliance with the NSSP Model Ordinance and (2) may adopt regulations, after consultation with the Department of Public Health, for the sanitary growth, production, purification, and preparation of shellfish that incorporate by reference the provisions of the NSSP Model Ordinance.

NSSP is designed to prevent human illness associated with the consumption of fresh and frozen shellfish (e.g., oysters, clams, and mussels) by establishing sanitary controls over the growing,

harvesting, shucking, packing, and distribution of fresh and frozen shellfish.

Classification

By law, DOAg may prohibit the taking or harvesting of shellfish from designated areas in tidal flats, shores, and coastal waters whenever it finds (1) that those areas are contaminated or polluted to the extent that the waters do not meet standards of purity it established, in conjunction with the Department of Public Health, or (2) that shellfish obtained from such areas may be unfit for food or dangerous to the public health.

DOAg must classify the coastal waters, shores, and tidal flats for shellfish taking. The classifications are: approved, conditional (conditional-open and -closed), restricted, conditionally restricted, and prohibited. Any person aggrieved by a classification decision may appeal as the law provides.

An area may be classified as prohibited for taking or harvesting shellfish, if it fails to conform to the standards established by the department for classifications other than prohibited. The department may specify the activities that may occur within each classified area. The activities must be listed on a shellfish license the department issues (CGS § 26-192e).

Penalties

By law, the commissioner may revoke any license he issues for up to 60 days for a second shellfish violation within six months of the first and for up to 90 days for a third violation within nine months of the first. Criminal penalties also apply to violations. By law, the department may revoke any shellfish license for cause after notification and hearing (CGS § 26-192f).

COMMITTEE ACTION

Environment Committee

Joint Favorable

Yea 28 Nay 0 (03/16/2006)