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**Agriculture & Natural Resources  
Committee**

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**HB 1453**

**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 Summary of 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.

**Hearing Date:** 2/1/11

**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 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 (BOH).

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

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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 refused 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 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 Bill:**

Multiple changes are made to the state's sanitary shellfish requirements, including who is affected by the requirements and the associated rules. The definition of "person," which guides the scope of the program, is expanded from individuals, partnerships, firms, companies, corporations, associations, and the agents of these legal entities to specifically name the directors, officers, and owners of the entities in the definition.

A specific requirement is added that requires an approved shellfish tag 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. Any shellfish removed from a growing area without a tag may be immediately seized by the DOH of the WDFW and disposed of according to rules to be developed by the Board of Health.

The DOH has removed from it the ability to modify a license or certificate or approval if a person is found operating in violation of the shellfish rules. 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 interfere with performance of a regulatory authority's duties.

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 a license revocation for at least 5 years.

**Appropriation:** None.

**Fiscal Note:** Requested on 1/24/2011.

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