

1                   A bill to be entitled  
2           An act relating to shellfish harvesting; amending s.  
3           597.010, F.S.; revising provisions directing the  
4           Department of Agriculture and Consumer Services, in  
5           cooperation with the Fish and Wildlife Conservation  
6           Commission and the Department of Environmental  
7           Protection, to protect specified shellfish beds,  
8           grounds, and reefs; defining the terms "dredge or  
9           mechanical harvesting devices" and "shellfish";  
10          providing for the harvesting of shellfish from  
11          sovereign submerged land leases; providing for the  
12          Board of Trustees of the Internal Improvement Trust  
13          Fund to authorize the use of dredges or mechanical  
14          harvesting devices as special lease conditions of  
15          sovereign submerged land leases under certain  
16          circumstances; limiting the number of such dredges or  
17          mechanical harvesting devices per lease; prohibiting  
18          certain use and possession of such dredges or  
19          mechanical harvesting devices; providing penalties;  
20          removing provisions relating to shellfish harvesting  
21          seasons and removal of oysters, clams, or mussels from  
22          natural reefs; authorizing the department, rather than  
23          requiring, to designate areas for the taking of  
24          oysters and clams to be planted on public lands;  
25          deleting a provision allowing such takings to be  
26          planted on leases and grants; specifying that the

27 | commission, rather than the department, shall  
 28 | establish the amount of oysters, clams, and mussels  
 29 | that may be relayed or transplanted; removing  
 30 | provisions relating to dredging of dead shells and  
 31 | oyster culture; making technical changes; providing an  
 32 | effective date.

33 |

34 | Be It Enacted by the Legislature of the State of Florida:

35 |

36 | Section 1. Subsections (14) and (17) through (25) of  
 37 | section 597.010, Florida Statutes, are amended to read:

38 | 597.010 Shellfish regulation; leases.—

39 | (14) SHELLFISH DEVELOPMENT.—The department, in cooperation  
 40 | with the Fish and Wildlife Conservation Commission and the  
 41 | Department of Environmental Protection, shall protect all clam  
 42 | beds, oyster beds, shellfish grounds, and oyster reefs from  
 43 | damage or destruction resulting from improper cultivation,  
 44 | propagation, planting, or harvesting. To this end, the  
 45 | Department of Health is authorized and directed to cooperate  
 46 | with the department and to make available its laboratory testing  
 47 | facilities and apparatus.

48 | ~~(a) The department shall improve, enlarge, and protect the~~  
 49 | ~~natural oyster and clam reefs and beds of this state to the~~  
 50 | ~~extent it may deem advisable and the means at its disposal will~~  
 51 | ~~permit.~~

52 | ~~(b) The Fish and Wildlife Conservation Commission shall,~~

53 ~~to the same extent, assist in protecting shellfish aquaculture~~  
 54 ~~products produced on leased or granted reefs and beds.~~

55 ~~(c) The department, in cooperation with the commission,~~  
 56 ~~shall provide the Legislature with recommendations as needed for~~  
 57 ~~the development and the proper protection of the rights of the~~  
 58 ~~state and private holders therein with respect to the oyster and~~  
 59 ~~clam business.~~

60 (17) SHELLFISH HARVESTING FROM SOVEREIGN SUBMERGED LAND  
 61 LEASES; USE OF DREDGE OR MECHANICAL HARVESTING DEVICE SEASONS;  
 62 SPECIAL PROVISIONS RELATING TO APALACHICOLA BAY.—

63 (a) As used in this subsection, the term:

64 1. "Dredge or mechanical harvesting device" means a  
 65 dredge, scrape, rake, drag, or other device that is towed by a  
 66 vessel or self-propelled and that is used to harvest shellfish.  
 67 The term does not include handheld or handdrawn hydraulically or  
 68 mechanically operated devices used to harvest cultured clams  
 69 from leased sovereign submerged lands, and this subsection does  
 70 not apply to such handheld or handdrawn devices.

71 2. "Shellfish" means oysters, clams, mussels, and  
 72 scallops.

73 (b) The harvesting of shellfish from a sovereign submerged  
 74 land lease may be authorized pursuant to chapter 253.

75 (c) The Board of Trustees of the Internal Improvement  
 76 Trust Fund may authorize the use of a dredge or a mechanical  
 77 harvesting device as a special lease condition of a sovereign  
 78 submerged land lease issued under chapter 253 if:

79 1. The use of the dredge or mechanical harvesting device  
80 does not adversely impact the public health, safety, or welfare  
81 of adjacent natural resources; and

82 2. Aquaculture best management practices have been adopted  
83 pursuant to chapter 120 which:

84 a. Describe the approved size and specifications of the  
85 dredge or mechanical harvesting device to be used.

86 b. Provide conditions for deploying and using an approved  
87 dredge or mechanical harvesting device.

88 c. Specify requirements for monitoring potential impacts  
89 at, and adjacent to, the sovereign submerged land lease site by  
90 the leaseholder.

91 (d) The use of a dredge or mechanical harvesting device  
92 for the harvesting of shellfish from a sovereign submerged land  
93 lease is authorized if such use was previously authorized as an  
94 existing condition of a perpetual shellfish lease issued  
95 pursuant to former chapter 370.

96 (e) Only one dredge or mechanical harvesting device per  
97 lease may be possessed or operated at any time at a lease site.

98 (f) A dredge or mechanical harvesting device authorized by  
99 this subsection may not be used for taking shellfish for any  
100 purpose from public shellfish beds in waters of the state, and  
101 such dredge or mechanical harvesting device may not be possessed  
102 on the waters of the state from 5 p.m. until sunrise.

103 (g) This subsection does not authorize the harvesting of  
104 shellfish from natural reefs.

105  
106 A violation of this subsection is a violation of the lease  
107 agreement and will result in the revocation of all leases held  
108 by the violator and denial of any future use of sovereign  
109 submerged land.

110 ~~(a) The Fish and Wildlife Conservation Commission shall by~~  
111 ~~rule set the noncultured shellfish harvesting seasons in~~  
112 ~~Apalachicola Bay.~~

113 ~~(b) If the commission changes the harvesting seasons by~~  
114 ~~rule as set forth in this subsection, for 3 years after the new~~  
115 ~~rule takes effect, the commission, in cooperation with the~~  
116 ~~department, shall monitor the impacts of the new harvesting~~  
117 ~~schedule on the bay and on local shellfish harvesters to~~  
118 ~~determine whether the new harvesting schedule should be~~  
119 ~~discontinued, retained, or modified. In monitoring the new~~  
120 ~~schedule and in preparing its report, the following information~~  
121 ~~shall be considered:~~

122 ~~1. Whether the bay benefits ecologically from the new~~  
123 ~~harvesting schedule.~~

124 ~~2. Whether the new harvesting schedule enhances the~~  
125 ~~enforcement of shellfish harvesting laws in the bay.~~

126 ~~3. Whether the new harvesting schedule enhances natural~~  
127 ~~shellfish production, oyster relay and planting programs, and~~  
128 ~~shell planting programs in the bay.~~

129 ~~4. Whether the new harvesting schedule has more than a~~  
130 ~~short term adverse economic impact, if any, on local shellfish~~

131 harvesters.

132 ~~(18) REMOVING OYSTERS, CLAMS, OR MUSSELS FROM NATURAL~~  
 133 ~~REEFS; LICENSES, ETC.; PENALTY.—~~

134 ~~(a) It is unlawful to use a dredge or any means or~~  
 135 ~~implement other than hand tongs in removing oysters from the~~  
 136 ~~natural or artificial state reefs or beds. This restriction~~  
 137 ~~shall apply to all areas of Apalachicola Bay for all shellfish~~  
 138 ~~harvesting, excluding private grounds leased or granted by the~~  
 139 ~~state prior to July 1, 1989, if the lease or grant specifically~~  
 140 ~~authorizes the use of implements other than hand tongs for~~  
 141 ~~harvesting. Except in Apalachicola Bay, upon the payment of \$25~~  
 142 ~~annually, for each vessel or boat using a dredge or machinery in~~  
 143 ~~the gathering of clams or mussels, a special activity license~~  
 144 ~~may be issued by the Fish and Wildlife Conservation Commission~~  
 145 ~~pursuant to subsection (15) or s. 379.361 for such use to such~~  
 146 ~~person.~~

147 ~~(b) Approval by the department to harvest shellfish by~~  
 148 ~~dredge or other mechanical means from privately held shellfish~~  
 149 ~~leases or grants in Apalachicola Bay shall include, but not be~~  
 150 ~~limited to, the following conditions:~~

151 ~~1. The use of any mechanical harvesting device other than~~  
 152 ~~ordinary hand tongs for taking shellfish for any purpose from~~  
 153 ~~public shellfish beds in Apalachicola Bay shall be unlawful.~~

154 ~~2. The possession of any mechanical harvesting device on~~  
 155 ~~the waters of Apalachicola Bay from 5 p.m. until sunrise shall~~  
 156 ~~be unlawful.~~

157 ~~3. Leaseholders or grantees shall notify the department no~~  
 158 ~~less than 48 hours prior to each day's use of a dredge or scrape~~  
 159 ~~in order for the department to notify the Fish and Wildlife~~  
 160 ~~Conservation Commission that a mechanical harvesting device will~~  
 161 ~~be deployed.~~

162 ~~4. Only two dredges or scrapes per lease or grant may be~~  
 163 ~~possessed or operated at any time.~~

164 ~~5. Each vessel used for the transport or deployment of a~~  
 165 ~~dredge or scrape shall prominently display the lease or grant~~  
 166 ~~number or numbers, in numerals which are at least 12 inches high~~  
 167 ~~and 6 inches wide, in such a manner that the lease or grant~~  
 168 ~~number or numbers are readily identifiable from both the air and~~  
 169 ~~the water.~~

170  
 171 ~~Any violation of this paragraph or of any other statutes, rules,~~  
 172 ~~or conditions referenced in the lease agreement shall be~~  
 173 ~~considered a violation of the license and shall result in~~  
 174 ~~revocation of the lease or a denial of use or future use of a~~  
 175 ~~mechanical harvesting device.~~

176 ~~(c) Oysters may be harvested from natural or public or~~  
 177 ~~private leased or granted grounds by common hand tongs or by~~  
 178 ~~hand, by scuba diving, free diving, leaning from vessels, or~~  
 179 ~~wading. In Apalachicola Bay, this provision shall apply to all~~  
 180 ~~shellfish.~~

181 ~~(18)~~ (19) FISHING FOR RELAYING OR TRANSPLANTING PURPOSES.-

182 (a) The department may ~~shall~~ designate areas for the

183 taking of oysters and clams to be planted on ~~leases, grants, and~~  
 184 public areas. Oysters, clams, and mussels may be taken for  
 185 relaying or transplanting at any time during the year so long  
 186 as, in the opinion of the department, the public health will not  
 187 be endangered. The amount of oysters, clams, and mussels to be  
 188 obtained for relaying or transplanting shall be established by  
 189 the Fish and Wildlife Conservation Commission. The area relayed  
 190 or transplanted to, and relaying or transplanting time periods  
 191 shall be established in each case by the department.

192 (b) Application for a special activity license issued  
 193 pursuant to subsection (15) for obtaining oysters, clams, or  
 194 mussels for relaying from closed public shellfish harvesting  
 195 areas to open areas or certified controlled purification plants  
 196 or for transplanting sublegal-sized oysters, clams, or mussels  
 197 must be made to the department. In return, the department may  
 198 assign an area and a period of time for the oysters, clams, or  
 199 mussels to be relayed or transplanted to be taken. All relaying  
 200 and transplanting operations shall take place under the  
 201 direction of the department.

202 (c) Relayed oysters, clams, or mussels shall not be  
 203 subsequently harvested for any reason without written permission  
 204 or public notice from the department.

205 (19)~~(20)~~ OYSTER AND CLAM REHABILITATION.—The board of  
 206 county commissioners ~~of the several counties~~ may appropriate and  
 207 expend such sums as it may deem proper for the purpose of  
 208 planting or transplanting oysters, clams, oyster shell, clam



209 shell, or cultch or to perform such other acts for the  
 210 enhancement of the oyster and clam industries of the state, out  
 211 of any sum in the county treasury not otherwise appropriated.

212 ~~(21) DREDGING OF DEAD SHELLS PROHIBITED.—The dredging of~~  
 213 ~~dead shell deposits is prohibited in the state.~~

214 (20)~~(22)~~ COOPERATION WITH UNITED STATES FISH AND WILDLIFE  
 215 SERVICE.—The department shall cooperate with the United States  
 216 Fish and Wildlife Service, under existing federal laws, rules,  
 217 and regulations, and is authorized to accept donations, grants,  
 218 and matching funds from the Federal Government in order to carry  
 219 out its oyster resource and development responsibilities. The  
 220 department is further authorized to accept any and all donations  
 221 including funds, oysters, or oyster shells.

222 (21)~~(23)~~ OYSTER AND CLAM SHELLS PROPERTY OF DEPARTMENT.—

223 (a) Except for oysters used directly in the half-shell  
 224 trade, 50 percent of all shells from oysters and clams shucked  
 225 commercially in the state shall be and remain the property of  
 226 the department when such shells are needed and required for  
 227 rehabilitation projects and planting operations, in cooperation  
 228 with the Fish and Wildlife Conservation Commission, when  
 229 sufficient resources and facilities exist for handling and  
 230 planting such shells ~~shell~~, and when the collection and handling  
 231 of such shells ~~shell~~ is practicable and useful, except that bona  
 232 fide holders of leases and grants may retain 75 percent of such  
 233 shells ~~shell~~ as they produce for aquacultural purposes. Storage,  
 234 transportation, and planting of shells so retained by lessees

235 and grantees shall be carried out under the conditions of the  
 236 lease agreement or with the written approval of the department  
 237 and shall be subject to such reasonable time limits as the  
 238 department may fix. In the event of an accumulation of an excess  
 239 of shells, the department is authorized to sell shells only to  
 240 private growers for use in oyster or clam cultivation on bona  
 241 fide leases and grants. No profit shall accrue to the department  
 242 in these transactions, and shells are to be sold for the  
 243 estimated moneys spent by the department to gather and stockpile  
 244 the shells. Planting of shells obtained from the department by  
 245 purchase shall be subject to the conditions set forth in the  
 246 lease agreement or in the written approval as issued by the  
 247 department. Any shells not claimed and used by private oyster  
 248 cultivators 10 years after shells are gathered and stockpiled  
 249 may be sold at auction to the highest bidder for any private  
 250 use.

251 (b) If ~~Whenever~~ the department determines that it is  
 252 unfeasible to collect oyster or clam shells, the shells become  
 253 the property of the producer.

254 (c) If ~~Whenever~~ oyster or clam shells are owned by the  
 255 department and it is not useful or feasible to use them in the  
 256 rehabilitation projects, and if a ~~when no~~ leaseholder has not  
 257 exercised his or her option to acquire them, the department may  
 258 sell such shells for the highest price obtainable. Such ~~The~~  
 259 shells ~~thus sold~~ may be used in any manner and for any purpose  
 260 at the discretion of the purchaser.

261 (d) Moneys derived from the sale of shell shall be  
 262 deposited in the General Inspection Trust Fund for shellfish  
 263 programs.

264 (e) The department may publish notice, in a newspaper  
 265 serving the county, of its intention to collect the oyster and  
 266 clam shells and shall notify, by certified mail, each shucking  
 267 establishment from which shells are to be collected. The notice  
 268 shall contain the period of time the department intends to  
 269 collect the shells in that county and the collection purpose.

270 ~~(24) OYSTER CULTURE. The department, in cooperation with~~  
 271 ~~the Fish and Wildlife Conservation Commission and the Department~~  
 272 ~~of Environmental Protection, shall protect all clam beds, oyster~~  
 273 ~~beds, shellfish grounds, and oyster reefs from damage or~~  
 274 ~~destruction resulting from improper cultivation, propagation,~~  
 275 ~~planting, or harvesting and control the pollution of the waters~~  
 276 ~~over or surrounding beds, grounds, or reefs, and to this end the~~  
 277 ~~Department of Health is authorized and directed to lend its~~  
 278 ~~cooperation to the department, to make available its laboratory~~  
 279 ~~testing facilities and apparatus.~~

280 (22) ~~(25)~~ REQUIREMENTS FOR OYSTER OR CLAM VESSELS.—

281 (a) All vessels used for the harvesting, gathering, or  
 282 transporting of oysters or clams for commercial purposes shall  
 283 be constructed and maintained to prevent contamination or  
 284 deterioration of shellfish. To this end, all such vessels shall  
 285 have ~~be provided with~~ false bottoms and bulkheads fore and aft  
 286 to prevent onboard shellfish from coming in contact with any

287 bilge water. ~~No~~ Dogs or other animals are not ~~shall be~~ allowed  
288 at any time on vessels used to harvest or transport shellfish. A  
289 violation of ~~any provision of~~ this subsection will, at a  
290 minimum, ~~shall~~ result in ~~at least~~ the revocation of the  
291 violator's license.

292 (b) For the purpose of this subsection, "harvesting,  
293 gathering, or transporting of oysters or clams for commercial  
294 purposes" means to harvest, gather, or transport oysters or  
295 clams with the intent to sell and shall apply to a quantity of  
296 two or more bags of oysters per vessel or more than one 5-gallon  
297 bucket of unshucked hard clams per person or more than two 5-  
298 gallon buckets of unshucked hard clams per vessel.

299 Section 2. This act shall take effect July 1, 2016.