

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 18, 1998 Revised: 3/24/98 \_\_\_\_\_

Subject: Aquaculture

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Fav/12 amendments</u>
2.	<u>_____</u>	<u>_____</u>	<u>NR</u>	<u>_____</u>
3.	<u>_____</u>	<u>_____</u>	<u>WM</u>	<u>_____</u>
4.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
5.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

**I. Summary:**

In 1996, the Legislature passed HB 605, which required the Department of Environmental Protection (department) to streamline complex and duplicative state regulations and permitting procedures for aquaculture activities. This bill corrects oversights and “fine-tunes” HB 605.

SB 1924 provides added protection for aquaculture products produced on submerged land leases by establishing a zone around the lease where harvesting is prohibited. It authorizes the department to issue a special activity license for use of special gear or equipment in harvesting saltwater species for scientific and governmental purposes, and where allowable, for innovative fisheries. The department may also authorize any properly accredited person to harvest or possess indigenous or nonindigenous saltwater species for experimental, scientific, education, and exhibition purposes. It clarifies jurisdiction over aquaculture activities and provisions relating to aquaculture general permits, and also provides for the streamlining of permit consolidation procedures. The bill provides for the delegation of regulatory authority for certain aquaculture facilities and requires the Aquaculture Review Council to develop a list of prioritized research needs that are critical to the development of the aquaculture industry.

SB 1924 has no fiscal impact.

This bill amends sections 253.72, 370.06, 370.081, 370.10, 370.16, 370.26, 373.046, 403.814, and 597.005, Florida Statutes.

**II. Present Situation:**

Florida’s aquaculture industry has faced significant growth problems due to a number of factors such as the need to comply with complex regulatory requirements, lack of venture capital, and

lack of technical skills training for potential aquaculture operators. In 1996, the Legislature passed HB 605 which declared that it is in the state's economic, resource enhancement, and food production interests to promote aquaculture, and that aquaculture is agriculture. Aquaculture farmers are now eligible for the same treatment as agriculture farmers under Florida Statutes, and are subject to the same regulations and requirements.

HB 605 required the Department of Environmental Protection to establish an Aquaculture Section. This new section provides technical assistance to the aquaculture industry, acts as a liaison between the aquaculture industry and the regulatory agencies, and has developed a streamlined permitting process. The bill also directed the department to develop criteria for temporarily permitting aquaculture activities until a general permit could be developed. This has allowed aquaculture activities which are "presumed not to result in adverse environmental impacts" to get up and running while the department goes through the time-consuming process of developing general permits.

Florida's aquaculture industry has shown a significant interest in culturing non-indigenous marine species. This interest is an outgrowth of the success that Florida's tropical fish industry has had with non-indigenous freshwater fish. While Florida's environmental and climatic conditions are well suited for growing non-indigenous species, these same factors are conducive to the establishment of non-indigenous nuisance species as well. HB 605 gave the Division of Marine Resources the broad authority to regulate certain aquacultural activities, however, as that relates to the culture of certain non-indigenous marine species, the division's authority is unclear. In implementing HB 605, it has become apparent that several critical elements still need to be addressed and that some adjustments need to be made.

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 253.72, F.S., to prohibit the harvesting of shellfish within a distance of 25 feet surrounding lawfully marked lease boundaries or within setback and access corridors within specifically designated high-density aquaculture lease areas and aquaculture use zones.

**Section 2.** Amends s. 370.06, F.S., to require a person to hold a special activity license to harvest saltwater species using gear or equipment not authorized. Authorizes the department to issue a special activity license for the use of nonconforming gear or equipment, including but not limited to, trawls, seines and entangling nets, traps, and hook and line gear, for harvesting saltwater species for scientific and governmental purposes, and where allowable, for innovative fisheries. Authorizes the department to adopt, by rule, application requirements and terms, conditions, and restrictions for incorporation into each special activity license. This does not apply to gear or equipment used by certified marine aquaculturists to harvest marine aquaculture products.

A special activity license is required for importation, possession, and aquaculture of anadromous sturgeon. Requires the special activity license to provide for "specific" management practices, rather than "best" management practices to prevent release and escape. Deletes the reference

“from sturgeon borne disease” as it relates to the protection of indigenous populations of saltwater species.

Authorizes the department to issue special activity licenses for the harvest or cultivation of oysters, clams, mussels, and crabs when such activities relate to quality control, sanitation, public health regulations, or the protection of aquaculture and shellfish resources.

Authorizes the department to issue special activity licenses to permit the capture and possession of saltwater species protected by law and used as stock for artificial cultivation and propagation.

Authorizes the department to issue special activity licenses to permit the importation and possession of nonindigenous saltwater species for the production of marine aquaculture products in marine aquaculture facilities. Requires the license to provide specific management practices to prevent the release and escape of cultured species and to protect indigenous populations of saltwater species and aquaculture facilities.

Authorizes the conditions and specific management practices established in this section to be set forth in special activity licenses or incorporated into permits and authorizations issued pursuant to chs. 253, 370, 373, or 403, F.S. Notwithstanding the provisions for licensing in s. 370.06(6), F.S., special activity licenses issued pursuant to this section shall be for terms not to exceed 20 years.

**Section 3.** Amends s. 370.081, F.S., to correct a reference. Deletes rabbitfishes from the list of marine animals not to be imported into the state. Provides that it is unlawful to release into state waters nonindigenous “saltwater species” rather than “marine plant or marine animal.”

**Section 4.** Amends s. 370.10, F.S., to provide for the department to authorize, rather than to issue a permit to any properly accredited person to harvest or possess indigenous or nonindigenous saltwater species for experimental, scientific, education, and exhibition purposes. Authorizations issued under this section may be suspended or revoked if the department finds that the person has violated this section, department rules or orders, or terms or conditions of the authorization, or has submitted false or inaccurate information on the application.

**Section 5.** Amends s. 370.16, F.S., require the Division of Marine Resources to protect shellfish aquaculture products produced on leased or granted reefs in the hands of lessees or grantees from the state. Prohibits shellfish harvesting within a distance of 25 feet surrounding lawfully marked lease boundaries or within setback and access corridors within specifically designated high-density aquaculture lease areas and aquaculture use zones.

**Section 6.** Amends s. 370.26, F.S., to define marine aquaculture facility as a facility built and operated for the purpose of producing marine aquaculture products. Marine aquaculture facilities contain culture systems such as, but not limited to, ponds, tanks, raceways, cages, and bags used for commercial production, propagation, growout, or product enhancement of marine aquaculture products.

Marine aquaculture facilities specifically do not include:

- Facilities that maintain marine aquatic organisms exclusively for the purpose of shipping, distribution, marketing, or wholesale and retail sales;
- Facilities that maintain marine aquatic organisms for noncommercial, education, exhibition, or scientific purposes;
- Facilities that do not require an aquaculture certification pursuant to s. 597.004, F.S.; or
- Facilities used by marine aquarium hobbyists.

Authorizes a marine aquaculture producer possessing a valid saltwater products license with a restricted species endorsement to apply income from the sales of marine aquaculture products to renew an existing restricted species endorsement. Provides that income from the sales of marine aquaculture products does not apply when acquiring a new restricted species endorsement. Requires the holder of an aquaculture certificate to purchase and possess a saltwater products license in order to possess, transport, or sell saltwater products not provided for in s. 597.004, F.S. Corrects a statutory reference. Clarifies that the criteria developed to temporarily permit aquaculture activities do not constitute rules within the meaning of s. 120.52, F.S. Authorizes the department to delegate to the water management districts the regulatory authority for aquaculture facilities subject to the temporary general permitting criteria of this subsection.

**Section 7.** Amends s. 373.046, F.S., to clarify jurisdiction over aquaculture activities. Upon agreement by the applicant, the department, and the applicable water management district, the department and water management district may reassign regulatory responsibilities, based on the specific aquaculture operation, to achieve a more efficient and effective permitting process.

**Section 8.** Amends s. 403.814, F.S., to clarify that an aquaculture general permit shall be established for the cultivation of aquatic species, except alligators. Delegates the authority to issue or deny and ensure compliance with general permits developed by the department for aquaculture facilities to the water management districts when they have regulatory responsibility for the facility pursuant to s. 373.046, F.S. Upon agreement by the applicant, the department, and the applicable water management district, the department and water management district may reassign regulatory responsibilities, based on the specific aquaculture operation, to achieve a more efficient and effective permitting process.

**Section 9.** Amends s. 597.005, F.S., to require the Aquaculture Review Council to provide a list of prioritized research needs critical to development of the aquaculture industry to the President of the Senate, the Speaker of the House of Representatives, the chairs of legislative committees having primary jurisdiction over either the subject of aquaculture or the budget of the Department of Agriculture and Consumer Services, by August 1 of each year.

**Section 10.** Provides that this act shall take effect July 1 of the year in which enacted.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There should be substantial savings in time and money for persons who engage in aquaculture activities once the “one-stop” application and permitting process is fully implemented.

C. Government Sector Impact:

The Department of Environmental Protection has indicated that the bill has no fiscal impact on the department.

The Department of Agriculture and Consumer Services has indicated that the bill has no fiscal impact on the department.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Agriculture:

Technical amendment clarifying the prohibited area surrounding a lease boundary.

#2 by Agriculture:

Technical amendment to conform SB 1924 to CS/HB 3673.

#3 by Agriculture:

Authorizes the Department of Environmental Protection to require certain management practices before a marine aquaculture facility is issued an exotic species special activity license.

#4 by Agriculture:

Clarifies that the activity is certified, not the facility.

#5 by Agriculture:

Technical amendment conforming the punctuation of this section to identical language in s. 597.004, F.S.

#6 by Agriculture:

Allows marine aquaculture producers to apply income from the sales of marine aquaculture products to licensed wholesale dealers towards renewal of an existing restricted species endorsement.

#7 by Agriculture:

Removes obsolete language relating to state-sanctioned sales of alligator hides. Deletes the Game and Fresh Water Fish Commission's authority to market alligator hides or products obtained as a result of its law enforcement actions or its nuisance alligator control programs. (WITH TITLE AMENDMENT)

#8 by Agriculture:

Authorizes a portion of the fees assessed for alligator egg collection permits and alligator hide validation tags to be transferred to the General Inspection Trust Fund. Funds are to be administered by the Department of Agriculture and Consumer Services to provide marketing and education services to promote alligator products produced in this state. (WITH TITLE AMENDMENT)

#9 by Agriculture:

Provides the Department of Environmental Protection with the authority to regulate all saltwater aquaculture activities.

#10 by Agriculture:

Provides the Department of Environmental Protection with regulatory authority for aquaculture activities that exceed the thresholds or do not meet all the criteria for aquaculture general permits.

#11 by Agriculture:

Deletes unnecessary language. Regulatory responsibility implies the authority to “ensure compliance.”

#12 by Agriculture:

Includes the Governor in the list of those receiving the prioritized research needs of the aquaculture industry.

---

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

---