

By Senator Bronson

18-1236B-98

See HB

1 A bill to be entitled
2 An act relating to aquaculture; amending s.
3 253.72, F.S.; establishing wild harvest
4 setbacks from shellfish leases; amending s.
5 370.06, F.S.; authorizing issuance of
6 additional special activity licenses;
7 authorizing permit consolidation procedures;
8 providing activity license terms; amending s.
9 370.081, F.S.; revising provisions relating to
10 the importation of nonindigenous marine plants
11 and animals; amending s. 370.10, F.S.;
12 authorizing the harvesting or possession of
13 saltwater species for experimental, scientific,
14 education, and exhibition purposes; amending s.
15 370.16, F.S.; establishing wild harvest
16 setbacks from shellfish leases; amending s.
17 370.26, F.S.; defining the term "marine
18 aquaculture facility" and revising definition
19 of the term "marine aquaculture product";
20 authorizing delegation of regulatory authority
21 for certain aquaculture facilities; amending s.
22 373.046, F.S.; clarifying jurisdiction over
23 aquaculture activities; amending s. 403.814,
24 F.S.; clarifying provisions relating to
25 aquaculture general permits; amending s.
26 597.005, F.S.; providing for a list of
27 prioritized research needs; providing an
28 effective date.

29
30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Subsection (3) is added to section 253.72,
2 Florida Statutes, to read:

3 253.72 Marking of leased areas; restrictions on public
4 use.--

5 (3) To assist in protecting shellfish aquaculture
6 products produced on leases authorized pursuant to this
7 chapter and chapter 370, harvesting shellfish is prohibited
8 within a distance of 25 feet surrounding lawfully marked lease
9 boundaries or within setback and access corridors within
10 specifically designated high-density aquaculture lease areas
11 and aquaculture use zones.

12 Section 2. Subsection (4) of section 370.06, Florida
13 Statutes, is amended to read:

14 370.06 Licenses.--

15 (4) SPECIAL ACTIVITY LICENSES.--

16 (a) A special activity license is required for any
17 person to use gear or equipment not authorized in this chapter
18 or rule of the Marine Fisheries Commission for harvesting
19 saltwater species. In accordance with this chapter, s. 16,
20 Art. X of the State Constitution, and rules of the Marine
21 Fisheries Commission, the department may issue special
22 activity licenses for the use of nonconforming gear or
23 equipment, including, but not limited to, trawls, seines and
24 entangling nets, traps, and hook and line gear, to be used in
25 harvesting saltwater species for scientific and governmental
26 purposes, and where allowable, for innovative fisheries. The
27 department may prescribe by rule application requirements and
28 terms, conditions, and restrictions to be incorporated into
29 each special activity license. This subsection does not apply
30 to gear or equipment used by certified marine aquaculturists
31 to harvest marine aquaculture products.~~Any person who seeks~~

1 ~~to use special gear or equipment in harvesting saltwater~~
2 ~~species must purchase a special activity license as specified~~
3 ~~by law to engage in such activities. The department may issue~~
4 ~~special activity licenses, in accordance with s. 370.071, to~~
5 ~~permit the cultivation of oysters, clams, mussels, and crabs~~
6 ~~when such aquaculture activities relate to quality control,~~
7 ~~sanitation, and public health regulations. The department may~~
8 ~~prescribe by rule special terms, conditions, and restrictions~~
9 ~~for any special activity license.~~

10 (b) The department is authorized to issue special
11 activity licenses in accordance with this section and s.
12 370.31, to permit the importation, possession, and aquaculture
13 of anadromous sturgeon. The special activity license shall
14 provide for specific ~~best~~ management practices to prevent the
15 release and escape of cultured anadromous sturgeon and to
16 protect indigenous populations of saltwater species ~~from~~
17 ~~sturgeon-borne disease.~~

18 (c) The department may issue special activity
19 licenses, in accordance with s. 370.071, to permit the harvest
20 or cultivation of oysters, clams, mussels, and crabs when such
21 activities relate to quality control, sanitation, public
22 health regulations, or the protection of aquaculture and
23 shellfish resources provided in this chapter.

24 (d) The department is authorized to issue special
25 activity licenses in accordance with ss. 370.06, 370.071, and
26 370.101, aquaculture permit consolidation procedures in s.
27 370.26(3)(a), and rules of the Marine Fisheries Commission to
28 permit the capture and possession of saltwater species
29 protected by law and used as stock for artificial cultivation
30 and propagation.

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1 (e) The department is authorized to issue special
2 activity licenses in accordance with this section, s. 370.081,
3 and aquaculture permit consolidation procedures in s.
4 370.26(3)(a) to permit the importation and possession of
5 nonindigenous saltwater species for the production of marine
6 aquaculture products in marine aquaculture facilities. The
7 license shall provide specific management practices to prevent
8 the release and escape of cultured species and to protect
9 indigenous populations of saltwater species and aquaculture
10 facilities.

11 (f) The conditions and specific management practices
12 established in this section may be set forth in special
13 activity licenses or may be incorporated into permits and
14 authorizations issued pursuant to chapter 253, chapter 370,
15 chapter 373, or chapter 403, when incorporating such
16 provisions is in accordance with the aquaculture permit
17 consolidation procedures. No separate issuance of a special
18 activities license is required when conditions and specific
19 management practices are incorporated into permits or
20 authorizations under this paragraph. Implementation of this
21 section to consolidate permitting actions does not constitute
22 rules within the meaning of s. 120.52.

23 (g) Notwithstanding the provisions of subsection (6),
24 special activity licenses issued pursuant to this section
25 shall be for terms not to exceed 20 years.

26 Section 3. Subsections (1), (2), and (5) of section
27 370.081, Florida Statutes, are amended to read:

28 370.081 Illegal importation or possession of
29 nonindigenous marine plants and animals; rules and
30 regulations.--

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1 (1) It is unlawful to import or possess any marine
2 plant or marine animal, not indigenous to the state, which,
3 due to the stimulating effect of the waters of the state on
4 procreation, may endanger or infect the marine resources of
5 the state or pose a human health hazard, except as provided in
6 this section ~~subsection (4)~~.

7 (2) Marine animals not to be imported shall include,
8 but are not limited to, all species of the following:

9 (a) Sea snakes (Family Hydrophiidae), except as
10 provided in subsection (4);

11 ~~(b) Rabbitfishes (Family Siganidae);~~

12 (b)(c) Weeverfishes (Family Trachinidae); and

13 (c)(d) Stonefishes (Genus Synanceja).

14 (5) It is unlawful to release into the waters of the
15 state any nonindigenous saltwater species ~~marine plant or~~
16 ~~marine animal~~ whether or not included in subsection (2) or
17 prohibited by rules and regulations adopted pursuant to
18 subsection (3) or authorized by subsection (4).

19 Section 4. Subsection (2) of section 370.10, Florida
20 Statutes, is amended to read:

21 370.10 Crustacea, marine animals, fish; regulations;
22 general provisions.--

23 (2) TAKING SALTWATER SPECIES ~~ANIMALS~~ FOR EXPERIMENTAL,
24 SCIENTIFIC, EDUCATION, AND EXHIBITION ~~EXHIBITIONAL~~
25 PURPOSES.--Notwithstanding any other provisions of general or
26 special law to the contrary, the department may authorize
27 ~~issue permits~~, upon such terms, conditions, and restrictions
28 as it may prescribe by rule, ~~to any properly accredited person~~
29 to harvest or permitting him or her to collect and possess
30 indigenous or nonindigenous saltwater species animals for
31 experimental, scientific, education, and exhibition

1 ~~exhibitional~~ purposes. Such authorizations ~~permits~~ may allow
2 collection of specimens without regard to, and not limited to,
3 size, seasonal closure, collection method, reproductive state,
4 or bag limit. Authorizations ~~Permits~~ issued under the
5 provisions of this section may be suspended or revoked by the
6 department if it finds that the person ~~permitholder~~ has
7 violated this section, department rules or orders, or terms or
8 conditions of the authorization ~~permit~~ or has submitted false
9 or inaccurate information in his or her application.

10 Section 5. Subsection (12) of section 370.16, Florida
11 Statutes, is amended to read:

12 370.16 Oysters and shellfish; regulation.--

13 (12) PROTECTION OF OYSTER AND CLAM REEFS AND
14 SHELLFISH.--

15 (a) The Division of Marine Resources shall improve,
16 enlarge, and protect the natural oyster and clam reefs of this
17 state to the extent it may deem advisable and the means at its
18 disposal will permit.

19 (b) The division shall also, to the same extent,
20 assist in protecting shellfish aquaculture products produced
21 on the leased or granted reefs in the hands of lessees or
22 grantees from the state. Harvesting shellfish is prohibited
23 within a distance of 25 feet surrounding lawfully marked lease
24 boundaries or within setback and access corridors within
25 specifically designated high-density aquaculture lease areas
26 and aquaculture use zones.

27 (c) The division shall provide the Legislature
28 annually with recommendations for the development and the
29 proper protection of the rights of the state and private
30 holders therein with respect to the oyster and clam business.

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1 Section 6. Subsections (1) and (6) of section 370.26,
2 Florida Statutes, are amended to read:

3 370.26 Aquaculture definitions; marine aquaculture
4 products, and producers, and facilities.--

5 (1) As used in this section, the term:

6 (a) "Marine aquaculture facility" means a facility
7 built and operated for the purpose of producing marine
8 aquaculture products. Marine aquaculture facilities contain
9 culture systems such as, but not limited to, ponds, tanks,
10 raceways, cages, and bags used for commercial production,
11 propagation, growout, or product enhancement of marine
12 aquaculture products. Marine aquaculture facilities
13 specifically do not include:

14 1. Facilities that maintain marine aquatic organisms
15 exclusively for the purpose of shipping, distribution,
16 marketing, or wholesale and retail sales;

17 2. Facilities that maintain marine aquatic organisms
18 for noncommercial, education, exhibition, or scientific
19 purposes;

20 3. Facilities that do not require an aquaculture
21 certification pursuant to s. 597.004; or

22 4. Facilities used by marine aquarium hobbyists.

23 (b)(a) "Marine aquaculture producer" means a person
24 holding an aquaculture certificate pursuant to s. 597.004 to
25 produce marine aquaculture products for sale.

26 (c)(b) "Marine aquaculture product" means any product
27 derived from marine aquatic organisms that are owned and
28 propagated and grown or produced under controlled conditions
29 by a person holding an aquaculture certificate pursuant to s.
30 597.004. Such product does not include organisms harvested
31 from the wild for depuration, wet storage, or relayed for the

1 purpose of controlled purification. Marine aquaculture
2 products are considered saltwater products for the purposes of
3 this chapter, except the holder of an aquaculture certificate
4 is not required to purchase and possess a saltwater products
5 license in order to possess, transport, or sell marine
6 aquaculture products pursuant to s. 370.06. To renew an
7 existing restricted species endorsement, marine aquaculture
8 producers possessing a valid saltwater products license with a
9 restricted species endorsement may apply income from the sales
10 of marine aquaculture products. Income from the sales of
11 marine aquaculture products shall not be eligible for the
12 purpose of acquiring a new restricted species endorsement.The
13 holder of an aquaculture certificate must purchase and possess
14 a saltwater products license in order to possess, transport,
15 or ~~and~~ sell saltwater products not specifically provided for
16 in s. 597.004.

17 (6) Until ~~such time that~~ aquaculture general permits
18 under s. 403.814 ~~s. 403.088~~ can be expanded and developed, the
19 department shall establish criteria to temporarily permit
20 aquaculture activities that may be presumed not to result in
21 adverse environmental impacts. The criteria developed pursuant
22 to this subsection do not constitute rules within the meaning
23 of s. 120.52.Permit application fees under this subsection
24 shall be no more than that established for a general permit.
25 The department may delegate to the water management districts
26 the regulatory authority for aquaculture facilities subject to
27 the temporary general permitting criteria of this subsection.
28 During the period prior to development of a general permit
29 under s. 403.814 ~~s. 403.088~~, the department shall establish a
30 compliance plan based on monitoring results that will assist
31 in the development of the general permit.

1 Section 7. Subsection (5) of section 373.046, Florida
2 Statutes, is amended to read:

3 373.046 Interagency agreements.--

4 (5) Notwithstanding the provisions of s. 403.927, when
5 any operating agreement is developed pursuant to subsection
6 (4):

7 (a) The department shall have regulatory
8 responsibility under part IV of this chapter for:

9 1. All marine and estuarine aquaculture activities
10 located entirely in wetlands or other surface waters on
11 ~~sovereignty submerged land or in the water column above such~~
12 ~~land~~ and adjacent facilities directly related to the
13 aquaculture activity.

14 ~~2. Marine and estuarine aquaculture activities that do~~
15 ~~not require a consumptive use permit under part II of this~~
16 ~~chapter.~~

17 ~~2.3.~~ Aquaculture activities that exceed the thresholds
18 or are otherwise ineligible for aquaculture general permits
19 authorized pursuant to ss. 370.26 and 403.814 ~~403.088~~.

20 ~~3.4.~~ Aquaculture activities within the Northwest
21 Florida Water Management District.

22 (b) Water management districts shall have regulatory
23 responsibility under part IV of this chapter for aquaculture
24 activities not retained by the department in paragraph (a).

25 (c) Upon agreement by the applicant, the department,
26 and the applicable water management district, the department
27 and water management district may reassign ~~deviate from~~ the
28 regulatory responsibilities described in paragraphs (a) and
29 (b), based on the specific aquaculture operation, to achieve a
30 more efficient and effective permitting process.

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1 Section 8. Subsection (8) of section 403.814, Florida
2 Statutes, is repealed, present subsections (9) and (10) of
3 that section are amended and redesignated as subsections (8)
4 and (9), respectively, and new subsection (10) is added to
5 that section, to read:

6 403.814 General permits; delegation.--

7 ~~(8)(9)~~ An aquaculture general permit ~~under s. 403.088~~
8 shall be established for the ~~freshwater~~ cultivation of ~~fish~~
9 ~~and other~~ aquatic species animals, except alligators, ~~in~~
10 ~~upland aquaculture facilities~~.

11 ~~(9)(10)~~ The authority to issue or deny and ensure
12 compliance with general permits developed by the department
13 pursuant to subsection ~~subsections~~ (8) ~~and (9)~~ for aquaculture
14 facilities is hereby delegated to the water management
15 districts when they have regulatory responsibility for the
16 facility pursuant to s. 373.046 project.

17 (10) Upon agreement by the applicant, the department,
18 and the applicable water management district, the department
19 and water management district may reassign the regulatory
20 responsibilities described in s. 373.046(5)(a) and (b), based
21 on the specific aquaculture operation, to achieve a more
22 efficient and effective permitting process.

23 Section 9. Paragraph (i) is added to subsection (3) of
24 section 597.005, Florida Statutes, to read:

25 597.005 Aquaculture Review Council.--

26 (3) RESPONSIBILITIES.--The primary responsibilities of
27 the Aquaculture Review Council are to:

28 (i) Provide the President of the Senate, the Speaker
29 of the House of Representatives, the chairs of legislative
30 committees having primary jurisdiction over either the subject
31 of aquaculture or the budget of the Department of Agriculture

1 and Consumer Services, by August 1 of each year, a list of
2 prioritized research needs critical to development of the
3 aquaculture industry.

4 Section 10. This act shall take effect July 1 of the
5 year in which enacted.

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8 LEGISLATIVE SUMMARY

9
10 Establishes wild harvest setbacks from shellfish leases.
11 Authorizes issuance of special activity licenses for use
12 of special gear or equipment and the importation and
13 possession of sturgeon and nonindigenous saltwater
14 species. Authorizes permit consolidation procedures.
15 Authorizes harvesting or possession of saltwater species
16 for experimental, scientific, education, and exhibition
17 purposes. Authorizes delegation of regulatory authority
18 for certain aquaculture facilities. Clarifies
19 jurisdiction over aquaculture activities and provisions
20 relating to aquaculture general permits. Provides for a
21 list of prioritized research needs for development of the
22 aquaculture industry.
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