

By the Committee on Natural Resources and Senators Bronson and Hargrett

312-2091A-98

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.
22 372.6672, F.S.; removing obsolete provisions
23 relating to state-sanctioned sales of alligator
24 hides; amending s. 372.6673, F.S.; providing
25 for a portion of the fees assessed for
26 alligator egg collection permits to be
27 transferred to the General Inspection Trust
28 Fund to be used for certain purposes; amending
29 s. 372.6674, F.S.; providing for a portion of
30 the fees assessed for alligator hide validation
31 tags to be transferred to the General

1 Inspection Trust Fund to be used for certain
2 purposes; amending s. 373.046, F.S.; clarifying
3 jurisdiction over aquaculture activities;
4 amending s. 403.814, F.S.; clarifying
5 provisions relating to aquaculture general
6 permits; amending s. 597.005, F.S.; providing
7 for a list of prioritized research needs;
8 providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Subsection (3) is added to section 253.72,
13 Florida Statutes, to read:

14 253.72 Marking of leased areas; restrictions on public
15 use.--

16 (3) To assist in protecting shellfish aquaculture
17 products produced on leases authorized pursuant to this
18 chapter and chapter 370, harvesting shellfish is prohibited
19 within a distance of 25 feet outside lawfully marked lease
20 boundaries or within setback and access corridors within
21 specifically designated high-density aquaculture lease areas
22 and aquaculture use zones.

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

25 370.06 Licenses.--

26 (4) SPECIAL ACTIVITY LICENSES.--

27 (a) A special activity license is required for any
28 person to use gear or equipment not authorized in this chapter
29 or rule of the Marine Fisheries Commission for harvesting
30 saltwater species. In accordance with this chapter, s. 16,
31 Art. X of the State Constitution, and rules of the Marine

1 Fisheries Commission, the department may issue special
2 activity licenses for the use of nonconforming gear or
3 equipment, including, but not limited to, trawls, seines and
4 entangling nets, traps, and hook and line gear, to be used in
5 harvesting saltwater species for scientific and governmental
6 purposes, and where allowable, for innovative fisheries. The
7 department may prescribe by rule application requirements and
8 terms, conditions, and restrictions to be incorporated into
9 each special activity license. This subsection does not apply
10 to gear or equipment used by certified marine aquaculturists
11 to harvest marine aquaculture products.~~Any person who seeks~~
12 ~~to use special gear or equipment in harvesting saltwater~~
13 ~~species must purchase a special activity license as specified~~
14 ~~by law to engage in such activities. The department may issue~~
15 ~~special activity licenses, in accordance with s. 370.071, to~~
16 ~~permit the cultivation of oysters, clams, mussels, and crabs~~
17 ~~when such aquaculture activities relate to quality control,~~
18 ~~sanitation, and public health regulations. The department may~~
19 ~~prescribe by rule special terms, conditions, and restrictions~~
20 ~~for any special activity license.~~

21 (b) The department is authorized to issue special
22 activity licenses in accordance with this section and s.
23 370.31, to permit the importation, possession, and aquaculture
24 of anadromous sturgeon. The special activity license shall
25 provide for specific ~~best~~ management practices to prevent the
26 release and escape of cultured anadromous sturgeon and to
27 protect indigenous populations of saltwater species ~~from~~
28 ~~sturgeon-borne disease.~~

29 (c) The department may issue special activity
30 licenses, in accordance with s. 370.071, to permit the harvest
31 or cultivation of oysters, clams, mussels, and crabs when such

1 activities relate to quality control, sanitation, public
2 health regulations, innovative technologies for aquaculture
3 activities, or the protection of shellfish resources provided
4 in this chapter.

5 (d) The department is authorized to issue special
6 activity licenses in accordance with ss. 370.06, 370.071, and
7 370.101, aquaculture permit consolidation procedures in s.
8 370.26(3)(a), and rules of the Marine Fisheries Commission to
9 permit the capture and possession of saltwater species
10 protected by law and used as stock for artificial cultivation
11 and propagation.

12 (e) The department is authorized to issue special
13 activity licenses in accordance with this section, s. 370.081,
14 and aquaculture permit consolidation procedures in s.
15 370.26(3)(a) to permit the importation and possession of
16 nonindigenous saltwater species for the production of marine
17 aquaculture products in marine aquaculture facilities. The
18 license shall provide specific management practices to prevent
19 the release and escape of cultured species and to protect
20 indigenous populations of saltwater species and aquaculture
21 facilities.

22 (f) The conditions and specific management practices
23 established in this section may be set forth in special
24 activity licenses or may be incorporated into permits and
25 authorizations issued pursuant to chapter 253, chapter 370,
26 chapter 373, or chapter 403, when incorporating such
27 provisions is in accordance with the aquaculture permit
28 consolidation procedures. No separate issuance of a special
29 activities license is required when conditions and specific
30 management practices are incorporated into permits or
31 authorizations under this paragraph. Implementation of this

1 section to consolidate permitting actions does not constitute
2 rules within the meaning of s. 120.52.

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

6 Section 3. Subsections (1), (2), and (5) of section
7 370.081, Florida Statutes, are amended to read:

8 370.081 Illegal importation or possession of
9 nonindigenous marine plants and animals; rules and
10 regulations.--

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

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

19 (a) Sea snakes (Family Hydrophiidae), except as
20 provided in subsection (4);

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

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

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

24 (5) It is unlawful to release into the waters of the
25 state any nonindigenous saltwater species ~~marine plant or~~
26 ~~marine animal~~ whether or not included in subsection (2) or
27 prohibited by rules and regulations adopted pursuant to
28 subsection (3) or authorized by subsection (4); except that
29 the department may authorize the importation or possession of
30 nonindigenous saltwater species within the state for
31 aquaculture purposes in accordance with s. 370.06 when the

1 marine aquaculture facility plan and project description
2 address specific management practices to reduce the risk of
3 nonindigenous organisms, their larvae, gametes, or associated
4 pathogens from being released into waters of the state and are
5 approved by the department. Project descriptions must:

6 (a) Identify the species and source of nonindigenous
7 species to be imported into the state;

8 (b) Document that all nonindigenous species to be
9 imported will not pose a threat to indigenous populations of
10 saltwater species and aquaculture facilities;

11 (c) Specify management practices to prevent escape of
12 stocks, gametes, and associated pathogens into waters of the
13 state; and

14 (d) Include an appropriate contingency plan for
15 disposing of diseased organisms and for managing stocks in
16 catastrophic events such as flood, tropical storms, and
17 hurricanes.

18
19 Any application pursuant to chapter 369, chapter 370, chapter
20 373, chapter 403, or chapter 597 which may result in the
21 release of nonindigenous saltwater species into the waters of
22 the state is subject to the requirements of this section. The
23 marine aquaculture facility plan and project description that
24 are approved by the department shall be incorporated into
25 applicable permits and authorizations when such action is in
26 accordance with aquaculture permit consolidation procedures.
27 Implementation of this section to consolidate permitting does
28 not constitute rules within the meaning of s. 120.52.

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

31

1 370.10 Crustacea, marine animals, fish; regulations;
2 general provisions.--

3 (2) TAKING SALTWATER SPECIES ~~ANIMALS~~ FOR EXPERIMENTAL,
4 SCIENTIFIC, EDUCATION, AND EXHIBITION ~~EXHIBITIONAL~~
5 PURPOSES.--Notwithstanding any other provisions of general or
6 special law to the contrary, the department may authorize
7 ~~issue permits~~, upon such terms, conditions, and restrictions
8 as it may prescribe by rule, ~~to~~ any properly accredited person
9 to harvest or permitting him or her to collect and possess
10 indigenous or nonindigenous saltwater species animals for
11 experimental, scientific, education, and exhibition
12 ~~exhibitional~~ purposes. Such authorizations ~~permits~~ may allow
13 collection of specimens without regard to, and not limited to,
14 size, seasonal closure, collection method, reproductive state,
15 or bag limit. Authorizations ~~Permits~~ issued under the
16 provisions of this section may be suspended or revoked by the
17 department if it finds that the person ~~permitholder~~ has
18 violated this section, department rules or orders, or terms or
19 conditions of the authorization ~~permit~~ or has submitted false
20 or inaccurate information in his or her application.

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

23 370.16 Oysters and shellfish; regulation.--

24 (12) PROTECTION OF OYSTER AND CLAM REEFS AND
25 SHELLFISH.--

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

30 (b) The division shall also, to the same extent,
31 assist in protecting shellfish aquaculture products produced

1 on the leased or granted reefs in the hands of lessees or
2 grantees from the state. Harvesting shellfish is prohibited
3 within a distance of 25 feet outside lawfully marked lease
4 boundaries or within setback and access corridors within
5 specifically designated high-density aquaculture lease areas
6 and aquaculture use zones.

7 (c) The division shall provide the Legislature
8 annually with recommendations for the development and the
9 proper protection of the rights of the state and private
10 holders therein with respect to the oyster and clam business.

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

13 370.26 Aquaculture definitions; marine aquaculture
14 products, ~~and~~ producers, and facilities.--

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

16 (a) "Marine aquaculture facility" means a facility
17 built and operated for the purpose of producing marine
18 aquaculture products. Marine aquaculture facilities contain
19 culture systems such as, but not limited to, ponds, tanks,
20 raceways, cages, and bags used for commercial production,
21 propagation, growout, or product enhancement of marine
22 aquaculture products. Marine aquaculture facilities
23 specifically do not include:

24 1. Facilities that maintain marine aquatic organisms
25 exclusively for the purpose of shipping, distribution,
26 marketing, or wholesale and retail sales;

27 2. Facilities that maintain marine aquatic organisms
28 for noncommercial, education, exhibition, or scientific
29 purposes;

30 3. Facilities in which the activity does not require
31 an aquaculture certification pursuant to s. 597.004; or

1 4. Facilities used by marine aquarium hobbyists.
2 **(b)(a)** "Marine aquaculture producer" means a person
3 holding an aquaculture certificate pursuant to s. 597.004 to
4 produce marine aquaculture products for sale.
5 **(c)(b)** "Marine aquaculture product" means any product
6 derived from marine aquatic organisms that are owned and
7 propagated, and grown, or produced under controlled conditions
8 by a person holding an aquaculture certificate pursuant to s.
9 597.004. Such product does not include organisms harvested
10 from the wild for depuration, wet storage, or relayed for the
11 purpose of controlled purification. Marine aquaculture
12 products are considered saltwater products for the purposes of
13 this chapter, except the holder of an aquaculture certificate
14 is not required to purchase and possess a saltwater products
15 license in order to possess, transport, or sell marine
16 aquaculture products pursuant to s. 370.06. To renew an
17 existing restricted species endorsement, marine aquaculture
18 producers possessing a valid saltwater products license with a
19 restricted species endorsement may apply income from the sales
20 of marine aquaculture products to licensed wholesale dealers.
21 Income from the sales of marine aquaculture products shall not
22 be eligible for the purpose of acquiring a new restricted
23 species endorsement.The holder of an aquaculture certificate
24 must purchase and possess a saltwater products license in
25 order to possess, transport, or ~~and~~ sell saltwater products
26 not specifically provided for in s. 597.004.
27 (6) Until ~~such time that~~ aquaculture general permits
28 under s. 403.814 ~~s. 403.088~~ can be expanded and developed, the
29 department shall establish criteria to temporarily permit
30 aquaculture activities that may be presumed not to result in
31 adverse environmental impacts. The criteria developed pursuant

1 to this subsection do not constitute rules within the meaning
2 of s. 120.52. Permit application fees under this subsection
3 shall be no more than that established for a general permit.
4 The department may delegate to the water management districts
5 the regulatory authority for aquaculture facilities subject to
6 the temporary general permitting criteria of this subsection.
7 During the period prior to development of a general permit
8 under s. 403.814 ~~s. 403.088~~, the department shall establish a
9 compliance plan based on monitoring results that will assist
10 in the development of the general permit.

11 Section 7. Subsections (3) and (4) of section
12 372.6672, Florida Statutes, are amended to read:

13 372.6672 Alligator management and trapping program
14 implementation; commission authority.--

15 ~~(3) The commission shall provide adequate notice of~~
16 ~~state-sanctioned sales and may maintain a list of known hide~~
17 ~~buyers and provide notice of state sales by mail. Nothing~~
18 ~~herein shall authorize the commission to engage in marketing~~
19 ~~or promotion of the sale of alligator hides or products other~~
20 ~~than by providing the public notice described herein. The~~
21 ~~commission is authorized to market alligator hides or products~~
22 ~~obtained as a result of its law enforcement actions or its~~
23 ~~nuisance alligator control programs.~~

24 (3)(4) The powers and duties of the commission
25 hereunder shall not be construed so as to supersede the
26 regulatory authority or lawful responsibility of the
27 Department of Health and Rehabilitative Services, the
28 Department of Agriculture and Consumer Services, or any local
29 governmental entity regarding the processing or handling of
30 food products, but shall be deemed supplemental thereto.

31

1 Section 8. Subsection (4) of section 372.6673, Florida
2 Statutes, is amended to read:

3 372.6673 Taking and possession of alligators; trapping
4 licenses; fees.--

5 (4) No person shall take any alligator egg occurring
6 in the wild or possess any such egg unless such person has
7 obtained, or is a licensed agent of another person who has
8 obtained, an alligator egg collection permit. The alligator
9 egg collection permit shall be required in addition to the
10 alligator farming license provided in paragraph (2)(d). The
11 commission is authorized to assess a fee for issuance of the
12 alligator egg collection permit of up to \$5 per egg authorized
13 to be taken or possessed pursuant to such permit, of which \$1
14 per egg, excluding eggs collected on private wetland
15 management areas, may be transferred to the General Inspection
16 Trust Fund, to be administered by the Department of
17 Agriculture and Consumer Services for the purpose of providing
18 marketing and education services with respect to alligator
19 products produced in this state, notwithstanding other
20 provisions in this chapter.

21 Section 9. Subsection (2) of section 372.6674, Florida
22 Statutes, is amended to read:

23 372.6674 Required tagging of alligators and hides;
24 fees; revenues.--The tags provided in this section shall be
25 required in addition to any license required under s.
26 372.6673.

27 (2) The commission may require that an alligator hide
28 validation tag be affixed to the hide of any alligator taken
29 from the wild and that such hide be possessed, purchased,
30 sold, offered for sale, or transported in accordance with
31 commission rule. The commission is authorized to assess a fee

1 of up to \$30 for each alligator hide validation tag issued, of
2 which \$5 per validated hide, excluding those validated from
3 public hunt programs, may be transferred to the General
4 Inspection Trust Fund, to be administered by the Department of
5 Agriculture and Consumer Services for the purpose of providing
6 marketing and education services with respect to alligator
7 products produced in this state, notwithstanding other
8 provisions in this chapter.

9 Section 10. Subsection (5) of section 373.046, Florida
10 Statutes, is amended to read:

11 373.046 Interagency agreements.--

12 (5) Notwithstanding the provisions of s. 403.927, when
13 any operating agreement is developed pursuant to subsection
14 (4):

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

17 1. All saltwater aquaculture activities ~~located on~~
18 ~~sovereignty submerged land or in the water column above such~~
19 ~~land and adjacent facilities directly related to the~~
20 ~~aquaculture activity.~~

21 2. ~~Marine and estuarine aquaculture activities that do~~
22 ~~not require a consumptive use permit under part II of this~~
23 ~~chapter.~~

24 ~~2.3.~~ Aquaculture activities that exceed the thresholds
25 or do not meet all the criteria for aquaculture general
26 permits authorized pursuant to ss. 370.26 and 403.814 ~~403.088~~.

27 ~~3.4.~~ Aquaculture activities within the Northwest
28 Florida Water Management District.

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

1 (c) Upon agreement by the applicant, the department,
2 and the applicable water management district, the department
3 and water management district may reassign ~~deviate from~~ the
4 regulatory responsibilities described in paragraphs (a) and
5 (b), based on the specific aquaculture operation, to achieve a
6 more efficient and effective permitting process.

7 Section 11. Subsection (8) of section 403.814, Florida
8 Statutes, is repealed, present subsections (9) and (10) of
9 that section are amended and redesignated as subsections (8)
10 and (9), respectively, and new subsection (10) is added to
11 that section, to read:

12 403.814 General permits; delegation.--

13 ~~(8)(9)~~ An aquaculture general permit ~~under s. 403.088~~
14 shall be established for the ~~freshwater~~ cultivation of ~~fish~~
15 ~~and other~~ aquatic species ~~animals~~, except alligators, ~~in~~
16 ~~upland aquaculture facilities~~.

17 ~~(9)(10)~~ The authority to issue or deny general permits
18 developed by the department pursuant to subsection ~~subsections~~
19 (8) ~~and (9)~~ for aquaculture facilities is hereby delegated to
20 the water management districts when they have regulatory
21 responsibility for the facility pursuant to s. 373.046
22 ~~project~~.

23 (10) Upon agreement by the applicant, the department,
24 and the applicable water management district, the department
25 and water management district may reassign the regulatory
26 responsibilities described in s. 373.046(5)(a) and (b), based
27 on the specific aquaculture operation, to achieve a more
28 efficient and effective permitting process.

29 Section 12. Paragraph (i) is added to subsection (3)
30 of section 597.005, Florida Statutes, to read:

31 597.005 Aquaculture Review Council.--

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

3 (i) Provide the Governor, the President of the Senate,
4 the Speaker of the House of Representatives, the chairs of
5 legislative committees having primary jurisdiction over either
6 the subject of aquaculture or the budget of the Department of
7 Agriculture and Consumer Services, by August 1 of each year, a
8 list of prioritized research needs critical to development of
9 the aquaculture industry.

10 Section 13. This act shall take effect July 1, 1998.

11
12 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
13 COMMITTEE SUBSTITUTE FOR
14 SB 1924

15 The committee substitute provides the Department of
16 Environmental Protection may authorize the importation or
17 possession of nonindigenous saltwater species for aquaculture
18 purposes when the facility plan and project description
19 address specific management practices to reduce the risk of
20 release of nonindigenous species. Specifies the term "marine
21 aquaculture facilities" does not include facilities in which
22 the activity does not require an aquaculture certification
23 pursuant to s. 597.004, F.S. Requires a marine aquaculture
24 producer renewing an existing restricted species endorsement
25 to only apply income from the sales of marine aquaculture
26 products to licensed wholesale dealers.

27 The committee substitute deletes obsolete language relating to
28 the department's state-sanctioned sale of alligator hides.
29 Provides that a portion of alligator egg collection permits
30 and hide validation tags may be transferred to the General
31 Inspection Trust Fund to be used by the department for
marketing and education services relating to alligator
products produced in Florida.