

By Representative Bronson

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 special  
6           activity licenses for the use of special gear  
7           or equipment and the importation and possession  
8           of sturgeon and nonindigenous saltwater  
9           species; authorizing permit consolidation  
10          procedures; providing activity license terms;  
11          amending s. 370.081, F.S.; revising provisions  
12          relating to the importation of nonindigenous  
13          marine plants and animals; amending s. 370.10,  
14          F.S.; authorizing the harvesting or possession  
15          of saltwater species for experimental,  
16          scientific, education, and exhibition purposes;  
17          amending s. 370.16, F.S.; establishing wild  
18          harvest setbacks from shellfish leases;  
19          amending s. 370.26, F.S.; defining the term  
20          "marine aquaculture facility" and revising  
21          definition of the term "marine aquaculture  
22          product"; authorizing delegation of regulatory  
23          authority for certain aquaculture facilities;  
24          amending s. 373.046, F.S.; clarifying  
25          jurisdiction over aquaculture activities;  
26          amending s. 403.814, F.S.; clarifying  
27          provisions relating to aquaculture general  
28          permits; amending s. 597.005, F.S.; providing  
29          for a list of prioritized research needs;  
30          providing an effective date.  
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1 Be It Enacted by the Legislature of the State of Florida:

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

5 253.72 Marking of leased areas; restrictions on public  
6 use.--

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

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

16 370.06 Licenses.--

17 (4) SPECIAL ACTIVITY LICENSES.--

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

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

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

20 (c) The department is authorized to issue special  
21 activity licenses in accordance with this section, s. 370.081,  
22 and aquaculture permit consolidation procedures in s.  
23 370.26(3)(a) to permit the importation and possession of  
24 nonindigenous saltwater species for the production of marine  
25 aquaculture products in marine aquaculture facilities. The  
26 license shall provide specific management practices to prevent  
27 the release and escape of cultured species and to protect  
28 indigenous populations of saltwater species and aquaculture  
29 facilities.

30 (d) The conditions and specific management practices  
31 established in this section may be set forth in special

1 activity licenses or may be incorporated into permits and  
2 authorizations issued pursuant to chapter 253, chapter 370,  
3 chapter 373, or chapter 403, when incorporating such  
4 provisions is in accordance with the aquaculture permit  
5 consolidation procedures. Implementation of this section to  
6 consolidate permitting actions does not constitute rules  
7 within the meaning of s. 120.52.

8 (e) Notwithstanding the provisions of subsection (6),  
9 special activity licenses issued pursuant to this section  
10 shall be for terms not to exceed 5 years.

11 Section 3. Subsections (1), (2), and (5) of section  
12 370.081, Florida Statutes, are amended to read:

13 370.081 Illegal importation or possession of  
14 nonindigenous marine plants and animals; rules and  
15 regulations.--

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

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

24 (a) Sea snakes (Family Hydrophiidae), except as  
25 provided in subsection (4);

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

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

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

29 (5) It is unlawful to release into the waters of the  
30 state any nonindigenous saltwater species ~~marine plant or~~  
31 ~~marine animal~~ whether or not included in subsection (2) or

1 prohibited by rules and regulations adopted pursuant to  
2 subsection (3) or authorized by subsection (4).

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

5 370.10 Crustacea, marine animals, fish; regulations;  
6 general provisions.--

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

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

27 370.16 Oysters and shellfish; regulation.--

28 (12) PROTECTION OF OYSTER AND CLAM REEFS AND  
29 SHELLFISH.--

30 (a) The Division of Marine Resources shall improve,  
31 enlarge, and protect the natural oyster and clam reefs of this

1 state to the extent it may deem advisable and the means at its  
2 disposal will permit.

3       **(b)** The division shall also, to the same extent,  
4 assist in protecting shellfish aquaculture products produced  
5 on the leased or granted reefs in the hands of lessees or  
6 grantees from the state. Harvesting shellfish is prohibited  
7 within a distance of 25 feet surrounding lawfully marked lease  
8 boundaries or within setback and access corridors within  
9 specifically designated high-density aquaculture lease areas  
10 and aquaculture use zones.

11       **(c)** The division shall provide the Legislature  
12 annually with recommendations for the development and the  
13 proper protection of the rights of the state and private  
14 holders therein with respect to the oyster and clam business.

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

17       370.26 Aquaculture definitions; marine aquaculture  
18 products, ~~and~~ producers, and facilities.--

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

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

28       1. Facilities that maintain marine aquatic organisms  
29 exclusively for the purpose of shipping, distribution,  
30 marketing, or wholesale and retail sales;

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1           2. Facilities that maintain marine aquatic organisms  
2 for noncommercial, education, exhibition, or scientific  
3 purposes;

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

6           4. Facilities used by marine aquarium hobbyists.

7           ~~(b)(a)~~ "Marine aquaculture producer" means a person  
8 holding an aquaculture certificate pursuant to s. 597.004 to  
9 produce marine aquaculture products for sale.

10           ~~(c)(b)~~ "Marine aquaculture product" means any product  
11 derived from marine aquatic organisms that are owned and  
12 propagated and grown or produced under controlled conditions  
13 by a person holding an aquaculture certificate pursuant to s.  
14 597.004. Such product does not include organisms harvested  
15 from the wild for depuration, wet storage, or relayed for the  
16 purpose of controlled purification. Marine aquaculture  
17 products are considered saltwater products for the purposes of  
18 this chapter, except the holder of an aquaculture certificate  
19 is not required to purchase and possess a saltwater products  
20 license in order to possess, transport, or sell marine  
21 aquaculture products pursuant to s. 370.06. To renew an  
22 existing restricted species endorsement, marine aquaculture  
23 producers possessing a valid saltwater products license with a  
24 restricted species endorsement may apply income from the sales  
25 of marine aquaculture products. Income from the sales of  
26 marine aquaculture products shall not be eligible for the  
27 purpose of acquiring a new restricted species endorsement.The  
28 holder of an aquaculture certificate must purchase and possess  
29 a saltwater products license in order to possess, transport,  
30 or ~~and~~ sell saltwater products not specifically provided for  
31 in s. 597.004.

1           (6) Until ~~such time that~~ aquaculture general permits  
2 under s. 403.088 can be expanded and developed, the department  
3 shall establish criteria to temporarily permit aquaculture  
4 activities that may be presumed not to result in adverse  
5 environmental impacts. The criteria developed pursuant to this  
6 subsection do not constitute rules within the meaning of s.  
7 120.52. Permit application fees under this subsection shall be  
8 no more than that established for a general permit. The  
9 department may delegate to the water management districts the  
10 regulatory authority for aquaculture facilities subject to the  
11 temporary general permitting criteria of this subsection.  
12 During the period prior to development of a general permit  
13 under s. 403.088, the department shall establish a compliance  
14 plan based on monitoring results that will assist in the  
15 development of the general permit.

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

18           373.046 Interagency agreements.--

19           (5) Notwithstanding the provisions of s. 403.927, when  
20 any operating agreement is developed pursuant to subsection  
21 (4):

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

24           1. All marine and estuarine aquaculture activities  
25 located entirely in wetlands or other surface waters ~~on~~  
26 ~~sovereignty submerged land or in the water column above such~~  
27 ~~land~~ and adjacent facilities directly related to the  
28 aquaculture activity.

29           ~~2. Marine and estuarine aquaculture activities that do~~  
30 ~~not require a consumptive use permit under part II of this~~  
31 ~~chapter.~~



1           2.3. Aquaculture activities that exceed the thresholds  
2 or are otherwise ineligible for aquaculture general permits  
3 authorized pursuant to ss. 370.26 and 403.088.

4           3.4. Aquaculture activities within the Northwest  
5 Florida Water Management District.

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

9           (c) Upon agreement by the applicant, the department,  
10 and the applicable water management district, the department  
11 and water management district may reassign ~~deviate from~~ the  
12 regulatory responsibilities described in paragraphs (a) and  
13 (b), based on the specific aquaculture operation, to achieve a  
14 more efficient and effective permitting process.

15           Section 8. Subsections (8), (9), and (10) of section  
16 403.814, Florida Statutes, are amended to read:

17           403.814 General permits; delegation.--

18           ~~(8) An aquaculture general permit under s. 403.088~~  
19 ~~shall be established for the saltwater cultivation of fish and~~  
20 ~~other marine organisms, except alligators, in upland~~  
21 ~~aquaculture facilities.~~

22           (8)(9) An aquaculture general permit under s. 403.088  
23 shall be established for the freshwater cultivation of fish  
24 ~~and other~~ aquatic species animals, except alligators, ~~in~~  
25 ~~upland aquaculture facilities.~~

26           (9)(10) The authority to issue or deny and ensure  
27 compliance with general permits developed by the department  
28 pursuant to subsection ~~subsections~~ (8) ~~and (9)~~ for aquaculture  
29 facilities is hereby delegated to the water management  
30 districts when they have regulatory responsibility for the  
31 facility pursuant to s. 373.046 project.

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

3 597.005 Aquaculture Review Council.--

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

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

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

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17 HOUSE SUMMARY

18 Establishes wild harvest setbacks from shellfish leases.  
19 Authorizes issuance of special activity licenses for use  
20 of special gear or equipment and the importation and  
21 possession of sturgeon and nonindigenous saltwater  
22 species. Authorizes permit consolidation procedures.  
23 Authorizes harvesting or possession of saltwater species  
24 for experimental, scientific, education, and exhibition  
25 purposes. Authorizes delegation of regulatory authority  
26 for certain aquaculture facilities. Clarifies  
27 jurisdiction over aquaculture activities and provisions  
28 relating to aquaculture general permits. Provides for a  
29 list of prioritized research needs for development of the  
30 aquaculture industry.  
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