

1                                   A bill to be entitled  
2           An act relating to implementing the 1998-1999  
3           General Appropriations Act in the area of  
4           general government; providing legislative  
5           intent; amending s. 376.11, F.S.; appropriating  
6           certain funds from the Florida Coastal  
7           Protection Trust Fund for the purpose of  
8           funding beach renourishment and restoration and  
9           inlet management; amending s. 212.20, F.S.;  
10          providing for use of moneys allocated to the  
11          Solid Waste Management Trust Fund; providing  
12          for transfer of powers and duties relating to  
13          regulation of aquatic plant control from the  
14          Department of Environmental Protection to the  
15          Game and Fresh Water Fish Commission; providing  
16          for continuation of certain rules; providing a  
17          grandfather provision for persons permitted  
18          prior to the transfer; amending s. 206.606,  
19          F.S.; providing for transfer of certain funds  
20          each fiscal year to the Game and Fresh Water  
21          Fish Commission for aquatic plant management;  
22          amending ss. 369.20, 369.22, 369.25, 369.251,  
23          and 369.252, F.S., relating to regulation of  
24          aquatic plant control, to conform; amending s.  
25          581.145, F.S.; revising a reference, to  
26          conform; amending s. 370.027, F.S.; providing  
27          an exception to rulemaking authority of the  
28          Marine Fisheries Commission with respect to  
29          specified marine life; providing that marine  
30          aquaculture producers shall be regulated by the  
31          Department of Agriculture and Consumer

1 Services; amending s. 370.06, F.S.; revising  
 2 provisions relating to issuance and renewal of  
 3 saltwater products licenses and special  
 4 activity licenses; amending s. 370.26, F.S.,  
 5 relating to aquaculture definitions; defining  
 6 the term "marine aquaculture facility";  
 7 deleting requirements of an Aquaculture Section  
 8 in the Department of Environmental Protection;  
 9 providing duties of the Department of  
 10 Agriculture and Consumer Services; authorizing  
 11 delegation of regulatory authority for certain  
 12 aquaculture facilities; amending s. 372.0225,  
 13 F.S.; revising responsibilities of the Division  
 14 of Fisheries of the Game and Fresh Water Fish  
 15 Commission relating to freshwater organisms;  
 16 amending s. 372.65, F.S.; authorizing exemption  
 17 for freshwater fish dealer's license; amending  
 18 s. 372.6672, F.S.; defining the term "wild  
 19 alligator" for purposes of management and  
 20 trapping; amending s. 403.0885, F.S.; providing  
 21 exemptions from the state National Pollutant  
 22 Discharge Elimination System program; amending  
 23 s. 597.002, F.S.; clarifying jurisdiction over  
 24 aquaculture activities; amending s. 597.003,  
 25 F.S.; expanding the powers and duties of the  
 26 Department of Agriculture and Consumer  
 27 Services; amending s. 597.004, F.S.; revising  
 28 provisions relating to aquaculture certificate  
 29 of registration; providing for providing effect  
 30 of veto of specific appropriation or proviso to  
 31 which implementing language refers; providing

1 applicability to other legislation; providing  
2 severability; providing an effective date.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
6 Section 1. It is the intent of the Legislature that  
7 the implementing and administering provisions of this act  
8 apply to the fiscal year 1998-1999 General Appropriations Act  
9 in the area of general government.

10 Section 2. In order to implement Specific  
11 Appropriation 1358 of the 1998-1999 General Appropriations  
12 Act, subsection (7) of section 376.11, Florida Statutes, is  
13 amended to read:

14 376.11 Florida Coastal Protection Trust Fund.--  
15 (7) Notwithstanding subsection (4), for the 1998-1999  
16 ~~1997-1998~~ fiscal year only, up to ~~\$17~~\$11.5 million may be  
17 appropriated from the fund for the purpose of funding  
18 statewide beach renourishment, restoration, and inlet  
19 management plans. This subsection expires July 1, 1999 ~~1998~~.

20 Section 3. In order to implement Specific  
21 Appropriation 1299 of the 1998-1999 General Appropriations  
22 Act, subsection (7) of section 212.20, Florida Statutes, is  
23 amended to read:

24 212.20 Funds collected, disposition; additional powers  
25 of department; operational expense; refund of taxes  
26 adjudicated unconstitutionally collected.--

27 (7) For the 1998-1999 ~~1997-1998~~ fiscal year only, the  
28 use of funds allocated to the Solid Waste Management Trust  
29 Fund shall be as provided in the General Appropriations Act.  
30 There is transferred \$10~~\$6~~ million for the surface water  
31 improvement and management program ~~and \$6 million for the~~

1 ~~aquatic weed control program~~ from revenues provided by this  
2 section. This subsection expires July 1, 1999 ~~1998~~.

3 Section 4. All powers, duties, and functions, rules,  
4 records, personnel, property, and unexpended balances of  
5 appropriations, allocations, or other funds of the Department  
6 of Environmental Protection relating to aquatic plant control  
7 are transferred by a type two transfer, as defined in s.  
8 20.06(2), Florida Statutes, from the Department of  
9 Environmental Protection to the Game and Fresh Water Fish  
10 Commission. The rules of the Department of Environmental  
11 Protection that regulate aquatic plant control remain in  
12 effect until the Game and Fresh Water Fish Commission has  
13 adopted rules to supersede those of the Department of  
14 Environmental Protection.

15 Section 5. A person permitted by the Department of  
16 Environmental Protection under any provision of part I of  
17 chapter 369, Florida Statutes, relating to aquatic plant  
18 control, as of the effective date of this act shall be deemed  
19 to be permitted by the Game and Fresh Water Fish Commission  
20 until the expiration of the term of the person's permit.

21 Section 6. Subsection (1) of section 206.606, Florida  
22 Statutes, is amended to read:

23 206.606 Distribution of certain proceeds.--

24 (1) Moneys collected pursuant to ss. 206.41(1)(g) and  
25 206.87(1)(e) shall be deposited in the Fuel Tax Collection  
26 Trust Fund created by s. 206.875. Such moneys, exclusive of  
27 the service charges imposed by s. 215.20, and exclusive of  
28 refunds granted pursuant to s. 206.41, shall be distributed  
29 monthly to the State Transportation Trust Fund, except that:

30 (a) ~~\$1.25~~\$7.55 million shall be transferred to the  
31 Department of Environmental Protection in each fiscal year.

1 The transfers must be made in equal monthly amounts beginning  
 2 on July 1 of each fiscal year. ~~\$1.25 million of~~ The amount  
 3 transferred shall be deposited annually in the Marine  
 4 Resources Conservation Trust Fund and must be used by the  
 5 Department of Environmental Protection to fund special  
 6 projects to provide recreational channel marking, public  
 7 launching facilities, and other boating-related activities.  
 8 The Department of Environmental Protection shall annually  
 9 determine where unmet needs exist for boating-related  
 10 activities, and may fund such activities in counties where,  
 11 due to the number of vessel registrations, insufficient  
 12 financial resources are available to meet total water resource  
 13 needs.

14 (b) \$6.30 million shall be transferred to the Game and  
 15 Fresh Water Fish Commission each fiscal year. The transfers  
 16 must be made in equal monthly amounts beginning on July 1 of  
 17 each fiscal year.~~The amount transferred remaining proceeds of~~  
 18 ~~the annual transfer~~ shall be deposited in the Aquatic Plant  
 19 Control Trust Fund and must be used for aquatic plant  
 20 management, including nonchemical control of aquatic weeds,  
 21 research into nonchemical controls, and enforcement  
 22 activities. Beginning in fiscal year 1998-1999 ~~1993-1994~~, the  
 23 Game and Fresh Water Fish Commission ~~department~~ shall allocate  
 24 at least \$1 million of such funds to the eradication of  
 25 melaleuca.

26 (c)~~(b)~~ \$1.25 million shall be transferred to the State  
 27 Game Trust Fund in the Game and Fresh Water Fish Commission in  
 28 each fiscal year. The transfers must be made in equal monthly  
 29 amounts beginning on July 1 of each fiscal year, and must be  
 30 used for recreational boating activities of a type consistent  
 31 with projects eligible for funding under the Florida Boating

1 Improvement Program administered by the Department of  
2 Environmental Protection, and freshwater fisheries management  
3 and research.

4 ~~(d)(c)~~ \$1.5 million per year shall be transferred to  
5 the Board of Regents and shall be spent solely for purposes of  
6 s. 334.065.

7 Section 7. Effective July 1, 1999, subsection (1) of  
8 section 206.606, Florida Statutes, as amended by section 8 of  
9 chapter 96-321, Laws of Florida, is amended to read:

10 206.606 Distribution of certain proceeds.--

11 (1) Moneys collected pursuant to ss. 206.41(1)(g) and  
12 206.87(1)(e) shall be deposited in the Fuel Tax Collection  
13 Trust Fund. Such moneys, after deducting the service charges  
14 imposed by s. 215.20, the refunds granted pursuant to s.  
15 206.41, and the administrative costs incurred by the  
16 department in collecting, administering, enforcing, and  
17 distributing the tax, which administrative costs may not  
18 exceed 2 percent of collections, shall be distributed monthly  
19 to the State Transportation Trust Fund, except that:

20 (a) ~~\$1.25~~\$7.55 million shall be transferred to the  
21 Department of Environmental Protection in each fiscal year.  
22 The transfers must be made in equal monthly amounts beginning  
23 on July 1 of each fiscal year. ~~\$1.25 million of~~ The amount  
24 transferred shall be deposited annually in the Marine  
25 Resources Conservation Trust Fund and must be used by the  
26 Department of Environmental Protection to fund special  
27 projects to provide recreational channel marking, public  
28 launching facilities, and other boating-related activities.  
29 The Department of Environmental Protection shall annually  
30 determine where unmet needs exist for boating-related  
31 activities, and may fund such activities in counties where,

1 due to the number of vessel registrations, insufficient  
2 financial resources are available to meet total water resource  
3 needs.

4 (b) \$6.30 million shall be transferred to the Game and  
5 Fresh Water Fish Commission each fiscal year. The transfers  
6 must be made in equal monthly amounts beginning on July 1 of  
7 each fiscal year. The amount transferred ~~remaining proceeds~~  
8 ~~of the annual transfer~~ shall be deposited in the Aquatic Plant  
9 Control Trust Fund and must be used for aquatic plant  
10 management, including nonchemical control of aquatic weeds,  
11 research into nonchemical controls, and enforcement  
12 activities. Beginning in fiscal year 1998-1999 ~~1993-1994~~, the  
13 Game and Fresh Water Fish Commission ~~department~~ shall allocate  
14 at least \$1 million of such funds to the eradication of  
15 melaleuca.

16 (c) ~~(b)~~ \$1.25 million shall be transferred to the State  
17 Game Trust Fund in the Game and Fresh Water Fish Commission in  
18 each fiscal year. The transfers must be made in equal monthly  
19 amounts beginning on July 1 of each fiscal year, and must be  
20 used for recreational boating activities of a type consistent  
21 with projects eligible for funding under the Florida Boating  
22 Improvement Program administered by the Department of  
23 Environmental Protection, and freshwater fisheries management  
24 and research.

25 (d) ~~(c)~~ \$1.5 million per year shall be transferred to  
26 the Board of Regents and shall be spent solely for purposes of  
27 s. 334.065.

28 Section 8. Section 369.20, Florida Statutes, is  
29 amended to read:

30 369.20 Florida Aquatic Weed Control Act.--  
31

1           (1) This section may be cited ~~act shall be known~~ as  
2 the "Florida Aquatic Weed Control Act."

3           (2) The Game and Fresh Water Fish Commission  
4 ~~Department of Environmental Protection~~ shall direct the  
5 control, eradication, and regulation of noxious aquatic weeds  
6 and direct the research and planning related to these  
7 activities, as provided in this section, excluding the  
8 authority to use fish as a biological control agent, so as to  
9 protect human health, safety, and recreation and, to the  
10 greatest degree practicable, prevent injury to plant and  
11 animal life and property.

12           (3) It shall be the duty of the commission ~~department~~  
13 to guide and coordinate the activities of all public bodies,  
14 authorities, agencies, and special districts charged with the  
15 control or eradication of aquatic weeds and plants. ~~It may~~  
16 ~~delegate all or part of such functions to the Game and Fresh~~  
17 ~~Water Fish Commission.~~

18           (4) The commission ~~department~~ shall also promote,  
19 develop, and support research activities directed toward the  
20 more effective and efficient control of aquatic plants. In  
21 the furtherance of this purpose, the commission ~~department~~ is  
22 authorized to:

23           (a) Accept donations and grants of funds and services  
24 from both public and private sources;

25           (b) Contract or enter into agreements with public or  
26 private agencies or corporations for research and development  
27 of aquatic plant control methods or for the performance of  
28 aquatic plant control activities;

29           (c) Construct, acquire, operate, and maintain  
30 facilities and equipment; and  
31



1 (d) Enter upon, or authorize the entry upon, private  
2 property for purposes of making surveys and examinations and  
3 to engage in aquatic plant control activities; and such entry  
4 shall not be deemed a trespass.

5 (5) The commission ~~Department of Environmental~~  
6 ~~Protection~~ may disburse funds to any special district or other  
7 local authority charged with the responsibility of controlling  
8 or eradicating aquatic plants, upon:

9 (a) Receipt of satisfactory proof that such district  
10 or authority has sufficient funds on hand to match the state  
11 funds herein referred to on an equal basis;

12 (b) Approval by the commission ~~department~~ of the  
13 control techniques to be used by the district or authority;  
14 and

15 (c) Review and approval of the program of the district  
16 or authority by the commission ~~department~~ to be in conformance  
17 with the state control plan.

18 (6) The commission ~~department~~ shall adopt, amend, or  
19 repeal all rules as necessary to carry out the duties,  
20 obligations, and powers set forth in this section and perform  
21 any other acts necessary for the proper administration,  
22 enforcement, or interpretation of this section, including  
23 creating general permits and exemptions and adopting rules and  
24 forms governing reports.

25 (7) No person or public agency shall control,  
26 eradicate, remove, or otherwise alter any aquatic weeds or  
27 plants in waters of the state unless a permit for such  
28 activity has been issued by the commission ~~department~~, or  
29 unless the activity is in waters expressly exempted by  
30 ~~department~~ rule of the commission. The commission ~~department~~  
31 shall develop standards by rule which shall address, at a

1 minimum, chemical, biological, and mechanical control  
 2 activities; an evaluation of the benefits of such activities  
 3 to the public; specific criteria recognizing the differences  
 4 between natural and artificially created waters; and the  
 5 different amount and quality of littoral vegetation on various  
 6 waters. Applications for a permit to engage in aquatic plant  
 7 control activities shall be made to the commission ~~department~~.  
 8 In reviewing such applications, the commission ~~department~~  
 9 shall consider the criteria set forth in subsection (2).

10 (8) As an exemption to all permitting requirements in  
 11 this section and ss. 369.22 and 369.25, in all freshwater  
 12 bodies, except aquatic preserves designated under chapter 258  
 13 and Outstanding Florida Waters designated under chapter 403, a  
 14 riparian owner may physically or mechanically remove  
 15 herbaceous aquatic plants and semiwoody herbaceous plants,  
 16 such as shrub species and willow, within an area delimited by  
 17 up to 50 percent of the property owner's frontage or 50 feet,  
 18 whichever is less, and by a sufficient length waterward from,  
 19 and perpendicular to, the riparian owner's shoreline to create  
 20 a corridor to allow access for a boat or swimmer to reach open  
 21 water. All unvegetated areas shall be cumulatively considered  
 22 when determining the width of the exempt corridor. Physical  
 23 or mechanical removal does not include the use of any  
 24 chemicals or any activity that requires a permit pursuant to  
 25 part IV of chapter 373.

26 (9) A permit issued pursuant to this section for the  
 27 application of herbicides to waters in the state for the  
 28 control of aquatic plants, algae, or invasive exotic plants is  
 29 exempt from the requirement to obtain a water pollution  
 30 operation permit pursuant to s. 403.088.

31

1 Section 9. Section 369.22, Florida Statutes, is  
2 amended to read:

3 369.22 Nonindigenous aquatic plant control.--

4 (1) This section may be cited ~~shall be known~~ as the  
5 "Florida Nonindigenous Aquatic Plant Control Act."

6 (2) For the purpose of this section, the following  
7 words and phrases shall have the following meanings:

8 (a) "Commission Department" means the Game and Fresh  
9 Water Fish Commission Department of Environmental Protection.

10 (b) "Aquatic plant" is any plant growing in, or  
11 closely associated with, the aquatic environment and includes  
12 "floating," "emersed," "submersed," and "ditch bank" species.

13 (c) "Nonindigenous aquatic plant" is any aquatic plant  
14 that is nonnative to the State of Florida and has certain  
15 characteristics, such as massive productivity, choking  
16 density, or an obstructive nature, which render it  
17 detrimental, obnoxious, or unwanted in a particular location.

18 (d) A "maintenance program" is a method for the  
19 control of nonindigenous aquatic plants in which control  
20 techniques are utilized in a coordinated manner on a  
21 continuous basis in order to maintain the plant population at  
22 the lowest feasible level as determined by the commission  
23 department.

24 (e) An "eradication program" is a method for the  
25 control of nonindigenous aquatic plants in which control  
26 techniques are utilized in a coordinated manner in an attempt  
27 to kill all the aquatic plants on a permanent basis in a given  
28 geographical area.

29 (f) A "complaint spray program" is a method for the  
30 control of nonindigenous aquatic plants in which weeds are  
31 allowed to grow unhindered to a given level of undesirability,

1 at which point eradication techniques are applied in an effort  
2 to restore the area in question to a relatively low level of  
3 infestation.

4 (g) "Waters" means rivers, streams, lakes, navigable  
5 waters and associated tributaries, canals, meandered lakes,  
6 enclosed water systems, and any other bodies of water.

7 (h) "Intercounty waters" means any waters which lie in  
8 more than one county or form any part of the boundary between  
9 two or more counties, as determined by the commission  
10 department.

11 (i) "Intracounty waters" means any waters which lie  
12 wholly within the boundaries of one county as determined by  
13 the commission department.

14 (j) "Districts" means ~~the six water management~~  
15 ~~districts created by law and named, respectively, the~~  
16 ~~Northwest Florida Water Management District, the Suwannee~~  
17 ~~River Water Management District, the St. Johns River Water~~  
18 ~~Management District, the Southwest Florida Water Management~~  
19 ~~District, the Central and Southern Florida Flood Control~~  
20 ~~District, and the Ridge and Lower Gulf Coast Water Management~~  
21 ~~District; and on July 1, 1975, shall mean the five water~~  
22 management districts created by chapter 73-190, Laws of  
23 Florida, and named, respectively, the Northwest Florida Water  
24 Management District, the Suwannee River Water Management  
25 District, the St. Johns River Water Management District, the  
26 Southwest Florida Water Management District, and the South  
27 Florida Water Management District.

28 (3) The Legislature recognizes that the uncontrolled  
29 growth of nonindigenous aquatic plants in the waters of  
30 Florida poses a variety of environmental, health, safety, and  
31 economic problems. The Legislature acknowledges the

1 responsibility of the state to cope with the uncontrolled and  
 2 seemingly never-ending growth of nonindigenous aquatic plants  
 3 in the waters throughout Florida. It is, therefore, the intent  
 4 of the Legislature that the state policy for the control of  
 5 nonindigenous aquatic plants in waters of state responsibility  
 6 be carried out under the general supervision and control of  
 7 the commission ~~department~~, and that the state itself be  
 8 responsible for the control of such plants in all intercounty  
 9 waters; but that control of such plants in intracounty waters  
 10 be the designated responsibility of the appropriate unit of  
 11 local or county government, special district, authority, or  
 12 other public body. It is the intent of the Legislature that  
 13 the control of nonindigenous aquatic plants be carried out  
 14 primarily by means of maintenance programs, rather than  
 15 eradication or complaint spray programs, for the purpose of  
 16 achieving more effective control at a lower long-range cost.  
 17 It is also the intent of the Legislature that the commission  
 18 ~~department~~ guide, review, approve, and coordinate all  
 19 nonindigenous aquatic plant control programs within each of  
 20 the water management districts as defined in paragraph (2)(j).  
 21 It is the intent of the Legislature to account for the costs  
 22 of nonindigenous aquatic plant maintenance programs by  
 23 watershed for comparison management purposes.

24 (4) The commission ~~department~~ shall supervise and  
 25 direct all maintenance programs for control of nonindigenous  
 26 aquatic plants, as provided in this section, excluding the  
 27 authority to use fish as a biological control agent, so as to  
 28 protect human health, safety, and recreation and, to the  
 29 greatest degree practicable, prevent injury to plant, fish,  
 30 and animal life and to property.

31

1           (5) When state funds are involved, or when waters of  
2 state responsibility are involved, it is the duty of the  
3 commission ~~department~~ to guide, review, approve, and  
4 coordinate the activities of all public bodies, authorities,  
5 state agencies, units of local or county government,  
6 commissions, districts, and special districts engaged in  
7 operations to maintain, control, or eradicate nonindigenous  
8 aquatic plants, except for activities involving biological  
9 control programs using fish as the control agent. The  
10 commission ~~department~~ may delegate all or part of such  
11 functions to any appropriate state agency, special district,  
12 unit of local or county government, commission, authority, or  
13 other public body. However, special attention shall be given  
14 to the keeping of accounting and cost data in order to prepare  
15 the annual fiscal report required in subsection (7).

16           (6) The commission ~~department~~ may disburse funds to  
17 any district, special district, or other local authority for  
18 the purpose of operating a maintenance program for controlling  
19 nonindigenous aquatic plants and other noxious aquatic plants  
20 in the waters of state responsibility upon:

21           (a) Receipt of satisfactory proof that such district  
22 or authority has sufficient funds on hand to match the state  
23 funds herein referred to on an equal basis;

24           (b) Approval by the commission ~~department~~ of the  
25 maintenance control techniques to be used by the district or  
26 authority; and

27           (c) Review and approval of the program of the district  
28 or authority by the commission ~~department~~ to be in conformance  
29 with the state maintenance control plan.

30           (7) The commission ~~department~~ shall submit an annual  
31 report on the status of the nonindigenous aquatic plant

1 maintenance program to the President of the Senate, the  
 2 Speaker of the House of Representatives, and the Governor and  
 3 Cabinet by January 1 of the following year. This report shall  
 4 include a statement of the degree of maintenance control  
 5 achieved by individual nonindigenous aquatic plant species in  
 6 the intercounty waters of each of the water management  
 7 districts for the preceding county fiscal year, together with  
 8 an analysis of the costs of achieving this degree of control.  
 9 This cost accounting shall include the expenditures by all  
 10 governmental agencies in the waters of state responsibility.  
 11 If the level of maintenance control achieved falls short of  
 12 that which is deemed adequate by the commission ~~department~~,  
 13 then the report shall include an estimate of the additional  
 14 funding that would have been required to achieve this level of  
 15 maintenance control. All measures of maintenance program  
 16 achievement and the related cost shall be presented by water  
 17 management districts so that comparisons may be made among the  
 18 water management districts, as well as with the state as a  
 19 whole.

20 (8) The commission ~~department~~ shall have the authority  
 21 to cooperate with the United States and to enter into such  
 22 cooperative agreements or commitments as the commission  
 23 ~~department~~ may determine necessary to carry out the  
 24 maintenance, control, or eradication of water hyacinths,  
 25 alligator weed, and other noxious aquatic plant growths from  
 26 the waters of the state and to enter into contracts with the  
 27 United States obligating the state to indemnify and save  
 28 harmless the United States from any and all claims and  
 29 liability arising out of the initiation and prosecution of any  
 30 project undertaken under this section. However, any claim or  
 31 claims required to be paid under this section shall be paid

1 from money appropriated to the nonindigenous aquatic plant  
2 control program.

3 ~~(9) The department may delegate various nonindigenous~~  
4 ~~aquatic plant control and maintenance functions to the Game~~  
5 ~~and Fresh Water Fish Commission. The commission shall, in~~  
6 ~~accepting commitments to engage in nonindigenous aquatic plant~~  
7 ~~control and maintenance activities, be subject to the rules of~~  
8 ~~the department, except that the commission shall regulate,~~  
9 ~~control, and coordinate the use of any fish for aquatic weed~~  
10 ~~control in fresh waters of the state. In addition, the~~  
11 ~~commission shall render technical and other assistance to the~~  
12 ~~department in order to carry out most effectively the purposes~~  
13 ~~of s. 369.20. However, nothing herein shall diminish or~~  
14 ~~impair the regulatory authority of the commission with respect~~  
15 ~~to the powers granted to it by s. 9, Art. IV of the State~~  
16 ~~Constitution.~~

17 (9)~~(10)~~ The commission ~~department~~ is directed to use  
18 biological agents, excluding fish, for the control of  
19 nonindigenous aquatic plants.

20 (10)~~(11)~~ The commission ~~department~~ shall adopt, amend,  
21 or repeal all rules as necessary to carry out the duties,  
22 obligations, and powers set forth in this section and perform  
23 any other acts necessary for the proper administration,  
24 enforcement, or interpretation of this section, including  
25 adopting rules and forms governing reports.

26 (11)~~(12)~~ No person or public agency shall control,  
27 eradicate, remove, or otherwise alter any nonindigenous  
28 aquatic plants in waters of the state unless a permit for such  
29 activity has been issued by the commission ~~department~~, or  
30 unless the activity is in waters expressly exempted by  
31 ~~department~~ rule of the commission. The commission ~~department~~



1 shall develop standards by rule which shall address, at a  
2 minimum, chemical, biological, and mechanical control  
3 activities; an evaluation of the benefits of such activities  
4 to the public; specific criteria recognizing the differences  
5 between natural and artificially created waters; and the  
6 different amount and quality of littoral vegetation on various  
7 waters. Applications for a permit to engage in aquatic plant  
8 control activities shall be made to the commission ~~department~~.  
9 In reviewing such applications, the commission ~~department~~  
10 shall consider the criteria set forth in subsection (4).

11 Section 10. Section 369.25, Florida Statutes, is  
12 amended to read:

13 369.25 Aquatic plants; definitions; permits; powers of  
14 commission ~~department~~; penalties.--

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

16 (a) "Aquatic plant" means any plant, including a  
17 floating, emersed, submersed, or ditch bank species, growing  
18 in, or closely associated with, an aquatic environment and  
19 includes any part or seed of such plant.

20 (b) "Commission ~~Department~~" means the Game and Fresh  
21 Water Fish Commission ~~Department of Environmental Protection~~.

22 (c) "Nonnursery cultivation" means the tending of  
23 aquatic plant species for harvest in the natural environment.

24 (d) "Noxious aquatic plant" means any part, including,  
25 but not limited to, seeds or reproductive parts, of an aquatic  
26 plant which has the potential to hinder the growth of  
27 beneficial plants, interfere with irrigation or navigation, or  
28 adversely affect the public welfare or the natural resources  
29 of this state.

30  
31

1 (e) "Person" includes a natural person, a public or  
2 private corporation, a governmental entity, or any other kind  
3 of entity.

4 (2) No person shall engage in any business involving  
5 the importation, transportation, nonnursery cultivation,  
6 collection, sale, or possession of any aquatic plant species  
7 without a permit issued by the commission ~~department or the~~  
8 ~~Department of Agriculture and Consumer Services~~. No person  
9 shall import, transport, nonnursery cultivate, collect, sell,  
10 or possess any noxious aquatic plant listed on the prohibited  
11 aquatic plant list established by the commission ~~department~~  
12 without a permit issued by the commission ~~department or the~~  
13 ~~Department of Agriculture and Consumer Services~~. No permit  
14 shall be issued until the commission ~~department~~ determines  
15 that the proposed activity poses no threat or danger to the  
16 waters, wildlife, natural resources, or environment of the  
17 state.

18 (3) The commission ~~department~~ has the following  
19 powers:

20 (a) To make such rules governing the importation,  
21 transportation, nonnursery cultivation, collection, and  
22 possession of aquatic plants as may be necessary for the  
23 eradication, control, or prevention of the dissemination of  
24 noxious aquatic plants ~~that are not inconsistent with rules of~~  
25 ~~the Department of Agriculture and Consumer Services~~.

26 (b) To establish by rule lists of aquatic plant  
27 species regulated under this section, including those exempted  
28 from such regulation, ~~provided the Department of Agriculture~~  
29 ~~and Consumer Services and the Game and Fresh Water Fish~~  
30 ~~Commission approve such lists prior to the lists becoming~~  
31 ~~effective~~.

1 (c) To evaluate an aquatic plant species through  
2 research or other means to determine whether such species  
3 poses a threat or danger to the waters, wildlife, natural  
4 resources, or environment of the state.

5 (d) To declare a quarantine against aquatic plants,  
6 including the vats, pools, or other containers or bodies of  
7 water in which such plants are growing, ~~except in aquatic~~  
8 ~~plant nurseries~~, to prevent the dissemination of any noxious  
9 aquatic plant.

10 (e) To make rules governing the application for,  
11 issuance of, suspension of, and revocation of permits under  
12 this section.

13 (f) To enter into cooperative agreements with any  
14 person as necessary or desirable to carry out and enforce the  
15 provisions of this section.

16 (g) To purchase all necessary supplies, material, and  
17 equipment and accept all grants and donations useful in the  
18 implementation and enforcement of the provisions of this  
19 section.

20 (h) To enter upon and inspect any facility or place,  
21 except aquatic plant nurseries regulated by the Department of  
22 Agriculture and Consumer Services, where aquatic plants are  
23 cultivated, held, packaged, shipped, stored, or sold, or any  
24 vehicle of conveyance of aquatic plants, to ascertain whether  
25 the provisions of this section and commission rules ~~department~~  
26 ~~regulations~~ are being complied with, and to seize and destroy,  
27 without compensation, any aquatic plants imported,  
28 transported, cultivated, collected, or otherwise possessed in  
29 violation of this section or commission rules ~~department~~  
30 ~~regulations~~.

31

1 (i) To conduct a public information program,  
2 including, but not limited to, erection of road signs, in  
3 order to inform the public and interested parties of this  
4 section and its associated rules and of the dangers of noxious  
5 aquatic plant introductions.

6 (4) The commission ~~department~~ shall adopt rules which  
7 limit the sanctions available for violations under this  
8 section act to quarantine and confiscation:

9 (a) If the prohibited activity apparently results from  
10 natural dispersion; or

11 (b) If a small amount of noxious aquatic plant  
12 material incidentally adheres to a boat or boat trailer  
13 operated by a person who is not involved in any phase of the  
14 aquatic plant business and if that person is not knowingly  
15 violating this section act.

16 (5)(a) A ~~Any~~ person who violates any provision the  
17 ~~provisions~~ of this section commits ~~is guilty of~~ a misdemeanor  
18 of the second degree, punishable as provided in s. 775.082 or  
19 s. 775.083.

20 (b) All law enforcement officers of the state and its  
21 agencies with power to make arrests for violations of state  
22 law shall enforce the provisions of this section.

23 Section 11. Section 369.251, Florida Statutes, is  
24 amended to read:

25 369.251 Invasive nonnative plants; prohibitions;  
26 study; removal; rules.--

27 (1) A person may not sell, transport, collect,  
28 cultivate, or possess any plant, including any part or seed,  
29 of the species *Melaleuca quinquenervia*, *Schinus*  
30 *terebinthifolius*, *Casuarina equisetifolia*, *Casuarina glauca*,  
31 or *Mimosa pigra* without a permit from the Game and Fresh Water

1 Fish Commission ~~department~~. Any person who violates this  
2 section commits a misdemeanor of the second degree, punishable  
3 by fine only, as provided in s. 775.083.

4 (2) The commission ~~department~~ shall study methods of  
5 control of plants of the species *Melaleuca quinquenervia*,  
6 *Schinus terebinthifolius*, *Casuarina equisetifolia*, *Casuarina*  
7 *glauca*, and *Mimosa pigra*. The South Florida Water Management  
8 District shall undertake programs to remove such plants from  
9 conservation area I, conservation area II, and conservation  
10 area III of the district.

11 (3) The commission ~~department~~ shall adopt rules  
12 necessary to implement this section. Possession or  
13 transportation resulting from natural dispersion, mulching  
14 operations, control and disposal, or use in herbaria or other  
15 educational or research institutions, or for other reasons  
16 determined by the commission ~~department~~ to be consistent with  
17 this section and where there is neither the danger of, nor  
18 intent to, further disperse any plant species prohibited by  
19 this section, is not subject to the permit or penalty  
20 provisions of this section.

21 Section 12. Section 369.252, Florida Statutes, is  
22 amended to read:

23 369.252 Invasive exotic plant control on public  
24 lands.--The Game and Fresh Water Fish Commission ~~department~~  
25 shall establish a program to:

26 (1) Achieve eradication or maintenance control of  
27 invasive exotic plants on public lands when the scientific  
28 data indicate that they are detrimental to the state's natural  
29 environment or when the Commissioner of Agriculture finds that  
30 such plants or specific populations thereof are a threat to  
31 the agricultural productivity of the state;

1           (2) Assist state and local government agencies in the  
2 development and implementation of coordinated management plans  
3 for the eradication or maintenance control of invasive exotic  
4 plant species on public lands;

5           (3) Contract, or enter into agreements, with entities  
6 in the State University System or other governmental or  
7 private sector entities for research concerning control  
8 agents; production and growth of biological control agents;  
9 and development of workable methods for the eradication or  
10 maintenance control of invasive exotic plants on public lands;  
11 and

12           (4) Use funds in the Aquatic Plant Control Trust Fund  
13 as authorized by the Legislature for carrying out activities  
14 under this section on public lands.

15           Section 13. Subsection (2) of section 581.145, Florida  
16 Statutes, is amended to read:

17           581.145 Aquatic plant nursery registration; special  
18 permit requirements.--

19           (2) It shall be unlawful for any nursery or nursery  
20 stock dealer to import, transport, cultivate, collect, sell,  
21 or possess any noxious aquatic plant listed on the prohibited  
22 aquatic plant list established by the Game and Fresh Water  
23 Fish Commission ~~Department of Environmental Protection~~ in s.  
24 369.25(3)(b) without a special permit issued by the commission  
25 ~~department~~.

26           (a) No special permit shall be issued until the  
27 commission ~~department~~ determines that the proposed activity  
28 poses no threat or danger to the waters, wildlife, natural  
29 resources, agriculture, or environment of the state.

30           (b) The commission ~~department~~ may not issue a special  
31 permit with respect to a prohibited aquatic plant species if

1 ~~it the Department of Environmental Protection~~ prohibits the  
 2 importation, transportation, cultivation, collection, sale, or  
 3 possession of the species.

4 Section 14. (1) The transfer from the Department of  
 5 Environmental Protection to the Game and Fresh Water Fish  
 6 Commission of regulatory authority over aquatic plant control,  
 7 and the conforming amendments to ss. 206.606, 369.20, 369.22,  
 8 369.25, 369.251, 369.252, and 581.145, Florida Statutes, by  
 9 this act are to implement Specific Appropriations 1501, 1501A,  
 10 1501B, 1501C, and 1501D of the 1998-1999 General  
 11 Appropriations Act.

12 (2) The regulatory authority over aquatic plant  
 13 control transferred to the Game and Fresh Water Fish  
 14 Commission by this act shall expire June 30, 1999, and shall  
 15 revert to the Department of Environmental Protection in a like  
 16 type two transfer so that such authority is as it existed on  
 17 June 30, 1998; and rules of the commission in effect at the  
 18 time of such reversion shall remain in effect until superseded  
 19 by the department, and permits issued by the commission shall  
 20 be deemed to be permitted by the department until the  
 21 expiration of the term of the person's permit. In addition,  
 22 the amendments to ss. 206.606, 369.20, 369.22, 369.25,  
 23 369.251, 369.252, and 581.145, Florida Statutes, by this act  
 24 shall expire June 30, 1999, and the text of said sections  
 25 shall revert to that in existence on June 30, 1998, except  
 26 that any amendments to such text enacted other than by this  
 27 act shall be preserved and continue to operate to the extent  
 28 that such amendments are not dependent upon the portions of  
 29 said text which expire pursuant to the provisions of this act.  
 30 The Statutory Revision Division of the Joint Legislative  
 31 Management Committee, or its successor, shall include in an

1 appropriate reviser's bill any amendments to said sections  
2 which are necessary to give effect to the legislative intent  
3 expressed in this section.

4 Section 15. Subsections (1), (2), and (4) of section  
5 370.027, Florida Statutes, are amended to read:

6 370.027 Rulemaking authority with respect to marine  
7 life.--

8 (1) Pursuant to the policy and standards in s.  
9 370.025, the Marine Fisheries Commission is delegated full  
10 rulemaking authority over marine life, with the exception of  
11 marine species produced by an individual certified under s.  
12 597.004 and endangered species, subject to final approval by  
13 the Governor and Cabinet sitting as the Board of Trustees of  
14 the Internal Improvement Trust Fund, in the areas of concern  
15 herein specified. The commission is instructed to make  
16 recommendations annually to the Governor and Cabinet regarding  
17 the marine fisheries research priorities and funding of the  
18 Department of Environmental Protection. All administrative and  
19 enforcement responsibilities which are unaffected by the  
20 specific provisions of this act continue to be the  
21 responsibility of the Department of Environmental Protection.  
22 The authority to regulate fishing gear in residential, manmade  
23 saltwater canals is specifically not delegated to the  
24 commission and is retained by the Legislature.

25 (2) Exclusive rulemaking authority in the following  
26 areas relating to marine life, with the exception of marine  
27 species produced by individuals certified under s. 597.004 and  
28 endangered species, is vested in the commission; any  
29 conflicting authority of any division or bureau of the  
30 department or any other agency of state government is  
31 withdrawn as of the effective date of the rule proposed by the



1 commission and approved by the Governor and Cabinet, and the  
2 inconsistent rule, or the inconsistent part thereof, is  
3 superseded to the extent of the inconsistency:

- 4 (a) Gear specifications;
- 5 (b) Prohibited gear;
- 6 (c) Bag limits;
- 7 (d) Size limits;
- 8 (e) Species that may not be sold;
- 9 (f) Protected species;
- 10 (g) Closed areas, except for public health purposes;
- 11 (h) Quality control, except for oysters, clams,  
12 mussels, and crabs, unless such authority is delegated to the  
13 Department of Agriculture and Consumer Services;

14 (i) Seasons; and

15 (j) Special considerations relating to eggbearing  
16 females.

17 (4) Marine aquaculture producers shall be regulated by  
18 the Department of Agriculture and Consumer Services. Marine  
19 aquaculture products produced by a marine aquaculture  
20 producer, certified pursuant to s. 597.004, are exempt from  
21 Marine Fisheries Commission resource management rules, with  
22 the exception of such rules governing any fish or the genus  
23 *Centropomus* (snook), the genus *Sciaenops* (red drum), or the  
24 genus *Cynoscion* (spotted sea trout). Marine Fisheries  
25 Commission rules relating to the aquacultural production of  
26 red drum and spotted sea trout must be developed and adopted  
27 by the commission no later than 1 year from October 1, 1996.

28 Section 16. Paragraph (a) of subsection (2) and  
29 subsection (4) of section 370.06, Florida Statutes, are  
30 amended to read:

31 370.06 Licenses.--

1           (2) SALTWATER PRODUCTS LICENSE.--

2           (a) Every person, firm, or corporation that sells,  
3 offers for sale, barter, or exchanges for merchandise any  
4 saltwater products, or which harvests saltwater products with  
5 certain gear or equipment as specified by law, must have a  
6 valid saltwater products license, except that the holder of an  
7 aquaculture certificate under s. 597.004 is not required to  
8 purchase and possess a saltwater products license in order to  
9 possess, transport, or sell marine aquaculture products. Each  
10 saltwater products license allows the holder to engage in any  
11 of the activities for which the license is required. The  
12 license must be in the possession of the licenseholder or  
13 aboard the vessel and shall be subject to inspection at any  
14 time that harvesting activities for which a license is  
15 required are being conducted. A restricted species endorsement  
16 on the saltwater products license is required to sell to a  
17 licensed wholesale dealer those species which the state, by  
18 law or rule, has designated as "restricted species." This  
19 endorsement may be issued only to a person who is at least 16  
20 years of age, or to a firm certifying that over 25 percent of  
21 its income or \$5,000 of its income, whichever is less, is  
22 attributable to the sale of saltwater products pursuant to a  
23 license issued under this paragraph or a similar license from  
24 another state. This endorsement may also be issued to a  
25 for-profit corporation if it certifies that at least \$5,000 of  
26 its income is attributable to the sale of saltwater products  
27 pursuant to a license issued under this paragraph or a similar  
28 license from another state. However, if at least 50 percent of  
29 the annual income of a person, firm, or for-profit corporation  
30 is derived from charter fishing, the person, firm, or  
31 for-profit corporation must certify that at least \$2,500 of

1 the income of the person, firm, or corporation is attributable  
2 to the sale of saltwater products pursuant to a license issued  
3 under this paragraph or a similar license from another state,  
4 in order to be issued the endorsement. Such income attribution  
5 must apply to at least 1 year out of the last 3 years. For the  
6 purpose of this section "income" means that income which is  
7 attributable to work, employment, entrepreneurship, pensions,  
8 retirement benefits, and social security benefits. To renew an  
9 existing restricted species endorsement, marine aquaculture  
10 producers possessing a valid saltwater products license with a  
11 restricted species endorsement may apply income from the sale  
12 of marine aquaculture products.

13 1. The department is authorized to require  
14 verification of such income. Acceptable proof of income earned  
15 from the sale of saltwater products shall be:

16 a. Copies of trip ticket records generated pursuant to  
17 this subsection (marine fisheries information system),  
18 documenting qualifying sale of saltwater products;

19 b. Copies of sales records from locales other than  
20 Florida documenting qualifying sale of saltwater products;

21 c. A copy of the applicable federal income tax return,  
22 including Form 1099 attachments, verifying income earned from  
23 the sale of saltwater products;

24 d. Crew share statements verifying income earned from  
25 the sale of saltwater products; or

26 e. A certified public accountant's notarized statement  
27 attesting to qualifying source and amount of income.

28

29 Any provision of this section or any other section of the  
30 Florida Statutes to the contrary notwithstanding, any person  
31 who owns a retail seafood market and/or restaurant at a fixed

1 location for at least 3 years who has had an occupational  
2 license for 3 years prior to January 1, 1990, who harvests  
3 saltwater products to supply his or her retail store and has  
4 had a saltwater products license for 1 of the past 3 years  
5 prior to January 1, 1990, may provide proof of his or her  
6 verification of income and sales value at the person's retail  
7 seafood market and/or restaurant and in his or her saltwater  
8 products enterprise by affidavit and shall thereupon be issued  
9 a restricted species endorsement.

10 2. Exceptions from income requirements shall be as  
11 follows:

12 a. A permanent restricted species endorsement shall be  
13 available to those persons age 62 and older who have qualified  
14 for such endorsement for at least 3 out of the last 5 years.

15 b. Active military duty time shall be excluded from  
16 consideration of time necessary to qualify and shall not be  
17 counted against the applicant for purposes of qualifying.

18 c. Upon the sale of a used commercial fishing vessel  
19 owned by a person, firm, or corporation possessing or eligible  
20 for a restricted species endorsement, the purchaser of such  
21 vessel shall be exempted from the qualifying income  
22 requirement for the purpose of obtaining a restricted species  
23 endorsement for a period of 1 year after purchase of the  
24 vessel.

25 d. Upon the death or permanent disablement of a person  
26 possessing a restricted species endorsement, an immediate  
27 family member wishing to carry on the fishing operation shall  
28 be exempted from the qualifying income requirement for the  
29 purpose of obtaining a restricted species endorsement for a  
30 period of 1 year after the death or disablement.

31

1 e. A restricted species endorsement may be issued on  
2 an individual saltwater products license to a person age 62 or  
3 older who documents that at least \$2,500 is attributable to  
4 the sale of saltwater products pursuant to the provisions of  
5 this paragraph.

6 f. A permanent restricted species endorsement may also  
7 be issued on an individual saltwater products license to a  
8 person age 70 or older who has held a saltwater products  
9 license for at least 3 of the last 5 license years.

10  
11 At least one saltwater products license bearing a restricted  
12 species endorsement shall be aboard any vessel harvesting  
13 restricted species in excess of any bag limit or when fishing  
14 under a commercial quota or in commercial quantities, and such  
15 vessel shall have a commercial vessel registration. This  
16 subsection does not apply to any person, firm, or corporation  
17 licensed under s. 370.07(1)(a)1. or (b) for activities  
18 pursuant to such licenses. A saltwater products license may be  
19 issued in the name of an individual or a valid boat  
20 registration number. Such license is not transferable. A decal  
21 shall be issued with each saltwater products license issued to  
22 a valid boat registration number. The saltwater products  
23 license decal shall be the same color as the vessel  
24 registration decal issued each year pursuant to s.  
25 327.11(5)(7)and shall indicate the period of time such  
26 license is valid. The saltwater products license decal shall  
27 be placed beside the vessel registration decal and, in the  
28 case of an undocumented vessel, shall be placed so that the  
29 vessel registration decal lies between the vessel registration  
30 number and the saltwater products license decal. Any saltwater  
31 products license decal for a previous year shall be removed

1 from a vessel operating on the waters of the state. A resident  
2 shall pay an annual license fee of \$50 for a saltwater  
3 products license issued in the name of an individual or \$100  
4 for a saltwater products license issued to a valid boat  
5 registration number. A nonresident shall pay an annual license  
6 fee of \$200 for a saltwater products license issued in the  
7 name of an individual or \$400 for a saltwater products license  
8 issued to a valid boat registration number. An alien shall pay  
9 an annual license fee of \$300 for a saltwater products license  
10 issued in the name of an individual or \$600 for a saltwater  
11 products license issued to a valid boat registration number.  
12 Any person who sells saltwater products pursuant to this  
13 license may sell only to a licensed wholesale dealer. A  
14 saltwater products license must be presented to the licensed  
15 wholesale dealer each time saltwater products are sold, and an  
16 imprint made thereof. The wholesale dealer shall keep records  
17 of each transaction in such detail as may be required by rule  
18 of the Department of Environmental Protection not in conflict  
19 with s. 370.07(6), and shall provide the holder of the  
20 saltwater products license with a copy of the record. It is  
21 unlawful for any licensed wholesale dealer to buy saltwater  
22 products from any unlicensed person under the provisions of  
23 this section, except that a licensed wholesale dealer may buy  
24 from another licensed wholesale dealer. It is unlawful for any  
25 licensed wholesale dealer to buy saltwater products designated  
26 as "restricted species" from any person, firm, or corporation  
27 not possessing a restricted species endorsement on his or her  
28 saltwater products license under the provisions of this  
29 section, except that a licensed wholesale dealer may buy from  
30 another licensed wholesale dealer. The Department of  
31 Environmental Protection shall be the licensing agency, may

1 contract with private persons or entities to implement aspects  
2 of the licensing program, and shall establish by rule a marine  
3 fisheries information system in conjunction with the licensing  
4 program to gather fisheries data.

5 (4) SPECIAL ACTIVITY LICENSES.--

6 (a) Any person who seeks to use special gear or  
7 equipment in harvesting saltwater species must purchase a  
8 special activity license as specified by law to engage in such  
9 activities. This subsection does not apply to gear or  
10 equipment used by individuals certified under s. 597.004.The  
11 department may issue special activity licenses, in accordance  
12 with s. 370.071, to permit the cultivation of oysters, clams,  
13 mussels, and crabs when such aquaculture activities relate to  
14 quality control, sanitation, and public health regulations,  
15 unless such authority is delegated to the Department of  
16 Agriculture and Consumer Services. The department may  
17 prescribe by rule special terms, conditions, and restrictions  
18 for any special activity license.

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

27 Section 17. Subsections (1), (2), (3), and (6) of  
28 section 370.26, Florida Statutes, are amended to read:

29 370.26 Aquaculture definitions; marine aquaculture  
30 products, ~~and producers,~~ and facilities.--

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

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

9           1. Facilities that maintain marine aquatic organisms  
10 exclusively for the purpose of shipping, distribution,  
11 marketing, or wholesale and retail sales;

12           2. Facilities that maintain marine aquatic organisms  
13 for noncommercial, education, exhibition, or scientific  
14 purposes;

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

17           4. Facilities used by marine aquarium hobbyists.

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

21           ~~(c)(b)~~ "Marine aquaculture product" means any product  
22 derived from marine aquatic organisms that are owned and  
23 propagated and grown or produced under controlled conditions  
24 by a person holding an aquaculture certificate pursuant to s.  
25 597.004. Such product does not include organisms harvested  
26 from the wild for depuration, wet storage, or relayed for the  
27 purpose of controlled purification. Marine aquaculture  
28 products are considered saltwater products for the purposes of  
29 this chapter, except the holder of an aquaculture certificate  
30 is not required to purchase and possess a saltwater products  
31 license in order to possess, transport, or sell marine



1 aquaculture products pursuant to s. 370.06. The holder of an  
2 aquaculture certificate must purchase and possess a saltwater  
3 products license in order to possess, transport, or ~~and~~ sell  
4 saltwater products not specifically provided for in s.  
5 597.004.

6 (2) The Department of Environmental Protection shall  
7 encourage the development of aquaculture and the production of  
8 aquaculture products.

9 ~~(3) The department shall establish an Aquaculture~~  
10 ~~Section within the Bureau of Marine Resource Regulation and~~  
11 ~~Development within the Division of Marine Resources.~~

12 (a) The department ~~Aquaculture Section~~ shall develop a  
13 process consistent with this section that would consolidate  
14 permits, general permits, special activity licenses, and other  
15 regulatory requirements to streamline the permitting process  
16 and result in effective regulation of aquaculture activities.  
17 This process shall provide for a single application and  
18 application fee for marine aquaculture activities which are  
19 regulated by the department. Procedures to consolidate  
20 permitting actions under this section do not constitute rules  
21 within the meaning of s. 120.52.

22 (3)(b) The Department of Agriculture and Consumer  
23 Services ~~Aquaculture Section~~ shall act as a clearinghouse for  
24 aquaculture applications ~~submitted to the department~~, and act  
25 as a liaison between the Division of Marine Resources, the  
26 Division of State Lands, the Department of Environmental  
27 Protection district offices, other divisions within the  
28 Department of Environmental Protection, and the water  
29 management districts. The Department of Agriculture and  
30 Consumer Services shall be responsible for regulating marine  
31 aquaculture producers except as specifically provided herein.

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 18. Subsection (1) of section 372.0225,  
17 Florida Statutes, is amended to read:

18           372.0225 Freshwater organisms.--

19           (1) The Division of Fisheries of the Game and Fresh  
20 Water Fish Commission, in order to manage the promotion,  
21 marketing, and quality control of all freshwater organisms  
22 produced in Florida and utilized commercially so that such  
23 organisms shall be used to produce the optimum sustained yield  
24 consistent with the protection of the breeding stock, is  
25 directed and charged with the responsibility of:

26           (a) Providing for the regulation of the promotion,  
27 marketing, and quality control of freshwater organisms  
28 produced in Florida and utilized commercially.

29           (b) Regulating the processing of commercial freshwater  
30 organisms on the water or on the shore.

31

1 (c) Providing documentation standards and statistical  
2 record requirements with respect to commercial freshwater  
3 organism catches.

4 ~~(d) Regulating aquacultural facilities.~~

5 (d)~~(e)~~ Conducting scientific, economic, and other  
6 studies and research on all freshwater organisms produced in  
7 the state and used commercially.

8 Section 19. Paragraph (g) of subsection (1) of section  
9 372.65, Florida Statutes, is amended to read:

10 372.65 Freshwater fish dealer's license.--

11 (1) No person shall engage in the business of taking  
12 for sale or selling any frogs or freshwater fish, including  
13 live bait, of any species or size, or importing any exotic or  
14 nonindigenous fish, until such person has obtained a license  
15 and paid the fee therefor as set forth herein. The license  
16 issued shall be in the possession of the person to whom issued  
17 while such person is engaging in the business of taking for  
18 sale or selling freshwater fish or frogs, is not transferable,  
19 shall bear on its face in indelible ink the name of the person  
20 to whom it is issued, and shall be affixed to a license  
21 identification card issued by the commission. Such license is  
22 not valid unless it bears the name of the person to whom it is  
23 issued and is so affixed. The failure of such person to  
24 exhibit such license to the commission or any of its wildlife  
25 officers when such person is found engaging in such business  
26 is a violation of law. The license fees and activities  
27 permitted under particular licenses are as follows:

28 (g) Any individual or business issued an aquaculture  
29 certificate, pursuant to s. 597.004, shall be exempt from this  
30 section ~~the aquaculture game fish license and the resident~~  
31 ~~freshwater fish dealer's license~~. The commission is authorized

1 to require that cultured game fish sold be tagged and to  
2 assess a fee of not more than 5 cents for each tag, which  
3 shall be furnished by the commission.

4 Section 20. Section 372.6672, Florida Statutes, is  
5 amended to read:

6 372.6672 Wild alligator management and trapping  
7 program implementation; commission authority.--

8 (1) For the purposes of this section, "wild alligator"  
9 means any alligator not bred, raised, harvested, or used on a  
10 farm.

11 (2)(1) In any wild alligator management and trapping  
12 program that the Game and Fresh Water Fish Commission shall  
13 establish, the commission shall have the authority to adopt  
14 all rules necessary for full and complete implementation of  
15 such wild alligator management and trapping program, and, in  
16 order to ensure its lawful, safe, and efficient operation in  
17 accordance therewith, may:

18 (a) Regulate the marketing and sale of wild  
19 alligators, their hides, eggs, meat, and byproducts, including  
20 the development and maintenance of a state-sanctioned sale.

21 (b) Regulate the handling and processing of wild  
22 alligators, their eggs, hides, meat, and byproducts, for the  
23 lawful, safe, and sanitary handling and processing of same.

24 ~~(c) Regulate commercial alligator farming facilities~~  
25 ~~and operations for the captive propagation and rearing of~~  
26 ~~alligators and their eggs.~~

27 (c)(d) Provide hide-grading services by two or more  
28 individuals pursuant to state-sanctioned sales if rules are  
29 first promulgated by the commission governing:

30 1. All grading-related services to be provided  
31 pursuant to this section;

1           2. Criteria for qualifications of persons to serve as  
2 hide-graders for grading services to be provided pursuant to  
3 this section; and

4           3. The certification process by which hide-graders  
5 providing services pursuant to this section will be certified.

6           (d)~~(e)~~ Provide sales-related services by contract  
7 pursuant to state-sanctioned sales if rules governing such  
8 services are first promulgated by the commission.

9           (3)~~(2)~~ All contractors of the commission for the  
10 grading, marketing, and sale of alligators and their hides,  
11 eggs, meat, and byproducts shall not engage in any act  
12 constituting a conflict of interest under part III of chapter  
13 112.

14           (4)~~(3)~~ The commission shall provide adequate notice of  
15 state-sanctioned sales and may maintain a list of known hide  
16 buyers and provide notice of state sales by mail. Nothing  
17 herein shall authorize the commission to engage in marketing  
18 or promotion of the sale of alligator hides or products other  
19 than by providing the public notice described herein. The  
20 commission is authorized to market alligator hides or products  
21 obtained as a result of its law enforcement actions or its  
22 nuisance alligator control programs.

23           (5)~~(4)~~ The powers and duties of the commission  
24 hereunder shall not be construed so as to supersede the  
25 regulatory authority or lawful responsibility of the  
26 Department of Health ~~and Rehabilitative Services~~, the  
27 Department of Agriculture and Consumer Services, or any local  
28 governmental entity regarding the processing or handling of  
29 food products, but shall be deemed supplemental thereto.

30           Section 21. Subsection (5) is added to section  
31 403.0885, Florida Statutes, to read:

1           403.0885 Establishment of federally approved state  
2 National Pollutant Discharge Elimination System (NPDES)  
3 Program.--

4           (5) Certified aquaculture operations under s. 597.004  
5 whose annual production and water discharge are less than the  
6 parameters established by the NPDES program are exempt from  
7 wastewater management regulations if the operations follow  
8 available best management practices, including, but not  
9 limited to, those listed in the Department of Agriculture and  
10 Consumer Services' publication number M90G7, entitled "Best  
11 Management Practices for Aquaculture Water Quality."

12           Section 22. Section 597.002, Florida Statutes, is  
13 amended to read:

14           597.002 Legislative declaration of public policy  
15 respecting aquaculture.--The Legislature declares that  
16 aquaculture is agriculture and, as such, the Department of  
17 Agriculture and Consumer Services shall be the primary agency  
18 responsible for regulating aquaculture, any other law to the  
19 contrary notwithstanding. The only exceptions are those areas  
20 required by federal law, rule, or cooperative agreement to be  
21 regulated by another agency. The Legislature declares that, in  
22 order to effectively support the growth of aquaculture in this  
23 state, there is a need for a state aquaculture plan that will  
24 provide for the coordination and prioritization of state  
25 aquaculture efforts and the conservation and enhancement of  
26 aquatic resources and will provide mechanisms for increasing  
27 aquaculture production which may lead to the creation of new  
28 industries, job opportunities, income for aquaculturists, and  
29 other benefits to the state. The state aquaculture plan shall  
30 guide the research and development of the aquaculture  
31 industry. Funds designated by the Legislature for aquaculture

1 research and development or for contracting for aquaculture  
2 research and development shall be used to address the projects  
3 and activities designated in the state aquaculture plan. Any  
4 entity receiving legislative funding for aquaculture research  
5 and development programs shall report annually to the  
6 department all activities related to aquaculture to facilitate  
7 coordination and compliance with the state aquaculture plan.

8 Section 23. Paragraph (j) is added to subsection (1)  
9 of section 597.003, Florida Statutes, to read:

10 597.003 Powers and duties of Department of Agriculture  
11 and Consumer Services.--

12 (1) The department is hereby designated as the lead  
13 agency in encouraging the development of aquaculture in the  
14 state and shall have and exercise the following functions,  
15 powers, and duties with regard to aquaculture:

16 (j) Issue or deny any license or permit authorized or  
17 delegated to the department by the Legislature or through  
18 memorandum of understanding with other state or federal  
19 agencies that furthers the intent of the Legislature to place  
20 the regulation of aquaculture in the department.

21 Section 24. Section 597.004, Florida Statutes, is  
22 amended to read:

23 597.004 Aquaculture certificate of registration.--

24 (1) CERTIFICATION.--

25 (a) Any person engaging in aquaculture must be  
26 certified by the department. The applicant for a certificate  
27 of registration shall submit the following to the department:

- 28 1. Applicant's name/title.
- 29 2. Company name.
- 30 3. Complete mailing address.

31

1           4. Legal property description of all aquaculture  
2 facilities.

3           5. Description of production facilities.

4           6. Aquaculture products to be produced.

5           7. Fifty dollar annual registration fee, ~~effective~~  
6 ~~July 1, 1997.~~

7           (b) Any aquatic plant producer permitted ~~certified~~ by  
8 the Game and Fresh Water Fish Commission ~~department~~ pursuant  
9 to s. 369.25 shall also be issued an aquaculture certificate  
10 of registration.

11           (c) Any alligator producer with an alligator farming  
12 license and permit to establish and operate an alligator farm  
13 ~~pursuant to the provisions and rules of chapter 372~~ shall be  
14 issued an aquaculture certificate of registration.

15           (2) FEES.--

16           ~~(a)~~ Effective July 1, 1997, all fees collected  
17 pursuant to this section shall be deposited into the General  
18 Inspection Trust Fund in the Department of Agriculture and  
19 Consumer Services.

20           ~~(b) For each aquaculture certificate of registration~~  
21 ~~issued pursuant to this section for freshwater fish operations~~  
22 ~~under chapter 372, \$40 shall be deposited into the State Game~~  
23 ~~Trust Fund in the Game and Fresh Water Fish Commission from~~  
24 ~~the General Inspection Trust Fund in the Department of~~  
25 ~~Agriculture and Consumer Services.~~

26           (3) IDENTIFICATION OF AQUACULTURE  
27 PRODUCTS.--Aquaculture products shall be identified while  
28 possessed, processed, transported, or sold as provided in this  
29 subsection, except those subject to the requirements of  
30 chapter 372 and the rules of the Game and Fresh Water Fish  
31 Commission as they relate to alligators only.



1 (a) Aquaculture products shall be identified by an  
2 aquaculture certificate of registration number from harvest to  
3 point of sale. Any person who possesses aquaculture products  
4 must show, by appropriate receipt, bill of sale, bill of  
5 lading, or other such manifest where the product originated.

6 (b) Marine aquaculture products shall be transported  
7 in containers that separate such product from wild stocks, and  
8 shall be identified by tags or labels that are securely  
9 attached and clearly displayed.

10 (c) Each aquaculture registrant who sells food  
11 products labeled as "aquaculture or farm raised" must have  
12 such products containerized and clearly labeled in accordance  
13 with s. 500.11. Label information must include the name,  
14 address, and aquaculture certification number. This  
15 requirement is designed to segregate the identity of wild and  
16 aquaculture products.

17 (4) SALE OF AQUACULTURE PRODUCTS.--

18 (a) Aquaculture products, except shellfish, snook, and  
19 endangered or threatened freshwater aquatic species ~~identified~~  
20 ~~in chapter 372 and rules of the Game and Fresh Water Fish~~  
21 ~~Commission~~, may be sold without restriction so long as product  
22 origin can be identified.

23 (b) Aquaculture shellfish must be sold and handled in  
24 accordance with shellfish handling regulations of the  
25 Department of Environmental Protection established to protect  
26 public health.

27 (5) REGISTRATION AND RENEWALS.--

28 (a) ~~Not later than December 1, 1996,~~ Each aquaculture  
29 producer must apply for an aquaculture certificate of  
30 registration with the department and submit the appropriate  
31 fee. Upon department approval, the department shall issue the

1 applicant an aquaculture certificate of registration ~~only~~ for  
 2 a the period of 1 year covering ~~December 1, 1996, through June~~  
 3 ~~30, 1997. The department shall not require a registration fee~~  
 4 ~~only for the period covering December 1, 1996, through June~~  
 5 ~~30, 1997. However,~~ Beginning July 1, 1997, and each year  
 6 thereafter, each aquaculture certificate of registration must  
 7 be renewed with fee, pursuant to this chapter, on July 1.

8 (b) ~~No later than October 1, 1996,~~The department  
 9 shall send notices of registration to all aquaculture  
 10 producers of record requiring them to register for an  
 11 aquaculture certificate. ~~Thereafter, the department shall send~~  
 12 a Renewal notices shall be sent notice to the registrant 60  
 13 days preceding the termination date of the certificate of  
 14 registration. Prior to the termination date, the registrant  
 15 must return a completed renewal form with fee, pursuant to  
 16 this chapter, to the department.

17 Section 25. (1) The amendments to ss. 370.027,  
 18 370.06, 370.26, 372.0225, 372.65, 372.6672, 403.0885, 597.002,  
 19 597.003, and 597.004, Florida Statutes, by this act are to  
 20 implement Specific Appropriations 1116 and 1118 of the  
 21 1998-1999 General Appropriations Act.

22 (2) The amendments to ss. 370.027, 370.06, 370.26,  
 23 372.0225, 372.65, 372.6672, 403.0885, 597.002, 597.003, and  
 24 597.004, Florida Statutes, by this act shall expire June 30,  
 25 1999, and the text of said sections shall revert to that in  
 26 existence on June 30, 1998, except that any amendments to such  
 27 text enacted other than by this act shall be preserved and  
 28 continue to operate to the extent that such amendments are not  
 29 dependent upon the portions of said text which expire pursuant  
 30 to the provisions of this act. The Statutory Revision Division  
 31 of the Joint Legislative Management Committee, or its

1 successor, shall include in an appropriate reviser's bill any  
2 amendments to said sections which are necessary to give effect  
3 to the legislative intent expressed in this section.

4       Section 26. A section of this act that implements a  
5 specific appropriation or specifically identified proviso  
6 language in the 1998-1999 General Appropriations Act is void  
7 if the specific appropriation or specifically identified  
8 proviso language is vetoed. A section of this act that  
9 implements more than one specific appropriation or more than  
10 one portion of specifically identified proviso language in the  
11 1998-1999 General Appropriations Act is void if all the  
12 specific appropriations or portions of specifically identified  
13 proviso language are vetoed.

14       Section 27. If any other act passed during the 1998  
15 Regular Session of the Legislature or any extension thereof  
16 contains a provision which is substantively the same as a  
17 provision in this act, but which removes or is otherwise not  
18 subject to the future repeal applied to such provision by this  
19 act, the Legislature intends that the provision in the other  
20 act shall take precedence and shall continue to operate,  
21 notwithstanding the future repeal provided by this act.

22       Section 28. If any provision of this act or the  
23 application thereof to any person or circumstance is held  
24 invalid, the invalidity shall not affect other provisions or  
25 applications of the act which can be given effect without the  
26 invalid provision or application, and to this end the  
27 provisions of this act are declared severable.

28       Section 29. This act shall take effect July 1, 1998;  
29 or, in the event this act fails to become a law until after  
30 that date, it shall operate retroactively thereto.

31