

By the Committee on Agriculture and Representative Bronson

1 A bill to be entitled
2 An act relating to aquaculture; amending s.
3 370.027, F.S.; revising rulemaking authority
4 relating to marine aquaculture products;
5 amending s. 370.06, F.S.; revising provisions
6 relating to issuance of certain special
7 activity licenses and consolidation of permits;
8 amending s. 370.081, F.S.; providing an
9 exemption from provisions relating to
10 importation or possession of nonindigenous
11 marine plants and animals; amending s. 370.10,
12 F.S.; authorizing taking saltwater species from
13 the wild for certain purposes; amending s.
14 370.1107, F.S.; providing a penalty for illegal
15 possession of live bait traps or cages;
16 amending s. 370.26, F.S.; revising definitions;
17 amending ss. 372.0225 and 372.65, F.S.;
18 clarifying respective responsibilities of the
19 Division of Fisheries of the Game and Fresh
20 Water Fish Commission and the Department of
21 Agriculture and Consumer Services with respect
22 to freshwater organisms, aquaculture products,
23 and regulation of holders of aquaculture
24 certificates of registration; deleting
25 authority of the commission to require a tag
26 and fee for cultured game fish sold; amending
27 s. 597.0015, F.S.; revising a definition;
28 amending s. 597.004, F.S.; revising provisions
29 relating to aquaculture certificates of
30 registration and sale of aquaculture products;
31 amending s. 597.0041, F.S., relating to

1 prohibited acts and penalties; creating s.
2 597.0045, F.S.; providing a program of rewards
3 for information regarding illegal possession or
4 harvest of cultured shellfish; providing for
5 rules; providing for funding; providing
6 severability of provisions or applications of
7 this act; providing an effective date.

8

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

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11 Section 1. Subsection (4) of section 370.027, Florida
12 Statutes, 1998 Supplement, is amended to read.

13 370.027 Rulemaking authority with respect to marine
14 life.--

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

26 Section 2. Paragraphs (b), (d), and (e) of subsection
27 (4) of section 370.06, Florida Statutes, 1998 Supplement, are
28 amended to read:

29 370.06 Licenses.--

30 (4) SPECIAL ACTIVITY LICENSES.--

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1 (b) The department is authorized to issue special
2 activity licenses in accordance with this section and s.
3 370.31, to permit the importation and, ~~possession, and~~
4 ~~aquaculture~~ of wild anadromous sturgeon. The special activity
5 license shall provide for the protection of specific
6 ~~management practices to prevent the release and escape of~~
7 ~~cultured anadromous sturgeon and to protect~~ indigenous
8 populations of saltwater species.

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

20 (e) The department is authorized to issue special
21 activity licenses in accordance with ss. 370.071, 370.101, and
22 this section; aquaculture permit consolidation procedures in
23 s. 370.26(2)~~(3)(a)~~; and rules of the Marine Fisheries
24 Commission to permit the capture and possession of saltwater
25 species protected by law and used as stock for artificial
26 cultivation and propagation.

27 Section 3. Subsection (6) is added to section 370.081,
28 Florida Statutes, 1998 Supplement, to read:

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

1 (6) Aquaculture producers certified pursuant to s.
2 597.004 may import and possess nonindigenous marine plants and
3 marine animals, except those specifically listed in subsection
4 (2) or prohibited by rule of the department.

5 Section 4. Subsection (2) of section 370.10, Florida
6 Statutes, 1998 Supplement, is amended to read:

7 370.10 Crustacea, marine animals, fish; regulations;
8 general provisions.--

9 (2) TAKING SALTWATER SPECIES FOR EXPERIMENTAL,
10 AQUACULTURAL, SCIENTIFIC, EDUCATION, AND EXHIBITION
11 PURPOSES.--Notwithstanding any other provisions of general or
12 special law to the contrary, the department may authorize,
13 upon such terms, conditions, and restrictions as it may
14 prescribe by rule, any properly accredited person to harvest
15 or possess indigenous or nonindigenous saltwater species for
16 experimental, aquacultural for reasonable quantities of brood
17 stock, scientific, education, and exhibition purposes. Such
18 authorizations shall allow persons harvesting species for
19 aquacultural purposes to use special gear.Such authorizations
20 may allow collection of specimens without regard to, and not
21 limited to, size, seasonal closure, collection method,
22 reproductive state, or bag limit. Authorizations issued under
23 the provisions of this section may be suspended or revoked by
24 the department if it finds that the person has violated this
25 section, department rules or orders, or terms or conditions of
26 the authorization or has submitted false or inaccurate
27 information in his or her application.

28 Section 5. Subsections (3) and (4) of section
29 370.1107, Florida Statutes, are renumbered as subsections (4)
30 and (5), respectively, and a new subsection (3) is added to
31 said section to read:

1 370.1107 Definition; possession of certain ~~licensed~~
2 traps prohibited; penalties; exceptions; consent.--

3 (3) It is unlawful for any person, firm, corporation,
4 or association to possess, attempt to possess, interfere with,
5 attempt to interfere with, or remove live bait from a live
6 bait trap or cage of another person, firm, corporation, or
7 association. Unlawful possession of one or more live bait
8 traps or cages is a misdemeanor of the first degree,
9 punishable as provided in s. 775.082 or s. 775.083.

10 Section 6. Paragraphs (a) and (b) of subsection (1) of
11 section 370.26, Florida Statutes, 1998 Supplement, are amended
12 to read:

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

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

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

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

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

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

1 4. Facilities used by marine aquarium hobbyists.

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

5 Section 7. Subsection (2) of section 372.0225, Florida
6 Statutes, 1998 Supplement, is amended to read:

7 372.0225 Freshwater organisms.--

8 (2) The responsibility with which the Division of
9 Fisheries is charged under subsection (1) shall in no way
10 supersede or duplicate the responsibilities of the Department
11 of Agriculture and Consumer Services under chapter 500, the
12 Florida Food Safety Act, or under chapter 597, the Florida
13 Aquaculture Policy Act, and the rules adopted thereunder ~~under~~
14 ~~that chapter~~.

15 Section 8. Paragraph (g) of subsection (1) of section
16 372.65, Florida Statutes, 1998 Supplement, is amended to read:

17 372.65 Freshwater fish dealer's license.--

18 (1) No person shall engage in the business of taking
19 for sale or selling any frogs or freshwater fish, including
20 live bait, of any species or size, or importing any exotic or
21 nonindigenous fish, until such person has obtained a license
22 and paid the fee therefor as set forth herein. The license
23 issued shall be in the possession of the person to whom issued
24 while such person is engaging in the business of taking for
25 sale or selling freshwater fish or frogs, is not transferable,
26 shall bear on its face in indelible ink the name of the person
27 to whom it is issued, and shall be affixed to a license
28 identification card issued by the commission. Such license is
29 not valid unless it bears the name of the person to whom it is
30 issued and is so affixed. The failure of such person to
31 exhibit such license to the commission or any of its wildlife

1 officers when such person is found engaging in such business
2 is a violation of law. The license fees and activities
3 permitted under particular licenses are as follows:

4 (g) Any individual or business issued an aquaculture
5 certificate, pursuant to s. 597.004, shall be exempt with
6 respect to aquaculture products authorized under such
7 certificate from the requirements of this chapter. ~~The~~
8 ~~commission is authorized to require that cultured game fish~~
9 ~~sold be tagged and to assess a fee of not more than 5 cents~~
10 ~~for each tag, which shall be furnished by the commission.~~

11 Section 9. Subsection (2) of section 597.0015, Florida
12 Statutes, is amended to read.

13 597.0015 Definitions.--For purposes of this chapter,
14 the following terms shall have the following meanings:

15 (2) "Aquaculture producers" means those persons
16 engaging in the production ~~and sale~~ of aquaculture products
17 and certified pursuant to s. 597.004.

18 Section 10. Paragraphs (b), (c), (d), and (h) of
19 subsection (2), subsection (4), paragraph (a) of subsection
20 (5), and paragraph (a) of subsection (6) of section 597.004,
21 Florida Statutes, 1998 Supplement, are amended, and paragraph
22 (c) is added to subsection (6) of said section, to read:

23 597.004 Aquaculture certificate of registration.--

24 (2) NONSHELLFISH CERTIFICATION.--

25 (b) The department, in consultation with the
26 Department of Environmental Protection, the water management
27 districts, environmental groups, and representatives from the
28 affected farming groups, shall adopt rules to:

29 1. Specify the requirement of best-management
30 practices to be implemented by holders of aquaculture
31 certificates of registration ~~property owners and leaseholders.~~

1 2. Establish procedures for holders of aquaculture
2 certificates of registration ~~property owners and leaseholders~~
3 to submit the notice of intent to comply with best-management
4 practices.

5 3. Establish schedules for implementation of
6 best-management practices, and of interim measures that can be
7 taken prior to adoption of best-management practices. Interim
8 measures may include the continuation of regulatory
9 requirements in effect on June 30, 1998.

10 4. Establish a system to assure the implementation of
11 best-management practices, including recordkeeping
12 requirements.

13
14 Rules adopted pursuant to this paragraph ~~subsection~~ shall
15 become effective pursuant to the applicable provisions of
16 chapter 120, but must be submitted to the President of the
17 Senate and the Speaker of the House of Representatives for
18 review by the Legislature. The rules shall be referred to the
19 appropriate committees of substance and scheduled for review
20 during the first available regular session following adoption.
21 Except as otherwise provided by operation of law, such rules
22 shall remain in effect until rejected or modified by act of
23 the Legislature.

24 (c) Notwithstanding any provision of law, the
25 Department of Environmental Protection is not authorized to
26 institute proceedings against any person certified under this
27 section to recover any costs or damages associated with
28 contamination of groundwater or surface water, or the
29 evaluation, assessment, or remediation of contamination of
30 groundwater or surface water, including sampling, analysis,
31 and restoration of potable water supplies, where the

1 contamination of groundwater or surface water is determined to
2 be the result of aquaculture practices, provided the holder of
3 an aquaculture certificate of registration ~~property owner or~~
4 ~~leaseholder~~:

5 1. Provides the department with a notice of intent to
6 implement applicable best-management practices adopted by the
7 department;

8 2. Implements applicable best-management practices as
9 soon as practicable according to rules adopted by the
10 department; and

11 3. Implements practicable interim measures identified
12 and adopted by the department which can be implemented
13 immediately, or according to rules adopted by the department.

14 (d) There is a presumption of compliance with state
15 groundwater and surface water standards if the holder of an
16 aquaculture certificate of registration ~~property owner or~~
17 ~~leaseholder~~ implements best-management practices that have
18 been verified by the Department of Environmental Protection to
19 be effective at representative sites and complies with the
20 following:

21 1. Provides the department with a notice of intent to
22 implement applicable best-management practices adopted by the
23 department;

24 2. Implements applicable best-management practices as
25 soon as practicable according to rules adopted by the
26 department; and

27 3. Implements practicable interim measures identified
28 and adopted by the department which can be implemented
29 immediately, or according to rules adopted by the department.

30 (h) Any alligator producer with an alligator farming
31 license and permit to establish and operate an alligator farm

1 shall be issued an aquaculture certificate of registration
2 pursuant to subsection (1) ~~above~~. Nothing in this chapter
3 shall be construed to supersede the authority under chapter
4 372, chapter 373, or chapter 403 to regulate alligator farms
5 and alligator farmers.

6 (4) IDENTIFICATION OF AQUACULTURE
7 PRODUCTS.--Aquaculture products shall be identified while
8 possessed, processed, transported, or sold as provided in this
9 subsection, except those subject to the ~~requirements of~~
10 ~~chapter 372 and the~~ rules of the Game and Fresh Water Fish
11 Commission as they relate to alligators only.

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

17 (b) Marine aquaculture products shall be transported
18 in containers that separate such product from wild stocks, and
19 shall be identified by tags or labels that are securely
20 attached and clearly displayed.

21 (c) Each aquaculture registrant who sells food
22 products labeled as "aquaculture or farm raised" must have
23 such products containerized and clearly labeled in accordance
24 with s. 500.11. Label information must include the name,
25 address, and aquaculture certification number. This
26 requirement is designed to segregate the identity of wild and
27 aquaculture products.

28 (5) SALE OF AQUACULTURE PRODUCTS.--

29 (a) Aquaculture products, except shellfish and
30 prohibited freshwater species identified by, ~~snook, spotted~~
31 ~~sea trout, red drum, and freshwater aquatic species identified~~

1 ~~in chapter 372 and~~ rules of the Game and Fresh Water Fish
2 Commission, may be sold by an aquaculture producer without
3 restriction so long as product origin can be identified.

4 (6) REGISTRATION AND RENEWALS.--

5 (a) Each aquaculture producer must apply for an
6 aquaculture certificate of registration with the department
7 and submit the appropriate fee. Upon department approval, the
8 department shall issue the applicant an aquaculture
9 certificate of registration for a period not to exceed of 1
10 year. Beginning July 1, 1997, and each year thereafter, each
11 aquaculture certificate of registration must be renewed with
12 fee, pursuant to this chapter, on July 1.

13 (c) Any person who has had an aquaculture certificate
14 of registration revoked or suspended must reapply to the
15 department for certification.

16 Section 11. Subsection (3) of section 597.0041,
17 Florida Statutes, is amended to read.

18 597.0041 Prohibited acts; penalties.--

19 (3) Any person certified under this chapter who has
20 been convicted of taking aquaculture species raised at a
21 certified facility shall have his or her certificate license
22 revoked for 5 years by the Department of Agriculture and
23 Consumer Services pursuant to the provisions and procedures of
24 s. 120.60.

25 Section 12. Section 597.0045, Florida Statutes, is
26 created to read:

27 597.0045 Cultured shellfish theft reward
28 program.--There is created a cultured shellfish theft reward
29 program, to be administered by the department, for the purpose
30 of granting rewards to persons who provide information leading
31 to the arrest and conviction of individuals illegally

1 possessing, harvesting, or attempting to harvest cultured
2 shellfish.

3 (1) Each person who provides information leading to
4 the arrest and conviction of an individual or individuals for
5 illegally possessing, harvesting, or attempting to harvest
6 cultured shellfish and for whom the respective state attorney
7 notifies the department of such assistance, in writing, shall
8 be eligible for a reward of up to \$2,500; except that law
9 enforcement officers and department personnel, and members of
10 their immediate families, shall not be eligible for rewards
11 under the program. The department shall, by rule, establish a
12 graduated reward payout schedule.

13 (2) There is established in the General Inspection
14 Trust Fund of the department a Cultured Shellfish Theft Reward
15 Account for deposit of general revenue funds designated for
16 the program and donations received from interested individuals
17 and organizations. Funds in this account shall be used for the
18 sole purpose of granting rewards to persons who provide
19 information leading to the arrest and conviction of
20 individuals illegally possessing, harvesting, or attempting to
21 harvest cultured shellfish. The granting of rewards shall be
22 subject to legislative appropriations to fund the program.

23 (3) The department may promote the cultured shellfish
24 theft reward program to provide for public recognition of the
25 rewards and to improve compliance with laws prohibiting
26 illegal possession and harvesting of cultured shellfish.

27 Section 13. If any provision of this act or the
28 application thereof to any person or circumstances is held
29 invalid, the invalidity does not affect other provisions or
30 applications of the act which can be given effect without the
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1 invalid provision or application, and to this end the
2 provisions of this act are declared severable.

3 Section 14. This act shall take effect July 1, 1999.
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