

By the Committee on Agriculture and Representatives
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1 A bill to be entitled
2 An act relating to aquaculture; amending s.
3 253.002, F.S.; providing duties of the
4 Department of Agriculture and Consumer Services
5 with respect to certain state lands; amending
6 s. 253.01, F.S.; providing for disposition of
7 fees for aquaculture leases; amending s.
8 253.67, F.S.; revising definitions; amending s.
9 253.71, F.S.; revising aquaculture lease
10 contract fee and performance requirements;
11 amending s. 253.72, F.S.; providing
12 requirements for the marking of leased areas;
13 amending s. 270.22, F.S.; conforming
14 disposition of rental fees for aquaculture
15 leases; amending s. 328.76, F.S.; providing for
16 use of certain commercial vessel registration
17 fees for aquaculture law enforcement and
18 quality control programs; amending s. 370.06,
19 F.S.; deleting authority of the Department of
20 Agriculture and Consumer Services to issue
21 certain special activity licenses under ch.
22 370, F.S.; clarifying requirements relating to
23 the educational seminar for applicants for an
24 Apalachicola Bay oyster harvesting license;
25 amending s. 370.07, F.S.; providing for
26 transfer of responsibilities relating to the
27 Apalachicola Bay oyster surcharge from the
28 Department of Environmental Protection to the
29 Department of Agriculture and Consumer
30 Services; amending s. 370.16, F.S.; revising
31 regulation of noncultured shellfish harvesting;

1 providing for protection of shellfish and
2 aquaculture products; repealing s. 370.16(1),
3 (2), (3), (4), (5), (6), (7), (8), (9), (10),
4 (11), (13), (16), (17), (19), (22), (24), (25),
5 (26), and (27), F.S., relating to regulation
6 and enforcement of oyster and shellfish leases
7 by the Department of Environmental Protection,
8 protection and development of oyster and
9 shellfish resources, and regulation of
10 processing for commercial use; amending ss.
11 370.161 and 372.071, F.S.; correcting cross
12 references; amending s. 372.6673, F.S.;
13 reducing the alligator egg collection permit
14 fee; requiring collection of a marketing
15 assessment fee for alligator products marketing
16 and education; amending s. 372.6674, F.S.;
17 reducing the fee for issuance of an alligator
18 hide validation tag; requiring collection of a
19 marketing and assessment fee; amending s.
20 373.046, F.S.; revising regulatory
21 responsibility under pt. IV of ch. 373, F.S.,
22 for aquacultural activities; amending ss.
23 403.814, 409.2598, and 500.03, F.S.; correcting
24 cross references; amending ss. 570.18 and
25 570.29, F.S.; conforming provisions relating to
26 organization of the Department of Agriculture
27 and Consumer Services; creating s. 570.61,
28 F.S.; providing powers and duties of the
29 Division of Aquaculture of the Department of
30 Agriculture and Consumer Services; creating s.
31 570.62, F.S.; providing for appointment and

1 duties of a division director; amending s
2 597.003, F.S.; requiring a portion of profits
3 from aquaculture contracts to be set aside for
4 funding certain aquaculture projects; amending
5 s. 370.26, F.S.; transferring certain
6 responsibilities relating to aquaculture
7 development from the Department of
8 Environmental Protection to the Department of
9 Agriculture and Consumer Services; amending s.
10 597.004, F.S.; revising provisions relating to
11 aquaculture certificates of registration;
12 providing a preemption for regulation of
13 aquaculture in the state; amending s. 597.0041,
14 F.S.; providing an administrative fine;
15 providing penalties; amending s. 597.005, F.S.;
16 requiring review of aquaculture legislative
17 budget requests by the Aquaculture Review
18 Council; amending s. 597.006, F.S.; revising
19 membership of the Aquaculture Interagency
20 Coordinating Council; creating s. 597.010,
21 F.S.; providing for regulation and enforcement
22 of shellfish leases by the Department of
23 Agriculture and Consumer Services; providing
24 for continuation of leases previously issued
25 under ch. 370, F.S.; providing for rental fees,
26 fee adjustments, late fees, and forfeiture for
27 nonpayment of fees; providing a lease surcharge
28 for certain purposes; providing for rules;
29 providing cultivation requirements for leased
30 lands; restricting the inheriting or transfer
31 of leases; requiring a deposit for

1 investigations relating to petitions for
2 cancellation of leases to natural reefs;
3 providing for inclusion of natural reefs in
4 leased areas under certain circumstances;
5 restricting leases available in Franklin
6 County; providing prohibitions; providing for
7 shellfish protection and development; providing
8 for special activity licenses for harvest or
9 cultivation of oysters, clams, mussels, and
10 crabs; providing for uncultured shellfish
11 harvesting seasons in Apalachicola Bay;
12 restricting harvest of shellfish by mechanical
13 means; providing a penalty; providing for
14 enhancement of oyster and clam industries by
15 the counties; prohibiting dredging of dead
16 shells; providing for cooperation with the
17 United States Fish and Wildlife Service;
18 providing requirements for vessels harvesting,
19 gathering, or transporting oysters or clams for
20 commercial purposes; providing a definition;
21 renumbering and amending s. 370.071, F.S.;
22 providing that regulation of shellfish
23 processors includes processors processing
24 scallops; providing for a fee for licensure or
25 certification of processing facilities;
26 authorizing an administrative fine for
27 violation of rules relating to regulation of
28 shellfish processors; providing an effective
29 date.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Section 253.002, Florida Statutes, is
2 amended to read:

3 253.002 Department of Environmental Protection,~~and~~
4 water management districts, and Department of Agriculture and
5 Consumer Services; duties with respect to state lands.--

6 (1) The Department of Environmental Protection shall
7 perform all staff duties and functions related to the
8 acquisition, administration, and disposition of state lands,
9 title to which is or will be vested in the Board of Trustees
10 of the Internal Improvement Trust Fund. However, upon the
11 effective date of rules adopted pursuant to s. 373.427, a
12 water management district created under s. 373.069 shall
13 perform the staff duties and functions related to the review
14 of any application for authorization to use board of
15 trustees-owned submerged lands necessary for an activity
16 regulated under part IV of chapter 373 for which the water
17 management district has permitting responsibility as set forth
18 in an operating agreement adopted pursuant to s. 373.046(4);
19 and effective July 1, 2000, the Department of Agriculture and
20 Consumer Services shall perform the staff duties and functions
21 related to the review of applications and compliance with
22 lease conditions for use of board of trustees-owned submerged
23 lands under leases issued pursuant to ss. 253.67-253.75 and s.
24 597.010. Unless expressly prohibited by law, the board of
25 trustees may delegate to the department any statutory duty or
26 obligation relating to the acquisition, administration, or
27 disposition of lands, title to which is or will be vested in
28 the board of trustees. The board of trustees may also delegate
29 to any water management district created under s. 373.069 the
30 authority to take final agency action, without any action on
31 behalf of the board, on applications for authorization to use

1 board of trustees-owned submerged lands for any activity
2 regulated under part IV of chapter 373 for which the water
3 management district has permitting responsibility as set forth
4 in an operating agreement adopted pursuant to s. 373.046(4).
5 This water management district responsibility under this
6 subsection shall be subject to the department's general
7 supervisory authority pursuant to s. 373.026(7). The board of
8 trustees may also delegate to the Department of Agriculture
9 and Consumer Services the authority to take final agency
10 action on behalf of the board on applications to use board of
11 trustees-owned submerged lands for any activity for which that
12 department has responsibility pursuant to ss. 253.67-253.75
13 and s. 597.010. Upon issuance of an aquaculture lease or other
14 real property transaction relating to aquaculture, the
15 Department of Agriculture and Consumer Services must send a
16 copy of the document and the accompanying survey to the
17 Department of Environmental Protection.

18 (2) Delegations to the department, or a water
19 management district, or the Department of Agriculture and
20 Consumer Services of authority to take final agency action on
21 applications for authorization to use submerged lands owned by
22 the board of trustees, without any action on behalf of the
23 board of trustees, shall be by rule. Until rules adopted
24 pursuant to this subsection become effective, existing
25 delegations by the board of trustees shall remain in full
26 force and effect. However, the board of trustees is not
27 limited or prohibited from amending these delegations. By
28 ~~December 31, 1995,~~ The board of trustees shall adopt by rule
29 any delegations of its authority to take final agency action
30 without action by the board of trustees on applications for
31 authorization to use board of trustees-owned submerged lands.

1 Any final agency action, without action by the board of
2 trustees, taken by the department, or a water management
3 district, or the Department of Agriculture and Consumer
4 Services on applications to use board of trustees-owned
5 submerged lands shall be subject to the provisions of s.
6 373.4275. Notwithstanding any other provision of this
7 subsection, the board of trustees, the Department of Legal
8 Affairs, and the department retain the concurrent authority to
9 assert or defend title to submerged lands owned by the board
10 of trustees.

11 Section 2. Paragraph (b) of subsection (1) of section
12 253.01, Florida Statutes, is amended to read:

13 253.01 Internal Improvement Trust Fund established.--

14 (1)

15 (b) All revenues received from application fees
16 charged by the Division of State Lands for the use in any
17 manner, lease, conveyance, or release of any interest in or
18 for the sale of state lands, except revenues from such fees
19 charged by the Department of Agriculture and Consumer Services
20 for aquaculture leases under ~~ss.~~253.71(2) and 597.010,
21 must be deposited into the Internal Improvement Trust Fund.
22 The fees charged by the division for reproduction of records
23 relating to state lands must also be placed into the fund.
24 Revenues received by the Department of Agriculture and
25 Consumer Services for aquaculture leases under ss. 253.71(2)
26 and 597.010 shall be deposited in the General Inspection Trust
27 Fund of the Department of Agriculture and Consumer Services.

28 Section 3. Section 253.67, Florida Statutes, is
29 amended to read:

30 253.67 Definitions.--As used in ss. 253.67-253.75:

31

1 (1) "Aquaculture" means the cultivation of aquatic
2 organisms.

3 ~~(2)(4)~~ "Board" means the Board of Trustees of the
4 Internal Improvement Trust Fund.

5 (3) "Department" means the Department of Agriculture
6 and Consumer Services ~~Environmental Protection~~.

7 ~~(4)(2)~~ "Water column" means the vertical extent of
8 water, including the surface thereof, above a designated area
9 of submerged bottom land.

10 Section 4. Paragraph (a) of subsection (2) and
11 subsection (4) of section 253.71, Florida Statutes, are
12 amended to read:

13 253.71 The lease contract.--When the board has
14 determined that the proposed lease is not incompatible with
15 the public interest and that the applicant has demonstrated
16 his or her capacity to perform the operations upon which the
17 application is based, it may proceed to consummate a lease
18 contract having the following features in addition to others
19 deemed desirable by the board:

20 (2) RENTAL FEES.--

21 (a) The lease contract shall specify such amount of
22 rental per acre of leased bottom as may be agreed to by the
23 parties and shall take the form of fixed rental to be paid
24 throughout the term of the lease. Beginning January 1, 1990,
25 a surcharge of \$5 per acre, or any fraction of an acre, per
26 annum shall be levied upon each lease according to the
27 guidelines set forth in s. ~~597.010(7)370.16(4)(b)~~. Beginning
28 January 1, 2001, the surcharge shall be increased to \$10 per
29 acre, or any fraction of an acre, per annum.

30 (4) PERFORMANCE REQUIREMENTS.--Failure of the lessee
31 to perform effective cultivation shall constitute ground for

1 cancellation of the lease and forfeiture to the state of all
2 the works, improvements, and animal and plant life in and upon
3 the leased land and water column. Effective cultivation shall
4 consist of the grow out of the aquaculture product according
5 to the business plan provided in the lease contract ~~guidelines~~
6 ~~set forth in s. 370.16(4)(e).~~

7 Section 5. Section 253.72, Florida Statutes, is
8 amended to read:

9 253.72 Marking of leased areas; restrictions on public
10 use.--

11 (1) The board shall require all lessees to stake off
12 and mark the areas under lease according to the conditions of
13 the lease agreement and rules of the board, by appropriate
14 ranges, monuments, stakes, buoys, and fences, so placed as not
15 to interfere unnecessarily with navigation and other
16 traditional uses of the surface. ~~All lessees shall cause the~~
17 ~~area under lease and the names of the lessees to be shown by~~
18 ~~signs appropriately placed pursuant to regulations of the~~
19 ~~board.~~

20 (2) Except to the extent necessary to permit the
21 effective development of the species of animal or plant life
22 being cultivated by the lessee, the public shall be provided
23 with means of reasonable ingress and egress to and from the
24 leased area for traditional water activities such as boating,
25 swimming, and fishing. All limitations upon the use by the
26 public of the areas under lease that are authorized by the
27 terms of the lease shall be clearly posted by the lessee
28 pursuant to rules ~~regulations~~ by the board. Any person
29 willfully violating posted restrictions commits ~~shall be~~
30 ~~guilty of~~ a misdemeanor of the second degree, punishable as
31 provided in s. 775.082 or s. 775.083.

1 (3) To assist in protecting shellfish aquaculture
2 products produced on leases authorized pursuant to this
3 chapter and chapter 597 ~~370~~, harvesting shellfish is
4 prohibited within a distance of 25 feet outside lawfully
5 marked lease boundaries or within setback and access corridors
6 within specifically designated high-density aquaculture lease
7 areas and aquaculture use zones.

8 Section 6. Subsection (2) of section 270.22, Florida
9 Statutes, is amended to read:

10 270.22 Proceeds of state lands to go into Internal
11 Improvement Trust Fund; exception.--

12 (2) Rental fees for aquaculture leases pursuant to s.
13 253.71(2) shall be deposited into the General Inspection Trust
14 Fund of the Department of Agriculture and Consumer Services
15 ~~Marine Resources Conservation Trust Fund of the Department of~~
16 ~~Environmental Protection~~. Such fees generated by
17 shellfish-related aquaculture leases shall be used for
18 shellfish-related aquaculture activities, including research,
19 lease compliance inspections, mapping, and siting.

20 Section 7. Section 328.76, Florida Statutes, is
21 amended to read:

22 328.76 Marine Resources Conservation Trust Fund;
23 vessel registration funds; appropriation and distribution.--

24 (1) Except as otherwise specified and less any
25 administrative costs, all funds collected from the
26 registration of vessels through the Department of Highway
27 Safety and Motor Vehicles and the tax collectors of the state
28 shall be deposited in the Marine Resources Conservation Trust
29 Fund for recreational channel marking; public launching
30 facilities; law enforcement and quality control programs;
31 aquatic weed control; manatee protection, recovery, rescue,

1 rehabilitation, and release; and marine mammal protection and
2 recovery. The funds collected pursuant to s. 328.72(1) shall
3 be transferred as follows:

4 (a) In each fiscal year, an amount equal to \$1 for
5 each vessel registered in this state shall be transferred to
6 the Save the Manatee Trust Fund for manatee and marine mammal
7 research, protection, and recovery in accordance with the
8 provisions of s. 370.12(4)(a).

9 (b) In addition, in each fiscal year, an amount equal
10 to 50 cents for each vessel registered in this state shall be
11 transferred to the Save the Manatee Trust Fund in accordance
12 with the provisions of s. 370.12(4)(b) for use by those
13 facilities approved to rescue, rehabilitate, and release
14 manatees as authorized pursuant to the Fish and Wildlife
15 Service of the United States Department of the Interior.

16 (c) Two dollars from each noncommercial vessel
17 registration fee, except that for class A-1 vessels, shall be
18 transferred to the Invasive Plant Control Trust Fund for
19 aquatic weed research and control.

20 ~~(d) Forty percent of the registration fees from~~
21 ~~commercial vessels shall be used for law enforcement and~~
22 ~~quality control programs.~~

23 (d)(e) Forty percent of the registration fees from
24 commercial vessels shall be transferred to the Invasive Plant
25 Control Trust Fund for aquatic plant research and control.

26 (e) Forty percent of the registration fees from
27 commercial vessels shall be transferred by the Department of
28 Highway Safety and Motor Vehicles, on a monthly basis, to the
29 General Inspection Trust Fund of the Department of Agriculture
30 and Consumer Services. These funds shall be used for shellfish
31 and aquaculture law enforcement and quality control programs.

1 (2) All funds collected pursuant to s. 370.06(2) shall
2 be deposited in the Marine Resources Conservation Trust Fund.
3 Such funds shall be used to pay the cost of implementing the
4 saltwater products license program. Additional proceeds from
5 the licensing revenue shall be distributed among the following
6 program functions:

7 (a) No more than 15 percent shall go to marine law
8 enforcement;

9 (b) Twenty-five ~~No more than 25~~ percent shall go to
10 the Florida Saltwater Products Promotion Trust Fund within the
11 Department of Agriculture and Consumer Services, on a monthly
12 basis, for the purpose of providing marketing and extension
13 services including industry information and education; and

14 (c) The remainder shall go to the Fish and Wildlife
15 Conservation Commission, for use in marine research and
16 statistics development, including quota management.

17 Section 8. Paragraph (c) of subsection (4) and
18 paragraph (e) of subsection (5) of section 370.06, Florida
19 Statutes, are amended to read:

20 370.06 Licenses.--

21 (4) SPECIAL ACTIVITY LICENSES.--

22 ~~(c) The Department of Agriculture and Consumer~~
23 ~~Services is authorized to issue special activity licenses, in~~
24 ~~accordance with s. 370.071, to permit the harvest or~~
25 ~~cultivation of oysters, clams, mussels, and crabs when such~~
26 ~~activities relate to quality control, sanitation, public~~
27 ~~health regulations, innovative technologies for aquaculture~~
28 ~~activities, or the protection of shellfish resources provided~~
29 ~~in this chapter.~~

30 (5) APALACHICOLA BAY OYSTER HARVESTING LICENSE.--

31

1 (e) Each person who applies for an Apalachicola Bay
2 oyster harvesting license shall, before receiving the license
3 for the first time, attend an educational seminar of not more
4 than 16 hours length, developed and conducted jointly by the
5 Department of Environmental Protection's Apalachicola National
6 Estuarine Research Reserve, the Division of Law Enforcement of
7 the Fish and Wildlife Conservation Commission, and the
8 Department of Agriculture and Consumer Services' Apalachicola
9 District Shellfish Environmental Assessment Laboratory. The
10 seminar shall address, among other things, oyster biology,
11 conservation of the Apalachicola Bay, sanitary care of
12 oysters, small business management, and water safety. The
13 seminar shall be offered five times per year, and each person
14 attending shall receive a certificate of participation to
15 present when obtaining an Apalachicola Bay oyster harvesting
16 license. The educational seminar is not required for renewal
17 of an Apalachicola Bay oyster harvesting license.

18 Section 9. Paragraphs (f), (h), (i), and (k) of
19 subsection (3) of section 370.07, Florida Statutes, are
20 amended to read:

21 370.07 Wholesale and retail saltwater products
22 dealers; regulation.--

23 (3) APALACHICOLA BAY OYSTER SURCHARGE.--

24 (f) The Department of Revenue shall collect the
25 surcharge for transfer into the General Inspection Trust Fund
26 of the Department of Agriculture and Consumer Services ~~Marine~~
27 ~~Resources Conservation Trust Fund of the Department of~~
28 ~~Environmental Protection.~~

29 (h) Annually, the Department of Agriculture and
30 Consumer Services and the Fish and Wildlife Conservation
31 Commission ~~Environmental Protection~~ shall furnish the

1 Department of Revenue with a current list of wholesale dealers
2 in the state.

3 (i) Collections received by the Department of Revenue
4 from the surcharge shall be transferred quarterly to the
5 General Inspection Trust Fund of the Department of Agriculture
6 and Consumer Services ~~Department of Environmental Protection~~
7 ~~Marine Resources Conservation Trust Fund~~, less the costs of
8 administration.

9 (k) The Department of Agriculture and Consumer
10 Services ~~Environmental Protection~~ shall use or distribute
11 funds generated by this surcharge, less reasonable costs of
12 collection and administration, to fund the following oyster
13 management and restoration programs in Apalachicola Bay:

- 14 1. The relaying and transplanting of live oysters.
- 15 2. Shell planting to construct or rehabilitate oyster
16 bars.
- 17 3. Education programs for licensed oyster harvesters
18 on oyster biology, aquaculture, boating and water safety,
19 sanitation, resource conservation, small business management,
20 and other relevant subjects.
- 21 4. Research directed toward the enhancement of oyster
22 production in the bay and the water management needs of the
23 bay.

24 Section 10. Subsections (1) through (11), (13), (16),
25 (17), (19), (22), and (24) through (27) of section 370.16,
26 Florida Statutes, are repealed, and subsections (12), (14),
27 (15), (18), (20), (21), (23), and (28) of said section are
28 amended to read:

29 370.16 Noncultured shellfish harvesting ~~Oysters and~~
30 ~~shellfish; regulation.--~~

31

1 ~~(1)~~(12) PROTECTION OF OYSTER AND CLAM REEFS AND
2 SHELLFISH AQUACULTURE PRODUCTS.--

3 ~~(a)~~ The Department of Environmental Protection shall
4 ~~improve, enlarge, and protect the natural oyster and clam~~
5 ~~reefs of this state to the extent it may deem advisable and~~
6 ~~the means at its disposal will permit.~~

7 ~~(a)~~(b) The Fish and Wildlife Conservation Commission
8 shall, ~~to the same extent,~~ assist in protecting shellfish
9 aquaculture products produced on leased or granted reefs in
10 the hands of lessees or grantees from the state. Harvesting
11 shellfish is prohibited within a distance of 25 feet outside
12 lawfully marked lease boundaries or within setback and access
13 corridors within specifically designated high-density
14 aquaculture lease areas and aquaculture use zones.

15 ~~(b)~~(c) The department, in cooperation with the
16 commission, shall provide the Legislature with recommendations
17 as needed for the development and the proper protection of the
18 rights of the state and private holders therein with respect
19 to the oyster and clam business.

20 ~~(2)~~(14) SHELLFISH HARVESTING SEASONS; ~~DAYS~~SPECIAL
21 PROVISIONS RELATING TO APALACHICOLA BAY.--

22 (a) The Fish and Wildlife Conservation Commission
23 shall by rule set the noncultured ~~consider setting the~~
24 shellfish harvesting seasons in the Apalachicola Bay, as
25 ~~follows:~~

26 1. ~~The open season shall be from October 1 to July 31~~
27 ~~of each year.~~

28 2. ~~The entire bay, including private leased or granted~~
29 ~~grounds, shall be closed to shellfish harvesting from August 1~~
30 ~~to September 30 of each year for the purpose of oyster~~
31 ~~relaying and transplanting and shell planting.~~

1 (b) If the commission changes the harvesting seasons
2 by rule as set forth in this subsection, for 3 years after the
3 new rule takes effect, the commission, in cooperation with the
4 Department of Agriculture and Consumer Services, shall monitor
5 the impacts of the new harvesting schedule on the bay and on
6 local shellfish harvesters to determine whether the new
7 harvesting schedule should be discontinued, retained, or
8 modified. In monitoring the new schedule and in preparing its
9 report, the ~~commission shall consider the~~ following
10 information shall be considered:

11 1. Whether the bay benefits ecologically from the new
12 harvesting schedule being closed to shellfish harvesting from
13 August 1 to September 30 of each year.

14 2. Whether the new harvesting schedule enhances the
15 enforcement of shellfish harvesting laws in the bay.

16 3. Whether the new harvesting schedule enhances
17 natural shellfish production, oyster relay and planting
18 programs, and shell planting programs in the bay.

19 4. Whether the new harvesting schedule has more than a
20 short-term adverse economic impact, if any, on local shellfish
21 harvesters.

22 ~~(c) The Fish and Wildlife Conservation Commission by~~
23 ~~rule shall consider restricting harvesting on shellfish grants~~
24 ~~or leases to the same days of the week as harvesting on public~~
25 ~~beds.~~

26 (3)(15) REMOVING OYSTERS, CLAMS, OR MUSSELS FROM
27 NATURAL REEFS; LICENSES, ETC., PENALTY.--

28 (a) It is unlawful to use a dredge or any means or
29 implement other than hand tongs in removing oysters from the
30 natural or artificial state reefs. This restriction shall
31 apply to all areas of ~~the~~ Apalachicola Bay for all shellfish

1 harvesting, excluding private grounds leased or granted by the
2 state prior to July 1, 1989, if the lease or grant
3 specifically authorizes the use of implements other than hand
4 tongs for harvesting. Except in ~~the~~ Apalachicola Bay, upon
5 the payment of \$25 annually, for each vessel or boat using a
6 dredge or machinery in the gathering of clams or mussels, a
7 special activity license may be issued by the Fish and
8 Wildlife Conservation Commission pursuant to s. 370.06 for
9 such use to such person.

10 ~~(b) Special activity licenses issued to harvest~~
11 ~~shellfish by dredge or other mechanical means from privately~~
12 ~~held shellfish leases or grants in Apalachicola Bay shall~~
13 ~~include, but not be limited to, the following conditions:~~

14 (b)1. The use of any mechanical harvesting device
15 other than ordinary hand tongs for taking shellfish for any
16 purpose from public shellfish beds in Apalachicola Bay shall
17 be unlawful.

18 (c)2. The possession of any mechanical harvesting
19 device on the waters of Apalachicola Bay from 5 p.m. until
20 sunrise shall be unlawful.

21 ~~3. Leaseholders or grantees shall telephonically~~
22 ~~notify the Fish and Wildlife Conservation Commission no less~~
23 ~~than 48 hours prior to each day's use of a dredge or scrape in~~
24 ~~order to arrange for a commission officer to be present on the~~
25 ~~lease or grant area while a dredge or scrape is used on the~~
26 ~~lease or grant. Under no circumstances may a dredge or scrape~~
27 ~~be used without a commission officer present.~~

28 ~~4. Only two dredges or scrapes per lease or grant may~~
29 ~~be possessed or operated at any time.~~

30 (d)5. Each vessel used for the transport or deployment
31 of a dredge or scrape shall prominently display the lease or

1 grant number or numbers, in numerals which are at least 12
2 inches high and 6 inches wide, in such a manner that the lease
3 or grant number or numbers are readily identifiable from both
4 the air and the water. ~~The commission shall apply other~~
5 ~~statutes, rules, or conditions necessary to protect the~~
6 ~~environment and natural resources from improper transport,~~
7 ~~deployment, and operation of a dredge or scrape. Any~~
8 ~~violation of this paragraph or of any other statutes, rules,~~
9 ~~or conditions referenced in the special activity license shall~~
10 ~~be considered a violation of the license and shall result in~~
11 ~~revocation of the license and forfeiture of the bond submitted~~
12 ~~to the commission as a prerequisite to the issuance of this~~
13 ~~license.~~

14 (e)~~(c)~~ Oysters may be harvested from natural or public
15 ~~or private leased or granted~~ grounds by common hand tongs or
16 by hand, by scuba diving, free diving, leaning from vessels,
17 or wading. In the Apalachicola Bay, this provision shall
18 apply to all shellfish.

19
20 The commission shall apply other statutes, rules, or
21 conditions necessary to protect the environment and natural
22 resources from improper transport, deployment, and operation
23 of a dredge or scrape. Any violation of this subsection or of
24 any other statutes, rules, or conditions referenced in the
25 special activity license shall be considered a violation of
26 the license and shall result in revocation of the license and
27 forfeiture of the bond submitted to the commission as a
28 prerequisite to the issuance of this license.

29 (4)~~(18)~~ FALSE RETURNS AS TO OYSTERS OR CLAMS
30 HANDLED.--Each packer, canner, corporation, firm, commission
31 person, or dealer in fish shall, on the first day of each

1 month, make a return under oath to the Fish and Wildlife
2 Conservation Commission, as to the number of oysters, clams,
3 and shellfish purchased, caught, or handled during the
4 preceding month. Whoever is found guilty of making any false
5 affidavit to any such report is guilty of perjury and punished
6 as provided by law, and any person who fails to make such
7 report shall be punished by a fine not exceeding \$500 or by
8 imprisonment in the county jail not exceeding 6 months.

9 (5)~~(20)~~ WATER PATROL FOR COLLECTION OF TAX.--

10 (a) The Fish and Wildlife Conservation Commission may
11 establish and maintain necessary patrols of the salt waters of
12 Florida, with authority to use such force as may be necessary
13 to capture any vessel or person violating the provisions of
14 the laws relating to oysters and clams, and may establish
15 ports of entry at convenient locations where the severance or
16 privilege tax levied on oysters and clams may be collected or
17 paid and may make such rules and regulations as it may deem
18 necessary for the enforcement of such tax.

19 (b) Each person in any way dealing in shellfish
20 harvesting from public reefs or beds shall keep a record, on
21 blanks or forms prescribed by the commission, of all oysters,
22 clams, and shellfish taken, purchased, used, or handled by him
23 or her, with the name of the persons from whom purchased, if
24 purchased, together with the quantity and the date taken or
25 purchased, and shall exhibit this account at all times when
26 requested so to do by the commission or any conservation
27 agent; and he or she shall, on the first day of each month,
28 make a return under oath to the commission as to the number of
29 oysters, clams, and shellfish purchased, caught, or handled
30 during the preceding month. The commission may require
31 detailed returns whenever it deems them necessary.

1 (6)~~(21)~~ SEIZURE OF VESSELS AND CARGOES VIOLATING
2 OYSTER AND CLAM LAWS, ETC.--Vessels, with their cargoes,
3 violating the provisions of the laws relating to oysters and
4 clams may be seized by anyone duly and lawfully authorized to
5 make arrests under this section or by any sheriff or the
6 sheriff's deputies, and taken into custody, and when not
7 arrested by the sheriff or the sheriff's deputies, delivered
8 to the sheriff of the county in which the seizure is made, and
9 shall be liable to forfeiture, on appropriate proceedings
10 being instituted by the Fish and Wildlife Conservation
11 Commission, before the courts of that county. In such case
12 the cargo shall at once be disposed of by the sheriff, for
13 account of whom it may concern. Should the master or any of
14 the crew of said vessel be found guilty of using dredges or
15 other instruments in fishing oysters on natural reefs contrary
16 to law, or fishing on the natural oyster or clam reefs out of
17 season, or unlawfully taking oysters or clams belonging to a
18 lessee, such vessel shall be declared forfeited by the court,
19 and ordered sold and the proceeds of the sale shall be
20 deposited with the Treasurer to the credit of the General
21 Revenue Fund; any person guilty of such violations shall not
22 be permitted to have any license provided for in this chapter
23 within a period of 1 year from the date of conviction.
24 Pending proceedings such vessel may be released upon the owner
25 furnishing bond, with good and solvent security in double the
26 value of the vessel, conditioned upon its being returned in
27 good condition to the sheriff to abide the judgment of the
28 court.
29 (7)~~(23)~~ DREDGING OF DEAD SHELLS PROHIBITED.--The
30 dredging of dead shell deposits is prohibited in the state.
31 (8)~~(28)~~ REQUIREMENTS FOR OYSTER VESSELS.--

1 (a) All vessels used for the harvesting, gathering, or
2 transporting of noncultured oysters for commercial use shall
3 be constructed and maintained to prevent contamination or
4 deterioration of oysters. To this end, all such vessels shall
5 be provided with false bottoms and bulkheads fore and aft to
6 prevent oysters from coming in contact with any bilge water.
7 No dogs or other animals shall be allowed at any time on
8 vessels used to harvest or transport oysters. A violation of
9 any provision of this subsection shall result in at least the
10 revocation of the violator's license.

11 ~~(b) For the purpose of this subsection, "commercial~~
12 ~~use" shall be a quantity of more than 4 bushels, or more than~~
13 ~~2 gallons, of shucked oysters, per person or per boat, or any~~
14 ~~number or quantity of oysters if the oysters are to be sold.~~

15 Section 11. Subsections (1) and (2) of section
16 370.161, Florida Statutes, are amended to read:

17 370.161 Oyster bottom land grants made pursuant to ch.
18 3293.--

19 (1) All grants previously issued by the several boards
20 of county commissioners under the authority of chapter 3293,
21 1881, Laws of Florida, shall be subject to provisions of s.
22 597.010 ~~370.16~~, relating to the marking of such lands, the
23 payment of rents, the cultivation of such lands and the
24 forfeiture provisions.

25 (2) Any grantee of lands referred to in subsection (1)
26 shall mark such lands and begin cultivation thereof as set
27 forth in s. 597.010 ~~370.16~~, within 90 days after the effective
28 date of this act. The rentals prescribed by s. 597.010 ~~370.16~~,
29 shall be payable immediately upon the effective date of this
30 act and in accordance with the provisions of said section.

31

1 Section 12. Section 372.071, Florida Statutes, is
2 amended to read:

3 372.071 Powers of arrest by agents of Department of
4 Environmental Protection or Fish and Wildlife Conservation
5 Commission.--Any certified law enforcement officer of the
6 Department of Environmental Protection or the Fish and
7 Wildlife Conservation Commission, upon receiving information,
8 relayed to her or him from any law enforcement officer
9 stationed on the ground, on the water, or in the air, that a
10 driver, operator, or occupant of any vehicle, boat, or airboat
11 has violated any section of chapter 327, chapter 328, chapter
12 370, or this chapter, or s. 597.010 or s. 597.020, may arrest
13 the driver, operator, or occupant for violation of said laws
14 when reasonable and proper identification of the vehicle,
15 boat, or airboat and reasonable and probable grounds to
16 believe that the driver, operator, or occupant has committed
17 or is committing any such offense have been communicated to
18 the arresting officer by the other officer stationed on the
19 ground, on the water, or in the air.

20 Section 13. Subsection (4) of section 372.6673,
21 Florida Statutes, is amended to read:

22 372.6673 Taking and possession of alligators; trapping
23 licenses; fees.--

24 (4) No person shall take any alligator egg occurring
25 in the wild or possess any such egg unless such person has
26 obtained, or is a licensed agent of another person who has
27 obtained, an alligator egg collection permit. The alligator
28 egg collection permit shall be required in addition to the
29 alligator farming license provided in paragraph (2)(d). The
30 commission is authorized to assess a fee for issuance of the
31 alligator egg collection permit of up to ~~\$4~~\$5 per egg

1 authorized to be taken or possessed pursuant to such permit.
2 In addition, the commission shall collect a marketing
3 assessment of, of which \$1 per egg, excluding eggs collected
4 on private wetland management areas, which shall ~~may~~ be
5 transferred to the General Inspection Trust Fund, to be
6 administered by the Department of Agriculture and Consumer
7 Services for the purpose of providing marketing and education
8 services with respect to alligator products produced in this
9 state, notwithstanding other provisions in this chapter.

10 Section 14. Subsection (2) of section 372.6674,
11 Florida Statutes, is amended to read:

12 372.6674 Required tagging of alligators and hides;
13 fees; revenues.--The tags provided in this section shall be
14 required in addition to any license required under s.
15 372.6673.

16 (2) The commission may require that an alligator hide
17 validation tag be affixed to the hide of any alligator taken
18 from the wild and that such hide be possessed, purchased,
19 sold, offered for sale, or transported in accordance with
20 commission rule. The commission is authorized to assess a fee
21 of up to ~~\$25~~~~\$30~~ for each alligator hide validation tag
22 issued. In addition, the commission shall collect a marketing
23 assessment of, of which \$5 per validated hide, excluding those
24 validated from public hunt programs, which shall ~~may~~ be
25 transferred to the General Inspection Trust Fund, to be
26 administered by the Department of Agriculture and Consumer
27 Services for the purpose of providing marketing and education
28 services with respect to alligator products produced in this
29 state, notwithstanding other provisions in this chapter.

30 Section 15. Subsection (5) of section 373.046, Florida
31 Statutes, is amended to read:

1 373.046 Interagency agreements.--
2 (5) Notwithstanding the provisions of s. 403.927, when
3 any operating agreement is developed pursuant to subsection
4 (4),+
5 ~~(a)~~ the department shall have regulatory
6 responsibility under part IV of this chapter for~~+~~
7 ~~1. All saltwater aquaculture activities located on~~
8 ~~sovereignty submerged land or in the water column above such~~
9 ~~land and adjacent facilities directly related to the~~
10 ~~aquaculture activity.~~
11 ~~2.~~ aquaculture activities that meet or exceed the
12 thresholds for aquaculture general permits authorized pursuant
13 to ss. 370.26 and 403.814.
14 ~~3. Aquaculture activities within the Northwest Florida~~
15 ~~Water Management District.~~
16 ~~(b) Water management districts shall have regulatory~~
17 ~~responsibility under part IV of this chapter for aquaculture~~
18 ~~activities not retained by the department in paragraph (a).~~
19 ~~(c) Upon agreement by the applicant, the department,~~
20 ~~and the applicable water management district, the department~~
21 ~~and water management district may reassign the regulatory~~
22 ~~responsibilities described in paragraphs (a) and (b), based on~~
23 ~~the specific aquaculture operation, to achieve a more~~
24 ~~efficient and effective permitting process.~~
25 Section 16. Subsection (11) of section 403.814,
26 Florida Statutes, is amended to read:
27 403.814 General permits; delegation.--
28 (11) Upon agreement by the applicant, the department,
29 and the applicable water management district, the department
30 and water management district may reassign the regulatory
31 responsibilities described in s. 373.046(5)~~(a) and (b)~~, based

1 on the specific aquaculture operation, to achieve a more
2 efficient and effective permitting process.

3 Section 17. Subsection (1) of section 409.2598,
4 Florida Statutes, is amended to read:

5 409.2598 Suspension or denial of new or renewal
6 licenses; registrations; certifications.--

7 (1) The Title IV-D agency may petition the court that
8 entered the support order or the court that is enforcing the
9 support order to deny or suspend the license, registration, or
10 certificate issued under chapter 231, chapter 370, chapter
11 372, chapter 409, part II of chapter 455, ~~or~~ chapter 559, ~~or~~
12 s. 328.42 or s. 597.010 of any obligor with a delinquent child
13 support obligation or who fails, after receiving appropriate
14 notice, to comply with subpoenas, orders to appear, orders to
15 show cause, or similar orders relating to paternity or child
16 support proceedings. However, a petition may not be filed
17 until the Title IV-D agency has exhausted all other available
18 remedies. The purpose of this section is to promote the public
19 policy of the state as established in s. 409.2551.

20 Section 18. Paragraph (n) of subsection (1) of section
21 500.03, Florida Statutes, is amended to read:

22 500.03 Definitions of terms; construction;
23 applicability.--

24 (1) For the purpose of this chapter, the term:

25 (n) "Food establishment" means any factory, food
26 outlet, or any other facility manufacturing, processing,
27 packing, holding, or preparing food, or selling food at
28 wholesale or retail. The term does not include any business or
29 activity that is regulated under ~~chapter 370~~, chapter 509, or
30 chapter 601. The term also does not include any establishments
31 that pack fruits and vegetables in their raw or natural

1 states, including those fruits or vegetables that are washed,
2 colored, or otherwise treated in their unpeeled, natural form
3 before they are marketed.

4 Section 19. Section 570.18, Florida Statutes, is
5 amended to read:

6 570.18 Organization of departmental work.--In the
7 assignment of functions to the 12 ~~11~~ divisions of the
8 department created in s. 570.29, the department shall retain
9 within the Division of Administration, in addition to
10 executive functions, those powers and duties enumerated in s.
11 570.30. The department shall organize the work of the other
12 11 ~~10~~ divisions in such a way as to secure maximum efficiency
13 in the conduct of the department. The divisions created in s.
14 570.29 are solely to make possible the definite placing of
15 responsibility. The department shall be conducted as a unit
16 in which every employee, including each division director, is
17 assigned a definite workload, and there shall exist between
18 division directors a spirit of cooperative effort to
19 accomplish the work of the department.

20 Section 20. Subsections (4) through (11) of section
21 570.29, Florida Statutes, are renumbered as subsections (5)
22 through (12), respectively, and a new subsection (4) is added
23 to said section to read:

24 570.29 Departmental divisions.--The department shall
25 include the following divisions:

26 (4) Aquaculture.

27 Section 21. Section 570.61, Florida Statutes, is
28 created to read:

29 570.61 Division of Aquaculture; powers and
30 duties.--The powers and duties of the Division of Aquaculture
31 shall include, but are not limited to, administering the

1 aquaculture certification program; enforcing shellfish
2 sanitation standards; administering the aquaculture and
3 shellfish lease programs; ensuring that shellfish processing
4 facilities comply with applicable food safety requirements;
5 mitigating, creating, and enhancing natural shellfish
6 harvesting areas; providing education to fishermen and
7 aquaculturists; promoting aquaculture development; purchasing
8 commodities as necessary to carry out the provisions of this
9 section; receiving and accepting grants, aids, gifts, and
10 donations; providing grants, aids, and other technical
11 assistance; and ensuring the safety of Florida waters.

12 Section 22. Section 570.62, Florida Statutes, is
13 created to read:

14 570.62 Director; duties.--

15 (1) The director of the Division of Aquaculture shall
16 be appointed by the commissioner and shall serve at the
17 commissioner's pleasure.

18 (2) The director shall supervise, direct, and
19 coordinate the activities of the division, exercise such other
20 powers and duties as authorized by the commissioner, and
21 enforce the provisions of chapter 597, the rules adopted
22 thereunder, and any other chapter or rule necessary to carry
23 out the responsibilities of the division.

24 Section 23. Paragraph (f) of subsection (1) of section
25 597.003, Florida Statutes, is amended, and subsections (3),
26 (4), and (5) of section 370.26, Florida Statutes, are
27 renumbered as paragraphs (l) and (k) of said subsection (1)
28 and amended, to read:

29 597.003 Powers and duties of Department of Agriculture
30 and Consumer Services.--

31

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

5 (f) Submit the list of research and development
6 projects proposed to be funded through the department as
7 identified in the state aquaculture plan, along with the
8 department's legislative budget request to the Governor, the
9 President of the Senate, and the Speaker of the House of
10 Representatives. If funded, these projects shall be contracted
11 for by the Division of Aquaculture and shall require
12 public-private partnerships, when appropriate. The contracts
13 shall require a percentage of the profit generated by the
14 project to be deposited into the General Inspection Trust Fund
15 solely for funding aquaculture projects recommended by the
16 Aquaculture Review Council.

17 ~~(k)(4)~~ The department shall Make available state lands
18 and the water column for the purpose of producing aquaculture
19 products when the aquaculture activity is compatible with
20 state resource management goals, environmental protection, and
21 propriety interest and when such state lands and waters are
22 determined to be suitable for aquaculture development by the
23 Board of Trustees of the Internal Improvement Trust Fund
24 pursuant to s. 253.68; and be responsible for all saltwater
25 aquaculture activities located on sovereignty submerged land
26 or in the water column above such land and adjacent facilities
27 directly related to the aquaculture activity.

28 1.(a) The department shall act in cooperation with
29 other state and local agencies and programs to identify and
30 designate sovereignty lands and waters that would be suitable
31 for aquaculture development.

1 ~~2.(b)~~ The department shall identify and evaluate
2 specific tracts of sovereignty submerged lands and water
3 columns in various areas of the state to determine where such
4 lands and waters are suitable for leasing for aquaculture
5 purposes. Nothing in this subparagraph or subparagraph 1.
6 ~~paragraph or paragraph (a)~~ shall preclude the applicant from
7 applying for sites identified by the applicant.

8 ~~3.(5)~~ Authorizations under part IV of chapter 373
9 shall be issued in conjunction with the authorization to use
10 sovereignty submerged land for aquaculture when the
11 aquaculture activities are authorized in the aquaculture lease
12 agreement.

13 4. The department shall provide assistance in
14 developing technologies applicable to aquaculture activities,
15 evaluate practicable production alternatives, and provide
16 agreements to develop innovative culture practices.

17 ~~(1)(3) The Department of Agriculture and Consumer~~
18 ~~Services shall~~ Act as a clearinghouse for aquaculture
19 applications, and act as a liaison between the Fish and
20 Wildlife Conservation Commission, the Division of State Lands,
21 the Department of Environmental Protection district offices,
22 other divisions within the Department of Environmental
23 Protection, and the water management districts. The department
24 ~~of Agriculture and Consumer Services~~ shall be responsible for
25 regulating marine aquaculture producers, except as
26 specifically provided herein.

27 Section 24. Subsections (1), (2), and (4) and
28 paragraph (b) of subsection (5) of section 597.004, Florida
29 Statutes, are amended to read:

30 597.004 Aquaculture certificate of registration.--
31

1 (1) ~~SHELLFISH~~ CERTIFICATION.--Any person engaging in
2 ~~shellfish~~ aquaculture must be certified by the department.
3 The applicant for a certificate of registration shall submit
4 the following to the department:
5 (a) Applicant's name/title.
6 (b) Company name.
7 (c) Complete mailing address.
8 (d) Legal property description of all aquaculture
9 facilities.
10 (e) Actual physical street address for each
11 aquaculture facility.
12 ~~(f)(e)~~ Description of production facilities.
13 ~~(g)(f)~~ Aquaculture products to be produced.
14 ~~(h)(g)~~ Fifty dollar annual registration fee.
15 ~~(2) NONSHELLFISH CERTIFICATION.--~~
16 ~~(a) Any person engaging in nonshellfish aquaculture,~~
17 ~~except as otherwise provided in this section, must be~~
18 ~~certified by the department. The applicant for a certificate~~
19 ~~of registration for nonshellfish products shall submit the~~
20 ~~following to the department:~~
21 ~~1. The information requested in subsection (1) above.~~
22 ~~(i)2.~~ Documentation that the rules adopted herein have
23 been complied with in accordance with paragraph (2)(a)(b)
24 below.
25 (2) PREEMPTION FOR REGULATION OF AQUACULTURE.--This
26 section is intended as comprehensive and exclusive regulation
27 of aquaculture in this state. This section preempts all other
28 laws, rules, regulations, ordinances, and policies relating to
29 aquaculture not provided for herein, except for chapters 253,
30 372, and 373 and s. 403.814. Unless specifically provided by
31 law, no agency, commission, department, county, municipality,

1 or other political subdivision of the state may adopt laws,
2 rules, regulations, ordinances, or policies pertaining to the
3 regulation of aquaculture.

4 (a)~~(b)~~ The department, in consultation with the
5 Department of Environmental Protection, the water management
6 districts, environmental groups, and representatives from the
7 affected farming groups, shall adopt rules to:

8 1. Specify the requirement of best-management
9 practices to be implemented by holders of aquaculture
10 certificates of registration.

11 2. Establish procedures for holders of aquaculture
12 certificates of registration to submit the notice of intent to
13 comply with best-management practices.

14 3. Establish schedules for implementation of
15 best-management practices, and of interim measures that can be
16 taken prior to adoption of best-management practices. Interim
17 measures may include the continuation of regulatory
18 requirements in effect on June 30, 1998.

19 4. Establish a system to assure the implementation of
20 best-management practices, including recordkeeping
21 requirements.

22 (b) Rules adopted pursuant to this subsection shall
23 become effective pursuant to the applicable provisions of
24 chapter 120, but must be submitted to the President of the
25 Senate and the Speaker of the House of Representatives for
26 review by the Legislature. The rules shall be referred to the
27 appropriate committees of substance and scheduled for review
28 during the first available regular session following adoption.
29 Except as otherwise provided by operation of law, such rules
30 shall remain in effect until rejected or modified by act of
31 the Legislature.

1 (c) Notwithstanding any provision of law, the
2 Department of Environmental Protection is not authorized to
3 institute proceedings against any person certified under this
4 section to recover any costs or damages associated with
5 contamination of groundwater or surface water, or the
6 evaluation, assessment, or remediation of contamination of
7 groundwater or surface water, including sampling, analysis,
8 and restoration of potable water supplies, where the
9 contamination of groundwater or surface water is determined to
10 be the result of aquaculture practices, provided the holder of
11 an aquaculture certificate of registration:

12 1. Provides the department with a notice of intent to
13 implement applicable best-management practices adopted by the
14 department;

15 2. Implements applicable best-management practices as
16 soon as practicable according to rules adopted by the
17 department; and

18 3. Implements practicable interim measures identified
19 and adopted by the department which can be implemented
20 immediately, or according to rules adopted by the department.

21 (d) There is a presumption of compliance with state
22 groundwater and surface water standards if the holder of an
23 aquaculture certificate of registration implements
24 best-management practices that have been verified by the
25 Department of Environmental Protection to be effective at
26 representative sites and complies with the following:

27 1. Provides the department with a notice of intent to
28 implement applicable best-management practices adopted by the
29 department;

30
31

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

4 3. Implements practicable interim measures identified
5 and adopted by the department which can be implemented
6 immediately, or according to rules adopted by the department.

7 (e) The department shall provide, by December 31,
8 1999, to the President of the Senate and the Speaker of the
9 House of Representatives, a progress report concerning the
10 development, implementation, and effectiveness of
11 best-management practices to prevent contamination of
12 groundwater and surface water.

13 (f) This section does not limit federally delegated
14 regulatory authority.

15 (g) Any aquatic plant producer permitted by the
16 department pursuant to s. 369.25 shall also be subject to the
17 requirements of this section ~~subsection~~.

18 (h) Any alligator producer with an alligator farming
19 license and permit to establish and operate an alligator farm
20 shall be issued an aquaculture certificate of registration
21 pursuant to this section ~~subsection (1) above~~. This chapter
22 does not supersede the authority under chapter 372, ~~chapter~~
23 ~~373, or chapter 403~~ to regulate alligator farms and alligator
24 farmers.

25 (4) IDENTIFICATION OF AQUACULTURE
26 PRODUCTS.--Aquaculture products shall be identified while
27 possessed, processed, transported, or sold as provided in this
28 subsection, ~~except those subject to the rules of the Fish and~~
29 ~~Wildlife Conservation Commission as they relate to alligators~~
30 ~~only~~.

31

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 (5) SALE OF AQUACULTURE PRODUCTS.--

18 (b) Aquaculture shellfish must be sold and handled in
19 accordance with s. 597.020 ~~shellfish handling regulations of~~
20 ~~the Department of Environmental Protection established to~~
21 ~~protect public health.~~

22 Section 25. Subsection (2) of section 597.0041,
23 Florida Statutes, is amended, and subsection (4) is added to
24 said section, to read:

25 597.0041 Prohibited acts; penalties.--

26 (2)(a) Any person who violates any provision of this
27 chapter or any rule promulgated hereunder is subject to a
28 suspension or revocation of his or her certificate of
29 registration or license under this chapter. The department
30 may, in lieu of, or in addition to the suspension of
31

1 revocation, impose on the violator an administrative fine in
2 an amount not to exceed \$1,000 per violation per day.

3 (b) Except as provided in subsection (4), any person
4 who violates any provision of this chapter, or rule hereunder,
5 commits a misdemeanor of the first degree, punishable as
6 provided in s. 775.082 or s. 775.083.

7 (4) Any person who violates any provision of s.
8 597.010 or s. 597.020, or any rule adopted under those
9 sections, commits a misdemeanor of the second degree,
10 punishable as provided in s. 775.082 or s. 775.083 for the
11 first offense; and for the second or any subsequent offense
12 within a 12-month period, commits a misdemeanor of the first
13 degree, punishable as provided in s. 775.082 or s. 775.083.

14 Section 26. Paragraph (c) of subsection (3) of section
15 597.005, Florida Statutes, is amended to read:

16 597.005 Aquaculture Review Council.--

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

19 (c) Submit to the commissioner on an annual basis:

20 1. A prioritized list of research projects to be
21 included in the department's legislative budget request. Each
22 year, the council shall review the aquaculture legislative
23 budget requests submitted to the department and rank them
24 according to the state aquaculture plan.

25 2. Recommendations to be forwarded to the Speaker of
26 the House of Representatives and the President of the Senate
27 on legislation needed to help the aquaculture industry.

28 3. Recommendations on aquaculture projects,
29 activities, research, and regulation and other needs to
30 further the development of the aquaculture industry.

31

1 Section 27. Subsection (1) of section 597.006, Florida
2 Statutes, is amended to read:

3 597.006 Aquaculture Interagency Coordinating
4 Council.--

5 (1) CREATION.--The Legislature finds and declares that
6 there is a need for interagency coordination with regard to
7 aquaculture by the following agencies: the Department of
8 Agriculture and Consumer Services, the Office of Tourism,
9 Trade, and Economic Development ~~Department of Commerce~~, the
10 Department of Community Affairs, the Department of
11 Environmental Protection, the Department of Labor and
12 Employment Security, the Fish and Wildlife Conservation
13 Commission, the statewide consortium of universities under the
14 Florida Institute of Oceanography, Florida Agricultural and
15 Mechanical University, the Institute of Food and Agricultural
16 Sciences at the University of Florida, and the Florida Sea
17 Grant Program, ~~and each water management district~~. It is
18 therefore the intent of the Legislature to hereby create an
19 Aquaculture Interagency Coordinating Council to act as an
20 advisory body as defined in s. 20.03(9).

21 Section 28. Section 597.010, Florida Statutes, is
22 created to read:

23 597.010 Shellfish regulation; leases.--

24 (1) LEASE, APPLICATION FORM.--When any qualified
25 person desires to lease a part of the bottom, water column, or
26 bed of any of the water of this state for the purpose of
27 growing oysters or clams, as provided for in this section, he
28 or she shall present to the department a written application
29 pursuant to s. 253.69.

30 (2) LANDS TO BE LEASED.--The lands leased shall be as
31 compact as possible, taking into consideration the shape of

1 the body of water and the condition of the bottom as to
2 hardness, or soft mud or sand, or other conditions that would
3 render the bottoms desirable or undesirable for the purpose of
4 oyster or clam cultivation.

5 (3) SURVEYS, PLATS, AND MAPS OF REEFS.--The department
6 shall accept, adopt, and use official reports, surveys, and
7 maps of oyster, clam, or other shellfish grounds made under
8 the direction of any authority of the United States as prima
9 facie evidence of the natural oyster and clam reefs and beds,
10 for the purpose and intent of this chapter. The department may
11 also make surveys of any natural oyster or clam reefs or beds
12 when it deems such surveys necessary and where such surveys
13 are made pursuant to an application for a lease, the cost
14 thereof may be charged to the applicant as a part of the cost
15 of his or her application.

16 (4) EXECUTION OF LEASES; LESSEE TO STAKE OFF
17 BOUNDARIES; PENALTY FOR FAILURE TO COMPLY WITH
18 REGULATIONS.--When a survey of the lands to be leased has been
19 completed pursuant to s. 253.69 and filed with the department,
20 and the cost thereof paid by the applicant, the department may
21 execute in duplicate a lease of the water bottoms to the
22 applicant. One duplicate, with a plat or map of the water
23 bottoms so leased, shall be delivered to the applicant, and
24 the other, with a plat or map of the bottom so leased, shall
25 be retained by the department and registered in a lease book
26 which shall be kept exclusively for that purpose by the
27 department; thereafter the lessees shall enjoy the exclusive
28 use of the lands and all oysters and clams, shell, and cultch
29 grown or placed thereon shall be the exclusive property of
30 such lessee as long as he or she shall comply with the
31 provisions of this chapter and chapter 253. The department

1 shall require the lessee to stake off and mark the water
2 bottoms leased, by such ranges, monuments, stakes, buoys,
3 etc., so placed and made as not to interfere with the
4 navigation, as it may deem necessary to locate the same to the
5 end that the location and limits of the lands embraced in such
6 lease be easily and accurately found and fixed, and such
7 lessee shall keep the same in good condition during the open
8 and closed oyster or clam season. All leases shall be marked
9 according to the standards set forth in s. 253.72. The
10 department may stipulate in each individual lease contract the
11 types, shape, depth, size, and height of marker or corner
12 posts. Failure on the part of the lessee to comply with the
13 orders of the department to this effect within the time fixed
14 by it, and to keep the markers, etc., in good condition during
15 the open and closed oyster or clam season, shall subject such
16 lessee to a fine not exceeding \$100 for each and every such
17 offense.

18 (5) LEASES IN PERPETUITY; RENT.--

19 (a) All leases issued previously under the provisions
20 of s. 370.16 shall be enforced under the authority of this
21 chapter, notwithstanding any other law to the contrary, and
22 shall continue in perpetuity under such restrictions as stated
23 in the lease agreement. The annual rental fee charged for all
24 leases shall consist of the minimum rate of \$15 per acre, or
25 any fraction of an acre, per year and shall be adjusted on
26 January 1, 1995, and every 5 years thereafter, based on the
27 5-year average change in the Consumer Price Index. Rent shall
28 be paid in advance of January 1 of each year or in the case of
29 a new lease at the time of signing, regardless of who holds
30 the lease.

31

1 (b) All fees collected under this subsection and
2 subsection (6) shall be deposited in the General Inspection
3 Trust Fund and shall be used for shellfish aquaculture
4 activities.

5 (6) FORFEITURE FOR NONPAYMENT--All leases shall
6 stipulate that failure to timely pay the rent on or before
7 January 1 of each year shall cause the department, at its
8 discretion, to terminate and cancel the lease after the
9 department has given the lessee 30 days' written notice of the
10 nonpayment. If after receiving the notice the lessee chooses
11 to keep the lease, the lessee shall pay the rental fee plus a
12 \$50 late fee within the 30-day period. After the 30-day notice
13 has expired, the department may take possession of the lease
14 and all improvements, assets, clams, and oysters thereon.

15 (7) SURCHARGE FOR IMPROVEMENT OR REHABILITATION.--A
16 surcharge of \$10 per acre, or any fraction of an acre, per
17 annum shall be levied upon each lease, other than a perpetual
18 lease granted pursuant to chapter 370 prior to 1985, and
19 deposited into the General Inspection Trust Fund. The purpose
20 of the surcharge is to provide a mechanism to have financial
21 resources immediately available for improvement of lease areas
22 and for cleanup and rehabilitation of abandoned or vacated
23 lease sites. The department is authorized to adopt rules
24 necessary to carry out the provisions of this subsection.

25 (a) Moneys in the fund that are not needed currently
26 for cleanup and rehabilitation of abandoned or vacated lease
27 sites shall be deposited with the Treasurer to the credit of
28 the fund and may be invested in such manner as is provided for
29 by statute. Interest received on such investment shall be
30 credited to the fund.

31

1 (b) Funds within the General Inspection Trust Fund
2 from receipts from the surcharge established in this section
3 shall be disbursed for the following purposes and no others:

4 1. Administrative expenses, personnel expenses, and
5 equipment costs of the department related to the improvement
6 of lease areas, the cleanup and rehabilitation of abandoned or
7 vacated aquaculture lease sites, and the enforcement of
8 provisions of this section.

9 2. All costs involved in the improvement of lease
10 areas and the cleanup and rehabilitation of abandoned or
11 vacated lease sites.

12 3. All costs and damages which are the proximate
13 results of lease abandonment or vacation.

14 4. Reward payments made pursuant to s. 597.0045.

15
16 The department shall recover to the use of the fund from the
17 person or persons abandoning or vacating the lease, jointly
18 and severally, all sums owed or expended from the fund.

19 (8)(a) CULTIVATION REQUIREMENTS.--Effective
20 cultivation shall consist of the growing of the oysters or
21 clams in a density suitable for commercial harvesting over the
22 amount of bottom prescribed by law. This commercial density
23 shall be accomplished by the planting of seed oysters, shell,
24 and cultch of various descriptions. The department may
25 stipulate in each individual lease contract the types, shape,
26 depth, size, and height of cultch materials on lease bottoms
27 according to the individual shape, depth, location, and type
28 of bottom of the proposed lease. Each lessee leasing lands
29 under the provisions of this section or s. 253.71 shall begin,
30 within 1 year after the date of such lease, bona fide
31 cultivation of the same, and shall, by the end of the second

1 year after the commencement of such lease, have placed under
2 cultivation at least one-half of the leased area and shall
3 each year thereafter place in cultivation at least one-fourth
4 of the leased area until the whole, suitable for bedding of
5 oysters or clams, shall have been put in cultivation. The
6 cultivation requirements for perpetuity leases granted
7 pursuant to chapter 370 prior to 1985 under previously
8 existing law shall comply with the conditions stated in the
9 lease agreement, and the lessee or grantee is authorized to
10 plant the leased or granted submerged land in both oysters and
11 clams.

12 (b) These stipulations apply to all leases granted
13 after the effective date of this section. All leases existing
14 prior to the effective date of this section will operate under
15 the law that was in effect when the leases were granted.

16 (c) When evidence is gathered by the department and
17 such evidence conclusively shows a lack of effective
18 cultivation, the department may revoke leases and return the
19 bottoms in question to the public domain.

20 (d) The department has the authority to adopt rules
21 pertaining to the water column over shellfish leases. All
22 cultch materials in place 6 months after the formal adoption
23 and publication of rules establishing standards for cultch
24 materials on shellfish leases that do not comply with such
25 rules may be declared a nuisance by the department. The
26 department has the authority to direct the lessee to remove
27 such cultch in violation of this section. The department may
28 cancel a lease upon the refusal by the lessee violating such
29 rules to remove unlawful cultch materials, and all
30 improvements, cultch, marketable oysters, and shell shall
31 become the property of the state. The department has the

1 authority to retain, dispose of, or remove such materials in
2 the best interest of the state.

3 (9) LEASES TRANSFERABLE, ETC.--The leases in chapters
4 253 and 370 shall be inheritable and transferable, in whole or
5 in part, and shall also be subject to mortgage, pledge, or
6 hypothecation and shall be subject to seizure and sale for
7 debts as any other property, rights, and credits in this
8 state, and this provision shall also apply to all buildings,
9 betterments, and improvements thereon. Leases granted under
10 this section cannot be transferred, by sale or barter, in
11 whole or in part, without the written, express approval of the
12 department, and such a transferee shall pay a \$50 transfer fee
13 before department approval may be given. Leases inherited or
14 transferred will be valid only upon receipt of the transfer
15 fee and approval by the department. The department shall keep
16 proper indexes so that all original leases and all subsequent
17 changes and transfers can be easily and accurately
18 ascertained.

19 (10) CANCELLATION OF LEASES TO NATURAL REEFS OR
20 BEDS.--Any person, within 6 months after the execution of any
21 lease, may file a petition with the department for the purpose
22 of determining whether a natural oyster or clam reef or bed
23 having an area of not less than 100 square yards existed
24 within the leased area on the date of the lease, with
25 sufficient natural or maternal oysters or clams thereon (not
26 including coon oysters) to have constituted a stratum
27 sufficient to have been resorted to by the public generally
28 for the purpose of gathering the same to sell for a
29 livelihood. The petition shall be in writing addressed to the
30 department, verified under oath, stating the location and
31 approximate area of the natural reef or bed and the claim or

1 interest of the petitioner therein and requesting the
2 cancellation of the lease to the natural reef or bed. A
3 petition may not be considered unless it is accompanied by a
4 deposit of \$500 to defray the expense of the department's
5 investigation of the matter. Upon receipt of such petition,
6 the department shall cause an investigation to be made into
7 the truth of the allegations of the petition, and, if found
8 untrue, the \$500 deposit shall be retained by the department
9 to defray the expense of the investigation, but should the
10 allegations of the petition be found true and the leased
11 premises to contain a natural oyster or clam reef or bed, as
12 described in this subsection, the \$500 deposit shall be
13 returned to the petitioner and the costs and expenses of the
14 investigation taxed against the lessee and the lease canceled
15 to the extent of the natural reef or bed and the same shall be
16 marked with buoys and stakes and notices placed thereon
17 showing the same to be a public reef or bed, the cost of the
18 markers and notices to be taxed against the lessee.

19 (11) WHEN NATURAL REEFS OR BEDS MAY BE INCLUDED IN
20 LEASE.--

21 (a) When an application for a submerged land lease for
22 cultivating shellfish is filed, and when a resource survey of
23 such lands identifies natural oyster or clam reefs or beds,
24 the department shall determine if such reefs and beds are to
25 be included in the leased area. The department, if it deems it
26 to be in the best interest of the state, may include such
27 natural reefs or beds in a lease. In those cases where a
28 natural area is included in a lease, the department shall fix
29 a reasonable value on the same, to be paid by the applicant
30 for lease of such submerged land. No natural reefs shall be

31

1 included in any shellfish or aquaculture lease granted in
2 Franklin County.

3 (b) The department shall determine and settle all
4 disputes as to boundaries between lessees. The department
5 shall, in all cases, determine whether a particular submerged
6 land area contains a natural reef or bed or whether it is
7 suitable for raising oysters or clams.

8 (12) FRANKLIN COUNTY LEASES.--On and after the
9 effective date of this section, the only leases available in
10 Franklin County shall be those issued pursuant to ss.
11 253.67-253.75; chapter 370 leases shall no longer be
12 available. The department shall require in the lease agreement
13 such restrictions as it deems necessary to protect the
14 environment, the existing leaseholders, and public fishery.

15 (13) TRESPASS ON LEASED BEDS; PROTECTION OF LEASE
16 AREAS.--

17 (a) Any person who willfully takes oysters, shells,
18 cultch, or clams bedded or planted by a licensee under this
19 chapter, or grantee under the provisions of heretofore
20 existing laws, or riparian owner who may have heretofore
21 planted the same on his or her riparian bottoms, or any
22 oysters or clams deposited by anyone making up a cargo for
23 market, or who willfully carries or attempts to carry away the
24 same without permission of the owner thereof, or who willfully
25 or knowingly removes, breaks off, destroys, or otherwise
26 injures or alters any stakes, bounds, monuments, buoys,
27 notices, or other designations of any natural oyster or clam
28 reefs or beds or private bedding or propagating grounds, or
29 who willfully injures, destroys, or removes any other
30 protection around any oyster or clam reefs or beds, or who
31 willfully moves any bedding ground stakes, buoys, marks, or

1 designations placed by the department, commits a violation of
2 this section.

3 (b) Harvesting shellfish is prohibited within a
4 distance of 25 feet outside lawfully marked lease boundaries
5 or within setback and access corridors within specifically
6 designated high-density aquaculture lease areas and
7 aquaculture use zones.

8 (14) SHELLFISH DEVELOPMENT.--

9 (a) The department shall improve, enlarge, and protect
10 the natural oyster and clam reefs and beds of this state to
11 the extent it may deem advisable and the means at its disposal
12 will permit.

13 (b) The Fish and Wildlife Conservation Commission
14 shall, to the same extent, assist in protecting shellfish
15 aquaculture products produced on leased or granted reefs and
16 beds.

17 (c) The department, in cooperation with the
18 commission, shall provide the Legislature with recommendations
19 as needed for the development and the proper protection of the
20 rights of the state and private holders therein with respect
21 to the oyster and clam business.

22 (15) SPECIAL ACTIVITY LICENSES.--The department is
23 authorized to issue special activity licenses, in accordance
24 with s. 597.020, to permit the harvest or cultivation of
25 oysters, clams, mussels, and crabs.

26 (16) STAKING OFF WATER BOTTOMS OR BEDDING OYSTERS
27 WITHOUT OBTAINING LEASE.--Any person staking off the water
28 bottoms of this state, or bedding oysters on the bottoms of
29 the waters of this state, without previously leasing same as
30 required by law commits a violation of this section, and shall
31 acquire no rights by reason of such staking off. This

1 provision does not apply to grants heretofore made under the
2 provisions of any heretofore existing laws or to artificial
3 beds made heretofore by a riparian owner or his or her
4 grantees on the owner's riparian bottoms.

5 (17) SHELLFISH HARVESTING SEASONS; SPECIAL PROVISIONS
6 RELATING TO APALACHICOLA BAY.--

7 (a) The Fish and Wildlife Conservation Commission
8 shall by rule set the noncultured shellfish harvesting seasons
9 in Apalachicola Bay.

10 (b) If the commission changes the harvesting seasons
11 by rule as set forth in this subsection, for 3 years after the
12 new rule takes effect, the commission, in cooperation with the
13 department, shall monitor the impacts of the new harvesting
14 schedule on the bay and on local shellfish harvesters to
15 determine whether the new harvesting schedule should be
16 discontinued, retained, or modified. In monitoring the new
17 schedule and in preparing its report, the following
18 information shall be considered:

19 1. Whether the bay benefits ecologically from the new
20 harvesting schedule.

21 2. Whether the new harvesting schedule enhances the
22 enforcement of shellfish harvesting laws in the bay.

23 3. Whether the new harvesting schedule enhances
24 natural shellfish production, oyster relay and planting
25 programs, and shell planting programs in the bay.

26 4. Whether the new harvesting schedule has more than a
27 short-term adverse economic impact, if any, on local shellfish
28 harvesters.

29 (18) REMOVING OYSTERS, CLAMS, OR MUSSELS FROM NATURAL
30 REEFS; LICENSES, ETC.; PENALTY.--

31

1 (a) It is unlawful to use a dredge or any means or
2 implement other than hand tongs in removing oysters from the
3 natural or artificial state reefs or beds. This restriction
4 shall apply to all areas of Apalachicola Bay for all shellfish
5 harvesting, excluding private grounds leased or granted by the
6 state prior to July 1, 1989, if the lease or grant
7 specifically authorizes the use of implements other than hand
8 tongs for harvesting. Except in Apalachicola Bay, upon the
9 payment of \$25 annually, for each vessel or boat using a
10 dredge or machinery in the gathering of clams or mussels, a
11 special activity license may be issued by the Fish and
12 Wildlife Conservation Commission pursuant to subsection (15)
13 or s. 370.06 for such use to such person.

14 (b) Approval by the department to harvest shellfish by
15 dredge or other mechanical means from privately held shellfish
16 leases or grants in Apalachicola Bay shall include, but not be
17 limited to, the following conditions:

18 1. The use of any mechanical harvesting device other
19 than ordinary hand tongs for taking shellfish for any purpose
20 from public shellfish beds in Apalachicola Bay shall be
21 unlawful.

22 2. The possession of any mechanical harvesting device
23 on the waters of Apalachicola Bay from 5 p.m. until sunrise
24 shall be unlawful.

25 3. Leaseholders or grantees shall notify the
26 department no less than 48 hours prior to each day's use of a
27 dredge or scrape in order for the department to notify the
28 Fish and Wildlife Conservation Commission that a mechanical
29 harvesting device will be deployed.

30 4. Only two dredges or scrapes per lease or grant may
31 be possessed or operated at any time.

1 5. Each vessel used for the transport or deployment of
2 a dredge or scrape shall prominently display the lease or
3 grant number or numbers, in numerals which are at least 12
4 inches high and 6 inches wide, in such a manner that the lease
5 or grant number or numbers are readily identifiable from both
6 the air and the water.

7
8 Any violation of this paragraph or of any other statutes,
9 rules, or conditions referenced in the lease agreement shall
10 be considered a violation of the license and shall result in
11 revocation of the lease or a denial of use or future use of a
12 mechanical harvesting device.

13 (c) Oysters may be harvested from natural or public or
14 private leased or granted grounds by common hand tongs or by
15 hand, by scuba diving, free diving, leaning from vessels, or
16 wading. In Apalachicola Bay, this provision shall apply to
17 all shellfish.

18 (19) FISHING FOR RELAYING OR TRANSPLANTING PURPOSES.--

19 (a) The department shall designate areas for the
20 taking of oysters and clams to be planted on leases, grants,
21 and public areas. Oysters, clams, and mussels may be taken for
22 relaying or transplanting at any time during the year so long
23 as, in the opinion of the department, the public health will
24 not be endangered. The amount of oysters, clams, and mussels
25 to be obtained for relaying or transplanting, the area relayed
26 or transplanted to, and relaying or transplanting time periods
27 shall be established in each case by the department.

28 (b) Application for a special activity license issued
29 pursuant to subsection (15) for obtaining oysters, clams, or
30 mussels for relaying from closed public shellfish harvesting
31 areas to open areas or certified controlled purification

1 plants or for transplanting sublegal-sized oysters, clams, or
2 mussels must be made to the department. In return, the
3 department may assign an area and a period of time for the
4 oysters, clams, or mussels to be relayed or transplanted to be
5 taken. All relaying and transplanting operations shall take
6 place under the direction of the department.

7 (c) Relayed oysters, clams, or mussels shall not be
8 subsequently harvested for any reason without written
9 permission or public notice from the department.

10 (20) OYSTER AND CLAM REHABILITATION.--The board of
11 county commissioners of the several counties may appropriate
12 and expend such sums as it may deem proper for the purpose of
13 planting or transplanting oysters, clams, oyster shell, clam
14 shell, or cultch or to perform such other acts for the
15 enhancement of the oyster and clam industries of the state,
16 out of any sum in the county treasury not otherwise
17 appropriated.

18 (21) DREDGING OF DEAD SHELLS PROHIBITED.--The dredging
19 of dead shell deposits is prohibited in the state.

20 (22) COOPERATION WITH UNITED STATES FISH AND WILDLIFE
21 SERVICE.--The department shall cooperate with the United
22 States Fish and Wildlife Service, under existing federal laws,
23 rules, and regulations, and is authorized to accept donations,
24 grants, and matching funds from the Federal Government in
25 order to carry out its oyster resource and development
26 responsibilities. The department is further authorized to
27 accept any and all donations including funds, oysters, or
28 oyster shells.

29 (23) OYSTER AND CLAM SHELLS PROPERTY OF DEPARTMENT.--

30 (a) Except for oysters used directly in the half-shell
31 trade, 50 percent of all shells from oysters and clams shucked

1 commercially in the state shall be and remain the property of
2 the department when such shells are needed and required for
3 rehabilitation projects and planting operations, in
4 cooperation with the Fish and Wildlife Conservation
5 Commission, when sufficient resources and facilities exist for
6 handling and planting such shell, and when the collection and
7 handling of such shell is practicable and useful, except that
8 bona fide holders of leases and grants may retain 75 percent
9 of such shell as they produce for aquacultural purposes.
10 Storage, transportation, and planting of shells so retained by
11 lessees and grantees shall be carried out under the conditions
12 of the lease agreement or with the written approval of the
13 department and shall be subject to such reasonable time limits
14 as the department may fix. In the event of an accumulation of
15 an excess of shells, the department is authorized to sell
16 shells only to private growers for use in oyster or clam
17 cultivation on bona fide leases and grants. No profit shall
18 accrue to the department in these transactions, and shells are
19 to be sold for the estimated moneys spent by the department to
20 gather and stockpile the shells. Planting of shells obtained
21 from the department by purchase shall be subject to the
22 conditions set forth in the lease agreement or in the written
23 approval as issued by the department. Any shells not claimed
24 and used by private oyster cultivators 10 years after shells
25 are gathered and stockpiled may be sold at auction to the
26 highest bidder for any private use.

27 (b) Whenever the department determines that it is
28 unfeasible to collect oyster or clam shells, the shells become
29 the property of the producer.

30 (c) Whenever oyster or clam shells are owned by the
31 department and it is not useful or feasible to use them in the

1 rehabilitation projects, and when no leaseholder has exercised
2 his or her option to acquire them, the department may sell
3 such shells for the highest price obtainable. The shells thus
4 sold may be used in any manner and for any purpose at the
5 discretion of the purchaser.

6 (d) Moneys derived from the sale of shell shall be
7 deposited in the General Inspection Trust Fund for shellfish
8 programs.

9 (e) The department may publish notice, in a newspaper
10 serving the county, of its intention to collect the oyster and
11 clam shells and shall notify, by certified mail, each shucking
12 establishment from which shells are to be collected. The
13 notice shall contain the period of time the department intends
14 to collect the shells in that county and the collection
15 purpose.

16 (24) OYSTER CULTURE.--The department, in cooperation
17 with the Fish and Wildlife Conservation Commission and the
18 Department of Environmental Protection, shall protect all clam
19 beds, oyster beds, shellfish grounds, and oyster reefs from
20 damage or destruction resulting from improper cultivation,
21 propagation, planting, or harvesting and control the pollution
22 of the waters over or surrounding beds, grounds, or reefs, and
23 to this end the Department of Health is authorized and
24 directed to lend its cooperation to the department, to make
25 available its laboratory testing facilities and apparatus.

26 (25) REQUIREMENTS FOR OYSTER OR CLAM VESSELS.--

27 (a) All vessels used for the harvesting, gathering, or
28 transporting of oysters or clams for commercial purposes shall
29 be constructed and maintained to prevent contamination or
30 deterioration of shellfish. To this end, all such vessels
31 shall be provided with false bottoms and bulkheads fore and

1 aft to prevent onboard shellfish from coming in contact with
2 any bilge water. No dogs or other animals shall be allowed at
3 any time on vessels used to harvest or transport shellfish. A
4 violation of any provision of this subsection shall result in
5 at least the revocation of the violator's license.

6 (b) For the purpose of this subsection, "harvesting,
7 gathering, or transporting of oysters or clams for commercial
8 purposes" means to harvest, gather, or transport oysters or
9 clams with the intent to sell and shall apply to a quantity of
10 two or more bags of oysters per vessel or more than one
11 5-gallon bucket of unshucked hard clams per person or more
12 than two 5-gallon buckets of unshucked hard clams per vessel.

13 Section 29. Section 370.071, Florida Statutes, is
14 renumbered as section 597.020, Florida Statutes, and amended
15 to read:

16 597.020 ~~370.071~~ Shellfish processors; regulation.--

17 (1) The department ~~of Agriculture and Consumer~~
18 ~~Services, hereinafter referred to as department,~~ is authorized
19 to adopt by rule regulations, specifications, and codes
20 relating to sanitary practices for catching, cultivating,
21 handling, processing, packaging, preserving, canning, smoking,
22 and storing of oysters, clams, mussels, scallops, and crabs.
23 The department is also authorized to license shellfish
24 processors who handle aquaculture facilities used to culture
25 oysters, clams, mussels, scallops, and crabs when such
26 activities relate to quality control, sanitary, and public
27 health practices pursuant to this section and chapter 500 ~~and~~
28 ~~s. 370.06(4)~~. The department is also authorized to license or
29 certify, for a fee determined by rule, facilities used for
30 processing oysters, clams, mussels, scallops, and crabs, to
31 levy an administrative fine of up to \$1,000 per violation per

1 day or to suspend or revoke such licenses or certificates upon
2 satisfactory evidence of any violation of rules adopted
3 pursuant to this section, and to seize and destroy any
4 adulterated or misbranded shellfish products as defined by
5 rule.

6 (2) A shellfish processing plant certification license
7 is required to operate any facility in which oysters, clams,
8 mussels, scallops, or crabs are processed, including but not
9 limited to: an oyster, clam, ~~or mussel~~, or scallop cannery; a
10 shell stock dealership; an oyster, clam, ~~or mussel~~, or scallop
11 shucking plant; an oyster, clam, ~~or mussel~~, or scallop
12 repacking plant; an oyster, clam, ~~or mussel~~, or scallop
13 controlled purification plant; or a crab or soft-shell crab
14 processing or shedding plant.

15 (3) The department may suspend or revoke any shellfish
16 processing plant certification license upon satisfactory
17 evidence that the licensee has violated any regulation,
18 specification, or code adopted under this section and may
19 seize and destroy any shellfish product which is defined by
20 rule to be an adulterated or misbranded shellfish product.

21 Section 30. This act shall take effect July 1, 2000.
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