

By the Committees on General Government Appropriations,  
Agriculture and Representatives Bronson, Constantine and J.  
Miller

1                                   A bill to be entitled  
2           An act relating to aquaculture; amending s.  
3           190.003, F.S.; including the owner of a  
4           long-term ground lease from a governmental  
5           entity within the definition of "landowner";  
6           amending s. 190.005, F.S.; providing that the  
7           establishment of a community development  
8           district must include the consent of all  
9           landowners whose lands are to be included in  
10          the district; amending s. 190.021, F.S.;  
11          providing that certain ground leases shall not  
12          be subject to a lien or encumbrance for  
13          described taxes; amending s. 253.002, F.S.;  
14          providing duties of the Department of  
15          Agriculture and Consumer Services with respect  
16          to certain state lands; amending s. 253.01,  
17          F.S.; providing for disposition of fees for  
18          aquaculture leases; amending s. 253.67, F.S.;  
19          revising definitions; amending s. 253.71, F.S.;  
20          revising aquaculture lease contract fee and  
21          performance requirements; amending s. 253.72,  
22          F.S.; providing requirements for the marking of  
23          leased areas; amending s. 270.22, F.S.;  
24          conforming disposition of rental fees for  
25          aquaculture leases; amending s. 328.76, F.S.;  
26          providing for use of certain commercial vessel  
27          registration fees for aquaculture law  
28          enforcement and quality control programs;  
29          amending s. 370.06, F.S.; deleting authority of  
30          the Department of Agriculture and Consumer  
31          Services to issue certain special activity

1 licenses under ch. 370, F.S.; clarifying  
2 requirements relating to the educational  
3 seminar for applicants for an Apalachicola Bay  
4 oyster harvesting license; amending s. 370.07,  
5 F.S.; providing for the distribution of funds  
6 from the Florida Saltwater Products Promotion  
7 Trust Fund; providing for transfer of  
8 responsibilities relating to the Apalachicola  
9 Bay oyster surcharge from the Department of  
10 Environmental Protection to the Department of  
11 Agriculture and Consumer Services; amending s.  
12 370.16, F.S.; revising regulation of  
13 noncultured shellfish harvesting; providing for  
14 protection of shellfish and aquaculture  
15 products; repealing s. 370.16(1), (2), (3),  
16 (4), (5), (6), (7), (8), (9), (10), (11), (13),  
17 (16), (17), (19), (22), (24), (25), (26), and  
18 (27), F.S., relating to regulation and  
19 enforcement of oyster and shellfish leases by  
20 the Department of Environmental Protection,  
21 protection and development of oyster and  
22 shellfish resources, and regulation of  
23 processing for commercial use; amending ss.  
24 370.161 and 372.071, F.S.; correcting cross  
25 references; amending s. 372.6673, F.S.;  
26 requiring certain transfer of funds from the  
27 alligator management program for products  
28 marketing and education; amending s. 372.6674,  
29 F.S.; requiring certain transfer of funds from  
30 the alligator management program for products  
31 marketing and education; amending s. 373.046,

1 F.S.; revising regulatory responsibility under  
2 pt. IV of ch. 373, F.S., for aquacultural  
3 activities; amending ss. 403.814, 409.2598, and  
4 500.03, F.S.; correcting cross references;  
5 amending ss. 570.18 and 570.29, F.S.;  
6 conforming provisions relating to organization  
7 of the Department of Agriculture and Consumer  
8 Services; creating s. 570.61, F.S.; providing  
9 powers and duties of the Division of  
10 Aquaculture of the Department of Agriculture  
11 and Consumer Services; creating s. 570.62,  
12 F.S.; providing for appointment and duties of a  
13 division director; amending s. 597.003, F.S.;  
14 requiring a portion of profits from aquaculture  
15 contracts to be set aside for funding certain  
16 aquaculture projects; amending s. 370.26, F.S.;  
17 transferring certain responsibilities relating  
18 to aquaculture development from the Department  
19 of Environmental Protection to the Department  
20 of Agriculture and Consumer Services; amending  
21 s. 597.004, F.S.; revising provisions relating  
22 to aquaculture certificates of registration;  
23 amending s. 597.0041, F.S.; providing an  
24 administrative fine; providing penalties;  
25 amending s. 597.005, F.S.; requiring review of  
26 aquaculture legislative budget requests by the  
27 Aquaculture Review Council; amending s.  
28 597.006, F.S.; revising membership of the  
29 Aquaculture Interagency Coordinating Council;  
30 creating s. 597.010, F.S.; providing for  
31 regulation and enforcement of shellfish leases

1 by the Department of Agriculture and Consumer  
2 Services; providing for continuation of leases  
3 previously issued under ch. 370, F.S. ;  
4 providing for rental fees, fee adjustments,  
5 late fees, and forfeiture for nonpayment of  
6 fees; providing a lease surcharge for certain  
7 purposes; providing for rules; providing  
8 cultivation requirements for leased lands;  
9 restricting the inheriting or transfer of  
10 leases; requiring a deposit for investigations  
11 relating to petitions for cancellation of  
12 leases to natural reefs; providing for  
13 inclusion of natural reefs in leased areas  
14 under certain circumstances; restricting leases  
15 available in Franklin County; providing  
16 prohibitions; providing for shellfish  
17 protection and development; providing for  
18 special activity licenses for harvest or  
19 cultivation of oysters, clams, mussels, and  
20 crabs; providing for uncultured shellfish  
21 harvesting seasons in Apalachicola Bay;  
22 restricting harvest of shellfish by mechanical  
23 means; providing a penalty; providing for  
24 enhancement of oyster and clam industries by  
25 the counties; prohibiting dredging of dead  
26 shells; providing for cooperation with the  
27 United States Fish and Wildlife Service;  
28 providing requirements for vessels harvesting,  
29 gathering, or transporting oysters or clams for  
30 commercial purposes; providing a definition;  
31 renumbering and amending s. 370.071, F.S. ;

1 providing that regulation of shellfish  
2 processors includes processors processing  
3 scallops; providing for a fee for licensure or  
4 certification of processing facilities;  
5 authorizing an administrative fine for  
6 violation of rules relating to regulation of  
7 shellfish processors; providing an effective  
8 date.

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

11  
12 Section 1. Subsection (13) of section 190.003, Florida  
13 Statutes, is amended to read:

14 190.003 Definitions.--As used in this chapter, the  
15 term:

16 (13) "Landowner" means the owner of a freehold estate  
17 as appears by the deed record, including a trustee, a private  
18 corporation, and an owner of a condominium unit; it does not  
19 include a reversioner, remainderman, mortgagee, or any  
20 governmental entity, who shall not be counted and need not be  
21 notified of proceedings under this act. "Landowner" also means  
22 the owner of a ground lease from a governmental entity, which  
23 leasehold interest has a remaining term, excluding all renewal  
24 options, in excess of 50 years.

25 Section 2. Paragraph (a) of subsection (1) of section  
26 190.005, Florida Statutes, is amended to read:

27 190.005 Establishment of district.--

28 (1) The exclusive and uniform method for the  
29 establishment of a community development district with a size  
30 of 1,000 acres or more shall be pursuant to a rule, adopted  
31 under chapter 120 by the Florida Land and Water Adjudicatory

1 Commission, granting a petition for the establishment of a  
2 community development district.

3 (a) A petition for the establishment of a community  
4 development district shall be filed by the petitioner with the  
5 Florida Land and Water Adjudicatory Commission. The petition  
6 shall contain:

7 1. A metes and bounds description of the external  
8 boundaries of the district. Any real property within the  
9 external boundaries of the district which is to be excluded  
10 from the district shall be specifically described, and the  
11 last known address of all owners of such real property shall  
12 be listed. The petition shall also address the impact of the  
13 proposed district on any real property within the external  
14 boundaries of the district which is to be excluded from the  
15 district.

16 2. The written consent to the establishment of the  
17 district by all landowners whose ~~the owner or owners of 100~~  
18 ~~percent of the real property is~~ to be included in the district  
19 or documentation demonstrating that the petitioner has control  
20 by deed, trust agreement, contract, or option of 100 percent  
21 of the real property to be included in the district and, in  
22 the case where real property to be included in the district is  
23 owned by a governmental entity and subject to a ground lease  
24 as described in s. 190.003(13), the written consent by such  
25 governmental entity.

26 3. A designation of five persons to be the initial  
27 members of the board of supervisors, who shall serve in that  
28 office until replaced by elected members as provided in s.  
29 190.006.

30 4. The proposed name of the district.  
31

1           5. A map of the proposed district showing current  
2 major trunk water mains and sewer interceptors and outfalls if  
3 in existence.

4           6. Based upon available data, the proposed timetable  
5 for construction of the district services and the estimated  
6 cost of constructing the proposed services. These estimates  
7 shall be submitted in good faith but shall not be binding and  
8 may be subject to change.

9           7. A designation of the future general distribution,  
10 location, and extent of public and private uses of land  
11 proposed for the area within the district by the future land  
12 use plan element of the effective local government  
13 comprehensive plan of which all mandatory elements have been  
14 adopted by the applicable general-purpose local government in  
15 compliance with the Local Government Comprehensive Planning  
16 and Land Development Regulation Act.

17           8. A statement of estimated regulatory costs in  
18 accordance with the requirements of s. 120.541.

19           Section 3. Subsection (10) is added to section  
20 190.021, Florida Statutes, to read:

21           190.021 Taxes; non-ad valorem assessments.--

22           (10) LAND OWNED BY GOVERNMENTAL ENTITY.--Except as  
23 otherwise provided by law, no levy of ad valorem taxes or  
24 non-ad valorem assessments under this chapter, chapter 170, or  
25 chapter 197, or otherwise, by a board of a district on  
26 property of a governmental entity that is subject to a ground  
27 lease, as described in s. 190.003(13), shall constitute a lien  
28 or encumbrance on the underlying fee interest of such  
29 governmental entity.

30           Section 4. Section 253.002, Florida Statutes, is  
31 amended to read:

1           253.002 Department of Environmental Protection, ~~and~~  
2 water management districts, and Department of Agriculture and  
3 Consumer Services; duties with respect to state lands.--

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



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

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

1 district, or the Department of Agriculture and Consumer  
2 Services on applications to use board of trustees-owned  
3 submerged lands shall be subject to the provisions of s.  
4 373.4275. Notwithstanding any other provision of this  
5 subsection, the board of trustees, the Department of Legal  
6 Affairs, and the department retain the concurrent authority to  
7 assert or defend title to submerged lands owned by the board  
8 of trustees.

9           Section 5. Paragraph (b) of subsection (1) of section  
10 253.01, Florida Statutes, is amended to read:

11           253.01 Internal Improvement Trust Fund established.--

12           (1)

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

26           Section 6. Section 253.67, Florida Statutes, is  
27 amended to read:

28           253.67 Definitions.--As used in ss. 253.67-253.75:

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

31

1           ~~(2)(4)~~ "Board" means the Board of Trustees of the  
2 Internal Improvement Trust Fund.

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

5           ~~(4)(2)~~ "Water column" means the vertical extent of  
6 water, including the surface thereof, above a designated area  
7 of submerged bottom land.

8           Section 7. Paragraph (a) of subsection (2) and  
9 subsection (4) of section 253.71, Florida Statutes, are  
10 amended to read:

11           253.71 The lease contract.--When the board has  
12 determined that the proposed lease is not incompatible with  
13 the public interest and that the applicant has demonstrated  
14 his or her capacity to perform the operations upon which the  
15 application is based, it may proceed to consummate a lease  
16 contract having the following features in addition to others  
17 deemed desirable by the board:

18           (2) RENTAL FEES.--

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

28           (4) PERFORMANCE REQUIREMENTS.--Failure of the lessee  
29 to perform effective cultivation shall constitute ground for  
30 cancellation of the lease and forfeiture to the state of all  
31 the works, improvements, and animal and plant life in and upon

1 the leased land and water column. Effective cultivation shall  
2 consist of the grow out of the aquaculture product according  
3 to the business plan provided in the lease contract ~~guidelines~~  
4 ~~set forth in s. 370.16(4)(e).~~

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

7 253.72 Marking of leased areas; restrictions on public  
8 use.--

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

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

30 (3) To assist in protecting shellfish aquaculture  
31 products produced on leases authorized pursuant to this

1 chapter and chapter 597 ~~370~~, harvesting shellfish is  
2 prohibited within a distance of 25 feet outside lawfully  
3 marked lease boundaries or within setback and access corridors  
4 within specifically designated high-density aquaculture lease  
5 areas and aquaculture use zones.

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

8 270.22 Proceeds of state lands to go into Internal  
9 Improvement Trust Fund; exception.--

10 (2) Rental fees for aquaculture leases pursuant to s.  
11 253.71(2) shall be deposited into the General Inspection Trust  
12 Fund of the Department of Agriculture and Consumer Services  
13 ~~Marine Resources Conservation Trust Fund of the Department of~~  
14 ~~Environmental Protection~~. Such fees generated by  
15 shellfish-related aquaculture leases shall be used for  
16 shellfish-related aquaculture activities, including research,  
17 lease compliance inspections, mapping, and siting.

18 Section 10. Section 328.76, Florida Statutes, is  
19 amended to read:

20 328.76 Marine Resources Conservation Trust Fund;  
21 vessel registration funds; appropriation and distribution.--

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

1 recovery. The funds collected pursuant to s. 328.72(1) shall  
2 be transferred as follows:

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

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

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

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

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

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

31

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 11. 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 12. Paragraph (j) of subsection (2) and  
19 paragraphs (f), (h), (i), and (k) of subsection (3) of section  
20 370.07, Florida Statutes, are amended to read:

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

23           (2) LICENSES; AMOUNT, TRUST FUND.--

24           (j) License or privilege taxes, together with any  
25 other funds derived from the Federal Government or from any  
26 other source, shall be deposited in a Florida Saltwater  
27 Products Promotion Trust Fund to be administered by the  
28 Department of Agriculture and Consumer Services for the sole  
29 purpose of promoting all fish and saltwater products produced  
30 in this state, except that 4 percent of the total wholesale  
31 and retail saltwater products dealers license fees collected



1 shall be deposited into the Marine Resources Conservation  
2 Trust Fund administered by the Fish and Wildlife Conservation  
3 Commission for the purpose of processing wholesale and retail  
4 saltwater products dealers licenses.

5 (3) APALACHICOLA BAY OYSTER SURCHARGE.--

6 (f) The Department of Revenue shall collect the  
7 surcharge for transfer into the General Inspection Trust Fund  
8 of the Department of Agriculture and Consumer Services ~~Marine~~  
9 ~~Resources Conservation Trust Fund of the Department of~~  
10 ~~Environmental Protection.~~

11 (h) Annually, the Department of Agriculture and  
12 Consumer Services and the Fish and Wildlife Conservation  
13 Commission ~~Environmental Protection~~ shall furnish the  
14 Department of Revenue with a current list of wholesale dealers  
15 in the state.

16 (i) Collections received by the Department of Revenue  
17 from the surcharge shall be transferred quarterly to the  
18 General Inspection Trust Fund of the Department of Agriculture  
19 and Consumer Services ~~Department of Environmental Protection~~  
20 ~~Marine Resources Conservation Trust Fund~~, less the costs of  
21 administration.

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

- 27 1. The relaying and transplanting of live oysters.
- 28 2. Shell planting to construct or rehabilitate oyster  
29 bars.
- 30 3. Education programs for licensed oyster harvesters  
31 on oyster biology, aquaculture, boating and water safety,

1 sanitation, resource conservation, small business management,  
2 and other relevant subjects.

3 4. Research directed toward the enhancement of oyster  
4 production in the bay and the water management needs of the  
5 bay.

6 Section 13. Subsections (1) through (11), (13), (16),  
7 (17), (19), (22), and (24) through (27) of section 370.16,  
8 Florida Statutes, are repealed, and subsections (12), (14),  
9 (15), (18), (20), (21), (23), and (28) of said section are  
10 amended to read:

11 370.16 Noncultured shellfish harvesting ~~Oysters and~~  
12 ~~shellfish; regulation.--~~

13 (1)~~(12)~~ PROTECTION OF ~~OYSTER AND CLAM REEFS AND~~  
14 SHELLFISH AQUACULTURE PRODUCTS.--

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

19 (a)~~(b)~~ The Fish and Wildlife Conservation Commission  
20 shall, ~~to the same extent,~~ assist in protecting shellfish  
21 aquaculture products produced on leased or granted reefs in  
22 the hands of lessees or grantees from the state. Harvesting  
23 shellfish is prohibited within a distance of 25 feet outside  
24 lawfully marked lease boundaries or within setback and access  
25 corridors within specifically designated high-density  
26 aquaculture lease areas and aquaculture use zones.

27 (b)~~(c)~~ The department, in cooperation with the  
28 commission, shall provide the Legislature with recommendations  
29 as needed for the development and the proper protection of the  
30 rights of the state and private holders therein with respect  
31 to the oyster and clam business.

1            (2)~~(14)~~ SHELLFISH HARVESTING SEASONS; ~~DAYS~~\*SPECIAL  
2 PROVISIONS RELATING TO APALACHICOLA BAY.--

3            (a) The Fish and Wildlife Conservation Commission  
4 shall by rule set the noncultured ~~consider setting the~~  
5 shellfish harvesting seasons in ~~the~~ Apalachicola Bay, as  
6 ~~follows:~~

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

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

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

23            1. Whether the bay benefits ecologically from the new  
24 harvesting schedule ~~being closed to shellfish harvesting from~~  
25 ~~August 1 to September 30 of each year.~~

26            2. Whether the new harvesting schedule enhances the  
27 enforcement of shellfish harvesting laws in the bay.

28            3. Whether the new harvesting schedule enhances  
29 natural shellfish production, oyster relay and planting  
30 programs, and shell planting programs in the bay.

31

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

4           ~~(c) The Fish and Wildlife Conservation Commission by~~  
5 ~~rule shall consider restricting harvesting on shellfish grants~~  
6 ~~or leases to the same days of the week as harvesting on public~~  
7 ~~beds.~~

8           (3)~~(15)~~ REMOVING OYSTERS, CLAMS, OR MUSSELS FROM  
9 NATURAL REEFS; LICENSES, ETC., PENALTY.--

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

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

27           (b)1. The use of any mechanical harvesting device  
28 other than ordinary hand tongs for taking shellfish for any  
29 purpose from public shellfish beds in Apalachicola Bay shall  
30 be unlawful.

31

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

4           ~~3. Leaseholders or grantees shall telephonically~~  
5 ~~notify the Fish and Wildlife Conservation Commission no less~~  
6 ~~than 48 hours prior to each day's use of a dredge or scrape in~~  
7 ~~order to arrange for a commission officer to be present on the~~  
8 ~~lease or grant area while a dredge or scrape is used on the~~  
9 ~~lease or grant. Under no circumstances may a dredge or scrape~~  
10 ~~be used without a commission officer present.~~

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

13           (d)5. Each vessel used for the transport or deployment  
14 of a dredge or scrape shall prominently display the lease or  
15 grant number or numbers, in numerals which are at least 12  
16 inches high and 6 inches wide, in such a manner that the lease  
17 or grant number or numbers are readily identifiable from both  
18 the air and the water. ~~The commission shall apply other~~  
19 ~~statutes, rules, or conditions necessary to protect the~~  
20 ~~environment and natural resources from improper transport,~~  
21 ~~deployment, and operation of a dredge or scrape. Any~~  
22 ~~violation of this paragraph or of any other statutes, rules,~~  
23 ~~or conditions referenced in the special activity license shall~~  
24 ~~be considered a violation of the license and shall result in~~  
25 ~~revocation of the license and forfeiture of the bond submitted~~  
26 ~~to the commission as a prerequisite to the issuance of this~~  
27 ~~license.~~

28           (e)(c) Oysters may be harvested from natural or public  
29 ~~or private leased or granted~~ grounds by common hand tongs or  
30 by hand, by scuba diving, free diving, leaning from vessels,  
31

1 or wading. In the Apalachicola Bay, this provision shall  
2 apply to all shellfish.

3  
4 The commission shall apply other statutes, rules, or  
5 conditions necessary to protect the environment and natural  
6 resources from improper transport, deployment, and operation  
7 of a dredge or scrape. Any violation of this subsection or of  
8 any other statutes, rules, or conditions referenced in the  
9 special activity license shall be considered a violation of  
10 the license and shall result in revocation of the license and  
11 forfeiture of the bond submitted to the commission as a  
12 prerequisite to the issuance of this license.

13 (4)~~(18)~~ FALSE RETURNS AS TO OYSTERS OR CLAMS  
14 HANDLED.--Each packer, canner, corporation, firm, commission  
15 person, or dealer in fish shall, on the first day of each  
16 month, make a return under oath to the Fish and Wildlife  
17 Conservation Commission, as to the number of oysters, clams,  
18 and shellfish purchased, caught, or handled during the  
19 preceding month. Whoever is found guilty of making any false  
20 affidavit to any such report is guilty of perjury and punished  
21 as provided by law, and any person who fails to make such  
22 report shall be punished by a fine not exceeding \$500 or by  
23 imprisonment in the county jail not exceeding 6 months.

24 (5)~~(20)~~ WATER PATROL FOR COLLECTION OF TAX.--

25 (a) The Fish and Wildlife Conservation Commission may  
26 establish and maintain necessary patrols of the salt waters of  
27 Florida, with authority to use such force as may be necessary  
28 to capture any vessel or person violating the provisions of  
29 the laws relating to oysters and clams, and may establish  
30 ports of entry at convenient locations where the severance or  
31 privilege tax levied on oysters and clams may be collected or

1 paid and may make such rules and regulations as it may deem  
2 necessary for the enforcement of such tax.

3 (b) Each person in any way dealing in shellfish  
4 harvesting from public reefs or beds shall keep a record, on  
5 blanks or forms prescribed by the commission, of all oysters,  
6 clams, and shellfish taken, purchased, used, or handled by him  
7 or her, with the name of the persons from whom purchased, if  
8 purchased, together with the quantity and the date taken or  
9 purchased, and shall exhibit this account at all times when  
10 requested so to do by the commission or any conservation  
11 agent; and he or she shall, on the first day of each month,  
12 make a return under oath to the commission as to the number of  
13 oysters, clams, and shellfish purchased, caught, or handled  
14 during the preceding month. The commission may require  
15 detailed returns whenever it deems them necessary.

16 (6)~~(21)~~ SEIZURE OF VESSELS AND CARGOES VIOLATING  
17 OYSTER AND CLAM LAWS, ETC.--Vessels, with their cargoes,  
18 violating the provisions of the laws relating to oysters and  
19 clams may be seized by anyone duly and lawfully authorized to  
20 make arrests under this section or by any sheriff or the  
21 sheriff's deputies, and taken into custody, and when not  
22 arrested by the sheriff or the sheriff's deputies, delivered  
23 to the sheriff of the county in which the seizure is made, and  
24 shall be liable to forfeiture, on appropriate proceedings  
25 being instituted by the Fish and Wildlife Conservation  
26 Commission, before the courts of that county. In such case  
27 the cargo shall at once be disposed of by the sheriff, for  
28 account of whom it may concern. Should the master or any of  
29 the crew of said vessel be found guilty of using dredges or  
30 other instruments in fishing oysters on natural reefs contrary  
31 to law, or fishing on the natural oyster or clam reefs out of

1 season, or unlawfully taking oysters or clams belonging to a  
2 lessee, such vessel shall be declared forfeited by the court,  
3 and ordered sold and the proceeds of the sale shall be  
4 deposited with the Treasurer to the credit of the General  
5 Revenue Fund; any person guilty of such violations shall not  
6 be permitted to have any license provided for in this chapter  
7 within a period of 1 year from the date of conviction.  
8 Pending proceedings such vessel may be released upon the owner  
9 furnishing bond, with good and solvent security in double the  
10 value of the vessel, conditioned upon its being returned in  
11 good condition to the sheriff to abide the judgment of the  
12 court.

13 ~~(7)(23)~~ DREDGING OF DEAD SHELLS PROHIBITED.--The  
14 dredging of dead shell deposits is prohibited in the state.

15 ~~(8)(28)~~ REQUIREMENTS FOR OYSTER VESSELS.--

16 ~~(a)~~ All vessels used for the harvesting, gathering, or  
17 transporting of noncultured oysters for commercial use shall  
18 be constructed and maintained to prevent contamination or  
19 deterioration of oysters. To this end, all such vessels shall  
20 be provided with false bottoms and bulkheads fore and aft to  
21 prevent oysters from coming in contact with any bilge water.  
22 No dogs or other animals shall be allowed at any time on  
23 vessels used to harvest or transport oysters. A violation of  
24 any provision of this subsection shall result in at least the  
25 revocation of the violator's license.

26 ~~(b) For the purpose of this subsection, "commercial~~  
27 ~~use" shall be a quantity of more than 4 bushels, or more than~~  
28 ~~2 gallons, of shucked oysters, per person or per boat, or any~~  
29 ~~number or quantity of oysters if the oysters are to be sold.~~

30 Section 14. Subsections (1) and (2) of section  
31 370.161, Florida Statutes, are amended to read:



1           370.161 Oyster bottom land grants made pursuant to ch.  
2 3293.--

3           (1) All grants previously issued by the several boards  
4 of county commissioners under the authority of chapter 3293,  
5 1881, Laws of Florida, shall be subject to provisions of s.  
6 597.010 ~~370.16~~, relating to the marking of such lands, the  
7 payment of rents, the cultivation of such lands and the  
8 forfeiture provisions.

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

15           Section 15. Section 372.071, Florida Statutes, is  
16 amended to read:

17           372.071 Powers of arrest by agents of Department of  
18 Environmental Protection or Fish and Wildlife Conservation  
19 Commission.--Any certified law enforcement officer of the  
20 Department of Environmental Protection or the Fish and  
21 Wildlife Conservation Commission, upon receiving information,  
22 relayed to her or him from any law enforcement officer  
23 stationed on the ground, on the water, or in the air, that a  
24 driver, operator, or occupant of any vehicle, boat, or airboat  
25 has violated any section of chapter 327, chapter 328, chapter  
26 370, or this chapter, or s. 597.010 or s. 597.020, may arrest  
27 the driver, operator, or occupant for violation of said laws  
28 when reasonable and proper identification of the vehicle,  
29 boat, or airboat and reasonable and probable grounds to  
30 believe that the driver, operator, or occupant has committed  
31 or is committing any such offense have been communicated to

1 the arresting officer by the other officer stationed on the  
2 ground, on the water, or in the air.

3 Section 16. Subsection (4) of section 372.6673,  
4 Florida Statutes, is amended to read:

5 372.6673 Taking and possession of alligators; trapping  
6 licenses; fees.--

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

24 Section 17. Subsection (2) of section 372.6674,  
25 Florida Statutes, is amended to read:

26 372.6674 Required tagging of alligators and hides;  
27 fees; revenues.--The tags provided in this section shall be  
28 required in addition to any license required under s.  
29 372.6673.

30 (2) The commission may require that an alligator hide  
31 validation tag(CITES tag)be affixed to the hide of any

1 alligator taken from the wild and that such hide be possessed,  
2 purchased, sold, offered for sale, or transported in  
3 accordance with commission rule. The commission is authorized  
4 to assess a fee of up to \$30 for each alligator hide  
5 validation tag issued. Irrespective of whether a fee is  
6 assessed, of which \$5 per validated hide, excluding those  
7 validated from public hunt programs and alligator farms, shall  
8 may be transferred from the alligator management program to  
9 the General Inspection Trust Fund, to be administered by the  
10 Department of Agriculture and Consumer Services for the  
11 purpose of providing marketing and education services with  
12 respect to alligator products produced in this state,  
13 notwithstanding other provisions in this chapter.

14 Section 18. Subsection (5) of section 373.046, Florida  
15 Statutes, is amended to read:

16 373.046 Interagency agreements.--

17 (5) Notwithstanding the provisions of s. 403.927, when  
18 any operating agreement is developed pursuant to subsection  
19 (4),<sup>+</sup>

20 (a) the department shall have regulatory  
21 responsibility under part IV of this chapter for<sup>+</sup>

22 ~~1. All saltwater aquaculture activities located on~~  
23 ~~sovereignty submerged land or in the water column above such~~  
24 ~~land and adjacent facilities directly related to the~~  
25 ~~aquaculture activity.~~

26 ~~2.~~ aquaculture activities that meet or exceed the  
27 thresholds for aquaculture general permits authorized pursuant  
28 to ss. 370.26 and 403.814.

29 ~~3. Aquaculture activities within the Northwest Florida~~  
30 ~~Water Management District.~~

31

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

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

10           Section 19. Subsection (11) of section 403.814,  
11 Florida Statutes, is amended to read:

12           403.814 General permits; delegation.--

13           (11) Upon agreement by the applicant, the department,  
14 and the applicable water management district, the department  
15 and water management district may reassign the regulatory  
16 responsibilities described in s. 373.046(5)~~(a) and (b)~~, based  
17 on the specific aquaculture operation, to achieve a more  
18 efficient and effective permitting process.

19           Section 20. Subsection (1) of section 409.2598,  
20 Florida Statutes, is amended to read:

21           409.2598 Suspension or denial of new or renewal  
22 licenses; registrations; certifications.--

23           (1) The Title IV-D agency may petition the court that  
24 entered the support order or the court that is enforcing the  
25 support order to deny or suspend the license, registration, or  
26 certificate issued under chapter 231, chapter 370, chapter  
27 372, chapter 409, part II of chapter 455, ~~or~~ chapter 559, ~~or~~  
28 s. 328.42, or s. 597.010 of any obligor with a delinquent  
29 child support obligation or who fails, after receiving  
30 appropriate notice, to comply with subpoenas, orders to  
31 appear, orders to show cause, or similar orders relating to

1 paternity or child support proceedings. However, a petition  
2 may not be filed until the Title IV-D agency has exhausted all  
3 other available remedies. The purpose of this section is to  
4 promote the public policy of the state as established in s.  
5 409.2551.

6 Section 21. Paragraph (n) of subsection (1) of section  
7 500.03, Florida Statutes, is amended to read:

8 500.03 Definitions of terms; construction;  
9 applicability.--

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

11 (n) "Food establishment" means any factory, food  
12 outlet, or any other facility manufacturing, processing,  
13 packing, holding, or preparing food, or selling food at  
14 wholesale or retail. The term does not include any business or  
15 activity that is regulated under ~~chapter 370~~, chapter 509, or  
16 chapter 601. The term also does not include any establishments  
17 that pack fruits and vegetables in their raw or natural  
18 states, including those fruits or vegetables that are washed,  
19 colored, or otherwise treated in their unpeeled, natural form  
20 before they are marketed.

21 Section 22. Section 570.18, Florida Statutes, is  
22 amended to read:

23 570.18 Organization of departmental work.--In the  
24 assignment of functions to the 12 ~~11~~ divisions of the  
25 department created in s. 570.29, the department shall retain  
26 within the Division of Administration, in addition to  
27 executive functions, those powers and duties enumerated in s.  
28 570.30. The department shall organize the work of the other  
29 11 ~~10~~ divisions in such a way as to secure maximum efficiency  
30 in the conduct of the department. The divisions created in s.  
31 570.29 are solely to make possible the definite placing of

1 responsibility. The department shall be conducted as a unit  
2 in which every employee, including each division director, is  
3 assigned a definite workload, and there shall exist between  
4 division directors a spirit of cooperative effort to  
5 accomplish the work of the department.

6 Section 23. Subsections (4) through (11) of section  
7 570.29, Florida Statutes, are renumbered as subsections (5)  
8 through (12), respectively, and a new subsection (4) is added  
9 to said section to read:

10 570.29 Departmental divisions.--The department shall  
11 include the following divisions:

12 (4) Aquaculture.

13 Section 24. Section 570.61, Florida Statutes, is  
14 created to read:

15 570.61 Division of Aquaculture; powers and  
16 duties.--The powers and duties of the Division of Aquaculture  
17 shall include, but are not limited to, administering the  
18 aquaculture certification program; enforcing shellfish  
19 sanitation standards; administering the aquaculture and  
20 shellfish lease programs; ensuring that shellfish processing  
21 facilities comply with applicable food safety requirements;  
22 mitigating, creating, and enhancing natural shellfish  
23 harvesting areas; providing education to fishermen and  
24 aquaculturists; promoting aquaculture development; purchasing  
25 commodities as necessary to carry out the provisions of this  
26 section; receiving and accepting grants, aids, gifts, and  
27 donations; providing grants, aids, and other technical  
28 assistance; and ensuring the safety of Florida waters.

29 Section 25. Section 570.62, Florida Statutes, is  
30 created to read:

31 570.62 Director; duties.--

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

4       (2) The director shall supervise, direct, and  
5 coordinate the activities of the division, exercise such other  
6 powers and duties as authorized by the commissioner, and  
7 enforce the provisions of chapter 597, the rules adopted  
8 thereunder, and any other chapter or rule necessary to carry  
9 out the responsibilities of the division.

10       Section 26. Paragraph (f) of subsection (1) of section  
11 597.003, Florida Statutes, is amended, and subsections (3),  
12 (4), and (5) of section 370.26, Florida Statutes, are  
13 renumbered as paragraphs (l) and (k) of said subsection (1)  
14 and amended, to read:

15       597.003 Powers and duties of Department of Agriculture  
16 and Consumer Services.--

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

21       (f) Submit the list of research and development  
22 projects proposed to be funded through the department as  
23 identified in the state aquaculture plan, along with the  
24 department's legislative budget request to the Governor, the  
25 President of the Senate, and the Speaker of the House of  
26 Representatives. If funded, these projects shall be contracted  
27 for by the Division of Aquaculture and shall require  
28 public-private partnerships, when appropriate. The contracts  
29 shall require a percentage of the profit generated by the  
30 project to be deposited into the General Inspection Trust Fund  
31

1 solely for funding aquaculture projects recommended by the  
2 Aquaculture Review Council.

3 ~~(k)(4)~~ The department shall Make available state lands  
4 and the water column for the purpose of producing aquaculture  
5 products when the aquaculture activity is compatible with  
6 state resource management goals, environmental protection, and  
7 propriety interest and when such state lands and waters are  
8 determined to be suitable for aquaculture development by the  
9 Board of Trustees of the Internal Improvement Trust Fund  
10 pursuant to s. 253.68; and be responsible for all saltwater  
11 aquaculture activities located on sovereignty submerged land  
12 or in the water column above such land and adjacent facilities  
13 directly related to the aquaculture activity.

14 1.(a) The department shall act in cooperation with  
15 other state and local agencies and programs to identify and  
16 designate sovereignty lands and waters that would be suitable  
17 for aquaculture development.

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

25 3.(5) Authorizations under part IV of chapter 373  
26 shall be issued in conjunction with the authorization to use  
27 sovereignty submerged land for aquaculture when the  
28 aquaculture activities are authorized in the aquaculture lease  
29 agreement.

30 4. The department shall provide assistance in  
31 developing technologies applicable to aquaculture activities,



1 evaluate practicable production alternatives, and provide  
2 agreements to develop innovative culture practices.

3 ~~(1)(3) The Department of Agriculture and Consumer~~  
4 ~~Services shall~~ Act as a clearinghouse for aquaculture  
5 applications, and act as a liaison between the Fish and  
6 Wildlife Conservation Commission, the Division of State Lands,  
7 the Department of Environmental Protection district offices,  
8 other divisions within the Department of Environmental  
9 Protection, and the water management districts. The department  
10 ~~of Agriculture and Consumer Services~~ shall be responsible for  
11 regulating marine aquaculture producers, except as  
12 specifically provided herein.

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

16 597.004 Aquaculture certificate of registration.--

17 (1) ~~SHELLFISH~~ CERTIFICATION.--Any person engaging in  
18 ~~shellfish~~ aquaculture must be certified by the department.  
19 The applicant for a certificate of registration shall submit  
20 the following to the department:

21 (a) Applicant's name/title.

22 (b) Company name.

23 (c) Complete mailing address.

24 (d) Legal property description of all aquaculture  
25 facilities.

26 (e) Actual physical street address for each  
27 aquaculture facility.

28 ~~(f)(e)~~ Description of production facilities.

29 ~~(g)(f)~~ Aquaculture products to be produced.

30 ~~(h)(g)~~ Fifty dollar annual registration fee.

31 ~~(2) NONSHELLFISH CERTIFICATION.--~~

1           ~~(a) Any person engaging in nonshellfish aquaculture,~~  
2 ~~except as otherwise provided in this section, must be~~  
3 ~~certified by the department. The applicant for a certificate~~  
4 ~~of registration for nonshellfish products shall submit the~~  
5 ~~following to the department:~~

6           ~~1. The information requested in subsection (1) above.~~  
7           (i)2. Documentation that the rules adopted herein have  
8 been complied with in accordance with paragraph (2)(a) ~~(b)~~  
9 below.

10           (2) RULES.--

11           (a) ~~(b)~~ The department, in consultation with the  
12 Department of Environmental Protection, the water management  
13 districts, environmental groups, and representatives from the  
14 affected farming groups, shall adopt rules to:

15           1. Specify the requirement of best-management  
16 practices to be implemented by holders of aquaculture  
17 certificates of registration.

18           2. Establish procedures for holders of aquaculture  
19 certificates of registration to submit the notice of intent to  
20 comply with best-management practices.

21           3. Establish schedules for implementation of  
22 best-management practices, and of interim measures that can be  
23 taken prior to adoption of best-management practices. Interim  
24 measures may include the continuation of regulatory  
25 requirements in effect on June 30, 1998.

26           4. Establish a system to assure the implementation of  
27 best-management practices, including recordkeeping  
28 requirements.

29           (b) Rules adopted pursuant to this subsection shall  
30 become effective pursuant to the applicable provisions of  
31 chapter 120, but must be submitted to the President of the

1 Senate and the Speaker of the House of Representatives for  
2 review by the Legislature. The rules shall be referred to the  
3 appropriate committees of substance and scheduled for review  
4 during the first available regular session following adoption.  
5 Except as otherwise provided by operation of law, such rules  
6 shall remain in effect until rejected or modified by act of  
7 the Legislature.

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

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

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

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

28 (d) There is a presumption of compliance with state  
29 groundwater and surface water standards if the holder of an  
30 aquaculture certificate of registration implements  
31 best-management practices that have been verified by the

1 Department of Environmental Protection to be effective at  
2 representative sites and complies with the following:

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

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

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

12 (e) The department shall provide, by December 31,  
13 1999, to the President of the Senate and the Speaker of the  
14 House of Representatives, a progress report concerning the  
15 development, implementation, and effectiveness of  
16 best-management practices to prevent contamination of  
17 groundwater and surface water.

18 (f) This section does not limit federally delegated  
19 regulatory authority.

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

23 (h) Any alligator producer with an alligator farming  
24 license and permit to establish and operate an alligator farm  
25 shall be issued an aquaculture certificate of registration  
26 pursuant to this section ~~subsection (1) above~~. This chapter  
27 does not supersede the authority under chapter 372, ~~chapter~~  
28 ~~373, or chapter 403~~ to regulate alligator farms and alligator  
29 farmers.

30 (4) IDENTIFICATION OF AQUACULTURE  
31 PRODUCTS.--Aquaculture products shall be identified while

1 possessed, processed, transported, or sold as provided in this  
2 subsection, ~~except those subject to the rules of the Fish and~~  
3 ~~Wildlife Conservation Commission as they relate to alligators~~  
4 ~~only.~~

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

10 (b) Marine aquaculture products shall be transported  
11 in containers that separate such product from wild stocks, and  
12 shall be identified by tags or labels that are securely  
13 attached and clearly displayed.

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

21 (5) SALE OF AQUACULTURE PRODUCTS.--

22 (b) Aquaculture shellfish must be sold and handled in  
23 accordance with s. 597.020 ~~shellfish handling regulations of~~  
24 ~~the Department of Environmental Protection established to~~  
25 ~~protect public health.~~

26 Section 28. Subsection (2) of section 597.0041,  
27 Florida Statutes, is amended, and subsection (4) is added to  
28 said section, to read:

29 597.0041 Prohibited acts; penalties.--

30 (2)(a) Any person who violates any provision of this  
31 chapter or any rule promulgated hereunder is subject to a

1 suspension or revocation of his or her certificate of  
2 registration or license under this chapter. The department  
3 may, in lieu of, or in addition to the suspension of  
4 revocation, impose on the violator an administrative fine in  
5 an amount not to exceed \$1,000 per violation per day.

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

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

17 Section 29. Paragraph (c) of subsection (3) of section  
18 597.005, Florida Statutes, is amended to read:

19 597.005 Aquaculture Review Council.--

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

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

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

28 2. Recommendations to be forwarded to the Speaker of  
29 the House of Representatives and the President of the Senate  
30 on legislation needed to help the aquaculture industry.

31

1           3. Recommendations on aquaculture projects,  
2 activities, research, and regulation and other needs to  
3 further the development of the aquaculture industry.

4           Section 30. Subsection (1) of section 597.006, Florida  
5 Statutes, is amended to read:

6           597.006 Aquaculture Interagency Coordinating  
7 Council.--

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

24           Section 31. Section 597.010, Florida Statutes, is  
25 created to read:

26           597.010 Shellfish regulation; leases.--

27           (1) LEASE, APPLICATION FORM.--When any qualified  
28 person desires to lease a part of the bottom, water column, or  
29 bed of any of the water of this state for the purpose of  
30 growing oysters or clams, as provided for in this section, he  
31

1 or she shall present to the department a written application  
2 pursuant to s. 253.69.

3 (2) LANDS TO BE LEASED.--The lands leased shall be as  
4 compact as possible, taking into consideration the shape of  
5 the body of water and the condition of the bottom as to  
6 hardness, or soft mud or sand, or other conditions that would  
7 render the bottoms desirable or undesirable for the purpose of  
8 oyster or clam cultivation.

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

20 (4) EXECUTION OF LEASES; LESSEE TO STAKE OFF  
21 BOUNDARIES; PENALTY FOR FAILURE TO COMPLY WITH  
22 REGULATIONS.--When a survey of the lands to be leased has been  
23 completed pursuant to s. 253.69 and filed with the department,  
24 and the cost thereof paid by the applicant, the department may  
25 execute in duplicate a lease of the water bottoms to the  
26 applicant. One duplicate, with a plat or map of the water  
27 bottoms so leased, shall be delivered to the applicant, and  
28 the other, with a plat or map of the bottom so leased, shall  
29 be retained by the department and registered in a lease book  
30 which shall be kept exclusively for that purpose by the  
31 department; thereafter the lessees shall enjoy the exclusive



1 use of the lands and all oysters and clams, shell, and cultch  
2 grown or placed thereon shall be the exclusive property of  
3 such lessee as long as he or she shall comply with the  
4 provisions of this chapter and chapter 253. The department  
5 shall require the lessee to stake off and mark the water  
6 bottoms leased, by such ranges, monuments, stakes, buoys,  
7 etc., so placed and made as not to interfere with the  
8 navigation, as it may deem necessary to locate the same to the  
9 end that the location and limits of the lands embraced in such  
10 lease be easily and accurately found and fixed, and such  
11 lessee shall keep the same in good condition during the open  
12 and closed oyster or clam season. All leases shall be marked  
13 according to the standards set forth in s. 253.72. The  
14 department may stipulate in each individual lease contract the  
15 types, shape, depth, size, and height of marker or corner  
16 posts. Failure on the part of the lessee to comply with the  
17 orders of the department to this effect within the time fixed  
18 by it, and to keep the markers, etc., in good condition during  
19 the open and closed oyster or clam season, shall subject such  
20 lessee to a fine not exceeding \$100 for each and every such  
21 offense.

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

23 (a) All leases issued previously under the provisions  
24 of s. 370.16 shall be enforced under the authority of this  
25 chapter, notwithstanding any other law to the contrary, and  
26 shall continue in perpetuity under such restrictions as stated  
27 in the lease agreement. The annual rental fee charged for all  
28 leases shall consist of the minimum rate of \$15 per acre, or  
29 any fraction of an acre, per year and shall be adjusted on  
30 January 1, 1995, and every 5 years thereafter, based on the  
31 5-year average change in the Consumer Price Index. Rent shall

1 be paid in advance of January 1 of each year or in the case of  
2 a new lease at the time of signing, regardless of who holds  
3 the lease.

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

8 (6) FORFEITURE FOR NONPAYMENT--All leases shall  
9 stipulate that failure to timely pay the rent on or before  
10 January 1 of each year shall cause the department, at its  
11 discretion, to terminate and cancel the lease after the  
12 department has given the lessee 30 days' written notice of the  
13 nonpayment. If after receiving the notice the lessee chooses  
14 to keep the lease, the lessee shall pay the rental fee plus a  
15 \$50 late fee within the 30-day period. After the 30-day notice  
16 has expired, the department may take possession of the lease  
17 and all improvements, assets, clams, and oysters thereon.

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

28 (a) Moneys in the fund that are not needed currently  
29 for cleanup and rehabilitation of abandoned or vacated lease  
30 sites shall be deposited with the Treasurer to the credit of  
31 the fund and may be invested in such manner as is provided for

1 by statute. Interest received on such investment shall be  
2 credited to the fund.

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

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

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

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

16 4. Reward payments made pursuant to s. 597.0045.  
17

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

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

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

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

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

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

1 improvements, cultch, marketable oysters, and shell shall  
2 become the property of the state. The department has the  
3 authority to retain, dispose of, or remove such materials in  
4 the best interest of the state.

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

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

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

21 (11) WHEN NATURAL REEFS OR BEDS MAY BE INCLUDED IN  
22 LEASE.--

23 (a) When an application for a submerged land lease for  
24 cultivating shellfish is filed, and when a resource survey of  
25 such lands identifies natural oyster or clam reefs or beds,  
26 the department shall determine if such reefs and beds are to  
27 be included in the leased area. The department, if it deems it  
28 to be in the best interest of the state, may include such  
29 natural reefs or beds in a lease. In those cases where a  
30 natural area is included in a lease, the department shall fix  
31 a reasonable value on the same, to be paid by the applicant

1 for lease of such submerged land. No natural reefs shall be  
2 included in any shellfish or aquaculture lease granted in  
3 Franklin County.

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

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

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

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

1 willfully moves any bedding ground stakes, buoys, marks, or  
2 designations placed by the department, commits a violation of  
3 this section.

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

9 (14) SHELLFISH DEVELOPMENT.--

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

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

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

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

27 (16) STAKING OFF WATER BOTTOMS OR BEDDING OYSTERS  
28 WITHOUT OBTAINING LEASE.--Any person staking off the water  
29 bottoms of this state, or bedding oysters on the bottoms of  
30 the waters of this state, without previously leasing same as  
31 required by law commits a violation of this section, and shall



1 acquire no rights by reason of such staking off. This  
2 provision does not apply to grants heretofore made under the  
3 provisions of any heretofore existing laws or to artificial  
4 beds made heretofore by a riparian owner or his or her  
5 grantees on the owner's riparian bottoms.

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

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

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

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

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

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

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

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

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 erving 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 32. 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 33. This act shall take effect July 1, 2000.  
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