

By Senator Laurent

17-709-00

See HB 601

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

1 providing for protection of shellfish and
2 aquaculture products; deleting provisions
3 relating to regulation and enforcement of
4 oyster and shellfish leases by the Department
5 of Environmental Protection, protection and
6 development of oyster and shellfish resources,
7 and regulation of processing for commercial
8 use; amending ss. 370.161 and 372.071, F.S.;
9 conforming cross-references; repealing s.
10 370.26(3), (4), (5), F.S., relating to
11 aquaculture applications and activities;
12 amending s. 372.6673, F.S.; reducing the
13 alligator egg collection permit fee; requiring
14 collection of a marketing assessment fee for
15 alligator products marketing and education;
16 amending s. 372.6674, F.S.; reducing the fee
17 for issuance of an alligator hide validation
18 tag; requiring collection of a marketing and
19 assessment fee; amending s. 373.046, F.S.;
20 reassigning regulatory responsibilities for
21 certain aquaculture activities among the
22 Department of Environmental Protection, the
23 Department of Agriculture and Consumer
24 Services, and the water management districts;
25 amending ss. 403.814, 409.2598, and 500.03,
26 F.S.; conforming cross-references; amending ss.
27 570.18 and 570.29, F.S.; conforming provisions
28 relating to organization of the Department of
29 Agriculture and Consumer Services; creating s.
30 570.61, F.S.; providing powers and duties of
31 the Division of Aquaculture of the Department

1 of Agriculture and Consumer Services; creating
2 s. 570.62, F.S.; providing for appointment and
3 duties of a division director; amending s.
4 597.003, F.S.; requiring the Department of
5 Agriculture and Consumer Services to perform
6 certain responsibilities relating to
7 aquaculture development; amending s. 597.004,
8 F.S.; revising provisions relating to
9 aquaculture certificates of registration;
10 providing a preemption for regulation of
11 nonshellfish aquaculture in the state; amending
12 s. 597.0041, F.S.; providing an administrative
13 fine; providing penalties; amending s. 597.006,
14 F.S.; revising membership of the Aquaculture
15 Interagency Coordinating Council; creating s.
16 597.010, F.S.; providing for regulation and
17 enforcement of shellfish leases by the
18 Department of Agriculture and Consumer
19 Services; providing for continuation of leases
20 previously issued under ch. 370, F.S.;
21 providing for rental fees, fee adjustments,
22 late fees, and forfeiture for nonpayment of
23 fees; providing a lease surcharge for certain
24 purposes; providing for rules; providing
25 cultivation requirements for leased lands;
26 restricting the inheriting or transfer of
27 leases; requiring a deposit for investigations
28 relating to petitions for cancellation of
29 leases to natural reefs; providing for
30 inclusion of natural reefs in leased areas
31 under certain circumstances; restricting leases

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

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 253.002, Florida Statutes, is
29 amended to read:

30
31

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
9 board-of-trustees-owned submerged lands for any activity for
10 which that department has responsibility pursuant to ss.
11 253.67-253.75 and s. 597.010.

12 (2) Delegations to the department, or a water
13 management district, or the Department of Agriculture and
14 Consumer Services of authority to take final agency action on
15 applications for authorization to use submerged lands owned by
16 the board of trustees, without any action on behalf of the
17 board of trustees, shall be by rule. Until rules adopted
18 pursuant to this subsection become effective, existing
19 delegations by the board of trustees shall remain in full
20 force and effect. However, the board of trustees is not
21 limited or prohibited from amending these delegations. By
22 December 31, 1995, the board of trustees shall adopt by rule
23 any delegations of its authority to take final agency action
24 without action by the board of trustees on applications for
25 authorization to use board of trustees-owned submerged lands.
26 Any final agency action, without action by the board of
27 trustees, taken by the department, or a water management
28 district, or the Department of Agriculture and Consumer
29 Services on applications to use board of trustees-owned
30 submerged lands shall be subject to the provisions of s.
31 373.4275. Notwithstanding any other provision of this

1 subsection, the board of trustees, the Department of Legal
2 Affairs, and the department retain the concurrent authority to
3 assert or defend title to submerged lands owned by the board
4 of trustees.

5 Section 2. Paragraph (b) of subsection (1) of section
6 253.01, Florida Statutes, is amended to read:

7 253.01 Internal Improvement Trust Fund established.--
8 (1)

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

22 Section 3. Section 253.67, Florida Statutes, is
23 amended to read:

24 253.67 Definitions.--As used in ss. 253.67-253.75:

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

27 (2)~~(4)~~ "Board" means the Board of Trustees of the
28 Internal Improvement Trust Fund.

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

31

1 ~~(4)(2)~~ "Water column" means the vertical extent of
2 water, including the surface thereof, above a designated area
3 of submerged bottom land.

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

7 253.71 The lease contract.--When the board has
8 determined that the proposed lease is not incompatible with
9 the public interest and that the applicant has demonstrated
10 his or her capacity to perform the operations upon which the
11 application is based, it may proceed to consummate a lease
12 contract having the following features in addition to others
13 deemed desirable by the board:

14 (2) RENTAL FEES.--

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

24 (4) PERFORMANCE REQUIREMENTS.--Failure of the lessee
25 to perform effective cultivation shall constitute ground for
26 cancellation of the lease and forfeiture to the state of all
27 the works, improvements, and animal and plant life in and upon
28 the leased land and water column. Effective cultivation shall
29 consist of the grow out of the aquaculture product according
30 to the business plan provided in the lease contract ~~guidelines~~
31 ~~set forth in s. 370.16(4)(e).~~

1 Section 5. Section 253.72, Florida Statutes, is
2 amended to read:

3 253.72 Marking of leased areas; restrictions on public
4 use.--

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

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

26 (3) To assist in protecting shellfish aquaculture
27 products produced on leases authorized pursuant to this
28 chapter and chapter 597 ~~370~~, harvesting shellfish is
29 prohibited within a distance of 25 feet outside lawfully
30 marked lease boundaries or within setback and access corridors
31

1 within specifically designated high-density aquaculture lease
2 areas and aquaculture use zones.

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

5 270.22 Proceeds of state lands to go into Internal
6 Improvement Trust Fund; exception.--

7 (2) Rental fees for aquaculture leases pursuant to s.
8 253.71(2) shall be deposited into the General Inspection Trust
9 Fund of the Department of Agriculture and Consumer Services
10 ~~Marine Resources Conservation Trust Fund of the Department of~~
11 ~~Environmental Protection~~. Such fees generated by
12 shellfish-related aquaculture leases shall be used for
13 shellfish-related aquaculture activities, including research,
14 lease compliance inspections, mapping, and siting.

15 Section 7. Section 328.76, Florida Statutes, is
16 amended to read:

17 328.76 Marine Resources Conservation Trust Fund;
18 vessel registration funds; appropriation and distribution.--

19 (1) Except as otherwise specified and less any
20 administrative costs, all funds collected from the
21 registration of vessels through the Department of Highway
22 Safety and Motor Vehicles and the tax collectors of the state
23 shall be deposited in the Marine Resources Conservation Trust
24 Fund for recreational channel marking; public launching
25 facilities; law enforcement and quality control programs;
26 aquatic weed control; manatee protection, recovery, rescue,
27 rehabilitation, and release; and marine mammal protection and
28 recovery. The funds collected pursuant to s. 328.72(1) shall
29 be transferred as follows:

30 (a) In each fiscal year, an amount equal to \$1 for
31 each vessel registered in this state shall be transferred to

1 the Save the Manatee Trust Fund for manatee and marine mammal
2 research, protection, and recovery in accordance with the
3 provisions of s. 370.12(4)(a).

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

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

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

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

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

27 (2) All funds collected pursuant to s. 370.06(2) shall
28 be deposited in the Marine Resources Conservation Trust Fund.
29 Such funds shall be used to pay the cost of implementing the
30 saltwater products license program. Additional proceeds from
31

1 the licensing revenue shall be distributed among the following
2 program functions:

3 (a) No more than 15 percent shall go to marine law
4 enforcement;

5 (b) Twenty-five ~~No more than 25~~ percent shall go to
6 the Florida Saltwater Products Promotion Trust Fund within the
7 Department of Agriculture and Consumer Services for the
8 purpose of providing marketing and extension services
9 including industry information and education; and

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

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

16 370.06 Licenses.--

17 (4) SPECIAL ACTIVITY LICENSES.--

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

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

27 (e) Each person who applies for an Apalachicola Bay
28 oyster harvesting license shall, before receiving the license
29 for the first time, attend an educational seminar of not more
30 than 16 hours length, developed and conducted jointly by the
31 Department of Environmental Protection's Apalachicola National

1 Estuarine Research Reserve, the Division of Law Enforcement of
2 the Fish and Wildlife Conservation Commission, and the
3 Department of Agriculture and Consumer Services' Apalachicola
4 District Shellfish Environmental Assessment Laboratory. The
5 seminar shall address, among other things, oyster biology,
6 conservation of the Apalachicola Bay, sanitary care of
7 oysters, small business management, and water safety. The
8 seminar shall be offered five times per year, and each person
9 attending shall receive a certificate of participation to
10 present when obtaining an Apalachicola Bay oyster harvesting
11 license. The educational seminar is not required for renewal
12 of an Apalachicola Bay oyster harvesting license.

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

16 370.07 Wholesale and retail saltwater products
17 dealers; regulation.--

18 (3) APALACHICOLA BAY OYSTER SURCHARGE.--

19 (f) The Department of Revenue shall collect the
20 surcharge for transfer into the General Inspection Trust Fund
21 of the Department of Agriculture and Consumer Services ~~Marine~~
22 ~~Resources Conservation Trust Fund of the Department of~~
23 ~~Environmental Protection.~~

24 (h) Annually, the Department of Agriculture and
25 Consumer Services and the Fish and Wildlife Conservation
26 Commission ~~Environmental Protection~~ shall furnish the
27 Department of Revenue with a current list of wholesale dealers
28 in the state.

29 (i) Collections received by the Department of Revenue
30 from the surcharge shall be transferred quarterly to the
31 General Inspection Trust Fund of the Department of Agriculture

1 ~~and Consumer Services Department of Environmental Protection~~
2 ~~Marine Resources Conservation Trust Fund~~, less the costs of
3 administration.

4 (k) The Department of Agriculture and Consumer
5 Services Environmental Protection shall use or distribute
6 funds generated by this surcharge, less reasonable costs of
7 collection and administration, to fund the following oyster
8 management and restoration programs in Apalachicola Bay:

9 1. The relaying and transplanting of live oysters.

10 2. Shell planting to construct or rehabilitate oyster
11 bars.

12 3. Education programs for licensed oyster harvesters
13 on oyster biology, aquaculture, boating and water safety,
14 sanitation, resource conservation, small business management,
15 and other relevant subjects.

16 4. Research directed toward the enhancement of oyster
17 production in the bay and the water management needs of the
18 bay.

19 Section 10. Section 370.16, Florida Statutes, is
20 amended to read:

21 370.16 Noncultured shellfish harvesting Oysters and
22 ~~shellfish; regulation.--~~

23 ~~(1) LEASE, APPLICATION FORM; NOTICE TO RIPARIAN OWNER;~~
24 ~~LANDS LEASED TO BE COMPACT.--When any qualified person desires~~
25 ~~to lease a part of the bottom or bed of any of the water of~~
26 ~~this state, for the purpose of growing oysters or clams, as~~
27 ~~provided for in this section, he or she shall present to the~~
28 ~~Department of Environmental Protection a written application~~
29 ~~setting forth the name and address of the applicant, a~~
30 ~~reasonably definite description of the location and amount of~~
31 ~~land covered by water desired, and shall pray that the~~

1 ~~application be filed; that the water bottoms be surveyed and a~~
2 ~~plat or map of the survey thereof be made if no plat or map of~~
3 ~~such bottoms should have been so made thereto; and that the~~
4 ~~water bottoms described be leased to the applicant under the~~
5 ~~provisions of this section. Such applicant shall accompany~~
6 ~~with his or her written application a sufficient sum to defray~~
7 ~~the estimated expenses of the survey; thereupon the department~~
8 ~~shall file such application and shall direct the same surveyed~~
9 ~~and platted forthwith at the expense of the applicant. When~~
10 ~~applications are made by two or more persons for the same~~
11 ~~lands, they shall be leased to the applicant who first filed~~
12 ~~application for same; but to all applications for leases of~~
13 ~~any of the bottoms of said waters owned under the riparian~~
14 ~~acts of the laws of Florida, heretofore enacted, notice of~~
15 ~~such application shall be given the riparian owner, when~~
16 ~~known, and, when not known, notice of such application shall~~
17 ~~be given by publication for 4 weeks in some newspaper~~
18 ~~published in the county in which the water bottoms lie; and~~
19 ~~when there is no newspaper published in such county, then by~~
20 ~~posting the notice for 4 weeks at the courthouse door of the~~
21 ~~county, and preference shall be given to the riparian owners~~
22 ~~under the terms and conditions herein created, when the~~
23 ~~riparian owner makes application for such water bottoms for~~
24 ~~the purpose of planting oysters or clams before the same are~~
25 ~~leased to another. The lands leased shall be as compact as~~
26 ~~possible, taking into consideration the shape of the body of~~
27 ~~water and the condition of the bottom as to hardness, or soft~~
28 ~~mud or sand, or other conditions which would render the~~
29 ~~bottoms desirable or undesirable for the purpose of oyster or~~
30 ~~clam cultivation.~~
31

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

12 ~~(3) EXECUTION OF LEASES; LESSEE TO STAKE OFF~~
13 ~~BOUNDARIES; PENALTY FOR FAILURE TO COMPLY WITH~~
14 ~~REGULATIONS.~~ As soon as the survey has been made and the plat
15 or map thereof filed with the Department of Environmental
16 Protection and the cost thereof paid by the applicant, the
17 department may execute in duplicate a lease of the water
18 bottoms to the applicant. One duplicate, with a plat or map
19 of the water bottoms so leased, shall be delivered to the
20 applicant, and the other, with a plat or map of the bottom so
21 leased, shall be retained by the department and registered in
22 a lease book which shall be kept exclusively for that purpose
23 by the department; thereafter the lessees shall enjoy the
24 exclusive use of the lands and all oysters and clams, shell,
25 and cultch grown or placed thereon shall be the exclusive
26 property of such lessee as long as he or she shall comply with
27 the provisions of this chapter. The department shall require
28 the lessee to stake off and mark the water bottoms leased, by
29 such ranges, monuments, stakes, buoys, etc., so placed and
30 made as not to interfere with the navigation, as it may deem
31 necessary to locate the same to the end that the location and

1 ~~limits of the lands embraced in such lease be easily and~~
2 ~~accurately found and fixed, and such lessee shall keep the~~
3 ~~same in good condition during the open and closed oyster or~~
4 ~~clam season. All leases shall be marked according to the~~
5 ~~standards derived from the uniform waterway markers for safety~~
6 ~~and navigation as described in s. 327.40. The department may~~
7 ~~stipulate in each individual lease contract the types, shape,~~
8 ~~depth, size, and height of marker or corner posts. Failure on~~
9 ~~the part of the lessee to comply with the orders of the~~
10 ~~department to this effect within the time fixed by it, and to~~
11 ~~keep the markers, etc., in good condition during the open and~~
12 ~~closed oyster or clam season, shall subject such lessee to a~~
13 ~~fine not exceeding \$100 for each and every such offense. All~~
14 ~~lessees shall cause the area of the leased water bottoms and~~
15 ~~the names of the lessees to be shown by signs as may be~~
16 ~~determined by the department, if so required.~~

17 ~~(4) LEASES IN PERPETUITY; RENT; STIPULATIONS; TAXES;~~
18 ~~CULTIVATION, ETC.--~~

19 ~~(a) All leases made under the provisions of this~~
20 ~~chapter shall begin on the day executed and continue in~~
21 ~~perpetuity under such restrictions as shall herein be stated.~~
22 ~~The rent for the first 10 years shall be \$5 per acre, or any~~
23 ~~fraction of an acre, per year. The actual rate charged for~~
24 ~~all leases shall consist of the minimum rate of \$15 per acre,~~
25 ~~or any fraction of an acre, per year and shall be adjusted on~~
26 ~~January 1, 1995, and every 5 years thereafter, based upon the~~
27 ~~5-year average change in the Consumer Price Index. However,~~
28 ~~the rent for any lease currently in effect shall not be~~
29 ~~increased during the first 10 years of said lease. This rent~~
30 ~~shall be paid in advance at the time of signing the lease up~~
31 ~~to January 1 following, and annually thereafter in advance on~~

1 ~~or before January 1, whether the lease be held by the original~~
2 ~~lessee or by an heir, assignee, or transferee.~~

3 ~~(b) A surcharge of \$5 per acre, or any fraction of an~~
4 ~~acre, per annum shall be levied upon each lease, other than a~~
5 ~~perpetual lease granted pursuant to this subsection, and~~
6 ~~deposited into the Marine Resources Conservation Trust Fund.~~
7 ~~The surcharge shall be levied until the balance of receipts~~
8 ~~from the surcharge equals or exceeds \$30,000. For the fiscal~~
9 ~~year immediately following the year in which the balance of~~
10 ~~receipts from the surcharge equals or exceeds \$30,000, no~~
11 ~~surcharge shall be levied unless the balance from receipts~~
12 ~~from the surcharge is less than or equal to \$20,000. For the~~
13 ~~fiscal year immediately following the year in which the~~
14 ~~balance of receipts from the surcharge is less than or equal~~
15 ~~to \$20,000, the surcharge shall be and shall remain \$5 per~~
16 ~~acre, or any fraction of an acre, per annum until the balance~~
17 ~~of receipts from the surcharge again is equal to or exceeds~~
18 ~~\$30,000. The purpose of the surcharge is to provide a~~
19 ~~mechanism to have financial resources immediately available~~
20 ~~for cleanup and rehabilitation of abandoned or vacated lease~~
21 ~~sites. The department is authorized to adopt rules necessary~~
22 ~~to carry out the provisions of this subsection.~~

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

29 ~~(d) Funds from receipts from the surcharge within the~~
30 ~~Marine Resources Conservation Trust Fund from the surcharge~~
31

1 ~~established by paragraph (b) shall be disbursed for the~~
2 ~~following purposes and no others:~~

3 ~~1. Administrative expenses, personnel expenses, and~~
4 ~~equipment costs of the department related to cleanup and~~
5 ~~rehabilitation of abandoned or vacated aquaculture lease sites~~
6 ~~and enforcement of provisions of subsections (1)-(13).~~

7 ~~2. All costs involved in the cleanup and~~
8 ~~rehabilitation of abandoned or vacated lease sites.~~

9 ~~3. All costs and damages which are the proximate~~
10 ~~results of lease abandonment or vacation.~~

11 ~~4. The department shall recover to the use of the fund~~
12 ~~from the person or persons abandoning or vacating the lease,~~
13 ~~jointly and severally, all sums owed or expended from the~~
14 ~~fund. Requests for reimbursement to the fund for the above~~
15 ~~costs, if not paid within 30 days of demand, shall be turned~~
16 ~~over to the Department of Legal Affairs for collection.~~

17 ~~(e) Effective cultivation shall consist of the growing~~
18 ~~of the oysters or clams in a density suitable for commercial~~
19 ~~harvesting over the amount of bottom prescribed by law. This~~
20 ~~commercial density shall be accomplished by the planting of~~
21 ~~seed oysters, shell, and cultch of various descriptions. The~~
22 ~~Division of Marine Resources may stipulate in each individual~~
23 ~~lease contract the types, shape, depth, size, and height of~~
24 ~~cultch materials on lease bottoms according to the individual~~
25 ~~shape, depth, location, and type of bottom of the proposed~~
26 ~~lease. Each tenant leasing from the state water bottoms under~~
27 ~~the provisions of this section shall have begun, within 1 year~~
28 ~~from the date of such lease, bona fide cultivation of the~~
29 ~~same, and shall, by the end of the second year from the~~
30 ~~commencement of his or her lease, have placed under~~
31 ~~cultivation at least one-fourth of the water bottom leased and~~

1 ~~shall each year thereafter place in cultivation at least~~
2 ~~one-fourth of the water bottom leased until the whole,~~
3 ~~suitable for bedding of oysters or clams, shall have been put~~
4 ~~in cultivation by the planting thereon of not less than 200~~
5 ~~barrels of oysters, shell, or its equivalent in cultch to the~~
6 ~~acre. When leases are granted, or when grants have heretofore~~
7 ~~been made under existing laws for the planting of oysters or~~
8 ~~clams, such lessee or grantee is authorized to plant the~~
9 ~~leased or granted bottoms both in oysters and clams.~~

10 ~~(f) These stipulations will apply to all leases~~
11 ~~granted after the passing of this section. All leases~~
12 ~~existing prior to the passing of this section will operate~~
13 ~~under the law which was in effect when the leases were~~
14 ~~granted.~~

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

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

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

3 ~~(5) INCREASE OF RENTALS AFTER 10 YEARS.--After 10~~
4 ~~years from the execution of the lease, the rentals shall be~~
5 ~~increased to a minimum of \$1 per acre per annum. The~~
6 ~~department shall assess rental value on the leased water~~
7 ~~bottoms, taking into consideration their value as~~
8 ~~oyster-growing or clam-growing water bottoms, their nearness~~
9 ~~to factories, transportation, and other conditions adding~~
10 ~~value thereto and placing such valuation upon them in shape of~~
11 ~~annual rental to be paid thereunder as said condition shall~~
12 ~~warrant.~~

13 ~~(6) LEASES TRANSFERABLE, ETC.--The leases shall be~~
14 ~~inheritable and transferable, in whole or in part, and shall~~
15 ~~also be subject to mortgage, pledge, or hypothecation and~~
16 ~~shall be subject to seizure and sale for debts as any other~~
17 ~~property, rights, and credits in this state, and this~~
18 ~~provision shall also apply to all buildings, betterments, and~~
19 ~~improvements thereon. Leases granted under this section cannot~~
20 ~~be transferred, by sale or barter, in whole or in part,~~
21 ~~without the written, express acquiescence of the Department of~~
22 ~~Environmental Protection, and such a transferee shall pay a~~
23 ~~\$50 transfer fee before department acquiescence may be given.~~
24 ~~No lease or part of a lease may be transferred by sale or~~
25 ~~barter until the lease has been in existence at least 2 years~~
26 ~~and has been cultivated according to the statutory standards~~
27 ~~found in paragraph (4)(e), except as otherwise provided by~~
28 ~~regulation adopted by the department. No such inheritance or~~
29 ~~transfer shall be valid or of any force or effect whatever~~
30 ~~unless evidenced by an authentic act, judgment, or proper~~
31 ~~judicial deed, registered in the office of the department in a~~

1 ~~book to be provided for said purpose. The department shall~~
2 ~~keep proper indexes so that all original leases and all~~
3 ~~subsequent changes and transfers can be easily and accurately~~
4 ~~ascertained.~~

5 ~~(7) PAYMENT OF RENT; FORFEITURE FOR NONPAYMENT;~~
6 ~~NOTICE, ETC.--All leases shall stipulate for the payment of~~
7 ~~the annual rent in advance on or before January 1 of each~~
8 ~~year, and the further stipulation that the failure of the~~
9 ~~tenant to pay the rent punctually on or before that day, or~~
10 ~~within 30 days thereafter shall ipso facto, and upon demand,~~
11 ~~terminate and cancel said lease and forfeit to the state all~~
12 ~~the works, improvements, betterments, oysters, and clams on~~
13 ~~the leased water bottoms, and authorize the Department of~~
14 ~~Environmental Protection to at once enter on said water bottom~~
15 ~~and take possession thereof, and such water bottom shall then~~
16 ~~be open for lease as herein provided; and the department shall~~
17 ~~within 10 days thereafter enter such termination,~~
18 ~~cancellation, and forfeiture on its books and shall give such~~
19 ~~public notice thereof, and of the fact that the water bottoms~~
20 ~~are open to lease, as it shall deem proper; provided, that the~~
21 ~~department may, in its discretion, waive such termination,~~
22 ~~cancellation, and forfeiture when the rent due, with 10~~
23 ~~percent additional, and all costs and expenses growing out of~~
24 ~~such failure to pay, be tendered to it within 60 days after~~
25 ~~the same became due; provided, that in all cases of~~
26 ~~cancellation of lease, the department shall, after 60 days~~
27 ~~notice by publication in some newspaper published in the~~
28 ~~state, having a general statewide circulation, which notice~~
29 ~~shall contain a full description of the leased waters and beds~~
30 ~~and any parts thereof, sell such lease to the highest and best~~
31 ~~bidder; and all moneys received over and above the rents due~~

1 ~~to the state, under the terms of the lease and provisions~~
2 ~~herein, and costs and expenses growing out of such failure to~~
3 ~~pay, shall be paid to the lessee forfeiting his or her rights~~
4 ~~therein. No leased water bottoms shall be forfeited for~~
5 ~~nonpayment of rent under the provisions of this section,~~
6 ~~unless there shall previously have been mailed by the said~~
7 ~~department to the last known address of such tenant according~~
8 ~~to the books of said department, 30 days' notice of the~~
9 ~~maturity of such lease. Whenever any leased water bottoms are~~
10 ~~forfeited for nonpayment of rent, and there is a plat or~~
11 ~~survey thereof in the archives of the department, when such~~
12 ~~bedding grounds are re-leased, no new survey thereof shall be~~
13 ~~made, but the original stakes, monuments, and bounds shall be~~
14 ~~preserved, and the new lease shall be based upon the original~~
15 ~~survey. This subsection shall also apply to all costs and~~
16 ~~expenses taxed against a lessee by the department under this~~
17 ~~section.~~

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

1 ~~claim or interest of the petitioner therein and requesting the~~
2 ~~cancellation of the lease to the said natural reef. No~~
3 ~~petition may be considered unless it is accompanied by a~~
4 ~~deposit of \$10 to defray the expense of examining into the~~
5 ~~matter. The petition may include several contemporaneous~~
6 ~~natural reefs of oysters or clams. Upon receipt of such~~
7 ~~petition, the department shall cause an investigation to be~~
8 ~~made into the truth of the allegations of the petition, and,~~
9 ~~if found untrue, the \$10 deposit shall be retained by the~~
10 ~~department to defray the expense of the investigation, but~~
11 ~~should the allegations of the petition be found true and the~~
12 ~~leased premises to contain a natural oyster or clam reef, as~~
13 ~~above described, the said \$10 shall be returned to the~~
14 ~~petitioner and the costs and expenses of the investigation~~
15 ~~taxed against the lessee and the lease canceled to the extent~~
16 ~~of the natural reef and the same shall be marked with buoys~~
17 ~~and stakes and notices placed thereon showing the same to be a~~
18 ~~public reef, the cost of the markers and notices to be taxed~~
19 ~~against the lessee.~~

20 ~~(9) WHEN NATURAL REEFS MAY BE INCLUDED IN LEASE.--When~~
21 ~~an application for oyster or clam bedding grounds is filed and~~
22 ~~upon survey of such bedding ground, it should develop that the~~
23 ~~area applied for contains natural oyster or clam reefs or beds~~
24 ~~less in size than 100 square yards, or oyster or clam reefs or~~
25 ~~bars of greater size, but not of sufficient quantity to~~
26 ~~constitute a stratum, and it should further be made to appear~~
27 ~~to the Department of Environmental Protection by the affidavit~~
28 ~~of the applicant, together with such other proof as the~~
29 ~~department may require, that the natural reef, bed, or bar~~
30 ~~could not be excluded, and the territory applied for properly~~
31 ~~protected or policed, the department may, if it deems it for~~

1 ~~the best interest of the state and the oyster industry so to~~
2 ~~do, permit the including of such natural reefs, beds, or bars;~~
3 ~~and it shall fix a reasonable value on the same, to be paid by~~
4 ~~the applicant for such bedding ground; provided, that no such~~
5 ~~natural reefs shall be included in any lease hereafter granted~~
6 ~~to the bottom or bed of waters of this state contiguous to~~
7 ~~Franklin County. There shall be no future oyster leases~~
8 ~~issued in Franklin County except for purposes of oyster~~
9 ~~aquaculture activities approved under ss. 253.67-253.75.~~
10 ~~However, such aquaculture leases shall be for an area not~~
11 ~~larger than 1 acre and shall not be transferred or subleased.~~
12 ~~Only the flexible belt system or off-bottom methods may be~~
13 ~~used for aquaculture on these lease areas, and no cultch~~
14 ~~materials shall be placed on the bottom of the lease areas.~~
15 ~~Under no circumstances shall mechanical dredging devices be~~
16 ~~used to harvest oysters on such lease areas. Oyster~~
17 ~~aquaculture leases issued in Franklin County shall be issued~~
18 ~~only to Florida residents.~~

19 ~~(10) SETTLEMENT OF BOUNDARY DISPUTES; REVIEW.--The~~
20 ~~Department of Environmental Protection shall determine and~~
21 ~~settle all disputes as to boundaries between lessees of~~
22 ~~bedding grounds. The department shall, in all cases, be the~~
23 ~~judge as to whether any particular bottom is or is not a~~
24 ~~natural reef or whether it is suitable for bedding oysters or~~
25 ~~clams.~~

26 ~~(11) TRESPASS ON LEASED BEDS; GATHERING OYSTERS AND~~
27 ~~CLAMS BETWEEN SUNSET AND SUNRISE FROM NATURAL REEFS, ETC.--Any~~
28 ~~person who willfully takes oysters, shells, cultch, or clams~~
29 ~~bedded or planted by a licensee under this chapter, or grantee~~
30 ~~under the provisions of heretofore existing laws, or riparian~~
31 ~~owner who may have heretofore planted the same on his or her~~

1 ~~riparian bottoms, or any oysters or clams deposited by anyone~~
2 ~~making up a cargo for market, or who willfully carries or~~
3 ~~attempts to carry away the same without permission of the~~
4 ~~owner thereof, or who willfully or knowingly removes, breaks~~
5 ~~off, destroys, or otherwise injures or alters any stakes,~~
6 ~~bounds, monuments, buoys, notices, or other designations of~~
7 ~~any natural oyster or clam reefs or beds or private bedding or~~
8 ~~propagating grounds, or who willfully injures, destroys, or~~
9 ~~removes any other protection around any oyster or clam beds,~~
10 ~~or who willfully moves any bedding ground stakes, buoys,~~
11 ~~marks, or designations, placed by the department, or who~~
12 ~~gathers oysters or clams between sunset and sunrise from the~~
13 ~~natural reefs or from private bedding grounds, is guilty of a~~
14 ~~violation of this section.~~

15 (1)~~(12)~~ PROTECTION OF OYSTER AND CLAM REEFS AND
16 SHELLFISH AQUACULTURE PRODUCTS.--

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

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

29 (b)~~(c)~~ The department, in cooperation with the
30 commission, shall provide the Legislature with recommendations
31 as needed for the development and the proper protection of the

1 rights of the state and private holders therein with respect
2 to the oyster and clam business.

3 ~~(13) STAKING OFF WATER BOTTOMS OR BEDDING OYSTERS~~
4 ~~WITHOUT OBTAINING LEASE.--Any person staking off the water~~
5 ~~bottoms of this state, or bedding oysters on the bottoms of~~
6 ~~the waters of this state, without previously leasing same as~~
7 ~~required by law shall be guilty of a violation of this~~
8 ~~section, and shall acquire no rights by reason of such staking~~
9 ~~off. This provision does not apply to grants heretofore made~~
10 ~~under the provisions of any heretofore existing laws or to~~
11 ~~artificial beds made heretofore by a riparian owner or his or~~
12 ~~her grantees on the owner's riparian bottoms.~~

13 (2)~~(14)~~ SHELLFISH HARVESTING SEASONS; ~~DAYS~~+SPECIAL
14 PROVISIONS RELATING TO APALACHICOLA BAY.--

15 (a) The Fish and Wildlife Conservation Commission
16 shall by rule set the noncultured ~~consider setting the~~
17 shellfish harvesting seasons in the Apalachicola Bay, as
18 ~~follows:~~

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

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

25 (b) If the commission changes the harvesting seasons
26 by rule as set forth in this subsection, for 3 years after the
27 new rule takes effect, the commission, in cooperation with the
28 Department of Agriculture and Consumer Services, shall monitor
29 the impacts of the new harvesting schedule on the bay and on
30 local shellfish harvesters to determine whether the new
31 harvesting schedule should be discontinued, retained, or

1 modified. In monitoring the new schedule and in preparing its
2 report, the ~~commission shall consider the following~~
3 information shall be considered:

4 1. Whether the bay benefits ecologically from the new
5 harvesting schedule being closed to shellfish harvesting from
6 August 1 to September 30 of each year.

7 2. Whether the new harvesting schedule enhances the
8 enforcement of shellfish harvesting laws in the bay.

9 3. Whether the new harvesting schedule enhances
10 natural shellfish production, oyster relay and planting
11 programs, and shell planting programs in the bay.

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

15 ~~(c) The Fish and Wildlife Conservation Commission by~~
16 ~~rule shall consider restricting harvesting on shellfish grants~~
17 ~~or leases to the same days of the week as harvesting on public~~
18 ~~beds.~~

19 (3)(15) REMOVING OYSTERS, CLAMS, OR MUSSELS FROM
20 NATURAL REEFS; LICENSES, ETC., PENALTY.--

21 (a) It is unlawful to use a dredge or any means or
22 implement other than hand tongs in removing oysters from the
23 natural or artificial state reefs. This restriction shall
24 apply to all areas of ~~the~~ Apalachicola Bay for all shellfish
25 harvesting, excluding private grounds leased or granted by the
26 state prior to July 1, 1989, if the lease or grant
27 specifically authorizes the use of implements other than hand
28 tongs for harvesting. Except in ~~the~~ Apalachicola Bay, upon
29 the payment of \$25 annually, for each vessel or boat using a
30 dredge or machinery in the gathering of clams or mussels, a
31 special activity license may be issued by the Fish and

1 Wildlife Conservation Commission pursuant to s. 370.06 for
2 such use to such person.

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

7 (b)1. The use of any mechanical harvesting device
8 other than ordinary hand tongs for taking shellfish for any
9 purpose from public shellfish beds in Apalachicola Bay shall
10 be unlawful.

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

14 ~~3. Leaseholders or grantees shall telephonically~~
15 ~~notify the Fish and Wildlife Conservation Commission no less~~
16 ~~than 48 hours prior to each day's use of a dredge or scrape in~~
17 ~~order to arrange for a commission officer to be present on the~~
18 ~~lease or grant area while a dredge or scrape is used on the~~
19 ~~lease or grant. Under no circumstances may a dredge or scrape~~
20 ~~be used without a commission officer present.~~

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

23 (d)5. Each vessel used for the transport or deployment
24 of a dredge or scrape shall prominently display the lease or
25 grant number or numbers, in numerals which are at least 12
26 inches high and 6 inches wide, in such a manner that the lease
27 or grant number or numbers are readily identifiable from both
28 the air and the water. ~~The commission shall apply other~~
29 ~~statutes, rules, or conditions necessary to protect the~~
30 ~~environment and natural resources from improper transport,~~
31 ~~deployment, and operation of a dredge or scrape. Any~~

1 ~~violation of this paragraph or of any other statutes, rules,~~
2 ~~or conditions referenced in the special activity license shall~~
3 ~~be considered a violation of the license and shall result in~~
4 ~~revocation of the license and forfeiture of the bond submitted~~
5 ~~to the commission as a prerequisite to the issuance of this~~
6 ~~license.~~

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

12
13 The commission shall apply other statutes, rules, or
14 conditions necessary to protect the environment and natural
15 resources from improper transport, deployment, and operation
16 of a dredge or scrape. Any violation of this subsection or of
17 any other statutes, rules, or conditions referenced in the
18 special activity license shall be considered a violation of
19 the license and shall result in revocation of the license and
20 forfeiture of the bond submitted to the commission as a
21 prerequisite to the issuance of this license.

22 ~~(16) FISHING FOR RELAYING OR TRANSPLANTING PURPOSES.--~~

23 ~~(a) Designation of areas for the taking of oysters and~~
24 ~~clams to be planted on leases, grants, and public areas is to~~
25 ~~be made by qualified personnel of the Fish and Wildlife~~
26 ~~Conservation Commission. Oysters, clams, and mussels may be~~
27 ~~taken for relaying or transplanting at any time during the~~
28 ~~year so long as, in the opinion of the commission, the public~~
29 ~~health will not be endangered. The amount of oysters, clams,~~
30 ~~and mussels to be obtained for relaying or transplanting, the~~
31 ~~area relayed or transplanted to, and relaying or transplanting~~

1 ~~time periods will be established in each case by the~~
2 ~~commission.~~

3 ~~(b) Application for a special activity license issued~~
4 ~~pursuant to s. 370.06 for obtaining oysters, clams, or mussels~~
5 ~~for relaying from closed shellfish harvesting areas to~~
6 ~~shellfish or aquaculture leases in open areas or certified~~
7 ~~controlled purification plants or transplanting sublegal-sized~~
8 ~~oysters, clams, or mussels to shellfish aquaculture leases for~~
9 ~~growout or cultivation purposes must be made to the~~
10 ~~commission. In return, the commission may assign an area and a~~
11 ~~period of time for the oysters, clams, or mussels to be~~
12 ~~relayed or transplanted to be taken. All relaying and~~
13 ~~transplanting operations shall take place under the~~
14 ~~surveillance of the commission.~~

15 ~~(c) Relayed oysters, clams, or mussels shall not be~~
16 ~~subsequently harvested for any reason without written~~
17 ~~permission or public notice from the commission, if oysters,~~
18 ~~clams, or mussels were relayed from areas not approved by the~~
19 ~~commission as shellfish harvesting areas.~~

20 ~~(17) LICENSES; OYSTER, CLAM, AND MUSSEL~~
21 ~~CANNERIES.--Every person as a condition precedent to the~~
22 ~~operation of any oyster, clam, or mussel canning factory in~~
23 ~~this state shall obtain a license pursuant to s. 370.071 and~~
24 ~~pay a license fee of \$50.~~

25 ~~(4)(18) FALSE RETURNS AS TO OYSTERS OR CLAMS~~
26 ~~HANDLED.--Each packer, canner, corporation, firm, commission~~
27 ~~person, or dealer in fish shall, on the first day of each~~
28 ~~month, make a return under oath to the Fish and Wildlife~~
29 ~~Conservation Commission, as to the number of oysters, clams,~~
30 ~~and shellfish purchased, caught, or handled during the~~
31 ~~preceding month. Whoever is found guilty of making any false~~

1 affidavit to any such report is guilty of perjury and punished
2 as provided by law, and any person who fails to make such
3 report shall be punished by a fine not exceeding \$500 or by
4 imprisonment in the county jail not exceeding 6 months.

5 ~~(19) DEPOSIT OF SHELLFISH LEASE RENTAL FEES.--Rental~~
6 ~~fees for shellfish leases issued under this section shall be~~
7 ~~deposited into the Marine Resources Conservation Trust Fund~~
8 ~~and used for shellfish-related aquaculture activities,~~
9 ~~including research, lease compliance inspections, mapping, and~~
10 ~~siting.~~

11 (5)~~(20)~~ WATER PATROL FOR COLLECTION OF TAX.--

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

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

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

1 ~~(22) OYSTER AND CLAM REHABILITATION.--The board of~~
2 ~~county commissioners of the several counties may appropriate~~
3 ~~and expend such sums as it may deem proper for the purpose of~~
4 ~~planting or transplanting oysters, clams, oyster shell, clam~~
5 ~~shell, or cultch or to perform such other acts for the~~
6 ~~enhancement of the oyster and clam industries of the state,~~
7 ~~out of any sum in the county treasury not otherwise~~
8 ~~appropriated.~~

9 (7)~~(23) DREDGING OF DEAD SHELLS PROHIBITED.--The~~
10 ~~dredging of dead shell deposits is prohibited in the state.~~

11 ~~(24) COOPERATION WITH UNITED STATES FISH AND WILDLIFE~~
12 ~~SERVICE.--The Fish and Wildlife Conservation Commission shall~~
13 ~~cooperate with the United States Fish and Wildlife Service,~~
14 ~~under existing federal laws, rules, and regulations, and is~~
15 ~~authorized to accept donations, grants, and matching funds~~
16 ~~from the Federal Government in order to carry out its oyster~~
17 ~~resource and development responsibilities. The commission is~~
18 ~~further authorized to accept any and all donations including~~
19 ~~funds, oysters, or oyster shells.~~

20 ~~(25) OYSTER AND CLAM SHELLS PROPERTY OF DEPARTMENT.--~~

21 ~~(a) Except for oysters used directly in the half-shell~~
22 ~~trade, 50 percent of all shells from oysters and clams shucked~~
23 ~~commercially in the state shall be and remain the property of~~
24 ~~the Department of Environmental Protection when such shells~~
25 ~~are needed and required for rehabilitation projects and~~
26 ~~planting operations, in cooperation with the Fish and Wildlife~~
27 ~~Conservation Commission, when sufficient resources and~~
28 ~~facilities exist for handling and planting said shell, and~~
29 ~~when the collection and handling of such shell is practical~~
30 ~~and useful, except that bona fide holders of leases and grants~~
31 ~~may retain 75 percent of such shell as they produce for~~

1 ~~planting purposes by obtaining a special activity license from~~
2 ~~the commission pursuant to s. 370.06. Storage, transportation,~~
3 ~~and planting of shells so retained by lessees and grantees~~
4 ~~shall be carried out under the surveillance of agents of the~~
5 ~~Fish and Wildlife Conservation Commission and be subject to~~
6 ~~such reasonable time limits as the department may fix. In the~~
7 ~~event of an accumulation of an excess of shells, the~~
8 ~~department is authorized to sell shells only to private~~
9 ~~growers for use in oyster or clam cultivation on bona fide~~
10 ~~leases and grants. No profit shall accrue to the department in~~
11 ~~these transactions, and shells are to be sold for the~~
12 ~~estimated moneys spent by the department to gather and~~
13 ~~stockpile the shells. Planting of shells obtained from the~~
14 ~~department by purchase shall be subject to the surveillance of~~
15 ~~the Fish and Wildlife Conservation Commission if the~~
16 ~~department chooses to exercise its right of supervision. Any~~
17 ~~shells not claimed and used by private oyster cultivators 10~~
18 ~~years after shells are gathered and stockpiled may be sold at~~
19 ~~auction to the highest bidder for any private use.~~

20 ~~(b) Whenever the department determines that it is~~
21 ~~unfeasible to collect oyster or clam shells, the shells become~~
22 ~~the property of the producer.~~

23 ~~(c) Whenever oyster or clam shells are owned by the~~
24 ~~department and it is not useful or feasible to use them in the~~
25 ~~rehabilitation projects, and when no leaseholder has exercised~~
26 ~~his or her option to acquire them, the department may sell~~
27 ~~such shells for the highest price obtainable. The shells thus~~
28 ~~sold may be used in any manner and for any purpose at the~~
29 ~~discretion of the purchaser.~~

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1 ~~(d) Moneys derived from the sale of shell shall be~~
2 ~~deposited in the Land Acquisition Trust Fund for shellfish~~
3 ~~programs.~~

4 ~~(e) The department shall annually publish notice, in a~~
5 ~~newspaper serving the county, of its intention to collect the~~
6 ~~oyster and clam shells and shall notify, by certified mail,~~
7 ~~each shucking establishment from which shells are to be~~
8 ~~collected. The notice shall contain the period of time the~~
9 ~~department intends to collect the shells in that county and~~
10 ~~the collection purpose.~~

11 ~~(26) OYSTER CULTURE.--The Fish and Wildlife~~
12 ~~Conservation Commission shall protect all oyster beds, oyster~~
13 ~~grounds, and oyster reefs from damage or destruction resulting~~
14 ~~from improper cultivation, propagation, planting, or~~
15 ~~harvesting and control the pollution of the waters over or~~
16 ~~surrounding oyster grounds, beds, or reefs, and to this end~~
17 ~~the Department of Health is authorized and directed to lend~~
18 ~~its cooperation to the commission, to make available to it its~~
19 ~~laboratory testing facilities and apparatus. The commission~~
20 ~~may also do and perform all acts and things within its power~~
21 ~~and authority necessary to the performance of its duties.~~

22 ~~(27) HEALTH PERMITS.--~~

23 ~~(a) Any person engaged in harvesting, handling, or~~
24 ~~processing oysters for commercial use shall be required to~~
25 ~~obtain a health permit from the county health department or~~
26 ~~from a private physician.~~

27 ~~(b) No person shall be employed or remain employed in~~
28 ~~a certified oyster house without the possession of the~~
29 ~~required health permit.~~

30 ~~(c) For the purpose of this subsection, "commercial~~
31 ~~use" shall be a quantity of more than 4 bushels, or more than~~

1 ~~2 gallons, of shucked oysters, per person or per boat, or any~~
2 ~~number or quantity of oysters if the oysters are to be sold.~~

3 ~~(8)(28)~~ REQUIREMENTS FOR OYSTER VESSELS.--

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

14 ~~(b) For the purpose of this subsection, "commercial~~
15 ~~use" shall be a quantity of more than 4 bushels, or more than~~
16 ~~2 gallons, of shucked oysters, per person or per boat, or any~~
17 ~~number or quantity of oysters if the oysters are to be sold.~~

18 Section 11. Subsections (1) and (2) of section
19 370.161, Florida Statutes, are amended to read:

20 370.161 Oyster bottom land grants made pursuant to ch.
21 3293.--

22 (1) All grants previously issued by the several boards
23 of county commissioners under the authority of chapter 3293,
24 1881, Laws of Florida, shall be subject to provisions of s.
25 597.010 ~~370.16~~, relating to the marking of such lands, the
26 payment of rents, the cultivation of such lands and the
27 forfeiture provisions.

28 (2) Any grantee of lands referred to in subsection (1)
29 shall mark such lands and begin cultivation thereof as set
30 forth in s. 597.010 ~~370.16~~, within 90 days after the effective
31 date of this act. The rentals prescribed by s. 597.010 ~~370.16~~,

1 shall be payable immediately upon the effective date of this
2 act and in accordance with the provisions of that said
3 section.

4 Section 12. Subsections (3), (4), and (5) of section
5 370.26, Florida Statutes, are repealed.

6 Section 13. Section 372.071, Florida Statutes, is
7 amended to read:

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

25 Section 14. Subsection (4) of section 372.6673,
26 Florida Statutes, is amended to read:

27 372.6673 Taking and possession of alligators; trapping
28 licenses; fees.--

29 (4) No person shall take any alligator egg occurring
30 in the wild or possess any such egg unless such person has
31 obtained, or is a licensed agent of another person who has

1 obtained, an alligator egg collection permit. The alligator
2 egg collection permit shall be required in addition to the
3 alligator farming license provided in paragraph (2)(d). The
4 commission is authorized to assess a fee for issuance of the
5 alligator egg collection permit of up to \$4\$5 per egg
6 authorized to be taken or possessed pursuant to such permit.
7 In addition, the commission shall collect a marketing
8 assessment of, of which \$1 per egg, excluding eggs collected
9 on private wetland management areas, which shall ~~may~~ be
10 transferred to the General Inspection Trust Fund, to be
11 administered by the Department of Agriculture and Consumer
12 Services for the purpose of providing marketing and education
13 services with respect to alligator products produced in this
14 state, notwithstanding other provisions in this chapter.

15 Section 15. Subsection (2) of section 372.6674,
16 Florida Statutes, is amended to read:

17 372.6674 Required tagging of alligators and hides;
18 fees; revenues.--The tags provided in this section shall be
19 required in addition to any license required under s.
20 372.6673.

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

1 Services for the purpose of providing marketing and education
2 services with respect to alligator products produced in this
3 state, notwithstanding other provisions in this chapter.

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

6 373.046 Interagency agreements.--

7 (5) Notwithstanding the provisions of s. 403.927, ~~when~~
8 ~~any operating agreement is developed pursuant to subsection~~
9 ~~(4):~~

10 (a) The Department of Agriculture and Consumer
11 Services shall have regulatory responsibility under part IV of
12 this chapter for:

13 1. All saltwater aquaculture activities located on
14 sovereignty submerged land or in the water column above such
15 land and adjacent facilities directly related to the
16 aquaculture activity.

17 2. All other aquaculture activities not regulated
18 pursuant to paragraph (b).

19 ~~(b)2.~~ Aquaculture activities that meet or exceed the
20 thresholds for aquaculture general permits authorized pursuant
21 to ss. 370.26 and 403.814 shall be regulated by the Department
22 of Environmental Protection.

23 3. ~~Aquaculture activities within the Northwest Florida~~
24 ~~Water Management District.~~

25 ~~(c)(b)~~ Water management districts shall have
26 regulatory responsibility under part IV of this chapter for
27 aquaculture activities not retained by the Department of
28 Agriculture and Consumer Services in paragraph (a).

29 ~~(d)(c)~~ Upon agreement by the applicant, the
30 department, and the applicable water management district, the
31 department and water management district may reassign the

1 regulatory responsibilities described in paragraphs~~(a) and~~
2 (b) and (c), based on the specific aquaculture operation, to
3 achieve a more efficient and effective permitting process.

4 Section 17. Subsection (11) of section 403.814,
5 Florida Statutes, is amended to read:

6 403.814 General permits; delegation.--

7 (11) Upon agreement by the applicant, the department,
8 and the applicable water management district, the department
9 and water management district may reassign the regulatory
10 responsibilities described in s. 373.046(5)~~(a) and (b) and~~
11 (c), based on the specific aquaculture operation, to achieve a
12 more efficient and effective permitting process.

13 Section 18. Subsection (1) of section 409.2598,
14 Florida Statutes, is amended to read:

15 409.2598 Suspension or denial of new or renewal
16 licenses; registrations; certifications.--

17 (1) The Title IV-D agency may petition the court that
18 entered the support order or the court that is enforcing the
19 support order to deny or suspend the license, registration, or
20 certificate issued under chapter 231, chapter 370, chapter
21 372, chapter 409, part II of chapter 455, ~~or~~ chapter 559, ~~or~~
22 s. 328.42, or s. 597.010 of any obligor with a delinquent
23 child support obligation or who fails, after receiving
24 appropriate notice, to comply with subpoenas, orders to
25 appear, orders to show cause, or similar orders relating to
26 paternity or child support proceedings. However, a petition
27 may not be filed until the Title IV-D agency has exhausted all
28 other available remedies. The purpose of this section is to
29 promote the public policy of the state as established in s.
30 409.2551.

31

1 Section 19. Paragraph (n) of subsection (1) of section
2 500.03, Florida Statutes, is amended to read:

3 500.03 Definitions of terms; construction;
4 applicability.--

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

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

16 Section 20. Section 570.18, Florida Statutes, is
17 amended to read:

18 570.18 Organization of departmental work.--In the
19 assignment of functions to the 12 ~~11~~ divisions of the
20 department created in s. 570.29, the department shall retain
21 within the Division of Administration, in addition to
22 executive functions, those powers and duties enumerated in s.
23 570.30. The department shall organize the work of the other
24 11 ~~10~~ divisions in such a way as to secure maximum efficiency
25 in the conduct of the department. The divisions created in s.
26 570.29 are solely to make possible the definite placing of
27 responsibility. The department shall be conducted as a unit
28 in which every employee, including each division director, is
29 assigned a definite workload, and there shall exist between
30 division directors a spirit of cooperative effort to
31 accomplish the work of the department.

1 Section 21. Present subsections (4) through (11) of
2 section 570.29, Florida Statutes, are renumbered as
3 subsections (5) through (12), respectively, and a new
4 subsection (4) is added to that section to read:

5 570.29 Departmental divisions.--The department shall
6 include the following divisions:

7 (4) Aquaculture.

8 Section 22. Section 570.61, Florida Statutes, is
9 created to read:

10 570.61 Division of Aquaculture; powers and
11 duties.--The powers and duties of the Division of Aquaculture
12 shall include, but are not limited to, administering the
13 aquaculture certification program; enforcing shellfish
14 sanitation standards; administering the aquaculture and
15 shellfish lease programs; ensuring that shellfish processing
16 facilities comply with applicable food safety requirements;
17 mitigating, creating, and enhancing natural shellfish
18 harvesting areas; providing education to fishermen and
19 aquaculturists; promoting aquaculture development; purchasing
20 commodities as necessary to carry out the provisions of this
21 section; receiving and accepting grants, aids, gifts, and
22 donations; providing grants, aids, and other technical
23 assistance; and ensuring the safety of Florida waters.

24 Section 23. Section 570.62, Florida Statutes, is
25 created to read:

26 570.62 Director; duties.--

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

30 (2) The director shall supervise, direct, and
31 coordinate the activities of the division, exercise such other

1 powers and duties as authorized by the commissioner, and
2 enforce the provisions of chapter 597, the rules adopted
3 thereunder, and any other chapter or rule necessary to carry
4 out the responsibilities of the division.

5 Section 24. Section 597.003, Florida Statutes, is
6 amended to read:

7 597.003 Powers and duties of Department of Agriculture
8 and Consumer Services.--

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

13 (a) Issue or deny aquaculture certificates that
14 identify aquaculture producers and aquaculture products, and
15 collect all related fees.

16 (b) Coordinate the development, annual revision, and
17 implementation of a state aquaculture plan. The plan shall
18 include prioritized recommendations for research and
19 development as suggested by the Aquaculture Review Council,
20 the Aquaculture Interagency Coordinating Council, and public
21 and private institutional research, extension, and service
22 programs.

23 (c) Develop memoranda of agreement, as needed, with
24 the Department of Environmental Protection, the Fish and
25 Wildlife Conservation Commission, the Florida Sea Grant
26 Program, and other groups as provided in the state aquaculture
27 plan.

28 (d) Provide staff for the Aquaculture Review Council
29 and the Aquaculture Interagency Coordinating Council.

30 (e) Forward the annually revised state aquaculture
31 plan to the commissioner and to the chairs of the House

1 Committee on Agriculture and Consumer Services and the Senate
2 Committee on Agriculture 1 month prior to submission of the
3 department's legislative budget request to the Governor.

4 (f) Submit the list of research and development
5 projects proposed to be funded through the department as
6 identified in the state aquaculture plan, along with the
7 department's legislative budget request to the Governor, the
8 President of the Senate, and the Speaker of the House of
9 Representatives.

10 (g) Provide developmental assistance to the various
11 sectors of the aquaculture industry as determined in the state
12 aquaculture plan.

13 (h) Assist persons seeking to engage in aquaculture
14 when applying for the necessary permits and serve as ombudsman
15 to resolve complaints or otherwise resolve problems arising
16 between aquaculture producers and regulatory agencies.

17 (i) Develop and propose to the Legislature legislation
18 necessary to implement the state aquaculture plan or to
19 otherwise encourage the development of aquaculture in the
20 state.

21 (j) Issue or deny any license or permit authorized or
22 delegated to the department by the Legislature or through
23 memorandum of understanding with other state or federal
24 agencies that furthers the intent of the Legislature to place
25 the regulation of aquaculture in the department.

26 (k) Make available state lands and the water column
27 for the purpose of producing aquaculture products when the
28 aquaculture activity is compatible with state resource
29 management goals, environmental protection, and propriety
30 interest and when such state lands and waters are determined
31 to be suitable for aquaculture development by the Board of

1 Trustees of the Internal Improvement Trust Fund pursuant to s.
2 253.68.

3 1. The department shall act in cooperation with other
4 state and local agencies and programs to identify and
5 designate sovereignty lands and waters that would be suitable
6 for aquaculture development.

7 2. The department shall identify and evaluate specific
8 tracts of sovereignty submerged lands and water columns in
9 various areas of the state to determine where such lands and
10 waters are suitable for leasing for aquaculture purposes.

11 Nothing in this subparagraph or subparagraph 1. shall preclude
12 the applicant from applying for sites identified by the
13 applicant.

14 3. Authorizations under part IV of chapter 373 shall
15 be issued in conjunction with the authorization to use
16 sovereignty submerged land for aquaculture when the
17 aquaculture activities are authorized in the aquaculture lease
18 agreement.

19 4. The department shall provide assistance in
20 developing technologies applicable to aquaculture activities,
21 evaluate practicable production alternatives, and provide
22 agreements to develop innovative culture practices.

23 (1) Act as a clearinghouse for aquaculture
24 applications, and act as a liaison between the Fish and
25 Wildlife Conservation Commission, the Division of State Lands,
26 the Department of Environmental Protection district offices,
27 other divisions within the Department of Environmental
28 Protection, and the water management districts. The department
29 shall be responsible for regulating marine aquaculture
30 producers, except as specifically provided herein.

31

1 (2) The department may employ such persons as are
2 necessary to perform its duties under this chapter.

3 Section 25. Subsections (2) and (4) and paragraph (b)
4 of subsection (5) of section 597.004, Florida Statutes, are
5 amended to read:

6 597.004 Aquaculture certificate of registration.--

7 (2) NONSHELLFISH CERTIFICATION.--This subsection is
8 intended as comprehensive and exclusive regulation of
9 nonshellfish aquaculture in this state. Except as specifically
10 provided for in chapter 373 or s. 403.814, or otherwise
11 specifically provided by law, no agency, commission,
12 department, county, municipality, or other political
13 subdivision of the state may adopt laws, rules, regulations,
14 ordinances, or policies pertaining to the regulation of
15 nonshellfish aquaculture. This subsection preempts all other
16 laws, rules, regulations, ordinances, and policies relating to
17 nonshellfish aquaculture not provided for herein.

18 (a) Any person engaging in nonshellfish aquaculture,
19 except as otherwise provided in this section, must be
20 certified by the department. The applicant for a certificate
21 of registration for nonshellfish products shall submit the
22 following to the department:

23 1. The information requested in subsection (1) ~~above~~.

24 2. Documentation that the rules adopted herein have
25 been complied with in accordance with paragraph (b) ~~below~~.

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

30
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1 1. Specify the requirement of best-management
2 practices to be implemented by holders of aquaculture
3 certificates of registration.

4 2. Establish procedures for holders of aquaculture
5 certificates of registration to submit the notice of intent to
6 comply with best-management practices.

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

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

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

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

1 and restoration of potable water supplies, where the
2 contamination of groundwater or surface water is determined to
3 be the result of aquaculture practices, provided the holder of
4 an aquaculture certificate of registration:

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

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

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

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

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

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

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

29 (f)~~(e)~~ The department shall provide, by December 31,
30 1999, to the President of the Senate and the Speaker of the
31 House of Representatives, a progress report concerning the

1 development, implementation, and effectiveness of
2 best-management practices to prevent contamination of
3 groundwater and surface water.

4 (g)~~(f)~~ This section does not limit federally delegated
5 regulatory authority.

6 (h)~~(g)~~ Any aquatic plant producer permitted by the
7 department pursuant to s. 369.25 shall also be subject to the
8 requirements of this subsection.

9 (i)~~(h)~~ Any alligator producer with an alligator
10 farming license and permit to establish and operate an
11 alligator farm shall be issued an aquaculture certificate of
12 registration pursuant to subsection (1) until best-management
13 practices are completed; then the provisions of this
14 subsection shall apply above. This chapter does not supersede
15 the authority under chapter 372, ~~chapter 373, or chapter 403~~
16 to regulate alligator farms and alligator farmers.

17 (4) IDENTIFICATION OF AQUACULTURE
18 PRODUCTS.--Aquaculture products shall be identified while
19 possessed, processed, transported, or sold as provided in this
20 subsection, ~~except those subject to the rules of the Fish and~~
21 ~~Wildlife Conservation Commission as they relate to alligators~~
22 ~~only~~.

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

28 (b) Marine aquaculture products shall be transported
29 in containers that separate such product from wild stocks, and
30 shall be identified by tags or labels that are securely
31 attached and clearly displayed.

1 (c) Each aquaculture registrant who sells food
2 products labeled as "aquaculture or farm raised" must have
3 such products containerized and clearly labeled in accordance
4 with s. 500.11. Label information must include the name,
5 address, and aquaculture certification number. This
6 requirement is designed to segregate the identity of wild and
7 aquaculture products.

8 (5) SALE OF AQUACULTURE PRODUCTS.--

9 (b) Aquaculture shellfish must be sold and handled in
10 accordance with s. 597.020 ~~shellfish handling regulations of~~
11 ~~the Department of Environmental Protection established to~~
12 ~~protect public health.~~

13 Section 26. Subsection (2) of section 597.0041,
14 Florida Statutes, is amended, and subsection (4) is added to
15 that section, to read:

16 597.0041 Prohibited acts; penalties.--

17 (2)(a) Any person who violates any provision of this
18 chapter or any rule promulgated hereunder is subject to a
19 suspension or revocation of his or her certificate of
20 registration or license under this chapter. The department
21 may, in lieu of, or in addition to the suspension of
22 revocation, impose on the violator an administrative fine in
23 an amount not to exceed \$1,000 per violation per day.

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

28 (4) Any person who violates any provision of s.
29 597.010 or s. 597.020, or any rule adopted under those
30 sections, commits a misdemeanor of the second degree,
31 punishable as provided in s. 775.082 or s. 775.083 for the

1 first offense; and for the second or any subsequent offense
2 within a 12-month period, commits a misdemeanor of the first
3 degree, punishable as provided in s. 775.082 or s. 775.083.

4 Section 27. 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 28. 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 that are the proximate
15 results of lease abandonment or vacation.

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

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

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

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

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

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

1 become the property of the state. The department has the
2 authority to retain, dispose of, or remove such materials in
3 the best interest of the state.

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

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

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

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

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

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

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

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

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

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

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

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

8 (14) SHELLFISH DEVELOPMENT.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

1 5. Each vessel used for the transport or deployment of
2 a dredge or scrape shall prominently display the lease or
3 grant number or numbers, in numerals that 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 during
4 which the oysters, clams, or mussels to be relayed or
5 transplanted may be taken. All relaying and transplanting
6 operations shall take place under the surveillance of the
7 department.

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

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

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

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

30 (23) OYSTER AND CLAM SHELLS PROPERTY OF DEPARTMENT.--
31

1 (a) Except for oysters used directly in the half-shell
2 trade, 50 percent of all shells from oysters and clams shucked
3 commercially in the state shall be and remain the property of
4 the department when such shells are needed and required for
5 rehabilitation projects and planting operations, in
6 cooperation with the Fish and Wildlife Conservation
7 Commission, when sufficient resources and facilities exist for
8 handling and planting such shell, and when the collection and
9 handling of such shell is practicable and useful, except that
10 bona fide holders of leases and grants may retain 75 percent
11 of such shell as they produce for aquacultural purposes.
12 Storage, transportation, and planting of shells so retained by
13 lessees and grantees shall be carried out under the conditions
14 of the lease agreement or with the written approval of the
15 department and shall be subject to such reasonable time limits
16 as the department may fix. In the event of an accumulation of
17 an excess of shells, the department is authorized to sell
18 shells only to private growers for use in oyster or clam
19 cultivation on bona fide leases and grants. No profit shall
20 accrue to the department in these transactions, and shells are
21 to be sold for the estimated moneys spent by the department to
22 gather and stockpile the shells. Planting of shells obtained
23 from the department by purchase shall be subject to the
24 conditions set forth in the lease agreement or in the written
25 approval as issued by the department. Any shells not claimed
26 and used by private oyster cultivators 10 years after shells
27 are gathered and stockpiled may be sold at auction to the
28 highest bidder for any private use.
29 (b) Whenever the department determines that it is
30 unfeasible to collect oyster or clam shells, the shells become
31 the property of the producer.

1 (c) Whenever oyster or clam shells are owned by the
2 department and it is not useful or feasible to use them in the
3 rehabilitation projects, and when no leaseholder has exercised
4 his or her option to acquire them, the department may sell
5 such shells for the highest price obtainable. The shells thus
6 sold may be used in any manner and for any purpose at the
7 discretion of the purchaser.

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

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

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

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

30 (a) All vessels used for the harvesting, gathering, or
31 transporting of oysters or clams for commercial purposes shall

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

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

17 Section 29. Section 370.071, Florida Statutes, is
18 transferred, as section 597.020, Florida Statutes, and amended
19 to read:

20 597.020 ~~370.071~~ Shellfish processors; regulation.--

21 (1) ~~The department of Agriculture and Consumer~~
22 ~~Services, hereinafter referred to as department,~~ is authorized
23 to adopt by rule regulations, specifications, and codes
24 relating to sanitary practices for catching, cultivating,
25 handling, processing, packaging, preserving, canning, smoking,
26 and storing of oysters, clams, mussels, and crabs. The
27 department is also authorized to license shellfish processors
28 who handle aquaculture facilities used to culture oysters,
29 clams, mussels, and crabs when such activities relate to
30 quality control, sanitary, and public health practices
31 pursuant to this section and chapter 500 ~~and s. 370.06(4).~~

1 The department is also authorized to license or certify, for a
2 fee determined by rule, facilities used for processing
3 oysters, clams, mussels, and crabs, to levy an administrative
4 fine of up to \$1,000 per violation per day or to suspend or
5 revoke such licenses or certificates upon satisfactory
6 evidence of any violation of rules adopted pursuant to this
7 section, and to seize and destroy any adulterated or
8 misbranded shellfish products as defined by rule.

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

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

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

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LEGISLATIVE SUMMARY

Revises and conforms provisions relating to aquaculture
leases and products, and reassigns responsibilities
related thereto among the Department of Agriculture and
Consumer Services, the Department of Environmental
Protection, and the Fish and Wildlife Conservation
Commission.