

By the Committee on Agriculture and Consumer Services; and  
Senator Laurent

303-1728-00

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

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

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

1 of leases; requiring a deposit for  
2 investigations relating to petitions for  
3 cancellation of leases to natural reefs;  
4 providing for inclusion of natural reefs in  
5 leased areas under certain circumstances;  
6 restricting leases available in Franklin  
7 County; providing prohibitions; providing for  
8 shellfish protection and development; providing  
9 for special activity licenses for harvest or  
10 cultivation of oysters, clams, mussels, and  
11 crabs; providing for uncultured shellfish  
12 harvesting seasons in Apalachicola Bay;  
13 restricting harvest of shellfish by mechanical  
14 means; providing a penalty; providing for  
15 enhancement of oyster and clam industries by  
16 the counties; prohibiting dredging of dead  
17 shells; providing for cooperation with the  
18 United States Fish and Wildlife Service;  
19 providing requirements for vessels harvesting,  
20 gathering, or transporting oysters or clams for  
21 commercial purposes; providing a definition;  
22 renumbering and amending s. 370.071, F.S.;  
23 providing that regulation of shellfish  
24 processors includes processors processing  
25 scallops; providing for a fee for licensure or  
26 certification of processing facilities;  
27 authorizing an administrative fine for  
28 violation of rules relating to regulation of  
29 shellfish processors; providing an effective  
30 date.  
31

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

2

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

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

8 (1) The Department of Environmental Protection shall  
9 perform all staff duties and functions related to the  
10 acquisition, administration, and disposition of state lands,  
11 title to which is or will be vested in the Board of Trustees  
12 of the Internal Improvement Trust Fund. However, upon the  
13 effective date of rules adopted pursuant to s. 373.427, a  
14 water management district created under s. 373.069 shall  
15 perform the staff duties and functions related to the review  
16 of any application for authorization to use board of  
17 trustees-owned submerged lands necessary for an activity  
18 regulated under part IV of chapter 373 for which the water  
19 management district has permitting responsibility as set forth  
20 in an operating agreement adopted pursuant to s. 373.046(4);  
21 and effective July 1, 2000, the Department of Agriculture and  
22 Consumer Services shall perform the staff duties and functions  
23 related to the review of applications and compliance with  
24 lease conditions for use of board of trustees-owned submerged  
25 lands under leases issued pursuant to ss. 253.67-253.75 and s.  
26 597.010. Unless expressly prohibited by law, the board of  
27 trustees may delegate to the department any statutory duty or  
28 obligation relating to the acquisition, administration, or  
29 disposition of lands, title to which is or will be vested in  
30 the board of trustees. The board of trustees may also delegate  
31 to any water management district created under s. 373.069 the

1 authority to take final agency action, without any action on  
2 behalf of the board, on applications for authorization to use  
3 board of trustees-owned submerged lands for any activity  
4 regulated under part IV of chapter 373 for which the water  
5 management district has permitting responsibility as set forth  
6 in an operating agreement adopted pursuant to s. 373.046(4).  
7 This water management district responsibility under this  
8 subsection shall be subject to the department's general  
9 supervisory authority pursuant to s. 373.026(7). The board of  
10 trustees may also delegate to the Department of Agriculture  
11 and Consumer Services the authority to take final agency  
12 action on behalf of the board on applications to use board of  
13 trustees-owned submerged lands for any activity for which that  
14 department has responsibility pursuant to ss. 253.67-253.75  
15 and s. 597.010. Upon issuance of an aquaculture lease or other  
16 real property transaction relating to aquaculture, the  
17 Department of Agriculture and Consumer Services must send a  
18 copy of the document and the accompanying survey to the  
19 Department of Environmental Protection.

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

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

13 Section 2. Paragraph (b) of subsection (1) of section  
14 253.01, Florida Statutes, is amended to read:

15 253.01 Internal Improvement Trust Fund established.--

16 (1)

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

30 Section 3. Section 253.67, Florida Statutes, is  
31 amended to read:

1           253.67 Definitions.--As used in ss. 253.67-253.75:

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

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

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

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

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

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

21           (2) RENTAL FEES.--

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

31



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

9           Section 5. Section 253.72, Florida Statutes, is  
10 amended to read:

11           253.72 Marking of leased areas; restrictions on public  
12 use.--

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

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

1 ~~guilty~~ of a misdemeanor of the second degree, punishable as  
2 provided in s. 775.082 or s. 775.083.

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

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

12 270.22 Proceeds of state lands to go into Internal  
13 Improvement Trust Fund; exception.--

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

22 Section 7. Section 328.76, Florida Statutes, is  
23 amended to read:

24 328.76 Marine Resources Conservation Trust Fund;  
25 vessel registration funds; appropriation and distribution.--

26 (1) Except as otherwise specified and less any  
27 administrative costs, all funds collected from the  
28 registration of vessels through the Department of Highway  
29 Safety and Motor Vehicles and the tax collectors of the state  
30 shall be deposited in the Marine Resources Conservation Trust  
31 Fund for recreational channel marking; public launching

1 facilities; law enforcement and quality control programs;  
2 aquatic weed control; manatee protection, recovery, rescue,  
3 rehabilitation, and release; and marine mammal protection and  
4 recovery. The funds collected pursuant to s. 328.72(1) shall  
5 be transferred as follows:

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

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

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

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

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

28 (e) Forty percent of the registration fees from  
29 commercial vessels shall be transferred by the Department of  
30 Highway Safety and Motor Vehicles, on a monthly basis, to the  
31 General Inspection Trust Fund of the Department of Agriculture

1 and Consumer Services. These funds shall be used for shellfish  
2 and aquaculture law enforcement and quality control programs.

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

9 (a) No more than 15 percent shall go to marine law  
10 enforcement;

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

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

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

22 370.06 Licenses.--

23 (4) SPECIAL ACTIVITY LICENSES.--

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

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

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

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

24           (3) APALACHICOLA BAY OYSTER SURCHARGE.--

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

30           (h) Annually, the Department of Agriculture and  
31 Consumer Services and the Fish and Wildlife Conservation

1 Commission ~~Environmental Protection~~ shall furnish the  
2 Department of Revenue with a current list of wholesale dealers  
3 in the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

26 (4) Aquaculture.

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

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

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

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

14 570.62 Director; duties.--

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

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

24 Section 23. Paragraph (f) of subsection (1) of section  
25 597.003, Florida Statutes, is amended, and paragraphs (l) and  
26 (k) are added to that subsection to read:

27 597.003 Powers and duties of Department of Agriculture  
28 and Consumer Services.--

29 (1) The department is hereby designated as the lead  
30 agency in encouraging the development of aquaculture in the

31

1 state and shall have and exercise the following functions,  
2 powers, and duties with regard to aquaculture:

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

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

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

30 2. The department shall identify and evaluate specific  
31 tracts of sovereignty submerged lands and water columns in

1 various areas of the state to determine where such lands and  
2 waters are suitable for leasing for aquaculture purposes.  
3 Nothing in this subparagraph or subparagraph 1. shall preclude  
4 the applicant from applying for sites identified by the  
5 applicant.

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

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

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

24 Section 24. Subsections (3), (4), and (5) of section  
25 370.26, Florida Statutes, are repealed.

26 Section 25. Subsections (1), (2), and (4) and  
27 paragraph (b) of subsection (5) of section 597.004, Florida  
28 Statutes, are amended to read:

29 597.004 Aquaculture certificate of registration.--

30 (1) ~~SHELLFISH~~ CERTIFICATION.--Any person engaging in  
31 ~~shellfish~~ aquaculture must be certified by the department.

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

1 rules, regulations, ordinances, or policies pertaining to the  
2 regulation of aquaculture.

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

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

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

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

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

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

31

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

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

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

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

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

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

30  
31



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

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

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

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

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

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

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

31

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

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

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

17 (5) SALE OF AQUACULTURE PRODUCTS.--

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

22 Section 26. Subsection (2) of section 597.0041,  
23 Florida Statutes, is amended, and subsection (4) is added to  
24 that section, to read:

25 597.0041 Prohibited acts; penalties.--

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

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

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

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

14 Section 27. Paragraph (c) of subsection (3) of section  
15 597.005, Florida Statutes, is amended to read:

16 597.005 Aquaculture Review Council.--

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

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

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

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

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

31

1           Section 28. Subsection (1) of section 597.006, Florida  
2 Statutes, is amended to read:

3           597.006 Aquaculture Interagency Coordinating  
4 Council.--

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

21           Section 29. Section 597.010, Florida Statutes, is  
22 created to read:

23           597.010 Shellfish regulation; leases.--

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

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

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

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

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

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

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

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

31

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

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

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

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

31

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

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

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

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

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

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

19           (8) CULTIVATION REQUIREMENTS.--

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



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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

8 (14) SHELLFISH DEVELOPMENT.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 Section 30. Section 370.071, Florida Statutes, is  
14 transferred, renumbered as section 597.020, Florida Statutes,  
15 and amended to read:

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

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

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

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

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

21 Section 31. This act shall take effect July 1, 2000.  
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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   s0806  
4     Committee Substitute for Senate Bill 806 is different from  
5     Senate Bill 806 in that it:  
6     \*     Requires the Department of Agriculture and Consumer  
7            Services to provide notice to the Department of  
8            Environmental Protection when an aquaculture license is  
9            issued;  
10    \*     Requires payment to the Florida Saltwater Products  
11           Promotion Trust Fund to be made on a monthly basis;  
12    \*     Clarifies jurisdiction over aquaculture activities;  
13    \*     Requires the Aquaculture Review Council to review  
14           specific funding projects and to provide recommendations  
15           to the Commissioner of Agriculture;  
16    \*     Revises membership of the Aquaculture Interagency  
17           Coordinating Council;  
18    \*     Includes reward payments for the Shellfish Theft Reward  
19           Program in the usage of the receipts for the aquaculture  
20           lease surcharge;  
21    \*     Gives the Department of Agriculture and Consumer  
22           Services direction over all relaying and transplanting  
23           operations; and  
24    \*     Includes scallops in the regulation of shellfish  
25           processors.  
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