

By the Committees on Natural Resources; Agriculture and
Consumer Services; and Senator Laurent

312-1798-00

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. 253.75, F.S.; requiring the Board
14 of Trustees of the Internal Improvement Trust
15 Fund to request comments by the Fish and
16 Wildlife Conservation Commission regarding
17 certain submerged land leases; amending s.
18 270.22, F.S.; conforming disposition of rental
19 fees for aquaculture leases; amending s.
20 328.76, F.S.; providing for use of certain
21 commercial vessel registration fees for
22 aquaculture law enforcement and quality control
23 programs; amending s. 370.06, F.S.; deleting
24 authority of the Department of Agriculture and
25 Consumer Services to issue certain special
26 activity licenses under ch. 370, F.S.;
27 clarifying requirements relating to the
28 educational seminar for applicants for an
29 Apalachicola Bay oyster harvesting license;
30 amending s. 370.07, F.S.; providing for
31 transfer of responsibilities relating to the

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

1 and Consumer Services; creating s. 570.61,
2 F.S.; providing powers and duties of the
3 Division of Aquaculture of the Department of
4 Agriculture and Consumer Services; creating s.
5 570.62, F.S.; providing for appointment and
6 duties of a division director; repealing s.
7 370.26(3)-(5), F.S., and amending s. 597.003,
8 F.S.; requiring a portion of profits from
9 aquaculture contracts to be set aside for
10 funding certain aquaculture projects; amending
11 s. 370.26, F.S.; transferring certain
12 responsibilities relating to aquaculture
13 development from the Department of
14 Environmental Protection to the Department of
15 Agriculture and Consumer Services; amending s.
16 597.004, F.S.; revising provisions relating to
17 aquaculture certificates of registration;
18 amending s. 597.0041, F.S.; providing an
19 administrative fine; providing penalties;
20 amending s. 597.005, F.S.; requiring review of
21 aquaculture legislative budget requests by the
22 Aquaculture Review Council; amending s.
23 597.006, F.S.; revising membership of the
24 Aquaculture Interagency Coordinating Council;
25 creating s. 597.010, F.S.; providing for
26 regulation and enforcement of shellfish leases
27 by the Department of Agriculture and Consumer
28 Services; providing for continuation of leases
29 previously issued under ch. 370, F.S.;
30 providing for rental fees, fee adjustments,
31 late fees, and forfeiture for nonpayment of

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

1 violation of rules relating to regulation of
2 shellfish processors; providing an effective
3 date.

4
5 Be It Enacted by the Legislature of the State of Florida:

6
7 Section 1. Section 253.002, Florida Statutes, is
8 amended to read:

9 253.002 Department of Environmental Protection, and
10 water management districts, and Department of Agriculture and
11 Consumer Services; duties with respect to state lands.--

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

1 obligation relating to the acquisition, administration, or
2 disposition of lands, title to which is or will be vested in
3 the board of trustees. The board of trustees may also delegate
4 to any water management district created under s. 373.069 the
5 authority to take final agency action, without any action on
6 behalf of the board, on applications for authorization to use
7 board of trustees-owned submerged lands for any activity
8 regulated under part IV of chapter 373 for which the water
9 management district has permitting responsibility as set forth
10 in an operating agreement adopted pursuant to s. 373.046(4).
11 This water management district responsibility under this
12 subsection shall be subject to the department's general
13 supervisory authority pursuant to s. 373.026(7). The board of
14 trustees may also delegate to the Department of Agriculture
15 and Consumer Services the authority to take final agency
16 action on behalf of the board on applications to use board of
17 trustees-owned submerged lands for any activity for which that
18 department has responsibility pursuant to ss. 253.67-253.75
19 and s. 597.010. However, the board of trustees shall retain
20 the authority to take final agency action on establishing any
21 areas for leasing, new leases, expanding existing lease areas,
22 or changing the type of lease activity in existing leases.
23 Upon issuance of an aquaculture lease or other real property
24 transaction relating to aquaculture, the Department of
25 Agriculture and Consumer Services must send a copy of the
26 document and the accompanying survey to the Department of
27 Environmental Protection.

28 (2) Delegations to the department, or a water
29 management district, or the Department of Agriculture and
30 Consumer Services of authority to take final agency action on
31 applications for authorization to use submerged lands owned by

1 the board of trustees, without any action on behalf of the
2 board of trustees, shall be by rule. Until rules adopted
3 pursuant to this subsection become effective, existing
4 delegations by the board of trustees shall remain in full
5 force and effect. However, the board of trustees is not
6 limited or prohibited from amending these delegations. ~~By~~
7 ~~December 31, 1995,~~The board of trustees shall adopt by rule
8 any delegations of its authority to take final agency action
9 without action by the board of trustees on applications for
10 authorization to use board of trustees-owned submerged lands.
11 Any final agency action, without action by the board of
12 trustees, taken by the department, or a water management
13 district, or the Department of Agriculture and Consumer
14 Services on applications to use board of trustees-owned
15 submerged lands shall be subject to the provisions of s.
16 373.4275. Notwithstanding any other provision of this
17 subsection, the board of trustees, the Department of Legal
18 Affairs, and the department retain the concurrent authority to
19 assert or defend title to submerged lands owned by the board
20 of trustees.

21 Section 2. Paragraph (b) of subsection (1) of section
22 253.01, Florida Statutes, is amended to read:

23 253.01 Internal Improvement Trust Fund established.--

24 (1)

25 (b) All revenues received from application fees
26 charged by the Division of State Lands for the use in any
27 manner, lease, conveyance, or release of any interest in or
28 for the sale of state lands, except revenues from such fees
29 charged by the Department of Agriculture and Consumer Services
30 for aquaculture leases under ~~ss. s-~~253.71(2) and 597.010,
31 must be deposited into the Internal Improvement Trust Fund.

1 The fees charged by the division for reproduction of records
2 relating to state lands must also be placed into the fund.
3 Revenues received by the Department of Agriculture and
4 Consumer Services for aquaculture leases under ss. 253.71(2)
5 and 597.010 shall be deposited in the General Inspection Trust
6 Fund of the Department of Agriculture and Consumer Services.

7 Section 3. Section 253.67, Florida Statutes, is
8 amended to read:

9 253.67 Definitions.--As used in ss. 253.67-253.75:

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

12 (2)(4) "Board" means the Board of Trustees of the
13 Internal Improvement Trust Fund.

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

16 (4)(2) "Water column" means the vertical extent of
17 water, including the surface thereof, above a designated area
18 of submerged bottom land.

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

22 253.71 The lease contract.--When the board has
23 determined that the proposed lease is not incompatible with
24 the public interest and that the applicant has demonstrated
25 his or her capacity to perform the operations upon which the
26 application is based, it may proceed to consummate a lease
27 contract having the following features in addition to others
28 deemed desirable by the board:

29 (2) RENTAL FEES.--

30 (a) The lease contract shall specify such amount of
31 rental per acre of leased bottom as may be agreed to by the

1 parties and shall take the form of fixed rental to be paid
2 throughout the term of the lease. Beginning January 1, 1990,
3 a surcharge of \$5 per acre, or any fraction of an acre, per
4 annum shall be levied upon each lease according to the
5 guidelines set forth in s. 597.010(7)~~370.16(4)(b)~~. Beginning
6 January 1, 2001, the surcharge shall be increased to \$10 per
7 acre, or any fraction of an acre, per annum.

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

16 Section 5. Section 253.72, Florida Statutes, is
17 amended to read:

18 253.72 Marking of leased areas; restrictions on public
19 use.--

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

29 (2) Except to the extent necessary to permit the
30 effective development of the species of animal or plant life
31 being cultivated by the lessee, the public shall be provided

1 with means of reasonable ingress and egress to and from the
2 leased area for traditional water activities such as boating,
3 swimming, and fishing. All limitations upon the use by the
4 public of the areas under lease that are authorized by the
5 terms of the lease shall be clearly posted by the lessee
6 pursuant to rules ~~regulations~~ by the board. Any person
7 willfully violating posted restrictions commits ~~shall be~~
8 ~~guilty of~~ a misdemeanor of the second degree, punishable as
9 provided in s. 775.082 or s. 775.083.

10 (3) To assist in protecting shellfish aquaculture
11 products produced on leases authorized pursuant to this
12 chapter and chapter 597 ~~370~~, harvesting shellfish is
13 prohibited within a distance of 25 feet outside lawfully
14 marked lease boundaries or within setback and access corridors
15 within specifically designated high-density aquaculture lease
16 areas and aquaculture use zones.

17 Section 6. Subsection (1) of section 253.75, Florida
18 Statutes, is amended to read:

19 253.75 Studies and recommendations by the department
20 and the Fish and Wildlife Conservation Commission; designation
21 of recommended traditional and other use zones; supervision of
22 aquaculture operations.--

23 (1) Prior to the granting of any lease under this act,
24 the board shall request comments ~~a recommendation by the~~
25 ~~department, when the application relates to tidal bottoms, and~~
26 ~~by the Fish and Wildlife Conservation Commission, when the~~
27 ~~application relates to bottom land covered by fresh or salt~~
28 ~~water. Such~~ comments ~~recommendations~~ shall be based on such
29 factors as an assessment of the probable effect of the
30 proposed lease ~~leasing arrangement on the lawful rights of~~
31 ~~riparian owners, navigation, commercial and sport fishing, and~~

1 ~~the~~ conservation of fish or ~~other~~ wildlife or other programs
2 under the constitutional or statutory authority of the Fish
3 and Wildlife Conservation Commission natural resources,
4 ~~including beaches and shores.~~

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

7 270.22 Proceeds of state lands to go into Internal
8 Improvement Trust Fund; exception.--

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

17 Section 8. Section 328.76, Florida Statutes, is
18 amended to read:

19 328.76 Marine Resources Conservation Trust Fund;
20 vessel registration funds; appropriation and distribution.--

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

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

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

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

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

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

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

29 (2) All funds collected pursuant to s. 370.06(2) shall
30 be deposited in the Marine Resources Conservation Trust Fund.
31 Such funds shall be used to pay the cost of implementing the

1 saltwater products license program. Additional proceeds from
2 the licensing revenue shall be distributed among the following
3 program functions:

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

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

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

14 Section 9. Paragraph (c) of subsection (4) and
15 paragraph (e) of subsection (5) of section 370.06, Florida
16 Statutes, are amended to read:

17 370.06 Licenses.--

18 (4) SPECIAL ACTIVITY LICENSES.--

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

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

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

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

14 Section 10. Paragraphs (f), (h), (i), and (k) of
15 subsection (3) of section 370.07, Florida Statutes, are
16 amended to read:

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

19 (3) APALACHICOLA BAY OYSTER SURCHARGE.--

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

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

30 (i) Collections received by the Department of Revenue
31 from the surcharge shall be transferred quarterly to the

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

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

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

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

25 370.16 Noncultured shellfish harvesting ~~Oysters and~~
26 ~~shellfish; regulation.~~--

27 (1)(12) PROTECTION OF OYSTER AND CLAM REEFS AND
28 SHELLFISH AQUACULTURE PRODUCTS.--

29 ~~(a) The Department of Environmental Protection shall~~
30 ~~improve, enlarge, and protect the natural oyster and clam~~
31

1 ~~reefs of this state to the extent it may deem advisable and~~
2 ~~the means at its disposal will permit.~~

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

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

16 (2)~~(14)~~ SHELLFISH HARVESTING SEASONS; ~~DAYS~~+SPECIAL
17 PROVISIONS RELATING TO APALACHICOLA BAY.--

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

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

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

28 (b) If the commission changes the harvesting seasons
29 by rule as set forth in this subsection, for 3 years after the
30 new rule takes effect, the commission, in cooperation with the
31 Department of Agriculture and Consumer Services, shall monitor

1 the impacts of the new harvesting schedule on the bay and on
2 local shellfish harvesters to determine whether the new
3 harvesting schedule should be discontinued, retained, or
4 modified. In monitoring the new schedule and in preparing its
5 report, the ~~commission shall consider the~~ following
6 information shall be considered:

7 1. Whether the bay benefits ecologically from the new
8 harvesting schedule being closed to shellfish harvesting from
9 August 1 to September 30 of each year.

10 2. Whether the new harvesting schedule enhances the
11 enforcement of shellfish harvesting laws in the bay.

12 3. Whether the new harvesting schedule enhances
13 natural shellfish production, oyster relay and planting
14 programs, and shell planting programs in the bay.

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

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

22 (3)(15) REMOVING OYSTERS, CLAMS, OR MUSSELS FROM
23 NATURAL REEFS; LICENSES, ETC., PENALTY.--

24 (a) It is unlawful to use a dredge or any means or
25 implement other than hand tongs in removing oysters from the
26 natural or artificial state reefs. This restriction shall
27 apply to all areas of ~~the~~ Apalachicola Bay for all shellfish
28 harvesting, excluding private grounds leased or granted by the
29 state prior to July 1, 1989, if the lease or grant
30 specifically authorizes the use of implements other than hand
31 tongs for harvesting. Except in ~~the~~ Apalachicola Bay, upon

1 the payment of \$25 annually, for each vessel or boat using a
2 dredge or machinery in the gathering of clams or mussels, a
3 special activity license may be issued by the Fish and
4 Wildlife Conservation Commission pursuant to s. 370.06 for
5 such use to such person.

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

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

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

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

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

26 (d)5. Each vessel used for the transport or deployment
27 of a dredge or scrape shall prominently display the lease or
28 grant number or numbers, in numerals which are at least 12
29 inches high and 6 inches wide, in such a manner that the lease
30 or grant number or numbers are readily identifiable from both
31 the air and the water. ~~The commission shall apply other~~

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

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

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

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

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

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

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

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

28 (6)~~(21)~~ SEIZURE OF VESSELS AND CARGOES VIOLATING
29 OYSTER AND CLAM LAWS, ETC.--Vessels, with their cargoes,
30 violating the provisions of the laws relating to oysters and
31 clams may be seized by anyone duly and lawfully authorized to

1 make arrests under this section or by any sheriff or the
2 sheriff's deputies, and taken into custody, and when not
3 arrested by the sheriff or the sheriff's deputies, delivered
4 to the sheriff of the county in which the seizure is made, and
5 shall be liable to forfeiture, on appropriate proceedings
6 being instituted by the Fish and Wildlife Conservation
7 Commission, before the courts of that county. In such case
8 the cargo shall at once be disposed of by the sheriff, for
9 account of whom it may concern. Should the master or any of
10 the crew of said vessel be found guilty of using dredges or
11 other instruments in fishing oysters on natural reefs contrary
12 to law, or fishing on the natural oyster or clam reefs out of
13 season, or unlawfully taking oysters or clams belonging to a
14 lessee, such vessel shall be declared forfeited by the court,
15 and ordered sold and the proceeds of the sale shall be
16 deposited with the Treasurer to the credit of the General
17 Revenue Fund; any person guilty of such violations shall not
18 be permitted to have any license provided for in this chapter
19 within a period of 1 year from the date of conviction.
20 Pending proceedings such vessel may be released upon the owner
21 furnishing bond, with good and solvent security in double the
22 value of the vessel, conditioned upon its being returned in
23 good condition to the sheriff to abide the judgment of the
24 court.

25 ~~(7)(23)~~ DREDGING OF DEAD SHELLS PROHIBITED.--The
26 dredging of dead shell deposits is prohibited in the state.

27 ~~(8)(28)~~ REQUIREMENTS FOR OYSTER VESSELS.--

28 ~~(a)~~ All vessels used for the harvesting, gathering, or
29 transporting of noncultured oysters for commercial use shall
30 be constructed and maintained to prevent contamination or
31 deterioration of oysters. To this end, all such vessels shall

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

7 ~~(b) For the purpose of this subsection, "commercial~~
8 ~~use" shall be a quantity of more than 4 bushels, or more than~~
9 ~~2 gallons, of shucked oysters, per person or per boat, or any~~
10 ~~number or quantity of oysters if the oysters are to be sold.~~

11 Section 12. Subsections (1) and (2) of section
12 370.161, Florida Statutes, are amended to read:

13 370.161 Oyster bottom land grants made pursuant to ch.
14 3293.--

15 (1) All grants previously issued by the several boards
16 of county commissioners under the authority of chapter 3293,
17 1881, Laws of Florida, shall be subject to provisions of s.
18 597.010 ~~370.16~~, relating to the marking of such lands, the
19 payment of rents, the cultivation of such lands and the
20 forfeiture provisions.

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

27 Section 13. Section 372.071, Florida Statutes, is
28 amended to read:

29 372.071 Powers of arrest by agents of Department of
30 Environmental Protection or Fish and Wildlife Conservation
31 Commission.--Any certified law enforcement officer of the

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

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

17 372.6673 Taking and possession of alligators; trapping
18 licenses; fees.--

19 (4) No person shall take any alligator egg occurring
20 in the wild or possess any such egg unless such person has
21 obtained, or is a licensed agent of another person who has
22 obtained, an alligator egg collection permit. The alligator
23 egg collection permit shall be required in addition to the
24 alligator farming license provided in paragraph (2)(d). The
25 commission is authorized to assess a fee for issuance of the
26 alligator egg collection permit of up to \$4\$5 per egg
27 authorized to be taken or possessed pursuant to such permit.
28 In addition, the commission shall collect a marketing
29 assessment of, of which \$1 per egg, excluding eggs collected
30 on private wetland management areas, which shall ~~may~~ be
31 transferred to the General Inspection Trust Fund, to be

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

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

7 372.6674 Required tagging of alligators and hides;
8 fees; revenues.--The tags provided in this section shall be
9 required in addition to any license required under s.
10 372.6673.

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

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

27 373.046 Interagency agreements.--

28 (5) Notwithstanding the provisions of s. 403.927, when
29 any operating agreement is developed pursuant to subsection
30 (4),+

31

1 ~~(a)~~ the department shall have regulatory
2 responsibility under part IV of this chapter for~~+~~

3 ~~1. All saltwater aquaculture activities located on~~
4 ~~sovereignty submerged land or in the water column above such~~
5 ~~land and adjacent facilities directly related to the~~
6 ~~aquaculture activity.~~

7 ~~2.~~ aquaculture activities that meet or exceed the
8 thresholds for aquaculture general permits authorized pursuant
9 to ss. 370.26 and 403.814.

10 ~~3. Aquaculture activities within the Northwest Florida~~
11 ~~Water Management District.~~

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

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

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

23 403.814 General permits; delegation.--

24 (11) Upon agreement by the applicant, the department,
25 and the applicable water management district, the department
26 and water management district may reassign the regulatory
27 responsibilities described in s. 373.046(5)~~(a) and (b)~~, based
28 on the specific aquaculture operation, to achieve a more
29 efficient and effective permitting process.

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

1 409.2598 Suspension or denial of new or renewal
2 licenses; registrations; certifications.--

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

16 Section 19. Paragraph (n) of subsection (1) of section
17 500.03, Florida Statutes, is amended to read:

18 500.03 Definitions of terms; construction;
19 applicability.--

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

21 (n) "Food establishment" means any factory, food
22 outlet, or any other facility manufacturing, processing,
23 packing, holding, or preparing food, or selling food at
24 wholesale or retail. The term does not include any business or
25 activity that is regulated under ~~chapter 370~~, chapter 509, or
26 chapter 601. The term also does not include any establishments
27 that pack fruits and vegetables in their raw or natural
28 states, including those fruits or vegetables that are washed,
29 colored, or otherwise treated in their unpeeled, natural form
30 before they are marketed.

31

1 Section 20. Section 570.18, Florida Statutes, is
2 amended to read:

3 570.18 Organization of departmental work.--In the
4 assignment of functions to the 12 ~~11~~ divisions of the
5 department created in s. 570.29, the department shall retain
6 within the Division of Administration, in addition to
7 executive functions, those powers and duties enumerated in s.
8 570.30. The department shall organize the work of the other
9 11 ~~10~~ divisions in such a way as to secure maximum efficiency
10 in the conduct of the department. The divisions created in s.
11 570.29 are solely to make possible the definite placing of
12 responsibility. The department shall be conducted as a unit
13 in which every employee, including each division director, is
14 assigned a definite workload, and there shall exist between
15 division directors a spirit of cooperative effort to
16 accomplish the work of the department.

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

21 570.29 Departmental divisions.--The department shall
22 include the following divisions:

23 (4) Aquaculture.

24 Section 22. Section 570.61, Florida Statutes, is
25 created to read:

26 570.61 Division of Aquaculture; powers and
27 duties.--The powers and duties of the Division of Aquaculture
28 shall include, but are not limited to, administering the
29 aquaculture certification program; enforcing shellfish
30 sanitation standards; administering the aquaculture and
31 shellfish lease programs; ensuring that shellfish processing

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

9 Section 23. Section 570.62, Florida Statutes, is
10 created to read:

11 570.62 Director; duties.--

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

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

21 Section 24. Paragraph (f) of subsection (1) of section
22 597.003, Florida Statutes, is amended, and paragraphs (l) and
23 (k) are added to that subsection to read:

24 597.003 Powers and duties of Department of Agriculture
25 and Consumer Services.--

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

30 (f) Submit the list of research and development
31 projects proposed to be funded through the department as

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

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

22 1. The department shall act in cooperation with other
23 state and local agencies and programs to identify and
24 designate sovereignty lands and waters that would be suitable
25 for aquaculture development.

26 2. The department shall identify and evaluate specific
27 tracts of sovereignty submerged lands and water columns in
28 various areas of the state to determine where such lands and
29 waters are suitable for leasing for aquaculture purposes.
30 Nothing in this subparagraph or subparagraph 1. shall preclude

31

1 the applicant from applying for sites identified by the
2 applicant.

3 3. The department shall provide assistance in
4 developing technologies applicable to aquaculture activities,
5 evaluate practicable production alternatives, and provide
6 agreements to develop innovative culture practices.

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

16 Section 25. Subsections (3), (4), and (5) of section
17 370.26, Florida Statutes, are repealed.

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

21 597.004 Aquaculture certificate of registration.--

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

26 (a) Applicant's name/title.

27 (b) Company name.

28 (c) Complete mailing address.

29 (d) Legal property description of all aquaculture
30 facilities.

31

1 (e) Actual physical street address for each
2 aquaculture facility.

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

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

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

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

7 ~~(a) Any person engaging in nonshellfish aquaculture,~~
8 ~~except as otherwise provided in this section, must be~~
9 ~~certified by the department. The applicant for a certificate~~
10 ~~of registration for nonshellfish products shall submit the~~
11 ~~following to the department:~~

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

13 (i)2. Documentation that the rules adopted herein have
14 been complied with in accordance with paragraph (2)(a)(b)
15 below.

16 (2) RULES.--

17 (a)(b) The department, in consultation with the
18 Department of Environmental Protection, the water management
19 districts, environmental groups, and representatives from the
20 affected farming groups, shall adopt rules to:

21 1. Specify the requirement of best-management
22 practices to be implemented by holders of aquaculture
23 certificates of registration.

24 2. Establish procedures for holders of aquaculture
25 certificates of registration to submit the notice of intent to
26 comply with best-management practices.

27 3. Establish schedules for implementation of
28 best-management practices, and of interim measures that can be
29 taken prior to adoption of best-management practices. Interim
30 measures may include the continuation of regulatory
31 requirements in effect on June 30, 1998.

1 4. Establish a system to assure the implementation of
2 best-management practices, including recordkeeping
3 requirements.

4 **(b)** Rules adopted pursuant to this subsection shall
5 become effective pursuant to the applicable provisions of
6 chapter 120, but must be submitted to the President of the
7 Senate and the Speaker of the House of Representatives for
8 review by the Legislature. The rules shall be referred to the
9 appropriate committees of substance and scheduled for review
10 during the first available regular session following adoption.
11 Except as otherwise provided by operation of law, such rules
12 shall remain in effect until rejected or modified by act of
13 the Legislature.

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

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

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

31

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

4 (d) There is a presumption of compliance with state
5 groundwater and surface water standards if the holder of an
6 aquaculture certificate of registration implements
7 best-management practices that have been verified by the
8 Department of Environmental Protection to be effective at
9 representative sites and complies with the following:

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

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

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

19 (e) The department shall provide, by December 31,
20 1999, to the President of the Senate and the Speaker of the
21 House of Representatives, a progress report concerning the
22 development, implementation, and effectiveness of
23 best-management practices to prevent contamination of
24 groundwater and surface water.

25 (f) This section does not limit federally delegated
26 regulatory authority.

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

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

1 shall be issued an aquaculture certificate of registration
2 pursuant to this section ~~subsection (1) above~~. This chapter
3 does not supersede the authority under chapter 372, ~~chapter~~
4 ~~373, or chapter 403~~ to regulate alligator farms and alligator
5 farmers.

6 (4) IDENTIFICATION OF AQUACULTURE

7 PRODUCTS.--Aquaculture products shall be identified while
8 possessed, processed, transported, or sold as provided in this
9 subsection, ~~except those subject to the rules of the Fish and~~
10 ~~Wildlife Conservation Commission as they relate to alligators~~
11 ~~only~~.

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

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

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

28 (5) SALE OF AQUACULTURE PRODUCTS.--

29 (b) Aquaculture shellfish must be sold and handled in
30 accordance with s. 597.020 ~~shellfish handling regulations of~~
31

1 ~~the Department of Environmental Protection established to~~
2 ~~protect public health.~~

3 Section 27. Subsection (2) of section 597.0041,
4 Florida Statutes, is amended, and subsection (4) is added to
5 that section, to read:

6 597.0041 Prohibited acts; penalties.--

7 (2)(a) Any person who violates any provision of this
8 chapter or any rule promulgated hereunder is subject to a
9 suspension or revocation of his or her certificate of
10 registration or license under this chapter. The department
11 may, in lieu of, or in addition to the suspension of
12 revocation, impose on the violator an administrative fine in
13 an amount not to exceed \$1,000 per violation per day.

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

18 (4) Any person who violates any provision of s.
19 597.010 or s. 597.020, or any rule adopted under those
20 sections, commits a misdemeanor of the second degree,
21 punishable as provided in s. 775.082 or s. 775.083 for the
22 first offense; and for the second or any subsequent offense
23 within a 12-month period, commits a misdemeanor of the first
24 degree, punishable as provided in s. 775.082 or s. 775.083.

25 Section 28. Paragraph (c) of subsection (3) of section
26 597.005, Florida Statutes, is amended to read:

27 597.005 Aquaculture Review Council.--

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

30 (c) Submit to the commissioner on an annual basis:
31

1 1. A prioritized list of research projects to be
2 included in the department's legislative budget request. Each
3 year, the council shall review the aquaculture legislative
4 budget requests submitted to the department and rank them
5 according to the state aquaculture plan.

6 2. Recommendations to be forwarded to the Speaker of
7 the House of Representatives and the President of the Senate
8 on legislation needed to help the aquaculture industry.

9 3. Recommendations on aquaculture projects,
10 activities, research, and regulation and other needs to
11 further the development of the aquaculture industry.

12 Section 29. Subsection (1) of section 597.006, Florida
13 Statutes, is amended to read:

14 597.006 Aquaculture Interagency Coordinating
15 Council.--

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

1 Section 30. Section 597.010, Florida Statutes, is
2 created to read:

3 597.010 Shellfish regulation; leases.--

4 (1) LEASE, APPLICATION FORM.--When any qualified
5 person desires to lease a part of the bottom, water column, or
6 bed of any of the water of this state for the purpose of
7 growing oysters or clams, as provided for in this section, he
8 or she shall present to the department a written application
9 pursuant to s. 253.69.

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

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

27 (4) EXECUTION OF LEASES; LESSEE TO STAKE OFF
28 BOUNDARIES; PENALTY FOR FAILURE TO COMPLY WITH
29 REGULATIONS.--When a survey of the lands to be leased has been
30 completed pursuant to s. 253.69 and filed with the department,
31 and the cost thereof paid by the applicant, the department may

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

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

30 (a) All leases issued previously under the provisions
31 of s. 370.16 shall be enforced under the authority of this

1 chapter, notwithstanding any other law to the contrary, and
2 shall continue in perpetuity under such restrictions as stated
3 in the lease agreement. The annual rental fee charged for all
4 leases shall consist of the minimum rate of \$15 per acre, or
5 any fraction of an acre, per year and shall be adjusted on
6 January 1, 1995, and every 5 years thereafter, based on the
7 5-year average change in the Consumer Price Index. Rent shall
8 be paid in advance of January 1 of each year or in the case of
9 a new lease at the time of signing, regardless of who holds
10 the lease.

11 (b) All fees collected under this subsection and
12 subsection (6) shall be deposited in the General Inspection
13 Trust Fund and shall be used for shellfish aquaculture
14 activities.

15 (6) FORFEITURE FOR NONPAYMENT.--All leases shall
16 stipulate that failure to timely pay the rent on or before
17 January 1 of each year shall cause the department, at its
18 discretion, to terminate and cancel the lease after the
19 department has given the lessee 30 days' written notice of the
20 nonpayment. If after receiving the notice the lessee chooses
21 to keep the lease, the lessee shall pay the rental fee plus a
22 \$50 late fee within the 30-day period. After the 30-day notice
23 has expired, the department may take possession of the lease
24 and all improvements, assets, clams, and oysters thereon.

25 (7) SURCHARGE FOR IMPROVEMENT OR REHABILITATION.--A
26 surcharge of \$10 per acre, or any fraction of an acre, per
27 annum shall be levied upon each lease, other than a perpetual
28 lease granted pursuant to chapter 370 prior to 1985, and
29 deposited into the General Inspection Trust Fund. The purpose
30 of the surcharge is to provide a mechanism to have financial
31 resources immediately available for improvement of lease areas

1 and for cleanup and rehabilitation of abandoned or vacated
2 lease sites. The department is authorized to adopt rules
3 necessary to carry out the provisions of this subsection.

4 (a) Moneys in the fund that are not needed currently
5 for cleanup and rehabilitation of abandoned or vacated lease
6 sites shall be deposited with the Treasurer to the credit of
7 the fund and may be invested in such manner as is provided for
8 by statute. Interest received on such investment shall be
9 credited to the fund.

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

13 1. Administrative expenses, personnel expenses, and
14 equipment costs of the department related to the improvement
15 of lease areas, the cleanup and rehabilitation of abandoned or
16 vacated aquaculture lease sites, and the enforcement of
17 provisions of this section.

18 2. All costs involved in the improvement of lease
19 areas and the cleanup and rehabilitation of abandoned or
20 vacated lease sites.

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

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

24
25 The department shall recover to the use of the fund from the
26 person or persons abandoning or vacating the lease, jointly
27 and severally, all sums owed or expended from the fund.

28 (8) CULTIVATION REQUIREMENTS.--

29 (a) Effective cultivation shall consist of the growing
30 of the oysters or clams in a density suitable for commercial
31 harvesting over the amount of bottom prescribed by law. This

1 commercial density shall be accomplished by the planting of
2 seed oysters, shell, and cultch of various descriptions. The
3 department may stipulate in each individual lease contract the
4 types, shape, depth, size, and height of cultch materials on
5 lease bottoms according to the individual shape, depth,
6 location, and type of bottom of the proposed lease. Each
7 lessee leasing lands under the provisions of this section or
8 s. 253.71 shall begin, within 1 year after the date of such
9 lease, bona fide cultivation of the same, and shall, by the
10 end of the second year after the commencement of such lease,
11 have placed under cultivation at least one-half of the leased
12 area and shall each year thereafter place in cultivation at
13 least one-fourth of the leased area until the whole, suitable
14 for bedding of oysters or clams, shall have been put in
15 cultivation. The cultivation requirements for perpetuity
16 leases granted pursuant to chapter 370 prior to 1985 under
17 previously existing law shall comply with the conditions
18 stated in the lease agreement, and the lessee or grantee is
19 authorized to plant the leased or granted submerged land in
20 both oysters and clams.

21 (b) These stipulations apply to all leases granted
22 after the effective date of this section. All leases existing
23 prior to the effective date of this section will operate under
24 the law that was in effect when the leases were granted.

25 (c) When evidence is gathered by the department and
26 such evidence conclusively shows a lack of effective
27 cultivation, the department may revoke leases and return the
28 bottoms in question to the public domain.

29 (d) The department has the authority to adopt rules
30 pertaining to the water column over shellfish leases. All
31 cultch materials in place 6 months after the formal adoption

1 and publication of rules establishing standards for cultch
2 materials on shellfish leases that do not comply with such
3 rules may be declared a nuisance by the department. The
4 department has the authority to direct the lessee to remove
5 such cultch in violation of this section. The department may
6 cancel a lease upon the refusal by the lessee violating such
7 rules to remove unlawful cultch materials, and all
8 improvements, cultch, marketable oysters, and shell shall
9 become the property of the state. The department has the
10 authority to retain, dispose of, or remove such materials in
11 the best interest of the state.

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

28 (10) CANCELLATION OF LEASES TO NATURAL REEFS OR
29 BEDS.--Any person, within 6 months after the execution of any
30 lease, may file a petition with the department for the purpose
31 of determining whether a natural oyster or clam reef or bed

1 having an area of not less than 100 square yards existed
2 within the leased area on the date of the lease, with
3 sufficient natural or maternal oysters or clams thereon (not
4 including coon oysters) to have constituted a stratum
5 sufficient to have been resorted to by the public generally
6 for the purpose of gathering the same to sell for a
7 livelihood. The petition shall be in writing addressed to the
8 department, verified under oath, stating the location and
9 approximate area of the natural reef or bed and the claim or
10 interest of the petitioner therein and requesting the
11 cancellation of the lease to the natural reef or bed. A
12 petition may not be considered unless it is accompanied by a
13 deposit of \$500 to defray the expense of the department's
14 investigation of the matter. Upon receipt of such petition,
15 the department shall cause an investigation to be made into
16 the truth of the allegations of the petition, and, if found
17 untrue, the \$500 deposit shall be retained by the department
18 to defray the expense of the investigation, but should the
19 allegations of the petition be found true and the leased
20 premises to contain a natural oyster or clam reef or bed, as
21 described in this subsection, the \$500 deposit shall be
22 returned to the petitioner and the costs and expenses of the
23 investigation taxed against the lessee and the lease canceled
24 to the extent of the natural reef or bed and the same shall be
25 marked with buoys and stakes and notices placed thereon
26 showing the same to be a public reef or bed, the cost of the
27 markers and notices to be taxed against the lessee.

28 (11) WHEN NATURAL REEFS OR BEDS MAY BE INCLUDED IN
29 LEASE.--

30 (a) When an application for a submerged land lease for
31 cultivating shellfish is filed, and when a resource survey of

1 such lands identifies natural oyster or clam reefs or beds,
2 the department shall determine if such reefs and beds are to
3 be included in the leased area. The department, if it deems it
4 to be in the best interest of the state, may include such
5 natural reefs or beds in a lease. In those cases where a
6 natural area is included in a lease, the department shall fix
7 a reasonable value on the same, to be paid by the applicant
8 for lease of such submerged land. No natural reefs shall be
9 included in any shellfish or aquaculture lease granted in
10 Franklin County.

11 (b) The department shall determine and settle all
12 disputes as to boundaries between lessees. The department
13 shall, in all cases, determine whether a particular submerged
14 land area contains a natural reef or bed or whether it is
15 suitable for raising oysters or clams.

16 (12) FRANKLIN COUNTY LEASES.--On and after the
17 effective date of this section, the only leases available in
18 Franklin County shall be those issued pursuant to ss.
19 253.67-253.75; chapter 370 leases shall no longer be
20 available. The department shall require in the lease agreement
21 such restrictions as it deems necessary to protect the
22 environment, the existing leaseholders, and public fishery.

23 (13) TRESPASS ON LEASED BEDS; PROTECTION OF LEASE
24 AREAS.--

25 (a) Any person who willfully takes oysters, shells,
26 cultch, or clams bedded or planted by a licensee under this
27 chapter, or grantee under the provisions of heretofore
28 existing laws, or riparian owner who may have heretofore
29 planted the same on his or her riparian bottoms, or any
30 oysters or clams deposited by anyone making up a cargo for
31 market, or who willfully carries or attempts to carry away the

1 same without permission of the owner thereof, or who willfully
2 or knowingly removes, breaks off, destroys, or otherwise
3 injures or alters any stakes, bounds, monuments, buoys,
4 notices, or other designations of any natural oyster or clam
5 reefs or beds or private bedding or propagating grounds, or
6 who willfully injures, destroys, or removes any other
7 protection around any oyster or clam reefs or beds, or who
8 willfully moves any bedding ground stakes, buoys, marks, or
9 designations placed by the department, commits a violation of
10 this section.

11 (b) Harvesting shellfish is prohibited within a
12 distance of 25 feet outside lawfully marked lease boundaries
13 or within setback and access corridors within specifically
14 designated high-density aquaculture lease areas and
15 aquaculture use zones.

16 (14) SHELLFISH DEVELOPMENT.--

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

21 (b) The Fish and Wildlife Conservation Commission
22 shall, to the same extent, assist in protecting shellfish
23 aquaculture products produced on leased or granted reefs and
24 beds.

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

30 (15) SPECIAL ACTIVITY LICENSES.--The department is
31 authorized to issue special activity licenses, in accordance

1 with s. 597.020, to permit the harvest or cultivation of
2 oysters, clams, mussels, and crabs.

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

13 (17) SHELLFISH HARVESTING SEASONS; SPECIAL PROVISIONS
14 RELATING TO APALACHICOLA BAY.--

15 (a) The Fish and Wildlife Conservation Commission
16 shall by rule set the noncultured shellfish harvesting seasons
17 in Apalachicola Bay.

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

27 1. Whether the bay benefits ecologically from the new
28 harvesting schedule.

29 2. Whether the new harvesting schedule enhances the
30 enforcement of shellfish harvesting laws in the bay.

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

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

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

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

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

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

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

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

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

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

17
18 Any violation of this paragraph or of any other statutes,
19 rules, or conditions referenced in the lease agreement shall
20 be considered a violation of the license and shall result in
21 revocation of the lease or a denial of use or future use of a
22 mechanical harvesting device.

23 (c) Oysters may be harvested from natural or public or
24 private leased or granted grounds by common hand tongs or by
25 hand, by scuba diving, free diving, leaning from vessels, or
26 wading. In Apalachicola Bay, this provision shall apply to
27 all shellfish.

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

29 (a) The department shall designate areas for the
30 taking of oysters and clams to be planted on leases, grants,
31 and public areas. Oysters, clams, and mussels may be taken for

1 relaying or transplanting at any time during the year so long
2 as, in the opinion of the department, the public health will
3 not be endangered. The amount of oysters, clams, and mussels
4 to be obtained for relaying or transplanting, the area relayed
5 or transplanted to, and relaying or transplanting time periods
6 shall be established in each case by the department.

7 (b) Application for a special activity license issued
8 pursuant to subsection (15) for obtaining oysters, clams, or
9 mussels for relaying from closed public shellfish harvesting
10 areas to open areas or certified controlled purification
11 plants or for transplanting sublegal-sized oysters, clams, or
12 mussels must be made to the department. In return, the
13 department may assign an area and a period of time for the
14 oysters, clams, or mussels to be relayed or transplanted to be
15 taken. All relaying and transplanting operations shall take
16 place under the direction of the department.

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

20 (20) OYSTER AND CLAM REHABILITATION.--The board of
21 county commissioners of the several counties may appropriate
22 and expend such sums as it may deem proper for the purpose of
23 planting or transplanting oysters, clams, oyster shell, clam
24 shell, or cultch or to perform such other acts for the
25 enhancement of the oyster and clam industries of the state,
26 out of any sum in the county treasury not otherwise
27 appropriated.

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

30 (22) COOPERATION WITH UNITED STATES FISH AND WILDLIFE
31 SERVICE.--The department shall cooperate with the United

1 States Fish and Wildlife Service, under existing federal laws,
2 rules, and regulations, and is authorized to accept donations,
3 grants, and matching funds from the Federal Government in
4 order to carry out its oyster resource and development
5 responsibilities. The department is further authorized to
6 accept any and all donations including funds, oysters, or
7 oyster shells.

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

9 (a) Except for oysters used directly in the half-shell
10 trade, 50 percent of all shells from oysters and clams shucked
11 commercially in the state shall be and remain the property of
12 the department when such shells are needed and required for
13 rehabilitation projects and planting operations, in
14 cooperation with the Fish and Wildlife Conservation
15 Commission, when sufficient resources and facilities exist for
16 handling and planting such shell, and when the collection and
17 handling of such shell is practicable and useful, except that
18 bona fide holders of leases and grants may retain 75 percent
19 of such shell as they produce for aquacultural purposes.
20 Storage, transportation, and planting of shells so retained by
21 lessees and grantees shall be carried out under the conditions
22 of the lease agreement or with the written approval of the
23 department and shall be subject to such reasonable time limits
24 as the department may fix. In the event of an accumulation of
25 an excess of shells, the department is authorized to sell
26 shells only to private growers for use in oyster or clam
27 cultivation on bona fide leases and grants. No profit shall
28 accrue to the department in these transactions, and shells are
29 to be sold for the estimated moneys spent by the department to
30 gather and stockpile the shells. Planting of shells obtained
31 from the department by purchase shall be subject to the

1 conditions set forth in the lease agreement or in the written
2 approval as issued by the department. Any shells not claimed
3 and used by private oyster cultivators 10 years after shells
4 are gathered and stockpiled may be sold at auction to the
5 highest bidder for any private use.

6 (b) Whenever the department determines that it is
7 unfeasible to collect oyster or clam shells, the shells become
8 the property of the producer.

9 (c) Whenever oyster or clam shells are owned by the
10 department and it is not useful or feasible to use them in the
11 rehabilitation projects, and when no leaseholder has exercised
12 his or her option to acquire them, the department may sell
13 such shells for the highest price obtainable. The shells thus
14 sold may be used in any manner and for any purpose at the
15 discretion of the purchaser.

16 (d) Moneys derived from the sale of shell shall be
17 deposited in the General Inspection Trust Fund for shellfish
18 programs.

19 (e) The department may publish notice, in a newspaper
20 serving the county, of its intention to collect the oyster and
21 clam shells and shall notify, by certified mail, each shucking
22 establishment from which shells are to be collected. The
23 notice shall contain the period of time the department intends
24 to collect the shells in that county and the collection
25 purpose.

26 (24) OYSTER CULTURE.--The department, in cooperation
27 with the Fish and Wildlife Conservation Commission and the
28 Department of Environmental Protection, shall protect all clam
29 beds, oyster beds, shellfish grounds, and oyster reefs from
30 damage or destruction resulting from improper cultivation,
31 propagation, planting, or harvesting and control the pollution

1 of the waters over or surrounding beds, grounds, or reefs, and
2 to this end the Department of Health is authorized and
3 directed to lend its cooperation to the department, to make
4 available its laboratory testing facilities and apparatus.

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

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

16 (b) For the purpose of this subsection, "harvesting,
17 gathering, or transporting of oysters or clams for commercial
18 purposes" means to harvest, gather, or transport oysters or
19 clams with the intent to sell and shall apply to a quantity of
20 two or more bags of oysters per vessel or more than one
21 5-gallon bucket of unshucked hard clams per person or more
22 than two 5-gallon buckets of unshucked hard clams per vessel.

23 Section 31. Section 370.071, Florida Statutes, is
24 transferred, renumbered as section 597.020, Florida Statutes,
25 and amended to read:

26 597.020 ~~370.071~~ Shellfish processors; regulation.--

27 (1) ~~The department of Agriculture and Consumer~~
28 ~~Services, hereinafter referred to as department,~~ is authorized
29 to adopt by rule regulations, specifications, and codes
30 relating to sanitary practices for catching, cultivating,
31 handling, processing, packaging, preserving, canning, smoking,

1 and storing of oysters, clams, mussels, scallops, and crabs.
2 The department is also authorized to license shellfish
3 processors who handle aquaculture facilities used to culture
4 oysters, clams, mussels, scallops, and crabs when such
5 activities relate to quality control, sanitary, and public
6 health practices pursuant to this section and chapter 500 and
7 s. 370.06(4). The department is also authorized to license or
8 certify, for a fee determined by rule, facilities used for
9 processing oysters, clams, mussels, scallops, and crabs, to
10 levy an administrative fine of up to \$1,000 per violation per
11 day or to suspend or revoke such licenses or certificates upon
12 satisfactory evidence of any violation of rules adopted
13 pursuant to this section, and to seize and destroy any
14 adulterated or misbranded shellfish products as defined by
15 rule.

16 (2) A shellfish processing plant certification license
17 is required to operate any facility in which oysters, clams,
18 mussels, scallops, or crabs are processed, including but not
19 limited to: an oyster, clam, ~~or mussel~~, or scallop cannery; a
20 shell stock dealership; an oyster, clam, ~~or mussel~~, or scallop
21 shucking plant; an oyster, clam, ~~or mussel~~, or scallop
22 repacking plant; an oyster, clam, ~~or mussel~~, or scallop
23 controlled purification plant; or a crab or soft-shell crab
24 processing or shedding plant.

25 (3) The department may suspend or revoke any shellfish
26 processing plant certification license upon satisfactory
27 evidence that the licensee has violated any regulation,
28 specification, or code adopted under this section and may
29 seize and destroy any shellfish product which is defined by
30 rule to be an adulterated or misbranded shellfish product.

31 Section 32. This act shall take effect July 1, 2000.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS/SB 806

The committee substitute clarifies that the Board of Trustees of the Internal Improvement Trust Fund would retain the authority to take final agency action on establishing any areas for leasing, new leases, expanding existing lease areas, or changing the type of lease activity in existing leases on sovereignty submerged lands.

Prior to the granting of any lease, the Board of Trustees shall request comments by the Fish and Wildlife Conservation Commission when the application relates to bottom land in salt or fresh water. The comments are to be based on an assessment of the probable effect of the proposed lease on conservation of fish or wildlife or other programs under the constitutional or statutory authority of the commission.

Provisions in s. 597.003, F.S., that would have required that authorizations under part IV of ch. 373, F.S., be issued in conjunction with the authorization to use sovereignty submerged land for aquaculture are deleted.

The provision that preempts all other laws, rules, regulations, ordinances, and policies relating to aquaculture except for chapters 253, 372, and 373, F.S., and s. 403.814, F.S., is deleted.