

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 the
31 distribution of funds from the Florida

1 Saltwater Products Promotional Trust Fund;
2 providing for transfer of responsibilities
3 relating to the Apalachicola Bay oyster
4 surcharge from the Department of Environmental
5 Protection to the Department of Agriculture and
6 Consumer Services; amending s. 370.13, F.S.;
7 providing for a depredation endorsement on a
8 saltwater products license; amending s. 370.16,
9 F.S.; revising regulation of noncultured
10 shellfish harvesting; providing for protection
11 of shellfish and aquaculture products;
12 repealing s. 370.16(1), (2), (3), (4), (5),
13 (6), (7), (8), (9), (10), (11), (13), (16),
14 (17), (19), (22), (24), (25), (26), and (27),
15 F.S., relating to regulation and enforcement of
16 oyster and shellfish leases by the Department
17 of Environmental Protection, protection and
18 development of oyster and shellfish resources,
19 and regulation of processing for commercial
20 use; amending ss. 370.161 and 372.071, F.S.;
21 conforming cross-references; amending s.
22 372.6673, F.S.; requiring collection of a
23 marketing assessment fee for alligator products
24 marketing and education; amending s. 372.6674,
25 F.S.; requiring collection of a marketing and
26 assessment fee; amending s. 373.046, F.S.;
27 revising regulatory responsibility under pt. IV
28 of ch. 373, F.S., for aquacultural activities;
29 amending ss. 403.814, 409.2598, and 500.03,
30 F.S.; conforming cross-references; amending ss.
31 570.18 and 570.29, F.S.; conforming provisions

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

31 providing for rental fees, fee adjustments,

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

1 authorizing an administrative fine for
2 violation of rules relating to regulation of
3 shellfish processors; amending s. 190.003,
4 F.S.; including the owner of a long-term ground
5 lease from a governmental entity within the
6 definition of a "landowner"; amending s.
7 190.005, F.S.; providing that the establishment
8 of a community development district must
9 contain the consent of all landowners whose
10 lands are to be included in the district;
11 amending s. 190.021, F.S.; providing that
12 certain ad valorem taxes and non-ad valorem
13 assessments on property of a governmental
14 entity are not a lien on the entity's
15 underlying fee interest; amending s. 370.021,
16 F.S.; providing penalties for illegal buying
17 and selling of marine products; revising
18 violations and penalties; amending s. 370.06,
19 F.S.; authorizing the Fish and Wildlife
20 Conservation Commission to accept credit cards
21 for specified charges; requiring the denial of
22 license renewal or issuance to those having
23 unpaid fees, assessments, or fines; amending s.
24 370.13, F.S.; providing for fees and equitable
25 rent related to stone crabs; prohibiting the
26 acquisition of vested rights; providing
27 penalties; amending s. 370.135, F.S.; providing
28 penalties for theft from a blue crab trap;
29 amending s. 370.14, F.S.; conforming a
30 statutory cross-reference; amending s. 370.142,
31 F.S.; requiring the Board of Trustees of the

1 Internal Improvement Trust Fund to approve a
2 rule establishing equitable rent in the
3 crawfish fishing if the rule is developed;
4 waiving certificate transfer fees and
5 surcharges when the transfer is within the
6 immediate family due to death or disability;
7 providing a penalty for theft from a crawfish
8 trap; providing penalties; conforming
9 cross-references; amending s. 370.143, F.S.;
10 waiving a trap retrieval fee for specified
11 licenseholders; requiring the payment of fees
12 before license and endorsement renewal; waiving
13 trap retrieval fees if the Governor declares a
14 disaster emergency area; amending s. 370.15,
15 F.S.; eliminating a requirement for
16 noncommercial net registration; amending s.
17 370.153, F.S.; providing that noncommercial
18 trawling must be authorized by the Fish and
19 Wildlife Conservation Commission; amending s.
20 370.25, F.S.; providing that the artificial
21 reef program is created within the Fish and
22 Wildlife Conservation Commission; eliminating
23 criteria for allocation of funds; limiting
24 funding to specified corporations; providing
25 requirements for the storage, possession, and
26 transport of artificial reef materials;
27 revising permit requirements; providing a
28 felony penalty; providing appropriations;
29 amending s. 190.012, F.S.; authorizing
30 community development districts to fund certain
31 environmental costs under certain

1 circumstances; declaring legislative intent;
2 providing an effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Section 253.002, Florida Statutes, is
7 amended to read:

8 253.002 Department of Environmental Protection,~~and~~
9 water management districts, and Department of Agriculture and
10 Consumer Services; duties with respect to state lands.--

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

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

27 (2) Delegations to the department, or a water
28 management district, or the Department of Agriculture and
29 Consumer Services of authority to take final agency action on
30 applications for authorization to use submerged lands owned by
31 the board of trustees, without any action on behalf of the

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

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

22 253.01 Internal Improvement Trust Fund established.--

23 (1)

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

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

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

8 253.67 Definitions.--As used in ss. 253.67-253.75:

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

11 (2)~~(4)~~ "Board" means the Board of Trustees of the
12 Internal Improvement Trust Fund.

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

15 (4)~~(2)~~ "Water column" means the vertical extent of
16 water, including the surface thereof, above a designated area
17 of submerged bottom land.

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

21 253.71 The lease contract.--When the board has
22 determined that the proposed lease is not incompatible with
23 the public interest and that the applicant has demonstrated
24 his or her capacity to perform the operations upon which the
25 application is based, it may proceed to consummate a lease
26 contract having the following features in addition to others
27 deemed desirable by the board:

28 (2) RENTAL FEES.--

29 (a) The lease contract shall specify such amount of
30 rental per acre of leased bottom as may be agreed to by the
31 parties and shall take the form of fixed rental to be paid

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

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

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

17 253.72 Marking of leased areas; restrictions on public
18 use.--

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

28 (2) Except to the extent necessary to permit the
29 effective development of the species of animal or plant life
30 being cultivated by the lessee, the public shall be provided
31 with means of reasonable ingress and egress to and from the

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

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

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

18 253.75 Studies and recommendations by the department
19 and the Fish and Wildlife Conservation Commission; designation
20 of recommended traditional and other use zones; supervision of
21 aquaculture operations.--

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

1 under the constitutional or statutory authority of the Fish
2 and Wildlife Conservation Commission ~~natural resources,~~
3 ~~including beaches and shores.~~

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

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

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

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

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

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

31

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. Paragraph (j) of subsection (2) and
15 paragraphs (f), (h), (i), and (k) of subsection (3) of section
16 370.07, Florida Statutes, are amended to read:

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

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

20 (j) License or privilege taxes, together with any
21 other funds derived from the Federal Government or from any
22 other source, shall be deposited in a Florida Saltwater
23 Products Promotion Trust Fund to be administered by the
24 Department of Agriculture and Consumer Services for the sole
25 purpose of promoting all fish and saltwater products produced
26 in this state, except that 4 percent of the total wholesale
27 and retail saltwater products dealer's license fees collected
28 shall be deposited into the Marine Resources Conservation
29 Trust Fund administered by the Fish and Wildlife Conservation
30 Commission for the purpose of processing wholesale and retail
31 saltwater products dealer's licenses.

1 (3) APALACHICOLA BAY OYSTER SURCHARGE.--

2 (f) The Department of Revenue shall collect the
3 surcharge for transfer into the General Inspection Trust Fund
4 of the Department of Agriculture and Consumer Services ~~Marine~~
5 ~~Resources Conservation Trust Fund of the Department of~~
6 ~~Environmental Protection.~~

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

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

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

- 23 1. The relaying and transplanting of live oysters.
24 2. Shell planting to construct or rehabilitate oyster
25 bars.
26 3. Education programs for licensed oyster harvesters
27 on oyster biology, aquaculture, boating and water safety,
28 sanitation, resource conservation, small business management,
29 and other relevant subjects.

30
31

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

4 Section 11. Subsection (8) is added to section 370.13,
5 Florida Statutes, to read:

6 370.13 Stone crab; regulation.--

7 (8) The Fish and Wildlife Conservation Commission
8 shall issue a depredation endorsement on the saltwater
9 products license, which shall entitle the license holder to
10 possess and use up to 75 stone crab traps and up to 75 blue
11 crab traps, notwithstanding any other provisions of law, for
12 the incidental take of destructive or nuisance stone crabs or
13 blue crabs within one mile of aquaculture shellfish beds. Any
14 marine aquaculture producer as defined by s. 370.26 F.S., who
15 raises shellfish may obtain a depredation endorsement by
16 providing an aquaculture registration certificate to the
17 Commission. No stone crabs or blue crabs taken under this
18 provision may be sold or offered for sale.

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

24 370.16 Noncultured shellfish harvesting ~~Oysters and~~
25 ~~shellfish;~~ regulation.--

26 (1)(12) PROTECTION OF OYSTER AND CLAM REEFS AND
27 SHELLFISH AQUACULTURE PRODUCTS.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 special activity license may be issued by the Fish and
2 Wildlife Conservation Commission pursuant to s. 370.06 for
3 such use to such person.

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

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

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

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

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

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

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

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

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

23 (4)~~(18)~~ FALSE RETURNS AS TO OYSTERS OR CLAMS
24 HANDLED.--Each packer, canner, corporation, firm, commission
25 person, or dealer in fish shall, on the first day of each
26 month, make a return under oath to the Fish and Wildlife
27 Conservation Commission, as to the number of oysters, clams,
28 and shellfish purchased, caught, or handled during the
29 preceding month. Whoever is found guilty of making any false
30 affidavit to any such report is guilty of perjury and punished
31 as provided by law, and any person who fails to make such

1 report shall be punished by a fine not exceeding \$500 or by
2 imprisonment in the county jail not exceeding 6 months.

3 (5)~~(20)~~ WATER PATROL FOR COLLECTION OF TAX.--

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

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

26 (6)~~(21)~~ SEIZURE OF VESSELS AND CARGOES VIOLATING
27 OYSTER AND CLAM LAWS, ETC.--Vessels, with their cargoes,
28 violating the provisions of the laws relating to oysters and
29 clams may be seized by anyone duly and lawfully authorized to
30 make arrests under this section or by any sheriff or the
31 sheriff's deputies, and taken into custody, and when not

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

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

25 (8)~~(28)~~ REQUIREMENTS FOR OYSTER VESSELS.--

26 ~~(a)~~ All vessels used for the harvesting, gathering, or
27 transporting of noncultured oysters for commercial use shall
28 be constructed and maintained to prevent contamination or
29 deterioration of oysters. To this end, all such vessels shall
30 be provided with false bottoms and bulkheads fore and aft to
31 prevent oysters from coming in contact with any bilge water.

1 No dogs or other animals shall be allowed at any time on
2 vessels used to harvest or transport oysters. A violation of
3 any provision of this subsection shall result in at least the
4 revocation of the violator's license.

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

9 Section 13. Subsections (1) and (2) of section
10 370.161, Florida Statutes, are amended to read:

11 370.161 Oyster bottom land grants made pursuant to ch.
12 3293.--

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

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

25 Section 14. Section 372.071, Florida Statutes, is
26 amended to read:

27 372.071 Powers of arrest by agents of Department of
28 Environmental Protection or Fish and Wildlife Conservation
29 Commission.--Any certified law enforcement officer of the
30 Department of Environmental Protection or the Fish and
31 Wildlife Conservation Commission, upon receiving information,

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

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

15 372.6673 Taking and possession of alligators; trapping
16 licenses; fees.--

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

1 services with respect to alligator products produced in this
2 state, notwithstanding other provisions in this chapter.

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

5 372.6674 Required tagging of alligators and hides;
6 fees; revenues.--The tags provided in this section shall be
7 required in addition to any license required under s.
8 372.6673.

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

24 Section 17. Subsection (5) of section 373.046, Florida
25 Statutes, is amended to read:

26 373.046 Interagency agreements.--

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

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

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

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

8 ~~3. Aquaculture activities within the Northwest Florida~~
9 ~~Water Management District.~~

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

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

19 Section 18. Subsection (11) of section 403.814,
20 Florida Statutes, is amended to read:

21 403.814 General permits; delegation.--

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

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

30 409.2598 Suspension or denial of new or renewal
31 licenses; registrations; certifications.--

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

14 Section 20. Paragraph (n) of subsection (1) of section
15 500.03, Florida Statutes, is amended to read:

16 500.03 Definitions of terms; construction;
17 applicability.--

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

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

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

31

1 570.18 Organization of departmental work.--In the
2 assignment of functions to the 12 ~~11~~ divisions of the
3 department created in s. 570.29, the department shall retain
4 within the Division of Administration, in addition to
5 executive functions, those powers and duties enumerated in s.
6 570.30. The department shall organize the work of the other
7 11 ~~10~~ divisions in such a way as to secure maximum efficiency
8 in the conduct of the department. The divisions created in s.
9 570.29 are solely to make possible the definite placing of
10 responsibility. The department shall be conducted as a unit
11 in which every employee, including each division director, is
12 assigned a definite workload, and there shall exist between
13 division directors a spirit of cooperative effort to
14 accomplish the work of the department.

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

19 570.29 Departmental divisions.--The department shall
20 include the following divisions:

21 (4) Aquaculture.

22 Section 23. Section 570.61, Florida Statutes, is
23 created to read:

24 570.61 Division of Aquaculture; powers and
25 duties.--The powers and duties of the Division of Aquaculture
26 shall include, but are not limited to, administering the
27 aquaculture certification program; enforcing shellfish
28 sanitation standards; administering the aquaculture and
29 shellfish lease programs; ensuring that shellfish processing
30 facilities comply with applicable food safety requirements;
31 mitigating, creating, and enhancing natural shellfish

1 harvesting areas; providing education to fishermen and
2 aquaculturists; promoting aquaculture development; purchasing
3 commodities as necessary to carry out the provisions of this
4 section; receiving and accepting grants, aids, gifts, and
5 donations; providing grants, aids, and other technical
6 assistance; and ensuring the safety of Florida waters.

7 Section 24. Section 570.62, Florida Statutes, is
8 created to read:

9 570.62 Director; duties.--

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

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

19 Section 25. Paragraph (f) of subsection (1) of section
20 597.003, Florida Statutes, is amended, and paragraphs (l) and
21 (k) are added to that subsection to read:

22 597.003 Powers and duties of Department of Agriculture
23 and Consumer Services.--

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

28 (f) Submit the list of research and development
29 projects proposed to be funded through the department as
30 identified in the state aquaculture plan, along with the
31 department's legislative budget request to the Governor, the

1 President of the Senate, and the Speaker of the House of
2 Representatives. If funded, these projects shall be contracted
3 for by the Division of Aquaculture and shall require
4 public-private partnerships, when appropriate. The contracts
5 shall require a percentage of the profit generated by the
6 project to be deposited into the General Inspection Trust Fund
7 solely for funding aquaculture projects recommended by the
8 Aquaculture Review Council.

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

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

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

28 Nothing in this subparagraph or subparagraph 1. shall preclude
29 the applicant from applying for sites identified by the
30 applicant.

31

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

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

14 Section 26. Subsections (3), (4), and (5) of section
15 370.26, Florida Statutes, are repealed.

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

19 597.004 Aquaculture certificate of registration.--

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

24 (a) Applicant's name/title.

25 (b) Company name.

26 (c) Complete mailing address.

27 (d) Legal property description of all aquaculture
28 facilities.

29 (e) Actual physical street address for each
30 aquaculture facility.

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

- 1 ~~(g)~~(f) Aquaculture products to be produced.
- 2 ~~(h)~~(g) Fifty dollar annual registration fee.
- 3 ~~(2) NONSHELLFISH CERTIFICATION.--~~
- 4 ~~(a) Any person engaging in nonshellfish aquaculture,~~
5 ~~except as otherwise provided in this section, must be~~
6 ~~certified by the department. The applicant for a certificate~~
7 ~~of registration for nonshellfish products shall submit the~~
8 ~~following to the department:~~
- 9 ~~1. The information requested in subsection (1) above.~~
- 10 ~~(i)~~2. Documentation that the rules adopted herein have
11 been complied with in accordance with paragraph ~~(2)(a)~~(2)(a)~~(b)~~
12 below.
- 13 (2) RULES.--
- 14 ~~(a)~~(b) The department, in consultation with the
15 Department of Environmental Protection, the water management
16 districts, environmental groups, and representatives from the
17 affected farming groups, shall adopt rules to:
- 18 1. Specify the requirement of best-management
19 practices to be implemented by holders of aquaculture
20 certificates of registration.
- 21 2. Establish procedures for holders of aquaculture
22 certificates of registration to submit the notice of intent to
23 comply with best-management practices.
- 24 3. Establish schedules for implementation of
25 best-management practices, and of interim measures that can be
26 taken prior to adoption of best-management practices. Interim
27 measures may include the continuation of regulatory
28 requirements in effect on June 30, 1998.
- 29 4. Establish a system to assure the implementation of
30 best-management practices, including recordkeeping
31 requirements.

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

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

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

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

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

31

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

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

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

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

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

22 (f) This section does not limit federally delegated
23 regulatory authority.

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

27 (h) Any alligator producer with an alligator farming
28 license and permit to establish and operate an alligator farm
29 shall be issued an aquaculture certificate of registration
30 pursuant to this section ~~subsection (1) above~~. This chapter
31 does not supersede the authority under chapter 372, ~~chapter~~

1 ~~373, or chapter 403~~ to regulate alligator farms and alligator
2 farmers.

3 (4) IDENTIFICATION OF AQUACULTURE
4 PRODUCTS.--Aquaculture products shall be identified while
5 possessed, processed, transported, or sold as provided in this
6 subsection, ~~except those subject to the rules of the Fish and
7 Wildlife Conservation Commission as they relate to alligators
8 only.~~

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

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

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

25 (5) SALE OF AQUACULTURE PRODUCTS.--

26 (b) Aquaculture shellfish must be sold and handled in
27 accordance with s. 597.020 ~~shellfish handling regulations of
28 the Department of Environmental Protection established to
29 protect public health.~~

30
31

1 Section 28. Subsection (2) of section 597.0041,
2 Florida Statutes, is amended, and subsection (4) is added to
3 that section, to read:

4 597.0041 Prohibited acts; penalties.--

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

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

16 (4) Any person who violates any provision of s.
17 597.010 or s. 597.020, or any rule adopted under those
18 sections, commits a misdemeanor of the second degree,
19 punishable as provided in s. 775.082 or s. 775.083 for the
20 first offense; and for the second or any subsequent offense
21 within a 12-month period, commits a misdemeanor of the first
22 degree, punishable as provided in s. 775.082 or s. 775.083.

23 Section 29. Paragraph (c) of subsection (3) of section
24 597.005, Florida Statutes, is amended to read:

25 597.005 Aquaculture Review Council.--

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

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

29 1. A prioritized list of research projects to be
30 included in the department's legislative budget request. Each
31 year, the council shall review the aquaculture legislative

1 budget requests submitted to the department and rank them
2 according to the state aquaculture plan.

3 2. Recommendations to be forwarded to the Speaker of
4 the House of Representatives and the President of the Senate
5 on legislation needed to help the aquaculture industry.

6 3. Recommendations on aquaculture projects,
7 activities, research, and regulation and other needs to
8 further the development of the aquaculture industry.

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

11 597.006 Aquaculture Interagency Coordinating
12 Council.--

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

29 Section 31. Section 597.010, Florida Statutes, is
30 created to read:

31 597.010 Shellfish regulation; leases.--

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

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

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

24 (4) EXECUTION OF LEASES; LESSEE TO STAKE OFF
25 BOUNDARIES; PENALTY FOR FAILURE TO COMPLY WITH
26 REGULATIONS.--When a survey of the lands to be leased has been
27 completed pursuant to s. 253.69 and filed with the department,
28 and the cost thereof paid by the applicant, the department may
29 execute in duplicate a lease of the water bottoms to the
30 applicant. One duplicate, with a plat or map of the water
31 bottoms so leased, shall be delivered to the applicant, and

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

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

27 (a) All leases issued previously under the provisions
28 of s. 370.16 shall be enforced under the authority of this
29 chapter, notwithstanding any other law to the contrary, and
30 shall continue in perpetuity under such restrictions as stated
31 in the lease agreement. The annual rental fee charged for all

1 leases shall consist of the minimum rate of \$15 per acre, or
2 any fraction of an acre, per year and shall be adjusted on
3 January 1, 1995, and every 5 years thereafter, based on the
4 5-year average change in the Consumer Price Index. Rent shall
5 be paid in advance of January 1 of each year or in the case of
6 a new lease at the time of signing, regardless of who holds
7 the lease.

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

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

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

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

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

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

15 2. All costs involved in the improvement of lease
16 areas and the cleanup and rehabilitation of abandoned or
17 vacated lease sites.

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

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

21
22 The department shall recover to the use of the fund from the
23 person or persons abandoning or vacating the lease, jointly
24 and severally, all sums owed or expended from the fund.

25 (8) CULTIVATION REQUIREMENTS.--

26 (a) Effective cultivation shall consist of the growing
27 of the oysters or clams in a density suitable for commercial
28 harvesting over the amount of bottom prescribed by law. This
29 commercial density shall be accomplished by the planting of
30 seed oysters, shell, and cultch of various descriptions. The
31 department may stipulate in each individual lease contract the

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

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

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

26 (d) The department has the authority to adopt rules
27 pertaining to the water column over shellfish leases. All
28 cultch materials in place 6 months after the formal adoption
29 and publication of rules establishing standards for cultch
30 materials on shellfish leases that do not comply with such
31 rules may be declared a nuisance by the department. The

1 department has the authority to direct the lessee to remove
2 such cultch in violation of this section. The department may
3 cancel a lease upon the refusal by the lessee violating such
4 rules to remove unlawful cultch materials, and all
5 improvements, cultch, marketable oysters, and shell shall
6 become the property of the state. The department has the
7 authority to retain, dispose of, or remove such materials in
8 the best interest of the state.

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

25 (10) CANCELLATION OF LEASES TO NATURAL REEFS OR
26 BEDS.--Any person, within 6 months after the execution of any
27 lease, may file a petition with the department for the purpose
28 of determining whether a natural oyster or clam reef or bed
29 having an area of not less than 100 square yards existed
30 within the leased area on the date of the lease, with
31 sufficient natural or maternal oysters or clams thereon (not

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

25 (11) WHEN NATURAL REEFS OR BEDS MAY BE INCLUDED IN
26 LEASE.--

27 (a) When an application for a submerged land lease for
28 cultivating shellfish is filed, and when a resource survey of
29 such lands identifies natural oyster or clam reefs or beds,
30 the department shall determine if such reefs and beds are to
31 be included in the leased area. The department, if it deems it

1 to be in the best interest of the state, may include such
2 natural reefs or beds in a lease. In those cases where a
3 natural area is included in a lease, the department shall fix
4 a reasonable value on the same, to be paid by the applicant
5 for lease of such submerged land. No natural reefs shall be
6 included in any shellfish or aquaculture lease granted in
7 Franklin County.

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

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

20 (13) TRESPASS ON LEASED BEDS; PROTECTION OF LEASE
21 AREAS.--

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

1 notices, or other designations of any natural oyster or clam
2 reefs or beds or private bedding or propagating grounds, or
3 who willfully injures, destroys, or removes any other
4 protection around any oyster or clam reefs or beds, or who
5 willfully moves any bedding ground stakes, buoys, marks, or
6 designations placed by the department, commits a violation of
7 this section.

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

13 (14) SHELLFISH DEVELOPMENT.--

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

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

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

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

31

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

11 (17) SHELLFISH HARVESTING SEASONS; SPECIAL PROVISIONS
12 RELATING TO APALACHICOLA BAY.--

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

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

25 1. Whether the bay benefits ecologically from the new
26 harvesting schedule.

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

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

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

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

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

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

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

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

30 3. Leaseholders or grantees shall notify the
31 department no less than 48 hours prior to each day's use of a

1 dredge or scrape in order for the department to notify the
2 Fish and Wildlife Conservation Commission that a mechanical
3 harvesting device will be deployed.

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

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

12
13 Any violation of this paragraph or of any other statutes,
14 rules, or conditions referenced in the lease agreement shall
15 be considered a violation of the license and shall result in
16 revocation of the lease or a denial of use or future use of a
17 mechanical harvesting device.

18 (c) Oysters may be harvested from natural or public or
19 private leased or granted grounds by common hand tongs or by
20 hand, by scuba diving, free diving, leaning from vessels, or
21 wading. In Apalachicola Bay, this provision shall apply to
22 all shellfish.

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

24 (a) The department shall designate areas for the
25 taking of oysters and clams to be planted on leases, grants,
26 and public areas. Oysters, clams, and mussels may be taken for
27 relaying or transplanting at any time during the year so long
28 as, in the opinion of the department, the public health will
29 not be endangered. The amount of oysters, clams, and mussels
30 to be obtained for relaying or transplanting, the area relayed
31

1 or transplanted to, and relaying or transplanting time periods
2 shall be established in each case by the department.

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

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

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

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

26 (22) COOPERATION WITH UNITED STATES FISH AND WILDLIFE
27 SERVICE.--The department shall cooperate with the United
28 States Fish and Wildlife Service, under existing federal laws,
29 rules, and regulations, and is authorized to accept donations,
30 grants, and matching funds from the Federal Government in
31 order to carry out its oyster resource and development

1 responsibilities. The department is further authorized to
2 accept any and all donations including funds, oysters, or
3 oyster shells.

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

5 (a) Except for oysters used directly in the half-shell
6 trade, 50 percent of all shells from oysters and clams shucked
7 commercially in the state shall be and remain the property of
8 the department when such shells are needed and required for
9 rehabilitation projects and planting operations, in
10 cooperation with the Fish and Wildlife Conservation
11 Commission, when sufficient resources and facilities exist for
12 handling and planting such shell, and when the collection and
13 handling of such shell is practicable and useful, except that
14 bona fide holders of leases and grants may retain 75 percent
15 of such shell as they produce for aquacultural purposes.

16 Storage, transportation, and planting of shells so retained by
17 lessees and grantees shall be carried out under the conditions
18 of the lease agreement or with the written approval of the
19 department and shall be subject to such reasonable time limits
20 as the department may fix. In the event of an accumulation of
21 an excess of shells, the department is authorized to sell
22 shells only to private growers for use in oyster or clam
23 cultivation on bona fide leases and grants. No profit shall
24 accrue to the department in these transactions, and shells are
25 to be sold for the estimated moneys spent by the department to
26 gather and stockpile the shells. Planting of shells obtained
27 from the department by purchase shall be subject to the
28 conditions set forth in the lease agreement or in the written
29 approval as issued by the department. Any shells not claimed
30 and used by private oyster cultivators 10 years after shells

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1 are gathered and stockpiled may be sold at auction to the
2 highest bidder for any private use.

3 (b) Whenever the department determines that it is
4 unfeasible to collect oyster or clam shells, the shells become
5 the property of the producer.

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

13 (d) Moneys derived from the sale of shell shall be
14 deposited in the General Inspection Trust Fund for shellfish
15 programs.

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

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

31

1 directed to lend its cooperation to the department, to make
2 available its laboratory testing facilities and apparatus.

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

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

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

21 Section 32. Section 370.071, Florida Statutes, is
22 transferred, renumbered as section 597.020, Florida Statutes,
23 and amended to read:

24 597.020 ~~370.071~~ Shellfish processors; regulation.--

25 (1) The department ~~of Agriculture and Consumer~~
26 ~~Services, hereinafter referred to as department,~~is authorized
27 to adopt by rule regulations, specifications, and codes
28 relating to sanitary practices for catching, cultivating,
29 handling, processing, packaging, preserving, canning, smoking,
30 and storing of oysters, clams, mussels, scallops,and crabs.
31 The department is also authorized to license shellfish

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

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

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

29 Section 33. Subsection (13) of section 190.003,
30 Florida Statutes, is amended to read:

31

1 190.003 Definitions.--As used in this chapter, the
2 term:

3 (13) "Landowner" means the owner of a freehold estate
4 as appears by the deed record, including a trustee, a private
5 corporation, and an owner of a condominium unit; it does not
6 include a reversioner, remainderman, mortgagee, or any
7 governmental entity, who shall not be counted and need not be
8 notified of proceedings under this act. Landowner shall also
9 mean the owner of a ground lease from a governmental entity,
10 which leasehold interest has a remaining term, excluding all
11 renewal options, in excess of 50 years.

12 Section 34. Paragraph (a) of subsection (1) of section
13 190.005, Florida Statutes, is amended to read:

14 190.005 Establishment of district.--

15 (1) The exclusive and uniform method for the
16 establishment of a community development district with a size
17 of 1,000 acres or more shall be pursuant to a rule, adopted
18 under chapter 120 by the Florida Land and Water Adjudicatory
19 Commission, granting a petition for the establishment of a
20 community development district.

21 (a) A petition for the establishment of a community
22 development district shall be filed by the petitioner with the
23 Florida Land and Water Adjudicatory Commission. The petition
24 shall contain:

25 1. A metes and bounds description of the external
26 boundaries of the district. Any real property within the
27 external boundaries of the district which is to be excluded
28 from the district shall be specifically described, and the
29 last known address of all owners of such real property shall
30 be listed. The petition shall also address the impact of the
31 proposed district on any real property within the external

1 boundaries of the district which is to be excluded from the
2 district.

3 2. The written consent to the establishment of the
4 district by all landowners whose ~~the owner or owners of 100~~
5 ~~percent of the~~ real property is to be included in the district
6 or documentation demonstrating that the petitioner has control
7 by deed, trust agreement, contract, or option of 100 percent
8 of the real property to be included in the district, and when
9 real property to be included in the district is owned by a
10 governmental entity and subject to a ground lease as described
11 in s. 190.003(13), the written consent by such governmental
12 entity.

13 3. A designation of five persons to be the initial
14 members of the board of supervisors, who shall serve in that
15 office until replaced by elected members as provided in s.
16 190.006.

17 4. The proposed name of the district.

18 5. A map of the proposed district showing current
19 major trunk water mains and sewer interceptors and outfalls if
20 in existence.

21 6. Based upon available data, the proposed timetable
22 for construction of the district services and the estimated
23 cost of constructing the proposed services. These estimates
24 shall be submitted in good faith but shall not be binding and
25 may be subject to change.

26 7. A designation of the future general distribution,
27 location, and extent of public and private uses of land
28 proposed for the area within the district by the future land
29 use plan element of the effective local government
30 comprehensive plan of which all mandatory elements have been
31 adopted by the applicable general-purpose local government in

1 compliance with the Local Government Comprehensive Planning
2 and Land Development Regulation Act.

3 8. A statement of estimated regulatory costs in
4 accordance with the requirements of s. 120.541.

5 Section 35. Subsection (10) is added to section
6 190.021, Florida Statutes, to read:

7 190.021 Taxes; non-ad valorem assessments.--

8 (10) LAND OWNED BY GOVERNMENTAL ENTITY.--Except as
9 otherwise provided by law, no levy of ad valorem taxes or
10 non-ad valorem assessments under this chapter, or chapter 170,
11 197 or otherwise, by a board of a district on property of a
12 governmental entity that is subject to a ground lease as
13 described in s. 190.003(13), shall constitute a lien or
14 encumbrance on the underlying fee interest of such
15 governmental entity.

16 Section 36. Paragraphs (b) and (i) of subsection (2)
17 and subsection (5) of section 370.021, Florida Statutes, are
18 amended, and paragraph (o) is added to subsection (2) of that
19 section to read:

20 370.021 Administration; rules, publications, records;
21 penalties; injunctions.--

22 (2) MAJOR VIOLATIONS.--In addition to the penalties
23 provided in paragraphs (1)(a) and (b), the court shall assess
24 additional penalties against any person, firm, or corporation
25 convicted of major violations as follows:

26 (b) For a violation involving the taking or harvesting
27 of shrimp from a nursery or other prohibited area, or any two
28 violations within a 12-month period involving shrimping gear,
29 minimum size (count), or season, an additional penalty of \$10
30 for each pound of illegal shrimp or part thereof.

31

1 (i) Permits issued to any person, firm, or corporation
2 by the commission to take or harvest saltwater products, or
3 any license issued pursuant to s. 370.06 or s. 370.07 may be
4 suspended or revoked by the commission, pursuant to the
5 provisions and procedures of s. 120.60, for any major
6 violation prescribed in this subsection:

7 1. Upon a first conviction for a major violation, for
8 up to 30 calendar days.

9 ~~2.1.~~ Upon a second conviction for a violation which
10 occurs within 12 months after a prior violation, for up to 90
11 calendar ~~60~~ days.

12 ~~3.2.~~ Upon a third conviction for a violation which
13 occurs within 24 months after a prior violation, for up to 180
14 calendar days.

15 ~~4.3.~~ Upon a fourth conviction for a violation which
16 occurs within 36 months after a prior violation, for a period
17 of 6 months to 3 years.

18 (o) For a violation involving the taking or harvesting
19 of any marine life species, as those species are defined by
20 rule of the commission, the harvest of which is prohibited, or
21 the taking or harvesting of such a species out of season, or
22 with an illegal gear or chemical, or any violation involving
23 the possession of 25 or more individual specimens of marine
24 life species, or any combination of violations in any 3-year
25 period involving more than 70 such specimens in the aggregate,
26 the suspension or revocation of the license holder's marine
27 life endorsement as provided in paragraph (i).

28 (5) BUYING SALTWATER PRODUCTS FROM UNLICENSED
29 SELLER.--In addition to being subject to other penalties
30 provided in this chapter, any violation of s. 370.06 or s.
31 370.07, or rules of the commission implementing s. 370.06 or

1 s. 370.07, involving the purchase of ~~buying~~ saltwater products
2 by a commercial wholesale dealer, retail dealer, or restaurant
3 facility for public consumption from an unlicensed person,
4 firm, or corporation, or the sale of saltwater products by an
5 unlicensed person, firm, or corporation, shall be a major
6 violation, and the commission may assess the following
7 penalties:

8 (a) For a first violation, the commission may assess a
9 civil penalty of up to \$2,500 and may suspend the wholesale or
10 retail dealer's license privileges for up to 90 calendar days.

11 (b) For a second violation occurring within 12 months
12 of a prior violation, the commission may assess a civil
13 penalty of up to \$5,000 and may suspend the wholesale or
14 retail dealer's license privileges for up to 180 calendar
15 days.

16 (c) For a third or subsequent violation occurring
17 within a 24-month period, the commission shall assess a civil
18 penalty of \$5,000 and shall suspend the wholesale or retail
19 dealer's license privileges for up to 24 months.

20
21 Any proceeds from the civil penalties assessed pursuant to
22 this subsection shall be deposited into the Marine Resources
23 Conservation Trust Fund and shall be used as follows: 40
24 percent for administration and processing purposes and 60
25 percent for law enforcement purposes.

26 Section 37. Subsection (8) of section 370.06, Florida
27 Statutes, is amended, and subsection (9) is added to that
28 section, to read:

29 370.06 Licenses.--

30 (8) COLLECTION OF LICENSES, FEES.--Unless otherwise
31 provided by law, all license taxes or fees provided for in

1 this chapter shall be collected by the commission or its duly
2 authorized agents or deputies to be deposited by the
3 Comptroller in the Marine Resources Conservation Trust Fund.
4 The commission may by rule establish a reasonable processing
5 fee for any free license or permit required under this
6 chapter. The commission is authorized to accept payment by
7 credit card for fees, fines, and civil penalties levied
8 pursuant to this chapter.

9 (9) DENIAL OF LICENSE RENEWAL OR ISSUANCE.--The
10 commission shall deny the renewal or issuance of any saltwater
11 products license, wholesale dealer license, or retail dealer
12 license to anyone that has unpaid fees, civil assessments, or
13 fines owed to the commission.

14 Section 38. Section 370.13, Florida Statutes, is
15 amended to read:

16 (Substantial rewording of section. See
17 s. 370.13, F.S., for present text.)

18 370.13 Stone crab; regulation.--

19 (1) FEES AND EQUITABLE RENT.--

20 (a) Endorsement fee.--The fee for a stone crab
21 endorsement for the taking of stone crabs as required by rule
22 of the Fish and Wildlife Conservation Commission, is \$125, \$25
23 of which must be used solely for trap retrieval under s.
24 370.143.

25 (b) Certificate fees.--

26 1. For each trap certificate issued by the commission
27 under the requirements of the stone crab trap limitation
28 program established by commission rule, there is an annual fee
29 of \$.50 per certificate. Replacement tags for lost or damaged
30 tags cost \$.50 each, except that tags lost in the event of a
31 major natural disaster declared as an emergency disaster by

1 the Governor shall be replaced for the cost of the tag as
2 incurred by the commission.

3 2. Except for transfers to eligible crew members as
4 determined according to criteria established by rule of the
5 commission, the fee for transferring certificates is \$2 per
6 certificate transferred to be paid by the purchaser of the
7 certificate or certificates. The transfer fee for eligible
8 crew members is \$1 per certificate. Payment must be made by
9 money order or cashier's check, submitted with the certificate
10 transfer form developed by the commission. In addition to the
11 transfer fee, a surcharge of \$2 per certificate transferred,
12 or 25 percent of the actual value of the transferred
13 certificate, whichever is greater, will be assessed the first
14 time a certificate is transferred outside the original
15 holder's immediate family. Transfer fees and surcharges only
16 apply to the actual number of certificates received by the
17 purchaser. A transfer of a certificate is not effective until
18 the commission receives a notarized copy of the bill of sale
19 as proof of the actual value of the transferred certificate or
20 certificates, which must also be submitted with the transfer
21 form and payment. A transfer fee will not be assessed or
22 required when the transfer is within a family as a result of
23 the death or disability of the certificate owner. A surcharge
24 will not be assessed for any transfer within an individual's
25 immediate family.

26 (c) Incidental take endorsement.--The cost of an
27 incidental take endorsement, as established by commission
28 rule, is \$25.

29 (d) Equitable rent.--The commission may establish by
30 rule an amount of equitable rent per trap certificate that may
31 be recovered as partial compensation to the state for the

1 enhanced access to its natural resources. In determining
2 whether to establish such a rent and the amount thereof, the
3 commission may consider the amount of revenues annually
4 generated by endorsement fees, trap certificate fees, transfer
5 fees, surcharges, replacement trap tag fees, trap retrieval
6 fees, incidental take endorsement fees, and the continued
7 economic viability of the commercial stone crab industry.
8 Final approval of such a rule shall be by the Governor and
9 Cabinet sitting as the Board of Trustees of the Internal
10 Improvement Trust Fund.

11 (e) Disposition of fees, surcharges, civil penalties
12 and fines, and equitable rent.--Endorsement fees, trap
13 certificate fees, transfer fees, civil penalties and fines,
14 surcharges, replacement trap tag fees, trap retrieval fees,
15 incidental take endorsement fees, and equitable rent, if any,
16 must be deposited in the Marine Resources Conservation Trust
17 Fund. Not more than 50 percent of the revenues generated
18 under this section may be used for operation and
19 administration of the stone crab trap limitation program. The
20 remaining revenues generated under this program are to be used
21 for trap retrieval, management of the stone crab fishery,
22 public education activities, evaluation of the impact of trap
23 reductions on the stone crab fishery, and enforcement
24 activities in support of the stone crab trap limitation
25 program.

26 (f) Program to be self-supporting.--The stone crab
27 trap limitation program is intended to be a self-supporting
28 program funded from proceeds generated under this section.

29 (g) No vested rights.--The stone crab trap limitation
30 program does not create any vested rights for endorsement or
31 certificateholders and may be altered or terminated by the

1 commission as necessary to protect the stone crab resource,
2 the participants in the fishery, or the public interest.

3 (2) PENALTIES.--For purposes of this subsection,
4 conviction is any disposition other than acquittal or
5 dismissal, regardless of whether the violation was adjudicated
6 under any state or federal law.

7 (a) In addition to any other penalties provided in s.
8 370.021, for any person, firm, or corporation who violates
9 Rule 68B-13.010(2), F.A.C., or Rule 68B-13.011(5), (6), (7),
10 (8), or (11), F.A.C., the following administrative penalties
11 apply.

12 1. For a first violation, the commission shall assess
13 an administrative penalty of up to \$1,000 and the stone crab
14 endorsement under which the violation was committed may be
15 suspended for the remainder of the current license year.

16 2. For a second violation that occurs within 24 months
17 of any previous such violation, the commission shall assess an
18 administrative penalty of up to \$2,000 and the stone crab
19 endorsement under which the violation was committed may be
20 suspended for 12 calendar months.

21 3. For a third violation that occurs within 36 months
22 of any previous two such violations, the commission shall
23 assess an administrative penalty of up to \$5,000 and the stone
24 crab endorsement under which the violation was committed may
25 be suspended for 24 calendar months.

26 4. A fourth violation that occurs within 48 months of
27 any three previous such violations, shall result in permanent
28 revocation of all of the violator's saltwater fishing
29 privileges, including having the commission proceed against
30 the endorsement holder's saltwater products license in
31 accordance with s. 370.021.

1
2 Any person assessed an administrative penalty under this
3 paragraph shall, within 30 calendar days after notification,
4 pay the administrative penalty to the commission, or request
5 an administrative hearing under s. 120.569 and s. 120.57. The
6 proceeds of all administrative penalties collected under this
7 paragraph shall be deposited in the Marine Resource
8 Conservation Trust Fund.

9 (b) It is unlawful for any person to remove the
10 contents of another harvester's trap without the express
11 written consent of the trap owner available for immediate
12 inspection. Such unauthorized removal constitutes theft. Any
13 person convicted of theft from a trap shall, in addition to
14 the penalties specified in s. 370.021 and the provisions of
15 this section, permanently lose all his or her saltwater
16 fishing privileges, including saltwater products licenses,
17 stone crab or incidental take endorsements, and all trap
18 certificates allotted to him or her by the commission. In such
19 cases, trap certificates and endorsements are nontransferable.
20 In addition, any person, firm, or corporation convicted of
21 violating the prohibitions referenced in this paragraph shall
22 also be assessed an administrative penalty of up to \$5,000.
23 Immediately upon receiving a citation for a violation
24 involving theft from a trap and until adjudicated for such a
25 violation, or if convicted of such a violation, the violator
26 is prohibited from transferring any stone crab or lobster
27 certificates.

28 (c) Any person, firm, or corporation convicted of
29 violating commission rules that prohibit any of the following,
30 commits a felony of the third degree, punishable as provided
31 in s. 775.082, s. 775.083, or s. 775.084.

1 1. The willful molestation of any stone crab trap,
2 line, or buoy that is the property of any licenseholder,
3 without the permission of that licenseholder.

4 2. The bartering, trading, or sale, or conspiring or
5 aiding in such barter, trade, or sale, or supplying, agreeing
6 to supply, aiding in supplying, or giving away stone crab trap
7 tags or certificates unless the action is duly authorized by
8 the commission as provided by commission rules.

9 3. The making, altering, forging, counterfeiting, or
10 reproducing of stone crab trap tags.

11 4. Possession of forged, counterfeit, or imitation
12 stone crab trap tags.

13 5. Engaging in the commercial harvest of stone crabs
14 during the time either of the endorsements is under suspension
15 or revocation.

16
17 In addition, any person, firm, or corporation convicted of
18 violating this paragraph shall also be assessed an
19 administrative penalty of up to \$5,000, and the incidental
20 take endorsement and/or the stone crab endorsement under which
21 the violation was committed may be suspended for up to 24
22 calendar months. Immediately upon receiving a citation
23 involving a violation of this paragraph and until adjudicated
24 for such a violation, or if convicted of such a violation, the
25 person, firm, or corporation committing the violation is
26 prohibited from transferring any stone crab certificates or
27 endorsements.

28 (d) For any person, firm, or corporation convicted of
29 fraudulently reporting the actual value of transferred stone
30 crab certificates, the commission may automatically suspend or
31 permanently revoke the seller's or the purchaser's stone crab

1 endorsements. If the endorsement is permanently revoked, the
2 commission shall also permanently deactivate the endorsement
3 holder's stone crab certificate accounts. Whether an
4 endorsement is suspended or revoked, the commission may also
5 levy a fine against the holder of the endorsement of up to
6 twice the appropriate surcharge to be paid based on the fair
7 market value of the transferred certificates.

8 (e) During any period of suspension or revocation of
9 an endorsement holder's endorsement, he or she shall remove
10 all traps subject to that endorsement from the water within 15
11 days after notice provided by the commission. Failure to do so
12 will extend the period of suspension or revocation for an
13 additional 6 calendar months.

14 (f) An endorsement will not be renewed until all fees
15 and administrative penalties imposed under this section are
16 paid.

17 (3) DEPREDATION ENDORSEMENTS.--The Fish and Wildlife
18 Conservation Commission shall issue a depredation endorsement
19 on the saltwater products license, which shall entitle the
20 license holder to possess and use up to 75 stone crab traps
21 and up to 75 blue crab traps, notwithstanding any other
22 provisions of law, for the incidental take of destructive or
23 nuisance stone crabs or blue crabs within 1 mile of
24 aquaculture shellfish beds. Any marine aquaculture producer
25 as defined by s. 370.26 who raises shellfish may obtain a
26 depredation endorsement by providing an aquaculture
27 registration certificate to the commission. No stone crabs or
28 blue crabs taken under this subsection may be sold or offered
29 for sale.

30 Section 39. Subsection (1) of section 370.135, Florida
31 Statutes, is amended to read:

1 370.135 Blue crab; regulation.--
2 (1) No person, firm, or corporation shall transport on
3 the water, fish with or cause to be fished with, set, or place
4 any trap designed for taking blue crabs unless such person,
5 firm, or corporation is the holder of a valid saltwater
6 products license issued pursuant to s. 370.06 and the trap has
7 a current state number permanently attached to the buoy. The
8 trap number shall be affixed in legible figures at least 1
9 inch high on each buoy used. The saltwater products license
10 must be on board the boat, and both the license and the crabs
11 shall be subject to inspection at all times. Only one trap
12 number may be issued for each boat by the commission upon
13 receipt of an application on forms prescribed by it. This
14 subsection shall not apply to an individual fishing with no
15 more than five traps. It is a felony of the third degree,
16 punishable as provided in s. 775.082, s. 775.083, or s.
17 775.084, for any person willfully to molest any traps, lines,
18 or buoys, as defined herein, belonging to another without
19 permission of the licenseholder. It is unlawful for any person
20 to remove the contents of another harvester's trap without the
21 express written consent of the trap owner available for
22 immediate inspection. Such unauthorized removal constitutes
23 theft. Any person convicted of theft from a trap shall, in
24 addition to the penalties specified in s. 370.021 and the
25 provisions of this section, permanently lose all his or her
26 saltwater fishing privileges including his or her saltwater
27 products license and blue crab endorsement. In such cases
28 endorsements are nontransferable. In addition, any person,
29 firm, or corporation convicted of violating this paragraph
30 shall also be assessed an administrative penalty of up to
31 \$5,000. Immediately upon receiving a citation for a violation

1 involving theft from a trap and until adjudicated for such a
2 violation, or if convicted of such a violation, the person,
3 firm, or corporation committing the violation is prohibited
4 from transferring any blue crab endorsements.

5 Section 40. Subsection (2) of section 370.14, Florida
6 Statutes, is amended to read:

7 370.14 Crawfish; regulation.--

8 (2)(a) Each trap used for taking or attempting to take
9 crawfish must have a trap number permanently attached to the
10 trap and the buoy. This trap number may be issued by the Fish
11 and Wildlife Conservation Commission upon the receipt of
12 application by the owner of the traps and accompanied by the
13 payment of a fee of \$100. The design of the applications and
14 of the trap number shall be determined by the commission. Any
15 trap or device used in taking or attempting to take crawfish,
16 other than a trap with the trap number attached as prescribed
17 in this paragraph, shall be seized and destroyed by the
18 commission. The proceeds of the fees imposed by this paragraph
19 shall be deposited and used as provided in paragraph (b). The
20 commission may adopt ~~is authorized to promulgate rules and~~
21 ~~regulations~~ to carry out the intent of this section.

22 (b) Fees collected pursuant to paragraph (a) shall be
23 deposited as follows:

24 1. Fifty percent of the fees collected shall be
25 deposited in the Marine Resources Conservation Trust Fund for
26 use in enforcing the provisions of paragraph (a) through
27 aerial and other surveillance and trap retrieval.

28 2. Fifty percent of the fees collected shall be
29 deposited as provided in s. 370.142(6)~~s. 370.142(5)~~.

30 Section 41. Subsection (2) of section 370.142, Florida
31 Statutes, is amended, to read:

1 370.142 Spiny lobster trap certificate program.--
2 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;
3 PENALTIES.--The Fish and Wildlife Conservation Commission
4 shall establish a trap certificate program for the spiny
5 lobster fishery of this state and shall be responsible for its
6 administration and enforcement as follows:

7 (a) Transferable trap certificates.--Each holder of a
8 saltwater products license who uses traps for taking or
9 attempting to take spiny lobsters shall be required to have a
10 certificate on record for each trap possessed or used
11 therefor, except as otherwise provided in this section.

12 1. The Department of Environmental Protection shall
13 initially allot such certificates to each licenseholder with a
14 current crawfish trap number who uses traps. The number of
15 such certificates allotted to each such licenseholder shall be
16 based on the trap/catch coefficient established pursuant to
17 trip ticket records generated under the provisions of s.
18 370.06(2)(a) over a 3-year base period ending June 30, 1991.
19 The trap/catch coefficient shall be calculated by dividing the
20 sum of the highest reported single license-year landings up to
21 a maximum of 30,000 pounds for each such licenseholder during
22 the base period by 700,000. Each such licenseholder shall then
23 be allotted the number of certificates derived by dividing his
24 or her highest reported single license-year landings up to a
25 maximum of 30,000 pounds during the base period by the
26 trap/catch coefficient. Nevertheless, no licenseholder with a
27 current crawfish trap number shall be allotted fewer than 10
28 certificates. However, certificates may only be issued to
29 individuals; therefore, all licenseholders other than
30 individual licenseholders shall designate the individual or
31 individuals to whom their certificates will be allotted and

1 the number thereof to each, if more than one. After initial
2 issuance, trap certificates are transferable on a market basis
3 and may be transferred from one licenseholder to another for a
4 fair market value agreed upon between the transferor and
5 transferee. Each such transfer shall, within 72 hours thereof,
6 be recorded on a notarized form provided for that purpose by
7 the Fish and Wildlife Conservation Commission and hand
8 delivered or sent by certified mail, return receipt requested,
9 to the commission for recordkeeping purposes. In addition, in
10 order to cover the added administrative costs of the program
11 and to recover an equitable natural resource rent for the
12 people of the state, a transfer fee of \$2 per certificate
13 transferred shall be assessed against the purchasing
14 licenseholder and sent by money order or cashier's check with
15 the certificate transfer form. Also, in addition to the
16 transfer fee, a surcharge of \$5 per certificate transferred or
17 25 percent of the actual market value, whichever is greater,
18 given to the transferor shall be assessed the first time a
19 certificate is transferred outside the original transferor's
20 immediate family. No transfer of a certificate shall be
21 effective until the commission receives the notarized transfer
22 form and the transfer fee, including any surcharge, is paid.
23 The commission may establish by rule an amount of equitable
24 rent per trap certificate that shall be recovered as partial
25 compensation to the state for the enhanced access to its
26 natural resources. Final approval of such a rule shall be by
27 the Governor and Cabinet sitting as the Board of Trustees of
28 the Internal Improvement Trust Fund.In determining whether to
29 establish such a rent and, if so, the amount thereof, the
30 commission shall consider the amount of revenues annually
31 generated by certificate fees, transfer fees, surcharges, trap

1 license fees, and sales taxes, the demonstrated fair market
2 value of transferred certificates, and the continued economic
3 viability of the commercial lobster industry. The proceeds of
4 equitable rent recovered shall be deposited in the Marine
5 Resources Conservation Trust Fund and used by the commission
6 for research, management, and protection of the spiny lobster
7 fishery and habitat. A transfer fee may not be assessed or
8 required when the transfer is within a family as a result of
9 the death or disability of the certificate owner. A surcharge
10 will not be assessed for any transfer within an individual's
11 immediate family.

12 2. No person, firm, corporation, or other business
13 entity may control, directly or indirectly, more than 1.5
14 percent of the total available certificates in any license
15 year.

16 3. The commission shall maintain records of all
17 certificates and their transfers and shall annually provide
18 each licenseholder with a statement of certificates held.

19 4. The number of trap tags issued annually to each
20 licenseholder shall not exceed the number of certificates held
21 by the licenseholder at the time of issuance, and such tags
22 and a statement of certificates held shall be issued
23 simultaneously.

24 5. Beginning July 1, 2003, and applicable to the
25 2003-2004 lobster season and thereafter, it is unlawful for
26 any person to lease lobster trap tags or certificates.

27 (b) Trap tags.--Each trap used to take or attempt to
28 take spiny lobsters in state waters or adjacent federal waters
29 shall, in addition to the crawfish trap number required by s.
30 370.14(2), have affixed thereto an annual trap tag issued by
31 the commission. Each such tag shall be made of durable plastic

1 or similar material and shall, based on the number of
2 certificates held, have stamped thereon the owner's license
3 number. To facilitate enforcement and recordkeeping, such tags
4 shall be issued each year in a color different from that of
5 each of the previous 3 years. The annual certificate fee shall
6 be \$1 per certificate. Replacement tags for lost or damaged
7 tags may be obtained as provided by rule of the commission.

8 (c) Prohibitions; penalties.--

9 1. It is unlawful for a person to possess or use a
10 spiny lobster trap in or on state waters or adjacent federal
11 waters without having affixed thereto the trap tag required by
12 this section. It is unlawful for a person to possess or use
13 any other gear or device designed to attract and enclose or
14 otherwise aid in the taking of spiny lobster by trapping that
15 is not a trap as defined in rule 68B-24.006(2)~~46-24.006(2)~~,
16 Florida Administrative Code.

17 2. It is unlawful for a person to possess or use spiny
18 lobster trap tags without having the necessary number of
19 certificates on record as required by this section.

20 3. It is unlawful for any person to remove the
21 contents of another harvester's trap without the express
22 written consent of the trap owner available for immediate
23 inspection. Such unauthorized removal constitutes theft. Any
24 person convicted of theft from a trap shall, in addition to
25 the penalties specified in ss. 370.021 and 370.14 and the
26 provisions of this section, permanently lose all his or her
27 saltwater fishing privileges, including his or her saltwater
28 products license, crawfish endorsement, and all trap
29 certificates allotted to him or her through this program. In
30 such cases, trap certificates and endorsements are
31 nontransferable. In addition, any person, firm, or corporation

1 convicted of violating this paragraph shall also be assessed
2 an administrative penalty of up to \$5,000. Immediately upon
3 receiving a citation for a violation involving theft from a
4 trap and until adjudicated for such a violation or, if
5 convicted of such a violation, the person, firm, or
6 corporation committing the violation is prohibited from
7 transferring any crawfish trap certificates and endorsements.

8 ~~4.3.~~ In addition to any other penalties provided in s.
9 370.021, a commercial harvester, as defined by rule
10 ~~68B-24.002(1)~~~~46-24.002(1)~~, Florida Administrative Code, who
11 violates the provisions of this section, or the provisions
12 relating to traps of chapter ~~68B-24~~ ~~46-24~~, Florida
13 Administrative Code, shall be punished as follows:

14 a. If the first violation is for violation of
15 subparagraph 1. or subparagraph 2., the commission shall
16 assess an additional civil penalty of up to \$1,000 and the
17 crawfish trap number issued pursuant to s. 370.14(2) or (6)
18 may be suspended for the remainder of the current license
19 year. For all other first violations, the commission shall
20 assess an additional civil penalty of up to \$500.

21 b. For a second violation of subparagraph 1. or
22 subparagraph 2. which occurs within 24 months of any previous
23 such violation, the commission shall assess an additional
24 civil penalty of up to \$2,000 and the crawfish trap number
25 issued pursuant to s. 370.14(2) or (6) may be suspended for
26 the remainder of the current license year.

27 c. For a third or subsequent violation of subparagraph
28 ~~1.~~~~or~~ subparagraph 2., or subparagraph 3.which occurs within
29 36 months of any previous two such violations, the commission
30 shall assess an additional civil penalty of up to \$5,000 and
31 may suspend the crawfish trap number issued pursuant to s.

1 370.14(2) or (6) for a period of up to 24 months or may revoke
2 the crawfish trap number and, if revoking the crawfish trap
3 number, may also proceed against the licenseholder's saltwater
4 products license in accordance with the provisions of s.
5 370.021(2)(i).

6 d. Any person assessed an additional civil penalty
7 pursuant to this section shall within 30 calendar days after
8 notification:

9 (I) Pay the civil penalty to the commission; or

10 (II) Request an administrative hearing pursuant to the
11 provisions of s. 120.60.

12 e. The commission shall suspend the crawfish trap
13 number issued pursuant to s. 370.14(2) or (6) for any person
14 failing to comply with the provisions of sub-subparagraph d.

15 5.4.a. It is unlawful for any person to make, alter,
16 forge, counterfeit, or reproduce a spiny lobster trap tag or
17 certificate.

18 b. It is unlawful for any person to knowingly have in
19 his or her possession a forged, counterfeit, or imitation
20 spiny lobster trap tag or certificate.

21 c. It is unlawful for any person to barter, trade,
22 sell, supply, agree to supply, aid in supplying, or give away
23 a spiny lobster trap tag or certificate or to conspire to
24 barter, trade, sell, supply, aid in supplying, or give away a
25 spiny lobster trap tag or certificate unless such action is
26 duly authorized by the commission as provided in this chapter
27 or in the rules of the commission.

28 6.5.a. Any person who violates the provisions of
29 subparagraph 5.~~subparagraph 4~~, or any person who engages in
30 the commercial harvest, trapping, or possession of spiny
31 lobster without a crawfish trap number as required by s.

1 370.14(2) or (6) or during any period while such crawfish trap
2 number is under suspension or revocation, commits a felony of
3 the third degree, punishable as provided in s. 775.082, s.
4 775.083, or s. 775.084.

5 b. In addition to any penalty imposed pursuant to
6 sub-subparagraph a., the commission shall levy a fine of up to
7 twice the amount of the appropriate surcharge to be paid on
8 the fair market value of the transferred certificates, as
9 provided in subparagraph (a)1., on any person who violates the
10 provisions of sub-subparagraph 5.c ~~4.c~~.

11 ~~7.6.~~ Any certificates for which the annual certificate
12 fee is not paid for a period of 3 years shall be considered
13 abandoned and shall revert to the commission. During any
14 period of trap reduction, any certificates reverting to the
15 commission shall become permanently unavailable and be
16 considered in that amount to be reduced during the next
17 license-year period. Otherwise, any certificates that revert
18 to the commission are to be reallocated in such manner as
19 provided by the commission.

20 ~~8.7.~~ The proceeds of all civil penalties collected
21 pursuant to subparagraph 4. ~~subparagraph 3.~~ and all fines
22 collected pursuant to sub-subparagraph 6.b. ~~sub-subparagraph~~
23 ~~5.b.~~ shall be deposited into the Marine Resources Conservation
24 Trust Fund.

25 ~~9.8.~~ All traps shall be removed from the water during
26 any period of suspension or revocation.

27 (d) No vested rights.--The trap certificate program
28 shall not create vested rights in licenseholders whatsoever
29 and may be altered or terminated as necessary to protect the
30 spiny lobster resource, the participants in the fishery, or
31 the public interest.

1 Section 42. Subsections (2), (3), and (4) of section
2 370.143, Florida Statutes, are amended to read:

3 370.143 Retrieval of lobster and stone crab traps
4 during closed season; commission authority; fees.--

5 (2) A retrieval fee of \$10 per trap retrieved shall be
6 assessed trap owners. However, for persons holding a stone
7 crab endorsement issued under rule of the Fish and Wildlife
8 Conservation Commission, the retrieval fee shall be waived for
9 the first five traps retrieved. Traps recovered under this
10 program shall become the property of the commission or its
11 contract agent, as determined by the commission, and shall be
12 either destroyed or resold to the original owner. Revenue
13 from retrieval fees shall be deposited in the Marine Resources
14 Conservation Trust Fund and used solely for operation of the
15 trap retrieval program.

16 (3) Payment of all ~~the~~ assessed retrieval fees ~~fee~~
17 shall be required prior to renewal of the trap owner's
18 saltwater products license and stone crab and or crawfish
19 endorsements ~~trap number as a condition of number renewal.~~
20 Retrieval fees assessed under this program shall stand in lieu
21 of other penalties imposed for such trap violations.

22 (4) In the event of a major natural disaster in an
23 area declared by the Governor to be a disaster emergency area,
24 such as a hurricane or major storm causing massive trap
25 losses, the commission shall waive the trap retrieval fee.

26 Section 43. Subsection (4) of section 370.15, Florida
27 Statutes, is amended to read:

28 370.15 Shrimp; regulation.--

29 (4) SHRIMP TRAWLING.--All persons, firms, and
30 corporations desiring to trawl for shrimp within areas in
31 which trawling is permitted shall ~~have a noncommercial trawl~~

1 ~~or net registration or~~ purchase a saltwater products license
2 issued to a valid boat registration or in the name of an
3 individual pursuant to s. 370.06. The saltwater products
4 license shall remain on board at all times and is subject to
5 immediate revocation upon conviction for violation of this
6 section or when it becomes apparent that the best interests of
7 saltwater conservation will be served by such action. ~~A~~
8 ~~noncommercial trawl or net registration must be issued to each~~
9 ~~net used to take shrimp for noncommercial purposes. Such net~~
10 ~~or trawl shall have a corkline measurement of 16 feet or less.~~
11 ~~Possession of shrimp under a noncommercial registration is~~
12 ~~limited to 25 pounds while on the water.~~ Due to the varied
13 habitats and types of bottoms and hydrographic conditions
14 embraced by the open fishing area, the commission shall have
15 the authority to specify and regulate the types of gear that
16 may be used in the different sections of the open areas.

17 Section 44. Subsections (4) and (5) of section
18 370.153, Florida Statutes, are amended to read:

19 370.153 Regulation of shrimp fishing; Clay, Duval,
20 Nassau, Putnam, Flagler, and St. Johns Counties.--

21 (4) DEAD SHRIMP PRODUCTION.--Any person may operate as
22 a commercial dead shrimp producer provided that:

23 (a) A dead shrimp production permit is procured from
24 the Fish and Wildlife Conservation Commission upon the receipt
25 by the commission of a properly filled out and approved
26 application by a person intending to use a boat, not to exceed
27 35 feet in length in Duval, St. Johns, Putnam, and Clay
28 Counties, and not to exceed 45 feet in length in Nassau
29 County, for dead shrimp production within the inland waters of
30 Nassau County and the inland waters of the St. Johns River of
31 Duval, Putnam, St. Johns, Flagler, or Clay Counties, which

1 permit shall cost \$250 and shall be required for each vessel
2 used for dead shrimp production. The design of the application
3 and permit shall be determined by the Fish and Wildlife
4 Conservation Commission. The proceeds of the fees imposed by
5 this paragraph shall be deposited into the account of the
6 Marine Resources Conservation Trust Fund to be used by the
7 commission for the purpose of enforcement of marine resource
8 laws.

9 (b) All commercial trawling in the St. Johns River
10 proper shall be restricted to the area north of the Acosta
11 Bridge in Jacksonville and at least 100 yards from the nearest
12 shoreline.

13 (c) All commercial shrimping activities shall be
14 allowed during daylight hours from Tuesday through Friday each
15 week.

16 (d) No person holding a dead shrimp production permit
17 issued pursuant to this subsection shall simultaneously hold a
18 permit for noncommercial trawling under the provisions of
19 subsection (5). The number of permits issued by the
20 commission for commercial trawling or dead shrimp production
21 in any one year shall be limited to those active ~~the number~~
22 ~~issued~~ in the base year, 1976, and renewed annually since
23 1976. All permits for dead shrimp production issued pursuant
24 to this section shall be inheritable or transferable to an
25 immediate family member and annually renewable by the holder
26 thereof. Such inheritance or transfer shall be valid upon
27 being registered with the commission. Each permit ~~All permits~~
28 not renewed shall expire and shall not be renewed under any
29 circumstances.

30 (e) It is illegal for any person to sell dead shrimp
31 caught in the inland waters of Nassau, Duval, Clay, Putnam,

1 and St. Johns Counties, unless the seller is in possession of
2 a dead shrimp production license issued pursuant to this
3 subsection.

4 (f) It is illegal for any person to purchase shrimp
5 for consumption or bait from any seller (with respect to
6 shrimp caught in the inland waters of Nassau, Duval, Clay,
7 Putnam, and St. Johns Counties (St. Johns River)) who does not
8 produce his or her dead shrimp production license prior to the
9 sale of the shrimp.

10 (g) In addition to any other penalties provided for in
11 this section, any person who violates the provisions of this
12 subsection shall have his or her license revoked by the
13 commission.

14 (h) The commission shall rename the Dead Shrimp
15 Production License as the Commercial Food Shrimp Production
16 License.

17 (5) NONCOMMERCIAL TRAWLING.--If noncommercial trawling
18 is authorized by the Fish and Wildlife Conservation
19 Commission, any person may trawl for harvest shrimp in the St.
20 Johns River for his or her own use as food ~~and may trawl for~~
21 ~~such shrimp~~ under the following conditions:

22 (a) Each person who desires to trawl for shrimp for
23 use as food shall obtain a noncommercial trawling permit from
24 the local office of the Fish and Wildlife Conservation
25 Commission upon filling out an application on a form
26 prescribed by the commission and upon paying a fee for the
27 permit, which shall cost \$50.

28 (b) All trawling shall be restricted to the confines
29 of the St. Johns River proper in the area north of the Acosta
30 Bridge in Jacksonville and at least 100 yards from the nearest
31 shoreline.

1 (c) No shrimp caught by a person licensed under the
2 provisions of this subsection may be sold or offered for sale.

3 Section 45. Section 370.25, Florida Statutes, is
4 amended to read:

5 (Substantial rewording of section. See
6 s. 370.25, F.S., for present text.)

7 370.25 Artificial reef program; grants and financial
8 and technical assistance to local governments.--

9 (1) An artificial reef program is created within the
10 Fish and Wildlife Conservation Commission to enhance saltwater
11 opportunities and to promote proper management of fisheries
12 resources associated with artificial reefs for the public
13 interest. Under the program, the commission may provide grants
14 and financial and technical assistance to coastal local
15 governments and nonprofit corporations qualified under s.
16 501(c)(3) of the Internal Revenue Code for the siting and
17 development of artificial reefs as well as for monitoring and
18 evaluating their recreational, economic, and biological
19 effectiveness. The program may be funded from state, federal,
20 and private contributions.

21 (2) The commission may adopt by rule procedures for
22 submitting an application for financial assistance and
23 criteria for allocating available funds.

24 (3) The commission may adopt by rule criteria for
25 siting, constructing, managing, and evaluating the
26 effectiveness of artificial reefs placed in state or adjacent
27 federal waters, consistent with this section.

28 (4) The commission may adopt by rule criteria for
29 determining the eligibility of nonprofit corporations
30 qualified under s. 501(c)(3) of the Internal Revenue Code to
31 apply for and receive funds available for artificial reef

1 development or evaluation. The criteria must include, but are
2 not limited to, the following:

3 (a) The corporation must show proof that it is a
4 nonprofit corporation qualified under s. 501(c)(3) of the
5 Internal Revenue Code.

6 (b) The corporation must state in its articles of
7 incorporation or bylaws that one of its objectives is the
8 development or monitoring of artificial reefs.

9 (5) The commission's artificial reef program shall
10 track all artificial-reef-development activities statewide,
11 and maintain a computer database of these activities for the
12 public interest and to facilitate long-range planning and
13 coordination within the commission and among local
14 governments.

15 (6) It is unlawful for any person to:

16 (a) Place artificial-reef-construction materials in
17 state water outside zones permitted under the terms and
18 conditions defined in any artificial-reef permits issued by
19 the United States Army Corps of Engineers or by the Fish and
20 Wildlife Conservation Commission.

21 (b) Store, possess, or transport on or across state
22 waters any materials reasonably suited for artificial-reef
23 construction and stored in a manner providing ready access for
24 use and placement as an artificial reef, unless a valid cargo
25 manifest issued by the commission or a commission-certified
26 inspector is onboard the transporting vessel. The manifest
27 will serve as authorization to use a valid permitted site or
28 land-based staging area, will validate that the type of
29 artificial-reef construction material being transported is
30 permissible for use at the permitted site, and will describe
31 and quantify the artificial-reef material being

1 transported. The manifest will also include the latitude and
2 longitude coordinates of the proposed deployment location, the
3 valid permit number, and a copy of the permit conditions for
4 the permitted site. The manifest must be available for
5 inspection by any authorized law enforcement officer or
6 commission employee.

7 (7)(a) An initial violation of subsection (6) is a
8 misdemeanor of the first degree, punishable as provided in s.
9 775.082 or s. 775.083. A subsequent violation of subsection
10 (6) which is committed within 12 months after a previous
11 violation of that subsection is a felony of the third degree,
12 punishable as provided in s. 775.082, s. 775.083, or s.
13 775.084.

14 (b) If a violation of subsection (6) occurs, a law
15 enforcement officer may terminate a vessel's voyage and order
16 the vessel operator to return immediately to port. Failure or
17 refusal to comply with an order to return to port constitutes
18 a felony of the third degree, punishable as provided in s.
19 775.082, s. 775.083, or s. 775.084. The vessel operator must
20 immediately dispose of the materials on shore according to
21 applicable waste disposal laws.

22 (c) If, at the time of the violation, the vessel that
23 is involved in the violation:

24 1. Is moored at a land-based facility, the registered
25 owner of the vessel is responsible for the violation.

26 2. Is underway or anchored, the captain or operator of
27 the vessel and the registered owner of the vessel are jointly
28 responsible for the violation.

29 (d) In addition to the penalties imposed in this
30 subsection, the commission shall assess civil penalties of up
31 to \$5,000 against any person convicted of violating subsection

1 (6) and may seek the suspension or revocation of the vessel
2 registration, existing reef-construction permits, or other
3 state marine licenses held by the violator. For the purposes
4 of this section, conviction includes any judicial disposition
5 other than acquittal or dismissal.

6 Section 46. (1) The sum of \$97,049 is appropriated
7 from the commercial revenues in the Marine Resources
8 Conservation Trust Fund to the Fish and Wildlife Conservation
9 Commission for fiscal year 2000-2001, for four career service
10 positions that are authorized for the commission to implement
11 the stone crab trap limitation program. This appropriation
12 shall be made after funds have been distributed pursuant to
13 section 328.76(2)(b), Florida Statutes.

14 (2) The sum of \$254,408 is appropriated from the
15 commercial revenues in the Marine Resources Conservation Trust
16 Fund to the Fish and Wildlife Conservation Commission for
17 program operation, plus the sum of \$130,000 to cover the cost
18 of stone crab trap tags in fiscal year 2000-2001, in order to
19 implement the stone crab trap limitation program in fiscal
20 year 2001-2002. This appropriation shall be made after funds
21 have been distributed pursuant to section 328.76(2)(b),
22 Florida Statutes.

23 Section 47. Subsection (1) of section 190.012, Florida
24 Statutes, is amended to read:

25 190.012 Special powers; public improvements and
26 community facilities.--The district shall have, and the board
27 may exercise, subject to the regulatory jurisdiction and
28 permitting authority of all applicable governmental bodies,
29 agencies, and special districts having authority with respect
30 to any area included therein, any or all of the following
31

1 special powers relating to public improvements and community
2 facilities authorized by this act:

3 (1) To finance, fund, plan, establish, acquire,
4 construct or reconstruct, enlarge or extend, equip, operate,
5 and maintain systems, facilities, and basic infrastructures
6 for the following:

7 (a) Water management and control for the lands within
8 the district and to connect some or any of such facilities
9 with roads and bridges.

10 (b) Water supply, sewer, and wastewater management,
11 reclamation, and reuse or any combination thereof, and to
12 construct and operate connecting intercepting or outlet sewers
13 and sewer mains and pipes and water mains, conduits, or
14 pipelines in, along, and under any street, alley, highway, or
15 other public place or ways, and to dispose of any effluent,
16 residue, or other byproducts of such system or sewer system.

17 (c) Bridges or culverts that may be needed across any
18 drain, ditch, canal, floodway, holding basin, excavation,
19 public highway, tract, grade, fill, or cut and roadways over
20 levees and embankments, and to construct any and all of such
21 works and improvements across, through, or over any public
22 right-of-way, highway, grade, fill, or cut.

23 (d)1. District roads equal to or exceeding the
24 specifications of the county in which such district roads are
25 located, and street lights.

26 2. Buses, trolleys, transit shelters, ridesharing
27 facilities and services, parking improvements, and related
28 signage.

29 (e) Investigation and remediation costs associated
30 with the cleanup of actual or perceived environmental
31 contamination within the district under the supervision or

1 direction of a competent governmental authority unless the
2 covered costs benefit any person who is a landowner within the
3 district and who caused or contributed to the contamination.

4 (f)~~(e)~~ Conservation areas, mitigation areas, and
5 wildlife habitat, including the maintenance of any plant or
6 animal species, and any related interest in real or personal
7 property.

8 (g)~~(f)~~ Any other project within or without the
9 boundaries of a district when a local government issued a
10 development order pursuant to s. 380.06 or s. 380.061
11 approving or expressly requiring the construction or funding
12 of the project by the district, or when the project is the
13 subject of an agreement between the district and a
14 governmental entity and is consistent with the local
15 government comprehensive plan of the local government within
16 which the project is to be located.

17 Section 48. Notwithstanding any other law, the
18 Legislature intends that this act represent its full and total
19 intent with respect to legislation dealing with the same
20 subject matter as this act at the same legislative session.

21 Section 49. This act shall take effect July 1, 2000.
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