



359846

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2016	.	
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	.	
	.	

The Committee on Agriculture (Dean) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (14) and (17) through (25) of
section 597.010, Florida Statutes, are amended to read:

597.010 Shellfish regulation; leases.-

(14) SHELLFISH DEVELOPMENT.-The department, in cooperation
with the Fish and Wildlife Conservation Commission and the
Department of Environmental Protection, shall protect all clam
beds, oyster beds, shellfish grounds, and oyster reefs from



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12 damage or destruction resulting from improper cultivation,
13 propagation, planting, or harvesting. To this end, the
14 Department of Health is authorized and directed to cooperate
15 with the department and to make available its laboratory testing
16 facilities and apparatus.

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

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

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

29 (17) SHELLFISH HARVESTING FROM SOVEREIGN SUBMERGED LAND
30 LEASES; USE OF DREDGE OR MECHANICAL HARVESTING DEVICE SEASONS;
31 SPECIAL PROVISIONS RELATING TO APALACHICOLA BAY.—

32 (a) As used in this subsection, the term:

33 1. "Dredge or mechanical harvesting device" means a dredge,
34 scrape, rake, drag, or other device that is towed by a vessel or
35 self-propelled and that is used to harvest shellfish. The term
36 does not include handheld or handdrawn hydraulically or
37 mechanically operated devices used to harvest cultured clams
38 from leased sovereign submerged lands, and this subsection does
39 not apply to such handheld or handdrawn devices.

40 2. "Shellfish" means aquaculture oysters, clams, mussels,



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41 and scallops.

42 (b) The harvesting of shellfish from a sovereign submerged
43 land lease may be authorized pursuant to chapter 253.

44 (c) The Board of Trustees of the Internal Improvement Trust
45 Fund may authorize the use of a dredge or mechanical harvesting
46 device as a special lease condition of a sovereign submerged
47 land lease issued under chapter 253 if:

48 1. The use of the dredge or mechanical harvesting device
49 does not adversely impact the public health, safety, and welfare
50 of adjacent natural resources.

51 2. The use of the dredge or mechanical harvesting device is
52 an existing condition of a perpetual shellfish lease issued
53 pursuant to former chapter 370.

54 3. Aquaculture best management practices have been adopted
55 pursuant to chapter 120 which:

56 a. Describe the approved size and specifications of the
57 dredge or mechanical harvesting device to be used.

58 b. Provide conditions for deploying and using an approved
59 dredge or mechanical harvesting device.

60 c. Specify requirements for monitoring potential impacts
61 at, and adjacent to, the sovereign submerged land lease site by
62 the leaseholder.

63 (d) Only one dredge or mechanical harvesting device per
64 lease may be possessed or operated at any time at a lease site.

65 (e) A dredge or mechanical harvesting device authorized by
66 this subsection may not be used for taking shellfish for any
67 purpose from public shellfish beds in waters of the state, and
68 such dredge or mechanical harvesting device may not be possessed
69 on the waters of the state from 5 p.m. until sunrise.



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70 (f) This subsection does not authorize the harvesting of
71 shellfish from natural reefs.

72
73 A violation of this subsection is a violation of the lease
74 agreement and will result in the revocation of all leases held
75 by the violator and denial of any future use of sovereign
76 submerged land.

77 ~~(a) The Fish and Wildlife Conservation Commission shall by~~
78 ~~rule set the noncultured shellfish harvesting seasons in~~
79 ~~Apalachicola Bay.~~

80 ~~(b) If the commission changes the harvesting seasons by~~
81 ~~rule as set forth in this subsection, for 3 years after the new~~
82 ~~rule takes effect, the commission, in cooperation with the~~
83 ~~department, shall monitor the impacts of the new harvesting~~
84 ~~schedule on the bay and on local shellfish harvesters to~~
85 ~~determine whether the new harvesting schedule should be~~
86 ~~discontinued, retained, or modified. In monitoring the new~~
87 ~~schedule and in preparing its report, the following information~~
88 ~~shall be considered:~~

89 ~~1. Whether the bay benefits ecologically from the new~~
90 ~~harvesting schedule.~~

91 ~~2. Whether the new harvesting schedule enhances the~~
92 ~~enforcement of shellfish harvesting laws in the bay.~~

93 ~~3. Whether the new harvesting schedule enhances natural~~
94 ~~shellfish production, oyster relay and planting programs, and~~
95 ~~shell planting programs in the bay.~~

96 ~~4. Whether the new harvesting schedule has more than a~~
97 ~~short term adverse economic impact, if any, on local shellfish~~
98 ~~harvesters.~~



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99 ~~(18) REMOVING OYSTERS, CLAMS, OR MUSSELS FROM NATURAL~~
100 ~~REEFS; LICENSES, ETC.; PENALTY.—~~

101 ~~(a) It is unlawful to use a dredge or any means or~~
102 ~~implement other than hand tongs in removing oysters from the~~
103 ~~natural or artificial state reefs or beds. This restriction~~
104 ~~shall apply to all areas of Apalachicola Bay for all shellfish~~
105 ~~harvesting, excluding private grounds leased or granted by the~~
106 ~~state prior to July 1, 1989, if the lease or grant specifically~~
107 ~~authorizes the use of implements other than hand tongs for~~
108 ~~harvesting. Except in Apalachicola Bay, upon the payment of \$25~~
109 ~~annually, for each vessel or boat using a dredge or machinery in~~
110 ~~the gathering of clams or mussels, a special activity license~~
111 ~~may be issued by the Fish and Wildlife Conservation Commission~~
112 ~~pursuant to subsection (15) or s. 379.361 for such use to such~~
113 ~~person.~~

114 ~~(b) Approval by the department to harvest shellfish by~~
115 ~~dredge or other mechanical means from privately held shellfish~~
116 ~~leases or grants in Apalachicola Bay shall include, but not be~~
117 ~~limited to, the following conditions:~~

118 ~~1. The use of any mechanical harvesting device other than~~
119 ~~ordinary hand tongs for taking shellfish for any purpose from~~
120 ~~public shellfish beds in Apalachicola Bay shall be unlawful.~~

121 ~~2. The possession of any mechanical harvesting device on~~
122 ~~the waters of Apalachicola Bay from 5 p.m. until sunrise shall~~
123 ~~be unlawful.~~

124 ~~3. Leaseholders or grantees shall notify the department no~~
125 ~~less than 48 hours prior to each day's use of a dredge or scrape~~
126 ~~in order for the department to notify the Fish and Wildlife~~
127 ~~Conservation Commission that a mechanical harvesting device will~~



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128 ~~be deployed.~~

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

131 ~~5. Each vessel used for the transport or deployment of a~~
132 ~~dredge or scrape shall prominently display the lease or grant~~
133 ~~number or numbers, in numerals which are at least 12 inches high~~
134 ~~and 6 inches wide, in such a manner that the lease or grant~~
135 ~~number or numbers are readily identifiable from both the air and~~
136 ~~the water.~~

137
138 ~~Any violation of this paragraph or of any other statutes, rules,~~
139 ~~or conditions referenced in the lease agreement shall be~~
140 ~~considered a violation of the license and shall result in~~
141 ~~revocation of the lease or a denial of use or future use of a~~
142 ~~mechanical harvesting device.~~

143 ~~(c) Oysters may be harvested from natural or public or~~
144 ~~private leased or granted grounds by common hand tongs or by~~
145 ~~hand, by scuba diving, free diving, leaning from vessels, or~~
146 ~~wading. In Apalachicola Bay, this provision shall apply to all~~
147 ~~shellfish.~~

148 ~~(18)(19) FISHING FOR RELAYING OR TRANSPLANTING PURPOSES.-~~

149 (a) The department may ~~shall~~ designate areas for the taking
150 of oysters and clams to be planted on ~~leases, grants, and public~~
151 areas. Oysters, clams, and mussels may be taken for relaying or
152 transplanting at any time during the year so long as, in the
153 opinion of the department, the public health will not be
154 endangered. The amount of oysters, clams, and mussels to be
155 obtained for relaying or transplanting shall be established by
156 the Fish and Wildlife Conservation Commission. ~~7~~ The area relayed



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

159 (b) Application for a special activity license issued
160 pursuant to subsection (15) for obtaining oysters, clams, or
161 mussels for relaying from closed public shellfish harvesting
162 areas to open areas or certified controlled purification plants
163 or for transplanting sublegal-sized oysters, clams, or mussels
164 must be made to the department. In return, the department may
165 assign an area and a period of time for the oysters, clams, or
166 mussels to be relayed or transplanted to be taken. All relaying
167 and transplanting operations shall take place under the
168 direction of the department.

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

172 (19)~~(20)~~ OYSTER AND CLAM REHABILITATION.—The board of
173 county commissioners ~~of the several counties~~ may appropriate and
174 expend such sums as it may deem proper for the purpose of
175 planting or transplanting oysters, clams, oyster shell, clam
176 shell, or cultch or to perform such other acts for the
177 enhancement of the oyster and clam industries of the state, out
178 of any sum in the county treasury not otherwise appropriated.

179 ~~(21) DREDGING OF DEAD SHELLS PROHIBITED.—The dredging of~~
180 ~~dead shell deposits is prohibited in the state.~~

181 (20)~~(22)~~ COOPERATION WITH UNITED STATES FISH AND WILDLIFE
182 SERVICE.—The department shall cooperate with the United States
183 Fish and Wildlife Service, under existing federal laws, rules,
184 and regulations, and is authorized to accept donations, grants,
185 and matching funds from the Federal Government in order to carry



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186 out its oyster resource and development responsibilities. The
187 department is further authorized to accept any and all donations
188 including funds, oysters, or oyster shells.

189 (21)~~(23)~~ OYSTER AND CLAM SHELLS PROPERTY OF DEPARTMENT.—

190 (a) Except for oysters used directly in the half-shell
191 trade, 50 percent of all shells from oysters and clams shucked
192 commercially in the state shall be and remain the property of
193 the department when such shells are needed and required for
194 rehabilitation projects and planting operations, in cooperation
195 with the Fish and Wildlife Conservation Commission, when
196 sufficient resources and facilities exist for handling and
197 planting such shells ~~shell~~, and when the collection and handling
198 of such shells ~~shell~~ is practicable and useful, except that bona
199 fide holders of leases and grants may retain 75 percent of such
200 shells ~~shell~~ as they produce for aquacultural purposes. Storage,
201 transportation, and planting of shells so retained by lessees
202 and grantees shall be carried out under the conditions of the
203 lease agreement or with the written approval of the department
204 and shall be subject to such reasonable time limits as the
205 department may fix. In the event of an accumulation of an excess
206 of shells, the department is authorized to sell shells only to
207 private growers for use in oyster or clam cultivation on bona
208 fide leases and grants. No profit shall accrue to the department
209 in these transactions, and shells are to be sold for the
210 estimated moneys spent by the department to gather and stockpile
211 the shells. Planting of shells obtained from the department by
212 purchase shall be subject to the conditions set forth in the
213 lease agreement or in the written approval as issued by the
214 department. Any shells not claimed and used by private oyster



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215 cultivators 10 years after shells are gathered and stockpiled
216 may be sold at auction to the highest bidder for any private
217 use.

218 (b) If ~~Whenever~~ the department determines that it is
219 unfeasible to collect oyster or clam shells, the shells become
220 the property of the producer.

221 (c) If ~~Whenever~~ oyster or clam shells are owned by the
222 department and it is not useful or feasible to use them in the
223 rehabilitation projects, and if a ~~when no~~ leaseholder has not
224 exercised his or her option to acquire them, the department may
225 sell such shells for the highest price obtainable. Such ~~The~~
226 shells ~~thus sold~~ may be used in any manner and for any purpose
227 at the discretion of the purchaser.

228 (d) Moneys derived from the sale of shell shall be
229 deposited in the General Inspection Trust Fund for shellfish
230 programs.

231 (e) The department may publish notice, in a newspaper
232 serving the county, of its intention to collect the oyster and
233 clam shells and shall notify, by certified mail, each shucking
234 establishment from which shells are to be collected. The notice
235 shall contain the period of time the department intends to
236 collect the shells in that county and the collection purpose.

237 ~~(24) OYSTER CULTURE. The department, in cooperation with~~
238 ~~the Fish and Wildlife Conservation Commission and the Department~~
239 ~~of Environmental Protection, shall protect all clam beds, oyster~~
240 ~~beds, shellfish grounds, and oyster reefs from damage or~~
241 ~~destruction resulting from improper cultivation, propagation,~~
242 ~~planting, or harvesting and control the pollution of the waters~~
243 ~~over or surrounding beds, grounds, or reefs, and to this end the~~



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244 ~~Department of Health is authorized and directed to lend its~~
245 ~~cooperation to the department, to make available its laboratory~~
246 ~~testing facilities and apparatus.~~

247 (22) ~~(25)~~ REQUIREMENTS FOR OYSTER OR CLAM VESSELS.—

248 (a) All vessels used for the harvesting, gathering, or
249 transporting of oysters or clams for commercial purposes shall
250 be constructed and maintained to prevent contamination or
251 deterioration of shellfish. To this end, all such vessels shall
252 have ~~be provided with~~ false bottoms and bulkheads fore and aft
253 to prevent onboard shellfish from coming in contact with any
254 bilge water. ~~No~~ Dogs or other animals are not ~~shall be~~ allowed
255 at any time on vessels used to harvest or transport shellfish. A
256 violation of ~~any provision of~~ this subsection will, at a
257 minimum, shall result in ~~at least~~ the revocation of the
258 violator's license.

259 (b) For the purpose of this subsection, "harvesting,
260 gathering, or transporting of oysters or clams for commercial
261 purposes" means to harvest, gather, or transport oysters or
262 clams with the intent to sell and shall apply to a quantity of
263 two or more bags of oysters per vessel or more than one 5-gallon
264 bucket of unshucked hard clams per person or more than two 5-
265 gallon buckets of unshucked hard clams per vessel.

266 Section 2. This act shall take effect July 1, 2016.

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268 ===== T I T L E A M E N D M E N T =====

269 And the title is amended as follows:

270 Delete everything before the enacting clause
271 and insert:

272 A bill to be entitled



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273 An act relating to shellfish harvesting; amending s.
274 597.010, F.S.; revising provisions directing the
275 Department of Agriculture and Consumer Services, in
276 cooperation with the Fish and Wildlife Conservation
277 Commission and the Department of Environmental
278 Protection, to protect specified shellfish beds,
279 grounds, and reefs; defining the terms "dredge or
280 mechanical harvesting devices" and "shellfish";
281 providing for the harvesting of shellfish from
282 sovereign submerged land leases; providing for the
283 Board of Trustees of the Internal Improvement Trust
284 Fund to authorize the use of dredges or mechanical
285 harvesting devices as special lease conditions of
286 sovereign submerged land leases; limiting the number
287 of such dredges or mechanical harvesting devices per
288 lease; prohibiting certain use and possession of such
289 dredges or mechanical harvesting devices; providing
290 penalties; removing provisions relating to shellfish
291 harvesting seasons and removal of oysters, clams, or
292 mussels from natural reefs; authorizing the
293 department, rather than requiring, to designate areas
294 for the taking of oysters and clams to be planted on
295 public lands; deleting a provision allowing such
296 takings to be planted on leases and grants; specifying
297 that the commission, rather than the department, shall
298 establish the amount of oysters, clams, and mussels
299 that may be relayed or transplanted; removing
300 provisions relating to dredging of dead shells and
301 oyster culture; making technical changes; providing an



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effective date.