

By Senator Dean

5-00862A-16

20161318\_\_

1                   A bill to be entitled  
 2           An act relating to shellfish regulations; amending s.  
 3           597.010, F.S.; defining terms; deleting a prohibition  
 4           against the harvesting by means other than hand tongs  
 5           of oysters from natural or artificial state reefs or  
 6           beds and of all shell fish in certain areas of  
 7           Apalachicola Bay; authorizing the Board of Trustees of  
 8           the Internal Improvement Trust Fund to allow the use  
 9           of a mechanical harvesting device to harvest shellfish  
 10          under aquaculture lease agreements in certain  
 11          circumstances; deleting conditions that apply to  
 12          approval by the department of certain harvesting of  
 13          shellfish in certain areas; authorizing conditions for  
 14          certain aquaculture lease agreements; authorizing  
 15          lessees or grantees who hold current aquaculture  
 16          leases to request modifications to their leases to  
 17          allow mechanical harvesting; authorizing the Board of  
 18          Trustees of the Internal Improvement Trust Fund to  
 19          approve the use of a mechanical harvesting device in  
 20          removing oysters and clams from shellfish leases;  
 21          revising penalties for violations; providing an  
 22          effective date.

23  
 24 Be It Enacted by the Legislature of the State of Florida:

25  
 26           Section 1. Subsection (18) of section 597.010, Florida  
 27 Statutes, is amended to read:

28           597.010 Shellfish regulation; leases.—

29           (18) HARVESTING SHELLFISH ~~REMOVING OYSTERS, CLAMS, OR~~  
 30 ~~MUSSELS FROM AQUACULTURE LEASES NATURAL REEFS; LICENSES, ETC.;~~  
 31 PENALTY.—

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

5-00862A-16

20161318\_\_

33 1. "Aquaculture lease" means the sovereignty submerged land  
34 leases authorized by the Board of Trustees of the Internal  
35 Improvement Trust Fund pursuant to ss. 253.67-253.75.

36 2. "Shellfish" means oysters, clams, mussels, and scallops.

37 3. "Shellfish lease" means oyster and clam leases that were  
38 authorized in perpetuity before July 1, 1989, pursuant to former  
39 chapter 370. It is unlawful to use a dredge or any means or  
40 implement other than hand tongs in removing oysters from the  
41 natural or artificial state reefs or beds. This restriction  
42 shall apply to all areas of Apalachicola Bay for all shellfish  
43 harvesting, excluding private grounds leased or granted by the  
44 state prior to July 1, 1989, if the lease or grant specifically  
45 authorizes the use of implements other than hand tongs for  
46 harvesting. Except in Apalachicola Bay, upon the payment of \$25  
47 annually, for each vessel or boat using a dredge or machinery in  
48 the gathering of clams or mussels, a special activity license  
49 may be issued by the Fish and Wildlife Conservation Commission  
50 pursuant to subsection (15) or s. 379.361 for such use to such  
51 person.

52 (b) The Board of Trustees of the Internal Improvement Trust  
53 Fund may authorize the use of mechanical harvesting devices to  
54 harvest shellfish from aquaculture leases when the public  
55 health, public safety, and natural resources are not adversely  
56 impacted. Approval by the department to harvest shellfish by  
57 dredge or other mechanical means from privately held shellfish  
58 leases or grants in Apalachicola Bay shall include, but not be  
59 limited to, the following conditions:

60 1. The use of any mechanical harvesting device other than  
61 ordinary hand tongs for taking shellfish for any purpose from

5-00862A-16

20161318\_\_

62 ~~public shellfish beds in Apalachicola Bay shall be unlawful.~~

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

66 ~~3. Leaseholders or grantees shall notify the department no~~  
67 ~~less than 48 hours prior to each day's use of a dredge or scrape~~  
68 ~~in order for the department to notify the Fish and Wildlife~~  
69 ~~Conservation Commission that a mechanical harvesting device will~~  
70 ~~be deployed.~~

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

73 ~~5. Each vessel used for the transport or deployment of a~~  
74 ~~dredge or scrape shall prominently display the lease or grant~~  
75 ~~number or numbers, in numerals which are at least 12 inches high~~  
76 ~~and 6 inches wide, in such a manner that the lease or grant~~  
77 ~~number or numbers are readily identifiable from both the air and~~  
78 ~~the water.~~

79 (c) Authorization to use mechanical harvesting devices may  
80 be included in the aquaculture lease agreement, and conditions  
81 for deploying and using a mechanical harvesting device to  
82 harvest shellfish may be provided as a special lease condition  
83 pursuant to s. 253.71(7). Special lease conditions for use of  
84 mechanical harvesting devices granted under this subsection and  
85 pursuant to s. 253.71(7) may include, but are not limited to:

86 1. The types or descriptions of the authorized mechanical  
87 harvesting devices;

88 2. The conditions for deploying and using the authorized  
89 mechanical harvesting devices;

90 3. The identification of the shellfish to be harvested; and

5-00862A-16

20161318\_\_

91 4. The guidelines and best management practices to be  
92 followed by the lessee.

93 (d) Lessees or grantees who hold valid aquaculture leases  
94 may request modifications of their lease agreements to include  
95 special lease conditions for using mechanical harvesting  
96 devices. Requests to use mechanical harvesting devices must be  
97 submitted in writing to the department.

98 (e) The Board of Trustees of the Internal Improvement Trust  
99 Fund may approve the use of mechanical harvesting devices to  
100 harvest oysters and clams from shellfish leases. Leaseholders or  
101 grantees of valid shellfish leases whose lease agreements or  
102 grants do not specifically authorize the use of mechanical  
103 harvesting devices may request authorization to use mechanical  
104 harvesting devices. Requests to use mechanical harvesting  
105 devices must be submitted in writing to the department.

106 (f) Any violation of this subsection ~~paragraph~~ or of any  
107 other statutes, rules, or conditions referenced in the  
108 aquaculture lease agreement or in the shellfish lease agreement  
109 is shall be considered a violation of the license and will ~~shall~~  
110 result in revocation of the lease or a denial of use or future  
111 use of a mechanical harvesting device.

112 ~~(c) Oysters may be harvested from natural or public or~~  
113 ~~private leased or granted grounds by common hand tongs or by~~  
114 ~~hand, by scuba diving, free diving, leaning from vessels, or~~  
115 ~~wading. In Apalachicola Bay, this provision shall apply to all~~  
116 ~~shellfish.~~

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