

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Agriculture & Natural
2 Resources Subcommittee
3 Representative Drake offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

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

9 597.010 Shellfish regulation; leases.—

10 (14) SHELLFISH DEVELOPMENT.— The department, in
11 cooperation with the Fish and Wildlife Conservation Commission
12 and the Department of Environmental Protection, shall protect
13 all clam beds, oyster beds, shellfish grounds, and oyster reefs
14 from damage or destruction resulting from improper cultivation,
15 propagation, planting, or harvesting and control the pollution
16 of the waters over or surrounding beds, grounds, or reefs, and
17 to this end the Department of Health is authorized and directed

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18 to lend its cooperation to the department, to make available its
19 laboratory testing facilities and apparatus.

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

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

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

32 (17) HARVESTING SHELLFISH FROM AQUACULTURE SUBMERGED LAND
33 LEASES.-

34 (a) For the purposes of this subsection, the following
35 terms shall have the following meanings:

36 1. "Shellfish" means aquaculture oysters, clams, mussels,
37 and scallops.

38 2. "Dredge or mechanical harvesting device" means any
39 dredge, scrape, rake, drag, or other device, being towed by a
40 vessel or self propelled, which is used for the purpose of
41 harvesting shellfish. Handheld or hand drawn hydraulically or
42 mechanically operated devices for harvesting cultured clams from

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43 sovereign submerged leased lands are excluded from the
44 requirements of this subsection.

45 (b) For the purpose of this subsection, the harvesting of
46 aquaculture shellfish on sovereign submerged land leases may be
47 authorized under the authority of chapter 253. This subsection
48 does not authorize any harvesting of shellfish from natural
49 reefs.

50 (c) The Board of Trustees of the Internal Improvement
51 Trust Fund may authorize the use of a dredge or mechanical
52 harvesting device on sovereign submerged land aquaculture leases
53 in the form of special conditions to the sovereign submerged
54 land lease agreement when:

55 1. The use of a dredge or mechanical harvesting device
56 does not adversely impact the public health, safety, and welfare
57 of adjacent natural resources.

58 2. Provided as an existing lease condition in a chapter
59 379 perpetual shellfish lease.

60 3. Aquaculture best management practices have been adopted
61 pursuant to chapter 120 which:

62 a. Describe the approved size and specifications of the
63 dredge or mechanical harvesting device to be used;

64 b. The conditions for deploying and using the approved
65 dredge or mechanical harvesting device; and

66 c. Requirements of the lease holder for monitoring of
67 potential impacts at and adjacent to the sovereign submerged
68 lands lease site.

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69 (d) The use of any dredge or mechanical harvesting device
70 authorized by this subsection for taking shellfish for any
71 purpose from public shellfish beds in waters of the state shall
72 be unlawful.

73 (e) The possession of any dredge or mechanical harvesting
74 device on the water of the state from 5 p.m. until sunrise shall
75 be unlawful.

76 (f) Only one dredge or mechanical harvesting device per
77 lease may be possessed or operated at any time over the lease
78 site.

79
80 Any violation of this subsection or of any other statute, rule,
81 or condition referenced in the lease agreement shall be
82 considered a violation of the lease agreement and shall result
83 in revocation of all leases held by the violator and denial of
84 any future use of state owned sovereign submerged land.

85 ~~SHELLFISH HARVESTING SEASONS; SPECIAL PROVISIONS RELATING TO~~
86 ~~APALACHICOLA BAY.—~~

87 ~~(a) The Fish and Wildlife Conservation Commission shall by~~
88 ~~rule set the noncultured shellfish harvesting seasons in~~
89 ~~Apalachicola Bay.~~

90 ~~(b) If the commission changes the harvesting seasons by~~
91 ~~rule as set forth in this subsection, for 3 years after the new~~
92 ~~rule takes effect, the commission, in cooperation with the~~
93 ~~department, shall monitor the impacts of the new harvesting~~
94 ~~schedule on the bay and on local shellfish harvesters to~~

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95 ~~determine whether the new harvesting schedule should be~~
96 ~~discontinued, retained, or modified. In monitoring the new~~
97 ~~schedule and in preparing its report, the following information~~
98 ~~shall be considered:~~

99 ~~1. Whether the bay benefits ecologically from the new~~
100 ~~harvesting schedule.~~

101 ~~2. Whether the new harvesting schedule enhances the~~
102 ~~enforcement of shellfish harvesting laws in the bay.~~

103 ~~3. Whether the new harvesting schedule enhances natural~~
104 ~~shellfish production, oyster relay and planting programs, and~~
105 ~~shell planting programs in the bay.~~

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

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

111 ~~(a) It is unlawful to use a dredge or any means or~~
112 ~~implement other than hand tongs in removing oysters from the~~
113 ~~natural or artificial state reefs or beds. This restriction~~
114 ~~shall apply to all areas of Apalachicola Bay for all shellfish~~
115 ~~harvesting, excluding private grounds leased or granted by the~~
116 ~~state prior to July 1, 1989, if the lease or grant specifically~~
117 ~~authorizes the use of implements other than hand tongs for~~
118 ~~harvesting. Except in Apalachicola Bay, upon the payment of \$25~~
119 ~~annually, for each vessel or boat using a dredge or machinery in~~
120 ~~the gathering of clams or mussels, a special activity license~~

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121 ~~may be issued by the Fish and Wildlife Conservation Commission~~
122 ~~pursuant to subsection (15) or s. 379.361 for such use to such~~
123 ~~person.~~

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

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

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

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

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

141 ~~5. Each vessel used for the transport or deployment of a~~
142 ~~dredge or scrape shall prominently display the lease or grant~~
143 ~~number or numbers, in numerals which are at least 12 inches high~~
144 ~~and 6 inches wide, in such a manner that the lease or grant~~
145 ~~number or numbers are readily identifiable from both the air and~~
146 ~~the water.~~

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147 ~~Any violation of this paragraph or of any other statutes, rules,~~
148 ~~or conditions referenced in the lease agreement shall be~~
149 ~~considered a violation of the license and shall result in~~
150 ~~revocation of the lease or a denial of use or future use of a~~
151 ~~mechanical harvesting device.~~

152 ~~(c) Oysters may be harvested from natural or public or~~
153 ~~private leased or granted grounds by common hand tongs or by~~
154 ~~hand, by scuba diving, free diving, leaning from vessels, or~~
155 ~~wading. In Apalachicola Bay, this provision shall apply to all~~
156 ~~shellfish.~~

157 ~~(18)-(19)~~ FISHING FOR RELAYING OR TRANSPLANTING PURPOSES.-

158 (a) The department may ~~shall~~ designate areas for the
159 taking of oysters and clams to be planted on leases, grants, and
160 public areas. Oysters, clams, and mussels may be taken for
161 relaying or transplanting at any time during the year so long
162 as, in the opinion of the department, the public health will not
163 be endangered. The amount of oysters, clams, and mussels to be
164 obtained for relaying or transplanting, the area relayed or
165 transplanted to, and relaying or transplanting time periods
166 shall be established in each case by the department.

167 (b) Application for a special activity license issued
168 pursuant to subsection (15) for obtaining oysters, clams, or
169 mussels for relaying from closed public shellfish harvesting
170 areas to open areas or certified controlled purification plants
171 or for transplanting sublegal-sized oysters, clams, or mussels
172 must be made to the department. In return, the department may

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173 assign an area and a period of time for the oysters, clams, or
174 mussels to be relayed or transplanted to be taken. All relaying
175 and transplanting operations shall take place under the
176 direction of the department.

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

180 ~~(19)~~~~(20)~~ OYSTER AND CLAM REHABILITATION.—The board of
181 county commissioners of the several counties may appropriate and
182 expend such sums as it may deem proper for the purpose of
183 planting or transplanting oysters, clams, oyster shell, clam
184 shell, or cultch or to perform such other acts for the
185 enhancement

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

188 ~~(20)~~~~(22)~~ COOPERATION WITH UNITED STATES FISH AND WILDLIFE
189 SERVICE.—The department shall cooperate with the United States
190 Fish and Wildlife Service, under existing federal laws, rules,
191 and regulations, and is authorized to accept donations, grants,
192 and matching funds from the Federal Government in order to carry
193 out its oyster resource and development responsibilities. The
194 department is further authorized to accept any and all donations
195 including funds, oysters, or oyster shells.

196 ~~(21)~~~~(23)~~ OYSTER AND CLAM SHELLS PROPERTY OF DEPARTMENT.—

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

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199 commercially in the state shall be and remain the property of
200 the department when such shells are needed and required for
201 rehabilitation projects and planting operations, in cooperation
202 with the Fish and Wildlife Conservation Commission, when
203 sufficient resources and facilities exist for handling and
204 planting such shell, and when the collection and handling of
205 such shell is practicable and useful, except that bona fide
206 holders of leases and grants may retain 75 percent of such shell
207 as they produce for aquacultural purposes. Storage,
208 transportation, and planting of shells so retained by lessees
209 and grantees shall be carried out under the conditions of the
210 lease agreement or with the written approval of the department
211 and shall be subject to such reasonable time limits as the
212 department may fix. In the event of an accumulation of an excess
213 of shells, the department is authorized to sell shells only to
214 private growers for use in oyster or clam cultivation on bona
215 fide leases and grants. No profit shall accrue to the department
216 in these transactions, and shells are to be sold for the
217 estimated moneys spent by the department to gather and stockpile
218 the shells. Planting of shells obtained from the department by
219 purchase shall be subject to the conditions set forth in the
220 lease agreement or in the written approval as issued by the
221 department. Any shells not claimed and used by private oyster
222 cultivators 10 years after shells are gathered and stockpiled
223 may be sold at auction to the highest bidder for any private
224 use.

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225 (b) Whenever the department determines that it is
226 unfeasible to collect oyster or clam shells, the shells become
227 the property of the producer.

228 (c) Whenever oyster or clam shells are owned by the
229 department and it is not useful or feasible to use them in the
230 rehabilitation projects, and when no leaseholder has exercised
231 his or her option to acquire them, the department may sell such
232 shells for the highest price obtainable. The shells thus sold
233 may be used in any manner and for any purpose at the discretion
234 of the purchaser.

235 (d) Moneys derived from the sale of shell shall be
236 deposited in the General Inspection Trust Fund for shellfish
237 programs.

238 (e) The department may publish notice, in a newspaper
239 serving the county, of its intention to collect the oyster and
240 clam shells and shall notify, by certified mail, each shucking
241 establishment from which shells are to be collected. The notice
242 shall contain the period of time the department intends to
243 collect the shells in that county and the collection purpose.

244 ~~(24) OYSTER CULTURE. The department, in cooperation with~~
245 ~~the Fish and Wildlife Conservation Commission and the Department~~
246 ~~of Environmental Protection, shall protect all clam beds, oyster~~
247 ~~beds, shellfish grounds, and oyster reefs from damage or~~
248 ~~destruction resulting from improper cultivation, propagation,~~
249 ~~planting, or harvesting and control the pollution of the waters~~
250 ~~over or surrounding beds, grounds, or reefs, and to this end the~~

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251 ~~Department of Health is authorized and directed to lend its~~
252 ~~cooperation to the department, to make available its laboratory~~
253 ~~testing facilities and apparatus.~~

254 ~~(22)-(25)~~ REQUIREMENTS FOR OYSTER OR CLAM VESSELS.—

255 (a) All vessels used for the harvesting, gathering, or
256 transporting of oysters or clams for commercial purposes shall
257 be constructed and maintained to prevent contamination or
258 deterioration of shellfish. To this end, all such vessels shall
259 be provided with false bottoms and bulkheads fore and aft to
260 prevent onboard shellfish from coming in contact with any bilge
261 water. No dogs or other animals shall be allowed at any time on
262 vessels used to harvest or transport shellfish. A violation of
263 any provision of this subsection shall result in at least the
264 revocation of the violator's license.

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

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

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277 **T I T L E A M E N D M E N T**

278 Remove everything before the enacting clause and insert:

279 An act relating to shellfish harvesting; amending s. 597.010,

280 F.S.; revising provisions relating to shellfish development;

281 removing provision authorizing the Florida Fish and Wildlife

282 Conservation Commission to set shellfish harvest seasons in

283 Apalachicola Bay; defining the terms "shellfish" and "dredge or

284 mechanical harvesting devices"; providing for the Board of

285 Trustees of the Internal Improvement Trust Fund to authorize the

286 harvest of shellfish by dredges or mechanical harvesting devices

287 in submerged land leases; providing conditions for such

288 authorization; prohibiting the use of any dredge or mechanical

289 harvesting device on public shellfish beds; prohibiting

290 possession of any dredge or mechanical harvesting device on the

291 waters of the state from 5 p.m. to sunrise; restricting the use

292 of only one dredge or mechanical harvesting device per lease at

293 a time; providing penalties; removing prohibition of dredging

294 dead shell deposits; removing provisions relating to oyster

295 culture; providing an effective date.