

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WITHDRAWN	_____	(Y/N)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		

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1 Committee/Subcommittee hearing bill: State Affairs Committee  
2 Representative Drake offered the following:

**Amendment (with title amendment)**

5 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 cooperation  
11 with the Fish and Wildlife Conservation Commission and the  
12 Department of Environmental Protection, shall protect all clam  
13 beds, oyster beds, shellfish grounds, and oyster reefs from  
14 damage or destruction resulting from improper cultivation,  
15 propagation, planting, or harvesting. To this end, the  
16 Department of Health is authorized and directed to cooperate

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17 with the department and to make available its laboratory testing  
18 facilities and apparatus.

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

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

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

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

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

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

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42 2. "Shellfish" means oysters, clams, mussels, and  
43 scallops.

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

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

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

53 2. Aquaculture best management practices have been adopted  
54 pursuant to chapter 120 which:

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

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

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

62 (d) The use of a dredge or mechanical harvesting device  
63 for the harvesting of shellfish from a sovereign submerged land  
64 lease is authorized if such use was previously authorized as an  
65 existing condition of a perpetual shellfish lease issued  
66 pursuant to former chapter 370.

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67 (e) Only one dredge or mechanical harvesting device per  
68 lease may be possessed or operated at any time at a lease site.

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

74 (g) This subsection does not authorize the harvesting of  
75 shellfish from natural reefs.

76  
77 A violation of this subsection is a violation of the lease  
78 agreement and will result in the revocation of all leases held  
79 by the violator and denial of any future use of sovereign  
80 submerged land.

81 ~~(a) The Fish and Wildlife Conservation Commission shall by~~  
82 ~~rule set the noncultured shellfish harvesting seasons in~~  
83 ~~Apalachicola Bay.~~

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

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93 ~~1. Whether the bay benefits ecologically from the new~~  
94 ~~harvesting schedule.~~

95 ~~2. Whether the new harvesting schedule enhances the~~  
96 ~~enforcement of shellfish harvesting laws in the bay.~~

97 ~~3. Whether the new harvesting schedule enhances natural~~  
98 ~~shellfish production, oyster relay and planting programs, and~~  
99 ~~shell planting programs in the bay.~~

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

103 ~~(18) REMOVING OYSTERS, CLAMS, OR MUSSELS FROM NATURAL~~  
104 ~~REEFS; LICENSES, ETC.; PENALTY.~~

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

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

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

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

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

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

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

141  
142 ~~Any violation of this paragraph or of any other statutes, rules,~~  
143 ~~or conditions referenced in the lease agreement shall be~~

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144 ~~considered a violation of the license and shall result in~~  
145 ~~revocation of the lease or a denial of use or future use of a~~  
146 ~~mechanical harvesting device.~~

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

152 ~~(18)(19)~~ FISHING FOR RELAYING OR TRANSPLANTING PURPOSES.-

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

163 (b) Application for a special activity license issued  
164 pursuant to subsection (15) for obtaining oysters, clams, or  
165 mussels for relaying from closed public shellfish harvesting  
166 areas to open areas or certified controlled purification plants  
167 or for transplanting sublegal-sized oysters, clams, or mussels  
168 must be made to the department. In return, the department may  
169 assign an area and a period of time for the oysters, clams, or

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170 mussels to be relayed or transplanted to be taken. All relaying  
171 and transplanting operations shall take place under the  
172 direction of the department.

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

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

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

185 ~~(20)-(22)~~ COOPERATION WITH UNITED STATES FISH AND WILDLIFE  
186 SERVICE.—The department shall cooperate with the United States  
187 Fish and Wildlife Service, under existing federal laws, rules,  
188 and regulations, and is authorized to accept donations, grants,  
189 and matching funds from the Federal Government in order to carry  
190 out its oyster resource and development responsibilities. The  
191 department is further authorized to accept any and all donations  
192 including funds, oysters, or oyster shells.

193 ~~(21)-(23)~~ OYSTER AND CLAM SHELLS PROPERTY OF DEPARTMENT.—

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



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

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

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

232 (d) Moneys derived from the sale of shell shall be  
233 deposited in the General Inspection Trust Fund for shellfish  
234 programs.

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

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

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248 ~~Department of Health is authorized and directed to lend its~~  
249 ~~cooperation to the department, to make available its laboratory~~  
250 ~~testing facilities and apparatus.~~

251 ~~(22)-(25)~~ REQUIREMENTS FOR OYSTER OR CLAM VESSELS.—

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

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

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

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

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

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