

## Committee Substitute for House Bill No. 1143

An act relating to aquaculture; amending s. 370.027, F.S.; providing that marine aquaculture products are exempt from Fish and Wildlife Conservation Commission resource management rules, except for snook; amending s. 370.06, F.S.; authorizing the Fish and Wildlife Conservation Commission to issue special activity permits for importation and possession of sturgeon; requiring that specific management practices be incorporated into special activity licenses; amending s. 370.10, F.S.; authorizing the taking of saltwater species for aquacultural purposes; amending s. 370.1107, F.S.; making it unlawful to interfere with live bait traps; amending s. 370.26, F.S.; redefining the terms "marine product facility" and "marine aquaculture producer"; amending s. 370.31, F.S.; providing responsibilities for the Sturgeon Production Working Group; amending s. 372.0025, F.S.; amending s. 581.145(3), F.S.; allowing water hyacinths to be sold outside the United States; providing for regulatory responsibilities over the Florida Aquaculture Policy Act; amending s. 372.65, F.S.; providing for an exemption; amending s. 597.0015, F.S.; redefining the term "aquaculture producers"; amending s. 597.004, F.S.; providing for restrictions on aquaculture certificates; amending s. 597.0041, F.S.; providing for the revocation of certificates; creating s. 597.0045, F.S.; providing a cultured shellfish theft reward program; providing for administration; providing a severability clause; providing an effective date.

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

Section 1. Subsection (4) of section 370.027, Florida Statutes, 1998 Supplement, is amended to read:

370.027 Rulemaking authority with respect to marine life.—

(4) Marine aquaculture producers shall be regulated by the Department of Agriculture and Consumer Services. The Fish and Wildlife Conservation Commission shall adopt rules, by March 1, 2000, to regulate the sale of farmed red drum and spotted sea trout. These rules shall specifically provide for the protection of the wild resource, without restricting a certified aquaculture producer pursuant to s. 597.004 from being able to sell farmed fish. To that extent, these rules must only require that farmed fish be kept separate from wild fish and be fed commercial feed, that farmed fish be placed in sealed containers, that these sealed containers must have the name, address, telephone number and aquaculture certificate number, issued pursuant to s. 597.004, of the farmer clearly and indelibly placed on the container, and that this information must accompany the fish to the ultimate point of sale. Marine aquaculture products produced by a marine aquaculture producer, certified pursuant to s. 597.004, are exempt from ~~Fish and Wildlife Conservation Marine Fisheries~~ Commission resource management rules, with the exception of such rules governing any fish of the genus

~~Centropomus (snook), the genus Sciaenops (red drum), or the genus Cynoscion (spotted sea trout). Marine Fisheries Commission rules relating to the aquacultural production of red drum and spotted sea trout must be developed and adopted by the commission no later than 1 year from October 1, 1996. By July 1, 2000, the Fish and Wildlife Conservation Commission shall develop procedures to allow persons possessing a valid aquaculture certificate of registration to sell and transport live snook produced in private ponds or private hatcheries as brood stock, to stock private ponds, or for aquarium display consistent with the provisions of Rule 39-23.009, Florida Administrative Code.~~

Section 2. Paragraphs (b) and (d) of subsection (4) of section 370.06, Florida Statutes, 1998 Supplement, are amended to read:

370.06 Licenses.—

(4) SPECIAL ACTIVITY LICENSES.—

~~(b) The Fish and Wildlife Conservation Commission department is authorized to issue special activity licenses in accordance with this section and s. 370.31, to permit the importation and, possession, and aquaculture of wild anadromous sturgeon. The commission is also authorized to issue special activity licenses, in accordance with this section and s. 370.31, to permit the importation, possession, and aquaculture of native and nonnative anadromous sturgeon until best-management practices are implemented for the cultivation of anadromous sturgeon pursuant to s. 597.004. The special activity license shall provide for specific management practices to prevent the release and escape of cultured anadromous sturgeon and to protect indigenous populations of saltwater species.~~

~~(d) The conditions and specific management practices established in this section shall may be incorporated into permits and authorizations issued pursuant to chapter 253, chapter 373, chapter 403, or this chapter, when incorporating such provisions is in accordance with the aquaculture permit consolidation procedures. No separate issuance of a special activity license is required when conditions and specific management practices are incorporated into permits or authorizations under this paragraph. Implementation of this section to consolidate permitting actions does not constitute rules within the meaning of s. 120.52.~~

Section 3. Subsection (2) of section 370.10, Florida Statutes, 1998 Supplement, is amended to read:

370.10 Crustacea, marine animals, fish; regulations; general provisions.—

~~(2) TAKING SALTWATER SPECIES FOR EXPERIMENTAL, AQUACULTURAL, SCIENTIFIC, EDUCATION, AND EXHIBITION PURPOSES.—Notwithstanding any other provisions of general or special law to the contrary, the Fish and Wildlife Conservation Commission department may authorize, upon such terms, conditions, and restrictions as it may prescribe by rule, any properly accredited person to harvest or possess indigenous or nonindigenous saltwater species for experimental, scientific, edu-~~

ation, and exhibition purposes or to harvest or possess reasonable quantities of aquacultural species for brood stock. Such authorizations may allow collection of specimens without regard to, and not limited to, size, seasonal closure, collection method, reproductive state, or bag limit. Authorizations issued under the provisions of this section may be suspended or revoked by the Fish and Wildlife Conservation Commission ~~department~~ if it finds that the person has violated this section, Fish and Wildlife Conservation Commission ~~department~~ rules or orders, or terms or conditions of the authorization or has submitted false or inaccurate information in his or her application.

Section 4. Present subsections (3) and (4) of section 370.1107, Florida Statutes, are renumbered as subsections (4) and (5), respectively, and a new subsection (3) is added to that section to read:

370.1107 Definition; possession of certain licensed traps prohibited; penalties; exceptions; consent.—

(3) It is unlawful for any person, firm, corporation, or association to possess, attempt to possess, interfere with, attempt to interfere with, or remove live bait from a live bait trap or cage of another person, firm, corporation, or association. Unlawful possession of one or more live bait traps or cages is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 5. Paragraphs (a) and (b) of subsection (1) of section 370.26, Florida Statutes, 1998 Supplement, are amended to read:

370.26 Aquaculture definitions; marine aquaculture products, producers, and facilities.—

(1) As used in this section, the term:

(a) “Marine aquaculture product facility” means a facility built and operated for the purpose of producing marine aquaculture products. Marine aquaculture product facilities contain culture systems such as, but not limited to, ponds, tanks, raceways, cages, and bags used for commercial production, propagation, growout, or product enhancement of marine products. Marine aquaculture product facilities specifically do not include:

1. Facilities that maintain marine aquatic organisms exclusively for the purpose of shipping, distribution, marketing, or wholesale and retail sales;

2. Facilities that maintain marine aquatic organisms for noncommercial, education, exhibition, or scientific purposes;

3. Facilities in which the activity does not require an aquaculture certification pursuant to s. 597.004; or

4. Facilities used by marine aquarium hobbyists.

(b) “Marine aquaculture producer” means a person holding an aquaculture certificate pursuant to s. 597.004 to produce marine aquaculture products ~~for sale~~.

Section 6. Section 370.31, Florida Statutes, is amended to read:

370.31 Commercial production of sturgeon.—

(1) INTENT.—The Legislature finds and declares that there is a need to encourage the continuation and advancement of work being done on aquaculture sturgeon production in keeping with the state's legislative public policy regarding aquaculture provided in chapter 597. It also finds that it is in the state's economic interest to promote the commercial production and stock enhancement of sturgeon. It is therefore the intent of the Legislature to hereby create a Sturgeon Production Working Group.

(2) CREATION.—The Sturgeon Production Working Group is created within the Department of Environmental Protection and shall be composed of six members as follows:

(a) The head of the sturgeon research program or designee from the University of Florida, Institute of Food and Agricultural Sciences. Such member shall be appointed by the University of Florida's Vice President for Agricultural Affairs.

(b) One representative from the Department of Environmental Protection to be appointed by the Secretary of Environmental Protection.

(c) One representative from the Fish and Wildlife Conservation Game and Fresh Water Fish Commission to be appointed by the executive director of the Fish and Wildlife Conservation Game and Fresh Water Fish Commission.

(d) One representative from the Department of Agriculture and Consumer Services to be appointed by the Commissioner of Agriculture.

(e) Two representatives from the aquaculture industry to be appointed by the Aquaculture Review Council.

(3) MEETINGS; PROCEDURES; RECORDS.—The working group shall meet at least twice a year and elect, by a quorum, a chair, vice chair, and secretary. ~~However, the working group shall call its first meeting within 1 month after October 1, 1996.~~

(a) The chair of the working group shall preside at all meetings and shall call a meeting as often as necessary to carry out the provisions of this section. To call a meeting, the chair shall solicit an agreement to meet from at least two other working group members and then notify any remaining members of the meeting.

(b) The secretary shall keep a complete record of the proceedings of each meeting, which includes the names of the members present at each meeting and the actions taken. Such records shall be kept on file with the Department of Environmental Protection with copies filed with the Department of Fisheries and Aquatic Sciences ~~Aquatics~~ at the University of Florida. The records shall be public records pursuant to chapter 119.

(c) A quorum shall consist of one representative from the Department of Environmental Protection, one representative from the Institute of Food and Agricultural Sciences, and at least two other members.

(4) PURPOSE AND RESPONSIBILITIES.—The purpose of the Sturgeon Production Working Group is to coordinate the implementation of ~~establish~~ a state sturgeon production management plan ~~aquaculture program~~ to promote the commercial production and stock enhancement of sturgeon in Florida. In carrying out this purpose, the working group shall:

(a) Establish a state sturgeon production management plan ~~aquaculture program~~ to inform public or private interested parties of how to aquaculturally produce sturgeon for commercial purposes and for stock enhancement. The sturgeon production management plan ~~program~~ shall:

1. Provide the regulatory policies for the commercial production of ~~Determine how sturgeon can be produced commercially for its meat and roe, including a strategy for obtaining the required permits, licenses, authorizations, or certificates in the state.~~

2. Provide the management practices for culturing sturgeon and ensure that aquacultural development does not impede the recovery and conservation of wild sturgeon populations.

3. Establish priorities for research needed to support the commercial production of sturgeon and the recovery of native stocks in the state.

(b) Support management strategies to permit the commercial production of native and nonnative sturgeon, including the distribution of captive-bred Gulf sturgeon to approved certified aquaculture facilities.

(c) Support the development of a cooperative sturgeon conservation program to coordinate conservation, habitat, and resource management programs for native sturgeon, including an evaluation of how stock enhancement can facilitate the conservation and recovery of native sturgeon populations.

(d) Seek federal cooperation to implement the sturgeon production management plan, including federal designation of captive-bred sturgeon as distinct population segments to distinguish cultivated stocks from wild native populations.

(e) Develop enforcement guidelines to ensure continued protection of wild native sturgeon populations.

(f) In furtherance of the purposes and responsibilities of the Sturgeon Production Working Group, the state shall:

1. Establish a program to coordinate conservation and aquaculture activities for native sturgeon.

2. Develop a conservation plan for native sturgeon.

3. Initiate the process to petition for delisting captive-bred shortnose sturgeon.

4. Initiate the process to petition for delisting captive-bred Gulf sturgeon.

(g) Establish a sturgeon broodstock committee composed of fishery scientists, fish farmers, and agency representatives to manage the taking of wild sturgeon for brood fish and spawning.

(h) Establish the Cooperative Broodstock Development and Husbandry Board composed of fishery scientists, fish farmers, and agency representatives to establish standards and criteria for the management and maintenance of captive-reared sturgeon, to collect biological data, and to administer the Cooperative Broodstock Development and Husbandry Program.

~~2. Determine how sturgeon can be used for stock enhancement in areas designated by the Department of Environmental Protection in consultation with the Sturgeon Production Working Group.~~

~~(b) Seek federal help and cooperation in obtaining the appropriate permits to establish the state sturgeon aquaculture program.~~

~~(c) Prepare a state sturgeon production and stock enhancement plan to implement the state sturgeon aquaculture program. The plan shall include, but not be limited to, the following:~~

~~1. Research needed to support the commercial production of sturgeon for meat and roe and stock enhancement in the state.~~

~~2. Studies needed to determine the economic impact on the state and the best marketing strategies for producing sturgeon for its meat and roe.~~

~~3. Permits and other requirements currently needed to commercially produce sturgeon and enhance sturgeon stock in the state and a strategy for obtaining such permits or requirements.~~

~~4. The timetable for implementation and completion of the plan's components.~~

~~5. The implementation date for the state sturgeon aquaculture program.~~

~~(d) Prepare a report to be submitted within 1 year after October 1, 1996, to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative ways and means, appropriations, and agriculture committees. This report shall include, but not be limited to:~~

~~1. The status of the state sturgeon aquaculture program.~~

~~2. The status of the state sturgeon production and stock enhancement plan.~~

~~3. Other Florida public or private agencies, if any, doing research on sturgeon production.~~

4.—Any recommendations necessary to carry out the purpose of this section.

Section 7. Subsection (2) of section 372.0225, Florida Statutes, 1998 Supplement, is amended to read:

372.0225 Freshwater organisms.—

(2) The responsibility with which the Division of Freshwater Fisheries is charged under subsection (1) shall in no way supersede or duplicate the responsibilities of the Department of Agriculture and Consumer Services under chapter 500, the Florida Food Safety Act, chapter 597, the Florida Aquaculture Policy Act, and the rules adopted thereunder ~~under that chapter~~.

Section 8. Paragraph (g) of subsection (1) of section 372.65, Florida Statutes, 1998 Supplement, is amended to read:

372.65 Freshwater fish dealer's license.—

(1) No person shall engage in the business of taking for sale or selling any frogs or freshwater fish, including live bait, of any species or size, or importing any exotic or nonindigenous fish, until such person has obtained a license and paid the fee therefor as set forth herein. The license issued shall be in the possession of the person to whom issued while such person is engaging in the business of taking for sale or selling freshwater fish or frogs, is not transferable, shall bear on its face in indelible ink the name of the person to whom it is issued, and shall be affixed to a license identification card issued by the commission. Such license is not valid unless it bears the name of the person to whom it is issued and is so affixed. The failure of such person to exhibit such license to the commission or any of its wildlife officers when such person is found engaging in such business is a violation of law. The license fees and activities permitted under particular licenses are as follows:

(g) Any individual or business issued an aquaculture certificate, pursuant to s. 597.004, shall be exempt from the requirements of this chapter with respect to aquaculture products authorized under such certificate. ~~The commission is authorized to require that cultured game fish sold be tagged and to assess a fee of not more than 5 cents for each tag, which shall be furnished by the commission.~~

Section 9. Subsection (3) of section 581.145, Florida Statutes, is amended to read:

581.145 Aquatic plant nursery registration; special permit requirements.—

(3) Notwithstanding any other provision of state or federal law, the Department of Agriculture and Consumer Services shall issue, by request, a permit to the aquaculture producer to engage in the business of exporting water hyacinths (*Eichhornia* spp.) only to countries other than the United States ~~Canada~~ and only when such water hyacinths are cultivated in a

nursery for the sole purpose of exportation and the aquaculture activity has been certified by the Department of Agriculture and Consumer Services. In accordance with any appropriate federal law or United States treaty, no Florida aquaculture producer shall ship water hyacinths to countries other than the United States~~Canada~~ under such a permit for the purpose of importing water hyacinths back into the United States, nor shall drop shipments be made to any other destination within the United States. This provision shall in no way restrict or interfere with the Department of Environmental Protection's efforts, or those of any other agency or local government with responsibilities for the management of noxious aquatic plants, to control or eradicate noxious nonnursery aquatic plants, including water hyacinths. This provision shall not be a consideration in the approval or the release of biological control agents for water hyacinths or any other noxious aquatic plants.

Section 10. Subsection (2) of section 597.0015, Florida Statutes, is amended to read:

597.0015 Definitions.—For purposes of this chapter, the following terms shall have the following meanings:

(2) "Aquaculture producers" means those persons engaging in the production ~~and sale~~ of aquaculture products and certified under s. 597.004.

Section 11. Paragraphs (b), (c), (d), and (h) of subsection (2), subsection (4), paragraph (a) of subsection (5), and subsection (6) of section 597.004, Florida Statutes, 1998 Supplement, are amended to read:

597.004 Aquaculture certificate of registration.—

(2) NONSHELLFISH CERTIFICATION.—

(b) The department, in consultation with the Department of Environmental Protection, the water management districts, environmental groups, and representatives from the affected farming groups, shall adopt rules to:

1. Specify the requirement of best-management practices to be implemented by holders of aquaculture certificates of registration ~~property owners and leaseholders~~.

2. Establish procedures for holders of aquaculture certificates of registration ~~property owners and leaseholders~~ to submit the notice of intent to comply with best-management practices.

3. Establish schedules for implementation of best-management practices, and of interim measures that can be taken prior to adoption of best-management practices. Interim measures may include the continuation of regulatory requirements in effect on June 30, 1998.

4. Establish a system to assure the implementation of best-management practices, including recordkeeping requirements.

Rules adopted pursuant to this subsection shall become effective pursuant to the applicable provisions of chapter 120, but must be submitted to the



President of the Senate and the Speaker of the House of Representatives for review by the Legislature. The rules shall be referred to the appropriate committees of substance and scheduled for review during the first available regular session following adoption. Except as otherwise provided by operation of law, such rules shall remain in effect until rejected or modified by act of the Legislature.

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

1. Provides the department with a notice of intent to implement applicable best-management practices adopted by the department;
2. Implements applicable best-management practices as soon as practicable according to rules adopted by the department; and
3. Implements practicable interim measures identified and adopted by the department which can be implemented immediately, or according to rules adopted by the department.

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

1. Provides the department with a notice of intent to implement applicable best-management practices adopted by the department;
2. Implements applicable best-management practices as soon as practicable according to rules adopted by the department; and
3. Implements practicable interim measures identified and adopted by the department which can be implemented immediately, or according to rules adopted by the department.

(h) Any alligator producer with an alligator farming license and permit to establish and operate an alligator farm shall be issued an aquaculture certificate of registration pursuant to subsection (1) above. This chapter does not supersede the authority under chapter 372, chapter 373, or chapter 403 to regulate alligator farms and alligator farmers.

(4) IDENTIFICATION OF AQUACULTURE PRODUCTS.—Aquaculture products shall be identified while possessed, processed, transported, or sold as provided in this subsection, except those subject to the requirements of chapter 372 and the rules of the Fish and Wildlife Conservation Game and Fresh Water Fish Commission as they relate to alligators only.

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

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

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

(5) SALE OF AQUACULTURE PRODUCTS.—

(a) Aquaculture products, except shellfish, snook, and any fish of the genus Micropterus, and prohibited and restricted freshwater and marine species identified by snook, spotted sea trout, red drum, and freshwater aquatic species identified in chapter 372 and rules of the Fish and Wildlife Conservation Game and Fresh Water Fish Commission, may be sold by an aquaculture producer certified pursuant to s. 597.004 without restriction so long as product origin can be identified.

(6) REGISTRATION AND RENEWALS.—

(a) Each aquaculture producer must apply for an aquaculture certificate of registration with the department and submit the appropriate fee. Upon department approval, the department shall issue the applicant an aquaculture certificate of registration for a period ~~not to exceed of~~ 1 year. Beginning July 1, 1997, and each year thereafter, each aquaculture certificate of registration must be renewed with fee, pursuant to this chapter, on July 1.

(b) The department shall send notices of registration to all aquaculture producers of record requiring them to register for an aquaculture certificate. Renewal notices shall be sent to the registrant 60 days preceding the termination date of the certificate of registration. Prior to the termination date, the registrant must return a completed renewal form with fee, pursuant to this chapter, to the department.

(c) Any person whose certificate of registration has been revoked or suspended must reapply to the department for certification.

Section 12. Subsection (3) of section 597.0041, Florida Statutes, is amended to read:

597.0041 Prohibited acts; penalties.—

(3) Any person certified under this chapter who has been convicted of taking aquaculture species raised at a certified facility shall have his or her certificate license revoked for 5 years by the Department of Agriculture and Consumer Services pursuant to the provisions and procedures of s. 120.60.

Section 13. Section 597.0045, Florida Statutes, is created to read:

597.0045 Cultured shellfish theft reward program.—There is created a cultured shellfish theft reward program, to be administered by the department, for the purpose of granting rewards to persons who provide information leading to the arrest and conviction of individuals illegally possessing, harvesting, or attempting to harvest cultured shellfish.

(1) Each person who provides information leading to the arrest and conviction of an individual or individuals for illegally possessing, harvesting, or attempting to harvest cultured shellfish and for whom the respective state attorney notifies the department of such assistance, in writing, shall be eligible for a reward of up to \$2,500; except that law enforcement officers and department personnel, and members of their immediate families, shall not be eligible for rewards under the program. The department shall, by rule, establish a graduated reward payout schedule.

(2) The General Inspection Trust Fund of the department may be used for the cultured shellfish theft reward program, for deposit of general revenue funds and donations received from interested individuals, and for granting rewards to persons who provide information leading to the arrest and conviction of persons illegally possessing, harvesting, or attempting to harvest cultured shellfish. The granting of rewards shall be subject to legislative appropriations to fund the program.

(3) The department may promote the cultured shellfish theft reward program to provide for public recognition of the rewards and to improve compliance with laws prohibiting illegal possession and harvesting of cultured shellfish.

Section 14. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 15. Notwithstanding any other legislation passed and either signed by the Governor or allowed to become law without signature to the contrary, the Legislature intends that this bill be its full and total intent, regardless of when it is presented to the Secretary of State.

Section 16. This act shall take effect July 1, 1999.

Approved by the Governor June 18, 1999.

Filed in Office Secretary of State June 18, 1999.