

CHAPTER 98-333

Committee Substitute for House Bill No. 3673

An act relating to conservation of plants and animals; amending s. 370.0605, F.S.; deleting the \$10 for 10 days saltwater fishing license; amending s. 372.57, F.S.; providing for a recreational user permit fee to hunt, fish, or otherwise use for outdoor recreational purposes, land leased by Game and Fresh Water Fish Commission from private nongovernmental owners; providing for the sale of specified lands by the Board of Trustees of the Internal Improvement Trust Fund; clarifying provisions with respect to special use permits; increasing to age 64 or older the age to obtain a permanent hunting or fishing license for a certain fee; revising provisions with respect to a lifetime sportsman's license and a lifetime freshwater fishing license; revising provisions with respect to 5-year licenses; reducing a 5-year hunting license fee; amending s. 372.672, F.S.; providing an additional use for funds in the Florida Panther Research and Management Trust Fund; amending s. 372.674, F.S.; providing reference to the Florida Panther Research and Management Trust Fund with respect to environmental education; amending ss. 372.921, 372.922, F.S.; providing for payment of expenses relative to wildlife seized or taken by the Game and Freshwater Fish Commission; amending s. 253.72, F.S.; establishing wild harvest setbacks from shellfish leases; amending s. 370.027, F.S.; providing an exception to rule-making authority of the Marine Fisheries Commission with respect to specified marine life; providing that marine aquaculture producers shall be regulated by the Department of Agriculture and Consumer Services; amending s. 370.06, F.S.; revising provisions relating to issuance and renewal of saltwater products licenses and special activity licenses; authorizing issuance of special activity licenses for the use of special gear or equipment, the importation and possession of sturgeon, and the harvest of certain shellfish; authorizing permit consolidation procedures; amending s. 370.081, F.S.; revising provisions relating to the importation of nonindigenous marine plants and animals; amending s. 370.10, F.S.; authorizing the harvesting or possession of saltwater species for experimental, scientific, education, and exhibition purposes; amending s. 370.16, F.S.; establishing wild harvest setbacks from shellfish leases; amending s. 370.26, F.S.; relating to aquaculture definitions; defining the term "marine product facility" and revising definition of the term "marine aquaculture product"; deleting requirements of an Aquaculture Section in the Department of Environmental Protection; providing duties of the Department of Agriculture and Consumer Services; authorizing delegation of regulatory authority for certain aquaculture facilities; amending s. 372.0225, F.S.; revising responsibilities of the Division of Fisheries of the Game and Fresh Water Fish Commission relating to freshwater organisms; amending s. 372.65, F.S.; authorizing exemption for freshwater fish dealer's license; amending s. 372.6672, F.S.; removing obsolete language relating to state-sanctioned sales of alligator hides; amending s. 372.6673, F.S.; pro-

viding for a portion of the fees assessed for alligator egg collection permits to be transferred to the General Inspection Trust Fund to be used for certain purposes; amending s. 372.6674, F.S.; providing for a portion of the fees assessed for alligator hide validation tags to be transferred to the General Inspection Trust Fund to be used for certain purposes; amending s. 373.046, F.S.; clarifying jurisdiction over aquaculture activities; amending s. 373.406, F.S.; providing exemption for management and storage of surface water; amending s. 403.0885, F.S.; providing exemptions from the state National Pollutant Discharge Elimination System program; amending s. 403.814, F.S.; revising and clarifying provisions relating to aquaculture general permits; amending s. 597.002, F.S.; clarifying jurisdiction over aquaculture activities; amending s. 597.003, F.S.; expanding the powers and duties of the Department of Agriculture and Consumer Services relating to regulation of aquaculture; amending s. 597.004, F.S.; revising provisions relating to aquaculture certificate of registration; providing for shellfish and nonshellfish certification; providing for rules, waiver of liability, compliance, and reports; amending s. 597.005, F.S.; providing for a list of prioritized research needs; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2) of section 370.0605, Florida Statutes, is amended to read:

370.0605 Saltwater fishing license required; fees.—

(2) Saltwater fishing license fees are as follows:

(a)1. For a resident of the state, ~~\$10 for a 10-day license and~~ \$12 for a 1-year license.

2. For a resident of the state, \$60 for 5 consecutive years from the date of purchase.

3. For a nonresident of the state, \$5 for a 3-day license, \$15 for a 7-day license, and \$30 for a 1-year license.

4. For purposes of this section, “resident” has the same meaning as that found in s. 372.001.

Section 2. Paragraphs (b) and (f) of subsection (4) of section 372.57, Florida Statutes, are amended, paragraph (g) is added to said subsection, and subsection (7), paragraphs (c) and (d) of subsection (8), and subsections (9), (11), and (14) of that section are amended, to read:

372.57 Licenses and permits; exemptions; fees.—No person, except as provided herein, shall take game, freshwater fish, or fur-bearing animals within this state without having first obtained a license, permit, or authorization and paid the fees hereinafter set forth, unless such license is issued without fee as provided in s. 372.561. Such license, permit, or authorization shall authorize the person to whom it is issued to take game, freshwater fish,

or fur-bearing animals in accordance with law and commission rules. Such license, permit, or authorization is not transferable. Each license or permit must bear on its face in indelible ink the name of the person to whom it is issued and other information requested by the commission. Such license, permit, or authorization issued by the commission or any agent must be in the personal possession of the person to whom issued while taking game, freshwater fish, or fur-bearing animals. The failure of such person to exhibit such license, permit, or authorization to the commission or its wildlife officers, when such person is found taking game, freshwater fish, or fur-bearing animals, is a violation of law. A positive form of identification is required when using an authorization, a lifetime license, a 5-year license, or when otherwise required by the license or permit. The lifetime licenses and 5-year licenses provided herein shall be embossed with the name, date of birth, the date of issuance, and other pertinent information as deemed necessary by the commission. A certified copy of the applicant's birth certificate shall accompany all applications for a lifetime license for residents 12 years of age and younger.

(4) In addition to any license required by this chapter, the following permits and fees for certain hunting, fishing, and recreational uses, and the activities authorized thereby, are:

(b)1. Management area permits to hunt, fish, or otherwise use for outdoor recreational purposes, land owned, leased, or managed by the commission or the State of Florida for the use and benefit of the commission, up to \$25 annually. Permits, and fees thereof, for short-term use of land which is owned, leased, or managed by the commission may be established by rule of the commission for any activity on such lands. Such permits and fees may be in lieu of or in addition to the annual management area permit. Other than for hunting or fishing, the provisions of this paragraph shall not apply on any lands not owned by the commission, unless the commission shall have obtained the written consent of the owner or primary custodian of such lands.

2. A recreational user permit fee to hunt, fish, or otherwise use for outdoor recreational purposes, land leased by the commission from private nongovernmental owners, except for those lands located directly north of the Apalachicola National Forest, east of the Ochlockonee River until the point the river meets the dam forming Lake Talquin, and south of the closest federal highway. The fee for this permit shall be based upon economic compensation desired by the landowner, game population levels, desired hunter density, and administrative costs. The permit fee shall be set by commission rule on a per-acre basis. On property currently in the private landowner payment program, the prior year's landowner payment shall be used to augment the landowner lease fee so as to decrease the permit fee for the users of that property. The spouse and dependent children of a permittee are exempt from the permit fee when engaged in outdoor recreational activities other than hunting in the company of the permittee. Notwithstanding any other provision of this chapter, there are no other exclusions, exceptions, or exemptions from this permit fee. The landowner lease fee, less an administrative permit fee of up to \$25 per permit, shall be remitted to the landowner as provided in the lease agreement for each area.

(f) A special use permit for limited entry hunting or fishing, where such hunting or fishing is authorized by commission rule, shall be up to \$100 per day but shall not exceed \$250 per week. Notwithstanding any other provision of this chapter, there are no exclusions, exceptions, or exemptions from this fee. In addition to the fee, the commission may charge each applicant for a special use permit a nonrefundable application fee of up to \$10.

(g) The fee for a permanent hunting and fishing license for a resident 64 years of age or older is \$12.

(7) A resident lifetime sportsman’s license authorizes the holder to engage in the following noncommercial activities:

(a) To take or attempt to take or possess freshwater fish, marine fish, and game, consistent with state and federal regulations and rules of the commission and the Department of Environmental Protection in effect at the time of taking.

(b) All activities authorized by a management area permit, a muzzle-loading gun permit, a turkey permit, an archery permit, a Florida waterfowl permit, a snook permit, and a crawfish permit.

~~(c) All activities for which an additional license, permit, or fee may be required to take or attempt to take or possess freshwater fish, marine fish, and game, imposed subsequent to the date of purchase of the resident lifetime sportsman’s license.~~

(8) The fee for a resident lifetime sportsman’s license is:

- (c) 13 ~~13-63~~ years of age or older \$1,000
- ~~(d) 64 years of age or older \$12~~

(9) A resident lifetime hunting license authorizes the holder to engage in the following noncommercial activities:

(a) To take or attempt to take or possess game consistent with state and federal regulations and rules of the commission in effect at the time of taking.

(b) All activities authorized by a management area permit, excluding fishing, a muzzle-loading gun permit, a turkey permit, an archery permit, and a Florida waterfowl permit.

~~(c) All activities for which an additional license, permit, or fee may be required to take or attempt to take or possess game, imposed subsequent to the date of purchase of the resident lifetime hunting license.~~

(11) A resident lifetime freshwater fishing license authorizes the holder to engage in the following noncommercial activities:

(a) To take or attempt to take or possess freshwater fish consistent with state and federal regulations and rules of the commission in effect at the time of taking.

(b) All activities authorized by a management area permit, excluding hunting.

~~(c) All activities for which an additional license, permit, or fee may be required to take or attempt to take or possess freshwater fish, imposed subsequent to the date of purchase of the resident lifetime freshwater fishing license.~~

(14) The following 5-year licenses are authorized:

(a) A 5-year freshwater fishing license for a resident to take or attempt to take or possess freshwater fish in this state for 5 consecutive years is \$60 and authorizes the holder to engage in ~~the following~~ noncommercial activities:

1. to take or attempt to take or possess freshwater fish consistent with state and federal regulations and rules of the commission in effect at the time of taking.

~~2. All activities authorized by a management area permit, excluding hunting.~~

~~3. All activities for which an additional license, permit, or fee is required to take or attempt to take or possess freshwater fish, imposed subsequent to the date of purchase of the 5-year resident freshwater fishing license until the date of expiration.~~

(b) A 5-year hunting license for a resident to take or attempt to take or possess game in this state for 5 consecutive years is ~~\$55~~ \$270 and authorizes the holder to engage in ~~the following~~ noncommercial activities:

1. to take or attempt to take or possess game consistent with state and federal regulations and rules of the commission in effect at the time of taking.

~~2. All activities authorized by a management area permit, excluding fishing, a muzzle-loading gun permit, a turkey permit, an archery permit, and a Florida waterfowl permit.~~

~~3. All activities for which an additional license, permit, or fee may be required to take or attempt to take or possess game, imposed subsequent to the date of purchase of the 5-year resident hunting license until the date of expiration.~~

Section 3. Paragraph (d) is added to subsection (2) of section 372.672, Florida Statutes, to read:

372.672 Florida Panther Research and Management Trust Fund.—

(2) Money from the fund shall be spent only for the following purposes:

(d) To fund and administer education programs authorized in s. 372.674.

Section 4. Paragraphs (b), (d), and (e) of subsection (6) and subsection (7) of section 372.674, Florida Statutes, are amended to read:

372.674 Environmental education.—

(6) The advisory council shall:

(b) Develop a recommended priority list for projects to be funded through the Florida Panther Research and Management Trust Fund and the Save the Manatee Trust Fund and review and evaluate projects implemented through the fund.

(d) Cooperate with the Department of Education in evaluating annual project proposals for projects to be funded through the Florida Panther Research and Management Trust Fund and the Save the Manatee Trust Fund to develop and distribute model instructional materials for use in environmental education to integrate environmental education into the general curriculum of public school districts, community colleges, and universities.

(e) Cooperate with the Department of Environmental Protection in evaluating annual proposals for projects to be funded through the Florida Panther Research and Management Trust Fund and the Save the Manatee Trust Fund that can promote an understanding about environmental protection programs and activities administered by the department.

(7) The Game and Fresh Water Fish Commission shall review the recommended list of projects to be funded from the Florida Panther Research and Management Trust Fund and the Save the Manatee Trust Fund by August of each year and make a final determination of projects to receive grants from available appropriations by the Legislature. The commission shall act upon the recommended list within 45 days after receipt of the list.

Section 5. Subsections (5), (6), (7), and (8) of section 372.921, Florida Statutes, are renumbered as subsections (6), (7), (8), and (9), respectively, and a new subsection (5) is added to said section to read:

372.921 Exhibition of wildlife.—

(5) In instances where wildlife is seized or taken into custody by the commission, said owner or possessor of such wildlife shall be responsible for payment of all expenses relative to the capture, transport, boarding, veterinary care, or other costs associated with or incurred due to seizure or custody of wildlife. Such expenses shall be paid by said owner or possessor upon any conviction or finding of guilt of a criminal or noncriminal violation, regardless of adjudication or plea entered, of any provision of chapter 372 or chapter 828, or rule of the commission or if such violation is disposed of under s. 921.187. Failure to pay such expense may be grounds for revocation or denial of permits to such individual to possess wildlife.

Section 6. Subsections (4), (5), and (6) of section 372.922, Florida Statutes, are renumbered as subsections (5), (6), and (7), respectively, and a new subsection (4) is added to said section to read:

372.922 Personal possession of wildlife.—

(4) In instances where wildlife is seized or taken into custody by the commission, said owner or possessor of such wildlife shall be responsible for payment of all expenses relative to the capture, transport, boarding, veterinary care, or other costs associated with or incurred due to seizure or custody of wildlife. Such expenses shall be paid by said owner or possessor upon any conviction or finding of guilt of a criminal or noncriminal violation, regardless of adjudication or plea entered, of any provision of chapter 372 or chapter 828, or rule of the commission or if such violation is disposed of under s. 921.187. Failure to pay such expense may be grounds for revocation or denial of permits to such individual to possess wildlife.

Section 7. 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 8. Subsection (3) is added to section 253.72, Florida Statutes, to read:

253.72 Marking of leased areas; restrictions on public use.—

(3) To assist in protecting shellfish aquaculture products produced on leases authorized pursuant to this chapter and chapter 370, harvesting shellfish is prohibited within a distance of 25 feet outside lawfully marked lease boundaries or within setback and access corridors within specifically designated high-density aquaculture lease areas and aquaculture use zones.

Section 9. Subsections (1), (2), and (4) of section 370.027, Florida Statutes, are amended to read:

370.027 Rulemaking authority with respect to marine life.—

(1) Pursuant to the policy and standards in s. 370.025, the Marine Fisheries Commission is delegated full rulemaking authority over marine life, with the exception of marine aquaculture products produced by an individual certified under s. 597.004 and endangered species, subject to final approval by the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund, in the areas of concern herein specified. The commission is instructed to make recommendations annually to the Governor and Cabinet regarding the marine fisheries research priorities and funding of the Department of Environmental Protection. All administrative and enforcement responsibilities which are unaffected by the specific provisions of this act continue to be the responsibility of the Department of Environmental Protection. The authority to regulate fishing gear in residential, manmade saltwater canals is specifically not delegated to the commission and is retained by the Legislature.

(2) Exclusive rulemaking authority in the following areas relating to marine life, with the exception of marine aquaculture products produced by individuals certified under s. 597.004 and endangered species, is vested in the commission; any conflicting authority of any division or bureau of the department or any other agency of state government is withdrawn as of the effective date of the rule proposed by the commission and approved by the

Governor and Cabinet, and the inconsistent rule, or the inconsistent part thereof, is superseded to the extent of the inconsistency:

- (a) Gear specifications;
- (b) Prohibited gear;
- (c) Bag limits;
- (d) Size limits;
- (e) Species that may not be sold;
- (f) Protected species;
- (g) Closed areas, except for public health purposes;
- (h) Quality control, except for oysters, clams, mussels, and crabs, unless such authority is delegated to the Department of Agriculture and Consumer Services;
- (i) Seasons; and
- (j) Special considerations relating to eggbearing females.

(4) Marine aquaculture producers shall be regulated by the Department of Agriculture and Consumer Services. Marine aquaculture products produced by a marine aquaculture producer, certified pursuant to s. 597.004, are exempt from Marine Fisheries Commission resource management rules, with the exception of such rules governing any fish ~~of~~ 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.

Section 10. Paragraph (a) of subsection (2) and subsection (4) of section 370.06, Florida Statutes, are amended to read:

370.06 Licenses.—

(2) SALTWATER PRODUCTS LICENSE.—

(a) Every person, firm, or corporation that sells, offers for sale, barter, or exchanges for merchandise any saltwater products, or which harvests saltwater products with certain gear or equipment as specified by law, must have a valid saltwater products license, except that the holder of an aquaculture certificate under s. 597.004 is not required to purchase and possess a saltwater products license in order to possess, transport, or sell marine aquaculture products. Each saltwater products license allows the holder to engage in any of the activities for which the license is required. The license must be in the possession of the licenseholder or aboard the vessel and shall be subject to inspection at any time that harvesting activities for which a license is required are being conducted. A restricted species endorsement on the saltwater products license is required to sell to a licensed wholesale

dealer those species which the state, by law or rule, has designated as "restricted species." This endorsement may be issued only to a person who is at least 16 years of age, or to a firm certifying that over 25 percent of its income or \$5,000 of its income, whichever is less, is attributable to the sale of saltwater products pursuant to a license issued under this paragraph or a similar license from another state. This endorsement may also be issued to a for-profit corporation if it certifies that at least \$5,000 of its income is attributable to the sale of saltwater products pursuant to a license issued under this paragraph or a similar license from another state. However, if at least 50 percent of the annual income of a person, firm, or for-profit corporation is derived from charter fishing, the person, firm, or for-profit corporation must certify that at least \$2,500 of the income of the person, firm, or corporation is attributable to the sale of saltwater products pursuant to a license issued under this paragraph or a similar license from another state, in order to be issued the endorsement. Such income attribution must apply to at least 1 year out of the last 3 years. For the purpose of this section "income" means that income which is attributable to work, employment, entrepreneurship, pensions, retirement benefits, and social security benefits. To renew an existing restricted species endorsement, marine aquaculture producers possessing a valid saltwater products license with a restricted species endorsement may apply income from the sale of marine aquaculture products to licensed wholesale dealers.

1. The department is authorized to require verification of such income. Acceptable proof of income earned from the sale of saltwater products shall be:

a. Copies of trip ticket records generated pursuant to this subsection (marine fisheries information system), documenting qualifying sale of saltwater products;

b. Copies of sales records from locales other than Florida documenting qualifying sale of saltwater products;

c. A copy of the applicable federal income tax return, including Form 1099 attachments, verifying income earned from the sale of saltwater products;

d. Crew share statements verifying income earned from the sale of saltwater products; or

e. A certified public accountant's notarized statement attesting to qualifying source and amount of income.

Any provision of this section or any other section of the Florida Statutes to the contrary notwithstanding, any person who owns a retail seafood market and/or restaurant at a fixed location for at least 3 years who has had an occupational license for 3 years prior to January 1, 1990, who harvests saltwater products to supply his or her retail store and has had a saltwater products license for 1 of the past 3 years prior to January 1, 1990, may provide proof of his or her verification of income and sales value at the person's retail seafood market and/or restaurant and in his or her saltwater

products enterprise by affidavit and shall thereupon be issued a restricted species endorsement.

2. Exceptions from income requirements shall be as follows:

a. A permanent restricted species endorsement shall be available to those persons age 62 and older who have qualified for such endorsement for at least 3 out of the last 5 years.

b. Active military duty time shall be excluded from consideration of time necessary to qualify and shall not be counted against the applicant for purposes of qualifying.

c. Upon the sale of a used commercial fishing vessel owned by a person, firm, or corporation possessing or eligible for a restricted species endorsement, the purchaser of such vessel shall be exempted from the qualifying income requirement for the purpose of obtaining a restricted species endorsement for a period of 1 year after purchase of the vessel.

d. Upon the death or permanent disablement of a person possessing a restricted species endorsement, an immediate family member wishing to carry on the fishing operation shall be exempted from the qualifying income requirement for the purpose of obtaining a restricted species endorsement for a period of 1 year after the death or disablement.

e. A restricted species endorsement may be issued on an individual saltwater products license to a person age 62 or older who documents that at least \$2,500 is attributable to the sale of saltwater products pursuant to the provisions of this paragraph.

f. A permanent restricted species endorsement may also be issued on an individual saltwater products license to a person age 70 or older who has held a saltwater products license for at least 3 of the last 5 license years.

At least one saltwater products license bearing a restricted species endorsement shall be aboard any vessel harvesting restricted species in excess of any bag limit or when fishing under a commercial quota or in commercial quantities, and such vessel shall have a commercial vessel registration. This subsection does not apply to any person, firm, or corporation licensed under s. 370.07(1)(a)1. or (b) for activities pursuant to such licenses. A saltwater products license may be issued in the name of an individual or a valid boat registration number. Such license is not transferable. A decal shall be issued with each saltwater products license issued to a valid boat registration number. The saltwater products license decal shall be the same color as the vessel registration decal issued each year pursuant to s. 327.11(5)(7) and shall indicate the period of time such license is valid. The saltwater products license decal shall be placed beside the vessel registration decal and, in the case of an undocumented vessel, shall be placed so that the vessel registration decal lies between the vessel registration number and the saltwater products license decal. Any saltwater products license decal for a previous year shall be removed from a vessel operating on the waters of the state. A resident shall pay an annual license fee of \$50 for a saltwater products

license issued in the name of an individual or \$100 for a saltwater products license issued to a valid boat registration number. A nonresident shall pay an annual license fee of \$200 for a saltwater products license issued in the name of an individual or \$400 for a saltwater products license issued to a valid boat registration number. An alien shall pay an annual license fee of \$300 for a saltwater products license issued in the name of an individual or \$600 for a saltwater products license issued to a valid boat registration number. Any person who sells saltwater products pursuant to this license may sell only to a licensed wholesale dealer. A saltwater products license must be presented to the licensed wholesale dealer each time saltwater products are sold, and an imprint made thereof. The wholesale dealer shall keep records of each transaction in such detail as may be required by rule of the Department of Environmental Protection not in conflict with s. 370.07(6), and shall provide the holder of the saltwater products license with a copy of the record. It is unlawful for any licensed wholesale dealer to buy saltwater products from any unlicensed person under the provisions of this section, except that a licensed wholesale dealer may buy from another licensed wholesale dealer. It is unlawful for any licensed wholesale dealer to buy saltwater products designated as "restricted species" from any person, firm, or corporation not possessing a restricted species endorsement on his or her saltwater products license under the provisions of this section, except that a licensed wholesale dealer may buy from another licensed wholesale dealer. The Department of Environmental Protection shall be the licensing agency, may contract with private persons or entities to implement aspects of the licensing program, and shall establish by rule a marine fisheries information system in conjunction with the licensing program to gather fisheries data.

(4) SPECIAL ACTIVITY LICENSES.—

(a) A special activity license is required for any person to use gear or equipment not authorized in this chapter or rule of the Marine Fisheries Commission for harvesting saltwater species. In accordance with this chapter, s. 16, Art. X of the State Constitution, and rules of the Marine Fisheries Commission, the department may issue special activity licenses for the use of nonconforming gear or equipment, including, but not limited to, trawls, seines and entangling nets, traps, and hook and line gear, to be used in harvesting saltwater species for scientific and governmental purposes, and where allowable, for innovative fisheries. The department may prescribe by rule application requirements and terms, conditions, and restrictions to be incorporated into each special activity license. This subsection does not apply to gear or equipment used by certified marine aquaculturists to harvest marine aquaculture products. Any person who seeks to use special gear or equipment in harvesting saltwater species must purchase a special activity license as specified by law to engage in such activities. The department may issue special activity licenses, in accordance with s. 370.071, to permit the cultivation of oysters, clams, mussels, and crabs when such aquaculture activities relate to quality control, sanitation, and public health regulations. The department may prescribe by rule special terms, conditions, and restrictions for any special activity license.

(b) The department is authorized to issue special activity licenses in accordance with this section and s. 370.31, to permit the importation, possession, and aquaculture of anadromous sturgeon. The special activity license shall provide for specific best management practices to prevent the release and escape of cultured anadromous sturgeon and to protect indigenous populations of saltwater species from sturgeon-borne disease.

(c) The department is authorized to issue special activity licenses, in accordance with s. 370.071, to permit the harvest or cultivation of oysters, clams, mussels, and crabs when such activities relate to quality control, sanitation, public health regulations, innovative technologies for aquaculture activities, or the protection of shellfish resources provided in this chapter, unless such authority is delegated to the Department of Agriculture and Consumer Services, pursuant to a memorandum of understanding.

(d) The conditions and specific management practices established in this section may be incorporated into permits and authorizations issued pursuant to chapter 253, chapter 370, chapter 373, or chapter 403, 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 11. Subsections (1), (2), and (5) of section 370.081, Florida Statutes, are amended to read:

370.081 Illegal importation or possession of nonindigenous marine plants and animals; rules and regulations.—

(1) It is unlawful to import or possess any marine plant or marine animal, not indigenous to the state, which, due to the stimulating effect of the waters of the state on procreation, may endanger or infect the marine resources of the state or pose a human health hazard, except as provided in this section subsection (4).

(2) Marine animals not to be imported shall include, but are not limited to, all species of the following:

(a) Sea snakes (Family Hydrophiidae), except as provided in subsection (4);

~~(b) Rabbitfishes (Family Siganidae);~~

~~(b)(c)~~ Weeverfishes (Family Trachinidae); and

~~(c)(d)~~ Stonefishes (Genus Synanceja).

(5) It is unlawful to release into the waters of the state any nonindigenous saltwater species marine plant or marine animal whether or not included in subsection (2) or prohibited by rules and regulations adopted pursuant to subsection (3) or authorized by subsection (4).

Section 12. Subsection (2) of section 370.10, Florida Statutes, is amended to read:

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

(2) TAKING SALTWATER SPECIES ANIMALS FOR EXPERIMENTAL, SCIENTIFIC, EDUCATION, AND EXHIBITION EXHIBITIONAL PURPOSES.—Notwithstanding any other provisions of general or special law to the contrary, the department may authorize issue permits, upon such terms, conditions, and restrictions as it may prescribe by rule, ~~to any properly accredited person to harvest or permitting him or her to collect and possess~~ indigenous or nonindigenous saltwater species animals for experimental, scientific, education, and exhibition exhibitional purposes. Such ~~authorizations permits~~ may allow collection of specimens without regard to, and not limited to, size, seasonal closure, collection method, reproductive state, or bag limit. Authorizations Permits issued under the provisions of this section may be suspended or revoked by the department if it finds that the ~~person permit holder~~ has violated this section, department rules or orders, or terms or conditions of the authorization permit or has submitted false or inaccurate information in his or her application.

Section 13. Subsection (12) of section 370.16, Florida Statutes, is amended to read:

370.16 Oysters and shellfish; regulation.—

(12) PROTECTION OF OYSTER AND CLAM REEFS AND SHELLFISH.—

(a) The Division of Marine Resources shall improve, enlarge, and protect the natural oyster and clam reefs of this state to the extent it may deem advisable and the means at its disposal will permit.

(b) The division shall also, to the same extent, assist in protecting shellfish aquaculture products produced on the leased or granted reefs in the hands of lessees or grantees from the state. Harvesting shellfish is prohibited within a distance of 25 feet outside lawfully marked lease boundaries or within setback and access corridors within specifically designated high-density aquaculture lease areas and aquaculture use zones.

(c) The division shall provide the Legislature annually with recommendations for the development and the proper protection of the rights of the state and private holders therein with respect to the oyster and clam business.

Section 14. Subsections (1), (2), (3) and (6) of section 370.26, Florida Statutes, are amended to read:

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

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

(a) "Marine product facility" means a facility built and operated for the purpose of producing marine products. Marine 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 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)(a) "Marine aquaculture producer" means a person holding an aquaculture certificate pursuant to s. 597.004 to produce marine aquaculture products for sale.

(c)(b) "Marine aquaculture product" means any product derived from marine aquatic organisms that are owned and propagated, and grown, or produced under controlled conditions by a person holding an aquaculture certificate pursuant to s. 597.004. Such product does not include organisms harvested from the wild for depuration, wet storage, or relayed for the purpose of controlled purification. Marine aquaculture products are considered saltwater products for the purposes of this chapter, except the holder of an aquaculture certificate is not required to purchase and possess a saltwater products license in order to possess, transport, or sell marine aquaculture products pursuant to s. 370.06. To renew an existing restricted species endorsement, marine aquaculture producers possessing a valid saltwater products license with a restricted species endorsement may apply income from the sales of marine aquaculture products to licensed wholesale dealers. Income from the sales of marine aquaculture products shall not be eligible for the purpose of acquiring a new restricted species endorsement. The holder of an aquaculture certificate must purchase and possess a saltwater products license in order to possess, transport, or and sell saltwater products not specifically provided for in s. 597.004.

(2) The Department of Environmental Protection shall encourage the development of aquaculture and the production of aquaculture products.

~~(3) The department shall establish an Aquaculture Section within the Bureau of Marine Resource Regulation and Development within the Division of Marine Resources.~~

~~(a) The department Aquaculture Section shall develop a process consistent with this section that would consolidate permits, general permits, special activity licenses, and other regulatory requirements to streamline the permitting process and result in effective regulation of aquaculture activities. This process shall provide for a single application and application fee~~

for marine aquaculture activities which are regulated by the department. Procedures to consolidate permitting actions under this section do not constitute rules within the meaning of s. 120.52.

~~(3)(b)~~ The Department of Agriculture and Consumer Services Aquaculture Section shall act as a clearinghouse for aquaculture applications submitted to the department, and act as a liaison between the Division of Marine Resources, the Division of State Lands, the Department of Environmental Protection district offices, other divisions within the Department of Environmental Protection, and the water management districts. The Department of Agriculture and Consumer Services shall be responsible for regulating marine aquaculture producers, except as specifically provided herein.

~~(6)~~ Until such time that aquaculture general permits under s. 403.814403.088 can be expanded and developed, the department shall establish criteria to temporarily permit aquaculture activities that may be presumed not to result in adverse environmental impacts. The criteria developed pursuant to this subsection do not constitute rules within the meaning of s. 120.52. Permit application fees under this subsection shall be no more than that established for a general permit. The department may delegate to the water management districts the regulatory authority for aquaculture facilities subject to the temporary general permitting criteria of this subsection. During the period prior to development of a general permit under s. 403.814403.088, the department shall establish a compliance plan based on monitoring results that will assist in the development of the general permit.

Section 15. Subsection (1) of section 372.0225, Florida Statutes, is amended to read:

372.0225 Freshwater organisms.—

(1) The Division of Fisheries of the Game and Fresh Water Fish Commission, in order to manage the promotion, marketing, and quality control of all freshwater organisms produced in Florida and utilized commercially so that such organisms shall be used to produce the optimum sustained yield consistent with the protection of the breeding stock, is directed and charged with the responsibility of:

(a) Providing for the regulation of the promotion, marketing, and quality control of freshwater organisms produced in Florida and utilized commercially.

(b) Regulating the processing of commercial freshwater organisms on the water or on the shore.

(c) Providing documentation standards and statistical record requirements with respect to commercial freshwater organism catches.

~~(d)~~—Regulating aquacultural facilities.

~~(d)(e)~~ Conducting scientific, economic, and other studies and research on all freshwater organisms produced in the state and used commercially.

Section 16. Paragraph (g) of subsection (1) of section 372.65, Florida Statutes, 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 with respect to aquaculture products authorized under such certificate ~~from the aquaculture game fish license and the resident freshwater fish dealer's license~~. 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 17. Subsections (3) and (4) of section 372.6672, Florida Statutes, are amended to read:

372.6672 Alligator management and trapping program implementation; commission authority.—

~~(3) The commission shall provide adequate notice of state-sanctioned sales and may maintain a list of known hide buyers and provide notice of state sales by mail. Nothing herein shall authorize the commission to engage in marketing or promotion of the sale of alligator hides or products other than by providing the public notice described herein. The commission is authorized to market alligator hides or products obtained as a result of its law enforcement actions or its nuisance alligator control programs.~~

~~(3)(4)~~ The powers and duties of the commission hereunder shall not be construed so as to supersede the regulatory authority or lawful responsibility of the Department of Health and Rehabilitative Services, the Department of Agriculture and Consumer Services, or any local governmental entity regarding the processing or handling of food products, but shall be deemed supplemental thereto.

Section 18. Subsection (4) of section 372.6673, Florida Statutes, is amended to read:

372.6673 Taking and possession of alligators; trapping licenses; fees.—

(4) No person shall take any alligator egg occurring in the wild or possess any such egg unless such person has obtained, or is a licensed agent of another person who has obtained, an alligator egg collection permit. The alligator egg collection permit shall be required in addition to the alligator farming license provided in paragraph (2)(d). The commission is authorized to assess a fee for issuance of the alligator egg collection permit of up to \$5 per egg authorized to be taken or possessed pursuant to such permit, of which \$1 per egg, excluding eggs collected on private wetland management areas, may be transferred to the General Inspection Trust Fund, to be administered by the Department of Agriculture and Consumer Services for the purpose of providing marketing and education services with respect to alligator products produced in this state, notwithstanding other provisions in this chapter.

Section 19. Subsection (2) of section 372.6674, Florida Statutes, is amended to read:

372.6674 Required tagging of alligators and hides; fees; revenues.—The tags provided in this section shall be required in addition to any license required under s. 372.6673.

(2) The commission may require that an alligator hide validation tag be affixed to the hide of any alligator taken from the wild and that such hide be possessed, purchased, sold, offered for sale, or transported in accordance with commission rule. The commission is authorized to assess a fee of up to \$30 for each alligator hide validation tag issued, of which \$5 per validated hide, excluding those validated from public hunt programs, may be transferred to the General Inspection Trust Fund, to be administered by the Department of Agriculture and Consumer Services for the purpose of providing marketing and education services with respect to alligator products produced in this state, notwithstanding other provisions in this chapter.

Section 20. Subsection (5) of section 373.046, Florida Statutes, is amended to read:

373.046 Interagency agreements.—

(5) Notwithstanding the provisions of s. 403.927, when any operating agreement is developed pursuant to subsection (4):

(a) The department shall have regulatory responsibility under part IV of this chapter for:

1. All saltwater aquaculture activities located on sovereignty submerged land or in the water column above such land and adjacent facilities directly related to the aquaculture activity.

~~2. Marine and estuarine aquaculture activities that do not require a consumptive use permit under part II of this chapter.~~

~~2.3. Aquaculture activities that meet or exceed the thresholds for aquaculture general permits authorized pursuant to ss. 370.26 and 403.814403.088.~~

3.4. Aquaculture activities within the Northwest Florida Water Management District.

(b) Water management districts shall have regulatory responsibility under part IV of this chapter for aquaculture activities not retained by the department in paragraph (a).

(c) Upon agreement by the applicant, the department, and the applicable water management district, the department and water management district may ~~reassign deviate from~~ the regulatory responsibilities described in paragraphs (a) and (b), based on the specific aquaculture operation, to achieve a more efficient and effective permitting process.

Section 21. Subsection (8) is added to section 373.406, Florida Statutes, to read:

373.406 Exemptions.—The following exemptions shall apply:

(8) Certified aquaculture activities under s. 597.004 are exempt from this part.

Section 22. Subsection (5) is added to section 403.0885, Florida Statutes, to read:

403.0885 Establishment of federally approved state National Pollutant Discharge Elimination System (NPDES) Program.—

(5) Certified aquaculture activities under s. 597.004 that have individual production units whose annual production and water discharge are less than the parameters established by the NPDES program are exempt from wastewater management regulations for those production units only. The cumulative effects of all exempt individual production units on a farm shall also be deemed to be exempt. For purposes herein, the term “individual production units” shall be determined by rule of the Department of Agriculture and Consumer Services.

Section 23. Subsections (8) and (10) of section 403.814, Florida Statutes, are amended, and subsection (11) is added to said section, to read:

403.814 General permits; delegation.—

~~(8) An aquaculture general permit under s. 403.088 shall be established for the saltwater cultivation of aquatic fish and other marine organisms, except alligators, in upland aquaculture facilities when such facilities have individual production units whose annual production and water discharge meet or exceed the parameters established by the NPDES program. Activities that have individual production units whose annual production and water discharge are less than the parameters established by the NPDES program shall be regulated pursuant to s. 403.0885(5).~~

(10) The authority to issue or deny general permits developed by the department pursuant to subsection ~~subsections (8) and (9)~~ for aquaculture facilities is hereby delegated to the water management districts when they have regulatory responsibility for the facility pursuant to s. 373.046 project.

(11) Upon agreement by the applicant, the department, and the applicable water management district, the department and water management district may reassign the regulatory responsibilities described in s. 373.046(5)(a) and (b), based on the specific aquaculture operation, to achieve a more efficient and effective permitting process.

Section 24. Section 597.002, Florida Statutes, is amended to read:

597.002 Legislative declaration of public policy respecting aquaculture.—The Legislature declares that aquaculture is agriculture and, as such, the Department of Agriculture and Consumer Services shall be the primary agency responsible for regulating aquaculture, any other law to the contrary notwithstanding. The only exceptions are those areas required by federal law, rule, or cooperative agreement to be regulated by another agency. The Legislature declares that, in order to effectively support the growth of aquaculture in this state, there is a need for a state aquaculture plan that will provide for the coordination and prioritization of state aquaculture efforts and the conservation and enhancement of aquatic resources and will provide mechanisms for increasing aquaculture production which may lead to the creation of new industries, job opportunities, income for aquaculturists, and other benefits to the state. The state aquaculture plan shall guide the research and development of the aquaculture industry. Funds designated by the Legislature for aquaculture research and development or for contracting for aquaculture research and development shall be used to address the projects and activities designated in the state aquaculture plan. Any entity receiving legislative funding for aquaculture research and development programs shall report annually to the department all activities related to aquaculture to facilitate coordination and compliance with the state aquaculture plan.

Section 25. Paragraph (j) is added to subsection (1) of section 597.003, Florida Statutes, to read:

597.003 Powers and duties of Department of Agriculture and Consumer Services.—

(1) The department is hereby designated as the lead agency in encouraging the development of aquaculture in the state and shall have and exercise the following functions, powers, and duties with regard to aquaculture:

(j) Issue or deny any license or permit authorized or delegated to the department by the Legislature or through memorandum of understanding with other state or federal agencies that furthers the intent of the Legislature to place the regulation of aquaculture in the department.

Section 26. Section 597.004, Florida Statutes, is amended to read:

597.004 Aquaculture certificate of registration.—

(1) SHELLFISH CERTIFICATION.—

(a)—Any person engaging in shellfish aquaculture must be certified by the department. The applicant for a certificate of registration shall submit the following to the department:

- (a)1. Applicant's name/title.
 - (b)2. Company name.
 - (c)3. Complete mailing address.
 - (d)4. Legal property description of all aquaculture facilities.
 - (e)5. Description of production facilities.
 - (f)6. Aquaculture products to be produced.
 - (g)7. Fifty dollar annual registration fee, ~~effective July 1, 1997.~~
- (2) NONSHELLFISH CERTIFICATION.—

(a) Any person engaging in nonshellfish aquaculture, except as otherwise provided in this section, must be certified by the department. The applicant for a certificate of registration for nonshellfish products shall submit the following to the department:

1. The information requested in subsection (1) above.
2. Documentation that the rules adopted herein have been complied with in accordance with paragraph (b) below.

(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 property owners and leaseholders.
2. Establish procedures for 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.
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 s. 597.004 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 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 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.

(e) The department shall provide, by December 31, 1999, to the President of the Senate and the Speaker of the House of Representatives, a progress report concerning the development, implementation, and effectiveness of best-management practices to prevent contamination of groundwater and surface water.

(f) This section does not limit federally delegated regulatory authority.

(g)(b) Any aquatic plant producer permitted~~certified~~ by the department pursuant to s. 369.25 shall also be subject to the requirements of this subsection issued an aquaculture certificate of registration.

(h)(c) Any alligator producer with an alligator farming license and permit to establish and operate an alligator farm pursuant to the provisions and rules of chapter 372 shall be issued an aquaculture certificate of registration pursuant to subsection (1) above.

(3)(2) FEES.—

(a) Effective July 1, 1997, all fees collected pursuant to this section shall be deposited into the General Inspection Trust Fund in the Department of Agriculture and Consumer Services.

~~(b) For each aquaculture certificate of registration issued pursuant to this section for freshwater fish operations under chapter 372, \$40 shall be deposited into the State Game Trust Fund in the Game and Fresh Water Fish Commission from the General Inspection Trust Fund in the Department of Agriculture and Consumer Services.~~

~~(4)(3) 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 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)(4) SALE OF AQUACULTURE PRODUCTS.—~~

(a) Aquaculture products, except shellfish, snook, spotted sea trout, red drum, and freshwater aquatic species identified in chapter 372 and rules of the Game and Fresh Water Fish Commission, may be sold without restriction so long as product origin can be identified.

(b) Aquaculture shellfish must be sold and handled in accordance with shellfish handling regulations of the Department of Environmental Protection established to protect public health.

~~(6)(5) REGISTRATION AND RENEWALS.—~~

~~(a) Not later than December 1, 1996,~~ 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 only for a the period of 1 year covering December 1, 1996, through June 30, 1997. ~~The department shall not require a registration fee only for the period covering December 1, 1996, through June 30, 1997. However,~~ 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) No later than October 1, 1996,~~ The department shall send notices of registration to all aquaculture producers of record requiring them to register for an aquaculture certificate. ~~Thereafter, the department shall send a Renewal notices shall be sent~~ notice 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.

Section 27. Paragraph (i) is added to subsection (3) of section 597.005, Florida Statutes, to read:

597.005 Aquaculture Review Council.—

(3) RESPONSIBILITIES.—The primary responsibilities of the Aquaculture Review Council are to:

(i) Provide the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of legislative committees having primary jurisdiction over either the subject of aquaculture or the budget of the Department of Agriculture and Consumer Services, by August 1 of each year, a list of prioritized research needs critical to development of the aquaculture industry.

Section 28. This act shall take effect July 1 of the year in which enacted.

Became a law without the Governor's approval May 30, 1998.

Filed in Office Secretary of State May 29, 1998.