CHAPTER 597
AQUACULTURE

597.001 Florida Aquaculture Policy Act; short title.—This chapter may be cited as the “Florida Aquaculture Policy Act.”
History.—s. 1, ch. 84-90; s. 1, ch. 93-152.

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

1. “Aquaculture” means the cultivation of aquatic organisms.
2. “Aquaculture producers” means those persons engaging in the production of aquaculture products and certified under s. 597.004.
3. “Aquaculture products” means aquatic organisms and any product derived from aquatic organisms that are owned and propagated, grown, or produced under controlled conditions. Such products do not include organisms harvested from the wild for depuration, wet storage, or relay for purification.
4. “Commissioner” means the Commissioner of Agriculture.
5. “Department” means the Department of Agriculture and Consumer Services.
History.—s. 7, ch. 91-187; s. 23, ch. 96-247; s. 10, ch. 99-390.

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.

History.—s. 2, ch. 84-90; s. 3, ch. 90-92; s. 8, ch. 91-187; s. 24, ch. 96-247; s. 24, ch. 98-333.

597.0021 Legislative intent.—

(1) It is the intent of the Legislature to enhance the growth of aquaculture in this state, while protecting Florida’s environment.

(2) It is also the intent of the Legislature to give the department the duty to coordinate and assist the development of aquaculture.

(3) It is the intent of the Legislature that the Aquaculture Review Council is established to provide a means of communication between the aquaculture industry and the regulatory agencies.

History.—s. 1, ch. 87-367; s. 4, ch. 90-92; s. 9, ch. 91-187; s. 29, ch. 91-201; ss. 2, 6, ch. 93-152; s. 25, ch. 96-247; s. 46, ch. 2012-190.

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:

(a) Issue or deny aquaculture certificates that identify aquaculture producers and aquaculture products, and collect all related fees.

(b) Coordinate the development, annual revision, and implementation of a state aquaculture plan. The plan shall include prioritized recommendations for research and development as suggested by the Aquaculture Review Council and public and private institutional research, extension, and service programs.

(c) Develop memoranda of agreement, as needed, with the Department of Environmental Protection, the Fish and Wildlife Conservation Commission, the Florida Sea Grant Program, and other groups as provided in the state aquaculture plan.

(d) Provide staff for the Aquaculture Review Council.

(e) Forward the annually revised state aquaculture plan to the commissioner and to the chairs of the House Committee on Agriculture and Consumer Services and the Senate Committee on Agriculture 1 month prior to submission of the department’s legislative budget request to the Governor.

(f) Submit the list of research and development projects proposed to be funded through the department as identified in the state aquaculture plan, along with the department’s legislative budget request to the Governor, the President of the Senate, and the Speaker of the House of Representatives. If funded, these projects shall be contracted for by the Division of Aquaculture and shall require public-private partnerships, when appropriate. The contracts shall require a percentage of the profit generated by the project to be deposited into the General Inspection Trust Fund solely for funding aquaculture projects recommended by the Aquaculture Review Council.

(g) Provide developmental assistance to the various sectors of the aquaculture industry as determined in the state aquaculture plan.

(h) Assist persons seeking to engage in aquaculture when applying for the necessary permits and serve as ombudsman to resolve complaints or otherwise resolve problems arising between aquaculture producers and regulatory agencies.

(i) Develop and propose to the Legislature legislation necessary to implement the state aquaculture plan or to otherwise encourage the development of aquaculture in the state.

(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.

(k) Make available state lands and the water column for the purpose of producing aquaculture products when the aquaculture activity is compatible with state resource management goals, environmental protection, and proprietary interest and when such state lands and waters are determined to be suitable for aquaculture development by the Board of Trustees of the Internal Improvement Trust Fund pursuant to s. 253.68; provide training as necessary to
lessees; and be responsible for 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.

1. The department shall act in cooperation with other state and local agencies and programs to identify and designate sovereignty lands and waters that would be suitable for aquaculture development.

2. The department shall identify and evaluate specific tracts of sovereignty submerged lands and water columns in various areas of the state to determine where such lands and waters are suitable for leasing for aquaculture purposes. Nothing in this subparagraph or subparagraph 1. shall preclude the applicant from applying for sites identified by the applicant.

3. The department shall provide assistance in developing technologies applicable to aquaculture activities, evaluate practicable production alternatives, and provide agreements to develop innovative culture practices.

   (l) Act as a clearinghouse for aquaculture applications, and act as a liaison between the Fish and Wildlife Conservation Commission, 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.

   (2) The department may employ such persons as are necessary to perform its duties under this chapter.

History.—s. 3, ch. 84-90; s. 1, ch. 86-111; s. 5, ch. 87-367; s. 2, ch. 88-377; s. 10, ch. 91-187; s. 3, ch. 93-152; s. 467, ch. 94-356; s. 26, ch. 96-247; s. 25, ch. 98-333; s. 225, ch. 99-245; s. 25, ch. 2000-364; s. 38, ch. 2001-63; s. 47, ch. 2012-190; s. 153, ch. 2014-150.

597.004  Aquaculture certificate of registration. —

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

(a) Applicant’s name/title.
(b) Company name.
(c) Complete mailing address.
(d) Legal property description of all aquaculture facilities.
(e) Actual physical street address for each aquaculture facility.
(f) Description of production facilities.
(g) Aquaculture products to be produced.
(h) An annual registration fee of $100. The annual registration fee is waived for each elementary, middle, or high school and each vocational school that participates in the aquaculture certification program.

(i) Documentation that the rules adopted herein have been complied with in accordance with paragraph (2)(a).

(j) A certificate of training, if required under the best management practices adopted pursuant to this section.

(2) RULES.—

(a) 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.

   2. Establish procedures for holders of aquaculture certificates of registration 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.

(b) 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:

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 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) This section does not limit federally delegated regulatory authority.

(f) Any aquatic plant producer permitted by the department pursuant to s. 369.25 shall also be subject to the
requirements of this section.

(g) 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 this section. This chapter does not supersede the
authority under chapter 379 to regulate alligator farms and alligator farmers.

(3) FEES.—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.

(4) IDENTIFICATION OF AQUACULTURE PRODUCTS.—Aquaculture products shall be identified while
possessed, processed, transported, or sold as provided in this subsection.

(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 rules of the Fish and Wildlife Conservation Commission, may
be sold by an aquaculture producer certified pursuant to this section or by a dealer licensed pursuant to part VII of
chapter 379 without restriction so long as the product origin can be identified.

(b) Aquaculture shellfish must be sold and handled in accordance with s. 597.020.

(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 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.

History.—s. 27, ch. 96-247; s. 54, ch. 97-98; s. 26, ch. 98-333; s. 11, ch. 99-390; s. 78, ch. 2000-158; s. 27, ch. 2000-364; s. 9, ch. 2008-107; s. 76, ch. 2009-21; s. 48, ch. 2012-190; s. 154, ch. 2014-150; s. 37, ch. 2017-85.

597.0041 Prohibited acts; penalties.—

(1) It is unlawful for an aquaculture registrant to:

(a) Commingle in the same container any shellfish aquaculture product with any wild product;

(b) Transport by vessel over water both wild and aquaculture products of the same species at the same time; or

(c) Violate any provision of this chapter or chapter 500.

(2)(a) A person who violates this chapter or any rule adopted under this chapter is subject to a suspension or revocation of his or her certificate of registration or license under this chapter. The department may, in lieu of or in addition to the suspension or revocation, impose on the violator an administrative fine in the Class I category pursuant to s. 570.971 for each violation, for each day the violation exists.

(b) Except as provided in subsection (4), a person who violates this chapter or any rule adopted under this chapter commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(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 revoked for 5 years by the Department of Agriculture and Consumer Services pursuant to the provisions and procedures of s. 120.60.

(4) Any person who violates any provision of s. 597.010 or s. 597.020, or any rule adopted under those sections, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 for the first offense; and for the second or any subsequent offense within a 12-month period, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 28, ch. 96-247; s. 12, ch. 99-390; s. 28, ch. 2000-364; s. 39, ch. 2001-63; s. 155, ch. 2014-150.

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.

History.—s. 13, ch. 99-390.
Aquaculture Review Council.—

(1) COMPOSITION.—There is created within the department the Aquaculture Review Council to consist of eight members as follows: the chair of the State Agricultural Advisory Council or designee and seven additional members to be appointed by the commissioner, including an alligator farmer, a food fish farmer, a shellfish farmer, a tropical fish farmer, an aquatic plant farmer, a representative of the commercial fishing industry, and a representative of the aquaculture industry at large. Members shall be appointed for 4-year terms. Each member shall be selected from no fewer than two or more than three nominees submitted by recognized statewide organizations representing each industry segment or the aquaculture industry at large. In the absence of nominees, the commissioner shall appoint persons who otherwise meet the qualifications for appointment to the council. Members shall serve until their successors are duly qualified and appointed. An appointment to fill a vacancy shall be for the unexpired portion of the term.

(2) MEETINGS; PROCEDURES; RECORDS.—

(a) The members of the council shall meet at least quarterly; shall elect a chair, a vice chair, and a secretary; and shall use accepted rules of procedure. The terms of such officers shall be for 1 year.

(b) The council shall meet at the call of its chair, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules of procedure.

(c) A majority of the members of the council constitutes a quorum for all purposes, and an act by a majority of such quorum at any meeting constitutes an official act of the council.

(d) The council secretary shall keep a complete record of the proceedings of each meeting, which record shall include the names of the members present and the actions taken. Such records shall be kept on file with the department, and these records and other documents about matters within the jurisdiction of the council shall be subject to inspection by the members of the council.

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

(a) Formulate and recommend to the commissioner rules and policies governing the business of aquaculture by studying and evaluating aquacultural issues.

(b) Provide aquaculture industry recommendations for research and development to be included in the annual revision of the state aquaculture plan.

(c) Submit to the commissioner on an annual basis:

1. A prioritized list of research projects to be included in the department’s legislative budget request. Each year, the council shall review the aquaculture legislative budget requests submitted to the department and rank them according to the state aquaculture plan.

2. Recommendations to be forwarded to the Speaker of the House of Representatives and the President of the Senate on legislation needed to help the aquaculture industry.

3. Recommendations on aquaculture projects, activities, research, and regulation and other needs to further the development of the aquaculture industry.

(d) On a quarterly basis, review and discuss problems that serve as barriers to the growth and development of aquaculture.

(e) Assist the department in carrying out duties identified in s. 597.003 by studying aquaculture issues and making recommendations for regulating and permitting aquaculture and in the development, revision, and implementation of the state aquaculture plan.

(f) Provide input to the department to perform studies, identify needs, research issues, write reports, record actions and meetings of the council and, in general, conduct the business of the council.

(g) Receive input from state agencies and public and private institutions on aquaculture research, service, development, and regulatory needs.

(h) For any problem that cannot be solved through simple cooperation or negotiation, provide an issue analysis to the chairs of the legislative agriculture committees. The analysis shall include, but not be limited to, specific facts and industry hardships, regulatory provisions, questions relative to the issue, and suggestions for solving the problem.

(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.

History.—ss. 5, 8, ch. 84-90; s. 7, ch. 87-367; ss. 3, 5, 6, ch. 88-377; s. 5, ch. 90-92; s. 11, ch. 91-187; ss. 4, 6, ch. 93-132; s. 29, ch. 96-247; s. 27, ch. 98-333; s. 29, ch. 2000-364; s. 58, ch. 2011-206; s. 49, ch. 2012-190.

597.010 Shellfish regulation; leases.—

(1) LEASE, APPLICATION FORM.—When any qualified person desires to lease a part of the bottom, water column, or bed of any of the water of this state for the purpose of growing oysters or clams, as provided for in this section, he or she shall present to the department a written application pursuant to s. 253.69.

(2) LANDS TO BE LEASED.—The lands leased shall be as compact as possible, taking into consideration the shape of the body of water and the condition of the bottom as to hardness, or soft mud or sand, or other conditions that would render the bottoms desirable or undesirable for the purpose of oyster or clam cultivation.

(3) SURVEYS, PLATS, AND MAPS OF REEFS.—The department shall accept, adopt, and use official reports, surveys, and maps of oyster, clam, or other shellfish grounds made under the direction of any authority of the United States as prima facie evidence of the natural oyster and clam reefs and beds, for the purpose and intent of this chapter. The department may also make surveys of any natural oyster or clam reefs or beds when it deems such surveys necessary and where such surveys are made pursuant to an application for a lease, the cost thereof may be charged to the applicant as a part of the cost of his or her application.

(4) EXECUTION OF LEASES; LESSEE TO STAKE OFF BOUNDARIES; PENALTY FOR FAILURE TO COMPLY WITH REGULATIONS.—When a survey of the lands to be leased has been completed pursuant to s. 253.69 and filed with the department, and the cost thereof paid by the applicant, the department may execute in duplicate a lease of the water bottoms to the applicant. One duplicate, with a plat or map of the water bottoms so leased, shall be delivered to the applicant, and the other, with a plat or map of the bottom so leased, shall be retained by the department and registered in a lease book which shall be kept exclusively for that purpose by the department; thereafter the lessees shall enjoy the exclusive use of the lands and all oysters and clams, shell, and cultch grown or placed thereon shall be the exclusive property of such lessee as long as he or she shall comply with the provisions of this chapter and chapter 253. The department shall require the lessee to stake off and mark the water bottoms leased, by such ranges, monuments, stakes, buoys, etc., so placed and made as not to interfere with the navigation, as it may deem necessary to locate the same to the end that the location and limits of the lands embraced in such lease be easily and accurately found and fixed, and such lessee shall keep the same in good condition during the open and closed oyster or clam season. All leases shall be marked according to the standards set forth in s. 253.72. The department may stipulate in each individual lease contract the types, shape, depth, size, and height of marker or corner posts. Failure on the part of the lessee to comply with the orders of the department to this effect within the time fixed by it, and to keep the markers, etc., in good condition during the open and closed oyster or clam season, shall subject such lessee to a fine not exceeding $100 for each and every such offense.

(5) LEASES IN PERPETUITY; RENT.—

(a) All leases issued previously under the provisions of s. 379.2525 shall be enforced under the authority of this chapter, notwithstanding any other law to the contrary, and shall continue in perpetuity under such restrictions as stated in the lease agreement. The annual rental fee charged for all leases shall consist of the minimum rate of $15 per acre, or any fraction of an acre, per year and shall be adjusted on January 1, 1995, and every 5 years thereafter, based on the 5-year average change in the Consumer Price Index. Rent shall be paid in advance of January 1 of each year or in the case of a new lease at the time of signing, regardless of who holds the lease.

(b) All fees collected under this subsection and subsection (6) shall be deposited in the General Inspection Trust Fund and shall be used for shellfish aquaculture activities.

(6) FORFEITURE FOR NONPAYMENT.—All leases shall stipulate that failure to timely pay the rent on or before January 1 of each year shall cause the department, at its discretion, to terminate and cancel the lease after the department has given the lessee 30 days’ written notice of the nonpayment. If after receiving the notice the lessee chooses to keep the lease, the lessee shall pay the rental fee plus a $50 late fee within the 30-day period.
day notice has expired, the department may take possession of the lease and all improvements, assets, clams, and
oysters thereon.

(7) SURCHARGE FOR IMPROVEMENT OR REHABILITATION.—A surcharge of $10 per acre, or any fraction of
an acre, per annum shall be levied upon each lease, other than a perpetual lease granted pursuant to former chapter
370 prior to 1985, and deposited into the General Inspection Trust Fund. The purpose of the surcharge is to provide a
mechanism to have financial resources immediately available for improvement of lease areas and for cleanup and
rehabilitation of abandoned or vacated lease sites. The department is authorized to adopt rules necessary to carry out
the provisions of this subsection.

(a) Moneys in the fund that are not needed currently for cleanup and rehabilitation of abandoned or vacated lease
sites shall be deposited with the Chief Financial Officer to the credit of the fund and may be invested in such manner
as is provided for by statute. Interest received on such investment shall be credited to the fund.

(b) Funds within the General Inspection Trust Fund from receipts from the surcharge established in this section
shall be disbursed for the following purposes and no others:
1. Administrative expenses, personnel expenses, and equipment costs of the department related to the
improvement of lease areas, the cleanup and rehabilitation of abandoned or vacated aquaculture lease sites, and the
enforcement of provisions of this section.
2. All costs involved in the improvement of lease areas and the cleanup and rehabilitation of abandoned or
vacated lease sites.
3. All costs and damages which are the proximate results of lease abandonment or vacation.
4. Reward payments made pursuant to s. 597.0045.

The department shall recover to the use of the fund from the person or persons abandoning or vacating the lease,
jointly and severally, all sums owed or expended from the fund.

(8) CULTIVATION REQUIREMENTS.—

(a) Effective cultivation shall consist of the growing of the oysters or clams in a density suitable for commercial
harvesting over the amount of bottom prescribed by law. This commercial density shall be accomplished by the
planting of seed oysters, shell, and cultch of various descriptions. The department may stipulate in each individual
lease contract the types, shape, depth, size, and height of cultch materials on lease bottoms according to the individual
shape, depth, location, and type of bottom of the proposed lease. Each lessee leasing lands under the provisions of this
section or s. 253.71 shall begin, within 1 year after the date of such lease, bona fide cultivation of the same, and shall,
by the end of the second year after the commencement of such lease, have placed under cultivation at least one-half of
the leased area and shall each year thereafter place in cultivation at least one-fourth of the leased area until the whole,
suitable for bedding of oysters or clams, shall have been put in cultivation. The cultivation requirements for perpetuity
leases granted pursuant to former chapter 370 prior to 1985 under previously existing law shall comply with the
conditions stated in the lease agreement, and the lessee or grantee is authorized to plant the leased or granted
submerged land in both oysters and clams.

(b) These stipulations apply to all leases granted after the effective date of this section. All leases existing prior to
the effective date of this section will operate under the law that was in effect when the leases were granted.

(c) When evidence is gathered by the department and such evidence conclusively shows a lack of effective
cultivation, the department may revoke leases and return the bottoms in question to the public domain.

(d) The department has the authority to adopt rules pertaining to the water column over shellfish leases. All cultch
materials in place 6 months after the formal adoption and publication of rules establishing standards for cultch
materials on shellfish leases that do not comply with such rules may be declared a nuisance by the department. The
department has the authority to direct the lessee to remove such cultch in violation of this section. The department
cancel a lease upon the refusal by the lessee violating such rules to remove unlawful cultch materials, and all
improvements, cultch, marketable oysters, and shell shall become the property of the state. The department has the
authority to retain, dispose of, or remove such materials in the best interest of the state.
LEASES TRANSFERABLE, ETC. — The leases in chapter 253 and former chapter 370 shall be inheritable and transferable, in whole or in part, and shall also be subject to mortgage, pledge, or hypothecation and shall be subject to seizure and sale for debts as any other property, rights, and credits in this state, and this provision shall also apply to all buildings, betterments, and improvements thereon. Leases granted under this section cannot be transferred, by sale or barter, in whole or in part, without the written, express approval of the department, and such a transferee shall pay a $50 transfer fee before department approval may be given. Leases inherited or transferred will be valid only upon receipt of the transfer fee and approval by the department. The department shall keep proper indexes so that all original leases and all subsequent changes and transfers can be easily and accurately ascertained.

CANCELLATION OF LEASES TO NATURAL REEFS OR BEDS. — Any person, within 6 months after the execution of any lease, may file a petition with the department for the purpose of determining whether a natural oyster or clam reef or bed having an area of not less than 100 square yards existed within the leased area on the date of the lease, with sufficient natural or maternal oysters or clams thereon (not including coon oysters) to have constituted a stratum sufficient to have been resorted to by the public generally for the purpose of gathering the same to sell for a livelihood. The petition shall be in writing addressed to the department, verified under oath, stating the location and approximate area of the natural reef or bed and the claim or interest of the petitioner therein and requesting the cancellation of the lease to the natural reef or bed. A petition may not be considered unless it is accompanied by a deposit of $500 to defray the expense of the department’s investigation of the matter. Upon receipt of such petition, the department shall cause an investigation to be made into the truth of the allegations of the petition, and, if found untrue, the $500 deposit shall be retained by the department to defray the expense of the investigation, but should the allegations of the petition be found true and the leased premises to contain a natural oyster or clam reef or bed, as described in this subsection, the $500 deposit shall be returned to the petitioner and the costs and expenses of the investigation taxed against the lessee and the lease canceled to the extent of the natural reef or bed and the same shall be marked with buoys and stakes and notices placed thereon showing the same to be a public reef or bed, the cost of the markers and notices to be taxed against the lessee.

WHEN NATURAL REEFS OR BEDS MAY BE INCLUDED IN LEASE. —

(a) When an application for a submerged land lease for cultivating shellfish is filed, and when a resource survey of such lands identifies natural oyster or clam reefs or beds, the department shall determine if such reefs and beds are to be included in the leased area. The department, if it deems it to be in the best interest of the state, may include such natural reefs or beds in a lease. In those cases where a natural area is included in a lease, the department shall fix a reasonable value on the same, to be paid by the applicant for lease of such submerged land. No natural reefs shall be included in any shellfish or aquaculture lease granted in Franklin County.

(b) The department shall determine and settle all disputes as to boundaries between lessees. The department shall, in all cases, determine whether a particular submerged land area contains a natural reef or bed or whether it is suitable for raising oysters or clams.

FRANKLIN COUNTY LEASES. — On and after the effective date of this section, the only leases available in Franklin County shall be those issued pursuant to ss. 253.67-253.75; former chapter 370 leases shall no longer be available. The department shall require in the lease agreement such restrictions as it deems necessary to protect the environment, the existing leaseholders, and public fishery.

TRESPASS ON LEASED BEDS; PROTECTION OF LEASE AREAS. —

(a) Any person who willfully takes oysters, shells, cultch, or clams bedded or planted by a licensee under this chapter, or grantee under the provisions of heretofore existing laws, or riparian owner who may have heretofore planted the same on his or her riparian bottoms, or any oysters or clams deposited by anyone making up a cargo for market, or who willfully carries or attempts to carry away the same without permission of the owner thereof, or who willfully or knowingly removes, breaks off, destroys, or otherwise injures or alters any stakes, bounds, monuments, buoys, notices, or other designations of any natural oyster or clam reefs or beds or private bedding or propagating grounds, or who willfully injures, destroys, or removes any other protection around any oyster or clam reefs or beds, or who willfully moves any bedding ground stakes, buoys, marks, or designations placed by the department, commits a violation of this section.
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.

(14) SHELLFISH DEVELOPMENT.—The department, in cooperation with the Fish and Wildlife Conservation Commission and the Department of Environmental Protection, shall protect all clam beds, oyster beds, shellfish grounds, and oyster reefs from damage or destruction resulting from improper cultivation, propagation, planting, or harvesting. To this end, the Department of Health is authorized and directed to cooperate with the department and to make available its laboratory testing facilities and apparatus.

(15) SPECIAL ACTIVITY LICENSES.—The department is authorized to issue special activity licenses, in accordance with s. 597.020, to permit the harvest or cultivation of oysters, clams, mussels, and crabs.

(16) STAKING OFF WATER BOTTOMS OR BEDDING OYSTERS WITHOUT OBTAINING LEASE.—Any person staking off the water bottoms of this state, or bedding oysters on the bottoms of the waters of this state, without previously leasing same as required by law commits a violation of this section, and shall acquire no rights by reason of such staking off. This provision does not apply to grants heretofore made under the provisions of any heretofore existing laws or to artificial beds made heretofore by a riparian owner or his or her grantees on the owner’s riparian bottoms.

(17) SHELLFISH HARVESTING FROM SOVEREIGN SUBMERGED LAND LEASES; USE OF DREDGE OR MECHANICAL HARVESTING DEVICE.—

(a) As used in this subsection, the term:
   1. “Dredge or mechanical harvesting device” means a dredge, scrape, rake, drag, or other device that is towed by a vessel or self-propelled and that is used to harvest shellfish. The term does not include handheld or handdrawn hydraulically or mechanically operated devices used to harvest cultured clams from leased sovereign submerged lands, and this subsection does not apply to such handheld or handdrawn devices.
   2. “Shellfish” means oysters, clams, mussels, and scallops.

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

(c) The Board of Trustees of the Internal Improvement Trust Fund may authorize the use of a dredge or a mechanical harvesting device as a special lease condition of a sovereign submerged land lease issued under chapter 253 if:
   1. The use of the dredge or mechanical harvesting device does not adversely impact the public health, safety, or welfare of adjacent natural resources; and
   2. Aquaculture best management practices have been adopted pursuant to chapter 120 which:
      a. Describe the approved size and specifications of the dredge or mechanical harvesting device to be used.
      b. Provide conditions for deploying and using an approved dredge or mechanical harvesting device.
      c. Specify requirements for monitoring potential impacts at, and adjacent to, the sovereign submerged land lease site by the leaseholder.
   (d) The use of a dredge or mechanical harvesting device for the harvesting of shellfish from a sovereign submerged land lease is authorized if such use was previously authorized as an existing condition of a perpetual shellfish lease issued pursuant to former chapter 370.
   (e) Only one dredge or mechanical harvesting device per lease may be possessed or operated at any time at a lease site.
   (f) A dredge or mechanical harvesting device authorized by this subsection may not be used for taking shellfish for any purpose from public shellfish beds in waters of the state, and such dredge or mechanical harvesting device may not be possessed on the waters of the state from 5 p.m. until sunrise.
   (g) This subsection does not authorize the harvesting of shellfish from natural reefs.

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

(18) FISHING FOR RELAYING OR TRANSPLANTING PURPOSES.—
(a) The department may designate areas for the taking of oysters and clams to be planted on public areas. Oysters, clams, and mussels may be taken for relaying or transplanting at any time during the year so long as, in the opinion of the department, the public health will not be endangered. The amount of oysters, clams, and mussels to be obtained for relaying or transplanting shall be established by the Fish and Wildlife Conservation Commission. The area relayed or transplanted to, and relaying or transplanting time periods shall be established in each case by the department.

(b) Application for a special activity license issued pursuant to subsection (15) for obtaining oysters, clams, or mussels for relaying from closed public shellfish harvesting areas to open areas or certified controlled purification plants or for transplanting sublegal-sized oysters, clams, or mussels must be made to the department. In return, the department may assign an area and a period of time for the oysters, clams, or mussels to be relayed or transplanted to be taken. All relaying and transplanting operations shall take place under the direction of the department.

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

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

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

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

   (a) Except for oysters used directly in the half-shell trade, 50 percent of all shells from oysters and clams shucked commercially in the state shall be and remain the property of the department when such shells are needed and required for rehabilitation projects and planting operations, in cooperation with the Fish and Wildlife Conservation Commission, when sufficient resources and facilities exist for handling and planting such shells, and when the collection and handling of such shells is practicable and useful, except that bona fide holders of leases and grants may retain 75 percent of such shells as they produce for aquacultural purposes. Storage, transportation, and planting of shells so retained by lessees and grantees shall be carried out under the conditions of the lease agreement or with the written approval of the department and shall be subject to such reasonable time limits as the department may fix. In the event of an accumulation of an excess of shells, the department is authorized to sell shells only to private growers for use in oyster or clam cultivation on bona fide leases and grants. No profit shall accrue to the department in these transactions, and shells are to be sold for the estimated moneys spent by the department to gather and stockpile the shells. Planting of shells obtained from the department by purchase shall be subject to the conditions set forth in the lease agreement or in the written approval as issued by the department. Any shells not claimed and used by private oyster cultivators 10 years after shells are gathered and stockpiled may be sold at auction to the highest bidder for any private use.

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

   (c) If oyster or clam shells are owned by the department and it is not useful or feasible to use them in the rehabilitation projects, and if a leaseholder has not exercised his or her option to acquire them, the department may sell such shells for the highest price obtainable. Such shells may be used in any manner and for any purpose at the discretion of the purchaser.

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

   (e) The department may publish notice, in a newspaper serving the county, of its intention to collect the oyster and clam shells and shall notify, by certified mail, each shucking establishment from which shells are to be collected. The notice shall contain the period of time the department intends to collect the shells in that county and the collection purpose.
REQUIREMENTS FOR OYSTER OR CLAM VESSELS. —

(a) All vessels used for the harvesting, gathering, or transporting of oysters or clams for commercial purposes shall be constructed and maintained to prevent contamination or deterioration of shellfish. To this end, all such vessels shall have false bottoms and bulkheads fore and aft to prevent onboard shellfish from coming in contact with any bilge water. Dogs or other animals are not allowed at any time on vessels used to harvest or transport shellfish. A violation of this subsection will, at a minimum, result in the revocation of the violator’s license.

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


597.020 Shellfish processors; regulation. —

(1) The department may:

(a) Adopt by rule regulations, specifications, training requirements, and codes relating to sanitary practices for catching, cultivating, handling, processing, packaging, preserving, canning, smoking, and storing oysters, clams, mussels, scallops, and crabs.

(b) License shellfish processors who handle oysters, clams, mussels, scallops, and crabs when such activities relate to quality control, sanitary, and public health practices pursuant to this section and chapter 500.

(c) License or certify, for a fee determined by rule, facilities used for processing oysters, clams, mussels, scallops, and crabs, and may levy an administrative fine in the Class I category pursuant to s. 570.971 for each violation, for each day the violation exists, or suspend or revoke such licenses or certificates upon satisfactory evidence of a violation of rules adopted pursuant to this section, and seize and destroy any adulterated or misbranded shellfish products as defined by rule.

(2) A shellfish processing plant certification license is required to operate any facility in which oysters, clams, mussels, scallops, or crabs are processed, including but not limited to: an oyster, clam, mussel, or scallop cannery; a shell stock dealership; an oyster, clam, mussel, or scallop shucking plant; an oyster, clam, mussel, or scallop repacking plant; an oyster, clam, mussel, or scallop controlled purification plant; or a crab or soft-shell crab processing or shedding plant.

(3) The department may suspend or revoke any shellfish processing plant certification license upon satisfactory evidence that the licensee has violated any regulation, specification, or code adopted under this section and may seize and destroy any shellfish product which is defined by rule to be an adulterated or misbranded shellfish product.

(4) Any license or certification authorized and issued under this chapter shall automatically expire on June 30 of each year.

History.—s. 1, ch. 65-110; ss. 25, 35, ch. 69-106; s. 6, ch. 83-134; s. 4, ch. 86-219; ss. 4, 5, ch. 86-240; s. 218, ch. 94-356; s. 13, ch. 96-247; s. 44, ch. 99-245; s. 32, ch. 2000-364; s. 42, ch. 2002-295; s. 156, ch. 2014-150; s. 72, ch. 2015-2.

Note.—Former s. 370.071.

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