

House Bill 501

By: Representatives Petrea of the 166<sup>th</sup>, Hogan of the 179<sup>th</sup>, Stephens of the 164<sup>th</sup>, Williams of the 168<sup>th</sup>, Sainz of the 180<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 4 of Chapter 4 of Title 27 of the Official Code of Georgia Annotated,  
2 relating to seafood, so as to provide for mariculture development; to provide for legislative  
3 findings; to provide for definitions; to provide for unlawful acts; to provide for permitting;  
4 to provide for closing approved growing areas; to provide for approval to harvest in closed  
5 approved growing areas; to revise tagging requirements; to provide for leasing requirements  
6 of water bottoms and subtidal water bottoms for harvesting of wild or maricultured shellfish;  
7 to provide for revocation of permits; to provide for a performance bond; to provide for an  
8 operational plan to be submitted with a permit application; to provide for conditional permits;  
9 to provide for the importation of seed from hatcheries; to provide for cage limits and fees;  
10 to amend Code Section 12-5-295 of the Official Code of Georgia Annotated, relating to  
11 applicability of activities in coastal marshlands, so as to revise and add an exemption certain;  
12 to provide for related matters; to provide for effective dates and applicability; to repeal  
13 conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Article 4 of Chapter 4 of Title 27 of the Official Code of Georgia Annotated, relating to  
17 seafood, is amended by revising Part 4, relating to shellfish, as follows:

18 "27-4-187.

19 The General Assembly finds that the wild harvest and mariculture of shellfish provide  
20 increased seafood production and long-term economic opportunities for coastal Georgia  
21 as well as increased ecological benefits to the estuarine environment by promoting natural  
22 water filtration and increased fishery habitats. The General Assembly also finds that there  
23 exists a public health concern when consuming raw or undercooked shellfish, especially  
24 during warm water, summer conditions. Therefore, the General Assembly declares that it  
25 is the policy of the state to encourage development of the commercial shellfish industry in  
26 ways that protect the public health and are compatible with the environment and with other

27 public uses of the estuarine area, such as navigation, fishing, swimming, and other forms  
28 of recreation.

29 27-4-188.

30 As used in this part, the term:

31 (1) 'Approved growing area' means that area or areas approved by the department in  
32 conformance with the National Shellfish Sanitation Program which supports or could  
33 support the propagation of wild or maricultured shellfish that may be harvested and  
34 directly marketed for human consumption.

35 (2) 'Approved shellfish pathologist' means a pathologist approved by the department.

36 (3) 'Certified firms' means those firms certified by the Department of Agriculture and  
37 includes, but is not limited to, certified dealers, shellstock shippers, shuckers or packers,  
38 repackers, reshippers, depuration processors, and wholesalers.

39 (4) 'Culch' means, but is not limited to, oyster shells, clam shells, and other shellfish  
40 shells when those shells originated from Georgia salt waters; oak brush, cement coated  
41 shingles, nongalvanized wire fencing, small gravel, and any other material approved by  
42 the department.

43 (5) 'Culch material' means that material which is approved by the department and which  
44 is conducive to larval oyster attachment.

45 (6) 'Director' means the director of the Coastal Resources Division of the Department of  
46 Natural Resources.

47 (7) 'Harvester' means a person who is authorized by the department to harvest shellfish  
48 for commercial purposes at the request of a master harvester.

49 (8) 'Intertidal' means the area of the marine shoreline that is exposed to air at mean low  
50 tide and covered with seawater at mean high tide.

51 (9) 'Management plan' means a detailed plan submitted by the master harvester describing  
52 all activities related to shellfish production and marketing over the term of a shellfish  
53 lease, as approved by the department.

54 (10) 'Master harvester' means a person who has acquired a lease with permission to grow  
55 or harvest shellfish from the state or from an owner with exclusive rights to shellfish  
56 pursuant to Code Sections 44-8-6 through 44-8-8, who has been permitted by the  
57 department.

58 (11) 'Operational plan' means a detailed annual plan submitted by the master harvester  
59 or shellfish hatchery and nursery, specifying all processes and activities related to  
60 shellfish mariculture, as approved by the department.

61 (12) 'Shellfish hatchery and nursery' means a facility where shellfish are artificially bred,  
62 hatched, or reared.

63       (13) 'Shellfish mariculture' means the controlled cultivation of shellfish in confinement  
64       from seed size until harvest for commercial purposes.

65       (14) 'Shellfish seed' means juvenile shellstock intended for growth to market size.

66       (15) 'Shellstock' means live molluscan shellfish in the shell.

67       (16) 'Subtidal' means the area of the marine shoreline that is below mean low tide and  
68       is covered with seawater at all stages of the tide.

69       (17) 'Unapproved growing areas' means all those areas other than approved growing  
70       areas.

71       (18) 'Water bottoms' means the lands within this state covered at mean high water from  
72       the salt water and fresh water demarcation line seaward to the state boundary.

73       27-4-189.

74       (a) Except as otherwise provided by law and in accordance with current, sound principles  
75       of wildlife research and management, the board is authorized to promulgate rules and  
76       regulations necessary to develop and cultivate the shellfish industry in Georgia to include,  
77       but not be limited to, size, possession, and creel limits; season criteria; siting criteria,  
78       including lease size for mariculture activities; methods for issuing leases, including number  
79       issued per year, lease values and terms, and the importation of molluscan shellfish,  
80       shellfish tissues, or shells into this state to include place or region of origin, minimum and  
81       maximum seed size, ploidy, and type. When promulgating rules and regulations, the board  
82       shall take into account public health as the primary consideration.

83       (b) The board shall transmit to the chairpersons of the Game, Fish, and Parks Committee  
84       of the House of Representatives and the Senate Natural Resources and the Environment  
85       Committee a list of recommended legislation necessary to improve Georgia's mariculture  
86       industry.

87       27-4-190.

88       (a)(1) It shall be unlawful to take or possess shellfish in commercial quantities or for  
89       commercial purposes without first having obtained a commercial fishing license with a  
90       shellfish endorsement and a master collecting harvester permit or harvester permit or  
91       without proof of purchase that such shellfish were purchased from a certified shellfish  
92       dealer. Master collecting harvester permits shall specify whether the permittee is  
93       authorized to take oysters, clams, or other shellfish and shall only be issued to persons  
94       certified by the Department of Agriculture to handle shellfish unless permission to take  
95       and possess shellfish for mariculture purposes has been granted by the department as  
96       described in subsection (d) of Code Section 27-4-197 and in Code Section 27-4-202.  
97       Such permits shall be provided annually at no cost by the department but shall only be

98 issued to persons with the right to harvest shellfish pursuant to Code Sections 44-8-6  
99 through 44-8-8 or to holders of leases from such persons. A permittee may request  
100 authorization from the department for employees or agents, who shall be referred to as  
101 ~~pickers~~ harvesters, of such permittee to take shellfish from permitted areas. Such request  
102 shall be in writing to the department and shall include the name, address, and personal  
103 commercial fishing license number of the ~~picker~~ harvester. It shall be unlawful for  
104 ~~pickers~~ harvesters to take or possess shellfish as authorized under their employer's master  
105 ~~collecting~~ harvester permit unless they carry on their person while taking or in possession  
106 of shellfish a ~~picker's~~ harvester permit as provided by the department indicating the exact  
107 area and circumstances allowed for taking. Such ~~pickers~~ harvesters' permits and charts  
108 shall be provided annually by the department at no cost and shall be in a form as  
109 prescribed by the department. ~~Pickers~~ Harvesters must possess a valid personal  
110 commercial fishing license as provided for in Code Section 27-4-110, a shellfish  
111 endorsement as provided for in the department's rules and regulations, and, when a boat  
112 is used, a valid commercial fishing boat license as provided in Code Section 27-2-8.  
113 Master ~~collecting~~ harvester permits and ~~pickers'~~ harvester permits shall not be issued to  
114 persons who have ~~been convicted three times~~ violated this part in the two years  
115 immediately preceding the filing of an application for a permit of violations of this Code  
116 section, subsection (b) of Code Section 27-4-193, subsections (a) and (b) of Code Section  
117 27-4-195, or Code Section 27-4-199. Permits may be revoked pursuant to Code Section  
118 27-2-25. Master ~~collecting~~ harvester permits and ~~pickers'~~ harvester permits issued to  
119 master ~~collecting~~ permittees' harvesters or agents shall be surrendered to the department  
120 upon termination of Department of Agriculture certification for handling shellfish, upon  
121 termination of right to harvest shellfish, or upon violation of any provision of this title.  
122 If a ~~picker~~ harvester is removed from authorization to take shellfish by the master  
123 ~~collecting~~ harvester permittee, the master harvester shall immediately notify the  
124 department of such removal. In addition, that ~~picker~~ harvester shall immediately  
125 surrender to the department his ~~picker's~~ or her harvester permit. It shall be unlawful to  
126 possess unauthorized ~~pickers'~~ harvester permits or ~~pickers'~~ harvester permits issued to  
127 another person.

128 (2) All commercially licensed vessels engaged in commercial shellfish harvest or  
129 transport, whether with shellfish on board or not, shall have a portable marine toilet on  
130 board, as the term is defined in Code Section 52-7-3.

131 (b) It shall be unlawful for any person to take or possess shellfish from unauthorized  
132 locations and during unauthorized periods of taking. It shall be unlawful to take shellfish  
133 except between the hours of one-half hour before sunrise and one-half hour after sunset.

134 (c) A master collecting permit shall not be issued if the permittee has failed to comply with  
135 Code Section 27-4-196 during the previous harvest season or if the issuance is determined  
136 not to be in accordance with sound, current principles of wildlife research and management  
137 by the department. Permits may be revoked according to Code Section 27-2-25.

138 (d)(c) It shall be unlawful to take any quantity of shellfish for commercial purposes from  
139 public recreational harvest areas. Recreational quantities of oysters in the shell shall be two  
140 bushels per person with up to six bushels per boat per day. Recreational quantities of clams  
141 in the shell shall be one bushel or less per person with no more than one bushel per boat  
142 per day. Recreational quantities of shucked oysters or clams or a combination thereof shall  
143 be one gallon per day. It shall be unlawful to harvest shellfish recreationally except in  
144 areas designated by the commissioner except that private property owners or persons  
145 authorized by private property owners may harvest recreational quantities of shellfish from  
146 areas for which they have harvest rights to shellfish if they have in their possession proof  
147 of ownership or a letter of permission from the property owner stating the dates allowed  
148 to take shellfish, type of shellfish which may be taken, and a description of the area  
149 allowed for such taking. Private property owners wishing to harvest recreational quantities  
150 of shellfish or to issue permission to others to harvest recreational quantities of shellfish  
151 shall notify the department in writing prior to the taking of shellfish or the permitting of  
152 others to take shellfish so harvest areas can be opened according to Code Section 27-4-195.  
153 Permission to harvest shellfish recreationally in public recreational harvest areas shall be  
154 granted to all residents and nonresidents upon the designation of individual public  
155 recreational harvest areas.

156 27-4-191.

157 Reserved.

158 27-4-192.

159 (a) Unless authorized by the department, it shall be unlawful for any person to take or  
160 possess for commercial purposes any shellfish taken from the salt waters of this state  
161 except by hand or hand-held implement. The department may authorize the use of other  
162 equipment for taking shellfish for commercial purposes upon such conditions as the  
163 department determines are in accordance with current, sound principles of wildlife research  
164 and management. It shall be unlawful to take or possess shellfish taken by such other  
165 equipment unless prior written approval has been obtained from the department and unless  
166 a copy of the written permission is on the person of the authorized harvester and unless the  
167 conditions of the written authorization are being met. Such other equipment includes, but

168 is not limited to, rock dredges, escalator dredges, hydraulic dredges, mechanical tongs,  
169 patent tongs, and any power drawn or driven device.

170 (b) It shall be unlawful for any person to take or possess shellfish for recreational purposes  
171 using any instrument other than by hand or hand-held implement.

172 27-4-193.

173 ~~(a) As used in this Code section, the term "approved growing area" means that area or~~  
174 ~~areas approved by the department for shellfish harvesting and "unapproved growing area"~~  
175 ~~means all other areas.~~

176 ~~(b)~~(a) It shall be unlawful to take or possess shellfish from unapproved growing areas  
177 except at such times and places as the department may establish. The department is  
178 authorized to close approved growing areas to allow transplanting at any time between  
179 January 1 and December 31. It shall be unlawful to engage in transplanting of shellfish  
180 from unapproved growing areas without written authorization from the department. Such  
181 authorization may condition the transplanting upon compliance with current, sound  
182 principles of wildlife research and management. In approving growing areas, the  
183 department shall consider such current guidelines as have been established by the National  
184 Shellfish Sanitation Program at the time of approval of the growing areas and current,  
185 sound principles of wildlife research and management.

186 ~~(c)~~(b) It shall be unlawful to build or operate a facility for controlled purification of  
187 shellfish without prior written authorization from the department. In issuing such  
188 authorization, the department shall consider such current guidelines as have been  
189 established by the National Shellfish Sanitation Program and the rules and regulations of  
190 the Department of Agriculture at the time of such authorization.

191 27-4-194.

192 (a)(1) It shall be unlawful to take any oysters for noncommercial purposes when the  
193 shells of the oysters measure less than three inches from hinge to mouth, except that  
194 oysters less than three inches from hinge to mouth may be removed if attached to an  
195 oyster of that minimum size and the oyster so attached cannot be removed without  
196 destroying the three-inch oyster.

197 (2) It shall be unlawful to take any oysters for commercial purposes when the shells of  
198 the oysters measure less than two inches from hinge to mouth, except that oysters less  
199 than two inches from hinge to mouth may be removed if attached to an oyster of that  
200 minimum size and the oyster to which it is so attached cannot be removed without  
201 destroying the two-inch oyster.

202 (3) It shall be unlawful for any person engaged in shucking or canning oysters for market  
203 to shuck, can, purchase, or have in possession any quantity of oysters containing more  
204 than 5 percent of oysters of prohibited size as defined in this Code section. Smaller  
205 oysters may be taken incidentally with such minimum-size oysters when they are directly  
206 attached to the minimum-size oysters. Oysters of prohibited size as defined in this Code  
207 section may be taken or possessed if prior written approval has been obtained from the  
208 department and such approval is on the person of the harvester or person in possession  
209 of the oyster.

210 (b) It shall be unlawful to take or possess any clam for commercial or recreational  
211 purposes when the maximum depth of the shell of the clam measures less than  
212 three-fourths' inch thickness from one shell half to the other unless prior written approval  
213 has been obtained from the department and such approval is on the person of the harvester  
214 or person in possession of the clam.

215 27-4-195.

216 (a) It shall be unlawful to take shellfish from any of the salt waters of this state except at  
217 such times and places as the commissioner may establish. The commissioner is authorized  
218 to open or close for the purpose of taking shellfish any or ~~a portion~~ all portions of the salt  
219 waters of this state at any time between January 1 and December 31, provided that he or  
220 she has determined that such action in opening or closing said salt waters is in accordance  
221 with current, sound principles of wildlife research and management.

222 (b) It shall be unlawful to give permission to take shellfish from any area not opened  
223 pursuant to this Code section unless permission has been granted by the department or to  
224 give permission to harvest shellfish from areas for which the individual granting such  
225 permission does not have harvest rights.

226 (c) A master harvester may request permission from the department to harvest shellfish  
227 during periods when shellfish harvest is closed pursuant to subsection (a) of this Code  
228 section. The department may consider a master harvester's past compliance with the  
229 provisions of this part in making its determination to issue conditional permission to  
230 harvest during closed periods. In addition, the master harvester shall provide:

231 (1) A closed season shellfish operations plan that is approved by the department and  
232 meets requirements established by the board to be protective of public health;  
233 (2) A list of trained, authorized harvesters as provided in subsection (d) of this Code  
234 section; and  
235 (3) A list of receiving certified firms.

236 (d) A master harvester shall ensure that a harvester receives training required by the  
237 National Shellfish Sanitation Program, abides by the conditions of the program, and holds  
238 all required licenses.

239 (e) The department may suspend or revoke a master harvester's permission for closed  
240 period harvest for a violation of a condition by the master harvester or harvester. The filing  
241 of a judicial appeal shall not act as an automatic stay of enforcement. No license, permit,  
242 or lease shall be denied or revoked under this part without opportunity for hearing in  
243 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

244 27-4-196.

245 (a) As used in this Code section, the term:

246 (1) "Culch" includes, but is not limited to, oyster shells, clam shells, and other shellfish  
247 shells when those shells originated from Georgia salt waters; oak brush, cement-coated  
248 shingles, nongalvanized wire fencing, small gravel, and any other material approved by  
249 the department.

250 (2) "Culch material" means that material which is approved by the department and which  
251 is conducive to larval oyster attachment.

252 (b)(a) It shall be unlawful for any permittee authorized pursuant to Code Section 27-4-190  
253 to gather wild oysters for commercial purposes from beds intertidal water bottoms other  
254 than those leased from the state to fail to do one of the following each year:

255 (1) Distribute upon areas designated by the department at least 33 1/3 percent by volume  
256 of oyster shells taken by the permittee or taken under authorization by the permittee  
257 during the immediately preceding harvest season;

258 (2) Transplant at least such amount by volume of oysters from unapproved growing areas  
259 in accordance with the requirements of this article; or

260 (3) Distribute or transplant at least such amount by volume of culch material.

261 (c)(b) It shall be unlawful for any permittee or permittee's authorized agent taking wild  
262 oysters from beds intertidal water bottoms leased from the state to fail to return to the beds  
263 the shells taken from such beds in such culch amounts by volume as are specified in the  
264 lease agreement.

265 (d)(c) Such shell deposition, oyster transplanting, or deposition of culch material shall be  
266 done under the direction or supervision of the department and shall require prior  
267 notification to the department of any such proposed action.

268 27-4-197.

269 (a) The department and the Department of Agriculture shall conduct a shellfish program  
270 sufficient to be certified by the United States Food and Drug Administration for interstate  
271 shipment of shellfish produced in this state.

272 (b) It shall be unlawful for any person handling shellfish for purposes of sale or shipment  
273 to fail to keep such shellfish in clean barrels, bags, crates, baskets, or other containers as  
274 prescribed by the Department of Agriculture. It shall be unlawful to fail to attach to each  
275 such container a tag ~~obtained from~~ approved by the Department of Agriculture or to mark  
276 containers of shucked shellfish with mandatory information as described by the Department  
277 of Agriculture. It shall be unlawful to possess shellfish which are not properly tagged or  
278 labeled according to this Code section. Such tags or labels shall indicate the information  
279 as required by the Department of Agriculture.

280 (c) It shall be unlawful to affix tags issued to a certified dealer onto containers of another  
281 ~~or to fail to surrender unused tags to the Department of Agriculture upon termination of~~  
282 ~~certification or master collecting permit. Uncertified master harvesters shall tag harvested~~  
283 ~~shellfish in a manner as prescribed by the department according to the guidelines of the~~  
284 National Shellfish Sanitation Program.

285 (d) It shall be unlawful to ship or possess commercial quantities of shellfish unless  
286 certified by the Department of Agriculture. It shall be unlawful to possess shellfish from  
287 out-of-state sources unless those shellfish were purchased from certified dealers. It shall  
288 be unlawful to ship shellfish through Georgia unless certified. Certified dealers are those  
289 permitted to handle shellfish according to the guidelines of the National Shellfish  
290 Sanitation Program. The department may issue permission to uncertified firms to take and  
291 possess shellfish ~~for mariculture purposes~~. Such permission may be issued upon such  
292 conditions as the department determines are in accordance with current, sound principles  
293 of wildlife research and management.

294 27-4-198.

295 (a)(1) ~~Any person desiring to lease any state shellfish beds for the exclusive rights to~~  
296 ~~harvest those shellfish pursuant to this Code section shall make an application in writing~~  
297 ~~to the department. The application shall include the name and legal residence of the~~  
298 ~~applicant, a National Oceanic and Atmospheric Administration (NOAA) chart indicating~~  
299 ~~the area desired to be leased, the names and addresses of adjacent landowners as recorded~~  
300 ~~on county tax maps and verification of such information in such form as the department~~  
301 ~~may prescribe, the proposed plans for managing the resources, and such other information~~  
302 ~~as the department may prescribe. The department may offer leases of state intertidal~~  
303 ~~water bottoms within an approved growing area for the exclusive rights to harvest wild~~

304 or maricultured shellfish pursuant to this Code section through public competitive  
305 bidding. Any person desiring to lease state intertidal water bottoms shall make an  
306 application in writing to the department in the manner and time as described by the  
307 department in the competitive bid advertisement. Such lease shall include terms and  
308 conditions as prescribed by the department.

309 (b) Upon receipt of the application for the lease of shellfish beds, the department shall  
310 ascertain the general nature, character, surroundings, and resource value of the area sought  
311 to be leased. In the event the department determines that the area or a portion thereof is  
312 suitable for leasing and such a lease would be in the best interests of the state, the  
313 department may then offer the lease, through public competitive bidding, all or any portion  
314 thereof as described in the application.

315 (2) The department shall cause to be published once per week for two consecutive weeks  
316 in the legal organ of the county or counties in which the area to be bid upon is located an  
317 advertisement of an invitation for bid, setting forth a description of the area proposed to  
318 be leased; the date, time, and place when and where bids will be received; the minimum  
319 acceptable bid as determined by the department but not less than \$15.00 per acre; and  
320 such other information as the department may deem necessary. Prior to such  
321 advertisement, the department shall prepare a proposed form of lease and appropriate  
322 instructions which shall be available to prospective bidders under such conditions as the  
323 department may prescribe. Sealed bids shall be submitted to the department, and each  
324 bid shall be accompanied by a refundable certified check, cashier's check, or money order  
325 for the total annual amount of the submitted bid. The funds submitted by the successful  
326 bidder will be applied towards toward the first annual lease payment. In addition, each  
327 sealed bid must shall be accompanied by a detailed management plan for working the  
328 shellfish beds intertidal water bottoms lease area for wild harvest or mariculture. The  
329 lease form shall contain provisions regarding the term of the lease, the method of taking  
330 shellfish, the time and place for annual payment for the lease which shall be equal to the  
331 bid amount, the minimum replanting or management production requirements of shellfish  
332 to be harvested, the placement and type of signs to mark the site as a leased area, and  
333 such other terms as the department deems necessary.

334 (c)(3) All bids shall be opened in public on the date and at the time and place specified  
335 in the advertisement of the invitation to bid. The department shall announce which bid  
336 and bidder it considers most advantageous to the state. In so considering, the department  
337 shall give preference to residents over nonresidents who have submitted equal bids. In  
338 exercising its discretion, the department may consider an applicant's previous  
339 performance and compliance with this article. The department shall have the right to  
340 reject any or all bids and bidders and the right to waive formalities in bidding.

341 (b)(1) The department may offer leases of state subtidal water bottoms within approved  
342 growing areas for the exclusive rights to mariculture shellfish to in-state and out-of-state  
343 residents. Prior to offering a subtidal water bottoms lease, the department shall consider  
344 compatibility with other public uses of the marine and estuarine resources in proximity  
345 of the lease area that include, but are not limited to, navigation, fishing, swimming, and  
346 other forms of recreation. Such lease shall include terms and conditions as the  
347 department may prescribe.

348 (2) Subtidal water bottoms leases shall be issued through a lottery devised and operated  
349 by the department. Preference may be given to certified firms, lease holders, and state  
350 residents.

351 (3) Subtidal water bottoms annual lease fees shall be equal to the fair market value per  
352 acre as determined by the department but not less than \$50.00 per acre.

353 (c) Each person granted an intertidal water bottoms or subtidal water bottoms lease shall  
354 pay an annual lease fee. If the annual fee is not paid by August 1, the department shall  
355 assess a late penalty of 10 percent. If the department does not receive the fee and any  
356 penalty on or before September 1, the lease shall be void.

357 (d) ~~Shellfish beds~~ Intertidal water bottoms or subtidal water bottoms leased pursuant to  
358 this Code section shall be posted at the site by the lessee so as to identify clearly the areas  
359 so leased. The lessee shall also have a copy of the lease recorded within 30 days of the  
360 execution of the lease by the clerk of the superior court of the county or counties in which  
361 the leased area is located.

362 (e) Each intertidal water bottoms or subtidal water bottoms lease is valid for a term not to  
363 exceed ten years as determined by the board and may be renewed for additional terms so  
364 long as the leasee is in good standing pursuant to this part and all terms of the current lease.

365 (f)(1) Intertidal water bottoms and subtidal water bottoms leases may not be transferred,  
366 by sale or barter, without the written approval of the department along with a \$50.00  
367 transfer fee paid to the department. Transferees shall meet the same conditions as the  
368 original leasee.

369 (2) Intertidal water bottoms and subtidal water bottoms leases may be inheritable and  
370 transferable to the leasee's spouse, siblings, lineal descendants, or lineal ancestors without  
371 payment of a transfer fee if the leasee dies or is permanently and totally disabled. An  
372 instrument of the court declaring the rightful heir or recipient may be required for  
373 transfers upon a death. For purposes of this Code section, a permanent, total disability  
374 shall be a physical or mental impairment of a total and permanent nature which prevents  
375 gainful employment and which is certified as such by the United States Department of  
376 Veterans Affairs, the Social Security Administration, Medicaid, medicare, the Railroad  
377 Retirement System, or a unit of federal, state, or local government recognized by the

378 board by rule or regulation. Inherited leases shall be valid only with approval of the  
379 department.

380 (3) Transferred leases shall be valid only upon receipt of the transfer fee, if applicable,  
381 and department approval. Leases may not be transferred, by sale or barter, by a leasee  
382 who has not harvested shellfish on such lease as evidenced by harvest records within the  
383 previous three years. A transferee shall assume the lease in its entirety and all conditions  
384 associated with the lease, acquire all additional authorizations if so required, and harvest  
385 shellfish on such lease as evidenced by harvest records within two years after such  
386 transfer or the lease may revert to the department. Any person receiving a shellfish water  
387 bottoms or subtidal water bottoms lease by transfer shall pay to the department the lease  
388 fee within 30 days following the date of the transfer. If such fee is not paid within the  
389 required time, the lease shall revert to the department.

390 (e)(g) The department is authorized to issue permission to remove shellfish from areas  
391 where those shellfish may be destroyed by dredging, development, or other destructive  
392 activities without entering into a lease as described in this Code section. Such authorization  
393 shall include terms and conditions as the department may prescribe and shall be issued only  
394 to master ~~collecting~~ harvester permittees. The department shall notify permittees of its  
395 intentions to issue such authorization and set forth details on the proposed activity along  
396 with directions on how permittees may participate in the activity. When such authorization  
397 is issued, participants shall pay the department directly a one-time fee not to exceed  
398 \$500.00 as set by the department.

399 (f)(h) The department is authorized to issue permission to remove shellfish from  
400 unapproved growing areas without entering into a lease as described in this Code section.  
401 Such authorization shall be issued only to master ~~collecting~~ harvester permittees and under  
402 guidelines as set forth in subsection (e)(g) of this Code section.

403 27-4-199.

404 (a) The distribution, sale, or possession with intent to distribute or sell any shellfish shall  
405 be prima-facie evidence that the shellfish were intended for use as food unless prior written  
406 approval from the department authorizing such possession of shellfish is presented.  
407 (b) Conservation rangers and other authorized personnel of the department are authorized  
408 to take samples from, to enter and have access to, and to examine during normal working  
409 hours and at any time when the licensed or authorized activity is being conducted all  
410 shellfish beds water bottoms, places of business, and other places where shellfish are  
411 grown, kept, stored, sold, or held in possession with intent to distribute, sell, or give away.  
412 Such personnel are also authorized at any time to take such samples of shellfish as are  
413 necessary to carry out the purposes of this article and to have access to and take samples

414 from all streams, tributaries thereof, and lands adjacent thereto, the waters draining from  
415 which may come into contact with shellfish. It shall be unlawful for any person to obstruct  
416 or in any way interfere with any conservation ranger or other authorized personnel of the  
417 department in carrying out the purposes of this article.

418 (c) Prior to and at point of landing conservation rangers and other authorized personnel of  
419 the department are authorized to seize, confiscate, and remove any and all shellfish  
420 discovered which were taken or possessed in violation of this article. Whenever a  
421 conservation ranger or other authorized personnel of the department believes that shellfish  
422 examined may have been taken, contained, or stored in such a manner that may render the  
423 shellfish adulterated, misbranded, tainted, or otherwise which may pose a public health  
424 problem, the conservation ranger or other authorized personnel of the department is  
425 authorized to seize, confiscate, and remove any and all shellfish. Such shellfish shall be  
426 destroyed or returned to the resource according to methods as the department may  
427 prescribe.

428 27-4-200.

429 It shall be unlawful to knowingly produce, manufacture, or possess any forged or false  
430 documents, records, or permits provided for in this article.

431 27-4-201.

432 (a) Except as otherwise provided in this article, any person who violates any provision of  
433 this article shall, upon conviction thereof, be guilty of a misdemeanor of a high and  
434 aggravated nature.

435 (b) Any authorizations issued under this part to any person convicted of violating any  
436 provision of this article shall be revoked by operation of law and shall not be reissued for  
437 a period of three years. The department shall notify the person in writing of the revocation.  
438 Prior to revocation, such person shall have opportunity for hearing in accordance with  
439 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

440 27-4-202.

441 (a) It shall be unlawful for a master harvester to engage in shellfish mariculture activities  
442 without first obtaining a shellfish mariculture permit from the department. A detailed  
443 mariculture operational plan must be approved by the department prior to any shellfish  
444 mariculture permit being issued. An operational plan shall include the species to be  
445 farmed, types of gear, amounts, locations, sources and types of shellfish seed including  
446 genetic strains, a storm mitigation plan, a wildlife interaction mitigation plan, and any other  
447 information required by the department.

448 (b) Permits may be conditioned by the department to include requirements related to  
449 shellfish production, mariculture operations, public rights of access and nonconflicting uses  
450 of permitted areas, and correction of environmental degradation resulting from the  
451 permitted activity.

452 (c) Shellfish mariculture activities on a subtidal water bottoms lease shall require a  
453 performance bond provided to the director by a master harvester to ensure compliance with  
454 the procedures and standards contained in this part. Such performance bond shall be in the  
455 amount of \$20,000.00 and conditioned upon faithful compliance with the conditions and  
456 terms of this part. Such performance bond shall be placed on file with the director. The  
457 bond shall be made payable to the director and issued by an insurance company authorized  
458 to issue such bonds in this state. If any party is aggrieved or adversely affected by the  
459 master harvester's failure to comply with the requirements of this article, the director may  
460 commence and maintain an action against the principal and surety on the bond.

461 (d) The department shall not issue any new leases or permits or renew any leases or  
462 permits unless the leasing application is accompanied by a letter from the director or his  
463 or her designee stating that the applicant's bond is acceptable. Failure to provide an  
464 acceptable bond shall constitute grounds for denial of the issuance or renewal of a lease or  
465 permit.

466 (e) Upon a determination by the director that a master harvester, or an agent or employee  
467 responsible for harvesting, has failed to meet the standards as set out in this part, the  
468 director may, after written notice of such failure to the master harvester or the agent or  
469 employee responsible for harvesting:

470 (1) Forfeit or draw that amount of such bond that the director determines necessary to  
471 correct the violations;  
472 (2) Expend such amount for such purposes;  
473 (3) Enter into contracts for such purposes; or  
474 (4) Require the replacement of that amount of such bond forfeited or drawn upon.

475 27-4-203.

476 (a) In accordance with current, sound principles of wildlife research and management, the  
477 department may conditionally certify shellfish hatchery and nursery operations within the  
478 state, may approve out-of-state hatcheries for importation of shellfish seed into the state,  
479 and may issue authorization to shellfish hatchery and nursery operators to receive shellfish  
480 for mariculture activities.

481 (b) The department may grant permits to master harvesters to import hatchery produced  
482 shellfish seed under the following conditions:

483 (1) Shellfish seed shall be certified disease-free by an approved shellfish pathologist; and

484 (2) The importation of shellfish seed is confined to seed that originates from department  
485 approved hatcheries.  
486 (c) Failure to comply with department rules and regulations, in whole or in part, may result  
487 in revocation of any applicable shellfish mariculture permits granted pursuant to this part.

488 27-4-204.

489 (a) The first time that a person obtains or renews a shellfish mariculture permit, he or she  
490 shall obtain a permit from the department establishing the maximum number of cages that  
491 may be deployed at any given time during that license year. Such permits shall be issued  
492 in 25 cage increments. The permittee shall pay a fee of \$1.00 per cage for the permit, and  
493 the permit shall be for the same duration and shall be renewed at the same time as the  
494 shellfish mariculture permit. Containers used for the mariculture of clams shall be exempt  
495 from this subsection.

496 (b)(1) No cage permit may be amended to permit the use of more cages except at the  
497 time of permit renewal. The permittee, or his or her agent or employee if the permittee  
498 is not actively harvesting, shall have the cage permit in his or her possession at all times  
499 while harvesting.

500 (2) It shall be unlawful for any permittee or a person designated by such permittee as  
501 provided in Code Section 27-4-202 to employ more cages than the number allowed by  
502 the cage permit at any time.

503 (c) It shall be unlawful to set or place in the salt waters of this state any shellfish  
504 mariculture cage which does not have attached to it the identification assigned by the  
505 department to the permittee. The identification shall be assigned by the department to the  
506 permittee when such permittee is issued his or her shellfish mariculture permit. For  
507 subsequent years, the same identification shall be assigned to such permittee."

508 **SECTION 2.**

509 Code Section 12-5-295 of the Official Code of Georgia Annotated, relating to applicability  
510 of activities in coastal marshlands, is amended by revising paragraphs (7.1) and (8) and  
511 adding a new paragraph to read as follows:

512 "(7.1) The building of a single private dock by the owners of up to four adjoining lots,  
513 each of which is riparian and would qualify for an exemption as provided in  
514 paragraph (7) of this Code section, for the exclusive noncommercial use of such owners  
515 or their invitees and constructed as a single walkway on pilings above the marsh grass not  
516 obstructing tidal flow and in a size to be determined by the department taking into  
517 consideration the number of adjoining lots utilizing the dock; provided, however, that the  
518 exemption provided by this paragraph shall apply only if each of the owners of such

519 adjoining lots has entered into a binding covenant that runs with the land, in favor of the  
520 state, which covenant prohibits the building of any future private dock on his or her lot  
521 unless the dock exempted pursuant to this paragraph is removed or converted to a  
522 single-family private dock which would qualify for an exemption as provided in  
523 paragraph (7) of this Code section. The granting of the exemption provided by this  
524 paragraph shall be the state's consideration for the covenant of each such lot owner. The  
525 lot owners shall and are authorized to maintain the structure in good condition and repair  
526 the same as necessary, and the use of repair or replacement materials comparable in  
527 quality to the original authorized materials shall be sufficient for such purposes; or  
528 (8) The reclamation of manmade boat slips as a part of any publicly funded construction  
529 project and ancillary development projects including, without limitation, hotels,  
530 restaurants, retail facilities, and recreational facilities, whether public or private, within  
531 any industrial areas continued in existence pursuant to Article XI, Section I, Paragraph  
532 ~~IV, subparagraph (d) IV(d)~~ of the Constitution which are wholly contained on an island;  
533 or  
534 (9) The placement of gear for mariculture activities regulated by the department such as  
535 anchors, cages, upwellers, and any other gear as the department determines to be  
536 required."

537 **SECTION 3.**

538 This Act shall become effective upon its approval by the Governor or upon its becoming law  
539 with such approval for purposes of promulgating rules and regulations necessary to  
540 administer the provisions of this Act and shall become effective on March 1, 2020, for all  
541 other purposes.

542 **SECTION 4.**

543 All laws and parts of laws in conflict with this Act are repealed.