

House Bill 501

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

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"27-4-187.

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

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

27-4-188.

As used in this part, the term:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27-4-189.

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

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

27-4-190.

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

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

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

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

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

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

27-4-191.

Reserved.

27-4-192.

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

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

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

27-4-193.

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

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

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

27-4-194.

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

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

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

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

27-4-195.

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

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

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

(1) A closed season shellfish operations plan that is approved by the department and meets requirements established by the board to be protective of public health;

(2) A list of trained, authorized harvesters as provided in subsection (d) of this Code section; and

(3) A list of receiving certified firms.

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

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

27-4-196.

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

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

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

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

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

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

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

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

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

27-4-197.

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

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

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

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

27-4-198.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27-4-199.

(a) The distribution, sale, or possession with intent to distribute or sell any shellfish shall be prima-facie evidence that the shellfish were intended for use as food unless prior written approval from the department authorizing such possession of shellfish is presented.

(b) Conservation rangers and other authorized personnel of the department are authorized to take samples from, to enter and have access to, and to examine during normal working hours and at any time when the licensed or authorized activity is being conducted all ~~shellfish beds~~ water bottoms, places of business, and other places where shellfish are grown, kept, stored, sold, or held in possession with intent to distribute, sell, or give away. Such personnel are also authorized at any time to take such samples of shellfish as are necessary to carry out the purposes of this article and to have access to and take samples

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

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

27-4-200.

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

27-4-201.

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

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

27-4-202.

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

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

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

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

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

(1) Forfeit or draw that amount of such bond that the director determines necessary to correct the violations;

(2) Expend such amount for such purposes;

(3) Enter into contracts for such purposes; or

(4) Require the replacement of that amount of such bond forfeited or drawn upon.

27-4-203.

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

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

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

(2) The importation of shellfish seed is confined to seed that originates from department approved hatcheries.

(c) Failure to comply with department rules and regulations, in whole or in part, may result in revocation of any applicable shellfish mariculture permits granted pursuant to this part.

27-4-204.

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

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

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

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

SECTION 2.

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

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

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

SECTION 3.

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

SECTION 4.

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