

House Bill 370 (COMMITTEE SUBSTITUTE) (AM)

By: Representatives Smith of the 175th, Lane of the 146th and Barnard of the 154th

A BILL TO BE ENTITLED

AN ACT

1 To amend Part 3 of Article 4 of Chapter 4 of Title 27 of the Official Code of Georgia
 2 Annotated, relating to taking shrimp for bait, so as to provide that no licensed bait dealer and
 3 no employee of a licensed bait dealer may hold a commercial cast net license; to provide that
 4 any live bait shrimp dealership which is not within one-half mile of public salt-water angling
 5 access and which derives at least \$5,000.00 of earned income from the sale of recreational
 6 fishing supplies, and accessories shall be exempt from requirements of providing such
 7 access; to provide for the maintenance of records; to provide for the contents of the report
 8 of a license bait dealer; to repeal certain provisions relating to the number of boats engaged
 9 in bait shrimping; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Part 3 of Article 4 of Chapter 4 of Title 27 of the Official Code of Georgia Annotated,
 13 relating to taking shrimp for bait, is amended by striking in its entirety Code Section
 14 27-4-171, relating to bait dealers, and inserting in lieu thereof the following:

15 27-4-171.

16 (a)(1) It shall be unlawful for any person to engage in the taking of shrimp for live bait
 17 to be sold, to engage in the sale of shrimp for live bait, or to engage in the sale of shrimp
 18 for dead bait unless the person has a bait dealer license and possesses a valid personal
 19 commercial fishing license as provided in Code Section 27-2-23 or is an employee of a
 20 licensed bait dealer and possesses a valid personal commercial fishing license as provided
 21 in Code Section 27-2-23. No bait dealer license shall be issued to a person holding a
 22 commercial food shrimp cast netting license issued pursuant to Part 5 of this article. Any
 23 license issued pursuant to this Code section shall be invalid immediately upon the
 24 holder's obtaining such a commercial food shrimp cast netting license. No bait dealer
 25 license shall be issued for an individual whose establishment is located on any dock or
 26 other facility, including platforms, walkways, and buildings, which is one contiguous unit
 27 and where shrimp taken pursuant to Code Section 27-4-133 are unloaded, handled,

1 processed, sold, or otherwise distributed or where boat docking space is provided for such
 2 activities; provided, however, that such prohibition shall not apply to any person who was
 3 granted a bait dealer license for the period from April 1, 1993, through March 31, 1994,
 4 and whose bait dealer license was not revoked and provided, further, that such exemption
 5 shall terminate immediately if the person's current bait dealer license is revoked by the
 6 commissioner or if he or she is found guilty of a violation of the provisions of this Code
 7 section.

8 (2) In addition to complying with subsection (b) of this Code section, any applicant for
 9 a bait dealer license must first file with the commissioner a forfeiture bond in the form
 10 prescribed by the department, executed by a bonding, surety, or insurance company
 11 licensed to do business in this state, in the favor of the state in the amount of \$2,000.00,
 12 conditioned upon the faithful compliance by the person and all his or her employees with
 13 all the laws and regulations relating to the taking, possession, and sale of bait shrimp,
 14 provided that a cash forfeiture bond in like amount may be substituted in lieu of the
 15 commercial bond provided for ~~above~~ in this Code section. The term of the bond shall be
 16 one year and shall correspond to the period of the bait dealer license, which shall be April
 17 1 to March 31. The bond shall be in addition to the commercial fishing boat license,
 18 where applicable, required by Code Section 27-2-8 and in addition to the personal
 19 commercial fishing license required by this Code section. Notation of execution of the
 20 bond shall be stamped or endorsed on the applicant's bait dealer license.

21 (3) Trawler licenses for bait shrimp trawling shall not be issued to any person who does
 22 not possess a valid bait dealer license unless such person is an employee of a licensed bait
 23 dealer.

24 (4) In addition to the general provisions of this Code section, the Board of Natural
 25 Resources is authorized to promulgate rules and regulations establishing the gear and
 26 methods allowed for commercial bait shrimping.

27 (5) It shall be unlawful for any person engaging in the taking of shrimp for live bait
 28 pursuant to this Code section to:

29 (A) Use ~~use~~ any power-drawn net which is larger than a 20 foot net as defined in
 30 paragraph (72.1) of Code Section 27-1-2 or constructed of mesh smaller than one inch
 31 or greater than one and three-eighths inches when stretched; ~~It shall also be unlawful~~
 32 ~~to engage~~

33 (B) Engage in the taking of shrimp pursuant to this Code section at any time except
 34 between the hours of one-half hour before official sunrise and one-half hour after
 35 official sunset. All salt waters of this state shall be closed to the taking of shrimp
 36 pursuant to this Code section, except those rivers or creeks or portions thereof opened
 37 to such taking. The determination of whether to open or close a river or creek or portion

1 thereof shall be made by the commissioner or his or her designee in accordance with
 2 current, sound principles of wildlife research and management as provided by Code
 3 Section 27-4-130; ~~It shall also be unlawful for any person taking shrimp pursuant to~~
 4 ~~this Code section to have~~

5 (C) Have on board the boat used for the taking more than 50 quarts of shrimp at any
 6 one time, no more than 10 percent of which may be dead; ~~It shall also be unlawful for~~
 7 ~~any person engaging in the taking of shrimp pursuant to this Code section to fail~~

8 (D) Fail to maintain on the commercial fishing boat bait-holding facilities which
 9 comply with the requirements set forth in subsection (b) of this Code section, except
 10 that it shall not be necessary for the boat to meet the requirements of paragraph ~~(6)~~ (5)
 11 of subsection (b) of this Code section; or

12 (E) Hold a valid commercial food shrimp castnetting license issued pursuant to Part 5
 13 of this article or to employ any person holding such a commercial food shrimp cast
 14 netting license.

15 (b) After April 1, 1995, all applicants for bait dealer licenses and, except as provided in
 16 subsection (a) of this Code section, all licensed bait dealers shall have and maintain
 17 facilities meeting the following requirements:

18 (1) Live bait shrimp facilities must be located within the salt waters of the state, as
 19 defined by the salt-water demarcation line described in Code Section 27-4-1, and such
 20 facilities must consist of either floating bait containers or tanks with circulating or
 21 recirculating systems to provide an exchange of salt waters. Floating bait containers must
 22 be permanently affixed to docks or other permanent structures which are attached to high
 23 ground above the high water mark and must be constructed with adequate openings to
 24 provide for a steady exchange of salt water. Tanks with circulating salt-water systems
 25 must include adequate spray outlets to provide aeration as well as sufficient water inlets
 26 to create a circulating flow within the bait tank;

27 (2) All live shrimp-holding facilities must be constructed of nontoxic materials or
 28 materials which have been properly treated with an approved nontoxic substance. The
 29 facilities must be maintained in a condition conducive to keeping shrimp alive, which
 30 requires regular cleaning and the removal of dead shrimp;

31 (3) Any live bait shrimp dealership which is not within one-half mile of public salt-water
 32 angling access shall be required to maintain public access to customers through such
 33 services as public launching facilities, public fishing docks or platforms, or other forms
 34 of salt-water access during all tidal stages, including without limitation. ~~Such access~~
 35 ~~shall include~~ vehicular access and public parking; provided, however, that any live bait
 36 dealership which derives at least \$5,000.00 of earned income from the sale of recreational
 37 fishing supplies and accessories associated with salt-water angling shall be exempt from

1 the provisions of this paragraph. Any dealer claiming such exemption shall provide such
2 records as the department deems necessary to evidence such sales;

3 (4) No organisms other than shrimp may be held in live shrimp bait tanks; and

4 (5) Freezer storage sufficient to freeze and to keep frozen any shrimp which die while
5 in possession of the dealer and which are to be sold as dead bait must be maintained on
6 the premises of the established bait dealership.

7 (c) Except as provided for in subsection (j) of this Code section, it shall be unlawful for
8 any licensed bait dealer to allow shrimp to be removed from the premises of his or her
9 established bait dealership unless it is sold as:

10 (1) Live bait in a container of such size as to ensure that all live shrimp therein are
11 covered by a minimum of one inch of salt water; or

12 (2) Dead bait which has been packaged with heads on and frozen. The packages shall
13 contain not more than one quart of dead shrimp and must be clearly marked with letters
14 at least one-half inch in height to read as follows: 'SOLD FOR BAIT ONLY.' Dead bait
15 purchased for resale must be purchased from a licensed bait dealer and must be packaged
16 and labeled as described in this Code section.

17 (d) It shall be unlawful for any licensed bait dealer to fail to keep all shrimp in salt-water
18 tanks meeting the standards prescribed in subsection (b) of this Code section unless and
19 until such shrimp die, in which case the shrimp shall be promptly frozen and packaged as
20 dead bait. It shall also be unlawful for any licensed bait dealer intentionally to cause or
21 allow live shrimp to die.

22 (e) It shall be unlawful for any person to use, for other commercial fishing purposes, any
23 equipment which has been used for obtaining live bait pursuant to this Code section.

24 (f) It shall be unlawful for any licensed bait dealer or any of his or her employees to have
25 or permit in or on a commercial bait fishing boat owned by the dealer or such employees
26 and used for bait shrimping pursuant to this Code section or to have or permit in or on the
27 premises of the established bait dealership any shrimp caught, sold, to be sold, or to be
28 disposed of for human consumption.

29 (g) It shall be unlawful for a licensed bait dealer to fail to maintain at all times a daily
30 record book showing, for each transaction, the amount of bait shrimp purchased, the person
31 from whom it was purchased, and the date of such purchase, as well as the amount of live
32 shrimp and the amount of dead shrimp sold daily. Any such report shall include, without
33 limitation, any transaction between licensed bait dealers and shall provide the name of the
34 dealership acting as the seller in the transaction. Written reports of such transactions for
35 each month shall be submitted to the department no later than the fifth day of the
36 subsequent month in a format prescribed by the department.

1 (h) It shall be unlawful for any person to sell or otherwise dispose of, for human
2 consumption, any shrimp caught pursuant to this Code section or to possess such shrimp
3 for the purpose of sale or other distribution for human consumption or personally to
4 consume such shrimp. Possession of shrimp with heads off shall be prima-facie evidence
5 that the shrimp are to be sold for human consumption or are personally to be consumed.
6 Possession of more than 20 quarts of unlabeled, unpackaged, or unfrozen heads-on shrimp
7 shall be prima-facie evidence that such shrimp are to be used for human consumption or
8 are personally to be consumed.

9 (i) It shall be unlawful for any licensed bait dealer or an employee of such person to sell
10 or otherwise distribute to any one person, within a 24 hour period, more than eight quarts
11 of shrimp taken pursuant to this Code section. It shall also be unlawful for any person to
12 buy, within a 24 hour period, more than eight quarts of shrimp taken pursuant to this Code
13 section.

14 (j) It shall be unlawful to sell, unload, or otherwise dispose of shrimp taken pursuant to this
15 Code section at any place other than the licensed bait dealership for which the bait was
16 taken. This subsection shall not prohibit:

17 (1) The transfer from the boat taking such shrimp to an approved vehicle with aeration
18 equipment to keep shrimp alive which will unload shrimp so taken at a licensed bait
19 dealership so long as the amount of bait being transferred does not exceed 50 quarts; or

20 (2) The interstate import of bait shrimp provided that a bona fide bill of lading
21 accompanies such shrimp as proof that such shrimp were not taken or transported in
22 violation of this Code section or the laws of the jurisdiction from which the bait shrimp
23 originated.

24 (k) It shall be unlawful for any licensed bait dealer to have, at his or her established bait
25 dealership at one time, more than 200 quarts of live shrimp. It shall also be unlawful for
26 more than 10 percent of the shrimp at the dealership or 20 quarts, whichever amount is less,
27 to be dead shrimp unless the dead shrimp in excess of such percentage are promptly frozen
28 and packaged as dead bait as required by paragraph (2) of subsection (c) and subsection (d)
29 of this Code section.

30 (l) It shall be unlawful for any person taking shrimp pursuant to this Code section to fail
31 to have positioned on the bow or cabin of the boat taking the shrimp a board with a
32 background color of daylight fluorescent orange with such numerals and letters painted or
33 affixed thereon as are specified by the department for a particular established bait
34 dealership. The numerals and letters shall be at least 16 inches in height and two inches in
35 width or thickness, black in color, of block character, clearly legible, and spaced so as to
36 be readable from the air from left to right. The numerals and letters required for compliance

1 with this subsection shall be assigned by the department at the time the bait dealer licenses
2 are issued pursuant to Code Section 27-2-23.

3
4 (m) ~~Except from March 1 through July 15 of each year, it~~ It shall be unlawful for more
5 than one boat to be engaged in the taking of shrimp at any one time for an established bait
6 dealer. ~~From March 1 through July 15, it shall be unlawful for more than two boats to be~~
7 ~~engaged in the taking of shrimp for a dealer. The boats shall be designated by the suffixes~~
8 ~~'A' and 'B' being placed at the end of the other numerals and letters specified by the~~
9 ~~department as provided in subsection (l) of this Code section. It shall be unlawful for any~~
10 ~~boat with a 'B' suffix to take shrimp except from March 1 through July 15.~~

11 (n) It shall be unlawful for any licensed bait dealer to fail to publicly advertise his or her
12 facility. For the purpose of advertising in accordance with this subsection, each established
13 bait shrimp dealer shall display prominently on the road or drive leading to the facility and
14 on any related dock a sign or signs which shall include the following: (1) 'LIVE BAIT
15 FOR SALE' and (2) the hours and days of operation. Signs shall be at least 24 inches by
16 18 inches in size and shall display letters and numbers at least three inches in height.

17 (o) Notwithstanding subsections (i) and (j) of this Code section, it shall be lawful for a
18 licensed bait dealer to sell live bait shrimp taken pursuant to this Code section to another
19 licensed bait dealer if the department has been previously notified of the destination of
20 the shrimp to be sold and the time and approximate amount of the sale and if the
21 department has approved the equipment for transferring such shrimp. Transportation and
22 transfer of live bait shrimp between bait dealers shall not exceed the 50 quart possession
23 limit for commercial bait trawlers as provided in subsection (a) of this Code section.
24 Except as provided for in subsection (j) of this Code section, land transportation of
25 quantities greater than eight quarts of live shrimp is prohibited and shall be prima-facie
26 evidence of a violation of this Code section.

27 (p) It shall be unlawful for any licensed bait dealer to fail to have and display any current
28 business license required by the county or city in which the bait dealership is located and
29 a sales tax certificate of registration issued pursuant to Code Section 48-8-59.

30 (q) Before the Department of Natural Resources issues a bait dealer license the
31 Department of Natural Resources shall inspect the bait dealer facilities, to determine if
32 the facilities comply with the requirements of this Code section and Code Section 48-8-
33 59, within 30 days from the time application for license is received.

34 **SECTION 2.**

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