

The Senate Agriculture and Consumer Affairs Committee offered the following substitute to HB 1766:

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Title 2 of the Official Code of Georgia Annotated, relating to agriculture, so as to
2 create the Agricultural Commodities Commission for Beef and provide for its members,
3 powers, duties, and procedures; to define certain terms; to provide for marketing orders and
4 assessments related thereto; to provide penalties for violations; to provide for enforcement;
5 to strike the reserved designation of Chapter 15; to provide for aquaculture development; to
6 provide a short title; to define certain terms; to create the Aquaculture Development
7 Advisory Council and provide for its membership, powers, and duties; to regulate
8 aquaculture of pacific white shrimp; to provide for registration; to provide for rules and
9 regulations; to provide for enforcement; to amend Title 27 of the Official Code of Georgia
10 Annotated, relating to game and fish, so as to change certain provisions relating to definitions
11 relative to said title; to change certain provisions relating to permits for liberation of wildlife
12 or liberation of domestic fish; to change certain provisions relating to sale of fish by
13 commercial fish hatcheries, sale of game fish, bill of sale or lading for possession of certain
14 game fish and domestic fish, and sale of diseased fish; to change certain provisions relating
15 to licensing of wholesale and retail fish dealers and sale, transportation into state, or
16 possession of live fish and fish eggs; to provide effective dates; to provide for a contingent
17 repeal; to repeal conflicting laws; and for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **PART I**

20 **SECTION 1-1.**

21 Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended in
22 Chapter 8, relating to agricultural commodities promotion, by adding a new article to read
23 as follows:

1 "ARTICLE 4

2 2-8-90.

3 This article shall apply only to the Agricultural Commodity Commission for Beef.

4 2-8-91.

5 As used in this article, the term:

6 (1) 'Advertising and sales promotion' means, in addition to the ordinarily accepted
7 meaning thereof, trade promotion and activities for the prevention, modification, or
8 removal of trade barriers which restrict the normal flow of beef to market and may
9 include the presentation of facts to and negotiations with state, federal, or foreign
10 governmental agencies on matters which affect the marketing of beef included in any
11 marketing order made effective pursuant to this article.

12 (2) 'Beef' means flesh of cattle and beef products.

13 (3) 'Beef products' means edible products produced in whole or in part from beef,
14 excluding milk and products made therefrom.

15 (4) 'Cattle' means live domesticated bovine animals, regardless of age.

16 (5) 'Commission' means the Agricultural Commodity Commission for Beef created under
17 this article.18 (6) 'Market agent' means any person who sells, offers for sale, markets, distributes,
19 trades, or processes cattle that have been purchased or acquired from a producer or that
20 are marketed on behalf of a producer or any meat packing firm or its agent that purchases
21 or consigns to purchase cattle.22 (7) 'Marketing order' means an order issued pursuant to this article prescribing rules and
23 regulations governing producer marketing or the processing, distributing, or handling in
24 any manner of cattle or beef within this state or establishing an assessment for financing
25 the programs established under this article.26 (8) 'Person' means an individual, firm, corporation, association, or any other business
27 unit or any combination thereof and includes any state agency which engages in any of
28 the commercial activities regulated pursuant to this article.29 (9) 'Producer' means any person who owns or acquires ownership of cattle, except that
30 a person shall not be considered to be a producer if the person's only share in the
31 proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service
32 fee.33 (10) 'Producer marketing' or 'marketed by producers' means any or all operations
34 performed by any producer in preparing for market and includes selling, delivering, or
35 disposing of, for commercial purposes, cattle which he or she has produced to any market
36 agent as defined in this Code section.

1 (11) 'Retailer' means any person who purchases or acquires beef for resale at retail to the
2 general public for consumption off the premises; however, such person shall also be
3 included within the definition of 'market agent,' as set forth in this Code section, to the
4 extent that he or she engages in the business of a market agent as defined in this Code
5 section.

6 2-8-92.

7 (a) The Agricultural Commodity Commission for Beef shall be composed of 11 members
8 as follows:

- 9 (1) Six members who shall be producers actively engaged in the beef cattle business;
10 (2) Three members who shall own or have significant interest in a business actively
11 engaged in the marketing of cattle; and
12 (3) Two members who shall be producers actively engaged in the dairy cattle business.

13 The initial members of the commission shall be appointed by a committee consisting of the
14 Commissioner, the chairperson of the House of Representatives Committee on Agriculture
15 and Consumer Affairs, and the chairperson of the Senate Agriculture and Consumer Affairs
16 Committee. Prior to making such appointments, the committee shall seek significant input
17 from members of the cattle industry.

18 (b)(1) Initial appointments of those members described in paragraph (1) of subsection
19 (a) of this Code section shall be made for two members for a term of two years each from
20 the effective date of this article and until their successors are elected and qualified, two
21 members for a term of three years each from the effective date of this article and until
22 their successors are elected and qualified, and two members for a term of four years each
23 from the effective date of this article and until their successors are elected and qualified.
24 Thereafter, successors shall be elected for a term of three years each and until their
25 successors are elected and qualified.

26 (2) Initial appointments of those members described in paragraph (2) of subsection (a)
27 of this Code section shall be made for one member for a term of two years from the
28 effective date of this article and until a successor is elected and qualified, one member for
29 a term of three years from the effective date of this article and until a successor is elected
30 and qualified, and one member for a term of four years from the effective date of this
31 article and until a successor is elected and qualified. Thereafter, successors shall be
32 elected for a term of three years each and until their successors are elected and qualified.

33 (3) Initial appointments of those members described in paragraph (3) of subsection (a)
34 of this Code section shall be made for one member for a term of three years from the
35 effective date of this article and until a successor is elected and qualified and one member
36 for a term of four years from the effective date of this article and until a successor is

1 elected and qualified. Thereafter, successors shall be elected for a term of three years
2 each and until their successors are elected and qualified.

3 (4) Any successor shall be elected by a plurality of valid votes cast by producers in an
4 election for such office which shall be conducted by the commission. Any producer of
5 record with the commission shall be eligible to vote in any such election, but candidates
6 must meet the qualification specified in paragraph (1), (2), or (3) of subsection (a) of this
7 Code section, as applicable, for the office for which the election is conducted. The
8 commission shall by rules and regulations provide procedures for registering qualified
9 candidates and conducting elections. Notice of elections and qualifying periods shall be
10 provided in the same manner as specified for hearings under paragraph (2) of subsection
11 (b) of Code Section 2-8-100.

12 (c) Vacancies in the offices of members shall be filled by appointment, in like manner as
13 the appointment of initial members, for the unexpired term. Any member shall be eligible
14 to succeed himself or herself.

15 (d) The members of the commission shall receive compensation and reimbursement of
16 expenses as shall be provided by the commission, and such funds shall be payable from the
17 funds of the commission.

18 (e) It shall be the duty of the Commissioner to certify to the Secretary of State the
19 membership of the commission and each change in membership as the same occurs.

20 2-8-93.

21 (a) The commission is authorized to appoint advisory boards, special committees, and
22 individuals, including technical and clerical personnel, to advise, aid, and assist the
23 commission in the performance of its duties. Compensation for such services shall be fixed
24 by the commission and may be paid from the funds of the commission. The Attorney
25 General shall represent the commission in legal matters and shall be the attorney for the
26 commission. If the Attorney General determines that outside legal counsel is necessary or
27 desirable in connection with any legal matter of the commission, he or she shall so inform
28 the commission and, upon approval of the commission, he or she shall employ such outside
29 counsel. Compensation for such outside counsel shall be agreed upon between such counsel
30 and the Attorney General, subject to the approval of the commission. Such compensation
31 shall be paid from the funds of the commission. Neither Code Section 16-10-9 nor any
32 other law shall prohibit or be applicable to the employment of such counsel.

33 (b) The commission is authorized to accept donations, gifts, and other property and to use
34 the same for commission purposes. The commission may exercise the powers and authority
35 conferred by law upon corporations.

1 (c) The commission shall continue as a public corporation and instrumentality of the State
2 of Georgia until abolished by law or until terminated by referendum.

3 (d) The commission is authorized to acquire, lease as lessee, purchase, hold, own, and use
4 any franchise or real or personal property, whether tangible or intangible, or any interest
5 therein and, whenever the same is no longer required for purposes of the commission, to
6 sell, lease as lessor, transfer, or dispose thereof or to exchange the same for other property
7 or rights which are useful for its purposes.

8 2-8-94.

9 The commission shall be a public corporation and an instrumentality of the State of
10 Georgia. By that name, style, and title, the commission may contract and be contracted
11 with, implead and be impleaded, and complain and defend in all courts. The commission
12 shall name its chairperson and determine a quorum for the transaction of business. The commission
13 shall assume the duties and exercise the authority provided in this article
14 without further formality than that provided in this article. Each member of the commission
15 shall be a public officer and shall take an oath of office faithfully to perform his or her
16 duties. Such oath shall be administered by the Governor or some other person qualified to
17 administer oaths. The fact of a member's election shall be certified to the Secretary of
18 State, who shall issue the appropriate commission under the seal of his or her office.

19 2-8-95.

20 The commission is authorized and it shall be its duty to receive, collect, and disburse the
21 funds of the commission.

22 2-8-96.

23 Funds received by the commission under this article shall be held in trust for the
24 commission. Such funds shall be deposited, accounted for, and disbursed in the same
25 manner as the funds of this state but shall not be required to be deposited in the state
26 treasury and appropriated therefrom as are other state funds. It is the express intent and
27 purpose of this article to authorize the receipt, collection, and disbursement by the
28 commission of such funds as trust funds of the commission without complying with the
29 requirement applicable to funds collected for the use and benefit of the state.

30 2-8-97.

31 Any persons who handle funds under this article shall be bonded with good and sufficient
32 surety in an amount determined by the commission for the accounting of any and all funds
33 coming into their hands. All checks, drafts, and negotiable instruments which are drawn

1 on or payable from the funds of the Agricultural Commodity Commission for Beef shall
2 be signed by either the chairperson or treasurer of the commission. It shall be the duty of
3 the commission to elect annually a treasurer from among the membership of the
4 commission. The treasurer shall have such powers and perform such duties as shall be
5 provided by the commission.

6 2-8-98.

7 The members and employees of the commission shall not be held responsible individually
8 in any way whatsoever to any producer, market agent, or any other person for errors in
9 judgment, mistakes, or other acts, either of commission or omission, as principal, agent,
10 person, or employee, except for their own individual acts of dishonesty or crime. No such
11 person or employee shall be held responsible individually for any act or omission of any
12 other member of the commission. The liability of the members of the commission shall be
13 several and not joint and no member shall be liable for the default of any other member.

14 2-8-99.

15 The commission is authorized to confer with and to make any information obtained
16 pursuant to this article available to the duly constituted governmental authorities of this
17 state, of other states, of political subdivisions of this state or other states, and of the United
18 States who, by reason of their duties, have legitimate concern with the subject and to
19 cooperate with all such authorities for the purpose of obtaining administrative uniformity
20 and achieving the objectives of this article.

21 2-8-100.

22 (a) The commission is authorized to issue, administer, and enforce the provisions of
23 marketing orders.

24 (b)(1) Whenever the commission has reason to believe that the issuance of a marketing
25 order or amendments to an existing marketing order will tend to effectuate the declared
26 policy of this chapter with respect to beef, it shall, either upon its own motion or upon the
27 application of any producer or any organization of such persons, give due notice of and
28 an opportunity for a public hearing upon a proposed marketing order or amendments to
29 an existing marketing order.

30 (2) Notice of any hearing called for such purpose shall be given by the commission by
31 publishing a notice of such hearing for a period of not less than five days in a newspaper
32 of general circulation published in the capital of the state and in such other newspapers
33 as the commission may prescribe. No such public hearing shall be held prior to five days
34 after the last day of such period of publication. The commission shall also mail a copy

1 of such notice of hearing and a copy of such proposed marketing order or proposed
2 amendments to all producers whose names and addresses appear upon lists of such
3 persons on file with the commission and who may be directly affected by the provisions
4 of such proposed marketing order or such proposed amendments. Such notice of hearing
5 shall in all respects comply with the requirements of Chapter 13 of Title 50, the 'Georgia
6 Administrative Procedure Act.'

7 (3) The hearing shall be public and all testimony shall be received under oath. A full and
8 complete record of the proceedings at such hearing shall be made and maintained on file
9 in the office of the commission. The hearing shall, in all respects, be conducted in
10 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
11 hearing may be conducted by the commission or by a member of the commission, as may
12 be designated by the commission in each instance, but no decision shall be made based
13 on hearings conducted other than by the commission itself, at which a majority of the
14 members thereof are present, until the members of the commission have been afforded
15 an opportunity to review the hearing record. Where the commission conducts hearings,
16 its recommendation shall be based on the findings reached after a review of the record
17 of the hearing.

18 (c)(1) In order to provide the commission with accurate and reliable information with
19 respect to the persons who may be directly affected by any proposed marketing order for
20 beef when such information is not then on file with the commission, the commission is
21 authorized and directed, whenever the commission has reason to believe that the issuance
22 of a marketing order will tend to effectuate the declared policy of this chapter or upon
23 receipt of a written application for a hearing pursuant to subsection (b) of this Code
24 section, to notify all market agents, by publication of a notice as required in paragraph
25 (2) of this subsection, to file with the commission within ten days from the last date of
26 such publication a report, properly certified, showing:

27 (A) The correct name and address of such market agent;
28 (B) The quantities of cattle affected by the proposed marketing order handled by such
29 market agent in the calendar year next preceding the filing of such report;
30 (C) The correct names and addresses of all producers who may be directly affected by
31 such proposed marketing order, from whom such market agent received cattle in the
32 calendar year next preceding the filing of such report; and
33 (D) The quantities of cattle received by such market agent from each such producer in
34 the calendar year next preceding the filing of such report.

35 (2) The notice to market agents requiring them to file a report shall be published by the
36 commission for a period of not less than five days in a newspaper of general circulation
37 published in the capital of the state and in such other newspaper or newspapers as the

1 commission may prescribe. The commission shall also mail a copy of such notice to all
2 market agents whose names and addresses appear upon the lists on file with the
3 commission who may be directly affected by such proposed marketing order.

4 (3) Each market agent directly affected by a proposed marketing order shall file his or
5 her verified report with the commission within the time specified in paragraph (1) of this
6 subsection. Failure or refusal of any market agent to file such report shall not invalidate
7 any proceeding taken or marketing order issued. The commission is authorized and
8 directed to proceed upon the basis of such information and reports as may otherwise be
9 available.

10 (4) From the reports so filed and the information so received or available to the
11 commission, including any proper corrections, the commission shall prepare a list of the
12 names and addresses of such producers and the quantities of cattle produced or marketed
13 by all such producers and a list of the names and addresses of such market agents and the
14 quantities of cattle handled by all such market agents, directly affected by such proposed
15 marketing order or amendments thereto, in the preceding calendar year. Such lists shall
16 constitute complete and conclusive lists for use in any finding made by the commission
17 pursuant to subsection (a) of Code Section 2-8-102 and such findings shall be conclusive.

18 (5) The information contained in the individual reports of market agents filed with the
19 commission pursuant to this Code section shall not be made public in such form. The
20 information contained in such reports may be prepared in combined form for use by the
21 commission, its agents, or other interested persons in the formulation, administration, and
22 enforcement of a marketing order or may be made available pursuant to court order. Such
23 information shall not be made available to anyone for private purposes.

24 2-8-101.

25 If, upon the basis of the record of testimony and documentary evidence received at the
26 hearing provided for in Code Section 2-8-100 and the facts officially noticed therein from
27 official publications or institutions of recognized standing, the commission determines that
28 the issuance of a marketing order or an amendment will tend to effectuate the intent and
29 purpose of this article, it may recommend the promulgation of a marketing order or
30 amendment with respect to the matters specified in the hearing notice and supported by the
31 record, containing any or all of the following provisions, but no others:

32 (1) Provisions for the establishment of plans for advertising and sales promotion to
33 maintain present markets or to create new or larger markets for cattle raised or marketed
34 in this state or for the prevention, modification, or removal of trade barriers which
35 obstruct the normal flow of beef to market. The commission is authorized to prepare,
36 issue, administer, and enforce plans for promoting the sale of beef, provided that any such

1 plan shall be directed toward promoting and increasing the sale, use, and utilization of
2 beef without reference to a particular brand or trade name; and provided, further, that no
3 advertising or sales promotion program shall be issued by the commission which makes
4 use of false or unwarranted claims in behalf of any such product or disparages the quality,
5 value, sale, or use of any other agricultural commodity;

6 (2) Provisions prohibiting unfair trade practices by which any producer or market agent
7 tends toward establishment of monopoly, unfairly discriminates among customers as to
8 price or quality, or engages in fraudulent, deceptive, or misleading representations,
9 concealment, or other similar sharp business practices which are harmful to his, her, or
10 its customers, injurious to competitors, likely to bring into disrepute persons generally
11 engaged in production and handling of beef, or detrimental to the intent and purpose of
12 this article;

13 (3) Provisions for carrying on research studies in promoting the production, marketing,
14 sale, use and utilization, processing, and improvement of cattle or beef or any
15 combination thereof and for the expenditure of moneys for such purposes. In any research
16 carried on under this paragraph, the commission shall seek the cooperation of the dean
17 of the College of Agricultural and Environmental Sciences of the University of Georgia
18 in selecting the research project or projects to be carried on from time to time. Insofar as
19 practicable, the commission shall seek to have such projects carried out by the College
20 of Agricultural and Environmental Sciences but, if the dean of the college determines that
21 the college has no facilities for a particular project or if the commission determines that
22 some other research agency has better facilities therefor, the project may be carried out
23 by other research agencies selected by the commission; and

24 (4) Provisions establishing or providing authority for establishing, either as cattle are
25 produced or delivered by producers to market agents or as cattle or beef is handled or
26 otherwise prepared for market or as cattle or beef is marketed by producers or market
27 agents, an educational program designed to acquaint producers, market agents, or other
28 interested persons with quality improvement, including sanitation practices, procedures,
29 or methods as applied to cattle or beef.

30 2-8-102.

31 (a)(1) Except as otherwise provided by subsection (i) of this Code section, no
32 marketing order or major amendment thereto, directly affecting producers or producer
33 marketing, issued pursuant to this article shall be made effective by the commission
34 unless the commission finds that such marketing order or amendment thereto has been
35 approved or favored in a referendum among producers directly affected by a majority
36 of the valid votes cast in such referendum and the total number of valid votes cast

1 represents not less than 25 percent of the total number of producers of record with the
2 commission.

3 (2) If the commission determines that a referendum shall be had, the commission shall
4 establish a referendum period of 30 days. At the close of such referendum period, the
5 commission shall count and tabulate the ballots filed during such period. If from such
6 tabulation the commission finds that the number of producers voting in favor of such
7 marketing order or amendment thereto is a majority of those casting valid votes and the
8 total number of valid votes cast represents not less than 25 percent of the total number of
9 producers of record with the commission, the commission may make such marketing
10 order or amendment thereto effective. The commission is authorized to prescribe such
11 additional procedures as may be necessary to conduct such referendum.

12 (3) In the event of the failure of any proposed marketing order to be approved, no
13 additional referendum thereon shall be held during a period of 12 months from the date
14 of the close of the previous referendum period.

15 (b)(1) Upon the recommendation of a majority of the members of the commission, the
16 commission may make effective minor amendments to a marketing order. The
17 commission may require a public hearing upon minor amendments if in its opinion the
18 substance of such minor amendments so warrants. The commission, however, shall not
19 be required to submit minor amendments for referendum approval.

20 (2) In making effective major amendments to a marketing order, the commission shall
21 follow the same procedures prescribed in this article for the institution of a marketing
22 order. For the purpose of this article, a major amendment to a marketing order shall
23 include, but shall not be limited to, any amendment which adds to or deletes from any
24 such marketing order any of the following types of regulations or authorizations:

25 (A) Authority for the establishment of plans for advertising and sales promotion of
26 cattle or beef;

27 (B) Authority to prohibit unfair trade practices;

28 (C) Authority for carrying out research studies in the production, processing, or
29 distribution of cattle or beef;

30 (D) Authority to increase an assessment rate beyond the maximum rate authorized by
31 the marketing order in effect; or

32 (E) Authority to extend the application of the provisions of any marketing order to
33 portions or uses of cattle or beef not previously subject to such provisions or to restrict
34 or extend the application of such provisions upon the producers or market agents of
35 such portions or uses of such cattle or beef.

36 (3) Modification of any provisions of any marketing order in effect, for the purpose of
37 clarifying the meaning or application of such provisions or of modifying administrative

1 procedures for carrying out such provisions, are declared not to be a major amendment
2 of such marketing order.

3 (c) Upon the issuance of any order making effective a marketing order or any suspension,
4 amendment, or termination thereof, a notice thereof shall be posted on a public bulletin
5 board maintained at the offices of the commission; and a copy of such notice shall be
6 published as the commission may prescribe. No marketing order nor any suspension,
7 amendment, or termination thereof shall become effective until the termination of a period
8 of five days from the date of such posting and publication. It shall also be the duty of the
9 commission to mail a copy of the notice of such issuance to all persons directly affected
10 by the terms of such marketing order, suspension, amendment, or termination whose names
11 and addresses are on file in the office of the commission and to every person who files in
12 the office of the commission a written request for such notice.

13 (d) The commission shall have the power, consistent with this article and in accordance
14 with marketing orders and agreements made effective under this article, to establish such
15 general rules and regulations for uniform application to all marketing orders issued under
16 this article as may be necessary to facilitate the administration and enforcement of such
17 marketing orders. The provisions of subsection (c) of this Code section relative to posting,
18 publication, and time of taking effect shall be applicable to any such general rule or
19 regulation established pursuant to this subsection and applicable to marketing orders
20 generally. Such notice shall be furnished by the commission for each marketing order in
21 active operation.

22 (e) The commission shall have the power, consistent with this article, to establish
23 administrative rules and regulations for each marketing order issued and made effective as
24 may be necessary to facilitate the supervision, administration, and enforcement of each
25 such order. The provisions of subsection (c) of this Code section relative to posting,
26 publication, mailing of notice, and time of taking effect shall be applicable to any such
27 administrative rules and regulations.

28 (f) Unless extended as provided in this Code section, all marketing orders issued under the
29 authority of this article shall expire, terminate, and become of no force and effect at the
30 expiration of five years from the date of the issuance of the original marketing order or, if
31 such marketing order has been extended, at the expiration of five years after the date of any
32 such extension.

33 (g) A marketing order shall be extended for a period of five years after the date of its
34 original expiration only if extension of such marketing order has been approved or favored
35 in a referendum among producers directly affected by at least 60 percent of the valid votes
36 cast in such referendum and the total number of valid votes cast represents not less than 25
37 percent of the total number of producers of record with the commission.

1 (h) If the commission determines that a referendum shall be held, the commission shall
2 establish a referendum period of 30 days, such referendum period to terminate at least 30
3 days prior to the expiration date of the marketing order which is the subject of such
4 referendum. At the close of such referendum period, the commission shall count and
5 tabulate the ballots cast during such period. If from such tabulation the commission finds
6 that the number of producers voting in favor of the extension of such marketing order is not
7 less than 60 percent of the total number of valid ballots cast and the total number of valid
8 ballots cast represents not less than 25 percent of the total number of producers of record
9 with the commission, then such marketing order shall be extended for a period of five years
10 after the expiration date; otherwise, the marketing order shall expire, terminate, and be of
11 no force and effect as provided in subsection (f) of this Code section.

12 (i) In lieu of the procedures provided by this Code section, the commission may elect to
13 follow the procedures and requirements provided by Code Section 2-8-23 for purposes of
14 making marketing orders or amendments or extensions thereof effective pursuant to
15 referendum or assent.

16 2-8-103.

17 Marketing orders issued by the commission under this article may be limited in their
18 application by prescribing the marketing areas or portions of the state in which a particular
19 order shall be effective, provided that no marketing order shall be issued by the
20 commission unless it embraces all persons of a like class who are engaged in a specific and
21 distinctive agricultural industry or trade within this state.

22 2-8-104.

23 (a)(1) For the purpose of providing funds to defray the necessary expenses incurred by
24 the commission in the formulation, issuance, administration, and enforcement of each
25 marketing order issued under this article, each such marketing order shall provide for the
26 levying and collection of assessments in sufficient amounts to defray such expenses. Each
27 marketing order shall indicate the maximum rate of any such assessment which may be
28 collected and the proportion, if any, payable by each producer and market agent directly
29 regulated or affected by such marketing order. In administering such marketing order, the
30 commission shall adopt, from time to time, budgets to cover necessary expenses and the
31 assessment rate necessary to provide sufficient funds. If the commission finds that each
32 such budget and assessment rate are proper and equitable and will provide sufficient
33 moneys to defray the necessary expenses, it may approve such budget and rate of
34 assessment and order that each producer and market agent so assessed shall pay to the
35 commission, at such times and in such installments as the commission may prescribe, an

1 assessment, based upon the units in which beef is marketed or upon any other uniform
2 basis which the commission determines to be reasonable and equitable, but in amounts
3 which (A) in the case of producers will not exceed 2 1/2 percent of the gross dollar
4 volume of sales of the cattle affected by all such producers regulated by such marketing
5 order, or (B) in the case of market agents will not exceed 2 1/2 percent of the gross dollar
6 volume of purchases of cattle affected by the marketing order from producers or of the
7 gross dollar volume of sales of cattle affected by the marketing order and handled by all
8 such market agents regulated by such marketing order during the period during which
9 such marketing order is effective.

10 (2) No assessments levied and collected under this subsection shall be used in carrying
11 out any advertising or sales promotion plans.

12 (b)(1) Each marketing order which authorizes the carrying out of advertising and sales
13 promotion plans shall provide for the levying and collection of assessments in sufficient
14 amounts to defray the expenses of such activities. Each such marketing order shall
15 indicate the maximum rate of any such assessment and the proportion, if any, payable by
16 each producer and market agent directly regulated or affected by such marketing order.
17 The commission shall adopt budgets to cover such expenses and establish the assessment
18 rate necessary to provide sufficient funds. If the commission finds that each such budget
19 and assessment rate are proper and equitable and will provide sufficient moneys to defray
20 such expenses, it may approve such budget and approve and levy such assessment. Any
21 assessments so established shall be based upon the units in which cattle are marketed or
22 upon any other uniform basis which the commission determines to be proper and
23 equitable. Any assessment rates established under this subsection shall be in amounts not
24 to exceed 4 percent of the gross dollar volume of sales by all producers or by all market
25 agents regulated by such marketing order during the period during which such marketing
26 order is effective.

27 (2) Assessments levied and collected under this subsection shall be the only assessments
28 used in carrying out advertising or sales promotion plans for purposes of this article.

29 (3) Any producer may at any time elect not to be subject to any assessment levied for
30 purposes of this subsection, and any producer who has so elected in accordance with this
31 paragraph shall be exempt from levy, not be assessed, and have no liability for
32 assessment for purposes of this subsection. Any producer who has so elected may
33 thereafter cancel such election at any time, in which event the producer's exemption shall
34 cease. Any such election or cancellation by a producer shall be submitted in writing to
35 the commission, in such form and manner as specified by the Commissioner.

36 (c) At no time shall the combined amount of assessments in effect pursuant to subsections
37 (a) and (b) of this Code section exceed \$1.00 per head of cattle.

1 (d) In the event that the commission has reason to believe that the administration of a
2 marketing order will be facilitated or the attainment of the purposes and objectives of the
3 marketing order will be promoted thereby, the commission is authorized to borrow money,
4 with or without interest, to carry out any provision of any marketing order authorized by
5 this article and may hypothecate anticipated assessment collections applicable to such
6 respective provisions.

7 (e) In lieu of requiring advance deposits for defraying administrative or advertising and
8 sales promotion expenses until such time as sufficient moneys are collected for such
9 purposes from the payment of assessments established pursuant to this Code section, the
10 commission is authorized to receive and disburse for such purposes contributions made by
11 producers or market agents. The commission shall not be held responsible for the
12 repayment of such contributions, provided that whenever collections from the payment of
13 established assessments credited to the respective marketing order accounts are sufficient
14 so to warrant, the commission shall repay contributions or shall authorize the application
15 of such contributions to the assessment obligations of the persons who made such
16 contributions.

17 (f)(1) Each and every market agent for which an assessment has been established by or
18 pursuant to this article shall, at the time of purchasing or acquiring any such cattle from
19 the producer thereof, collect from such producer the assessment established by or in
20 accordance with this article and remit the same to the commission. The liability of such
21 market agent under this article shall not be discharged except upon receipt of such sums
22 by the commission. For the purpose of this subsection, to ensure compliance with this
23 Code section, and for the administrative convenience of the commission in enforcing
24 payment and collection of such assessments, delivery by a producer to a market agent for
25 processing of any cattle upon which an assessment has been established shall be deemed
26 a sale of such cattle within the meaning of this Code section; and the assessment shall
27 thereupon attach and become due, regardless of whether such market agent actually
28 purchases such cattle for himself or herself or only processes same for a consideration
29 payable by the producer or another person and such cattle are thereafter sold to another
30 person, provided that upon collection of such assessment by the market agent to whom
31 such cattle are so delivered for processing only, no further or additional assessment shall
32 attach or become due by reason of the subsequent sale by such producer of such
33 processed cattle to another person or market agent.

34 (2) This subsection shall not apply to an assessment against a producer from which such
35 producer is exempt under subsection (b) of this Code section.

36 (g) The commission may prescribe such rules as may be necessary and reasonable for the
37 orderly reporting and transmitting of assessments by market agents and may take all legal

1 action necessary to enforce payment of the same by market agents. The commission is
2 authorized to issue executions for the same in like manner as executions are issued for ad
3 valorem property taxes due the state. It shall be the duty of each and every sheriff of this
4 state and their lawful deputies, upon the request of the commission, to levy and collect such
5 executions and to make their return thereof to the commission in like manner as such tax
6 executions are levied and return thereof made to county tax collectors and tax
7 commissioners. The commission shall likewise be authorized to collect, by execution as
8 provided in this subsection or otherwise, directly from the producer against whom any
9 assessment levied under this Code section may be found due whenever it is determined that
10 such producer has sold such affected cattle giving rise to such liability to a person other
11 than to a market agent who has collected such assessment and is required by this Code
12 section to remit the same to the commission. Furthermore, the commission may proceed
13 against such producer and the purchaser of such cattle simultaneously if the purchaser is
14 a market agent required to collect such assessment, until satisfaction is obtained.

15 (h) Any moneys collected by the commission pursuant to this article shall be deposited in
16 a bank or other depository approved by the commission and shall be disbursed by the
17 commission only for the necessary expenses incurred by the commission, as approved by
18 the commission. Funds so collected shall be deposited and disbursed in conformity with
19 appropriate rules and regulations prescribed by the commission. All such expenditures by
20 the commission shall be audited at least annually by the state auditor and a copy of such
21 audit shall be delivered within 30 days after the completion thereof to the Governor and the
22 commission. If the commission is abolished, any funds remaining in its hands at such time
23 shall be used to pay the existing obligations of the commission and the expenses incurred
24 in winding up the affairs of the commission. Any excess remaining shall escheat to the
25 state and shall be paid into the state treasury as unclaimed trust funds.

26 (i) Moneys deposited by the commission pursuant to this Code section which the
27 commission determines are available for investment may be invested or reinvested by the
28 commission as provided for funds of this state or of any retirement system created by law,
29 provided that all moneys invested shall be invested in those areas of production that will
30 provide a return at the highest bank interest rate available. It shall be the duty of the
31 commission annually to review these investments and determine whether they are in
32 compliance with this Code section.

33 2-8-105.

34 (a) Any assessment levied or established in accordance with this article in such specified
35 amount as may be determined by the commission pursuant to this article shall constitute
36 a personal debt of every person so assessed and shall be due and payable to the commission

1 when payment is called for by the commission. In the event of the failure of such person
2 to pay any such assessment upon the date determined by the commission, the commission
3 may file an action against such person in a court of competent jurisdiction for the collection
4 thereof.

5 (b) In the event that any producer or market agent duly assessed pursuant to this article
6 fails to pay to the commission the amount so assessed on or before the date specified by
7 the commission, the commission is authorized to add to such unpaid assessment an amount
8 not exceeding 10 percent of such unpaid assessment to defray the cost of enforcing the
9 collection of such unpaid assessment.

10 (c) The provisions of subsection (a) of this Code section with respect to collection of
11 assessments by action are in addition to and cumulative of the provisions of this article
12 authorizing the issuance of executions for assessments by the commission. The 10 percent
13 penalty authorized to be assessed upon delinquent assessments under subsection (b) of this
14 Code section may likewise be included in any execution issued by the commission. Such
15 remedies may be pursued concurrently until satisfaction is obtained upon either. Any
16 penalty recovered shall become a part of the principal assessment levied and shall be for
17 the use of the commission as are other moneys received under this article.

18 (d) This Code section shall not apply to an assessment against a producer from which such
19 producer is exempt under subsection (b) of Code Section 2-8-104.

20 2-8-106.

21 (a) The commission may require any and all market agents subject to the provisions of any
22 marketing order issued pursuant to this article:

- 23 (1) To maintain books and records reflecting their operations under the marketing order;
- 24 (2) To furnish to the commission or its duly authorized or designated representatives
25 such information as may from time to time be requested by them relating to operations
26 under the marketing order; and
- 27 (3) To permit inspection by the commission or its duly authorized or designated
28 representatives of such portions of such books and records as relate to operations under
29 the marketing order.

30 (b) Information obtained by any person under this Code section shall be confidential and
31 shall not be disclosed by him or her to any other person, except to a person with like right
32 to obtain the information or to any attorney employed to give legal advice thereupon or by
33 court order.

34 (c) In order to carry out the purposes of this Code section, the commission may hold
35 hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas for
36 the production of books, records, or documents of any kind.

1 2-8-107.

2 Any person who violates any provision of this article or any marketing order duly issued
3 by the commission and in effect under this article or who violates any rule or regulation
4 issued by the commission pursuant to this article or of any marketing order duly issued and
5 effective under this article shall be civilly liable to the commission for a penalty in an
6 amount not to exceed \$500.00 for each and every violation thereof, the amount of such
7 penalty to be fixed by the commission after notice and hearing as provided by Chapter 13
8 of Title 50, the 'Georgia Administrative Procedure Act,' for contested cases and recoverable
9 by a civil action brought in the name of the commission or by execution issued in like
10 manner as for assessments provided by Code Section 2-8-104. Any moneys recovered
11 pursuant to this Code section shall be deposited and disbursed in accordance with
12 subsection (e) of Code Section 2-8-104 as are other moneys.

13 2-8-108.

14 (a) The Attorney General of this state shall, upon complaint by the commission, or may,
15 upon his or her own initiative if after examination of the complaint and evidence he or she
16 believes a violation has occurred, bring an action in the superior court in the name of the
17 commission for civil penalties or for injunctive relief, including specific performance of
18 any obligation imposed by a marketing order or any rule or regulation issued under this
19 article, or both, against any person violating any provisions of this article or of any
20 marketing order or any rule or regulation duly issued by the commission under this article.

21 (b) If it appears to the court, upon any application for a temporary restraining order, upon
22 the hearing of any order to show cause why a preliminary injunction should not be issued,
23 or upon the hearing of any motion for a preliminary injunction, or if the court finds in any
24 such action that any defendant therein is violating or has violated any provision of this
25 article or of any marketing order or any rule or regulation duly issued by the commission
26 under this article, then the court shall enjoin the defendant from committing further
27 violations and may compel specific performance of any obligation imposed by a marketing
28 order or any rule or regulation issued by the commission under this article. It shall not be
29 necessary in such event to allege or prove lack of an adequate remedy at law.

30 (c) In any action brought by the Attorney General to enforce any of the provisions of this
31 article or of any marketing order issued by the commission and effective under this article
32 or of any rule or regulation issued by the commission pursuant to any marketing order, the
33 judgment, if in favor of the commission, may provide that the defendant pay to the
34 commission the costs incurred by the commission in the prosecution of such action.

1 2-8-109.

2 (a) The commission on its own motion may, and upon the complaint of any interested
3 party charging a violation of any provision of this article or of any provision of any
4 marketing order or any rule or regulation issued by the commission and effective under this
5 article shall, either refer the matter directly to the Attorney General of this state or to any
6 prosecuting attorney of this state for the institution of legal proceedings thereupon or, if the
7 commission deems it necessary or advisable, immediately call an administrative hearing,
8 pursuant to the provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure
9 Act,' governing contested cases, to consider the charges set forth in such verified
10 complaint.

11 (b) In case the matter is referred directly by the commission to the Attorney General or any
12 prosecuting attorney, it shall be the duty of such officer, if after examination of the
13 complaint and the evidence he or she believes that a violation has occurred, to bring an
14 appropriate action or actions in a court or courts of competent jurisdiction in this state.

15 (c) After an administrative hearing, if the commission finds that a violation has occurred,
16 it shall enter its findings and notify the parties to such complaint. In its discretion, the
17 commission shall either refer the matter to the Attorney General for the institution of legal
18 proceedings or notify such parties to cease and desist from further violation. Upon the
19 refusal or failure of such parties to comply or if the commission finds that the facts or
20 circumstances warrant immediate prosecution, the commission shall file a complaint with
21 the Attorney General or with any prosecuting attorney of this state requesting that such
22 officer commence any or all actions authorized in this article against such respondent or
23 respondents in a court of competent jurisdiction.

24 2-8-110.

25 (a) Any person who willfully renders or furnishes a false or fraudulent report, statement,
26 or record required pursuant to this article or any marketing order effective under this article
27 shall be guilty of a misdemeanor.

28 (b) Any market agent or other person engaged in the handling or processing of cattle or
29 beef or in the wholesale or retail trade thereof who fails or refuses to furnish, upon request,
30 information concerning the name and address of the person from whom he or she has
31 received cattle or beef regulated by a marketing order issued and in effect under this article
32 and the quantity of such cattle or beef received shall be guilty of a misdemeanor.

33 2-8-111.

34 Any person who violates any provision of this article or any provision of any marketing
35 order duly issued by the commission under this article shall be guilty of a misdemeanor.

2-8-112.

The penalties and remedies prescribed in this article with respect to any violation mentioned shall be concurrent and alternative. Neither singly nor combined shall such penalties and remedies be exclusive; rather, either singly or combined, such penalties and remedies shall be cumulative with any and all other civil, criminal, or alternative rights, remedies, forfeitures, or penalties provided or allowed by law with respect to any such violation.

2-8-113.

This article shall not be applicable to any retailer of beef except to the extent that any retailer is included within the definition of 'market agent' pursuant to paragraph (11) of Code Section 2-8-91.

2-8-114.

The promulgation, adoption, and amendment of rules and regulations by the commission shall be subject to the requirements of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'"

PART II

SECTION 2-1.

Said title is further amended in reserved Chapter 15 by striking the sentence "Reserved." immediately following the chapter designation and inserting in lieu thereof the following:

"2-15-1.

This chapter may be cited as the 'Georgia Aquaculture Development Act of 2004.'

2-15-2.

As used in this chapter, the term:

(1) 'Aquaculturalist' means a person or firm engaged in aquaculture.

(2) 'Aquaculture' means the commercial farming of privately owned aquatic animals in captive conditions and up to the juvenile or adult phase, with some sort of intervention in the rearing process such as regular stocking, feeding, protection from predators, or other management activity intended to enhance production.

(3) 'Aquatic animals' means pacific white shrimp (*Penaeus vannamei*).

2-15-3.

(a) There is created the Aquaculture Development Advisory Council. The council shall be composed of 15 members as follows:

- 1 (1) One member representing agriculture at large to be appointed by mutual agreement
2 of the chairpersons of the House and Senate Committees on Agriculture and Consumer
3 Affairs;
4 (2) The dean of the College of Agriculture, Home Economics, and Allied Programs of
5 Fort Valley State University or his or her representative;
6 (3) The chairperson of the Committee on Agriculture and Consumer Affairs of the House
7 of Representatives or his or her representative;
8 (4) The chairperson of the Committee on Agriculture and Consumer Affairs of the
9 Senate or his or her representative;
10 (5) The Commissioner or his or her representative;
11 (6) The commissioner of natural resources or his or her representative;
12 (7) The commissioner of industry, trade, and tourism or his or her representative; and
13 (8) Eight members to be appointed as provided by this paragraph. The President of the
14 Senate and the Speaker of the House of Representatives each shall appoint four members
15 as follows:
16 (A) Two members shall be representatives of the aquaculture industry;
17 (B) One member shall be a representative of the aquaculture supply and equipment
18 industry; and
19 (C) One member shall be a representative of a private industry which is doing research
20 in the promotion of aquaculture.

21 Each of the nine appointed members shall be appointed for a term of two years and until
22 a successor is appointed and assumes membership on the council. The terms of the first
23 such appointed members shall begin on the effective date of this chapter.

- 24 (b) The purpose of the council shall be to inform and advise the department and the
25 Department of Natural Resources regarding important developments in aquaculture.
26 (c) The members of the council shall enter upon their duties without further act or
27 formality. The council may make such bylaws for its government as it deems necessary but
28 is under no duty to do so. The council may appoint working subcommittees based on
29 identified needs. These subcommittees may consist of noncouncil members who exhibit
30 an interest in the development of the aquaculture industry of Georgia.
31 (d) Eight members of the council shall constitute a quorum necessary for the transaction
32 of business, and a majority vote of those present at any meeting at which there is a quorum
33 shall be sufficient to do and perform any action permitted the council by this chapter. No
34 vacancy on the council shall impair the right of a quorum to transact any and all business
35 of the council.
36 (e) The members shall not receive compensation for their services on the council but those
37 members who are public officials or employees shall be reimbursed from the funds of their

1 employing department, agency, or branch of government for per diem, travel, and other
2 expenses in the same manner and amount as they otherwise receive for performing services
3 for their respective departments, agencies, or branches of government.

4 (f) The council shall meet upon the call of its chairperson, who shall be elected by the
5 members of the council. The chairpersons of the Committees on Agriculture and
6 Consumer Affairs of the House of Representatives and the Senate shall serve as
7 cochairpersons of the council until such time as a chairperson of the council is elected by
8 the members.

9 (g) The council is authorized to conduct meetings at such places and at such times as it
10 considers expedient and to do all other things consistent with this chapter which are
11 necessary or convenient to enable it to exercise its powers, perform its duties, and
12 accomplish the objectives and purposes of this chapter.

13 (h) Staff support for the council shall be provided by the department and the Department
14 of Natural Resources.

15 2-15-4.

16 (a) There shall be an aquaculture program within the department.

17 (b) The department shall make a thorough study of aquaculture and the potential for
18 development and enhancement of aquaculture in the state. It shall be the duty of the
19 department to develop, distribute, and, from time to time, amend an aquaculture
20 development plan for the State of Georgia for the purpose of facilitating the establishment
21 and growth of economically viable aquaculture enterprises in Georgia. Such plan shall
22 include:

- 23 (1) An evaluation of Georgia's natural resources as they relate to aquaculture;
- 24 (2) An evaluation of species with potential for culture in Georgia;
- 25 (3) An identification of constraints to development of aquaculture in Georgia and
26 recommendations on methods to alleviate these constraints;
- 27 (4) An identification of the role of the department in supporting the aquaculture industry,
28 including an evaluation of existing physical and personnel resources and
29 recommendations for allocation of additional resources where needed;
- 30 (5) A list of the resources, training programs, technical assistance, and other programs
31 available to prospective aquaculturalists;
- 32 (6) Recommendations for implementation of the plan; and
- 33 (7) An identification of the role of other state and federal agencies in the development
34 of the aquaculture industry.

- 35 (c)(1) To aid in performing its duties under this Code section, the department shall rely
36 upon, to the extent feasible, the Georgia Center for Aquaculture Development at Fort

1 Valley State University as a state-wide center for providing information, conducting
2 research and development, and technology transfer training on fresh-water and marine
3 aquaculture in diverse production systems.

4 (2) Middle Georgia Technical College shall collaborate, to the extent feasible, with the
5 Georgia Center for Aquaculture Development at Fort Valley State University on
6 aquaculture training.

7 2-15-5.

8 (a) Any person or firm engaged in aquaculture shall apply to the department for an
9 aquaculture registration. The lawfully obtained pacific white shrimp of a registered
10 aquaculturalist shall be privately owned subject to regulation by the department; provided,
11 however, any person selling pacific white shrimp without first obtaining an aquaculture
12 registration shall be considered to be selling 'wildlife' or 'wild animals' and shall be subject
13 to the provisions of Title 27 governing such sale.

14 (b) On and after January 1 of the calendar year following the year in which this chapter
15 becomes effective, it shall be a misdemeanor for any person or firm to engage in
16 aquaculture unless such person or firm is registered as provided by this chapter; except that
17 this subsection shall not apply to the employees of a registered aquaculturalist.

18 2-15-6.

19 The department shall register persons engaged in aquaculture under the applicable
20 provisions of this chapter. Such registration or any renewal thereof shall expire on
21 December 31 of each even-numbered year following registration; provided, however, that
22 any registration shall expire 30 days following any change in the status of any information
23 required by the provisions of this chapter or by any rule or regulation adopted pursuant to
24 this chapter to be reported to the department. The department shall issue to registrants who
25 update or renew their registration new certificates of registration for the full period of
26 registration provided for in this Code section.

27 2-15-7.

28 (a) All applications to the department for registration as an aquaculturalist shall:
29 (1) Designate an address in this state where the applicant can be personally served with
30 legal process;
31 (2) Contain an appointment of an agent in this state for acceptance of service of legal
32 process, together with the agent's address in this state; or
33 (3) Contain a designation of the Secretary of State for acceptance of service of legal
34 process.

1 (b) A copy of such application shall be forwarded to the Secretary of State by the
2 department.

3 (c) The Commissioner shall by rule or regulation establish a registration fee in such
4 amount as is reasonable and necessary to cover administrative costs.

5 2-15-8.

6 The filing of an application with the department for registration as an aquaculturalist shall
7 constitute an admission by the applicant that the applicant is doing business in this state.

8 2-15-9.

9 (a) The Commissioner may deny registration to:

10 (1) Any applicant with a criminal record;

11 (2) Any applicant who is found by the Commissioner to have violated any law
12 administered by the department or any regulation or quarantine of the department; or

13 (3) A corporation, when any of its officers has a criminal record or is found by the
14 Commissioner to have violated any law administered by the department or any regulation
15 or quarantine of the department.

16 (b) In the case of a partnership, all parties shall be considered applicants for the purpose
17 of this Code section.

18 (c) No registration shall be denied under this chapter without opportunity for hearing in
19 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

20 2-15-10.

21 The Commissioner may revoke any outstanding registration where the holder of the same
22 or any officer or agent of the holder is found by the Commissioner to have violated any law
23 administered by the department or any regulation or quarantine of the department, provided
24 that no registration shall be revoked under this Code section without opportunity for
25 hearing in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure
26 Act.'

27 2-15-11.

28 All registration certificates issued by the department shall be evidence of a registration. The
29 department shall maintain a current list of all persons registered under this chapter.

30 2-15-12.

31 (a) The Commissioner shall make and publish such rules and regulations, not inconsistent
32 with law, as are reasonable and necessary to carry out the purposes of this chapter.

1 (b) Such rules and regulations shall include, without limitation, best management practices
2 that shall serve as protocols for the establishment and maintenance of responsible and
3 sustainable aquaculture and for the protection of public health and safety. By way of
4 example only, such practices may cover site selection, site plans, stocking, harvesting,
5 transportation of product, effective management, food safety at the farm level, and
6 reporting requirements. Compliance with such best management practices shall be a
7 condition of any aquaculture registration certificate issued under this chapter.

8 2-15-13.

9 (a) It shall be unlawful for any person to have in his or her possession pacific white shrimp
10 obtained from an aquaculturalist without a bona fide bill of sale or lading that provides the
11 date of transaction, identifies the seller, and details at least two of the following three
12 criteria for pacific white shrimp: number, weight, or average length.

13 (b) It shall be unlawful to sell pacific white shrimp produced by aquaculture which shrimp
14 the department has determined to have diseases or parasites that would be harmful to native
15 wildlife populations, including without limitation any viruses that may be latent in exotics
16 but problematic if introduced into indigenous stocks.

17 (c) Wholesale fish dealers or retail fish dealers properly licensed under Title 27 may sell
18 pacific white shrimp obtained from an aquaculturalist registered under this chapter.

19 (d) The Commissioner may by rule or regulation prohibit or limit the importation,
20 possession, or sale in this state of pacific white shrimp where the same are found to be
21 harmful to endemic wildlife populations or where the importation, possession, or sale
22 might introduce or spread disease or parasites, including without limitation any viruses that
23 may be latent in exotics but problematic if introduced into indigenous stocks.

24 (e) Any pacific white shrimp in the postlarval stage obtained for growout must be free of
25 disease.

26 (f) Employees or agents of the department shall confiscate any pacific white shrimp
27 imported, purchased, or acquired by any person in violation of this Code section or any rule
28 or regulation of the Commissioner adopted pursuant to this Code section.

29 2-15-14.

30 (a) Any inspector or other person authorized to ascertain compliance with any provision
31 of this chapter or any rule or regulation of the department pertaining to aquaculture may
32 enter during normal business hours and inspect the premises of an aquaculturalist to
33 determine whether such person is in compliance with the rules and regulations of the
34 department.

1 (b) In the event any person refuses to give his or her consent to an inspection as provided
2 in subsection (a) of this Code section, the Commissioner or any person authorized to make
3 inspections may seek a warrant to make an inspection as provided in this subsection:

4 (1) Any application for an inspection warrant shall be made to a person who is a judicial
5 officer within the meaning of Code Section 17-5-21;

6 (2) An inspection warrant shall be issued only upon cause and when supported by an
7 affidavit particularly describing the place, dwelling, structure, premises, or vehicle to be
8 inspected and the purpose for which the inspection is to be made. In addition, the
9 affidavit shall contain either a statement that consent to inspect has been sought and
10 refused or facts or circumstances reasonably justifying the failure to seek such consent.
11 Cause shall be deemed to exist if either reasonable legislative or administrative standards
12 for conducting a routine or area inspection are satisfied with respect to the particular
13 place, dwelling, structure, premises, or vehicle, or there is reason to believe that a
14 condition of nonconformity exists with respect to the particular place, dwelling, structure,
15 premises, or vehicle;

16 (3) An inspection warrant shall be effective for the time specified therein, but not for a
17 period of more than 14 days, unless extended or renewed by the judicial officer who
18 signed and issued the original warrant, upon satisfying himself or herself that such
19 extension or renewal is in the public interest. Such inspection warrant must be executed
20 and returned to the judicial officer by whom it was issued within the time specified in the
21 warrant or within the extended or renewed time. After the expiration of such time, the
22 warrant, unless executed, is void;

23 (4) An inspection pursuant to an inspection warrant shall be made between 8:00 A.M.
24 and 6:00 P.M. of any day or at any time during operating or regular business hours. An
25 inspection should not be performed in the absence of an owner or occupant of the
26 particular place, dwelling, structure, premises, or vehicle unless specifically authorized
27 by the judicial officer upon a showing that such authority is reasonably necessary to
28 effectuate the purpose of the regulation being enforced. An inspection pursuant to a
29 warrant shall not be made by means of forcible entry, except that the judicial officer may
30 expressly authorize a forcible entry where facts are shown which are sufficient to create
31 a reasonable suspicion of a violation of this chapter or any rule or regulation promulgated
32 pursuant to this chapter, which, if such violation existed, would be an immediate threat
33 to health, safety, or welfare or where facts are shown establishing that reasonable
34 attempts to serve a previous warrant have been unsuccessful. Where prior consent has
35 been sought and refused and a warrant has been issued, the warrant may be executed
36 without further notice to the owner or occupant of the particular place, dwelling,
37 structure, premises, or vehicle to be inspected;

(5) It shall be unlawful for any person to refuse to allow an inspection pursuant to an inspection warrant issued as provided in this subsection. Any person violating this paragraph shall be guilty of a misdemeanor; and

(6) Under this subsection, an inspection warrant is an order, in writing, signed by a judicial officer, directed to the Commissioner or any person authorized to make inspections for the department, and commanding him or her to conduct any inspection authorized by any rules or regulations promulgated pursuant to this chapter.

(c) The provisions of Code Section 27-1-23 shall not be applicable to any person registered under this chapter."

SECTION 2-2.

Title 27 of the Official Code of Georgia Annotated, relating to game and fish, is amended by striking Code Section 27-1-2, relating to definitions relative to said title, and inserting in lieu thereof the following:

"27-1-2.

As used in this title, the term:

(1) 'Adult supervision' means under the command and control of a person 18 years of age or older, with the minor being within sight or hearing distance of such person.

(1.1) 'Alligator' means *Alligator mississippiensis*, commonly known as the American alligator.

(2) 'Alligator farming' means the possession, propagation, and any other act involved in the production of live alligators.

(3) 'Alligator product' means any product or article made, either wholly or in part, from any part of the hide of an alligator or alligator meat or any other part of an alligator carcass.

(3.1) 'Aquaculturalist' has the meaning provided by Code Section 2-15-2.

(3.2) 'Aquaculture' has the meaning provided by Code Section 2-15-2.

(4) 'Artificial lure' means any lure which is made completely of natural or colored plastic, wood, cork, rubber, metal, feathers, hair, tinsel, styrofoam, sponge, or string, or any combinations of such materials, in imitation of or as a substitute for natural bait. Such term does not include any item which is sprayed with or containing scented or chemical attractions.

(5) 'Bag limit' or 'creel limit' means the quantity of wildlife which may be taken, caught, or killed during a specified period.

(6) 'Big game' means turkey, deer, and bear.

(7) 'Board' means the Board of Natural Resources.

1 (8) 'Bushel' means the present United States standard bushel, as determined by the
2 United States Department of Agriculture, which standard bushel measures 2150.4 cubic
3 inches.

4 (9) 'Business premises' means any place of business operation including, but not limited
5 to, offices, sheds, warehouses, vessels, boats, houses, ponds, and other such locations
6 where commercial activity takes place and specifically includes the equipment used in
7 conducting such activity.

8 (10) 'Carrier' means a person engaged in the business of transporting goods and
9 specifically includes a common carrier, a contract carrier, a private carrier, and a
10 transportation company.

11 (10.1) 'Cast net' means a cone shaped net designed to be thrown and retrieved by hand
12 and designed to spread out and capture fish and shrimp as the weighted circumference
13 sinks to the bottom and comes together when pulled by a line.

14 (11) 'Catch-out pond' means a fresh-water pond or lake where the owner or operator
15 charges persons a fee for the right to fish therein.

16 (12) 'Clam rake' means a hand-held rake, or a tool consisting of a long handle with a bar
17 that is set transversely with projecting prongs and with a wire basket or enclosure
18 modification, which rake or tool is suitable for scratching and removing mollusks of the
19 class Pelecypoda from estuarine and marine substrates.

20 (13) 'Commercial' means of or relating to buying, selling, or exchanging or offering for
21 purchase, sale, or exchange.

22 (13.1) 'Commercial cast net' means a cast net constructed of a minimum of five-eighths
23 inch bar mesh and having a radius not more than 12 feet and in compliance with the
24 provisions of Code Section 27-4-13.

25 (13.2) 'Commercial cast netting' means taking shrimp for commercial sale for food
26 purposes.

27 (14) 'Commercial crab trap' means an oblong cage or other cubical structure which is
28 constructed of wooden slats, hardware cloth, chicken wire, or other similar material,
29 which has one or more tunnel-shaped entrances which allow ingress but limit egress,
30 which is to be used as a trap, which is designed to be left unattended for long periods of
31 time, and which is used for catching decapod crustaceans, mainly of the species
32 Callinectes sapidus.

33 (15) 'Commercial fish hatchery' means a facility consisting of two or more ponds or a
34 raceway system which is capable of growing fish from eggs, fry, or fingerlings to a
35 commercially salable size and which produces fish from such eggs, fry, or fingerlings for
36 sale more than once annually.

- 1 (16) 'Commercial fishing' means fishing for the purpose of sale, the sale or offering for
2 sale of fish by the person taking such fish, or fishing with commercial fishing gear.
- 3 (17) 'Commercial quantities' means an amount equal to one bushel or more.
- 4 (18) 'Commercial shooting preserve' means any shooting preserve open to the general
5 public for a fee.
- 6 (19) 'Commercial trapper' means a person who traps on any land other than that
7 belonging to himself or herself or to his or her immediate family.
- 8 (20) 'Commissioner' means the commissioner of natural resources.
- 9 (21) 'Crab' means any crab of the species *Callinectes sapidus*.
- 10 (22) 'Department' means the Department of Natural Resources.
- 11 (23) 'Domestic species' means those taxa of animals which have traditionally lived in a
12 state of dependence on and under the dominion and control of man and have been kept
13 as tame pets, raised as livestock, or used for commercial breeding purposes, including,
14 but not limited to, dogs, cats, horses, cattle, ratites, and chickens. Animals which live in
15 a captive or tame state and which lack a genetic distinction from members of the same
16 taxon living in the wild are presumptively wild animals, except that lawfully obtained
17 farmed fish which are held in confinement in private ponds shall be known as and
18 considered to be 'domestic fish,' but only if they are fish species which are either
19 indigenous to Georgia or are fish species which have been recognized prior to 1992 as
20 having an established population in Georgia waters other than private ponds; provided,
21 however, that *Morone americana*, white perch, shall not be a domestic fish; and provided,
22 further, that pacific white shrimp produced by or used in aquaculture and contained on
23 the premises of an aquaculturalist registered under Code Section 2-15-6 shall not be
24 presumed to be wild animals.
- 25 (24) 'Educational' means of or relating to an attempt to learn or convey information about
26 the characteristics and behavior of wild animals or wildlife, where such an attempt is
27 made:
- 28 (A) In a public or private college, university, secondary school, or primary school,
29 which college, university, or school is accredited by either the Georgia Accrediting
30 Commission, Inc., or the Southern Association of Colleges and Schools;
- 31 (B) By an independent study conducted in affiliation with any of the institutions
32 mentioned in subparagraph (A) of this paragraph;
- 33 (C) By any chartered association or society organized for the purpose of conveying
34 knowledge about such species to its members;
- 35 (D) By a research facility; or
- 36 (E) By a governmental agency.

1 (25) 'Established bait dealership' means a facility which is used in whole or in part to sell
2 shrimp for bait and which has been inspected by employees of the department and which
3 has been issued a bait dealer license.

4 (26) 'Falconer' means a person licensed according to the laws and rules and regulations
5 pertaining to falconry.

6 (27) 'Falconry' means the sport of taking quarry by means of a trained raptor.

7 (27.1) 'Farmed deer' means fallow deer (*Dama dama*), axis deer (*Axis axis*), sika deer
8 (*Cervus nippon*), red deer and elk (*Cervus elaphus*), and reindeer and caribou (*Rangifer*
9 *tarandus*), and hybrids between these farmed deer species raised for the commercial sale
10 of meat and other parts or for the sale of live animals.

11 (28) 'Feral hog' means any hog which is normally considered domestic but which is
12 living in a wild state and cannot be claimed in private ownership.

13 (29) 'Fishing' means catching, capturing, taking, or killing fish, mussels, and all seafood
14 and includes all lesser acts such as attempting to catch, capture, or kill by any device or
15 method and every act of direct assistance to any person in catching or attempting to catch
16 fish, mussels, or seafood.

17 (30) 'Full-time employee' means a person who works at least 30 hours per week for one
18 employer. Expressly excluded from this term is an independent contractor or casual
19 vendor who does not receive regular periodic compensation from one employer.

20 (31) 'Fur-bearing animals' means the following animals: mink, otter, raccoon, fox,
21 opossum, muskrat, skunk, bobcat, and weasel.

22 (32) 'Fur dealer' means a person who purchases or sells raw undressed hides, furs, pelts,
23 or skins of fur-bearing animals and alligator hides or alligator products, excluding
24 alligator meat; provided, however, those persons engaged in wholesale or retail furrier
25 operations, that is, those who engage in the manufacture or production of finished fur or
26 alligator products, shall not be fur dealers for purposes of this title.

27 (33) 'Fur dealer's agent' means any person who represents the owner of or a dealer in
28 furs, alligator hides, or alligator products for the purpose of selling such furs, alligator
29 hides, or alligator products.

30 (34) 'Game animals' means the following animals: bear, bobcat, deer, fox, opossum,
31 rabbit, raccoon, sea turtles and their eggs, squirrel, cougar (*Felis concolor*), and all
32 members of the families Alligatoridae and Crocodylidae.

33 (35) 'Game birds' means the following birds: turkey, quail, grouse, and all migratory
34 game birds.

35 (36) 'Game fish' means the following fish, except domestic fish as provided in paragraph
36 (23) of this Code section:

37 (A) Bass:

- 1 (i) Largemouth bass;
- 2 (ii) Smallmouth bass;
- 3 (iii) White bass;
- 4 (iv) Striped bass;
- 5 (v) Spotted bass;
- 6 (vi) Redeye (Coosa) bass;
- 7 (vii) Striped-white bass hybrid;
- 8 (viii) Shoal bass (Flint River smallmouth); and
- 9 (ix) Suwannee bass;

10 (B) Trout:

- 11 (i) Rainbow trout;
- 12 (ii) Brown trout; and
- 13 (iii) Brook trout;

14 (C) Crappie:

- 15 (i) White crappie; and
- 16 (ii) Black crappie;

17 (D) Shad:

- 18 (i) American shad; and
- 19 (ii) Hickory shad;

20 (E) Sunfish or bream:

- 21 (i) Flier;
- 22 (ii) Spotted sunfish (stumpknockers);
- 23 (iii) Rockbass (gogleye);
- 24 (iv) Shadow bass;
- 25 (v) Redbreast sunfish;
- 26 (vi) Redear sunfish;
- 27 (vii) Bluegill (bream); and
- 28 (viii) Warmouth;

29 (F) Perch:

- 30 (i) Walleye; and
- 31 (ii) Sauger;

32 (G) Pickerel:

- 33 (i) Chain pickerel;
- 34 (ii) Grass pickerel; and
- 35 (iii) Redfin pickerel; and

36 (H) Catfish:

- 37 (i) Channel catfish; and

(ii) Flathead catfish.

(37) 'Game species' means all game animals, game birds, and game fish.

(38) 'Held as pets' means the possession of any wild animal for purposes other than scientific, educational, or public exhibition purposes or other than for sale to the general public or other than for resale to a retail dealer, an exhibition, or a research facility.

(39) 'Hunting' means pursuing, shooting, killing, taking, or capturing wildlife or feral hogs. This term also includes acts such as placing, setting, drawing, or using any device used to take wildlife or feral hogs, whether any such act results in taking or not, and includes every act of assistance to any person in taking or attempting to take such wildlife or feral hogs.

(40)(A) 'Immediate family,' except insofar as that term relates to trapping, trappers, and fur dealers, means all persons living in one household under one head of household and bearing a blood or dependent relationship to such head of household.

(B) 'Immediate family,' insofar as that term relates to trapping, trappers, and fur dealers, means son, daughter, father, mother, brother, sister, granddaughter, grandson, or spouse.

(40.1) 'License' means any document, decal, stamp, permit, or temporary license identification number which authorizes the holder to participate in any activity regulated by the department and which is issued by the department; provided, however, that a temporary license number shall be a valid license for ten days from the date of issuance.

(41) 'Licensed bait dealer' means the owner of an established bait dealership within this state who has been properly licensed and bonded pursuant to the applicable laws and regulations.

(42) 'May' means is authorized, but not required, and denotes discretion and permission rather than command. When 'may' is used in authorizing a certain action to be taken, it shall also include the authorization to change that action.

(43) 'Migratory game birds' means all the following birds: brant, coots, cranes, doves, ducks, gallinules, geese, rails, snipe, swans, and woodcock. Birds which are mutations of such birds and birds which are the result of hybridization between such birds or between such birds and other birds are included as migratory game birds.

(44) 'Mountain trout' means rainbow, brook, and brown trout.

(45) 'Night' means between the hours of 30 minutes after sunset and 30 minutes before sunrise.

(46) 'Nongame fish' means any fish not included within the definition of the term 'game fish' in this Code section and is synonymous with the term 'rough fish.'

(47) 'Peeler' means a crab which has a soft shell fully developed under the hard shell and which has a pink or red line on the outer edge of the swimming paddles.

- 1 (48) 'Pen raised game birds' means game birds which are raised in captivity and are more
2 than two generations removed from the wild.
- 3 (49) 'Perishable' means likely to deteriorate quickly in quality or value unless given
4 special treatment such as dressing, freezing, or cold storage.
- 5 (50) 'Person' means any individual, partnership, firm, corporation, association, or other
6 entity.
- 7 (51) 'Pole and line' means any hand line or any type of pole with a line attached and
8 specifically includes a casting rod, a spinning rod, a fly rod, and all similar hand-held
9 equipment for use with bait or artificial lure; provided, however, such pole and line may
10 only be used to entice fish to strike or bite such bait or lure.
- 11 (52) 'Private oyster or clam beds' means oyster or clam beds in which the right to plant,
12 cultivate, and harvest oysters and clams is not vested in the state pursuant to Code
13 Sections 44-8-6, 44-8-7, and 44-8-8.
- 14 (53) 'Private pond' means a body of water wholly on or within the lands of one title from
15 which fish cannot go upstream or downstream or to the lands of another.
- 16 (54) 'Private shooting preserve' means any shooting preserve owned or leased by an
17 individual, partnership, firm, corporation, association, or other entity and used only by
18 the owners, members, and guests.
- 19 (55) 'Public exhibition' means any commercial or noncommercial display of wild animals
20 or wildlife to the general public, including displays held in nontraveling facilities in fixed
21 locations or displays held in transient facilities which travel to different parts of the state.
- 22 (56) 'Public road' means any road open to and intended for use by the public and
23 maintained at public expense.
- 24 (57) 'Purchase' means to acquire, obtain, or receive or to attempt to acquire, obtain, or
25 receive by exchange of valuable consideration. This term specifically includes barter and
26 exchange.
- 27 (58) 'Raptor' means a live migratory bird of the order Falconiformes or the order
28 Strigiformes, other than the bald eagle (*Haliaeetus leucocephalus*) or the golden eagle
29 (*Aquila chrysaetos*).
- 30 (59) 'Rats and mice' means any gnawing mammal of the class Mammalia, the subclass
31 Theria, the order Rodentia, and either the family Muridae or the family Cricetidae and the
32 genera *Peromyscus*, *Sigmodon*, *Oryzomys*, or *Reithrodontomys*.
- 33 (59.1) 'Recreational bait shrimp cast net' means a cast net constructed of a minimum of
34 three-eighths inch mesh with a radius not greater than eight feet and in compliance with
35 the provisions of Code Section 27-4-13. Such term shall include any cast net which
36 exceeds such minimum mesh size.

1 (59.2) 'Recreational bait shrimp cast netting' means taking shrimp for noncommercial use
2 as bait by means of a cast net.

3 (59.3) 'Recreational food shrimp cast net' means a cast net constructed of a minimum of
4 one-half inch bar mesh with a radius not greater than eight feet and in compliance with
5 the provisions of Code Section 27-4-13.

6 (59.4) 'Recreational food shrimp cast netting' means taking shrimp for noncommercial
7 food purposes by means of a cast net.

8 (60) 'Resident' means any ~~citizens~~ citizen of the United States who has been domiciled
9 within the State of Georgia for a period of at least three months. For purposes of issuing
10 or procuring the noncommercial hunting and fishing licenses required by this title,
11 residents shall include full-time military personnel on active duty who list Georgia as
12 their home of record in their official military files or who are stationed at a military base
13 located in Georgia and the dependents of such military personnel.

14 (61) 'Retail fish dealer' means any person engaged in the purchasing, raising,
15 propagating, breeding, or other acquiring or possessing of live fish or fish eggs to be sold
16 or furnished to others for use thereby, other than for resale or for aquaria.

17 (62) 'Scientific' means of or relating to a systematic attempt, made at a public or private
18 college, university, secondary school, or primary school, which college, university, or
19 school is accredited by either the Georgia Accrediting Commission, Inc., or the Southern
20 Association of Colleges and Schools; or made in the course of an independent study
21 conducted in affiliation with any of the aforementioned institutions; or made by any
22 chartered association or society organized for the purpose of conveying knowledge to its
23 members; or made by a research facility or a governmental agency, for the purpose of
24 discovering new knowledge through the possession of wild animals or wildlife for the
25 testing of a theory or hypothesis, such theory or hypothesis to be tested according to the
26 accepted procedures of observation, comparison, objective data collection, and analysis.

27 (63) 'Seafood' means marine and estuarine fauna or flora used as food or of a kind
28 suitable for food and specifically includes, but is not limited to, shrimp taken for bait and
29 horseshoe crabs taken for bait.

30 (64) 'Sell' means to dispose of, transfer, or convey or to attempt to dispose of, transfer,
31 or convey by exchange of money or other valuable consideration. This term specifically
32 includes barter and exchange.

33 (65) 'Shedding facility' means a soft-shell crab facility containing a tank or other
34 enclosure in which peelers are or may be kept alive until they shed their shells and
35 become soft-shell crabs and containing such other equipment as may be prescribed by the
36 department.

- 1 (65.1) 'Shellfish' means common bivalve mollusks which includes all edible species of
2 oysters, clams, mussels, or other bivalves.
- 3 (65.2) 'Shellfish management area' means a wildlife management area where shellfish
4 are managed by the state or lessees for the propagation of shellfish.
- 5 (66) 'Shooting preserve' means any area utilized for the purpose of shooting or taking,
6 or shooting and taking, game birds or pen raised game birds.
- 7 (67) 'Small game' means all game animals and game birds other than big game.
- 8 (68) 'Soft-shell crab' means a crab which has just emerged from its old shell and has a
9 new soft, pliable shell.
- 10 (69) 'Soft-shell crab dealer' means any person operating a shedding facility approved by
11 the department.
- 12 (70) 'State owned oyster or clam beds' means oyster or clam beds in which the right to
13 plant, cultivate, and harvest oysters and clams is vested in the state pursuant to Code
14 Sections 44-8-6, 44-8-7, and 44-8-8.
- 15 (71) 'Taking' means killing, capturing, destroying, catching, or seizing.
- 16 (71.1) 'Ten-foot net' means a trawl with a cork line not to exceed ten feet from tie-to-tie
17 between the first and last mesh across the mouth of the net, a lead line not to exceed 13
18 feet from tie-to-tie between the first and last mesh across the mouth of the net, and leg
19 lines of equal length. No webbing shall extend toward the door beyond the original brail
20 lines which run vertically between the first tie at each end of the cork line and the first tie
21 at each end of the lead line.
- 22 (72) 'Trapping' means taking, killing, or capturing wildlife with traps. This term also
23 includes all lesser acts such as placing, setting, or staking such traps, whether such acts
24 result in taking or not, and attempting to take and assisting any person in taking or
25 attempting to take wildlife with traps.
- 26 (72.1) 'Twenty-foot net' means a trawl with a cork line not to exceed 20 feet from
27 tie-to-tie between the first and last mesh across the mouth of the net, a lead line not to
28 exceed 25 feet from tie-to-tie between the first and last mesh across the mouth of the net,
29 and leg lines of equal length. No webbing shall extend toward the doors beyond the
30 original brail lines which run vertically between the first tie at each end of the cork line
31 and the first tie at each end of the lead line.
- 32 (73) 'Waters of this state' means any waters within the territorial limits of this state and
33 the marginal sea adjacent to this state and the high seas when navigated as a part of a
34 journey or ride to or from the shore of this state except ponds or lakes not open to the
35 public, whether such ponds or lakes are within the lands of one title or not.
- 36 (74) 'Wholesale fish dealer' means any person engaged in purchasing, raising,
37 propagating, breeding, or acquiring or possessing live fish or fish eggs to be sold or

furnished to others for the purpose of resale, including any person engaged in transporting live fish or fish eggs into this state; provided, however, that any person who holds or sells only 'domestic fish' and is registered pursuant to Code Section 27-4-255 or any person who holds or sells fish solely for use in aquaria shall not be considered a wholesale fish dealer.

(75) 'Wild animal' means any animal which is not wildlife and is not normally a domestic species in this state. This term specifically includes any hybrid or cross between any combination of a wild animal, wildlife, and a domestic animal. Offspring from all subsequent generations of such crosses or hybrids are wild animals.

(76) 'Wild animal business' means the importation, transportation, or possession of any wild animal for the purpose of sale or transfer.

(77) 'Wildlife' means any vertebrate or invertebrate animal life indigenous to this state or any species introduced or specified by the board and includes ~~fish, except domestic fish produced by aquaculturists registered under Code Section 27-4-255,~~ mammals, birds, fish, amphibians, reptiles, crustaceans, and mollusks or any part thereof; except that such term does not include any domestic fish produced by persons registered under Code Section 27-4-255 or any pacific white shrimp produced by or used in aquaculture and lawfully contained on the premises of an aquaculturalist as those terms are defined by Code Section 2-15-2."

SECTION 2-3.

Said title is further amended by striking Code Section 27-2-14, relating to permits for liberation of wildlife or liberation of domestic fish, and inserting in lieu thereof the following:

"27-2-14.

It shall be unlawful for any person to liberate any wildlife within this state or to liberate domestic fish or pacific white shrimp produced by aquaculture as defined in Code Section 2-15-2 except into private ponds, except under permit from the department; provided, however, that pen raised quail may be released for purposes of training pointing, flushing, and retrieving dogs."

SECTION 2-4.

Said title is further amended by striking Code Section 27-4-75, relating to sale of fish by commercial fish hatcheries, sale of game fish, bill of sale or lading for possession of certain game fish and domestic fish, and sale of diseased fish, and inserting in lieu thereof the following:

1 "27-4-75.

2 (a) It shall be unlawful to sell any fish from a commercial fish hatchery as defined in Code
3 Section 27-1-2 unless the hatchery is licensed under Code Section 27-2-23 or except as
4 follows:

5 (1) Fish may be sold as provided in Code Section 27-4-74 or 27-4-76; and

6 (2) Domestic fish as defined in paragraph (23) of Code Section 27-1-2 and that are
7 produced by ~~an aquaculturist~~ a person registered under Code Section 27-4-255.

8 (b) Except as provided in Code Section 27-4-74 and except for persons licensed as
9 wholesale or retail fish dealers as provided in Code Section 27-4-76, it shall be unlawful
10 for anyone other than a commercial fish hatchery licensed under Code Section 27-2-23 to
11 sell any species of game fish. It shall also be unlawful for any person to have in his or her
12 possession any such game fish obtained from a commercial fish hatchery, wholesale fish
13 dealer, or retail fish dealer or domestic fish from an aquaculturist registered under Code
14 Section 27-4-255 without a bona fide bill of sale or lading which provides the date of
15 transaction, identifies the seller, and details at least two of the following three criteria for
16 each species of fish contained therein: number, weight, or average length.

17 (c) It shall also be unlawful to sell fish from a commercial fish hatchery which the
18 department has determined to have diseases or parasites which would be harmful to native
19 fish populations."

20 SECTION 2-5.

21 Said title is further amended by striking Code Section 27-4-76, relating to licensing of
22 wholesale and retail fish dealers and sale, transportation into state, or possession of live fish
23 and fish eggs, and inserting in lieu thereof the following:

24 "27-4-76.

25 (a) It shall be unlawful to engage in the business of a wholesale or retail fish dealer, as
26 defined in Code Section 27-1-2, without first obtaining an annual license from the
27 department as provided in Code Section 27-2-23. Properly licensed wholesale fish dealers
28 or retail fish dealers may sell game fish obtained from a licensed fish hatchery or domestic
29 fish obtained from a person registered aquaculturist under Code Section 27-4-255 or as
30 otherwise provided in Code Section 27-4-74. Notwithstanding any other provision to the
31 contrary, a licensed commercial fish hatchery shall not be required to obtain a license as
32 a wholesale fish dealer or a retail fish dealer.

33 (b) Notwithstanding subsection (a) of this Code section, nonresident persons may sell and
34 transport fish and fish eggs into the state without being required to procure a wholesale fish
35 dealer license where the sale and shipment are made to a wholesale fish dealer duly
36 licensed under Code Section 27-2-23.

(c) The board may by regulation prohibit or limit the importation, possession, or sale in this state of live fish or fish eggs where the same are found to be harmful to endemic fish populations or where the importation, possession, or sale might introduce or spread disease or parasites.

(d) The conservation rangers or other agents or officials of the department shall confiscate any fish imported, purchased, or acquired by any person in violation of this Code section or any regulation promulgated by the board pursuant to this Code section."

PART III

SECTION 3-1.

(a) This part shall become effective upon approval of this Act by the Governor or upon its becoming law without such approval.

(b) Part I of this Act shall become effective if and when the decision of the United States Court of Appeals for the Eighth Circuit in the case of *Livestock Marketing Association v. United States Department of Agriculture*, Nos. 02-2769/2832, slip. op. (8th Cir. July 8, 2003), holding the collection of mandatory assessments to pay for generic advertising of beef and beef products under the federal Beef Promotion and Research Act of 1985, 7 U.S.C. Section 2901, et seq., unconstitutional as a violation of the First Amendment to the Constitution of the United States, is affirmed by the United States Supreme Court; provided, however, that if a petition for writ of certiorari is denied in such case or such petition is granted but the decision of the United States Court of Appeals for the Eighth Circuit is not affirmed prior to July 1, 2006, Part I of this Act shall not become effective and shall stand repealed on July 1, 2006.

(c) Part II of this Act shall become effective only upon the effective date of a specific appropriation of funds for purposes of said part of this Act as expressed in a line item of an appropriations Act enacted by the General Assembly.

SECTION 3-2.

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