

House Bill 450

By: Representatives Jones of the 167th, Hogan of the 179th, Kelley of the 16th, Stephens of the 164th, Oliver of the 82nd, and others

A BILL TO BE ENTITLED
AN ACT

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

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 style="text-align:center">**SECTION 1.**

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

18 "27-4-187.

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

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

29 27-4-188.

30 As used in this part, the term:

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

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

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

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

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

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

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

49 (8) 'Harvester' means an individual mariculture operator that has a lease for the exclusive
50 right to cultivate oysters, clams, or other approved shellfish in specific tracts of tidal or
51 subtidal areas in approved growing areas.

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

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

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

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

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

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

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

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

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

72 (18) 'Unapproved growing areas' means all those areas other than approved growing
 73 areas.

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

76 27-4-189.

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

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

90 27-4-190.

91 (a)(1) It shall be unlawful to take or possess shellfish in commercial quantities or for
 92 commercial purposes without first having obtained a commercial fishing license with a
 93 shellfish endorsement and a master ~~collecting~~ harvester permit, harvester permit, or
 94 farmer permit or without proof of purchase that such shellfish were purchased from a
 95 certified shellfish dealer. Master ~~collecting~~ harvester permits and harvester permits shall

96 specify whether the permittee is authorized to take oysters, clams, or other shellfish and
 97 shall only be issued to persons certified by the Department of Agriculture to handle
 98 shellfish unless permission to take and possess shellfish for mariculture purposes has
 99 been granted by the department as described in subsection (d) of Code Section 27-4-197
 100 and in Code Section 27-4-202. Such permits shall be provided annually ~~at no cost by the~~
 101 ~~department but shall only be issued to persons with the right to harvest shellfish pursuant~~
 102 ~~to Code Sections 44-8-6 through 44-8-8 or to holders of leases from such persons~~. A
 103 permittee may request authorization from the department for employees or agents, who
 104 shall be referred to as ~~pickers~~ farmers, of such permittee to take shellfish from permitted
 105 areas. Such request shall be in writing to the department and shall include the name,
 106 address, and personal commercial fishing license number of the ~~picker~~ farmer. It shall
 107 be unlawful for ~~pickers~~ farmers to take or possess shellfish as authorized under their
 108 employer's master ~~collecting~~ harvester permit unless they carry on their person while
 109 taking or in possession of shellfish a ~~picker's~~ farmer's permit as provided by the
 110 department indicating the exact area and circumstances allowed for taking. Such ~~pickers~~
 111 farmers' permits and charts shall be provided annually by the department ~~at no cost~~ and
 112 shall be in a form as prescribed by the department. ~~Pickers~~ Farmers must possess a valid
 113 personal commercial fishing license as provided for in Code Section 27-4-110, a shellfish
 114 endorsement as provided for in the department's rules and regulations, and, when a boat
 115 is used, a valid commercial fishing boat license as provided in Code Section 27-2-8.
 116 Master ~~collecting~~ harvester permits, harvester permits, and ~~pickers'~~ farmers' permits shall
 117 not be issued to persons who have ~~been convicted three times~~ violated this part in the two
 118 years immediately preceding the filing of an application for a permit ~~of violations of this~~
 119 ~~Code section, subsection (b) of Code Section 27-4-193, subsections (a) and (b) of Code~~
 120 ~~Section 27-4-195, or Code Section 27-4-199~~. Permits may be revoked pursuant to Code
 121 Section 27-2-25. Master ~~collecting~~ harvester permits, harvester permits, and ~~pickers'~~
 122 farmers' permits issued to master ~~collecting~~ harvester or harvester permittees' or agents
 123 shall be surrendered to the department upon termination of Department of Agriculture
 124 certification for handling shellfish, upon termination of right to harvest shellfish, or upon
 125 violation of any provision of this title. If a ~~picker~~ farmer is removed from authorization
 126 to take shellfish by the master ~~collecting~~ harvester or harvester permittee, the master
 127 harvester or harvester shall immediately notify the department of such removal. In
 128 addition, that ~~picker~~ farmer shall immediately surrender to the department his or her
 129 picker's master harvester or harvester permit. It shall be unlawful to possess unauthorized
 130 ~~pickers'~~ farmer permits or ~~pickers'~~ farmer permits issued to another person.

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

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

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

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

159 27-4-191.

160 Reserved.

161 27-4-192.

162 (a) Unless authorized by the department, it shall be unlawful for any person to take or
 163 possess for commercial purposes any shellfish taken from the salt waters of this state
 164 except by hand or hand-held implement. The department may authorize the use of other
 165 equipment for taking shellfish for commercial purposes upon such conditions as the

166 department determines are in accordance with current, sound principles of wildlife research
167 and management. It shall be unlawful to take or possess shellfish taken by such other
168 equipment unless prior written approval has been obtained from the department and unless
169 a copy of the written permission is on the person of the authorized harvester and unless the
170 conditions of the written authorization are being met. Such other equipment includes, but
171 is not limited to, rock dredges, escalator dredges, hydraulic dredges, mechanical tongs,
172 patent tongs, and any power drawn or driven device.

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

175 27-4-193.

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

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

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

194 27-4-194.

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

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

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

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

218 27-4-195.

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

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

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

235 (1) A closed season shellfish operations plan that is approved by the department and
 236 meets requirements established by the board to be protective of public health;
 237 (2) A list of trained, authorized farmers as provided in subsection (d) of this Code
 238 section; and
 239 (3) A list of receiving certified firms.
 240 (d) A master harvester or harvester shall ensure that a farmer receives training required
 241 by the National Shellfish Sanitation Program, abides by the conditions of the program,
 242 and holds all required licenses.
 243 (e) The department may suspend or revoke a master harvester's or harvester's permission
 244 for closed period harvest for a violation of a condition by the master harvester, harvester,
 245 or farmer. The filing of a judicial appeal shall not act as an automatic stay of
 246 enforcement. No license, permit, or lease shall be denied or revoked under this part
 247 without opportunity for hearing in accordance with Chapter 13 of Title 50, the 'Georgia
 248 Administrative Procedure Act.'

249 27-4-196.

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

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

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

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

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

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

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

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

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

273 27-4-197.

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

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

285 (c) It shall be unlawful to affix tags issued to a certified dealer onto containers of another
 286 ~~or to fail to surrender unused tags to the Department of Agriculture upon termination of~~
 287 ~~certification or master collecting permit~~ unless permission has been granted by the
 288 department.

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

298 27-4-198.

299 ~~(a)(1) Any person desiring to lease any state shellfish beds for the exclusive rights to~~
 300 ~~harvest those shellfish pursuant to this Code section shall make an application in writing~~
 301 ~~to the department. The application shall include the name and legal residence of the~~
 302 ~~applicant, a National Oceanic and Atmospheric Administration (NOAA) chart indicating~~
 303 ~~the area desired to be leased, the names and addresses of adjacent landowners as recorded~~
 304 ~~on county tax maps and verification of such information in such form as the department~~

305 ~~may prescribe, the proposed plans for managing the resources, and such other information~~
 306 ~~as the department may prescribe. The department may offer leases of state intertidal~~
 307 ~~water bottoms within an approved growing area for the exclusive rights to harvest wild~~
 308 ~~or maricultured shellfish pursuant to this Code section through public competitive~~
 309 ~~bidding. Any person desiring to lease state intertidal water bottoms shall make an~~
 310 ~~application in writing to the department in the manner and time as described by the~~
 311 ~~department in the competitive bid advertisement. Such lease shall include terms and~~
 312 ~~conditions as prescribed by the department.~~

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

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

338 ~~(c)~~(3) All bids shall be opened in public on the date and at the time and place specified
 339 in the advertisement of the invitation to bid. The department shall announce which bid
 340 and bidder it considers most advantageous to the state. In so considering, the department
 341 shall give preference to residents over nonresidents ~~who have submitted equal bids. In~~

342 exercising its discretion, the department may consider an applicant's previous
 343 performance and compliance with this article. The department shall have the right to
 344 reject any or all bids and bidders and the right to waive formalities in bidding.

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

352 (2) Subtidal water bottoms leases shall be issued through a lottery devised and operated
 353 by the department. Preference may be given to certified firms and intertidal water bottom
 354 lease holders as of January 1, 2019.

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

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

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

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

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

373 (2) Intertidal water bottoms and subtidal water bottoms leases may be inheritable and
 374 transferable to the lessee's spouse, siblings, lineal descendants, or lineal ancestors without
 375 payment of a transfer fee if the lessee dies or is permanently and totally disabled. An
 376 instrument of the court declaring the rightful heir or recipient may be required for
 377 transfers upon a death. For purposes of this Code section, a permanent, total disability
 378 shall be a physical or mental impairment of a total and permanent nature which prevents

379 gainful employment and which is certified as such by the United States Department of
 380 Veterans Affairs, the Social Security Administration, Medicaid, medicare, the Railroad
 381 Retirement System, or a unit of federal, state, or local government recognized by the
 382 board by rule or regulation. Inherited leases shall be valid only with approval of the
 383 department.

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

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

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

407 27-4-199.

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

411 (b) Conservation rangers and other authorized personnel of the department are authorized
 412 to take samples from, to enter and have access to, and to examine during normal working
 413 hours and at any time when the licensed or authorized activity is being conducted all
 414 ~~shellfish beds~~ water bottoms, places of business, and other places where shellfish are

415 grown, kept, stored, sold, or held in possession with intent to distribute, sell, or give away.
416 Such personnel are also authorized at any time to take such samples of shellfish as are
417 necessary to carry out the purposes of this article and to have access to and take samples
418 from all streams, tributaries thereof, and lands adjacent thereto, the waters draining from
419 which may come into contact with shellfish. It shall be unlawful for any person to obstruct
420 or in any way interfere with any conservation ranger or other authorized personnel of the
421 department in carrying out the purposes of this article.

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

432 27-4-200.

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

435 27-4-201.

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

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

444 27-4-202.

445 (a) It shall be unlawful for a master harvester or harvester to engage in shellfish
446 mariculture activities without first obtaining a shellfish mariculture permit from the
447 department. A detailed mariculture operational plan must be approved by the department
448 prior to any shellfish mariculture permit being issued. An operational plan shall include

449 the species to be farmed, types of gear, amounts, locations, sources and types of shellfish
450 seed including genetic strains, a storm mitigation plan, a wildlife interaction mitigation
451 plan, and any other information required by the department.

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

456 (c) Shellfish mariculture activities on a subtidal water bottoms lease shall require a
457 performance bond provided to the director by a master harvester or harvester to ensure
458 compliance with the procedures and standards contained in this part. Such performance
459 bond shall be in the amount of \$20,000.00 and conditioned upon faithful compliance with
460 the conditions and terms of this part. Such performance bond shall be placed on file with
461 the director. The bond shall be made payable to the director and issued by an insurance
462 company authorized to issue such bonds in this state.

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

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

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

474 (2) Expend such amount for such purposes;

475 (3) Enter into contracts for such purposes; or

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

477 27-4-203.

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

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

485 (1) Shellfish seed shall be certified disease-free by an approved shellfish pathologist; and
 486 (2) The importation of shellfish seed is confined to seed that originates from department
 487 approved hatcheries.

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

490 27-4-204.

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

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

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

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

510 **SECTION 2.**

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

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

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

539 **SECTION 3.**

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

544 **SECTION 4.**

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