

1 HB302
2 190323-1
3 By Representatives Sessions, Pringle, Wood, Brown, Weaver,
4 Standridge, South, Faust, Drummond, Boothe, Ainsworth,
5 Williams (JW), Davis, Buskey, Lindsey, Ford, Black and Wilcox
6 RFD: Agriculture and Forestry
7 First Read: 25-JAN-18

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8 SYNOPSIS: Under existing law, the commercial taking or
9 catching of oysters is regulated by the Division of
10 Marine Resources of the Department of Conservation
11 and Natural Resources.

12 This bill would provide that oysters taken
13 from public oyster bottoms may be sacked or placed
14 in containers. Oysters taken from private lease
15 bottoms or oyster aquaculture sites for commercial
16 purposes could also be tagged in bulk and the
17 purchase of bulk tags would be authorized. The bill
18 would also provide for an annual oyster aquaculture
19 license issued by Department of Conservation and
20 Natural Resources for any oyster aquaculture site
21 or facility which takes oysters from the waters of
22 this state. Violators would be subject to the
23 existing penalties.

24 Amendment 621 of the Constitution of Alabama
25 of 1901, now appearing as Section 111.05 of the
26 Official Recompilation of the Constitution of
27 Alabama of 1901, as amended, prohibits a general

1 law whose purpose or effect would be to require a
2 new or increased expenditure of local funds from
3 becoming effective with regard to a local
4 governmental entity without enactment by a 2/3 vote
5 unless: it comes within one of a number of
6 specified exceptions; it is approved by the
7 affected entity; or the Legislature appropriates
8 funds, or provides a local source of revenue, to
9 the entity for the purpose.

10 The purpose or effect of this bill would be
11 to require a new or increased expenditure of local
12 funds within the meaning of the amendment. However,
13 the bill does not require approval of a local
14 governmental entity or enactment by a 2/3 vote to
15 become effective because it comes within one of the
16 specified exceptions contained in the amendment.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT
21

22 Relating to the taking of oysters for commercial
23 purposes; to amend Sections 9-12-67 and 9-12-82 of the Code of
24 Alabama 1975, to further provide for the regulation by the
25 Division of Marine Resources of the Department of Conservation
26 and Natural Resources of the tagging of oysters from public
27 oyster bottoms and the tagging of oysters taken from private

1 lease bottoms or oyster aquaculture sites; to provide for a
2 license for the taking of oysters by an oyster aquaculture
3 site or facility; to provide that existing penalties would
4 apply; and in connection therewith would have as its purpose
5 or effect the requirement of a new or increased expenditure of
6 local funds within the meaning of Amendment 621 of the
7 Constitution of Alabama of 1901, now appearing as Section
8 111.05 of the Official ReCompilation of the Constitution of
9 Alabama of 1901, as amended.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 9-12-67 and 9-12-82 of the Code
12 of Alabama 1975, are amended to read as follows:

13 "§9-12-67.

14 "(a) All oysters taken from ~~the public or private~~
15 oyster bottoms of the State of Alabama for commercial purposes
16 shall be sacked or placed in containers, in accordance with
17 the most current National Shellfish Sanitation Program Guide
18 for the Control of Molluscan Shellfish, as adopted by the
19 State Department of Public Health, in burlap, or similar
20 material, bags containing not more than one-quarter Alabama
21 barrel of oysters. Sacks or containers with oysters ~~Oysters~~
22 shall be ~~sacked and each sack~~ tagged and identified in
23 accordance with the requirements of the most current National
24 Shellfish Sanitation Program Guide for the Control of
25 Molluscan Shellfish, as adopted by the state Department of
26 Public Health, prior to leaving the harvest location or oyster
27 management station. The tag shall remain attached to each sack

1 or container until ~~the sack~~ it is emptied or retagged with a
2 certified dealer tag. Sacks or containers shall not be emptied
3 in any proportion prior to reaching the destination where the
4 oysters shall be opened, repacked, or processed. Upon reaching
5 the destination, if ~~if~~ less than the entire sack or container
6 is to be opened at one time, the tag shall remain attached ~~to~~
7 ~~the sack~~ until the last oyster is removed. Upon emptying each
8 sack or container or retagging with a certified dealer's tag,
9 the harvester tag shall immediately be removed ~~from the sack~~
10 and filed or disposed of as required by rule of the state
11 Department of Public Health. Sacks or containers ~~Containers~~ of
12 oysters imported into this state shall be tagged and
13 identified as required by rule of the state Department of
14 Public Health. It shall be unlawful to possess empty sacks or
15 containers with oyster tags attached thereto.

16 "(b) Oysters taken from private lease bottoms or
17 oyster aquaculture sites for commercial purposes may be tagged
18 in individual sacks, containers, or in bulk in accordance with
19 the most current National Shellfish Sanitation Program Guide
20 for the Control of Molluscan Shellfish, as adopted by the
21 state Department of Public Health and rules adopted by the
22 Commissioner of the Department of Conservation and Natural
23 Resources.

24 "(b)(c) It shall be unlawful for any person, firm,
25 or corporation to sell, purchase, or possess oysters in
26 violation of this section and upon conviction, persons, firms,
27 or corporations shall be guilty of a Class C misdemeanor.

1 "~~(c)~~(d) Tags shall be purchased at a cost of
2 twenty-five cents (\$.25) per tag for sacks or containers and
3 one dollar (\$1) per tag for bulk tags, plus cost of printing
4 rounded to the nearest five cents, from the Department of
5 Conservation and Natural Resources, Division of Marine
6 Resources, or its duly authorized agents. Receipts shall be
7 deposited to the credit of the Marine Resources Fund and shall
8 be used solely for cultch planting and other oyster management
9 purposes.

10 "§9-12-82.

11 "(a) Before any person engages in the taking or
12 catching of oysters from the waters or bottoms of the State of
13 Alabama, ~~he~~ the person shall first purchase an annual "oyster
14 catcher" license. ~~Said~~ The license shall expire annually on
15 September 30 and shall be twenty-five dollars (\$25) ~~\$25.00~~.
16 However, persons may take for personal, noncommercial
17 purposes, from waters opened to commercial oystering, ~~up to,~~
18 ~~but~~ not more than 100 oysters per day without purchasing an
19 "oyster catcher" license.

20 "(b) Before any oyster aquaculture site or facility
21 permitted by the state Department of Public Health engages in
22 the taking of oysters from the waters or bottoms of this
23 state, the oyster aquaculture permittee shall first purchase
24 an annual oyster aquaculture license. The license shall allow
25 employees of the aquaculture facility to engage in harvesting
26 and sorting of oysters or to conduct other approved activities
27 for the licensed facility without possessing an individual

1 oyster catcher license. Authorized employees shall meet the
2 requirements for harvest in accordance with all other rules of
3 the Department of Conservation and Natural Resources and the
4 state Department of Public Health. The license shall expire
5 annually on September 30 and shall be two hundred fifty
6 dollars (\$250).

7 "~~(b)~~(c) A violation of ~~the provisions of~~ this
8 section shall be a Class C misdemeanor.

9 "~~(c)~~(d) The proceeds from the sale of ~~said the~~
10 license shall be deposited to the credit of the Marine
11 Resources Fund and ~~said the~~ license shall expire on September
12 30 of each year."

13 Section 2. Although this bill would have as its
14 purpose or effect the requirement of a new or increased
15 expenditure of local funds, the bill is excluded from further
16 requirements and application under Amendment 621, now
17 appearing as Section 111.05 of the Official Recompilation of
18 the Constitution of Alabama of 1901, as amended, because the
19 bill defines a new crime or amends the definition of an
20 existing crime.

21 Section 3. This act shall become effective the last
22 day of the third month following its passage and approval by
23 the Governor, or its otherwise becoming a law.