

House Bill 244

By: Representatives Petrea of the 166th, Rhodes of the 124th, DeLoach of the 167th, Sainz of the 180th, Townsend of the 179th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 27 of the Official Code of Georgia Annotated, relating to
2 general provisions relative to game and fish, so as to extend the date by which rules and
3 regulations prescribed by the Board of Natural Resources must be in effect for purposes of
4 establishing criminal violations of said rules and regulations; to amend Part 1 of Article 4 of
5 Chapter 4 of Title 27 of the Official Code of Georgia Annotated, relating to general
6 provisions relative to seafood, so as to require certain reporting of non-activity by seafood
7 dealers; to amend Part 4 of Article 4 of Chapter 4 of Title 27 of the Official Code of Georgia
8 Annotated, relating to shellfish, so as to provide for a definition; to authorize discretionary
9 penalties for certain enforcement actions by the Department of Natural Resources; to repeal
10 certain cage fees; to provide for exemptions; to provide for effective dates; to provide for
11 related matters; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Chapter 1 of Title 27 of the Official Code of Georgia Annotated, relating to general
15 provisions relative to game and fish, is amended by revising Code Section 27-1-39, relating
16 to rules and regulations used to establish criminal violations, as follows:

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17 "27-1-39.

18 Notwithstanding any other law to the contrary, for purposes of establishing criminal
19 violations of the rules and regulations promulgated by the Board of Natural Resources as
20 provided in this title, the term 'rules and regulations' means those rules and regulations of
21 the Board of Natural Resources in force and effect on January 1, ~~2022~~ 2023."

22 **SECTION 2.**

23 Part 1 of Article 4 of Chapter 4 of Title 27 of the Official Code of Georgia Annotated,
24 relating to general provisions relative to seafood, is amended in Code Section 27-4-136,
25 relating to seafood dealer license, maintenance of records, and purchase of seafood, by
26 revising paragraph (3) of subsection (a) as follows:

27 "(3) Each person required to maintain records pursuant to paragraph (2) of this
28 subsection shall report such information to the department, whose address for the purpose
29 of reporting shall be the Coastal Resource Division headquarters, at such times and in
30 such manner as the board provides by rule or regulation. For the purposes of this
31 subsection, a person licensed as a seafood dealer who has taken no activity described in
32 paragraph (2) within any given month shall report such non-activity to the department in
33 the same manner as provided by rule or regulation."

34 **SECTION 3.**

35 Part 4 of Article 4 of Chapter 4 of Title 27 of the Official Code of Georgia Annotated,
36 relating to shellfish, is amended in Code Section 27-4-188, relating to definitions, by adding
37 a new paragraph to read as follows:

38 "(2.1) 'Cage' means a containment unit of any size that contains or may contain shellfish
39 for commercial sale. For a larger outer unit which holds smaller units inside, the entire
40 unit shall be treated as a single cage."

41 **SECTION 4.**

42 Said part is further amended in Code Section 27-4-190, relating to commercial fishing license
43 with shellfish endorsement and master harvester permit or harvester permit, hours for taking
44 shellfish, and recreational harvesting, by revising paragraph (1) of subsection (a) as follows:

45 "(a)(1) It shall be unlawful to take or possess shellfish in commercial quantities or for
46 commercial purposes without first having obtained a commercial fishing license with a
47 shellfish endorsement and a master harvester permit or harvester permit or without proof
48 of purchase that such shellfish were purchased from a certified shellfish dealer. Master
49 harvester permits shall specify whether the permittee is authorized to take oysters, clams,
50 or other shellfish and shall only be issued to persons certified by the Department of
51 Agriculture to handle shellfish unless permission to take and possess shellfish has been
52 granted by the department as described in subsection (d) of Code Section 27-4-197 and
53 in Code Section 27-4-202. Such permits shall be provided annually. A permittee may
54 request authorization from the department for employees or agents, who shall be referred
55 to as harvesters, of such permittee to take shellfish from permitted areas. Such request
56 shall be in writing to the department and shall include the name, address, and personal
57 commercial fishing license number of the harvester. It shall be unlawful for harvesters
58 to take or possess shellfish as authorized under their employer's master harvester permit
59 unless they carry on their person while taking or in possession of shellfish a harvester
60 permit as provided by the department indicating the exact area and circumstances
61 allowed for taking. Such harvesters' permits and charts shall be provided annually by the
62 department and shall be in a form as prescribed by the department. Harvesters must
63 possess a valid personal commercial fishing license as provided for in Code Section
64 27-4-110, a shellfish endorsement as provided for in the department's rules and
65 regulations, and, when a boat is used, a valid commercial fishing boat license as provided
66 in Code Section 27-2-8. Master harvester permits and harvester permits ~~shall not be~~
67 ~~issued~~ may be denied pursuant to Code Section 27-2-25 to persons who have violated this

68 part in the two years immediately preceding the filing of an application for a permit.
 69 Permits may be revoked pursuant to Code Section 27-2-25. Master harvester permits and
 70 harvester permits issued to master harvesters or agents shall be surrendered to the
 71 department upon termination of Department of Agriculture certification for handling
 72 shellfish; or upon termination of right to harvest shellfish, ~~or upon violation of any~~
 73 ~~provision of this title pursuant to Code Section 27-4-201.~~ If a harvester is removed from
 74 authorization to take shellfish by the master harvester permittee, the master harvester
 75 shall immediately notify the department of such removal. In addition, that harvester shall
 76 immediately surrender to the department his or her harvester permit. It shall be unlawful
 77 to possess unauthorized harvester permits or harvester permits issued to another person."

78 **SECTION 5.**

79 Said part is further amended by revising Code Section 27-4-201, relating to penalty for
 80 violation of article and revocation of authorizations, as follows:

81 "27-4-201.

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

85 (b) Any authorizations issued under this part to any person convicted of violating any
 86 provision of this ~~article~~ part ~~may~~ be revoked ~~by operation of law and shall not be~~
 87 ~~reissued for a period of three years. The department shall notify the person in writing of~~
 88 ~~the revocation. Prior to revocation, such person shall have opportunity for hearing in~~
 89 ~~accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'~~
 90 pursuant to Code Section 27-2-25; provided, however, that upon the first such conviction,
 91 a harvester permit shall not be revoked if the harvester satisfactorily completes, within 30
 92 days of notice from the department, the retraining specified by the department in

93 accordance with the requirements of the National Shellfish Sanitation Program pursuant
94 to subsection (d) of Code Section 27-4-195."

95 **SECTION 6.**

96 Said part is further amended by revising Code Section 27-4-204, relating to permitting,
97 number of cages, and identification attached to cages, as follows:

98 27-4-204.

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

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

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

113 ~~(c) It shall be unlawful to set or place in the salt waters of this state any shellfish~~
114 ~~mariculture cage which does not have attached to it ~~the~~ an identification assigned tag~~
115 ~~approved by the department to the permittee. The identification shall be assigned by the~~
116 ~~department to the permittee when such permittee is issued his or her shellfish mariculture~~
117 ~~permit. For subsequent years, the same identification shall be assigned to such permittee.~~
118 All intertidal gear shall be exempt from the requirements of this Code section."

119 **SECTION 7.**

120 This Act shall become effective upon its approval by the Governor or upon its becoming law
121 without such approval for purposes of promulgating rules and regulations and shall become
122 effective on July 1, 2023, for all other purposes.

123 **SECTION 8.**

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