

Senate Bill 182

By: Senators Ligon, Jr. of the 3rd, Miller of the 49th, Watson of the 1st, Hill of the 4th,  
Gooch of the 51st 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 to revise and add an exemption certain;  
12 to 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) 'Harvester' means a person who has acquired a lease with permission to grow or  
48 harvest shellfish from the state or from an owner with exclusive rights to shellfish  
49 pursuant to Code Sections 44-8-6 through 44-8-8 and who has been permitted by the  
50 department.

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

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

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

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

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

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

67 (14) 'Shellfish seed' means juvenile shellstock intended for growth to market size.

68 (15) 'Shellstock' means live molluscan shellfish in the shell.

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

71 (17) 'Unapproved growing areas' means all those areas other than approved growing  
 72 areas.

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

75 27-4-189.

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

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

89 27-4-190.

90 (a)(1) It shall be unlawful to take or possess shellfish in commercial quantities or for  
 91 commercial purposes without first having obtained a commercial fishing license with a  
 92 shellfish endorsement and a master ~~collecting~~ harvester permit or harvester permit or  
 93 without proof of purchase that such shellfish were purchased from a certified shellfish  
 94 dealer. Master ~~collecting~~ harvester permits shall specify whether the permittee is  
 95 authorized to take oysters, clams, or other shellfish and shall only be issued to persons  
 96 certified by the Department of Agriculture to handle shellfish unless permission to take  
 97 and possess shellfish for mariculture purposes has been granted by the department as

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

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

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

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

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

158 27-4-191.

159 Reserved.

160 27-4-192.

161 (a) Unless authorized by the department, it shall be unlawful for any person to take or  
 162 possess for commercial purposes any shellfish taken from the salt waters of this state  
 163 except by hand or hand-held implement. The department may authorize the use of other  
 164 equipment for taking shellfish for commercial purposes upon such conditions as the  
 165 department determines are in accordance with current, sound principles of wildlife research  
 166 and management. It shall be unlawful to take or possess shellfish taken by such other  
 167 equipment unless prior written approval has been obtained from the department and unless

168 a copy of the written permission is on the person of the authorized harvester and unless the  
 169 conditions of the written authorization are being met. Such other equipment includes, but  
 170 is not limited to, rock dredges, escalator dredges, hydraulic dredges, mechanical tongs,  
 171 patent tongs, and any power drawn or driven device.

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

174 27-4-193.

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

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

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

193 27-4-194.

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

199 (2) It shall be unlawful to take any oysters for commercial purposes when the shells of  
 200 the oysters measure less than two inches from hinge to mouth, except that oysters less  
 201 than two inches from hinge to mouth may be removed if attached to an oyster of that

202 minimum size and the oyster to which it is so attached cannot be removed without  
 203 destroying the two-inch oyster.

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

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

217 27-4-195.

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

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

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

234 (1) A closed season shellfish operations plan that is approved by the department and  
 235 meets requirements established by the board to be protective of public health;

236 (2) A list of trained, authorized harvesters as provided in subsection (d) of this Code  
 237 section; and

238 (3) A list of receiving certified firms.

239 (d) A master harvester shall ensure that a harvester receives training required by the  
 240 National Shellfish Sanitation Program, abides by the conditions of the program, and holds  
 241 all required licenses.

242 (e) The department may suspend or revoke a master harvester's or harvester's permission  
 243 for closed period harvest for a violation of a condition by the master harvester or harvester.  
 244 The filing of a judicial appeal shall not act as an automatic stay of enforcement. No license,  
 245 permit, or lease shall be denied or revoked under this part without opportunity for hearing  
 246 in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

247 27-4-196.

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

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

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

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

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

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

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

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

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



271 27-4-197.

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

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

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

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

296 27-4-198.

297 ~~(a)(1) Any person desiring to lease any state shellfish beds for the exclusive rights to~~  
298 ~~harvest those shellfish pursuant to this Code section shall make an application in writing~~  
299 ~~to the department. The application shall include the name and legal residence of the~~  
300 ~~applicant, a National Oceanic and Atmospheric Administration (NOAA) chart indicating~~  
301 ~~the area desired to be leased, the names and addresses of adjacent landowners as recorded~~  
302 ~~on county tax maps and verification of such information in such form as the department~~  
303 ~~may prescribe, the proposed plans for managing the resources, and such other information~~  
304 ~~as the department may prescribe. The department may offer leases of state intertidal~~  
305 ~~water bottoms within an approved growing area for the exclusive rights to harvest wild~~  
306 ~~or maricultured shellfish pursuant to this Code section through public competitive~~

307 bidding. Any person desiring to lease state intertidal water bottoms shall make an  
 308 application in writing to the department in the manner and time as described by the  
 309 department in the competitive bid advertisement. Such lease shall include terms and  
 310 conditions as prescribed by the department.

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

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

336 ~~(c)~~(3) All bids shall be opened in public on the date and at the time and place specified  
 337 in the advertisement of the invitation to bid. The department shall announce which bid  
 338 and bidder it considers most advantageous to the state. In so considering, the department  
 339 shall give preference to residents over nonresidents ~~who have submitted equal bids~~. In  
 340 exercising its discretion, the department may consider an applicant's previous  
 341 performance and compliance with this article. The department shall have the right to  
 342 reject any or all bids and bidders and the right to waive formalities in bidding.

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

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

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

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

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

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

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

371 (2) Intertidal water bottoms and subtidal water bottoms leases may be inheritable and  
372 transferable to the leasee's spouse, siblings, lineal descendants, or lineal ancestors without  
373 payment of a transfer fee if the leasee dies or is permanently and totally disabled. An  
374 instrument of the court declaring the rightful heir or recipient may be required for  
375 transfers upon a death. For purposes of this Code section, a permanent, total disability  
376 shall be a physical or mental impairment of a total and permanent nature which prevents  
377 gainful employment and which is certified as such by the United States Department of  
378 Veterans Affairs, the Social Security Administration, Medicaid, medicare, the Railroad  
379 Retirement System, or a unit of federal, state, or local government recognized by the

380 board by rule or regulation. Inherited leases shall be valid only with approval of the  
 381 department.

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

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

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

405 27-4-199.

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

409 (b) Conservation rangers and other authorized personnel of the department are authorized  
 410 to take samples from, to enter and have access to, and to examine during normal working  
 411 hours and at any time when the licensed or authorized activity is being conducted all  
 412 ~~shellfish beds~~ water bottoms, places of business, and other places where shellfish are  
 413 grown, kept, stored, sold, or held in possession with intent to distribute, sell, or give away.  
 414 Such personnel are also authorized at any time to take such samples of shellfish as are  
 415 necessary to carry out the purposes of this article and to have access to and take samples

416 from all streams, tributaries thereof, and lands adjacent thereto, the waters draining from  
 417 which may come into contact with shellfish. It shall be unlawful for any person to obstruct  
 418 or in any way interfere with any conservation ranger or other authorized personnel of the  
 419 department in carrying out the purposes of this article.

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

430 27-4-200.

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

433 27-4-201.

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

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

442 27-4-202.

443 (a) It shall be unlawful for a master harvester or harvester to engage in shellfish  
 444 mariculture activities without first obtaining a shellfish mariculture permit from the  
 445 department. A detailed mariculture operational plan must be approved by the department  
 446 prior to any shellfish mariculture permit being issued. An operational plan shall include  
 447 the species to be farmed, types of gear, amounts, locations, sources and types of shellfish  
 448 seed including genetic strains, a storm mitigation plan, a wildlife interaction mitigation  
 449 plan, and any other information required by the department.

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

454 (c) Shellfish mariculture activities on a subtidal water bottoms lease shall require a  
 455 performance bond provided to the director by a master harvester or harvester to ensure  
 456 compliance with the procedures and standards contained in this part. Such performance  
 457 bond shall be in the amount of \$20,000.00 and conditioned upon faithful compliance with  
 458 the conditions and terms of this part. Such performance bond shall be placed on file with  
 459 the director. The bond shall be made payable to the director and issued by an insurance  
 460 company authorized to issue such bonds in this state. If any party is aggrieved or adversely  
 461 affected by the master harvester's or harvester's failure to comply with the requirements  
 462 of this article, the director may commence and maintain an action against the principal and  
 463 surety on the bond.

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

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

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

475 (2) Expend such amount for such purposes;

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

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

478 27-4-203.

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

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

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

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

491 27-4-204.

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

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

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

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

511 **SECTION 2.**

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

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

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

540 **SECTION 3.**

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

545 **SECTION 4.**

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