~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 2, 2017

**S. 465**

Introduced by Senator Campsen

S. Printed 3/2/17--S. [SEC 3/7/17 2:18 PM]

Read the first time February 23, 2017.

**THE COMMITTEE ON FISH, GAME AND FORESTRY**

To whom was referred a Bill (S. 465) to amend Section 50‑5‑15, as amended, Code of Laws of South Carolina, 1976, relating to certain terms and their definitions pertaining to saltwaters, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/SECTION 1. Section 50‑5‑15 of the 1976 Code is amended by adding appropriately numbered new items to read:

“( ) ‘Shellfish mariculture’ means the controlled cultivation of shellfish in confinement from seed size until harvest.

( ) ‘Shellfish seed’ means any shellfish that does not exceed one inch in height or maximum dimension.”

SECTION 2. Section 50‑5‑360(C) of the 1976 Code is amended to read:

“(C) A person or entity required to obtain a wholesale seafood dealer license who receives molluscan shellfish must first be licensed for molluscan shellfish. The fee for a resident to acquire a molluscan shellfish license is an additional ten dollars, and the fee for a nonresident is an additional fifty dollars. Prior to obtaining a molluscan shellfish license, a person or entity must complete any shellfish training required by regulations promulgated by the South Carolina Department of Health and Environmental Control pursuant to Section 44-1-140.”

SECTION 3. Section 50‑5‑945 of the 1976 Code is amended to read:

“Section 50‑5‑945. (A) Shellfish Culture permittees ~~may~~ must acquire a permit to take shellfish for replanting from state bottoms designated by the department for that purpose. The permittee must make application to the department ten days before removing shellfish.

(B) Shellfish Mariculture permittees must acquire a permit from the department to take wild shellfish seed for use in mariculture.

(C) Permits issued pursuant to this section may include conditions related to:

(1) harvest dates and harvest areas;

(2) shellfish size and quantity limits;

(3) cull requirements; and

(4) protection of the natural resources of this State.”

SECTION 4. Section 50‑5‑965 of the 1976 Code is amended to read:

“Section 50‑5‑965. (A) A person who takes shellfish from bottoms or waters designated for commercial harvest must possess an individual harvesting permit granted by the department if the person:

(1) harvests or possesses quantities greater than those provided in this article for personal use; or

(2) harvests for commercial purposes.

(B) In order to obtain an individual harvesting permit, a person must be a licensed commercial saltwater fisherman, hold all other appropriate valid commercial licenses, and complete any shellfish training required by regulations promulgated by the South Carolina Department of Health and Environmental Control pursuant to Section 44‑1‑140.

(C) Permits issued pursuant to this section may include conditions related to:

(1) harvest dates and harvest areas;

(2) shellfish size and quantity limits;

(3) cull requirements; and

(4) protection of the natural resources of this State.

~~(B)~~(D) The department may limit the number of areas not under Shellfish Culture Permit or Shellfish Mariculture Permit on which an individual may be permitted to harvest.

~~(C)~~(E) When bottoms or waters are under permit for shellfish culture or mariculture, permittees may allow persons to harvest shellfish from bottoms and waters permitted to him. In addition to the permit required in subsection (A), harvesters must possess written approval from the Shellfish Culture permittee or Shellfish Mariculture permittee in a form approved by the department. Culture and Mariculture permittees must provide approved harvesters with the written permission and must maintain accurate record of harvesters’ names, addresses, and, if available, telephone numbers.

~~(D)~~(F) It is unlawful for a person to take or attempt to take shellfish in quantities greater than those for personal use provided in this article from any state‑owned bottoms or waters without having in his possession a valid individual commercial harvesting permit granted to him.

~~(E)~~(G) It is unlawful for any person to take or attempt to take shellfish from state‑owned bottoms or waters under permit for shellfish culture or mariculture without a valid individual harvester permit granted to him by the department.

~~(F)~~(H) A person who violates this section, or a condition of a permit issued pursuant to this section, is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days.

~~(G)~~ ~~In order to obtain an individual harvester permit a person must be a licensed commercial saltwater fisherman, and hold all other appropriate valid commercial licenses.~~”

SECTION 5. Article 9, Chapter 5, Title 50 of the 1976 Code is amended by adding:

“Section 50‑5‑997. (A) The department may issue an out-of-season harvest permit to a Shellfish Mariculture permittee for the privilege of harvesting or selling maricultured shellfish out of season. The department may consider a permittee’s past compliance with the provisions of this chapter in making its determination to issue an out-of-season harvest permit.

(B) In order to obtain an out-of-season harvest permit, a Mariculture permittee must provide the following to the department:

(1) a shellfish operations plan that meets requirements established by regulations promulgated by the South Carolina Department of Health and Environmental Control pursuant to Section 44‑1‑140; and

(2) a list of authorized harvesters and wholesale dealers that will possess the permittee’s out‑of‑season shellfish.

(C) Out-of-season harvest permits issued pursuant to this section may include conditions related to:

(1) harvest times and harvest areas;

(2) species;

(3) testing;

(4) reporting, record keeping, and inspection requirements;

(5) genetic strains including ploidy;

(6) tagging;

(7) authorized harvesters; and

(8) protection of the natural resources of this State.

(D) An authorized harvester acting under the provisions of a permittee’s out-of-season harvest permit must first complete any shellfish training required by regulations promulgated by the South Carolina Department of Health and Environmental Control pursuant to Section 44‑1‑140. A Mariculture permittee must ensure that an authorized harvester acting under the permittee’s out‑of‑season harvest permit abides by the conditions of the permit, receives proper training, and holds all required permits and licenses.

(E) The department may suspend or revoke a mariculture permittee’s out-of-season harvest permit for a violation of a permit condition by the permittee or by an authorized harvester of the permittee. The filing of a judicial appeal does not act as an automatic stay of enforcement of the out-of-season permit suspension or revocation.”

SECTION 6. Section 50‑5‑1005 of the 1976 Code is amended to read:

“Section 50‑5‑1005. (A)(1) The department may grant permits to persons to import molluscan shellfish, shellfish tissues, or shells into this State.

(2) No molluscan shellfish, shellfish tissues, or shells may be imported into this State and placed in waters in this State except under the provisions of a shellfish importation permit.

(B)(1) The department may grant permits to persons to ~~import molluscan shellfish, shellfish tissues, or shells into this State~~ possess, produce, purchase, or sell genetically modified shellfish, including polyploid shellfish.

(2) No genetically modified shellfish, including polyploid shellfish, may be placed in the waters of this State or waters connected to the waters of this State, except under the provisions of a permit issued by the department.

(C) Permits issued pursuant to this section may include conditions related to:

(1) the type or species of mollusks to be imported;

(2) testing;

(3) ancillary species attached to or associated with the species to be imported;

~~(3)~~(4) structure and placement of holding or storage facilities;

~~(4)~~(5) placement of the product in natural waters of this State;

~~(5)~~(6) disposal of shellfish, shellfish parts, and associated biota;

(7) treatment of effluent;

(8) biosecurity;

~~(6)~~(9) reporting requirements; and

~~(7)~~(10) ~~other matters which are considered important by the department to the~~ protection of the natural resources of this State.

~~A person who imports molluscan shellfish, shellfish tissues, or shells into this State for placement into state waters or waters connected to state waters must first acquire a permit from the department.~~

~~(C)~~(D) A person who violates this section, or a condition of a permit issued pursuant to this section, is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars and not more than two thousand dollars or imprisoned for not more than thirty days.”

SECTION 7. Section 50‑5‑2500 of the 1976 Code is amended to read:

“Section 50‑5‑2500. (A) There are established the following point values to be assigned by the department in suspending the saltwater privileges of persons or entities found to be in violation of ~~this chapter~~ one or more of the items listed below. Point assignments shall be:

(1) failing to keep records or make reports required by law, permit, or regulation: 4;

(2) violating law pertaining to crab size limit or sponge crabs: 4;

(3) violations of a section of Title 50 pertaining to saltwater privileges not mentioned specifically in this section: 6;

(4) taking, attempting to take, or possessing fish, shellfish, or crustaceans in an unlawful manner, in unlawful or closed areas including areas closed by the Department of Health and Environmental Control, during unlawful hours, or during the closed season for the activity, except trawling violations: 8;

(5)(a) taking, attempting to take, or possessing shellfish for a commercial purpose in an unlawful manner; in unlawful or closed areas, including areas closed by the Department of Health and Environmental Control; during unlawful hours; or during the closed season for the activity; or

(b) violating Department of Health and Environmental Control regulations promulgated pursuant to Section 44-1-140 related to the harvesting and handling of shellfish resulting in adulterated product as defined in Regulation 61-47: 10;

(6) selling or offering for sale fish, shellfish, crustaceans, or other seafood or marine products without a proper license: 8;

~~(6)~~(7) unlawfully buying fish, shellfish, crustaceans, or other seafood or marine products: 8;

~~(7)~~(8) trawling inside the General Trawling Zone other than in restricted areas:

(a) more than one‑quarter nautical mile during the closed season: 10;

(b) more than one‑quarter nautical mile at a time more than ten minutes before daily opening or ten minutes after daily closing times during the open season: 10;

~~(8)~~(9) trawling in a restricted area during closed season: 10;

~~(9)~~(10) trawling outside the General Trawling Zone:

(a) one hundred yards or less distance from the nearest point of the General Trawling Zone during the open season: 10;

(b) more than one hundred yards distance from the nearest point of the General Trawling Zone during the open season: 18;

(c) during the closed season: 18;

~~(10)~~(11) taking or attempting to take fish, shellfish, or crustaceans for a commercial purpose without a proper license, permit, or stamp: 10;

~~(11)~~(12) captain or crew of a boat failing to cooperate with an enforcement officer: 18;

~~(12)~~(13) channel netting in an area closed to channel netting or during closed season for channel netting: 18; and

~~(13)~~(14) applying for or obtaining any resident license as provided in this chapter using a falsified application or supporting documentation, or simultaneously possessing any currently valid South Carolina resident license as provided in this chapter while possessing any resident license from another state: 18.

(B) The points and penalties assessed under this article are in addition to criminal penalties which may be assessed. Statutory suspension of saltwater privileges provided in other articles of this chapter take precedence over assessment of points under this article.”

SECTION 8. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

GEORGE E. CAMPSEN III for Committee.

**A** **BILL**

TO AMEND SECTION 50‑5‑15, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CERTAIN TERMS AND THEIR DEFINITIONS PERTAINING TO SALTWATERS, SO AS TO PROVIDE DEFINITIONS FOR THE TERMS “SHELLFISH MARICULTURE” AND “SHELLFISH SEED”; TO AMEND SECTION 50‑5‑360, RELATING TO WHOLESALE SEAFOOD DEALERS, PEELER CRAB, AND MOLLUSCAN SHELLFISH LICENSES, SO AS TO PROVIDE THAT A PERSON REQUIRED TO OBTAIN A WHOLESALE SEAFOOD DEALER LICENSE WHO RECEIVES MOLLUSCAN SHELLFISH MUST PROVIDE THE DEPARTMENT OF NATURAL RESOURCES CERTIFICATION OF COMPLETION OF CERTAIN SHELLFISH TRAINING; TO AMEND SECTION 50‑5‑945, RELATING TO A SHELLFISH CULTURE PERMITTEE ACQUIRING A PERMIT TO TAKE SHELLFISH FOR REPLANTING FROM STATE BOTTOMS DESIGNATED FOR THAT PURPOSE, SO AS TO PROVIDE FOR THE ISSUANCE OF PERMITS TO SHELLFISH MARICULTURE PERMITTEES TO HARVEST WILD SHELLFISH SEED FOR USE IN MARICULTURE; TO AMEND SECTION 50‑5‑965, RELATING TO THE TAKING OF SHELLFISH FROM BOTTOMS OR WATERS DESIGNATED FOR COMMERCIAL HARVEST, SO AS TO PROVIDE THAT THE DEPARTMENT OF NATURAL RESOURCES MAY PLACE CERTAIN CONDITIONS UPON HARVEST PERMITS FOR THESE AREAS, PROVIDE THAT THE DEPARTMENT MAY SUSPEND OR REVOKE THE PERMITS UNDER CERTAIN CIRCUMSTANCES, AND TO PLACE ADDITIONAL REQUIREMENTS UPON A PERSON SEEKING TO OBTAIN AN INDIVIDUAL HARVESTER PERMIT; TO AMEND SECTION 50‑5‑995, RELATING TO THE ISSUANCE OF SHELLFISH MARICULTURE OPERATION PERMITS BY THE DEPARTMENT OF NATURAL RESOURCES, SO AS TO PROVIDE FOR THE ISSUANCE OF OUT‑OF‑SEASON HARVEST PERMITS TO SHELLFISH MARICULTURE PERMITTEES; TO AMEND SECTION 50‑5‑1005, RELATING TO THE ISSUANCE OF SHELLFISH IMPORTATION PERMITS, SO AS TO PROHIBIT THE PLACING OF GENETICALLY MODIFIED SHELLFISH IN THE WATERS IN THIS STATE EXCEPT UNDER THE PROVISIONS OF A PERMIT ISSUED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, TO PROVIDE FOR THE ISSUANCE OF PERMITS TO PERSONS WHO POSSESS, PRODUCE, BARTER, TRADE, OR SELL GENETICALLY MODIFIED SHELLFISH, AND TO PROVIDE FOR THE ISSUANCE OF PERMITS WITH CONDITIONS RELATING TO TESTING, TREATMENT OF EFFLUENT, AND BIOSECURITY; AND TO AMEND SECTION 50‑5‑2500, RELATING TO THE ASSIGNMENT OF POINT VALUES BY THE DEPARTMENT OF NATURAL RESOURCES UPON PERSONS WHO VIOLATE PROVISIONS RELATED TO THE MARINE RESOURCES ACT, SO AS TO PROVIDE THAT THIS PROVISION ALSO APPLIES TO VIOLATIONS RELATED TO HARVESTING AND HANDLING OF SHELLFISH.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 50‑5‑15 of the 1976 Code, as last amended by Act 166 of 2016, is further amended by adding the following appropriately numbered items:

“( ) ‘Shellfish mariculture’ means the controlled cultivation of shellfish in confinement from seed size until harvest.

( ) ‘Shellfish seed’ means any shellfish which does not exceed one inch in height or maximum dimension.”

SECTION 2. Section 50‑5‑360(C) of the 1976 Code is amended to read:

“(C) A person or entity required to obtain a wholesale seafood dealer license who receives molluscan shellfish must provide the department with certification they successfully have completed all required Department of Health and Environmental Control shellfish training, and must first be licensed for molluscan shellfish. The fee for a resident to acquire a molluscan shellfish license is an additional ten dollars, and the fee for a nonresident is an additional fifty dollars.”

SECTION 3. Section 50‑5‑945 of the 1976 Code is amended to read:

“Section 50‑5‑945. Shellfish Culture permittees may acquire a permit to take shellfish for replanting from state bottoms designated by the department for that purpose. The permittee must make application to the department ten days before removing shellfish.

Shellfish Mariculture permittees seeking to harvest wild shellfish seed for use in mariculture must first obtain a permit from the department. The department may condition the permit to include harvest dates, harvest areas, shellfish size and quantity limits, cull requirements, and other aspects deemed relevant by the department.”

SECTION 4. Section 50‑5‑965 of the 1976 Code is amended to read:

“Section 50‑5‑965. (A) A person who takes shellfish from bottoms or waters designated for commercial harvest must possess an individual harvesting permit granted by the department if the person:

(1) harvests or possesses quantities greater than those provided in this article for personal use; or

(2) harvests for commercial purposes.

(B) The department may condition the harvesting permit to include harvest areas, shellfish size and quantity limits, cull requirements, and such further aspects deemed relevant by the department. The department may suspend or revoke the permit for violation of a permit condition or violation of a related conservation law by the permittee or an authorized harvester.

(C) The department may limit the number of areas not under Shellfish Culture Permit or Shellfish Mariculture Permit on which an individual may be permitted to harvest.

~~(C)~~(D) When bottoms or waters are under permit for shellfish culture or mariculture, permittees may allow persons to harvest shellfish from bottoms and waters permitted to him. In addition to the permit required in subsection (A), harvesters must possess written approval from the Shellfish Culture permittee or Shellfish Mariculture permittee in a form approved by the department. Culture and Mariculture permittees must provide approved harvesters with the written permission and must maintain accurate record of harvesters’ names, addresses, and, if available, telephone numbers.

~~(D)~~(E) It is unlawful for a person to take or attempt to take shellfish in quantities greater than those for personal use provided in this article from any state‑owned bottoms or waters without having in his possession a valid individual commercial harvesting permit granted to him.

~~(E)~~(F) It is unlawful for any person to take or attempt to take shellfish from state‑owned bottoms or waters under permit for shellfish culture or mariculture without a valid individual harvester permit granted to him by the department.

~~(F)~~(G) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days.

~~(G)~~(H) In order to obtain an individual harvester permit a person must be a licensed commercial saltwater fisherman, must have certification that they successfully have completed all required Department of Health and Environmental Control‑approved training, and hold all other appropriate valid commercial licenses.”

SECTION 5. Section 50‑5‑995 of the 1976 Code is amended to read:

“Section 50‑5‑995. The department may permit persons and entities engaged in shellfish mariculture operations to take, possess, and sell maricultured shellfish at any time during the year. For the privilege of harvesting or selling maricultured shellfish out of season, the department may issue an out‑of‑season harvest permit to a shellfish mariculture permittee. Before receiving an out‑of‑season permit, the mariculture permittee must have a currently approved Department of Health and Environmental Control operations plan that meets the Department of Health and Environmental Control requirements for months that require additional temperature controls, and must provide the Department of Natural Resources with a copy of the plan. The mariculture permittee must provide the Department of Health and Environmental Control with a list of authorized harvesters and the names of wholesale dealers who will handle the out‑of‑season product. The harvesters must have certification that they successfully have completed all required Department of Health and Environmental Control‑approved training before being listed as an authorized harvester on the permit. The permittee must ensure that any harvester acting under the permittee’s out‑of‑season harvest permit abide by the conditions of the permit as well as all related conservation laws, and ensure the harvesters receive proper training. The harvesters will be considered agents of the permittee.

The department may condition out‑of‑season harvest permits. These conditions may relate to species, record‑keeping, reporting requirements, harvest times, periods, days, and areas, testing, genetic strains including ploidy, tagging, inspection requirements, authorized harvesters, and other aspects deemed necessary by the department. The permittee must indemnify and hold harmless the department from any claims or damages resulting from the permitted operations. The department may suspend or revoke the permit for violation of a permit condition or violation of a related conservation law by the permittee or an authorized harvester. The filing of a judicial appeal or contested case does not act as an automatic stay of enforcement of the out‑of‑season permit suspension or revocation.

The department may consider the applicant’s previous performance, and the previous performance of the authorized harvesters as well as the compliance of both the permittee and harvesters with related conservation laws, as well as compliance with the Department of Health and Environmental Control shellfish laws and regulations in determining whether to issue the permit. The authorized harvesters must have all licenses and permits as required by law.”

SECTION 6. Section 50‑5‑1005 of the 1976 Code is amended to read:

“Section 50‑5‑1005. (A) No molluscan shellfish, shellfish tissues, or shells may be imported into this State and placed in waters in this State except under the provisions of a shellfish importation permit. No genetically modified shellfish, including polyploid shellfish, may be placed in the waters in this State or waters connected to State waters, except under the provisions of a permit issued by the department.

(B) The department may grant permits to persons to import molluscan shellfish, shellfish tissues, or shells into this State. The department may grant permits to persons to possess, produce, purchase, barter, trade, or sell genetically modified shellfish, including polyploid shellfish. Permits may include conditions related to:

(1) the type or species of mollusks to be imported;

(2) testing;

(3) ancillary species attached to or associated with the species to be imported;

~~(3)~~(4) structure and placement of holding or storage facilities;

~~(4)~~(5) placement of the product in natural waters of this State;

~~(5)~~(6) disposal of shellfish, shellfish parts, and associated biota;

(7) treatment of effluent;

(8) biosecurity;

~~(6)~~(9) reporting requirements; and

~~(7)~~(10) other matters which are considered important by the department to the protection of the natural resources of this State.

A person who imports molluscan shellfish, shellfish tissues, or shells into this State for placement into state waters or waters connected to state waters must first acquire a permit from the department. A person who possesses, produces, purchases, sells, barters or trades genetically modified shellfish, including polyploid shellfish, must first acquire a permit from the department.

The department may consider the past performance of the applicant and the proposed shellfish source, risk factors, biosecurity, and other issues of concern to the department in determining whether to issue the permit.

(C) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars and not more than two thousand dollars or imprisoned for not more than thirty days.”

SECTION 7. Section 50‑5‑2500 of the 1976 Code is amended to read:

“Section 50‑5‑2500. (A) There are established the following point values to be assigned by the department in suspending the saltwater privileges of persons or entities found to be in violation of this chapter, or violations related to harvesting and handling of shellfish pursuant to statutes and regulations related to the Department of Health and Environmental Control, or both. Point assignments shall be:

(1) failing to keep records or make reports required by law, permit, or regulation: 4;

(2) violating law pertaining to crab size limit or sponge crabs: 4;

(3) violations of a section of Title 50 pertaining to saltwater privileges not mentioned specifically in this section: 6;

(4) taking, attempting to take, or possessing fish, shellfish, or crustaceans in an unlawful manner, in unlawful or closed areas including areas closed by the Department of Health and Environmental Control, during unlawful hours, or during the closed season for the activity, except trawling violations: 8;

(5) taking, attempting to take, or possessing shellfish for a commercial purpose in an unlawful manner, in unlawful or closed areas including areas closed by the Department of Health and Environmental Control, during unlawful hours, or during the closed season for the activity, or violations related to harvesting and handling of shellfish in violation of Department of Health and Environmental Control statutes and regulations: 14;

(6) selling or offering for sale fish, shellfish, crustaceans, or other seafood or marine products without a proper license: 8;

~~(6)~~(7) unlawfully buying fish, shellfish, crustaceans, or other seafood or marine products: 8;

~~(7)~~(8) trawling inside the General Trawling Zone other than in restricted areas:

(a) more than one‑quarter nautical mile during the closed season: 10;

(b) more than one‑quarter nautical mile at a time more than ten minutes before daily opening or ten minutes after daily closing times during the open season: 10;

~~(8)~~(9) trawling in a restricted area during closed season: 10;

~~(9)~~(10) trawling outside the General Trawling Zone:

(a) one hundred yards or less distance from the nearest point of the General Trawling Zone during the open season: 10;

(b) more than one hundred yards distance from the nearest point of the General Trawling Zone during the open season: 18;

(c) during the closed season: 18;

~~(10)~~(11) taking or attempting to take fish, shellfish, or crustaceans for a commercial purpose without a proper license, permit, or stamp: 10;

~~(11)~~(12) captain or crew of a boat failing to cooperate with an enforcement officer: 18;

~~(12)~~(13) channel netting in an area closed to channel netting or during closed season for channel netting: 18; and

~~(13)~~(14) applying for or obtaining any resident license as provided in this chapter using a falsified application or supporting documentation, or simultaneously possessing any currently valid South Carolina resident license as provided in this chapter while possessing any resident license from another state: 18.

(B) The points and penalties assessed under this article are in addition to criminal penalties which may be assessed. Statutory suspension of saltwater privileges provided in other articles of this chapter take precedence over assessment of points under this article.”

SECTION 8. This act takes effect upon approval by the Governor.

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