

House Bill 244 (AS PASSED HOUSE AND SENATE)

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

A BILL TO BE ENTITLED

AN ACT

1 To amend Code Section 12-2-2 of the Official Code of Georgia Annotated, relating to  
2 Environmental Protection Division, Environmental Advisory Council, duties of council and  
3 its members and director, appeal procedures generally, permit applications, and inspections,  
4 so as to update an effective date; to amend Title 27 of the Official Code of Georgia  
5 Annotated, relating to game and fish, so as to extend the date by which rules and regulations  
6 prescribed by the Board of Natural Resources must be in effect for purposes of establishing  
7 criminal violations of said rules and regulations; to correct a cross-reference; to authorize the  
8 hunting of bobcat and fox using recorded calls and sounds; to require certain reporting of  
9 nonactivity by seafood dealers; to provide for a definition; to authorize discretionary  
10 penalties for certain enforcement actions by the Department of Natural Resources; to repeal  
11 certain cage fees; to provide for exemptions; to amend Code Section 52-7-26 of the Official  
12 Code of Georgia Annotated, relating to penalty, so as to update an effective date; to provide  
13 for effective dates; to provide for related matters; to repeal conflicting laws; and for other  
14 purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 Code Section 12-2-2 of the Official Code of Georgia Annotated, relating to Environmental  
18 Protection Division, Environmental Advisory Council, duties of council and its members and  
19 director, appeal procedures generally, permit applications, and inspections, is amended by  
20 revising paragraph (5) of subsection (c) as follows:

21 "(5) Notwithstanding any other law to the contrary, for purposes of establishing criminal  
22 violations of the standards, rules, and regulations promulgated by the Board of Natural  
23 Resources as provided in this title, the term 'standards, rules, and regulations' shall mean  
24 those standards, rules, and regulations of the Board of Natural Resources in force and  
25 effect on January 1, ~~2022~~ 2024."

26 **SECTION 2.**

27 Title 27 of the Official Code of Georgia Annotated, relating to game and fish, is amended by  
28 revising Code Section 27-1-39, relating to rules and regulations used to establish criminal  
29 violations, as follows:

30 "27-1-39.

31 Notwithstanding any other law to the contrary, for purposes of establishing criminal  
32 violations of the rules and regulations promulgated by the Board of Natural Resources as  
33 provided in this title, the term 'rules and regulations' means those rules and regulations of  
34 the Board of Natural Resources in force and effect on January 1, ~~2022~~ 2024."

35 **SECTION 3.**

36 Said title is further amended in Code Section 27-2-8, relating to commercial fishing boat  
37 licenses, by revising subsection (d) as follows:

38 "(d) The owner or operator of a trawler licensed according to subsection (b) of this Code  
39 section may purchase a trawler crew license as provided for in subparagraphs ~~(W)~~  
40 ~~and (X)~~ (Y) and (Z) of paragraph (8) of Code Section 27-2-23. Such license shall cover

41 all crew members aboard the trawler while fishing, and all such crew members while so  
42 covered shall be exempt from the personal commercial fishing license requirements  
43 otherwise applicable under this title. Such trawler crew license shall be separate and  
44 distinct from any other license, shall be valid only for the trawler for which it is purchased,  
45 and shall not be transferable to any other trawler or vessel. Such trawler crew license shall  
46 be valid for a fishing year as provided for in Code Section 27-2-3 and shall be carried  
47 onboard the trawler while the trawler is in operation for purposes of the trawler crew  
48 license."

49 **SECTION 4.**

50 Said title is further amended in Code Section 27-3-12, relating to unlawful substances and  
51 equipment and computer assisted remote hunting prohibited, by revising subsection (a) as  
52 follows:

53 "(a) It shall be unlawful to hunt any wild animal, game animal, or game bird by means of  
54 drugs, poisons, chemicals, smoke, gas, explosives, or recorded calls or sounds,~~or recorded~~  
55 ~~and electronically imitated or amplified sounds or calls~~ including, but not limited to,  
56 electronically imitated or amplified calls or sounds, except that bobcat and fox may be  
57 hunted using recorded calls or sounds. It shall also be unlawful to use electronic  
58 communications equipment for the purpose of facilitating pursuit of any wild animal, game  
59 bird, or game animal."

60 **SECTION 5.**

61 Said title is further amended in Code Section 27-4-136, relating to seafood dealer license,  
62 maintenance of records, and purchase of seafood, by revising paragraph (3) of subsection (a)  
63 as follows:

64 "(3) Each person required to maintain records pursuant to paragraph (2) of this  
65 subsection shall report such information to the department, whose address for the purpose

66 of reporting shall be the Coastal Resource Division headquarters, at such times and in  
67 such manner as the board provides by rule or regulation. For the purposes of this  
68 subsection, a person licensed as a seafood dealer who has taken no activity described in  
69 paragraph (2) of this subsection within any given month shall report such nonactivity to  
70 the department in the same manner as provided by rule or regulation."

71 **SECTION 6.**

72 Said title is further amended in Code Section 27-4-188, relating to definitions, by adding a  
73 new paragraph to read as follows:

74 "(2.1) 'Cage' means a containment unit of any size that contains or may contain shellfish  
75 for commercial sale. For a larger outer unit which holds smaller units inside, the entire  
76 unit shall be treated as a single cage."

77 **SECTION 7.**

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

81 "(a)(1) It shall be unlawful to take or possess shellfish in commercial quantities or for  
82 commercial purposes without first having obtained a commercial fishing license with a  
83 shellfish endorsement and a master harvester permit or harvester permit or without proof  
84 of purchase that such shellfish were purchased from a certified shellfish dealer. Master  
85 harvester permits shall specify whether the permittee is authorized to take oysters, clams,  
86 or other shellfish and shall only be issued to persons certified by the Department of  
87 Agriculture to handle shellfish unless permission to take and possess shellfish has been  
88 granted by the department as described in subsection (d) of Code Section 27-4-197 and  
89 in Code Section 27-4-202. Such permits shall be provided annually. A permittee may  
90 request authorization from the department for employees or agents, who shall be referred

91 to as harvesters, of such permittee to take shellfish from permitted areas. Such request  
92 shall be in writing to the department and shall include the name, address, and personal  
93 commercial fishing license number of the harvester. It shall be unlawful for harvesters  
94 to take or possess shellfish as authorized under their employer's master harvester permit  
95 unless they carry on their person while taking or in possession of shellfish a harvester  
96 permit as provided by the department indicating the exact area and circumstances  
97 allowed for taking. Such harvesters' permits and charts shall be provided annually by the  
98 department and shall be in a form as prescribed by the department. Harvesters must  
99 possess a valid personal commercial fishing license as provided for in Code Section  
100 27-4-110, a shellfish endorsement as provided for in the department's rules and  
101 regulations, and, when a boat is used, a valid commercial fishing boat license as provided  
102 in Code Section 27-2-8. Master harvester permits and harvester permits ~~shall not be~~  
103 ~~issued~~ may be denied pursuant to Code Section 27-2-25 to persons who have violated this  
104 part in the two years immediately preceding the filing of an application for a permit.  
105 Permits may be revoked pursuant to Code Section 27-2-25. Master harvester permits and  
106 harvester permits issued to master harvesters or agents shall be surrendered to the  
107 department upon termination of Department of Agriculture certification for handling  
108 shellfish; or upon termination of right to harvest shellfish, ~~or upon violation of any~~  
109 ~~provision of this title pursuant to Code Section 27-4-201~~. If a harvester is removed from  
110 authorization to take shellfish by the master harvester permittee, the master harvester  
111 shall immediately notify the department of such removal. In addition, that harvester shall  
112 immediately surrender to the department his or her harvester permit. It shall be unlawful  
113 to possess unauthorized harvester permits or harvester permits issued to another person."

114

**SECTION 8.**

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

117 "27-4-201.

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

121 (b) Any authorizations issued under this part to any person convicted of violating any  
122 provision of this ~~article~~ part ~~may~~ be revoked by ~~operation of law~~ and shall not be  
123 ~~reissued for a period of three years. The department shall notify the person in writing of~~  
124 ~~the revocation. Prior to revocation, such person shall have opportunity for hearing in~~  
125 ~~accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'~~  
126 pursuant to Code Section 27-2-25; provided, however, that, upon the first such conviction,  
127 a harvester permit shall not be revoked if the harvester satisfactorily completes, within 30  
128 days of notice from the department, the retraining specified by the department in  
129 accordance with the requirements of the National Shellfish Sanitation Program pursuant  
130 to subsection (d) of Code Section 27-4-195."

131 **SECTION 9.**

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

134 "27-4-204.

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

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

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

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

155 **SECTION 10.**

156 Code Section 52-7-26 of the Official Code of Georgia Annotated, relating to penalty, is  
157 amended by revising subsection (a) as follows:

158 "(a) Except as otherwise provided in this article, any person who violates this article or any  
159 rule or regulation promulgated hereunder shall be guilty of a misdemeanor. For purposes  
160 of establishing criminal violations of the rules and regulations promulgated by the board  
161 as provided in this article, the term 'rules and regulations' means those rules and regulations  
162 of the board in force and effect on January 1, ~~2023~~ 2024."

163 **SECTION 11.**

164 This Act shall become effective upon its approval by the Governor or upon its becoming law  
165 without such approval for purposes of promulgating rules and regulations and shall become  
166 effective on July 1, 2024, for all other purposes.

167

**SECTION 12.**

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