

§ 79-22-1. Short title.

Mississippi Statutes

Title 79. CORPORATIONS, ASSOCIATIONS, AND PARTNERSHIPS

Chapter 22. MISSISSIPPI AQUACULTURE ACT OF 1988

Current through 3/27/2018

§ 79-22-1. Short title

This chapter shall be known and may be cited as the Mississippi Aquaculture Act of 1988.

Cite as Miss. Code § 79-22-1

Source: Laws, 1988, ch. 481, § 1, eff. 7/1/1988.

§ 79-22-3. Legislative purpose.

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§ 79-22-3. Legislative purpose

The Legislature recognizes that aquaculture is the fastest growing segment of the United States agriculture industry and declares that it is the intent of this legislation to effectively encourage and support United States citizens in expanded and new growth of aquaculture in this state while conserving and enhancing aquatic resources and providing mechanisms for increasing aquaculture production which will lead to the creation of new industries, job opportunities, income for aquaculturists, tax revenues and other benefits to this state.

Cite as Miss. Code § 79-22-3

Source: Laws, 1988, ch. 481, § 2; Laws, 1993, ch. 457, § 1, eff. 7/1/1993.

§ 79-22-5. Definitions.

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§ 79-22-5. Definitions

For the purpose of this chapter unless the context clearly requires otherwise:

- (a) "Aquaculture" means any form of agriculture that includes the process of growing, farming, cultivating and/or harvesting cultured aquatic products in marine or freshwaters and includes management by an aquaculturist.
- (b) "Aquaculturist" is a person who is engaged in the cultivating of cultured aquatic products.
- (c) "Aquaculture facility" means any facility or resources that are used for aquaculture activities and operations in Mississippi.
- (d) "Cultured aquatic products" are marine or freshwater plants and animals that are propagated, farmed or cultivated in an aquaculture facility under the supervision and management of an aquaculturist or that are naturally produced in an aquaculture facility which at the time of production are under the active supervision and management of an aquaculturist.
- (e) "Department" means the Department of Agriculture and Commerce.
- (f) A "cultivation permit" is a permit issued by the department applicable to design criteria to prevent release of certain cultured aquatic products from an aquaculture facility into the environment.
- (g) A "marketing permit" is a permit issued by the department to provide a mechanism for tracing certain marketed and cultured aquatic products to verify that they were cultured in an aquaculture facility and were not harvested from wild stocks and to prevent the release of undesirable species into the environment.

Cite as Miss. Code § 79-22-5

§ 79-22-7. Marketing permit, generally.

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§ 79-22-7. Marketing permit, generally

All currently recognized native aquatic plants, animals and nongame fish may be freely produced and marketed by an aquaculturist unless specifically regulated elsewhere. If a marketing permit is needed to aid in selling such cultured aquatic products in other states or countries, then the department shall issue such a permit when requested by an aquaculturist.

Cite as Miss. Code § 79-22-7

Source: Laws, 1988, ch. 481, § 4, eff. 7/1/1988.

§ 79-22-9. Cultivation and marketing permit necessary for certain aquatic products; requirements for issuance of permit.

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§ 79-22-9. Cultivation and marketing permit necessary for certain aquatic products; requirements for issuance of permit

- (1) An aquaculturist shall obtain a cultivation and marketing permit for cultured aquatic products produced from the following aquatic plants and animals:
 - (a) All nonnative aquatic plants and animals, including those that are well established

in limited or extensive areas of natural lakes, rivers and streams in this state;

- (b) Fish classified as game fish in Mississippi; however, except as authorized in subsection (2), the department shall not issue any such permits for the following game fish: black bass, bream, crappie, flathead catfish, walleye and all members of the family Centrarchidae and Percidae;
 - (c) Endangered, threatened or protected species;
 - (d) Any aquatic plants or animals which have been genetically modified or are to be genetically modified by means other than breeding and crossbreeding.
- (2) Former subsection (2) shall stand repealed from and after July 1, 2003.
- (3) The department shall not issue the permits required in this section until the department approves the proposed aquaculture facility design or the actual facility and such permits shall only be issued to citizens of the United States. The department shall inspect the aquaculture facility prior to the introduction of the aquatic products to be cultured to insure compliance with the approved permit specifications. The department may also conduct periodic inspections of all facilities engaged in the propagation of nonnative species to insure that operational activities comply with approved permit specifications. All required permits shall be renewed annually. For a resident of Mississippi, the fee for a marketing or cultivation permit shall not exceed One Hundred Dollars (\$ 100.00) for each species of aquatic products produced. The fee for a marketing or cultivation permit issued to a nonresident of Mississippi shall equal the amount imposed by the nonresident's state for such permit on a resident of Mississippi.

Cite as Miss. Code § 79-22-9

Source: Laws, 1988, ch. 481, § 5; Laws, 1993, ch. 457, § 3; Laws, 1997, ch. 370, §1; Laws, 1998, ch. 384, §1; Laws, 2000, ch. 348, §1, eff. 7/1/2000.

§ 79-22-11. Withholding permit.

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§ 79-22-11. Withholding permit

By withholding a culture and/or marketing permit, the department may prohibit the aquaculturing of any species at any location if the department determines it would be detrimental to the public interest and presents its determination in writing with supporting justification.

Cite as Miss. Code § 79-22-11

Source: Laws, 1988, ch. 481, § 6, eff. 7/1/1988.

§ 79-22-13. Nonrenewal of permit.

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§ 79-22-13. Nonrenewal of permit

Failure by an aquaculturist to provide any information required by the department to verify that cultured aquatic products are produced under controlled aquacultural conditions and are not harvested from native wild stock shall result in nonrenewal, suspension or cancellation of the permit. The department is authorized, subject to the requirements set forth in the Mississippi Administrative Procedures Law, to promulgate reasonable rules and regulations to carry out the provisions of this chapter. Other state agencies, at the request of the department, shall assist in the promulgation of such regulations by providing technical expertise or such other assistance as, in the department's discretion, may be required.

Cite as Miss. Code § 79-22-13

Source: Laws, 1988, ch. 481, § 7; Laws, 1993, ch. 457, § 4, eff. 7/1/1993.

§ 79-22-15. Issuance of permits for taking of game fish for brood stock; promulgation of regulations; issuance of cultivation and marketing permits; inspections.

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§ 79-22-15. Issuance of permits for taking of game fish for brood stock; promulgation of regulations; issuance of cultivation and marketing permits; inspections

- (1) The Department of Wildlife, Fisheries and Parks may issue permits to obtain game fish for use as brood stock in accordance with regulations promulgated by the Department of Wildlife, Fisheries and Parks.
- (2) In promulgating these regulations for game fish used for brood stock, the Commission on Wildlife, Fisheries and Parks may specify that a permittee:
 - (a) Obtain a temporary variance permit from the department;
 - (b) Provide compensation for each fish taken for brood stock as established by the department and outlined in the permit; and
 - (c) Shall not sell or transport out of the state brood fish taken from state waters.
- (3) The Department of Wildlife, Fisheries and Parks shall not permit the collecting of wild brood stock in any waters where the wildlife department determines that the collection is not in the long-term best interest of the resource.
- (4) The Department of Marine Resources may issue permits to obtain estuarine and marine brood stock. The commission may promulgate regulations for such permits and may require a permittee to meet any requirements listed in subsection (2).
- (5) The Commission on Wildlife, Fisheries and Parks and the Commission on Marine Resources may promulgate regulations which specify design criteria to protect the resources within their jurisdiction and to prevent the release of undesirable species from an aquaculture facility into the environment. The Department of Wildlife, Fisheries and Parks and the Department of Marine Resources may advise the Department of Agriculture and Commerce in issuing cultivation and marketing permits. The permits shall be issued in accordance with the applicable regulations. The Department of Wildlife, Fisheries and Parks, the Department of Marine Resources or the Department of Agriculture and Commerce may inspect operations licensed by cultivation and marketing permits. Any violations of the regulations promulgated by the Commission on Wildlife, Fisheries and Parks or the Commission on Marine Resources shall be punishable as provided in Section 79-22-29.

Cite as Miss. Code § 79-22-15

Source: Laws, 1988, ch. 481, § 8; Laws, 1991, ch. 530, § 4; Laws, 1999, ch. 337, §1, eff. 3/12/1999.

§ 79-22-17. Building requirements.

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§ 79-22-17. Building requirements

The department shall issue a cultivation permit for any aquaculture facility located, in whole or in part, in the Mississippi Sound, the Gulf of Mexico, or bays or estuaries thereof at such time that such facility complies with all state and federal requirements to protect marine resources.

Cite as Miss. Code § 79-22-17

Source: Laws, 1988, ch. 481, § 9; Laws, 1993, ch. 457, § 5, eff. 7/1/1993.

§§ 79-22-19 and 79-22-21. Repealed.

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§§ 79-22-19 and 79-22-21. Repealed

Cite as Miss. Code § 79-22-19 and 79-22-21

History. Repealed by Laws, 1993, ch. 457, § 10, eff. 7/1/1993.

Prior History: (§ 79-22-19. [Laws, 1988, ch. 481, § 10]

§ 79-22-21. [Laws, 1988, ch. 481, § 11])

§ 79-22-23. Leasing waters; aquaculture lease management program.

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§ 79-22-23. Leasing waters; aquaculture lease management program

- (1) The Secretary of State, upon recommendation of the Mississippi Department of Marine Resources and the Mississippi Department of Environmental Quality may lease waters as provided by Section 29-1-107, Mississippi Code of 1972, within the jurisdiction of the state to a person for aquaculture or the production of aquatic products. The Department of Marine Resources is authorized to develop a marine aquaculture lease management program and may adopt such rules and regulations as may be necessary to implement the marine aquaculture lease management program and to regulate the growth of aquaculture.
- (2) All state and governmental entities that are involved in the regulation and enforcement of marine aquaculture activities or related activities shall develop a coordinated procedure for one-stop permitting applicable to marine aquaculture activities. One-stop permitting is defined as a procedure that allows an aquaculturist to fill out a joint application form and deposit it with any of the aforementioned governmental agencies. The receiving agency shall forward the joint application or copies of it to the appropriate entities for review and expeditious action. The one-stop permitting procedure document shall state the time schedules for review and action by the applicable agencies after the permit has been received and dated.

Cite as Miss. Code § 79-22-23

Source: Laws, 1988, ch. 481, § 12; Laws, 1993, ch. 457, § 6; Laws, 1999, ch. 337, §2, eff. 3/12/1999.

§ 79-22-25. Management plan to be developed; Aquatic Ventures Center.

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§ 79-22-25. Management plan to be developed; Aquatic Ventures Center

The department may, as funds are made available by the Legislature, develop an Aquatic Ventures Center.

The center may develop but shall not be limited to the following activities:

- (a) Plan and conduct a program promoting cultured aquatic products and associated technologies, including demonstration, training and technical assistance;
- (b) Disseminate information about the technologies and species suitable for Mississippi and provide informal education relative thereto;
- (c) Produce and coordinate the production of species of aquatic products that can be introduced into the state's waters, particularly its marine waters, to increase recreational and commercial fishing opportunities;
- (d) Encourage expanding or new aquaculture activities which add to the economy of the state;
- (e) Provide an opportunity for all state agencies, universities and colleges and federal agencies that are involved in activities that relate directly or indirectly to aquaculture to participate in the Center's program and to display their products;
- (f) Maintain a coordinated liaison with other aquacultural enterprises, including federal agencies;
- (g) Provide opportunity for Mississippi aquaculture associations to participate in the Center's program to advertise their cultured aquatic products.
- (h) Provide for increased opportunities to market all Mississippi cultured aquatic products.
- (i) Increase tourism to Mississippi by attracting tourists to visit the Center, to stay in hotels and to utilize restaurants and the services provided by other Mississippi businesses.
- (j) Inform aquaculturists of the availability of forming aquatic products marketing associations under the state "Co-operative Aquatic Products Marketing Law" and, as needed, aid them in forming such associations.
- (k) Encourage and authorize the establishment of commercial aquaculture parks where a

number of entrepreneur aquaculturists can establish aquaculture ventures. All Mississippi governmental entities, universities and colleges shall provide coordinated support for investors who are citizens of the United States and would like to establish a commercial aquaculture park in Mississippi and who intend to provide for innovative and effective coordinated efforts within the park, as well as among other parks, relative to water resources utilization, production, processing and marketing applicable to cultured aquatic products.

The department may solicit and accept financial and professional support from any private or public sources, including the federal government.

Cite as Miss. Code § 79-22-25

Source: Laws, 1988, ch. 481, § 13; Laws, 1993, ch. 457, § 7, eff. 7/1/1993.

§ 79-22-27. Order to stop sale or distribution of product found in violation of chapter.

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§ 79-22-27. Order to stop sale or distribution of product found in violation of chapter

The Commissioner of Agriculture and Commerce is authorized, in his discretion, to issue an order to stop the sale or distribution of any product found to be in violation of this chapter. Any order to stop the sale of any product regulated under the provisions of this chapter may be appealed to the Chancery Court of the First Judicial District of Hinds County or the chancery court in the county where the violation occurred within thirty (30) days of receipt of such order.

Cite as Miss. Code § 79-22-27

Source: Laws, 1988, ch. 481, § 14; Laws, 1993, ch. 457, § 8, eff. 7/1/1993.

§ 79-22-29. Penalties.

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§ 79-22-29. Penalties

Any person violating this chapter or any regulation of the department issued under this chapter shall be subject to a fine of not more than One Thousand Dollars (\$ 1,000.00) for each violation nor less than Two Hundred Fifty Dollars (\$ 250.00). In the case of a violation involving the marketing of non-cultured game fish, each fish is counted as a separate violation. When necessary to effect the purposes of this chapter, in addition to all other remedies in law or equity, the Commissioner of Agriculture and Commerce may petition the chancery court for an injunction to prevent any violation of the provisions of this chapter, or the continuance of any such violation, or to enforce compliance herewith. The chancery court is hereby vested with authority to enter jurisdiction on any such petition to determine the cause and to issue process as may be necessary to accomplish the purposes of this chapter. Nothing in this chapter shall be construed as exempting any aquaculture facility from local, state or federal requirements applicable to such facilities.

Cite as Miss. Code § 79-22-29

Source: Laws, 1988, ch. 481, § 15; Laws, 1993, ch. 457, § 9, eff. 7/1/1993.

§ 79-22-31. Application to state educational institutions.

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§ 79-22-31. Application to state educational institutions

State educational institutions shall be subject to the above regulations but shall be exempt from fees.

Cite as Miss. Code § 79-22-31

Source: Laws, 1988, ch. 481, § 16, eff. 7/1/1988.

§ 79-22-33. Application to catfish farming industry.

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§ 79-22-33. Application to catfish farming industry

This chapter shall not apply to the catfish farming industry and the provisions of this chapter shall not be construed to regulate the growing, farming, harvesting, processing and sale of catfish or catfish products which are harvested from privately owned ponds and have been fed commercially prepared feed and have been subject to a quality check before harvesting and processing.

Cite as Miss. Code § 79-22-33

Source: Laws, 1988, ch. 481, § 17, eff. 7/1/1988.

§ 79-22-35. Tilapia products; labeling; penalties.

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§ 79-22-35. Tilapia products; labeling; penalties

- (1) No tilapia products shall be offered for direct sale for human consumption by a processor, distributor or retailer unless the tilapia product name is specifically labeled in the following manner:

- (a) "FARM-RAISED TILAPIA," if the product has been produced under the authority of a permit issued in accordance with the Mississippi Aquaculture Act of 1988; or similar tilapia products produced under comparable conditions in any one (1) of the other states of the United States of America.
 - (b) "IMPORTED TILAPIA," provided the tilapia is produced from freshwater or salt water either according to the usual and customary technique of aquaculture or from freshwater lakes, rivers or streams of a country other than the United States of America.
- (2) Any retailer selling tilapia products not wrapped or in a container may comply with this section by placing a sign on the display case or refrigeration unit reasonably visible to the consumer, giving notice that such tilapia is either "Farm-Raised Tilapia" or "Imported Tilapia" as such products are defined in subsection (1) of this section.
- (3) The Commissioner of Agriculture and Commerce may promulgate such rules and regulations as may be necessary for the efficient enforcement of this section.
- (4) Before the issuance, amendment, or repeal of any rule or regulation authorized by this chapter, the commissioner shall publish the proposed regulation, amendment, or notice to repeal an existing regulation in a manner reasonably calculated to give interested parties adequate notice and shall afford all interested persons an opportunity to present their views thereon, orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the commissioner shall take appropriate action to issue the proposed rules or regulations or to amend or repeal an existing rule or regulation.
- (5) The commissioner shall issue and enforce a written or printed "stop sale, use or removal" order to the owner or custodian of any lot of tilapia and to hold the tilapia at a designated place when the commissioner finds that the tilapia is being offered or exposed for sale in violation of any of the provisions of this chapter until the law has been complied with and the tilapia is released in writing by the commissioner, or the violation has been otherwise legally disposed of by written authority. The commissioner shall release the tilapia so withdrawn when he determines that such tilapia is in compliance with all provisions of this chapter.
- (6) The commissioner shall have authority to publish the names and addresses of violators and such information pertaining to violations of this chapter as he deems appropriate.
- (7) Any person who violates any provision of this chapter or which no other civil penalty is provided by this chapter shall, upon conviction, be subject to a fine of not more than Five Hundred Dollars (\$ 500.00); however, no person shall be subject to penalties under this section for receiving for transportation any article in violation of this chapter, if such receipt was made in good faith, unless such person refuses to furnish, on request of a

representative of the commissioner, the name and address of the person from whom he received such article, and copies of all documents, if any, pertaining to the delivery of the article to him.

- (8) Nothing in this chapter shall be construed as requiring the commissioner to report for prosecution or for the institution of libel or injunction proceedings minor violations of this chapter whenever he believes that the public interest will be adequately served by a suitable written notice of warning.
- (9) It shall be the duty of each prosecuting attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the commissioner reports a violation for such prosecution, an opportunity shall be given to the affected parties to present their views to the commissioner.

Cite as Miss. Code § 79-22-35

Source: Laws, 1992, ch. 403, § 1; Laws, 1997, ch. 374, §1, eff. 7/1/1997.