

AQUACULTURE REVITALIZATION ACT

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael E. Noel

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends and enacts provisions relating to aquaculture and aquatic wildlife stocking.

Highlighted Provisions:

This bill:

- ▶ changes the membership of the Fish Health Policy Board;
- ▶ allows an aquaculture facility to sell to any person;
- ▶ requires a private fish installation to have a screen;
- ▶ allows the Division of Wildlife Resources to limit aquatic wildlife stocking in a private fish installation in certain circumstances;
- ▶ changes the requirement for a private fish installation to have a certificate of registration; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-37-204, as enacted by Laws of Utah 1994, Chapter 153



28 4-37-503, as last amended by Laws of Utah 2007, Chapter 191

29 23-15-4, as enacted by Laws of Utah 1971, Chapter 46

30 23-15-10, as enacted by Laws of Utah 1971, Chapter 46

31

32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section 4-37-204 is amended to read:

34 **4-37-204. Sale of aquatic animals from aquaculture facilities.**

35 (1) (a) A person holding a certificate of registration for an aquaculture facility may take
36 an aquatic [animals] animal as approved on the certificate of registration from the facility at
37 any time and offer ~~[them]~~ the aquatic animal for sale~~[- however, live aquatic animals may be~~
38 ~~sold within Utah only to a person who has been issued].~~

39 (b) Except as provided by Section 23-15-10, a person who purchases an aquatic animal
40 from an aquaculture facility does not need a certificate of registration to possess ~~[those]~~ the
41 aquatic ~~[animals]~~ animal.

42 (2) ~~[Aquatic animals]~~ An aquatic animal sold or transferred by the owner or operator of
43 an aquaculture facility must be accompanied by the seller's receipt that contains the following
44 information:

45 (a) date of transaction;

46 (b) name, address, certificate of registration number, health approval number, and
47 signature of seller;

48 (c) number and weight by species;

49 (d) name and address of the receiver; and

50 (e) ~~[for sales within Utah, the receiver's certificate of registration number]~~ a signed
51 statement from the receiver that the receiving water in which the aquatic animal is placed is
52 equipped with a screen in compliance with Section 4-37-112 or 23-15-4.

53 (3) (a) A person holding a certificate of registration for an aquaculture facility must
54 submit to the department an annual report of each sale of live aquatic animals or each transfer
55 of live aquatic animals to another aquaculture facility.

56 (b) The report must contain the following information:

57 (i) name, address, and certificate of registration number of the seller or supplier;

58 (ii) number and weight by species;

59 (iii) date of sale or transfer; and
60 (iv) name, address, phone number, and certificate of registration number of the
61 receiver.

62 (c) The report must be submitted to the department before a certificate of registration is
63 renewed or a subsequent certificate of registration is issued.

64 Section 2. Section **4-37-503** is amended to read:

65 **4-37-503. Fish Health Policy Board.**

66 (1) There is created within the department the Fish Health Policy Board which shall
67 establish policies designed to prevent the outbreak of, control the spread of, and eradicate
68 pathogens that cause disease in aquatic animals.

69 (2) The Fish Health Policy Board shall:

70 (a) in accordance with Subsection (6)(b), determine procedures and requirements for
71 certifying a source of aquatic animals as health approved, including:

- 72 (i) the pathogens for which inspection is required to receive health approval;
73 (ii) the pathogens [~~which~~] that may not be present to receive health approval; and
74 (iii) standards and procedures required for the inspection of aquatic animals;

75 (b) establish procedures for the timely reporting of the presence of [~~pathogens~~] a
76 pathogen and disease [~~threats~~] threat;

77 (c) create policies and procedures for, and appoint, an emergency response team to:

- 78 (i) investigate a serious [~~threats of~~] disease threat;
79 (ii) develop and monitor a plan of action; and
80 (iii) report to:

- 81 (A) the commissioner of agriculture and food;
82 (B) the director of the Division of Wildlife Resources; and
83 (C) the chair of the Fish Health Policy Board; and
84 (d) develop a unified statewide aquaculture disease control [~~plans~~] plan.

85 (3) The Fish Health Policy Board shall advise the commissioner of agriculture and
86 food and the executive director of the Department of Natural Resources regarding:

87 (a) educational programs and information systems to educate and inform the public
88 about practices that the public may employ to prevent the spread of disease; and

89 (b) communication and interaction between the department and the Division of

90 Wildlife Resources regarding fish health policies and procedures.

91 (4) (a) (i) The Fish Health Policy Board shall consist of seven members appointed by
92 the governor as follows:

93 [~~(A) one member shall be jointly appointed by the commissioner of agriculture and~~
94 ~~food and the executive director of the Department of Natural Resources;~~]

95 [~~(B) two members shall be appointed by the commissioner of agriculture and food;~~]

96 [~~(C) two members shall be appointed by the executive director of the Department of~~
97 ~~Natural Resources;~~]

98 [~~(D) one member shall be the state veterinarian; and~~]

99 [~~(E) one member shall be the director of the Division of Wildlife Resources.~~]

100 [(ii) ~~Each member appointed under Subsections (4)(a)(i)(A) through (C) shall be~~
101 ~~knowledgeable about the control of aquatic diseases.~~]

102 [(iii) ~~The member appointed under Subsection (4)(a)(i)(A) may not be an employee of,~~
103 ~~or a member of a board within, the Department of Agriculture and Food or Department of~~
104 ~~Natural Resources.~~]

105 [(iv) ~~Of the members appointed under Subsection (4)(a)(i)(B), one shall be an~~
106 ~~employee of the Division of Animal Industry and one shall be a representative of the~~
107 ~~aquaculture industry.~~]

108 [(v) ~~Of the members appointed under Subsection (4)(a)(i)(C), one shall be an employee~~
109 ~~of the Division of Wildlife Resources and one shall represent sport fishermen.~~]

110 (A) one member shall represent the Department of Natural Resources;

111 (B) one member shall represent the Department of Agriculture and Food;

112 (C) one member shall represent the sports fishermen;

113 (D) one member shall represent the aquaculture industry; and

114 (E) three members shall:

115 (I) be employed by an institution of higher education; and

116 (II) have knowledge about:

117 (Aa) the control of an aquatic disease;

118 (Bb) business;

119 (Cc) ecology; or

120 (Dd) parasitology.

121 (ii) At least one member appointed under Subsection (4)(a)(i)(E) shall have knowledge
122 about the control of an aquatic disease.

123 (iii) The governor shall appoint:

124 (A) the member described in Subsection (4)(a)(i)(C) from names submitted by a
125 nonprofit corporation that promotes the aquaculture industry;

126 (B) the member described in Subsection (4)(a)(i)(D) from names submitted by a
127 nonprofit corporation that promotes sports fishing; and

128 (C) the members described in Subsection (4)(a)(i)(E) from names submitted by the
129 members listed in Subsections (4)(a)(i)(A) through (D).

130 (iv) If the governor rejects all the names submitted for a member, the recommending
131 person shall submit additional names.

132 (b) Except as required by Subsection (4)(c), the term of office of board members[;
133 ~~other than the state veterinarian and the director of the Division of Wildlife Resources;~~] shall
134 be four years.

135 (c) Notwithstanding the requirements of Subsection (4)(b), the [~~commissioner and the~~
136 ~~executive director~~] governor shall, at the time of appointment or reappointment, adjust the
137 length of terms to ensure that the terms of board members are staggered so that approximately
138 half of the board is appointed every two years.

139 (d) When a vacancy occurs in the membership for any reason, the replacement shall be
140 appointed for the unexpired term.

141 (e) The [~~member appointed under Subsection (4)(a)(i)(A) shall serve as~~] board
142 members shall elect a chair of the board from the board's membership.

143 (f) The board shall meet upon the call of the chair or a majority of the board members.

144 (g) [~~(f)~~] An action of the board shall be adopted upon approval of [~~five or more~~] the
145 majority of voting members.

146 [~~(ii) The chair may not vote.~~]

147 (5) (a) (i) A member who is not a government employee may not receive compensation
148 or benefits for the member's service, but may receive per diem and expenses incurred in the
149 performance of the member's official duties at the rates established by the Division of Finance
150 under Sections 63A-3-106 and 63A-3-107.

151 (ii) A member may decline to receive per diem and expenses for the member's service.

152 (b) (i) A state government officer and employee member who does not receive salary,
153 per diem, or expenses from the agency the member represents for the member's service may
154 receive per diem and expenses incurred in the performance of the member's official duties at
155 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

156 (ii) A state government officer and employee member may decline to receive per diem
157 and expenses for the member's service.

158 (c) (i) A higher education member who does not receive salary, per diem, or expenses
159 from the entity that the member represents for the member's service may receive per diem and
160 expenses incurred in the performance of the member's official duties at the rates established by
161 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

162 (ii) A higher education member may decline to receive per diem and expenses for the
163 member's service.

164 (6) (a) The board shall make rules consistent with its responsibilities and duties
165 specified in this section.

166 (b) Except as provided by this chapter, all rules adopted by the Fish Health Policy
167 Board must be consistent with the suggested procedures for the detection and identification of
168 pathogens published by the American Fisheries Society's Fish Health Section.

169 (c) (i) Rules of the department and Fish Health Policy Board pertaining to the control
170 of disease shall remain in effect until the Fish Health Policy Board enacts rules to replace those
171 provisions.

172 (ii) The Fish Health Policy Board shall promptly amend rules that are inconsistent with
173 the current suggested procedures published by the American Fisheries Society.

174 (d) The Fish Health Policy Board may waive a requirement established by the Fish
175 Health Policy Board's rules if:

176 (i) the rule specifies the waiver criteria and procedures; and

177 (ii) the waiver will not threaten other aquaculture facilities or wild aquatic animal
178 populations.

179 Section 3. Section **23-15-4** is amended to read:

180 **23-15-4. Screens or other devices required -- Failure to install after notice a**
181 **misdemeanor.**

182 (1) (a) It is unlawful for [any] a person[~~, company or corporation~~] to take [any] water

183 from ~~[the]~~ a state ~~[streams, lakes or reservoirs]~~ stream, lake, or reservoir for power purposes~~;~~
 184 ~~or for]~~ or waterworks~~;~~ without first furnishing and maintaining a suitable ~~[screens or other~~
 185 ~~devices]~~ screen or device to prevent fish from entering ~~[such]~~ the power ~~[plants, millraces]~~
 186 plant, millrace, or waterworks system~~;~~ ~~said~~].

187 (b) A person who owns or operates a private fish installation shall install a screen or
 188 device to prevent the movement of fish out of the facility.

189 (2) The person shall build and maintain the screen or ~~[other devices to be built and~~
 190 ~~maintained]~~ device:

191 (a) under the direction of the board; and

192 (b) at the expense of ~~[said]~~ the owner or ~~[operators]~~ operator. ~~[The failure of any~~
 193 ~~person, firm or corporation]~~

194 (3) A person who fails to install a screen or device within 30 days ~~[after notice in~~
 195 ~~writing so to do has been given by the board shall constitute a]~~ of the day on which the board
 196 gives written notice to install the screen or device is guilty of a class B misdemeanor.

197 Section 4. Section **23-15-10** is amended to read:

198 **23-15-10. Private fish installation.**

199 ~~[It is unlawful for any person to develop or operate a private fish installation without~~
 200 ~~first securing a certificate of registration from the Division of Wildlife Resources and payment~~
 201 ~~of fees as specified by the Wildlife Board. This private fish installation must be operated under~~
 202 ~~the rules and regulations specified by the Wildlife Board, and no such installations shall be]~~

203 (1) Except as provided by Subsection (4), a private fish installation is not required to
 204 obtain a certificate of registration from the division.

205 (2) A private fish installation may not be developed on:

206 (a) a natural ~~[lakes or]~~ lake;

207 (b) a natural flowing ~~[streams;]~~ stream; or ~~[reservoirs]~~

208 (c) a reservoir constructed on a natural stream ~~[channels]~~ channel.

209 (3) Except as provided by Section (4), a person who owns or operates a private fish
 210 installation may receive any aquatic animal from an aquaculture facility with a health approval
 211 number as required by Section 4-37-501.

212 (4) (a) The Wildlife Board may identify a body of water that:

213 (i) contains:

- 214 (A) a threatened specie;
- 215 (B) an endangered specie; or
- 216 (C) a specie identified as sensitive by the state;
- 217 (ii) is adjacent to a private fish installation; and
- 218 (iii) may be impacted by the stocking of an aquatic wildlife:
- 219 (A) in the private fish installation; and
- 220 (B) by an aquaculture facility.
- 221 (b) (i) The Wildlife Board may require a private fish installation adjacent to a body of
- 222 water identified under Subsection (4)(a) to obtain a certificate of registration from the division
- 223 that specifies any stocking restriction.
- 224 (ii) The Wildlife Board shall give the private fish installation 365 days written notice
- 225 of:
- 226 (A) the requirement to obtain a certificate of registration; and
- 227 (B) any stocking restriction contained in the certificate of registration.
- 228 (iii) The Wildlife Board may not charge a fee for the certificate of registration.

Legislative Review Note
as of 1-21-08 4:08 PM

Office of Legislative Research and General Counsel

H.B. 148 - Aquaculture Revitalization Act

Fiscal Note

2008 General Session

State of Utah

State Impact

It is estimated that enactment of this bill will reduce the revenues of the Division of Wildlife Resources by \$23,000 per year and of the Department of Agriculture and Food by \$3,200 per year. This bill would also reduce the workload for the Division of Wildlife Resources by a .4 FTE for a savings of \$19,000.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
Dedicated Credits	\$0	\$0	\$0	\$0	(\$3,200)	(\$3,200)
Restricted Funds	\$0	(\$19,000)	(\$19,000)	\$0	(\$23,000)	(\$23,000)
Total	\$0	(\$19,000)	(\$19,000)	\$0	(\$26,200)	(\$26,200)

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
