

Sec. 19. Sections 455D.17 and 455D.18, Code 1991, are repealed.

Sec. 20. **LEACHATE CONTROL STUDY.** The department shall conduct a study to determine the most efficient leachate control technology available or under development and shall make recommendations to the general assembly by January 15, 1993, regarding leachate control requirements for existing landfills for which no negative environmental impact has been demonstrated.

Approved May 19, 1992

CHAPTER 1216

REGULATION OF AQUACULTURE

H.F. 2334

AN ACT relating to the regulation of aquaculture by the department of natural resources, and by providing penalties for violations.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 109.1, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 27. "Aquaculture" means the controlled propagation, growth, and harvest of aquatic organisms, including, but not limited to fish, amphibians, reptiles, mollusks, crustaceans, gastropods, algae, and other aquatic plants, by an aquaculturist.

NEW SUBSECTION. 28. "Aquaculturist" means an individual involved in producing, transporting, or marketing aquatic products from private waters for commercial purposes.

NEW SUBSECTION. 29. "Aquaculture unit" means all private waters for aquaculture with or without buildings, used for the purpose of propagating, raising, holding, or harvesting aquatic organisms for commercial purposes.

NEW SUBSECTION. 30. "Commercial purposes" means selling, giving, or furnishing to others.

NEW SUBSECTION. 31. "Private waters for aquaculture" means waters confined within an artificial containment, such as man-made ponds, vats, tanks, raceways, and other indoor or outdoor facilities constructed wholly within or on the land of an owner or lessee and used for aquaculture.

Sec. 2. Section 109.2, Code 1991, is amended to read as follows:

109.2 STATE OWNERSHIP AND TITLE — EXCEPTIONS.

The title and ownership of all fish, mussels, clams, and frogs in any of the public waters of the state, and in all ponds, sloughs, bayous, or other land and waters adjacent to any public waters stocked with fish by overflow of public waters, and of all wild game, animals, and birds, including their nests and eggs, and all other wildlife, found in the state, whether game or non-game, native or migratory, except deer in parks and in public and private preserves, the ownership of which was acquired prior to April 19, 1911, are hereby declared to be in the state, except as otherwise provided in this chapter provided. The title and ownership of all fish aquatic organisms in private fish hatcheries, as defined in section 109.64, aquaculture units and private aquacultural waters shall be in private persons.

Sec. 3. **NEW SECTION. 109.141 AQUACULTURE — LICENSE REQUIRED.**

1. A person shall not engage in the business of aquaculture until that person has applied for and has been issued an aquaculture unit license from the department. The application period extends from January 1, or the date of the application, through December 31. A license shall not be issued to operate an aquaculture unit on private or nonmeandered lakes and streams

and ponds that may become stocked with fish from public waters or natural migration. A pond stocked by the department pursuant to section 109.78 shall not be used for aquaculture purposes.

2. The following persons must obtain an aquaculture unit license:

a. A person who, for commercial purposes, rears or maintains live animals or plants for food, bait, or for stocking in waters of the state.

b. An owner or operator of a pond where guests or customers are allowed to fish for a fee, or allowed to take fish without regard to angling licenses, seasons, gear restrictions, or bag limits.

3. The cultivation and sale of tropical fish species or ornamental aquatic plants or animals, not utilized for human consumption or bait purposes, but maintained in closed systems and utilized by the pet industry or hobbyists are exempt from license requirements.

Sec. 4. NEW SECTION. 109.142 LICENSED AQUACULTURE UNITS – ACTIVITIES ALLOWED.

A holder of an aquaculture unit license may:

1. Possess, propagate, buy, sell, deal in, and transport the aquatic organisms produced from breeding stock legally acquired, including minnows.

2. Sell fish for stocking purposes within or outside the state. Fish which are nonindigenous to Iowa shall not be received or sold in the state unless the aquaculture unit has obtained an importation permit from the department. The department shall establish, by rule, requirements governing importation, and shall include a list of approved aquaculture species. Failure to comply with this subsection will result in loss of license and a violator is subject to the scheduled fine provided in section 805.8.

3. Hold, feed, and sell carp, buffalofish, and other fish legally taken by commercial fishers.

4. Harvest aquatic life on land under control of the aquaculture unit with commercial devices without obtaining any permits for the devices.

5. Sell bait, including minnows, frogs, and clams, propagated or raised within the licensed unit without having to obtain a bait dealer's license. However, aquaculture units wishing to take bait from areas other than their licensed units must also obtain a bait dealer's license.

6. Take any gull, tern, or merganser within the bounds of the unit. An owner or operator of the licensed aquaculture unit, however, must first obtain a permit for this activity from the department or the United States fish and wildlife service. Each permittee shall file an annual report with the department which itemizes the birds taken during the period covered by the permit, and dispose of birds taken according to methods established by the department. The department shall not issue a subsequent permit to any person failing to file this report.

Sec. 5. NEW SECTION. 109.143 LICENSED AQUACULTURE UNITS – REQUIREMENTS.

1. Each licensed aquaculture unit shall prepare an annual report of all fish bought, sold, and shipped. The records shall include species name as well as the weight, volume, or count of fish involved. Reports shall be filed on or before December 31 of each year for the preceding year. The department may refuse to renew a unit license if the annual report is not provided.

2. Each licensed aquaculture unit shall secure its breeding stock from licensed aquaculture units or licensed aquaculturists in the state or from lawful sources outside the state. An aquaculture unit shall not secure stock in any other manner.

3. A shipment of fish must be accompanied by a duplicate of the sales invoice showing the name and address of the producer, date of shipment, the species being transported, the weight, volume, or count of each species being shipped and the name and address of the consignee. A duplicate of the sales invoice must be retained by the aquaculture unit or aquaculturist for one year following the sale.

4. A licensed aquaculture unit shall comply with all state laws pertaining to possession, taking, or selling of bait which it handles. The director may revoke the unit license of any person violating this subsection or a rule adopted by the department.

5. Minnow and bait boxes and tanks within licensed aquaculture units shall be open for inspection by the department at all times.

6. Aquaculture units shall not import live fish, viable eggs, or semen of any species of the salmonid family (trout, salmon, or char) and ictalurid family (catfishes and bullheads), including hybrids, unless the owner or operator possesses a fish importation permit. For the species listed in this subsection only, importation permits shall not be issued unless the fish, eggs, or semen have been inspected by the department and found to be free of disease detrimental to the state's fishery resources. The owner or operator of an aquaculture unit must provide a statement certifying the fish listed in this subsection or their eggs or semen to be disease free, and include the date of inspection. Certification is not required for other fish species, but the department may require inspection at any time. The department shall establish, by rule, those diseases detrimental to the state's fishery resources and the location of authorized certified pathologists for inspection.

Sec. 6. NEW SECTION. 109.144 LICENSED BAIT DEALERS — REQUIREMENTS.

1. When taking bait from lakes and streams, bait dealers shall only take the size bait which they can use, and shall return all small minnows and frogs to the water immediately.

2. Minnow and bait boxes and tanks shall be open to inspection by the department at all times.

Sec. 7. NEW SECTION. 109.145 TAKING AND SELLING OF MINNOWS — REGULATIONS.

1. For the purposes of this section, "minnows" are defined as chubs, shiners, dace, stonerollers, mud minnows, redhorse, blunt-nose, and fathead minnows.

2. Except as otherwise provided in this chapter, a person shall not carry, transport, ship, or cause to be carried, transported, or shipped, any minnows outside the state which were taken in the state. Minnows which are bred, hatched, propagated, or raised on a licensed aquaculture unit may be transported outside the state. The director, however, may transport minnows pursuant to section 109.146. Green sunfish, orange-spotted sunfish, and gizzard shad may also be taken for bait.

3. A person shall not take or attempt to take minnows for commercial purposes from any water of the state, or transport the minnows without first procuring a bait dealer's license; however, a bait dealer's license shall not be required of persons taking minnows as bait for their individual use.

4. Minnow traps not exceeding thirty-six inches in length may be used when the taking of minnows is allowed. Each trap, when in use, shall have a metal tag attached plainly labeled with the owner's name and address.

5. A person shall not use a minnow dip net which exceeds fifteen feet in length or has a mesh size smaller than one-quarter inch bar measure. Licensed bait dealers may obtain a permit from the department to use minnow seines longer than fifteen feet, but not exceeding fifty feet in length.

6. The department may designate certain lakes and streams, and parts of them, from which minnow populations should be protected for the best management of the lakes or streams. If an investigation of a lake or stream or a portion of a lake or stream by the department indicates that the minnow population should be protected, the lake or stream or a portion of the lake or stream shall be closed to the taking of minnows for a period of time deemed advisable by the department.

Sec. 8. NEW SECTION. 109.146 AUTHORITY OF THE DIRECTOR.

The director may take any fish from the public waters of the state, at any time and in any manner, for the purpose of propagation or restocking other waters, or exchanging with fish and wildlife agencies of other states, the federal government, or licensed aquaculture units.

Sec. 9. NEW SECTION. 109.147 THEFT OF FISH.

All fish in an aquaculture unit are private property and are not the property of the state, and the theft of fish from an aquaculture unit is punishable as provided in section 714.2.

Sec. 10. Section 110.1, subsection 6, paragraph b, Code Supplement 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

b. Aquaculture unit license, resident
\$ 25.00

Sec. 11. Section 110.1, subsection 6, Code Supplement 1991, is amended by adding the following new paragraph after paragraph b and relettering the remaining paragraphs:

NEW PARAGRAPH. c. Nonresident aquaculture unit license
\$ 50.00

Sec. 12. Section 805.8, subsection 5, paragraph d, Code 1991, is amended to read as follows:

d. For violations of sections 109.7, 109.47, 109.52, 109.53, 109.55, 109.58, 109.63, ~~109.64~~, 109.76, 109.81, 109.90, 109.91, 109.97, 109.122, 109.126, 109.142, 109B.8, and 110.37, the scheduled fine is fifty dollars.

Sec. 13. Sections 109.49 and 109.64, Code 1991, are repealed.

Approved May 19, 1992

CHAPTER 1217

REGULATION OF PETROLEUM STORAGE TANKS AND RELATED PROVISIONS

H.F. 2417

AN ACT relating to groundwater professionals, exempting certain aboveground tanks from payment of the environmental protection charge and providing a refund, relating to the underground storage tank fund board and the board's authority for certain expenditures from the fund, relating to underground storage tank contracts by requiring public bid and board approval of certain contracts, relating to remedial authority of the department of natural resources, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 422.43, subsection 11, unnumbered paragraph 3, as enacted by 1992 Iowa Acts, Senate File 2116,* section 406, is amended to read as follows:

For purposes of this subsection, "consultant services" means services provided, except as otherwise stated in this paragraph, by a person who purports to give expert or professional advice on any subject including, but not limited to, advice on audiovisual, business, computer and data processing, insurance, management, marketing, security, and weather and meteorology. "Consultant services" does not mean services provided by a person licensed, registered, or certified by boards listed in section 258A.1, or licensed under chapter 80A, 152A, 154C, 522, or 602, article 10, or registered under section 455G.18, if the services provided come within the purview of such person's license, registration, or certification.

Sec. 2. Section 424.2, subsections 5, 9, and 12, Code Supplement 1991, are amended to read as follows:

5. "Depositor" means the person who deposits petroleum into an underground storage tank subject to regulation under chapter 455G or an aboveground petroleum storage tank as defined in section 101.21, located at a retail motor vehicle fuel outlet if the aboveground storage tank is physically connected directly to pumps which dispense petroleum that is sold at the motor vehicle fuel outlet on a retail basis.

9. "Owner or operator" means "owner or operator" of an underground storage tank as used in chapter 455G or the "owner" or "operator" of an aboveground petroleum storage tank as defined in section 101.21, located at a retail motor vehicle fuel outlet if the aboveground storage tank is physically connected directly to pumps which dispense petroleum that is sold at the motor vehicle fuel outlet on a retail basis.

*Chapter 1232 herein