

Reprinted

FEB 28 1992

Place On Calendar

HOUSE FILE 2334
BY COMMITTEE ON NATURAL
RESOURCES AND OUTDOOR
RECREATION

(SUCCESSOR TO HSB 627)

Passed House, Date 3/10/92 (p. 514) Passed Senate, Date 4/15/92 (P. 1415)
Vote: Ayes 97 Nays 1 Vote: Ayes 49 Nays 0
Approved May 19, 1992

A BILL FOR

1 An Act relating to the regulation of aquaculture by the
2 department of natural resources, and by providing penalties
3 for violations.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2334

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

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

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

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

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

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

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

24 109.2 STATE OWNERSHIP AND TITLE -- EXCEPTIONS.

5770 25 The title and ownership of all fish, mussels, clams, and
5791 26 frogs in any of the public waters of the state, and in all
27 ponds, sloughs, bayous, or other land and waters adjacent to
28 any public waters stocked with fish by overflow of public
29 waters, and of all wild game, animals, and birds, including
30 their nests and eggs, and all other wildlife, found in the
31 state, whether game or nongame, native or migratory, except
32 deer in parks and in public and private preserves, the
33 ownership of which was acquired prior to April 19, 1911, are
34 hereby declared to be in the state, except as otherwise in
35 this chapter provided. The title and ownership of all fish in

1 ~~private-fish-hatcheries, as defined in section 109.647~~
2 aquaculture units shall be in private persons.

3 Sec. 3. NEW SECTION. 109.141 AQUACULTURE -- LICENSE
4 REQUIRED.

5 1. A person shall not engage in the business of
6 aquaculture until that person has applied for and has been
7 issued an aquaculture unit license from the department. The
8 application period extends from January 1, or the date of the
9 application, through December 31. A license shall not be
10 issued to operate an aquaculture unit on private or
11 nonmeandered lakes and streams and ponds that may become
12 stocked with fish from public waters or natural migration. A
13 pond stocked by the department pursuant to section 109.78
14 shall not be used for aquaculture purposes.

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

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

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

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

29 Sec. 4. NEW SECTION. 109.142 LICENSED AQUACULTURE UNITS
30 -- ACTIVITIES ALLOWED.

31 A holder of an aquaculture unit license may:

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

35 2. Sell fish for stocking purposes within or outside the

1 state. Fish which are nonindigenous to Iowa shall not be
2 received or sold in the state unless the aquaculture unit has
3 obtained an importation permit from the department. The
4 department shall establish, by rule, requirements governing
5 importation, and shall include a list of approved aquaculture
6 species. Failure to comply with this subsection will result
5170 7 in loss of license and a violator is subject to the penalty
8 provisions in section 109.55.

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

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

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

5193 19 6. Take any pied-billed grebe, gull, tern, American
20 bittern, black-crowned night heron, merganser, great blue
21 heron, also known as blue crane, poor joe, or kingfisher,
22 within the bounds of the unit. An owner or operator of the
23 licensed aquaculture unit, however, must first obtain a permit
24 for this activity from the department or the United States
25 fish and wildlife service. Each permittee shall file an
26 annual report with the department which itemizes the birds
27 taken during the period covered by the permit, and dispose of
28 birds taken according to methods established by the
29 department. The department shall not issue a subsequent
30 permit to any person failing to file this report.

31 Sec. 5. NEW SECTION. 109.143 LICENSED AQUACULTURE UNITS
32 -- REQUIREMENTS.

33 1. Each licensed aquaculture unit shall prepare an annual
34 report of all fish bought, sold, and shipped. The records
35 shall include species name as well as the weight, volume, or

1 count of fish involved. Reports shall be filed on or before
2 December 31 of each year for the preceding year. The
3 department may refuse to renew a unit license if the annual
4 report is not provided.

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

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

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

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

25 6. Aquaculture units shall not import live fish, viable
26 eggs, or semen of any species of the salmonid family (trout,
27 salmon, or char) and ictalurid family (catfishes and
28 bullheads), including hybrids, unless the owner or operator
29 possesses a fish importation permit. For the species listed
30 in this subsection only, importation permits shall not be
31 issued unless the fish, eggs, or semen have been inspected by
32 the department and found to be free of disease detrimental to
33 the state's fishery resources. The owner or operator of an
34 aquaculture unit must provide a statement certifying the fish
35 listed in this subsection or their eggs or semen to be disease

1 free, and include the date of inspection. Certification is
2 not required for other fish species, but the department may
3 require inspection at any time. The department shall
4 establish, by rule, those diseases detrimental to the state's
5 fishery resources and the location of authorized certified
6 pathologists for inspection.

7 Sec. 6. NEW SECTION. 109.144 LICENSED BAIT DEALERS --
8 REQUIREMENTS.

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

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

14 Sec. 7. NEW SECTION. 109.145 TAKING AND SELLING OF
15 MINNOWS -- REGULATIONS.

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

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

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

33 4. Minnow traps not exceeding thirty-six inches in length
34 may be used when the taking of minnows is allowed. Each trap,
35 when in use, shall have a metal tag attached plainly labeled

1 with the owner's name and address.

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

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

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

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

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

22 All fish in an aquaculture unit are private property and
23 are not the property of the state, and the theft of fish from
24 an aquaculture unit is punishable as provided in section
25 714.2.

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

29 b. Aquaculture unit license, resident
30 \$ 25.00

31 Sec. 11. Section 110.1, subsection 6, Code Supplement
32 1991, is amended by adding the following new paragraph after
33 paragraph b and relettering the remaining paragraphs:

34 NEW PARAGRAPH. c. Nonresident aquaculture unit license
35 \$ 50.00

1 Sec. 12. Section 805.8, subsection 5, paragraph d, Code
2 1991, is amended to read as follows:

3 d. For violations of sections 109.7, 109.47, 109.52,
4 109.53, 109.55, 109.58, 109.63, ~~109.64~~, 109.76, 109.81,
5 109.90, 109.91, 109.97, 109.122, 109.126, 109B.8, and 110.37,
6 the scheduled fine is fifty dollars.

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

9 EXPLANATION

10 This bill provides for the regulation of aquaculture which
11 is defined to mean the controlled propagation, growth, and
12 harvest of aquatic organisms such as fish, amphibians,
13 reptiles, mollusks, crustaceans, gastropods, algae, and other
14 aquatic plants. The sections provide for licensing of
15 aquaculturists, facilities, and aquaculture units, and the
16 regulation of sales and importation to control or prevent
17 disease and the unlawful use of publicly owned aquatic life.

18 The bill also provides license fees for aquaculture units,
19 resident, and nonresident.

20 The bill repeals sections 109.49 and 109.64 which authorize
21 a special permit to kill certain birds adversely affecting
22 aquaculture and provide for the licensing and regulation of
23 private fish hatcheries, which are included in the aquaculture
24 provisions.

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HOUSE FILE 2334

H-5170

- 1 Amend House File 2334 as follows:
2 1. Page 1, line 34, by inserting after the word
3 "otherwise" the following: "provided".
4 2. Page 1, line 35, by striking the word
5 "provided" and inserting the following: "provided".
6 3. Page 3, lines 7 and 8, by striking the words
7 "penalty provisions in section 109.55" and inserting
8 the following: "scheduled fine provided in section
9 805.8".
10 4. Page 7, line 5, by inserting after the figure
11 "109.126," the following: "109.142,".

By SCHRADER of Marion

H-5170 FILED MARCH 2, 1992

adopted 3/10 (p. 513)

HOUSE FILE 2334

H-5191

- 1 Amend House File 2334 as follows:
2 1. Page 1, line 35, by striking the word "fish"
3 and inserting the following: "fish aquatic
4 organisms".
5 2. Page 2, line 2, by inserting after the word
6 "units" the following: "and private aquacultural
7 waters".

By SPEAR of Lee

H-5191 FILED MARCH 4, 1992

adopted 3/10 (p. 513)

HOUSE FILE 2334

H-5192

- 1 Amend House File 2334 as follows:
2 1. Page 1, line 13, by striking the words "or
3 holding" and inserting the following: ", raising,
4 holding, or harvesting".

By SPEAR of Lee

H-5192 FILED MARCH 4, 1992

adopted 3/10 (p. 513)

HOUSE FILE 2334

H-5193

- 1 Amend House File 2334 as follows:
2 1. Page 3, by striking lines 19 through 21 and
3 inserting the following:
4 "6. Take any gull, tern, or merganser".

By DICKINSON of Jackson
BLACK of Jasper
SCHRADER of Marion

H-5193 FILED MARCH 4, 1992

adopted 3/10 (p. 513)

SENATE AMENDMENT TO HOUSE FILE 2334

H-5917

1 Amend House File 2334, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 2, by inserting after line 3 the
4 following:

5 "Sec. ____ . Section 109.78, Code 1991, is amended
6 to read as follows:

7 109.78 STOCKING PRIVATE WATER WATERS.

8 ~~No-private-water-may~~ Private waters shall not be
9 stocked by the commission unless the owner agrees that
10 such the waters shall be open to the public for
11 fishing, except that. However, the commission may,
12 after investigation to determine their suitability as
13 to size, depth, living conditions for fish, and
14 management, provide a breeding stock of fish for
15 privately owned farm ponds on request of the owner.
16 The commission shall adopt, by rule, a fee schedule
17 for supplying fish stock at market value for the
18 private waters."

19 2. Page 2, by inserting after line 3 the
20 following:

21 "Sec. ____ . Section 109.78, Code 1991, is amended
22 by adding the following new subsection:

23 NEW SUBSECTION. 1. The commission shall compile
24 an annual directory of commission-stocked private
25 waters and disseminate a copy of the directory to each
26 county conservation commission. The directory shall
27 list at minimum all of the following information:

28 a. All private waters in the state that are
29 stocked by the commission after 1991.

30 b. The species used by the commission at each site
31 to stock the private waters.

32 c. The date each private waters site was stocked
33 by the commission."

34 3. By renumbering, relettering, or redesignating
35 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-5917 FILED APRIL 15, 1992

House refused to concur 4/23 (p. 175)
Senate recedes 4/28 (p. 1679)

HOUSE FILE 2334
BY COMMITTEE ON NATURAL
RESOURCES AND OUTDOOR
RECREATION

(As Amended and Passed by the House March 10, 1992)

(SUCCESSOR TO HSB 627)

Passed House, Date 3/10/92 (p. 514) Passed Senate, Date 4/15/92 (p. 1415)
Vote: Ayes 97 Nays 1 Vote: Ayes 49 Nays 0
Approved May 19, 1992 (p. 999)

A BILL FOR

*Re-passed senate 4/28 (p. 1678)
Ayes 48 - Nays 1 -
Motion to reconsider (p. 1682)
" failed 5/4 (p. 1833)*

1 An Act relating to the regulation of aquaculture by the
2 department of natural resources, and by providing penalties
3 for violations.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

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

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

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

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

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

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

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

24 109.2 STATE OWNERSHIP AND TITLE -- EXCEPTIONS.

25 The title and ownership of all fish, mussels, clams, and
26 frogs in any of the public waters of the state, and in all
27 ponds, sloughs, bayous, or other land and waters adjacent to
28 any public waters stocked with fish by overflow of public
29 waters, and of all wild game, animals, and birds, including
30 their nests and eggs, and all other wildlife, found in the
31 state, whether game or nongame, native or migratory, except
32 deer in parks and in public and private preserves, the
33 ownership of which was acquired prior to April 19, 1911, are
34 hereby declared to be in the state, except as otherwise
35 provided in this chapter provided. The title and ownership of

1 all fish aquatic organisms in private-fish-hatcheries as
2 defined-in-section-109-64, aquaculture units and private
3 aquacultural waters shall be in private persons.

4 Sec. 3. NEW SECTION. 109.141 AQUACULTURE -- LICENSE
5 REQUIRED.

6 1. A person shall not engage in the business of
7 aquaculture until that person has applied for and has been
8 issued an aquaculture unit license from the department. The
9 application period extends from January 1, or the date of the
10 application, through December 31. A license shall not be
11 issued to operate an aquaculture unit on private or
12 nonmeandered lakes and streams and ponds that may become
13 stocked with fish from public waters or natural migration. A
14 pond stocked by the department pursuant to section 109.78
15 shall not be used for aquaculture purposes.

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

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

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

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

30 Sec. 4. NEW SECTION. 109.142 LICENSED AQUACULTURE UNITS
31 -- ACTIVITIES ALLOWED.

32 A holder of an aquaculture unit license may:

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

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

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

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

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

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

30 Sec. 5. NEW SECTION. 109.143 LICENSED AQUACULTURE UNITS
31 -- REQUIREMENTS.

32 1. Each licensed aquaculture unit shall prepare an annual
33 report of all fish bought, sold, and shipped. The records
34 shall include species name as well as the weight, volume, or
35 count of fish involved. Reports shall be filed on or before

1 December 31 of each year for the preceding year. The
2 department may refuse to renew a unit license if the annual
3 report is not provided.

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

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

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

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

24 6. Aquaculture units shall not import live fish, viable
25 eggs, or semen of any species of the salmonid family (trout,
26 salmon, or char) and ictalurid family (catfishes and
27 bullheads), including hybrids, unless the owner or operator
28 possesses a fish importation permit. For the species listed
29 in this subsection only, importation permits shall not be
30 issued unless the fish, eggs, or semen have been inspected by
31 the department and found to be free of disease detrimental to
32 the state's fishery resources. The owner or operator of an
33 aquaculture unit must provide a statement certifying the fish
34 listed in this subsection or their eggs or semen to be disease
35 free, and include the date of inspection. Certification is

1 not required for other fish species, but the department may
2 require inspection at any time. The department shall
3 establish, by rule, those diseases detrimental to the state's
4 fishery resources and the location of authorized certified
5 pathologists for inspection.

6 Sec. 6. NEW SECTION. 109.144 LICENSED BAIT DEALERS --
7 REQUIREMENTS.

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

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

13 Sec. 7. NEW SECTION. 109.145 TAKING AND SELLING OF
14 MINNOWS -- REGULATIONS.

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

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

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

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

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

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

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

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

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

21 All fish in an aquaculture unit are private property and
22 are not the property of the state, and the theft of fish from
23 an aquaculture unit is punishable as provided in section
24 714.2.

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

28 b. Aquaculture unit license, resident
29 \$ 25.00

30 Sec. 11. Section 110.1, subsection 6, Code Supplement
31 1991, is amended by adding the following new paragraph after
32 paragraph b and relettering the remaining paragraphs:

33 NEW PARAGRAPH. c. Nonresident aquaculture unit license
34 \$ 50.00

35 Sec. 12. Section 805.8, subsection 5, paragraph d, Code

1 1991, is amended to read as follows:

2 d. For violations of sections 109.7, 109.47, 109.52,
3 109.53, 109.55, 109.58, 109.63, ~~109.64~~, 109.76, 109.81,
4 109.90, 109.91, 109.97, 109.122, 109.126, 109.142, 109B.8, and
5 110.37, the scheduled fine is fifty dollars.

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

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HOUSE FILE 2334

S-5539

- 1 Amend the amendment, S-5484, to House File 2334, as
- 2 amended, passed, and reprinted by the House, as
- 3 follows:
- 4 1. Page 1, by striking lines 15 through 17.

By JACK W. HESTER
BERL E. PRIEBE

S-5539 FILED APRIL 3, 1992

Adopted 4/15/92 (p.1414)

HOUSE FILE 2334

S-5564

- 1 Amend the amendment, S-5484, to House File 2334, as
- 2 amended, passed, and reprinted by the House, as
- 3 follows:
- 4 1. Page 1, lines 10 and 11, by striking the words
- 5 "and with each Iowa fishing license issued".

By JACK W. HESTER

S-5564 FILED APRIL 6, 1992

Adopted 4/15 (p.1414)

HOUSE FILE 2334

S-5484

1 Amend House File 2334, as amended, passed, and
 2 reprinted by the House, as follows:
 3 1. Page 2, by inserting after line 3 the
 4 following:
 5 "Sec. ____ Section 109.78, Code 1991, is amended
 6 by adding the following new subsection:
 7 NEW SUBSECTION. 1. The commission shall compile
 8 an annual directory of commission-stocked private
 9 waters and disseminate a copy of the directory to each
 10 county conservation commission and with each Iowa
 11 fishing license issued. The directory shall list at
 12 minimum all of the following information:
 13 a. All private waters in the state that are
 14 stocked by the commission after 1991.
 15 b. Sufficient directional information for locating
 16 and accessing each commission-stocked private waters
 17 site.
 18 c. The species used by the commission at each site
 19 to stock the private waters.
 20 d. The date each private waters site was stocked
 21 by the commission."

By JACK W. HESTER
JIM RIORDAN

S-5484 FILED APRIL 1, 1992

Adopted 4/1 (p. 1154) 17 Motion to reconsider (1189) prevailed 4/15 (p. 1414)

Adopted as amended by 5539 HOUSE FILE 2334
5564

S-5516

1 Amend House File 2334, as amended, passed, and
 2 reprinted by the House, as follows:
 3 1. Page 2, by inserting after line 3 the
 4 following:
 5 "Sec. ____ Section 109.78, Code 1991, is amended
 6 to read as follows:
 7 109.78 STOCKING PRIVATE WATER WATERS.
 8 No-private-water-may Private waters shall not be
 9 stocked by the commission unless the owner agrees that
 10 such the waters shall be open to the public for
 11 fishing, except that. However, the commission may,
 12 after investigation to determine their suitability as
 13 to size, depth, living conditions for fish, and
 14 management, provide a breeding stock of fish for
 15 privately owned farm ponds on request of the owner.
 16 The commission shall adopt, by rule, a fee schedule
 17 for supplying fish stock for the private waters."

By JOHN KIBBIE
JIM RIORDAN

Amended (5533) Adopted 4/15 (p. 1415)

S-5516 FILED APRIL 2, 1992

HOUSE FILE 2334

S-5533

1 Amend the amendment, S-5516, to House File 2334, as
 2 follows:
 3 1. Page 1, line 17, by inserting after the word
 4 "stock" the following: "at market value".

By RICHARD J. VARN

Adopted 4/15 (p. 1415)
S-5533 FILED APRIL 2, 1992

HOUSE FILE 2334

S-5406

1 Amend House File 2334, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 2, by inserting after line 3 the
4 following:

5 "Sec. ____ Section 109.78, Code 1991, is amended
6 to read as follows:

7 109.78 STOCKING PRIVATE WATER.

8 1. ~~No-private-water-may~~ Private waters shall not
9 be stocked by the commission unless the owner agrees
10 that such the waters shall be posted for and open to
11 the public for fishing, -except-that-the-commission
12 may, -after-investigation-to-determine-their
13 suitability-as-to-size, -depth, -living-conditions-for
14 fish, -and-management, -provide-a-breeding-stock-of-fish
15 for-privately-owned-farm-ponds-on-request-of-the-owner
16 and that public access be granted to the waters.

17 2. The commission shall compile an annual
18 directory of commission-stocked private waters and
19 disseminate a copy of the directory with each Iowa
20 fishing license issued. The directory shall list at
21 minimum all of the following information:

22 a. All private waters in the state that are
23 stocked by the commission after 1991.

24 b. Sufficient directional information for locating
25 and accessing each commission-stocked private waters
26 site.

27 c. The species used by the commission at each site
28 to stock the private waters.

29 d. The date each private waters site was stocked
30 by the commission.

31 3. Permanent signs shall be provided by the
32 commission and maintained by the owner. The signs
33 shall be posted within one year of the date the
34 private waters were stocked by the commission and in
35 accordance with the following specifications:

36 a. The size of the sign and the lettering shall be
37 of sufficient size to be easily read from the roadway
38 adjacent to the sign.

39 b. The sign shall be located adjacent to the
40 nearest main access road to the commission-stocked
41 private waters at the minimum allowable distance to
42 the waters in a manner that provides compliance with
43 state sign regulations.

44 c. "PUBLIC FISHING ALLOWED" shall be the
45 predominate verbiage on the sign.

46 d. Directional reference shall be provided between
47 the location of the sign to the applicable private
48 waters.

49 e. A listing of the types of species used to stock
50 the pond shall be specified on the sign.

S-5406

S-5406

Page 2

1 f. The date that the waters were stocked by the
2 commission shall be noted on the sign.
3 q. Credit shall be provided on the sign to the
4 commission for stocking the private waters.
5 4. Stocking by the commission shall not commence
6 before receipt by the commission of a signed affidavit
7 from the owner indicating intent to comply with the
8 maintenance of permanent signs and the provision of
9 public access, and the ability of the commission to
10 provide the sign and annual directory. Annually, the
11 commission shall verify compliance by the owner. The
12 commission shall establish rules governing this
13 section, noting the penalty for noncompliance."
14 2. Title page, line 1, by inserting after the
15 word "aquaculture" the following: "and stocking
16 private waters".

By JIM RIORDAN

S-5406 FILED MARCH 26, 1992

w/d 4/2 (p. 1184)

HOUSE FILE 2334

S454

1 Amend the amendment, S-5406, to House File 2334, as
2 follows:

3 1. Page 1, by striking line 16 through page 2,
4 line 13 and inserting the following: "and that public
5 access be granted to the waters"".

By JAMES R. RIORDAN

S-5454 FILED MARCH 31, 1992

Out of Order 4/2 (p. 1184)

NATURAL RESOURCES AND
OUTDOOR RECREATION
New

HOUSE FILE 2334

BY (PROPOSED COMMITTEE ON
NATURAL RESOURCES AND
OUTDOOR RECREATION BILL
BY CHAIRPERSON BLACK)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the regulation of aquaculture by the
2 department of natural resources, and by providing penalties
3 for violations.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SUB COMMITTEE ASSIGNMENTS

CHAIR: *Schradler*
COMMITTEE: *Natural Res.*
2-14-92

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

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

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

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

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

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

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

24 109.2 STATE OWNERSHIP AND TITLE -- EXCEPTIONS.

25 The title and ownership of all fish, mussels, clams, and
26 frogs in any of the public waters of the state, and in all
27 ponds, sloughs, bayous, or other land and waters adjacent to
28 any public waters stocked with fish by overflow of public
29 waters, and of all wild game, animals, and birds, including
30 their nests and eggs, and all other wildlife, found in the
31 state, whether game or nongame, native or migratory, except
32 deer in parks and in public and private preserves, the
33 ownership of which was acquired prior to April 19, 1911, are
34 hereby declared to be in the state, except as otherwise in
35 this chapter provided. The title and ownership of all fish in

1 ~~private-fish-hatcheries,--as-defined-in-section-109-64,~~
2 aquaculture units shall be in private persons.

3 Sec. 3. NEW SECTION. 109.141 FISH AND GAME BROUGHT INTO
4 THE STATE.

5 A person may possess any fish or game lawfully taken
6 outside the state and lawfully brought into the state, but the
7 burden of proof shall be upon the person in possession to show
8 that the fish or game was lawfully taken and lawfully brought
9 into the state.

10 Sec. 4. NEW SECTION. 109.142 AQUACULTURE -- LICENSE
11 REQUIRED.

12 1. A person shall not engage in the business of
13 aquaculture until that person has applied for and has been
14 issued an aquaculture unit license from the department. The
15 application period extends from January 1, or the date of the
16 application, through December 31. A license shall not be
17 issued to operate an aquaculture unit on private or
18 nonmeandered lakes and streams and ponds that may become
19 stocked with fish from public waters or natural migration. A
20 pond stocked by the department pursuant to section 109.78
21 shall not be used for aquaculture purposes.

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

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

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

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

1 Sec. 5. NEW SECTION. 109.143 LICENSED AQUACULTURE UNITS
2 -- ACTIVITIES ALLOWED.

3 A holder of an aquaculture unit license may:

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

7 2. Sell fish for stocking purposes within or outside the
8 state. Fish which are nonindigenous to Iowa shall not be
9 received or sold in the state unless the aquaculture unit has
10 obtained an importation permit from the department. The
11 department shall establish, by rule, requirements governing
12 importation, and shall include a list of approved aquaculture
13 species. Failure to comply with this subsection will result
14 in loss of license and a violator is subject to the penalty
15 provisions in section 109.55.

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

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

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

26 6. Take any pied-billed grebe, gull, tern, American
27 bittern, black-crowned night heron, merganser, great blue
28 heron, also known as blue crane, poor joe, or kingfisher,
29 within the bounds of the unit. An owner or operator of the
30 licensed aquaculture unit, however, must first obtain a permit
31 for this activity from the department or the United States
32 fish and wildlife service. Each permittee shall file an
33 annual report with the department which itemizes the birds
34 taken during the period covered by the permit, and dispose of
35 birds taken according to methods established by the

1 department. The department shall not issue a subsequent
2 permit to any person failing to file this report.

3 Sec. 6. NEW SECTION. 109.144 LICENSED AQUACULTURE UNITS
4 -- REQUIREMENTS.

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

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

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

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

29 5. Minnow and bait boxes and tanks within licensed
30 aquaculture units shall be open for inspection by the
31 department at all times. Tanks and bait boxes shall be of
32 sufficient size, and have proper aeration to keep bait alive
33 and prevent heavy losses.

34 6. Aquaculture units shall not import live fish, viable
35 eggs, or semen of any species of the salmonid family (trout,

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

16 Sec. 7. NEW SECTION. 109.145 LICENSED BAIT DEALERS --
17 REQUIREMENTS.

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

21 2. Minnow and bait boxes and tanks shall be open to
22 inspection by the department at all times. Tanks and bait
23 boxes shall be of sufficient size, and have proper aeration to
24 keep bait alive and prevent heavy losses.

25 Sec. 8. NEW SECTION. 109.146 TAKING AND SELLING OF
26 MINNOWS -- REGULATIONS.

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

30 2. Except as otherwise provided in this chapter, a person
31 shall not carry, transport, ship, or cause to be carried,
32 transported, or shipped, any minnows outside the state which
33 were taken in the state. Minnows which are bred, hatched,
34 propagated, or raised on a licensed aquaculture unit may be
35 transported outside the state. The director, however, may

1 transport minnows pursuant to section 109.147. Green sunfish,
2 orange-spotted sunfish, and gizzard shad may also be taken for
3 bait.

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

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

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

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

26 Sec. 9. NEW SECTION. 109.147 AUTHORITY OF THE DIRECTOR.

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

32 Sec. 10. NEW SECTION. 109.148 THEFT OF FISH.

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

1 714.2.

2 Sec. 11. Section 110.1, subsection 6, paragraph b, Code
3 Supplement 1991, is amended by striking the paragraph and
4 inserting in lieu thereof the following:

5 b. Aquaculture unit license, resident
6 \$ 25.00

7 Sec. 12. Section 110.1, subsection 6, Code Supplement
8 1991, is amended by adding the following new paragraph after
9 paragraph b and relettering the remaining paragraphs:

10 NEW PARAGRAPH. c. Nonresident aquaculture unit license
11 \$ 50.00

12 Sec. 13. Section 805.8, subsection 5, paragraph d, Code
13 1991, is amended to read as follows:

14 d. For violations of sections 109.7, 109.47, 109.52,
15 109.53, 109.55, 109.58, 109.63, ~~109.64~~, 109.76, 109.81,
16 109.90, 109.91, 109.97, 109.122, 109.126, 109B.8, and 110.37,
17 the scheduled fine is fifty dollars.

18 Sec. 14. Sections 109.49 and 109.64, Code 1991, are
19 repealed.

20 EXPLANATION

21 This bill provides for the regulation of aquaculture which
22 is defined to mean the controlled propagation, growth, and
23 harvest of aquatic organisms such as fish, amphibians,
24 reptiles, mollusks, crustaceans, gastropods, algae, and other
25 aquatic plants. The sections provide for licensing of
26 aquaculturists, facilities, and aquaculture units, and the
27 regulation of sales and importation to control or prevent
28 disease and the unlawful use of publicly owned aquatic life.

29 The bill also provides license fees for aquaculture units,
30 resident, and nonresident.

31 The bill repeals sections 109.49 and 109.64 which authorize
32 a special permit to kill certain birds adversely affecting
33 aquaculture and provide for the licensing and regulation of
34 private fish hatcheries, which are included in the aquaculture
35 provisions.

HOUSE FILE 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 nongame, 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. The title and ownership of all fish aquatic organisms in private fish-hatcheries, as defined in section 109.647, 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 nonneandered 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
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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.

ROBERT C. ARNOULD
Speaker of the House

MICHAEL E. GRONSTAL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2334, Seventy-fourth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 19, 1992

TERRY E. BRANSTAD
Governor