

STATE OF ILLINOIS
Department of Agriculture
Larry A. Werries, Director

The Illinois Aquaculture Development Plan:

The Illinois
Aquaculture
Development Act

AQUA CULTURE RESOURCES Midwest
Champaign, Illinois

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Springfield, Illinois
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This Act was developed as a part of The Illinois Aquaculture Industry: A Development Plan, Contract #554, between Aqua Culture Resources Midwest and the Division of Marketing, Illinois Department of Agriculture.

PREFACE

In 1985, the Illinois Department of Agriculture was authorized to conduct a study on the status and potential of aquaculture as an agri-industry in Illinois. Completed in 1986, "The Illinois Aquaculture Industry: Its Status and Potential" indicated a positive potential for expansion and growth of aquaculture in Illinois.

The future success, however, of this fledgling industry hinges on the implementation of an intelligent plan of action--a State Aquaculture Development Plan. This plan should address all aspects of the aquaculture industry, from producer to consumer. It should be practical, workable, and have the support of government, agriculture, the Illinois Aquaculture Industries Association, and the private sector.

The success of an aquaculture development plan in Illinois will depend upon disseminating knowledge to all facets of the industry, correctly predicting markets for Illinois-grown products, and most importantly, working through legal and regulatory obstacles and confusion.

In January 1987, work was initiated in four areas that now constitute Phase I of the Illinois Aquaculture Development Plan.

- (1) A working paper on research priorities for aquaculture in Illinois.
- (2) A brochure identifying federal and state agencies that impact on the industry and their regulatory roles.
- (3) An informational guide book of all permits and licenses that may be required in the aquaculture business in the State. Flow charts assist the applicant in determining which permits are required. A companion book includes copies of permit and license application forms.
- (4) The Illinois Aquaculture Development Act, which follows in this booklet, constitutes the core of the development plan. It defines aquaculture as part of agriculture in Illinois and places the industry under the umbrella of the Illinois Department of Agriculture while designating the Illinois Department of Conservation regulatory authority under the Fish Code.

By implementing the Illinois Aquaculture Development Plan, the state indicates its support and enthusiasm for the growth of a new agri-industry in Illinois.

Stephen W. Waite
AQUA CULTURE RESOURCES Midwest
June 1987

ACKNOWLEDGMENTS

The process of enacting new legislation is a long and tedious one--a process that cannot be accomplished without the involvement of dedicated individuals.

Senator Judy Baar Topinka consented once again to work for the advancement of Illinois aquaculture by sponsoring Senate Bill 762, from which the Illinois Aquaculture Development Act was derived. We also thank Representative Mike Tate for his sponsorship of the bill in the House of Representatives.

The primary state agencies involved in drafting this Act were the Illinois Department of Agriculture and the Illinois Department of Conservation. Without the concerted efforts of Mike Baise, Superintendent of Marketing of the former, and Mike Conlin, John Will, and Dale Burkett of the latter, this Act simply would not have been possible. We also thank Andy Roberts, Aquaculture Coordinator for the Department of Agriculture; Jim Allen, Fisheries Division of the Department of Conservation; and others that contributed behind-the-scenes support.

Don Norton, Director of the Rural Affairs Council, provided continued support in drafting final language of the Act and Tom Berkshire of the Governor's Office played a vital role in mediating the concerns and needs of Agriculture and Conservation.

Bruce Kinnett took the ideas and philosophies of what we wanted to accomplish and interpreted them, with the help of Dan Sprehe of the Senate Staff, into Senate Bill 762. We thank them for a job well done.

John Scholl of the Illinois Farm Bureau was always available for consultation and advice as the bill made its way through the legislative process. We also thank Farm Bureau for their support.

Delayne Holsapple of Aqua Culture Resources Midwest conducted much of the early research on the language for this bill and was involved in the day-to-day grind. Her work is greatly appreciated. We thank Ted Werenski of Richmond Fisheries for contributing a "big picture" perspective.

We appreciate the expertise and care of John O'Neill, Up Close Graphics, Champaign, in printing these materials. Finally, we thank Jana Waite for her time, expertise, and patience in compiling, editing, and preparing these materials.

An Act in relation to the development of aquaculture as an agricultural enterprise, amending various Acts herein named.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short Title. This Act shall be known and may be cited as the "Aquaculture Development Act."

Section 2. Findings. The legislature finds and declares that it is in the interest of the people of this State that the practice of aquaculture be encouraged in order to augment food supplies, promote agriculture diversification, expand employment opportunities, promote economic activity, increase native fish stocks, enhance commercial and recreational fishing and protect and better use the land and water resources of the State.

The legislature finds that aquaculture shall be considered an agricultural pursuit as provided in the Internal Revenue Code, as amended, and for purposes of any laws that apply to or provide for the advancement, benefit or protection of the agriculture industry of the State.

Section 3. Purpose. The purpose of this Act is to establish a policy and program toward improving the science and husbandry of aquaculture as a means to expand the aquaculture industry and related economic activity in this State.

Section 4. Definitions. For the purposes of this Act:

- (a) "aquaculture" means the controlled propagation, growth and harvest of aquatic organisms, including but not limited to fish, shellfish, mollusks, crustaceans, algae and other aquatic plants, by an aquaculturist.
- (b) "aquaculturists" mean individuals involved in producing, transporting or marketing aquatic products from privately owned waters for commercial purposes.
- (c) "privately owned waters" means waters confined within an artificial containment, such as man-made ponds, vats, tanks, raceways and any other indoor or outdoor facility constructed wholly within or on the enclosed land of an owner or leaser.
- (d) "Director" means the Director of Agriculture.

The practice of aquaculture is encouraged.

Aquaculture is an agricultural pursuit

Establishes a policy and program to expand the aquaculture industry

and defines terms

- (e) "Department" means the Department of Agriculture.
- (f) "aquatic products" means any aquatic plants and animals or their by-products that are produced, grown, managed, harvested and marketed on an annual, semi-annual, biennial or short term basis, in permitted aquaculture facilities.
- (g) "permitted aquaculture facility" means a facility used by aquaculturists to breed, hatch, propagate or raise aquatic life permitted by the Department of Conservation pursuant to Section 5.16 of the Fish Code of 1971.

Names the Illinois Department of Agriculture to be the principal agency for developing an aquaculture program

Section 5. Program Development. The Department shall be the principal State agency for developing a program for assisting the State's aquaculture industry. The Department may consult with the Aquaculture Industry Advisory Committee in developing a program by which the Department shall:

and details its responsibilities

- (a) serve as a clearinghouse for information on aquaculture and provide assistance, information and data relating to the production and use of aquatic foods;
- (b) develop informational packets and brochures on permit and license requirements and regulations governing the aquaculture industry;
- (c) coordinate with other State agencies in order to promote the maximum flow of information and avoid unnecessary overlapping of regulations;
- (d) assist in marketing and promotion of aquatic products.

The transportation, possession or sale of aquatic products shall require that they be placed in labeled containers or accompanied by bills of lading or sale or similar documents identifying the name and address of the producer and quantity of the products.

The Director shall consult with the Director of the Department of Conservation to ensure that rules do not impair the enforcement provisions of the Fish Code of 1971 protecting aquatic life in the native environment. Importation of non-indigenous species of aquatic life into the State for aquaculture must comply with rules and regulations of the Department of Conservation.

Establishes an Aquaculture Advisory Committee

Section 6. Advisory Committee. The Director may appoint an Aquaculture Advisory Committee consisting of at least 12 members representing all sectors of the aquaculture industry. The committee shall assist the Director in developing and implementing a State aquaculture plan and rules necessary for the implementation of this Act, identifying the opportunities for regulatory relief, assisting the establishment of research and

development priorities, assisting the development of criteria to assure that publicly financed pilot programs are compatible with industry needs and identifying other opportunities for industrial development.

The term of membership shall be 3 years. Members may be reappointed. Members of the committee shall serve without compensation but may be reimbursed for actual expenses incurred in the performance of their duties. The committee shall meet at the call of the Director.

Section 7. Section 1 of "An Act in relation to the inspection and standardization of horticultural, agricultural, apiarian, dairy and other farm products", approved June 28, 1923, as amended, is amended to read as follows:

Sec. 1. As used in this Act, the word "Director" means the Director of the Department of Agriculture, and the term "agricultural products" includes all farm, dairy, bee, viticultural, and horticultural and aquatic products.

Section 8. Section 2a of the "County Cooperative Extension Law", approved August 2, 1963, as amended, is amended to read as follows:

Sec. 2a. The Cooperative Extension Service of the University of Illinois shall provide information and assistance to persons who are timber growers and to persons who may be unaware of the economic and soil and water conservation benefits that can be attained through forestry management on marginal agricultural lands.

The Department of Agriculture, in cooperation with the Cooperative Extension Service of the University of Illinois, in conjunction with the Agriculture Experiment Station and Southern Illinois University at Carbondale, shall provide information on aquaculture and shall explore the establishment of an aquaculture resource center for disseminating information and demonstrating the viability of aquaculture as a part of the diversified agriculture of this State.

Section 9. Section 4 of the "Illinois Pesticide Act of 1979", as approved August 14, 1979, as amended, is amended to read as follows:

Sec. 4. Definitions. As used in this Act:

1. "Director" means Director of the Illinois Department of Agriculture or his authorized representative.
2. "Active Ingredient" means any ingredient which will prevent, destroy, repel, control or mitigate pests or which will act as a plant regulator, defoliant or desiccant.

Amends the Inspection and Standardization of Horticultural, Agricultural, Apiarian, Dairy and Other Farm Products Act to include aquatic products

(Ch. 5, par. 92)

Amends the County Cooperative Extension Law to provide aquaculture information

(Ch. 5, par. 242a)

Amends the Illinois Pesticide Act to include aquatic products as an agricultural commodity

(Ch. 5, par. 804)

3. "Adulterated" shall apply to any pesticide if the strength or purity is not within the standard of quality expressed on the labeling under which it is sold, distributed or used, including any substance which has been substituted wholly or in part for the pesticide as specified on the labeling under which it is sold, distributed or used, or if any valuable constituent of the pesticide has been wholly or in part abstracted.
4. "Agricultural Commodity" means produce of the land including but not limited to plants and plant parts, livestock and poultry and livestock or poultry products, seeds, sod, shrubs and other products of agricultural origin including the premises necessary to and used directly in agricultural production. Agricultural commodity also includes aquatic products as defined in the Aquaculture Development Act.
5. "Animal" means all vertebrate and invertebrate species including, but not limited to, man and other mammals, bird, fish, and shellfish.
6. "Beneficial Insects" means those insects which during their life cycles are effective pollinators of plants, predators of pests or are otherwise beneficial.
7. "Certified applicator".
 - A. "Certified applicator" means any individual who is certified under this Act to purchase, use, or supervise the use of pesticides which are classified for restricted use.
 - B. "Private applicator" means a certified applicator who purchases, uses, or supervises the use of any pesticide classified for restricted use, for the purpose of producing any agricultural commodity on property owned, rented, or otherwise controlled by him or his employer, or applied to other property if done without compensation other than trading of personal services between no more than 2 producers of agricultural commodities.
 - C. "Licensed Commercial Applicator" means a certified applicator, whether or not he is a private applicator with respect to some uses, who owns or manages a business that is engaged in applying pesticides, whether classified for general or restricted use, for hire. The term also applies to a certified applicator who uses or supervises the use of pesticides, whether classified for general or restricted use, for any purpose or on property of others excluding those specified by subparagraphs 7 (B), (D), (E) of Section 4 of this Act.
 - D. "Commercial Not For Hire Applicator" means a certified applicator who uses or supervises the use of pesticides classified for general or restricted use for any purpose on

property of an employer when such activity is a requirement of the terms of employment and such application of pesticides under this certification is limited to property under the control of the employer only.

- E. "Licensed Public Applicator" means a certified applicator who uses or supervises the use of pesticides classified for general or restricted use as an employee of a state agency, municipality, or other duly constituted governmental agency or unit.
- 8. "Defoliant" means any substance or combination of substances which cause leaves or foliage to drop from a plant with or without abscission.
- 9. "Desiccant" means any substance or combination of substances intended for artificially accelerating the drying of plant tissue.
- 10. "Device" means any instrument or contrivance, other than a firearm or equipment for application of pesticides when sold separately from pesticides, which is intended for trapping, repelling, destroying, or mitigating any pest, other than bacteria, virus, or other microorganisms on or living in man or other living animals.
- 11. "Distribute" means offer or hold for sale, sell, barter, ship, deliver for shipment, receive and then deliver, or offer to deliver pesticides, within the State.
- 12. "Environment" includes water, air, land, and all plants and animals including man, living therein and the interrelationships which exist among these.
- 13. "Equipment" means any type of instruments and contrivances using motorized, mechanical or pressure power which is used to apply any pesticide, excluding pressurized hand-size household apparatus containing dilute ready to apply pesticide or used to apply household pesticides.
- 14.. "FIFRA" means the "Federal Insecticide Fungicide Rodenticide Act."
- 15. "Fungi" means any non-chlorophyll bearing thallophytes, any non-chlorophyll bearing plant of a lower order than mosses or liverworts, as for example rust, smut, mildew, mold, yeast and bacteria, except those on or in living animals including man and those on or in processed foods, beverages or pharmaceuticals.
- 16. "Household Substance" means any pesticide customarily produced and distributed for use by individuals in or about the household.

17. "Imminent Hazard" means a situation which exists when continued use of a pesticide would likely result in unreasonable adverse effect on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the Secretary of Interior or to species declared to be protected by the Illinois Department of Conservation.
18. "Inert Ingredient" means an ingredient which is not an active ingredient.
19. "Ingredient Statement" means a statement of the name and percentage of each active ingredient together with the total percentage of inert ingredients in a pesticide and for pesticides containing arsenic in any form, the ingredient statement shall include percentage of total and water soluble arsenic, each calculated as elemental arsenic. In the case of spray adjuvants the ingredient statement need contain only the names of the functioning agents and the total percent of those constituents ineffective as spray adjuvants.
20. "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented for the most part belonging to the class insects; comprised of six-legged, usually winged forms, as for example beetles, caterpillars, and flies. This definition encompasses other allied classes of arthropods whose members are wingless and usually have more than 6 legs as for example spiders, mites, ticks, centipedes, and millipedes.
21. "Label" means the written, printed or graphic matter on or attached to the pesticide or device or any of its containers or wrappings.
22. "Labeling" means the label and all other written, printed or graphic matter: (a) on the pesticide or device or any of its containers or wrappings, (b) accompanying the pesticide or device or referring to it in any other media used to disseminate information to the public, (c) to which reference is made to the pesticide or device except when references are made to current official publications of the US Environmental Protection Agency, Departments of Agriculture, Health, Education and Welfare or other Federal Government institutions, the state experiment station or colleges of agriculture or other similar state institution authorized to conduct research in the field of pesticides.
23. "Land" means all land and water area including airspace, and all plants, animals, structures, buildings, contrivances, and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

24. "Licensed Operator" means a person employed to apply pesticides to the lands of others under the direction of a "licensed commercial applicator" or a "licensed public applicator" or a "licensed commercial not-for-hire applicator".
25. "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematode, also referred to as nemas or eelworms, which are unsegmented roundworms with elongated fusiform or sac-like bodies covered with cuticle and inhabiting soil, water, plants or plant parts.
26. "Permit" means a written statement issued by the Director or his authorized agent, authorizing certain acts of pesticide purchase or of pesticide use or application on an interim basis prior to normal certification, registration, or licensing.
27. "Person" means any individual, partnership, association, fiduciary, corporation, or any organized group of persons whether incorporated or not.
28. "Pest" means (a) any insect, rodent, nematode, fungus, weed, or (b) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism, excluding virus, bacteria, or other microorganism on or in living animals including man, which the Director declares to be a pest.
29. "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.
30. "Pesticide Dealer" means any person who distributes registered pesticides to the user. However, any certified applicator who holds, or applies registered pesticides or uses dilutions of registered pesticides only to provide a service of controlling pests, without delivering any unapplied or non-diluted registered pesticide formulation to any person so serviced, is not deemed to be a pesticide dealer.
31. "Plant Regulator" means any substance or mixture of substances intended through physiological action to affect the rate of growth or maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof. This does not include substances which are not intended as plant nutrient trace elements, nutritional chemicals, plant or seed inoculants or soil conditioners or amendments.
32. "Protect Health and Environment" means to guard against any unreasonable adverse effects on the environment.
33. "Registrant" means person who has registered any pesticide pursuant to the provision of FIFRA and this Act.

34. "Restricted Use Pesticide" means any pesticide with one or more of its uses classified as restricted by order of the Administrator of USEPA.
35. "SLN Registration" means registration of a pesticide for use under conditions of special local need as defined by Section 24 (c) of FIFRA.
36. "State Restricted Pesticide Use" means any pesticide use which the Director determines, subsequent to public hearing, that an additional restriction for that use is needed to prevent unreasonable adverse effects.
37. "Structural Pest" means any pests which attack and destroy buildings and other structures or which attack clothing, stored food, commodities stored at food manufacturing and processing facilities or manufactured and processed goods.
38. "Unreasonable Adverse Effects on the Environment" means the unreasonable risk to the environment, including man, from the use of any pesticide, when taking into account accrued benefits of as well as the economic, social, and environmental costs of its use.
39. "USEPA" means United States Environmental Protection Agency.
40. "Use inconsistent with the label" means to use a pesticide in a manner not consistent with the label instructions, the definition adopted in FIFRA as interpreted by USEPA shall apply in Illinois.
41. "Weed" means any plant growing in a place where it is not wanted.
42. "Wildlife" means all living things, not human, domestic, or pests.
43. "Bulk pesticides" means any registered pesticide which is transported or held in an individual container in undivided quantities of greater than 55 U.S. gallons liquid measure or 100 pounds net dry weight.
44. "Bulk repackaging" means the transfer of a registered pesticide from one bulk container (containing undivided quantities of greater than 100 U.S. gallons liquid measure or 100 pounds net dry weight) to another bulk container (containing undivided quantities of greater than 100 U.S. gallons liquid measure or 100 pounds net dry weight) in an unaltered state in preparation for sale or distribution to another person.

45. "Business" means any individual, partnership, corporation or association in the State engaged in a business operation for the purpose of selling or distributing pesticides or providing the service of application of pesticides.
46. "Facility" means any building or structure and all real property contiguous thereto, including all equipment fixed thereon used for the operation of the business.
47. "Chemigation" means the application of a pesticide through the systems or equipment employed for the primary purpose of irrigation of land and crops.
48. "Use" means any activities covered by the pesticide label including but not limited to application of pesticide, mixing and loading, storage of pesticides or pesticide containers, disposal of pesticides and pesticide containers and reentry into treated sites or areas.

Section 10. Sections 3.01 and 3.02 of the "Agricultural Areas Conservation and Protection Act", certified November 29, 1979, as amended, are amended to read as follows:

Sec. 3.01. "Agricultural Production" means the production for commercial purposes of crops, livestock and livestock and aquatic products, but not land or portions thereof used for processing of such crops, livestock or livestock or aquatic products.

Amends the Agricultural Areas Conservation and Protection Act to include aquatic products in agricultural production

(Ch. 5, par. 1003.01)

Sec. 3.02. "Crops, livestock and livestock and aquatic products" include but are not limited to the following: legume, hay, grain, fruit, and truck or vegetable crops, floriculture, horticulture, mushroom growing, nurseries, orchards, forestry, and greenhouses and aquatic products as defined in the Aquaculture Development Act; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pond and horse production, fur and wildlife farms, farm buildings used for growing, harvesting and preparing crop products for market, or for use on the farm; roadside stands, farm buildings for storing and protecting farm machinery and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm dwellings occupied by farm owners, operators, tenants or seasonal or year-round hired workers.

(Ch. 5, par. 1003.02)

Section 11. Section 9-109 of the "Uniform Commercial Code", approved July 31, 1961, as amended, is amended to read as follows:

Amends the Uniform Commercial Code to include aquatic products in the definition of farm products

Sec. 9-109. Classification of goods: "consumer goods"; "equipment"; "farm products"; "inventory". Goods are

(Ch. 26, par. 9-109)

Amends the Agricultural Co-operative Associations and Societies Act to include aquatic products in the definition of agricultural products

(Ch. 32, par. 441)

1. "consumer goods" if they are used or bought for use primarily for personal, family or household purposes;
2. "equipment" if they are used or bought for use primarily in business (including farming or a profession) or by a debtor who is a non-profit organization or a governmental subdivision or agency or if the goods are not included in the definitions of inventory, farm products or consumer goods;
3. "farm products" if they are crops or livestock or supplies used or produced in farming operations or if they are products of crops or livestock in their unmanufactured states (such as ginned cotton, wool-clip, maple syrup, milk and eggs) ~~or if they are aquatic products as defined in the Aquaculture Development Act~~, and if they are in the possession of a debtor engaged in raising, fattening, grazing or other farming ~~or aquacultural~~ operations. If goods are farm products they are neither equipment nor inventory.
4. "inventory" if they are held by a person who holds them for sale or lease or to be furnished under contracts of service or if he has so furnished them, or if they are raw materials, work in process or materials used or consumed in a business. Inventory of a person is not to be classified as his equipment.

Section 12. Section 2 of "An Act in relation to Agricultural Co-operative Associations and Societies", approved June 21, 1923, as amended, is amended to read as follows:

Sec. 2. As used in this Act,

- a. The term "agricultural products" shall include horticultural, viticultural, forestry, dairy, live stock, poultry, bee and any farm ~~and aquatic~~ products and fur-bearing animals raised in captivity and their products.
- b. The term "member" shall include actual members of associations without capital stock, and holders of common stock in associations organized with capital stock.
- c. The term "association" means any corporation organized under this Act, or any corporation formed under any general or special act of this or any other state as a co-operative association, organized for the mutual benefit of its members, and in which the returns on the stock or membership capital is limited to an amount not to exceed eight per centum (8%) per annum, and in which during any fiscal year thereof the value of business done with non-members shall not exceed the business done with members during the same period, and in which substantially all of the issued and outstanding shares of capital stock or memberships are owned, held and

controlled directly or indirectly, by producers of agricultural products.

- d. The term "person" shall include individuals, firms, partnerships, corporations and associations.
- e. Associations organized hereunder shall be deemed "non-profit", inasmuch as they are not organized to make profit for themselves, as such, or for their members, as such, but only for their members as producers.
- f. For the purpose of brevity and convenience, this Act may be indexed, referred to and cited as "The Agricultural Co-operative Act".

Section 13. Section 3 of the "Workers' Compensation Act", approved July 9, 1951, as amended, is amended to read as follows:

Sec. 3. The provisions of this Act hereinafter following shall apply automatically and without election to the State, county, city, town, township, incorporated village or school district, body politic or municipal corporation, and to all employers and all their employees, engaged in any department of the following enterprises or businesses which are declared to be extra hazardous, namely:

- 1. The erection, maintaining, removing, remodeling, altering or demolishing of any structure.
- 2. Construction, excavating or electrical work.
- 3. Carriage by land, water or aerial service and loading or unloading in connection therewith, including the distribution of any commodity by horsedrawn or motor vehicle where the employer employs more than 2 employees in the enterprise or business.
- 4. The operation of any warehouse or general or terminal storehouses.
- 5. Mining, surface mining or quarrying.
- 6. Any enterprise in which explosive materials are manufactured, handled or used in dangerous quantities.
- 7. In any business or enterprise, wherein molten metal, or explosive or injurious gases, dusts or vapors, or inflammable vapors, dusts or fluids, corrosive acids, or atomic radiation are manufactured, used, generated, stored or conveyed.
- 8. Any enterprise in which sharp edged cutting tools, grinders or implements are used, including all enterprises which buy,

Amends the Workers' Compensation Act to include aquaculture as an agricultural enterprise

(Ch. 48, par. 138.3)

sell or handle junk and salvage, demolish or reconstruct machinery.

9. In any enterprise in which statutory or municipal ordinance regulations are now or shall hereafter be imposed for the regulating, guarding, use or the placing of machinery or appliances or for the protection and safeguarding of the employees or the public therein; each of which occupations, enterprises or businesses are hereby declared to be extra hazardous.
10. Any enterprise, business or work in connection with the laying out or improvement of subdivisions of tracts of land.
11. Any enterprise for the treatment of cross-ties, switch-ties, telegraph poles, timber or other wood with creosote or other preservatives.
12. Establishments open to the general public wherein alcoholic beverages are sold to the general public for consumption on the premises.
13. The operation of any public beauty shop wherein chemicals, solutions, or heated instruments or objects are used or applied by any employee in the dressing, treatment or waving of human hair.
14. Any business or enterprise serving food to the public for consumption on the premises wherein any employee as a substantial part of the employee's work uses handcutting instruments or slicing machines or other devices for the cutting of meat or other food or wherein any employee is in the hazard of being scalded or burned by hot grease, hot water, hot foods, or other hot fluids, substances or objects.
15. Any business or enterprise in which electric, gasoline or other power driven equipment is used in the operation thereof.
16. Any business or enterprise in which goods, wares or merchandise are produced, manufactured or fabricated.
17. (a) Any business or enterprise in which goods, wares or merchandise are sold or in which services are rendered to the public at large, provided that this paragraph shall not apply to such business or enterprise unless the annual payroll during the year next preceding the date of injury shall be in excess of \$1,000.

(b) The corporate officers of any business or enterprise defined as a "small business" under paragraph (b), Section 3 of the Illinois Small Business Purchasing Act, as amended, and employed by the corporation may elect to withdraw

themselves as individuals from the operation of this Act. Upon an election by the corporate officers to withdraw, written notice shall be provided to the insurance carrier of such election to withdraw, which election shall be effective upon receipt by the insurance carrier of such written notice. A corporate officer who thereafter elects to resume coverage under the Act as an individual shall provide written notice of such election to the insurance carrier which election shall be effective upon receipt by the insurance carrier of such written notice. For the purpose of this paragraph, a "corporate officer" is defined as a bona fide President, Vice President, Secretary or Treasurer of a corporation who voluntarily elects to withdraw.

18. On and after July 1, 1980, but not before, any household or residence wherein domestic workers are employed for a total of 40 or more hours per week for a period of 13 or more weeks during a calendar year.
19. Nothing contained in this Act shall be construed to apply to any agricultural enterprise, including aquaculture, employing less than 500 working days of agricultural or aquacultural labor per quarter during the preceding calendar year, exclusive of working hours of the employer's spouse and other members of his or her immediate family residing with him or her.
20. Nothing contained in this Act shall be construed to apply to any sole proprietor or partner who elects not to provide and pay compensation for accidental injuries sustained by himself, arising out of and in the course of the employment according to the provisions of this Act.

Section 14. Section 214 of "The Unemployment Insurance Act", approved June 30, 1937, as amended, is amended to read as follows:

Section 214. The term "employment" does not include agricultural or aquacultural labor, except as provided in Section 211.4. With respect to the period prior to January 1, 1972, the term "agricultural labor" means the services included within the term by this Act as amended and in effect on September 15, 1969. On and after January 1, 1972, the term "agricultural labor" means all services performed:

- A. On a farm, in the employ of any person, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of live stock, bees, poultry, and fur-bearing animals and wildlife;

Amends the Unemployment Insurance Act to exclude aquaculture labor from the definition of employment

(Ch. 48; par. 324)

- B. In the employ of the owner or tenant or other operation of a farm, in connection with the operations, management, conservation, improvement, or maintenance of such farm and its tools and equipment;
- C. In connection with the ginning of cotton, or the operation or maintenance of ditches, canals, reservoirs, or waterways not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;
- D. In the employ of the operator of a farm, or of a group of operators of farms (or a cooperative organization of which such operators are members), in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator or operators produced more than one-half of the commodity with respect to which such service is performed. The provisions of this subsection shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

As used in this Section, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

The term "aquacultural labor" means all services performed in connection with the production of aquatic products as defined in the Aquaculture Development Act.

Amends the Minimum Wage Law to define aquacultural labor as agricultural labor

(Ch. 48, par. 1003)

Section 15: Section 3 of the "Minimum Wage Law", as approved September 6, 1971, as amended, is amended to read as follows:

Sec. 3. As used in this Act:

- (a) "Director" means the Director of the Department of Labor, and "Department" means the Department of Labor.
- (b) "Wages" means compensation due to an employee by reason of his employment, including allowances determined by the Director in accordance with the provisions of this Act for gratuities and, when furnished by the employer, for meals and lodging actually used by the employee.
- (c) "Employer" includes any individual, partnership, association, corporation, business trust, governmental or quasi-governmental body, or any person or group of persons acting

directly or indirectly in the interest of an employer in relation to an employee, for which one or more persons are gainfully employed on some day within a calendar year. An employer is subject to this Act in a calendar year on and after the first day in such calendar year in which he employs one or more persons, and for the following calendar year.

(d) "Employee" includes any individual permitted to work by an employer in an occupation, but does not include any individual permitted to work:

(1) For an employer employing fewer than 4 employees exclusive of the employer's parent, spouse or child or other members of his immediate family;

(2) As an employee employed in agriculture or aquaculture (A) if such employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than 500 man-days of agricultural or aquacultural labor, (B) if such employee is the parent, spouse or child, or other member of the employer's immediate family, (C) if such employee (i) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) commutes daily from his permanent residence to the farm on which he is so employed, and (iii) has been employed in agriculture less than 13 weeks during the preceding calendar year, (D) if such employee (other than employee described in clause (C) of this subparagraph (i) is 16 years of age or under and is employed as a hand harvest laborer, is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) is employed on the same farm as his parent or person standing in the place of his parent, and (iii) is paid at the same piece rate as employees over 16 are paid on the same farm.

(3) In domestic service in or about a private home;

(4) As an outside salesman; or

(5) As a member of a religious corporation or organization.

(6) At an accredited Illinois college or university employed by the college or university at which he is a student who is covered under the provisions of the Fair Labor Standards Act of 1938, as heretofore or hereafter amended".

The above exclusions from the term "employee" may be further defined by regulations of the Director.

- (e) "Occupation" means an industry, trade, business or class of work in which employees are gainfully employed.
- (f) "Gratuities" means voluntary monetary contributions to an employee from a guest, patron or customer in connection with services rendered.
- (g) "Outside salesman" means an employee regularly engaged in making sales or obtaining orders or contracts for services where a major portion of such duties are performed away from his employer's place of business.

Section 16. Sections 1.3b, 2.1 and 5.16 of the "Fish Code of 1971", approved December 10, 1971, as amended, are amended to read as follows:

Amends the Fish Code to

(Ch. 56, par. 1.3b)
define aquatic life

Sec. 1.3b. "Aquatic life" means all fish, reptiles, amphibians, crayfish and mussels. For the purposes of Section 5.16, the definition of "aquatic life" shall include, but not be limited to, all fish, reptiles, amphibians, mollusks, crustaceans, algae or other aquatic plants.

Ch. 56, par. 2.1)
define ownership of aquatic products

Sec. 2.1 The ownership of and title to all aquatic life within the boundaries of the State, are hereby declared to be in the State, and no aquatic life shall be taken or killed, in any manner or at any time, unless the person or persons so taking or killing the same shall consent that the title thereto shall be and remain in the State for the purpose of regulating the taking, killing, possession, use, sale, and transportation thereof, after such taking or killing, as hereinafter set forth.

Aquatic products, as defined in the Aquaculture Development Act, bred, hatched, propagated or raised by the owner of a body of water, with the consent of the Department of Conservation through the issuance of an aquaculture permit and consistent with this Section, in permitted aquaculture facilities in or on that body of water are the property of the person who bred, hatched, propagated or raised them or that person's successor in interest. Ownership of aquatic products reverts to the State upon revocation or expiration of an aquaculture permit as prescribed by administrative rule.

If any person causes any waste, sewage, thermal effluent or any other pollutant to enter into or causes or allows pollution of any waters of this State so as to kill aquatic life, the Department, through the Attorney General, may bring an action against such person and recover the value of and the related costs in determining the value of the aquatic life destroyed by such waste, sewage, thermal effluent or pollution. Any money so recovered shall be placed in the Wildlife and Fish Fund in the State Treasury.

If any person shall abandon, deposit or otherwise place any wire, can, bottle, glass, paper, trash, rubbish, cardboard, wood cartons, boxes, trees, parts of trees, brush, or other insoluble material, including animal or vegetable material, into the waters or upon the ice of any waters of this State, or in any place on the bank of waters of this State, where it shall be liable to be washed into the waters either by storms, floods, or other causes, he shall be in violation of the offense of polluting; however, employees of the Department may place or direct the placement, in the waters of the State, of insoluble materials deemed suitable for the purposes of enhancing aquatic habitat. Any person who shall be found guilty under this Section shall be guilty of a petty offense and the Court shall further order that the person so found guilty shall employ every practical means of removing such debris from such place within a time specified by the Court. Failure to comply with such order shall constitute a Class B misdemeanor.

Sec. 5.16. Any person who shall engage in the breeding, hatching, propagation or raising of aquatic life, whether indigenous or non-indigenous to this State, shall first procure a permit from the Department to do so. Aquatic life specified, which is bred, hatched, propagated or raised by a person holding a permit as provided for in this Section, may be transported and sold for food or stocking purposes. Permittees who sell aquatic life propagated or raised under this permit are exempt from possessing a fish and/or minnow dealers license.

(Ch. 56, par. 5.16)

redefines permits required and permitting process

Aquaculture permit holders shall maintain records of all aquatic life bought, sold or shipped. Such records shall include the name and address of the buyer and seller, the appropriate license or permit number of the buyer/seller, the date of the transaction and the species, poundage, and origin of aquatic life involved. Such records shall be kept for a minimum of 2 years from the date of the transaction and shall be made immediately available to authorized employees of the Department upon request. Records of the annual operations, as may be required by the Department, shall be forwarded to the Department upon request.

Nothing in this Section shall be construed to give such permittees authority to take aquatic life in their wild or natural state, contrary to other provisions of this Act, or to remove such permittee from responsibility for the observance of any Federal, State or local laws, rules, or regulations which may apply to such aquatic life.

Aquaculture permit holders may harvest aquatic life on licensed aquaculture facilities with commercial fishing devices without obtaining any license for such devices.

establishes procedures for
importing non-indigenous
species

Before any person imports or receives live, non-indigenous aquatic life for aquaculture or stocking purposes in this State, permission must be obtained from the Department. Regulations governing non-indigenous aquatic life shall be covered by administrative rule.

The annual fee for such a permit shall be \$50 and the same shall expire on the 31st day of January of each year.

Any person who violates any provision of this Section, including administrative rules relating thereto, shall be guilty of a business offense and fined not less than \$1,000 and not more than \$5,000.

Permitted aquaculture facilities are exempt from size, catch and possession limits and seasons on aquatic life when harvested, sold or transported, except when taken by sport fishing devices.

All permits issued under this Section are valid only in the location described and designated in the application for such permit.

Section 17. Section 40 of "The Civil Administrative Code of Illinois", approved March 7, 1917, as amended, are amended and Section 40.35 is added thereto, the amended and added Sections to read as follows:

(Ch. 127, par. 40)

Sec. 40. The Department of Agriculture has the powers enumerated in Sections 40.1 through 40.35.

Ch. 127, par. 40.35)

Sec. 40.35. To develop and implement a program to promote aquaculture in this State pursuant to the Aquaculture Development Act, to promulgate the necessary rules and regulations and to cooperate with and seek the assistance of the Department of Conservation and the Department of Transportation in the implementation and enforcement of that Act."