

2017 Regular Session

HOUSE BILL NO. 474

BY REPRESENTATIVE GAROFALO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FISHING/OYSTERS: Authorizes the issuance of an alternative oyster culture permit to a person holding an oyster lease on a privately-owned water bottom

1 AN ACT

2 To amend and reenact R.S. 56:431.2(A)(1) and (C)(2), to enact R.S. 56:431.2(F), and to  
3 repeal R.S. 56:431.2(B)(3)(d), relative to alternative oyster culture permits; to  
4 authorize the issuance of such permit to a person holding an oyster lease on a  
5 privately-owned water bottom or dual-claimed water bottom; and to provide for  
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 56:431.2(A)(1) and (C)(2) are hereby amended and reenacted and  
9 R.S. 56:431.2(F) is hereby enacted to read as follows:

10 §431.2. Alternative oyster culture; permits

11 A. Alternative Oyster Culture Permits.

12 (1) ~~The~~ Notwithstanding the provisions of R.S. 3:559.1 through 559.13, R.S.  
13 56:412, 431.1, and 579.1 notwithstanding, the department is authorized to issue an  
14 alternative oyster culture permit (AOC permit) to a leaseholder holding a valid oyster  
15 lease of state water bottoms pursuant to R.S. 56:427 or 428 or to a person owning a  
16 water bottom or holding an oyster lease on a privately-owned water bottom or a dual-  
17 claimed water bottom as defined in R.S. 56:425.1. The area permitted for alternative  
18 oyster culture shall not extend beyond the boundaries of an existent lease. ~~No AOC~~  
19 ~~permit may be issued unless a reasonable investigation into the question of~~  
20 ~~ownership is complete and, based on the findings, a determination is made that the~~

1 ~~state owns the water bottom to be covered by the permit. No AOC permit may be~~  
2 ~~issued until the department has completed the suitability mapping required in~~  
3 ~~Subsection C of this Section.~~

4 \* \* \*

5 C. Suitability mapping.

6 \* \* \*

7 (2) The department shall use the initial suitability mapping required map  
8 developed as required by this Section Subsection to determine areas that are  
9 unsuitable or inappropriate for alternative oyster culture activities due to creation of  
10 unreasonable conflicts with other existing or anticipated uses of state waters and  
11 water bottoms. However, after July 1, 2017, the initial suitability map developed  
12 under the provisions of this Subsection shall not be used to determine whether or not  
13 an area is suitable for alternative oyster culture. The department shall base all rules,  
14 regulations, and decisions regarding AOC permits on ~~the initial suitability mapping,~~  
15 ~~any update or revision to the initial suitability mapping,~~ any updated or revised  
16 information available, coastal use permit requirements, any master plan or annual  
17 plan issued pursuant to R.S. 49:214.5.3, and any other information and data deemed  
18 relevant by the department.

19 \* \* \*

20 F. Provided there is culture gear installed and visible farming effort being  
21 conducted under the permit, the holder of a valid coastal use permit or mariculture  
22 permit issued pursuant to the provisions of R.S. 56:579.1 for alternative oyster  
23 culture on water bottoms on private land or on dual-claimed water bottom, as defined  
24 in R.S. 56:425.1, shall have a right of first refusal to apply for and obtain a lease  
25 pursuant to the provisions of R.S. 56:427 or 428 or a permit pursuant to the  
26 provisions of this Section should a determination be made that the state owns the  
27 water bottom subject to the coastal use permit or mariculture permit issued under the  
28 provisions of R.S. 56:579.1.

29 Section 2. R.S. 56:431.2(B)(3)(d) is hereby repealed in its entirety.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 474 Original

2017 Regular Session

Garofalo

**Abstract:** Allows for the issuance of an alternative oyster culture permit to a person owning or holding an oyster lease on a privately-owned water bottom.

Present law authorizes the Dept. of Wildlife and Fisheries to issue an alternative oyster culture (AOC) permit to a holder of a valid oyster lease on state water bottoms within the confines of that oyster lease. Proposed law expands that to include a person owning a water bottom or holding an oyster lease on a privately-owned water bottom or on a dual-claimed water bottom.

Present law requires a determination that the water bottom in question is a state-owned water bottom. Further requires suitability mapping. Proposed law removes both of these requirements.

Present law requires the Dept. of Wildlife and Fisheries to develop a suitability map to identify areas appropriate for alternative oyster cultivation and to determine where AOC activities are unsuitable. Requires that rules and regulations relative to alternative oyster cultivation be based on the suitability mapping, the coastal master plan and annual plan, and other information the department deems relevant. Proposed law provides that after July 1, 2017, the suitability map not be used. Provides, rather, that the department use any updated or revised information and coastal use permit requirements, along with the coastal master plan and annual plan.

Proposed law provides that if there is visible farming effort, the holder of a valid coastal use permit or mariculture permit issued for alternative oyster culture on water bottoms on private land has a right of first refusal to apply for a lease or a permit should a determination be made that the state owns the water bottom subject to the coastal use permit or mariculture permit.

Proposed law repeals the requirement that an AOC permit can only authorize alternative oyster culture activities on state-owned water bottoms.

(Amends R.S. 56:431.2(A)(1) and (C)(2); Adds R.S. 56:431.2(F); Repeals R.S. 56:431.2(B)(3)(d))