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GAME AND FISH Horseshoe Crabs: Define a Certain Term; Provide for the Opening and Closing of the Waters of the State to the Taking of Horseshoe Crabs for Bait; Limit the Taking of Horseshoe Crabs for Bait to Persons Who Possess a Valid Personal Commercial Fishing License; Prohibit the Taking and Possession of More Than Twenty-five Horseshoe Crabs; Provide for Interstate Transport of Horseshoe Crabs; Provide for the Taking and Possession of Horseshoe Crabs for Medical Purposes Pursuant to a Permit Issued by the Department of Natural Resources; Provide for Exceptions

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GAME AND FISH

Horseshoe Crabs: Define a Certain Term; Provide for the Opening and Closing of the Waters of the State to the Taking of Horseshoe Crabs for Bait; Limit the Taking of Horseshoe Crabs for Bait to Persons Who Possess a Valid Personal Commercial Fishing License; Prohibit the Taking and Possession of More Than Twenty-five Horseshoe Crabs; Provide for Interstate Transport of Horseshoe Crabs; Provide for the Taking and Possession of Horseshoe Crabs for Medical Purposes Pursuant to a Permit Issued by the Department of Natural Resources; Provide for Exceptions

CODE SECTIONS:	O.C.G.A. §§ 27-1-2 (amended), 27-4-172 (new)
BILL NUMBER:	HB 172
ACT NUMBER:	184
GEORGIA LAWS:	2001 Ga. Laws 323
SUMMARY:	The Act prohibits the taking of horseshoe crabs for bait except during certain specified times. In order to harvest horseshoe crabs, individuals must obtain a valid commercial fishing license, and are limited to twenty-five horseshoe crabs per person or seventy-five per boat. However, an exception is provided for approved uses in the medical field, as long as the taker has a valid permit issued by the Georgia Department of Natural Resources. Furthermore, the Act does not prohibit the interstate import of horseshoe crabs provided the importer has a bona fide bill of lading as proof that such horseshoe crabs were not taken from the State in violation of these sections.
EFFECTIVE DATE:	April 19, 2001 ¹

1. See 2001 Ga. Laws 323, §§ 3-4, at 324. The Act took effect upon approval by the Governor. See *id.*, § 4, at 324.

History

The prehistoric horseshoe crab is an extremely valuable member of the ecosystem with a variety of different uses.² Commercially, eel and whelk fisheries use horseshoe crabs as bait.³ In the area of medicine, biomedical and pharmacological industries use the crab's blood to test for the presence of bacterial endotoxins in intravenous drugs and medical equipment.⁴ Furthermore, migrating shorebirds use horseshoe crab eggs as a vital source of food.⁵

The status of current horseshoe populations is not well understood.⁶ Horseshoe crabs are slow to mature and therefore are susceptible to harvesting pressures.⁷ Horseshoe crab landings have historically undergone substantial fluctuation.⁸ Once used as fertilizer and livestock feed, horseshoe crab populations were almost wiped out in the 1940s.⁹ In the 1970s, the populations recovered only to see a resurgence in their use as bait for eel and whelk fisheries and the use of the crab's blood in the biomedical field.¹⁰

Concern over an increase in horseshoe crab harvesting, especially in the mid-Atlantic states, led to the 1999 enactment of an Interstate Fishery Management Plan for horseshoe crabs by the Atlantic States Marine Fisheries Commission.¹¹ This plan created horseshoe crab quotas for each east coast state from Maine to Florida which, if exceeded, could result in the Secretary of Commerce closing down the state's fishery.¹² Historically, Georgia's horseshoe crab harvest has been minimal.¹³ However, when mid-Atlantic states cut back on their harvests in 1999,

2. See Electronic Mail Interview with Susan Shipman, Chief, Marine Fisheries Section, Coastal Resources Division, Georgia Department of Natural Resources (Apr. 9, 2001) [hereinafter Shipman Interview].

3. See Telephone Interview with Rep. Greg Morris, House District No. 155 (Apr. 9, 2001).

4. See Shipman Interview, *supra* note 2; *Legislature Puts Limits on Fishing for Horseshoe Crabs, Billfish*, AP NEWSWIRE, Feb. 12, 2001, available in Westlaw, GANEWS database.

5. See *Federal Panel Limits Atlantic Horseshoe Crab Harvest*, AP NEWSWIRE, Feb. 10, 2000, available in Westlaw, GANEWS database [hereinafter *Federal Panel*].

6. See Shipman Interview, *supra* note 2.

7. See *id.*

8. See *id.*

9. See *id.*

10. See *id.*

11. See *id.*

12. See *id.*

13. See *id.* (noting that Georgia's average harvest over a ten-year period was less than two thousand crabs annually).

they looked to other states to fill their bait needs.¹⁴ As a result, Georgia experienced a huge upsurge in horseshoe crab harvesting, depleting the overall population.¹⁵ In 1999, over 29,000 crabs were harvested and sent to Virginia for use in their whelk fisheries.¹⁶

Fishermen from the mid-Atlantic states are worried about how the restrictions on horseshoe crabs will affect their livelihoods.¹⁷ Demand for horseshoe crabs is so high that one egg-filled female sells from seventy-five cents to one dollar on the bait market.¹⁸

Conservationists argue that horseshoe crabs are over-harvested and that the reduced number of crabs is causing a decline in the number of migratory shorebirds along the east coast because the shorebirds rely heavily on the horseshoe crab eggs for food.¹⁹ Further, conservationists contend that the depletion of crabs will negatively impact the biomedical industry, which depends on horseshoe crab blood for certain tests.²⁰

HB 172 was introduced to provide a management program for horseshoe crabs by creating fishing seasons and providing possession limits, while allowing harvest for biomedical purposes.²¹

HB 172

Representatives Bob Lane of House District 146 and Greg Morris of House District 155 sponsored HB 172.²² Representative Lane, the Chairman of the House Committee on Game, Fish and Parks, introduced HB 172 on the House floor on January 12, 2001, where it was assigned to Lane's Committee.²³ The Committee favorably reported the bill, as introduced, on January 25, 2001.²⁴ The House passed the bill (165-1) on January 26, 2001, without changes.²⁵

14. See Audio Recording of House Proceedings, Jan. 26, 2001 (remarks by Rep. Bob Lane), at <http://www.state.ga.us/services/leg/audio/2001archive.html>.

15. See *id.*

16. See Shipman Interview, *supra* note 2.

17. See *Federal Panel*, *supra* note 5.

18. See *id.*

19. See *id.*

20. See *id.*

21. See Shipman Interview, *supra* note 2.

22. See HB 171, as introduced, 2001 Ga. Gen. Assem.

23. See State of Georgia Final Composite Status Sheet, HB 172, Mar. 21, 2001.

24. See *id.*

25. See Georgia House of Representatives Voting Record, HB 172 (Jan. 26, 2001); State of Georgia Final Composite Status Sheet, HB 172, Mar. 21, 2001; see also Chad Roedemeier, *Marietta Republican Stands on Principle as Minority of One in the House*, AP NEWSWIRE, Feb. 11, 2001, available in Westlaw, GANEWS database (reporting that Rep. Bobby Franklin was the only representative to vote against HB 172 because he "didn't like the idea of state officials policing how many crabs were in

The bill was introduced in the Senate on January 29, 2001.²⁶ The Senate Natural Resources Committee favorably reported the bill, as introduced, on February 2, 2001.²⁷ The Senate passed the bill (53-0) on February 12, 2001, without changes.²⁸ Governor Roy Barnes signed HB 172 into law on April 19, 2001.²⁹

The Act

Section 1 of the Act amends the Game and Fish provisions of Title 27 of the Georgia Code by amending Code section 27-1-2, regarding the definition of seafood, to add language referring to horseshoe crabs taken for bait.³⁰

Section 2 of the Act creates new Code section 27-4-172.³¹ The Act closes the state salt waters to the taking of horseshoe crabs for bait unless they are open for the taking of shrimp, whelk, or blue crab by trawling.³² The Act requires any person engaged in taking horseshoe crabs for bait to possess a valid commercial fishing license.³³ Also, the Act limits the number of horseshoe crabs a person may possess to twenty-five for an individual or seventy-five on a boat, whichever is less.³⁴ The Act, however, provides an exception in that it will not be unlawful to take or possess horseshoe crabs for the purpose of collecting horseshoe crab blood for the production of amebocyte lysate or other approved medical uses, as long as the taker or possessor has a permit issued by the Department of Natural Resources.³⁵ These crabs, however, once taken pursuant to a medical takings permit, must be returned unharmed to state waters of comparable salinity and water quality as soon as is feasible after any blood collection.³⁶ Furthermore, the Act does not prohibit the interstate import of horseshoe crabs provided that

someone's possession").

26. See State of Georgia Final Composite Status Sheet, HB 172, Mar. 21, 2001.

27. See *id.*

28. See Georgia Senate Voting Record, HB 172 (Feb., 12, 2001); State of Georgia Final Composite Status Sheet, HB 172, Mar. 21, 2001.

29. See 2001 Ga. Laws 323, § 4, at 324.

30. Compare 1979 Ga. Laws 678, § 11, at 684 (formerly found at O.C.G.A. § 27-1-2(63) (Supp. 2000)), with O.C.G.A. § 27-1-2(63) (2001).

31. See O.C.G.A. § 27-4-172 (2001).

32. See *id.* § 27-4-172(a).

33. See *id.* § 27-4-172(b).

34. See *id.* § 27-4-172(c).

35. See *id.* § 27-4-172(d).

36. See *id.*

a bona fide bill of lading accompanies such horseshoe crabs as proof that the crabs were not taken or transported in violation of the Act's provisions.³⁷

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37. *See id.* § 27-4-172(e).