

**ASSEMBLY, No. 4243**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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INTRODUCED JUNE 13, 2022

**Sponsored by:**  
**Assemblyman EDWARD H. THOMSON**  
**District 30 (Monmouth and Ocean)**

**SYNOPSIS**

Establishes certain shellfish aquaculture activities as eligible for Right to Farm protections.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning shellfish aquaculture and amending and  
2 supplementing P.L.1983, c.31.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6

7 1. Section 3 of P.L.1983, c.31 (C.4:1C-3) is amended to read as  
8 follows:

9 3. As used in P.L.1983, c.31 (C.4:1C-1 et seq.):

10 “Board” or “county board” means a county agriculture  
11 development board established pursuant to section 7 of P.L.1983,  
12 c.32 (C.4:1C-14).

13 “Commercial farm” means (1) a farm management unit of no less  
14 than five acres producing agricultural or horticultural products  
15 worth \$2,500 or more annually, and satisfying the eligibility criteria  
16 for differential property taxation pursuant to the “Farmland  
17 Assessment Act of 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.), (2)  
18 a farm management unit less than five acres, producing agricultural  
19 or horticultural products worth \$50,000 or more annually and  
20 otherwise satisfying the eligibility criteria for differential property  
21 taxation pursuant to the “Farmland Assessment Act of 1964,”  
22 P.L.1964, c.48 (C.54:4-23.1 et seq.), or (3) a farm management unit  
23 that is a beekeeping operation producing honey or other agricultural  
24 or horticultural apiary-related products, or providing crop  
25 pollination services, worth \$10,000 or more annually.

26 “Committee” means the State Agriculture Development  
27 Committee established pursuant to section 4 of P.L.1983, c.31  
28 (C.4:1C-4).

29 “Farm management unit” means a parcel or parcels of land,  
30 whether contiguous or noncontiguous, together with agricultural or  
31 horticultural buildings, structures and facilities, producing  
32 agricultural or horticultural products, and operated as a single  
33 enterprise.

34 “Farm market” means a facility used for the wholesale or retail  
35 marketing of the agricultural output of a commercial farm, and  
36 products that contribute to farm income, except that if a farm  
37 market is used for retail marketing at least 51 **【%】** percent of the  
38 annual gross sales of the retail farm market shall be generated from  
39 sales of agricultural output of the commercial farm, or at least 51  
40 **【%】** percent of the sales area shall be devoted to the sale of  
41 agricultural output of the commercial farm, and except that if a  
42 retail farm market is located on land less than five acres in area, the  
43 land on which the farm market is located shall produce annually  
44 agricultural or horticultural products worth at least \$2,500.

**EXPLANATION** – Matter enclosed in bold-faced brackets **【thus】** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 “Full-time, year-round equine-related farm employee” means any  
2 person employed by the owner or operator of a commercial farm on  
3 a full-time, year-round basis to provide proper care and ensure the  
4 safety of horses on the commercial farm, including, but not limited  
5 to, a groom or other employee working in a stable. “Full-time,  
6 year-round equine-related farm employee” shall not include a  
7 migrant, seasonal, or temporary employee.

8 “Shellfish” means the same as the term is defined in section b. of  
9 R.S.50:1-5).

10 “Shellfish aquaculture” means the propagation, rearing, and  
11 subsequent harvesting of shellfish in controlled or selected  
12 environments, and the subsequent processing, packaging, and  
13 marketing of such shellfish, and includes activities to intervene in  
14 the rearing process to increase production such as stocking, feeding,  
15 transplanting, and providing for protection from predators.

16 “Shellfish aquaculture management unit” means an area used by  
17 a shellfish commercial farm, including any leased, riparian, nursery,  
18 hatchery, or farm market property listed in an approved aquatic  
19 farmers license issued pursuant to R.S.50:2-2 or a valid commercial  
20 shellfish aquaculture permit issued by the Department of  
21 Environmental Protection and including any property used for  
22 shellfish post-harvest activities.

23 “Shellfish commercial farm” means a shellfish aquaculture  
24 management unit that engages in shellfish aquaculture and produces  
25 shellfish worth \$40,000 or more annually, or if new, has the  
26 capacity to produce shellfish worth \$40,000 or more annually.

27 “Shellfish farm market” means a structure co-located with a  
28 shellfish post-harvest activities facility that is part of the shellfish  
29 aquaculture management unit used for the wholesale or retail  
30 marketing of the shellfish output of a shellfish commercial farm,  
31 and products that contribute to farm income, except that if a  
32 shellfish farm market is used for retail marketing at least 51 percent  
33 of the annual gross sales of the retail farm market shall be generated  
34 from sales of shellfish output of the shellfish commercial farm, or at  
35 least 51 percent of the sales area shall be devoted to the sale of  
36 shellfish output of the shellfish commercial farm.

37 “Shellfish post-harvest activities” means the storage, processing,  
38 and packaging activities carried out at a single enterprise.

39 “Single enterprise” means a person, including a business entity,  
40 that coordinates operations and combines resources in pursuit of the  
41 same business purpose, as evidenced by items including, but not  
42 limited to: common owners, principals, managers, directors,  
43 shareholders, or employees; integrated business records, financial  
44 statements, and tax returns; shared business resources; centralized  
45 accounting processes; commingling of income or expenses; the  
46 sharing of profits, losses, or liabilities; or common bank accounts.

47 (cf: P.L.2020, c.154, s.1)

2. (New section) Notwithstanding the provisions of any municipal or county ordinance, resolution, or regulation to the contrary, the owner or operator of a shellfish commercial farm that is located in an area in which, as of December 31, 1997 or thereafter, agriculture is a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan, or that is in operation as of the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) and is located in an area zoned for commercial or industrial use, or that is located in the coastal area as designated pursuant to section 4 of P.L.1973, c.185 (C.13:19-4) and zoned for commercial or industrial use, or that is located on land under tidal waters that the shellfish commercial farm has the authority to use pursuant to a riparian grant or lease granted pursuant to R.S.12:3-2 et seq., and that operates in conformance with agricultural management practices recommended by the committee and adopted pursuant to the provisions of the “Administrative Procedure Act,” P.L.1968, c410 (C.52:14B-1 et seq.), or whose specific operation or practice has been determined by the appropriate county board, or the committee in a county where no county board exists, to constitute a generally accepted agricultural operation or practice, and that operates in conformance with all relevant federal or State statutes or rules and regulations adopted pursuant thereto, and that does not pose a direct threat to public health and safety may:

a. Produce shellfish as described in the Standard Industrial Classification for shellfish farming or, after the operative date of the regulations adopted pursuant to section 5 of P.L.2003, c.157 (C.4:1C-9.1), included under the corresponding classification under the North American Industry Classification System;

b. Process and package the shellfish output of the shellfish commercial farm;

c. Provide for the operation of a shellfish farm market, including the construction of a building and parking area in conformance with municipal standards;

d. Control pests, predators, and diseases of shellfish;

e. Conduct on-site disposal of organic waste on land, other than on land under tidal waters, included in the shellfish aquaculture management unit;

f. Recycle shells on land included in the shellfish aquaculture management unit; and

g. Conduct agriculture-related educational and farm-based recreational activities provided the activities are related to marketing the shellfish output of the shellfish commercial farm.

3. (New section) In all relevant actions filed subsequent to the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), there shall exist an irrebuttable presumption that no shellfish commercial farm’s operation, activity, or structure

1 that conforms to agricultural management practices recommended  
2 by the committee and adopted pursuant to the provisions of the  
3 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-  
4 1 et seq.), or specific operation or practice that has been determined  
5 by the appropriate county board, or the committee in a county  
6 where no county board exists, to constitute a generally accepted  
7 agricultural operation or practice, and that conforms to all relevant  
8 federal or State statutes or rules and regulations adopted pursuant  
9 thereto, and that do not pose a direct threat to public health and  
10 safety, shall constitute a public or private nuisance, nor shall any  
11 such operation, activity, or structure be deemed to otherwise invade  
12 or interfere with the use and enjoyment of any other land or  
13 property.

14  
15 4. (New section) A shellfish aquaculture management unit that  
16 qualifies as a shellfish commercial farm pursuant to  
17 P.L. , c. (C. ) (pending before the Legislature as this bill)  
18 because it is a shellfish aquaculture operation producing shellfish  
19 worth \$40,000 or more annually, or if new, has the capacity to  
20 produce shellfish worth \$40,000 or more annually, shall be entitled  
21 to the applicable protections as set forth in section 3 of  
22 P.L. , c. (C. ) (pending before the Legislature as this bill), but  
23 not for agricultural or horticultural activities that are not shellfish  
24 aquaculture-related, unless the shellfish aquaculture management  
25 unit also qualifies as a commercial farm pursuant to section 3 of  
26 P.L.1983, c.31 (C.4:1C-3).

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28 5. This act shall take effect immediately.  
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## 31 STATEMENT

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33 This bill would amend and supplement the “Right to Farm Act,”  
34 P.L.1983, c.31 (C.4:1C-1 et al.), to specify that certain shellfish  
35 aquaculture activities are eligible for Right to Farm Act protections.

36 Under current law, to be eligible for Right to Farm protection, a  
37 farm must meet the definition of “commercial farm” and comply  
38 with agricultural management practices that are either generally  
39 accepted or have been formally adopted by the State Agriculture  
40 Development Committee (SADC) through the administrative  
41 rulemaking process. The SADC has adopted agricultural  
42 management practices in 12 areas, one of which is aquaculture. In  
43 addition, under current law, section 6 of P.L.1997, c.236 (C.4:27-6),  
44 aquaculture is considered a component of agriculture in the State,  
45 and aquacultured plants and animals are considered to be  
46 agriculture crops and animals.

47 This bill would establish “shellfish commercial farms” as  
48 eligible for Right to Farm Act protections. The bill defines

1 “shellfish commercial farm” as a shellfish aquaculture management  
2 unit engaging in shellfish aquaculture and producing shellfish  
3 worth\$40,000 or more annually, or if new, the capacity to produce  
4 shellfish worth \$40,000 or more annually. Under the bill, the  
5 shellfish aquaculture management unit would not need to qualify  
6 for farmland assessment in order to receive Right to Farm Act  
7 protections.