

FISHING

directed to Section 1827, Compiled General Laws of Florida, 1927. The first part of said Section relating to amount of license appears to be superseded by Section 1866, Compiled General Laws of Florida, 1927, being Section 7 of Chapter 10123 of 1925.

The last part of said Section 1827 defines salt water fish dealers as follows:

"A wholesale fish dealer shall be considered any one who sells fish to a retail dealer other than the person who catches the fish, and a retail dealer shall be considered any one who sells fish, directly to the consumer."

Under such definition it appears that the parties mentioned in your letter do not come under the definition of either a wholesale or retail salt water fish dealer.

November 21, 1933

APPROPRIATION FOR PLANTING AND REHABILITATING NATURAL REEFS OR BEDS A CONTINUING APPROPRIATION

Dear Sir:

Answering your letter of the 16th instant, I beg to say in my opinion the appropriation for planting and rehabilitating natural oyster reefs or oyster beds, in Chapter 14530, Laws of Florida, Acts of 1929, is a continuing appropriation, and any unexpended balance of such appropriation is available for use of the Conservation Commission to be expended for the purposes of and in accordance with the provisions of said Act.

November 21, 1933

TAKING BY USE OF DIVING BELL PROHIBITED

Dear Sir:

I am in receipt of your letter of the 20th instant, making inquiry as to the use of a machine for the purpose of gathering sponges, the machine being a bell operated on the same principle as a diving bell, swinging from a surface boat and moving along within two or three feet of the floor of the ocean, in which the diver sits and gathers sponges with a knife or hook, much the same as if he were walking.

The only statute found on the subject is Section 8087, Compiled General Laws of Florida 1927, reading as follows, the amendment by Chapter 14545, Acts of 1929, being declared invalid in the case of Lipscomb vs Gialourakis, 101 Fla. 1130, 133 So. 104:

"It shall be unlawful for any person, persons, firm or corporation to maintain and use for the purpose of catching or taking commercial sponges from the Gulf of Mexico, or the

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FISHING

Straits of Florida or other waters within the territorial limits of the State of Florida, *diving suits, helmets, or other apparatus used by deep sea divers.*

"Anyone violating any of the provisions of this section shall be fined in the sum not exceeding five hundred dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment."

Without a complete knowledge of the machine in question, and its operation, I could not express a definite opinion on the subject of your inquiry, but from its nature and operation as recited in your letter, I am inclined to think that the courts would hold that the use of such machine would be unlawful under the provisions of Section 8087 above quoted. If the machine is an "apparatus used by deep sea divers," the use of same, in my opinion, would be clearly unlawful.

April 11, 1934

CLOSED SEASON IN MANATEE, PINELLAS AND HILLSBOROUGH
COUNTIES GOVERNED BY GENERAL LAW AND NOT
SPECIAL LAW

Dear Sir:

I am in receipt of your letter of the 10th inst., calling my attention to Chapter 7600 of 1917, a Special Act regulating the catching and shipment of stone crabs in Manatee, Pinellas and Hillsborough Counties. You also call my attention to Chapter 13616 of 1929, a General Act on the same subject applying to the State generally.

You make inquiry if the counties of Manatee, Pinellas and Hillsborough are governed by the closed season prescribed by said Special Act, Chapter 7600 of 1917, or by the closed season prescribed by the later General Act, Chapter 13616 of 1929.

The rule is that a general law does not repeal or modify a Special law unless the General Act is a general revision of the whole subject or unless the two Acts are so repugnant as to indicate a legislative intent that one should repeal the other.

The later General Act, Chapter 13616 of 1927, appears to be a general revision of the whole subject of catching and shipping stone crabs, and Section 4 of said Act provides that "All laws and parts of laws in conflict herewith are hereby repealed."

In my opinion the closed season on stone crabs prescribed for Manatee, Pinellas and Hillsborough Counties by Chapter 7600 is no longer effective, but that said counties, as well as other counties of the State are governed by the provisions of Chapter 13616 of 1929 as to such closed season.