

ASSEMBLY AGRICULTURE AND FOOD SECURITY
COMMITTEE

STATEMENT TO

SENATE, No. 428

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 19, 2023

The Assembly Agriculture and Food Security Committee reports favorably Senate Bill No. 428 with committee amendments.

As amended by the committee, this bill amends and supplements the “Right to Farm Act,” P.L.1983, c.31 (C.4:1C-1 et al.), to specify that certain shellfish aquaculture activities are eligible for Right to Farm Act protections.

This bill would establish “shellfish commercial farms” as eligible for Right to Farm Act protections. The bill defines “shellfish commercial farm” as a shellfish aquaculture management unit engaging in shellfish aquaculture and producing shellfish worth \$40,000 or more annually. Under the bill, the shellfish aquaculture management unit would not need to qualify for farmland assessment in order to receive Right to Farm Act protections.

Under current law, to be eligible for Right to Farm protection, a farm must meet the definition of “commercial farm” and comply with agricultural management practices that are either generally accepted or have been formally adopted by the State Agriculture Development Committee (SADC) through the administrative rulemaking process.

As amended and reported by the committee, this bill is identical to the Assembly committee substitute reported by the committee for Assembly Bill No. 3039.

COMMITTEE AMENDMENTS

The committee amendments to the bill would:

1) revise the definition section to delete the definitions for “aquaculture,” “aquaculture management unit,” and “aquatic organism”; delete the proposed amendments to the definition of “commercial farm”; and add definitions for “shellfish,” “shellfish aquaculture,” “shellfish aquaculture management unit,” “shellfish commercial farm,” “shellfish farm market,” “shellfish post-harvest activities,” and “single enterprise”;

2) specify that a person aggrieved by the operation of a shellfish commercial farm is to file a complaint in the same manner provided in law for a person aggrieved by the operation of a commercial farm;

3) provide that a shellfish aquaculture management unit that qualifies as a shellfish commercial farm will be entitled to certain protections established in section 4 of the bill, and specify the authorized activities of a shellfish commercial farm;

4) add a new section 4 establishing an irrebuttable presumption that a shellfish commercial farm's operation, activity, or structure does not pose a direct threat to public health and safety, does not constitute a public or private nuisance, and does not otherwise invade or interfere with the use and enjoyment of any other land or property, provided that the operation, activity, or structure conforms to certain specified criteria; and

5) make technical amendments, including updating the title and renumbering the sections of the bill.