

1 A bill to be entitled
2 An act relating to the Fish and Wildlife Conservation
3 Commission; transferring and reassigning functions and
4 responsibilities of the Division of Law Enforcement,
5 excluding the Bureau of Emergency Response, within the
6 Department of Environmental Protection to the Division
7 of Law Enforcement within the Fish and Wildlife
8 Conservation Commission; reassigning the Bureau of
9 Emergency Response within the Department of
10 Environmental Protection to the Secretary of
11 Environmental Protection as the Office of Emergency
12 Response within the Department of Environmental
13 Protection; providing for the transfer of additional
14 positions to the commission; providing for a
15 memorandum of agreement between the department and the
16 commission regarding the responsibilities of the
17 commission to the department; transferring and
18 reassigning functions and responsibilities of sworn
19 positions funded by the Conservation and Recreation
20 Lands Program and assigned to the Florida Forest
21 Service within the Department of Agriculture and
22 Consumer Services and the investigator responsible for
23 the enforcement of aquaculture violations at the
24 Department of Agriculture and Consumer Services to the
25 Division of Law Enforcement within the Fish and
26 Wildlife Conservation Commission; providing for a
27 memorandum of agreement between the department and the
28 commission regarding the responsibilities between the

29 | commission and the department; providing for
 30 | transition advisory working groups; assigning powers,
 31 | duties, responsibilities, and functions for
 32 | enforcement of the laws and rules governing certain
 33 | lands managed by the Department of Environmental
 34 | Protection and certain lands and aquaculture managed
 35 | by the Department of Agriculture and Consumer Services
 36 | to the Fish and Wildlife Conservation Commission;
 37 | conferring full power to the law enforcement officers
 38 | of the Fish and Wildlife Conservation Commission to
 39 | investigate and arrest for violations of rules of the
 40 | Department of Agriculture and Consumer Services, the
 41 | Department of Environmental Protection, and the Board
 42 | of Trustees of the Internal Improvement Trust Fund;
 43 | authorizing salary parity and other pay adjustments
 44 | for positions transferred by this act; providing for
 45 | the retention and transfer of specified benefits for
 46 | employees that are transferred from the Department of
 47 | Environmental Protection and the Department of
 48 | Agriculture and Consumer Services to fill positions
 49 | transferred to the Fish and Wildlife Conservation
 50 | Commission; creating s. 258.601, F.S.; specifying
 51 | powers and duties of the commission relating to state
 52 | parks and preserves and wild and scenic rivers;
 53 | amending ss. 20.255, 258.008, 258.501, 282.709,
 54 | 316.003, 316.2397, 316.640, 375.041, 376.065, 376.07,
 55 | 376.071, 376.16, 376.3071, 379.3311, 379.3312,
 56 | 379.3313, 379.333, 379.341, 379.343, 403.413, 784.07,

57 843.08, 843.085, 870.04, and 932.7055, F.S.;

58 conforming provisions to changes made by the act;

59 providing an effective date.

60

61 Be It Enacted by the Legislature of the State of Florida:

62

63 Section 1. (1) All powers, duties, functions, records,

64 offices, personnel, property, pending issues and existing

65 contracts, administrative authority, administrative rules, and

66 unexpended balances of appropriations, allocations, and other

67 funds relating to the Division of Law Enforcement within the

68 Department of Environmental Protection, excluding the Bureau of

69 Emergency Response, are transferred by a type two transfer, as

70 defined in s. 20.06(2), Florida Statutes, to the Division of Law

71 Enforcement within the Florida Fish and Wildlife Conservation

72 Commission.

73 (2) The Bureau of Emergency Response within the Department

74 of Environmental Protection is reassigned to the Secretary of

75 Environmental Protection as the Office of Emergency Response

76 within the Department of Environmental Protection.

77 (3) The Secretary of Environmental Protection shall

78 transfer to the Fish and Wildlife Conservation Commission the

79 number of administrative, auditing, inspector general, attorney,

80 and operational support positions, including any related powers,

81 duties, functions, property, and funding, proportionate to the

82 number of Division of Law Enforcement full-time equivalent and

83 other personal services positions being transferred from the

84 department to the commission.

85 (4) A memorandum of agreement shall be developed between
 86 the department and the commission detailing the responsibilities
 87 of the commission to the department, to include, at a minimum,
 88 the following:

89 (a) Support and response for oil spills, hazardous spills,
 90 and natural disasters.

91 (b) Law enforcement patrol and investigative services for
 92 all state-owned lands managed by the department.

93 (c) Law enforcement services, including investigative
 94 services, for all criminal law violations of chapters 161, 258,
 95 373, 376, and 403, Florida Statutes.

96 (d) Enforcement services for all civil violations of all
 97 department administrative rules related to the following program
 98 areas:

99 1. Division of Recreation and Parks.

100 2. Office of Coastal and Aquatic Managed Areas.

101 3. Office of Greenways and Trails.

102 (e) Current and future funding for positions and property
 103 being transferred from the department to the commission that is
 104 funded through any trust fund.

105 Section 2. (1) All powers, duties, functions, records,
 106 property, pending issues and existing contracts, administrative
 107 authority, administrative rules, and unexpended balances of
 108 appropriations, allocations, and other funds relating to sworn
 109 positions funded by the Conservation and Recreation Lands
 110 Program and assigned to the Florida Forest Service within the
 111 Department of Agriculture and Consumer Services as of July 1,
 112 2011, and the investigator responsible for the enforcement of

113 aquaculture violations at the Department of Agriculture and
114 Consumer Services as of July 1, 2011, are transferred by a type
115 two transfer, as defined in s. 20.06(2), Florida Statutes, to
116 the Division of Law Enforcement within the Fish and Wildlife
117 Conservation Commission.

118 (2) A memorandum of agreement shall be developed between
119 the department and the commission detailing the responsibilities
120 between the commission and the department, to include, at a
121 minimum, the following:

122 (a) Law enforcement patrol and investigative services for
123 all state-owned forests managed by the department.

124 (b) Current and future funding for positions and property
125 assigned to the Conservation and Recreation Lands Program that
126 are transferred from the department to the commission.

127 Section 3. (1) The Secretary of Environmental Protection
128 and the Executive Director of the Fish and Wildlife Conservation
129 Commission shall each appoint three staff members to a
130 transition advisory working group to review and determine the
131 following:

132 (a) The appropriate proportionate number of
133 administrative, auditing, inspector general, attorney, and
134 operational support positions and their related funding levels
135 and sources and assigned property to be transferred from the
136 Office of General Counsel, Office of Inspector General, and
137 Division of Administrative Services or other relevant offices or
138 divisions within the Department of Environmental Protection to
139 the Fish and Wildlife Conservation Commission.

140 (b) The development of a recommended plan addressing the

CS/HB 1383

2012

141 transfer or shared use of buildings, regional offices, and other
142 facilities used or owned by the Department of Environmental
143 Protection.

144 (c) Any operating budget adjustments as necessary to
145 implement the requirements of this act. Adjustments made to the
146 operating budgets of the department and the commission in the
147 implementation of this act must be made in consultation with the
148 appropriate substantive and fiscal committees of the Senate and
149 the House of Representatives. The revisions to the approved
150 operating budgets for the 2012-2013 fiscal year which are
151 necessary to reflect the organizational changes made by this act
152 shall be implemented pursuant to s. 216.292(4)(d), Florida
153 Statutes, and subject to s. 216.177, Florida Statutes.

154 Subsequent adjustments between agencies that are determined
155 necessary by the department or commission and approved by the
156 Executive Office of the Governor are authorized and subject to
157 s. 216.177, Florida Statutes. The appropriate substantive
158 committees of the Senate and the House of Representatives shall
159 also be notified of the proposed revisions to ensure consistency
160 with legislative policy and intent.

161 (2) The Secretary of Environmental Protection, the
162 Commissioner of Agriculture, and the Executive Director of the
163 Fish and Wildlife Conservation Commission shall each appoint two
164 staff members to a transition advisory working group to identify
165 rules of the Department of Environmental Protection, the Board
166 of Trustees of the Internal Improvement Trust Fund, the
167 Department of Agriculture and Consumer Services, and the Fish

168 and Wildlife Conservation Commission that need to be amended to
169 reflect the changes made by this act.

170 Section 4. (1) The Fish and Wildlife Conservation
171 Commission is assigned all powers, duties, responsibilities,
172 functions, positions, and property necessary for enforcement of
173 the laws and rules governing:

174 (a) Management, protection, conservation, improvement, and
175 expansion of the state-owned lands managed by the Department of
176 Environmental Protection, including state parks, coastal and
177 aquatic managed areas, and greenways and trails.

178 (b) Conservation and recreation lands and commercial
179 aquaculture managed by the Department of Agriculture and
180 Consumer Services.

181 (2) Law enforcement officers of the Fish and Wildlife
182 Conservation Commission are conferred full power to investigate
183 and arrest for any violation of the rules of the Department of
184 Agriculture and Consumer Services, the Department of
185 Environmental Protection, and the Board of Trustees of the
186 Internal Improvement Trust Fund.

187 Section 5. (1) Notwithstanding ss. 110.2035 and 216.251,
188 Florida Statutes, the Division of Law Enforcement within the
189 Fish and Wildlife Conservation Commission may use available
190 funds to provide for general salary increases or pay additives
191 for positions sharing the same job classification or job
192 occupations in order to bring pay parity between positions of
193 the Fish and Wildlife Conservation Commission and the positions
194 transferring to the commission from the Department of
195 Agriculture and Consumer Services and the Department of

196 Environmental Protection and for those positions assuming
 197 significant additional duties or an increased work load as a
 198 result of this act.

199 (2) Notwithstanding chapter 60K-5, Florida Administrative
 200 Code, or any provision of law to the contrary, employees who are
 201 transferred from the Department of Environmental Protection and
 202 the Department of Agriculture and Consumer Services to fill
 203 positions transferred to the Fish and Wildlife Conservation
 204 Commission shall retain and transfer any accrued annual leave,
 205 sick leave, and regular and special compensatory leave balances.

206 Section 6. Part IV of chapter 258, Florida Statutes,
 207 consisting of section 258.601, is created to read:

208 PART IV

209 MISCELLANEOUS PROVISIONS

210 258.601 Enforcement of prohibited activities.-Prohibited
 211 activities under this chapter shall be enforced by the
 212 Department of Environmental Protection and the Division of Law
 213 Enforcement of the Fish and Wildlife Conservation Commission and
 214 its officers.

215 Section 7. Subsections (5) through (8) of section 20.255,
 216 Florida Statutes, are renumbered as subsections (4) through (7),
 217 respectively, and present subsections (2), (3), and (4) of that
 218 section are amended to read:

219 20.255 Department of Environmental Protection.-There is
 220 created a Department of Environmental Protection.

221 (2) (a) There shall be three deputy secretaries who are to
 222 be appointed by and shall serve at the pleasure of the
 223 secretary. The secretary may assign any deputy secretary the

224 responsibility to supervise, coordinate, and formulate policy
 225 for any division, office, or district. The following special
 226 offices are established and headed by managers, each of whom is
 227 to be appointed by and serve at the pleasure of the secretary:

- 228 1. Office of Chief of Staff;
- 229 2. Office of General Counsel;
- 230 3. Office of Inspector General;
- 231 4. Office of External Affairs;
- 232 5. Office of Legislative Affairs;
- 233 6. Office of Intergovernmental Programs; and
- 234 7. Office of Greenways and Trails.
- 235 8. Office of Emergency Response.

236 (b) There shall be six administrative districts involved
 237 in regulatory matters of waste management, water resource
 238 management, wetlands, and air resources, which shall be headed
 239 by managers, each of whom is to be appointed by and serve at the
 240 pleasure of the secretary. Divisions of the department may have
 241 one assistant or two deputy division directors, as required to
 242 facilitate effective operation.

243
 244 The managers of all divisions and offices specifically named in
 245 this section and the directors of the six administrative
 246 districts are exempt from part II of chapter 110 and are
 247 included in the Senior Management Service in accordance with s.
 248 110.205(2)(j).

249 (3) The following divisions of the Department of
 250 Environmental Protection are established:

- 251 (a) Division of Administrative Services.

- 252 (b) Division of Air Resource Management.
- 253 (c) Division of Water Resource Management.
- 254 ~~(d) Division of Law Enforcement.~~
- 255 (d)~~(e)~~ Division of Environmental Assessment and
- 256 Restoration.
- 257 (e)~~(f)~~ Division of Waste Management.
- 258 (f)~~(g)~~ Division of Recreation and Parks.
- 259 (g)~~(h)~~ Division of State Lands, the director of which is
- 260 to be appointed by the secretary of the department, subject to
- 261 confirmation by the Governor and Cabinet sitting as the Board of
- 262 Trustees of the Internal Improvement Trust Fund.

263

264 In order to ensure statewide and intradepartmental consistency,

265 the department's divisions shall direct the district offices and

266 bureaus on matters of interpretation and applicability of the

267 department's rules and programs.

268 ~~(4) Law enforcement officers of the Department of~~

269 ~~Environmental Protection who meet the provisions of s. 943.13~~

270 ~~are constituted law enforcement officers of this state with full~~

271 ~~power to investigate and arrest for any violation of the laws of~~

272 ~~this state, and the rules of the department and the Board of~~

273 ~~Trustees of the Internal Improvement Trust Fund. The general~~

274 ~~laws applicable to investigations, searches, and arrests by~~

275 ~~peace officers of this state apply to such law enforcement~~

276 ~~officers.~~

277 Section 8. Subsection (1) of section 258.008, Florida

278 Statutes, is amended to read:

279 258.008 Prohibited activities; penalties.-

280 (1) Except as provided in subsection (3), any person who
 281 violates or otherwise fails to comply with the rules adopted
 282 under this chapter commits a noncriminal infraction for which
 283 ejection from all property managed by the Division of Recreation
 284 and Parks and a fine of up to \$500 may be imposed by the
 285 division. Fines paid under this subsection shall be paid to the
 286 Fish and Wildlife Conservation Commission ~~Department of~~
 287 ~~Environmental Protection~~ and deposited in the State Game Park
 288 Trust Fund as provided in ss. 379.338, 379.339, and 379.3395.

289 Section 9. Subsection (16) of section 258.501, Florida
 290 Statutes, is amended to read:

291 258.501 Myakka River; wild and scenic segment.—

292 (16) ENFORCEMENT.—~~Officers of~~ The department and the Fish
 293 and Wildlife Conservation Commission shall have full authority
 294 to enforce any rule adopted by the department ~~under this section~~
 295 ~~with the same police powers given them by law to enforce the~~
 296 ~~rules of state parks and the rules pertaining to saltwater areas~~
 297 ~~under the jurisdiction of the Florida Marine Patrol.~~

298 Section 10. Paragraph (a) of subsection (2) of section
 299 282.709, Florida Statutes, is amended to read:

300 282.709 State agency law enforcement radio system and
 301 interoperability network.—

302 (2) The Joint Task Force on State Agency Law Enforcement
 303 Communications is created adjunct to the department to advise
 304 the department of member-agency needs relating to the planning,
 305 designing, and establishment of the statewide communication
 306 system.

307 (a) The Joint Task Force on State Agency Law Enforcement

308 Communications shall consist of the following ~~eight~~ members, ~~as~~
 309 ~~follows~~:

310 1. A representative of the Division of Alcoholic Beverages
 311 and Tobacco of the Department of Business and Professional
 312 Regulation who shall be appointed by the secretary of the
 313 department.

314 2. A representative of the Division of Florida Highway
 315 Patrol of the Department of Highway Safety and Motor Vehicles
 316 who shall be appointed by the executive director of the
 317 department.

318 3. A representative of the Department of Law Enforcement
 319 who shall be appointed by the executive director of the
 320 department.

321 4. A representative of the Fish and Wildlife Conservation
 322 Commission who shall be appointed by the executive director of
 323 the commission.

324 ~~5. A representative of the Division of Law Enforcement of~~
 325 ~~the Department of Environmental Protection who shall be~~
 326 ~~appointed by the secretary of the department.~~

327 ~~5.6.~~ A representative of the Department of Corrections who
 328 shall be appointed by the secretary of the department.

329 ~~6.7.~~ A representative of the Division of State Fire
 330 Marshal of the Department of Financial Services who shall be
 331 appointed by the State Fire Marshal.

332 ~~7.8.~~ A representative of the Department of Transportation
 333 who shall be appointed by the secretary of the department.

334 Section 11. Subsection (1) of section 316.003, Florida
 335 Statutes, is amended to read:

336 316.003 Definitions.—The following words and phrases, when
 337 used in this chapter, shall have the meanings respectively
 338 ascribed to them in this section, except where the context
 339 otherwise requires:

340 (1) AUTHORIZED EMERGENCY VEHICLES.—Vehicles of the fire
 341 department (fire patrol), police vehicles, and such ambulances
 342 and emergency vehicles of municipal departments, public service
 343 corporations operated by private corporations, the Fish and
 344 Wildlife Conservation Commission, the Department of
 345 Environmental Protection, the Department of Health, the
 346 Department of Transportation, and the Department of Corrections
 347 as are designated or authorized by their respective department
 348 or the chief of police of an incorporated city or any sheriff of
 349 any of the various counties.

350 Section 12. Subsections (3) and (9) of section 316.2397,
 351 Florida Statutes, are amended to read:

352 316.2397 Certain lights prohibited; exceptions.—

353 (3) Vehicles of the fire department and fire patrol,
 354 including vehicles of volunteer firefighters as permitted under
 355 s. 316.2398, vehicles of medical staff physicians or technicians
 356 of medical facilities licensed by the state as authorized under
 357 s. 316.2398, ambulances as authorized under this chapter, and
 358 buses and taxicabs as authorized under s. 316.2399 may are
 359 ~~permitted to~~ show or display red lights. Vehicles of the fire
 360 department, fire patrol, police vehicles, and such ambulances
 361 and emergency vehicles of municipal and county departments,
 362 public service corporations operated by private corporations,
 363 the Fish and Wildlife Conservation Commission, the Department of

CS/HB 1383

2012

364 Environmental Protection, the Department of Transportation, the
365 Department of Agriculture and Consumer Services, and the
366 Department of Corrections as are designated or authorized by
367 their respective department or the chief of police of an
368 incorporated city or any sheriff of any county may ~~are hereby~~
369 ~~authorized to~~ operate emergency lights and sirens in an
370 emergency. Wreckers, mosquito control fog and spray vehicles,
371 and emergency vehicles of governmental departments or public
372 service corporations may show or display amber lights when in
373 actual operation or when a hazard exists provided they are not
374 used going to and from the scene of operation or hazard without
375 specific authorization of a law enforcement officer or law
376 enforcement agency. Wreckers must use amber rotating or flashing
377 lights while performing recoveries and loading on the roadside
378 day or night, and may use such lights while towing a vehicle on
379 wheel lifts, slings, or under reach if the operator of the
380 wrecker deems such lights necessary. A flatbed, car carrier, or
381 rollback may not use amber rotating or flashing lights when
382 hauling a vehicle on the bed unless it creates a hazard to other
383 motorists because of protruding objects. Further, escort
384 vehicles may show or display amber lights when in the actual
385 process of escorting overdimensioned equipment, material, or
386 buildings as authorized by law. Vehicles owned or leased by
387 private security agencies may show or display green and amber
388 lights, with either color being no greater than 50 percent of
389 the lights displayed, while the security personnel are engaged
390 in security duties on private or public property.

391 (9) Flashing red lights may be used by emergency response
 392 vehicles of the Fish and Wildlife Conservation Commission, the
 393 Department of Environmental Protection, and the Department of
 394 Health when responding to an emergency in the line of duty.

395 Section 13. Paragraph (a) of subsection (1) of section
 396 316.640, Florida Statutes, is amended to read:

397 316.640 Enforcement.—The enforcement of the traffic laws
 398 of this state is vested as follows:

399 (1) STATE.—

400 (a)1.a. The Division of Florida Highway Patrol of the
 401 Department of Highway Safety and Motor Vehicles; the Division of
 402 Law Enforcement of the Fish and Wildlife Conservation
 403 Commission; ~~the Division of Law Enforcement of the Department of~~
 404 ~~Environmental Protection;~~ and the agents, inspectors, and
 405 officers of the Department of Law Enforcement each have
 406 authority to enforce all of the traffic laws of this state on
 407 all the streets and highways thereof and elsewhere throughout
 408 the state wherever the public has a right to travel by motor
 409 vehicle.

410 b. University police officers may ~~shall have authority to~~
 411 enforce all of the traffic laws of this state when violations
 412 occur on or within 1,000 feet of any property or facilities that
 413 are under the guidance, supervision, regulation, or control of a
 414 state university, a direct-support organization of such state
 415 university, or any other organization controlled by the state
 416 university or a direct-support organization of the state
 417 university, or when such violations occur within a specified
 418 jurisdictional area as agreed upon in a mutual aid agreement

CS/HB 1383

2012

419 entered into with a law enforcement agency pursuant to s.
420 23.1225(1). Traffic laws may also be enforced off-campus when
421 hot pursuit originates on or within 1,000 feet of any such
422 property or facilities, or as agreed upon in accordance with the
423 mutual aid agreement.

424 c. Community college police officers may ~~shall have the~~
425 ~~authority to~~ enforce all the traffic laws of this state only
426 when such violations occur on any property or facilities that
427 are under the guidance, supervision, regulation, or control of
428 the community college system.

429 d. Police officers employed by an airport authority may
430 ~~shall have the authority to~~ enforce all of the traffic laws of
431 this state only when such violations occur on any property or
432 facilities that are owned or operated by an airport authority.

433 (I) An airport authority may employ as a parking
434 enforcement specialist any individual who successfully completes
435 a training program established and approved by the Criminal
436 Justice Standards and Training Commission for parking
437 enforcement specialists but who does not otherwise meet the
438 uniform minimum standards established by the commission for law
439 enforcement officers or auxiliary or part-time officers under s.
440 943.12. ~~Nothing in~~ This sub-sub-subparagraph may not ~~shall~~ be
441 construed to permit the carrying of firearms or other weapons,
442 nor shall such parking enforcement specialist have arrest
443 authority.

444 (II) A parking enforcement specialist employed by an
445 airport authority may ~~is authorized to~~ enforce all state,
446 county, and municipal laws and ordinances governing parking only

447 when such violations are on property or facilities owned or
448 operated by the airport authority employing the specialist, by
449 appropriate state, county, or municipal traffic citation.

450 e. The Office of Agricultural Law Enforcement of the
451 Department of Agriculture and Consumer Services may ~~shall have~~
452 ~~the authority to~~ enforce traffic laws of this state.

453 f. School safety officers may ~~shall have the authority to~~
454 enforce all of the traffic laws of this state when such
455 violations occur on or about any property or facilities that
456 ~~which~~ are under the guidance, supervision, regulation, or
457 control of the district school board.

458 2. An agency of the state as described in subparagraph 1.
459 is prohibited from establishing a traffic citation quota. A
460 violation of this subparagraph is not subject to the penalties
461 provided in chapter 318.

462 3. Any disciplinary action taken or performance evaluation
463 conducted by an agency of the state as described in subparagraph
464 1. of a law enforcement officer's traffic enforcement activity
465 must be in accordance with written work-performance standards.
466 Such standards must be approved by the agency and any collective
467 bargaining unit representing such law enforcement officer. A
468 violation of this subparagraph is not subject to the penalties
469 provided in chapter 318.

470 4. The Division of the Florida Highway Patrol may employ
471 as a traffic accident investigation officer any individual who
472 successfully completes instruction in traffic accident
473 investigation and court presentation through the Selective
474 Traffic Enforcement Program as approved by the Criminal Justice

475 Standards and Training Commission and funded through the
 476 National Highway Traffic Safety Administration or a similar
 477 program approved by the commission, but who does not necessarily
 478 meet the uniform minimum standards established by the commission
 479 for law enforcement officers or auxiliary law enforcement
 480 officers under chapter 943. Any such traffic accident
 481 investigation officer who makes an investigation at the scene of
 482 a traffic accident may issue traffic citations, based upon
 483 personal investigation, when he or she has reasonable and
 484 probable grounds to believe that a person who was involved in
 485 the accident committed an offense under this chapter, chapter
 486 319, chapter 320, or chapter 322 in connection with the
 487 accident. This subparagraph does not permit the officer to carry
 488 firearms or other weapons, and such an officer does not have
 489 authority to make arrests.

490 Section 14. Subsection (4) of section 375.041, Florida
 491 Statutes, is amended to read:

492 375.041 Land Acquisition Trust Fund.—

493 (4) The department may disburse moneys in the Land
 494 Acquisition Trust Fund to pay all necessary expenses to carry
 495 out the purposes of this act. The department shall disburse
 496 moneys from the Land Acquisition Trust Fund to the Fish and
 497 Wildlife Conservation Commission for the purpose of funding law
 498 enforcement services on state lands.

499 Section 15. Subsection (5) of section 376.065, Florida
 500 Statutes, is amended to read:

501 376.065 Operation of terminal facility without discharge
 502 prevention and response certificate prohibited; penalty.—

503 (5) (a) A ~~Any~~ person who violates this section or the terms
 504 and requirements of such certification commits a noncriminal
 505 infraction. The civil penalty for any such infraction shall be
 506 \$500, except as otherwise provided in this section.

507 (b) A ~~Any~~ person cited for an infraction under this
 508 section may:

- 509 1. Pay the civil penalty;
- 510 2. Post a bond equal to the amount of the applicable civil
 511 penalty; or
- 512 3. Sign and accept a citation indicating a promise to
 513 appear before the county court.

514
 515 The department employee ~~officer~~ authorized to issue these
 516 citations may indicate on the citation the time and location of
 517 the scheduled hearing and shall indicate the applicable civil
 518 penalty.

519 (c) A ~~Any~~ person who willfully refuses to post bond or
 520 accept and sign a citation commits a misdemeanor of the second
 521 degree, punishable as provided in s. 775.082 or s. 775.083.

522 (d) After compliance with ~~the provisions of~~ subparagraph
 523 (b)2. or subparagraph (b)3., a ~~any~~ person charged with a
 524 noncriminal infraction under this section may:

- 525 1. Pay the civil penalty, either by mail or in person,
 526 within 30 days after the date of receiving the citation; or
- 527 2. If the person has posted bond, forfeit the bond by not
 528 appearing at the designated time and location.

529
 530 A person cited for an infraction under this section who pays the

531 civil penalty or forfeits the bond has admitted the infraction
 532 and waives the right to a hearing on the issue of commission of
 533 the infraction. Such admission may not be used as evidence in
 534 any other proceedings.

535 (e) A ~~Any~~ person who elects to appear before the county
 536 court or who is required to so appear waives the limitations of
 537 the civil penalty specified in paragraph (a). The court, after a
 538 hearing, shall make a determination as to whether an infraction
 539 has been committed. If the commission of the infraction is
 540 proved, the court shall impose a civil penalty of \$500.

541 (f) At a hearing under this subsection, the commission of
 542 a charged infraction must be proved by the greater weight of the
 543 evidence.

544 (g) A person who is found by the hearing official to have
 545 committed an infraction may appeal that finding to the circuit
 546 court.

547 (h) A ~~Any~~ person who has not posted bond and who fails
 548 either to pay the fine specified in paragraph (a) within 30 days
 549 after receipt of the citation or to appear before the court
 550 commits a misdemeanor of the second degree, punishable as
 551 provided in s. 775.082 or s. 775.083.

552 Section 16. Subsection (3) of section 376.07, Florida
 553 Statutes, is amended to read:

554 376.07 Regulatory powers of department; penalties for
 555 inadequate booming by terminal facilities.—

556 (3) The department shall not require vessels to maintain
 557 discharge prevention gear, holding tanks, and containment gear
 558 which exceed federal requirements. However, a terminal facility

559 transferring heavy oil to or from a vessel with a heavy oil
 560 storage capacity greater than 10,000 gallons shall be required,
 561 considering existing weather and tidal conditions, to adequately
 562 boom or seal off the transfer area during a transfer, including,
 563 but not limited to, a bunkering operation, to minimize the
 564 escape of such pollutants from the containment area. As used in
 565 this subsection, the term "adequate booming" means booming with
 566 proper containment equipment which is employed and located for
 567 the purpose of preventing, for the most likely discharge, as
 568 much of the pollutant as possible from escaping out of the
 569 containment area.

570 (a) The owner or operator of a terminal facility involved
 571 in the transfer of such pollutant to or from a vessel which is
 572 not adequately boomed commits a noncriminal infraction and shall
 573 be cited for such infraction. The civil penalty for such an
 574 infraction shall be \$2,500, except as otherwise provided in this
 575 section.

576 (b) A ~~Any~~ person cited for an infraction under this
 577 section may:

- 578 1. Pay the civil penalty;
- 579 2. Post bond equal to the amount of the applicable civil
 580 penalty; or
- 581 3. Sign and accept a citation indicating a promise to
 582 appear before the county court.

583
 584 The department employee ~~officer~~ authorized to issue these
 585 citations may indicate on the citation the time and location of
 586 the scheduled hearing and shall indicate the applicable civil

587 penalty.

588 (c) A ~~Any~~ person who willfully refuses to post bond or
 589 accept and sign a citation commits a misdemeanor of the second
 590 degree, punishable as provided in s. 775.082 or s. 775.083.

591 (d) After compliance with subparagraph (b)2. or
 592 subparagraph (b)3., a ~~any~~ person charged with a noncriminal
 593 infraction under this section may:

594 1. Pay the civil penalty, either by mail or in person,
 595 within 30 days after the date of receiving the citation; or

596 2. If the person has posted bond, forfeit the bond by not
 597 appearing at the designated time and location.

598
 599 A person cited for an infraction under this section who pays the
 600 civil penalty or forfeits the bond has admitted the infraction
 601 and waives the right to a hearing on the issue of commission of
 602 the infraction. Such admission may not be used as evidence in
 603 any other proceedings.

604 (e) A ~~Any~~ person who elects to appear before the county
 605 court or who is required to appear waives the limitations of the
 606 civil penalty specified in paragraph (a). The issue of whether
 607 an infraction has been committed and the severity of the
 608 infraction shall be determined by a hearing official at a
 609 hearing. If the commission of the infraction is proved by the
 610 greater weight of the evidence, the court shall impose a civil
 611 penalty of \$2,500. If the court determines that the owner or
 612 operator of the terminal facility failed to deploy any boom
 613 equipment during such a transfer, including, but not limited to,
 614 a bunkering operation, the civil penalty shall be \$5,000.

CS/HB 1383

2012

615 (f) A person who is found by the hearing official to have
 616 committed an infraction may appeal that finding to the circuit
 617 court.

618 (g) A ~~Any~~ person who has not posted bond and who fails
 619 either to pay the civil penalty specified in paragraph (a)
 620 within 30 days after receipt of the citation or to appear before
 621 the court commits a misdemeanor of the second degree, punishable
 622 as provided in s. 775.082 or s. 775.083.

623 Section 17. Subsection (2) of section 376.071, Florida
 624 Statutes, is amended to read:

625 376.071 Discharge contingency plan for vessels.—

626 (2) (a) A ~~Any~~ master of a vessel that ~~which~~ violates
 627 subsection (1) commits a noncriminal infraction and shall be
 628 cited for such infraction. The civil penalty for such an
 629 infraction shall be \$5,000, except as otherwise provided in this
 630 subsection.

631 (b) A ~~Any~~ person charged with a noncriminal infraction
 632 under this section may:

- 633 1. Pay the civil penalty;
- 634 2. Post bond equal to the amount of the applicable civil
 635 penalty; or
- 636 3. Sign and accept a citation indicating a promise to
 637 appear before the county court for the county in which the
 638 violation occurred or the county closest to the location at
 639 which the violation occurred.

640
 641 The department employee ~~officer~~ authorized to issue these
 642 citations may indicate on the citation the time and location of

CS/HB 1383

2012

643 the scheduled hearing and shall indicate the applicable civil
644 penalty.

645 (c) A ~~Any~~ person who willfully refuses to post bond or
646 accept and sign a citation commits a misdemeanor of the second
647 degree, punishable as provided in s. 775.082 or s. 775.083.

648 (d) After complying with the provisions of subparagraph
649 (b)2. or subparagraph (b)3., a ~~any~~ person charged with a
650 noncriminal infraction under this section may:

651 1. Pay the civil penalty, either by mail or in person,
652 within 30 days after the date of receiving the citation; or

653 2. If the person has posted bond, forfeit the bond by not
654 appearing at the designated time and location.

655

656 A person cited for an infraction under this section who pays the
657 civil penalty or forfeits the bond has admitted the infraction
658 and waives the right to a hearing on the issue of commission of
659 the infraction. Such admission may not be used as evidence in
660 any other proceedings.

661 (e) A ~~Any~~ person who elects to appear before the county
662 court or who is required to appear waives the limitations of the
663 civil penalty specified in paragraph (a). The court, after a
664 hearing, shall make a determination as to whether an infraction
665 has been committed. If the commission of the infraction is
666 proved, the court shall impose a civil penalty of \$5,000.

667 (f) At a hearing under this subsection, the commission of
668 a charged infraction must be proved by the greater weight of the
669 evidence.

670 (g) A person who is found by the hearing official to have

CS/HB 1383

2012

671 committed an infraction may appeal that finding to the circuit
672 court.

673 (h) A ~~Any~~ person who has not posted bond and who fails
674 either to pay the civil penalty specified in paragraph (a)
675 within 30 days after receipt of the citation or to appear before
676 the court commits a misdemeanor of the second degree, punishable
677 as provided in s. 775.082 or s. 775.083.

678 Section 18. Subsection (4) of section 376.16, Florida
679 Statutes, is amended to read:

680 376.16 Enforcement and penalties.—

681 (4) A ~~Any~~ person charged with a noncriminal infraction
682 pursuant to subsection (2) or subsection (3) may:

683 (a) Pay the civil penalty;

684 (b) Post a bond equal to the amount of the applicable
685 civil penalty; or

686 (c) Sign and accept a citation indicating a promise to
687 appear before the county court.

688
689 The department employee officer authorized to issue these
690 citations may indicate on the citation the time and location of
691 the scheduled hearing and shall indicate the applicable civil
692 penalty.

693 Section 19. Paragraph (q) is added to subsection (4) of
694 section 376.3071, Florida Statutes, to read:

695 376.3071 Inland Protection Trust Fund; creation; purposes;
696 funding.—

697 (4) USES.—Whenever, in its determination, incidents of
698 inland contamination related to the storage of petroleum or

CS/HB 1383

2012

699 | petroleum products may pose a threat to the environment or the
 700 | public health, safety, or welfare, the department shall obligate
 701 | moneys available in the fund to provide for:

702 | (q) Enforcement of this section and ss. 376.30-376.317 by
 703 | the Fish and Wildlife Conservation Commission. The department
 704 | shall disburse moneys to the commission for such purpose.

705 |
 706 | The Inland Protection Trust Fund may only be used to fund the
 707 | activities in ss. 376.30-376.317 except ss. 376.3078 and
 708 | 376.3079. Amounts on deposit in the Inland Protection Trust Fund
 709 | in each fiscal year shall first be applied or allocated for the
 710 | payment of amounts payable by the department pursuant to
 711 | paragraph (o) under a service contract entered into by the
 712 | department pursuant to s. 376.3075 and appropriated in each year
 713 | by the Legislature prior to making or providing for other
 714 | disbursements from the fund. Nothing in this subsection shall
 715 | authorize the use of the Inland Protection Trust Fund for
 716 | cleanup of contamination caused primarily by a discharge of
 717 | solvents as defined in s. 206.9925(6), or polychlorinated
 718 | biphenyls when their presence causes them to be hazardous
 719 | wastes, except solvent contamination which is the result of
 720 | chemical or physical breakdown of petroleum products and is
 721 | otherwise eligible. Facilities used primarily for the storage of
 722 | motor or diesel fuels as defined in ss. 206.01 and 206.86 shall
 723 | be presumed not to be excluded from eligibility pursuant to this
 724 | section.

725 | Section 20. Section 379.3311, Florida Statutes, is amended
 726 | to read:

CS/HB 1383

2012

- 727 379.3311 Police powers of commission and its agents.—
- 728 (1) The ~~Fish and Wildlife Conservation~~ commission, the
- 729 executive director and the executive director's assistants
- 730 designated by her or him, and each commission ~~wildlife~~ officer
- 731 are constituted peace officers with the power to make arrests
- 732 for violations of the laws of this state when committed in the
- 733 presence of the officer or when committed on lands under the
- 734 supervision and management of the commission, the department,
- 735 the Board of Trustees of the Internal Improvement Trust Fund, or
- 736 the Department of Agricultural and Consumer Services, including
- 737 state parks, coastal and aquatic managed areas, and greenways
- 738 and trails. The general laws applicable to arrests by peace
- 739 officers of this state shall also be applicable to such ~~said~~
- 740 director, assistants, and commission ~~wildlife~~ officers. Such
- 741 persons may enter upon any land or waters of the state for
- 742 performance of their lawful duties and may take with them any
- 743 necessary equipment, and such entry does ~~shall~~ not constitute a
- 744 trespass.
- 745 (2) Such officers may ~~shall have power and authority to~~
- 746 enforce throughout the state all laws relating to game, nongame
- 747 birds, fish, and fur-bearing animals and all rules and
- 748 regulations of the ~~Fish and Wildlife Conservation~~ commission
- 749 relating to wild animal life, marine life, and freshwater
- 750 aquatic life, and in connection with such ~~said~~ laws, rules, and
- 751 regulations, in the enforcement thereof and in the performance
- 752 of their duties thereunder, to:
- 753 (a) Go upon all premises, posted or otherwise;
- 754 (b) Execute warrants and search warrants for the violation

755 of such ~~said~~ laws;

756 (c) Serve subpoenas issued for the examination,
757 investigation, and trial of all offenses against such ~~said~~ laws;

758 (d) Carry firearms or other weapons, concealed or
759 otherwise, in the performance of their duties;

760 (e) Arrest upon probable cause without warrant any person
761 found in the act of violating any such ~~of the provisions of said~~
762 laws or, in pursuit immediately following such violations, to
763 examine any person, boat, conveyance, vehicle, game bag, game
764 coat, or other receptacle for wild animal life, marine life, or
765 freshwater aquatic life, or any camp, tent, cabin, or roster, in
766 the presence of any person stopping at or belonging to such
767 camp, tent, cabin, or roster, when such ~~said~~ officer has reason
768 to believe, and has exhibited her or his authority and stated to
769 the suspected person in charge the officer's reason for
770 believing, that any of the aforesaid laws have been violated at
771 such camp;

772 (f) Secure and execute search warrants and in pursuance
773 thereof to enter any building, enclosure, or car and to break
774 open, when found necessary, any apartment, chest, locker, box,
775 trunk, crate, basket, bag, package, or container and examine the
776 contents thereof;

777 (g) Seize and take possession of all wild animal life,
778 marine life, or freshwater aquatic life taken or in possession
779 or under control of, or shipped or about to be shipped by, any
780 person at any time in any manner contrary to such ~~said~~ laws.

781 (3) It is unlawful for any person to resist an arrest
782 authorized by this section or in any manner to interfere, either

783 by abetting, assisting such resistance, or otherwise interfering
 784 with such ~~said~~ executive director, assistants, or commission
 785 ~~wildlife~~ officers while engaged in the performance of the duties
 786 imposed upon them by law or regulation of the ~~Fish and Wildlife~~
 787 Conservation commission, the department, the Board of Trustees
 788 of the Internal Improvement Trust Fund, or the Department of
 789 Agriculture and Consumer Services.

790 (4) Upon final disposition of any alleged offense for
 791 which a citation for any violation of this chapter or the rules
 792 of the commission has been issued, the court shall, within 10
 793 days after the final disposition of the action, certify the
 794 disposition to the commission.

795 Section 21. Section 379.3312, Florida Statutes, is amended
 796 to read:

797 379.3312 Powers of arrest by agents of ~~Department of~~
 798 ~~Environmental Protection or Fish and Wildlife Conservation~~
 799 commission.—Any certified law enforcement officer of the
 800 ~~Department of Environmental Protection or the Fish and Wildlife~~
 801 ~~Conservation~~ commission, upon receiving information, relayed to
 802 her or him from any law enforcement officer stationed on the
 803 ground, on the water, or in the air, that a driver, operator, or
 804 occupant of any vehicle, boat, or airboat has violated any
 805 section of chapter 327, chapter 328, or this chapter, or s.
 806 597.010 or s. 597.020, may arrest the driver, operator, or
 807 occupant for violation of such ~~said~~ laws when reasonable and
 808 proper identification of the vehicle, boat, or airboat and
 809 reasonable and probable grounds to believe that the driver,
 810 operator, or occupant has committed or is committing any such

811 | offense have been communicated to the arresting officer by the
 812 | other officer stationed on the ground, on the water, or in the
 813 | air.

814 | Section 22. Subsection (1) of section 379.3313, Florida
 815 | Statutes, is amended to read:

816 | 379.3313 Powers of commission law enforcement officers.—

817 | (1) Law enforcement officers of the commission are
 818 | constituted law enforcement officers of this state with full
 819 | power to investigate and arrest for any violation of the laws of
 820 | this state and the rules of the commission, the department, the
 821 | Board of Trustees of the Internal Improvement Trust Fund, and
 822 | the Department of Agriculture and Consumer Services under their
 823 | jurisdiction. The general laws applicable to arrests by peace
 824 | officers of this state shall also be applicable to law
 825 | enforcement officers of the commission. Such law enforcement
 826 | officers may enter upon any land or waters of the state for
 827 | performance of their lawful duties and may take with them any
 828 | necessary equipment, and such entry will not constitute a
 829 | trespass. It is lawful for any boat, motor vehicle, or aircraft
 830 | owned or chartered by the commission or its agents or employees
 831 | to land on and depart from any of the beaches or waters of the
 832 | state. Such law enforcement officers have the authority, without
 833 | warrant, to board, inspect, and search any boat, fishing
 834 | appliance, storage or processing plant, fishhouse, spongehouse,
 835 | oysterhouse, or other warehouse, building, or vehicle engaged in
 836 | transporting or storing any fish or fishery products. Such
 837 | authority to search and inspect without a search warrant is
 838 | limited to those cases in which such law enforcement officers

CS/HB 1383

2012

839 have reason to believe that fish or any saltwater products are
 840 taken or kept for sale, barter, transportation, or other
 841 purposes in violation of laws or rules adopted ~~promulgated~~ under
 842 this law. ~~Any~~ Such law enforcement officers ~~officer~~ may at any
 843 time seize or take possession of any saltwater products or
 844 contraband which have been unlawfully caught, taken, or
 845 processed or which are unlawfully possessed or transported in
 846 violation of any of the laws of this state or any rule of the
 847 commission. Such law enforcement officers may arrest any person
 848 in the act of violating ~~any of the provisions of~~ this law, the
 849 rules of the commission, or any of the laws of this state. It is
 850 ~~hereby declared~~ unlawful for a ~~any~~ person to resist such arrest
 851 or in any manner interfere, either by abetting or assisting such
 852 resistance or otherwise interfering, with any such law
 853 enforcement officer while engaged in the performance of the
 854 duties imposed upon him or her by law or rule of the commission.

855 Section 23. Subsections (1) and (2) of section 379.333,
 856 Florida Statutes, are amended to read:

857 379.333 Arrest by officers of the ~~Fish and Wildlife~~
 858 ~~Conservation~~ commission; recognizance; cash bond; citation.—

859 (1) In all cases of arrest by officers of the ~~Fish and~~
 860 ~~Wildlife Conservation~~ commission and the ~~Department of~~
 861 ~~Environmental Protection~~, the person arrested shall be delivered
 862 forthwith by such ~~said~~ officer to the sheriff of the county, or
 863 shall obtain from such person arrested a recognizance or, if
 864 deemed necessary, a cash bond or other sufficient security
 865 conditioned for her or his appearance before the proper tribunal
 866 of such county to answer the charge for which the person has

CS/HB 1383

2012

867 | been arrested.

868 | (2) All officers of the commission shall ~~and the~~
869 | ~~department are hereby directed to~~ deliver all bonds accepted and
870 | approved by them to the sheriff of the county in which the
871 | offense is alleged to have been committed.

872 | Section 24. Subsection (1) of section 379.341, Florida
873 | Statutes, is amended to read:

874 | 379.341 Disposition of illegal fishing devices; exercise
875 | of police power.—

876 | (1) In all cases of arrest and conviction for use of
877 | illegal nets or traps or fishing devices, as provided in this
878 | chapter, such illegal net, trap, or fishing device is declared
879 | to be a nuisance and shall be seized and carried before the
880 | court having jurisdiction of such offense and such ~~said~~ court
881 | shall order such illegal trap, net, or fishing device forfeited
882 | to the commission immediately after trial and conviction of the
883 | person in whose possession they were found. When any illegal
884 | net, trap, or fishing device is found in the fresh waters of the
885 | state, and its ~~the~~ owner is ~~of same shall~~ not be known to the
886 | officer finding it ~~the same~~, such officer shall immediately
887 | procure from the county court judge an order forfeiting such
888 | ~~said~~ illegal net, trap, or fishing device to the commission. The
889 | commission may destroy such illegal net, trap, or fishing
890 | device, if in its judgment such ~~said~~ net, trap, or fishing
891 | device is not of value in the work of the commission ~~department~~.

892 | Section 25. Section 379.343, Florida Statutes, is amended
893 | to read:

894 379.343 Rewards.—The Fish and Wildlife Conservation
 895 Commission is authorized to offer rewards in amounts of up to
 896 \$500 to any person furnishing information leading to the arrest
 897 and conviction of any person who has inflicted or attempted to
 898 inflict bodily injury upon any commission ~~wildlife~~ officer
 899 engaged in the enforcement of the provisions of this chapter or
 900 the rules and regulations of the Fish and Wildlife Conservation
 901 Commission.

902 Section 26. Subsection (2) of section 403.413, Florida
 903 Statutes, is amended to read:

904 403.413 Florida Litter Law.—

905 (2) DEFINITIONS.—As used in this section:

906 (f)~~(a)~~ "Litter" means any garbage; rubbish; trash; refuse;
 907 can; bottle; box; container; paper; tobacco product; tire;
 908 appliance; mechanical equipment or part; building or
 909 construction material; tool; machinery; wood; motor vehicle or
 910 motor vehicle part; vessel; aircraft; farm machinery or
 911 equipment; sludge from a waste treatment facility, water supply
 912 treatment plant, or air pollution control facility; or substance
 913 in any form resulting from domestic, industrial, commercial,
 914 mining, agricultural, or governmental operations.

915 (h)~~(b)~~ "Person" means any individual, firm, sole
 916 proprietorship, partnership, corporation, or unincorporated
 917 association.

918 (e)~~(e)~~ "Law enforcement officer" means any officer of the
 919 Florida Highway Patrol, a county sheriff's department, a
 920 municipal law enforcement department, a law enforcement
 921 department of any other political subdivision, ~~the department,~~

922 or the Fish and Wildlife Conservation Commission. In addition,
 923 and solely for the purposes of this section, "law enforcement
 924 officer" means any employee of a county or municipal park or
 925 recreation department designated by the department head as a
 926 litter enforcement officer.

927 (a)~~(d)~~ "Aircraft" means a motor vehicle or other vehicle
 928 that is used or designed to fly but does not include a parachute
 929 or any other device used primarily as safety equipment.

930 (b)~~(e)~~ "Commercial purpose" means for the purpose of
 931 economic gain.

932 (c)~~(f)~~ "Commercial vehicle" means a vehicle that is owned
 933 or used by a business, corporation, association, partnership, or
 934 sole proprietorship or any other entity conducting business for
 935 a commercial purpose.

936 (d)~~(g)~~ "Dump" means to dump, throw, discard, place,
 937 deposit, or dispose of.

938 (g)~~(h)~~ "Motor vehicle" means an automobile, motorcycle,
 939 truck, trailer, semitrailer, truck tractor, or semitrailer
 940 combination or any other vehicle that is powered by a motor.

941 (i) "Vessel" means a boat, barge, or airboat or any other
 942 vehicle used for transportation on water.

943 Section 27. Paragraph (d) of subsection (1) of section
 944 784.07, Florida Statutes, is amended to read:

945 784.07 Assault or battery of law enforcement officers,
 946 firefighters, emergency medical care providers, public transit
 947 employees or agents, or other specified officers;
 948 reclassification of offenses; minimum sentences.—

949 (1) As used in this section, the term:

950 (d) "Law enforcement officer" includes a law enforcement
 951 officer, a correctional officer, a correctional probation
 952 officer, a part-time law enforcement officer, a part-time
 953 correctional officer, an auxiliary law enforcement officer, and
 954 an auxiliary correctional officer, as those terms are
 955 respectively defined in s. 943.10, and any county probation
 956 officer; an employee or agent of the Department of Corrections
 957 who supervises or provides services to inmates; an officer of
 958 the Parole Commission; a federal law enforcement officer as
 959 defined in s. 901.1505; and law enforcement personnel of the
 960 Fish and Wildlife Conservation Commission, ~~the Department of~~
 961 ~~Environmental Protection,~~ or the Department of Law Enforcement.

962 Section 28. Section 843.08, Florida Statutes, is amended
 963 to read:

964 843.08 Falsely personating officer, etc.—A person who
 965 falsely assumes or pretends to be a sheriff, officer of the
 966 Florida Highway Patrol, officer of the Fish and Wildlife
 967 Conservation Commission, ~~officer of the Department of~~
 968 ~~Environmental Protection,~~ officer of the Department of
 969 Transportation, officer of the Department of Financial Services,
 970 officer of the Department of Corrections, correctional probation
 971 officer, deputy sheriff, state attorney or assistant state
 972 attorney, statewide prosecutor or assistant statewide
 973 prosecutor, state attorney investigator, coroner, police
 974 officer, lottery special agent or lottery investigator, beverage
 975 enforcement agent, or watchman, or any member of the Parole
 976 Commission and any administrative aide or supervisor employed by
 977 the commission, or any personnel or representative of the

978 Department of Law Enforcement, or a federal law enforcement
 979 officer as defined in s. 901.1505, and takes upon himself or
 980 herself to act as such, or to require any other person to aid or
 981 assist him or her in a matter pertaining to the duty of any such
 982 officer, commits a felony of the third degree, punishable as
 983 provided in s. 775.082, s. 775.083, or s. 775.084.+ However, a
 984 person who falsely personates any such officer during the course
 985 of the commission of a felony commits a felony of the second
 986 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 987 775.084.+ ~~except that~~ If the commission of the felony results in
 988 the death or personal injury of another human being, the person
 989 commits a felony of the first degree, punishable as provided in
 990 s. 775.082, s. 775.083, or s. 775.084.

991 Section 29. Section 843.085, Florida Statutes, is amended
 992 to read:

993 843.085 Unlawful use of police badges or other indicia of
 994 authority.—It is unlawful for any person:

995 (1) Unless appointed by the Governor pursuant to chapter
 996 354, authorized by the appropriate agency, or displayed in a
 997 closed or mounted case as a collection or exhibit, to wear or
 998 display any authorized indicia of authority, including any
 999 badge, insignia, emblem, identification card, or uniform, or any
 1000 colorable imitation thereof, of any federal, state, county, or
 1001 municipal law enforcement agency, or other criminal justice
 1002 agency as now or hereafter defined in s. 943.045, which could
 1003 deceive a reasonable person into believing that such item is
 1004 authorized by any of the agencies described above for use by the
 1005 person displaying or wearing it, or which displays in any manner

CS/HB 1383

2012

1006 or combination the word or words "police," "patrolman," "agent,"
 1007 "sheriff," "deputy," "trooper," "highway patrol," "commission
 1008 officer," "Wildlife Officer," "Marine Patrol Officer," "state
 1009 attorney," "public defender," "marshal," "constable," or
 1010 "bailiff," which could deceive a reasonable person into
 1011 believing that such item is authorized by any of the agencies
 1012 described above for use by the person displaying or wearing it.

1013 (2) To own or operate a motor vehicle marked or identified
 1014 in any manner or combination by the word or words "police,"
 1015 "patrolman," "sheriff," "deputy," "trooper," "highway patrol,"
 1016 "commission officer," "Wildlife Officer," "Marine Patrol
 1017 Officer," "marshal," "constable," or "bailiff," or by any
 1018 lettering, marking, or insignia, or colorable imitation thereof,
 1019 including, but not limited to, stars, badges, or shields,
 1020 officially used to identify the vehicle as a federal, state,
 1021 county, or municipal law enforcement vehicle or a vehicle used
 1022 by a criminal justice agency as now or hereafter defined in s.
 1023 943.045, which could deceive a reasonable person into believing
 1024 that such vehicle is authorized by any of the agencies described
 1025 above for use by the person operating the motor vehicle, unless
 1026 such vehicle is owned or operated by the appropriate agency and
 1027 its use is authorized by such agency, or the local law
 1028 enforcement agency authorizes the use of such vehicle or unless
 1029 the person is appointed by the Governor pursuant to chapter 354.

1030 (3) To sell, transfer, or give away the authorized badge,
 1031 or colorable imitation thereof, including miniatures, of any
 1032 criminal justice agency as now or hereafter defined in s.
 1033 943.045, or bearing in any manner or combination the word or

CS/HB 1383

2012

1034 words "police," "patrolman," "sheriff," "deputy," "trooper,"
1035 "highway patrol," "commission officer," "Wildlife Officer,"
1036 "Marine Patrol Officer," "marshal," "constable," "agent," "state
1037 attorney," "public defender," or "bailiff," which could deceive
1038 a reasonable person into believing that such item is authorized
1039 by any of the agencies described above, except for agency
1040 purchases or upon the presentation and recordation of both a
1041 driver's license and other identification showing any transferee
1042 to actually be a member of such criminal justice agency or
1043 unless the person is appointed by the Governor pursuant to
1044 chapter 354. A transferor of an item covered by this subsection
1045 is required to maintain for 2 years a written record of such
1046 transaction, including records showing compliance with this
1047 subsection, and if such transferor is a business, it shall make
1048 such records available during normal business hours for
1049 inspection by any law enforcement agency having jurisdiction in
1050 the area where the business is located.

1051 (4) Nothing in this section shall prohibit a fraternal,
1052 benevolent, or labor organization or association, or their
1053 chapters or subsidiaries, from using the following words, in any
1054 manner or in any combination, if those words appear in the
1055 official name of the organization or association: "police,"
1056 "patrolman," "sheriff," "deputy," "trooper," "highway patrol,"
1057 "commission officer," "Wildlife Officer," "Marine Patrol
1058 Officer," "marshal," "constable," or "bailiff."

1059 (5) Violation of any provision of this section is a
1060 misdemeanor of the first degree, punishable as provided in s.

CS/HB 1383

2012

1061 775.082 or s. 775.083. This section is cumulative to any law now
 1062 in force in the state.

1063 Section 30. Section 870.04, Florida Statutes, is amended
 1064 to read:

1065 870.04 Specified officers to disperse riotous assembly.—If
 1066 any number of persons, whether armed or not, are unlawfully,
 1067 riotously, or tumultuously assembled in any county, city, or
 1068 municipality, the sheriff or the sheriff's deputies, or the
 1069 mayor, or any commissioner, council member, alderman, or police
 1070 officer of the ~~said~~ city or municipality, or any officer or
 1071 member of the Florida Highway Patrol, or any officer or agent of
 1072 the Fish and Wildlife Conservation Commission, ~~Department of~~
 1073 ~~Environmental Protection~~, any ~~or~~ beverage enforcement agent, any
 1074 personnel or representatives of the Department of Law
 1075 Enforcement or its successor, or any other peace officer, shall
 1076 go among the persons so assembled, or as near to them as may be
 1077 done with safety, and shall in the name of the state command all
 1078 the persons so assembled immediately and peaceably to disperse. ~~‡~~
 1079 ~~and~~ If such persons do not thereupon immediately and peaceably
 1080 disperse, such ~~said~~ officers shall command the assistance of all
 1081 such persons in seizing, arresting, and securing such persons in
 1082 custody. ~~‡~~ ~~and~~ If any person present being so commanded to aid
 1083 and assist in seizing and securing such rioter or persons so
 1084 unlawfully assembled, or in suppressing such riot or unlawful
 1085 assembly, refuses or neglects to obey such command, or, when
 1086 required by such officers to depart from the place, refuses and
 1087 neglects to do so, the person shall be deemed one of the rioters

CS/HB 1383

2012

1088 or persons unlawfully assembled, and may be prosecuted and
 1089 punished accordingly.

1090 Section 31. Paragraphs (c) through (n) of subsection (6)
 1091 of section 932.7055, Florida Statutes, are redesignated as
 1092 paragraphs (b) through (m), respectively, and present paragraph
 1093 (b) of that subsection is amended to read:

1094 932.7055 Disposition of liens and forfeited property.—

1095 (6) If the seizing agency is a state agency, all remaining
 1096 proceeds shall be deposited into the General Revenue Fund.

1097 However, if the seizing agency is:

1098 ~~(b) The Department of Environmental Protection, the~~
 1099 ~~proceeds accrued pursuant to the provisions of the Florida~~
 1100 ~~Contraband Forfeiture Act shall be deposited into the Internal~~
 1101 ~~Improvement Trust Fund.~~

1102 Section 32. This act shall take effect July 1, 2012.