

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Agriculture

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BILL: CS/SB 194

INTRODUCER: Agriculture Committee and Senator Latvala

SUBJECT: Spiny Lobster

DATE: January 14, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhavein	Halley	AG	Fav/CS
2.			EP	
3.			CJ	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 194 prohibits the possession of spiny lobster during the closed season or, while on the water, being in possession of spiny lobster tails that have been wrung from the body. Any exception would be granted by Fish and Wildlife Conservation Commission (FWC) rules. The bill provides penalties for violations of this act.

**II. Present Situation:**

The spiny lobster fishery is one of the most valuable fisheries in Florida. For the past 5 years, the dockside values of this fishery has totaled \$133.6 million. Trap theft, illegal sales, and poaching of spiny lobster results in a direct loss to legitimate commercial fishermen.

**Spiny Lobster (Panulirus agrus)**

One hundred percent of the spiny lobster that is commercially harvested in the United States comes from Florida. Florida's commercial spiny lobster fishery is concentrated mainly in South Florida, with approximately 90 percent of lobster harvested in the Florida Keys.

The spiny lobster fishery is jointly managed in federal waters by the Gulf of Mexico and the South Atlantic Fishery Management Councils. Most spiny lobster harvest, however, occurs in state waters, which are managed by FWC. Regulations that have been implemented to ensure the

long-term sustainability of the spiny lobster fishery include: minimum size limits; closed seasons/areas; gear restrictions; and a trap limitation and permitting program.

In Florida, in order to commercially harvest spiny lobster, a person must possess a valid Saltwater Products License (SPL), which is Florida’s commercial fishing license. Florida offers three types of SPLs depending on the needs of the fisherman. An “Individual SPL” authorizes one individual person to engage in commercial fishing activities from the shore or a vessel. This SPL is not tied to any one vessel and is issued in the individual’s name. A “Crew SPL” is also issued in an individual’s name and it authorizes the named individual to engage in commercial fishing activities from the shore or a vessel. It also authorizes each person who is fishing with the named individual aboard a vessel to engage in such activities. This means the license holder can take a crew out on any vessel to harvest saltwater fish and the SPL covers the crew, as well. The final type of SPL is a “Vessel SPL.” This license is issued to a valid commercial vessel registration number and authorizes each person aboard that registered vessel to engage in commercial saltwater fishing activities. This license differs from the two previous SPLs because it is not issued in an individual’s name, but is rather tied to a specific vessel.

Below is a table showing the costs to purchase the various SPLs:

<b>Saltwater Products Licenses</b>	<b>Cost</b>
Saltwater Products License Individual Resident	\$50.00
Saltwater Products License Individual Nonresident	\$200.00
Saltwater Products License Individual Alien	\$300.00
Saltwater Products License Crew Resident	\$150.00
Saltwater Products License Crew Nonresident	\$600.00
Saltwater Products License Crew Alien	\$900.00
Saltwater Products License Vessel Resident	\$100.00
Saltwater Products License Vessel Nonresident	\$400.00
Saltwater Products License Vessel Alien	\$600.00

In addition to an SPL, a Restricted Species Endorsement (RS) is required to commercially harvest spiny lobster. There is no cost to acquire an RS. In order to acquire an RS, however, licensed commercial fishermen must qualify, or show proof of landings (actual saltwater products harvested, brought to shore, and sold) reported under their SPL providing that a specified amount or percentage of their total annual income (\$5,000 or 25 percent) during one of the past three years is attributable to reported landings and sales of saltwater products to a Florida wholesale dealer, unless they qualify under a statutory exemption from this proof of income requirement.

Finally, a commercial spiny lobster fisherman must also possess either a spiny lobster endorsement (C) or a lobster dive endorsement (CD) to harvest lobster commercially. The spiny

lobster endorsement (C) allows fishers to harvest lobsters with traps or bully nets. The use of traps requires trap certificates (which may be purchased or transferred from another harvester) and the purchase of current year trap tags from the FWC (a current year trap tag must be permanently affixed to each trap that is used on or in state waters). There is no daily bag limit for lobsters harvested commercially with traps under the C endorsement. A daily vessel limit of 250 spiny lobsters applies when lobsters are harvested using bully nets under the C endorsement. A lobster dive endorsement (CD) is required to harvest lobster in commercial quantities by diving, and can only be issued on a single vessel SPL. A 250 lobster per day vessel limit applies in Broward, Dade, Monroe, Collier, and Lee counties and adjoining federal waters when lobsters are harvested by diving under the CD endorsement. Trap certificates cannot be held by a person with a CD. CDs are currently only being issued to those who held a CD for 2004-2005. The cost of a spiny lobster endorsement for applicants who hold trap certificates is \$125, and \$100 for applicants who do not hold trap certificates (applies to persons harvesting lobsters with only a bully net or by diving pursuant to a CD endorsement).

Below are the numbers of commercial fishermen possessing a valid SPL, RS, and lobster endorsement in the past five years:

- FY 2008-2009 – 1,472
- FY 2009-2010 – 1,388
- FY 2010-2011 – 1,412
- FY 2011-2012 – 1,465
- FY 2012-2013 – 1,510

The commercial spiny lobster season runs August 6th through March 31st. Typically a large proportion of landings occur in the first several months of the season followed by a steady decline the rest of the season. Fishing effort, in many cases, also follow this trend. For example, in October many fishermen shift to harvesting stone crab, which contributes to decreased effort in the spiny lobster commercial fishery.

Spiny lobsters may be harvested recreationally during the recreational 2-day “sport season”, which occurs on the last consecutive Wednesday and Thursday of July each year, as well as during the regular open season which begins on August 6<sup>th</sup> and ends on March 31<sup>st</sup> of the following year. During the 2-day sport season, the following recreational bag limits apply: in Monroe County, up to 6 lobsters per harvester, per day; in all other state waters, up to 12 lobsters per harvester, per day. During the regular recreational spiny lobster season, the statewide recreational bag limit is 6 lobsters per harvester per day. Recreational harvesters are not permitted to use traps to harvest spiny lobsters. In addition to a recreational saltwater fishing license, a spiny lobster permit (also called a lobster stamp) is required to harvest lobster recreationally in all state waters. The costs of recreational saltwater fishing licenses as well as the spiny lobster permit are listed below:

<b>Resident Recreational Saltwater Fishing Licenses</b>	
<b>Annual Saltwater Fishing</b>	\$17.00
<b>Youth Saltwater Fishing</b> (Optional for children under the age of 16 and valid until 17th birthday - <b>a fishing license is not required until age 16</b> )	\$17.00
<b>5-Year Saltwater Fishing</b>	\$79.00
<b>Saltwater/Freshwater Fishing Combo</b>	\$32.50
<b>Saltwater/Freshwater Fishing/Hunting Combo</b>	\$48.00
<b>Saltwater Shoreline License</b> (not valid from a vessel, a shore reached by vessel or if swimming or diving and not required if you have any other valid resident saltwater fishing license listed here)	Free
<b>Gold Sportsman's License</b> (includes Saltwater Fishing, Hunting Freshwater Fishing licenses; and Snook, Lobster, Wildlife Management Area, Archery, Muzzleloading Gun, Crossbow, Deer, Turkey, and Florida Waterfowl permits)	\$100.00
<b>Youth Gold Sportsman's License</b> (Optional for children under the age of 16 and valid until 17th birthday - <b>a fishing license is not required until age 16</b> - hunter safety certificate required - includes same licenses and permits as Gold Sportsman's License)	\$100.00
<b>5-Year Gold Sportsman's License</b> (includes Saltwater Fishing, Hunting and Freshwater Fishing licenses; and Snook, Lobster, Wildlife Management Area, Archery, Muzzleloading Gun, Crossbow, Deer, Turkey, and Florida Waterfowl permits)	\$494.00
<b>Military Gold Sportsman's License</b> (includes Saltwater Fishing, Hunting and Freshwater Fishing licenses; and Snook, Lobster, Wildlife Management Area, Archery, Muzzleloading Gun, Crossbow, Deer, Turkey, and Florida Waterfowl permits) (sold only at tax collector's office) (not available as 5-year) (only available to resident retired, and resident active duty, military)	\$20.00
<b>Nonresident Saltwater Fishing Licenses</b>	
<b>Nonresident Annual Saltwater Fishing</b>	\$47.00
<b>Nonresident 3-Day Saltwater Fishing</b>	\$17.00
<b>Nonresident 7-Day Saltwater Fishing</b>	\$30.00
<b>Spiny Lobster Permits</b>	

<b>Annual Spiny Lobster Permit</b>	\$5.00
<b>5-Year Spiny Lobster Permit (Residents only)</b>	\$25.00

During the past five fiscal years the following numbers of recreational spiny lobster permits were sold:

- FY 2008-2009 - 145,682
- FY 2009-2010 - 148,660
- FY 2010-2011 - 140,855
- FY 2011-2012 - 149,327
- FY 2012-2013 - 149,144<sup>1</sup>

**III. Effect of Proposed Changes:**

**Section 1** amends s. 379.407, F.S., to prohibit the possession of spiny lobster during the closed season or, while on the water, being in possession of spiny lobster tails that have been wrung from the body. Any exception would be granted by Fish and Wildlife Conservation Commission (FWC) rules. The bill provides the following penalties for violations of this act:

- **First Violation** – Misdemeanor of the second degree. If the violation involves 25 or more lobster, the violation is a misdemeanor of the first degree.
- **Second Violation** – Misdemeanor of the first degree and the possibility of license suspension.
- **Third Violation** - Misdemeanor of the first degree with a mandatory minimum term of imprisonment of 6 months. The violator may be assessed a civil penalty of up to \$2,500 and is subject to a license suspension. A third violation within 1 year after a second violation is a felony of the third degree with a mandatory minimum term of imprisonment of 1 year. The violator shall also be assessed a civil penalty of \$5,000 and have all license privileges permanently revoked.
- **Fourth Violation** – Felony of the third degree with a mandatory minimum prison term of one year. The violator shall be assessed a civil penalty of \$5,000 and have all license privileges permanently revoked.

**Section 2** amends s. 379.401, F.S., to conform a cross-reference.

**Section 3** provides that this act shall take effect July 1, 2014.

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<sup>1</sup> Florida Fish and Wildlife Conservation Commission, *Senate Bill 194 Agency Analysis* (December 19, 2013) (on file with the Senate Agriculture Committee).

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

Violators of the provisions of this bill could be subject to significant additional penalties, fines, and imprisonment.

## C. Government Sector Impact:

Indeterminate. There may be an initial increase in fines assessed due to the provisions of this act.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends the following sections of the Florida Statutes: 379.401 and 379.407.

**IX. Additional Information:**

## A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Agriculture on January 13, 2014:**

The committee substitute:

- Deletes provisions pertaining to stone crab regulation.
- Provides penalties for specified violations relating to possession of spiny lobster.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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