

By Senator Latvala

19-380C-98

1 A bill to be entitled
2 An act relating to marine resources; amending
3 s. 370.021, F.S.; providing additional
4 penalties for violations involving buying
5 saltwater products from an unlicensed seller or
6 the sale of saltwater products by an unlicensed
7 seller; authorizing the suspension, revocation,
8 or denial of renewal of licenses for specified
9 major violations involving finfish, shrimp,
10 marine life species, crawfish, stone crabs, and
11 blue crabs; requiring clerks of courts to
12 certify the final disposition of specified
13 court proceedings to the Department of
14 Environmental Protection; amending s. 370.07,
15 F.S.; authorizing the sharing of wholesale
16 saltwater products dealer reports with other
17 states under specified conditions; providing
18 civil penalties for violation of recordkeeping
19 and reporting requirements; prohibiting a
20 licensed retail dealer or a licensed restaurant
21 from buying saltwater products from any person
22 other than a licensed wholesale or retail
23 dealer; repealing s. 370.08(7), F.S., relating
24 to the use of gear and other equipment;
25 repealing s. 370.0821(3), F.S., relating to the
26 use of nets in St. Johns County; repealing s.
27 370.11(2) and (3), F.S., relating to the length
28 of saltwater fish and the use of nets to
29 harvest shad; repealing s. 370.1125, F.S.,
30 relating to the harvest of permits; repealing
31 s. 370.114, F.S., relating to the taking of

1 corals and sea fans; repealing s. 370.135(2)
2 and (3), F.S., relating to the harvest and sale
3 of blue crabs; repealing s. 370.15(2) and (3),
4 F.S., relating to the harvest of shrimp;
5 repealing s. 370.151(2), F.S., relating to the
6 Tortugas shrimp beds; repealing s.
7 370.153(4)(c), (d), and (e) and (5)(b) and (d),
8 F.S., relating to the harvest of shrimp in
9 Clay, Duval, Nassau, Putnam, Flagler, and St.
10 Johns Counties; repealing s. 370.156, F.S.,
11 relating to the Florida East Coast Shrimp Bed;
12 repealing s. 370.157, F.S., relating to the
13 harvest of shrimp in the Cedar Key closed area;
14 providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Subsection (2) of section 370.021, Florida
19 Statutes, is amended to read:

20 370.021 Administration; rules, publications, records;
21 penalty for violation of chapter; injunctions.--

22 (2) PENALTY FOR VIOLATION.--Unless otherwise provided
23 by law, any person, firm, or corporation who is convicted for
24 violating any provision of this chapter, any rule of the
25 department adopted pursuant to this chapter, or any rule of
26 the Marine Fisheries Commission, shall be punished:

27 (a) Upon a first conviction, by imprisonment for a
28 period of not more than 60 days or by a fine of not less than
29 \$100 nor more than \$500, or by both such fine and
30 imprisonment.

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1 (b) On a second or subsequent conviction within 12
2 months, by imprisonment for not more than 6 months or by a
3 fine of not less than \$250 nor more than \$1,000, or by both
4 such fine and imprisonment.

5 (c) In addition to the penalties provided in
6 paragraphs (a) and (b), the court shall assess additional
7 penalties against any person, firm, or corporation convicted
8 of major violations as follows:

9 1. For a violation involving more than 100 illegal
10 blue crabs, crawfish, or stone crabs, an additional penalty of
11 \$10 for each illegal blue crab, crawfish, stone crab, or part
12 thereof.

13 2. For a violation involving the taking or harvesting
14 of shrimp from a nursery or other prohibited area, an
15 additional penalty of \$10 for each pound of illegal shrimp or
16 part thereof.

17 3. For a violation involving the taking or harvesting
18 of oysters from nonapproved areas or the taking or possession
19 of unculled oysters, an additional penalty of \$10 for each
20 bushel of illegal oysters.

21 4. For a violation involving the taking or harvesting
22 of clams from nonapproved areas, an additional penalty of \$100
23 for each 500 count bag of illegal clams.

24 5. For a violation involving the taking, harvesting,
25 or possession of any of the following species, which are
26 endangered, threatened, or of special concern:

- 27 a. Shortnose sturgeon (*Acipenser brevirostrum*);
28 b. Atlantic sturgeon (*Acipenser oxyrhynchus*);
29 c. Common snook (*Centropomus undecimalis*);
30 d. Atlantic loggerhead turtle (*Caretta caretta*
31 *caretta*);

- 1 e. Atlantic green turtle (*Chelonia mydas mydas*);
2 f. Leatherback turtle (*Dermochelys coriacea*);
3 g. Atlantic hawksbill turtle (*Eretmochelys imbricata*
4 *imbracata*);
5 h. Atlantic ridley turtle (*Lepidochelys kempfi*); or
6 i. West Indian manatee (*Trichechus manatus*
7 *latirostris*),

8
9 an additional penalty of \$100 for each unit of marine life or
10 part thereof.

11 6. For a second or subsequent conviction within 24
12 months for any violation of the same law or rule involving the
13 taking or harvesting of more than 100 pounds of any finfish,
14 an additional penalty of \$5 for each pound of illegal finfish.

15 7. For any violation involving the taking, harvesting,
16 or possession of more than 1,000 pounds of any illegal
17 finfish, an additional penalty equivalent to the wholesale
18 value of the illegal finfish.

19 8.a. In addition to being subject to the other
20 penalties provided in this chapter, any intentional violation
21 of rule 46-4.007(1), Florida Administrative Code, shall be
22 considered a major violation, and any person, firm, or
23 corporation committing such violation shall be subject to the
24 following additional penalties:

25 (I) For a first violation within a 7-year period,
26 suspension of the saltwater products license for 90 days.

27 (II) For a second major violation within a 7-year
28 period, a civil penalty of \$5,000 and suspension of the
29 saltwater products license for 12 months.

30 (III) For a third or subsequent major violation within
31 a 7-year period, a civil penalty of \$5,000, lifetime

1 revocation of the saltwater products license, and forfeiture
2 of all gear and equipment used in the violation.

3 b. During any period of license suspension or
4 revocation under this section, the licensee may not fish from
5 any vessel that is harvesting saltwater products.

6 c. The Department of Environmental Protection may
7 bring a civil action to enforce the civil penalties prescribed
8 in this section.

9 9. In addition to being subject to other penalties
10 provided in this chapter, any violation of s. 370.06 or s.
11 370.07, or rules of the department implementing those
12 sections, which involves buying saltwater products from an
13 unlicensed person, firm, or corporation by a commercial
14 wholesale dealer, retail dealer, or restaurant facility for
15 public consumption or selling saltwater products by an
16 unlicensed person, firm, or corporation to a commercial
17 wholesale dealer, retail dealer, or restaurant facility for
18 public consumption is a major violation, and the department
19 may assess the following penalties:

20 a. For a first violation, the department may assess a
21 civil penalty of up to \$2,500 and may suspend the wholesale or
22 retail dealer's license privileges for up to 90 calendar days.

23 b. For a second violation occurring within 12 months
24 of a prior violation, the department may assess a civil
25 penalty of up to \$5,000 and may suspend the wholesale or
26 retail dealer's license privileges for up to 180 calendar
27 days.

28 c. For a third or subsequent violation occurring
29 within a 24-month period, the department shall assess a civil
30 penalty of \$5,000 and shall suspend the wholesale or retail
31 dealer's license privileges for up to 24 months.

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2 However, upon demonstration of just cause by the license
3 holder, the department may waive or reduce the assessed
4 penalties. Any proceeds from the civil penalties assessed
5 pursuant to this subparagraph shall be deposited into the
6 Marine Resources Conservation Trust Fund.

7 10. The license holder must show just cause why his or
8 her license or licenses should not be suspended, revoked, or
9 denied renewal upon conviction for any of the following major
10 violations:

11 a. Any violation described elsewhere in paragraph
12 (2)(c) for the taking or harvesting or the attempted taking or
13 harvesting of finfish; any single violation involving the
14 possession of more than 10 percent over the legal amount of
15 finfish prescribed by law; or any combination of violations in
16 any 3-consecutive-year period in which more than 25 percent of
17 the annual aggregate of the legal amount of finfish prescribed
18 by law are involved.

19 b. Any violation described elsewhere in paragraph
20 (2)(c) for the taking or harvesting or the attempted taking or
21 harvesting of shrimp from a nursery or other prohibited area;
22 or any two violations occurring within a 12 month period,
23 involving gear, size count, or season.

24 c. Any violation described elsewhere in paragraph
25 (2)(c) for the taking or harvesting or the attempted taking or
26 harvesting of marine life species; any violation involving use
27 of chemicals or gear not authorized by rule of the Marine
28 Fisheries Commission; any violation involving the taking or
29 harvesting or the attempted taking or harvesting of marine
30 life species from a closed area or during a closed season; any
31 violation involving the taking or harvesting or the attempted

1 taking or harvesting of marine life species prohibited by rule
2 of the Marine Fisheries Commission; any violation involving
3 the possession of 25 or more illegal specimens of marine life
4 in the aggregate; or any combination of violations in any
5 3-consecutive-year period in which more than 70 illegal
6 specimens of marine life species in the aggregate are
7 involved. For purposes of this sub-subparagraph, the term
8 "marine life species" has the meaning ascribed by rule of the
9 Marine Fisheries Commission.

10 d. Any violation described elsewhere in paragraph
11 (2)(c) or in s. 370.14(6) involving the taking or harvesting
12 or the attempted taking or harvesting of crawfish.

13 e. Any violation described elsewhere in paragraph
14 (2)(c) or in s. 370.13(2) involving the taking or harvesting
15 or the attempted taking or harvesting of stone crabs.

16 f. Any violation described elsewhere in paragraph
17 (2)(c) or in s. 370.135(4) involving the taking or harvesting
18 or the attempted taking or harvesting of blue crabs.

19
20 Notwithstanding the provisions of s. 948.01, no court may
21 suspend, defer, or withhold adjudication of guilt or
22 imposition of sentence for any major violation prescribed in
23 this paragraph. For purposes of subparagraphs 9. and 10.,
24 conviction includes any disposition other than acquittal or
25 dismissal.

26 (d) The proceeds from the penalties assessed pursuant
27 to paragraph (c) shall be deposited into the Marine Resources
28 Conservation Trust Fund ~~to be used for marine fisheries~~
29 ~~research.~~

30 (e) Permits issued to any person, firm, or corporation
31 by the department to take or harvest saltwater products, or

1 any license issued pursuant to s. 370.06 or s. 370.07 may be
2 suspended or revoked by the department, pursuant to the
3 provisions and procedures of s. 120.60, for any major
4 violation prescribed in paragraph (c):

5 1. Upon a second conviction for a violation which
6 occurs within 12 months after a prior violation, for up to 60
7 days.

8 2. Upon a third conviction for a violation which
9 occurs within 24 months after a prior violation, for up to 180
10 days.

11 3. Upon a fourth conviction for a violation which
12 occurs within 36 months after a prior violation, for a period
13 of 6 months to 3 years.

14 (f)1. In cases involving the intentional or
15 unintentional killing of any species of tarpon, snook in
16 excess of five fish per person, sailfish, or bonefish during a
17 fishing operation wherein the targeted species is legal to
18 harvest, the method of fishing and type of gear used are
19 legal, and the fish are killed as a direct result of such
20 otherwise legal fishing operations, the department shall
21 assess a civil penalty of \$100 for each snook killed in excess
22 of five fish per person, or tarpon, sailfish, or bonefish
23 killed in excess of any bag limit. In collecting penalties,
24 the department shall assess an equal share of the applicable
25 penalty to each fisher actually involved in the fishing
26 operation.

27 2. The civil penalty shall be paid in full to the
28 department within 30 calendar days of official notification.
29 The department may suspend the saltwater products license or
30 other saltwater fishing license of any person or boat not
31 paying the required civil penalty within the specified time

1 period. Persons contesting the assessment of any civil
2 penalties or any license suspension pursuant to this section
3 shall be entitled to a hearing pursuant to the provisions of
4 chapter 120.

5 3. All moneys collected by the department pursuant to
6 this paragraph shall be deposited into the Marine Resources
7 Conservation Trust Fund.

8 (g) Upon final disposition of any alleged violation of
9 s. 16 of Art. X of the State Constitution, this chapter, or
10 rules of the department or the Marine Fisheries Commission
11 implementing s. 16 of Art. X of the State Constitution or this
12 chapter, the clerk of the court shall, within 10 days, certify
13 the disposition to the department.

14 Section 2. Subsection (6) of section 370.07, Florida
15 Statutes, is amended, and subsection (8) is added to that
16 section to read:

17 370.07 Wholesale and retail saltwater products
18 dealers; regulation.--

19 (6) RECORDS TO BE KEPT ON SALTWATER PRODUCTS.--

20 (a) Wholesale dealers shall be required by the
21 department to make and preserve a record of the names and
22 addresses of persons from whom or to whom saltwater products
23 are purchased or sold, the quantity so purchased or sold from
24 or to each vendor or purchaser, and the date of each such
25 transaction. Retail dealers shall be required to make and
26 preserve a record from whom all saltwater products are
27 purchased. Such record shall be open to inspection at all
28 times by the department. A report covering the sale of
29 saltwater products shall be made monthly or as often as
30 required by rule to the department by each wholesale dealer.
31 All reports required under this subsection are confidential

1 and shall be exempt from the provisions of s. 119.07(1) except
2 that, pursuant to authority related to interstate fishery
3 compacts as provided by s. 370.19(3) and s. 370.20(3), reports
4 may be shared with another state if that state is a member of
5 an interstate fisheries compact, and if that state has signed
6 a Memorandum of Agreement or a similar instrument agreeing to
7 preserve confidentiality as established by Florida law. Any
8 breach of the confidentiality provisions of any such
9 instrument will result in the immediate termination of the
10 subject agreement by the State of Florida.

11 (b) The department may revoke, suspend, or deny the
12 renewal of the license of any dealer for failure to make and
13 keep required records, for failure to make required reports,
14 for failure or refusal to permit the examination of required
15 records, or for falsifying any such record. In addition to,
16 or in lieu of, the penalties ~~penalty~~ imposed pursuant to this
17 paragraph and s. 370.021, the department may impose against
18 any person, firm, or corporation who is determined to have
19 violated any provision of this paragraph or any provisions of
20 any department rules promulgated pursuant to s. 370.0607, the
21 following additional penalties:

22 1. For the first violation, a civil penalty of up to
23 \$1,000;

24 2. For a second violation committed within 24 months
25 of any previous violation, a civil penalty of up to \$2,500;
26 and

27 3. For a third or subsequent violation committed
28 within 36 months of any previous two violations, a civil
29 penalty of up to \$5,000.

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1 The proceeds of all civil penalties collected pursuant to this
2 subsection shall be deposited into the Marine Resources
3 Conservation Trust Fund and shall be used for administration,
4 auditing, and law enforcement purposes ~~penalties pursuant to~~
5 ~~s. 370.021.~~

6 (8) UNLAWFUL PURCHASE OF SALTWATER PRODUCTS.--It is
7 unlawful for any licensed retail dealer or any restaurant
8 licensed by the Division of Hotels and Restaurants of the
9 Department of Business and Professional Regulation to buy
10 saltwater products from any person other than a licensed
11 wholesale or retail dealer.

12 Section 3. Subsection (7) of section 370.08, Florida
13 Statutes, is repealed.

14 Section 4. Subsection (3) of section 370.0821, Florida
15 Statutes, is repealed.

16 Section 5. Subsections (2) and (3) of section 370.11,
17 Florida Statutes, are repealed.

18 Section 6. Section 370.1125, Florida Statutes, is
19 repealed.

20 Section 7. Section 370.114, Florida Statutes, is
21 repealed.

22 Section 8. Subsections (2) and (3) of section 370.135,
23 Florida Statutes, are repealed.

24 Section 9. Subsections (2) and (3) of section 370.15,
25 Florida Statutes, are repealed.

26 Section 10. Subsection (2) of section 370.151, Florida
27 Statutes, is repealed.

28 Section 11. Paragraphs (c), (d), and (e) of subsection
29 (4) and paragraphs (b) and (d) of subsection (5) of section
30 370.153, Florida Statutes, are repealed.

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