

By the Committee on Natural Resources and Senator Latvala

312-1999-98

1 A bill to be entitled
2 An act relating to marine fisheries; amending
3 s. 370.01, F.S.; redefining the terms "closed
4 season" and "nonresident alien" and
5 alphabetizing definitions; amending s. 370.021,
6 F.S.; providing that specified violations of
7 administrative rules, the Florida Statutes, and
8 the constitutional ban on the use of certain
9 nets are major violations; providing penalties;
10 prohibiting a court from suspending, deferring,
11 or withholding adjudication of guilt in
12 specified circumstances; providing for the
13 suspension of violators' licenses and
14 prohibiting participation in the fishing during
15 the period of suspension; providing
16 restrictions on operation; deleting obsolete
17 provisions; requiring a court to notify the
18 Department of Environmental Protection of the
19 disposition of cases; amending s. 370.026,
20 F.S.; deleting obsolete references to
21 commissioners' terms; amending s. 370.0605,
22 F.S.; authorizing agents of the Game and Fresh
23 Water Fish Commission to enforce provisions
24 relating to licenses; amending s. 370.062,
25 F.S.; deleting a requirement for rulemaking for
26 the issuance of tarpon tags; deleting a
27 requirement for the annual issuance of tarpon
28 tags; amending s. 370.0821, F.S.; revising the
29 mesh size of a recreational net allowed in St.
30 Johns County; amending s. 370.12, F.S.;
31 relating to protection of mammalian dolphins;

1 amending s. 370.1405, F.S.; relating to
2 reporting requirements for crawfish wholesalers
3 and retailers; amending s. 370.25, F.S.;
4 clarifying criminal, civil, and administrative
5 penalties; repealing s. 370.015, F.S., relating
6 to obsolete Suwannee River Authority; repealing
7 s. 370.08(7), F.S., relating to the use of gear
8 and other equipment; repealing s. 370.0821(3),
9 F.S., relating to the use of nets in St. Johns
10 County; repealing s. 370.092(3) and (4), F.S.,
11 relating to penalties on use of proscribed
12 nets; repealing s. 370.11(2) and (3), F.S.,
13 relating to the length of saltwater fish and
14 the use of nets to harvest shad; repealing s.
15 370.1125, F.S., relating to the harvest of
16 permit; repealing s. 370.114, F.S., relating to
17 the taking of corals and sea fans; repealing s.
18 370.12(4), F.S.; related to manta rays;
19 repealing s. 370.13(2), F.S., relating to a
20 major violation involving stone crabs;
21 repealing s. 370.135(2), (3), and (4), F.S.,
22 relating to the harvest and sale of blue crabs;
23 repealing s. 370.14(6), F.S., relating to a
24 major violation involving crawfish; repealing
25 s. 370.15(2) and (3), F.S., relating to the
26 harvest of shrimp; repealing s. 370.151(2),
27 F.S., relating to the Tortugas shrimp beds;
28 repealing s. 370.153(4)(c), (d), (e), and
29 (5)(b), (d), F.S., relating to the harvest of
30 shrimp in Clay, Duval, Nassau, Putnam, Flagler,
31 and St. Johns Counties; repealing s. 370.156,

1 F.S., relating to the Florida East Coast Shrimp
2 Bed; repealing s. 370.157, F.S., relating to
3 the harvest of shrimp in the Cedar Key closed
4 area; repealing section 370.1611, F.S.,
5 relating to an oyster depuration plant;
6 providing an effective date.
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8 Be It Enacted by the Legislature of the State of Florida:
9

10 Section 1. Section 370.01, Florida Statutes, is
11 amended to read:

12 370.01 Definitions.--In construing these statutes,
13 where the context does not clearly indicate otherwise, the
14 word, phrase, or term:

15 (1)~~(26)~~ "Authorization" means a number issued by the
16 Game and Fresh Water Fish Commission, or its authorized agent,
17 which serves in lieu of a license or permits and affords the
18 privilege purchased for a specified period of time.

19 (2)~~(15)~~ "Beaches" and "shores" shall mean the coastal
20 and intracoastal shoreline of this state bordering upon the
21 waters of the Atlantic Ocean, the Gulf of Mexico, the Straits
22 of Florida, and any part thereof, and any other bodies of
23 water under the jurisdiction of the State of Florida, between
24 the mean high-water line and as far seaward as may be
25 necessary to effectively carry out the purposes of this act.

26 (3)~~(4)~~ "Closed season" shall be that portion of the
27 year wherein the laws or rules of Florida forbid the taking of
28 particular species of game or varieties of fish.

29 (4)~~(17)~~ "Coastal construction" includes any work or
30 activity which is likely to have a material physical effect on
31 existing coastal conditions or natural shore processes.

1 (5)~~(6)~~ "Common carrier" shall include any person,
2 firm, or corporation, who undertakes for hire, as a regular
3 business, to transport persons or commodities from place to
4 place offering his or her services to all such as may choose
5 to employ the common carrier and pay his or her charges.

6 (6)~~(10)~~ "Coon oysters" are oysters found growing in
7 bunches along the shore between high-water mark and low-water
8 mark.

9 (7)~~(14)~~ "Department" shall mean the Department of
10 Environmental Protection.

11 (8)~~(16)~~ "Erosion control," "beach preservation," and
12 "hurricane protection" shall include any activity, work,
13 program, project, or other thing deemed necessary by the
14 Division of Marine Resources of the Department of
15 Environmental Protection to effectively preserve, protect,
16 restore, rehabilitate, stabilize, and improve the beaches and
17 shores of this state, as defined above.

18 (9)~~(25)~~ "Exhibit" means to present or display upon
19 request.

20 (10)~~(19)~~ "Finfish" means any member of the classes
21 Agnatha, Chondrichthyes, or Osteichthyes.

22 (11)~~(12)~~ "Food fish" shall include mullet, trout,
23 redfish, sheepshead, pompano, mackerel, bluefish, red snapper,
24 grouper, and all other fish generally used for human
25 consumption.

26 (12)~~(8)~~ "Guide" shall include any person engaged in
27 the business of guiding hunters or hunting parties, fishers or
28 fishing parties, for compensation.

29 (13)~~(21)~~ "Marine fish" means any saltwater species of
30 finfish of the classes Agnatha, Chondrichthyes, and
31 Osteichthyes, and marine invertebrates in the classes

1 Gastropoda, Bivalvia, and Crustacea, or the phylum
2 Echinodermota, but does not include nonliving shells or
3 Echinoderms.

4 (14)~~(13)~~ A "natural oyster or clam reef" or "bed" or
5 "bar" shall be considered and defined as an area containing
6 not less than 100 square yards of the bottom where oysters or
7 clams are found in a stratum.

8 (15)~~(23)~~ "Nonresident alien" shall mean those
9 individuals from other nations ~~states~~ who can provide
10 documentation from the Immigration and Naturalization Service
11 evidencing permanent residency status in the United States.
12 For the purposes of this chapter, a "nonresident alien" shall
13 be considered a "nonresident."

14 (16)~~(3)~~ "Open season" shall be that portion of the
15 year wherein the laws of Florida for the preservation of fish
16 and game permit the taking of particular species of game or
17 varieties of fish.

18 (17)~~(11)~~ "Reef bunch oysters" are oysters found
19 growing on the bars or reefs in the open bay and exposed to
20 the air between high and low tide.

21 (18)~~(1)~~ "Resident" or "resident of Florida" includes
22 citizens of the United States who have continuously resided in
23 this state, next preceding the making of their application for
24 hunting, fishing, or other license, for the following period
25 of time, to wit: For 1 year in the state and 6 months in the
26 county when applied to all fish and game laws not related to
27 freshwater fish and game.

28 (19)~~(22)~~ "Resident alien" shall mean those persons who
29 have continuously resided in this state for at least 1 year
30 and 6 months in the county and can provide documentation from
31 the Immigration and Naturalization Service evidencing

1 permanent residency status in the United States. For the
2 purposes of this chapter, a "resident alien" shall be
3 considered a "resident."

4 (20) "Restricted species" means any species of
5 saltwater products for which the state by law, or the Marine
6 Fisheries Commission by rule, has found it necessary to so
7 designate. The term includes a species of saltwater products
8 designated by the commission as restricted within a
9 geographical area or during a particular time period of each
10 year. Designation as a restricted species does not confer the
11 authority to sell a species pursuant to s. 370.06 if the law
12 or rule prohibits the sale of the species.

13 (21)~~(5)~~ "Salt water," except where otherwise provided
14 by law, shall be all of the territorial waters of Florida
15 excluding all lakes, rivers, canals, and other waterways of
16 Florida from such point or points where the fresh and salt
17 waters commingle to such an extent as to become unpalatable
18 because of the saline content, or from such point or points as
19 may be fixed for conservation purposes by the Division of
20 Marine Resources of the Department of Environmental Protection
21 and the Game and Fresh Water Fish Commission, with the consent
22 and advice of the board of county commissioners of the county
23 or counties to be affected.

24 (22)~~(2)~~ "Saltwater fish" shall include all classes of
25 pisces, shellfish, sponges, and crustacea indigenous to salt
26 water.

27 (23)~~(24)~~ "Saltwater license privileges," except where
28 otherwise provided by law, means any license, endorsement,
29 certificate, or permit issued pursuant to this chapter.

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1 (24)~~(18)~~ "Saltwater products" means any species of
2 saltwater fish, marine plant, or echinoderm, except shells,
3 and salted, cured, canned, or smoked seafood.

4 (25)~~(9)~~ "Shellfish" shall include oysters, clams, and
5 whelks.

6 (26)~~(7)~~ "Transport" shall include shipping,
7 transporting, carrying, importing, exporting, receiving or
8 delivering for shipment, transportation or carriage or export.

9 Section 2. Section 370.021, Florida Statutes, is
10 amended to read:

11 370.021 Administration; rules, publications, records;
12 penalty for violation of chapter; injunctions.--

13 (1) RULES AND REGULATIONS.--The Department of
14 Environmental Protection shall make, adopt, promulgate, amend,
15 and repeal all rules and regulations necessary or convenient
16 for the carrying out of the duties, obligations, powers, and
17 responsibilities conferred on the department or any of its
18 divisions. The director of each division shall submit to the
19 department suggested rules and regulations for that division.
20 Any person violating or otherwise failing to comply with any
21 of the rules and regulations adopted as aforesaid is guilty of
22 a misdemeanor of the second degree, punishable as provided in
23 s. 775.082 or s. 775.083, unless otherwise provided by law.

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

29 (a) Upon a first conviction, by imprisonment for a
30 period of not more than 60 days or by a fine of not less than
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1 \$100 nor more than \$500, or by both such fine and
2 imprisonment.

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

7 (3) MAJOR VIOLATIONS.~~-(c)~~In addition to the penalties
8 provided in paragraphs (a) and (b) of subsection (2), the
9 court shall assess additional penalties against any person,
10 firm, or corporation convicted of major violations as follows:

11 (a)1. For a violation involving more than 100 illegal
12 blue crabs, crawfish, or stone crabs, an additional penalty of
13 \$10 for each illegal blue crab, crawfish, stone crab, or part
14 thereof.

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

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

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

26 (e)5. For a violation involving the taking,
27 harvesting, or possession of any of the following species,
28 which are endangered, threatened, or of special concern:

29 1.a. Shortnose sturgeon (*Acipenser brevirostrum*);

30 2.b. Atlantic sturgeon (*Acipenser oxyrinchus*);

31 3.c. Common snook (*Centropomus undecimalis*);

1 4.d. Atlantic loggerhead turtle (*Caretta caretta*
2 *caretta*);

3 5.e. Atlantic green turtle (*Chelonia mydas mydas*);

4 6.f. Leatherback turtle (*Dermochelys coriacea*);

5 7.g. Atlantic hawksbill turtle (*Eretmochelys imbricata*
6 *imbricata*);

7 8.h. Atlantic ridley turtle (*Lepidochelys kemp*); or

8 9.i. West Indian manatee (*Trichechus manatus*
9 *latirostris*),

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

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

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

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

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

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

1 ~~(III) For a third or subsequent major violation within~~
2 ~~a 7-year period, a civil penalty of \$5,000, lifetime~~
3 ~~revocation of the saltwater products license, and forfeiture~~
4 ~~of all gear and equipment used in the violation.~~

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

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

11
12 ~~Notwithstanding the provisions of s. 948.01, no court may~~
13 ~~suspend, defer, or withhold adjudication of guilt or~~
14 ~~imposition of sentence for any major violation prescribed in~~
15 ~~this paragraph.~~

16 ~~(h)(d)~~ The proceeds from the penalties assessed
17 pursuant to subsection (3)~~paragraph (c)~~ shall be deposited
18 into the Marine Resources Conservation Trust Fund to be used
19 for marine fisheries research.

20 ~~(i)(e)~~ Permits issued to any person, firm, or
21 corporation by the department to take or harvest saltwater
22 products, or any license issued pursuant to s. 370.06 or s.
23 370.07 may be suspended or revoked by the department, pursuant
24 to the provisions and procedures of s. 120.60, for any major
25 violation prescribed in subsection (3)~~paragraph (c)~~:

26 1. Upon a second conviction for a violation which
27 occurs within 12 months after a prior violation, for up to 60
28 days.

29 2. Upon a third conviction for a violation which
30 occurs within 24 months after a prior violation, for up to 180
31 days.

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

4 (j) Upon the arrest and conviction for a major
5 violation involving stone crabs, the licenseholder must show
6 just cause why his or her license should not be suspended or
7 revoked. For the purposes of this paragraph, a "major
8 violation" means a major violation as prescribed for illegal
9 stone crabs; any single violation involving possession of more
10 than 25 stone crabs during the closed season or possession of
11 25 or more whole-bodied or egg-bearing stone crabs; any
12 violation for trap molestation, trap robbing, or pulling traps
13 at night; or any combination of violations in any
14 3-consecutive-year period wherein more than 75 illegal stone
15 crabs in the aggregate are involved.

16 (k) Upon the arrest and conviction for a major
17 violation involving crawfish, the licenseholder must show just
18 cause why his or her license should not be suspended or
19 revoked. For the purposes of this paragraph, a "major
20 violation" means a major violation as prescribed for illegal
21 crawfish; any single violation involving possession of more
22 than 25 crawfish during the closed season or possession of
23 more than 25 wrung crawfish tails or more than 25 egg-bearing
24 or stripped crawfish; any violation for trap molestation, trap
25 robbing, or pulling traps at night; or any combination of
26 violations in any 3-consecutive-year period wherein more than
27 75 illegal crawfish in the aggregate are involved.

28 (l) Upon the arrest and conviction for a major
29 violation involving blue crabs, the licenseholder shall show
30 just cause why his or her saltwater products license should
31 not be suspended or revoked. This paragraph shall not apply

1 to an individual fishing with no more than five traps. For
2 the purposes of this paragraph, a "major violation" means a
3 major violation as prescribed for illegal blue crabs, any
4 single violation wherein 50 or more illegal blue crabs are
5 involved; any violation for trap molestation, trap robbing, or
6 pulling traps at night; or any combination of violations in
7 any 3-consecutive-year period wherein more than 100 illegal
8 blue crabs in the aggregate are involved.

9 (m) Upon the conviction for a major violation
10 involving finfish, the licenseholder must show just cause why
11 his or her saltwater products license should not be suspended
12 or revoked. For the purposes of this paragraph, a major
13 violation is prescribed for the taking and harvesting of
14 illegal finfish, any single violation involving the possession
15 of more than 100 pounds of illegal finfish, or any combination
16 of violations in any 3-consecutive-year period wherein more
17 than 200 pounds of illegal finfish in the aggregate are
18 involved.

19 (n) Upon final disposition of any alleged offense for
20 which a citation for any violation of this chapter or the
21 rules of the Marine Fisheries Commission has been issued, the
22 court shall, within 10 days, certify the disposition to the
23 department.

24 ~~(f)1. In cases involving the intentional or~~
25 ~~unintentional killing of any species of tarpon, snook in~~
26 ~~excess of five fish per person, sailfish, or bonefish during a~~
27 ~~fishing operation wherein the targeted species is legal to~~
28 ~~harvest, the method of fishing and type of gear used are~~
29 ~~legal, and the fish are killed as a direct result of such~~
30 ~~otherwise legal fishing operations, the department shall~~
31 ~~assess a civil penalty of \$100 for each snook killed in excess~~

1 ~~of five fish per person, or tarpon, sailfish, or bonefish~~
2 ~~killed in excess of any bag limit. In collecting penalties,~~
3 ~~the department shall assess an equal share of the applicable~~
4 ~~penalty to each fisher actually involved in the fishing~~
5 ~~operation.~~

6 ~~2. The civil penalty shall be paid in full to the~~
7 ~~department within 30 calendar days of official notification.~~
8 ~~The department may suspend the saltwater products license or~~
9 ~~other saltwater fishing license of any person or boat not~~
10 ~~paying the required civil penalty within the specified time~~
11 ~~period. Persons contesting the assessment of any civil~~
12 ~~penalties or any license suspension pursuant to this section~~
13 ~~shall be entitled to a hearing pursuant to the provisions of~~
14 ~~chapter 120.~~

15 ~~3. All moneys collected by the department pursuant to~~
16 ~~this paragraph shall be deposited into the Marine Resources~~
17 ~~Conservation Trust Fund.~~

18
19 Notwithstanding the provisions of s. 948.01, no court may
20 suspend, defer, or withhold adjudication of guilt or
21 imposition of sentence for any major violation prescribed in
22 this subsection.

23 (4) PENALTIES FOR USE OF ILLEGAL NETS.--

24 (a) It shall be a major violation pursuant to
25 subsection (3) and shall be punished as provided below for any
26 person, firm, or corporation to be simultaneously in
27 possession of any species of mullet in excess of the
28 recreational daily bag limit and any gill or other entangling
29 net as defined in s. 16(c), Art. X of the State Constitution.
30 Simultaneous possession under this provision shall include
31 possession of mullet and gill or other entangling nets on

1 separate vessels or vehicles where such vessels or vehicles
2 are operated in coordination with one another including
3 vessels towed behind a main vessel. This subsection does not
4 prohibit a resident of this state from transporting on land,
5 from Alabama to this state, a commercial quantity of mullet
6 together with a gill net if:

7 1. The person possesses a valid commercial fishing
8 license that is issued by the State of Alabama and that allows
9 the person to use a gill net to legally harvest mullet in
10 commercial quantities from Alabama waters.

11 2. The person possesses a trip ticket issued in
12 Alabama and filled out to match the quantity of mullet being
13 transported, and the person is able to present such trip
14 ticket immediately upon entering this state.

15 3. The mullet are to be sold to a wholesale saltwater
16 products dealer located in Escambia County or Santa Rosa
17 County, which dealer also possesses a valid seafood dealer's
18 license issued by the State of Alabama. The dealer's name must
19 be clearly indicated on the trip ticket.

20 4. The mullet being transported are totally removed
21 from any net also being transported.

22 (b) In addition to being subject to the other
23 penalties provided in this chapter, any violation of s. 16,
24 Art. X of the State Constitution, paragraph (b), or any rules
25 of the Marine Fisheries Commission which implement the gear
26 prohibitions and restrictions specified therein shall be
27 considered a major violation; and any person, firm, or
28 corporation receiving any judicial disposition other than
29 acquittal or dismissal of such violation shall be subject to
30 the following additional penalties:

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1 1. For a first major violation within a 7-year period,
2 a civil penalty of \$2,500 and suspension of all saltwater
3 products license privileges for 90 calendar days following
4 final disposition shall be imposed.

5 2. For a second major violation under this paragraph
6 charged within 7 years of a previous judicial disposition,
7 which results in a second judicial disposition other than
8 acquittal or dismissal, a civil penalty of \$5,000 and
9 suspension of all saltwater products license privileges for 12
10 months shall be imposed.

11 3. For a third and subsequent major violation under
12 this paragraph, charged within a 7-year period, resulting in a
13 third or subsequent judicial disposition other than acquittal
14 or dismissal, a civil penalty of \$5,000, lifetime revocation
15 of the saltwater products license, and forfeiture of all gear
16 and equipment used in the violation shall be imposed.

17
18 A court may suspend, defer, or withhold adjudication of guilt
19 or imposition of sentence only for any first violation of s.
20 16, Art. X of the State Constitution, or any rule or statute
21 implementing its restrictions, determined by a court only
22 after consideration of competent evidence of mitigating
23 circumstances to be a nonflagrant or minor violation of those
24 restrictions upon the use of nets. Any violation of s. 16,
25 Art. X of the State Constitution, or any rule or statute
26 implementing its restrictions, occurring within a 7-year
27 period commencing upon the conclusion of any judicial
28 proceeding resulting in any outcome other than acquittal shall
29 be punished as a second, third, or subsequent violation
30 accordingly.

31

1 (c) During the period of suspension or revocation of
2 saltwater license privileges under this subsection, the
3 licensee may not participate in the taking or harvesting or
4 attempt the taking or harvesting of saltwater products from
5 any vessel within the waters of the state, or any other
6 activity requiring a license, permit, or certificate issued
7 pursuant to this chapter. Any person who violates this
8 paragraph is:

9 1. Upon a first or second conviction, to be punished
10 as provided by paragraph (2)(a) or (b).

11 2. Upon a third or subsequent conviction, guilty of a
12 felony of the third degree, punishable as provided in s.
13 775.082, s. 775.083, or s. 775.084.

14 (d) Upon reinstatement of saltwater license privileges
15 suspended pursuant to a violation of this section, a licensee
16 owning or operating a vessel containing or otherwise
17 transporting in or on Florida waters any gill net or other
18 entangling net, or containing or otherwise transporting in
19 nearshore and inshore Florida waters any net containing more
20 than 500 square feet of mesh area shall remain restricted for
21 a period of 12 months following reinstatement, to operation
22 under the following conditions:

23 1. Vessels subject to this reinstatement period shall
24 be restricted to the corridors established by department rule.

25 2. A violation of the reinstatement period provisions
26 shall be punishable pursuant to paragraph (2)(a) and (b).

27 (e) Rescission and revocation proceedings under this
28 section shall be governed by chapter 120.

29 (5) ADDITIONAL PENALTIES FOR MAJOR VIOLATIONS
30 INVOLVING CERTAIN FINFISH.--It shall be a major violation
31 pursuant to this section and punishable pursuant to paragraph

1 (4)(b) for any person to be in possession of any species of
2 trout, snook, or redfish which is three fish in excess of the
3 recreational or commercial daily bag limit.

4 (6)(3) RULES; ADMISSIBILITY AS EVIDENCE.--Rules and
5 regulations shall be admitted as evidence in the courts of the
6 state when accompanied by an affidavit from the secretary of
7 the department certifying that the rule or regulation has been
8 lawfully adopted, promulgated, and published; and such
9 affidavit shall be prima facie evidence of proper adoption,
10 promulgation, and publication of the rule or regulation.

11 (7)(4) PUBLICATIONS BY DEPARTMENT.--The department
12 through the Division of Administration and Technical Services
13 is given authority, from time to time in its discretion, to
14 cause the statutory laws under its jurisdiction, together with
15 any rules and regulations promulgated by it, to be published
16 in pamphlet form for free distribution in this state. The
17 department is authorized to make charges for technical and
18 educational publications and mimeographed material of use for
19 educational or reference purposes. Such charges shall be made
20 at the discretion of the Division of Administration and
21 Technical Services. Such charges may be sufficient to cover
22 cost of preparation, printing, publishing, and distribution.
23 All moneys received for publications shall be deposited into
24 the fund from which the cost of the publication was paid. The
25 department is further authorized to enter into agreements with
26 persons, firms, corporations, governmental agencies, and other
27 institutions whereby publications may be exchanged
28 reciprocally in lieu of payments for said publications.

29 (8)(5) POWERS OF OFFICERS.--

30 (a) The department may designate such employees of the
31 several divisions, as it may deem necessary in its discretion,

1 as law enforcement officers, who shall meet the provisions of
2 s. 943.13(1)-(10) and have the powers and duties conferred in
3 this subsection, except that such employees shall comply with
4 the provisions of chapter 943. Such officers and the Director
5 of the Division of Law Enforcement, are constituted law
6 enforcement officers of this state with full power to
7 investigate and arrest for any violation of the laws of this
8 state and the rules and regulations of the department under
9 their jurisdiction and for violations of chapter 253 and the
10 rules and regulations promulgated thereunder. The general laws
11 applicable to arrests by peace officers of this state shall
12 also be applicable to such law enforcement officers. Such law
13 enforcement officers may enter upon any land or waters of the
14 state for performance of their lawful duties and may take with
15 them any necessary equipment, and such entry will not
16 constitute a trespass. It is lawful for any boat, motor
17 vehicle, or aircraft owned or chartered by the department or
18 its agents or employees to land on and depart from any of the
19 beaches or waters of the state. Such law enforcement officers
20 have the authority, without warrant, to board, inspect, and
21 search any boat, fishing appliance, storage or processing
22 plant, fishhouse, spongehouse, oysterhouse, or other
23 warehouse, building, or vehicle engaged in transporting or
24 storing any fish or fishery products. Such authority to search
25 and inspect without a search warrant is limited to those cases
26 in which such law enforcement officers have reason to believe
27 that fish or any saltwater products are taken or kept for
28 sale, barter, transportation, or other purposes in violation
29 of laws or rules promulgated under this law. Any such law
30 enforcement officer may at any time seize or take possession
31 of any saltwater products or contraband which have been

1 unlawfully caught, taken, or processed or which are unlawfully
2 possessed or transported in violation of any of the laws of
3 this state or any rule or regulation of the department. Such
4 law enforcement officers may arrest any person in the act of
5 violating any of the provisions of this law, the rules or
6 regulations of the department, the provisions of chapter 253
7 and the rules and regulations promulgated thereunder, or any
8 of the laws of this state. It is hereby declared unlawful for
9 any person to resist such arrest or in any manner interfere,
10 either by abetting or assisting such resistance or otherwise
11 interfering, with any such law enforcement officer while
12 engaged in the performance of the duties imposed upon him or
13 her by law or regulation of the department.

14 (b) The Legislature finds that the checking and
15 inspection of saltwater products aboard vessels is critical to
16 good fishery management and conservation and that, because
17 almost all saltwater products are either iced or cooled in
18 closed areas or containers, the enforcement of seasons, size
19 limits, and bag limits can only be effective when inspection
20 of saltwater products so stored is immediate and routine.
21 Therefore, in addition to the authority granted in paragraph
22 (a), a law enforcement officer of the department who has
23 probable cause to believe that the vessel has been used for
24 fishing prior to the inspection shall have full authority to
25 open and inspect all containers or areas where saltwater
26 products are normally kept aboard vessels while such vessels
27 are on the water, such as refrigerated or iced locations,
28 coolers, fish boxes, and bait wells, but specifically
29 excluding such containers that are located in sleeping or
30 living areas of the vessel.

31

1 (9)~~(6)~~ DUTIES OF DEPARTMENT OF LEGAL AFFAIRS.--The
2 Department of Legal Affairs shall attend to the legal business
3 of the Department of Environmental Protection and its
4 divisions; but, if at any time any question of law or any
5 litigation arises and the Department of Legal Affairs is
6 otherwise occupied and cannot give the time and attention
7 necessary to such question of law or litigation as the
8 occasion demands, the several state attorneys shall attend to
9 any such question of law or litigation arising within their
10 respective circuits; and, if such state attorney is otherwise
11 occupied and cannot give the time and attention necessary to
12 such question of law or litigation as the case may demand, the
13 Department of Environmental Protection may employ additional
14 counsel for that particular cause, with the advice and consent
15 of the Department of Legal Affairs. Such additional counsel's
16 fees shall be paid from the moneys appropriated to the
17 Department of Environmental Protection.

18 (10)~~(7)~~ RETENTION, DESTRUCTION, AND REPRODUCTION OF
19 RECORDS.--Records and documents of the Department of
20 Environmental Protection created in compliance with and in the
21 implementation of this chapter or former chapter 371 shall be
22 retained by the department as specified in record retention
23 schedules established under the general provisions of chapters
24 119 and 257. Further, the department is authorized to:

25 (a) Destroy, or otherwise dispose of, those records
26 and documents in conformity with the approved retention
27 schedules.

28 (b) Photograph, microphotograph, or reproduce such
29 records and documents on film, as authorized and directed by
30 the approved retention schedules, whereby each page will be
31 exposed in exact conformity with the original records and

1 documents retained in compliance with the provisions of this
2 section. Photographs or microphotographs in the form of film
3 or print of any records, made in compliance with the
4 provisions of this section, shall have the same force and
5 effect as the originals thereof would have and shall be
6 treated as originals for the purpose of their admissibility in
7 evidence. Duly certified or authenticated reproductions of
8 such photographs or microphotographs shall be admitted in
9 evidence equally with the original photographs or
10 microphotographs. The impression of the seal of the
11 Department of Environmental Protection on a certificate made
12 pursuant to the provisions hereof and signed by the Secretary
13 of Environmental Protection shall entitle the same to be
14 received in evidence in all courts and in all proceedings in
15 this state and shall be prima facie evidence of all factual
16 matters set forth in the certificate. A certificate may
17 relate to one or more records, as set forth in the
18 certificate, or in a schedule continued on an attachment to
19 the certificate.

20 (c) Furnish certified copies of such records for a fee
21 of \$1 which shall be deposited in the Marine Resources
22 Conservation Trust Fund.

23 (11)~~(8)~~ COURTS OF EQUITY MAY ENJOIN.--Courts of equity
24 in this state have jurisdiction to enforce the conservation
25 laws of this state by injunction.

26 (12)~~(9)~~ BOND OF EMPLOYEES.--The department may
27 require, as it determines, that bond be given by any employee
28 of the department or divisions thereof, payable to the
29 Governor of the state and the Governor's successor in office,
30 for the use and benefit of those whom it may concern, in such
31 penal sums with good and sufficient surety or sureties

1 approved by the department conditioned for the faithful
2 performance of the duties of such employee.

3 (13)~~(10)~~ REVOCATION OF LICENSES.--Any person licensed
4 under this chapter who has been convicted of taking
5 aquaculture species raised at a certified facility shall have
6 his or her license revoked for 5 years by the Department of
7 Environmental Protection pursuant to the provisions and
8 procedures of s. 120.60.

9 Section 3. Subsection (1) of section 370.026, Florida
10 Statutes, is amended to read:

11 370.026 Marine Fisheries Commission.--

12 (1) There is created within the Board of Trustees of
13 the Internal Improvement Trust Fund a Marine Fisheries
14 Commission which shall be composed of seven members who have
15 resided in the state for at least 5 years. The seven members
16 shall be appointed by the Governor, subject to confirmation by
17 the Senate, and shall be exempt from the Career Service
18 System. The Governor shall consider affected interests when
19 making appointments to the commission. No single interest
20 group shall dominate the membership of the commission. ~~As soon~~
21 ~~as practicable after this act becomes a law, two members shall~~
22 ~~be appointed for terms ending August 1, 1985; three members~~
23 ~~shall be appointed for terms ending August 1, 1986; and the~~
24 ~~remaining members shall be appointed for terms ending August~~
25 ~~1, 1987. Thereafter,~~All appointments shall be for 4-year
26 terms. If a vacancy occurs, a member shall be appointed by the
27 Governor for the unexpired term. A commission member whose
28 term has expired shall continue sitting on the commission with
29 full rights until he or she has been replaced.

30 Section 4. Subsection (2) of section 370.062, Florida
31 Statutes, is amended to read:

1 370.062 Department of Environmental Protection license
2 program for tarpon; fees; penalties.--

3 (2) The number of tags to be ~~annually~~ issued shall be
4 determined by rule of the Marine Fisheries Commission. ~~The~~
5 ~~rule shall be adopted prior to November 30 of each year for~~
6 ~~the upcoming calendar year.~~The commission shall in no way
7 allow the issuance of tarpon tags to adversely affect the
8 tarpon population.

9 Section 5. Subsections (10) and (13) of section
10 370.0605, Florida Statutes, are amended to read:

11 370.0605 Saltwater fishing license required; fees.--

12 (10) The department, the Game and Fresh Water Fish
13 Commission, or any other law enforcement agency may make any
14 investigation necessary to secure information required to
15 carry out and enforce this section.

16 (13) The department or the Game and Fresh Water Fish
17 Commission may designate by rule no more than 2 consecutive or
18 nonconsecutive days in each year as "Disabled Angler Fishing
19 Days." Notwithstanding any other provision of this chapter,
20 any disabled person may take marine fish for noncommercial
21 purposes on a Disabled Angler Fishing Day without obtaining or
22 possessing a license or paying a license fee as prescribed in
23 this section. A disabled person who takes marine fish on a
24 Disabled Angler Fishing Day without obtaining a license or
25 paying a fee must comply with all laws and regulations
26 governing holders of a license and all other conditions and
27 limitations regulating the taking of marine fish as are
28 imposed by law or rule.

29 Section 6. Paragraph (a) of subsection (5) of section
30 370.0821, Florida Statutes, is amended to read:

31 370.0821 St. Johns County; use of nets.--

1 (5)(a) The term "recreational net" means a seine or
2 similar net not exceeding 100 feet in length, ~~with mesh no~~
3 ~~smaller than 2 1/2 inches,~~ set and hauled solely by hand and
4 without use of any motor-driven boat or vehicle.

5 Section 7. Subsection (3) of section 370.12, Florida
6 Statutes, is amended to read:

7 370.12 Marine animals; regulation.--

8 (3) PROTECTION OF MAMMALIAN DOLPHINS (PORPOISES).--

9 ~~(a)~~ It is unlawful to catch, attempt to catch, molest,
10 injure, kill, or annoy, or otherwise interfere with the normal
11 activity and well-being of, mammalian dolphins (porpoises),
12 except as may be authorized as a federal permit hereinafter
13 provided.

14 ~~(b) Any person, firm, or corporation desiring to take~~
15 ~~one or more mammalian dolphins from the waters of this state~~
16 ~~for scientific, educational, or exhibitional purposes shall~~
17 ~~apply for a permit to the Division of Marine Resources. Upon~~
18 ~~determining that the interests of science or education will be~~
19 ~~served thereby, the division may issue a permit specifying the~~
20 ~~number of mammalian dolphins to be taken.~~

21 ~~(c) Any person, firm, or corporation desiring to hold~~
22 ~~one or more mammalian dolphins in captivity shall provide and~~
23 ~~maintain facilities which meet the requirements of the~~
24 ~~division.~~

25 ~~(d) No mammalian dolphin shall be shipped within or~~
26 ~~outside the state without a special permit from the division,~~
27 ~~which may require such information as it deems necessary~~
28 ~~relative to the adequacy of holding facilities of the~~
29 ~~recipients; and a permit for such shipment may be granted only~~
30 ~~when the division determines the facilities are adequate.~~

31

1 ~~(e) Notwithstanding the other provisions of this~~
2 ~~section, it is unlawful to capture at any time any nursing~~
3 ~~female mammalian dolphin or her calf, or both.~~

4 Section 8. Subsections (1), (3), and (5) of section
5 370.1405, Florida Statutes, are amended to read:

6 370.1405 Crawfish reports by dealers during closed
7 season required.--

8 (1) Within 3 days after the commencement of the closed
9 season for the taking of saltwater crawfish, each and every
10 seafood dealer, either retail or wholesale, intending to
11 possess whole crawfish, crawfish tails, or crawfish meat
12 during closed season shall submit to the Department of
13 Environmental Protection, on forms provided by the department,
14 a sworn report of the quantity, in pounds, of saltwater whole
15 crawfish, crawfish tails, and crawfish meat in the dealer's
16 name or possession as of the date the season closed. This
17 report shall state the location and number of pounds of whole
18 crawfish, crawfish tails, and crawfish meat. The department
19 shall not accept any reports not delivered or postmarked by
20 midnight of the 3rd calendar day after the commencement of the
21 closed season, and any stocks of crawfish reported therein are
22 declared a nuisance and may be seized by the department.

23 (3) All dealers having reported stocks of crawfish may
24 sell or offer to sell such stocks of crawfish; however, such
25 dealers shall submit an additional report on the last day of
26 each month during the duration of the closed season. Reports
27 shall be made on forms supplied by the department. Each dealer
28 shall state on this report the number of pounds brought
29 forward from the previous report period, the number of pounds
30 sold during the report period, the number of pounds, if any,
31 acquired from a licensed wholesale dealer during the report

1 period,and the number of pounds remaining on hand. In every
2 case, the amount of crawfish sold plus ~~and~~ the amount reported
3 on hand shall equal the amount acquired plus the amount
4 reported remaining on hand in the last submitted report.
5 Copies of records or invoices documenting the number of pounds
6 acquired during the closed season must be maintained by the
7 wholesale or retail dealer and shall be kept available for
8 inspection by the department for a period not less than 3
9 years from the date of the recorded transaction.Reports
10 postmarked later than midnight on the 3rd calendar day of each
11 month during the duration of the closed season will not be
12 accepted by the department. Dealers for which late
13 supplementary reports are not accepted by the department must
14 show just cause why their entire stock of whole crawfish,
15 crawfish tails, or crawfish meat should not be seized by the
16 department. Whenever a dealer fails to timely submit ~~make~~ the
17 monthly supplementary report as described in this subsection,
18 the dealer may be subject to the following civil penalties:
19 (a) For a first violation, the department shall assess
20 a civil penalty of \$500.
21 (b) For a second violation within the same crawfish
22 closed season, the department shall assess a civil penalty of
23 \$1,000.
24 (c) For a third violation within the same crawfish
25 closed season, the department shall assess a civil penalty of
26 \$2,500 and may seize said dealer's entire stock of whole
27 crawfish, crawfish tails, or crawfish meat and carry the same
28 before the court for disposal. The dealer shall post a cash
29 bond in the amount of the fair value of the entire remaining
30 quantity of crawfish as determined by the judge. After posting
31 the cash bond, a dealer shall have 24 hours to transport said

1 products outside the limits of Florida for sale as provided by
2 s. 370.061. Otherwise, the product shall be declared a
3 nuisance and disposed of by the department according to law.

4 (5) Each wholesale and retail dealer in whole
5 crawfish, crawfish tails, or crawfish meat shall keep
6 throughout the period of the crawfish closed season copies of
7 the bill of sale or invoice covering each transaction
8 involving whole crawfish, crawfish tails, or crawfish meat.
9 Such invoices and bills shall be kept available at all times
10 for inspection by the department.

11 Section 9. Subsection (7) of section 370.25, Florida
12 Statutes, is amended to read:

13 370.25 Artificial fishing reef program; construction
14 grants to local governments.--

15 (7)(a) An initial violation of subsection~~(6)(4)~~ is a
16 misdemeanor of the first degree, punishable as provided in s.
17 775.082 or s. 775.083. A subsequent violation of subsection
18 ~~(6)(4)~~ which is committed within 12 months after a previous
19 violation of that subsection is a felony of the third degree,
20 punishable as provided in s. 775.082, or s. 775.083, or s.
21 775.084.

22 (b) If a violation of paragraph~~(6)(4)~~(a), ~~paragraph~~
23 ~~(4)(c)~~, or paragraph (4)~~(a)~~(~~d~~) occurs, a law enforcement
24 officer may ~~must~~ terminate a vessel's voyage and order the
25 vessel operator to return immediately to port. The vessel
26 operator must immediately dispose of the materials on shore
27 according to applicable waste disposal laws.

28 (c) If, at the time of the violation, the vessel that
29 is involved in the violation:

30 1. Is moored, the registered owner of the vessel is
31 responsible for the violation.

1 2. Is underway, the captain or operator of the vessel
2 and the registered owner of the vessel are jointly responsible
3 for the violation.

4 (d) In addition to the penalties imposed in subsection
5 ~~(7) paragraph (5)(a), any person convicted of violating~~
6 ~~subsection (4), regardless of whether adjudication was~~
7 ~~withheld or imposition of sentence deferred or suspended, the~~
8 department shall assess civil penalties of up to \$5,000
9 against any person convicted of violating subsection (6) and
10 may suspend or revoke the vessel registration and may revoke
11 existing reef-construction permits and other state marine
12 licenses held by the violator. For the purposes of this
13 section, conviction includes any judicial disposition other
14 than acquittal or dismissal.

15 Section 10. Section 370.015, Florida Statute, is
16 repealed.

17 Section 11. Subsection (7) of section 370.08, Florida
18 Statutes, is repealed.

19 Section 12. Subsection (3) of section 370.0821,
20 Florida Statutes, is repealed.

21 Section 13. Subsections (3) and (4) of section
22 370.092, Florida Statutes, are repealed.

23 Section 14. Subsections (2) and (3) of section 370.11,
24 Florida Statutes, are repealed.

25 Section 15. Section 370.1125, Florida Statutes, is
26 repealed.

27 Section 16. Section 370.114, Florida Statutes, is
28 repealed.

29 Section 17. Subsection (4) of section 370.12, Florida
30 Statutes, is repealed.

31

- 1 Section 18. Subsection (2) of section 370.13, Florida
2 Statutes, is repealed.
- 3 Section 19. Subsections (2), and (3), and (4) of
4 section 370.135, Florida Statutes, are repealed.
- 5 Section 20. Subsection (6) of section 370.14, Florida
6 Statutes, is repealed.
- 7 Section 21. Subsections (2) and (3) of section 370.15,
8 Florida Statutes, are repealed.
- 9 Section 22. Subsection (2) of section 370.151, Florida
10 Statutes, is repealed.
- 11 Section 23. Paragraphs (c), (d), and (e) of subsection
12 (4) and paragraphs (b) and (d) of subsection (5) of section
13 370.153, Florida Statutes, are repealed.
- 14 Section 24. Section 370.156, Florida Statutes, is
15 repealed.
- 16 Section 25. Section 370.157, Florida Statutes, is
17 repealed.
- 18 Section 26. Section 370.1611, Florida Statutes, is
19 repealed.
- 20 Section 27. This act shall take effect upon becoming a
21 law.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 1084

4 Everything after the enacting clause has been deleted.

5 This bill now removes obsolete, duplicative and confusing
6 language within Chapter 370, F.S., related to saltwater
7 fisheries. It also combines the various penalty and
8 enforcement sections, now scattered throughout the chapter,
9 into one section, s. 370.021, F.S., and creates a new penalty
10 for a major violation relating to finfish. It contains only a
11 few substantive changes.

12 Section 1. This section revises s. 370.01, F.S., the
13 definitions section, alphabetically.

14 Section 2. Section 370.021, F.S., is amended to group
15 together existing penalties now found throughout ch. 370,
16 F.S., and create a requirement that, upon a conviction for a
17 major violation involving finfish, the licenseholder must show
18 just cause why his or her saltwater products license should
19 not be suspended or revoked. For this purpose, a major
20 violation is prescribed for the taking and harvesting of
21 illegal finfish, any single violation involving the possession
22 of more than 100 pounds of illegal finfish, or any combination
23 of violations in any 3-consecutive-year period wherein more
24 than 200 pounds of illegal finfish in the aggregate are
25 involved.

26 This section also deletes a penalty for violation of an
27 obsolete MFC rule relating to allowable gear in Martin County
28 and an obsolete penalty involving the unintentional killing of
29 specified fish. It also inserts the correct name of the DEP's
30 Division of Administration and Technical Services.

31 Section 3. Section 370.026, F.S., is amended to delete
obsolete provisions.

Section 4. Section 370.062, F.S., is amended to reflect the
MFC's program for the issuance of tarpon tags.

Section 5. Section 370.0605, F.S., is amended to include the
Game and Fresh Water Fish Commission (GFWFC) in the
enforcement authority of ch. 370, F.S., and to authorize the
GFWFC to designate "Disabled Angler Fishing Days."

Section 6. Section 370.0821, F.S., is amended to delete an
obsolete provision.

Section 7. Section 370.12, F.S., is amended to clarify that
federal law regulates the taking of mammalian dolphin.

Section 8. Section 370.1405, F.S., is amended to revise
reporting and recordkeeping requirements for seafood dealers
relating to the possession of crawfish during the closed
season.

Section 9. Section 370.25, F.S., is revised to correct a
cross-reference to allow enforcement of the artificial fishing

1 reef program.
2 Sections 10-26 repeal obsolete provisions as well as
3 provisions made ineffective due to MFC rulemaking.
4 Section 27. The act will effect upon becoming a law.
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