

By Senator Latvala

312-954A-98

1 A bill to be entitled
2 An act relating to rulemaking authority with
3 respect to marine resources (RAB); authorizing
4 rulemaking and enforcement for preventing
5 improper uses of state buffer preserves;
6 providing penalties; amending s. 370.06, F.S.;
7 authorizing rulemaking for issuance of
8 special-activities licenses; amending s.
9 370.12, F.S.; authorizing rulemaking for
10 issuance of special permits for conservation of
11 marine turtles; amending s. 370.25, F.S.;
12 authorizing rulemaking for inspection and
13 approval of artificial-reef-construction
14 materials; providing an effective date.

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

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18 Section 1. (1) The Division of Marine Resources of
19 the Department of Environmental Protection may adopt rules
20 governing the management and use of state-owned or other
21 uplands above the mean high water line or ordinary high water
22 line which are assigned to it for management purposes. The
23 rules may include, but are not limited to, rules establishing
24 prohibited activities or restrictions on activities consistent
25 with the purposes for which the lands were acquired,
26 designated, or dedicated and rules charging fees for use of
27 the lands.

28 (2) Any person who violates or otherwise fails to
29 comply with the rules adopted under this section is guilty of
30 a misdemeanor of the second degree, punishable as provided in
31 section 775.082 or section 775.083, Florida Statutes.

1 Section 2. Subsection (4) of section 370.06, Florida
2 Statutes, is amended to read:

3 370.06 Licenses.--

4 (4) SPECIAL ACTIVITY LICENSES.--

5 (a) A special-activity license is required for any
6 person to use gear or equipment not authorized by this chapter
7 or by rules of the Marine Fisheries Commission for harvesting
8 saltwater species. In accordance with this chapter, s. 16,
9 Art. X of the State Constitution, and rules of the Marine
10 Fisheries Commission, the department may issue
11 special-activity licenses for the use of nonconforming gear or
12 equipment, including, but not limited to, trawl, seine and
13 entangling nets, traps, and hook-and-line gear, to be used in
14 harvesting saltwater species for scientific and governmental
15 purposes and, where allowable, for innovative fisheries.

16 (b) The department may issue special-activity
17 licenses, in accordance with s. 370.071, to permit the harvest
18 or cultivation of oysters, clams, mussels, and crabs when the
19 activities relate to quality control, sanitation, public
20 health regulations, aquaculture, or the protection of
21 shellfish resources covered by this chapter.~~Any person who~~
22 ~~seeks to use special gear or equipment in harvesting saltwater~~
23 ~~species must purchase a special activity license as specified~~
24 ~~by law to engage in such activities. The department may issue~~
25 ~~special activity licenses, in accordance with s. 370.071, to~~
26 ~~permit the cultivation of oysters, clams, mussels, and crabs~~
27 ~~when such aquaculture activities relate to quality control,~~
28 ~~sanitation, and public health regulations. The department may~~
29 ~~prescribe by rule special terms, conditions, and restrictions~~
30 ~~for any special activity license.~~

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1 ~~(c)(b)~~ The department is authorized to issue special
2 activity licenses in accordance with this section and s.
3 370.31, to permit the importation, possession, and aquaculture
4 of anadromous sturgeon. The special activity license shall
5 provide for best management practices to prevent the release
6 and escape of cultured anadromous sturgeon and to protect
7 indigenous populations of saltwater species ~~from~~
8 ~~sturgeon-borne disease.~~

9 (d) The department may issue special-activity licenses
10 in accordance with ss. 370.071, and 370.101 and this section,
11 aquaculture permit consolidation procedures in s.
12 370.26(3)(a), and rules of the Marine Fisheries Commission to
13 permit the capture and possession of saltwater species that
14 are protected by law and used as stock for artificial
15 cultivation and propagation.

16 (e) The department may adopt rules governing the
17 administration of special-activities licenses as provided in
18 this chapter and rules of the Marine Fisheries Commission. The
19 rules may prescribe application requirements and terms,
20 conditions, and restrictions for any special-activity license
21 requested under this section.

22 Section 3. Paragraph (c) of subsection (1) of section
23 370.12, Florida Statutes, is amended to read:

24 370.12 Marine animals; regulation.--

25 (1) PROTECTION OF MARINE TURTLES.--

26 (c)1. Unless otherwise provided by the federal
27 Endangered Species Act or its implementing regulations, no
28 person may take, possess, disturb, mutilate, destroy, cause to
29 be destroyed, sell, offer for sale, transfer, molest, or
30 harass any marine turtle or its nest or eggs at any time. For
31 purposes of this subsection, "take" means an act which

1 actually kills or injures marine turtles, and includes
2 significant habitat modification or degradation that kills or
3 injures marine turtles by significantly impairing essential
4 behavioral patterns, such as breeding, feeding, or sheltering.

5 2. Unless otherwise provided by the federal Endangered
6 Species Act or its implementing regulations, no person, firm,
7 or corporation may take, kill, disturb, mutilate, molest,
8 harass, or destroy any marine turtle.

9 3. No person, firm, or corporation may possess any
10 marine turtle or parts thereof unless it is in possession of a
11 special permit or loan agreement from the department enabling
12 the holder to possess a marine turtle or parts thereof for
13 scientific, educational, or exhibitional purposes.

14 Notwithstanding any other provision of law, the department may
15 issue such authorizations to any properly accredited person
16 for the purpose of marine turtle conservation upon such terms,
17 conditions, and restrictions as it prescribes by rule. The
18 department may adopt rules permitting the possession of marine
19 turtles under this paragraph.

20 Section 4. Subsections (6) and (7) of section 370.25,
21 Florida Statutes, are amended to read:

22 370.25 Artificial fishing reef program; construction
23 grants to local governments.--

24 (6) It is unlawful for any person to:

25 (a) Place artificial-reef-construction materials in
26 state water outside zones permitted under the terms and
27 conditions defined in the applicable environmental permits and
28 under United States Army Corps of Engineers permits held by
29 the department or a local government.

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1 (b) Place in state waters artificial-reef-construction
2 materials that have not been inspected and approved by the
3 department or a department-certified inspector.

4 (c) The department may adopt rules to administer this
5 subsection and may by rule prescribe procedures and criteria
6 for the inspection and approval of
7 artificial-reef-construction materials under s. 120.536.

8 (7)(a) An initial violation of subsection (6)(4) is a
9 misdemeanor of the first degree, punishable as provided in s.
10 775.082 or s. 775.083. A subsequent violation of subsection
11 (6)(4) which is committed within 12 months after a previous
12 violation of that subsection is a felony of the third degree,
13 punishable as provided in s. 775.082, or s. 775.083, or s.
14 775.084.

15 (b) If a violation of paragraph (4)(a), paragraph
16 (4)(c), or paragraph (4)(d) occurs, a law enforcement officer
17 may must terminate a vessel's voyage and order the vessel
18 operator to return immediately to port. The vessel operator
19 must immediately dispose of the materials on shore according
20 to applicable waste disposal laws.

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

23 1. Is moored, the registered owner of the vessel is
24 responsible for the violation.

25 2. Is underway, the captain or operator of the vessel
26 and the registered owner of the vessel are jointly responsible
27 for the violation.

28 (d) In addition to the penalties imposed in paragraph
29 (7)(5)(a), any person convicted of violating subsection (4),
30 regardless of whether adjudication was withheld or imposition
31 of sentence deferred or suspended, the department shall assess

1 civil penalties of up to \$5,000 against any person convicted
2 of violating subsection (6),and may suspend or revoke the
3 vessel registration and may revoke existing reef-construction
4 permits and other state marine licenses held by the violator.
5 For the purposes of this section, a conviction includes any
6 judicial disposition other than acquittal or dismissal.

7 Section 5. This act shall take effect upon becoming a
8 law.

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SENATE SUMMARY

Authorizes the Department of Environmental Protection to
adopt rules relating to management and use of uplands,
special-activities permits, special marine turtle
permits, and inspection and approval of
artificial-reef-construction materials. Provides
penalties.