

By Senator Latvala

19-751A-98

1 A bill to be entitled
2 An act relating to marine resources; amending
3 s. 370.06, F.S.; providing qualifications for
4 the issuance of a marine life endorsement on a
5 saltwater products license; providing for a
6 moratorium on the issuance of endorsements;
7 providing for the transfer and reissuance of
8 endorsements; providing for a report; amending
9 s. 370.0608, F.S.; revising the distribution of
10 funds collected from the sale of recreational
11 saltwater fishing licenses; amending s.
12 370.092, F.S.; authorizing the Marine Fisheries
13 Commission to adopt rules specifying geographic
14 or temporal prohibitions on the possession of
15 specified nets; providing for the content of
16 the rules; directing the Marine Fisheries
17 Commission to adopt rules prohibiting the
18 simultaneous possession of gill or entangling
19 nets with any designated species that has been
20 harvested with such a net; providing for the
21 content of the prohibitions; providing
22 penalties; amending s. 370.093, F.S.; revising
23 criteria for illegal use of nets; authorizing
24 the Marine Fisheries Commission to adopt rules
25 implementing s. 370.093, F.S.; amending s.
26 370.142, F.S.; providing for a surcharge to be
27 assessed upon the initial transfer of a
28 transferable crawfish trap certificate outside
29 the original transferor's immediate family;
30 prohibiting the lease of lobster trap
31 certificates after July 1, 1998; providing

1 additional penalties for violations relating to
2 traps; providing for the continuation of the
3 Marine Fisheries Commission notwithstanding its
4 scheduled abolition; providing an effective
5 date.

6
7 Be It Enacted by the Legislature of the State of Florida:

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9 Section 1. Paragraph (d) of subsection (2) of section
10 370.06, Florida Statutes, is amended to read:

11 370.06 Licenses.--

12 (2) SALTWATER PRODUCTS LICENSE.--

13 (d)1. In addition to the saltwater products license, a
14 marine life fishing endorsement ~~is shall be~~ required for the
15 harvest of marine life species as defined by rule of the
16 Marine Fisheries Commission. This endorsement may be issued
17 only to a person who is at least 16 years of age or older or
18 to a corporation holding a valid restricted species
19 endorsement.

20 2.a. Effective July 1, 1998, and until July 1, 2002, a
21 marine life endorsement may not be issued under this
22 paragraph, except that those endorsements that are active
23 during the 1997-1998 fiscal year may be renewed.

24 b. In 1998, persons or corporations holding a marine
25 life endorsement that was active in the 1997-1998 fiscal year
26 or an immediate family member of that person must request
27 renewal of the marine life endorsement before December 31,
28 1998.

29 c. In subsequent years and until July 1, 2002, a
30 marine life endorsement holder, or member of his or her
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1 immediate family, must request renewal of the marine life
2 endorsement before September 30 of each year.

3 d. If a person or corporation holding an active marine
4 life fishing endorsement or a member of that person's
5 immediate family does not request renewal of the endorsement
6 before the applicable dates specified in this paragraph, the
7 department shall deactivate that marine life fishing
8 endorsement.

9 e. In the event of the death or disability of a person
10 holding an active marine life fishing endorsement, the
11 endorsement may be transferred by the person to a member of
12 his or her immediate family or may be renewed by any person so
13 designated by the executor of the person's estate.

14 f. Persons or corporations who hold saltwater product
15 licenses with marine life fishing endorsements issued to their
16 vessel registration numbers and who subsequently replace their
17 existing vessels with new vessels may transfer the existing
18 marine life fishing endorsement to the new boat registration
19 numbers.

20 g. Persons or corporations who hold saltwater product
21 licenses with marine life fishing endorsements issued to their
22 name and who subsequently incorporate or unincorporate may
23 transfer the existing marine life fishing endorsement to the
24 new corporation or person.

25 h. By July 1, 2000, the Marine Fisheries Commission
26 shall prepare a report regarding options for the establishment
27 of a limited-entry program for the marine life fishery and
28 submit the report to the Governor, the President of the
29 Senate, the Speaker of the House of Representatives, and the
30 chairs of the Senate and House committees having jurisdiction
31 over marine resources.

1 ~~3.2.~~ The fee for a marine life fishery endorsement on
2 a saltwater products license shall be \$75. These license fees
3 shall be collected and deposited in the Marine Resources
4 Conservation Trust Fund and used for the purchase and
5 installation of vessel mooring buoys at coral reef sites and
6 for research related to marine fisheries.

7 Section 2. Subsection (1) of section 370.0608, Florida
8 Statutes, is amended to read:

9 370.0608 Deposit of license fees; allocation of
10 federal funds.--

11 (1) All license fees collected pursuant to s. 370.0605
12 shall be deposited into the Marine Resources Conservation
13 Trust Fund, to be used as follows:

14 (a) Not more than 5 ~~2.5~~ percent of the total fees
15 collected shall be for the Marine Fisheries Commission to be
16 used to carry out the responsibilities of the commission and
17 to provide for the award of funds to marine research
18 institutions in this state for the purposes of enabling such
19 institutions to conduct worthy marine research projects.

20 (b) Not less than 2.5 percent of the total fees
21 collected shall be used for aquatic education purposes.

22 (c)1. The remainder of such fees shall be used by the
23 department for the following program functions:

24 a. Not more than 5 percent of the total fees
25 collected, for administration of the licensing program and for
26 information and education.

27 b. Not more than 30 percent of the total fees
28 collected, for law enforcement.

29 c. Not less than 27.5 ~~30~~ percent of the total fees
30 collected, for marine research.

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1 d. Not less than 30 percent of the total fees
2 collected, for fishery enhancement, including, but not limited
3 to, fishery statistics development, artificial reefs, and fish
4 hatcheries.

5 2. The Legislature shall annually appropriate to the
6 Department of Environmental Protection from the General
7 Revenue Fund for the activities and programs specified in
8 subparagraph 1. at least the same amount of money as was
9 appropriated to the department from the General Revenue Fund
10 for such activities and programs for fiscal year 1988-1989,
11 and the amounts appropriated to the department for such
12 activities and programs from the Marine Resources Conservation
13 Trust Fund shall be in addition to the amount appropriated to
14 the department for such activities and programs from the
15 General Revenue Fund. The proceeds from recreational saltwater
16 fishing license fees paid by fishers shall only be
17 appropriated to the Department of Environmental Protection.

18 Section 3. Subsection (2) of section 370.092, Florida
19 Statutes, is amended, and paragraph (c) is added to subsection
20 (3) of that section, to read:

21 370.092 Carriage of proscribed nets across Florida
22 waters.--

23 (2) Every vessel containing or otherwise transporting
24 in or on Florida waters any gill net or other entangling net
25 and every vessel containing or otherwise transporting in or on
26 nearshore and inshore Florida waters any net containing more
27 than 500 square feet of mesh area shall proceed as directly,
28 continuously, and expeditiously as possible from the place
29 where the vessel is regularly docked, moored, or otherwise
30 stored to waters where the use of said nets is lawful and from
31 waters where the use of said nets is lawful back to the place

1 where the vessel is regularly docked, moored, or otherwise
2 stored or back to the licensed wholesale dealer where the
3 catch is to be sold. Exceptions shall be provided for docked
4 vessels, for vessels which utilize nets in a licensed
5 aquaculture operation, and for vessels containing trawl nets
6 as long as the trawl's doors or frame are not deployed in the
7 water. Otherwise, hovering, drifting, and other similar
8 activities inconsistent with the direct, continuous, and
9 expeditious transit of such vessels shall be evidence of the
10 unlawful use of such nets. The presence of fish in such a net
11 is not evidence of the unlawful use of the net if the vessel
12 is otherwise in compliance with this section. The Marine
13 Fisheries Commission may adopt rules specifying geographic or
14 temporal prohibitions on the possession of gill or entangling
15 nets or seines larger than 500 square feet in mesh area. The
16 rules must be based on the absence of legal federal waters
17 fisheries during times of the year when significant fisheries
18 are not legitimately conducted with gill or entangling nets or
19 on the unavailability of fisheries in state waters using
20 seines larger than 500 square feet in mesh area. Violation of
21 these rules is subject to the additional penalties specified
22 in subsection (4).

23 (3)

24 (c) The Marine Fisheries Commission shall adopt rules
25 prohibiting the simultaneous possession of gill or entangling
26 nets with any designated species that has been harvested with
27 a gill or entangling net or the possession of any designated
28 fish that shows signs of such harvest. The prohibitions must
29 include possession on the water or at the facility of a
30 wholesale saltwater products dealer, but may not include any
31 species harvested in federal waters as part of a legitimate

1 fishery. Violation of these rules is subject to the additional
2 penalties specified in subsection (4).

3 Section 4. Paragraph (b) of subsection (2) and
4 subsection (6) of section 370.093, Florida Statutes, are
5 amended to read:

6 370.093 Illegal use of nets.--

7 (2)

8 (b) The use of gill or entangling nets of any size is
9 prohibited, as such nets are defined in s. 16, Art. X of the
10 State Constitution. Any net constructed wholly or partially
11 of monofilament or multi-strand monofilament ~~multifilament~~
12 material other than a hand thrown cast net, or a handheld
13 landing or dip net, shall be considered to be an entangling
14 net within the prohibition of s. 16, Art. X of the State
15 Constitution unless specifically authorized by rule of the
16 commission. Multi-strand monofilament ~~Multifilament~~ material
17 does shall not be defined to include nets constructed of
18 braided or twisted nylon, cotton, linen twine, or
19 polypropylene twine. Unless authorized by rule of the Marine
20 Fisheries Commission adopted after July 1, 1995, a seine or
21 part of a seine may not have a mesh size larger than 2 inches
22 stretched mesh.

23 (6) The Marine Fisheries Commission is granted
24 authority to adopt rules pursuant to ss. 370.025 and 370.027
25 implementing this section and the prohibitions and
26 restrictions of s. 16, Art. X of the State Constitution.

27 Section 5. Subsection (2) of section 370.142, Florida
28 Statutes, is amended to read:

29 370.142 Spiny lobster trap certificate program.--

30 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;
31 PENALTIES.--The Department of Environmental Protection shall

1 establish a trap certificate program for the spiny lobster
2 fishery of this state and shall be responsible for its
3 administration and enforcement as follows:

4 (a) Transferable trap certificates.--Each holder of a
5 saltwater products license who uses traps for taking or
6 attempting to take spiny lobsters shall be required to have a
7 certificate on record for each trap possessed or used
8 therefor, except as otherwise provided in this section.

9 1. The department shall initially allot such
10 certificates to each licenseholder with a current crawfish
11 trap number who uses traps. The number of such certificates
12 allotted to each such licenseholder shall be based on the
13 trap/catch coefficient established pursuant to trip ticket
14 records generated under the provisions of s. 370.06(2)(a) over
15 a 3-year base period ending June 30, 1991. The trap/catch
16 coefficient shall be calculated by dividing the sum of the
17 highest reported single license-year landings up to a maximum
18 of 30,000 pounds for each such licenseholder during the base
19 period by 700,000. Each such licenseholder shall then be
20 allotted the number of certificates derived by dividing his or
21 her highest reported single license-year landings up to a
22 maximum of 30,000 pounds during the base period by the
23 trap/catch coefficient. Nevertheless, no licenseholder with a
24 current crawfish trap number shall be allotted fewer than 10
25 certificates. However, certificates may only be issued to
26 individuals; therefore, all licenseholders other than
27 individual licenseholders shall designate the individual or
28 individuals to whom their certificates will be allotted and
29 the number thereof to each, if more than one. After initial
30 issuance, trap certificates are transferable on a market basis
31 and may be transferred from one licenseholder to another for a

1 fair market value agreed upon between the transferor and
2 transferee. Each such transfer shall, within 72 hours thereof,
3 be recorded on a notarized form provided for that purpose by
4 the department and hand delivered or sent by certified mail,
5 return receipt requested, to the department for recordkeeping
6 purposes. In addition, in order to cover the added
7 administrative costs of the program and to recover an
8 equitable natural resource rent for the people of the state, a
9 transfer fee of \$2 per certificate transferred shall be
10 assessed against the purchasing licenseholder and sent by
11 money order or cashier's check with the certificate transfer
12 form. Also, in addition to the transfer fee, a surcharge of \$5
13 per certificate transferred or 25 percent of the actual fair
14 market value, whichever is greater, given to the transferor
15 shall be assessed the first time a certificate is transferred
16 outside the original transferor's immediate family. No
17 transfer of a certificate shall be effective until the
18 department receives the notarized transfer form and the
19 transfer fee, including any surcharge, is paid. The
20 department may establish by rule an amount of equitable rent
21 per trap certificate that shall be recovered as partial
22 compensation to the state for the enhanced access to its
23 natural resources. In determining whether to establish such a
24 rent and, if so, the amount thereof, the department shall
25 consider the amount of revenues annually generated by
26 certificate fees, transfer fees, surcharges, trap license
27 fees, and sales taxes, the demonstrated fair market value of
28 transferred certificates, and the continued economic viability
29 of the commercial lobster industry. The proceeds of equitable
30 rent recovered shall be deposited in the Marine Resources
31 Conservation Trust Fund and used by the department for

1 research, management, and protection of the spiny lobster
2 fishery and habitat.

3 2. No person, firm, corporation, or other business
4 entity may control, directly or indirectly, more than 1.5
5 percent of the total available certificates in any license
6 year.

7 3. The department shall maintain records of all
8 certificates and their transfers and shall annually provide
9 each licenseholder with a statement of certificates held.

10 4. The number of trap tags issued annually to each
11 licenseholder shall not exceed the number of certificates held
12 by the licenseholder at the time of issuance, and such tags
13 and a statement of certificates held shall be issued
14 simultaneously.

15 5. Beginning July 1, 1998, and applicable to the
16 1998-1999 lobster season and thereafter, it is unlawful for
17 any person to lease lobster trap tags or certificates.

18 (b) Trap tags.--Each trap used to take or attempt to
19 take spiny lobsters in state waters or adjacent federal waters
20 shall, in addition to the crawfish trap number required by s.
21 370.14(2), have affixed thereto an annual trap tag issued by
22 the department. Each such tag shall be made of durable plastic
23 or similar material and shall, beginning with those tags
24 issued for the 1993-1994 season based on the number of
25 certificates held, have stamped thereon the owner's license
26 number. To facilitate enforcement and recordkeeping, such tags
27 shall be issued each year in a color different from that of
28 each of the previous 3 years. A fee of 50 cents per tag issued
29 other than on the basis of a certificate held shall be
30 assessed through March 31, 1993. Until 1995, an annual fee of
31 50 cents per certificate shall be assessed, and thereafter,

1 until 1998, an annual fee of 75 cents per certificate shall be
2 assessed upon issuance in order to recover administrative
3 costs of the tags and the certificate program. Beginning in
4 1998, the annual certificate fee shall be \$1 per certificate.
5 Replacement tags for lost or damaged tags may be obtained as
6 provided by rule of the department.

7 (c) Prohibitions; penalties.--

8 1. It is unlawful for a person to possess or use a
9 spiny lobster trap in or on state waters or adjacent federal
10 waters without having affixed thereto the trap tag required by
11 this section. It is unlawful for a person to possess or use
12 any other gear or device designed to attract and enclose or
13 otherwise aid in the taking of spiny lobster by trapping that
14 is not a trap as defined in rule 46-24.006(2), Florida
15 Administrative Code.

16 2. It is unlawful for a person to possess or use spiny
17 lobster trap tags without having the necessary number of
18 certificates on record as required by this section.

19 3. In addition to any other penalties provided in s.
20 370.021 ~~Unless otherwise provided in this section,~~ a
21 commercial harvester, as defined by rule 46-24.002(1), Florida
22 Administrative Code, who violates the provisions of this
23 section, or the provisions relating to traps of chapter 46-24,
24 Florida Administrative Code, shall be punished as follows:

25 a. If the first violation is for violation of
26 subparagraph 1. or subparagraph 2., the department shall
27 assess an additional ~~a~~ civil penalty of up to \$1,000 and the
28 crawfish trap number issued pursuant to s. 370.14(2) or (7)
29 may be suspended for the remainder of the current license
30 year. For all other first violations, the department shall
31 assess an additional ~~a~~ civil penalty of up to \$500.

1 b. For a second violation of subparagraph 1. or
2 subparagraph 2. which occurs within 24 months of any previous
3 such violation, the department shall assess an additional ~~a~~
4 civil penalty of up to \$2,000 and the crawfish trap number
5 issued pursuant to s. 370.14(2) or (7) may be suspended for
6 the remainder of the current license year.

7 c. For a third or subsequent violation of subparagraph
8 1. or subparagraph 2. which occurs within 36 months of any
9 previous two such violations, the department shall assess an
10 additional ~~a~~ civil penalty of up to \$5,000 and may suspend the
11 crawfish trap number issued pursuant to s. 370.14(2) or (7)
12 for a period of up to 24 months or may revoke the crawfish
13 trap number and, if revoking the crawfish trap number, may
14 also proceed against the licenseholder's saltwater products
15 license in accordance with the provisions of s. 370.021(2)(e).

16 d. Any person assessed an additional ~~a~~ civil penalty
17 pursuant to this section shall within 30 calendar days after
18 notification:

19 (I) Pay the civil penalty to the department; or

20 (II) Request an administrative hearing pursuant to the
21 provisions of s. 120.60.

22 e. The department shall suspend the crawfish trap
23 number issued pursuant to s. 370.14(2) or (7) for any person
24 failing to comply with the provisions of sub-subparagraph d.

25 4.a. It is unlawful for any person to make, alter,
26 forge, counterfeit, or reproduce a spiny lobster trap tag or
27 certificate.

28 b. It is unlawful for any person to knowingly have in
29 his or her possession a forged, counterfeit, or imitation
30 spiny lobster trap tag or certificate.

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1 c. It is unlawful for any person to barter, trade,
2 sell, supply, agree to supply, aid in supplying, or give away
3 a spiny lobster trap tag or certificate or to conspire to
4 barter, trade, sell, supply, aid in supplying, or give away a
5 spiny lobster trap tag or certificate unless such action is
6 duly authorized by the department as provided in this chapter
7 or in the rules of the department.

8 5.a. Any person who violates the provisions of
9 subparagraph 4., or any person who engages in the commercial
10 harvest, trapping, or possession of spiny lobster without a
11 crawfish trap number as required by s. 370.14(2) or (7) or
12 during any period while such crawfish trap number is under
13 suspension or revocation, commits a felony of the third
14 degree, punishable as provided in s. 775.082, s. 775.083, or
15 s. 775.084.

16 b. In addition to any penalty imposed pursuant to
17 sub-subparagraph a., the department shall levy a fine of up to
18 twice the amount of the appropriate surcharge to be paid on
19 the fair market value of the transferred certificates, as
20 provided in subparagraph (a)1., on any person who violates the
21 provisions of sub-subparagraph 4.c.

22 6. Any certificates for which the annual certificate
23 fee is not paid for a period of 3 years shall be considered
24 abandoned and shall revert to the department. During any
25 period of trap reduction, any certificates reverting to the
26 department shall become permanently unavailable and be
27 considered in that amount to be reduced during the next
28 license-year period. Otherwise, any certificates that revert
29 to the department are to be reallocated in such manner as
30 provided by the department.

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1 7. The proceeds of all civil penalties collected
2 pursuant to subparagraph 3. and all fines collected pursuant
3 to sub-subparagraph 5.b. shall be deposited into the Marine
4 Resources Conservation Trust Fund.

5 8. All traps shall be removed from the water during
6 any period of suspension or revocation.

7 (d) No vested rights.--The trap certificate program
8 shall not create vested rights in licenseholders whatsoever
9 and may be altered or terminated as necessary to protect the
10 spiny lobster resource, the participants in the fishery, or
11 the public interest.

12 Section 6. Notwithstanding the provisions of section 2
13 of chapter 94-247, Laws of Florida, the statutory
14 authorization for the creation and functions of the Marine
15 Fisheries Commission, contained in sections 370.025-370.028,
16 Florida Statutes, shall not stand repealed as scheduled by
17 those provisions, but shall continue in full force and effect.

18 Section 7. This act shall take effect upon becoming a
19 law.

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22 SENATE SUMMARY

23 Provides criteria for the transfer and reissuance of and
24 the qualifications for a marine life fishing endorsement
25 on a saltwater products license. Revises the distribution
26 of funds collected from recreational saltwater fishing
27 licenses. Provides for the Marine Fisheries Commission to
28 adopt rules relating to nets. Prohibits the use of
29 certain size nets. Provides for a surcharge on the
30 initial transfer of a crawfish trap certificate outside
31 of the immediate family. Prohibits the lease of lobster
trap certificates after July 1, 1998. Provides additional
penalties for commercial harvesters for violations
relating to crawfish traps. Provides for the continuation
of the Marine Fisheries Commission notwithstanding its
scheduled 1999 abolition.