

1 A bill to be entitled
2 An act relating to marine resources; amending
3 s. 253.72, F.S.; amending s. 370.01, F.S.;
4 defining food fish for human consumption;
5 providing restrictions for certain areas for
6 harvesting shellfish; amending s. 370.06, F.S.;
7 providing an exemption for totally disabled
8 residents for a restricted species endorsement;
9 providing qualifications for the issuance of a
10 marine life endorsement on a saltwater products
11 license; providing for a moratorium on the
12 issuance of endorsements; providing for the
13 transfer and reissuance of endorsements;
14 providing for a report; amending s. 370.0608,
15 F.S.; revising the distribution of funds
16 collected from the sale of recreational
17 saltwater fishing licenses; amending s.
18 370.092, F.S.; creating a major violation for
19 the possession of specified nets on certain
20 vessels; providing specific rulemaking
21 authority for the regulation of nets on boats
22 of a specific length; directing the Marine
23 Fisheries Commission to adopt rules prohibiting
24 the possession and sale of mullet taken in
25 illegal gill or entangling nets; providing a
26 penalty for violations; prohibiting the use of
27 certain nets composed of specified materials;
28 providing a definition; amending s. 370.093,
29 F.S.; authorizing the Marine Fisheries
30 Commission to adopt rules implementing s.
31 370.093, F.S.; amending s. 370.1405, F.S.;

1 authorizing the Department of Environmental
2 Protection to adopt certain rules; amending s.
3 370.142, F.S.; providing for a surcharge to be
4 assessed upon the initial transfer of a
5 transferable crawfish trap certificate outside
6 the original transferor's immediate family;
7 prohibiting the lease of lobster trap
8 certificates after July 1, 1998; providing
9 additional penalties for violations relating to
10 traps; providing for the continuation of the
11 Marine Fisheries Commission notwithstanding its
12 scheduled abolition; amending s. 370.13, F.S.;
13 restricting the issuance of stone crab trap
14 numbers until July 1, 2000; providing for
15 renewal under certain circumstances; amending
16 s. 370.135, F.S.; restricting the issuance of
17 new blue crab endorsements for a certain period
18 of time; providing for renewal or replacement
19 under certain circumstances; amending s.
20 370.021, F.S.; providing additional penalties
21 for violations involving buying saltwater
22 products from an unlicensed seller or the sale
23 of saltwater products by an unlicensed seller;
24 authorizing the suspension, revocation, or
25 denial of renewal of licenses for specified
26 major violations involving finfish, shrimp,
27 marine life species, crawfish, stone crabs, and
28 blue crabs; requiring clerks of courts to
29 certify the final disposition of specified
30 court proceedings to the Department of
31 Environmental Protection; amending s. 370.07,

1 F.S.; authorizing the sharing of wholesale
2 saltwater products dealer reports with other
3 states under specified conditions; providing
4 civil penalties for violation of recordkeeping
5 and reporting requirements; prohibiting a
6 licensed retail dealer or a licensed restaurant
7 from buying saltwater products from any person
8 other than a licensed wholesale or retail
9 dealer; repealing s. 370.1127, F.S., relating
10 to mullet regulation west of the Ochlockonee
11 River; amending s. 373.046, F.S.; clarifying
12 jurisdiction over aquaculture activities;
13 providing exemption for management and storage
14 of surface water; amending s. 403.0885, F.S.;
15 providing exemptions from the state National
16 Pollutant Discharge Elimination System program;
17 providing an effective date.

18

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

20

21 Section 1. Subsection (3) is added to section 253.72,
22 Florida Statutes, to read:23 253.72 Marking of leased areas; restrictions on public
24 use.--25 (3) To assist in protecting shellfish aquaculture
26 products produced on leases authorized pursuant to this
27 chapter and chapter 370, harvesting shellfish is prohibited
28 within a distance of 25 feet outside lawfully marked lease
29 boundaries or within setback and access corridors within
30 specifically designated high-density aquaculture lease areas
31 and aquaculture use zones.

1 Section 2. Subsection (12) of section 370.01, Florida
2 Statutes, is amended to read:

3 370.01 Definitions.--In construing these statutes,
4 where the context does not clearly indicate otherwise, the
5 word, phrase, or term:

6 (12) "Food fish" shall include mullet, trout, redfish,
7 sheepshead, pompano, mackerel, bluefish, red snapper, grouper,
8 black drum, jack crevalle,and all other fish generally used
9 for human consumption.

10 Section 3. Subsection (2) of section 370.06, Florida
11 Statutes, is amended to read:

12 370.06 Licenses.--

13 (2) SALTWATER PRODUCTS LICENSE.--

14 (a) Every person, firm, or corporation that sells,
15 offers for sale, barter, or exchanges for merchandise any
16 saltwater products, or which harvests saltwater products with
17 certain gear or equipment as specified by law, must have a
18 valid saltwater products license, except that the holder of an
19 aquaculture certificate is not required to purchase and
20 possess a saltwater products license in order to possess,
21 transport, or sell marine aquaculture products. Each
22 saltwater products license allows the holder to engage in any
23 of the activities for which the license is required. The
24 license must be in the possession of the licenseholder or
25 aboard the vessel and shall be subject to inspection at any
26 time that harvesting activities for which a license is
27 required are being conducted. A restricted species endorsement
28 on the saltwater products license is required to sell to a
29 licensed wholesale dealer those species which the state, by
30 law or rule, has designated as "restricted species." This
31 endorsement may be issued only to a person who is at least 16

1 years of age, or to a firm certifying that over 25 percent of
2 its income or \$5,000 of its income, whichever is less, is
3 attributable to the sale of saltwater products pursuant to a
4 license issued under this paragraph or a similar license from
5 another state. This endorsement may also be issued to a
6 for-profit corporation if it certifies that at least \$5,000 of
7 its income is attributable to the sale of saltwater products
8 pursuant to a license issued under this paragraph or a similar
9 license from another state. However, if at least 50 percent of
10 the annual income of a person, firm, or for-profit corporation
11 is derived from charter fishing, the person, firm, or
12 for-profit corporation must certify that at least \$2,500 of
13 the income of the person, firm, or corporation is attributable
14 to the sale of saltwater products pursuant to a license issued
15 under this paragraph or a similar license from another state,
16 in order to be issued the endorsement. Such income attribution
17 must apply to at least 1 year out of the last 3 years. For the
18 purpose of this section "income" means that income which is
19 attributable to work, employment, entrepreneurship, pensions,
20 retirement benefits, and social security benefits.

21 1. The department is authorized to require
22 verification of such income. Acceptable proof of income earned
23 from the sale of saltwater products shall be:

24 a. Copies of trip ticket records generated pursuant to
25 this subsection (marine fisheries information system),
26 documenting qualifying sale of saltwater products;

27 b. Copies of sales records from locales other than
28 Florida documenting qualifying sale of saltwater products;

29 c. A copy of the applicable federal income tax return,
30 including Form 1099 attachments, verifying income earned from
31 the sale of saltwater products;

1 d. Crew share statements verifying income earned from
2 the sale of saltwater products; or

3 e. A certified public accountant's notarized statement
4 attesting to qualifying source and amount of income.

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6 Any provision of this section or any other section of the
7 Florida Statutes to the contrary notwithstanding, any person
8 who owns a retail seafood market and/or restaurant at a fixed
9 location for at least 3 years who has had an occupational
10 license for 3 years prior to January 1, 1990, who harvests
11 saltwater products to supply his or her retail store and has
12 had a saltwater products license for 1 of the past 3 years
13 prior to January 1, 1990, may provide proof of his or her
14 verification of income and sales value at the person's retail
15 seafood market and/or restaurant and in his or her saltwater
16 products enterprise by affidavit and shall thereupon be issued
17 a restricted species endorsement.

18 2. Exceptions from income requirements shall be as
19 follows:

20 a. A permanent restricted species endorsement shall be
21 available to those persons age 62 and older who have qualified
22 for such endorsement for at least 3 out of the last 5 years.

23 b. Active military duty time shall be excluded from
24 consideration of time necessary to qualify and shall not be
25 counted against the applicant for purposes of qualifying.

26 c. Upon the sale of a used commercial fishing vessel
27 owned by a person, firm, or corporation possessing or eligible
28 for a restricted species endorsement, the purchaser of such
29 vessel shall be exempted from the qualifying income
30 requirement for the purpose of obtaining a restricted species

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1 endorsement for a period of 1 year after purchase of the
2 vessel.

3 d. Upon the death or permanent disablement of a person
4 possessing a restricted species endorsement, an immediate
5 family member wishing to carry on the fishing operation shall
6 be exempted from the qualifying income requirement for the
7 purpose of obtaining a restricted species endorsement for a
8 period of 1 year after the death or disablement.

9 e. A restricted species endorsement may be issued on
10 an individual saltwater products license to a person age 62 or
11 older who documents that at least \$2,500 is attributable to
12 the sale of saltwater products pursuant to the provisions of
13 this paragraph.

14 f. A permanent restricted species endorsement may also
15 be issued on an individual saltwater products license to a
16 person age 70 or older who has held a saltwater products
17 license for at least 3 of the last 5 license years.

18 g. Any resident who is certified to be totally and
19 permanently disabled by a verified written statement, based
20 upon the criteria for permanent total disability in chapter
21 440 from a physician licensed in this state, by any branch of
22 the United States Armed Services, by the Social Security
23 Administration, or by the United States Department of Veterans
24 Affairs or its predecessor, or any resident who holds a valid
25 identification card issued by the Department of Veterans'
26 Affairs pursuant to s. 295.17, shall be exempted from the
27 income requirements if he or she also has held a saltwater
28 products license for at least 3 of the last 5 license years
29 prior to the date of the disability. A Disability Award Notice
30 issued by the United States Social Security Administration is
31 not sufficient certification for a resident to obtain the

1 income exemption unless the notice certifies that the resident
2 is totally and permanently disabled.

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4 At least one saltwater products license bearing a restricted
5 species endorsement shall be aboard any vessel harvesting
6 restricted species in excess of any bag limit or when fishing
7 under a commercial quota or in commercial quantities, and such
8 vessel shall have a commercial vessel registration. This
9 subsection does not apply to any person, firm, or corporation
10 licensed under s. 370.07(1)(a)1. or (b) for activities
11 pursuant to such licenses. A saltwater products license may be
12 issued in the name of an individual or a valid boat
13 registration number. Such license is not transferable. A decal
14 shall be issued with each saltwater products license issued to
15 a valid boat registration number. The saltwater products
16 license decal shall be the same color as the vessel
17 registration decal issued each year pursuant to s. 327.11(7)
18 and shall indicate the period of time such license is valid.
19 The saltwater products license decal shall be placed beside
20 the vessel registration decal and, in the case of an
21 undocumented vessel, shall be placed so that the vessel
22 registration decal lies between the vessel registration number
23 and the saltwater products license decal. Any saltwater
24 products license decal for a previous year shall be removed
25 from a vessel operating on the waters of the state. A resident
26 shall pay an annual license fee of \$50 for a saltwater
27 products license issued in the name of an individual or \$100
28 for a saltwater products license issued to a valid boat
29 registration number. A nonresident shall pay an annual license
30 fee of \$200 for a saltwater products license issued in the
31 name of an individual or \$400 for a saltwater products license

1 issued to a valid boat registration number. An alien shall pay
2 an annual license fee of \$300 for a saltwater products license
3 issued in the name of an individual or \$600 for a saltwater
4 products license issued to a valid boat registration number.
5 Any person who sells saltwater products pursuant to this
6 license may sell only to a licensed wholesale dealer. A
7 saltwater products license must be presented to the licensed
8 wholesale dealer each time saltwater products are sold, and an
9 imprint made thereof. The wholesale dealer shall keep records
10 of each transaction in such detail as may be required by rule
11 of the Department of Environmental Protection not in conflict
12 with s. 370.07(6), and shall provide the holder of the
13 saltwater products license with a copy of the record. It is
14 unlawful for any licensed wholesale dealer to buy saltwater
15 products from any unlicensed person under the provisions of
16 this section, except that a licensed wholesale dealer may buy
17 from another licensed wholesale dealer. It is unlawful for any
18 licensed wholesale dealer to buy saltwater products designated
19 as "restricted species" from any person, firm, or corporation
20 not possessing a restricted species endorsement on his or her
21 saltwater products license under the provisions of this
22 section, except that a licensed wholesale dealer may buy from
23 another licensed wholesale dealer. The Department of
24 Environmental Protection shall be the licensing agency, may
25 contract with private persons or entities to implement aspects
26 of the licensing program, and shall establish by rule a marine
27 fisheries information system in conjunction with the licensing
28 program to gather fisheries data.

29 (b) Any person who sells, offers for sale, barter, or
30 exchanges for merchandise saltwater products must have a
31 method of catch preservation which meets the requirements and

1 standards of the seafood quality control code promulgated by
2 the Department of Environmental Protection.

3 (c) A saltwater products license is required to
4 harvest commercial quantities of saltwater products. Any
5 vessel from which commercial quantities of saltwater products
6 are harvested must have a commercial vessel registration.
7 Commercial quantities of saltwater products shall be defined
8 as:

9 1. With respect to those species for which no bag
10 limit has been established, more than 100 pounds per person
11 per day, provided that the harvesting of two fish or less per
12 person per day shall not be considered commercial quantities
13 regardless of aggregate weight; and

14 2. With respect to those species for which a bag limit
15 has been established, more than the bag limit allowed by law
16 or rule.

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

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

28 b. In 1998 persons or corporations holding a marine
29 life endorsement that was active in the 1997-1998 fiscal year
30 or an immediate family member of that person must request
31

1 renewal of the marine life endorsement before December 31,
2 1998.

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

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

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

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

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

29 h. By July 1, 2000, the Marine Fisheries Commission
30 shall prepare a report regarding options for the establishment
31 of a limited-entry program for the marine life fishery and

1 submit the report to the Governor, the President of the
2 Senate, the Speaker of the House of Representatives, and the
3 chairs of the Senate and House committees having jurisdiction
4 over marine resources.

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

11 Section 4. Subsection (1) of section 370.0608, Florida
12 Statutes, is amended to read:

13 370.0608 Deposit of license fees; allocation of
14 federal funds.--

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

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

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

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

28 a. Not more than 5 percent of the total fees
29 collected, for administration of the licensing program and for
30 information and education.

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

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

5 d. Not less than 30 percent of the total fees
6 collected, for fishery enhancement, including, but not limited
7 to, fishery statistics development, artificial reefs, and fish
8 hatcheries.

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

22 Section 5. Subsection (3) of section 370.092, Florida
23 Statutes, is amended to read:

24 370.092 Carriage of proscribed nets across Florida
25 waters.--

26 (3)(a) Notwithstanding subsections (1) and (2), unless
27 authorized by rule of the Marine Fisheries Commission, it is a
28 major violation under this section, punishable as provided in
29 subsection (4), for any person, firm, or corporation to
30 possess any gill or entangling net, or any seine net larger
31 than 500 square feet in mesh area, on any airboat or on any

1 other vessel less than 22 feet in length and on any vessel
2 less than 25 feet if primary power of the vessel is mounted
3 forward of the vessel center point. Gill or entangling nets
4 shall be as defined in s. 16, Art. X of the State
5 Constitution, s. 370.093(2)(b), or in a rule of the Marine
6 Fisheries Commission implementing s. 16, Art. X of the State
7 Constitution. Vessel length shall be determined in accordance
8 with current U.S. Coast Guard regulations specified in the
9 Code of Federal Regulations or as titled by the State of
10 Florida. The Marine Fisheries Commission is directed to
11 initiate by July 1, 1998, rulemaking to adjust by rule the use
12 of gear on vessels longer than 22 feet where the primary power
13 of the vessel is mounted forward of the vessel center point in
14 order to prevent the illegal use of gill and entangling nets
15 in state waters and to provide reasonable opportunities for
16 the use of legal net gear in adjacent federal waters.

17 ~~(b)(a)~~ It shall be a major violation pursuant to this
18 section and shall be punished as provided in subsection (4)
19 for any person, firm, or corporation to be simultaneously in
20 possession of any species of mullet in excess of the
21 recreational daily bag limit and any gill or other entangling
22 net as defined in s. 16(c), Art. X of the State Constitution.
23 Simultaneous possession under this provision shall include
24 possession of mullet and gill or other entangling nets on
25 separate vessels or vehicles where such vessels or vehicles
26 are operated in coordination with one another including
27 vessels towed behind a main vessel. This subsection does not
28 prohibit a resident of this state from transporting on land,
29 from Alabama to this state, a commercial quantity of mullet
30 together with a gill net if:

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

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

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

14 4. The mullet being transported are totally removed
15 from any net also being transported.

16 ~~(c)(b)~~ It shall be a major violation pursuant to this
17 section for any person to be in possession of any species of
18 trout, snook, or redfish which is three fish in excess of the
19 recreational or commercial daily bag limit.

20 (d) The Marine Fisheries Commission shall adopt rules
21 to prohibit the possession and sale of mullet taken in illegal
22 gill or entangling nets. Violations of such rules shall be
23 punishable as provided in subsection (4).

24 Section 6. Section 370.093, Florida Statutes, is
25 amended to read:

26 370.093 Illegal use of nets.--

27 (1) It is unlawful to take or harvest, or to attempt
28 to take or harvest, any marine life in Florida waters with any
29 net that is not consistent with the provisions of s. 16, Art.
30 X of the State Constitution.

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1 (2)(a) Beginning July 1, 1998, it is also unlawful to
2 take or harvest, or to attempt to take or harvest, any marine
3 life in Florida waters with any net, as defined in subsection
4 (3) and any attachments to such net, that combined are larger
5 than 500 square feet and have not been expressly authorized
6 for such use by rule of the Marine Fisheries Commission under
7 s. 370.027. The use of currently legal shrimp trawls and
8 purse seines outside nearshore and inshore Florida waters
9 shall continue to be legal until the commission implements
10 rules regulating those types of gear.

11 (b) The use of gill or entangling nets of any size is
12 prohibited, as such nets are defined in s. 16, Art. X of the
13 State Constitution. Any net constructed wholly or partially
14 of monofilament or multistrand monofilament ~~multifilament~~
15 material, other than a hand thrown cast net, or a handheld
16 landing or dip net, shall be considered to be an entangling
17 net within the prohibition of s. 16, Art. X of the State
18 Constitution unless specifically authorized by rule of the
19 commission. Multistrand monofilament ~~Multifilament~~ material
20 shall not be defined to include nets constructed of braided or
21 twisted nylon, cotton, linen twine, or polypropylene twine.

22 (c) This subsection shall not be construed to apply to
23 aquaculture activities licenses issued pursuant to s. 370.26.

24 (3) As used in s. 16, Art. X of the State Constitution
25 and this subsection, the term "net" or "netting" must be
26 broadly construed to include all manner or combination of mesh
27 or webbing or any other solid or semisolid fabric or other
28 material used to comprise a device that is used to take or
29 harvest marine life.

30 (4) Upon the arrest of any person for violation of
31 this subsection, the arresting officer shall seize the nets

1 illegally used. Upon conviction of the offender, the arresting
2 authority shall destroy the nets.

3 (5) Any person who violates this section shall be
4 punished as provided in s. 370.092(4).

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

9 Section 7. Subsection (2) of section 370.142, Florida
10 Statutes, is amended to read:

11 370.142 Spiny lobster trap certificate program.--

12 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;
13 PENALTIES.--The Department of Environmental Protection shall
14 establish a trap certificate program for the spiny lobster
15 fishery of this state and shall be responsible for its
16 administration and enforcement as follows:

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

22 1. The department shall initially allot such
23 certificates to each licenseholder with a current crawfish
24 trap number who uses traps. The number of such certificates
25 allotted to each such licenseholder shall be based on the
26 trap/catch coefficient established pursuant to trip ticket
27 records generated under the provisions of s. 370.06(2)(a) over
28 a 3-year base period ending June 30, 1991. The trap/catch
29 coefficient shall be calculated by dividing the sum of the
30 highest reported single license-year landings up to a maximum
31 of 30,000 pounds for each such licenseholder during the base

1 period by 700,000. Each such licenseholder shall then be
2 allotted the number of certificates derived by dividing his or
3 her highest reported single license-year landings up to a
4 maximum of 30,000 pounds during the base period by the
5 trap/catch coefficient. Nevertheless, no licenseholder with a
6 current crawfish trap number shall be allotted fewer than 10
7 certificates. However, certificates may only be issued to
8 individuals; therefore, all licenseholders other than
9 individual licenseholders shall designate the individual or
10 individuals to whom their certificates will be allotted and
11 the number thereof to each, if more than one. After initial
12 issuance, trap certificates are transferable on a market basis
13 and may be transferred from one licenseholder to another for a
14 fair market value agreed upon between the transferor and
15 transferee. Each such transfer shall, within 72 hours thereof,
16 be recorded on a notarized form provided for that purpose by
17 the department and hand delivered or sent by certified mail,
18 return receipt requested, to the department for recordkeeping
19 purposes. In addition, in order to cover the added
20 administrative costs of the program and to recover an
21 equitable natural resource rent for the people of the state, a
22 transfer fee of \$2 per certificate transferred shall be
23 assessed against the purchasing licenseholder and sent by
24 money order or cashier's check with the certificate transfer
25 form. Also, in addition to the transfer fee, a surcharge of \$5
26 per certificate transferred or 25 percent of the actual fair
27 market value, whichever is greater, given to the transferor
28 shall be assessed the first time a certificate is transferred
29 outside the original transferor's immediate family. No
30 transfer of a certificate shall be effective until the
31 department receives the notarized transfer form and the

1 transfer fee, including any surcharge, is paid. The
2 department may establish by rule an amount of equitable rent
3 per trap certificate that shall be recovered as partial
4 compensation to the state for the enhanced access to its
5 natural resources. In determining whether to establish such a
6 rent and, if so, the amount thereof, the department shall
7 consider the amount of revenues annually generated by
8 certificate fees, transfer fees, surcharges, trap license
9 fees, and sales taxes, the demonstrated fair market value of
10 transferred certificates, and the continued economic viability
11 of the commercial lobster industry. The proceeds of equitable
12 rent recovered shall be deposited in the Marine Resources
13 Conservation Trust Fund and used by the department for
14 research, management, and protection of the spiny lobster
15 fishery and habitat.

16 2. No person, firm, corporation, or other business
17 entity may control, directly or indirectly, more than 1.5
18 percent of the total available certificates in any license
19 year.

20 3. The department shall maintain records of all
21 certificates and their transfers and shall annually provide
22 each licenseholder with a statement of certificates held.

23 4. The number of trap tags issued annually to each
24 licenseholder shall not exceed the number of certificates held
25 by the licenseholder at the time of issuance, and such tags
26 and a statement of certificates held shall be issued
27 simultaneously.

28 5. Beginning July 1, 2003, and applicable to the
29 2003-2004 lobster season and thereafter, it is unlawful for
30 any person to lease lobster trap tags or certificates.

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1 (b) Trap tags.--Each trap used to take or attempt to
2 take spiny lobsters in state waters or adjacent federal waters
3 shall, in addition to the crawfish trap number required by s.
4 370.14(2), have affixed thereto an annual trap tag issued by
5 the department. Each such tag shall be made of durable plastic
6 or similar material and shall, beginning with those tags
7 issued for the 1993-1994 season based on the number of
8 certificates held, have stamped thereon the owner's license
9 number. To facilitate enforcement and recordkeeping, such tags
10 shall be issued each year in a color different from that of
11 each of the previous 3 years. A fee of 50 cents per tag issued
12 other than on the basis of a certificate held shall be
13 assessed through March 31, 1993. Until 1995, an annual fee of
14 50 cents per certificate shall be assessed, and thereafter,
15 until 1998, an annual fee of 75 cents per certificate shall be
16 assessed upon issuance in order to recover administrative
17 costs of the tags and the certificate program. Beginning in
18 1998, the annual certificate fee shall be \$1 per certificate.
19 Replacement tags for lost or damaged tags may be obtained as
20 provided by rule of the department.

21 (c) Prohibitions; penalties.--

22 1. It is unlawful for a person to possess or use a
23 spiny lobster trap in or on state waters or adjacent federal
24 waters without having affixed thereto the trap tag required by
25 this section. It is unlawful for a person to possess or use
26 any other gear or device designed to attract and enclose or
27 otherwise aid in the taking of spiny lobster by trapping that
28 is not a trap as defined in rule 46-24.006(2), Florida
29 Administrative Code.

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

4 3. In addition to any other penalties provided in s.
5 370.021 ~~Unless otherwise provided in this section,~~ a
6 commercial harvester, as defined by rule 46-24.002(1), Florida
7 Administrative Code, who violates the provisions of this
8 section, or the provisions relating to traps of chapter 46-24,
9 Florida Administrative Code, shall be punished as follows:

10 a. If the first violation is for violation of
11 subparagraph 1. or subparagraph 2., the department shall
12 assess an additional ~~a~~ civil penalty of up to \$1,000 and the
13 crawfish trap number issued pursuant to s. 370.14(2) or (7)
14 may be suspended for the remainder of the current license
15 year. For all other first violations, the department shall
16 assess an additional ~~a~~ civil penalty of up to \$500.

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

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

1 d. Any person assessed an additional ~~a~~ civil penalty
2 pursuant to this section shall within 30 calendar days after
3 notification:

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

5 (II) Request an administrative hearing pursuant to the
6 provisions of s. 120.60.

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

10 4.a. It is unlawful for any person to make, alter,
11 forge, counterfeit, or reproduce a spiny lobster trap tag or
12 certificate.

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

16 c. It is unlawful for any person to barter, trade,
17 sell, supply, agree to supply, aid in supplying, or give away
18 a spiny lobster trap tag or certificate or to conspire to
19 barter, trade, sell, supply, aid in supplying, or give away a
20 spiny lobster trap tag or certificate unless such action is
21 duly authorized by the department as provided in this chapter
22 or in the rules of the department.

23 5.a. Any person who violates the provisions of
24 subparagraph 4., or any person who engages in the commercial
25 harvest, trapping, or possession of spiny lobster without a
26 crawfish trap number as required by s. 370.14(2) or (7) or
27 during any period while such crawfish trap number is under
28 suspension or revocation, commits a felony of the third
29 degree, punishable as provided in s. 775.082, s. 775.083, or
30 s. 775.084.

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

7 6. Any certificates for which the annual certificate
8 fee is not paid for a period of 3 years shall be considered
9 abandoned and shall revert to the department. During any
10 period of trap reduction, any certificates reverting to the
11 department shall become permanently unavailable and be
12 considered in that amount to be reduced during the next
13 license-year period. Otherwise, any certificates that revert
14 to the department are to be reallocated in such manner as
15 provided by the department.

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

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

22 (d) No vested rights.--The trap certificate program
23 shall not create vested rights in licenseholders whatsoever
24 and may be altered or terminated as necessary to protect the
25 spiny lobster resource, the participants in the fishery, or
26 the public interest.

27 Section 8. Notwithstanding the provisions of section 2
28 of chapter 94-247, Laws of Florida, the statutory
29 authorization for the creation and functions of the Marine
30 Fisheries Commission contained in sections 370.025-370.028,
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1 Florida Statutes, shall not stand repealed as scheduled by
2 those provisions, but shall continue in full force and effect.

3 Section 9. Section 370.13, Florida Statutes, is
4 amended to read:

5 370.13 Stone crab; regulation.--

6 (1)(a) It is unlawful for any person, firm, or
7 corporation to catch or have in his or her possession,
8 regardless of where taken, for his or her own use or to sell
9 or offer for sale, any stone crab, or parts thereof, of any
10 size between May 15 and October 15 of each year, except for
11 stone crabs, or parts thereof, placed in inventory prior to
12 May 15 of each year.

13 (b) "Stone crab" means the species *Menippe mercenaria*
14 or any other species of the family Xanthidae as the Marine
15 Fisheries Commission may define by rule.

16 (2) Upon the arrest and conviction for a major
17 violation involving stone crabs, the licenseholder must show
18 just cause why his or her license should not be suspended or
19 revoked. For the purposes of this subsection, a "major
20 violation" means a major violation as prescribed in s.
21 370.021(2)(c) for illegal stone crabs; any single violation
22 involving possession of more than 25 stone crabs during the
23 closed season or possession of 25 or more whole-bodied or
24 egg-bearing stone crabs; any violation for trap molestation,
25 trap robbing, or pulling traps at night; or any combination of
26 violations in any 3-consecutive-year period wherein more than
27 75 illegal stone crabs in the aggregate are involved.

28 (3) Any law, general or special, in conflict with
29 provisions of this section is hereby expressly repealed to the
30 extent of such conflict.

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1 (4)(a) It is unlawful for any person to willfully
2 molest any stone crab trap, line, or buoy that is the property
3 of any licenseholder, without the permission of that
4 licenseholder.

5 (b) Any person who violates paragraph (a) is guilty of
6 a felony of the third degree, punishable as provided in s.
7 775.082 or s. 775.083.

8 (5) Any gear, equipment, boat, vehicle, or item used
9 in the violation of this section is subject to confiscation.
10 In addition, the Department of Environmental Protection shall
11 revoke the permit of any permit holder convicted of a violation
12 of paragraph (1)(a) for a period of 1 year from the date of
13 the conviction, and he or she is prohibited during that period
14 from catching or having in his or her possession any stone
15 crab for the person's own use or to sell or offer to sell,
16 whether or not he or she is accompanied by the holder of a
17 valid permit and regardless of where taken.

18 (6)(a) Effective July 1, 1995, and until July 1, 2000
19 ~~±1999~~, no stone crab trap numbers issued pursuant to rule
20 46-13.002(2)(e)~~46-3.002(2)(f)~~, Florida Administrative Code,
21 except those numbers that are active during the 1994-1995
22 fiscal year, shall be renewed or replaced.

23 (b) In 1995, persons holding a trap number that was
24 active in the 1994-1995 fiscal year, or an immediate family
25 member of that person, must request renewal of the number
26 prior to December 31, 1995.

27 (c) In subsequent years and until July 1, 2000 ~~±1999~~, a
28 trap number holder, or members of his or her immediate family,
29 must request renewal of the number prior to September 30 of
30 each year.

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1 (d) If a person holding an active trap number, or a
2 member of that person's immediate family, does not request
3 renewal of the number before the applicable dates as specified
4 in this subsection, the department shall deactivate that trap
5 number.

6 (e) In the event of the death or disability of a
7 person holding an active stone crab endorsement ~~trap number~~,
8 the endorsement may be transferred by the person to a member
9 of his or her immediate family or ~~trap number~~ may be renewed
10 by any person so designated by the executor of the person's
11 estate.

12 (f) Persons who hold saltwater products licenses with
13 stone crab endorsements issued to their boat registration
14 numbers and who subsequently replace their existing vessels
15 with new vessels shall be permitted to transfer the existing
16 licenses to the new boat registration numbers.

17 (7) No person shall harvest stone crabs with more than
18 five traps, harvest stone crabs in commercial quantities, or
19 sell stone crabs unless such person holds a valid saltwater
20 products license with a restricted species endorsement and a
21 stone crab endorsement issued pursuant to this section.

22 ~~(8)(7)~~ Beginning October 1995, stone crabs shall be
23 designated as a restricted species pursuant to s. 370.01(20).

24 Section 10. Section 370.135, Florida Statutes, is
25 amended to read:

26 370.135 Blue crab; regulation.--

27 (1) No person, firm, or corporation shall transport on
28 the water, fish with or cause to be fished with, set, or place
29 any trap designed for taking blue crabs unless such person,
30 firm, or corporation is the holder of a valid saltwater
31 products license issued pursuant to s. 370.06 and the trap has

1 a current state number permanently attached to the buoy. The
2 trap number shall be affixed in legible figures at least 1
3 inch high on each buoy used. The saltwater products license
4 must be on board the boat, and both the license and the crabs
5 shall be subject to inspection at all times. Only one trap
6 number may be issued for each boat by the department upon
7 receipt of an application on forms prescribed by it. This
8 subsection shall not apply to an individual fishing with no
9 more than five traps. It is a felony of the third degree,
10 punishable as provided in s. 775.082, s. 775.083, or s.
11 775.084, for any person willfully to molest any traps, lines,
12 or buoys, as defined herein, belonging to another without
13 permission of the licenseholder.

14 (2) A buoy or a time release buoy shall be attached to
15 each trap or at each end of a weighted trot line and shall be
16 of sufficient strength and buoyancy to float and of such
17 color, hue, and brilliancy to be easily distinguished, seen,
18 and located. Such color and trap number shall also be
19 permanently and conspicuously displayed on the boat used for
20 setting and collecting said traps and buoys, in the manner
21 prescribed by the Division of Law Enforcement, so as to be
22 readily identifiable from the air and water. This subsection
23 shall not apply to an individual fishing with no more than
24 five traps.

25 (3) It is unlawful for any person to sell or offer for
26 sale any eggbearing blue crabs. Except when authorized by a
27 special activity license issued by the department pursuant to
28 s. 370.06 for the soft-shell crab or bait trade, it is
29 unlawful for any person to possess for sale blue crabs
30 measuring less than 5 inches from point to point across the
31 carapace in an amount greater than 10 percent of the total

1 number of blue crabs in that person's possession. Traps may
2 be worked during daylight hours only, and the pulling of traps
3 from 1 hour after official sunset until 1 hour before official
4 sunrise is prohibited.

5 (4) No person shall harvest blue crabs with more than
6 five traps, harvest blue crabs in commercial quantities, or
7 sell blue crabs unless such person holds a valid saltwater
8 products license with a restricted species endorsement and a
9 blue crab endorsement (trap number) issued pursuant to this
10 subsection.

11 (a) Effective June 1, 1998, and until July 1, 2002, no
12 blue crab endorsement (trap number), except those endorsements
13 that are active during the 1997-1998 fiscal year, shall be
14 renewed or replaced.

15 (b) In 1998, persons holding an endorsement that was
16 active in the 1997-1998 fiscal year, or an immediate family
17 member of that person, must request approval of the
18 endorsement prior to December 31, 1998.

19 (c) In subsequent years and until July 1, 2002, a trap
20 number holder, or members of his or her immediate family, must
21 request renewal of the endorsement prior to September 30 of
22 each year.

23 (d) If a person holding an active blue crab
24 endorsement, or a member of that person's immediate family,
25 does not request renewal of the endorsement before the
26 applicable dates as specified in this subsection, the
27 department shall deactivate that endorsement.

28 (e) In the event of the death or disability of a
29 person holding an active blue crab endorsement, the
30 endorsement may be transferred by the person to a member of
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1 his or her immediate family or may be renewed by any person so
2 designated by the executor of the person's estate.

3 (f) Persons who hold saltwater products licenses with
4 blue crab endorsements issued to their boat registration
5 numbers and who subsequently replace their existing vessels
6 with new vessels shall be permitted to transfer the existing
7 licenses to the new boat registration numbers.

8 (5)~~(4)~~ Upon the arrest and conviction for a major
9 violation involving blue crabs, the licenseholder shall show
10 just cause why his or her saltwater products license should
11 not be suspended or revoked. This subsection shall not apply
12 to an individual fishing with no more than five traps. For
13 the purposes of this subsection, a "major violation" means a
14 major violation as prescribed in s. 370.021(2)(c) for illegal
15 blue crabs, any single violation wherein 50 or more illegal
16 blue crabs are involved, or any combination of violations in
17 any 3-consecutive-year period wherein more than 100 illegal
18 blue crabs in the aggregate are involved.

19 Section 11. Subsection (4) is added to section
20 370.021, Florida Statutes, to read:

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

23 (4) In addition to being subject to other penalties
24 provided in this chapter, any violation of ss. 370.06 or
25 370.07, or rules of the department implementing ss. 370.06 or
26 370.07, involving buying saltwater products from an unlicensed
27 person, firm, or corporation, shall be a major violation, and
28 the department may assess the following penalties:

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

3 2. For a second violation occurring within 12 months
4 of a prior violation, the department may assess a civil
5 penalty of up to \$5,000 and may suspend the wholesale and/or
6 retail dealer's license privileges for up to 180 calendar
7 days.

8 3. For a third or subsequent violation occurring
9 within a 24 month period, the department shall assess a civil
10 penalty of \$5,000 and shall suspend the wholesale and/or
11 retail dealer's license privileges for up to 24 months.

12
13 Any proceeds from the civil penalties assessed pursuant to
14 this subsection shall be deposited into the Marine Resources
15 Conservation Trust Fund and shall be used as follows: 40
16 percent for administration and processing purposes; and 60
17 percent for law enforcement purposes.

18 Section 12. Subsection (6) of section 370.07, Florida
19 Statutes, is amended, and subsection (8) is added to that
20 section to read:

21 370.07 Wholesale and retail saltwater products
22 dealers; regulation.--

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

24 (a) Wholesale dealers shall be required by the
25 department to make and preserve a record of the names and
26 addresses of persons from whom or to whom saltwater products
27 are purchased or sold, the quantity so purchased or sold from
28 or to each vendor or purchaser, and the date of each such
29 transaction. Retail dealers shall be required to make and
30 preserve a record from whom all saltwater products are
31 purchased. Such record shall be open to inspection at all

1 times by the department. A report covering the sale of
2 saltwater products shall be made monthly or as often as
3 required by rule to the department by each wholesale dealer.
4 All reports required under this subsection are confidential
5 and shall be exempt from the provisions of s. 119.07(1) except
6 that, pursuant to authority related to interstate fishery
7 compacts as provided by s. 370.19(3) and s. 370.20(3), reports
8 may be shared with another state if that state is a member of
9 an interstate fisheries compact, and if that state has signed
10 a Memorandum of Agreement or a similar instrument agreeing to
11 preserve confidentiality as established by Florida law.

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

23 1. For the first violation, a civil penalty of up to
24 \$1,000;

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

28 3. For a third or subsequent violation committed
29 within 36 months of any previous two violations, a civil
30 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 ~~§. 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 13. Subsection (6) is added to section
13 370.1405, Florida Statutes, to read:

14 370.1405 Crawfish reports by dealers during closed
15 season required.--

16 (6) The Department of Environmental Protection is
17 authorized to adopt rules incorporating by reference such
18 forms as are necessary to implement the provisions of this
19 section.

20 Section 14. Section 370.1127, Florida Statutes, is
21 repealed.

22 Section 15. (1) Notwithstanding Section 1. of CS/HB
23 3673 to the contrary, this section shall be considered the
24 last and complete intent of the Legislature regardless of when
25 it is presented to the Secretary of State.

26 (2) Subsection (8) is added to section 373.406,
27 Florida Statutes, to read:

28 373.406 Exemptions.--The following exemptions shall
29 apply:
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1 (8) Certified aquaculture activities which apply
2 appropriate best management practices adopted pursuant to s.
3 597.004 are exempt from this part.

4 Section 16. (1) Notwithstanding Section 1. of CS/HB
5 3673 to the contrary, this section shall be considered the
6 last and complete intent of the Legislature regardless of when
7 it is presented to the Secretary of State.

8 (2) Subsection (5) is added to section 403.0885,
9 Florida Statutes, to read:

10 403.0885 Establishment of federally approved state
11 National Pollutant Discharge Elimination System (NPDES)
12 Program.--

13 (5) Certified aquaculture activities under s. 597.004
14 that have individual production units whose annual production
15 and water discharge are less than the parameters established
16 by the NPDES program are exempt from wastewater management
17 regulations. For purposes herein, the term "individual
18 production units" shall be determined by rule of the
19 Department of Agriculture and Consumer Services.

20 Section 17. This act shall take effect upon becoming a
21 law.