

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

Representative(s) Kelly offered the following:

Amendment (with title amendment)

On page 22, between lines 15 and 16,

insert:

Section 9. Subparagraph 1. of paragraphs (a) and paragraph (c) are amended, and subparagraph 5, of paragraph (a) of subsection (2) of section (2) of section 370.142, Florida Statutes, is created to read:

370.142 Spiny lobster trap certificate program.--

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

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

Amendment No. ____ (for drafter's use only)

1 1. The department shall initially allot such
2 certificates to each licenseholder with a current crawfish
3 trap number who uses traps. The number of such certificates
4 allotted to each such licenseholder shall be based on the
5 trap/catch coefficient established pursuant to trip ticket
6 records generated under the provisions of s. 370.06(2)(a) over
7 a 3-year base period ending June 30, 1991. The trap/catch
8 coefficient shall be calculated by dividing the sum of the
9 highest reported single license-year landings up to a maximum
10 of 30,000 pounds for each such licenseholder during the base
11 period by 700,000. Each such licenseholder shall then be
12 allotted the number of certificates derived by dividing his or
13 her highest reported single license-year landings up to a
14 maximum of 30,000 pounds during the base period by the
15 trap/catch coefficient. Nevertheless, no licenseholder with a
16 current crawfish trap number shall be allotted fewer than 10
17 certificates. However, certificates may only be issued to
18 individuals; therefore, all licenseholders other than
19 individual licenseholders shall designate the individual or
20 individuals to whom their certificates will be allotted and
21 the number thereof to each, if more than one. After initial
22 issuance, trap certificates are transferable on a market basis
23 and may be transferred from one licenseholder to another for a
24 fair market value agreed upon between the transferor and
25 transferee. Each such transfer shall, within 72 hours thereof,
26 be recorded on a notarized form provided for that purpose by
27 the department and hand delivered or sent by certified mail,
28 return receipt requested, to the department for recordkeeping
29 purposes. In addition, in order to cover the added
30 administrative costs of the program and to recover an
31 equitable natural resource rent for the people of the state, a

Amendment No. ____ (for drafter's use only)

1 transfer fee of \$2 per certificate transferred shall be
2 assessed against the purchasing licenseholder and sent by
3 money order or cashier's check with the certificate transfer
4 form. Also, in addition to the transfer fee, a surcharge of \$5
5 per certificate transferred or 25 percent of the actual fair
6 market value, whichever is greater, given to the transferor
7 shall be assessed the first time a certificate is transferred
8 outside the original transferor's immediate family. No
9 transfer of a certificate shall be effective until the
10 department receives the notarized transfer form and the
11 transfer fee, including any surcharge, is paid. The
12 department may establish by rule an amount of equitable rent
13 per trap certificate that shall be recovered as partial
14 compensation to the state for the enhanced access to its
15 natural resources. In determining whether to establish such a
16 rent and, if so, the amount thereof, the department shall
17 consider the amount of revenues annually generated by
18 certificate fees, transfer fees, surcharges, trap license
19 fees, and sales taxes, the demonstrated fair market value of
20 transferred certificates, and the continued economic viability
21 of the commercial lobster industry. The proceeds of equitable
22 rent recovered shall be deposited in the Marine Resources
23 Conservation Trust Fund and used by the department for
24 research, management, and protection of the spiny lobster
25 fishery and habitat.

26 5. Beginning July 1, 2003, and applicable to the
27 2003-2004 lobster season and thereafter, it shall be unlawful
28 for any person to lease lobster trap certificates. Leasing of
29 lobster trap tags or certificates is allowable up until July
30 1, 2003, provided that each transaction is documented and each
31 leased tag number is reported to the department.

Amendment No. ____ (for drafter's use only)

- 1 (c) Prohibitions; penalties.--
- 2 3. In addition to any other penalties provided in
- 3 section 370.021 ~~Unless otherwise provided in this section,~~ a
- 4 commercial harvester, as defined by rule 46-24.002(1), Florida
- 5 Administrative Code, who violates the provisions of this
- 6 section, or the provisions of chapter 46-24, Florida
- 7 Administrative Code, shall be punished as follows:
- 8 a. If the first violation is for violation of
- 9 subparagraph 1. or subparagraph 2., the department shall
- 10 assess an additional a civil penalty of up to \$1,000 and the
- 11 crawfish trap number issued pursuant to s. 370.14(2) or (7)
- 12 may be suspended for the remainder of the current license
- 13 year. For all other first violations, the department shall
- 14 assess an additional civil penalty of up to \$500.
- 15 b. For a second violation of subparagraph 1. or
- 16 subparagraph 2. which occurs within 24 months of any previous
- 17 such violation, the department shall assess an additional
- 18 civil penalty of up to \$2,000 and the crawfish trap number
- 19 issued pursuant to s. 370.14(2) or (7) may be suspended for
- 20 the remainder of the current license year.
- 21 c. For a third or subsequent violation of subparagraph
- 22 1. or subparagraph 2. which occurs within 36 months of any
- 23 previous two such violations, the department shall assess an
- 24 additional civil penalty of up to \$5,000 and may suspend the
- 25 crawfish trap number issued pursuant to s. 370.14(2) or (7)
- 26 for a period of up to 24 months or may revoke the crawfish
- 27 trap number and, if revoking the crawfish trap number, may
- 28 also proceed against the licenseholder's saltwater products
- 29 license in accordance with the provisions of s. 370.021(2)(e).
- 30 d. Any person assessed an additional civil penalty
- 31 pursuant to this section shall within 30 calendar days after

Amendment No. ____ (for drafter's use only)

1 notification:

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

3 (II) Request an administrative hearing pursuant to the
4 provisions of s. 120.60.

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

8

9 (Renumber subsequent sections)

10

11

12 ===== T I T L E A M E N D M E N T =====

13 And the title is amended as follows:

14 On page 2, line 23, after the semicolon,

15

16 insert:

17 amending s. 370.142, F.S.; adding transfer

18 fees; specifying that transfer of tags or

19 certificates is allowable until July 1, 2003;

20

21

22

23

24

25

26

27

28

29

30

31