

By Representative Kelly

1 A bill to be entitled
2 An act relating to saltwater fisheries;
3 amending s. 370.092, F.S.; authorizing the
4 Marine Fisheries Commission to adopt rules
5 specifying geographic or temporal prohibitions
6 on the possession of gill or entangling nets or
7 certain seines based on specified conditions;
8 directing the commission to adopt rules
9 prohibiting the simultaneous possession of gill
10 or entangling nets with a designated fish that
11 has been harvested with such nets or the
12 possession of a designated fish that shows
13 signs of such harvest; providing additional
14 penalties applicable to violation of such
15 rules; amending s. 370.093, F.S.; revising the
16 definition of "entangling net" for purposes of
17 the prohibition against use thereof contained
18 in s. 16, Art. X of the State Constitution;
19 providing that no seine or part thereof shall
20 have a mesh size larger than 2 inches stretched
21 mesh, unless authorized by commission rule;
22 providing an effective date.

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

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26 Section 1. Section 370.092, Florida Statutes, is
27 amended to read:

28 370.092 Carriage of proscribed nets across Florida
29 waters.--

30 (1) This section applies to all vessels containing or
31 otherwise transporting in or on Florida waters any gill net or

1 other entangling net and to all vessels containing or
2 otherwise transporting in or on Florida waters any net
3 containing more than 500 square feet of mesh area the use of
4 which is restricted or prohibited by s. 16, Art. X of the
5 State Constitution. This section does not apply to vessels
6 containing or otherwise transporting in or on Florida waters
7 dry nets which are rolled, folded, or otherwise properly
8 stowed in sealed containers so as to make their immediate use
9 as fishing implements impracticable.

10 (2) Every vessel containing or otherwise transporting
11 in or on Florida waters any gill net or other entangling net
12 and every vessel containing or otherwise transporting in or on
13 nearshore and inshore Florida waters any net containing more
14 than 500 square feet of mesh area shall proceed as directly,
15 continuously, and expeditiously as possible from the place
16 where the vessel is regularly docked, moored, or otherwise
17 stored to waters where the use of said nets is lawful and from
18 waters where the use of said nets is lawful back to the place
19 where the vessel is regularly docked, moored, or otherwise
20 stored or back to the licensed wholesale dealer where the
21 catch is to be sold. Exceptions shall be provided for docked
22 vessels, for vessels which utilize nets in a licensed
23 aquaculture operation, and for vessels containing trawl nets
24 as long as the trawl's doors or frame are not deployed in the
25 water. Otherwise, hovering, drifting, and other similar
26 activities inconsistent with the direct, continuous, and
27 expeditious transit of such vessels shall be evidence of the
28 unlawful use of such nets. The presence of fish in such a net
29 is not evidence of the unlawful use of the net if the vessel
30 is otherwise in compliance with this section. The Marine
31 Fisheries Commission is authorized to adopt rules specifying

1 geographic or temporal prohibitions on the possession of gill
2 or entangling nets, or seines larger than 500 square feet in
3 mesh area. Such rules shall be based on the absence of legal
4 federal waters fisheries during times of the year when
5 significant fisheries are not legitimately prosecuted with
6 gill or entangling nets or on the unavailability of fisheries
7 in state waters using seines larger than 500 square feet in
8 mesh area. Violation of these rules shall be punishable by the
9 additional penalties specified in subsection (4).

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

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

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

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

6 4. The mullet being transported are totally removed
7 from any net also being transported.

8 (b) It shall be a major violation pursuant to this
9 section for any person to be in possession of any species of
10 trout, snook, or redfish which is three fish in excess of the
11 recreational or commercial daily bag limit.

12 (c) The Marine Fisheries Commission shall adopt rules
13 prohibiting the simultaneous possession of gill or entangling
14 nets with any designated fish that has been harvested with a
15 gill or entangling net or the possession of any designated
16 fish that shows signs of such harvest. Such prohibitions shall
17 include possession on the water or at the facility of a
18 wholesale saltwater products dealer, but shall not include any
19 fish harvested in federal waters as part of a legitimate
20 fishery. Violation of these rules shall be punishable by the
21 additional penalties specified in subsection (4).

22 (4)(a) In addition to being subject to the other
23 penalties provided in this chapter, any violation of s. 16,
24 Art. X of the State Constitution, paragraph (3)(a), or any
25 rules of the Marine Fisheries Commission which implement the
26 gear prohibitions and restrictions specified therein shall be
27 considered a major violation; and any person, firm, or
28 corporation receiving any judicial disposition other than
29 acquittal or dismissal of such violation shall be subject to
30 the following additional penalties:

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

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

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

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

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

8 1. Upon a first or second conviction, to be punished
9 as provided by s. 370.021(2)(a) and (b).

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

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

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

24 2. A violation of the reinstatement period provisions
25 shall be punishable pursuant to s. 370.021(2)(a) and (b).

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

28 (5) The department is authorized to make and adopt
29 reasonable rules, regulations, and orders, including emergency
30 rules, to implement this section. The department shall adopt
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1 emergency rules to implement the provisions of subparagraph
2 (4)(c)1. by August 1, 1996.

3 Section 2. Section 370.093, Florida Statutes, is
4 amended to read:

5 370.093 Illegal use of nets.--

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

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

20 (b) The use of gill or entangling nets of any size is
21 prohibited, as such nets are defined in s. 16, Art. X of the
22 State Constitution. Any net constructed wholly or partially
23 of monofilament or multistrand monofilament ~~multifilament~~
24 material, other than a hand thrown cast net, or a handheld
25 landing or dip net, shall be considered to be an entangling
26 net within the prohibition of s. 16, Art. X of the State
27 Constitution unless specifically authorized by rule of the
28 commission. Multistrand monofilament ~~Multifilament~~ material
29 shall not be defined to include nets constructed of braided or
30 twisted nylon, cotton, linen twine, or polypropylene twine.
31 Unless authorized by rule of the Marine Fisheries Commission

1 adopted after July 1, 1995, no seine or part of any seine
2 shall have a mesh size larger than 2 inches stretched mesh.

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

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

11 (4) Upon the arrest of any person for violation of
12 this subsection, the arresting officer shall seize the nets
13 illegally used. Upon conviction of the offender, the arresting
14 authority shall destroy the nets.

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

17 (6) The Marine Fisheries Commission is granted
18 authority to adopt rules pursuant to ss. 370.025 and 370.027
19 implementing the prohibitions and restrictions of s. 16, Art.
20 X of the State Constitution.

21 Section 3. This act shall take effect upon becoming a
22 law.

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HOUSE SUMMARY

Authorizes the Marine Fisheries Commission to adopt rules specifying geographic or temporal prohibitions on the possession of gill or entangling nets or certain seines based on specified conditions. Directs the commission to adopt rules prohibiting the simultaneous possession of gill or entangling nets with a designated fish that has been harvested with such nets or the possession of a designated fish that shows signs of such harvest. Provides additional penalties applicable to violation of such rules. Revises the definition of "entangling net" for purposes of the prohibition against use thereof contained in s. 16, Art. X of the State Constitution. Provides that no seine or part thereof shall have a mesh size larger than 2 inches stretched mesh, unless authorized by commission rule.