

1 A bill to be entitled
2 An act relating to saltwater fisheries;
3 amending s. 253.72, F.S.; prohibiting shellfish
4 harvesting in certain areas adjacent to
5 aquaculture lease boundaries or within certain
6 aquaculture lease areas or use zones; amending
7 s. 370.01, F.S.; adding black drum and jack
8 crevalle to the list of food fish; amending s.
9 370.021, F.S.; making wholesale and retail
10 seafood dealers and restaurants liable for
11 penalties for buying seafood from unlicensed
12 persons or corporations; amending s. 370.06,
13 F.S.; exempting certain totally and permanently
14 disabled persons from income requirements
15 imposed to qualify for a restricted species
16 endorsement on a saltwater products license;
17 providing restrictions on the issuance of
18 marine life fishing endorsements and renewal
19 and transfer thereof during a specified period;
20 directing the Marine Fisheries Commission to
21 report on options for establishment of a
22 limited-entry program for the marine life
23 fishery; providing a penalty; amending s.
24 370.0608, F.S.; increasing the maximum
25 percentage of saltwater fishing license fees
26 designated for the commission's use and
27 decreasing the minimum percentage of such fees
28 designated for marine research; amending s.
29 370.07, F.S.; clarifying confidentiality
30 requirements of fisheries data shared with
31 regional fisheries councils; providing

1 penalties for violators of certain fisheries
2 laws; amending s. 370.092, F.S.; providing
3 penalties for possession of gill or entangling
4 nets or certain seines on certain vessels
5 unless authorized by commission rule; providing
6 for definition of such nets; directing the
7 commission to adopt rules prohibiting the
8 possession and sale of mullet taken in illegal
9 gill or entangling nets; providing penalties
10 applicable to violation of such rules; amending
11 s. 370.093, F.S.; revising the definition of
12 "entangling net" for purposes of the
13 prohibition against use thereof contained in s.
14 16, Art. X of the State Constitution; repealing
15 s. 370.1127, F.S., which provides for
16 regulation of mullet west of the Ochlocknee
17 River; amending s. 370.13, F.S.; extending the
18 period during which the renewal or replacement
19 of stone crab trap numbers is restricted;
20 providing for transfer of an active stone crab
21 endorsement if the holder becomes disabled;
22 prohibiting certain harvesting and sale of
23 stone crabs without a saltwater products
24 license and specified endorsements; amending s.
25 370.135, F.S.; prohibiting certain harvesting
26 and sale of blue crabs without a saltwater
27 products license and specified endorsements;
28 restricting the renewal or replacement of blue
29 crab endorsements during a specified period;
30 amending s. 370.1405, F.S.; authorizing the
31 Department of Environmental Protection to adopt

1 certain rules; amending s. 370.142, F.S.;
2 adding transfer fees; specifying that transfer
3 of tags or certificates is allowable until July
4 1, 2003; removing scheduled repeal of Florida
5 Marine Fisheries Commission; providing an
6 effective date.

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

9
10 Section 1. Subsection (3) is added to section 253.72,
11 Florida Statutes, to read:

12 253.72 Marking of leased areas; restrictions on public
13 use.--

14 (3) To assist in protecting shellfish aquaculture
15 products produced on leases authorized pursuant to this
16 chapter and chapter 370, harvesting shellfish is prohibited
17 within a distance of 25 feet outside lawfully marked lease
18 boundaries, or within setback and access corridors within
19 specifically designated high-density aquaculture lease areas
20 and aquaculture use zones.

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

23 370.01 Definitions.--In construing these statutes,
24 where the context does not clearly indicate otherwise, the
25 word, phrase, or term:

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

30 Section 3. A new subsection (4) is added to Section
31 370.021, Florida Statutes, to read:

1 370.021 Administration; rules, publications, records;
2 penalty for violation of chapter; injunctions.--

3 (4) In addition to being subject to other penalties
4 provided in this chapter, any violation of ss. 370.06 or
5 370.07, or rules of the department implementing ss. 370.06 or
6 370.07, involving buying saltwater products from an unlicensed
7 person, firm, or corporation, or selling saltwater products by
8 an unlicensed person, firm, or corporation, shall be a major
9 violation, and the department may assess the following
10 penalties:

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

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

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

24
25 Any proceeds from the civil penalties assessed pursuant to
26 this subsection shall be deposited into the Marine Resources
27 Conservation Trust Fund and shall be used as follows: 40
28 percent for administration and processing purposes; and 60
29 percent for law enforcement purposes.

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

1 370.06 Licenses.--

2 (2) SALTWATER PRODUCTS LICENSE.--

3 (a) Every person, firm, or corporation that sells,
4 offers for sale, barter, or exchanges for merchandise any
5 saltwater products, or which harvests saltwater products with
6 certain gear or equipment as specified by law, must have a
7 valid saltwater products license, except that the holder of an
8 aquaculture certificate is not required to purchase and
9 possess a saltwater products license in order to possess,
10 transport, or sell marine aquaculture products. Each
11 saltwater products license allows the holder to engage in any
12 of the activities for which the license is required. The
13 license must be in the possession of the licenseholder or
14 aboard the vessel and shall be subject to inspection at any
15 time that harvesting activities for which a license is
16 required are being conducted. A restricted species endorsement
17 on the saltwater products license is required to sell to a
18 licensed wholesale dealer those species which the state, by
19 law or rule, has designated as "restricted species." This
20 endorsement may be issued only to a person who is at least 16
21 years of age, or to a firm certifying that over 25 percent of
22 its income or \$5,000 of its income, whichever is less, is
23 attributable to the sale of saltwater products pursuant to a
24 license issued under this paragraph or a similar license from
25 another state. This endorsement may also be issued to a
26 for-profit corporation if it certifies that at least \$5,000 of
27 its income is attributable to the sale of saltwater products
28 pursuant to a license issued under this paragraph or a similar
29 license from another state. However, if at least 50 percent of
30 the annual income of a person, firm, or for-profit corporation
31 is derived from charter fishing, the person, firm, or

1 for-profit corporation must certify that at least \$2,500 of
2 the income of the person, firm, or corporation is attributable
3 to the sale of saltwater products pursuant to a license issued
4 under this paragraph or a similar license from another state,
5 in order to be issued the endorsement. Such income attribution
6 must apply to at least 1 year out of the last 3 years. For the
7 purpose of this section "income" means that income which is
8 attributable to work, employment, entrepreneurship, pensions,
9 retirement benefits, and social security benefits.

10 1. The department is authorized to require
11 verification of such income. Acceptable proof of income earned
12 from the sale of saltwater products shall be:

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

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

18 c. A copy of the applicable federal income tax return,
19 including Form 1099 attachments, verifying income earned from
20 the sale of saltwater products;

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

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

25
26 Any provision of this section or any other section of the
27 Florida Statutes to the contrary notwithstanding, any person
28 who owns a retail seafood market and/or restaurant at a fixed
29 location for at least 3 years who has had an occupational
30 license for 3 years prior to January 1, 1990, who harvests
31 saltwater products to supply his or her retail store and has

1 had a saltwater products license for 1 of the past 3 years
2 prior to January 1, 1990, may provide proof of his or her
3 verification of income and sales value at the person's retail
4 seafood market and/or restaurant and in his or her saltwater
5 products enterprise by affidavit and shall thereupon be issued
6 a restricted species endorsement.

7 2. Exceptions from income requirements shall be as
8 follows:

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

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

15 c. Upon the sale of a used commercial fishing vessel
16 owned by a person, firm, or corporation possessing or eligible
17 for a restricted species endorsement, the purchaser of such
18 vessel shall be exempted from the qualifying income
19 requirement for the purpose of obtaining a restricted species
20 endorsement for a period of 1 year after purchase of the
21 vessel.

22 d. Upon the death or permanent disablement of a person
23 possessing a restricted species endorsement, an immediate
24 family member wishing to carry on the fishing operation shall
25 be exempted from the qualifying income requirement for the
26 purpose of obtaining a restricted species endorsement for a
27 period of 1 year after the death or disablement.

28 e. A restricted species endorsement may be issued on
29 an individual saltwater products license to a person age 62 or
30 older who documents that at least \$2,500 is attributable to
31

1 the sale of saltwater products pursuant to the provisions of
2 this paragraph.

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

7 g. Any resident who is certified to be totally and
8 permanently disabled by a verified written statement based
9 upon the criteria for permanent total disability in chapter
10 440 from a physician licensed in this state, by any branch of
11 the United States Armed Services, by the Social Security
12 Administration, or by the United States Department of Veterans
13 Affairs or its predecessor, or any resident who holds a valid
14 identification card issued by the Department of Veterans
15 Affairs pursuant to s. 295.17, shall be exempted from the
16 income requirements if he or she also has held a saltwater
17 products license for at least 3 of the last 5 license years
18 previous to the date of disability. A Disability Award Notice
19 issued by the United States Social Security Administration is
20 not sufficient certification for obtaining the income
21 exemption unless the notice certifies a resident is totally
22 and permanently disabled.

23
24 At least one saltwater products license bearing a restricted
25 species endorsement shall be aboard any vessel harvesting
26 restricted species in excess of any bag limit or when fishing
27 under a commercial quota or in commercial quantities, and such
28 vessel shall have a commercial vessel registration. This
29 subsection does not apply to any person, firm, or corporation
30 licensed under s. 370.07(1)(a)1. or (b) for activities
31 pursuant to such licenses. A saltwater products license may be

1 issued in the name of an individual or a valid boat
2 registration number. Such license is not transferable. A decal
3 shall be issued with each saltwater products license issued to
4 a valid boat registration number. The saltwater products
5 license decal shall be the same color as the vessel
6 registration decal issued each year pursuant to s. 327.11(7)
7 and shall indicate the period of time such license is valid.
8 The saltwater products license decal shall be placed beside
9 the vessel registration decal and, in the case of an
10 undocumented vessel, shall be placed so that the vessel
11 registration decal lies between the vessel registration number
12 and the saltwater products license decal. Any saltwater
13 products license decal for a previous year shall be removed
14 from a vessel operating on the waters of the state. A resident
15 shall pay an annual license fee of \$50 for a saltwater
16 products license issued in the name of an individual or \$100
17 for a saltwater products license issued to a valid boat
18 registration number. A nonresident shall pay an annual license
19 fee of \$200 for a saltwater products license issued in the
20 name of an individual or \$400 for a saltwater products license
21 issued to a valid boat registration number. An alien shall pay
22 an annual license fee of \$300 for a saltwater products license
23 issued in the name of an individual or \$600 for a saltwater
24 products license issued to a valid boat registration number.
25 Any person who sells saltwater products pursuant to this
26 license may sell only to a licensed wholesale dealer. A
27 saltwater products license must be presented to the licensed
28 wholesale dealer each time saltwater products are sold, and an
29 imprint made thereof. The wholesale dealer shall keep records
30 of each transaction in such detail as may be required by rule
31 of the Department of Environmental Protection not in conflict

1 with s. 370.07(6), and shall provide the holder of the
2 saltwater products license with a copy of the record. It is
3 unlawful for any licensed wholesale dealer to buy saltwater
4 products from any unlicensed person under the provisions of
5 this section, except that a licensed wholesale dealer may buy
6 from another licensed wholesale dealer. It is unlawful for any
7 licensed wholesale dealer to buy saltwater products designated
8 as "restricted species" from any person, firm, or corporation
9 not possessing a restricted species endorsement on his or her
10 saltwater products license under the provisions of this
11 section, except that a licensed wholesale dealer may buy from
12 another licensed wholesale dealer. The Department of
13 Environmental Protection shall be the licensing agency, may
14 contract with private persons or entities to implement aspects
15 of the licensing program, and shall establish by rule a marine
16 fisheries information system in conjunction with the licensing
17 program to gather fisheries data.

18 (b) Any person who sells, offers for sale, barter, or
19 exchanges for merchandise saltwater products must have a
20 method of catch preservation which meets the requirements and
21 standards of the seafood quality control code promulgated by
22 the Department of Environmental Protection.

23 (c) A saltwater products license is required to
24 harvest commercial quantities of saltwater products. Any
25 vessel from which commercial quantities of saltwater products
26 are harvested must have a commercial vessel registration.
27 Commercial quantities of saltwater products shall be defined
28 as:

29 1. With respect to those species for which no bag
30 limit has been established, more than 100 pounds per person
31 per day, provided that the harvesting of two fish or less per

1 person per day shall not be considered commercial quantities
2 regardless of aggregate weight; and

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

6 (d)1. In addition to the saltwater products license, a
7 marine life fishing endorsement ~~is shall be~~ required for the
8 harvest of marine life species as defined by rule of the
9 Marine Fisheries Commission. This endorsement may be issued
10 only to a person who is at least 16 years of age or older or
11 to a corporation holding a valid restricted species
12 endorsement.

13 2.a. Effective July 1, 1998, and until July 1, 2002, a
14 marine life fishing endorsement may not be issued under this
15 paragraph, except that those endorsements that are active
16 during the 1997-1998 fiscal year may be renewed.

17 b. In 1998, a person or corporation holding a marine
18 life fishing endorsement that was active in the 1997-1998
19 fiscal year or an immediate family member of that person must
20 request renewal of the marine life fishing endorsement before
21 December 31, 1998.

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

26 d. If a person or corporation holding an active marine
27 life fishing endorsement or a member of that person's
28 immediate family does not request renewal of the endorsement
29 before the applicable dates specified in this paragraph, the
30 department shall deactivate that marine life fishing
31 endorsement.

1 e. In the event of the death or disability of a person
2 holding an active marine life fishing endorsement, the
3 endorsement may be transferred by the person to a member of
4 his or her immediate family or may be renewed by any person so
5 designated by the executor of the person's estate.

6 f. Persons or corporations who hold saltwater product
7 licenses with marine life fishing endorsements issued to their
8 vessel registration numbers and who subsequently replace their
9 existing vessels with new vessels may transfer the existing
10 marine life fishing endorsement to the new boat registration
11 numbers.

12 g. Persons or corporations who hold saltwater product
13 licenses with marine life fishing endorsements issued to their
14 name and who subsequently incorporate or unincorporate may
15 transfer the existing marine life fishing endorsement to the
16 new corporation or person.

17 h. By July 1, 2000, the Marine Fisheries Commission
18 shall prepare a report regarding options for the establishment
19 of a limited-entry program for the marine life fishery and
20 submit the report to the Governor, the President of the
21 Senate, the Speaker of the House of Representatives, and the
22 chairs of the Senate and House committees having jurisdiction
23 over marine resources.

24 ~~3.2.~~ The fee for a marine life fishery endorsement on
25 a saltwater products license shall be \$75. These license fees
26 shall be collected and deposited in the Marine Resources
27 Conservation Trust Fund and used for the purchase and
28 installation of vessel mooring buoys at coral reef sites and
29 for research related to marine fisheries.

30 Section 5. Subsection (1) of section 370.0608, Florida
31 Statutes, is amended to read:

1 370.0608 Deposit of license fees; allocation of
2 federal funds.--

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

6 (a) Not more than 5 ~~2.5~~ percent of the total fees
7 collected shall be for the Marine Fisheries Commission to be
8 used to carry out the responsibilities of the commission and
9 to provide for the award of funds to marine research
10 institutions in this state for the purposes of enabling such
11 institutions to conduct worthy marine research projects.

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

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

16 a. Not more than 5 percent of the total fees
17 collected, for administration of the licensing program and for
18 information and education.

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

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

23 d. Not less than 30 percent of the total fees
24 collected, for fishery enhancement, including, but not limited
25 to, fishery statistics development, artificial reefs, and fish
26 hatcheries.

27 2. The Legislature shall annually appropriate to the
28 Department of Environmental Protection from the General
29 Revenue Fund for the activities and programs specified in
30 subparagraph 1. at least the same amount of money as was
31 appropriated to the department from the General Revenue Fund

1 for such activities and programs for fiscal year 1988-1989,
2 and the amounts appropriated to the department for such
3 activities and programs from the Marine Resources Conservation
4 Trust Fund shall be in addition to the amount appropriated to
5 the department for such activities and programs from the
6 General Revenue Fund. The proceeds from recreational saltwater
7 fishing license fees paid by fishers shall only be
8 appropriated to the Department of Environmental Protection.

9 Section 6. Subsection (6) of section 370.07, Florida
10 Statutes, is amended, and a new subsection (8) is created to
11 read:

12 370.07 Wholesale and retail saltwater products
13 dealers; regulation.--

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

15 (a) Wholesale dealers shall be required by the
16 department to make and preserve a record of the names and
17 addresses of persons from whom or to whom saltwater products
18 are purchased or sold, the quantity so purchased or sold from
19 or to each vendor or purchaser, and the date of each such
20 transaction. Retail dealers shall be required to make and
21 preserve a record from whom all saltwater products are
22 purchased. Such record shall be open to inspection at all
23 times by the department. A report covering the sale of
24 saltwater products shall be made monthly or as often as
25 required by rule to the department by each wholesale dealer.
26 All reports required under this subsection are confidential
27 and shall be exempt from the provisions of s. 119.07(1) Except
28 that, pursuant to authority related to interstate fishery
29 compacts as provided by s. 370.19(3) and s. 370.20(3), reports
30 may be shared with another state if that state is a member of
31 an interstate fisheries compact, and if that state has signed

1 a Memorandum of Agreement or a similar instrument agreeing to
2 preserve confidentiality as established by Florida law.

3 (b) The department may revoke, suspend, or deny the
4 renewal of the license of any dealer for failure to make and
5 keep required records, for failure to make required reports,
6 for failure or refusal to permit the examination of required
7 records, or for falsifying any such record. In addition to,
8 or in lieu of, the ~~penalties~~ penalty imposed pursuant to this
9 paragraph and s. 370.021, the department may impose against
10 any person, firm, or corporation who is determined to have
11 violated any provision of this paragraph or any provisions of
12 any department rules promulgated pursuant to s. 370.0607, the
13 following additional penalties:

14 1. For the first violation, a civil penalty of up to
15 \$1,000;

16 2. For a second violation committed within 24 months
17 of any previous violation, a civil penalty of up to \$2,500;
18 and

19 3. For a third or subsequent violation committed
20 within 36 months of any previous two violations, a civil
21 penalty of up to \$5,000.

22
23 The proceeds of all civil penalties collected pursuant to this
24 subsection shall be deposited into the Marine Resources
25 Conservation Trust Fund and shall be used for administration,
26 auditing, and law enforcement purposes ~~penalties pursuant to~~
27 ~~s. 370.021.~~

28 (8) UNLAWFUL PURCHASE OF SALTWATER PRODUCTS.--It is
29 unlawful for any licensed retail dealer or any restaurant
30 licensed by the Division of Hotels and Restaurants of the
31 Department of Business and Professional Regulation to buy

1 saltwater products from any person other than a licensed
2 wholesale or retail dealer.

3 Section 7. Section 370.092, Florida Statutes, is
4 amended to read:

5 370.092 Carriage of proscribed nets across Florida
6 waters.--

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

18 (2) Every vessel containing or otherwise transporting
19 in or on Florida waters any gill net or other entangling net
20 and every vessel containing or otherwise transporting in or on
21 nearshore and inshore Florida waters any net containing more
22 than 500 square feet of mesh area shall proceed as directly,
23 continuously, and expeditiously as possible from the place
24 where the vessel is regularly docked, moored, or otherwise
25 stored to waters where the use of said nets is lawful and from
26 waters where the use of said nets is lawful back to the place
27 where the vessel is regularly docked, moored, or otherwise
28 stored or back to the licensed wholesale dealer where the
29 catch is to be sold. Exceptions shall be provided for docked
30 vessels, for vessels which utilize nets in a licensed
31 aquaculture operation, and for vessels containing trawl nets

1 as long as the trawl's doors or frame are not deployed in the
2 water. Otherwise, hovering, drifting, and other similar
3 activities inconsistent with the direct, continuous, and
4 expeditious transit of such vessels shall be evidence of the
5 unlawful use of such nets. The presence of fish in such a net
6 is not evidence of the unlawful use of the net if the vessel
7 is otherwise in compliance with this section.

8 (3) Notwithstanding subsections (1) and (2), unless
9 authorized by rule of the Marine Fisheries Commission, it is a
10 major violation under this section, punishable as provided in
11 subsection (4), for any person, firm, or corporation to
12 possess any gill or entangling net, or any seine net larger
13 than 500 square feet in mesh area, on any airboat or on any
14 other vessel less than 22 feet in length and on any vessel
15 less than 25 feet in length if primary power of the vessel is
16 mounted forward of the vessel center point. Gill or entangling
17 nets shall be as defined in s. 16, Art. X of the State
18 Constitution, s. 370.093(2)(b), or in a rule of the Marine
19 Fisheries Commission implementing s. 16, Art. X of the State
20 Constitution. Vessel length shall be determined in accordance
21 with current U.S. Coast Guard regulations specified in the
22 Code of Federal Regulations or as titled by the State of
23 Florida. The Marine Fisheries Commission is directed to
24 initiate by July 1, 1998, rulemaking to adjust by rule the use
25 of gear on vessels longer than 22 feet where the primary power
26 of the vessel is mounted forward of the vessel center point in
27 order to prevent the illegal use of gill and entangling nets
28 in state waters and to provide reasonable opportunities for
29 the use of legal net gear in adjacent federal waters.

30 (4)(3)(a) It shall be a major violation pursuant to
31 this section and shall be punished as provided in subsection

1 ~~(5)~~~~(4)~~for any person, firm, or corporation to be
2 simultaneously in possession of any species of mullet in
3 excess of the recreational daily bag limit and any gill or
4 other entangling net as defined in s. 16(c), Art. X of the
5 State Constitution. Simultaneous possession under this
6 provision shall include possession of mullet and gill or other
7 entangling nets on separate vessels or vehicles where such
8 vessels or vehicles are operated in coordination with one
9 another including vessels towed behind a main vessel. This
10 subsection does not prohibit a resident of this state from
11 transporting on land, from Alabama to this state, a commercial
12 quantity of mullet together with a gill net if:

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

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

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

26 4. The mullet being transported are totally removed
27 from any net also being transported.

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

1 (c) The Marine Fisheries Commission shall adopt rules
2 to prohibit the possession and sale of mullet taken in illegal
3 gill or entangling nets. Violation of these rules shall be
4 punishable as provided in subsection (5).

5 ~~(5)(4)~~(a) In addition to being subject to the other
6 penalties provided in this chapter, any violation of s. 16,
7 Art. X of the State Constitution, paragraph~~(4)~~~~(3)~~(a), or any
8 rules of the Marine Fisheries Commission which implement the
9 gear prohibitions and restrictions specified therein shall be
10 considered a major violation; and any person, firm, or
11 corporation receiving any judicial disposition other than
12 acquittal or dismissal of such violation shall be subject to
13 the following additional penalties:

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

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

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

30
31

1 A court may suspend, defer or withhold adjudication of guilt
2 or imposition of sentence only for any first violation of s.
3 16, Art. X of the State Constitution, or any rule or statute
4 implementing its restrictions, determined by a court only
5 after consideration of competent evidence of mitigating
6 circumstances to be a nonflagrant or minor violation of those
7 restrictions upon the use of nets. Any violation of s. 16,
8 Art. X of the State Constitution, or any rule or statute
9 implementing its restrictions, occurring within a 7-year
10 period commencing upon the conclusion of any judicial
11 proceeding resulting in any outcome other than acquittal shall
12 be punished as a second, third, or subsequent violation
13 accordingly.

14 (b) During the period of suspension or revocation of
15 saltwater license privileges under this section, the licensee
16 may not participate in the taking or harvesting or attempt the
17 taking or harvesting of saltwater products from any vessel
18 within the waters of the state, or any other activity
19 requiring a license, permit, or certificate issued pursuant to
20 this chapter. Any person who violates this paragraph is:

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

23 2. Upon a third or subsequent conviction, guilty of a
24 felony of the third degree, punishable as provided in s.
25 775.082, s. 775.083, or s. 775.084.

26 (c) Upon reinstatement of saltwater license privileges
27 suspended pursuant to a violation of this section, a licensee
28 owning or operating a vessel containing or otherwise
29 transporting in or on Florida waters any gill net or other
30 entangling net, or containing or otherwise transporting in
31 nearshore and inshore Florida waters any net containing more

1 than 500 square feet of mesh area shall remain restricted for
2 a period of 12 months following reinstatement, to operation
3 under the following conditions:

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

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

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

10 (6)~~(5)~~ The department is authorized to make and adopt
11 reasonable rules, regulations, and orders, including emergency
12 rules, to implement this section. The department shall adopt
13 emergency rules to implement the provisions of subparagraph
14 (4)(c)1. by August 1, 1996.

15 Section 8. Section 370.093, Florida Statutes, is
16 amended to read:

17 370.093 Illegal use of nets.--

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

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

1 (b) The use of gill or entangling nets of any size is
2 prohibited, as such nets are defined in s. 16, Art. X of the
3 State Constitution. Any net constructed wholly or partially
4 of monofilament or multistrand monofilament ~~multifilament~~
5 material, other than a hand thrown cast net, or a handheld
6 landing or dip net, shall be considered to be an entangling
7 net within the prohibition of s. 16, Art. X of the State
8 Constitution unless specifically authorized by rule of the
9 commission. Multistrand monofilament ~~Multifilament~~ material
10 shall not be defined to include nets constructed of braided or
11 twisted nylon, cotton, linen twine, or polypropylene twine.

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

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

20 (4) Upon the arrest of any person for violation of
21 this subsection, the arresting officer shall seize the nets
22 illegally used. Upon conviction of the offender, the arresting
23 authority shall destroy the nets.

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

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

30 Section 9. Section 370.1127, Florida Statutes, is
31 hereby repealed.

1 Section 10. Subsection (6) of section 370.13, Florida
2 Statutes, is amended, subsection (7) is renumbered as
3 subsection (8), and a new subsection (7) is added to said
4 section, to read:

5 370.13 Stone crab; regulation.--

6 (6)(a) Effective July 1, 1995, and until July 1, 2000
7 ~~1999~~, no stone crab trap numbers issued pursuant to rule
8 46-13.002(2)(e)~~46-3.002(2)(f)~~, Florida Administrative Code,
9 except those numbers that are active during the 1994-1995
10 fiscal year, shall be renewed or replaced.

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

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

19 (d) If a person holding an active trap number, or a
20 member of that person's immediate family, does not request
21 renewal of the number before the applicable dates as specified
22 in this subsection, the department shall deactivate that trap
23 number.

24 (e) In the event of the death or disability of a
25 person holding an active stone crab endorsement, the
26 endorsement may be transferred by the person to a member of
27 his or her immediate family or trap number, ~~the trap number~~
28 may be renewed by any person so designated by the executor of
29 the person's estate.

30 (f) Persons who hold saltwater products licenses with
31 stone crab endorsements issued to their boat registration

1 numbers and who subsequently replace their existing vessels
2 with new vessels shall be permitted to transfer the existing
3 licenses to the new boat registration numbers.

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

10 Section 11. Subsection (4) of section 370.135, Florida
11 Statutes, is renumbered as subsection (5), and a new
12 subsection (4) is added to said section to read:

13 370.135 Blue crab; regulation.--

14 (4) No person shall harvest blue crabs with more than
15 five traps, harvest blue crabs in commercial quantities, or
16 sell blue crabs unless such person holds a valid saltwater
17 products license with a restricted species endorsement and a
18 blue crab endorsement (trap number) issued pursuant to this
19 subsection.

20 (a) Effective July 1, 1998, and until July 1, 2002, no
21 blue crab endorsement (trap number), except those endorsements
22 that are active during the 1997-1998 fiscal year, shall be
23 renewed or replaced.

24 (b) In 1998, a person holding an endorsement that was
25 active in the 1997-1998 fiscal year, or an immediate family
26 member of that person, must request renewal of the endorsement
27 prior to December 31, 1998.

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

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

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

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

16 Section 12. Subsection (6) is added to s. 370.1405,
17 Florida Statutes, to read:

18 370.1405 Crawfish reports by dealers during closed
19 season required.--

20 (6) The Department of Environmental Protection is
21 authorized to adopt rules incorporating by reference such
22 forms as are necessary to implement the provisions of this
23 section.

24 Section 13. Subparagraph 1. of paragraphs (a) and
25 paragraph (c) are amended, and subparagraph 5, of paragraph
26 (a) of subsection (2) of section (2) of section 370.142,
27 Florida Statutes, is created to read:

28 370.142 Spiny lobster trap certificate program.--

29 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;
30 PENALTIES.--The Department of Environmental Protection shall
31 establish a trap certificate program for the spiny lobster

1 fishery of this state and shall be responsible for its
2 administration and enforcement as follows:

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

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

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

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

3 5. Beginning July 1, 2003, and applicable to the
4 2003-2004 lobster season and thereafter, it shall be unlawful
5 for any person to lease lobster trap certificates. Leasing of
6 lobster trap tags or certificates is allowable up until July
7 1, 2003, provided that each transaction is documented and each
8 leased tag number is reported to the department.

9 (c) Prohibitions; penalties.--

10 3. In addition to any other penalties provided in
11 section 370.021 ~~Unless otherwise provided in this section,~~ a
12 commercial harvester, as defined by rule 46-24.002(1), Florida
13 Administrative Code, who violates the provisions of this
14 section, or the provisions of chapter 46-24, Florida
15 Administrative Code, shall be punished as follows:

16 a. If the first violation is for violation of
17 subparagraph 1. or subparagraph 2., the department shall
18 assess an additional a civil penalty of up to \$1,000 and the
19 crawfish trap number issued pursuant to s. 370.14(2) or (7)
20 may be suspended for the remainder of the current license
21 year. For all other first violations, the department shall
22 assess an additional civil penalty of up to \$500.

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

29 c. For a third or subsequent violation of subparagraph
30 1. or subparagraph 2. which occurs within 36 months of any
31 previous two such violations, the department shall assess an

1 additional civil penalty of up to \$5,000 and may suspend the
2 crawfish trap number issued pursuant to s. 370.14(2) or (7)
3 for a period of up to 24 months or may revoke the crawfish
4 trap number and, if revoking the crawfish trap number, may
5 also proceed against the licenseholder's saltwater products
6 license in accordance with the provisions of s. 370.021(2)(e).

7 d. Any person assessed an additional civil penalty
8 pursuant to this section shall within 30 calendar days after
9 notification:

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

11 (II) Request an administrative hearing pursuant to the
12 provisions of s. 120.60.

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

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

22 Section 15. This act shall take effect upon becoming a
23 law.