

By Representative Sembler

1 A bill to be entitled
2 An act relating to marine fisheries; amending
3 s. 370.021, F.S.; providing additional
4 penalties for certain violations; providing a
5 definition; providing for certain notification
6 by the clerk of the court; amending s. 370.07,
7 F.S.; providing for the sharing of certain
8 reports which would otherwise be confidential;
9 providing additional civil penalties for
10 certain violations; providing that it is
11 unlawful for a retail licensed seafood dealer
12 or any licensed restaurant to buy saltwater
13 products from any person other than a licensed
14 wholesale or retail seafood products dealer;
15 providing an effective date.

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

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19 Section 1. Paragraph (c) of subsection (2) of section
20 370.021, Florida Statutes, is amended, and paragraph (g) is
21 added to subsection (2) of said section, to read:

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

24 (2) PENALTY FOR VIOLATION.--Unless otherwise provided
25 by law, any person, firm, or corporation who is convicted for
26 violating any provision of this chapter, any rule of the
27 department adopted pursuant to this chapter, or any rule of
28 the Marine Fisheries Commission, shall be punished:

29 (c) In addition to the penalties provided in
30 paragraphs (a) and (b), the court shall assess additional

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- 1 penalties against any person, firm, or corporation convicted
2 of major violations as follows:
- 3 1. For a violation involving more than 100 illegal
4 blue crabs, crawfish, or stone crabs, an additional penalty of
5 \$10 for each illegal blue crab, crawfish, stone crab, or part
6 thereof.
- 7 2. For a violation involving the taking or harvesting
8 of shrimp from a nursery or other prohibited area, an
9 additional penalty of \$10 for each pound of illegal shrimp or
10 part thereof.
- 11 3. For a violation involving the taking or harvesting
12 of oysters from nonapproved areas or the taking or possession
13 of unculled oysters, an additional penalty of \$10 for each
14 bushel of illegal oysters.
- 15 4. For a violation involving the taking or harvesting
16 of clams from nonapproved areas, an additional penalty of \$100
17 for each 500 count bag of illegal clams.
- 18 5. For a violation involving the taking, harvesting,
19 or possession of any of the following species, which are
20 endangered, threatened, or of special concern:
- 21 a. Shortnose sturgeon (*Acipenser brevirostrum*);
22 b. Atlantic sturgeon (*Acipenser oxyrinchus*);
23 c. Common snook (*Centropomus undecimalis*);
24 d. Atlantic loggerhead turtle (*Caretta caretta*
25 *caretta*);
26 e. Atlantic green turtle (*Chelonia mydas mydas*);
27 f. Leatherback turtle (*Dermochelys coriacea*);
28 g. Atlantic hawksbill turtle (*Eretmochelys imbricata*
29 *imbricata*);
30 h. Atlantic ridley turtle (*Lepidochelys kemp*); or
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1 i. West Indian manatee (*Trichechus manatus*
2 *latirostris*),

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4 an additional penalty of \$100 for each unit of marine life or
5 part thereof.

6 6. For a second or subsequent conviction within 24
7 months for any violation of the same law or rule involving the
8 taking or harvesting of more than 100 pounds of any finfish,
9 an additional penalty of \$5 for each pound of illegal finfish.

10 7. For any violation involving the taking, harvesting,
11 or possession of more than 1,000 pounds of any illegal
12 finfish, an additional penalty equivalent to the wholesale
13 value of the illegal finfish.

14 8.a. In addition to being subject to the other
15 penalties provided in this chapter, any intentional violation
16 of rule 46-4.007(1), Florida Administrative Code, shall be
17 considered a major violation, and any person, firm, or
18 corporation committing such violation shall be subject to the
19 following additional penalties:

20 (I) For a first violation within a 7-year period,
21 suspension of the saltwater products license for 90 days.

22 (II) For a second major violation within a 7-year
23 period, a civil penalty of \$5,000 and suspension of the
24 saltwater products license for 12 months.

25 (III) For a third or subsequent major violation within
26 a 7-year period, a civil penalty of \$5,000, lifetime
27 revocation of the saltwater products license, and forfeiture
28 of all gear and equipment used in the violation.

29 b. During any period of license suspension or
30 revocation under this section, the licensee may not fish from
31 any vessel that is harvesting saltwater products.

1 c. The Department of Environmental Protection may
2 bring a civil action to enforce the civil penalties prescribed
3 in this section.

4 9. In addition to being subject to other penalties
5 provided in this chapter, any violation of s. 370.06, s.
6 370.07, or rules of the department implementing s. 370.06 or
7 s. 370.07, involving buying saltwater products from an
8 unlicensed person, firm, or corporation by a commercial
9 wholesale dealer, retail dealer, or restaurant facility for
10 public consumption, or selling saltwater products by an
11 unlicensed person, firm, or corporation to a commercial
12 wholesale dealer, retail dealer, or restaurant facility for
13 public consumption shall be a major violation, and the
14 department may assess the following civil penalties:

15 a. For a first violation, a fine not to exceed \$2,500
16 and suspension of the wholesale dealer and/or retail dealer's
17 license privileges for up to 90 calendar days.

18 b. For a second violation occurring within 12 months
19 of a prior violation, a fine not to exceed \$5,000 and
20 suspension of the wholesale dealer and/or retail dealer's
21 license privileges for up to 180 calendar days.

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

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27 However, upon demonstration of just cause by the
28 licenseholder, the department may waive or reduce the assessed
29 penalties. Any proceeds from the civil penalties assessed
30 pursuant to this subparagraph shall be deposited in the Marine
31 Resources Conservation Trust Fund and shall be used for

1 administration, permit processing, and law enforcement
2 purposes.
3 10. The licenseholder must show just cause why his or
4 her license or licenses should not be suspended, revoked, or
5 denied renewal upon conviction of a major violation such as:
6 a. Any violation described in this paragraph for the
7 taking or harvesting, or the attempted taking or harvesting of
8 finfish, any single violation involving the possession of more
9 than 10 percent over the amount of finfish prescribed by law,
10 or any combination of violations in any 3 consecutive years
11 totaling more than 25 percent of the annual amount of finfish
12 prescribed by law.
13 b. Any violation described in this paragraph for the
14 taking or harvesting, or attempted taking or harvesting of
15 shrimp from a nursery or other prohibited area, or any two
16 violations occurring within a 12 month period involving gear,
17 size count, or season.
18 c. Any violation described in this paragraph for the
19 taking or harvesting, or attempted taking or harvesting of
20 marine life, any violation involving use of chemicals or gear
21 not authorized by rule of the Marine Fisheries Commission, any
22 violation involving the taking or harvesting, or attempted
23 taking or harvesting of marine life from a closed area or
24 during a closed season, any violation involving the taking or
25 harvesting, or attempted taking or harvesting of marine life
26 prohibited by rule of the Marine Fisheries Commission, and any
27 violation involving the possession of 25 or more illegal
28 specimens of marine life, or any combination of violations in
29 any 3 consecutive years wherein more than 70 illegal specimens
30 of marine life are involved. For the purposes of this
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1 subparagraph, the term "marine life" shall be as defined by
2 rule of the Marine Fisheries Commission.

3 d. Any violation described in this paragraph or in s.
4 370.14(6) involving the taking or harvesting, or attempted
5 taking or harvesting of crawfish.

6 e. Any violation described in this paragraph or in s.
7 370.13(2) involving the taking or harvesting, or attempted
8 taking or harvesting of stone crabs.

9 f. Any violation described in this paragraph or in s.
10 370.135(4) involving the taking or harvesting, or attempted
11 taking or harvesting of blue crabs.

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13 Notwithstanding the provisions of s. 948.01, no court may
14 suspend, defer, or withhold adjudication of guilt or
15 imposition of sentence for any major violation prescribed in
16 this paragraph. For the purposes of subparagraphs 9. and 10.,
17 the term "conviction" shall include any disposition other than
18 acquittal or dismissal.

19 (g) Upon the final disposition of any alleged
20 violation of s. 16, Art. X of the State Constitution, this
21 chapter, or rules of the department or the Marine Fisheries
22 Commission implementing s. 16, Art. X of the State
23 Constitution or this chapter, the clerk of the court shall,
24 within 10 days of such final disposition, certify the
25 disposition to the department.

26 Section 2. Subsection (6) of section 370.07, Florida
27 Statutes, is amended, and subsection (8) is added to said
28 section, to read:

29 370.07 Wholesale and retail saltwater products
30 dealers; regulation.--

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

1 (a) Wholesale dealers shall be required by the
2 department to make and preserve a record of the names and
3 addresses of persons from whom or to whom saltwater products
4 are purchased or sold, the quantity so purchased or sold from
5 or to each vendor or purchaser, and the date of each such
6 transaction. Retail dealers shall be required to make and
7 preserve a record from whom all saltwater products are
8 purchased. Such record shall be open to inspection at all
9 times by the department. A report covering the sale of
10 saltwater products shall be made monthly or as often as
11 required by rule to the department by each wholesale dealer.
12 All reports required under this subsection are confidential
13 and shall be exempt from the provisions of s. 119.07(1),
14 except that, pursuant to authority related to interstate
15 fisheries compacts as provided by ss. 370.19(3) and 370.20(3),
16 reports may be shared with another state if that state is a
17 member of an interstate fisheries compact, and if that state
18 has signed a Memorandum of Agreement or a similar instrument
19 agreeing to preserve confidentiality as established by Florida
20 law. Any breach of the confidentiality provisions of any such
21 instrument shall result in the immediate termination of the
22 agreement by the State of Florida.

23 (b) The department may revoke, suspend, or deny the
24 renewal of the license of any dealer for failure to make and
25 keep required records, for failure to make required reports,
26 for failure or refusal to permit the examination of required
27 records, or for falsifying any such record. In addition to,
28 or in lieu of, the penalties ~~penalty~~ imposed pursuant to this
29 paragraph and s. 370.021, the department may impose against
30 any person, firm, or corporation who is determined to have
31 violated any provision of this paragraph or any provisions of

1 department rules adopted pursuant to s. 370.0607 the following
2 additional civil penalties:~~penalties pursuant to s. 370.021.~~
3 1. For the first violation, a fine not to exceed
4 \$1,000.
5 2. For a second violation committed within 24 months
6 of any previous violation, a fine not to exceed \$2,500.
7 3. For a third or subsequent violation committed
8 within 36 months of any previous two violations, a fine not to
9 exceed \$5,000.
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11 The proceeds of civil penalties collected pursuant to this
12 subsection shall be deposited in the Marine Resources
13 Conservation Trust Fund and shall be used for administration,
14 auditing purposes, and law enforcement purposes.
15 (8) It is unlawful for any licensed retail dealer or
16 any restaurant licensed by the Division of Hotels and
17 Restaurants of the Department of Business and Professional
18 Regulation to buy saltwater products from any person other
19 than a licensed wholesale or retail seafood products dealer.
20 Section 3. This act shall take effect upon becoming a
21 law.
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HOUSE SUMMARY

Provides additional penalties for described violations involving saltwater products. Provides that described reports held by the Department of Environmental Protection may be shared with certain other states if the state is a member state of an interstate fisheries compact and that the state has signed a Memorandum of Agreement or a similar instrument agreeing to preserve confidentiality as established by Florida law. Provides additional penalties for certain violations relating to licenses and provides for the deposit of such civil penalties in the Marine Resources Conservation Trust Fund to be used for administration, auditing, and law enforcement purposes. Provides that it is unlawful for any licensed retail dealer or any restaurant licensed by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to buy saltwater products from any person other than a licensed wholesale or retail seafood products dealer. See bill for details.