

By Representative Laurent

1 A bill to be entitled
2 An act relating to marine fisheries; amending
3 s. 370.01, F.S.; defining "netting," "netting
4 material," "net," and "miles" for purposes of
5 chapter 370, F.S., and s. 16, Art. X of the
6 State Constitution, and the enforcement
7 responsibilities of the Department of
8 Environmental Protection thereunder; amending
9 s. 370.021, F.S.; providing that specified
10 violations of administrative rules, the Florida
11 Statutes, and the constitutional ban on the use
12 of certain nets are major violations; providing
13 penalties; prohibiting a court from suspending,
14 deferring, or withholding adjudication of guilt
15 in specified circumstances; providing for the
16 suspension of violators' licenses and
17 prohibiting participation in fishing during the
18 period of suspension; providing restrictions on
19 operation; deleting obsolete provisions;
20 requiring a court to notify the Department of
21 Environmental Protection of the disposition of
22 cases; providing for the admissibility of
23 Marine Fisheries Commission rules into
24 evidence; amending s. 370.025, F.S.; permitting
25 the adoption of conservation and management
26 measures when available information is
27 incomplete or inconclusive; amending s.
28 370.062, F.S.; deleting a requirement for
29 rulemaking for the issuance of tarpon tags;
30 deleting a requirement for the annual issuance
31 of tarpon tags; amending s. 370.0821, F.S.;

1 revising the mesh size of a recreational net
2 allowed in St. Johns County; amending s.
3 370.092, F.S.; deleting provisions relating to
4 major violations, fines and penalties, and
5 authority of the court; amending s. 370.14,
6 F.S.; deleting a requirement that a marine
7 patrol officer be present at the weighing of
8 crawfish during the closed season; amending s.
9 370.142, F.S.; providing additional penalties
10 for violation of crawfish laws; amending s.
11 370.15, F.S.; revising shrimp trawling
12 regulations; repealing s. 370.08(7), F.S.,
13 relating to the use of gear and other
14 equipment; repealing s. 370.0821(3), F.S.,
15 relating to the use of nets in St. Johns
16 County; repealing s. 370.11(2) and (3), F.S.,
17 relating to the length of saltwater fish and
18 the use of nets to harvest shad; repealing s.
19 370.1125, F.S., relating to the harvest of
20 permit; repealing s. 370.114, F.S., relating to
21 the taking of corals and sea fans; repealing s.
22 370.13(2), F.S., relating to a major violation
23 involving stone crabs; repealing s. 370.135(2),
24 (3), and (4), F.S., relating to the harvest and
25 sale of blue crabs; repealing s. 370.14(6),
26 F.S., relating to a major violation involving
27 crawfish; repealing s. 370.15(2) and (3), F.S.,
28 relating to the harvest of shrimp; repealing s.
29 370.151(2), F.S., relating to the Tortugas
30 shrimp beds; repealing s. 370.153(4)(c), (d),
31 (e), and (5)(b), (d), F.S., relating to the

1 harvest of shrimp in Clay, Duval, Nassau,
2 Putnam, Flagler, and St. Johns Counties;
3 repealing s. 370.156, F.S., relating to the
4 Florida East Coast Shrimp Bed; repealing s.
5 370.157, F.S., relating to the harvest of
6 shrimp in the Cedar Key closed area; providing
7 an effective date.

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

10
11 Section 1. Subsections (27), (28), and (29) are added
12 to section 370.01, Florida Statutes, 1996 Supplement, to read:

13 370.01 Definitions.--In construing these statutes,
14 where the context does not clearly indicate otherwise, the
15 word, phrase, or term:

16 (27) As used in, and pursuant to the department's
17 enforcement responsibilities under, this chapter and s. 16,
18 Art. X of the State Constitution, "netting" and "netting
19 material" means a meshed structure of indefinite shape and
20 size, which is the raw material for the construction of
21 fishing gear, especially for fishing nets, irrespective of the
22 material from which the device has been made, or of the size
23 or shape of the single meshes of which the netting is
24 composed.

25 (28) As used in, and pursuant to the department's
26 enforcement responsibilities under, this chapter and s. 16,
27 Art. X of the State Constitution, "net" means an open fabric
28 of any material that is woven, tied, or otherwise constructed
29 with meshes of any size and which is designed or used as a
30 device for catching fish or aiding in the catching of fish.
31 The composition of a net includes any attached material that

1 adds to the fishing surface of the net or the confinement area
2 of the net structure.

3 (29) As used in, and pursuant to the department's
4 enforcement responsibilities under, this chapter and s. 16,
5 Art. X of the State Constitution, "miles" shall be construed
6 as international nautical miles, each of which is equal to
7 1,852 meters.

8 Section 2. Subsections (2) and (3) of section 370.021,
9 Florida Statutes, 1996 Supplement, are amended to read:

10 370.021 Administration; rules, publications, records;
11 penalty for violation of chapter; injunctions.--

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

17 (a) Upon a first conviction, by imprisonment for a
18 period of not more than 60 days or by a fine of not less than
19 \$100 nor more than \$500, or by both such fine and
20 imprisonment.

21 (b) On a second or subsequent conviction within 12
22 months, by imprisonment for not more than 6 months or by a
23 fine of not less than \$250 nor more than \$1,000, or by both
24 such fine and imprisonment.

25 (c) In addition to the penalties provided in
26 paragraphs (a) and (b), the court shall assess additional
27 penalties against any person, firm, or corporation convicted
28 of major violations as follows:

29 1. For a violation involving more than 100 illegal
30 blue crabs, crawfish, or stone crabs, an additional penalty of
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1 \$10 for each illegal blue crab, crawfish, stone crab, or part
2 thereof.

3 2. For a violation involving the taking or harvesting
4 of shrimp from a nursery or other prohibited area, an
5 additional penalty of \$10 for each pound of illegal shrimp or
6 part thereof.

7 3. For a violation involving the taking or harvesting
8 of oysters from nonapproved areas or the taking or possession
9 of unculled oysters, an additional penalty of \$10 for each
10 bushel of illegal oysters.

11 4. For a violation involving the taking or harvesting
12 of clams from nonapproved areas, an additional penalty of \$100
13 for each 500 count bag of illegal clams.

14 5. For a violation involving the taking, harvesting,
15 or possession of any of the following species, which are
16 endangered, threatened, or of special concern:

- 17 a. Shortnose sturgeon (*Acipenser brevirostrum*);
- 18 b. Atlantic sturgeon (*Acipenser oxyrinchus*);
- 19 c. Common snook (*Centropomus undecimalis*);
- 20 d. Atlantic loggerhead turtle (*Caretta caretta*
21 *caretta*);
- 22 e. Atlantic green turtle (*Chelonia mydas mydas*);
- 23 f. Leatherback turtle (*Dermochelys coriacea*);
- 24 g. Atlantic hawksbill turtle (*Eretmochelys imbricata*
25 *imbricata*);
- 26 h. Atlantic ridley turtle (*Lepidochelys kemp*); or
- 27 i. West Indian manatee (*Trichechus manatus*
28 *latirostris*),

29
30 an additional penalty of \$100 for each unit of marine life or
31 part thereof.

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

5 7. For any violation involving the taking, harvesting,
6 or possession of more than 1,000 pounds of any illegal
7 finfish, an additional penalty equivalent to the wholesale
8 value of the illegal finfish.

9 8.a. It shall be a major violation for any person,
10 firm, or corporation to be simultaneously in possession of any
11 species of mullet in a quantity that is in excess of the
12 recreational daily bag limit and any gill or other entangling
13 net as defined in s. 16(c), Art. X of the State Constitution.
14 Simultaneous possession under this provision shall include
15 possession of mullet and gill or other entangling nets on
16 separate vessels or vehicles if such vessels or vehicles are
17 operated in coordination with one another, including vessels
18 towed behind a main vessel.

19 b. It shall be a major violation for any person to be
20 in possession of any species of snook, tarpon, bonefish, or
21 redfish in a quantity that is three fish in excess of the
22 recreational or commercial daily bag limit, or any species of
23 trout in a quantity that is in excess of 10 fish more than the
24 recreational or commercial daily bag limit.

25 9.a. In addition to being subject to the other
26 penalties provided in this chapter, any violation of s. 16,
27 Art. X of the State Constitution, subparagraph 8., s.
28 370.092(2), or any rules of the Marine Fisheries Commission
29 which implement the gear prohibitions and restrictions
30 specified therein shall be considered a major violation; and
31 any person, firm, or corporation receiving any judicial

1 disposition other than acquittal or dismissal of such
2 violation shall be subject to the following additional
3 penalties:

4 (I) For a first major violation, a civil penalty of
5 \$2,500 and suspension of all saltwater products license
6 privileges for 90 calendar days following final disposition
7 shall be imposed.

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

15 (III) For a third major violation under this
16 subparagraph, charged within a 7-year period following the
17 first major violation, resulting in a third judicial
18 disposition other than acquittal or dismissal, a civil penalty
19 of \$5,000, lifetime revocation of the saltwater products
20 license, and forfeiture of all gear and equipment used in the
21 violation shall be imposed.

22 (IV) A fourth or subsequent major violation under this
23 subparagraph charged within a 7-year period following the
24 first major violation, resulting in a fourth or subsequent
25 judicial disposition other than acquittal or dismissal, shall
26 be a felony of the third degree punishable as provided in s.
27 775.082, s. 775.083, or s. 775.084.

28
29 A court may suspend, defer, or withhold adjudication of guilt
30 or imposition of sentence only for any first violation of s.
31 16, Art. X of the State Constitution, or any rule or statute

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

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

19 (I) Upon a first conviction, guilty of a misdemeanor
20 of the first degree, punishable as provided in s. 775.082 or
21 s. 775.083.

22 (II) Upon a second or subsequent conviction, guilty of
23 a felony of the third degree, punishable as provided in s.
24 775.082, s. 775.083, or s. 775.084.

25 c. Upon reinstatement of saltwater license privileges
26 suspended pursuant to a violation of this section, a licensee
27 owning or operating a vessel containing or otherwise
28 transporting in or on Florida waters any gill net or other
29 entangling net, or containing or otherwise transporting in
30 nearshore and inshore Florida waters any net containing more
31 than 500 square feet of mesh area shall remain restricted for

1 a period of 12 months following reinstatement, to operation
2 under the following conditions:

3 (I) Vessels subject to this reinstatement period shall
4 be restricted to the corridors established by department rule.

5 (II) A violation of the reinstatement period
6 provisions shall be punishable pursuant to paragraphs (a) and
7 (b).

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

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

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

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

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

25 ~~b. During any period of license suspension or~~
26 ~~revocation under this section, the licensee may not fish from~~
27 ~~any vessel that is harvesting saltwater products.~~

28 ~~c. The Department of Environmental Protection may~~
29 ~~bring a civil action to enforce the civil penalties prescribed~~
30 ~~in this section.~~

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1 Notwithstanding the provisions of s. 948.01, and except as
2 provided under sub-subparagraph 9.a., a ~~no~~ court may not
3 suspend, defer, or withhold adjudication of guilt or
4 imposition of sentence for any major violation prescribed in
5 this paragraph.

6 (d) The proceeds from the penalties assessed pursuant
7 to paragraph (c) shall be deposited into the Marine Resources
8 Conservation Trust Fund to be used for marine fisheries
9 research.

10 (e) Permits issued to any person, firm, or corporation
11 by the department to take or harvest saltwater products, or
12 any license issued pursuant to s. 370.06 or s. 370.07 may be
13 suspended or revoked by the department, pursuant to the
14 provisions and procedures of s. 120.60, for any major
15 violation prescribed in paragraph (c):

16 1. Upon a second conviction for a violation which
17 occurs within 12 months after a prior violation, for up to 60
18 days.

19 2. Upon a third conviction for a violation which
20 occurs within 24 months after a prior violation, for up to 180
21 days.

22 3. Upon a fourth conviction for a violation which
23 occurs within 36 months after a prior violation, for a period
24 of 6 months to 3 years.

25 (f) Upon the arrest and conviction for a major
26 violation involving stone crabs, the licenseholder must show
27 just cause why his or her license should not be suspended or
28 revoked. For the purposes of this paragraph, a "major
29 violation" means a major violation as prescribed in paragraph
30 (c) for illegal stone crabs; any single violation involving
31 possession of more than 25 stone crabs during the closed

1 season or possession of 25 or more whole-bodied or egg-bearing
2 stone crabs; any violation for trap molestation, trap robbing,
3 or pulling traps at night; or any combination of violations in
4 any 3-consecutive-year period wherein more than 75 illegal
5 stone crabs in the aggregate are involved.

6 (g) Upon the arrest and conviction for a major
7 violation involving crawfish, the licenseholder must show just
8 cause why his or her license should not be suspended or
9 revoked. For the purposes of this paragraph, a "major
10 violation" means a major violation as prescribed in paragraph
11 (c) for illegal crawfish; any single violation involving
12 possession of more than 25 crawfish during the closed season
13 or possession of more than 25 wrung crawfish tails or more
14 than 25 egg-bearing or stripped crawfish; any violation for
15 trap molestation, trap robbing, or pulling traps at night; or
16 any combination of violations in any 3-consecutive-year period
17 wherein more than 75 illegal crawfish in the aggregate are
18 involved.

19 (h) Upon the arrest and conviction for a major
20 violation involving blue crabs, the licenseholder shall show
21 just cause why his or her saltwater products license should
22 not be suspended or revoked. This paragraph shall not apply
23 to an individual fishing with no more than five traps. For
24 the purposes of this paragraph, a "major violation" means a
25 major violation as prescribed in paragraph (c) for illegal
26 blue crabs, any single violation wherein 50 or more illegal
27 blue crabs are involved, or any combination of violations in
28 any 3-consecutive-year period wherein more than 100 illegal
29 blue crabs in the aggregate are involved.

30 (i) Upon the conviction for a major violation
31 involving finfish, the licenseholder must show just cause why

1 his or her saltwater products license should not be suspended
2 or revoked. For the purposes of this paragraph, a major
3 violation is as prescribed in paragraph (c) for the taking and
4 harvesting of illegal finfish, any single violation involving
5 the possession of more than 100 pounds of illegal finfish, or
6 any combination of violations in any 3-consecutive-year period
7 wherein more than 200 pounds of illegal finfish in the
8 aggregate are involved.

9 (j) Upon final disposition of any alleged offense for
10 which a citation for any violation of this chapter or the
11 rules of the Marine Fisheries Commission has been issued, the
12 court shall, within 10 days, certify the disposition to the
13 department.

14 ~~(f)1. In cases involving the intentional or~~
15 ~~unintentional killing of any species of tarpon, snook in~~
16 ~~excess of five fish per person, sailfish, or bonefish during a~~
17 ~~fishing operation wherein the targeted species is legal to~~
18 ~~harvest, the method of fishing and type of gear used are~~
19 ~~legal, and the fish are killed as a direct result of such~~
20 ~~otherwise legal fishing operations, the department shall~~
21 ~~assess a civil penalty of \$100 for each snook killed in excess~~
22 ~~of five fish per person, or tarpon, sailfish, or bonefish~~
23 ~~killed in excess of any bag limit. In collecting penalties,~~
24 ~~the department shall assess an equal share of the applicable~~
25 ~~penalty to each fisher actually involved in the fishing~~
26 ~~operation.~~

27 ~~2. The civil penalty shall be paid in full to the~~
28 ~~department within 30 calendar days of official notification.~~
29 ~~The department may suspend the saltwater products license or~~
30 ~~other saltwater fishing license of any person or boat not~~
31 ~~paying the required civil penalty within the specified time~~

1 ~~period. Persons contesting the assessment of any civil~~
2 ~~penalties or any license suspension pursuant to this section~~
3 ~~shall be entitled to a hearing pursuant to the provisions of~~
4 ~~chapter 120.~~

5 ~~3. All moneys collected by the department pursuant to~~
6 ~~this paragraph shall be deposited into the Marine Resources~~
7 ~~Conservation Trust Fund.~~

8 (3) RULES; ADMISSIBILITY AS EVIDENCE.--Rules and
9 regulations of the department shall be admitted as evidence in
10 the courts of the state when accompanied by an affidavit from
11 the secretary of the department certifying that the rule or
12 regulation has been lawfully adopted, promulgated, and
13 published. Rules of the Marine Fisheries Commission shall be
14 admitted as evidence in the courts of the state when
15 accompanied by such an affidavit from the executive director
16 of the commission or his or her designee. ~~and~~ Such affidavit
17 shall be prima facie evidence of proper adoption,
18 promulgation, and publication of the rule or regulation.

19 Section 3. Paragraph (b) of subsection (2) of section
20 370.025, Florida Statutes, is amended to read:

21 370.025 Marine fisheries; policy and standards.--

22 (2) All rules relating to saltwater fisheries adopted
23 by the department pursuant to this chapter or adopted by the
24 Marine Fisheries Commission and approved by the Governor and
25 Cabinet as the Board of Trustees of the Internal Improvement
26 Trust Fund shall be consistent with the following standards:

27 (b) Conservation and management measures shall be
28 based upon the best information available, including
29 biological, sociological, economic, and other information
30 deemed relevant by the commission. This standard must not be
31 construed to prevent the adoption of conservation and

1 management measures in accordance with paragraph (a), when the
2 available biological information is incomplete or inconclusive
3 as to the exact status of a particular species or groups of
4 species.

5 Section 4. Subsection (2) of section 370.062, Florida
6 Statutes, 1996 Supplement, is amended to read:

7 370.062 Department of Environmental Protection license
8 program for tarpon; fees; penalties.--

9 (2) The number of tags to be ~~annually~~ issued shall be
10 determined by rule of the Marine Fisheries Commission. ~~The~~
11 ~~rule shall be adopted prior to November 30 of each year for~~
12 ~~the upcoming calendar year.~~The commission shall in no way
13 allow the issuance of tarpon tags to adversely affect the
14 tarpon population.

15 Section 5. Paragraph (a) of subsection (5) of section
16 370.0821, Florida Statutes, is amended to read:

17 370.0821 St. Johns County; use of nets.--

18 (5)(a) The term "recreational net" means a seine or
19 similar net not exceeding 100 feet in length, ~~with mesh no~~
20 ~~smaller than 2 1/2 inches,~~ set and hauled solely by hand and
21 without use of any motor-driven boat or vehicle.

22 Section 6. Section 370.092, Florida Statutes, 1996
23 Supplement, is amended to read:

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

26 (1) This section applies to all vessels containing or
27 otherwise transporting in or on Florida waters any gill net or
28 other entangling net and to all vessels containing or
29 otherwise transporting in or on Florida waters any net
30 containing more than 500 square feet of mesh area the use of
31 which is restricted or prohibited by s. 16, Art. X of the

1 State Constitution. This section does not apply to vessels
2 containing or otherwise transporting in or on Florida waters
3 dry nets which are rolled, folded, or otherwise properly
4 stowed in sealed containers so as to make their immediate use
5 as fishing implements impracticable.

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

27 ~~(3)(a) It shall be a major violation pursuant to this~~
28 ~~section for any person, firm, or corporation to be~~
29 ~~simultaneously in possession of any species of mullet in~~
30 ~~excess of the recreational daily bag limit and any gill or~~
31 ~~other entangling net as defined in s. 16(c), Art. X of the~~

1 ~~State Constitution. Simultaneous possession under this~~
2 ~~provision shall include possession of mullet and gill or other~~
3 ~~entangling nets on separate vessels or vehicles where such~~
4 ~~vessels or vehicles are operated in coordination with one~~
5 ~~another including vessels towed behind a main vessel.~~

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

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

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

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

29 ~~3. For a third and subsequent major violation under~~
30 ~~this paragraph, charged within a 7-year period, resulting in a~~
31 ~~third or subsequent judicial disposition other than acquittal~~

1 ~~or dismissal, a civil penalty of \$5,000, lifetime revocation~~
2 ~~of the saltwater products license, and forfeiture of all gear~~
3 ~~and equipment used in the violation shall be imposed.~~
4
5 ~~A court may suspend, defer or withhold adjudication of guilt~~
6 ~~or imposition of sentence for any first violation of s. 16,~~
7 ~~Art. X of the State Constitution, or any rule or statute~~
8 ~~implementing its restrictions, determined by a court only~~
9 ~~after consideration of competent evidence of mitigating~~
10 ~~circumstances to be a nonflagrant or minor violation of those~~
11 ~~restrictions upon the use of nets. Any violation of s. 16,~~
12 ~~Art. X of the State Constitution, or any rule or statute~~
13 ~~implementing its restrictions, occurring within a 7-year~~
14 ~~period commencing upon the conclusion of any judicial~~
15 ~~proceeding resulting in any outcome other than acquittal shall~~
16 ~~be punished as a second, third, or subsequent violation~~
17 ~~accordingly.~~
18 ~~(b) During the period of suspension or revocation of~~
19 ~~saltwater license privileges under this section, the licensee~~
20 ~~may not participate in the taking or harvesting of saltwater~~
21 ~~products from any vessel within the waters of the state, or~~
22 ~~any other activity requiring a license, permit, or certificate~~
23 ~~issued pursuant to this chapter.~~
24 ~~(c) Upon reinstatement of saltwater license privileges~~
25 ~~suspended pursuant to a violation of this section, a licensee~~
26 ~~owning or operating a vessel containing or otherwise~~
27 ~~transporting in or on Florida waters any gill net or other~~
28 ~~entangling net, or containing or otherwise transporting in~~
29 ~~nearshore and inshore Florida waters any net containing more~~
30 ~~than 500 square feet of mesh area shall remain restricted for~~
31

1 ~~a period of 12 months following reinstatement, to operation~~
2 ~~under the following conditions:~~

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

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

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

9 (3)(5) The department is authorized to make and adopt
10 reasonable rules, regulations, and orders, including emergency
11 rules, to implement this section. ~~The department shall adopt~~
12 ~~emergency rules to implement the provisions of subparagraph~~
13 ~~(4)(c)1. by August 1, 1996.~~

14 Section 7. Subsection (8) of section 370.14, Florida
15 Statutes, 1996 Supplement, is amended to read:

16 370.14 Crawfish; regulation.--

17 (8)(a) By a special permit granted by the Division of
18 Law Enforcement, a Florida-licensed seafood dealer may
19 lawfully import, process, and package saltwater crawfish or
20 uncooked tails of the species *Panulirus argus* during the
21 closed season. However, crawfish landed under special permit
22 shall not be sold in the state.

23 (b) The licensed seafood dealer importing any such
24 crawfish under the permit shall, 12 hours prior to the time
25 the seagoing vessel or airplane delivering such imported
26 crawfish enters the state, notify the Division of Law
27 Enforcement as to the seagoing vessel's name or the airplane's
28 registration number and its captain, location, and point of
29 destination.

30 (c) At the time the crawfish cargo is delivered to the
31 permitholder's place of business, the crawfish cargo shall be

1 ~~weighed in the presence of the marine patrol officer, and~~
2 shall be available for inspection by the department. A signed
3 receipt of such quantity in pounds shall be forwarded to
4 ~~furnished to said officer, which receipt shall be filed by the~~
5 ~~marine patrol officer with~~ the Division of Law Enforcement's
6 local Florida Marine Patrol office within 48 hours after
7 shipment weigh-in completion. If requested by the department,
8 the weigh-in process must be delayed up to 4 hours to allow a
9 department representative to be present during the process
10 Enforcement.

11 (d) Within 48 hours after the shipment weigh-in
12 completion, from the time the receipt is given to the marine
13 ~~patrol officer,~~ the permitholder shall submit to the Division
14 of Law Enforcement, on forms provided by the division, a sworn
15 report of the quantity in pounds of the saltwater crawfish
16 received, which report shall include the location of said
17 crawfish and a sworn statement that said crawfish were taken
18 at least 50 miles from Florida's shoreline. The landing of
19 crawfish or crawfish tails from which the eggs, swimmerettes,
20 or pleopods have been removed; the falsification of
21 information as to area from which crawfish were obtained; or
22 the failure to file the report called for in this section
23 shall be grounds to revoke the permit.

24 (e) Each permitholder shall keep throughout the period
25 of the closed season copies of the bill of sale or invoices
26 covering each transaction involving crawfish imported under
27 this permit. Such invoices and bills shall be kept available
28 at all times for inspection by the division.

29 Section 8. Paragraph (c) of subsection (2) of section
30 370.142, Florida Statutes, 1996 Supplement, is amended to
31 read:

1 370.142 Spiny lobster trap certificate program.--
2 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;
3 PENALTIES.--The Department of Environmental Protection shall
4 establish a trap certificate program for the spiny lobster
5 fishery of this state and shall be responsible for its
6 administration and enforcement as follows:
7 (c) Prohibitions; penalties.--
8 1. It is unlawful for a person to possess or use a
9 spiny lobster trap in or on state waters or adjacent federal
10 waters without having affixed thereto the trap tag required by
11 this section. It is unlawful for a person to possess or use
12 any other gear or device designed to attract and enclose or
13 otherwise aid in the taking of spiny lobster by trapping that
14 is not a trap as defined in rule 46-24.006(2), Florida
15 Administrative Code.
16 2. It is unlawful for a person to possess or use spiny
17 lobster trap tags without having the necessary number of
18 certificates on record as required by this section.
19 3. In addition to any other penalties provided in s.
20 370.021, and unless otherwise provided in this section, a
21 commercial harvester, as defined by rule 46-24.002(1), Florida
22 Administrative Code, who violates the provisions of this
23 section, or the provisions of chapter 46-24, Florida
24 Administrative Code relating to traps, shall be punished as
25 follows:
26 a. If the first violation is for violation of
27 subparagraph 1. or subparagraph 2., the department shall
28 assess an additional ~~a~~ civil penalty of up to \$1,000 and the
29 crawfish trap number issued pursuant to s. 370.14(2) or (7)
30 may be suspended for the remainder of the current license
31

1 year. For all other first violations, the department shall
2 assess an additional ~~a~~ civil penalty of up to \$500.

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

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

18 d. Any person assessed an additional ~~a~~ civil penalty
19 pursuant to this section shall within 30 calendar days after
20 notification:

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

22 (II) Request an administrative hearing pursuant to the
23 provisions of s. 120.60.

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

27 4.a. It is unlawful for any person to make, alter,
28 forge, counterfeit, or reproduce a spiny lobster trap tag or
29 certificate.

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

4 c. It is unlawful for any person to barter, trade,
5 sell, supply, agree to supply, aid in supplying, or give away
6 a spiny lobster trap tag or certificate or to conspire to
7 barter, trade, sell, supply, aid in supplying, or give away a
8 spiny lobster trap tag or certificate unless such action is
9 duly authorized by the department as provided in this chapter
10 or in the rules of the department.

11 5.a. Any person who violates the provisions of
12 subparagraph 4., or any person who engages in the commercial
13 harvest, trapping, or possession of spiny lobster without a
14 crawfish trap number as required by s. 370.14(2) or (7) or
15 during any period while such crawfish trap number is under
16 suspension or revocation, commits a felony of the third
17 degree, punishable as provided in s. 775.082, s. 775.083, or
18 s. 775.084.

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

25 6. Any certificates for which the annual certificate
26 fee is not paid for a period of 3 years shall be considered
27 abandoned and shall revert to the department. During any
28 period of trap reduction, any certificates reverting to the
29 department shall become permanently unavailable and be
30 considered in that amount to be reduced during the next
31 license-year period. Otherwise, any certificates that revert

1 to the department are to be reallocated in such manner as
2 provided by the department.

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

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

9 Section 9. Subsection (6) of section 370.15, Florida
10 Statutes, is amended to read:

11 370.15 Shrimp; regulation.--

12 (6) SHRIMP TRAWLING.--All persons, firms, and
13 corporations desiring to trawl for shrimp within areas in
14 which trawling is permitted shall have a noncommercial trawl
15 or net registration or purchase a saltwater products license
16 issued to a valid boat registration or in the name of an
17 individual pursuant to s. 370.06. The saltwater products
18 license shall remain on board at all times and is subject to
19 immediate revocation upon conviction for violation of this
20 section or when it becomes apparent that the best interests of
21 saltwater conservation will be served by such action. A
22 noncommercial trawl or net registration must be issued to each
23 net used to take shrimp for noncommercial purposes. ~~Such net~~
24 ~~or trawl shall have a corkline measurement of 16 feet or less.~~
25 ~~Possession of shrimp under a noncommercial registration is~~
26 ~~limited to 25 pounds while on the water. Due to the varied~~
27 ~~habitats and types of bottoms and hydrographic conditions~~
28 ~~embraced by the open fishing area, the division shall have the~~
29 ~~authority to specify and regulate the types of gear that may~~
30 ~~be used in the different sections of the open areas.~~

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- 1 Section 10. Subsection (7) of section 370.08, Florida
2 Statutes, is repealed.
- 3 Section 11. Subsection (3) of section 370.0821,
4 Florida Statutes, is repealed.
- 5 Section 12. Subsections (2) and (3) of section 370.11,
6 Florida Statutes, are repealed.
- 7 Section 13. Section 370.1125, Florida Statutes, is
8 repealed.
- 9 Section 14. Section 370.114, Florida Statutes, is
10 repealed.
- 11 Section 15. Subsection (2) of section 370.13, Florida
12 Statutes, is repealed.
- 13 Section 16. Subsections (2), (3), and (4) of section
14 370.135, Florida Statutes, are repealed.
- 15 Section 17. Subsection (6) of section 370.14, Florida
16 Statutes, 1996 Supplement, is repealed.
- 17 Section 18. Subsections (2) and (3) of section 370.15,
18 Florida Statutes, are repealed.
- 19 Section 19. Subsection (2) of section 370.151, Florida
20 Statutes, is repealed.
- 21 Section 20. Paragraphs (c), (d), and (e) of subsection
22 (4) and paragraphs (b) and (d) of subsection (5) of section
23 370.153, Florida Statutes, 1996 Supplement, are repealed.
- 24 Section 21. Section 370.156, Florida Statutes, is
25 repealed.
- 26 Section 22. Section 370.157, Florida Statutes, is
27 repealed.
- 28 Section 23. This act shall take effect upon becoming a
29 law.
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HOUSE SUMMARY

Amends and repeals various sections of chapter 370, F.S., relating to the powers of the Florida Marine Fisheries Commission and the Department of Environmental Protection to regulate the harvesting of various types of marine life.