

By Representative Sorensen

1 A bill to be entitled
2 An act relating to stone crabs; amending s.
3 370.13, F.S.; providing for the display of
4 endorsements for the taking of stone crabs on
5 vessels; providing a fee for a stone crab
6 endorsement on a saltwater products license;
7 providing for the disposition of fees; creating
8 s. 370.1322, F.S.; providing for a stone crab
9 trap certificate program; providing legislative
10 intent; providing for transferable trap
11 certificates, trap tags, and fees; providing
12 prohibitions and penalties; providing for trap
13 reduction; providing for stone crab trap
14 certificate technical, advisory, and appeals
15 boards; providing powers and duties; providing
16 for the disposition of fees; providing for
17 rulemaking authority; providing an effective
18 date.

19

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

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22 Section 1. Paragraph (a) of subsection (5) of section
23 370.13, Florida Statutes, 1998 Supplement, is amended, and
24 subsection (8) is added to said section, to read:

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370.13 Stone crab; regulation.--

26

 (5)(a) Effective July 1, 1995, and until July 1, 2000,
27 no stone crab trap numbers issued pursuant to rule
28 46-13.002(2)(e), Florida Administrative Code, except those
29 numbers that are active during the 1994-1995 fiscal year,
30 shall be renewed or replaced. The fee for a stone crab
31 endorsement for the taking of stone crabs as set forth in this

1 paragraph, shall be \$100 which shall be used by the department
2 for administration, management, and research costs related to
3 stone crabs.

4 (8) With respect to the stone crab trap certificate
5 program, as set forth in s. 370.1322, more than one
6 endorsement for the taking of stone crabs may be displayed on
7 one vessel and more than one vessel may display the same
8 endorsement.

9 Section 2. Section 370.1322, Florida Statutes, is
10 created to read:

11 370.1322 Stone crab trap certificate program.--

12 (1) INTENT.--Due to rapid growth, the stone crab
13 fishery is experiencing increased congestion and conflict on
14 the water, a declining yield per trap, and public concern over
15 debris pollution from existing traps. In an effort to solve
16 these and related problems, the Legislature intends to develop
17 pursuant to the provisions of this section a stone crab trap
18 certificate program, the principal goal of which is to
19 stabilize the fishery by reducing the total number of traps,
20 which should increase the yield per trap and therefore
21 maintain or increase overall catch levels. Under the passive
22 trap reduction program a reduction in traps shall occur at the
23 time of sale or transfer of traps. The Legislature seeks to
24 preserve as much flexibility in the program as possible for
25 the fishery's various constituents.

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

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

6 1. The department shall initially allot such
7 certificates to each licenseholder with a current stone crab
8 trap number who uses traps. Anyone who holds a current stone
9 crab endorsement on his or her saltwater products license for
10 the 1998-1999 license year is eligible for a certificate. In
11 addition, in order to be eligible the applicant must show that
12 pursuant to trip ticket records generated under the provisions
13 of s. 370.06(2)(a), that he or she had at least 300 pounds of
14 stone crab landings during one of the five 1-year license
15 periods between July 1993 through June 1998. The number of
16 certificates and trap tags issued shall be the greater of the
17 number of traps listed on the saltwater products license
18 application for either the license year of 1997-1998 or
19 1996-1997 provided that landings must reflect at least 2
20 pounds of landings per trap. However, certificates may only
21 be issued to individuals; therefore, all licenseholders other
22 than individual licenseholders shall designate the individual
23 or individuals to whom their certificates will be allotted and
24 the number thereof to each, if more than one. After initial
25 issuance, trap certificates are transferable on a market basis
26 and may be transferred from one licenseholder to another for a
27 fair market value agreed upon between the transferor and
28 transferee. Upon the sale or transfer of certificates, the
29 department shall reduce the number of certificates by 10
30 percent upon each sale or transfer outside the immediate
31 family of the certificateholder. Each such transfer shall,

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

1 protection of the stone crab fishery and habitat. No transfer
2 fee shall be assessed or required when the transfer is within
3 a family as a result of the death or disability of the
4 certificate owner.

5 2. No person, firm, corporation, or other business
6 entity may control, directly or indirectly, more than 1.0
7 percent of the total available certificates in any license
8 year.

9 3. The department shall maintain records of all
10 certificates and their transfers and shall annually provide
11 each licenseholder with a statement of certificates held.

12 4. The number of trap tags issued annually to each
13 licenseholder shall not exceed the number of certificates held
14 by the licenseholder at the time of issuance, and such tags
15 and a statement of certificates held shall be issued
16 simultaneously.

17 5. It is unlawful for any person to lease stone crab
18 trap tags or certificates.

19 6. Any person who holds a crawfish or blue crab
20 endorsement on his or her saltwater products license is
21 eligible to purchase a stone crab by-catch product endorsement
22 pursuant to rules of the department. This endorsement shall
23 be limited to a daily trip limit of 5 gallons of stone crab
24 claws per day. The fee for the endorsement shall be \$25.
25 Current stone crab endorsement holders who do not qualify for
26 certificates may either keep their current endorsement or
27 apply for a by-catch endorsement.

28 (b) Trap tags.--Each trap used to take or attempt to
29 take stone crabs in state waters or adjacent federal waters
30 shall, in addition to the stone crab trap number, have affixed
31 thereto an annual trap tag issued by the department. Each such

1 tag shall be made of durable plastic or similar material and
2 shall, beginning with those tags issued for the 2000-2001
3 season based on the number of certificates held, have stamped
4 thereon the owner's license number. To facilitate enforcement
5 and recordkeeping, such tags shall be issued each year in a
6 color different from that of each of the previous 3 years. A
7 fee of 50 cents per tag issued other than on the basis of a
8 certificate held shall be assessed. In order to recover
9 administrative costs of the tags and the certificate program,
10 the annual certificate fee shall be 50 cents per certificate.
11 Replacement tags for lost or damaged tags may be obtained as
12 provided by rule of the department.

13 (c) Endorsement transferable.--After initial issuance
14 endorsements are transferable on a market basis and may be
15 transferred for fair market value agreed upon between the
16 transferor and transferee.

17 (d) Prohibitions; penalties.--

18 1. It is unlawful for a person to possess or use more
19 than 5 stone crab traps in or on state waters or adjacent
20 federal waters without having affixed thereto the trap tag
21 required by this section. It is unlawful for a person to
22 possess or use any other gear or device designed to attract
23 and enclose or otherwise aid in the taking of stone crab by
24 trapping that is not a trap.

25 2. It is unlawful for a person to possess or use stone
26 crab trap tags without having the necessary number of
27 certificates on record as required by this section.

28 3. It is unlawful for any person to rob the contents
29 of another harvester's trap. Any person convicted of trap
30 robbing shall, in addition to the penalties specified in s.
31 370.021, and the provisions of this section, permanently lose

1 his or her saltwater products license, stone crab endorsement,
2 and all trap certificates allotted to him or her through this
3 program. In such cases, trap certificates and endorsements are
4 nontransferable.

5 4. In addition to any other penalties provided in s.
6 370.021, a commercial stone crab harvester, who violates the
7 provisions of this section or the provisions relating to stone
8 crab traps, shall be punished as follows:

9 a. If the first violation is for violation of
10 subparagraph 1. or subparagraph 2., the department shall
11 assess an additional civil penalty of up to \$1,000 and the
12 stone crab trap number issued may be suspended for the
13 remainder of the current license year. For all other first
14 violations, the department shall assess an additional civil
15 penalty of up to \$500.

16 b. For a second violation of subparagraph 1. or
17 subparagraph 2. which occurs within 24 months of any previous
18 such violation, the department shall assess an additional
19 civil penalty of up to \$2,000 and the stone crab trap number
20 may be suspended for the remainder of the current license
21 year.

22 c. For a third or subsequent violation of subparagraph
23 1. or subparagraph 2. which occurs within 36 months of any
24 previous two such violations, the department shall assess an
25 additional civil penalty of up to \$5,000 and may suspend the
26 stone crab trap number for a period of up to 24 months or may
27 revoke the stone crab trap number and, if revoking the stone
28 crab trap number, may also proceed against the licenseholder's
29 saltwater products license in accordance with the provisions
30 of s. 370.021.

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1 d. For a fourth violation of subparagraph 1. or
2 subparagraph 2. which occurs within 48 months of any three
3 such violations, the department shall permanently revoke the
4 violator's saltwater fishing privileges, and shall also
5 proceed against the licenseholder's saltwater products license
6 in accordance with s. 370.021.

7 e. 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 f. The department shall suspend the stone crab trap
14 number for any person failing to comply with the provisions of
15 sub-subparagraph e.

16 5.a. It is unlawful for any person to make, alter,
17 forge, counterfeit, or reproduce a stone crab trap tag or
18 certificate.

19 b. It is unlawful for any person to knowingly have in
20 his or her possession a forged, counterfeit, or imitation
21 stone crab trap tag or certificate.

22 c. It is unlawful for any person to barter, trade,
23 sell, supply, agree to supply, aid in supplying, or give away
24 a stone crab trap tag or certificate or to conspire to barter,
25 trade, sell, supply, aid in supplying, or give away a stone
26 crab trap tag or certificate unless such action is duly
27 authorized by the department as provided in this chapter or in
28 the rules of the department.

29 6.a. Any person who violates the provisions of
30 subparagraph 5., or any person who engages in the commercial
31 harvest, trapping, or possession of stone crabs without a

1 stone crab trap number or during any period while such stone
2 crab trap number is under suspension or revocation, commits a
3 felony of the third degree, punishable as provided in s.
4 775.082, s. 775.083, or s. 775.084.

5 b. In addition to any penalty imposed pursuant to
6 sub-subparagraph a., the department shall levy a fine of up to
7 twice the amount of the appropriate surcharge to be paid on
8 the fair market value of the transferred certificates, as
9 provided in subparagraph (a)1., on any person who violates the
10 provisions of sub-subparagraph 5.c.

11 7. Any certificates for which the annual certificate
12 fee is not paid for a period of 3 consecutive years shall be
13 considered abandoned and shall revert to the department.
14 During any period of trap reduction, any certificates
15 reverting to the department shall become permanently
16 unavailable. Otherwise, any certificates that revert to the
17 department are to be reallocated in such manner as provided by
18 the department.

19 8. The proceeds of all civil penalties collected
20 pursuant to subparagraph 4. and all fines collected pursuant
21 to sub-subparagraph 6.b. shall be deposited into the Marine
22 Resources Conservation Trust Fund.

23 9. All traps shall be removed from the water during
24 any period of suspension or revocation.

25 (e) No vested rights.--The trap certificate program
26 shall not create vested rights in licenseholders whatsoever
27 and may be altered or terminated as necessary to protect the
28 stone crab resource, the participants in the fishery, or the
29 public interest.

30 (3) PASSIVE TRAP REDUCTION.--The objective of the
31 overall trap certificate program is to reduce the number of

1 traps used in the stone crab fishery to the lowest number that
2 will maintain or increase overall catch levels, promote
3 economic efficiency in the fishery, and conserve natural
4 resources. Therefore, the Marine Fisheries Commission shall
5 set an overall trap reduction goal based on maintaining or
6 maximizing a sustained harvest from the stone crab fishery.

7 (4) STONE CRAB TRAP CERTIFICATE TECHNICAL ADVISORY AND
8 APPEALS BOARDS.--There are hereby established the regional
9 stone crab trap certificate technical advisory and appeals
10 boards. Such boards shall consider and advise the department
11 on disputes and other problems arising from the implementation
12 of the stone crab trap certificate program. The boards may
13 also provide information to the department on the operation of
14 the trap certificate program. Regional board number one shall
15 consist of the area of Pasco County north to the Alabama State
16 line. Regional board number two shall consist of the area of
17 Pinellas County south through Lee County. Regional board
18 number 3 shall consist of Collier and Monroe Counties and
19 north up the east coast of the state.

20 (a)1. Each board shall consist of the secretary of the
21 department or his or her designee and 12 members appointed by
22 the secretary according to the following criteria:

23 a. All appointed members shall be certificateholders,
24 but two shall be holders of fewer than 100 certificates, two
25 shall be holders of at least 100 but no more than 750
26 certificates, three shall be holders of more than 750 but not
27 more than 2,000 certificates, and two shall be holders of more
28 than 2,000 certificates.

29 b. Members shall be appointed to represent all
30 geographic areas in the district.

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1 2. The secretary of the department may fill any
2 position on the initial board with a member who does not
3 fulfill the requirements of subparagraph 1. if there are not
4 enough qualified individuals available to meet those
5 requirements. However, as soon as enough qualified individuals
6 are available to meet those requirements, the secretary must
7 replace all nonqualified appointees with qualified appointees.

8 (b) The term of each appointed member shall be for 4
9 years, and any vacancy shall be filled for the balance of the
10 unexpired term with a person of the qualifications necessary
11 to maintain the requirements of subparagraph (a)1. However,
12 of the initial appointees on each board, three shall serve for
13 terms of 4 years, three shall serve for terms of 3 years,
14 three shall serve for terms of 2 years, and three shall serve
15 for terms of 1 year. There shall be no limitation on
16 successive appointments to the board.

17 (c) The secretary of the department or designee shall
18 serve as a member and shall call the organizational meeting of
19 the board. The board shall annually elect a chair and a vice
20 chair. There shall be no limitation on successive terms that
21 may be served by a chair or vice chair. The board shall meet
22 at the call of its chair, at the request of a majority of its
23 membership, at the request of the department, or at such times
24 as may be prescribed by its rules. A majority of the board
25 shall constitute a quorum, and official action of the board
26 shall require a majority vote of the total membership of the
27 board present at the meeting.

28 (d) The procedural rules adopted by the board shall
29 conform to the requirements of chapter 120.

30 (e) Members of the board shall be reimbursed for per
31 diem and travel expenses as provided in s. 112.061.

1 (f) Upon reaching a decision on any dispute or problem
2 brought before it, including any decision involving the
3 allotment of certificates under paragraph (g), the board shall
4 submit such decision to the department for final approval. The
5 department may alter or disapprove any decision of the board,
6 with notice thereof given in writing to the board and to each
7 party in the dispute explaining the reasons for the
8 disapproval. The action of the department constitutes final
9 agency action.

10 (g) In addition to those certificates allotted
11 pursuant to the provisions of subparagraph (2)(a)1., up to
12 150,000 certificates may be allotted by the board to settle
13 disputes or other problems arising from implementation of the
14 trap certificate program.

15 (h) Each board may recommend the issuance of
16 additional certificates:

17 1. To solve disputes.

18 2. For persons who were adversely affected by chapter
19 73-432, Laws of Florida.

20 3. For displaced netters who were adversely affected
21 by the constitutional net ban in the 2-year period following
22 the ban.

23 4. For inefficient harvesting of stone crabs (less
24 than 2-pound landings per trap) to a person who can
25 demonstrate a need for more traps to maintain operation.

26 5. For persons with no traps listed on their saltwater
27 products license application.

28 6. For nonreporting by dealers.

29 (i) With respect to persons displaced by the
30 constitutional net ban and who do not otherwise qualify for
31 the stone crab trap certificate program provided by this

1 section, the board may recommend issuance of certificates to
2 any person who:

3 1. Can demonstrate that he or she received
4 constitutional net buy-back money.

5 2. Can demonstrate that he or she invested in the
6 stone crab industry by the 1998-1999 season.

7 3. Has no record of net violations since July 1, 1995.
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9 The provisions of this paragraph are limited to persons who
10 can demonstrate through landings that their fishing occurred
11 in the area from Wakulla through Monroe Counties. Persons who
12 qualify pursuant to this paragraph shall be issued a minimum
13 number of 100 trap certificates.

14 (5) DISPOSITION OF FEES.--Transfer fees, annual trap
15 certificate fees, and tag fees collected pursuant to
16 paragraphs (2)(a) and (b) shall be deposited in the Marine
17 Resources Conservation Trust Fund and used for administration
18 of the trap certificate program, research and monitoring of
19 the stone crab fishery, and enforcement and public education
20 activities in support of the purposes of this section and
21 shall also be for evaluating the impact of the trap reduction
22 on the stone crab fishery.

23 (6) RULEMAKING AUTHORITY.--The Department of
24 Environmental Protection may adopt rules pursuant to ss.
25 120.536(1) and 120.54 to implement the provisions of this
26 section.

27 Section 3. This act shall take effect upon becoming a
28 law.
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HOUSE SUMMARY

Provides for a stone crab trap certificate program similar to the current spiny lobster trap certificate program to stabilize the fishery. See bill for details.