

593-118AX-06

Bill No. CS/HB 2145

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

11 The Committee on General Government Appropriations offered the
12 following:

Amendment (with title amendment)

15 Remove from the bill: Everything after the enacting clause
16
17 and insert in lieu thereof:

18 Section 1. Section 20.331, Florida Statutes, is
19 created to read:

20.331 Fish and Wildlife Conservation Commission.--

21 (1) The Legislature, recognizing the Fish and Wildlife
22 Conservation Commission as being specifically authorized by
23 the State Constitution under s. 9, Art. IV, grants rights and
24 privileges to the commission, as contemplated by s. 6, Art. IV
25 of the State Constitution, equal to those of departments
26 established under this chapter, while preserving its
27 constitutional designation and title as a commission.

28 (2) The head of the Fish and Wildlife Conservation
29 Commission is the commission appointed by the Governor as
30 provided for in s. 9, Art. IV of the State Constitution.

31 (3) The following administrative units are established

1 within the commission:

2 (a) Division of Administrative Services.

3 (b) Division of Law Enforcement.

4 (c) Division of Freshwater Fisheries.

5 (d) Division of Marine Fisheries.

6 (e) Division of Wildlife.

7 (f) Florida Marine Research Institute.

8
9 The bureaus and offices of the Game and Fresh Water Fish
10 Commission existing on February 1, 1999, are established
11 within the Fish and Wildlife Conservation Commission.

12 (4)(a) To aid the commission in the implementation of
13 its constitutional and statutory duties, the Legislature
14 authorizes the commission to appoint, fix the salary of, and
15 at its pleasure, remove a person, not a member of the
16 commission, as the executive director. The executive director
17 shall be reimbursed for travel per diem and travel expenses,
18 as provided in s. 112.061, incurred in the discharge of
19 official duties. The executive director shall maintain
20 headquarters and reside in Tallahassee.

21 (b) Each new executive director must be confirmed by
22 the Senate during the legislative session immediately
23 following his or her hiring by the commission.

24 (5) In further exercise of its duties, the Fish and
25 Wildlife Conservation Commission:

26 (a) Shall assign to the Division of Freshwater
27 Fisheries and the Division of Marine Fisheries such powers,
28 duties, responsibilities, and functions as are necessary to
29 ensure compliance with the laws and rules governing the
30 management, protection, conservation, improvement, and
31 expansion of Florida's freshwater aquatic life and marine life

1 resources.

2 (b) Shall assign to the Division of Wildlife such
3 powers, duties, responsibilities, and functions as are
4 necessary to ensure compliance with the laws and rules
5 governing the management, protection, conservation,
6 improvement, and expansion of Florida's wildlife resources.

7 (c) Shall assign to the Division of Law Enforcement
8 such powers, duties, responsibilities, and functions as are
9 necessary to ensure enforcement of the laws and rules
10 governing the management, protection, conservation,
11 improvement, and expansion of Florida's wildlife resources,
12 freshwater aquatic life resources, and marine life resources.
13 In performance of their duties as sworn law enforcement
14 officers for the State of Florida, the division's officers
15 also shall assist in the enforcement of all general
16 environmental laws remaining under the responsibility of the
17 Department of Environmental Protection.

18 (d) Shall assign to the Florida Marine Research
19 Institute such powers, duties, responsibilities, and functions
20 as are necessary to accomplish its mission. It shall be the
21 mission of the Florida Marine Research Institute to:

22 1. Serve as the primary source of research and
23 technical information and expertise on the status of Florida's
24 saltwater resources;

25 2. Monitor the status and health of saltwater habitat,
26 marine life, and wildlife;

27 3. Develop and implement restoration techniques for
28 marine habitat and enhancement of saltwater plant and animal
29 populations;

30 4. Respond and provide critical technical support for
31 marine catastrophes including oil spills, ship groundings,

1 major marine species die-offs, hazardous spills, and natural
2 disaster;
3 5. Identify and monitor marine toxic red tides and
4 their impacts, and provide technical support for state and
5 local public health concerns; and
6 6. Provide state and local governments with estuarine,
7 marine, coastal technical information and research results.
8 (6)(a) Shall implement a system of adequate due
9 process procedures to be accorded to any party, as defined in
10 s. 120.52, whose substantial interests will be affected by any
11 action of the Fish and Wildlife Conservation Commission in the
12 performance of its constitutional duties or responsibilities.
13 (b) The Legislature encourages the commission to
14 incorporate in its process the provisions of s. 120.54(3)(c)
15 when adopting rules in the performance of its constitutional
16 duties or responsibilities.
17 (c) The provisions of chapter 120 shall be accorded to
18 any party whose substantial interests will be affected by any
19 action of the commission in the performance of its statutory
20 duties or responsibilities. For purposes of this subsection,
21 statutory duties or responsibilities include, but are not
22 limited to, the following:
23 1. Research and management responsibilities for marine
24 species listed as endangered, threatened, or of special
25 concern, including, but not limited to, manatees and marine
26 turtles;
27 2. Establishment and enforcement of boating safety
28 regulations;
29 3. Land acquisition and management;
30 4. Enforcement and collection of fees for all
31 recreational and commercial hunting or fishing licenses or

- 1 permits;
2 5. Aquatic plant removal and management using fish as
3 a biological control agent;
4 6. Enforcement of penalties for violations of
5 commission rules, including, but not limited to, the seizure
6 and forfeiture of vessels and other equipment used to commit
7 those violations;
8 7. Establishment of free fishing days;
9 8. Regulation of off-road vehicles on state lands;
10 9. Establishment and coordination of a statewide
11 hunter safety course;
12 10. Establishment of programs and activities to
13 develop and distribute public education materials;
14 11. Police powers of wildlife and marine officers;
15 12. Establishment of citizen support organizations to
16 provide assistance, funding, and promotional support for
17 programs of the commission;
18 13. Creation of the Voluntary Authorized Hunter
19 Identification Program; and
20 14. Regulation of required clothing of persons hunting
21 deer.
22 (d) The commission is directed to provide a report on
23 the development and implementation of its adequate due process
24 provisions to the President of the Senate, the Speaker of the
25 House of Representatives, and the appropriate substantive
26 committees of the House of Representatives and the Senate no
27 later than December 1, 1999.
28 (7) Comments submitted by the commission to a
29 permitting agency for applications for permits, licenses, or
30 authorizations impacting the commission's jurisdiction must be
31 based on credible, factual scientific data, and must be

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1 received by the permitting agency within the time specified by
2 applicable statutes or rules, or within 30 days, whichever is
3 shorter. Comments provided by the commission are not binding
4 on any permitting agency. Comments by the commission shall be
5 considered for consistency with the Florida Coastal Management
6 Program and sections 373.428, and 380.23. Should a permitting
7 agency use the commission's comments as a condition of denial,
8 approval, or modification of a proposed permit, license, or
9 authorization, any party to an administrative proceeding
10 involving such proposed action may require the commission to
11 join as a party in determining the validity of the condition.
12 In any action where the commission is joined as a party, the
13 commission shall only bear the actual cost of defending the
14 validity of the credible, factual scientific data used as a
15 basis for its comments.

16 (8) Shall acquire, in the name of the state, lands and
17 waters suitable for the protection, improvement, and
18 restoration of marine life, wildlife resources, and freshwater
19 aquatic life resources by purchase, lease, gift or otherwise,
20 using state, federal, or other sources of funding. Lands
21 acquired under this section shall be managed for recreation
22 and other multiple-use activities that do not impede the
23 commission's ability to perform its constitutional and
24 statutory responsibilities and duties.

25 (9) May require any employee of the commission to give
26 a bond for the faithful performance of duties. The commission
27 may determine the amount of the bond and must approve the
28 bond. In determining the amount of the bond, the commission
29 may consider the amount of money or property likely to be in
30 custody of the officer or employee at any one time. The
31 premiums for the bond must be paid out of the funds of the

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1 commission.

2 Section 2. The Game and Fresh Water Fish Commission is
3 transferred to the Fish and Wildlife Conservation Commission
4 by a type two transfer, as defined in s. 20.06(2), Florida
5 Statutes.

6 Section 3. The Marine Fisheries Commission is
7 transferred to the Fish and Wildlife Conservation Commission
8 by a type two transfer, as defined in s. 20.06(2), Florida
9 Statutes.

10 Section 4. (1) The Bureau of Environmental Law
11 Enforcement, the Bureau of Administrative Support, the Bureau
12 of Operational Support, and the Office of Enforcement Planning
13 and Policy Coordination within the Division of Law Enforcement
14 at the Department of Environmental Protection, together with
15 the positions assigned to these specified bureaus and offices
16 as of February 1, 1999, are transferred to the Fish and
17 Wildlife Conservation Commission by a type two transfer, as
18 defined in s. 20.06(2), Florida Statutes, except for:

19 (a) Any administrative and technical positions and
20 equipment within the Bureau of Administrative Support and the
21 Bureau of Operational Support providing support services to
22 the Bureau of Emergency Response, the Florida Park Patrol, and
23 the Office of Environmental Investigations within the Division
24 of Law Enforcement at the Department of Environmental
25 Protection as of February 1, 1999;

26 (b) Any sworn positions classified as Investigator I
27 or Investigator II positions within the different program
28 components of the Division of Law Enforcement at the
29 Department of Environmental Protection as of February 1, 1999.

30 (c) Any sworn positions assigned to the Office of the
31 Director of the Division of Law Enforcement as of February 1,

1 1999; and

2 (d) All sworn positions assigned to the Florida Park
3 Patrol within the Division of Law Enforcement at the
4 Department of Environmental Protection as of February 1, 1999.

5 (2) The sworn positions assigned to the Uniform
6 Patrol, Inspections, Aviation and Boating Safety program
7 components of the Division of Law Enforcement at the
8 Department of Environmental Protection as of February 1, 1999,
9 are assigned to the Division of Law Enforcement at the Fish
10 and Wildlife Conservation Commission.

11 (3) No duties or responsibilities relating to boating
12 safety shall remain in the Department of Environmental
13 Protection.

14 Section 5. (1) The Division of Marine Resources at
15 the Department of Environmental Protection, together with the
16 positions assigned to the division as of February 1, 1999, are
17 transferred to the Fish and Wildlife Conservation Commission
18 by a type two transfer, as defined in s. 20.06(2), Florida
19 Statutes, except for:

20 (a) The Bureau of Coastal and Aquatic Managed Areas
21 which is assigned to the Division of State Lands at the
22 Department of Environmental Protection; and

23 (b) Positions assigned to the Office of the Division
24 Director as of February 1, 1999, and not performing angler
25 outreach and education duties.

26 (2) The Office of Fisheries Management and Assistance
27 Services, and positions assigned to angler outreach and
28 education duties within the Division of Marine Resources at
29 the Department of Environmental Protection are assigned to the
30 Division of Marine Fisheries at the commission.

31 (3) The Florida Marine Research Institute at the

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1 Department of Environmental Protection is established as a
2 separate budget entity within the commission, and is assigned
3 to the Office of the Executive Director for administrative
4 purposes.

5 (4) The Bureau of Protected Species Management at the
6 Department of Environmental Protection is assigned as a bureau
7 to the Office of Environmental Services within the commission.

8 Section 6. Within the Department of Environmental
9 Protection, the Office of Environmental Investigations, the
10 Florida Park Patrol, and the Bureau of Emergency Response are
11 assigned to the Division of Law Enforcement.

12 Section 7. The Bureau of Marine Resource Regulation
13 and Development at the Department of Environmental Protection,
14 and the positions assigned to the bureau effective February 1,
15 1999, are transferred to the Division of Aquaculture within
16 the Department of Agriculture and Consumer Services by a type
17 one transfer, as defined in s. 20.06(1), Florida
18 Statutes. Water quality data collected by the Division of
19 Aquaculture with the Department of Agriculture and Consumer
20 Services are to be shared with the Division of Water Resource
21 Management within the Department of Environmental Protection.

22 Section 8. Subsections (2) and (6) of section 20.255,
23 Florida Statutes, 1998 Supplement, are amended, and
24 subsections (7), (8), and (9) are added to said section, to
25 read:

26 20.255 Department of Environmental Protection.--There
27 is created a Department of Environmental Protection.

28 (2)(a) There shall be two deputy secretaries and an
29 executive coordinator for ecosystem management who are to be
30 appointed by and shall serve at the pleasure of the secretary.
31 The secretary may assign either deputy secretary the

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1 responsibility to supervise, coordinate, and formulate policy
2 for any division, office, or district. The following special
3 offices are established and headed by managers, each of whom
4 is to be appointed by and serve at the pleasure of the
5 secretary:

- 6 1. Office of General Counsel,
- 7 2. Office of Inspector General,
- 8 3. Office of Communication, the latter including
9 public information, legislative liaison, cabinet liaison and
10 special projects,
- 11 4. Office of Water Policy,
- 12 5. Office of Intergovernmental Programs,
- 13 6. Office of Ecosystem Planning and Coordination,
- 14 7. Office of Environmental Education, and an
- 15 8. Office of Greenways and Trails, ~~and an Office of~~
16 ~~the Youth Corps.~~

17 (b) The executive coordinator for ecosystem management
18 shall coordinate policy within the department to assure the
19 implementation of the ecosystem management provisions of
20 chapter 93-213, Laws of Florida. The executive coordinator for
21 ecosystem management shall supervise only the Office of Water
22 Policy, the Office of Intergovernmental Programs, the Office
23 of Ecosystem Planning and Coordination, and the Office of
24 Environmental Education. The executive coordinator for
25 ecosystem management may also be delegated authority by the
26 secretary to act on behalf of the secretary; this authority
27 may include the responsibility to oversee the inland
28 navigation districts.

29 (c) The other special offices not supervised by the
30 executive coordinator for ecosystem management shall report to
31 the secretary; however, the secretary may assign them, for

1 daily coordination purposes, to report through a senior
2 manager other than the secretary.

3 (d) There shall be six administrative districts
4 involved in regulatory matters of waste management, water
5 facilities, wetlands, and air resources, which shall be headed
6 by managers, each of whom is to be appointed by and serve at
7 the pleasure of the secretary. Divisions of the department may
8 have one assistant or two deputy division directors, as
9 required to facilitate effective operation.

10

11 The managers of all divisions and offices specifically named
12 in this section and the directors of the six administrative
13 districts are exempt from part II of chapter 110 and are
14 included in the Senior Management Service in accordance with
15 s. 110.205(2)(i). No other deputy secretaries or senior
16 management positions at or above the division level, except
17 those established in chapter 110, may be created without
18 specific legislative authority.

19 (6) The following divisions of the Department of
20 Environmental Protection are established:

21 (a) Division of Administrative and Technical Services.

22 (b) Division of Air Resource Management.

23 (c) Division of Water Resource Management ~~Facilities~~.

24 (d) Division of Law Enforcement.

25 (e) Division of Resource Assessment and Management

26 ~~Marine Resources~~.

27 ~~(e)(f)~~ Division of Waste Management.

28 ~~(f)(g)~~ Division of Recreation and Parks.

29 ~~(g)(h)~~ Division of State Lands, the director of which
30 is to be appointed by the secretary of the department, subject
31 to confirmation by the Governor and Cabinet sitting as the

1 Board of Trustees of the Internal Improvement Trust Fund.

2 ~~(i) Division of Environmental Resource Permitting.~~

3

4 In order to ensure statewide and intradepartmental
5 consistency, the department's divisions shall direct the
6 district offices and bureaus on matters of interpretation and
7 applicability of the department's rules and programs.

8 (7) Law enforcement officers of the Department of
9 Environmental Protection who meet the provisions of s. 943.13
10 are constituted law enforcement officers of this state with
11 full power to investigate and arrest for any violation of the
12 laws of this state, and the rules of the department and the
13 Board of Trustees of the Internal Improvement Trust Fund. The
14 general laws applicable to investigations, searches, and
15 arrests by peace officers of this state apply to such law
16 enforcement officers.

17 (8) Records and documents of the Department of
18 Environmental Protection shall be retained by the department
19 as specified in record retention schedules established under
20 the general provisions of chapters 119 and 257. Further, the
21 department is authorized to:

22 (a) Destroy, or otherwise dispose of, those records
23 and documents in conformity with the approved retention
24 schedules.

25 (b) Photograph, microphotograph, or reproduce such
26 records and documents on film, as authorized and directed by
27 the approved retention schedules, whereby each page will be
28 exposed in exact conformity with the original records and
29 documents retained in compliance with the provisions of this
30 section. Photographs or microphotographs in the form of film
31 or print of any records, made in compliance with the

1 provisions of this section, shall have the same force and
2 effect as the originals thereof would have and shall be
3 treated as originals for the purpose of their admissibility in
4 evidence. Duly certified or authenticated reproductions of
5 such photographs or microphotographs shall be admitted in
6 evidence equally with the original photographs or
7 microphotographs. The impression of the seal of the
8 Department of Environmental Protection on a certificate made
9 by the department and signed by the Secretary of Environmental
10 Protection entitles the certificate to be received in all
11 courts and in all proceedings in this state and is prima facie
12 evidence of all factual matters set forth in the certificate.
13 A certificate may relate to one or more records as set forth
14 in the certificate or in a schedule attached to the
15 certificate.

16 (9) The Department of Environmental Protection may
17 require that bond be given by any employee of the department,
18 payable to the Governor of the state and the Governor's
19 successor in office, for the use and benefit of those whom it
20 concerns, in such penal sums and with such good and sufficient
21 surety or sureties as are approved by the department,
22 conditioned upon the faithful performance of the duties of the
23 employee.

24 Section 9. Subsection (2) of section 20.14, Florida
25 Statutes, is amended to read:

26 20.14 Department of Agriculture and Consumer
27 Services.--There is created a Department of Agriculture and
28 Consumer Services.

29 (2) The following divisions of the Department of
30 Agriculture and Consumer Services are established:

31 (a) Administration.

- 1 (b) Agricultural Environmental Services.
- 2 (c) Animal Industry.
- 3 (d) Aquaculture.
- 4 (e)~~(d)~~ Consumer Services.
- 5 (f)~~(e)~~ Dairy Industry.
- 6 (g)~~(f)~~ Food Safety.
- 7 (h)~~(g)~~ Forestry.
- 8 (i)~~(h)~~ Fruit and Vegetables.
- 9 (j)~~(i)~~ Marketing and Development.
- 10 (k)~~(j)~~ Plant Industry.
- 11 (l)~~(k)~~ Standards.

12 Section 10. Except where otherwise specified in law,
 13 all revenues derived from the sale of permits and licenses
 14 pursuant to chapter 370, Florida Statutes, and all federal
 15 funds received by the State of Florida as a match to the
 16 aforementioned state revenues, are to be appropriated by the
 17 Legislature to the Fish and Wildlife Conservation Commission,
 18 to be used for the purposes specified in law, except for the
 19 following:

20 (1) Revenues derived from the sale of the resident or
 21 nonresident clam licenses authorized by Chapter 94-419, Laws
 22 of Florida, which shall be appropriated to the General
 23 Inspection Trust Fund of the Department of Agriculture and
 24 Consumer Services,

25 (2) Revenues derived from the imposition of the
 26 Apalachicola Bay Oyster Harvesting License authorized in
 27 section 370.06(5), Florida Statutes, 1998 Supplement, which
 28 shall be appropriated to the General Inspection Trust Fund of
 29 the Department of Agriculture and Consumer Services,

30 (3) Revenues derived from the imposition of the
 31 Apalachicola Bay Oyster Surcharge authorized in section

1 370.07(3), Florida Statutes, 1998 Supplement, which shall be
2 appropriated to the General Inspection Trust Fund of the
3 Department of Agriculture and Consumer Services, and

4 (4) That portion of vessel registration fees used for
5 quality control purposes pursuant to the provisions of section
6 327.28, (1)(d) Florida Statutes, which shall be appropriated
7 to the General Inspection Trust Fund of the Department of
8 Agriculture and Consumer Services.

9 Section 11. Except where otherwise specified in law,
10 all revenues derived from the sale of permits and licenses
11 pursuant to chapter 372, Florida Statutes, and all federal
12 funds received by the State of Florida as a match to the
13 aforementioned state revenues, are to be appropriated by the
14 Legislature to the Fish and Wildlife Conservation Commission,
15 to be used for the purposes specified in law.

16 Section 12. The total amount of funds expended by the
17 Fish and Wildlife Conservation Commission for all recurring
18 budget categories combined may not exceed:

19 (1) In fiscal year 2000-2001, 95 percent, and

20 (2) In fiscal year 2001-2002, 90 percent,

21
22 of the total recurring budget appropriated for fiscal year
23 1999-2000 to the Fish and Wildlife Conservation Commission.

24 Section 13. (1) The Secretary of the Department of
25 Environmental Protection and the Executive Director of the
26 Fish and Wildlife Conservation Commission shall each appoint
27 three staff members to a transition advisory working group to
28 review and determine the following:

29 (a) The appropriate number of positions and the
30 related sources of funding to be transferred from the Office
31 of the General Counsel and the Division of Administrative and

1 Technical Services at the Department of Environmental
2 Protection to the Fish and Wildlife Conservation Conservation
3 Commission.

4 1. No more than 60 positions may be transferred to
5 provide legal services, administrative services, and
6 operational support services, including communications
7 equipment involving the National Crime Information System
8 (NCIS) and the Florida Crime Information System (FCIS) which
9 were previously provided to the programs transferred by
10 sections four and five of this act.

11 (b) The development of a recommended plan addressing
12 the transfer of, or where appropriate, the shared use of
13 building, regional offices, and other facilities used or owned
14 by the Department of Environmental Protection or the Game and
15 Fresh Water Fish Commission to conduct activities for which
16 the commission is responsible as of July 1, 1999.

17 1. To assist in the development of the portion of the
18 recommended plan addressing the transfer or shared use of
19 facilities used currently by the Bureau of Marine Resource
20 Regulation and Development at the Department of Environmental
21 Protection, the Secretary of the Department of Agriculture and
22 Consumer Services is authorized to appoint three staff members
23 to transition advisory working group.

24 (2) For fiscal year 1999-2000, the Governor shall
25 appoint one senior staff person from the Office of Planning
26 and Budgeting to:

27 (a) Convene and chair the meetings of the transition
28 advisory group, and

29 (b)1. To assist the transition advisory working group
30 with any operating budget adjustments as necessary, including
31 any adjustments in administrative and technical staff

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1 remaining with the Department of Environmental Protection,
2 including in the Division of Law Enforcement, to implement the
3 requirements of this act. Adjustments made to the operating
4 budgets of the Department of Environmental Protection or the
5 commission in the implementation of this act must be made in
6 consultation with the appropriate substantive and fiscal
7 committee staffs of the House of Representatives and the
8 Florida Senate.

9 (2) The revisions to the FY 1999-00 approved operating
10 budget which are necessary to reflect the organizational
11 changes directed by this legislation shall be implemented
12 pursuant to section 216.292(11), Florida Statutes, and are
13 subject to the notification and review process outlined in
14 section 216.177, Florida Statutes. Subsequent adjustments
15 between agencies that are determined necessary by the
16 Department of Environmental Protection or Fish and Wildlife
17 Conservation Commission, and approved by the Executive Office
18 of the Governor, may also be authorized and are subject to the
19 notification and review process outlined in section 216.177,
20 Florida Statutes. The appropriate substantive committees of
21 the House and Senate shall also be notified of the proposed
22 revisions authorized by this section to ensure consistency
23 with legislative policy and intent.

24 Section 14. The executive director of the Fish and
25 Wildlife Conservation Commission and the secretary of the
26 Department of Environmental Protection shall develop and adopt
27 an operating agreement and an annual work plan to accomplish
28 responsibilities shared between the agencies.

29 (1) The operating agreement shall be completed by no
30 later than January 31, 2000, and shall detail commission law
31 enforcement responsibilities for emergency response. Until

1 the operating plan has been completed and adopted, the
2 department may call upon the commission for emergency response
3 and the commission is directed to respond to said requests.

4 (2) The work plan shall be submitted by August 1,
5 1999, to the Governor, the Speaker of the House of
6 Representatives, and the President of the Senate and may
7 include recommendations for facilitating department law
8 enforcement and emergency response needs, the research
9 priorities of the Florida Marine Research Institute, and the
10 needs of other appropriate department programs.

11 (3) A memorandum of agreement will be developed
12 between the Department of Environmental Protection and the
13 Fish and Wildlife Conservation Commission which will detail
14 the responsibilities of the Florida Marine Research Institute
15 to the department, to include, at a minimum, the following
16 services:

17 (a) Environmental monitoring and assessment.

18 (b) Restoration research and development of
19 restoration technology.

20 (c) Technical support and response for oil spills,
21 ship groundings, major marine species die offs, hazardous
22 spills, and natural disasters.

23 Section 15. Subsection (1) of section 206.606, Florida
24 Statutes, 1998 Supplement, as amended by chapter 98-114, Laws
25 of Florida, is amended to read:

26 206.606 Distribution of certain proceeds.--

27 (1) Moneys collected pursuant to ss. 206.41(1)(g) and
28 206.87(1)(e) shall be deposited in the Fuel Tax Collection
29 Trust Fund. Such moneys, after deducting the service charges
30 imposed by s. 215.20, the refunds granted pursuant to s.
31 206.41, and the administrative costs incurred by the

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1 department in collecting, administering, enforcing, and
2 distributing the tax, which administrative costs may not
3 exceed 2 percent of collections, shall be distributed monthly
4 to the State Transportation Trust Fund, except that:

5 (a) ~~\$6.30~~\$7.55 million shall be transferred to the
6 Department of Environmental Protection in each fiscal year
7 ~~and. The transfers must be made in equal monthly amounts~~
8 ~~beginning on July 1 of each fiscal year. \$1.25 million of the~~
9 ~~amount transferred shall be deposited annually in the Marine~~
10 ~~Resources Conservation Trust Fund and must be used by the~~
11 ~~department to fund special projects to provide recreational~~
12 ~~channel marking, public launching facilities, and other~~
13 ~~boating-related activities. The department shall annually~~
14 ~~determine where unmet needs exist for boating-related~~
15 ~~activities, and may fund such activities in counties where,~~
16 ~~due to the number of vessel registrations, insufficient~~
17 ~~financial resources are available to meet total water resource~~
18 ~~needs. The remaining proceeds of the annual transfer shall be~~
19 ~~deposited in the Aquatic Plant Control Trust Fund to and must~~
20 ~~be used for aquatic plant management, including nonchemical~~
21 ~~control of aquatic weeds, research into nonchemical controls,~~
22 ~~and enforcement activities. Beginning in fiscal year~~
23 ~~1993-1994, the department shall allocate at least \$1 million~~
24 ~~of such funds to the eradication of melaleuca.~~

25 (b) ~~\$2.5~~\$1.25 million shall be transferred to the
26 State Game Trust Fund in the Fish and Wildlife Conservation
27 ~~Game and Fresh Water Fish Commission~~ in each fiscal year and
28 used for recreational boating activities, and fresh water
29 fisheries management and research. The transfers must be made
30 in equal monthly amounts beginning on July 1 of each fiscal
31 year. The commission shall annually determine where unmet

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1 needs exist for boating-related activities, and may fund such
2 activities in counties where, due to the number of vessel
3 registrations, sufficient financial resources are unavailable.

4 1. A minimum of \$1.25 million shall be used to fund
5 local projects to provide recreational channel marking, public
6 launching facilities, aquatic plant control, and other local
7 boating related activities. In funding the projects, the
8 commission shall give priority consideration as follows:

9 a. Unmet needs in counties with populations of 100,000
10 or less.

11 b. Unmet needs in coastal counties with a high level
12 of boating related activities from individuals residing in
13 other counties.

14 2. The remaining \$1.25 million may be used for
15 recreational boating activities, and freshwater fisheries
16 management and research.

17 3. The commission is authorized to adopt rules
18 pursuant to ss. 120.54 and 120.536(1) to implement a Florida
19 Boating Improvement Program similar to the program
20 administered by the Department of Environmental Protection and
21 established in Rule 62-D.5031 - 62-D.5036, of the Florida
22 Administrative Code to determine projects eligible for funding
23 under this subsection.

24
25 On February 1 of each year, the commission shall file an
26 annual report with the President of the Senate and the Speaker
27 of the House of Representatives outlining the status of its
28 Florida Boating Improvement Program, including the projects
29 funded, and a list of counties whose needs are unmet due to
30 insufficient financial resources from vessel registration
31 fees., and must be used for recreational boating activities of

1 ~~a type consistent with projects eligible for funding under the~~
2 ~~Florida Boating Improvement Program administered by the~~
3 ~~Department of Environmental Protection, and freshwater~~
4 ~~fisheries management and research.~~

5 (c) 0.65 percent of moneys collected pursuant to s.
6 206.41(1)(g) shall be transferred to the Agricultural
7 Emergency Eradication Trust Fund.

8 Section 16. Paragraph (b) of subsection (1) of section
9 320.08058, Florida Statutes, 1998 Supplement, as amended by
10 section 7 of chapter 98-414, Laws of Florida, is amended to
11 read:

12 320.08058 Specialty license plates.--

13 (1) MANATEE LICENSE PLATES.--

14 (b) The manatee license plate annual use fee must be
15 deposited into the Save the Manatee Trust Fund, created within
16 the Fish and Wildlife Conservation Commission ~~Department of~~
17 ~~Environmental Protection~~. The funds deposited in the Save the
18 Manatee Trust Fund may be used only for manatee-related
19 environmental education; manatee research; facilities, as
20 provided in s. 370.12(4)(5)(b); and manatee protection and
21 recovery.

22 Section 17. Subsection (19) of section 320.08058,
23 Florida Statutes, 1998 Supplement, is amended to read:

24 320.08058 Specialty license plates.--

25 (19) SEA TURTLE LICENSE PLATES.--

26 (a) The department shall develop a Sea Turtle license
27 plate as provided in this section. The word "Florida" must
28 appear at the top of the plate, the words "Helping Sea Turtles
29 Survive" must appear at the bottom of the plate, and the image
30 of a sea turtle must appear in the center of the plate.

31 (b) The annual use fees shall be deposited in the

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1 Marine Resources Conservation Trust Fund in the Fish and
2 Wildlife Conservation Commission ~~Florida Department of~~
3 ~~Environmental Protection~~. The first \$500,000 in annual revenue
4 shall be used by the Florida Marine Turtle Protection Program
5 to conduct sea turtle protection, research, and recovery
6 programs. The remaining annual use proceeds shall be used by
7 the commission ~~Department of Environmental Protection~~ for sea
8 turtle conservation activities, except that up to 30 percent
9 of the remaining annual use fee proceeds shall be annually
10 disbursed ~~dispersed~~ through the marine turtle grants program
11 as provided in s. 370.12(1)(h).

12 Section 18. Present subsection (5) of section 327.02,
13 Florida Statutes, 1998 Supplement, is redesignated as
14 subsection (6), present subsection (6) is repealed, subsection
15 (7) is amended, and new subsection (5) is added to that
16 section to read:

17 327.02 Definitions of terms used in this chapter and
18 in chapter 328.--As used in this chapter and in chapter 328,
19 unless the context clearly requires a different meaning, the
20 term:

21 (5) "Commission" means the Fish and Wildlife
22 Conservation Commission.

23 (7) "Division" means the Division of Law Enforcement
24 of the Fish and Wildlife Conservation Commission ~~Department of~~
25 ~~Environmental Protection~~.

26 Section 19. Paragraphs (b) and (c) of subsection (2)
27 and subsection (17) of section 327.25, Florida Statutes, are
28 amended to read:

29 327.25 Classification; registration; fees and charges;
30 surcharge; disposition of fees; fines; marine turtle
31 stickers.--

1 (2) ANTIQUE VESSEL REGISTRATION FEE.--

2 (b) The registration number for an antique vessel
3 shall be permanently attached to each side of the forward half
4 of the vessel ~~affixed on the forward half of the hull or on~~
5 ~~the port side of the windshield~~ according to ss. 327.11 and
6 327.14.

7 (c) The Department of Highway Safety and Motor
8 Vehicles may issue a decal identifying the vessel as an
9 antique vessel. The decal shall be displayed as provided in
10 ss. 327.11 and 327.14 ~~placed within 3 inches of the~~
11 ~~registration number.~~

12 (17) MARINE TURTLE STICKER.--The Department of Highway
13 Safety and Motor Vehicles ~~Environmental Protection~~ shall offer
14 for sale with vessel registrations a waterproof sticker in the
15 shape of a marine turtle at an additional cost of \$5, the
16 proceeds of which shall be deposited in the Marine Resources
17 Conservation Trust Fund to be used for marine turtle
18 protection, research, and recovery efforts pursuant to the
19 provisions of s. 370.12(1).

20 Section 20. Section 327.26, Florida Statutes, is
21 amended to read:

22 327.26 Stickers or emblems for the Save the Manatee
23 Trust Fund.--The commission ~~department~~ shall prepare stickers
24 or emblems signifying support for the Save the Manatee Trust
25 Fund which shall be given to persons who contribute to the
26 Save the Manatee Trust Fund as provided in s. 327.25. The
27 commission ~~department~~ may accept stickers or emblems donated
28 by any governmental or nongovernmental entity for the purposes
29 of this section.

30 Section 21. Subsection (2) of section 327.28, Florida
31 Statutes, is amended to read:

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1 327.28 Marine Resources Conservation Trust Fund;
2 vessel registration funds; appropriation and distribution.--

3 (2) All funds collected pursuant to s. 370.06(2) shall
4 be deposited in the Marine Resources Conservation Trust Fund.
5 Such funds shall be used to pay the cost of implementing the
6 saltwater products license program. Additional proceeds from
7 the licensing revenue shall be distributed among the following
8 program functions:

9 ~~(a) No more than 15 percent nor less than the amount~~
10 ~~deposited in the former Marine Fisheries Commission Trust Fund~~
11 ~~pursuant to this subsection in fiscal year 1987-1988 shall go~~
12 ~~to the Marine Fisheries Commission for its operations;~~

13 (a)~~(b)~~ No more than 15 percent shall go to marine law
14 enforcement;

15 (b)~~(c)~~ No more than 25 percent shall go to the Florida
16 Saltwater Products Promotion Trust Fund within the Department
17 of Agriculture and Consumer Services for the purpose of
18 providing marketing and extension services including industry
19 information and education; and

20 (c)~~(d)~~ The remainder, ~~but at least 45 percent,~~ shall
21 go to the Fish and Wildlife Conservation Commission Division
22 ~~of Marine Resources~~, for use in marine research and statistics
23 development, including quota management.

24 Section 22. Subsection (2) of section 327.30, Florida
25 Statutes, is amended to read:

26 327.30 Collisions, accidents, and casualties.--

27 (2) In the case of collision, accident, or other
28 casualty involving a vessel in or upon or entering into or
29 exiting from the water, including capsizing, collision with
30 another vessel or object, sinking, personal injury requiring
31 medical treatment beyond immediate first aid, death,

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1 disappearance of any person from on board under circumstances
2 which indicate the possibility of death or injury, or damage
3 to any vessel or other property in an apparent aggregate
4 amount of at least \$500, the operator shall without delay, by
5 the quickest means available give notice of the accident to
6 one of the following agencies: the Division of Law
7 Enforcement of the Fish and Wildlife Conservation Commission;
8 ~~the Game and Fresh Water Fish Commission~~; the sheriff of the
9 county within which the accident occurred; or the police chief
10 of the municipality within which the accident occurred, if
11 applicable.

12 Section 23. Subsection (5) of section 327.35215,
13 Florida Statutes, 1998 Supplement, is amended to read:

14 327.35215 Penalty for failure to submit to test.--

15 (5) Moneys collected by the clerk of the court
16 pursuant to this section shall be disposed of in the following
17 manner:

18 (a) If the arresting officer was employed or appointed
19 by a state law enforcement agency except as a wildlife
20 enforcement officer or a freshwater fisheries enforcement
21 officer of the Fish and Wildlife Conservation ~~Game and Fresh~~
22 ~~Water Fish~~ Commission, the moneys shall be deposited into the
23 Marine Resources Conservation Trust Fund.

24 (b) If the arresting officer was employed or appointed
25 by a county or municipal law enforcement agency, the moneys
26 shall be deposited into the law enforcement trust fund of that
27 agency.

28 (c) If the arresting officer was employed or appointed
29 by the Fish and Wildlife Conservation ~~Game and Fresh Water~~
30 ~~Fish~~ Commission as a wildlife enforcement officer or a
31 freshwater fisheries enforcement officer, the money shall be

1 deposited into the State Game Trust Fund.

2 Section 24. Section 327.395, Florida Statutes, is
3 amended to read:

4 327.395 Boating safety identification cards.--

5 (1) Until October 1, 2001, a person born after
6 September 30, 1980, and on or after October 1, 2001, a person
7 21 years of age or younger may not operate a vessel powered by
8 a motor of 10 horsepower or greater unless such person has in
9 his or her possession aboard the vessel photographic
10 identification and a boater safety identification card issued
11 by the commission ~~department~~ which shows that he or she has:

12 (a) Completed a commission-approved
13 ~~department-approved~~ boater education course that meets the
14 minimum 8-hour instruction requirement established by the
15 National Association of State Boating Law Administrators;

16 (b) Passed a course equivalency examination approved
17 by the commission ~~department~~; or

18 (c) Passed a temporary certificate examination
19 developed or approved by the commission ~~department~~.

20 (2) Any person may obtain a boater safety
21 identification card by complying with the requirements of this
22 section.

23 (3) The commission ~~department~~ may appoint liveries,
24 marinas, or other persons as its agents to administer the
25 course, course equivalency examination, or temporary
26 certificate examination and issue identification cards under
27 guidelines established by the commission ~~department~~. An agent
28 must charge the \$2 examination fee, which must be forwarded to
29 the commission ~~department~~ with proof of passage of the
30 examination and may charge and keep a \$1 service fee.

31 (4) An identification card issued to a person who has

1 completed a boating education course or a course equivalency
2 examination is valid for life. A card issued to a person who
3 has passed a temporary certification examination is valid for
4 12 months from the date of issuance.

5 (5) A person is exempt from subsection (1) if he or
6 she:

7 (a) Is licensed by the United States Coast Guard to
8 serve as master of a vessel.

9 (b) Operates a vessel only on a private lake or pond.

10 (c) Is accompanied in the vessel by a person who is
11 exempt from this section or who holds an identification card
12 in compliance with this section, is 18 years of age or older,
13 and is attendant to the operation of the vessel and
14 responsible for any violation that occurs during the
15 operation.

16 (d) Is a nonresident who has in his or her possession
17 proof that he or she has completed a boater education course
18 or equivalency examination in another state which meets or
19 exceeds the requirements of subsection (1).

20 (e) Is exempted by rule of the commission ~~department~~.

21 (6) A person who violates this section is guilty of a
22 noncriminal infraction, punishable as provided in s. 327.73.

23 (7) The commission ~~department~~ shall design forms and
24 adopt rules to administer this section. Such rules shall
25 include provision for educational and other public and private
26 entities to offer the course and administer examinations.

27 (8) The commission ~~department~~ shall institute and
28 coordinate a statewide program of boating safety instruction
29 and certification to ensure that boating courses and
30 examinations are available in each county of the state.

31 (9) The commission ~~department~~ is authorized to

1 establish and to collect a \$2 examination fee to cover
2 administrative costs.

3 (10) The commission is authorized to adopt rules
4 pursuant to chapter 120 to implement the provisions of this
5 section.

6 Section 25. Section 327.41, Florida Statutes, is
7 amended to read:

8 327.41 Uniform waterway regulatory markers.--

9 (1) The Fish and Wildlife Conservation Commission
10 ~~Department of Environmental Protection~~ shall adopt rules and
11 regulations pursuant to chapter 120 establishing a uniform
12 system of regulatory markers for the Florida Intracoastal
13 Waterway, compatible with the system of regulatory markers
14 prescribed by the United States Coast Guard, and shall give
15 due regard to the System of Uniform Waterway Markers approved
16 by the Advisory Panel of State Officials to the Merchant
17 Marine Council, United States Coast Guard.

18 (2) Any county or municipality which has been granted
19 a restricted area designation, pursuant to s. 327.46, for a
20 portion of the Florida Intracoastal Waterway within its
21 jurisdiction may apply to the Fish and Wildlife Conservation
22 Commission ~~Department of Environmental Protection~~ for
23 permission to place regulatory markers within the restricted
24 area.

25 (3) Application for placing regulatory markers on the
26 Florida Intracoastal Waterway shall be made to the Division of
27 Marine Resources, accompanied by a map locating the
28 approximate placement of the markers, a statement of the
29 specification of the markers, a statement of purpose of the
30 markers, and a statement of the city or county responsible for
31 the placement and upkeep of the markers.

1 (4) No person or municipality, county, or other
2 governmental entity shall place any regulatory markers in, on,
3 or over the Florida Intracoastal Waterway without a permit
4 from the Division of Marine Resources.

5 (5) Aquaculture leaseholds shall be marked as required
6 by this section, and the commission ~~department~~ may approve
7 alternative marking requirements as a condition of the lease
8 pursuant to s. 253.68. The provisions of this section
9 notwithstanding, no permit shall be required for the placement
10 of markers required by such a lease.

11 (6) The commission is authorized to adopt rules
12 pursuant to chapter 120 to implement the provisions of this
13 section.

14 Section 26. Section 327.43, Florida Statutes, is
15 amended to read:

16 327.43 Silver Glen Run and Silver Glen Springs;
17 navigation channel; anchorage buoys; violations.--

18 (1) The Fish and Wildlife Conservation Commission
19 ~~Department of Environmental Protection~~ is hereby directed to
20 mark a navigation channel within Silver Glen Run and Silver
21 Glen Springs, located on the western shore of Lake George on
22 the St. Johns River.

23 (2) The commission ~~department~~ is further directed to
24 establish permanent anchorage buoys within Silver Glen Run and
25 Silver Glen Springs.

26 (3) Vessel anchorage or mooring shall only be allowed
27 utilizing permanently established anchorage buoys. No vessel
28 shall anchor or otherwise attach, temporarily or permanently,
29 to the bottom within Silver Glen Run or Silver Glen Springs.

30 (4) Any violation of this act shall constitute a
31 violation of the boating laws of this state and shall be

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1 punishable by issuance of a uniform boating citation as
2 provided in s. 327.74. Any person who refuses to post a bond
3 or accept and sign a uniform boating citation, as provided in
4 s. 327.73(3), commits a misdemeanor of the second degree,
5 punishable as provided in s. 775.082 or s. 775.083.

6 Section 27. Subsection (1) of section 327.46, Florida
7 Statutes, is amended to read:

8 327.46 Restricted areas.--

9 (1) The commission ~~department~~ shall have the authority
10 for establishing, by rule pursuant to chapter 120, restricted
11 areas on the waters of the state for any purpose deemed
12 necessary for the safety of the public, including, but not
13 limited to, boat speeds and boat traffic where such
14 restrictions are deemed necessary based on boating accidents,
15 visibility, tides, congestion, or other navigational hazards.
16 Each such restricted area shall be developed in consultation
17 and coordination with the governing body of the county or
18 municipality in which the restricted area is located and,
19 where required, with the United States Army Corps of
20 Engineers. Restricted areas shall be established in
21 accordance with procedures under chapter 120.

22 Section 28. Section 258.398, Florida Statutes, is
23 repealed.

24 Section 29. Section 327.48, Florida Statutes, is
25 amended to read:

26 327.48 Regattas, races, marine parades, tournaments,
27 or exhibitions.--Any person directing the holding of a
28 regatta, tournament, or marine parade or exhibition shall
29 secure a permit from the Coast Guard when such event is held
30 in navigable waters of the United States. A person directing
31 any such affair in any county shall notify the sheriff of the

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1 county ~~or, the~~ Fish and Wildlife Conservation Commission ~~Game~~
2 ~~and Fresh Water Fish Commission, or the department~~ at least 15
3 days prior to any event in order that appropriate arrangements
4 for safety and navigation may be assured. Any person or
5 organization sponsoring a regatta or boat race, marine parade,
6 tournament, or exhibition shall be responsible for providing
7 adequate protection to the participants, spectators, and other
8 users of the water.

9 Section 30. Subsections (1) and (3) of section 327.70,
10 Florida Statutes, are amended to read:

11 327.70 Enforcement of this chapter and chapter 328.--

12 (1) This chapter and chapter 328 shall be enforced by
13 the Division of Law Enforcement of the Fish and Wildlife
14 Conservation ~~department and its officers, the Game and Fresh~~
15 ~~Water Fish~~ Commission and its officers, the sheriffs of the
16 various counties and their deputies, and any other authorized
17 law enforcement officer, all of whom may order the removal of
18 vessels deemed to be an interference or a hazard to public
19 safety, enforce the provisions of this chapter and chapter
20 328, or cause any inspections to be made of all vessels in
21 accordance with this chapter and chapter 328.

22 (3) The Fish and Wildlife Conservation Commission
23 ~~department~~ or any other law enforcement agency may make any
24 investigation necessary to secure information required to
25 carry out and enforce the provisions of this chapter and
26 chapter 328.

27 Section 31. Section 327.71, Florida Statutes, is
28 amended to read:

29 327.71 Exemption.--The commission ~~department~~ may, if
30 it finds that federal law imposes less restrictive
31 requirements than provided herein or if it determines that

1 boating safety will not be adversely affected, issue temporary
2 exemptions from any provision of this chapter or rules
3 established hereunder, on such terms and conditions as it
4 considers appropriate.

5 Section 32. Subsections (1) and (3) of section
6 327.731, Florida Statutes, 1998 Supplement, are amended to
7 read:

8 327.731 Mandatory education for violators.--

9 (1) Every person convicted of a criminal violation of
10 this chapter, every person convicted of a noncriminal
11 infraction under this chapter if the infraction resulted in a
12 reportable boating accident, and every person convicted of two
13 noncriminal infractions as defined in s. 327.73(1)(h) through
14 (k), (m) through (p), (s), and (t), said infractions occurring
15 within a 12-month period, must:

16 (a) Enroll in, attend, and successfully complete, at
17 his or her own expense, a boating safety course that meets
18 minimum standards established by the commission ~~department~~ by
19 rule; however, the commission ~~department~~ may provide by rule
20 pursuant to chapter 120 for waivers of the attendance
21 requirement for violators residing in areas where classroom
22 presentation of the course is not available;

23 (b) File with the commission ~~department~~ within 90 days
24 proof of successful completion of the course;

25 (c) Refrain from operating a vessel until he or she
26 has filed the proof of successful completion of the course
27 with the commission ~~department~~.

28

29 Any person who has successfully completed an approved boating
30 course shall be exempt from these provisions upon showing
31 proof to the commission ~~department~~ as specified in paragraph

1 (b).

2 (3) The commission ~~department~~ shall print on the
3 reverse side of the defendant's copy of the boating citation a
4 notice of the provisions of this section. Upon conviction, the
5 clerk of the court shall notify the defendant that it is
6 unlawful for him or her to operate any vessel until he or she
7 has complied with this section, but failure of the clerk of
8 the court to provide such a notice shall not be a defense to a
9 charge of unlawful operation of a vessel under subsection (2).

10 Section 33. Subsections (1), (2), (4), (6), and (10)
11 of section 327.74, Florida Statutes, are amended to read:

12 327.74 Uniform boating citations.--

13 (1) The commission ~~department~~ shall prepare, and
14 supply to every law enforcement agency in this state which
15 enforces the laws of this state regulating the operation of
16 vessels, an appropriate form boating citation containing a
17 notice to appear (which shall be issued in prenumbered books
18 with citations in quintuplicate) and meeting the requirements
19 of this chapter or any laws of this state regulating boating,
20 which form shall be consistent with the state's county court
21 rules and the procedures established by the commission
22 ~~department~~.

23 (2) Courts, enforcement agencies, and the commission
24 ~~department~~ are jointly responsible to account for all uniform
25 boating citations in accordance with the procedures
26 promulgated by the commission ~~department~~.

27 (4) The chief administrative officer of every law
28 enforcement agency shall require the return to him or her of
29 the commission ~~department~~ record copy of every boating
30 citation issued by an officer under his or her supervision to
31 an alleged violator of any boating law or ordinance and all

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1 copies of every boating citation which has been spoiled or
 2 upon which any entry has been made and not issued to an
 3 alleged violator.

4 (6) The chief administrative officer shall transmit,
 5 on a form approved by the commission department, the
 6 commission department record copy of the uniform boating
 7 citation to the commission department within 5 days after
 8 submission of the original and one copy to the court. A copy
 9 of such transmittal shall also be provided to the court having
 10 jurisdiction for accountability purposes.

11 (10) Upon final disposition of any alleged offense for
 12 which a uniform boating citation has been issued, the court
 13 shall, within ten days, certify said disposition to the
 14 commission department.

15 Section 34. Section 327.803, Florida Statutes, is
 16 amended to read:

17 327.803 Boating Advisory Council.--

18 (1) The Boating Advisory Council is created within the
 19 Fish and Wildlife Conservation Commission ~~Department of~~
 20 ~~Environmental Protection~~ and shall be composed of 16 members.
 21 The initial members shall be appointed before August 1, 1994,
 22 and must include:

23 (a) One representative from the Fish and Wildlife
 24 Conservation Commission ~~Department of Environmental~~
 25 ~~Protection~~, who shall serve as the chair of the council.

26 (b) One representative each from the Department of
 27 Environmental Protection ~~Game and Fresh Water Fish Commission~~,
 28 the United States Coast Guard Auxiliary, the United States
 29 Power Squadron, and the inland navigation districts.

30 (c) One representative of manatee protection
 31 interests, one representative of the marine industries, two

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1 representatives of water-related environmental groups, one
2 representative of marine manufacturers, one representative of
3 commercial vessel owners or operators, one representative of
4 sport boat racing, and two representatives of the boating
5 public, each of whom shall be nominated by the executive
6 director of the Fish and Wildlife Conservation Commission
7 ~~Secretary of Environmental Protection~~ and appointed by the
8 Governor to serve staggered 2-year terms.

9 (d) One member of the House of Representatives, who
10 shall be appointed by the Speaker of the House of
11 Representatives.

12 (e) One member of the Senate, who shall be appointed
13 by the President of the Senate.

14 (2) The council shall meet at the call of the chair,
15 at the request of a majority of its membership, or at such
16 times as may be prescribed by rule.

17 (3) The purpose of the council is to make
18 recommendations to the Fish and Wildlife Conservation
19 Commission ~~Department of Environmental Protection~~ and the
20 Department of Community Affairs regarding issues affecting the
21 boating community, including, but not limited to, issues
22 related to:

23 (a) Boating safety education.

24 (b) Boating-related facilities, including marinas and
25 boat testing facilities.

26 (c) Boat usage.

27

28 ~~However, it is not the purpose of the council to make~~
29 ~~recommendations to the Marine Fisheries Commission.~~

30 (4) Members of the council shall serve without
31 compensation.

1 Section 35. Section 327.804, Florida Statutes, is
2 amended to read:

3 327.804 Compilation of statistics on boating accidents
4 and violations.--The Fish and Wildlife Conservation Commission
5 ~~Department of Environmental Protection~~ shall compile
6 statistics on boating accidents and boating violations of the
7 age groups of persons affected by chapter 96-187, Laws of
8 Florida.

9 Section 36. Section 327.90, Florida Statutes, is
10 amended to read:

11 327.90 Transactions by electronic or telephonic
12 means.--The commission ~~department~~ is authorized to accept any
13 application provided for under this chapter by electronic or
14 telephonic means.

15 Section 37. Paragraph (c) of subsection (2) of section
16 328.01, Florida Statutes, is amended to read:

17 328.01 Application for certificate of title.--

18 (2)

19 (c) In making application for an initial title, the
20 owner of a homemade vessel shall establish proof of ownership
21 by submitting with the application:

22 1. A notarized statement of the builder or its
23 equivalent, whichever is acceptable to the Department of
24 Highway Safety and Motor Vehicles, if the vessel is less than
25 16 feet in length; or

26 2. A certificate of inspection from the Fish and
27 Wildlife Conservation ~~Division of Law Enforcement of the~~
28 ~~Department of Environmental Protection or the Game and Fresh~~
29 ~~Water Fish~~ Commission and a notarized statement of the builder
30 or its equivalent, whichever is acceptable to the Department
31 of Highway Safety and Motor Vehicles, if the vessel is 16 feet

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1 or more in length.

2 Section 38. Subsection (1) of section 339.281, Florida
3 Statutes, is amended to read:

4 339.281 Damage to transportation facility by vessel;
5 marine accident report; investigative authorities;
6 penalties.--

7 (1) Whenever any vessel has caused damage to a
8 transportation facility, the managing owner, agent, or master
9 of such vessel shall immediately, or as soon thereafter as
10 possible, report the same to the nearest Fish and Wildlife
11 Conservation Commission officer ~~Florida Marine Patrol~~, the
12 sheriff of the county wherein such accident occurred, ~~the Game~~
13 ~~and Fresh Water Fish Commission~~, or the Florida Highway
14 Patrol, who shall immediately go to the scene of the accident
15 and, if necessary, board the vessel subsequent to the accident
16 in pursuance of its investigation. The law enforcement agency
17 investigating the accident shall submit a copy of its report
18 to the department.

19 Section 39. Section 370.025, Florida Statutes, 1998
20 Supplement, is amended to read:

21 370.025 Marine fisheries; policy and standards.--

22 (1) The Legislature hereby declares the policy of the
23 state to be management and preservation of its renewable
24 marine fishery resources, based upon the best available
25 information, emphasizing protection and enhancement of the
26 marine and estuarine environment in such a manner as to
27 provide for optimum sustained benefits and use to all the
28 people of this state for present and future generations.

29 (2) The commission is instructed to make
30 recommendations annually to the Governor and the Legislature
31 regarding marine fisheries research priorities and

1 funding. All administrative and enforcement responsibilities
2 which are unaffected by the specific provisions of this act
3 are the responsibility of the commission.

4 ~~(3)(2)~~ All rules relating to saltwater fisheries
5 adopted by the commission ~~department pursuant to this chapter~~
6 ~~or adopted by the Marine Fisheries Commission and approved by~~
7 ~~the Governor and Cabinet as the Board of Trustees of the~~
8 ~~Internal Improvement Trust Fund~~ shall be consistent with the
9 following standards:

10 (a) The paramount concern of conservation and
11 management measures shall be the continuing health and
12 abundance of the marine fisheries resources of this state.

13 (b) Conservation and management measures shall be
14 based upon the best information available, including
15 biological, sociological, economic, and other information
16 deemed relevant by the commission.

17 (c) Conservation and management measures shall permit
18 reasonable means and quantities of annual harvest, consistent
19 with maximum practicable sustainable stock abundance on a
20 continuing basis.

21 (d) When possible and practicable, stocks of fish
22 shall be managed as a biological unit.

23 (e) Conservation and management measures shall assure
24 proper quality control of marine resources that enter
25 commerce.

26 (f) State marine fishery management plans shall be
27 developed to implement management of important marine fishery
28 resources.

29 (g) Conservation and management decisions shall be
30 fair and equitable to all the people of this state and carried
31 out in such a manner that no individual, corporation, or

1 entity acquires an excessive share of such privileges.

2 (h) Federal fishery management plans and fishery
3 management plans of other states or interstate commissions
4 should be considered when developing state marine fishery
5 management plans. Inconsistencies should be avoided unless it
6 is determined that it is in the best interest of the fisheries
7 or residents of this state to be inconsistent.

8 (4) Pursuant to s. 9, Art. IV of the State
9 Constitution, the commission has full constitutional
10 rulemaking authority over marine life, and listed species as
11 defined in s. 372.072(3), except for:

12 (a) Endangered or threatened marine species for which
13 rulemaking shall be done pursuant to chapter 120; and

14 (b) The authority to regulate fishing gear in
15 residential, manmade saltwater canals which is retained by the
16 Legislature and specifically not delegated to the commission.

17 (c) Marine aquaculture products produced by an
18 individual certified under s. 597.004. This exception does not
19 apply to snook, prohibited and restricted marine species
20 identified by rule of the commission, and rulemaking authority
21 granted pursuant to s. 370.027(4).

22 Section 40. Subsections (1), (2), and (3) of section
23 370.027, Florida Statutes, 1998 Supplement, are repealed.

24 Section 41. Subsections (4) and (5) of section 370.06,
25 Florida Statutes, 1998 Supplement, are amended to read:

26 370.06 Licenses.--

27 (4) SPECIAL ACTIVITY LICENSES.--

28 (a) A special activity license is required for any
29 person to use gear or equipment not authorized in this chapter
30 or rule of the Fish and Wildlife Conservation ~~Marine Fisheries~~
31 Commission for harvesting saltwater species. In accordance

1 with this chapter, s. 16, Art. X of the State Constitution,
2 and rules of the ~~Marine Fisheries~~ commission, the commission
3 ~~department~~ may issue special activity licenses for the use of
4 nonconforming gear or equipment, including, but not limited
5 to, trawls, seines and entangling nets, traps, and hook and
6 line gear, to be used in harvesting saltwater species for
7 scientific and governmental purposes, and, where allowable,
8 for innovative fisheries. The commission ~~department~~ may
9 prescribe by rule application requirements and terms,
10 conditions, and restrictions to be incorporated into each
11 special activity license. This subsection does not apply to
12 gear or equipment used by certified marine aquaculturists as
13 provided for in s. 597.004 to harvest marine aquaculture
14 products.

15 (b) The commission ~~department~~ is authorized to issue
16 special activity licenses in accordance with this section and
17 s. 370.31, to permit the importation and ~~possession, and~~
18 ~~aquaculture~~ of wild anadromous sturgeon. The special activity
19 license shall provide for specific management practices to
20 ~~prevent the release and escape of cultured anadromous sturgeon~~
21 ~~and to~~ protect indigenous populations of saltwater species.

22 (c) The Department of Agriculture and Consumer
23 Services is authorized to issue special activity licenses, in
24 accordance with s. 370.071, to permit the harvest or
25 cultivation of oysters, clams, mussels, and crabs when such
26 activities relate to quality control, sanitation, public
27 health regulations, innovative technologies for aquaculture
28 activities, or the protection of shellfish resources provided
29 in this chapter, ~~unless such authority is delegated to the~~
30 ~~Department of Agriculture and Consumer Services, pursuant to a~~
31 ~~memorandum of understanding.~~

1 (d) The conditions and specific management practices
2 established in this section may be incorporated into permits
3 and authorizations issued pursuant to chapter 253, chapter
4 373, chapter 403, or this chapter, when incorporating such
5 provisions is in accordance with the aquaculture permit
6 consolidation procedures. No separate issuance of a special
7 activity license is required when conditions and specific
8 management practices are incorporated into permits or
9 authorizations under this paragraph. Implementation of this
10 section to consolidate permitting actions does not constitute
11 rules within the meaning of s. 120.52.

12 (e) The commission ~~department~~ is authorized to issue
13 special activity licenses in accordance with s. ss. 370.071,
14 370.101, and this section; aquaculture permit consolidation
15 procedures in s. 370.26(2)(~~3~~)(~~a~~); and rules of the ~~Marine~~
16 ~~Fisheries~~ commission to permit the capture and possession of
17 saltwater species protected by law and used as stock for
18 artificial cultivation and propagation.

19 (f) The commission ~~department~~ is authorized to adopt
20 rules to govern the administration of special activities
21 licenses as provided in this chapter and rules of the ~~Marine~~
22 ~~Fisheries~~ commission. Such rules may prescribe application
23 requirements and terms, conditions, and restrictions for any
24 such special activity license requested pursuant to this
25 section.

26 (5) APALACHICOLA BAY OYSTER HARVESTING LICENSE.--

27 (a) For purposes of this section, the following
28 definitions shall apply:

- 29 1. "Person" means an individual.
30 2. "Resident" means any person who has:
31 a. Continuously resided in this state for 6 months

1 immediately preceding the making of his or her application for
2 an Apalachicola Bay oyster harvesting license; or

3 b. Established a domicile in this state and evidenced
4 that domicile as provided in s. 222.17.

5 (b) No person shall harvest oysters from the
6 Apalachicola Bay without a valid Apalachicola Bay oyster
7 harvesting license issued by the Department of Agriculture and
8 Consumer Services. This requirement shall not apply to anyone
9 harvesting noncommercial quantities of oysters in accordance
10 with chapter 46-27, Florida Administrative Code, or to any
11 person less than 18 years old.

12 (c) Any person wishing to obtain an Apalachicola Bay
13 oyster harvesting license shall submit an annual fee for the
14 license during a 45-day period from May 17 to June 30 of each
15 year preceding the license year for which the license is
16 valid. Failure to pay the annual fee within the required time
17 period shall result in a \$500 late fee being imposed before
18 issuance of the license.

19 (d) The Department of Agriculture and Consumer
20 Services shall collect an annual fee of \$100 from residents
21 and \$500 from nonresidents for the issuance of an Apalachicola
22 Bay oyster harvesting license. The license year shall begin on
23 July 1 of each year and end on June 30 of the following year.
24 The license shall be valid only for the licensee. Only bona
25 fide residents of Florida may obtain a resident license
26 pursuant to this subsection.

27 (e) Each person who applies for an Apalachicola Bay
28 oyster harvesting license shall, before receiving the license,
29 attend an educational seminar of not more than 16 hours
30 length, developed and conducted jointly by the Apalachicola
31 National Estuarine Research Reserve, the ~~department's~~ Division

1 of Law Enforcement of the Fish and Wildlife Conservation
2 Commission, and the Department of Agriculture and Consumer
3 Services'~~department's~~ Apalachicola District Shellfish
4 Environmental Assessment Laboratory. The seminar shall
5 address, among other things, oyster biology, conservation of
6 the Apalachicola Bay, sanitary care of oysters, small business
7 management, and water safety. The seminar shall be offered
8 five times per year, and each person attending shall receive a
9 certificate of participation to present when obtaining an
10 Apalachicola Bay oyster harvesting license.

11 (f) Each person, while harvesting oysters in
12 Apalachicola Bay, shall have in possession a valid
13 Apalachicola Bay oyster harvesting license, or proof of having
14 applied for a license within the required time period, and
15 shall produce such license or proof of application upon
16 request of any law enforcement officer.

17 (g) Each person who obtains an Apalachicola Bay oyster
18 harvesting license shall prominently display the license
19 number upon any vessel the person owns which is used for the
20 taking of oysters, in numbers which are at least 10 inches
21 high and 1 inch wide, so that the permit number is readily
22 identifiable from the air and water. Only one vessel
23 displaying a given number may be used at any time. A licensee
24 may harvest oysters from the vessel of another licensee.

25 (h) Any person holding an Apalachicola Bay oyster
26 harvesting license shall receive credit for the license fee
27 against the saltwater products license fee.

28 (i) The proceeds from Apalachicola Bay oyster
29 harvesting license fees shall be deposited in the General
30 Inspection ~~Marine Resources Conservation~~ Trust Fund and, less
31 reasonable administrative costs, shall be used or distributed

1 by the Department of Agriculture and Consumer Services for the
2 following purposes in Apalachicola Bay:

- 3 1. Relaying and transplanting live oysters.
- 4 2. Shell planting to construct or rehabilitate oyster
5 bars.
- 6 3. Education programs for licensed oyster harvesters
7 on oyster biology, aquaculture, boating and water safety,
8 sanitation, resource conservation, small business management,
9 marketing, and other relevant subjects.
- 10 4. Research directed toward the enhancement of oyster
11 production in the bay and the water management needs of the
12 bay.

13 (j) Any person who violates any of the provisions of
14 paragraphs (b) and (d)-(g) commits a misdemeanor of the second
15 degree, punishable as provided in ss. 775.082 and 775.083.
16 Nothing in this subsection shall limit the application of
17 existing penalties.

18 (k) Any oyster harvesting license issued pursuant to
19 this subsection must be in compliance with the rules of the
20 Fish and Wildlife Conservation Commission regulating gear or
21 equipment, harvest seasons, size and bag limits, and the
22 taking of saltwater species.

23 Section 42. Section 370.0608, Florida Statutes, 1998
24 Supplement, is amended to read:

25 370.0608 Deposit of license fees; allocation of
26 federal funds.--

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

30 (a) Not more than 5 percent of the total fees
31 collected shall be ~~for the Marine Fisheries Commission to be~~

1 used to carry out the responsibilities of the Fish and
2 Wildlife Conservation Commission and to provide for the award
3 of funds to marine research institutions in this state for the
4 purposes of enabling such institutions to conduct worthy
5 marine research projects.

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

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

10 a. Not more than 5 percent of the total fees
11 collected, for administration of the licensing program and for
12 information and education.

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

15 c. Not less than 27.5 percent of the total fees
16 collected, for marine research.

17 d. Not less than 30 percent of the total fees
18 collected, for fishery enhancement, including, but not limited
19 to, fishery statistics development, artificial reefs, and fish
20 hatcheries.

21 2. The Legislature shall annually appropriate to the
22 commission ~~Department of Environmental Protection~~ from the
23 General Revenue Fund for the activities and programs specified
24 in subparagraph 1. at least the same amount of money as was
25 appropriated to the Department of Environmental Protection
26 from the General Revenue Fund for such activities and programs
27 for fiscal year 1988-1989, and the amounts appropriated to the
28 commission ~~department~~ for such activities and programs from
29 the Marine Resources Conservation Trust Fund shall be in
30 addition to the amount appropriated to the commission
31 ~~department~~ for such activities and programs from the General

1 Revenue Fund. The proceeds from recreational saltwater fishing
2 license fees paid by fishers shall only be appropriated to the
3 commission ~~Department of Environmental Protection.~~

4 (2) ~~The Department of Environmental Protection and the~~
5 ~~Game and Fresh Water Fish Commission shall develop and~~
6 ~~maintain a memorandum of understanding to provide for the~~
7 ~~equitable allocation of federal aid available to Florida~~
8 ~~pursuant to the Sport Fish Restoration Administration Funds.~~

9 Funds available from the Wallop-Breaux Aquatic Resources Trust
10 Fund shall be distributed by the commission between the
11 Division of Freshwater Fisheries and the Division of Marine
12 Fisheries ~~department and the commission~~ in proportion to the
13 numbers of resident fresh and saltwater anglers as determined
14 by the most current data on license sales. Unless otherwise
15 provided by federal law, ~~the department and~~ the commission, at
16 a minimum, shall provide the following:

17 (a) Not less than 5 percent or more than 10 percent of
18 the funds allocated to the commission ~~each agency~~ shall be
19 expended for an aquatic resources education program; and

20 (b) Not less than 10 percent of the funds allocated to
21 the commission ~~each agency~~ shall be expended for acquisition,
22 development, renovation, or improvement of boating facilities.

23 (3) All license fees collected pursuant to s. 370.0605
24 shall be transferred to the Marine Resources Conservation
25 Trust Fund within 7 days following the last business day of
26 the week in which the license fees were received by the
27 commission. One-fifth of the total proceeds derived from the
28 sale of 5-year licenses and replacement 5-year licenses, and
29 all interest derived therefrom, shall be available for
30 appropriation annually.

31 Section 43. Section 370.063, Florida Statutes, is

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1 amended to read:

2 370.063 Special recreational crawfish license.--There
3 is created a special recreational crawfish license, to be
4 issued to qualified persons as provided by this section for
5 the recreational harvest of crawfish (spiny lobster) beginning
6 August 5, 1994.

7 (1) The special recreational crawfish license shall be
8 available to any individual crawfish trap number holder who
9 also possesses a saltwater products license during the
10 1993-1994 license year. ~~For the 1994-1995 license year and~~
11 ~~for each license year thereafter,~~A person issued a special
12 recreational crawfish license may not also possess a trap
13 number.

14 (2) ~~Beginning August 5, 1994,~~The special recreational
15 crawfish license is required in order to harvest crawfish from
16 state territorial waters in quantities in excess of the
17 regular recreational bag limit but not in excess of a special
18 bag limit as to be established by the Marine Fisheries
19 Commission for these harvesters before the 1994-1995 license
20 year. Such special bag limit does not apply during the 2-day
21 sport season established by the Fish and Wildlife Conservation
22 Commission.

23 (3) The holder of a special recreational crawfish
24 license must also possess the recreational crawfish stamp
25 required by s. 370.14(11) and the license required by s.
26 370.0605.

27 (4) As a condition precedent to the issuance of a
28 special recreational crawfish license, the applicant must
29 agree to file quarterly reports with the Fish and Wildlife
30 Conservation Commission ~~Division of Marine Resources of the~~
31 ~~Department of Environmental Protection,~~in such form as the

1 ~~commission division~~ requires, detailing the amount of the
2 licenseholder's crawfish (spiny lobster) harvest in the
3 previous quarter, including the harvest of other recreational
4 harvesters aboard the licenseholder's vessel.

5 (5) The Fish and Wildlife Conservation Commission
6 ~~Department of Environmental Protection~~ shall issue special
7 recreational crawfish licenses ~~beginning in 1994 for the~~
8 ~~1994-1995 license year~~. The fee for each such license is \$100
9 per year. Each license issued in any 1994 for the 1994-1995
10 license year must be renewed by June 30 of each subsequent
11 year by the initial individual holder thereof. Noncompliance
12 with the reporting requirement in subsection (4) or with the
13 special recreational bag limit established under subsection
14 (6) constitutes grounds for which the commission department
15 may refuse to renew the license for a subsequent license year.
16 The number of such licenses outstanding in any one license
17 year may not exceed the number issued for the 1994-1995
18 license year. A license is not transferable by any method.
19 Licenses that are not renewed expire and may be reissued by
20 the commission in the subsequent department beginning in the
21 ~~1995-1996~~ license year to new applicants otherwise qualified
22 under this section.

23 (6) To promote conservation of the spiny lobster
24 (crawfish) resource, consistent with equitable distribution
25 and availability of the resource, the ~~Marine Fisheries~~
26 commission shall establish a spiny lobster management plan
27 incorporating the special recreational crawfish license,
28 including, but not limited to, the establishment of a special
29 recreational bag limit for the holders of such license as
30 required by subsection (2). Such special recreational bag
31 limit must not be less than twice the higher of the daily

1 recreational bag limits.

2 (7) The proceeds of the fees collected under this
3 section must be deposited in the Marine Resources Conservation
4 Trust Fund and used as follows:

5 (a) Thirty-five percent for research and the
6 development of reliable recreational catch statistics for the
7 crawfish (spiny lobster) fishery.

8 (b) ~~Twenty~~ Forty-five percent to be used by the
9 ~~Department of Environmental Protection~~ for administration and
10 ~~enforcement~~ of this section.

11 (c) ~~Forty-five~~ Twenty percent to be used by the ~~Marine~~
12 ~~Fisheries Commission~~ for enforcement ~~the purposes~~ of this
13 section.

14 ~~(8) The Department of Environmental Protection may~~
15 ~~adopt rules to carry out the purpose and intent of the special~~
16 ~~recreational lobster license program.~~

17 Section 44. Section 370.071, Florida Statutes, is
18 amended to read:

19 370.071 Shellfish processors; regulation.--

20 (1) The Department of Agriculture and Consumer
21 Services, hereinafter referred to as department, is authorized
22 to adopt by rule regulations, specifications, and codes
23 relating to sanitary practices for catching, cultivating,
24 handling, processing, packaging, preserving, canning, smoking,
25 and storing of oysters, clams, mussels, and crabs. The
26 department is also authorized to license aquaculture
27 facilities used to culture oysters, clams, mussels, and crabs
28 when such activities relate to quality control, sanitary, and
29 public health practices pursuant to this section and s.
30 370.06(4). The department is also authorized to license or
31 certify facilities used for processing oysters, clams,

1 mussels, and crabs, to suspend or revoke such licenses or
2 certificates upon satisfactory evidence of any violation of
3 rules adopted pursuant to this section, and to seize and
4 destroy any adulterated or misbranded shellfish products as
5 defined by rule.

6 (2) A shellfish processing plant certification license
7 is required to operate any facility in which oysters, clams,
8 mussels, or crabs are processed, including but not limited to:
9 an oyster, clam, or mussel cannery; a shell stock dealership;
10 an oyster, clam, or mussel shucking plant; an oyster, clam, or
11 mussel repacking plant; an oyster, clam, or mussel controlled
12 purification plant; or a crab or soft-shell crab processing or
13 shedding plant.

14 (3) The department may suspend or revoke any shellfish
15 processing plant certification license upon satisfactory
16 evidence that the licensee has violated any regulation,
17 specification, or code adopted under this section and may
18 seize and destroy any shellfish product which is defined by
19 rule to be an adulterated or misbranded shellfish product.

20 Section 45. Section 370.12, Florida Statutes, 1998
21 Supplement, is amended to read:

22 370.12 Marine animals; regulation.--

23 (1) PROTECTION OF MARINE TURTLES.--

24 (a) This subsection may be cited as the "Marine Turtle
25 Protection Act."

26 (b) The Legislature intends, pursuant to the
27 provisions of this subsection, to ensure that the Fish and
28 Wildlife Conservation Commission ~~Department of Environmental~~
29 ~~Protection~~ has the appropriate authority and resources to
30 implement its responsibilities under the recovery plans of the
31 United States Fish and Wildlife Service for the following

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1 species of marine turtle:

2 1. Atlantic loggerhead turtle (*Caretta caretta*
3 *caretta*).

4 2. Atlantic green turtle (*Chelonis mydas mydas*).

5 3. Leatherback turtle (*Dermochelys coriacea*).

6 4. Atlantic hawksbill turtle (*Eretmochelys imbricata*
7 *imbricata*).

8 5. Atlantic ridley turtle (*Lepidochelys kempfi*).

9 (c)1. Unless otherwise provided by the federal
10 Endangered Species Act or its implementing regulations, no
11 person may take, possess, disturb, mutilate, destroy, cause to
12 be destroyed, sell, offer for sale, transfer, molest, or
13 harass any marine turtle or its nest or eggs at any time. For
14 purposes of this subsection, "take" means an act which
15 actually kills or injures marine turtles, and includes
16 significant habitat modification or degradation that kills or
17 injures marine turtles by significantly impairing essential
18 behavioral patterns, such as breeding, feeding, or sheltering.

19 2. Unless otherwise provided by the federal Endangered
20 Species Act or its implementing regulations, no person, firm,
21 or corporation may take, kill, disturb, mutilate, molest,
22 harass, or destroy any marine turtle.

23 3. No person, firm, or corporation may possess any
24 marine turtle, their nests, eggs, hatchlings, or parts thereof
25 unless it is in possession of a special permit or loan
26 agreement from the commission ~~department~~ enabling the holder
27 to possess a marine turtle or parts thereof for scientific,
28 educational, or exhibitional purposes, or for conservation
29 activities such as relocating nests, eggs, or animals away
30 from construction sites. Notwithstanding any other provisions
31 of general or special law to the contrary, the commission

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1 ~~department~~ may issue such authorization to any properly
2 accredited person for the purpose of marine turtle
3 conservation upon such terms, conditions, and restrictions as
4 it may prescribe by rule adopted pursuant to chapter 120. The
5 commission ~~department~~ shall have the authority to adopt rules
6 pursuant to chapter 120 to permit the possession of marine
7 turtles pursuant to this paragraph. For the purposes of this
8 subsection, a "properly accredited person" is defined as:

9 a. Students of colleges or universities whose studies
10 with saltwater animals are under the direction of their
11 teacher or professor;

12 b. Scientific or technical faculty of public or
13 private colleges or universities;

14 c. Scientific or technical employees of private
15 research institutions and consulting firms;

16 d. Scientific or technical employees of city, county,
17 state, or federal research or regulatory agencies;

18 e. Members in good standing or recognized and properly
19 chartered conservation organizations, the Audubon Society, or
20 the Sierra Club;

21 f. Persons affiliated with aquarium facilities or
22 museums, or contracted as an agent therefor, which are open to
23 the public with or without an admission fee; or

24 g. Persons without specific affiliations listed above,
25 but who are recognized by the commission ~~department~~ for their
26 contributions to marine conservation such as scientific or
27 technical publications, or through a history of cooperation
28 with the commission ~~department~~ in conservation programs such
29 as turtle nesting surveys, or through advanced educational
30 programs such as high school marine science centers.

31 (d) Any application for a Department of Environmental

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1 Protection permit or other type of approval for an activity
2 that affects marine turtles or their nests or habitat shall be
3 subject to conditions and requirements for marine turtle
4 protection as part of the permitting or approval process.

5 (e) The Department of Environmental Protection may
6 condition the nature, timing, and sequence of construction of
7 permitted activities to provide protection to nesting marine
8 turtles and hatchlings and their habitat pursuant to the
9 provisions of s. 161.053(5). When the department is
10 considering a permit for a beach restoration, beach
11 renourishment, or inlet sand transfer project and the
12 applicant has had an active marine turtle nest relocation
13 program or the applicant has agreed to and has the ability to
14 administer a program, the department must not restrict the
15 timing of the project. Where appropriate, the department, in
16 accordance with the applicable rules of the Fish and Wildlife
17 Conservation Commission, shall require as a condition of the
18 permit that the applicant relocate and monitor all turtle
19 nests that would be affected by the beach restoration, beach
20 renourishment, or sand transfer activities. Such relocation
21 and monitoring activities shall be conducted in a manner that
22 ensures successful hatching. This limitation on the
23 department's authority applies only on the Atlantic coast of
24 Florida.

25 (f) The department shall recommend denial of a permit
26 application if the activity would result in a "take" as
27 defined in this subsection, unless, as provided for in the
28 federal Endangered Species Act and its implementing
29 regulations, such taking is incidental to, and not the purpose
30 of, the carrying out of an otherwise lawful activity.

31 (g) The department shall give special consideration to

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1 beach preservation and beach nourishment projects that restore
2 habitat of endangered marine turtle species. Nest relocation
3 shall be considered for all such projects in urbanized areas.
4 When an applicant for a beach restoration, beach
5 renourishment, or inlet sand transfer project has had an
6 active marine turtle nest relocation program or the applicant
7 has agreed to have and has the ability to administer a
8 program, the department in issuing a permit for a project must
9 not restrict the timing of the project. Where appropriate,
10 the department, in accordance with the applicable rules of the
11 Fish and Wildlife Conservation Commission, shall require as a
12 condition of the permit that the applicant relocate and
13 monitor all turtle nests that would be affected by the beach
14 restoration, beach renourishment, or sand transfer activities.
15 Such relocation and monitoring activities shall be conducted
16 in a manner that ensures successful hatching. This limitation
17 on the department's authority applies only on the Atlantic
18 coast of Florida.

19 (h) The Fish and Wildlife Conservation Commission
20 ~~department~~ shall provide grants to coastal local governments,
21 educational institutions, and Florida-based nonprofit
22 organizations to conduct marine turtle research, conservation,
23 and education activities within the state. The commission
24 ~~department~~ shall adopt by rule pursuant to chapter 120
25 procedures for submitting grant applications and criteria for
26 allocating available funds. The criteria must include the
27 scope of the proposed activity, the relevance of the proposed
28 activity to the recovery plans for marine turtles, the demand
29 and public support for the proposed activity, the duration of
30 the proposed activity, the availability of alternative
31 funding, and the estimated cost of the activity. The executive

1 director ~~secretary~~ of the commission ~~department~~ shall appoint
2 a committee of at least five members, including at least two
3 nongovernmental representatives, to consider and choose grant
4 recipients from proposals submitted by eligible entities.
5 Committee members shall not receive any compensation from the
6 commission ~~department~~.

7 (2) PROTECTION OF MANATEES OR SEA COWS.--

8 (a) This subsection shall be known and may be cited as
9 the "Florida Manatee Sanctuary Act."

10 (b) The State of Florida is hereby declared to be a
11 refuge and sanctuary for the manatee, the "Florida state
12 marine mammal."

13 (c) Whenever the Fish and Wildlife Conservation
14 Commission ~~department~~ is satisfied that the interest of
15 science will be subserved, and that the application for a
16 permit to possess a manatee or sea cow (*Trichechus manatus*) is
17 for a scientific or propagational purpose and should be
18 granted, and after concurrence by the United States Department
19 of the Interior, the commission ~~Division of Marine Resources~~
20 may grant to any person making such application a special
21 permit to possess a manatee or sea cow, which permit shall
22 specify the exact number which shall be maintained in
23 captivity.

24 (d) Except as may be authorized by the terms of a
25 valid state permit issued pursuant to paragraph (c) or by the
26 terms of a valid federal permit, it is unlawful for any person
27 at any time, by any means, or in any manner intentionally or
28 negligently to annoy, molest, harass, or disturb or attempt to
29 molest, harass, or disturb any manatee; injure or harm or
30 attempt to injure or harm any manatee; capture or collect or
31 attempt to capture or collect any manatee; pursue, hunt,

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1 wound, or kill or attempt to pursue, hunt, wound, or kill any
2 manatee; or possess, literally or constructively, any manatee
3 or any part of any manatee.

4 (e) Any gun, net, trap, spear, harpoon, boat of any
5 kind, aircraft, automobile of any kind, other motorized
6 vehicle, chemical, explosive, electrical equipment, scuba or
7 other subaquatic gear, or other instrument, device, or
8 apparatus of any kind or description used in violation of any
9 provision of paragraph (d) may be forfeited upon conviction.
10 The foregoing provisions relating to seizure and forfeiture of
11 vehicles, vessels, equipment, or supplies do not apply when
12 such vehicles, vessels, equipment, or supplies are owned by,
13 or titled in the name of, innocent parties; and such
14 provisions shall not vitiate any valid lien, retain title
15 contract, or chattel mortgage on such vehicles, vessels,
16 equipment, or supplies if such lien, retain title contract, or
17 chattel mortgage is property of public record at the time of
18 the seizure.

19 (f) In order to protect manatees or sea cows from
20 harmful collisions with motorboats or from harassment, the
21 Fish and Wildlife Conservation Commission ~~Department of~~
22 ~~Environmental Protection~~ shall adopt rules under chapter 120
23 regarding the expansion of existing, or construction of new,
24 marine facilities and mooring or docking slips, by the
25 addition or construction of five or more powerboat slips, and
26 regulating the operation and speed of motorboat traffic, only
27 where manatee sightings are frequent and it can be generally
28 assumed, based on available scientific information, that they
29 inhabit these areas on a regular or continuous basis:

30 1. In Lee County: the entire Orange River, including
31 the Tice Florida Power and Light Corporation discharge canal

1 and adjoining waters of the Caloosahatchee River within 1 mile
2 of the confluence of the Orange and Caloosahatchee Rivers.

3 2. In Brevard County: those portions of the Indian
4 River within three-fourths of a mile of the Orlando Utilities
5 Commission Delespine power plant effluent and the Florida
6 Power and Light Frontenac power plant effluents.

7 3. In Indian River County: the discharge canals of the
8 Vero Beach Municipal Power Plant and connecting waters within
9 1 1/4 miles thereof.

10 4. In St. Lucie County: the discharge of the Henry D.
11 King Municipal Electric Station and connecting waters within 1
12 mile thereof.

13 5. In Palm Beach County: the discharges of the Florida
14 Power and Light Riviera Beach power plant and connecting
15 waters within 1 1/2 miles thereof.

16 6. In Broward County: the discharge canal of the
17 Florida Power and Light Port Everglades power plant and
18 connecting waters within 1 1/2 miles thereof and the
19 discharge canal of the Florida Power and Light Fort Lauderdale
20 power plant and connecting waters within 2 miles thereof. For
21 purposes of ensuring the physical safety of boaters in a
22 sometimes turbulent area, the area from the easternmost edge
23 of the authorized navigation project of the intracoastal
24 waterway east through the Port Everglades Inlet is excluded
25 from this regulatory zone.

26 7. In Citrus County: headwaters of the Crystal River,
27 commonly referred to as King's Bay, and the Homosassa River.

28 8. In Volusia County: Blue Springs Run and connecting
29 waters of the St. Johns River within 1 mile of the confluence
30 of Blue Springs and the St. Johns River; and Thompson Creek,
31 Strickland Creek, Dodson Creek, and the Tomoka River.

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1 9. In Hillsborough County: that portion of the Alafia
2 River from the main shipping channel in Tampa Bay to U.S.
3 Highway 41.

4 10. In Sarasota County: the Venice Inlet and
5 connecting waters within 1 mile thereof, including Lyons Bay,
6 Donna Bay, Roberts Bay, and Hatchett Creek, excluding the
7 waters of the intracoastal waterway and the right-of-way
8 bordering the centerline of the intracoastal waterway.

9 11. In Collier County: within the Port of Islands,
10 within section 9, township 52 south, range 28 east, and
11 certain unsurveyed lands, all east-west canals and the
12 north-south canals to the southerly extent of the intersecting
13 east-west canals which lie southerly of the centerline of U.S.
14 Highway 41.

15 12. In Manatee County: that portion of the Manatee
16 River east of the west line of section 17, range 19 east,
17 township 34 south; the Braden River south of the north line
18 and east of the west line of section 29, range 18 east,
19 township 34 south; Terra Ceia Bay and River, east of the west
20 line of sections 26 and 35 of range 17 east, township 33
21 south, and east of the west line of section 2, range 17 east,
22 township 34 south; and Bishop Harbor east of the west line of
23 section 13, range 17 east, township 33 south.

24 13. In Dade County: those portions of Black Creek
25 lying south and east of the water control dam, including all
26 boat basins and connecting canals within 1 mile of the dam.

27 (g) The Fish and Wildlife Conservation Commission
28 ~~Department of Environmental Protection~~ shall adopt rules
29 pursuant to chapter 120 regulating the operation and speed of
30 motorboat traffic only where manatee sightings are frequent
31 and it can be generally assumed that they inhabit these areas

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1 on a regular or continuous basis within that portion of the
2 Indian River between the St. Lucie Inlet in Martin County and
3 the Jupiter Inlet in Palm Beach County. In addition, the
4 ~~commission department~~ shall adopt rules pursuant to chapter
5 120 regulating the operation and speed of motorboat traffic
6 only where manatee sightings are frequent and it can be
7 generally assumed that they inhabit these areas on a regular
8 or continuous basis within the Loxahatchee River in Palm Beach
9 and Martin Counties, including the north and southwest forks
10 thereof. A limited lane or corridor providing for reasonable
11 motorboat speeds may be identified and designated within this
12 area.

13 (h) The ~~commission department~~ shall adopt rules
14 pursuant to chapter 120 regulating the operation and speed of
15 motorboat traffic only where manatee sightings are frequent
16 and it can be generally assumed that they inhabit these areas
17 on a regular or continuous basis within the Withlacoochee
18 River and its tributaries in Citrus and Levy Counties. The
19 specific areas to be regulated include the Withlacoochee River
20 and the U.S. 19 bridge westward to a line between U.S. Coast
21 Guard markers number 33 and number 34 at the mouth of the
22 river, including all side channels and coves along that
23 portion of the river; Bennets' Creek from its beginning to its
24 confluence with the Withlacoochee River; Bird's Creek from its
25 beginning to its confluence with the Withlacoochee River; and
26 the two dredged canal systems on the north side of the
27 Withlacoochee River southwest of Yankeetown. A limited lane
28 or corridor providing for reasonable motorboat speeds may be
29 identified and designated within this area.

30 (i) If any new power plant is constructed or other
31 source of warm water discharge is discovered within the state

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1 which attracts a concentration of manatees or sea cows, the
2 Fish and Wildlife Conservation Commission ~~Department of~~
3 ~~Environmental Protection~~ is directed to adopt rules pursuant
4 to chapter 120 regulating the operation and speed of motorboat
5 traffic within the area of such discharge. Such rules shall
6 designate a zone which is sufficient in size, and which shall
7 remain in effect for a sufficient period of time, to protect
8 the manatees or sea cows.

9 (j) It is the intent of the Legislature through
10 adoption of this paragraph to allow the Fish and Wildlife
11 Conservation Commission ~~Department of Environmental Protection~~
12 to post and regulate boat speeds only where manatee sightings
13 are frequent and it can be generally assumed that they inhabit
14 these areas on a regular or continuous basis. It is not the
15 intent of the Legislature to permit the commission ~~department~~
16 to post and regulate boat speeds generally in the
17 above-described inlets, bays, rivers, creeks, thereby unduly
18 interfering with the rights of fishers, boaters, and water
19 skiers using the areas for recreational and commercial
20 purposes. Limited lanes or corridors providing for reasonable
21 motorboat speeds may be identified and designated within these
22 areas.

23 (k) The commission ~~department~~ shall adopt rules
24 pursuant to chapter 120 regulating the operation and speed of
25 motorboat traffic all year around within Turkey Creek and its
26 tributaries and within Manatee Cove in Brevard County. The
27 specific areas to be regulated consist of:

28 1. A body of water which starts at Melbourne-Tillman
29 Drainage District structure MS-1, section 35, township 28
30 south, range 37 east, running east to include all natural
31 waters and tributaries of Turkey Creek, section 26, township

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1 28 south, range 37 east, to the confluence of Turkey Creek and
2 the Indian River, section 24, township 28 south, range 37
3 east, including all lagoon waters of the Indian River bordered
4 on the west by Palm Bay Point, the north by Castaway Point,
5 the east by the four immediate spoil islands, and the south by
6 Cape Malabar, thence northward along the shoreline of the
7 Indian River to Palm Bay Point.

8 2. A triangle-shaped body of water forming a cove
9 (commonly referred to as Manatee Cove) on the east side of the
10 Banana River, with northern boundaries beginning and running
11 parallel to the east-west cement bulkhead located 870 feet
12 south of SR 520 Relief Bridge in Cocoa Beach and with western
13 boundaries running in line with the City of Cocoa Beach
14 channel markers 121 and 127 and all waters east of these
15 boundaries in section 34, township 24 south, range 37 east;
16 the center coordinates of this cove are 28°20'14" north,
17 80°35'17" west.

18 ~~(1) The Legislature recognizes that, while the manatee~~
19 ~~or sea cow is designated a marine mammal by federal law, many~~
20 ~~of the warm water wintering areas are in freshwater springs~~
21 ~~and rivers which are under the primary state law enforcement~~
22 ~~jurisdiction of the Florida Game and Fresh Water Fish~~
23 ~~Commission. The law enforcement provisions of this section~~
24 ~~shall be carried out jointly by the department and the~~
25 ~~commission, with the department serving as the lead agency.~~
26 ~~The specific areas of jurisdictional responsibility are to be~~
27 ~~established between the department and the commission by~~
28 ~~interagency agreement.~~

29 (1)(m) The commission ~~department~~ shall promulgate
30 regulations pursuant to chapter 120 relating to the operation
31 and speed of motor boat traffic in port waters with due regard

1 to the safety requirements of such traffic and the
2 navigational hazards related to the movement of commercial
3 vessels.

4 ~~(m)(n)~~ The commission ~~department~~ may designate by rule
5 adopted pursuant to chapter 120 other portions of state waters
6 where manatees are frequently sighted and it can be assumed
7 that manatees inhabit such waters periodically or
8 continuously. Upon designation of such waters, the commission
9 ~~department~~ shall adopt rules pursuant to chapter 120 to
10 regulate motorboat speed and operation which are necessary to
11 protect manatees from harmful collisions with motorboats and
12 from harassment. The commission ~~department~~ may adopt rules
13 pursuant to chapter 120 to protect manatee habitat, such as
14 seagrass beds, within such waters from destruction by boats or
15 other human activity. Such rules shall not protect noxious
16 aquatic plants subject to control under s. 369.20.

17 ~~(n)(o)~~ The commission ~~department~~ may designate, by
18 rule adopted pursuant to chapter 120, limited areas as a safe
19 haven for manatees to rest, feed, reproduce, give birth, or
20 nurse undisturbed by human activity. Access by motor boat to
21 private residences, boat houses, and boat docks through these
22 areas by residents, and their authorized guests, who must
23 cross one of these areas to have water access to their
24 property is permitted when the motorboat is operated at idle
25 speed, no wake.

26 ~~(o)(p)~~ Except in the marked navigation channel of the
27 Florida Intracoastal Waterway as defined in s. 327.02 and the
28 area within 100 feet of such channel, a local government may
29 regulate, by ordinance, motorboat speed and operation on
30 waters within its jurisdiction where manatees are frequently
31 sighted and can be generally assumed to inhabit periodically

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1 or continuously. However, such an ordinance may not take
2 effect until it has been reviewed and approved by the
3 commission department. If the commission department and a
4 local government disagree on the provisions of an ordinance, a
5 local manatee protection committee must be formed to review
6 the technical data of the commission department and the United
7 States Fish and Wildlife Service, and to resolve conflicts
8 regarding the ordinance. The manatee protection committee must
9 be comprised of:

- 10 1. A representative of the commission department;
- 11 2. A representative of the county;
- 12 3. A representative of the United States Fish and
13 Wildlife Service;
- 14 4. A representative of a local marine-related
15 business;
- 16 5. A representative of the Save the Manatee Club;
- 17 6. A local fisher;
- 18 7. An affected property owner; and
- 19 8. A representative of the Florida Marine Patrol.

20
21 If local and state regulations are established for the same
22 area, the more restrictive regulation shall prevail.

23 ~~(p)(q)~~ The commission department shall evaluate the
24 need for use of fenders to prevent crushing of manatees
25 between vessels (100' or larger) and bulkheads or wharves in
26 counties where manatees have been crushed by such vessels.
27 For areas in counties where evidence indicates that manatees
28 have been crushed between vessels and bulkheads or wharves,
29 the commission department shall:

- 30 1. Adopt rules pursuant to chapter 120 requiring use
31 of fenders for construction of future bulkheads or wharves;

1 and

2 2. Implement a plan and time schedule to require
3 retrofitting of existing bulkheads or wharves consistent with
4 port bulkhead or wharf repair or replacement schedules.

5
6 The fenders shall provide sufficient standoff from the
7 bulkhead or wharf under maximum operational compression to
8 ensure that manatees cannot be crushed between the vessel and
9 the bulkhead or wharf.

10 ~~(q)(r)~~ Any violation of a restricted area established
11 by this subsection, or established by rule pursuant to chapter
12 120 or ordinance pursuant to this subsection, shall be
13 considered a violation of the boating laws of this state and
14 shall be charged on a uniform boating citation as provided in
15 s. 327.74, except as otherwise provided in paragraph (s). Any
16 person who refuses to post a bond or accept and sign a uniform
17 boating citation shall, as provided in s. 327.73(3), be guilty
18 of a misdemeanor of the second degree, punishable as provided
19 in s. 775.082 or s. 775.083.

20 ~~(r)(s)~~ Except as otherwise provided in this paragraph,
21 any person violating the provisions of this subsection or any
22 rule or ordinance adopted pursuant to this subsection shall be
23 guilty of a misdemeanor, punishable as provided in s.
24 370.021(2)(a) or (b).

25 1. Any person operating a vessel in excess of a posted
26 speed limit shall be guilty of a civil infraction, punishable
27 as provided in s. 327.73, except as provided in subparagraph
28 2.

29 2. This paragraph does not apply to persons violating
30 restrictions governing "No Entry" zones or "Motorboat
31 Prohibited" zones, who, if convicted, shall be guilty of a

1 misdemeanor, punishable as provided in s. 370.021(2)(a) or
2 (b), or, if such violation demonstrates blatant or willful
3 action, may be found guilty of harassment as described in
4 paragraph (d).

5 (3) PROTECTION OF MAMMALIAN DOLPHINS (PORPOISES).--It
6 is unlawful to catch, attempt to catch, molest, injure, kill,
7 or annoy, or otherwise interfere with the normal activity and
8 well-being of, mammalian dolphins (porpoises), except as may
9 be authorized as a federal permit.

10 (4) ANNUAL FUNDING OF PROGRAMS FOR MARINE ANIMALS.--

11 (a) Each fiscal year the Save the Manatee Trust Fund
12 shall be available to fund an impartial scientific benchmark
13 census of the manatee population in the state. Weather
14 permitting, the study shall be conducted annually by the Fish
15 and Wildlife Conservation Commission ~~Department of~~
16 ~~Environmental Protection~~ and the results shall be made
17 available to the President of the Senate, the Speaker of the
18 House of Representatives, and the Governor and Cabinet for use
19 in the evaluation and development of manatee protection
20 measures. In addition, the Save the Manatee Trust Fund shall
21 be available for annual funding of activities of public and
22 private organizations and those of the commission ~~department~~
23 intended to provide manatee and marine mammal protection and
24 recovery effort; manufacture and erection of informational and
25 regulatory signs; production, publication, and distribution of
26 educational materials; participation in manatee and marine
27 mammal research programs, including carcass salvage and other
28 programs; programs intended to assist the recovery of the
29 manatee as an endangered species, assist the recovery of the
30 endangered or threatened marine mammals, and prevent the
31 endangerment of other species of marine mammals; and other

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1 similar programs intended to protect and enhance the recovery
2 of the manatee and other species of marine mammals. The
3 commission department shall annually solicit advisory
4 recommendations from the Save the Manatee Committee affiliated
5 with the Save the Manatee Club, as identified and recognized
6 in Executive Order 85-19, on the use of funds from the Save
7 the Manatee Trust Fund.

8 (b) Each fiscal year moneys in the Save the Manatee
9 Trust Fund shall also be used, pursuant to s. 327.28(1)(b), to
10 reimburse the cost of activities related to manatee
11 rehabilitation by facilities that rescue, rehabilitate, and
12 release manatees as authorized pursuant to the Fish and
13 Wildlife Service of the United States Department of the
14 Interior. Such facilities must be involved in the actual
15 rescue and full-time acute care veterinarian-based
16 rehabilitation of manatees. The cost of activities includes,
17 but is not limited to, costs associated with expansion,
18 capital outlay, repair, maintenance, and operations related to
19 the rescue, treatment, stabilization, maintenance, release,
20 and monitoring of manatees. Moneys distributed through
21 contractual agreement to each facility for manatee
22 rehabilitation shall be proportionate to the number of
23 manatees under acute care rehabilitation and those released
24 during the previous fiscal year. However, the reimbursement
25 may not exceed the total amount available pursuant to ss.
26 327.25(7) and 327.28(1)(b) for the purposes provided in this
27 paragraph. Prior to receiving reimbursement for the expenses
28 of rescue, rehabilitation, and release, a facility that
29 qualifies under state and federal regulations shall submit a
30 plan to the Fish and Wildlife Conservation Commission
31 ~~Department of Environmental Protection~~ for assisting the

1 ~~commission department~~ and the Department of Highway Safety and
2 Motor Vehicles in marketing the manatee specialty license
3 plates. At a minimum, the plan shall include provisions for
4 graphics, dissemination of brochures, recorded oral and visual
5 presentation, and maintenance of a marketing exhibit. The plan
6 shall be updated annually and the Fish and Wildlife
7 Conservation Commission ~~Department of Environmental Protection~~
8 shall inspect each marketing exhibit at least once each year
9 to ensure the quality of the exhibit and promotional material.
10 Each facility that receives funds for manatee rehabilitation
11 shall annually provide the ~~commission department~~
12 report, within 30 days after the close of the state fiscal
13 year, documenting the efforts and effectiveness of the
14 facility's promotional activities.

15 (c) By December 1 each year, the Fish and Wildlife
16 Conservation Commission ~~Department of Environmental Protection~~
17 shall provide the President of the Senate and the Speaker of
18 the House of Representatives a written report, enumerating the
19 amounts and purposes for which all proceeds in the Save the
20 Manatee Trust Fund for the previous fiscal year are expended,
21 in a manner consistent with those recovery tasks enumerated
22 within the manatee recovery plan as required by the Endangered
23 Species Act.

24 (d) When the federal and state governments remove the
25 manatee from status as an endangered or threatened species,
26 the annual allocation may be reduced.

27 Section 46. Subsections (2), (3), (8), (9), (10), and
28 (11) of section 370.26, Florida Statutes, 1998 Supplement, are
29 amended to read:

30 370.26 Aquaculture definitions; marine aquaculture
31 products, producers, and facilities.--

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1 (2) The Department of Environmental Protection shall
2 encourage the development of aquaculture and the production of
3 aquaculture products. The department shall develop a process
4 consistent with this section that would consolidate permits,
5 general permits, ~~special activity licenses~~, and other
6 regulatory requirements to streamline the permitting process
7 and result in effective regulation of aquaculture activities.
8 This process shall provide for a single application and
9 application fee for marine aquaculture activities which are
10 regulated by the department. Procedures to consolidate
11 permitting actions under this section do not constitute rules
12 within the meaning of s. 120.52.

13 (3) The Department of Agriculture and Consumer
14 Services shall act as a clearinghouse for aquaculture
15 applications, and act as a liaison between the Fish and
16 Wildlife Conservation Commission ~~Division of Marine Resources~~,
17 the Division of State Lands, the Department of Environmental
18 Protection district offices, other divisions within the
19 Department of Environmental Protection, and the water
20 management districts. The Department of Agriculture and
21 Consumer Services shall be responsible for regulating marine
22 aquaculture producers, except as specifically provided herein.

23 (8) The department shall:

24 (a) Coordinate with the Aquaculture Review Council,
25 the Aquaculture Interagency Coordinating Council, and the
26 Department of Agriculture and Consumer Services when
27 developing criteria for aquaculture general permits.

28 (b) Permit experimental technologies to collect and
29 evaluate data necessary to reduce or mitigate environmental
30 concerns.

31 (c) Provide technical expertise and promote the

1 transfer of information that would be beneficial to the
2 development of aquaculture.

3 (9) The Fish and Wildlife Conservation Commission
4 ~~department~~ shall encourage the development of aquaculture in
5 the state through the following:

6 (a) Providing assistance in developing technologies
7 applicable to aquaculture activities, evaluating practicable
8 production alternatives, and providing management agreements
9 to develop innovative culture practices.

10 ~~(b) Permitting experimental technologies to collect~~
11 ~~and evaluate data necessary to reduce or mitigate~~
12 ~~environmental concerns.~~

13 ~~(c) Providing technical expertise and promoting the~~
14 ~~transfer of information that would be beneficial to the~~
15 ~~development of aquaculture.~~

16 ~~(b)(d)~~ Facilitating aquaculture research on life
17 histories, stock enhancement, and alternative species, and
18 providing research results that would assist in the
19 evaluation, development, and commercial production of
20 candidate species for aquaculture, including:

21 1. Providing eggs, larvae, fry, and fingerlings to
22 aquaculturists when excess cultured stocks are available from
23 the commission's ~~department's~~ facilities and the culture
24 activities are consistent with the commission's ~~department's~~
25 stock enhancement projects. Such stocks may be obtained by
26 reimbursing the commission ~~department~~ for the cost of
27 production on a per-unit basis. Revenues resulting from the
28 sale of stocks shall be deposited into the trust fund used to
29 support the production of such stocks.

30 2. Conducting research programs to evaluate candidate
31 species when funding and staff are available.

1 3. Encouraging the private production of marine fish
2 and shellfish stocks for the purpose of providing such stocks
3 for statewide stock enhancement programs. When such stocks
4 become available, the commission ~~department~~ shall reduce or
5 eliminate duplicative production practices that would result
6 in direct competition with private commercial producers.

7 4. Developing a working group, in cooperation with the
8 Department of Agriculture and Consumer Services, the
9 Aquaculture Review Council, and the Aquaculture Interagency
10 Coordinating Council, to plan and facilitate the development
11 of private marine fish and nonfish hatcheries and to encourage
12 private/public partnerships to promote the production of
13 marine aquaculture products.

14 ~~(c)(e) Coordinating with Cooperating with the Game and~~
15 ~~Fresh Water Fish Commission and~~ public and private research
16 institutions within the state to advance the aquaculture
17 production and sale of sturgeon as a food fish.

18 (10) The Fish and Wildlife Conservation Commission
19 ~~department~~ shall coordinate with the Aquaculture Review
20 Council and the Department of Agriculture and Consumer
21 Services to establish and implement grant programs to provide
22 funding for projects and programs that are identified in the
23 state's aquaculture plan, pending legislative appropriations.
24 The commission ~~department~~ and the Department of Agriculture
25 and Consumer Services shall establish and implement a grant
26 program to make grants available to qualified nonprofit,
27 educational, and research entities or local governments to
28 fund infrastructure, planning, practical and applied research,
29 development projects, production economic analysis, and
30 training and stock enhancement projects, and to make grants
31 available to counties, municipalities, and other state and

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1 local entities for applied aquaculture projects that are
2 directed to economic development, pending legislative
3 appropriations.

4 (11) The Fish and Wildlife Conservation Commission
5 ~~department~~ shall provide assistance to the Department of
6 Agriculture and Consumer Services in the development of an
7 aquaculture plan for the state.

8 Section 47. Section 372.072, Florida Statutes, is
9 amended to read:

10 372.072 Endangered and Threatened Species Act.--

11 (1) SHORT TITLE.--This section may be cited as the
12 "Florida Endangered and Threatened Species Act ~~of 1977.~~"

13 (2) DECLARATION OF POLICY.--The Legislature recognizes
14 that the State of Florida harbors a wide diversity of fish and
15 wildlife and that it is the policy of this state to conserve
16 and wisely manage these resources, with particular attention
17 to those species defined by the Fish and Wildlife Conservation
18 ~~Game and Fresh Water Fish~~ Commission, the Department of
19 Environmental Protection, or the United States Department of
20 Interior, or successor agencies, as being endangered or
21 threatened. As Florida has more endangered and threatened
22 species than any other continental state, it is the intent of
23 the Legislature to provide for research and management to
24 conserve and protect these species as a natural resource.

25 (3) DEFINITIONS.--As used in this section:

26 (a) "Fish and wildlife" means any member of the animal
27 kingdom, including, but not limited to, any mammal, fish,
28 bird, amphibian, reptile, mollusk, crustacean, arthropod, or
29 other invertebrate.

30 (b) "Endangered species" means any species of fish and
31 wildlife naturally occurring in Florida, whose prospects of

1 survival are in jeopardy due to modification or loss of
2 habitat; overutilization for commercial, sporting, scientific,
3 or educational purposes; disease; predation; inadequacy of
4 regulatory mechanisms; or other natural or manmade factors
5 affecting its continued existence.

6 (c) "Threatened species" means any species of fish and
7 wildlife naturally occurring in Florida which may not be in
8 immediate danger of extinction, but which exists in such small
9 populations as to become endangered if it is subjected to
10 increased stress as a result of further modification of its
11 environment.

12 (4) INTERAGENCY COORDINATION.--

13 (a)~~i~~. The ~~Game and Fresh Water Fish~~ commission shall
14 be responsible for research and management of freshwater and
15 upland species, and for research and management of marine
16 species.

17 ~~2. The Department of Environmental Protection shall be~~
18 ~~responsible for research and management of marine species.~~

19 (b) Recognizing that citizen awareness is a key
20 element in the success of this plan, the ~~Game and Fresh Water~~
21 ~~Fish~~ commission, ~~the Department of Environmental Protection,~~
22 and the Office of Environmental Education of the Department of
23 Education are encouraged to work together to develop a public
24 education program with emphasis on, but not limited to, both
25 public and private schools.

26 (c) ~~The Department of Environmental Protection, the~~
27 ~~Marine Fisheries Commission, or the Game and Fresh Water Fish~~
28 commission, in consultation with the Department of Agriculture
29 and Consumer Services, ~~the Department of Commerce, the~~
30 Department of Community Affairs, or the Department of
31 Transportation, may establish reduced speed zones along roads,

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1 streets, and highways to protect endangered species or
2 threatened species.

3 (5) ANNUAL REPORT.--The director of the ~~Game and Fresh~~
4 ~~Water Fish~~ commission, in consultation with the Secretary of
5 ~~Environmental Protection~~, shall, at least 30 days prior to
6 each annual session of the Legislature, transmit to the
7 Governor and Cabinet, the President of the Senate, the Speaker
8 of the House of Representatives, and the chairs of the
9 appropriate Senate and House committees, a revised and updated
10 plan for management and conservation of endangered and
11 threatened species, including criteria for research and
12 management priorities; a description of the educational
13 program; statewide policies pertaining to protection of
14 endangered and threatened species; additional legislation
15 which may be required; and the recommended level of funding
16 for the following year, along with a progress report and
17 budget request.

18 Section 48. Section 372.0725, Florida Statutes, is
19 amended to read:

20 372.0725 Killing or wounding of any species designated
21 as endangered, threatened, or of special concern; criminal
22 penalties.--It is unlawful for a person to intentionally kill
23 or wound any fish or wildlife of a species designated by the
24 Fish and Wildlife Conservation ~~Game and Fresh Water Fish~~
25 Commission as endangered, threatened, or of special concern,
26 or to intentionally destroy the eggs or nest of any such fish
27 or wildlife, except as provided for in the rules of the ~~Game~~
28 ~~and Fresh Water Fish~~ commission, ~~the Department of~~
29 ~~Environmental Protection~~, or the ~~Marine Fisheries Commission~~.
30 Any person who violates this provision with regard to an
31 endangered or threatened species is guilty of a felony of the

1 third degree, punishable as provided in s. 775.082, s.
2 775.083, or s. 775.084.

3 Section 49. Section 372.073, Florida Statutes, is
4 amended to read:

5 372.073 Endangered and Threatened Species Reward
6 Program.--

7 (1) There is established within the Fish and Wildlife
8 Conservation Game and Fresh Water Fish Commission the
9 Endangered and Threatened Species Reward Program, to be funded
10 from the Nongame Wildlife Trust Fund. The commission may post
11 rewards to persons responsible for providing information
12 leading to the arrest and conviction of persons illegally
13 killing or wounding or wrongfully possessing any of the
14 endangered and threatened species listed on the official
15 Florida list of such species maintained by the commission or
16 the arrest and conviction of persons who violate s. 372.667 or
17 s. 372.671. Additional funds may be provided by donations from
18 interested individuals and organizations. The reward program
19 is to be administered by the commission. The commission shall
20 establish a schedule of rewards.

21 (2) The commission may expend funds only for the
22 following purposes:

23 (a) The payment of rewards to persons, other than law
24 enforcement officers, commission personnel, and members of
25 their immediate families, for information as specified in
26 subsection (1); or

27 (b) The promotion of public recognition and awareness
28 of the Endangered and Threatened Species Reward Program.

29 Section 50. Paragraph (a) of subsection (2) and
30 subsection (6) of section 370.093, Florida Statutes, 1998
31 Supplement, are amended to read:

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1 370.093 Illegal use of nets.--

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

13 (6) The Fish and Wildlife Conservation ~~Marine~~
14 ~~Fisheries~~ Commission is granted authority to adopt rules
15 pursuant to ~~s. ss. 370.025 and 370.027~~ implementing this
16 section and the prohibitions and restrictions of s. 16, Art. X
17 of the State Constitution.

18 Section 51. Subsection (2) and paragraph (a) of
19 subsection (4) of section 376.11, Florida Statutes, 1998
20 Supplement, are amended to read:

21 376.11 Florida Coastal Protection Trust Fund.--

22 (2) The Florida Coastal Protection Trust Fund is
23 established, to be used by the department and the Fish and
24 Wildlife Conservation Commission as a nonlapsing revolving
25 fund for carrying out the purposes of ss. 376.011-376.21. To
26 this fund shall be credited all registration fees, penalties,
27 judgments, damages recovered pursuant to s. 376.121, other
28 fees and charges related to ss. 376.011-376.21, and the excise
29 tax revenues levied, collected, and credited pursuant to ss.
30 206.9935(1) and 206.9945(1)(a). Charges against the fund
31 shall be in accordance with this section.

1 (4) Moneys in the Florida Coastal Protection Trust
2 Fund shall be disbursed for the following purposes and no
3 others:

4 (a) Administrative expenses, personnel expenses, and
5 equipment costs of the department and the Fish and Wildlife
6 Conservation Commission related to the enforcement of ss.
7 376.011-376.21 subject to s. 376.185.

8 Section 52. Section 20.325, Florida Statutes, is
9 repealed.

10 Section 53. Section 370.026, Florida Statutes, is
11 repealed.

12 Section 54. Notwithstanding chapter 60K-5, Florida
13 Administrative Code, or state law to the contrary, employees
14 transferring from the Department of Environmental Protection,
15 the Florida Game and Fresh Water Fish Commission, and the
16 Marine Fisheries Commission, to fill positions transferred to
17 the Fish and Wildlife Conservation Commission, shall also
18 transfer any accrued annual leave, sick leave, regular
19 compensatory leave and special compensatory leave balances.

20 Section 55. Notwithstanding chapter 60K-5,
21 Administrative Code, or state law to the contrary, employees
22 transferring from the Department of Environmental Protection
23 to fill positions transferred to the Department of Agriculture
24 and Consumer Services shall also transfer any accrued annual
25 leave, sick leave, regular compensatory leave and special
26 compensatory leave balances.

27 Section 56. Notwithstanding the provisions of
28 subsection (2) of section 20.255, Florida Statutes, the
29 Secretary of the Department of Environmental Protection is
30 authorized to restructure and reorganize the department to
31 increase efficiency in carrying out the agency's statutory

1 mission and objectives. The Secretary shall report to the
2 Governor, the Speaker of the House, and the President of the
3 Senate no later than December 1, 1999, on the department's
4 organizational structure. The report must contain recommended
5 statutory changes needed to accomplish the department's new
6 structure.

7 Section 57. The Division of Statutory Revision of the
8 Office of Legislative Services is directed to prepare a
9 reviser's bill for introduction at the 2000 Regular Session of
10 the Legislature to change "Game and Fresh Water Fish
11 Commission" to "Fish and Wildlife Conservation Commission" and
12 to make such further changes as are necessary to conform the
13 Florida Statutes to the organizational changes created by this
14 act.

15 Section 58. If any provision of this act or the
16 application thereof to any person or circumstance is held
17 invalid, the invalidity shall not affect other provisions or
18 applications of the act which can be given effect without the
19 invalid provisions or applications, and to this end the
20 provisions of this act are declared severable.

21 Section 59. This act shall take effect July 1, 1999.
22
23

24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 On page 1,
27 remove from the title of the bill: everything before the
28 enacting clause

29
30 and insert in lieu thereof:

31 A bill to be entitled

1 An act relating to the Fish and Wildlife
2 Conservation Commission; creating s. 20.331,
3 F.S.; creating the Fish and Wildlife
4 Conservation Commission; establishing
5 administrative units within the new commission;
6 establishing sources of funding; transferring
7 the Game and Fresh Water Fish Commission, the
8 Marine Fisheries Commission, and various
9 bureaus of the Department of Environmental
10 Protection to the Fish and Wildlife
11 Conservation Commission; providing for
12 administrative transfer of certain offices;
13 providing legislative intent; providing for an
14 operating agreement and an annual work plan
15 regarding responsibilities shared by the
16 department and the commission; providing for
17 submission of the work plan to the Governor and
18 the Legislature; providing for a memorandum of
19 agreement between the commission and the
20 department regarding responsibilities of the
21 Florida Marine Research Institute to the
22 department; amending s. 20.255, F.S.; revising
23 language with respect to the administrative
24 makeup of the Department of Environmental
25 Protection to conform to the act; providing for
26 the appropriation of certain revenues and
27 federal funds to the commission; providing for
28 limitation on expenditures by the commission;
29 providing for the appointment of a working
30 group by the Executive Office of the Governor;
31 amending s. 20.14, F.S.; adding a Division of

1 Aquaculture of the Department of Agriculture
2 and Consumer Services; amending s. 206.606,
3 F.S.; adjusting distribution of fuel tax
4 proceeds in conformance to the act to the
5 commission; amending s. 320.08058, F.S.;
6 conforming terminology to the act; amending s.
7 327.02, F.S.; providing definitions and
8 repealing s. 327.02(6), F.S.; to remove
9 reference to the Department of Environmental
10 Protection; amending s. 327.25, F.S.; providing
11 for classification and registration of vessels;
12 adjusting location of antique license vessel
13 decal; amending s. 327.26, F.S.; providing for
14 stickers or emblems for the Save the Manatee
15 Trust Fund; amending s. 327.28, F.S.; providing
16 for the appropriation and distribution of
17 vessel registration funds; amending s. 327.30,
18 F.S.; providing requirements regarding
19 collisions, accidents, and casualties; amending
20 s. 327.35215, F.S.; providing penalties;
21 amending s. 327.395, F.S.; providing for
22 boating safety identification cards; amending
23 s. 327.41, F.S.; providing for uniform watering
24 regulatory markers; amending s. 327.43, F.S.;
25 providing for navigation channel requirements;
26 amending s. 327.46, F.S.; providing for the
27 establishment of restricted areas on the waters
28 of the state; repealing s. 258.398, F.S.;
29 amending s. 327.48, F.S.; providing
30 requirements for regattas, races, marine
31 parades, tournaments, or exhibitions; amending

Amendment No. 1 (for drafter's use only)

1 s. 327.70, F.S.; providing for the enforcement
2 of chapters 327 and 328, F.S.; amending s.
3 327.71, F.S.; providing an exemption; amending
4 s. 327.731, F.S.; providing for mandatory
5 education for violators; amending s. 327.74,
6 F.S.; providing for uniform boating citations;
7 amending s. 327.803, F.S.; providing for a
8 Boating Advisory Council; amending s. 327.804,
9 F.S.; providing for statistics on boating
10 accidents and violations; amending s. 327.90,
11 F.S.; providing for electronic or telephonic
12 transactions; amending s. 328.01, F.S.;
13 providing for application for certificate of
14 title; amending s. 339.281, F.S.; providing for
15 marine accident reports; amending s. 370.025,
16 F.S.; providing marine policy and standards,
17 and rulemaking authority for the Fish and
18 Wildlife Conservation Commission; repealing s.
19 370.027(1), (2), and (3), F.S.; deleting
20 provisions relating to rulemaking authority
21 with respect to marine life; amending s.
22 370.06, F.S.; transferring responsibilities for
23 issuing certain licenses related to marine life
24 to the Fish and Wildlife Conservation
25 Commission and the Department of Agriculture
26 and Consumer Services; amending s. 370.0608,
27 F.S.; providing for the deposit of license
28 fees; allocating of federal funds; amending s.
29 370.063, F.S.; correcting references; deleting
30 obsolete dates; adjusting use of fees; amending
31 s. 370.071, F.S.; transferring responsibilities

Amendment No. 1 (for drafter's use only)

1 for the regulation of shellfish processors to
2 the Department of Agriculture and Consumer
3 Services; amending s. 370.12, F.S.; providing
4 rulemaking guidance related to endangered
5 marine mammals; correcting obsolete references;
6 amending s. 370.26, F.S.; transferring certain
7 activities related to aquaculture to the Fish
8 and Wildlife Conservation Commission; amending
9 s. 372.072, F.S.; relating to the Endangered
10 and Threatened Species Act; correcting obsolete
11 references; amending s. 372.0725, F.S.;
12 providing penalties for the killing or wounding
13 of any species designated as endangered,
14 threatened, or of special concern; amending s.
15 372.073, F.S.; transferring responsibility for
16 the Endangered and Threatened Species Reward
17 Program to the Fish and Wildlife Conservation
18 Commission; amending s. 370.093, F.S.;
19 correcting cross references; amending s.
20 376.11, F.S., authorizing additional users of
21 the Coastal Protection Trust Fund; providing
22 for the transfer of employee benefits for
23 employees of designated state agencies;
24 authorizing the Department of Environmental
25 Protection to restructure and reorganize;
26 providing for a report to the Legislature on
27 the restructure and reorganization; repealing
28 s. 20.325, F.S.; abolishing the Game and Fresh
29 Water Fish Commission; repealing s. 370.026,
30 F.S.; abolishing the Marine Fisheries
31 Commission; instructing Division of Statutory

593-118AX-06

Bill No. CS/HB 2145

Amendment No. 1 (for drafter's use only)

1 Revision to draft reviser's bill for year 2000
2 Regular Session; providing an effective date.
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