

By the Committee on Water & Resource Management and
Representatives Alexander and Kelly

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

1 group by the Executive Office of the Governor;
2 amending s. 206.606, F.S.; adjusting
3 distribution of fuel tax proceeds in
4 conformance to the act to the commission;
5 amending s. 320.08058, F.S.; conforming
6 terminology to the act; amending s. 327.02,
7 F.S.; providing definitions and repealing s.
8 327.02(6), F.S.; to remove reference to the
9 Department of Environmental Protection;
10 amending s. 327.25, F.S.; providing for
11 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; amending s. 327.48, F.S.;
29 providing requirements for regattas, races,
30 marine parades, tournaments, or exhibitions;
31 amending s. 327.70, F.S.; providing for the

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

1 Department of Agriculture and Consumer
2 Services; amending s. 370.12, F.S.; providing
3 rulemaking guidance related to endangered
4 marine mammals; correcting obsolete references;
5 amending s. 370.26, F.S.; transferring certain
6 activities related to aquaculture to the Fish
7 and Wildlife Conservation Commission; amending
8 s. 372.072, F.S.; relating to the Endangered
9 and Threatened Species Act; correcting obsolete
10 references; amending s. 372.0725, F.S.;
11 providing penalties for the killing or wounding
12 of any species designated as endangered,
13 threatened, or of special concern; amending s.
14 372.073, F.S.; transferring responsibility for
15 the Endangered and Threatened Species Reward
16 Program to the Fish and Wildlife Conservation
17 Commission; amending s. 370.093, F.S.;
18 correcting cross references; repealing s.
19 20.325, F.S.; abolishing the Game and Fresh
20 Water Fish Commission; repealing s. 370.026,
21 F.S.; abolishing the Marine Fisheries
22 Commission; instructing Division of Statutory
23 Revision to draft reviser's bill for year 2000
24 Regular Session; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 20.331, Florida Statutes, is
29 created to read:

30 20.331 Fish and Wildlife Conservation Commission.--
31

1 (1) The Legislature, recognizing the Fish and Wildlife
2 Conservation Commission as being specifically authorized by
3 the State Constitution under s. 9, Art. IV, grants rights and
4 privileges to the commission, as contemplated by s. 6, Art. IV
5 of the State Constitution, equal to those of departments
6 established under this chapter, while preserving its
7 constitutional designation and title as a commission.

8 (2) It shall be the mission of the Fish and Wildlife
9 Conservation Commission to manage, protect, conserve,
10 maintain, improve, and extend Florida's marine life,
11 freshwater aquatic life, and wildlife resources. The
12 commission shall ensure that Florida's marine life resources,
13 freshwater aquatic life, wildlife resources, and their
14 habitats are managed and conserved for optimum sustainability.
15 The commission additionally will ensure that the use and
16 development of these resources are in the best interest of all
17 the people of the State of Florida for current and future
18 generations.

19 (a) The Fish and Wildlife Conservation Commission is
20 charged with the responsibility of exercising the regulatory
21 and executive authority of the state over wild animal life,
22 freshwater aquatic life, and marine life as authorized by s.
23 9, Art. IV of the State Constitution. The commission shall
24 have the power and authority to enforce throughout the state
25 all laws relating to game, nongame birds, freshwater aquatic
26 life, fur-bearing animals, marine life, and all commission
27 rules and regulations relating to wild animal life, freshwater
28 aquatic life, and marine life.

29 (b) The Fish and Wildlife Conservation Commission is
30 charged with the responsibility of implementing management,
31 protection, and conservation measures to ensure the health and

1 abundance of the wildlife resources, freshwater aquatic life,
2 and marine life resources of the state. Management,
3 protection, and conservation measures shall be based upon the
4 best information available, including biological,
5 sociological, economic and other data deemed relevant by the
6 commission. Management, protection, and conservation measures
7 shall be fair and equitable to all the people of the state and
8 shall be carried out in such a manner that no individual,
9 corporation, or entity acquires an excessive share of
10 privileges.

11 (3) The head of the Fish and Wildlife Conservation
12 Commission is the commission appointed by the Governor as
13 provided for in s. 9, Art. IV of the State Constitution.

14 (4) The following administrative units are established
15 within the commission:

16 (a) Division of Administrative Services.

17 (b) Division of Law Enforcement, with a Bureau of
18 Marine Enforcement.

19 (c) Division of Fisheries, with a Bureau of Marine
20 Fisheries and a Bureau of Freshwater Fisheries.

21 (d) Division of Wildlife.

22 (e) Florida Marine Research Institute.

23
24 The bureaus and offices of the Game and Fresh Water Fish
25 Commission existing on February 1, 1999, are established
26 within the Fish and Wildlife Conservation Commission. Except
27 as authorized in this subsection, no additional bureaus or
28 offices may be established within the commission without
29 specific authorization by the Legislature.

30 (5)(a) To aid the commission in the implementation of
31 its constitutional and statutory duties, the Legislature

1 authorizes the commission to appoint, fix the salary of, and
2 at its pleasure, remove a person, not a member of the
3 commission, as the executive director. The executive director
4 shall be reimbursed for travel per diem and travel expenses,
5 as provided in s. 112.061, incurred in the discharge of
6 official duties. The executive director shall maintain
7 headquarters and reside in Tallahassee.

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

11 (6) In further exercise of its duties, the Fish and
12 Wildlife Conservation Commission:

13 (a) Shall assign to the Division of Fisheries such
14 powers, duties, responsibilities, and functions as are
15 necessary to ensure compliance with the laws and rules
16 governing the management, protection, conservation,
17 improvement, and expansion of Florida's freshwater aquatic
18 life and marine life resources.

19 (b) Shall assign to the Division of Wildlife such
20 powers, duties, responsibilities, and functions as are
21 necessary to ensure compliance with the laws and rules
22 governing the management, protection, conservation,
23 improvement, and expansion of Florida's wildlife resources.

24 (c) Shall assign to the Division of Law Enforcement
25 such powers, duties, responsibilities, and functions as are
26 necessary to ensure enforcement of the laws and rules
27 governing the management, protection, conservation,
28 improvement, and expansion of Florida's wildlife resources,
29 freshwater aquatic life resources, and marine life resources.
30 In performance of their duties as sworn law enforcement
31 officers for the State of Florida, the division's officers

1 also shall assist in the enforcement of all general
2 environmental laws remaining under the responsibility of the
3 Department of Environmental Protection.

4 (d) Shall assign to the Florida Marine Research
5 Institute such powers, duties, responsibilities, and functions
6 as are necessary to accomplish its mission. It shall be the
7 mission of the Florida Marine Research Institute to:

8 1. Serve as the primary source of research and
9 technical information and expertise on the status of Florida's
10 saltwater resources;

11 2. Monitor the status and health of saltwater habitat,
12 marine life, and wildlife;

13 3. Develop and implement restoration techniques for
14 marine habitat and enhancement of saltwater plant and animal
15 populations;

16 4. Respond and provide critical technical support for
17 marine catastrophes including oil spills, ship groundings,
18 major marine species die-offs, hazardous spills, and natural
19 disaster;

20 5. Identify and monitor marine toxic red tides and
21 their impacts, and provide technical support for state and
22 local public health concerns; and

23 6. Provide state and local governments with estuarine,
24 marine, coastal technical information and research results.

25 (7)(a) Shall implement a system of adequate due
26 process procedures to be accorded to any party, as defined in
27 s. 120.52, whose substantial interests will be affected by any
28 action of the Fish and Wildlife Conservation Commission in the
29 performance of its constitutional duties or responsibilities.

30 (b) The Legislature encourages the commission to
31 incorporate in its process the provisions of s. 120.54(3)(c)

1 when adopting rules in the performance of its constitutional
2 duties or responsibilities.

3 (c) The provisions of chapter 120 shall be accorded to
4 any party whose substantial interests will be affected by any
5 action of the commission in the performance of its statutory
6 duties or responsibilities. For purposes of this subsection,
7 statutory duties or responsibilities include, but are not
8 limited to, the following:

9 1. Research and management responsibilities for marine
10 species listed as endangered, threatened, or of special
11 concern, including, but not limited to, manatees and marine
12 turtles;

13 2. Establishment and enforcement of boating safety
14 regulations;

15 3. Land acquisition and management;

16 4. Enforcement and collection of fees for all
17 recreational and commercial hunting or fishing licenses or
18 permits;

19 5. Aquatic plant removal and management;

20 6. Enforcement of penalties for violations of
21 commission rules, including, but not limited to, the seizure
22 and forfeiture of vessels and other equipment used to commit
23 those violations;

24 7. Establishment of free fishing days;

25 8. Regulation of off-road vehicles on state lands;

26 9. Establishment and coordination of a statewide
27 hunter safety course;

28 10. Establishment of programs and activities to
29 develop and distribute public education materials;

30 11. Police powers of wildlife and marine officers;

31

1 12. Establishment of citizen support organizations to
2 provide assistance, funding, and promotional support for
3 programs of the commission;

4 13. Creation of the Voluntary Authorized Hunter
5 Identification Program; and

6 14. Regulation of required clothing of persons hunting
7 deer.

8 (d) The commission is directed to provide a report on
9 the development and implementation of its adequate due process
10 provisions to the President of the Senate, the Speaker of the
11 House of Representatives, and the appropriate substantive
12 committees of the House of Representatives and the Senate no
13 later than December 1, 1999.

14 (8) Comments submitted by the commission to a
15 permitting agency for applications for permits, licenses, or
16 authorizations impacting the commission's jurisdiction must be
17 based on credible, factual scientific data, and must be
18 received by the permitting agency within the time specified by
19 applicable statutes or rules, or within 30 days, whichever is
20 shorter. Comments provided by the commission are not binding
21 on the permitting agency. Should a permitting agency use the
22 commission's comments as a condition of denial, approval, or
23 modification of a proposed permit, license, or authorization,
24 any party to an administrative proceeding involving such
25 proposed action may require the commission to join as a party
26 in determining the validity of the condition. In any action
27 where the commission is joined as a party, the commission
28 shall only bear the actual cost of defending the validity of
29 the credible, factual scientific data used as a basis for its
30 comments.

31

1 (9) Shall acquire, in the name of the state, lands and
2 waters suitable for the protection, improvement, and
3 restoration of marine life, wildlife resources, and freshwater
4 aquatic life resources by purchase, lease, gift or otherwise,
5 using state, federal, or other sources of funding. Lands
6 acquired under this section shall be managed for recreation
7 and other multiple-use activities that do not impede the
8 commission's ability to perform its constitutional and
9 statutory responsibilities and duties.

10 (10) May require any employee of the commission to
11 give a bond for the faithful performance of duties. The
12 commission may determine the amount of the bond and must
13 approve the bond. In determining the amount of the bond, the
14 commission may consider the amount of money or property likely
15 to be in custody of the officer or employee at any one time.
16 The premiums for the bond must be paid out of the funds of the
17 commission.

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

22 Section 3. The Marine Fisheries Commission is
23 transferred to the Fish and Wildlife Conservation Commission
24 by a type two transfer, as defined in s. 20.06(2), Florida
25 Statutes.

26 Section 4. (1) The Bureau of Environmental Law
27 Enforcement, the Bureau of Administrative Support, the Bureau
28 of Operational Support, and the Office of Enforcement Planning
29 and Policy Coordination within the Division of Law Enforcement
30 at the Department of Environmental Protection, together with
31 the positions assigned to these specified bureaus and offices

1 as of February 1, 1999, are transferred to the Fish and
2 Wildlife Conservation Commission by a type two transfer, as
3 defined in s. 20.06(2), Florida Statutes, except for:

4 (a) Any administrative support positions and equipment
5 within the Bureau of Administrative Support and the Bureau of
6 Operational Support assigned to support the Bureau of
7 Emergency Response and the Office of Environmental
8 Investigations within the Division of Law Enforcement at the
9 Department of Environmental Protection as of February 1, 1999;

10 (b) Any sworn positions classified as Investigator I
11 or Investigator II positions within the different program
12 components of the Division of Law Enforcement at the
13 Department of Environmental Protection as of February 1, 1999.
14 It is the intent of the Legislature that these Investigator I
15 and Investigator II positions shall be reassigned to the
16 Office of Environmental Investigations remaining within the
17 Department of Environmental Protection;

18 (c) Any sworn positions assigned to the Office of the
19 Director of the Division of Law Enforcement as of February 1,
20 1999; and

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

24 (2) It is the intent of the Legislature that the sworn
25 positions assigned to the Uniform Patrol, Inspections, and
26 Boating Safety program components of the Division of Law
27 Enforcement at the Department of Environmental Protection as
28 of February 1, 1999, shall be assigned to the Bureau of Marine
29 Enforcement with the Division of Law Enforcement at the Fish
30 and Wildlife Conservation Commission.

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1 (3) It is the intent of the Legislature that the sworn
2 positions assigned to the Aviation program component of the
3 Bureau of Environmental Law Enforcement at the Department of
4 Environmental Protection as of February 1, 1999, shall be
5 assigned to the Division of Law Enforcement at the Fish and
6 Wildlife Conservation Commission.

7 (4) It is the intent of the Legislature that no duties
8 or responsibilities relating to boating safety shall remain in
9 the Department of Environmental Protection.

10 Section 5. (1) The Office of Fisheries Management and
11 Assistance Services, the Bureau of Protected Species
12 Management, and the Florida Marine Research Institute with the
13 Division of Marine Resources at the Department of
14 Environmental Protection, together with the positions assigned
15 to the specified office, bureau, and institute as of February
16 1, 1999, are transferred to the Fish and Wildlife Conservation
17 Commission by a type two transfer, as defined in s. 20.06(2),
18 Florida Statutes.

19 (2) It is the intent of the Legislature that the
20 Office of Fisheries Management and Assistance Services at the
21 Department of Environmental Protection be assigned to the
22 Bureau of Marine Fisheries within the Division of Fisheries at
23 the Fish and Wildlife Conservation Commission.

24 (3) It is the intent of the Legislature that the
25 Florida Marine Research Institute at the Department of
26 Environmental Protection be established as a separate budget
27 entity within the Fish and Wildlife Conservation Commission,
28 and assigned to the Office of the Executive Director for
29 administrative purposes.

30 (4) It is the intent of the Legislature that the
31 Bureau of Protected Species Management at the Department of

1 Environmental Protection be assigned as a bureau to the Office
2 of Environmental Services within the commission.

3 Section 6. Within the Department of Environmental
4 Protection, the Office of Environmental Investigations, and
5 the Bureau of Emergency Response are assigned to the Office of
6 Environmental Law Enforcement within the office of the
7 secretary.

8 Section 7. The Bureau of Marine Resource Regulation
9 and Development at the Department of Environmental Protection,
10 and the positions assigned to the bureau effective February 1,
11 1999, are transferred to the Department of Agriculture and
12 Consumer Services by a type two transfer, as defined in s.
13 20.06(2), Florida Statutes.

14 (1) It is the intent of the Legislature that the
15 Processing Plant Inspection Section and the Shellfish
16 Environmental Assessment Section of the Bureau of Marine
17 Resource Regulation and Development at the Department of
18 Environmental Protection be assigned to the Division of Food
19 Safety within the Department of Agriculture and Consumer
20 Services. Water quality data collected by the Division of
21 Food Safety within the Department of Agriculture and Consumer
22 Services are to be shared with the Division of Water Resource
23 Management within the Department of Environmental Protection.

24 (2) It is the intent of the Legislature that the
25 Aquaculture and Shellfish Development Section of the Bureau of
26 Marine Resource Regulation and Development at the Department
27 of Environmental Protection be assigned to the Division of
28 Marketing at the Department of Agriculture and Consumer
29 Services.

30 Section 8. Subsections (2) and (6) of section 20.255,
31 Florida Statutes, 1998 Supplement, are amended, and

1 subsections (7), (8), (9), and (10) are added to said section,
2 to read:

3 20.255 Department of Environmental Protection.--There
4 is created a Department of Environmental Protection.

5 (2)(a) There shall be two deputy secretaries and an
6 executive coordinator for ecosystem management who are to be
7 appointed by and shall serve at the pleasure of the secretary.
8 The secretary may assign either deputy secretary the
9 responsibility to supervise, coordinate, and formulate policy
10 for any division, office, or district. The following special
11 offices are established and headed by managers, each of whom
12 is to be appointed by and serve at the pleasure of the
13 secretary:

14 (1) Office of General Counsel,

15 (2) Office of Inspector General,

16 (3) Office of Communication, the latter including
17 public information, legislative liaison, cabinet liaison and
18 special projects,

19 (4) Office of Water Policy,

20 (5) Office of Intergovernmental Programs,

21 (6) Office of Ecosystem Planning and Coordination,

22 (7) Office of Environmental Education,

23 (8) Office of Greenways and Trails, and an ~~Office of~~
24 ~~the Youth Corps.~~

25 (9) Office of Environmental Law Enforcement.

26 (b) The executive coordinator for ecosystem management
27 shall coordinate policy within the department to assure the
28 implementation of the ecosystem management provisions of
29 chapter 93-213, Laws of Florida. The executive coordinator for
30 ecosystem management shall supervise only the Office of Water
31 Policy, the Office of Intergovernmental Programs, the Office

1 of Ecosystem Planning and Coordination, and the Office of
2 Environmental Education. The executive coordinator for
3 ecosystem management may also be delegated authority by the
4 secretary to act on behalf of the secretary; this authority
5 may include the responsibility to oversee the inland
6 navigation districts.

7 (c) The other special offices not supervised by the
8 executive coordinator for ecosystem management shall report to
9 the secretary; however, with the exception of the Office of
10 Environmental Law Enforcement, the secretary may assign them,
11 for daily coordination purposes, to report through a senior
12 manager other than the secretary.

13 (d) There shall be six administrative districts
14 involved in regulatory matters of waste management, water
15 facilities, wetlands, and air resources, which shall be headed
16 by managers, each of whom is to be appointed by and serve at
17 the pleasure of the secretary. Divisions of the department may
18 have one assistant or two deputy division directors, as
19 required to facilitate effective operation.

20
21 The managers of all divisions and offices specifically named
22 in this section and the directors of the six administrative
23 districts are exempt from part II of chapter 110 and are
24 included in the Senior Management Service in accordance with
25 s. 110.205(2)(i). No other deputy secretaries or senior
26 management positions at or above the division level, except
27 those established in chapter 110, may be created without
28 specific legislative authority.

29 (6) The following divisions of the Department of
30 Environmental Protection are established:

31 (a) Division of Administrative and Technical Services.

- 1 (b) Division of Air Resource Management.
2 (c) Division of Water Resource Management Facilities.
3 ~~(d) Division of Law Enforcement.~~
4 (d)(e) Division of Resource Assessment and Management
5 Marine Resources.
6 ~~(e)(f) Division of Waste Management.~~
7 ~~(f)(g) Division of Recreation and Parks.~~
8 (g)(h) Division of State Lands, the director of which
9 is to be appointed by the secretary of the department, subject
10 to confirmation by the Governor and Cabinet sitting as the
11 Board of Trustees of the Internal Improvement Trust Fund.
12 ~~(i) Division of Environmental Resource Permitting.~~

13
14 In order to ensure statewide and intradepartmental
15 consistency, the department's divisions shall direct the
16 district offices and bureaus on matters of interpretation and
17 applicability of the department's rules and programs. No
18 additional divisions, bureaus, or offices may be established
19 by the Department of Environmental Protection without specific
20 authorization by the Legislature.

21 (7) Law enforcement officers of the Department of
22 Environmental Protection are constituted law enforcement
23 officers of this state with full power to investigate and
24 arrest for any violation of the laws of this state and the
25 rules of the department under its jurisdiction. The general
26 laws applicable to arrests by peace officers of this state
27 apply to such law enforcement officers. The law enforcement
28 officers may enter upon any land or waters of the state in
29 performing their lawful duties and may take with them any
30 necessary equipment, and this entry does not constitute a
31 trespass. It is lawful for any boat, motor vehicle, or

1 aircraft owned or chartered by the department or its agents,
2 and used in the performance of the department's law
3 enforcement duties, or employees while in performance of their
4 law enforcement duties, to land on and depart from any of the
5 beaches or waters of this state. The law enforcement officers
6 may arrest any person in the act of violating any rule of the
7 department, or any of the laws of this state. It is unlawful
8 for any person to resist arrest or in any manner interfere,
9 either by abetting or assisting the resistance or otherwise
10 interfering, with any law enforcement officer lawfully engaged
11 in performing the duties imposed upon him or her by law or
12 rule of the department.

13 (8) The Department of Legal Affairs shall attend to
14 the legal business of the Department of Environmental
15 Protection and its divisions. If any question of law or any
16 litigation arises and the Department of Legal Affairs is
17 otherwise occupied and cannot give the necessary time and
18 attention to the question of law or litigation, the
19 appropriate state attorney shall attend to any question of law
20 or litigation arising within his or her circuit. If the state
21 attorney is otherwise occupied and cannot give the necessary
22 time and attention to the question of law or litigation, the
23 Department of Environmental Protection may employ additional
24 counsel for that particular cause with the advice and consent
25 of the Department of Legal Affairs. The additional counsel's
26 fees shall be paid from the moneys appropriated to the
27 Department of Environmental Protection.

28 (9) Records and documents of the Department of
29 Environmental Protection shall be retained by the department
30 as specified in record retention schedules established under
31

1 the general provisions of chapters 119 and 257. Further, the
2 department is authorized to:
3 (a) Destroy, or otherwise dispose of, those records
4 and documents in conformity with the approved retention
5 schedules.
6 (b) Photograph, microphotograph, or reproduce such
7 records and documents on film, as authorized and directed by
8 the approved retention schedules, whereby each page will be
9 exposed in exact conformity with the original records and
10 documents retained in compliance with the provisions of this
11 section. Photographs or microphotographs in the form of film
12 or print of any records, made in compliance with the
13 provisions of this section, shall have the same force and
14 effect as the originals thereof would have and shall be
15 treated as originals for the purpose of their admissibility in
16 evidence. Duly certified or authenticated reproductions of
17 such photographs or microphotographs shall be admitted in
18 evidence equally with the original photographs or
19 microphotographs. The impression of the seal of the
20 Department of Environmental Protection on a certificate made
21 by the department and signed by the Secretary of Environmental
22 Protection entitles the certificate to be received in all
23 courts and in all proceedings in this state and is prima facie
24 evidence of all factual matters set forth in the certificate.
25 A certificate may relate to one or more records as set forth
26 in the certificate or in a schedule attached to the
27 certificate.
28 (10) The Department of Environmental Protection may
29 require that bond be given by any employee of the department,
30 payable to the Governor of the state and the Governor's
31 successor in office, for the use and benefit of those whom it

1 concerns, in such penal sums and with such good and sufficient
2 surety or sureties as are approved by the department,
3 conditioned upon the faithful performance of the duties of the
4 employee.

5 Section 9. Except where otherwise specified in law,
6 all revenues derived from the sale of permits and licenses
7 pursuant to ss. 370.06 and 370.0605, Florida Statutes, and all
8 federal funds received by the State of Florida as a match to
9 the aforementioned state revenues, are to be appropriated by
10 the Legislature to the Fish and Wildlife Conservation
11 Commission, to be used for the purposes specified in law.

12 Section 10. Except where otherwise specified in law,
13 all revenues derived from the sale of permits and licenses
14 pursuant to ss. 372.16, 372.561, 372.57, 372.5705, 372.60,
15 372.65, 372.651, 372.66, 372.661, 372.6673, 372.6674,
16 372.7015, 372.87, and 372.921, Florida Statutes, and all
17 federal funds received by the State of Florida as a match to
18 the aforementioned state revenues, are to be appropriated by
19 the Legislature to the Fish and Wildlife Conservation
20 Commission, to be used for the purposes specified in law.

21 Section 11. The total amount of funds expended by the
22 Fish and Wildlife Conservation Commission for all operating
23 budget categories combined may not exceed:

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

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

26
27 of the total operating budget appropriated for fiscal year
28 1999-2000 to the Fish and Wildlife Conservation Commission.

29 Section 12. The Executive Office of the Governor shall
30 appoint a working group comprised of three representatives
31 each of the Department of Environmental Protection and the

1 Fish and Wildlife Conservation Commission to develop a
2 recommended plan addressing the transfer of, or where
3 appropriate the shared use of, buildings, regional offices,
4 and other facilities used or owned by the department to
5 conduct activities for which the commission is responsible as
6 of July 1, 1999. The working group also shall include three
7 representatives of the Department of Agriculture and Consumer
8 Services in developing that portion of the plan addressing the
9 transfer or shared use of facilities used currently by the
10 Bureau of Marine Resource Regulation and Development. The
11 recommended plan is due March 1, 2000, to the Governor, the
12 President of the Senate, and the Speaker of the House of
13 Representatives. The Executive Office of the Governor shall
14 consider the working group's recommended plan in determining
15 which buildings, regional offices, and other facilities should
16 be transferred to the commission, and which ones where shared
17 use is appropriate.

18 Section 13. The Governor shall appoint a staff member
19 from the Office of Planning and Budgeting to assist in
20 implementing adjustments, as necessary, in the operating
21 budgets of the Fish and Wildlife Conservation Commission and
22 the Department of Environmental Protection during fiscal year
23 1999-2000. Adjustments to the operating budgets of either
24 agency in connection with the implementation of this act shall
25 be made in consultation with the appropriate substantive and
26 fiscal committee staffs of the House of Representatives and
27 the Senate.

28 Section 14. The executive director of the Fish and
29 Wildlife Conservation Commission and the secretary of the
30 Department of Environmental Protection shall develop and adopt
31

1 an operating agreement and an annual work plan to accomplish
2 responsibilities shared between the agencies.

3 (1) The operating agreement shall be completed by no
4 later than January 31, 2000, and shall detail commission law
5 enforcement responsibilities for emergency response. Until
6 the operating plan has been completed and adopted, the
7 department may call upon the commission for emergency response
8 and the commission is directed to respond to said requests.

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

16 (3) A memorandum of agreement will be developed
17 between the Department of Environmental Protection and the
18 Fish and Wildlife Conservation Commission which will detail
19 the responsibilities of the Florida Marine Research Institute
20 to the department, to include, at a minimum, the following
21 services:

22 (a) Environmental monitoring and assessment.

23 (b) Restoration research and development of
24 restoration technology.

25 (c) Technical support and response for oil spills,
26 ship groundings, major marine species die offs, hazardous
27 spills, and natural disasters.

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

31 206.606 Distribution of certain proceeds.--

1 (1) Moneys collected pursuant to ss. 206.41(1)(g) and
2 206.87(1)(e) shall be deposited in the Fuel Tax Collection
3 Trust Fund. Such moneys, after deducting the service charges
4 imposed by s. 215.20, the refunds granted pursuant to s.
5 206.41, and the administrative costs incurred by the
6 department in collecting, administering, enforcing, and
7 distributing the tax, which administrative costs may not
8 exceed 2 percent of collections, shall be distributed monthly
9 to the State Transportation Trust Fund, except that:

10 (a) ~~\$6.30~~\$7.55 million shall be transferred to the
11 Department of Environmental Protection in each fiscal year
12 ~~and. The transfers must be made in equal monthly amounts~~
13 ~~beginning on July 1 of each fiscal year. \$1.25 million of the~~
14 ~~amount transferred shall be deposited annually in the Marine~~
15 ~~Resources Conservation Trust Fund and must be used by the~~
16 ~~department to fund special projects to provide recreational~~
17 ~~channel marking, public launching facilities, and other~~
18 ~~boating-related activities. The department shall annually~~
19 ~~determine where unmet needs exist for boating-related~~
20 ~~activities, and may fund such activities in counties where,~~
21 ~~due to the number of vessel registrations, insufficient~~
22 ~~financial resources are available to meet total water resource~~
23 ~~needs. The remaining proceeds of the annual transfer shall be~~
24 ~~deposited in the Aquatic Plant Control Trust Fund to and must~~
25 ~~be used for aquatic plant management, including nonchemical~~
26 ~~control of aquatic weeds, research into nonchemical controls,~~
27 ~~and enforcement activities. Beginning in fiscal year~~
28 ~~1993-1994, the department shall allocate at least \$1 million~~
29 ~~of such funds to the eradication of melaleuca.~~

30 (b) \$2.5~~\$1.25~~ million shall be transferred to the
31 State Game Trust Fund in the Fish and Wildlife Conservation

1 ~~Game and Fresh Water Fish~~ Commission in each fiscal year and
2 used for recreational boating activities, and fresh water
3 fisheries management and research. The transfers must be made
4 in equal monthly amounts beginning on July 1 of each fiscal
5 year. The commission shall annually determine where unmet
6 needs exist for boating-related activities, and may fund such
7 activities in counties where, due to the number of vessel
8 registrations, sufficient financial resources are
9 unavailable., and must be used for recreational boating
10 activities of a type consistent with projects eligible for
11 funding under the Florida Boating Improvement Program
12 administered by the Department of Environmental Protection,
13 and freshwater fisheries management and research.

14 (c) 0.65 percent of moneys collected pursuant to s.
15 206.41(1)(g) shall be transferred to the Agricultural
16 Emergency Eradication Trust Fund.

17 Section 16. Paragraph (b) of subsection (1) of section
18 320.08058, Florida Statutes, 1998 Supplement, as amended by
19 section 7 of chapter 98-414, Laws of Florida, is amended to
20 read:

21 320.08058 Specialty license plates.--

22 (1) MANATEE LICENSE PLATES.--

23 (b) The manatee license plate annual use fee must be
24 deposited into the Save the Manatee Trust Fund, created within
25 the Fish and Wildlife Conservation Commission ~~Department of~~
26 ~~Environmental Protection.~~ The funds deposited in the Save the
27 Manatee Trust Fund may be used only for manatee-related
28 environmental education; manatee research; facilities, as
29 provided in s. 370.12(4)~~(5)~~(b); and manatee protection and
30 recovery.

31

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

3 320.08058 Specialty license plates.--

4 (19) SEA TURTLE LICENSE PLATES.--

5 (a) The department shall develop a Sea Turtle license
6 plate as provided in this section. The word "Florida" must
7 appear at the top of the plate, the words "Helping Sea Turtles
8 Survive" must appear at the bottom of the plate, and the image
9 of a sea turtle must appear in the center of the plate.

10 (b) The annual use fees shall be deposited in the
11 Marine Resources Conservation Trust Fund in the Fish and
12 Wildlife Conservation Commission ~~Florida Department of~~
13 ~~Environmental Protection~~. The first \$500,000 in annual revenue
14 shall be used by the Florida Marine Turtle Protection Program
15 to conduct sea turtle protection, research, and recovery
16 programs. The remaining annual use proceeds shall be used by
17 the commission ~~Department of Environmental Protection~~ for sea
18 turtle conservation activities, except that up to 30 percent
19 of the remaining annual use fee proceeds shall be annually
20 disbursed ~~dispersed~~ through the marine turtle grants program
21 as provided in s. 370.12(1)(h).

22 Section 18. Present subsection (5) of section 327.02,
23 Florida Statutes, 1998 Supplement, is redesignated as
24 subsection (6), present subsection (6) is repealed, subsection
25 (7) is amended, and new subsection (5) is added to that
26 section to read:

27 327.02 Definitions of terms used in this chapter and
28 in chapter 328.--As used in this chapter and in chapter 328,
29 unless the context clearly requires a different meaning, the
30 term:

31

1 (5) "Commission" means the Fish and Wildlife
2 Conservation Commission.

3 (7) "Division" means the Division of Law Enforcement
4 of the Fish and Wildlife Conservation Commission ~~Department of~~
5 ~~Environmental Protection.~~

6 Section 19. Paragraphs (b) and (c) of subsection (2)
7 and subsection (17) of section 327.25, Florida Statutes, are
8 amended to read:

9 327.25 Classification; registration; fees and charges;
10 surcharge; disposition of fees; fines; marine turtle
11 stickers.--

12 (2) ANTIQUE VESSEL REGISTRATION FEE.--

13 (b) The registration number for an antique vessel
14 shall be permanently attached to each side of the forward half
15 of the vessel ~~affixed on the forward half of the hull or on~~
16 ~~the port side of the windshield~~ according to ss. 327.11 and
17 327.14.

18 (c) The Department of Highway Safety and Motor
19 Vehicles may issue a decal identifying the vessel as an
20 antique vessel. The decal shall be displayed as provided in
21 ss. 327.11 and 327.14 ~~placed within 3 inches of the~~
22 ~~registration number.~~

23 (17) MARINE TURTLE STICKER.--The Department of Highway
24 Safety and Motor Vehicles ~~Environmental Protection~~ shall offer
25 for sale with vessel registrations a waterproof sticker in the
26 shape of a marine turtle at an additional cost of \$5, the
27 proceeds of which shall be deposited in the Marine Resources
28 Conservation Trust Fund to be used for marine turtle
29 protection, research, and recovery efforts pursuant to the
30 provisions of s. 370.12(1).
31

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

3 327.26 Stickers or emblems for the Save the Manatee
4 Trust Fund.--The commission ~~department~~ shall prepare stickers
5 or emblems signifying support for the Save the Manatee Trust
6 Fund which shall be given to persons who contribute to the
7 Save the Manatee Trust Fund as provided in s. 327.25. The
8 commission ~~department~~ may accept stickers or emblems donated
9 by any governmental or nongovernmental entity for the purposes
10 of this section.

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

13 327.28 Marine Resources Conservation Trust Fund;
14 vessel registration funds; appropriation and distribution.--

15 (2) All funds collected pursuant to s. 370.06(2) shall
16 be deposited in the Marine Resources Conservation Trust Fund.
17 Such funds shall be used to pay the cost of implementing the
18 saltwater products license program. Additional proceeds from
19 the licensing revenue shall be distributed among the following
20 program functions:

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

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

27 (b)~~(c)~~ No more than 25 percent shall go to the Florida
28 Saltwater Products Promotion Trust Fund within the Department
29 of Agriculture and Consumer Services for the purpose of
30 providing marketing and extension services including industry
31 information and education; and

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

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

7 327.30 Collisions, accidents, and casualties.--

8 (2) In the case of collision, accident, or other
9 casualty involving a vessel in or upon or entering into or
10 exiting from the water, including capsizing, collision with
11 another vessel or object, sinking, personal injury requiring
12 medical treatment beyond immediate first aid, death,
13 disappearance of any person from on board under circumstances
14 which indicate the possibility of death or injury, or damage
15 to any vessel or other property in an apparent aggregate
16 amount of at least \$500, the operator shall without delay, by
17 the quickest means available give notice of the accident to
18 one of the following agencies: the Division of Law
19 Enforcement of the Fish and Wildlife Conservation Commission;
20 ~~the Game and Fresh Water Fish Commission;~~ the sheriff of the
21 county within which the accident occurred; or the police chief
22 of the municipality within which the accident occurred, if
23 applicable.

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

26 327.35215 Penalty for failure to submit to test.--

27 (5) Moneys collected by the clerk of the court
28 pursuant to this section shall be disposed of in the following
29 manner:

30 (a) If the arresting officer was employed or appointed
31 by a state law enforcement agency except the Fish and Wildlife

1 ~~Conservation Game and Fresh Water Fish~~ Commission, the moneys
2 shall be deposited into the Marine Resources Conservation
3 Trust Fund.

4 (b) If the arresting officer was employed or appointed
5 by a county or municipal law enforcement agency, the moneys
6 shall be deposited into the law enforcement trust fund of that
7 agency.

8 (c) If the arresting officer was employed or appointed
9 by the Fish and Wildlife Conservation ~~Game and Fresh Water~~
10 ~~Fish~~ Commission, the money shall be deposited into the State
11 Game Trust Fund.

12 Section 24. Section 327.395, Florida Statutes, is
13 amended to read:

14 327.395 Boating safety identification cards.--

15 (1) Until October 1, 2001, a person born after
16 September 30, 1980, and on or after October 1, 2001, a person
17 21 years of age or younger may not operate a vessel powered by
18 a motor of 10 horsepower or greater unless such person has in
19 his or her possession aboard the vessel photographic
20 identification and a boater safety identification card issued
21 by the commission ~~department~~ which shows that he or she has:

22 (a) Completed a commission-approved
23 ~~department-approved~~ boater education course that meets the
24 minimum 8-hour instruction requirement established by the
25 National Association of State Boating Law Administrators;

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

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

30
31

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

4 (3) The commission ~~department~~ may appoint liveries,
5 marinas, or other persons as its agents to administer the
6 course, course equivalency examination, or temporary
7 certificate examination and issue identification cards under
8 guidelines established by the commission ~~department~~. An agent
9 must charge the \$2 examination fee, which must be forwarded to
10 the commission ~~department~~ with proof of passage of the
11 examination and may charge and keep a \$1 service fee.

12 (4) An identification card issued to a person who has
13 completed a boating education course or a course equivalency
14 examination is valid for life. A card issued to a person who
15 has passed a temporary certification examination is valid for
16 12 months from the date of issuance.

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

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

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

22 (c) Is accompanied in the vessel by a person who is
23 exempt from this section or who holds an identification card
24 in compliance with this section, is 18 years of age or older,
25 and is attendant to the operation of the vessel and
26 responsible for any violation that occurs during the
27 operation.

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

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

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

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

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

12 (9) The commission ~~department~~ is authorized to
13 establish and to collect a \$2 examination fee to cover
14 administrative costs.

15 (10) The commission is authorized to adopt rules
16 pursuant to chapter 120 to implement the provisions of this
17 section.

18 Section 25. Section 327.41, Florida Statutes, is
19 amended to read:

20 327.41 Uniform waterway regulatory markers.--

21 (1) The Fish and Wildlife Conservation Commission
22 ~~Department of Environmental Protection~~ shall adopt rules and
23 regulations pursuant to chapter 120 establishing a uniform
24 system of regulatory markers for the Florida Intracoastal
25 Waterway, compatible with the system of regulatory markers
26 prescribed by the United States Coast Guard, and shall give
27 due regard to the System of Uniform Waterway Markers approved
28 by the Advisory Panel of State Officials to the Merchant
29 Marine Council, United States Coast Guard.

30 (2) Any county or municipality which has been granted
31 a restricted area designation, pursuant to s. 327.46, for a

1 portion of the Florida Intracoastal Waterway within its
2 jurisdiction may apply to the Fish and Wildlife Conservation
3 Commission ~~Department of Environmental Protection~~ for
4 permission to place regulatory markers within the restricted
5 area.

6 (3) Application for placing regulatory markers on the
7 Florida Intracoastal Waterway shall be made to the Division of
8 Marine Resources, accompanied by a map locating the
9 approximate placement of the markers, a statement of the
10 specification of the markers, a statement of purpose of the
11 markers, and a statement of the city or county responsible for
12 the placement and upkeep of the markers.

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

17 (5) Aquaculture leaseholds shall be marked as required
18 by this section, and the commission ~~department~~ may approve
19 alternative marking requirements as a condition of the lease
20 pursuant to s. 253.68. The provisions of this section
21 notwithstanding, no permit shall be required for the placement
22 of markers required by such a lease.

23 (6) The commission is authorized to adopt rules
24 pursuant to chapter 120 to implement the provisions of this
25 section.

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

28 327.43 Silver Glen Run and Silver Glen Springs;
29 navigation channel; anchorage buoys; violations.--

30 (1) The Fish and Wildlife Conservation Commission
31 ~~Department of Environmental Protection~~ is hereby directed to

1 mark a navigation channel within Silver Glen Run and Silver
2 Glen Springs, located on the western shore of Lake George on
3 the St. Johns River.

4 (2) The commission ~~department~~ is further directed to
5 establish permanent anchorage buoys within Silver Glen Run and
6 Silver Glen Springs.

7 (3) Vessel anchorage or mooring shall only be allowed
8 utilizing permanently established anchorage buoys. No vessel
9 shall anchor or otherwise attach, temporarily or permanently,
10 to the bottom within Silver Glen Run or Silver Glen Springs.

11 (4) Any violation of this act shall constitute a
12 violation of the boating laws of this state and shall be
13 punishable by issuance of a uniform boating citation as
14 provided in s. 327.74. Any person who refuses to post a bond
15 or accept and sign a uniform boating citation, as provided in
16 s. 327.73(3), commits a misdemeanor of the second degree,
17 punishable as provided in s. 775.082 or s. 775.083.

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

20 327.46 Restricted areas.--

21 (1) The commission ~~department~~ shall have the authority
22 for establishing, by rule pursuant to chapter 120, restricted
23 areas on the waters of the state for any purpose deemed
24 necessary for the safety of the public, including, but not
25 limited to, boat speeds and boat traffic where such
26 restrictions are deemed necessary based on boating accidents,
27 visibility, tides, congestion, or other navigational hazards.
28 Each such restricted area shall be developed in consultation
29 and coordination with the governing body of the county or
30 municipality in which the restricted area is located and,
31 where required, with the United States Army Corps of

1 Engineers. Restricted areas shall be established in
2 accordance with procedures under chapter 120.

3 Section 28. Section 327.48, Florida Statutes, is
4 amended to read:

5 327.48 Regattas, races, marine parades, tournaments,
6 or exhibitions.--Any person directing the holding of a
7 regatta, tournament, or marine parade or exhibition shall
8 secure a permit from the Coast Guard when such event is held
9 in navigable waters of the United States. A person directing
10 any such affair in any county shall notify the sheriff of the
11 county ~~or the~~ Fish and Wildlife Conservation Commission ~~Game~~
12 ~~and Fresh Water Fish Commission, or the department~~ at least 15
13 days prior to any event in order that appropriate arrangements
14 for safety and navigation may be assured. Any person or
15 organization sponsoring a regatta or boat race, marine parade,
16 tournament, or exhibition shall be responsible for providing
17 adequate protection to the participants, spectators, and other
18 users of the water.

19 Section 29. Subsections (1) and (3) of section 327.70,
20 Florida Statutes, are amended to read:

21 327.70 Enforcement of this chapter and chapter 328.--

22 (1) This chapter and chapter 328 shall be enforced by
23 the Division of Law Enforcement of the Fish and Wildlife
24 Conservation ~~department and its officers, the Game and Fresh~~
25 ~~Water Fish~~ Commission and its officers, the sheriffs of the
26 various counties and their deputies, and any other authorized
27 law enforcement officer, all of whom may order the removal of
28 vessels deemed to be an interference or a hazard to public
29 safety, enforce the provisions of this chapter and chapter
30 328, or cause any inspections to be made of all vessels in
31 accordance with this chapter and chapter 328.

1 (3) The Fish and Wildlife Conservation Commission
2 ~~department~~ or any other law enforcement agency may make any
3 investigation necessary to secure information required to
4 carry out and enforce the provisions of this chapter and
5 chapter 328.

6 Section 30. Section 327.71, Florida Statutes, is
7 amended to read:

8 327.71 Exemption.--The commission ~~department~~ may, if
9 it finds that federal law imposes less restrictive
10 requirements than provided herein or if it determines that
11 boating safety will not be adversely affected, issue temporary
12 exemptions from any provision of this chapter or rules
13 established hereunder, on such terms and conditions as it
14 considers appropriate.

15 Section 31. Subsections (1) and (3) of section
16 327.731, Florida Statutes, 1998 Supplement, are amended to
17 read:

18 327.731 Mandatory education for violators.--

19 (1) Every person convicted of a criminal violation of
20 this chapter, every person convicted of a noncriminal
21 infraction under this chapter if the infraction resulted in a
22 reportable boating accident, and every person convicted of two
23 noncriminal infractions as defined in s. 327.73(1)(h) through
24 (k), (m) through (p), (s), and (t), said infractions occurring
25 within a 12-month period, must:

26 (a) Enroll in, attend, and successfully complete, at
27 his or her own expense, a boating safety course that meets
28 minimum standards established by the commission ~~department~~ by
29 rule; however, the commission ~~department~~ may provide by rule
30 pursuant to chapter 120 for waivers of the attendance
31

1 requirement for violators residing in areas where classroom
2 presentation of the course is not available;

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

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

8
9 Any person who has successfully completed an approved boating
10 course shall be exempt from these provisions upon showing
11 proof to the commission ~~department~~ as specified in paragraph
12 (b).

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

21 Section 32. Subsections (1), (2), (4), (6), and (10)
22 of section 327.74, Florida Statutes, are amended to read:

23 327.74 Uniform boating citations.--

24 (1) The commission ~~department~~ shall prepare, and
25 supply to every law enforcement agency in this state which
26 enforces the laws of this state regulating the operation of
27 vessels, an appropriate form boating citation containing a
28 notice to appear (which shall be issued in prenumbered books
29 with citations in quintuplicate) and meeting the requirements
30 of this chapter or any laws of this state regulating boating,
31 which form shall be consistent with the state's county court

1 rules and the procedures established by the commission
2 ~~department~~.

3 (2) Courts, enforcement agencies, and the commission
4 ~~department~~ are jointly responsible to account for all uniform
5 boating citations in accordance with the procedures
6 promulgated by the commission department.

7 (4) The chief administrative officer of every law
8 enforcement agency shall require the return to him or her of
9 the commission department record copy of every boating
10 citation issued by an officer under his or her supervision to
11 an alleged violator of any boating law or ordinance and all
12 copies of every boating citation which has been spoiled or
13 upon which any entry has been made and not issued to an
14 alleged violator.

15 (6) The chief administrative officer shall transmit,
16 on a form approved by the commission department, the
17 commission department record copy of the uniform boating
18 citation to the commission department within 5 days after
19 submission of the original and one copy to the court. A copy
20 of such transmittal shall also be provided to the court having
21 jurisdiction for accountability purposes.

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

26 Section 33. Section 327.803, Florida Statutes, is
27 amended to read:

28 327.803 Boating Advisory Council.--

29 (1) The Boating Advisory Council is created within the
30 Fish and Wildlife Conservation Commission ~~Department of~~
31 ~~Environmental Protection~~ and shall be composed of 16 members.

1 The ~~initial~~ members ~~shall be appointed before August 1, 1994,~~
2 ~~and must~~ include:

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

6 (b) One representative each from the Department of
7 Environmental Protection ~~Game and Fresh Water Fish Commission~~,
8 the United States Coast Guard Auxiliary, the United States
9 Power Squadron, and the inland navigation districts.

10 (c) One representative of manatee protection
11 interests, one representative of the marine industries, two
12 representatives of water-related environmental groups, one
13 representative of marine manufacturers, one representative of
14 commercial vessel owners or operators, one representative of
15 sport boat racing, and two representatives of the boating
16 public, each of whom shall be nominated by the executive
17 director of the Fish and Wildlife Conservation Commission
18 ~~Secretary of Environmental Protection~~ and appointed by the
19 Governor to serve staggered 2-year terms.

20 (d) One member of the House of Representatives, who
21 shall be appointed by the Speaker of the House of
22 Representatives.

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

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

28 (3) The purpose of the council is to make
29 recommendations to the Fish and Wildlife Conservation
30 Commission ~~Department of Environmental Protection~~ and the
31 Department of Community Affairs regarding issues affecting the

1 boating community, including, but not limited to, issues
2 related to:

3 (a) Boating safety education.

4 (b) Boating-related facilities, including marinas and
5 boat testing facilities.

6 (c) Boat usage.

7

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

10 (4) Members of the council shall serve without
11 compensation.

12 Section 34. Section 327.804, Florida Statutes, is
13 amended to read:

14 327.804 Compilation of statistics on boating accidents
15 and violations.--The Fish and Wildlife Conservation Commission
16 ~~Department of Environmental Protection~~ shall compile
17 statistics on boating accidents and boating violations of the
18 age groups of persons affected by chapter 96-187, Laws of
19 Florida.

20 Section 35. Section 327.90, Florida Statutes, is
21 amended to read:

22 327.90 Transactions by electronic or telephonic
23 means.--The commission ~~department~~ is authorized to accept any
24 application provided for under this chapter by electronic or
25 telephonic means.

26 Section 36. Paragraph (c) of subsection (2) of section
27 328.01, Florida Statutes, is amended to read:

28 328.01 Application for certificate of title.--

29 (2)

30

31

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

4 1. A notarized statement of the builder or its
5 equivalent, whichever is acceptable to the Department of
6 Highway Safety and Motor Vehicles, if the vessel is less than
7 16 feet in length; or

8 2. A certificate of inspection from the Fish and
9 Wildlife Conservation ~~Division of Law Enforcement of the~~
10 ~~Department of Environmental Protection or the Game and Fresh~~
11 ~~Water Fish~~ Commission and a notarized statement of the builder
12 or its equivalent, whichever is acceptable to the Department
13 of Highway Safety and Motor Vehicles, if the vessel is 16 feet
14 or more in length.

15 Section 37. Subsection (1) of section 339.281, Florida
16 Statutes, is amended to read:

17 339.281 Damage to transportation facility by vessel;
18 marine accident report; investigative authorities;
19 penalties.--

20 (1) Whenever any vessel has caused damage to a
21 transportation facility, the managing owner, agent, or master
22 of such vessel shall immediately, or as soon thereafter as
23 possible, report the same to the nearest Fish and Wildlife
24 Conservation Commission officer ~~Florida Marine Patrol~~, the
25 sheriff of the county wherein such accident occurred, ~~the Game~~
26 ~~and Fresh Water Fish Commission~~, or the Florida Highway
27 Patrol, who shall immediately go to the scene of the accident
28 and, if necessary, board the vessel subsequent to the accident
29 in pursuance of its investigation. The law enforcement agency
30 investigating the accident shall submit a copy of its report
31 to the department.

1 Section 38. Section 370.025, Florida Statutes, 1998
2 Supplement, is amended to read:

3 370.025 Marine fisheries; policy and standards.--

4 (1) The Legislature hereby declares the policy of the
5 state to be management and preservation of its renewable
6 marine fishery resources, based upon the best available
7 information, emphasizing protection and enhancement of the
8 marine and estuarine environment in such a manner as to
9 provide for optimum sustained benefits and use to all the
10 people of this state for present and future generations.

11 (2) The commission is instructed to make
12 recommendations annually to the Governor and the Legislature
13 regarding marine fisheries research priorities and
14 funding. All administrative and enforcement responsibilities
15 which are unaffected by the specific provisions of this act
16 are the responsibility of the commission.

17 ~~(3)(2)~~ All rules relating to saltwater fisheries
18 adopted by the commission ~~department pursuant to this chapter~~
19 ~~or adopted by the Marine Fisheries Commission and approved by~~
20 ~~the Governor and Cabinet as the Board of Trustees of the~~
21 ~~Internal Improvement Trust Fund~~ shall be consistent with the
22 following standards:

23 (a) The paramount concern of conservation and
24 management measures shall be the continuing health and
25 abundance of the marine fisheries resources of this state.

26 (b) Conservation and management measures shall be
27 based upon the best information available, including
28 biological, sociological, economic, and other information
29 deemed relevant by the commission.

30 (c) Conservation and management measures shall permit
31 reasonable means and quantities of annual harvest, consistent

1 with maximum practicable sustainable stock abundance on a
2 continuing basis.

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

5 (e) Conservation and management measures shall assure
6 proper quality control of marine resources that enter
7 commerce.

8 (f) State marine fishery management plans shall be
9 developed to implement management of important marine fishery
10 resources.

11 (g) Conservation and management decisions shall be
12 fair and equitable to all the people of this state and carried
13 out in such a manner that no individual, corporation, or
14 entity acquires an excessive share of such privileges.

15 (h) Federal fishery management plans and fishery
16 management plans of other states or interstate commissions
17 should be considered when developing state marine fishery
18 management plans. Inconsistencies should be avoided unless it
19 is determined that it is in the best interest of the fisheries
20 or residents of this state to be inconsistent.

21 (4) Pursuant to s. 9, Art. IV of the State
22 Constitution, the commission has full rulemaking authority
23 over marine life, and listed species as defined in s.
24 372.072(3), except for:

25 (a) Endangered or threatened marine species; and

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

29 Section 39. Section 370.027, Florida Statutes, 1998
30 Supplement, is repealed.

31

1 Section 40. Subsections (4) and (5) of section 370.06,
2 Florida Statutes, 1998 Supplement, are amended to read:

3 370.06 Licenses.--

4 (4) SPECIAL ACTIVITY LICENSES.--

5 (a) A special activity license is required for any
6 person to use gear or equipment not authorized in this chapter
7 or rule of the Fish and Wildlife Conservation ~~Marine Fisheries~~
8 Commission for harvesting saltwater species. In accordance
9 with this chapter, s. 16, Art. X of the State Constitution,
10 and rules of the ~~Marine Fisheries~~ commission, the commission
11 ~~department~~ may issue special activity licenses for the use of
12 nonconforming gear or equipment, including, but not limited
13 to, trawls, seines and entangling nets, traps, and hook and
14 line gear, to be used in harvesting saltwater species for
15 scientific and governmental purposes, and, where allowable,
16 for innovative fisheries. The commission ~~department~~ may
17 prescribe by rule application requirements and terms,
18 conditions, and restrictions to be incorporated into each
19 special activity license. This subsection does not apply to
20 gear or equipment used by certified marine aquaculturists as
21 provided for in s. 597.004 to harvest marine aquaculture
22 products.

23 (b) The commission ~~department~~ is authorized to issue
24 special activity licenses in accordance with this section and
25 s. 370.31, to permit the importation and ~~possession, and~~
26 ~~aquaculture~~ of wild anadromous sturgeon. The special activity
27 license shall provide for specific management practices to
28 ~~prevent the release and escape of cultured anadromous sturgeon~~
29 ~~and to~~ protect indigenous populations of saltwater species.

30 (c) The Department of Agriculture and Consumer
31 Services is authorized to issue special activity licenses, in

1 accordance with s. 370.071, to permit the harvest or
2 cultivation of oysters, clams, mussels, and crabs when such
3 activities relate to quality control, sanitation, public
4 health regulations, innovative technologies for aquaculture
5 activities, or the protection of shellfish resources provided
6 in this chapter, ~~unless such authority is delegated to the~~
7 ~~Department of Agriculture and Consumer Services, pursuant to a~~
8 ~~memorandum of understanding.~~

9 (d) The conditions and specific management practices
10 established in this section may be incorporated into permits
11 and authorizations issued pursuant to chapter 253, chapter
12 373, chapter 403, or this chapter, when incorporating such
13 provisions is in accordance with the aquaculture permit
14 consolidation procedures. No separate issuance of a special
15 activity license is required when conditions and specific
16 management practices are incorporated into permits or
17 authorizations under this paragraph. Implementation of this
18 section to consolidate permitting actions does not constitute
19 rules within the meaning of s. 120.52.

20 (e) The commission ~~department~~ is authorized to issue
21 special activity licenses in accordance with s.~~ss.~~ 370.071,
22 370.101, and this section; aquaculture permit consolidation
23 procedures in s. 370.26(2)(~~3~~)(~~a~~); and rules of the ~~Marine~~
24 ~~Fisheries~~ commission to permit the capture and possession of
25 saltwater species protected by law and used as stock for
26 artificial cultivation and propagation.

27 (f) The commission ~~department~~ is authorized to adopt
28 rules to govern the administration of special activities
29 licenses as provided in this chapter and rules of the ~~Marine~~
30 ~~Fisheries~~ commission. Such rules may prescribe application
31 requirements and terms, conditions, and restrictions for any

1 such special activity license requested pursuant to this
2 section.

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

4 (a) For purposes of this section, the following
5 definitions shall apply:

6 1. "Person" means an individual.

7 2. "Resident" means any person who has:

8 a. Continuously resided in this state for 6 months
9 immediately preceding the making of his or her application for
10 an Apalachicola Bay oyster harvesting license; or

11 b. Established a domicile in this state and evidenced
12 that domicile as provided in s. 222.17.

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

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

27 (d) The Department of Agriculture and Consumer
28 Services shall collect an annual fee of \$100 from residents
29 and \$500 from nonresidents for the issuance of an Apalachicola
30 Bay oyster harvesting license. The license year shall begin on
31 July 1 of each year and end on June 30 of the following year.

1 The license shall be valid only for the licensee. Only bona
2 fide residents of Florida may obtain a resident license
3 pursuant to this subsection.

4 (e) Each person who applies for an Apalachicola Bay
5 oyster harvesting license shall, before receiving the license,
6 attend an educational seminar of not more than 16 hours
7 length, developed and conducted jointly by the Apalachicola
8 National Estuarine Research Reserve, the ~~department's~~ Division
9 of Law Enforcement of the Fish and Wildlife Conservation
10 Commission, and the Department of Agriculture and Consumer
11 Services'~~department's~~ Apalachicola District Shellfish
12 Environmental Assessment Laboratory. The seminar shall
13 address, among other things, oyster biology, conservation of
14 the Apalachicola Bay, sanitary care of oysters, small business
15 management, and water safety. The seminar shall be offered
16 five times per year, and each person attending shall receive a
17 certificate of participation to present when obtaining an
18 Apalachicola Bay oyster harvesting license.

19 (f) Each person, while harvesting oysters in
20 Apalachicola Bay, shall have in possession a valid
21 Apalachicola Bay oyster harvesting license, or proof of having
22 applied for a license within the required time period, and
23 shall produce such license or proof of application upon
24 request of any law enforcement officer.

25 (g) Each person who obtains an Apalachicola Bay oyster
26 harvesting license shall prominently display the license
27 number upon any vessel the person owns which is used for the
28 taking of oysters, in numbers which are at least 10 inches
29 high and 1 inch wide, so that the permit number is readily
30 identifiable from the air and water. Only one vessel
31

1 displaying a given number may be used at any time. A licensee
2 may harvest oysters from the vessel of another licensee.

3 (h) Any person holding an Apalachicola Bay oyster
4 harvesting license shall receive credit for the license fee
5 against the saltwater products license fee.

6 (i) The proceeds from Apalachicola Bay oyster
7 harvesting license fees shall be deposited in the General
8 Inspections Marine Resources Conservation Trust Fund and, less
9 reasonable administrative costs, shall be used or distributed
10 by the Department of Agriculture and Consumer Services for the
11 following purposes in Apalachicola Bay:

- 12 1. Relaying and transplanting live oysters.
- 13 2. Shell planting to construct or rehabilitate oyster
14 bars.
- 15 3. Education programs for licensed oyster harvesters
16 on oyster biology, aquaculture, boating and water safety,
17 sanitation, resource conservation, small business management,
18 marketing, and other relevant subjects.
- 19 4. Research directed toward the enhancement of oyster
20 production in the bay and the water management needs of the
21 bay.

22 (j) Any person who violates any of the provisions of
23 paragraphs (b) and (d)-(g) commits a misdemeanor of the second
24 degree, punishable as provided in ss. 775.082 and 775.083.
25 Nothing in this subsection shall limit the application of
26 existing penalties.

27 Section 41. Section 370.0608, Florida Statutes, 1998
28 Supplement, is amended to read:

29 370.0608 Deposit of license fees; allocation of
30 federal funds.--

31

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

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

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

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

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

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

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

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

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

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

9 (2) ~~The Department of Environmental Protection and the~~
10 ~~Game and Fresh Water Fish Commission shall develop and~~
11 ~~maintain a memorandum of understanding to provide for the~~
12 ~~equitable allocation of federal aid available to Florida~~
13 ~~pursuant to the Sport Fish Restoration Administration Funds.~~
14 Funds available from the Wallop-Breaux Aquatic Resources Trust
15 Fund shall be distributed by the commission between the Bureau
16 of Freshwater Fisheries and the Bureau of Marine Fisheries
17 ~~department and the commission~~ in proportion to the numbers of
18 resident fresh and saltwater anglers as determined by the most
19 current data on license sales. Unless otherwise provided by
20 federal law, ~~the department and the commission~~, at a minimum,
21 shall provide the following:

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

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

28 (3) All license fees collected pursuant to s. 370.0605
29 shall be transferred to the Marine Resources Conservation
30 Trust Fund within 7 days following the last business day of
31 the week in which the license fees were received by the

1 commission. One-fifth of the total proceeds derived from the
2 sale of 5-year licenses and replacement 5-year licenses, and
3 all interest derived therefrom, shall be available for
4 appropriation annually.

5 Section 42. Section 370.063, Florida Statutes, is
6 amended to read:

7 370.063 Special recreational crawfish license.--There
8 is created a special recreational crawfish license, to be
9 issued to qualified persons as provided by this section for
10 the recreational harvest of crawfish (spiny lobster) beginning
11 August 5, 1994.

12 (1) The special recreational crawfish license shall be
13 available to any individual crawfish trap number holder who
14 also possesses a saltwater products license during the
15 1993-1994 license year. ~~For the 1994-1995 license year and~~
16 ~~for each license year thereafter,~~A person issued a special
17 recreational crawfish license may not also possess a trap
18 number.

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

28 (3) The holder of a special recreational crawfish
29 license must also possess the recreational crawfish stamp
30 required by s. 370.14(11) and the license required by s.
31 370.0605.

1 (4) As a condition precedent to the issuance of a
2 special recreational crawfish license, the applicant must
3 agree to file quarterly reports with the Fish and Wildlife
4 Conservation Commission ~~Division of Marine Resources of the~~
5 ~~Department of Environmental Protection~~, in such form as the
6 commission division requires, detailing the amount of the
7 licenseholder's crawfish (spiny lobster) harvest in the
8 previous quarter, including the harvest of other recreational
9 harvesters aboard the licenseholder's vessel.

10 (5) The Fish and Wildlife Conservation Commission
11 ~~Department of Environmental Protection~~ shall issue special
12 recreational crawfish licenses ~~beginning in 1994 for the~~
13 ~~1994-1995 license year~~. The fee for each such license is \$100
14 per year. Each license issued in any 1994 ~~for the 1994-1995~~
15 license year must be renewed by June 30 of each subsequent
16 year by the initial individual holder thereof. Noncompliance
17 with the reporting requirement in subsection (4) or with the
18 special recreational bag limit established under subsection
19 (6) constitutes grounds for which the commission ~~department~~
20 may refuse to renew the license for a subsequent license year.
21 The number of such licenses outstanding in any one license
22 year may not exceed the number issued for the 1994-1995
23 license year. A license is not transferable by any method.
24 Licenses that are not renewed expire and may be reissued by
25 the commission in the subsequent ~~department beginning in the~~
26 ~~1995-1996~~ license year to new applicants otherwise qualified
27 under this section.

28 (6) To promote conservation of the spiny lobster
29 (crawfish) resource, consistent with equitable distribution
30 and availability of the resource, the ~~Marine Fisheries~~
31 ~~commission~~ shall establish a spiny lobster management plan

1 incorporating the special recreational crawfish license,
2 including, but not limited to, the establishment of a special
3 recreational bag limit for the holders of such license as
4 required by subsection (2). Such special recreational bag
5 limit must not be less than twice the higher of the daily
6 recreational bag limits.

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

10 (a) Thirty-five percent for research and the
11 development of reliable recreational catch statistics for the
12 crawfish (spiny lobster) fishery.

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

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

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

22 Section 43. Section 370.071, Florida Statutes, is
23 amended to read:

24 370.071 Shellfish processors; regulation.--

25 (1) The Department of Agriculture and Consumer
26 Services, hereinafter referred to as department, is authorized
27 to adopt by rule regulations, specifications, and codes
28 relating to sanitary practices for catching, cultivating,
29 handling, processing, packaging, preserving, canning, smoking,
30 and storing of oysters, clams, mussels, and crabs. The
31 department is also authorized to license aquaculture

1 facilities used to culture oysters, clams, mussels, and crabs
2 when such activities relate to quality control, sanitary, and
3 public health practices pursuant to this section and s.
4 370.06(4). The department is also authorized to license or
5 certify facilities used for processing oysters, clams,
6 mussels, and crabs, to suspend or revoke such licenses or
7 certificates upon satisfactory evidence of any violation of
8 rules adopted pursuant to this section, and to seize and
9 destroy any adulterated or misbranded shellfish products as
10 defined by rule.

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

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

25 Section 44. Section 370.12, Florida Statutes, 1998
26 Supplement, is amended to read:

27 370.12 Marine animals; regulation.--

28 (1) PROTECTION OF MARINE TURTLES.--

29 (a) This subsection may be cited as the "Marine Turtle
30 Protection Act."
31

1 (b) The Legislature intends, pursuant to the
2 provisions of this subsection, to ensure that the Fish and
3 Wildlife Conservation Commission ~~Department of Environmental~~
4 ~~Protection~~ has the appropriate authority and resources to
5 implement its responsibilities under the recovery plans of the
6 United States Fish and Wildlife Service for the following
7 species of marine turtle:

8 1. Atlantic loggerhead turtle (*Caretta caretta*
9 *caretta*).

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

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

12 4. Atlantic hawksbill turtle (*Eretmochelys imbricata*
13 *imbricata*).

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

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

25 2. Unless otherwise provided by the federal Endangered
26 Species Act or its implementing regulations, no person, firm,
27 or corporation may take, kill, disturb, mutilate, molest,
28 harass, or destroy any marine turtle.

29 3. No person, firm, or corporation may possess any
30 marine turtle, their nests, eggs, hatchlings, or parts thereof
31 unless it is in possession of a special permit or loan

1 agreement from the commission ~~department~~ enabling the holder
2 to possess a marine turtle or parts thereof for scientific,
3 educational, or exhibitional purposes, or for conservation
4 activities such as relocating nests, eggs, or animals away
5 from construction sites. Notwithstanding any other provisions
6 of general or special law to the contrary, the commission
7 ~~department~~ may issue such authorization to any properly
8 accredited person for the purpose of marine turtle
9 conservation upon such terms, conditions, and restrictions as
10 it may prescribe by rule adopted pursuant to chapter 120. The
11 commission ~~department~~ shall have the authority to adopt rules
12 pursuant to chapter 120 to permit the possession of marine
13 turtles pursuant to this paragraph. For the purposes of this
14 subsection, a "properly accredited person" is defined as:
15 a. Students of colleges or universities whose studies
16 with saltwater animals are under the direction of their
17 teacher or professor;
18 b. Scientific or technical faculty of public or
19 private colleges or universities;
20 c. Scientific or technical employees of private
21 research institutions and consulting firms;
22 d. Scientific or technical employees of city, county,
23 state, or federal research or regulatory agencies;
24 e. Members in good standing or recognized and properly
25 chartered conservation organizations, the Audubon Society, or
26 the Sierra Club;
27 f. Persons affiliated with aquarium facilities or
28 museums, or contracted as an agent therefor, which are open to
29 the public with or without an admission fee; or
30 g. Persons without specific affiliations listed above,
31 but who are recognized by the commission ~~department~~ for their

1 contributions to marine conservation such as scientific or
2 technical publications, or through a history of cooperation
3 with the commission ~~department~~ in conservation programs such
4 as turtle nesting surveys, or through advanced educational
5 programs such as high school marine science centers.

6 (d) Any application for a Department of Environmental
7 Protection permit or other type of approval for an activity
8 that affects marine turtles or their nests or habitat shall be
9 subject to conditions and requirements for marine turtle
10 protection as part of the permitting or approval process.

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

31

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

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

26 (h) The Fish and Wildlife Conservation Commission
27 ~~department~~ shall provide grants to coastal local governments,
28 educational institutions, and Florida-based nonprofit
29 organizations to conduct marine turtle research, conservation,
30 and education activities within the state. The commission
31 ~~department~~ shall adopt by rule pursuant to chapter 120

1 procedures for submitting grant applications and criteria for
2 allocating available funds. The criteria must include the
3 scope of the proposed activity, the relevance of the proposed
4 activity to the recovery plans for marine turtles, the demand
5 and public support for the proposed activity, the duration of
6 the proposed activity, the availability of alternative
7 funding, and the estimated cost of the activity. The executive
8 director ~~secretary~~ of the commission ~~department~~ shall appoint
9 a committee of at least five members, including at least two
10 nongovernmental representatives, to consider and choose grant
11 recipients from proposals submitted by eligible entities.
12 Committee members shall not receive any compensation from the
13 commission ~~department~~.

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

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

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

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

31

1 (d) Except as may be authorized by the terms of a
2 valid state permit issued pursuant to paragraph (c) or by the
3 terms of a valid federal permit, it is unlawful for any person
4 at any time, by any means, or in any manner intentionally or
5 negligently to annoy, molest, harass, or disturb or attempt to
6 molest, harass, or disturb any manatee; injure or harm or
7 attempt to injure or harm any manatee; capture or collect or
8 attempt to capture or collect any manatee; pursue, hunt,
9 wound, or kill or attempt to pursue, hunt, wound, or kill any
10 manatee; or possess, literally or constructively, any manatee
11 or any part of any manatee.

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

27 (f) In order to protect manatees or sea cows from
28 harmful collisions with motorboats or from harassment, the
29 Fish and Wildlife Conservation Commission ~~Department of~~
30 ~~Environmental Protection~~ shall adopt rules under chapter 120
31 regarding the expansion of existing, or construction of new,

1 marine facilities and mooring or docking slips, by the
2 addition or construction of five or more powerboat slips, and
3 regulating the operation and speed of motorboat traffic, only
4 where manatee sightings are frequent and it can be generally
5 assumed, based on available scientific information, that they
6 inhabit these areas on a regular or continuous basis:

7 1. In Lee County: the entire Orange River, including
8 the Tice Florida Power and Light Corporation discharge canal
9 and adjoining waters of the Caloosahatchee River within 1 mile
10 of the confluence of the Orange and Caloosahatchee Rivers.

11 2. In Brevard County: those portions of the Indian
12 River within three-fourths of a mile of the Orlando Utilities
13 Commission Delespine power plant effluent and the Florida
14 Power and Light Frontenac power plant effluents.

15 3. In Indian River County: the discharge canals of the
16 Vero Beach Municipal Power Plant and connecting waters within
17 1 1/4 miles thereof.

18 4. In St. Lucie County: the discharge of the Henry D.
19 King Municipal Electric Station and connecting waters within 1
20 mile thereof.

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

24 6. In Broward County: the discharge canal of the
25 Florida Power and Light Port Everglades power plant and
26 connecting waters within 1 1/2 miles thereof and the
27 discharge canal of the Florida Power and Light Fort Lauderdale
28 power plant and connecting waters within 2 miles thereof. For
29 purposes of ensuring the physical safety of boaters in a
30 sometimes turbulent area, the area from the easternmost edge
31 of the authorized navigation project of the intracoastal

1 waterway east through the Port Everglades Inlet is excluded
2 from this regulatory zone.

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

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

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

12 10. In Sarasota County: the Venice Inlet and
13 connecting waters within 1 mile thereof, including Lyons Bay,
14 Donna Bay, Roberts Bay, and Hatchett Creek, excluding the
15 waters of the intracoastal waterway and the right-of-way
16 bordering the centerline of the intracoastal waterway.

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

23 12. In Manatee County: that portion of the Manatee
24 River east of the west line of section 17, range 19 east,
25 township 34 south; the Braden River south of the north line
26 and east of the west line of section 29, range 18 east,
27 township 34 south; Terra Ceia Bay and River, east of the west
28 line of sections 26 and 35 of range 17 east, township 33
29 south, and east of the west line of section 2, range 17 east,
30 township 34 south; and Bishop Harbor east of the west line of
31 section 13, range 17 east, township 33 south.

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

4 (g) The Fish and Wildlife Conservation Commission
5 ~~Department of Environmental Protection~~ shall adopt rules
6 pursuant to chapter 120 regulating the operation and speed of
7 motorboat traffic only where manatee sightings are frequent
8 and it can be generally assumed that they inhabit these areas
9 on a regular or continuous basis within that portion of the
10 Indian River between the St. Lucie Inlet in Martin County and
11 the Jupiter Inlet in Palm Beach County. In addition, the
12 commission ~~department~~ shall adopt rules pursuant to chapter
13 120 regulating the operation and speed of motorboat traffic
14 only where manatee sightings are frequent and it can be
15 generally assumed that they inhabit these areas on a regular
16 or continuous basis within the Loxahatchee River in Palm Beach
17 and Martin Counties, including the north and southwest forks
18 thereof. A limited lane or corridor providing for reasonable
19 motorboat speeds may be identified and designated within this
20 area.

21 (h) The commission ~~department~~ shall adopt rules
22 pursuant to chapter 120 regulating the operation and speed of
23 motorboat traffic only where manatee sightings are frequent
24 and it can be generally assumed that they inhabit these areas
25 on a regular or continuous basis within the Withlacoochee
26 River and its tributaries in Citrus and Levy Counties. The
27 specific areas to be regulated include the Withlacoochee River
28 and the U.S. 19 bridge westward to a line between U.S. Coast
29 Guard markers number 33 and number 34 at the mouth of the
30 river, including all side channels and coves along that
31 portion of the river; Bennets' Creek from its beginning to its

1 confluence with the Withlacoochee River; Bird's Creek from its
2 beginning to its confluence with the Withlacoochee River; and
3 the two dredged canal systems on the north side of the
4 Withlacoochee River southwest of Yankeetown. A limited lane
5 or corridor providing for reasonable motorboat speeds may be
6 identified and designated within this area.

7 (i) If any new power plant is constructed or other
8 source of warm water discharge is discovered within the state
9 which attracts a concentration of manatees or sea cows, the
10 Fish and Wildlife Conservation Commission ~~Department of~~
11 ~~Environmental Protection~~ is directed to adopt rules pursuant
12 to chapter 120 regulating the operation and speed of motorboat
13 traffic within the area of such discharge. Such rules shall
14 designate a zone which is sufficient in size, and which shall
15 remain in effect for a sufficient period of time, to protect
16 the manatees or sea cows.

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

31

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

6 1. A body of water which starts at Melbourne-Tillman
7 Drainage District structure MS-1, section 35, township 28
8 south, range 37 east, running east to include all natural
9 waters and tributaries of Turkey Creek, section 26, township
10 28 south, range 37 east, to the confluence of Turkey Creek and
11 the Indian River, section 24, township 28 south, range 37
12 east, including all lagoon waters of the Indian River bordered
13 on the west by Palm Bay Point, the north by Castaway Point,
14 the east by the four immediate spoil islands, and the south by
15 Cape Malabar, thence northward along the shoreline of the
16 Indian River to Palm Bay Point.

17 2. A triangle-shaped body of water forming a cove
18 (commonly referred to as Manatee Cove) on the east side of the
19 Banana River, with northern boundaries beginning and running
20 parallel to the east-west cement bulkhead located 870 feet
21 south of SR 520 Relief Bridge in Cocoa Beach and with western
22 boundaries running in line with the City of Cocoa Beach
23 channel markers 121 and 127 and all waters east of these
24 boundaries in section 34, township 24 south, range 37 east;
25 the center coordinates of this cove are 28°20'14" north,
26 80°35'17" west.

27 ~~(1) The Legislature recognizes that, while the manatee~~
28 ~~or sea cow is designated a marine mammal by federal law, many~~
29 ~~of the warm water wintering areas are in freshwater springs~~
30 ~~and rivers which are under the primary state law enforcement~~
31 ~~jurisdiction of the Florida Game and Fresh Water Fish~~

1 ~~Commission. The law enforcement provisions of this section~~
2 ~~shall be carried out jointly by the department and the~~
3 ~~commission, with the department serving as the lead agency.~~
4 ~~The specific areas of jurisdictional responsibility are to be~~
5 ~~established between the department and the commission by~~
6 ~~interagency agreement.~~

7 (1)(~~m~~) The commission ~~department~~ shall promulgate
8 regulations pursuant to chapter 120 relating to the operation
9 and speed of motor boat traffic in port waters with due regard
10 to the safety requirements of such traffic and the
11 navigational hazards related to the movement of commercial
12 vessels.

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

26 (~~n~~)(~~o~~) The commission ~~department~~ may designate, by
27 rule adopted pursuant to chapter 120, limited areas as a safe
28 haven for manatees to rest, feed, reproduce, give birth, or
29 nurse undisturbed by human activity. Access by motor boat to
30 private residences, boat houses, and boat docks through these
31 areas by residents, and their authorized guests, who must

1 cross one of these areas to have water access to their
2 property is permitted when the motorboat is operated at idle
3 speed, no wake.

4 (o)~~(p)~~ Except in the marked navigation channel of the
5 Florida Intracoastal Waterway as defined in s. 327.02 and the
6 area within 100 feet of such channel, a local government may
7 regulate, by ordinance, motorboat speed and operation on
8 waters within its jurisdiction where manatees are frequently
9 sighted and can be generally assumed to inhabit periodically
10 or continuously. However, such an ordinance may not take
11 effect until it has been reviewed and approved by the
12 commission ~~department~~. If the commission ~~department~~ and a
13 local government disagree on the provisions of an ordinance, a
14 local manatee protection committee must be formed to review
15 the technical data of the commission ~~department~~ and the United
16 States Fish and Wildlife Service, and to resolve conflicts
17 regarding the ordinance. The manatee protection committee must
18 be comprised of:

- 19 1. A representative of the commission ~~department~~;
- 20 2. A representative of the county;
- 21 3. A representative of the United States Fish and
22 Wildlife Service;
- 23 4. A representative of a local marine-related
24 business;
- 25 5. A representative of the Save the Manatee Club;
- 26 6. A local fisher;
- 27 7. An affected property owner; and
- 28 8. A representative of the Florida Marine Patrol.

29
30 If local and state regulations are established for the same
31 area, the more restrictive regulation shall prevail.

1

(p)(q) The commission ~~department~~ shall evaluate the
2 need for use of fenders to prevent crushing of manatees
3 between vessels (100' or larger) and bulkheads or wharves in
4 counties where manatees have been crushed by such vessels.
5 For areas in counties where evidence indicates that manatees
6 have been crushed between vessels and bulkheads or wharves,
7 the commission ~~department~~ shall:

8 1. Adopt rules pursuant to chapter 120 requiring use
9 of fenders for construction of future bulkheads or wharves;
10 and

11 2. Implement a plan and time schedule to require
12 retrofitting of existing bulkheads or wharves consistent with
13 port bulkhead or wharf repair or replacement schedules.
14

15 The fenders shall provide sufficient standoff from the
16 bulkhead or wharf under maximum operational compression to
17 ensure that manatees cannot be crushed between the vessel and
18 the bulkhead or wharf.

19

(q)(r) Any violation of a restricted area established
20 by this subsection, or established by rule pursuant to chapter
21 120 or ordinance pursuant to this subsection, shall be
22 considered a violation of the boating laws of this state and
23 shall be charged on a uniform boating citation as provided in
24 s. 327.74, except as otherwise provided in paragraph (s). Any
25 person who refuses to post a bond or accept and sign a uniform
26 boating citation shall, as provided in s. 327.73(3), be guilty
27 of a misdemeanor of the second degree, punishable as provided
28 in s. 775.082 or s. 775.083.

29

(r)(s) Except as otherwise provided in this paragraph,
30 any person violating the provisions of this subsection or any
31 rule or ordinance adopted pursuant to this subsection shall be

1 guilty of a misdemeanor, punishable as provided in s.
2 370.021(2)(a) or (b).

3 1. Any person operating a vessel in excess of a posted
4 speed limit shall be guilty of a civil infraction, punishable
5 as provided in s. 327.73, except as provided in subparagraph
6 2.

7 2. This paragraph does not apply to persons violating
8 restrictions governing "No Entry" zones or "Motorboat
9 Prohibited" zones, who, if convicted, shall be guilty of a
10 misdemeanor, punishable as provided in s. 370.021(2)(a) or
11 (b), or, if such violation demonstrates blatant or willful
12 action, may be found guilty of harassment as described in
13 paragraph (d).

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

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

20 (a) Each fiscal year the Save the Manatee Trust Fund
21 shall be available to fund an impartial scientific benchmark
22 census of the manatee population in the state. Weather
23 permitting, the study shall be conducted annually by the Fish
24 and Wildlife Conservation Commission ~~Department of~~
25 ~~Environmental Protection~~ and the results shall be made
26 available to the President of the Senate, the Speaker of the
27 House of Representatives, and the Governor and Cabinet for use
28 in the evaluation and development of manatee protection
29 measures. In addition, the Save the Manatee Trust Fund shall
30 be available for annual funding of activities of public and
31 private organizations and those of the commission ~~department~~

1 intended to provide manatee and marine mammal protection and
2 recovery effort; manufacture and erection of informational and
3 regulatory signs; production, publication, and distribution of
4 educational materials; participation in manatee and marine
5 mammal research programs, including carcass salvage and other
6 programs; programs intended to assist the recovery of the
7 manatee as an endangered species, assist the recovery of the
8 endangered or threatened marine mammals, and prevent the
9 endangerment of other species of marine mammals; and other
10 similar programs intended to protect and enhance the recovery
11 of the manatee and other species of marine mammals. The
12 commission ~~department~~ shall annually solicit advisory
13 recommendations from the Save the Manatee Committee affiliated
14 with the Save the Manatee Club, as identified and recognized
15 in Executive Order 85-19, on the use of funds from the Save
16 the Manatee Trust Fund.

17 (b) Each fiscal year moneys in the Save the Manatee
18 Trust Fund shall also be used, pursuant to s. 327.28(1)(b), to
19 reimburse the cost of activities related to manatee
20 rehabilitation by facilities that rescue, rehabilitate, and
21 release manatees as authorized pursuant to the Fish and
22 Wildlife Service of the United States Department of the
23 Interior. Such facilities must be involved in the actual
24 rescue and full-time acute care veterinarian-based
25 rehabilitation of manatees. The cost of activities includes,
26 but is not limited to, costs associated with expansion,
27 capital outlay, repair, maintenance, and operations related to
28 the rescue, treatment, stabilization, maintenance, release,
29 and monitoring of manatees. Moneys distributed through
30 contractual agreement to each facility for manatee
31 rehabilitation shall be proportionate to the number of

1 manatees under acute care rehabilitation and those released
2 during the previous fiscal year. However, the reimbursement
3 may not exceed the total amount available pursuant to ss.
4 327.25(7) and 327.28(1)(b) for the purposes provided in this
5 paragraph. Prior to receiving reimbursement for the expenses
6 of rescue, rehabilitation, and release, a facility that
7 qualifies under state and federal regulations shall submit a
8 plan to the Fish and Wildlife Conservation Commission
9 ~~Department of Environmental Protection~~ for assisting the
10 commission ~~department~~ and the Department of Highway Safety and
11 Motor Vehicles in marketing the manatee specialty license
12 plates. At a minimum, the plan shall include provisions for
13 graphics, dissemination of brochures, recorded oral and visual
14 presentation, and maintenance of a marketing exhibit. The plan
15 shall be updated annually and the Fish and Wildlife
16 Conservation Commission ~~Department of Environmental Protection~~
17 shall inspect each marketing exhibit at least once each year
18 to ensure the quality of the exhibit and promotional material.
19 Each facility that receives funds for manatee rehabilitation
20 shall annually provide the commission ~~department~~ a written
21 report, within 30 days after the close of the state fiscal
22 year, documenting the efforts and effectiveness of the
23 facility's promotional activities.

24 (c) By December 1 each year, the Fish and Wildlife
25 Conservation Commission ~~Department of Environmental Protection~~
26 shall provide the President of the Senate and the Speaker of
27 the House of Representatives a written report, enumerating the
28 amounts and purposes for which all proceeds in the Save the
29 Manatee Trust Fund for the previous fiscal year are expended,
30 in a manner consistent with those recovery tasks enumerated
31

1 within the manatee recovery plan as required by the Endangered
2 Species Act.

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

6 Section 45. Subsections (2), (3), (8), (9), (10), and
7 (11) of section 370.26, Florida Statutes, 1998 Supplement, are
8 amended to read:

9 370.26 Aquaculture definitions; marine aquaculture
10 products, producers, and facilities.--

11 (2) The Department of Environmental Protection shall
12 encourage the development of aquaculture and the production of
13 aquaculture products. The department shall develop a process
14 consistent with this section that would consolidate permits,
15 general permits, ~~special activity licenses~~, and other
16 regulatory requirements to streamline the permitting process
17 and result in effective regulation of aquaculture activities.
18 This process shall provide for a single application and
19 application fee for marine aquaculture activities which are
20 regulated by the department. Procedures to consolidate
21 permitting actions under this section do not constitute rules
22 within the meaning of s. 120.52.

23 (3) The Department of Agriculture and Consumer
24 Services shall act as a clearinghouse for aquaculture
25 applications, and act as a liaison between the Fish and
26 Wildlife Conservation Commission ~~Division of Marine Resources~~,
27 the Division of State Lands, the Department of Environmental
28 Protection district offices, other divisions within the
29 Department of Environmental Protection, and the water
30 management districts. The Department of Agriculture and
31

1 Consumer Services shall be responsible for regulating marine
2 aquaculture producers, except as specifically provided herein.

3 (8) The department shall:

4 (a) Coordinate with the Aquaculture Review Council,
5 the Aquaculture Interagency Coordinating Council, and the
6 Department of Agriculture and Consumer Services when
7 developing criteria for aquaculture general permits.

8 (b) Permit experimental technologies to collect and
9 evaluate data necessary to reduce or mitigate environmental
10 concerns.

11 (c) Provide technical expertise and promote the
12 transfer of information that would be beneficial to the
13 development of aquaculture.

14 (9) The Fish and Wildlife Conservation Commission
15 ~~department~~ shall encourage the development of aquaculture in
16 the state through the following:

17 (a) Providing assistance in developing technologies
18 applicable to aquaculture activities, evaluating practicable
19 production alternatives, and providing management agreements
20 to develop innovative culture practices.

21 ~~(b) Permitting experimental technologies to collect~~
22 ~~and evaluate data necessary to reduce or mitigate~~
23 ~~environmental concerns.~~

24 ~~(c) Providing technical expertise and promoting the~~
25 ~~transfer of information that would be beneficial to the~~
26 ~~development of aquaculture.~~

27 ~~(b)(d)~~ Facilitating aquaculture research on life
28 histories, stock enhancement, and alternative species, and
29 providing research results that would assist in the
30 evaluation, development, and commercial production of
31 candidate species for aquaculture, including:

1 1. Providing eggs, larvae, fry, and fingerlings to
2 aquaculturists when excess cultured stocks are available from
3 the commission's ~~department's~~ facilities and the culture
4 activities are consistent with the commission's ~~department's~~
5 stock enhancement projects. Such stocks may be obtained by
6 reimbursing the commission ~~department~~ for the cost of
7 production on a per-unit basis. Revenues resulting from the
8 sale of stocks shall be deposited into the trust fund used to
9 support the production of such stocks.

10 2. Conducting research programs to evaluate candidate
11 species when funding and staff are available.

12 3. Encouraging the private production of marine fish
13 and shellfish stocks for the purpose of providing such stocks
14 for statewide stock enhancement programs. When such stocks
15 become available, the commission ~~department~~ shall reduce or
16 eliminate duplicative production practices that would result
17 in direct competition with private commercial producers.

18 4. Developing a working group, in cooperation with the
19 Department of Agriculture and Consumer Services, the
20 Aquaculture Review Council, and the Aquaculture Interagency
21 Coordinating Council, to plan and facilitate the development
22 of private marine fish and nonfish hatcheries and to encourage
23 private/public partnerships to promote the production of
24 marine aquaculture products.

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

29 (10) The Fish and Wildlife Conservation Commission
30 ~~department~~ shall coordinate with the Aquaculture Review
31 Council and the Department of Agriculture and Consumer

1 Services to establish and implement grant programs to provide
2 funding for projects and programs that are identified in the
3 state's aquaculture plan, pending legislative appropriations.
4 The commission ~~department~~ and the Department of Agriculture
5 and Consumer Services shall establish and implement a grant
6 program to make grants available to qualified nonprofit,
7 educational, and research entities or local governments to
8 fund infrastructure, planning, practical and applied research,
9 development projects, production economic analysis, and
10 training and stock enhancement projects, and to make grants
11 available to counties, municipalities, and other state and
12 local entities for applied aquaculture projects that are
13 directed to economic development, pending legislative
14 appropriations.

15 (11) The Fish and Wildlife Conservation Commission
16 ~~department~~ shall provide assistance to the Department of
17 Agriculture and Consumer Services in the development of an
18 aquaculture plan for the state.

19 Section 46. Section 372.072, Florida Statutes, is
20 amended to read:

21 372.072 Endangered and Threatened Species Act.--

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

24 (2) DECLARATION OF POLICY.--The Legislature recognizes
25 that the State of Florida harbors a wide diversity of fish and
26 wildlife and that it is the policy of this state to conserve
27 and wisely manage these resources, with particular attention
28 to those species defined by the Fish and Wildlife Conservation
29 ~~Game and Fresh Water Fish~~ Commission, the Department of
30 Environmental Protection, or the United States Department of
31 Interior, or successor agencies, as being endangered or

1 threatened. As Florida has more endangered and threatened
2 species than any other continental state, it is the intent of
3 the Legislature to provide for research and management to
4 conserve and protect these species as a natural resource.

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

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

10 (b) "Endangered species" means any species of fish and
11 wildlife naturally occurring in Florida, whose prospects of
12 survival are in jeopardy due to modification or loss of
13 habitat; overutilization for commercial, sporting, scientific,
14 or educational purposes; disease; predation; inadequacy of
15 regulatory mechanisms; or other natural or manmade factors
16 affecting its continued existence.

17 (c) "Threatened species" means any species of fish and
18 wildlife naturally occurring in Florida which may not be in
19 immediate danger of extinction, but which exists in such small
20 populations as to become endangered if it is subjected to
21 increased stress as a result of further modification of its
22 environment.

23 (4) INTERAGENCY COORDINATION.--

24 (a)~~1.~~ The ~~Game and Fresh Water Fish~~ commission shall
25 be responsible for research and management of freshwater and
26 upland species, and for research and management of marine
27 species.

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

30 (b) Recognizing that citizen awareness is a key
31 element in the success of this plan, the ~~Game and Fresh Water~~

1 ~~Fish commission, the Department of Environmental Protection,~~
2 and the Office of Environmental Education of the Department of
3 Education are encouraged to work together to develop a public
4 education program with emphasis on, but not limited to, both
5 public and private schools.

6 (c) ~~The Department of Environmental Protection, the~~
7 ~~Marine Fisheries Commission, or the Game and Fresh Water Fish~~
8 commission, in consultation with the Department of Agriculture
9 and Consumer Services, ~~the Department of Commerce, the~~
10 Department of Community Affairs, or the Department of
11 Transportation, may establish reduced speed zones along roads,
12 streets, and highways to protect endangered species or
13 threatened species.

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

29 Section 47. Section 372.0725, Florida Statutes, is
30 amended to read:

31

1 372.0725 Killing or wounding of any species designated
2 as endangered, threatened, or of special concern; criminal
3 penalties.--It is unlawful for a person to intentionally kill
4 or wound any fish or wildlife of a species designated by the
5 Fish and Wildlife Conservation ~~Game and Fresh Water Fish~~
6 Commission as endangered, threatened, or of special concern,
7 or to intentionally destroy the eggs or nest of any such fish
8 or wildlife, except as provided for in the rules of the ~~Game~~
9 ~~and Fresh Water Fish~~ commission, ~~the Department of~~
10 ~~Environmental Protection, or the Marine Fisheries Commission.~~
11 Any person who violates this provision with regard to an
12 endangered or threatened species is guilty of a felony of the
13 third degree, punishable as provided in s. 775.082, s.
14 775.083, or s. 775.084.

15 Section 48. Section 372.073, Florida Statutes, is
16 amended to read:

17 372.073 Endangered and Threatened Species Reward
18 Program.--

19 (1) There is established within the Fish and Wildlife
20 Conservation ~~Game and Fresh Water Fish~~ Commission the
21 Endangered and Threatened Species Reward Program, to be funded
22 from the Nongame Wildlife Trust Fund. The commission may post
23 rewards to persons responsible for providing information
24 leading to the arrest and conviction of persons illegally
25 killing or wounding or wrongfully possessing any of the
26 endangered and threatened species listed on the official
27 Florida list of such species maintained by the commission or
28 the arrest and conviction of persons who violate s. 372.667 or
29 s. 372.671. Additional funds may be provided by donations from
30 interested individuals and organizations. The reward program
31

1 is to be administered by the commission. The commission shall
2 establish a schedule of rewards.

3 (2) The commission may expend funds only for the
4 following purposes:

5 (a) The payment of rewards to persons, other than law
6 enforcement officers, commission personnel, and members of
7 their immediate families, for information as specified in
8 subsection (1); or

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

11 Section 49. Paragraph (a) of subsection (2) and
12 subsection (6) of section 370.093, Florida Statutes, 1998
13 Supplement, are amended to read:

14 370.093 Illegal use of nets.--

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

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

31

