

By the Committees on Fiscal Resource, Natural Resources and
Senators Bronson and Jones

314-2146-99

1 A bill to be entitled
2 An act relating to marine resources; amending
3 s. 370.021, F.S.; providing penalties for
4 illegal buying and selling of marine products;
5 amending s. 370.13, F.S.; providing for the
6 display of endorsements for the taking of stone
7 crabs on vessels; providing a fee for a stone
8 crab endorsement on a saltwater products
9 license; providing a fee for trap retrieval;
10 providing for the disposition of fees; creating
11 s. 370.1322, F.S.; providing for a stone crab
12 trap certificate program; providing legislative
13 intent; providing for transferable trap
14 certificates, trap tags, and fees; providing
15 prohibitions and penalties; providing for trap
16 reduction; providing for stone crab trap
17 certificate technical, advisory, and appeals
18 boards; providing powers and duties; providing
19 for the disposition of fees; providing for
20 rulemaking authority; providing appropriations
21 and positions; amending s. 370.14, F.S.,
22 providing for a trap retrieval fee; amending s.
23 370.142, F.S., providing penalties for unlawful
24 removal of trap contents; providing authority
25 to implement additional means of trap
26 reduction; amending s. 370.143, F.S.; waiving a
27 fee; providing an effective date.
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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Subsection (6) of section 370.021, Florida
2 Statutes, 1998 Supplement, is amended to read:

3 370.021 Administration; rules, publications, records;
4 penalties; injunctions.--

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

17 (a) For a first violation, the commission ~~department~~
18 may assess a civil penalty of up to \$2,500 and may suspend the
19 wholesale and/or retail dealer's license privileges for up to
20 90 calendar days.

21 (b) For a second violation occurring within 12 months
22 of a prior violation, the commission ~~department~~ may assess a
23 civil penalty of up to \$5,000 and may suspend the wholesale
24 and/or retail dealer's license privileges for up to 180
25 calendar days.

26 (c) For a third or subsequent violation occurring
27 within a 24-month period, the commission ~~department~~ shall
28 assess a civil penalty of \$5,000 and shall suspend the
29 wholesale and/or retail dealer's license privileges for up to
30 24 months.

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1 Any proceeds from the civil penalties assessed pursuant to
2 this subsection shall be deposited into the Marine Resources
3 Conservation Trust Fund and shall be used as follows: 40
4 percent for administration and processing purposes and 60
5 percent for law enforcement purposes.

6 Section 2. Paragraph (a) of subsection (5) of section
7 370.13, Florida Statutes, 1998 Supplement, is amended, and
8 subsection (8) is added to that section, to read:

9 370.13 Stone crab; regulation.--

10 (5)(a) Effective July 1, 1995, and until July 1, 2000,
11 no stone crab trap numbers issued pursuant to rule
12 46-13.002(2)(e), Florida Administrative Code, except those
13 numbers that are active during the 1994-1995 fiscal year,
14 shall be renewed or replaced. Effective July 1, 1999, the fee
15 for a stone crab endorsement for the taking of stone crabs as
16 set forth in this paragraph shall be \$125, \$100 of which shall
17 be used by the department for administration, enforcement,
18 management, and research costs related to stone crabs and \$25
19 of which shall be used for trap retrieval pursuant to s.
20 370.143(2).

21 (8) With respect to the stone crab trap certificate
22 program, as set forth in s. 370.1322, no more than two
23 endorsements for the taking of stone crabs may be displayed on
24 one vessel and more than one vessel may display the same
25 endorsement if the requirements of s. 370.06(2) are met.

26 Section 3. Section 370.1322, Florida Statutes, is
27 created to read:

28 370.1322 Stone crab trap certificate program.--

29 (1) INTENT.--Due to rapid growth, the stone crab
30 fishery is experiencing increased congestion and conflict on
31 the water, a declining yield per trap, and public concern over

1 debris pollution from existing traps. In an effort to solve
2 these and related problems, the Legislature intends to develop
3 pursuant to the provisions of this section a stone crab trap
4 certificate program the principal goal of which is to
5 stabilize the fishery by reducing the total number of traps,
6 which should increase the yield per trap and therefore
7 maintain or increase overall catch levels. Under the
8 passive-trap-reduction program a reduction in traps will occur
9 at the time of sale or transfer of traps. The Legislature
10 seeks to preserve as much flexibility in the program as
11 possible for the fishery's various constituents.

12 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;
13 PENALTIES.--The Fish and Wildlife Conservation Commission
14 shall establish a trap certificate program for the stone crab
15 fishery of this state and shall be responsible for its
16 administration and enforcement as follows:

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

22 1. The commission shall initially allot such
23 certificates to each licenseholder with a current stone crab
24 trap number who uses traps. Anyone who holds a current stone
25 crab endorsement on his or her saltwater products license for
26 the 1998-1999 license year is eligible for a certificate. In
27 addition, in order to be eligible the applicant must show
28 that, pursuant to trip ticket records generated under the
29 provisions of s. 370.06(2)(a), he or she had at least 300
30 pounds of stone crab claw landings during one of the five
31 1-year license periods between July 1993 through June 1998.

1 The number of certificates allotted to each endorsement holder
2 shall be equal to the maximum number of traps stated on the
3 endorsement holder's saltwater products license application or
4 multiple applications as determined by the endorsement
5 holder's social security number or federal employer
6 identification number during the 1995-1996 through 1997-1998
7 fishing season or, the endorsement holder's highest annual
8 stone crab claw landings during the 1995-1996 through
9 1997-1998 fishing seasons, divided by 2 pounds per trap,
10 whichever is less. However, certificates may only be issued to
11 individuals; therefore, all licenseholders other than
12 individual licenseholders shall designate the individual or
13 individuals to whom their certificates will be allotted and
14 the number thereof to each, if more than one.

15 2. After initial issuance, trap certificates are
16 transferable on a market basis and may be transferred from one
17 licenseholder to another for a fair market value agreed upon
18 between the transferor and transferee. Upon the sale or
19 transfer of certificates outside the immediate family of the
20 certificateholder, the commission shall reduce the number of
21 certificates received by the purchaser by the following
22 percentages depending on the overall number of certificates
23 available to individual harvesters throughout the state at the
24 time of sale:

25 a. If more than 1 1/2 million certificates are
26 available, there shall be a 25 percent reduction in the number
27 of certificates received by the purchaser.

28 b. If more than 1 1/4 million, but less than 1 1/2
29 million certificates are available, there shall be a 22 1/2
30 percent reduction in the number of certificates received by
31 the purchaser.

1 c. If more than 1 million, but less than 1 1/4 million
2 certificates are available, there shall be an 18 1/2 percent
3 reduction in the number of certificates received by the
4 purchaser.

5 d. If more than 3/4 of a million, but less than 1
6 million certificates are available, there shall be a 15
7 percent reduction in the number of certificates received by
8 the purchaser.

9 e. If more than 600,000, but less than 3/4 of a
10 million certificates are available, there shall be a 10
11 percent reduction in the number of certificates received by
12 the purchaser.

13 f. When 600,000 certificates or less are available,
14 there shall be no percentage reduction in the number of
15 certificates received by the purchaser.

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17 Within 72 hours of transferring certificates, the transfer
18 shall be recorded on a notarized form provided for that
19 purpose by the commission and hand delivered or sent by
20 certified mail, return receipt requested, to the commission
21 for recordkeeping purposes. In addition, in order to cover the
22 added administrative costs of the program, a transfer fee of
23 \$2 per certificate transferred shall be assessed against the
24 purchasing licenseholder and sent by money order or cashier's
25 check with the certificate transfer form. Also, in addition to
26 the transfer fee, a surcharge of \$2 per certificate
27 transferred or 25 percent of the actual market value,
28 whichever is greater, given to the transferor shall be
29 assessed each time a certificate is transferred outside the
30 original transferor's immediate family. Transfer fees and
31 surcharges shall only apply to the actual number of

1 certificates received by the purchaser. No transfer of a
2 certificate shall be effective until the commission receives
3 the notarized transfer form and the transfer fee, including
4 any surcharge, is paid. The commission may establish by rule
5 an amount of equitable rent per trap certificate that shall be
6 recovered as partial compensation to the state for the
7 enhanced access to its natural resources. In determining
8 whether to establish such a rent and, if so, the amount
9 thereof, the commission shall consider the amount of revenues
10 annually generated by certificate fees, transfer fees,
11 surcharges, trap license fees, and sales taxes; the
12 demonstrated fair market value of transferred certificates;
13 and the continued economic viability of the commercial stone
14 crab industry. Final approval of such a rule shall be by the
15 Governor and Cabinet sitting as the Board of Trustees of the
16 Internal Improvement Trust Fund. The proceeds of equitable
17 rent recovered shall be deposited in the Marine Resources
18 Conservation Trust Fund and used for research, management,
19 enforcement, and protection of the stone crab fishery and
20 habitat. No transfer fee shall be assessed or required when
21 the transfer is within a family as a result of the death or
22 disability of the certificate owner.

23 3. No person, firm, corporation, or other business
24 entity may control, directly or indirectly, more than 1.0
25 percent of the total available certificates in any license
26 year.

27 4. The commission shall maintain records of all
28 certificates and their transfers and shall annually provide
29 each licenseholder with a statement of certificates held.

30 5. The number of trap tags issued annually to each
31 licenseholder shall not exceed the number of certificates held

1 by the licenseholder at the time of issuance, and such tags
2 and a statement of certificates held shall be issued
3 simultaneously.

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

6 7. Any person who holds a crawfish or blue crab
7 endorsement on his or her saltwater products license is
8 eligible to purchase a stone crab incidental take endorsement
9 pursuant to rules of the commission. This endorsement shall
10 be limited to a daily trip limit of 5 gallons of stone crab
11 claws per day, which may be sold pursuant to law. The fee for
12 the endorsement shall be \$25.

13 (b) Trap tags.--Effective October 1, 2000, each trap
14 used for the commercial harvest of stone crabs in state waters
15 or adjacent federal waters shall, in addition to the stone
16 crab trap number, have firmly affixed thereto an annual trap
17 tag issued by the commission. Each such tag shall be made of
18 durable plastic or similar material and shall, beginning with
19 those tags issued for the 2000-2001 season based on the number
20 of certificates held, have stamped thereon the owner's license
21 number. To facilitate enforcement and recordkeeping, such tags
22 shall be issued each year in a color different from that of
23 each of the previous 3 years. In order to recover
24 administrative costs of the tag and the certificate program,
25 the annual fee shall be 50 cents per certificate. Replacement
26 tags for lost or damaged tags shall cost 50 cents each, and
27 may be obtained as provided by rule of the commission.

28 (c) Endorsement transferable.--After initial issuance,
29 endorsements are transferable on a market basis and may be
30 transferred for fair market value agreed upon between the
31 transferor and transferee.

1 (d) Prohibitions; penalties.--
2 1. It is unlawful for a commercial harvester to
3 possess or use a stone crab trap in or on state waters or
4 adjacent federal waters without having firmly affixed thereto
5 the trap tag required by this section. It is unlawful for a
6 person to possess or use any other gear or device designed to
7 attract and enclose or otherwise aid in the taking of stone
8 crabs with a trap that does not meet the requirements of rule
9 46-13.002, F.A.C. This paragraph does not apply to persons who
10 possess a valid stone crab incidental take endorsement and who
11 use traps for the directed harvest of crawfish or blue crabs
12 in accordance with rules of the commission, in which stone
13 crabs are harvested as an incidental take of these fisheries,
14 provided that the number of stone crabs so harvested and in
15 possession of such person does not exceed 5 gallons of stone
16 crab claws per day.
17 2. It is unlawful for a person to possess or use stone
18 crab trap tags without having the necessary number of
19 certificates on record as required by this section.
20 3. It is unlawful for any person to remove the
21 contents of another harvester's trap without the express
22 written consent of the trap's owner available for immediate
23 inspection. Such unauthorized removal constitutes theft. Any
24 person convicted of theft from a trap shall, in addition to
25 the penalties specified in ss. 370.021 and 370.13 and the
26 provisions of this section, permanently lose his or her
27 saltwater products license, stone crab endorsement, and all
28 trap certificates allotted to him or her through this program.
29 In such cases, trap certificates and endorsements are
30 nontransferable.
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1 4. In addition to any other penalties provided in s.
2 370.021, a commercial stone crab harvester who violates the
3 provisions of this section or the provisions relating to stone
4 crab traps shall be punished as follows:

5 a. If the first violation is for violation of
6 subparagraph 1., subparagraph 2., or subparagraph 3., the
7 commission shall assess an additional civil penalty of up to
8 \$1,000, and the stone crab trap number issued may be suspended
9 for the remainder of the current license year. For all other
10 first violations, the commission shall assess an additional
11 civil penalty of up to \$500.

12 b. For a second violation of subparagraph 1.,
13 subparagraph 2., or subparagraph 3., which occurs within 24
14 months of any previous such violation, the commission shall
15 assess an additional civil penalty of up to \$2,000, and the
16 stone crab trap number may be suspended for the remainder of
17 the current license year.

18 c. For a third or subsequent violation of subparagraph
19 1., subparagraph 2., or subparagraph 3., which occurs within
20 36 months of any previous two such violations, the commission
21 shall assess an additional civil penalty of up to \$5,000 and
22 may suspend the stone crab trap number for a period of up to
23 24 months or may revoke the stone crab trap number and, if
24 revoking the stone crab trap number, may also proceed against
25 the licenseholder's saltwater products license in accordance
26 with the provisions of s. 370.021.

27 d. For a fourth or subsequent violation of
28 subparagraph 1., subparagraph 2., or subparagraph 3., which
29 occurs within 48 months of any three such violations, the
30 commission shall permanently revoke the violator's saltwater
31 fishing privileges, and shall also proceed against the

1 licenseholder's saltwater products license in accordance with
2 s. 370.021.

3 e. For the purposes of subparagraph 4, the term
4 "violation" refers to the prohibitions proscribed by
5 subparagraphs 1, 2, or 3, above, without regard to whether the
6 violation was adjudicated pursuant to any state or federal
7 law.

8 f. Any person assessed an additional civil penalty
9 pursuant to this section shall within 30 calendar days after
10 notification:

11 (I) Pay the civil penalty to the commission; or

12 (II) Request an administrative hearing pursuant to the
13 provisions of s. 120.60.

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

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

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

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

30 6.a. Any person who violates the provisions of
31 subparagraph 5., or any person who engages in the commercial

1 harvest, trapping, or possession of stone crabs without a
2 stone crab trap number or during any period while such stone
3 crab trap number is under suspension or revocation, commits a
4 felony of the third degree, punishable as provided in s.
5 775.082, s. 775.083, or s. 775.084.

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

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

20 8. The proceeds of all civil penalties collected
21 pursuant to subparagraph 4. and all fines collected pursuant
22 to sub-subparagraph 6.b. shall be deposited into the Marine
23 Resources Conservation Trust Fund and used only for the
24 purposes of s. 370.1322.

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

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

1 (3) PASSIVE TRAP REDUCTION.--The objective of the
2 overall trap certificate program is to reduce the number of
3 traps used in the stone crab fishery to the lowest number that
4 will maintain or increase overall catch levels, promote
5 economic efficiency in the fishery, and conserve natural
6 resources. Therefore, the Fish and Wildlife Conservation
7 Commission shall set an overall trap reduction goal based on
8 maintaining or maximizing a sustained harvest from the stone
9 crab fishery.

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

23 (a)1. Each board shall consist of the executive
24 director of the commission or his or her designee and 9
25 members appointed by the executive director according to the
26 following criteria:

27 a. All appointed members shall be certificateholders,
28 but at least one shall be a holder of fewer than 100
29 certificates, two shall be holders of at least 100 but no more
30 than 750 certificates, two shall be holders of more than 750
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1 but not more than 2,000 certificates, and two shall be holders
2 of more than 2,000 certificates.

3 b. Members shall be appointed to represent all
4 geographic areas in the district.

5 2. The executive director of the commission may fill
6 any position on the initial board with a member who does not
7 fulfill the requirements of subparagraph 1. if there are not
8 enough qualified individuals available to meet those
9 requirements. However, as soon as enough qualified individuals
10 are available to meet those requirements, the executive
11 director must replace all nonqualified appointees with
12 qualified appointees.

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

21 (c) The executive director of the commission or his or
22 her designee shall serve as a member and shall call the
23 organizational meeting of the boards. Each board shall
24 annually elect a chair and a vice chair. There shall be no
25 limitation on successive terms that may be served by a chair
26 or vice chair. A board shall meet at the request of the
27 commission, or with the commission's concurrence at the call
28 of its chair or at the request of a majority of its
29 membership, but in no case less than once yearly. A majority
30 of the board shall constitute a quorum, and official action of
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1 the board shall require a majority vote of the total
2 membership of the board present at the meeting.

3 (d) The procedural rules adopted by the boards shall
4 conform to the requirements of chapter 120.

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

7 (f) Upon reaching a decision on any dispute or problem
8 brought before it, including any decision involving the
9 allotment of certificates under paragraph (g), the boards
10 shall submit such decision to the commission for final
11 approval. The commission may alter or disapprove any decision
12 of a board, with notice thereof given in writing to the board
13 and to each party in the dispute, explaining the reasons for
14 the disapproval. The action of the commission constitutes
15 final agency action.

16 (g) In addition to those certificates allotted
17 pursuant to the provisions of subparagraph (2)(a)1., up to a
18 total of 150,000 certificates may be allotted by the
19 commission to settle disputes or other problems arising from
20 implementation of the trap certificate program.

21 (h) Each board may recommend the issuance of
22 additional certificates:

23 1. To solve disputes arising from the initial
24 allocation of certificates.

25 2. For persons who were adversely affected by chapter
26 73-432, Laws of Florida.

27 3. For displaced netters who were adversely affected
28 by Article X, section 16, of the State Constitution.

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

1 5. For persons with claw landings, but with no traps
2 listed on their saltwater products license application during
3 license years 1996-1997 or 1997-1998.

4 6. For persons with no claw landings during license
5 years 1996-1997 or 1997-1998 who can demonstrate an investment
6 in the stone crab fishery by the 1998-1999 season.

7 7. For nonreporting by dealers.

8 (i) With respect to persons displaced by Article X,
9 section 16 of the State Constitution and who do not otherwise
10 qualify for the stone crab trap certificate program provided
11 by this section, the board may recommend issuance of
12 certificates to any person who:

13 1. Can demonstrate that he or she received net
14 buy-back money or unemployment compensation as provided in s.
15 370.0805(5);

16 2. Can demonstrate that he or she invested in the
17 stone crab industry by the 1998-1999 season; and

18 3. Has no record of net violations since July 1, 1995.

19
20 The provisions of this paragraph are limited to persons who
21 can demonstrate through claw landings that their fishing
22 occurred in the area from Wakulla through Monroe counties.
23 Persons who qualify pursuant to this paragraph shall be issued
24 a minimum number of 100 trap certificates.

25 (5) DISPOSITION OF FEES.--All funds collected pursuant
26 to s. 370.1322, including civil penalties and fines shall be
27 deposited in the Marine Resources Conservation Trust Fund and
28 used only for administration of the trap certificate program,
29 research and monitoring of the stone crab fishery, enforcement
30 and public education activities in support of the purposes of
31 this section, and for evaluating the impact of trap reduction

1 on the stone crab fishery. Because the Legislature intends
2 that the stone crab trap reduction program be funded solely
3 from proceeds generated pursuant to this act, no such revenues
4 shall be made available for other purposes.

5 (6) RULEMAKING AUTHORITY.--The Fish and Wildlife
6 Conservation Commission may adopt rules, including rules
7 pursuant to ss. 120.536(1) and 120.54, as appropriate, to
8 implement the provisions of this section.

9 Section 4. (1) There is appropriated from the
10 commercial saltwater license fee revenues in the Marine
11 Resources Conservation Trust Fund to the Fish and Wildlife
12 Conservation Commission the sum of \$97,049 for fiscal year
13 1999-2000 for four career service positions that are
14 authorized for the commission to implement the stone crab trap
15 certificate program.

16 (2) There is appropriated from the commercial
17 saltwater license fee revenues in the Marine Resources
18 Conservation Trust Fund to the Fish and Wildlife Conservation
19 Commission the sum of \$254,408 for program operation, plus
20 \$130,000 to cover the cost of tags for fiscal year 1999-2000,
21 in order to implement the stone crab trap certificate program
22 in fiscal year 2000-2001.

23 (3) After fiscal year 1999-2000, the stone crab trap
24 reduction program is intended to be a self-supporting program
25 funded from proceeds generated pursuant to this act. Not more
26 than 50 percent of the revenues generated pursuant to the
27 provisions of this act may be used for operation and
28 administration of the stone crab trap reduction program. The
29 remaining 50 percent of revenues generated under the program
30 is to be used for enforcement of the provisions of the stone
31 crab trap reduction program.

1 Section 5. Paragraph (a) of subsection (2) of section
2 370.14, Florida Statutes, 1998 Supplement, is amended to read:

3 370.14 Crawfish; regulation.--

4 (2)(a) Each trap used for taking or attempting to take
5 crawfish must have a trap number permanently attached to the
6 trap and the buoy. This trap number may be issued by the Fish
7 and Wildlife Conservation Commission ~~Division of Law~~

8 ~~Enforcement~~ upon the receipt of application by the owner of
9 the traps and accompanied by the payment of a fee of \$100. The
10 design of the applications and of the trap number shall be
11 determined by the commission division. ~~However, effective July~~
12 ~~1, 1988, and until July 1, 1992, no crawfish trap numbers~~
13 ~~issued pursuant to this section except those numbers that were~~
14 ~~active during the 1990-1991 fiscal year shall be renewed or~~
15 ~~reissued. No new trap numbers shall be issued during this~~
16 ~~period. Until July 1, 1992, trap number holders or members of~~
17 ~~their immediate family or a person to whom the trap number was~~
18 ~~transferred in writing must request renewal of the number~~
19 ~~prior to June 30 of each year. If a person holding an active~~
20 ~~trap number or a member of the person's immediate family or a~~
21 ~~person to whom the trap number was transferred in writing does~~
22 ~~not request renewal of the number before the applicable date~~
23 ~~as specified above, the department may reissue the number to~~
24 ~~another applicant in the order of the receipt of the~~
25 ~~application for a trap number.~~Any trap or device used in
26 taking or attempting to take crawfish, other than a trap with
27 the trap number attached as prescribed in this paragraph,
28 shall be seized and destroyed by the commission division. The
29 proceeds of the fees imposed by this paragraph shall be
30 deposited and used as provided in paragraph (b). The
31 commission ~~Department of Environmental Protection~~ is

1 authorized to adopt ~~promulgate~~ rules and regulations to carry
2 out the intent of this section.

3 Section 6. Subsections (2) and (3) of section 370.142,
4 Florida Statutes, 1998 Supplement, are amended and subsections
5 (5) and (6) of that section are redesignated as subsections
6 (6) and (7), respectively, and a new subsection (5) is added
7 to that section, to read:

8 370.142 Spiny lobster trap certificate program.--

9 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;
10 PENALTIES.--The Fish and Wildlife Conservation Commission
11 ~~Department of Environmental Protection~~ shall establish a trap
12 certificate program for the spiny lobster fishery of this
13 state and shall be responsible for its administration and
14 enforcement as follows:

15 (a) Transferable trap certificates.--Each holder of a
16 saltwater products license who uses traps for taking or
17 attempting to take spiny lobsters shall be required to have a
18 certificate on record for each trap possessed or used
19 therefor, except as otherwise provided in this section.

20 1. The Department of Environmental Protection
21 ~~department~~ shall initially allot such certificates to each
22 licenseholder with a current crawfish trap number who uses
23 traps. The number of such certificates allotted to each such
24 licenseholder shall be based on the trap/catch coefficient
25 established pursuant to trip ticket records generated under
26 the provisions of s. 370.06(2)(a) over a 3-year base period
27 ending June 30, 1991. The trap/catch coefficient shall be
28 calculated by dividing the sum of the highest reported single
29 license-year landings up to a maximum of 30,000 pounds for
30 each such licenseholder during the base period by 700,000.
31 Each such licenseholder shall then be allotted the number of

1 certificates derived by dividing his or her highest reported
2 single license-year landings up to a maximum of 30,000 pounds
3 during the base period by the trap/catch coefficient.
4 Nevertheless, no licenseholder with a current crawfish trap
5 number shall be allotted fewer than 10 certificates. However,
6 certificates may only be issued to individuals; therefore, all
7 licenseholders other than individual licenseholders shall
8 designate the individual or individuals to whom their
9 certificates will be allotted and the number thereof to each,
10 if more than one. After initial issuance, trap certificates
11 are transferable on a market basis and may be transferred from
12 one licenseholder to another for a fair market value agreed
13 upon between the transferor and transferee. Each such transfer
14 shall, within 72 hours thereof, be recorded on a notarized
15 form provided for that purpose by the commission ~~department~~
16 and hand delivered or sent by certified mail, return receipt
17 requested, to the commission ~~department~~ for recordkeeping
18 purposes. In addition, in order to cover the added
19 administrative costs of the program and to recover an
20 equitable natural resource rent for the people of the state, a
21 transfer fee of \$2 per certificate transferred shall be
22 assessed against the purchasing licenseholder and sent by
23 money order or cashier's check with the certificate transfer
24 form. Also, in addition to the transfer fee, a surcharge of \$5
25 per certificate transferred or 25 percent of the actual market
26 value, whichever is greater, given to the transferor shall be
27 assessed the first time a certificate is transferred outside
28 the original transferor's immediate family. No transfer of a
29 certificate shall be effective until the commission ~~department~~
30 receives the notarized transfer form and the transfer fee,
31 including any surcharge, is paid. The commission ~~department~~

1 may establish by rule an amount of equitable rent per trap
2 certificate that shall be recovered as partial compensation to
3 the state for the enhanced access to its natural resources.
4 Final approval of such a rule shall be by the Governor and
5 Cabinet sitting as the Board of Trustees of the Internal
6 Improvement Fund.In determining whether to establish such a
7 rent and, if so, the amount thereof, the ~~commission department~~
8 shall consider the amount of revenues annually generated by
9 certificate fees, transfer fees, surcharges, trap license
10 fees, and sales taxes, the demonstrated fair market value of
11 transferred certificates, and the continued economic viability
12 of the commercial lobster industry. The proceeds of equitable
13 rent recovered shall be deposited in the Marine Resources
14 Conservation Trust Fund and used by the ~~commission department~~
15 for research, management, and protection of the spiny lobster
16 fishery and habitat. No transfer fee shall be assessed or
17 required when the transfer is within a family as a result of
18 the death or disability of the certificate owner.

19 2. No person, firm, corporation, or other business
20 entity may control, directly or indirectly, more than 1.5
21 percent of the total available certificates in any license
22 year.

23 3. The ~~commission department~~ shall maintain records of
24 all certificates and their transfers and shall annually
25 provide each licenseholder with a statement of certificates
26 held.

27 4. The number of trap tags issued annually to each
28 licenseholder shall not exceed the number of certificates held
29 by the licenseholder at the time of issuance, and such tags
30 and a statement of certificates held shall be issued
31 simultaneously.

1 5. Beginning July 1, 2003, and applicable to the
2 2003-2004 lobster season and thereafter, it is unlawful for
3 any person to lease lobster trap tags or certificates.

4 (b) Trap tags.--Each trap used to take or attempt to
5 take spiny lobsters in state waters or adjacent federal waters
6 shall, in addition to the crawfish trap number required by s.
7 370.14(2), have affixed thereto an annual trap tag issued by
8 the commission ~~department~~. Each such tag shall be made of
9 durable plastic or similar material and shall, beginning with
10 those tags issued for the 1993-1994 season based on the number
11 of certificates held, have stamped thereon the owner's license
12 number. To facilitate enforcement and recordkeeping, such tags
13 shall be issued each year in a color different from that of
14 each of the previous 3 years. A fee of 50 cents per tag issued
15 other than on the basis of a certificate held shall be
16 assessed through March 31, 1993. Until 1995, an annual fee of
17 50 cents per certificate shall be assessed, and thereafter,
18 until 1998, an annual fee of 75 cents per certificate shall be
19 assessed upon issuance in order to recover administrative
20 costs of the tags and the certificate program. Beginning in
21 1998, the annual certificate fee shall be \$1 per certificate.
22 Replacement tags for lost or damaged tags may be obtained as
23 provided by rule of the commission ~~department~~.

24 (c) Prohibitions; penalties.--

25 1. It is unlawful for a person to possess or use a
26 spiny lobster trap in or on state waters or adjacent federal
27 waters without having affixed thereto the trap tag required by
28 this section. It is unlawful for a person to possess or use
29 any other gear or device designed to attract and enclose or
30 otherwise aid in the taking of spiny lobster by trapping that
31

1 is not a trap as defined in rule 46-24.006(2), Florida
2 Administrative Code.

3 2. It is unlawful for a person to possess or use spiny
4 lobster trap tags without having the necessary number of
5 certificates on record as required by this section.

6 3. It is unlawful for any person to remove the
7 contents of another harvester's trap without the express
8 written consent of the trap owner available for immediate
9 inspection. Such unauthorized removal constitutes theft. Any
10 person convicted of theft from a trap shall, in addition to
11 the penalties specified in ss. 370.021 and 370.14, and the
12 provisions of this section, permanently lose his or her
13 saltwater products license, crawfish endorsement, and all trap
14 certificates allotted to him or her through this program. In
15 such cases, trap certificates and endorsements are
16 nontransferable.

17 4.3- In addition to any other penalties provided in s.
18 370.021, a commercial harvester, as defined by rule
19 46-24.002(1), Florida Administrative Code, who violates the
20 provisions of this section, or the provisions relating to
21 traps of chapter 46-24, Florida Administrative Code, shall be
22 punished as follows:

23 a. If the first violation is for violation of
24 subparagraph 1. or subparagraph 2., or subparagraph 3., the
25 commission department shall assess an additional civil penalty
26 of up to \$1,000 and the crawfish trap number issued pursuant
27 to s. 370.14(2) or (7) may be suspended for the remainder of
28 the current license year. For all other first violations, the
29 commission department shall assess an additional civil penalty
30 of up to \$500.

31

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

8 c. For a third or subsequent violation of subparagraph
9 1.,~~or~~ subparagraph 2., or subparagraph 3.which occurs within
10 36 months of any previous two such violations, the department
11 shall assess an additional civil penalty of up to \$5,000 and
12 may suspend the crawfish trap number issued pursuant to s.
13 370.14(2) or (7) for a period of up to 24 months or may revoke
14 the crawfish trap number and, if revoking the crawfish trap
15 number, may also proceed against the licenseholder's saltwater
16 products license in accordance with the provisions of s.
17 370.021(2)(e).

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

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

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

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

28 5.4~~a.~~ It is unlawful for any person to make, alter,
29 forge, counterfeit, or reproduce a spiny lobster trap tag or
30 certificate.

31

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

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

11 6.5-a. Any person who violates the provisions of
12 subparagraph 5.4, or any person who engages in the
13 commercial harvest, trapping, or possession of spiny lobster
14 without a crawfish trap number as required by s. 370.14(2) or
15 (7) or during any period while such crawfish trap number is
16 under suspension or revocation, commits a felony of the third
17 degree, punishable as provided in s. 775.082, s. 775.083, or
18 s. 775.084.

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

25 7.6. Any certificates for which the annual certificate
26 fee is not paid for a period of 3 years shall be considered
27 abandoned and shall revert to the commission ~~department~~.
28 During any period of trap reduction, any certificates
29 reverting to the commission ~~department~~ shall become
30 permanently unavailable and be considered in that amount to be
31 reduced during the next license-year period. Otherwise, any

1 certificates that revert to the commission ~~department~~ are to
2 be reallocated in such manner as provided by the commission
3 ~~department~~.

4 ~~8.7.~~ The proceeds of all civil penalties collected
5 pursuant to subparagraph ~~4.3~~ and all fines collected
6 pursuant to sub-subparagraph ~~6.5.b~~. shall be deposited into
7 the Marine Resources Conservation Trust Fund.

8 ~~9.8.~~ All traps shall be removed from the water during
9 any period of suspension or revocation.

10 (d) No vested rights.--The trap certificate program
11 shall not create vested rights in licenseholders whatsoever
12 and may be altered or terminated as necessary to protect the
13 spiny lobster resource, the participants in the fishery, or
14 the public interest.

15 (3) TRAP REDUCTION.--

16 (a) The objective of the overall trap certificate
17 program is to reduce the number of traps used in the spiny
18 lobster fishery to the lowest number that will maintain or
19 increase overall catch levels, promote economic efficiency in
20 the fishery, and conserve natural resources. Therefore, the
21 Marine Fisheries Commission shall set an overall trap
22 reduction goal based on maintaining or maximizing a sustained
23 harvest from the spiny lobster fishery. To reach that goal,
24 the commission shall, by July 1, 1992, set an annual trap
25 reduction schedule, not to exceed 10 percent per year,
26 applicable to all certificateholders until the overall trap
27 reduction goal is reached. All certificateholders shall have
28 their certificate holdings reduced by the same percentage of
29 certificates each year according to the trap reduction
30 schedule. The department shall then issue the number of trap
31 tags authorized by the commission, as requested, and a revised

1 statement of certificates held. Certificateholders may
2 maintain or increase their total number of certificates held
3 by purchasing available certificates from within the
4 authorized total. The commission shall provide for an annual
5 evaluation of the trap reduction process and shall suspend the
6 annual percentage reductions for any period deemed necessary
7 by the commission in order to assess the impact of the trap
8 reduction schedule on the fishery. The commission may then,
9 by rule, resume, terminate, or reverse the schedule as it
10 deems necessary to protect the spiny lobster resource and the
11 participants in the fishery.

12 (b) To allow for greater flexibility in achieving the
13 goals of this legislation, the commission may vary from the
14 annual trap reduction schedule and procedures outlined in
15 paragraph (a), while still not exceeding the maximum 10
16 percent per year overall reduction in the numbers of traps. To
17 that end, the commission may implement other means of trap
18 reduction deemed appropriate to protect this resource and the
19 fishery's participants, including, but not limited to,
20 alternative approaches to trap reduction incorporating a
21 passive system of reduction wherein the number of traps are
22 reduced only as participants leave the fishery.

23 (5)(a) Effective July 1, 1999, a person holding a
24 saltwater recreational fishing license bearing a recreational
25 crawfish stamp may use up to five crawfish traps. Recreational
26 trap tags may be issued by the Fish and Wildlife Conservation
27 Commission to such person for a fee of 50 cents per tag. It is
28 unlawful for any person to fish with or possess on the water
29 any recreational crawfish trap unless the trap has a valid
30 trap tag firmly attached to it. The traps must have a trap
31 number permanently attached to the trap and the buoy. A person

1 holding a recreational crawfish permit who is using the traps
2 must comply with the rules of the commission governing this
3 subsection. The recreational traps are not subject to the trap
4 reduction schedule provided by this section. The number of
5 traps allowed under this provision does not affect the number
6 of tags authorized under s. 370.142(2).

7 (b) The commission may adopt rules pursuant to ss.
8 120.54 and 120.536(1) to implement this subsection.

9 Section 7. Subsection (2) of section 370.143, Florida
10 Statutes, is amended to read:

11 370.143 Retrieval of lobster and stone crab traps
12 during closed season; department authority; fees.--

13 (2) A retrieval fee of \$10 per trap retrieved shall be
14 assessed trap owners. However, for persons holding a stone
15 crab endorsement pursuant to s. 370.13(5)(a), the retrieval
16 fee shall be waived for the first five traps retrieved. Traps
17 recovered under this program shall become the property of the
18 department or its contract agent and shall be either destroyed
19 or resold to the original owner. Revenue from retrieval fees
20 shall be deposited in the Marine Resources Conservation Trust
21 Fund and used for operation of the trap retrieval program.

22 Section 8. Except as otherwise provided in this act,
23 this act shall take effect July 1, 1999.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS/SB 2146

The committee substitute adds language to the existing spiny lobster certificate program regarding trap theft penalties. Requires Governor and Cabinet approval of economic rent and gives the FWCC flexibility regarding trap reduction. Restores a limited recreational lobster trap fishery.

Requires that 50 percent of revenues generated from the stone crab trap reduction program be used for enforcement of the program.