

By the Committee on Natural Resources

312-125A-00

1                                   A bill to be entitled  
2           An act relating to environmental  
3           reorganization; amending ss. 161.031, 161.36,  
4           F.S.; authorizing the Department of  
5           Environmental Protection to retain specific  
6           powers; amending s. 327.04, F.S.; providing  
7           rulemaking authority to the Fish and Wildlife  
8           Conservation Commission; amending s. 327.41,  
9           F.S.; providing for the issuance of permits by  
10          the Fish and Wildlife Conservation Commission;  
11          amending s. 370.07, F.S.; transferring specific  
12          regulatory powers from the Department of  
13          Environmental Protection to the Fish and  
14          Wildlife Conservation Commission and the  
15          Department of Agriculture and Consumer  
16          Services; providing for the deposit of certain  
17          funds in the General Inspection Trust Fund of  
18          the Department of Agriculture and Consumer  
19          Services; deleting the authority of the  
20          Department of Revenue to adopt emergency rules  
21          for the Apalachicola Bay Oyster Surcharge;  
22          amending s. 370.11, F.S.; providing for  
23          issuance of permits by the Fish and Wildlife  
24          Conservation Commission; amending s. 370.1107,  
25          F.S.; clarifying the meaning of the term  
26          "licensed saltwater fisheries trap"; amending  
27          s. 370.25, F.S.; transferring responsibilities  
28          for the artificial reef program to the Fish and  
29          Wildlife Conservation Commission; amending s.  
30          597.004, F.S.; transferring aquaculture  
31          shellfish handling regulations from the

1 Department of Environmental Protection to the  
2 Department of Agriculture and Consumer  
3 Services; amending s. 705.101, F.S.;  
4 transferring specific authority over derelict  
5 vessels from the Department of Environmental  
6 Protection to the Fish and Wildlife  
7 Conservation Commission; amending s. 705.103,  
8 F.S.; removing authority over abandoned vessels  
9 from the Department of Environmental  
10 Protection; repealing s. 370.0205, F.S.,  
11 relating to citizen support organizations;  
12 repealing s. 370.027, F.S., relating to  
13 rulemaking authority of the Marine Fisheries  
14 Commission; repealing s. 372.021, F.S.,  
15 relating to powers and duties of the Game and  
16 Fresh Water Fish Commission; repealing s.  
17 372.061, F.S., relating to meetings of the Game  
18 and Fresh Water Fish Commission; repealing ss.  
19 373.1965, 373.197, F.S., relating to the  
20 Kissimmee River Valley and Taylor Creek-Nubbins  
21 Slough Basin restoration project; repealing s.  
22 403.261, F.S., relating to the repeal of  
23 rulemaking jurisdiction over air and water  
24 pollution; repealing s. 370.021(6), F.S.,  
25 relating to admissibility of rules; repealing  
26 s. 370.14(12), F.S., relating to the naming of  
27 a 2-day sport season for spiny lobsters;  
28 providing an effective date.

29  
30 Be It Enacted by the Legislature of the State of Florida:  
31

1           Section 1. Section 161.031, Florida Statutes, is  
2 amended to read:

3           161.031 Personnel and facilities.--The Department of  
4 Environmental Protection may call to its assistance  
5 temporarily, any engineer or other employee in any state  
6 agency or department or in the University of Florida or other  
7 educational institution financed wholly or in part by the  
8 state, for the purpose of devising the most effective and  
9 economical method of averting and preventing erosion,  
10 hurricane, and storm damages. These employees shall not  
11 receive additional compensation, except for actual necessary  
12 expenses incurred while working under the direction of the  
13 department ~~Division of Marine Resources~~.

14           Section 2. Section 161.36, Florida Statutes, is  
15 amended to read:

16           161.36 General powers of authority.--In order to most  
17 effectively carry out the purposes of this part, the board of  
18 county commissioners, as the county beach and shore  
19 preservation authority and as the governing body of each beach  
20 and shore preservation district established thereby, shall be  
21 possessed of broad powers to do all manner of things necessary  
22 or desirable in pursuance of this end; provided, however,  
23 nothing herein shall diminish or impair the regulatory  
24 authority of the Department of Environmental Protection ~~or~~  
25 ~~Division of Marine Resources~~ under part I of this chapter, or  
26 the Board of Trustees of the Internal Improvement Trust Fund  
27 under chapter 253. Such powers shall specifically include, but  
28 not be limited to, the following:

- 29           (1) To make contracts and enter into agreements;  
30           (2) To sue and be sued;

31

1           (3) To acquire and hold lands and property by any  
2 lawful means;

3           (4) To exercise the power of eminent domain;

4           (5) To enter upon private property for purposes of  
5 making surveys, soundings, drillings and examinations, and  
6 such entry shall not be deemed a trespass;

7           (6) To construct, acquire, operate and maintain works  
8 and facilities;

9           (7) To make rules and regulations; and

10           (8) To do any and all other things specified or  
11 implied in this part.

12           Section 3. Section 327.04, Florida Statutes, is  
13 amended to read:

14           327.04 Rules.--The Fish and Wildlife Conservation  
15 Commission ~~department~~ has authority to adopt rules pursuant to  
16 ss. 120.536(1) and 120.54 to administer ~~implement~~ the  
17 provisions of this chapter conferring powers or duties upon  
18 it.

19           Section 4. Subsections (3) and (4) of section 327.41,  
20 Florida Statutes, are amended to read:

21           327.41 Uniform waterway regulatory markers.--

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

30           (4) No person or municipality, county, or other  
31 governmental entity shall place any regulatory markers in, on,

1 or over the Florida Intracoastal Waterway without a permit  
2 from the Fish and Wildlife Conservation Commission ~~Division of~~  
3 ~~Marine Resources~~.

4 Section 5. Section 370.07, Florida Statutes, is  
5 amended to read:

6 370.07 Wholesale and retail saltwater products  
7 dealers; regulation.--

8 (1) DEFINITIONS; LICENSES AUTHORIZED.--Annual license  
9 or privilege taxes are hereby levied and imposed upon dealers  
10 in the state in saltwater products. It is unlawful for any  
11 person, firm, or corporation to deal in any such products  
12 without first paying for and procuring the license required by  
13 this section. Application for all licenses shall be made to  
14 the Fish and Wildlife Conservation Commission ~~Department of~~  
15 ~~Environmental Protection~~ on blanks to be furnished by it. All  
16 licenses shall be issued by the commission ~~department~~ upon  
17 payment to it of the license tax. The licenses are defined as:

18 (a)1. "Wholesale county dealer" is any person, firm,  
19 or corporation which sells saltwater products to any person,  
20 firm, or corporation except to the consumer and who may buy  
21 saltwater products in the county designated on the wholesale  
22 license from any person licensed pursuant to s. 370.06(2) or  
23 from any licensed wholesale dealer.

24 2. "Wholesale state dealer" is a person, firm, or  
25 corporation which sells saltwater products to any person,  
26 firm, or corporation except to the consumer and who may buy  
27 saltwater products in any county of the state from any person  
28 licensed pursuant to s. 370.06(2) or from any licensed  
29 wholesale dealer.

30 3. "Wholesale dealer" is either a county or a state  
31 dealer.

1 (b) A "retail dealer" is any person, firm, or  
2 corporation which sells saltwater products directly to the  
3 consumer, but no license is required of a dealer in  
4 merchandise who deals in or sells saltwater products consumed  
5 on the premises or prepared for immediate consumption and sold  
6 to be taken out of any restaurant licensed by the Division of  
7 Hotels and Restaurants of the Department of Business and  
8 Professional Regulation.

9  
10 Any person, firm, or corporation which is both a wholesale  
11 dealer and a retail dealer shall obtain both a wholesale  
12 dealer's license and a retail dealer's license. If a wholesale  
13 dealer has more than one place of business, the annual license  
14 tax shall be effective for all places of business, provided  
15 that the wholesale dealer supplies to the commission  
16 ~~department~~ a complete list of additional places of business  
17 upon application for the annual license tax.

18 (2) LICENSES; AMOUNT, TRUST FUND.--

19 (a) A resident wholesale county seafood dealer is  
20 required to pay an annual license tax of \$300.

21 (b) A resident wholesale state dealer is required to  
22 pay an annual license tax of \$450.

23 (c) A nonresident wholesale county dealer is required  
24 to pay an annual license tax of \$500.

25 (d) A nonresident wholesale state dealer is required  
26 to pay an annual license tax of \$1,000.

27 (e) An alien wholesale county dealer is required to  
28 pay an annual license tax of \$1,000.

29 (f) An alien wholesale state dealer is required to pay  
30 an annual license tax of \$1,500.

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1           (g) A resident retail dealer is required to pay an  
2 annual license tax of \$25; however, if such a dealer has more  
3 than one place of business, the dealer shall designate one  
4 place of business as a central place of business, shall pay an  
5 annual license tax of \$25 for such place of business, and  
6 shall pay an annual license tax of \$10 for each other place of  
7 business.

8           (h) A nonresident retail dealer is required to pay an  
9 annual license tax of \$200; however, if such a dealer has more  
10 than one place of business, the dealer shall designate one  
11 place of business as a central place of business, shall pay an  
12 annual license tax of \$200 for such place of business, and  
13 shall pay an annual license tax of \$25 for each other place of  
14 business.

15           (i) An alien retail dealer is required to pay an  
16 annual license tax of \$250; however, if such a dealer has more  
17 than one place of business, the dealer shall designate one  
18 place of business as a central place of business, shall pay an  
19 annual license tax of \$250 for such place of business, and  
20 shall pay an annual license tax of \$50 for each other place of  
21 business.

22           (j) License or privilege taxes, together with any  
23 other funds derived from the Federal Government or from any  
24 other source, shall be deposited in a Florida Saltwater  
25 Products Promotion Trust Fund to be administered by the  
26 Department of Agriculture and Consumer Services for the sole  
27 purpose of promoting all fish and saltwater products produced  
28 in this state.

29           (3) APALACHICOLA BAY OYSTER SURCHARGE.--  
30  
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1           (a) For purposes of this section, "bag" means an  
2 amount of oysters with shells weighing approximately 60  
3 pounds.

4           (b) Effective October 1, 1989, there shall be assessed  
5 a surcharge of 50 cents on each bag of oysters to be paid by  
6 the wholesale dealer first receiving, using, or selling the  
7 oysters after harvesting from the waters of Apalachicola Bay.

8           (c)1. Each wholesale dealer shall certify, on such  
9 forms as may be prescribed by the Department of Revenue, to  
10 any subsequent purchasing wholesale dealer or other purchaser  
11 that the surcharge imposed by this subsection has been paid or  
12 will be paid by such wholesale dealer first receiving the  
13 oysters.

14           2. In the case where the harvester is also the  
15 wholesale dealer, such wholesale dealer shall maintain  
16 documentation, on forms as may be prescribed by the Department  
17 of Revenue, adequate to establish that the surcharge has been  
18 paid or will be paid by such wholesale dealer.

19           3. In such case where the wholesale dealer is also the  
20 retail dealer under paragraph (1)(b), such wholesale dealer  
21 shall maintain documentation, on forms as may be prescribed by  
22 the Department of Revenue, adequate to establish that the  
23 surcharge has been paid or will be paid by such wholesale  
24 dealer.

25           (d) Except for the collection allowance pursuant to s.  
26 212.12 and estimated tax filing requirements pursuant to s.  
27 212.11, the same duties and privileges imposed by chapter 212  
28 upon dealers of tangible personal property respecting the  
29 remission of the surcharge, the making of returns, penalties  
30 and interest, the keeping of books, records and accounts, and  
31 the compliance with the rules of the Department of Revenue in

1 the administration of chapter 212 shall apply and be binding  
2 upon all wholesale dealers who are subject to the surcharge  
3 imposed by this subsection.

4 (e) The Department of Revenue shall keep records  
5 showing the amount of the surcharge collected.

6 (f) The Department of Revenue shall collect the  
7 surcharge for transfer into the General Inspection ~~Marine~~  
8 ~~Resources Conservation~~ Trust Fund of the Department of  
9 Agriculture and Consumer Services ~~Department of Environmental~~  
10 ~~Protection~~.

11 (g) The Department of Revenue is empowered to  
12 promulgate rules, establish audit procedures for the audit of  
13 wholesale dealers, assess for delinquency, and prescribe and  
14 publish such forms as may be necessary to effectuate the  
15 provisions of this subsection.

16 (h) Annually, the Department of Agriculture and  
17 Consumer Services ~~Department of Environmental Protection~~ shall  
18 furnish the Department of Revenue with a current list of  
19 wholesale dealers in the state.

20 (i) Collections received by the Department of Revenue  
21 from the surcharge shall be transferred quarterly to the  
22 Department of Agriculture and Consumer Services General  
23 Inspection ~~Department of Environmental Protection~~ ~~Marine~~  
24 ~~Resources Conservation~~ Trust Fund, less the costs of  
25 administration.

26 ~~(j) The executive director of the Department of~~  
27 ~~Revenue is hereby authorized to adopt emergency rules pursuant~~  
28 ~~to s. 120.54(4) for purposes of implementing this subsection.~~  
29 ~~Notwithstanding any other provisions of law, such emergency~~  
30 ~~rules shall remain effective for 6 months from the date of~~  
31 ~~adoption. Other rules of the Department of Revenue related to~~

1 ~~and in furtherance of the orderly implementation of this~~  
2 ~~subsection shall not be subject to a s. 120.56(2) rule~~  
3 ~~challenge or a s. 120.54(3)(c)2. drawout proceeding but, once~~  
4 ~~adopted, shall be subject to a s. 120.56(3) invalidity~~  
5 ~~challenge. Such rules shall be adopted by the Governor and~~  
6 ~~Cabinet and shall become effective upon filing with the~~  
7 ~~Department of State, notwithstanding the provisions of s.~~  
8 ~~120.54(3)(e)6.~~

9       (j)(k) The Department of Agriculture and Consumer  
10 Services ~~Department of Environmental Protection~~ shall use or  
11 distribute funds generated by this surcharge, less reasonable  
12 costs of collection and administration, to fund the following  
13 oyster management and restoration programs in Apalachicola  
14 Bay:

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

25           (4) TRANSPORTATION OF SALTWATER PRODUCTS.--

26           (a) A person transporting in this state saltwater  
27 products that were produced in this state, regardless of  
28 destination, shall have in his or her possession invoices,  
29 bills of lading, or other similar instruments showing the  
30 number of packages, boxes, or containers and the number of  
31

1 pounds of each species and the name, physical address, and the  
2 Florida wholesale dealer number of the dealer of origin.

3 (b) A person transporting in this state saltwater  
4 products that were produced outside this state to be delivered  
5 to a destination in this state shall have in his or her  
6 possession invoices, bills of lading, or other similar  
7 instruments showing the number of packages, boxes, or  
8 containers and the number of pounds of each species, the name  
9 and physical address of the dealer of origin, and the name,  
10 physical address, and Florida wholesale dealer number of the  
11 Florida dealer to whom the shipment is to be delivered.

12 (c) A person transporting in this state saltwater  
13 products that were produced outside this state which are to be  
14 delivered to a destination outside this state shall have in  
15 his or her possession invoices, bills of lading, or other  
16 similar instruments showing the number of packages, boxes, or  
17 containers and the number of pounds of each species, the name  
18 and physical address of the dealer of origin, and the name and  
19 physical address of the dealer to whom the shipment is to be  
20 delivered.

21 (d) If the saltwater products in transit came from  
22 more than one dealer, distributor, or producer, each lot from  
23 each dealer shall be covered by invoices, bills of lading, and  
24 other similar instruments showing the number of boxes or  
25 containers and the number of pounds of each species. Each  
26 invoice, bill of lading, and other similar instrument shall  
27 display the wholesale dealer license number and the name and  
28 physical address of the dealer, distributor, or producer of  
29 the lot covered by the instrument.

30 (e) It is unlawful to sell, deliver, ship, or  
31 transport, or to possess for the purpose of selling,

1 delivering, shipping, or transporting, any saltwater products  
2 without all invoices of such products having thereon the  
3 wholesale dealer license number in such form as may be  
4 prescribed under the provisions of this subsection and the  
5 rules and regulations of the Fish and Wildlife Conservation  
6 Commission ~~department~~. Any saltwater products found in the  
7 possession of any person who is in violation of this provision  
8 may be seized by the commission ~~department~~ and disposed of in  
9 the manner provided by law.

10 (f) Nothing contained in this subsection may be  
11 construed to apply to the sale and delivery to a consumer of  
12 saltwater products in an ordinary retail transaction by a  
13 licensed retail dealer who has purchased such products from a  
14 licensed wholesale dealer or to the sale and delivery of the  
15 catch or products of a saltwater products licensee to a  
16 Florida-licensed wholesale dealer.

17 (g) Wholesale dealers' licenses shall be issued only  
18 to applicants who furnish to the commission ~~department~~  
19 satisfactory evidence of law-abiding reputation and who pledge  
20 themselves to faithfully observe all of the laws and  
21 regulations of this state relating to the conservation of,  
22 dealing in, taking, selling, transporting, or possession of  
23 saltwater products and to cooperate in the enforcement of all  
24 such laws to every reasonable extent. This pledge may be  
25 included in the application for license.

26 (h) Any person who violates the provisions of this  
27 subsection is guilty of a misdemeanor of the first degree,  
28 punishable as provided in s. 775.082 or s. 775.083.

29 (5) LICENSE DENIAL, SUSPENSION, OR REVOCATION.--

30 (a) A license issued to a wholesale or retail dealer  
31 is good only to the person to whom issued and named therein

1 and is not transferable. The commission ~~department~~ may  
2 revoke, suspend, or deny the renewal of the license of any  
3 licensee:

4 1. Upon the conviction of the licensee of any  
5 violation of the laws or regulations designed for the  
6 conservation of saltwater products;

7 2. Upon conviction of the licensee of knowingly  
8 dealing in, buying, selling, transporting, possessing, or  
9 taking any saltwater product, at any time and from any waters,  
10 in violation of the laws of this state; or

11 3. Upon satisfactory evidence of any violation of the  
12 laws or any regulations of this state designed for the  
13 conservation of saltwater products or of any of the laws of  
14 this state relating to dealing in, buying, selling,  
15 transporting, possession, or taking of saltwater products.

16 (b) Upon revocation of such license, no other or  
17 further license may be issued to the dealer within 3 years  
18 from the date of revocation except upon special order of the  
19 commission ~~department~~. After revocation, it is unlawful for  
20 such dealer to exercise any of the privileges of a licensed  
21 wholesale or retail dealer.

22 (c) In addition to, or in lieu of, the penalty imposed  
23 pursuant to this subsection, the commission ~~department~~ may  
24 impose penalties pursuant to s. 370.021.

25 (6) RECORDS TO BE KEPT ON SALTWATER PRODUCTS.--

26 (a) Wholesale dealers shall be required by the  
27 commission ~~department~~ to make and preserve a record of the  
28 names and addresses of persons from whom or to whom saltwater  
29 products are purchased or sold, the quantity so purchased or  
30 sold from or to each vendor or purchaser, and the date of each  
31 such transaction. Retail dealers shall be required to make and

1 preserve a record from whom all saltwater products are  
2 purchased. Such record shall be open to inspection at all  
3 times by the commission ~~department~~. A report covering the  
4 sale of saltwater products shall be made monthly or as often  
5 as required by rule to the commission ~~department~~ by each  
6 wholesale dealer. All reports required under this subsection  
7 are confidential and shall be exempt from the provisions of s.  
8 119.07(1) except that, pursuant to authority related to  
9 interstate fishery compacts as provided by ss. 370.19(3) and  
10 370.20(3), reports may be shared with another state if that  
11 state is a member of an interstate fisheries compact, and if  
12 that state has signed a Memorandum of Agreement or a similar  
13 instrument agreeing to preserve confidentiality as established  
14 by Florida law.

15 (b) The commission ~~department~~ may revoke, suspend, or  
16 deny the renewal of the license of any dealer for failure to  
17 make and keep required records, for failure to make required  
18 reports, for failure or refusal to permit the examination of  
19 required records, or for falsifying any such record. In  
20 addition to, or in lieu of, the penalties imposed pursuant to  
21 this paragraph and s. 370.021, the commission ~~department~~ may  
22 impose against any person, firm, or corporation who is  
23 determined to have violated any provision of this paragraph or  
24 any provisions of any commission ~~department~~ rules adopted  
25 ~~promulgated~~ pursuant to s. 370.0607, the following additional  
26 penalties:

- 27 1. For the first violation, a civil penalty of up to  
28 \$1,000;
- 29 2. For a second violation committed within 24 months  
30 of any previous violation, a civil penalty of up to \$2,500;
- 31 and

1           3. For a third or subsequent violation committed  
2 within 36 months of any previous two violations, a civil  
3 penalty of up to \$5,000.

4  
5 The proceeds of all civil penalties collected pursuant to this  
6 subsection shall be deposited into the Marine Resources  
7 Conservation Trust Fund and shall be used for administration,  
8 auditing, and law enforcement purposes.

9           (7) PURCHASE OF SALTWATER PRODUCTS AT TEMPORARY  
10 LOCATION.--Wholesale dealers purchasing saltwater products  
11 pursuant to s. 370.06(2)(a) at any site other than a site  
12 located in a county where the dealer has a permanent address  
13 must notify the Fish and Wildlife Conservation Commission  
14 ~~Division of Law Enforcement~~ of the location of the temporary  
15 site of business for each day business is to be conducted at  
16 such site.

17           (8) UNLAWFUL PURCHASE OF SALTWATER PRODUCTS.--It is  
18 unlawful for any licensed retail dealer or any restaurant  
19 licensed by the Division of Hotels and Restaurants of the  
20 Department of Business and Professional Regulation to buy  
21 saltwater products from any person other than a licensed  
22 wholesale or retail dealer.

23           Section 6. Subsection (2) of section 370.11, Florida  
24 Statutes, is amended to read:

25           370.11 Fish; regulation.--

26           (2) REGULATION; FISH; TARPON, ETC.--No person may  
27 sell, offer for sale, barter, exchange for merchandise,  
28 transport for sale, either within or without the state, offer  
29 to purchase or purchase any species of fish known as tarpon  
30 (Tarpon atlanticus) provided, however, any one person may  
31 carry out of the state as personal baggage or transport within

1 or out of the state not more than two tarpon if they are not  
2 being transported for sale. The possession of more than two  
3 tarpon by any one person is unlawful; provided, however, any  
4 person may catch an unlimited number of tarpon if they are  
5 immediately returned uninjured to the water and released where  
6 the same are caught. No common carrier in the state shall  
7 knowingly receive for transportation or transport, within or  
8 without the state, from any one person for shipment more than  
9 two tarpon, except as hereinafter provided. It is expressly  
10 provided that any lawful established taxidermist, in the  
11 conduct of taxidermy, may be permitted to move or transport  
12 any reasonable number of tarpon at any time and in any manner  
13 he or she may desire, as specimens for mounting; provided,  
14 however, satisfactory individual ownership of the fish so  
15 moved or transported can be established by such taxidermist at  
16 any time upon demand. Common carriers shall accept for  
17 shipment tarpon from a taxidermist when statement of  
18 individual ownership involved accompanies bill of lading or  
19 other papers controlling the shipment. The Fish and Wildlife  
20 Conservation Commission ~~Division of Marine Resources~~ may, in  
21 its discretion, upon application issue permits for the taking  
22 and transporting of tarpon for scientific purposes.

23 Section 7. Subsection (1) of section 370.1107, Florida  
24 Statutes, is amended to read:

25 370.1107 Definition; possession of certain licensed  
26 traps prohibited; penalties; exceptions; consent.--

27 (1) As used in this section, the term "licensed  
28 saltwater fisheries trap" means any trap required to be  
29 licensed by the Fish and Wildlife Conservation Commission and  
30 authorized ~~pursuant to this chapter or~~ by the commission for  
31 the taking of saltwater products.

1           Section 8. Section 370.25, Florida Statutes, is  
2 amended to read:

3           370.25 Artificial fishing reef program; construction  
4 grants to local governments.--

5           (1) An artificial fishing reef program is created  
6 within the Fish and Wildlife Conservation Commission  
7 ~~Department of Environmental Protection~~ to enhance saltwater  
8 fishing opportunities and to promote proper management of  
9 fisheries resources associated with artificial reefs for the  
10 public interest. Under the program, the commission ~~department~~  
11 shall provide grants and technical assistance to coastal local  
12 governments and nonprofit organizations qualified under s.  
13 501(c)(3) of the Internal Revenue Code for the siting and  
14 development of saltwater artificial fishing reefs as well as  
15 monitoring and evaluating their recreational, economic, and  
16 biological effectiveness. The program may be funded from  
17 state, federal, and private contributions.

18           (2) The commission ~~department~~ may adopt by rule  
19 procedures for submitting a grant application and criteria for  
20 allocating available funds. Such criteria shall include, but  
21 not be limited to, the following:

22           (a) The number of artificial fishing reefs and extent  
23 of the natural reef community currently located in the general  
24 vicinity;

25           (b) The documented demand and public support for the  
26 proposed reef;

27           (c) The number of public and private access points to  
28 the proposed reef;

29           (d) The commitment of the local government or  
30 authorized nonprofit organization to provide funds or other  
31

1 support for the development, monitoring, evaluation, and  
2 management of the proposed reef;

3 (e) The estimated cost for developing or monitoring  
4 the proposed reef;

5 (f) The stated objectives for developing or evaluating  
6 the reef and a means to measure the level of attainment of  
7 these objectives; and

8 (g) The ability of applicants to conduct artificial  
9 reef monitoring projects using established scientific protocol  
10 either independently or in collaboration with marine research  
11 entities.

12 (3) The commission ~~department~~ shall establish criteria  
13 for siting, constructing, managing, and evaluating the  
14 effectiveness of artificial reefs, including the specification  
15 of what materials are permissible to use in constructing  
16 fishing reefs. No material shall be permitted to be used as an  
17 artificial reef under conditions where hurricane force storm  
18 events could reasonably be expected to cause the underwater  
19 lateral movement of the material off the permitted reef site,  
20 or cause substantial structural failure of the material. No  
21 material shall be permitted to be used as an artificial reef  
22 which has a demonstrated life expectancy in sea water as a  
23 functioning reef community of less than 20 years, or which has  
24 not been found to be safe for marine life and human health by  
25 the commission ~~department~~. Each artificial reef must be  
26 constructed in a manner that is consistent with the public  
27 interest, will not harm the marine environment, or impede  
28 navigation or other traditional uses.

29 (4) The commission ~~department~~ shall establish criteria  
30 for determining the eligibility of nonprofit organizations  
31 qualified under s. 501(c)(3) of the Internal Revenue Code to

1 apply for and receive available reef development or evaluation  
2 funds. The criteria must include, but are not limited to:

3 (a) The organization must show proof that it is a  
4 nonprofit organization qualified under s. 501(c)(3) of the  
5 Internal Revenue Code and currently operating in full  
6 compliance with United States Internal Revenue Service  
7 regulations defining and governing those organizations.

8 (b) The organization must have as one of its principal  
9 charges the development or monitoring of artificial reefs and  
10 must agree to use the best science-based management practices  
11 available.

12 (c) The organization must be a not-for-profit  
13 corporation and must have its principal place of business  
14 within the state.

15 (5) The commission's ~~department's~~ artificial reef  
16 program shall track artificial reef development activities  
17 statewide and maintain a computer database of this activity  
18 for the public interest and to facilitate long-range planning  
19 and coordination within the commission ~~department~~ and among  
20 local governments.

21 (6) It is unlawful for any person to:

22 (a) Place artificial-reef-construction materials in  
23 state water outside zones permitted under the terms and  
24 conditions defined in the applicable environmental permits and  
25 under United States Army Corps of Engineers permits held by  
26 the commission ~~department~~ or a local government.

27 (b) Place in state waters artificial-reef-construction  
28 materials that have not been inspected and approved by the  
29 commission ~~department~~ or a commission ~~department~~-certified  
30 inspector.

31

1           (7)(a) An initial violation of subsection (6) is a  
2 misdemeanor of the first degree, punishable as provided in s.  
3 775.082 or s. 775.083. A subsequent violation of subsection  
4 (6) which is committed within 12 months after a previous  
5 violation of that subsection is a felony of the third degree,  
6 punishable as provided in s. 775.082, s. 775.083, or s.  
7 775.084.

8           (b) If a violation of ~~paragraph (4)(a)~~ or paragraph  
9 (6)(a) occurs, a law enforcement officer may terminate a  
10 vessel's voyage and order the vessel operator to return  
11 immediately to port. The vessel operator must immediately  
12 dispose of the materials on shore according to applicable  
13 waste disposal laws.

14           (c) If, at the time of the violation, the vessel that  
15 is involved in the violation:

16           1. Is moored, the registered owner of the vessel is  
17 responsible for the violation.

18           2. Is underway, the captain or operator of the vessel  
19 and the registered owner of the vessel are jointly responsible  
20 for the violation.

21           (d) In addition to the penalties imposed in this  
22 subsection, the commission ~~department~~ shall assess civil  
23 penalties of up to \$5,000 against any person convicted of  
24 violating subsection (6) and may suspend or revoke the vessel  
25 registration and may revoke existing reef-construction permits  
26 and other state marine licenses held by the violator. For the  
27 purposes of this section, conviction includes any judicial  
28 disposition other than acquittal or dismissal.

29           Section 9. Subsection (5) of section 597.004, Florida  
30 Statutes, is amended to read:

31           597.004 Aquaculture certificate of registration.--

1 (5) SALE OF AQUACULTURE PRODUCTS.--

2 (a) Aquaculture products, except shellfish, snook, and  
3 any fish of the genus *Micropterus*, and prohibited and  
4 restricted freshwater and marine species identified by rules  
5 of the Fish and Wildlife Conservation Commission, may be sold  
6 by an aquaculture producer certified pursuant to s. 597.004  
7 without restriction so long as product origin can be  
8 identified.

9 (b) Aquaculture shellfish must be sold and handled in  
10 accordance with shellfish handling regulations of the  
11 Department of Agriculture and Consumer Services ~~Department of~~  
12 ~~Environmental Protection~~ established to protect public health.

13 Section 10. Subsection (3) of section 705.101, Florida  
14 Statutes, is amended to read:

15 705.101 Definitions.--As used in this chapter:

16 (3) "Abandoned property" means all tangible personal  
17 property that ~~which~~ does not have an identifiable owner and  
18 that ~~which~~ has been disposed on public property in a wrecked,  
19 inoperative, or partially dismantled condition or ~~which~~ has no  
20 apparent intrinsic value to the rightful owner. However,  
21 vessels determined to be derelict by the Fish and Wildlife  
22 Conservation Commission ~~Department of Environmental Protection~~  
23 or a county or municipality in accordance with the provisions  
24 of s. 823.11 are ~~shall not be~~ included within ~~in~~ this  
25 definition.

26 Section 11. Subsections (2) and (4) of section  
27 705.103, Florida Statutes, are amended to read:

28 705.103 Procedure for abandoned or lost property.--

29 (2) Whenever a law enforcement officer ascertains that  
30 an article of lost or abandoned property is present on public  
31 property and is of such nature that it cannot be easily

1 removed, the officer shall cause a notice to be placed upon  
2 such article in substantially the following form:

3  
4 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED  
5 PROPERTY. This property, to wit: ...(setting forth brief  
6 description)... is unlawfully upon public property known as  
7 ...(setting forth brief description of location)... and must  
8 be removed within 5 days; otherwise, it will be removed and  
9 disposed of pursuant to chapter 705, Florida Statutes. The  
10 owner will be liable for the costs of removal, storage, and  
11 publication of notice. Dated this: ...(setting forth the date  
12 of posting of notice)..., signed: ...(setting forth name,  
13 title, address, and telephone number of law enforcement  
14 officer)....

15  
16 Such notice shall be not less than 8 inches by 10 inches and  
17 shall be sufficiently weatherproof to withstand normal  
18 exposure to the elements. In addition to posting, the law  
19 enforcement officer shall make a reasonable effort to  
20 ascertain the name and address of the owner. If such is  
21 reasonably available to the officer, she or he shall mail a  
22 copy of such notice to the owner on or before the date of  
23 posting. If the property is a motor vehicle as defined in s.  
24 320.01(1) or a vessel as defined in s. 327.02, the law  
25 enforcement agency shall contact the Department of Highway  
26 Safety and Motor Vehicles ~~or the Department of Environmental~~  
27 ~~Protection, respectively,~~ in order to determine the name and  
28 address of the owner and any person who has filed a lien on  
29 the vehicle or vessel as provided in s. 319.27(2) or (3) or s.  
30 328.15(1). On receipt of this information, the law enforcement  
31 agency shall mail a copy of the notice by certified mail,

1 return receipt requested, to the owner and to the lienholder,  
2 if any. If, at the end of 5 days after posting the notice and  
3 mailing such notice, if required, the owner or any person  
4 interested in the lost or abandoned article or articles  
5 described has not removed the article or articles from public  
6 property or shown reasonable cause for failure to do so, the  
7 following shall apply:

8 (a) For abandoned property, the law enforcement agency  
9 may retain any or all of the property for its own use or for  
10 use by the state or unit of local government, trade such  
11 property to another unit of local government or state agency,  
12 donate the property to a charitable organization, sell the  
13 property, or notify the appropriate refuse removal service.

14 (b) For lost property, the officer shall take custody  
15 and the agency shall retain custody of the property for 90  
16 days. The agency shall publish notice of the intended  
17 disposition of the property, as provided in this section,  
18 during the first 45 days of this time period.

19 1. If the agency elects to retain the property for use  
20 by the unit of government, donate the property to a charitable  
21 organization, surrender such property to the finder, sell the  
22 property, or trade the property to another unit of local  
23 government or state agency, notice of such election shall be  
24 given by an advertisement published once a week for 2  
25 consecutive weeks in a newspaper of general circulation in the  
26 county where the property was found if the value of the  
27 property is more than \$100. If the value of the property is  
28 \$100 or less, notice shall be given by posting a description  
29 of the property at the law enforcement agency where the  
30 property was turned in. The notice must be posted for not less  
31 than 2 consecutive weeks in a public place designated by the

1 law enforcement agency. The notice must describe the property  
2 in a manner reasonably adequate to permit the rightful owner  
3 of the property to claim it.

4           2. If the agency elects to sell the property, it must  
5 do so at public sale by competitive bidding. Notice of the  
6 time and place of the sale shall be given by an advertisement  
7 of the sale published once a week for 2 consecutive weeks in a  
8 newspaper of general circulation in the county where the sale  
9 is to be held. The notice shall include a statement that the  
10 sale shall be subject to any and all liens. The sale must be  
11 held at the nearest suitable place to that where the lost or  
12 abandoned property is held or stored. The advertisement must  
13 include a description of the goods and the time and place of  
14 the sale. The sale may take place no earlier than 10 days  
15 after the final publication. If there is no newspaper of  
16 general circulation in the county where the sale is to be  
17 held, the advertisement shall be posted at the door of the  
18 courthouse and at three other public places in the county at  
19 least 10 days prior to sale. Notice of the agency's intended  
20 disposition shall describe the property in a manner reasonably  
21 adequate to permit the rightful owner of the property to  
22 identify it.

23           (4) The owner of any abandoned or lost property who,  
24 after notice as provided in this section, does not remove such  
25 property within the specified period shall be liable to the  
26 law enforcement agency for all costs of removal, storage, and  
27 destruction of such property, less any salvage value obtained  
28 by disposal of the property. Upon final disposition of the  
29 property, the law enforcement officer shall notify the owner,  
30 if known, of the amount owed. In the case of an abandoned boat  
31 or motor vehicle, any person who neglects or refuses to pay

1 such amount is not entitled to be issued a certificate of  
2 registration for such boat or motor vehicle, or any other boat  
3 or motor vehicle, until such costs have been paid. The law  
4 enforcement officer shall supply the Department of Highway  
5 Safety and Motor Vehicles ~~Environmental Protection~~ with a list  
6 of persons whose boat registration privileges or have been  
7 ~~revoked under this subsection and the Department of Motor~~  
8 ~~Vehicles with a list of persons~~ whose motor vehicle privileges  
9 have been revoked under this subsection. Neither the  
10 department nor any other person acting as agent thereof shall  
11 issue a certificate of registration to a person whose boat or  
12 motor vehicle registration privileges have been revoked, as  
13 provided by this subsection, until such costs have been paid.

14 Section 12. Sections 370.0205, 370.027, 372.021,  
15 372.061, 373.1965, 373.197, and 403.261, Florida Statutes, and  
16 subsection (6) of section 370.02 and subsection (12) of  
17 section 370.14, Florida Statutes, are repealed.

18 Section 13. This act shall take effect July 1, 2000.

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SENATE SUMMARY

Amends and repeals various sections of environmental protection statutes to conform to the creation of the Fish and Wildlife Conservation Commission.