

By Senator Bronson

312-118B-00

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; conforming
23 a cross-reference; amending s. 370.142, F.S.;
24 providing penalties for unlawful removal of
25 trap contents; providing authority to implement
26 additional means of trap reduction; amending s.
27 370.143, F.S.; waiving a fee; providing an
28 effective date.

29
30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Subsection (5) of section 370.021, Florida
2 Statutes, is amended to read:

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

5 (5) 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 commission 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 may assess the following penalties:

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

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

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

29
30 Any proceeds from the civil penalties assessed pursuant to
31 this subsection shall be deposited into the Marine Resources

1 Conservation Trust Fund and shall be used as follows: 40
2 percent for administration and processing purposes and 60
3 percent for law enforcement purposes.

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

7 370.13 Stone crab; regulation.--

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

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

24 Section 3. Section 370.1322, Florida Statutes, is
25 created to read:

26 370.1322 Stone crab trap certificate program.--

27 (1) INTENT.--Due to rapid growth, the stone crab
28 fishery is experiencing increased congestion and conflict on
29 the water, a declining yield per trap, and public concern over
30 debris pollution from existing traps. In an effort to solve
31 these and related problems, the Legislature intends to develop

1 under this section a stone crab trap certificate program the
2 principal goal of which is to stabilize the fishery by
3 reducing the total number of traps, which should increase the
4 yield per trap and, therefore, maintain or increase overall
5 catch levels. Under the passive-trap-reduction program a
6 reduction in traps will occur at the time of sale or transfer
7 of traps. The Legislature seeks to preserve as much
8 flexibility in the program as possible for the fishery's
9 various constituents.

10 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;
11 PENALTIES.--The Fish and Wildlife Conservation Commission
12 shall establish a trap certificate program for the stone crab
13 fishery of this state and shall be responsible for its
14 administration and 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 stone crabs is 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 commission shall initially allot such
21 certificates to each licenseholder who has a current stone
22 crab trap number and who uses traps. Anyone who holds a
23 current stone crab endorsement on his or her saltwater
24 products license for the 1999-2000 license year is eligible
25 for certificates. In addition, in order to be eligible, the
26 applicant must show that, pursuant to trip-ticket records
27 generated under the provisions of s. 370.06(2)(a), he or she
28 had at least 300 pounds of stone crab claw landings during one
29 of the six 1-year-license periods between July 1993 and June
30 1999. The number of certificates allotted to each endorsement
31 holder must be equal to the maximum number of traps stated on

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

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

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

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

30 c. If more than 1 million, but less than 1 1/4 million
31 certificates are available, there shall be an 18 1/2 percent

1 reduction in the number of certificates received by the
2 purchaser.

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

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

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

14
15 Within 72 hours of transferring certificates, the transfer
16 shall be recorded on a notarized form provided for that
17 purpose by the commission and hand delivered or sent by
18 certified mail, return receipt requested, to the commission
19 for recordkeeping purposes. In addition, in order to cover the
20 added administrative costs of the program, a transfer fee of
21 \$2 per certificate transferred shall be assessed against the
22 purchasing licenseholder and sent by money order or cashier's
23 check with the certificate transfer form. Also, in addition to
24 the transfer fee, a surcharge of \$2 per certificate
25 transferred or 25 percent of the actual market value,
26 whichever is greater, given to the transferor shall be
27 assessed each time a certificate is transferred outside the
28 original transferor's immediate family. Transfer fees and
29 surcharges apply only to the actual number of certificates
30 received by the purchaser. A transfer of a certificate shall
31 not be effective until the commission receives the notarized

1 transfer form and the transfer fee, including any surcharge.
2 The commission may establish, under ss. 120.536(1) and 120.54,
3 an amount of equitable rent per trap certificate which shall
4 be recovered as partial compensation to the state for the
5 enhanced access to its natural resources. In determining
6 whether to establish such a rent and, if so, the amount
7 thereof, the commission shall consider the amount of revenues
8 annually generated by certificate fees, transfer fees,
9 surcharges, trap license fees, and sales taxes; the
10 demonstrated fair market value of transferred certificates;
11 and the continued economic viability of the commercial stone
12 crab industry. Final approval of such a rule shall be by the
13 Governor and Cabinet sitting as the Board of Trustees of the
14 Internal Improvement Trust Fund. The proceeds of equitable
15 rent recovered must be deposited in the Marine Resources
16 Conservation Trust Fund and used for research, management,
17 enforcement, and protection of the stone crab fishery and
18 habitat. A transfer fee may not be assessed or required when
19 the transfer is within a family as a result of the death or
20 disability of the certificate owner.

21 3. A person, firm, corporation, or other business
22 entity may not control, directly or indirectly, more than 1
23 percent of the total available certificates in any license
24 year.

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

28 5. The number of trap tags issued annually to each
29 licenseholder may not exceed the number of certificates held
30 by the licenseholder at the time of issuance, and such tags
31

1 and a statement of certificates held must be issued
2 simultaneously.

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

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

12 (b) Trap tags.--Effective October 1, 2001, each trap
13 used for the commercial harvest of stone crabs in state waters
14 or adjacent federal waters must, in addition to the stone crab
15 trap number, have firmly affixed thereto an annual trap tag
16 issued by the commission. Each tag must be made of durable
17 plastic or similar material and must, beginning with those
18 tags issued for the 2001-2002 season based on the number of
19 certificates held, have stamped thereon the owner's license
20 number. To facilitate enforcement and recordkeeping, tags must
21 be issued each year in a color different from that of each of
22 the previous 3 years. In order to recover administrative costs
23 of the tag and the certificate program, the annual fee is 50
24 cents per certificate. Replacement tags for lost or damaged
25 tags are 50 cents each and may be obtained as provided by rule
26 of the commission.

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

31 (d) Prohibitions; penalties.--

1 1. It is unlawful for a commercial harvester to
2 possess or use a stone crab trap in or on state waters or
3 adjacent federal waters without having firmly affixed thereto
4 the trap tag required by this section. It is unlawful for a
5 person to possess or use any other gear or device designed to
6 attract and enclose or otherwise aid in the taking of stone
7 crabs with a trap that does not meet the requirements of rule
8 46-13.002, Florida Administrative Code. This subparagraph does
9 not apply to persons who possess a valid stone crab
10 incidental-take endorsement and who use traps for the directed
11 harvest of crawfish or blue crabs in accordance with rules of
12 the commission and who harvests stone crabs as an incidental
13 take of these fisheries, if the number of stone crabs so
14 harvested and in possession of that person does not exceed 5
15 gallons of stone crab claws per day.

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

19 3. It is unlawful for any person to remove the
20 contents of another harvester's trap without the express
21 written consent of the trap's owner available for immediate
22 inspection. Such unauthorized removal constitutes theft. Any
23 person convicted of theft from a trap shall, in addition to
24 the penalties specified in ss. 370.021 and 370.13 and the
25 provisions of this section, permanently lose his or her
26 saltwater products license, stone crab endorsement, and all
27 trap certificates allotted to him or her through this program.
28 In such cases, trap certificates and endorsements are
29 nontransferable.

30 4. In addition to any other penalties provided in s.
31 370.021, a commercial stone crab harvester who violates the

1 provisions of this section or the provisions relating to stone
2 crab traps shall be punished as follows:

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

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

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

25 d. For a fourth or subsequent violation of
26 subparagraph 1., subparagraph 2., or subparagraph 3., which
27 occurs within 48 months of any three such violations, the
28 commission shall permanently revoke the violator's saltwater
29 fishing privileges, and shall also proceed against the
30 licenseholder's saltwater products license in accordance with
31 s. 370.021.

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

5 f. Any person assessed an additional civil penalty
6 under this section shall within 30 calendar days after
7 notification:

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

9 (II) Request an administrative hearing under the
10 provisions of s. 120.60.

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

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

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

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

27 6.a. Any person who violates the provisions of
28 subparagraph 5., or any person who engages in the commercial
29 harvest, trapping, or possession of stone crabs without a
30 stone crab trap number or during any period in which the stone
31 crab trap number is under suspension or revocation, commits a

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

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

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

16 8. The proceeds of all civil penalties collected under
17 subparagraph 4. and all fines collected under sub-subparagraph
18 6.b. must be deposited into the Marine Resources Conservation
19 Trust Fund and used only for the purposes of s. 370.1322.

20 9. All traps must be removed from the water during any
21 period of suspension or revocation.

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

27 (3) PASSIVE TRAP REDUCTION.--The objective of the
28 overall trap certificate program is to reduce the number of
29 traps used in the stone crab fishery to the lowest number that
30 will maintain or increase overall catch levels, promote
31 economic efficiency in the fishery, and conserve natural

1 resources. Therefore, the Fish and Wildlife Conservation
2 Commission shall set an overall trap reduction goal based on
3 maintaining or maximizing a sustained harvest from the stone
4 crab fishery.

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

18 (a)1. Each board consists of the executive director of
19 the commission or his or her designee and nine members
20 appointed by the executive director according to the following
21 criteria:

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

28 b. The membership must be representative of all
29 geographic areas in the region.

30 2. The executive director of the commission may fill
31 any position on the initial board with a member who does not

1 fulfill the requirements of subparagraph (a)1. if there are
2 not enough qualified individuals available to meet those
3 requirements. However, as soon as enough qualified individuals
4 are available to meet those requirements, the executive
5 director must replace all nonqualified appointees with
6 qualified appointees.

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

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

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

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

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

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

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

17 1. To solve disputes arising from the initial
18 allocation of certificates.

19 2. For persons who were adversely affected by chapter
20 73-432, Laws of Florida.

21 3. For displaced netters who were adversely affected
22 by s. 16, Art. X of the State Constitution.

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

26 5. For persons with claw landings but with no traps
27 listed on their saltwater products license application during
28 license years 1995-1996 through 1997-1998.

29 6. For persons with no claw landings during license
30 years 1995-1996 through 1997-1998 who invested in the stone
31 crab fishery by the 1999-2000 season.

- 1 7. For nonreporting by dealers.
2 (i) With respect to persons displaced by s. 16, Art. X
3 of the State Constitution and who do not otherwise qualify for
4 the stone crab trap certificate program provided by this
5 section, the board may recommend issuance of certificates to
6 any person who:
7 1. Received net buy-back money or unemployment
8 compensation as provided in s. 370.0805(5);
9 2. Invested in the stone crab industry by the
10 1999-2000 season; and
11 3. Has no record of net violations since July 1, 1995.
12

13 This paragraph is limited to persons who can demonstrate
14 through claw landings that their fishing occurred in the area
15 from Wakulla through Monroe counties. Persons who qualify
16 under this paragraph shall be issued a minimum number of 100
17 trap certificates.

18 (5) DISPOSITION OF FEES.--All funds collected under s.
19 370.1322, including civil penalties and fines, shall be
20 deposited in the Marine Resources Conservation Trust Fund and
21 used only for administration of the trap certificate program,
22 research and monitoring of the stone crab fishery, enforcement
23 and public education activities in support of the purposes of
24 this section, and for evaluating the impact of trap reduction
25 on the stone crab fishery.

26 (6) RULEMAKING AUTHORITY.--The Fish and Wildlife
27 Conservation Commission may adopt rules, including rules under
28 ss. 120.536(1) and 120.54, as appropriate, to implement this
29 section.

30 Section 4. (1) There is appropriated from the
31 commercial saltwater license fee revenues in the Marine

1 Resources Conservation Trust Fund to the Fish and Wildlife
2 Conservation Commission the sum of \$97,049 for fiscal year
3 2000-2001 for four career service positions that are
4 authorized for the commission to implement the stone crab trap
5 certificate program.

6 (2) There is appropriated from the commercial
7 saltwater license fee revenues in the Marine Resources
8 Conservation Trust Fund to the Fish and Wildlife Conservation
9 Commission the sum of \$254,408 for program operation, plus
10 \$130,000 to cover the cost of tags for fiscal year 2000-2001,
11 in order to implement the stone crab trap certificate program
12 in fiscal year 2000-2001.

13 (3) After fiscal year 2000-2001, the stone crab trap
14 reduction program is intended to be a self-supporting program
15 funded from proceeds generated under this act. Not more than
16 50 percent of the revenues generated under this act may be
17 used for operation and administration of the stone crab trap
18 reduction program. The remaining 50 percent of revenues
19 generated under the program are to be used for enforcement of
20 the provisions of the stone crab trap reduction program.

21 Section 5. Subsection (2) of section 370.14, Florida
22 Statutes, is amended to read:

23 370.14 Crawfish; regulation.--

24 (2)(a) Each trap used for taking or attempting to take
25 crawfish must have a trap number permanently attached to the
26 trap and the buoy. This trap number may be issued by the Fish
27 and Wildlife Conservation Commission upon the receipt of
28 application by the owner of the traps and accompanied by the
29 payment of a fee of \$100. The design of the applications and
30 of the trap number shall be determined by the commission. Any
31 trap or device used in taking or attempting to take crawfish,

1 other than a trap with the trap number attached as prescribed
2 in this paragraph, shall be seized and destroyed by the
3 commission. The proceeds of the fees imposed by this paragraph
4 shall be deposited and used as provided in paragraph (b). The
5 commission may adopt ~~is authorized to promulgate rules and~~
6 ~~regulations~~ to carry out the intent of this section.

7 (b) Fees collected pursuant to paragraph (a) shall be
8 deposited as follows:

9 1. Fifty percent of the fees collected shall be
10 deposited in the Marine Resources Conservation Trust Fund for
11 use in enforcing the provisions of paragraph (a) through
12 aerial and other surveillance and trap retrieval.

13 2. Fifty percent of the fees collected shall be
14 deposited as provided in s. 370.142(6)~~s. 370.142(5)~~.

15 Section 6. Subsections (2) and (3) of section 370.142,
16 Florida Statutes, are amended, present subsections (5) and (6)
17 of that section are redesignated as subsections (6) and (7),
18 respectively, and a new subsection (5) is added to that
19 section to read:

20 370.142 Spiny lobster trap certificate program.--

21 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;
22 PENALTIES.--The Fish and Wildlife Conservation Commission
23 shall establish a trap certificate program for the spiny
24 lobster fishery of this state and shall be responsible for its
25 administration and enforcement as follows:

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

31

1 1. The Department of Environmental Protection shall
2 initially allot such certificates to each licenseholder with a
3 current crawfish trap number who uses traps. The number of
4 such certificates allotted to each such licenseholder shall be
5 based on the trap/catch coefficient established pursuant to
6 trip ticket records generated under the provisions of s.
7 370.06(2)(a) over a 3-year base period ending June 30, 1991.
8 The trap/catch coefficient shall be calculated by dividing the
9 sum of the highest reported single license-year landings up to
10 a maximum of 30,000 pounds for each such licenseholder during
11 the base period by 700,000. Each such licenseholder shall then
12 be allotted the number of certificates derived by dividing his
13 or her highest reported single license-year landings up to a
14 maximum of 30,000 pounds during the base period by the
15 trap/catch coefficient. Nevertheless, no licenseholder with a
16 current crawfish trap number shall be allotted fewer than 10
17 certificates. However, certificates may only be issued to
18 individuals; therefore, all licenseholders other than
19 individual licenseholders shall designate the individual or
20 individuals to whom their certificates will be allotted and
21 the number thereof to each, if more than one. After initial
22 issuance, trap certificates are transferable on a market basis
23 and may be transferred from one licenseholder to another for a
24 fair market value agreed upon between the transferor and
25 transferee. Each such transfer shall, within 72 hours thereof,
26 be recorded on a notarized form provided for that purpose by
27 the Fish and Wildlife Conservation Commission and hand
28 delivered or sent by certified mail, return receipt requested,
29 to the commission for recordkeeping purposes. In addition, in
30 order to cover the added administrative costs of the program
31 and to recover an equitable natural resource rent for the

1 people of the state, a transfer fee of \$2 per certificate
2 transferred shall be assessed against the purchasing
3 licenseholder and sent by money order or cashier's check with
4 the certificate transfer form. Also, in addition to the
5 transfer fee, a surcharge of \$5 per certificate transferred or
6 25 percent of the actual market value, whichever is greater,
7 given to the transferor shall be assessed the first time a
8 certificate is transferred outside the original transferor's
9 immediate family. No transfer of a certificate shall be
10 effective until the commission receives the notarized transfer
11 form and the transfer fee, including any surcharge, is paid.
12 The commission may establish by rule an amount of equitable
13 rent per trap certificate that shall be recovered as partial
14 compensation to the state for the enhanced access to its
15 natural resources. Final approval of such a rule shall be by
16 the Governor and Cabinet sitting as the Board of Trustees of
17 the Internal Improvement Fund.In determining whether to
18 establish such a rent and, if so, the amount thereof, the
19 commission shall consider the amount of revenues annually
20 generated by certificate fees, transfer fees, surcharges, trap
21 license fees, and sales taxes, the demonstrated fair market
22 value of transferred certificates, and the continued economic
23 viability of the commercial lobster industry. The proceeds of
24 equitable rent recovered shall be deposited in the Marine
25 Resources Conservation Trust Fund and used by the commission
26 for research, management, and protection of the spiny lobster
27 fishery and habitat. A transfer fee may not be assessed or
28 required when the transfer is within a family as a result of
29 the death or disability of the certificate owner.

30 2. No person, firm, corporation, or other business
31 entity may control, directly or indirectly, more than 1.5

1 percent of the total available certificates in any license
2 year.

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

6 4. The number of trap tags issued annually to each
7 licenseholder shall not exceed the number of certificates held
8 by the licenseholder at the time of issuance, and such tags
9 and a statement of certificates held shall be issued
10 simultaneously.

11 5. Beginning July 1, 2003, and applicable to the
12 2003-2004 lobster season and thereafter, it is unlawful for
13 any person to lease lobster trap tags or certificates.

14 (b) Trap tags.--Each trap used to take or attempt to
15 take spiny lobsters in state waters or adjacent federal waters
16 shall, in addition to the crawfish trap number required by s.
17 370.14(2), have affixed thereto an annual trap tag issued by
18 the commission. Each such tag shall be made of durable plastic
19 or similar material and shall, based on the number of
20 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. The annual certificate fee shall
24 be \$1 per certificate. Replacement tags for lost or damaged
25 tags may be obtained as provided by rule of the commission.

26 (c) Prohibitions; penalties.--

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

1 otherwise aid in the taking of spiny lobster by trapping that
2 is not a trap as defined in rule 46-24.006(2), Florida
3 Administrative Code.

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

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

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

24 a. If the first violation is for violation of
25 subparagraph 1., ~~or~~ subparagraph 2., or subparagraph 3., the
26 commission shall assess an additional civil penalty of up to
27 \$1,000 and the crawfish trap number issued pursuant to s.
28 370.14(2) or (6) may be suspended for the remainder of the
29 current license year. For all other first violations, the
30 commission shall assess an additional civil penalty of up to
31 \$500.

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 commission 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 (6)
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 commission
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 (6) 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)(i).

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 commission; or

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

24 e. The commission shall suspend the crawfish trap
25 number issued pursuant to s. 370.14(2) or (6) for any person
26 failing to comply with the provisions of sub-subparagraph d.

27 5.4.a. It is unlawful for any person to make, alter,
28 forge, counterfeit, or reproduce a spiny lobster trap tag or
29 certificate.

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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 as provided in this chapter
10 or in the rules of the commission.

11 6.5-a. Any person who violates the provisions of
12 subparagraph 5~~subparagraph 4~~, or any person who engages in
13 the commercial harvest, trapping, or possession of spiny
14 lobster without a crawfish trap number as required by s.
15 370.14(2) or (6) or during any period while such crawfish trap
16 number is under suspension or revocation, commits a felony of
17 the third degree, punishable as provided in s. 775.082, s.
18 775.083, or s. 775.084.

19 b. In addition to any penalty imposed pursuant to
20 sub-subparagraph a., the commission shall levy a fine of up to
21 twice the amount of the appropriate surcharge to be paid on
22 the fair market value of the transferred certificates, as
23 provided in subparagraph (a)1., on any person who violates the
24 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. During any
28 period of trap reduction, any certificates reverting to the
29 commission shall become permanently unavailable and be
30 considered in that amount to be reduced during the next
31 license-year period. Otherwise, any certificates that revert

1 to the commission are to be reallocated in such manner as
2 provided by the commission.

3 8.7. The proceeds of all civil penalties collected
4 pursuant to subparagraph 4.~~subparagraph 3.~~ and all fines
5 collected pursuant to sub-subparagraph 6.b.~~sub-subparagraph~~
6 ~~5.b.~~ shall be deposited into the Marine Resources Conservation
7 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.--(a) The objective of the overall
16 trap certificate program is to reduce the number of traps used
17 in the spiny lobster fishery to the lowest number that will
18 maintain or increase overall catch levels, promote economic
19 efficiency in the fishery, and conserve natural resources.
20 Therefore, the Marine Fisheries Commission shall set an
21 overall trap reduction goal based on maintaining or maximizing
22 a sustained harvest from the spiny lobster fishery. To reach
23 that goal, the Marine Fisheries Commission shall, by July 1,
24 1992, set an annual trap reduction schedule, not to exceed 10
25 percent per year, applicable to all certificateholders until
26 the overall trap reduction goal is reached. All
27 certificateholders shall have their certificate holdings
28 reduced by the same percentage of certificates each year
29 according to the trap reduction schedule. Until July 1, 1999,
30 the Department of Environmental Protection shall issue the
31 number of trap tags authorized by the Marine Fisheries

1 Commission, as requested, and a revised statement of
2 certificates held. Beginning July 1, 1999, the Fish and
3 Wildlife Conservation Commission shall annually issue the
4 number of trap tags authorized by the commission's schedule,
5 as requested, and a revised statement of certificates held.
6 Certificateholders may maintain or increase their total number
7 of certificates held by purchasing available certificates from
8 within the authorized total. The Fish and Wildlife
9 Conservation Commission shall provide for an annual evaluation
10 of the trap reduction process and shall suspend the annual
11 percentage reductions for any period deemed necessary by the
12 commission in order to assess the impact of the trap reduction
13 schedule on the fishery. The Fish and Wildlife Conservation
14 Commission may then, by rule, resume, terminate, or reverse
15 the schedule as it deems necessary to protect the spiny
16 lobster resource and the participants in the fishery.

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

28 (5)(a) Effective July 1, 2000, a person holding a
29 saltwater recreational fishing license bearing a recreational
30 crawfish stamp may use up to five crawfish traps. Recreational
31 trap tags may be issued by the Fish and Wildlife Conservation

1 Commission to such person for a fee of 50 cents per tag. It is
2 unlawful for any person to fish with or possess on the water
3 any recreational crawfish trap unless the trap has a valid
4 trap tag firmly attached to it. The traps must have a trap
5 number permanently attached to the trap and the buoy. A person
6 holding a recreational crawfish permit who is using the traps
7 must comply with the rules of the commission governing this
8 subsection. The recreational traps are not subject to the trap
9 reduction schedule provided by this section. The number of
10 traps allowed under this subsection does not affect the number
11 of tags authorized under subsection (2).

12 (b) The commission may adopt rules under ss. 120.54
13 and 120.536(1) to implement this subsection.

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

16 370.143 Retrieval of lobster and stone crab traps
17 during closed season; commission authority; fees.--

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

27 Section 8. Except as otherwise provided in this act,
28 this act shall take effect upon becoming a law.

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SENATE SUMMARY

Provides penalties for buying saltwater products from unlicensed persons and for selling saltwater products by unlicensed persons. Provides a fee for a stone crab endorsement on a saltwater products license. Establishes a stone crab trap certificate program with appropriations, fees, rulemaking authority, and penalties. Provides for a trap retrieval fee. Provides penalties for removal of trap contents. Authorizes additional means of trap reduction. Provides for a fee waiver.