

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

314-2091-00

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 revising violations and penalties; amending s.
6 370.06, F.S.; authorizing the Fish and Wildlife
7 Conservation Commission to accept credit cards
8 for specified charges; requiring the denial of
9 license renewal or issuance to those having
10 unpaid fees, assessments, or fines; amending s.
11 370.13, F.S.; providing for fees and equitable
12 rent related to stone crabs; prohibiting the
13 acquisition of vested rights; providing
14 penalties; amending s. 370.135, F.S.; providing
15 penalties for theft from a blue crab trap;
16 amending s. 370.14, F.S.; conforming a
17 statutory cross-reference; amending s. 370.142,
18 F.S.; requiring the Board of Trustees of the
19 Internal Improvement Trust Fund to approve a
20 rule establishing equitable rent in the
21 crawfish fishing if the rule is developed;
22 waiving certificate transfer fees and
23 surcharges when the transfer is within the
24 immediate family due to death or disability;
25 providing a penalty for theft from a crawfish
26 trap; providing penalties; conforming
27 cross-references; amending s. 370.143, F.S.;
28 waiving a trap retrieval fee for specified
29 licenseholders; requiring the payment of fees
30 before license and endorsement renewal; waiving
31 trap retrieval fees if the Governor declares a

1 disaster emergency area; amending s. 370.15,
2 F.S.; eliminating a requirement for
3 noncommercial net registration; amending s.
4 370.153, F.S.; providing that noncommercial
5 trawling must be authorized by the Fish and
6 Wildlife Conservation Commission; amending s.
7 370.25, F.S.; providing that the artificial
8 reef program is created within the Fish and
9 Wildlife Conservation Commission; eliminating
10 criteria for allocation of funds; limiting
11 funding to specified corporations; providing
12 requirements for the storage, possession, and
13 transport of artificial reef materials;
14 revising permit requirements; providing a
15 felony penalty; providing appropriations;
16 providing an effective date.

17

18 Be It Enacted by the Legislature of the State of Florida:

19

20 Section 1. Paragraphs (b) and (i) of subsection (2)
21 and subsection (5) of section 370.021, Florida Statutes, are
22 amended, and paragraph (o) is added to subsection (2) of that
23 section to read:

24 370.021 Administration; rules, publications, records;
25 penalties; injunctions.--

26 (2) MAJOR VIOLATIONS.--In addition to the penalties
27 provided in paragraphs (1)(a) and (b), the court shall assess
28 additional penalties against any person, firm, or corporation
29 convicted of major violations as follows:

30 (b) For a violation involving the taking or harvesting
31 of shrimp from a nursery or other prohibited area, or any two

1 violations within a 12-month period involving shrimping gear,
2 minimum size (count), or season,an additional penalty of \$10
3 for each pound of illegal shrimp or part thereof.

4 (i) Permits issued to any person, firm, or corporation
5 by the commission to take or harvest saltwater products, or
6 any license issued pursuant to s. 370.06 or s. 370.07 may be
7 suspended or revoked by the commission, pursuant to the
8 provisions and procedures of s. 120.60, for any major
9 violation prescribed in this subsection:

10 1. Upon a first conviction for a major violation, for
11 up to 30 calendar days.

12 2.1. Upon a second conviction for a violation which
13 occurs within 12 months after a prior violation, for up to 90
14 calendar ~~60~~ days.

15 3.2. Upon a third conviction for a violation which
16 occurs within 24 months after a prior violation, for up to 180
17 calendar days.

18 4.3. Upon a fourth conviction for a violation which
19 occurs within 36 months after a prior violation, for a period
20 of 6 months to 3 years.

21 (o) For a violation involving the taking or harvesting
22 of any marine life species, as those species are defined by
23 rule of the commission, the harvest of which is prohibited, or
24 the taking or harvesting of such a species out of season, or
25 with an illegal gear or chemical, or any violation involving
26 the possession of 25 or more individual specimens of marine
27 life species, or any combination of violations in any 3-year
28 period involving more than 70 such specimens in the aggregate,
29 the suspension or revocation of the license holder's marine
30 life endorsement as provided in paragraph (i).

31

1 (5) BUYING SALTWATER PRODUCTS FROM UNLICENSED
2 SELLER.--In addition to being subject to other penalties
3 provided in this chapter, any violation of s. 370.06 or s.
4 370.07, or rules of the commission implementing s. 370.06 or
5 s. 370.07, involving the purchase of ~~buying~~ saltwater products
6 by a commercial wholesale dealer, retail dealer, or restaurant
7 facility for public consumption from an unlicensed person,
8 firm, or corporation, or the sale of saltwater products by an
9 unlicensed person, firm, or corporation, shall be a major
10 violation, and the commission may assess the following
11 penalties:

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

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

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

24
25 Any proceeds from the civil penalties assessed pursuant to
26 this subsection shall be deposited into the Marine Resources
27 Conservation Trust Fund and shall be used as follows: 40
28 percent for administration and processing purposes and 60
29 percent for law enforcement purposes.

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1 Section 2. Subsection (8) of section 370.06, Florida
2 Statutes, is amended, and subsection (9) is added to that
3 section, to read:

4 370.06 Licenses.--

5 (8) COLLECTION OF LICENSES, FEES.--Unless otherwise
6 provided by law, all license taxes or fees provided for in
7 this chapter shall be collected by the commission or its duly
8 authorized agents or deputies to be deposited by the
9 Comptroller in the Marine Resources Conservation Trust Fund.
10 The commission may by rule establish a reasonable processing
11 fee for any free license or permit required under this
12 chapter. The commission is authorized to accept payment by
13 credit card for fees, fines, and civil penalties levied
14 pursuant to this chapter.

15 (9) DENIAL OF LICENSE RENEWAL OR ISSUANCE.--The
16 commission shall deny the renewal or issuance of any saltwater
17 products license, wholesale dealer license, or retail dealer
18 license to anyone that has unpaid fees, civil assessments, or
19 fines owed to the commission.

20 Section 3. Section 370.13, Florida Statutes, is
21 amended to read:

22 (Substantial rewording of section. See
23 s. 370.13, F.S., for present text.)
24 370.13 Stone crab; regulation.--

25 (1) FEES AND EQUITABLE RENT.--

26 (a) Endorsement fee.--The fee for a stone crab
27 endorsement for the taking of stone crabs as required by rule
28 of the Fish and Wildlife Conservation Commission, is \$125, \$25
29 of which must be used solely for trap retrieval under s.
30 370.143.

31 (b) Certificate fees.--

1 1. For each trap certificate issued by the commission
2 under the requirements of the stone crab trap limitation
3 program established by commission rule, there is an annual fee
4 of \$.50 per certificate. Replacement tags for lost or damaged
5 tags cost \$.50 each, except that tags lost in the event of a
6 major natural disaster declared as an emergency disaster by
7 the Governor shall be replaced for the cost of the tag as
8 incurred by the commission.

9 2. Except for transfers to eligible crew members as
10 determined according to criteria established by rule of the
11 commission, the fee for transferring certificates is \$2 per
12 certificate transferred to be paid by the purchaser of the
13 certificate or certificates. The transfer fee for eligible
14 crew members is \$1 per certificate. Payment must be made by
15 money order or cashier's check, submitted with the certificate
16 transfer form developed by the commission. In addition to the
17 transfer fee, a surcharge of \$2 per certificate transferred,
18 or 25 percent of the actual value of the transferred
19 certificate, whichever is greater, will be assessed the first
20 time a certificate is transferred outside the original
21 holder's immediate family. Transfer fees and surcharges only
22 apply to the actual number of certificates received by the
23 purchaser. A transfer of a certificate is not effective until
24 the commission receives a notarized copy of the bill of sale
25 as proof of the actual value of the transferred certificate or
26 certificates, which must also be submitted with the transfer
27 form and payment. A transfer fee will 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. A surcharge
30 will not be assessed for any transfer within an individual's
31 immediate family.

1 (c) Incidental take endorsement.--The cost of an
2 incidental take endorsement, as established by commission
3 rule, is \$25.

4 (d) Equitable rent.--The commission may establish by
5 rule an amount of equitable rent per trap certificate that may
6 be 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 the amount thereof, the
9 commission may consider the amount of revenues annually
10 generated by endorsement fees, trap certificate fees, transfer
11 fees, surcharges, replacement trap tag fees, trap retrieval
12 fees, incidental take endorsement fees, and the continued
13 economic viability of the commercial stone crab industry.
14 Final approval of such a rule shall be by the Governor and
15 Cabinet sitting as the Board of Trustees of the Internal
16 Improvement Trust Fund.

17 (e) Disposition of fees, surcharges, civil penalties
18 and fines, and equitable rent.--Endorsement fees, trap
19 certificate fees, transfer fees, civil penalties and fines,
20 surcharges, replacement trap tag fees, trap retrieval fees,
21 incidental take endorsement fees, and equitable rent, if any,
22 must be deposited in the Marine Resources Conservation Trust
23 Fund. Not more than 50 percent of the revenues generated
24 under this section may be used for operation and
25 administration of the stone crab trap limitation program. The
26 remaining revenues generated under this program are to be used
27 for trap retrieval, management of the stone crab fishery,
28 public education activities, evaluation of the impact of trap
29 reductions on the stone crab fishery, and enforcement
30 activities in support of the stone crab trap limitation
31 program.

1 (f) Program to be self-supporting.--The stone crab
2 trap limitation program is intended to be a self-supporting
3 program funded from proceeds generated under this section.

4 (g) No vested rights.--The stone crab trap limitation
5 program does not create any vested rights for endorsement or
6 certificateholders and may be altered or terminated by the
7 commission as necessary to protect the stone crab resource,
8 the participants in the fishery, or the public interest.

9 (2) PENALTIES.--For purposes of this subsection,
10 conviction is any disposition other than acquittal or
11 dismissal, regardless of whether the violation was adjudicated
12 under any state or federal law.

13 (a) In addition to any other penalties provided in s.
14 370.021, for any person, firm, or corporation who violates
15 Rule 68B-13.010(2), F.A.C., or Rule 68B-13.011(5), (6), (7),
16 (8), or (11), F.A.C., the following administrative penalties
17 apply.

18 1. For a first violation, the commission shall assess
19 an administrative penalty of up to \$1,000 and the stone crab
20 endorsement under which the violation was committed may be
21 suspended for the remainder of the current license year.

22 2. For a second violation that occurs within 24 months
23 of any previous such violation, the commission shall assess an
24 administrative penalty of up to \$2,000 and the stone crab
25 endorsement under which the violation was committed may be
26 suspended for 12 calendar months.

27 3. For a third violation that occurs within 36 months
28 of any previous two such violations, the commission shall
29 assess an administrative penalty of up to \$5,000 and the stone
30 crab endorsement under which the violation was committed may
31 be suspended for 24 calendar months.

1 4. A fourth violation that occurs within 48 months of
2 any three previous such violations, shall result in permanent
3 revocation of all of the violator's saltwater fishing
4 privileges, including having the commission proceed against
5 the endorsement holder's saltwater products license in
6 accordance with s. 370.021.

7
8 Any person assessed an administrative penalty under this
9 paragraph shall, within 30 calendar days after notification,
10 pay the administrative penalty to the commission, or request
11 an administrative hearing under s. 120.569 and s. 120.57. The
12 proceeds of all administrative penalties collected under this
13 paragraph shall be deposited in the Marine Resource
14 Conservation Trust Fund.

15 (b) It is unlawful for any person to remove the
16 contents of another harvester's trap without the express
17 written consent of the trap owner available for immediate
18 inspection. Such unauthorized removal constitutes theft. Any
19 person convicted of theft from a trap shall, in addition to
20 the penalties specified in s. 370.021 and the provisions of
21 this section, permanently lose all his or her saltwater
22 fishing privileges, including saltwater products licenses,
23 stone crab or incidental take endorsements, and all trap
24 certificates allotted to him or her by the commission. In such
25 cases, trap certificates and endorsements are nontransferable.
26 In addition, any person, firm, or corporation convicted of
27 violating the prohibitions referenced in this paragraph shall
28 also be assessed an administrative penalty of up to \$5,000.
29 Immediately upon receiving a citation for a violation
30 involving theft from a trap and until adjudicated for such a
31 violation, or if convicted of such a violation, the violator

1 is prohibited from transferring any stone crab or lobster
2 certificates.

3 (c) Any person, firm, or corporation convicted of
4 violating commission rules that prohibit any of the following,
5 commits a felony of the third degree, punishable as provided
6 in s. 775.082, s. 775.083, or s. 775.084.

7 1. The willful molestation of any stone crab trap,
8 line, or buoy that is the property of any licenseholder,
9 without the permission of that licenseholder.

10 2. The bartering, trading, or sale, or conspiring or
11 aiding in such barter, trade, or sale, or supplying, agreeing
12 to supply, aiding in supplying, or giving away stone crab trap
13 tags or certificates unless the action is duly authorized by
14 the commission as provided by commission rules.

15 3. The making, altering, forging, counterfeiting, or
16 reproducing of stone crab trap tags.

17 4. Possession of forged, counterfeit, or imitation
18 stone crab trap tags.

19 5. Engaging in the commercial harvest of stone crabs
20 during the time either of the endorsements is under suspension
21 or revocation.

22
23 In addition, any person, firm, or corporation convicted of
24 violating this paragraph shall also be assessed an
25 administrative penalty of up to \$5,000, and the incidental
26 take endorsement and/or the stone crab endorsement under which
27 the violation was committed may be suspended for up to 24
28 calendar months. Immediately upon receiving a citation
29 involving a violation of this paragraph and until adjudicated
30 for such a violation, or if convicted of such a violation, the
31 person, firm, or corporation committing the violation is

1 prohibited from transferring any stone crab certificates or
2 endorsements.

3 (d) For any person, firm, or corporation convicted of
4 fraudulently reporting the actual value of transferred stone
5 crab certificates, the commission may automatically suspend or
6 permanently revoke the seller's or the purchaser's stone crab
7 endorsements. If the endorsement is permanently revoked, the
8 commission shall also permanently deactivate the endorsement
9 holder's stone crab certificate accounts. Whether an
10 endorsement is suspended or revoked, the commission may also
11 levy a fine against the holder of the endorsement of up to
12 twice the appropriate surcharge to be paid based on the fair
13 market value of the transferred certificates.

14 (e) During any period of suspension or revocation of
15 an endorsement holder's endorsement, he or she shall remove
16 all traps subject to that endorsement from the water within 15
17 days after notice provided by the commission. Failure to do so
18 will extend the period of suspension or revocation for an
19 additional 6 calendar months.

20 (f) An endorsement will not be renewed until all fees
21 and administrative penalties imposed under this section are
22 paid.

23 (3) DEPREDATION ENDORSEMENTS.--The Fish and Wildlife
24 Conservation Commission shall issue a depredation endorsement
25 on the saltwater products license, which shall entitle the
26 license holder to possess and use up to 75 stone crab traps
27 and up to 75 blue crab traps, notwithstanding any other
28 provisions of law, for the incidental take of destructive or
29 nuisance stone crabs or blue crabs within 1 mile of
30 aquaculture shellfish beds. Any marine aquaculture producer
31 as defined by s. 370.26 who raises shellfish may obtain a

1 depredation endorsement by providing an aquaculture
2 registration certificate to the commission. No stone crabs or
3 blue crabs taken under this subsection may be sold or offered
4 for sale.

5 Section 4. Subsection (1) of section 370.135, Florida
6 Statutes, is amended to read:

7 370.135 Blue crab; regulation.--

8 (1) No person, firm, or corporation shall transport on
9 the water, fish with or cause to be fished with, set, or place
10 any trap designed for taking blue crabs unless such person,
11 firm, or corporation is the holder of a valid saltwater
12 products license issued pursuant to s. 370.06 and the trap has
13 a current state number permanently attached to the buoy. The
14 trap number shall be affixed in legible figures at least 1
15 inch high on each buoy used. The saltwater products license
16 must be on board the boat, and both the license and the crabs
17 shall be subject to inspection at all times. Only one trap
18 number may be issued for each boat by the commission upon
19 receipt of an application on forms prescribed by it. This
20 subsection shall not apply to an individual fishing with no
21 more than five traps. It is a felony of the third degree,
22 punishable as provided in s. 775.082, s. 775.083, or s.
23 775.084, for any person willfully to molest any traps, lines,
24 or buoys, as defined herein, belonging to another without
25 permission of the licenseholder. It is unlawful for any person
26 to remove the contents of another harvester's trap without the
27 express written consent of the trap owner available for
28 immediate inspection. Such unauthorized removal constitutes
29 theft. Any person convicted of theft from a trap shall, in
30 addition to the penalties specified in s. 370.021 and the
31 provisions of this section, permanently lose all his or her

1 saltwater fishing privileges including his or her saltwater
2 products license and blue crab endorsement. In such cases
3 endorsements are nontransferable. In addition, any person,
4 firm, or corporation convicted of violating this paragraph
5 shall also be assessed an administrative penalty of up to
6 \$5,000, and the incidental take endorsement and/or the blue
7 crab endorsement under which the violation was committed may
8 be suspended for up to 24 calendar months. Immediately upon
9 receiving a citation for a violation involving theft from a
10 trap and until adjudicated for such a violation, or if
11 convicted of such a violation, the person, firm, or
12 corporation committing the violation is prohibited from
13 transferring any blue crab endorsements.

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

16 370.14 Crawfish; regulation.--

17 (2)(a) Each trap used for taking or attempting to take
18 crawfish must have a trap number permanently attached to the
19 trap and the buoy. This trap number may be issued by the Fish
20 and Wildlife Conservation Commission upon the receipt of
21 application by the owner of the traps and accompanied by the
22 payment of a fee of \$100. The design of the applications and
23 of the trap number shall be determined by the commission. Any
24 trap or device used in taking or attempting to take crawfish,
25 other than a trap with the trap number attached as prescribed
26 in this paragraph, shall be seized and destroyed by the
27 commission. The proceeds of the fees imposed by this paragraph
28 shall be deposited and used as provided in paragraph (b). The
29 commission may adopt ~~is authorized to promulgate rules and~~
30 ~~regulations~~ to carry out the intent of this section.

31

1 (b) Fees collected pursuant to paragraph (a) shall be
2 deposited as follows:

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

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

9 Section 6. Subsection (2) of section 370.142, Florida
10 Statutes, is amended, to read:

11 370.142 Spiny lobster trap certificate program.--

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

1 the base period by 700,000. Each such licenseholder shall then
2 be allotted the number of certificates derived by dividing his
3 or her highest reported single license-year landings up to a
4 maximum of 30,000 pounds during the base period by the
5 trap/catch coefficient. Nevertheless, no licenseholder with a
6 current crawfish trap number shall be allotted fewer than 10
7 certificates. However, certificates may only be issued to
8 individuals; therefore, all licenseholders other than
9 individual licenseholders shall designate the individual or
10 individuals to whom their certificates will be allotted and
11 the number thereof to each, if more than one. After initial
12 issuance, trap certificates are transferable on a market basis
13 and may be transferred from one licenseholder to another for a
14 fair market value agreed upon between the transferor and
15 transferee. Each such transfer shall, within 72 hours thereof,
16 be recorded on a notarized form provided for that purpose by
17 the Fish and Wildlife Conservation Commission and hand
18 delivered or sent by certified mail, return receipt requested,
19 to the commission for recordkeeping purposes. In addition, in
20 order to cover the added administrative costs of the program
21 and to recover an equitable natural resource rent for the
22 people of the state, a transfer fee of \$2 per certificate
23 transferred shall be assessed against the purchasing
24 licenseholder and sent by money order or cashier's check with
25 the certificate transfer form. Also, in addition to the
26 transfer fee, a surcharge of \$5 per certificate transferred or
27 25 percent of the actual market value, whichever is greater,
28 given to the transferor shall be assessed the first time a
29 certificate is transferred outside the original transferor's
30 immediate family. No transfer of a certificate shall be
31 effective until the commission receives the notarized transfer

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

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

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

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

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

3 5. Beginning July 1, 2003, and applicable to the
4 2003-2004 lobster season and thereafter, it is unlawful for
5 any person to lease lobster trap tags or certificates.

6 (b) Trap tags.--Each trap used to take or attempt to
7 take spiny lobsters in state waters or adjacent federal waters
8 shall, in addition to the crawfish trap number required by s.
9 370.14(2), have affixed thereto an annual trap tag issued by
10 the commission. Each such tag shall be made of durable plastic
11 or similar material and shall, based on the number of
12 certificates held, have stamped thereon the owner's license
13 number. To facilitate enforcement and recordkeeping, such tags
14 shall be issued each year in a color different from that of
15 each of the previous 3 years. The annual certificate fee shall
16 be \$1 per certificate. Replacement tags for lost or damaged
17 tags may be obtained as provided by rule of the commission.

18 (c) Prohibitions; penalties.--

19 1. It is unlawful for a person to possess or use a
20 spiny lobster trap in or on state waters or adjacent federal
21 waters without having affixed thereto the trap tag required by
22 this section. It is unlawful for a person to possess or use
23 any other gear or device designed to attract and enclose or
24 otherwise aid in the taking of spiny lobster by trapping that
25 is not a trap as defined in rule 46-24.006(2), Florida
26 Administrative Code.

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

30 3. It is unlawful for any person to remove the
31 contents of another harvester's trap without the express

1 written consent of the trap owner available for immediate
2 inspection. Such unauthorized removal constitutes theft. Any
3 person convicted of theft from a trap shall, in addition to
4 the penalties specified in ss. 370.021 and 370.14 and the
5 provisions of this section, permanently lose all his or her
6 saltwater fishing privileges, including his or her saltwater
7 products license, crawfish endorsement, and all trap
8 certificates allotted to him or her through this program. In
9 such cases, trap certificates and endorsements are
10 nontransferable. In addition, any person, firm, or corporation
11 convicted of violating this paragraph shall also be assessed
12 an administrative penalty of up to \$5,000, and the incidental
13 take endorsement and/or the crawfish endorsement under which
14 the violation was committed may be suspended for up to 24
15 calendar months. Immediately upon receiving a citation for a
16 violation involving theft from a trap and until adjudicated
17 for such a violation or, if convicted of such a violation, the
18 person, firm, or corporation committing the violation is
19 prohibited from transferring any crawfish trap certificates
20 and endorsements.

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

27 a. If the first violation is for violation of
28 subparagraph 1., or subparagraph 2., or subparagraph 3., the
29 commission shall assess an additional civil penalty of up to
30 \$1,000 and the crawfish trap number issued pursuant to s.
31 370.14(2) or (6) may be suspended for the remainder of the

1 current license year. For all other first violations, the
2 commission shall assess an additional civil penalty of up to
3 \$500.

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

11 c. For a third or subsequent violation of subparagraph
12 1. ~~or~~ subparagraph 2., or subparagraph 3. which occurs within
13 36 months of any previous two such violations, the commission
14 shall assess an additional civil penalty of up to \$5,000 and
15 may suspend the crawfish trap number issued pursuant to s.
16 370.14(2) or (6) for a period of up to 24 months or may revoke
17 the crawfish trap number and, if revoking the crawfish trap
18 number, may also proceed against the licenseholder's saltwater
19 products license in accordance with the provisions of s.
20 370.021(2)(i).

21 d. Any person assessed an additional civil penalty
22 pursuant to this section shall within 30 calendar days after
23 notification:

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

25 (II) Request an administrative hearing pursuant to the
26 provisions of s. 120.60.

27 e. The commission shall suspend the crawfish trap
28 number issued pursuant to s. 370.14(2) or (6) for any person
29 failing to comply with the provisions of sub-subparagraph d.
30

31

1 5.4.a. It is unlawful for any person to make, alter,
2 forge, counterfeit, or reproduce a spiny lobster trap tag or
3 certificate.

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

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

14 6.5.a. Any person who violates the provisions of
15 ~~subparagraph 5.~~~~subparagraph 4.~~, or any person who engages in
16 the commercial harvest, trapping, or possession of spiny
17 lobster without a crawfish trap number as required by s.
18 370.14(2) or (6) or during any period while such crawfish trap
19 number is under suspension or revocation, commits a felony of
20 the third degree, punishable as provided in s. 775.082, s.
21 775.083, or s. 775.084.

22 b. In addition to any penalty imposed pursuant to
23 sub-subparagraph a., the commission shall levy a fine of up to
24 twice the amount of the appropriate surcharge to be paid on
25 the fair market value of the transferred certificates, as
26 provided in subparagraph (a)1., on any person who violates the
27 provisions of sub-subparagraph 5.c ~~4.c~~.

28 7.6. Any certificates for which the annual certificate
29 fee is not paid for a period of 3 years shall be considered
30 abandoned and shall revert to the commission. During any
31 period of trap reduction, any certificates reverting to the

1 commission shall become permanently unavailable and be
2 considered in that amount to be reduced during the next
3 license-year period. Otherwise, any certificates that revert
4 to the commission are to be reallocated in such manner as
5 provided by the commission.

6 ~~8.7.~~ The proceeds of all civil penalties collected
7 pursuant to subparagraph 4.~~subparagraph 3.~~ and all fines
8 collected pursuant to sub-subparagraph 6.b.~~sub-subparagraph~~
9 ~~5.b.~~ shall be deposited into the Marine Resources Conservation
10 Trust Fund.

11 ~~9.8.~~ All traps shall be removed from the water during
12 any period of suspension or revocation.

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

18 Section 7. Subsections (2), (3), and (4) of section
19 370.143, Florida Statutes, are amended to read:

20 370.143 Retrieval of lobster and stone crab traps
21 during closed season; commission authority; fees.--

22 (2) A retrieval fee of \$10 per trap retrieved shall be
23 assessed trap owners. However, for persons holding a stone
24 crab endorsement issued under rule of the Fish and Wildlife
25 Conservation Commission, the retrieval fee shall be waived for
26 the first five traps retrieved. Traps recovered under this
27 program shall become the property of the commission or its
28 contract agent, as determined by the commission, and shall be
29 either destroyed or resold to the original owner. Revenue
30 from retrieval fees shall be deposited in the Marine Resources
31

1 Conservation Trust Fund and used solely for operation of the
2 trap retrieval program.

3 (3) Payment of all ~~the~~ assessed retrieval fees ~~fee~~
4 shall be required prior to renewal of the trap owner's
5 saltwater products license and stone crab and or crawfish
6 endorsements ~~trap number as a condition of number renewal.~~
7 Retrieval fees assessed under this program shall stand in lieu
8 of other penalties imposed for such trap violations.

9 (4) In the event of a major natural disaster in an
10 area declared by the Governor to be a disaster emergency area,
11 such as a hurricane or major storm causing massive trap
12 losses, the commission shall waive the trap retrieval fee.

13 Section 8. Subsection (4) of section 370.15, Florida
14 Statutes, is amended to read:

15 370.15 Shrimp; regulation.--

16 (4) SHRIMP TRAWLING.--All persons, firms, and
17 corporations desiring to trawl for shrimp within areas in
18 which trawling is permitted shall ~~have a noncommercial trawl~~
19 ~~or net registration~~ or purchase a saltwater products license
20 issued to a valid boat registration or in the name of an
21 individual pursuant to s. 370.06. The saltwater products
22 license shall remain on board at all times and is subject to
23 immediate revocation upon conviction for violation of this
24 section or when it becomes apparent that the best interests of
25 saltwater conservation will be served by such action. ~~A~~
26 ~~noncommercial trawl or net registration must be issued to each~~
27 ~~net used to take shrimp for noncommercial purposes. Such net~~
28 ~~or trawl shall have a corkline measurement of 16 feet or less.~~
29 ~~Possession of shrimp under a noncommercial registration is~~
30 ~~limited to 25 pounds while on the water.~~ Due to the varied
31 habitats and types of bottoms and hydrographic conditions

1 embraced by the open fishing area, the commission shall have
2 the authority to specify and regulate the types of gear that
3 may be used in the different sections of the open areas.

4 Section 9. Subsections (4) and (5) of section 370.153,
5 Florida Statutes, are amended to read:

6 370.153 Regulation of shrimp fishing; Clay, Duval,
7 Nassau, Putnam, Flagler, and St. Johns Counties.--

8 (4) DEAD SHRIMP PRODUCTION.--Any person may operate as
9 a commercial dead shrimp producer provided that:

10 (a) A dead shrimp production permit is procured from
11 the Fish and Wildlife Conservation Commission upon the receipt
12 by the commission of a properly filled out and approved
13 application by a person intending to use a boat, not to exceed
14 35 feet in length in Duval, St. Johns, Putnam, and Clay
15 Counties, and not to exceed 45 feet in length in Nassau
16 County, for dead shrimp production within the inland waters of
17 Nassau County and the inland waters of the St. Johns River of
18 Duval, Putnam, St. Johns, Flagler, or Clay Counties, which
19 permit shall cost \$250 and shall be required for each vessel
20 used for dead shrimp production. The design of the application
21 and permit shall be determined by the Fish and Wildlife
22 Conservation Commission. The proceeds of the fees imposed by
23 this paragraph shall be deposited into the account of the
24 Marine Resources Conservation Trust Fund to be used by the
25 commission for the purpose of enforcement of marine resource
26 laws.

27 (b) All commercial trawling in the St. Johns River
28 proper shall be restricted to the area north of the Acosta
29 Bridge in Jacksonville and at least 100 yards from the nearest
30 shoreline.

31

1 (c) All commercial shrimping activities shall be
2 allowed during daylight hours from Tuesday through Friday each
3 week.

4 (d) No person holding a dead shrimp production permit
5 issued pursuant to this subsection shall simultaneously hold a
6 permit for noncommercial trawling under the provisions of
7 subsection (5). The number of permits issued by the
8 commission for commercial trawling or dead shrimp production
9 in any one year shall be limited to those active ~~the number~~
10 ~~issued~~ in the base year, 1976, and renewed annually since
11 1976. All permits for dead shrimp production issued pursuant
12 to this section shall be inheritable or transferable to an
13 immediate family member and annually renewable by the holder
14 thereof. Such inheritance or transfer shall be valid upon
15 being registered with the commission. Each permit ~~All permits~~
16 not renewed shall expire and shall not be renewed under any
17 circumstances.

18 (e) It is illegal for any person to sell dead shrimp
19 caught in the inland waters of Nassau, Duval, Clay, Putnam,
20 and St. Johns Counties, unless the seller is in possession of
21 a dead shrimp production license issued pursuant to this
22 subsection.

23 (f) It is illegal for any person to purchase shrimp
24 for consumption or bait from any seller (with respect to
25 shrimp caught in the inland waters of Nassau, Duval, Clay,
26 Putnam, and St. Johns Counties (St. Johns River)) who does not
27 produce his or her dead shrimp production license prior to the
28 sale of the shrimp.

29 (g) In addition to any other penalties provided for in
30 this section, any person who violates the provisions of this
31

1 subsection shall have his or her license revoked by the
2 commission.

3 (h) The commission shall rename the Dead Shrimp
4 Production License as the Commercial Food Shrimp Production
5 License.

6 (5) NONCOMMERCIAL TRAWLING.--If noncommercial trawling
7 is authorized by the Fish and Wildlife Conservation
8 Commission, any person may trawl for harvest shrimp in the St.
9 Johns River for his or her own use as food ~~and may trawl for~~
10 ~~such shrimp~~ under the following conditions:

11 (a) Each person who desires to trawl for shrimp for
12 use as food shall obtain a noncommercial trawling permit from
13 the local office of the Fish and Wildlife Conservation
14 Commission upon filling out an application on a form
15 prescribed by the commission and upon paying a fee for the
16 permit, which shall cost \$50.

17 (b) All trawling shall be restricted to the confines
18 of the St. Johns River proper in the area north of the Acosta
19 Bridge in Jacksonville and at least 100 yards from the nearest
20 shoreline.

21 (c) No shrimp caught by a person licensed under the
22 provisions of this subsection may be sold or offered for sale.

23 Section 10. Section 370.25, Florida Statutes, is
24 amended to read:

25 (Substantial rewording of section. See
26 s. 370.25, F.S., for present text.)

27 370.25 Artificial reef program; grants and financial
28 and technical assistance to local governments.--

29 (1) An artificial reef program is created within the
30 Fish and Wildlife Conservation Commission to enhance saltwater
31 opportunities and to promote proper management of fisheries

1 resources associated with artificial reefs for the public
2 interest. Under the program, the commission may provide grants
3 and financial and technical assistance to coastal local
4 governments and nonprofit corporations qualified under s.
5 501(c)(3) of the Internal Revenue Code for the siting and
6 development of artificial reefs as well as for monitoring and
7 evaluating their recreational, economic, and biological
8 effectiveness. The program may be funded from state, federal,
9 and private contributions.

10 (2) The commission may adopt by rule procedures for
11 submitting an application for financial assistance and
12 criteria for allocating available funds.

13 (3) The commission may adopt by rule criteria for
14 siting, constructing, managing, and evaluating the
15 effectiveness of artificial reefs placed in state or adjacent
16 federal waters, consistent with this section.

17 (4) The commission may adopt by rule criteria for
18 determining the eligibility of nonprofit corporations
19 qualified under s. 501(c)(3) of the Internal Revenue Code to
20 apply for and receive funds available for artificial reef
21 development or evaluation. The criteria must include, but are
22 not limited to, the following:

23 (a) The corporation must show proof that it is a
24 nonprofit corporation qualified under s. 501(c)(3) of the
25 Internal Revenue Code.

26 (b) The corporation must state in its articles of
27 incorporation or bylaws that one of its objectives is the
28 development or monitoring of artificial reefs.

29 (5) The commission's artificial reef program shall
30 track all artificial-reef-development activities statewide,
31 and maintain a computer database of these activities for the

1 public interest and to facilitate long-range planning and
2 coordination within the commission and among local
3 governments.

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

5 (a) Place artificial-reef-construction materials in
6 state water outside zones permitted under the terms and
7 conditions defined in any artificial-reef permits issued by
8 the United States Army Corps of Engineers or by the Fish and
9 Wildlife Conservation Commission.

10 (b) Store, possess, or transport on or across state
11 waters any materials reasonably suited for artificial-reef
12 construction and stored in a manner providing ready access for
13 use and placement as an artificial reef, unless a valid cargo
14 manifest issued by the commission or a commission-certified
15 inspector is onboard the transporting vessel. The manifest
16 will serve as authorization to use a valid permitted site or
17 land-based staging area, will validate that the type of
18 artificial-reef construction material being transported is
19 permissible for use at the permitted site, and will describe
20 and quantify the artificial-reef material being
21 transported. The manifest will also include the latitude and
22 longitude coordinates of the proposed deployment location, the
23 valid permit number, and a copy of the permit conditions for
24 the permitted site. The manifest must be available for
25 inspection by any authorized law enforcement officer or
26 commission employee.

27 (7)(a) An initial violation of subsection (6) is a
28 misdemeanor of the first degree, punishable as provided in s.
29 775.082 or s. 775.083. A subsequent violation of subsection
30 (6) which is committed within 12 months after a previous
31 violation of that subsection is a felony of the third degree,

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

3 (b) If a violation of subsection (6) occurs, a law
4 enforcement officer may terminate a vessel's voyage and order
5 the vessel operator to return immediately to port. Failure or
6 refusal to comply with an order to return to port constitutes
7 a felony of the third degree, punishable as provided in s.
8 775.082, s. 775.083, or s. 775.084. The vessel operator must
9 immediately dispose of the materials on shore according to
10 applicable waste disposal laws.

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

13 1. Is moored at a land-based facility, the registered
14 owner of the vessel is responsible for the violation.

15 2. Is underway or anchored, the captain or operator of
16 the vessel and the registered owner of the vessel are jointly
17 responsible for the violation.

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

26 Section 11. (1) The sum of \$97,049 is appropriated
27 from the commercial revenues in the Marine Resources
28 Conservation Trust Fund to the Fish and Wildlife Conservation
29 Commission for fiscal year 2000-2001, for four career service
30 positions that are authorized for the commission to implement
31 the stone crab trap limitation program. This appropriation

1 shall be made after funds have been distributed pursuant to
2 section 328.76(2)(b), Florida Statutes.

3 (2) The sum of \$254,408 is appropriated from the
4 commercial revenues in the Marine Resources Conservation Trust
5 Fund to the Fish and Wildlife Conservation Commission for
6 program operation, plus the sum of \$130,000 to cover the cost
7 of stone crab trap tags in fiscal year 2000-2001, in order to
8 implement the stone crab trap limitation program in fiscal
9 year 2001-2002. This appropriation shall be made after funds
10 have been distributed pursuant to section 328.76(2)(b),
11 Florida Statutes.

12 Section 12. This act shall take effect July 1, 2000.

13
14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
15 COMMITTEE SUBSTITUTE FOR
16 CS/SB 240

17 The Committee Substitute made the following substantive
18 changes to CS/SB 240:

- 19 1) Deletes the requirement that a noncommercial trawl or net
20 registration be issued to netters taking shrimp for
21 noncommercial purposes.
22 2) Transfers the artificial reef program from the DEP to the
23 FWCC and revises the requirements for the funding, management
24 & construction of artificial reefs.
25 3) Establishes a depredation endorsement for the taking of
26 stone crabs and blue crabs due to damage caused by aquaculture
27 crops.
28 4) Reinstates the "no vested rights" language for the stone
29 crab trap limitation program found in the original bill.
30 5) Clarifies that any person convicted of theft from a blue
31 crab trap or spiny lobster trap, that such person shall
permanently lose all his or her saltwater fishing privileges.