

By Representative Pickens

1 A bill to be entitled
2 An act relating to the Fish and Wildlife
3 Conservation Commission; amending s. 370.021,
4 F.S.; revising violations and penalties
5 relating to saltwater fisheries; revising
6 grounds and penalties for violation of
7 restrictions imposed upon a saltwater products
8 licensee during the period of license
9 suspension or revocation; providing penalties
10 for purchase or sale of illegally harvested
11 saltwater products; providing commission
12 authority to suspend or revoke licenses and
13 permits and assess monetary civil or
14 administrative penalties; amending s. 370.06,
15 F.S.; revising and clarifying requirements for
16 saltwater products licenses and endorsements;
17 clarifying the saltwater products license
18 income exemption for disabled persons; limiting
19 the restricted species endorsement available to
20 such persons; providing that saltwater products
21 delivered to a wholesale dealer are presumed to
22 have been purchased; amending s. 370.061, F.S.;
23 revising and clarifying requirements and
24 procedures for confiscation and forfeiture of
25 property used in a saltwater products
26 violation; requiring notice of seizure to the
27 registered owner of the property prior to
28 issuance of a forfeiture order; revising
29 procedure for return of property to an innocent
30 owner; amending s. 370.07, F.S.; prohibiting
31 purchase or sale of illegally taken saltwater

1 products; providing a penalty; providing that
2 saltwater products delivered to a retail dealer
3 or restaurant are presumed to have been
4 purchased; reenacting ss. 370.07(5), 370.092(3)
5 and (4), and 370.093(5), F.S., to incorporate
6 the amendment to s. 370.021, F.S., in
7 references; amending s. 370.142, F.S.;
8 correcting cross references; amending s.
9 372.70, F.S.; providing that the state attorney
10 shall represent the state in prosecutions of
11 violations of hunting and fishing laws;
12 amending s. 372.9901, F.S.; revising procedures
13 for seizure and forfeiture of property used in
14 the illegal taking of deer or wild turkey;
15 requiring notice of seizure to the registered
16 owner of the property prior to issuance of a
17 forfeiture order; revising procedure for return
18 of property to an innocent owner; amending and
19 renumbering s. 372.31, F.S.; providing for
20 exercise of the police power of the state in
21 cases relating to illegal fishing; creating s.
22 372.99022, F.S.; providing penalties for
23 molestation of or theft from certain freshwater
24 fishing gear; prohibiting transfer of
25 endorsements under certain circumstances;
26 amending s. 372.9904, F.S.; correcting a cross
27 reference; amending s. 372.9905, F.S.;
28 combining and conforming provisions relating to
29 applicability of seizure and forfeiture
30 requirements; amending s. 323.001, F.S.;
31 correcting a cross reference; repealing ss.

1 372.311, 372.312, 372.313, 372.314, 372.315,
2 372.316, 372.317, 372.318, 372.319, 372.321,
3 and 372.9902, F.S., relating to forfeiture
4 proceedings, delivery of property to a
5 claimant, proceedings when no claim is filed or
6 a claim is filed, representation of the state
7 by the state attorney, judgments of forfeiture,
8 service charges, disposition of proceeds of
9 forfeiture, exercise of police power, and
10 applicability of certain seizure and forfeiture
11 requirements; providing an effective date.

12

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

14

15 Section 1. Section 370.021, Florida Statutes, is
16 amended to read:

17 370.021 Administration; rules, publications, records;
18 penalties; injunctions.--

19 (1) PENALTIES.--Unless otherwise provided by law, any
20 person, firm, or corporation who is convicted for violating
21 any provision of this chapter, or any rule of the Fish and
22 Wildlife Conservation Commission relating to the conservation
23 of marine resources, shall be punished:

24 (a) Upon a first conviction, by imprisonment for a
25 period of not more than 60 days or by a fine of not less than
26 \$100 nor more than \$500, or by both such fine and
27 imprisonment.

28 (b) On a second or subsequent conviction within 12
29 months, by imprisonment for not more than 6 months or by a
30 fine of not less than \$250 nor more than \$1,000, or by both
31 such fine and imprisonment.

1
2 Upon final disposition of any alleged offense for which a
3 citation for any violation of this chapter or the rules of the
4 commission has been issued, the court shall, within 10 days,
5 certify the disposition to the commission.

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

10 (a) For a violation involving more than 100 illegal
11 blue crabs, crawfish, or stone crabs, an additional penalty of
12 \$10 for each illegal blue crab, crawfish, stone crab, or part
13 thereof.

14 (b) For a violation involving the taking or harvesting
15 of shrimp from a nursery or other prohibited area, or any two
16 violations within a 12-month period involving shrimping gear,
17 minimum size (count), or season, an additional penalty of \$10
18 for each pound of illegal shrimp or part thereof.

19 (c) For a violation involving the taking or harvesting
20 of oysters from nonapproved areas or the taking or possession
21 of unculled oysters, an additional penalty of \$10 for each
22 bushel of illegal oysters.

23 (d) For a violation involving the taking or harvesting
24 of clams from nonapproved areas, an additional penalty of \$100
25 for each 500 count bag of illegal clams.

26 (e) For a violation involving the taking, harvesting,
27 or possession of any of the following species, which are
28 endangered, threatened, or of special concern:

- 29 1. Shortnose sturgeon (*Acipenser brevirostrum*);
30 2. Atlantic sturgeon (*Acipenser oxyrhynchus*);
31 3. Common snook (*Centropomus undecimalis*);

1 4. Atlantic loggerhead turtle (*Caretta caretta*
2 *caretta*);
3 5. Atlantic green turtle (*Chelonia mydas mydas*);
4 6. Leatherback turtle (*Dermochelys coriacea*);
5 7. Atlantic hawksbill turtle (*Eretmochelys imbricata*
6 *imbricata*);
7 8. Atlantic ridley turtle (*Lepidochelys kemp*); or
8 9. West Indian manatee (*Trichechus manatus*
9 *latirostris*),
10
11 an additional penalty of \$100 for each unit of marine life or
12 part thereof.
13 (f) For a second or subsequent conviction within 24
14 months for any violation of the same law or rule involving the
15 taking or harvesting of more than 100 pounds of any finfish,
16 an additional penalty of \$5 for each pound of illegal finfish.
17 (g) For any violation involving the taking,
18 harvesting, or possession of more than 1,000 pounds of any
19 illegal finfish, an additional penalty equivalent to the
20 wholesale value of the illegal finfish.
21 ~~(h) The proceeds from the penalties assessed pursuant~~
22 ~~to this subsection shall be deposited into the Marine~~
23 ~~Resources Conservation Trust Fund to be used for marine~~
24 ~~fisheries research or into the commission's Federal Law~~
25 ~~Enforcement Trust Fund as provided in s. 372.107, as~~
26 ~~applicable.~~
27 (h)(i) Permits issued to any person, firm, or
28 corporation by the commission to take or harvest saltwater
29 products, or any license issued pursuant to s. 370.06 or s.
30 370.07 may be suspended or revoked by the commission, pursuant
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1 to the provisions and procedures of s. 120.60, for any major
2 violation prescribed in this subsection:

3 1. Upon a first conviction ~~for a major violation~~, for
4 up to 30 calendar days.

5 2. Upon a second conviction ~~for a violation~~ which
6 occurs within 12 months after a prior violation, for up to 90
7 calendar days.

8 3. Upon a third conviction ~~for a violation~~ which
9 occurs within 24 months after a prior conviction violation,
10 for up to 180 calendar days.

11 4. Upon a fourth conviction ~~for a violation~~ which
12 occurs within 36 months after a prior conviction violation,
13 for a period of 6 months to 3 years.

14 ~~(i)(j)~~ Upon the arrest and conviction for a major
15 violation involving stone crabs, the licenseholder must show
16 just cause why his or her saltwater products license should
17 not be suspended or revoked. For the purposes of this
18 paragraph, a "major violation" means a major violation as
19 prescribed for illegal stone crabs; any single violation
20 involving possession of more than 25 stone crabs during the
21 closed season or possession of 25 or more whole-bodied or
22 egg-bearing stone crabs; any violation for trap molestation,
23 trap robbing, or pulling traps at night; or any combination of
24 violations in any 3-consecutive-year period wherein more than
25 75 illegal stone crabs in the aggregate are involved.

26 ~~(j)(k)~~ Upon the arrest and conviction for a major
27 violation involving crawfish, the licenseholder must show just
28 cause why his or her saltwater products license should not be
29 suspended or revoked. For the purposes of this paragraph, a
30 "major violation" means a major violation as prescribed for
31 illegal crawfish; any single violation involving possession of

1 more than 25 crawfish during the closed season or possession
2 of more than 25 wrung crawfish tails or more than 25
3 egg-bearing or stripped crawfish; any violation for trap
4 molestation, trap robbing, or pulling traps at night; or any
5 combination of violations in any 3-consecutive-year period
6 wherein more than 75 illegal crawfish in the aggregate are
7 involved.

8 (k)~~(l)~~ Upon the arrest and conviction for a major
9 violation involving blue crabs, the licenseholder shall show
10 just cause why his or her saltwater products license should
11 not be suspended or revoked. This paragraph shall not apply
12 to an individual fishing with no more than five traps. For
13 the purposes of this paragraph, a "major violation" means a
14 major violation as prescribed for illegal blue crabs, any
15 single violation wherein 50 or more illegal blue crabs are
16 involved; any violation for trap molestation, trap robbing, or
17 pulling traps at night; or any combination of violations in
18 any 3-consecutive-year period wherein more than 100 illegal
19 blue crabs in the aggregate are involved.

20 (l)~~(m)~~ Upon the conviction for a major violation
21 involving finfish, the licenseholder must show just cause why
22 his or her saltwater products license should not be suspended
23 or revoked. For the purposes of this paragraph, a major
24 violation is prescribed for the taking and harvesting of
25 illegal finfish, any single violation involving the possession
26 of more than 100 pounds of illegal finfish, or any combination
27 of violations in any 3-consecutive-year period wherein more
28 than 200 pounds of illegal finfish in the aggregate are
29 involved.

30 ~~(n) Upon final disposition of any alleged offense for~~
31 ~~which a citation for any violation of this chapter or the~~

1 ~~rules of the Fish and Wildlife Conservation Commission has~~
2 ~~been issued, the court shall, within 10 days, certify the~~
3 ~~disposition to the commission.~~

4 (m)~~(o)~~ For a violation involving the taking or
5 harvesting of any marine life species, as those species are
6 defined by rule of the commission, the harvest of which is
7 prohibited, or the taking or harvesting of such a species out
8 of season, or with an illegal gear or chemical, or any
9 violation involving the possession of 25 or more individual
10 specimens of marine life species, or any combination of
11 violations in any 3-year period involving more than 70 such
12 specimens in the aggregate, the suspension or revocation of
13 the licenseholder's marine life endorsement as provided in
14 paragraph(h)~~(i)~~.

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16 Notwithstanding the provisions of s. 948.01, no court may
17 suspend, defer, or withhold adjudication of guilt or
18 imposition of sentence for any major violation prescribed in
19 this subsection. The proceeds from the penalties assessed
20 pursuant to this subsection shall be deposited into the Marine
21 Resources Conservation Trust Fund to be used for marine
22 fisheries research or into the commission's Federal Law
23 Enforcement Trust Fund as provided in s. 372.107, as
24 applicable.

25 (3) PENALTIES FOR USE OF ILLEGAL NETS.--

26 (a) It is ~~shall be~~ a major violation pursuant to this
27 section, punishable subsection (3) and shall be punished as
28 provided in paragraph (b) below for any person, firm, or
29 corporation to be simultaneously in possession of any species
30 of mullet in excess of the recreational daily bag limit and
31 any gill or other entangling net as defined in s. 16(c), Art.

1 X of the State Constitution. Simultaneous possession under
2 this provision shall include possession of mullet and gill or
3 other entangling nets on separate vessels or vehicles where
4 such vessels or vehicles are operated in coordination with one
5 another including vessels towed behind a main vessel. This
6 subsection does not prohibit a resident of this state from
7 transporting on land, from Alabama to this state, a commercial
8 quantity of mullet together with a gill net if:

9 1. The person possesses a valid commercial fishing
10 license that is issued by the State of Alabama and that allows
11 the person to use a gill net to legally harvest mullet in
12 commercial quantities from Alabama waters.

13 2. The person possesses a trip ticket issued in
14 Alabama and filled out to match the quantity of mullet being
15 transported, and the person is able to present such trip
16 ticket immediately upon entering this state.

17 3. The mullet are to be sold to a wholesale saltwater
18 products dealer located in Escambia County or Santa Rosa
19 County, which dealer also possesses a valid seafood dealer's
20 license issued by the State of Alabama. The dealer's name must
21 be clearly indicated on the trip ticket.

22 4. The mullet being transported are totally removed
23 from any net also being transported.

24 (b) In addition to being subject to the other
25 penalties provided in this chapter, any violation of s. 16(b),
26 Art. X of the State Constitution, or any rules of the ~~Fish and~~
27 ~~Wildlife Conservation~~ commission which implement the gear
28 prohibitions and restrictions specified therein shall be
29 considered a major violation; and any person, firm, or
30 corporation receiving any judicial disposition other than
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1 acquittal or dismissal of such violation shall be subject to
2 the following additional penalties:

3 1. For a first major violation within a 7-year period,
4 a civil penalty of \$2,500 and suspension of all saltwater
5 products license privileges for 90 calendar days following
6 final disposition shall be imposed.

7 2. For a second major violation under this paragraph
8 charged within 7 years of a previous judicial disposition,
9 which results in a second judicial disposition other than
10 acquittal or dismissal, a civil penalty of \$5,000 and
11 suspension of all saltwater products license privileges for 12
12 months shall be imposed.

13 3. For a third or ~~and~~ subsequent major violation under
14 this paragraph, charged within a 7-year period, resulting in a
15 third or subsequent judicial disposition other than acquittal
16 or dismissal, a civil penalty of \$5,000, lifetime revocation
17 of the saltwater products license, and forfeiture of all gear
18 and equipment used in the violation shall be imposed.

19
20 A court may suspend, defer, or withhold adjudication of guilt
21 or imposition of sentence only for any first violation of s.
22 16, Art. X of the State Constitution, or any rule or statute
23 implementing its restrictions, determined by a court only
24 after consideration of competent evidence of mitigating
25 circumstances to be a nonflagrant or minor violation of those
26 restrictions upon the use of nets. Any violation of s. 16,
27 Art. X of the State Constitution, or any rule or statute
28 implementing its restrictions, occurring within a 7-year
29 period commencing upon the conclusion of any judicial
30 proceeding resulting in any outcome other than acquittal shall
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1 be punished as a second, third, or subsequent violation
2 accordingly.

3 (c) During the period of suspension or revocation of
4 saltwater license privileges under this subsection, the
5 licensee shall ~~may~~ not participate in the taking or
6 harvesting, or attempt the taking or harvesting, of saltwater
7 products from any vessel within the waters of the state; be
8 aboard any vessel on which a commercial quantity of saltwater
9 products, or any net gear or any trap, is possessed; or
10 engaged in, ~~or~~ any other activity requiring a license, permit,
11 or certificate issued pursuant to this chapter. Any person who
12 is convicted of violating ~~violates~~ this paragraph ~~is:~~

13 1. Upon a first or second conviction, is guilty of a
14 misdemeanor of the first degree, punishable as provided in s.
15 775.082 or s. 775.083 ~~to be punished as provided by paragraph~~
16 ~~(1)(a) or paragraph (1)(b).~~

17 2. Upon a third or subsequent conviction, is guilty of
18 a felony of the third degree, punishable as provided in s.
19 775.082, s. 775.083, or s. 775.084.

20 (d) Upon reinstatement of saltwater license privileges
21 suspended pursuant to a violation of this subsection ~~section~~,
22 a licensee owning or operating a vessel containing or
23 otherwise transporting in or on Florida waters any gill net or
24 other entangling net, or containing or otherwise transporting
25 in nearshore and inshore Florida waters any net containing
26 more than 500 square feet of mesh area shall remain restricted
27 for a period of 12 months following reinstatement, to
28 operating ~~operation~~ under the following conditions:

29 1. Vessels subject to this reinstatement period shall
30 be restricted to the corridors established by commission rule.

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1 2. A violation of the reinstatement period provisions
2 shall be punishable pursuant to paragraphs (1)(a) and (b).

3 ~~(e) Rescission and revocation proceedings under this~~
4 ~~section shall be governed by chapter 120.~~

5 (4) ADDITIONAL PENALTIES FOR MAJOR VIOLATIONS
6 INVOLVING CERTAIN FINFISH.--It is ~~shall be~~ a major violation
7 pursuant to this section, and punishable as provided in
8 ~~pursuant to~~ paragraph (3)(b), for any person to be in
9 possession of any species of trout, snook, or redfish which is
10 three fish in excess of the recreational or commercial daily
11 bag limit.

12 (5) ~~BUYING~~ SALTWATER PRODUCTS; UNLICENSED SELLERS;
13 ILLEGALLY HARVESTED PRODUCTS FROM UNLICENSED SELLER.--In
14 addition ~~to being subject~~ to other penalties authorized
15 ~~provided~~ in this chapter, any violation of s. 370.06 or s.
16 370.07, or rules of the commission implementing s. 370.06 or
17 s. 370.07, involving the purchase of saltwater products by a
18 commercial wholesale dealer, retail dealer, or restaurant
19 facility, for public consumption from an unlicensed person,
20 firm, or corporation, or the sale of saltwater products by an
21 unlicensed person, firm, or corporation or the purchase or
22 sale of any saltwater product known to be taken in violation
23 of s. 16, Art. X of the State Constitution, or rule or statute
24 implementing the provisions thereof, by a commercial whole
25 dealer or restaurant facility, for public consumption, is
26 ~~shall be~~ a major violation, and the commission may assess the
27 following penalties:

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

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

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

10
11 Any proceeds from the civil penalties assessed pursuant to
12 this subsection shall be deposited into the Marine Resources
13 Conservation Trust Fund and shall be used as follows: 40
14 percent for administration and processing purposes and 60
15 percent for law enforcement purposes.

16 (6) PUBLICATIONS BY COMMISSION.--The ~~Fish and Wildlife~~
17 ~~Conservation~~ commission is given authority, from time to time
18 in its discretion, to cause the statutory laws under its
19 jurisdiction, together with any rules ~~and regulations~~
20 promulgated by it, to be published in pamphlet form for free
21 distribution in this state. The commission is authorized to
22 make charges for technical and educational publications and
23 mimeographed material of use for educational or reference
24 purposes. Such charges shall be made at the discretion of the
25 commission. Such charges may be sufficient to cover cost of
26 preparation, printing, publishing, and distribution. All
27 moneys received for publications shall be deposited into the
28 fund from which the cost of the publication was paid. The
29 commission is further authorized to enter into agreements with
30 persons, firms, corporations, governmental agencies, and other
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1 institutions whereby publications may be exchanged
2 reciprocally in lieu of payments for said publications.

3 (7) POWERS OF OFFICERS.--

4 (a) Law enforcement officers of the ~~Fish and Wildlife~~
5 ~~Conservation~~ commission are constituted law enforcement
6 officers of this state with full power to investigate and
7 arrest for any violation of the laws of this state and the
8 rules ~~and regulations~~ of the commission under their
9 jurisdiction. The general laws applicable to arrests by peace
10 officers of this state shall also be applicable to law
11 enforcement officers of the commission. Such law enforcement
12 officers may enter upon any land or waters of the state for
13 performance of their lawful duties and may take with them any
14 necessary equipment, and such entry will not constitute a
15 trespass. It is lawful for any boat, motor vehicle, or
16 aircraft owned or chartered by the commission or its agents or
17 employees to land on and depart from any of the beaches or
18 waters of the state. Such law enforcement officers have the
19 authority, without warrant, to board, inspect, and search any
20 boat, fishing appliance, storage or processing plant,
21 fishhouse, spongehouse, oysterhouse, or other warehouse,
22 building, or vehicle engaged in transporting or storing any
23 fish or fishery products. Such authority to search and inspect
24 without a search warrant is limited to those cases in which
25 such law enforcement officers have reason to believe that fish
26 or any saltwater products are taken or kept for sale, barter,
27 transportation, or other purposes in violation of laws or
28 rules promulgated under this law. Any such law enforcement
29 officer may at any time seize or take possession of any
30 saltwater products or contraband which have been unlawfully
31 caught, taken, or processed or which are unlawfully possessed

1 or transported in violation of any of the laws of this state
2 or any rule ~~or regulation~~ of the commission. Such law
3 enforcement officers may arrest any person in the act of
4 violating any of the provisions of this law, the rules ~~or~~
5 ~~regulations~~ of the commission, or any of the laws of this
6 state. It is hereby declared unlawful for any person to resist
7 such arrest or in any manner interfere, either by abetting or
8 assisting such resistance or otherwise interfering, with any
9 such law enforcement officer while engaged in the performance
10 of the duties imposed upon him or her by law or rule
11 ~~regulation~~ of the commission.

12 (b) The Legislature finds that the checking and
13 inspection of saltwater products aboard vessels is critical to
14 good fishery management and conservation and that, because
15 almost all saltwater products are either iced or cooled in
16 closed areas or containers, the enforcement of seasons, size
17 limits, and bag limits can only be effective when inspection
18 of saltwater products so stored is immediate and routine.
19 Therefore, in addition to the authority granted in paragraph
20 (a), a law enforcement officer of the commission who has
21 probable cause to believe that the vessel has been used for
22 fishing prior to the inspection shall have full authority to
23 open and inspect all containers or areas where saltwater
24 products are normally kept aboard vessels while such vessels
25 are on the water, such as refrigerated or iced locations,
26 coolers, fish boxes, and bait wells, but specifically
27 excluding such containers that are located in sleeping or
28 living areas of the vessel.

29 (8) RETENTION, DESTRUCTION, AND REPRODUCTION OF
30 RECORDS.--Records and documents of the ~~Fish and Wildlife~~
31 ~~Conservation~~ commission created in compliance with and in the

1 implementation of this chapter or former chapter 371 shall be
2 retained by the commission as specified in record retention
3 schedules established under the general provisions of chapters
4 119 and 257. Such records retained by the Department of
5 Environmental Protection on July 1, 1999, shall be transferred
6 to the commission. Further, the commission is authorized to:
7 (a) Destroy, or otherwise dispose of, those records
8 and documents in conformity with the approved retention
9 schedules.
10 (b) Photograph, microphotograph, or reproduce such
11 records and documents on film, as authorized and directed by
12 the approved retention schedules, whereby each page will be
13 exposed in exact conformity with the original records and
14 documents retained in compliance with the provisions of this
15 section. Photographs or microphotographs in the form of film
16 or print of any records, made in compliance with the
17 provisions of this section, shall have the same force and
18 effect as the originals thereof would have and shall be
19 treated as originals for the purpose of their admissibility in
20 evidence. Duly certified or authenticated reproductions of
21 such photographs or microphotographs shall be admitted in
22 evidence equally with the original photographs or
23 microphotographs. The impression of the seal of the ~~Fish and~~
24 ~~Wildlife Conservation~~ commission on a certificate made
25 pursuant to the provisions hereof and signed by the executive
26 director of the ~~Fish and Wildlife Conservation~~ commission
27 shall entitle the same to be received in evidence in all
28 courts and in all proceedings in this state and shall be prima
29 facie evidence of all factual matters set forth in the
30 certificate. A certificate may relate to one or more records,
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1 as set forth in the certificate, or in a schedule continued on
2 an attachment to the certificate.

3 (c) Furnish certified copies of such records for a fee
4 of \$1 which shall be deposited in the Marine Resources
5 Conservation Trust Fund.

6 (9) COURTS OF EQUITY MAY ENJOIN.--Courts of equity in
7 this state have jurisdiction to enforce the conservation laws
8 of this state by injunction.

9 (10) BOND OF EMPLOYEES.--The commission ~~department~~ may
10 require, as it determines, that bond be given by any employee
11 of the commission ~~department~~ or divisions thereof, payable to
12 the Governor of the state and the Governor's successor in
13 office, for the use and benefit of those whom it may concern,
14 in such penal sums with good and sufficient surety or sureties
15 approved by the commission ~~department~~ conditioned for the
16 faithful performance of the duties of such employee.

17 (11) REVOCATION OF LICENSES.--Any person licensed
18 under this chapter who has been convicted of taking
19 aquaculture species raised at a certified facility shall have
20 his or her license revoked for 5 years by the ~~Fish and~~
21 ~~Wildlife Conservation~~ commission pursuant to the provisions
22 and procedures of s. 120.60.

23 (12) LICENSES AND ENTITIES SUBJECT TO PENALTIES.--For
24 purposes of imposing license or permit suspensions or
25 revocations authorized by this chapter, the license or permit
26 under which the violation was committed is subject to
27 suspension or revocation by the commission. For purposes of
28 assessing monetary civil or administrative penalties
29 authorized by this chapter, the person, firm, or corporation
30 cited and subsequently receiving a judicial disposition of
31 other than dismissal or acquittal in a court of law is subject

1 to the monetary penalty assessment by the commission.
2 Suspension and revocation proceedings under this subsection
3 shall be governed by chapter 120.

4 Section 2. Subsection (2) of section 370.06, Florida
5 Statutes, is amended to read:

6 370.06 Licenses.--

7 (2) SALTWATER PRODUCTS LICENSE.--

8 (a) Every person, firm, or corporation that sells,
9 offers for sale, barter, or exchanges for merchandise any
10 saltwater products, or which harvests saltwater products with
11 certain gear or equipment as specified by law, must have a
12 valid saltwater products license, except that the holder of an
13 aquaculture certificate under s. 597.004 is not required to
14 purchase and possess a saltwater products license in order to
15 possess, transport, or sell marine aquaculture products. Each
16 saltwater products license allows the holder to engage in any
17 of the activities for which the license is required. The
18 license must be in the possession of the licenseholder or
19 aboard the vessel and is ~~shall be~~ subject to inspection at any
20 time that harvesting activities for which a saltwater products
21 license is required are being conducted.

22 (b) A restricted species endorsement on the saltwater
23 products license is required to sell to a licensed wholesale
24 dealer those species which the state, by law or rule, has
25 designated as "restricted species." This endorsement may be
26 issued only to a person who is at least 16 years of age, or to
27 a firm certifying that over 25 percent of its income or \$5,000
28 of its income, whichever is less, is attributable to the sale
29 of saltwater products pursuant to a saltwater products license
30 issued under this paragraph or a similar license from another
31 state. This endorsement may also be issued to a for-profit

1 corporation if it certifies that at least \$5,000 of its income
2 is attributable to the sale of saltwater products pursuant to
3 a saltwater products license issued under this paragraph or a
4 similar license from another state. However, if at least 50
5 percent of the annual income of a person, firm, or for-profit
6 corporation is derived from charter fishing, the person, firm,
7 or for-profit corporation must certify that at least \$2,500 of
8 the income of the person, firm, or corporation is attributable
9 to the sale of saltwater products pursuant to a saltwater
10 products license issued under this paragraph or a similar
11 license from another state, in order to be issued the
12 endorsement. Such income attribution must apply to at least 1
13 ~~year~~ out of the last 3 years. For the purpose of this section,
14 "income" means that income that ~~which~~ is attributable to work,
15 employment, entrepreneurship, pensions, retirement benefits,
16 and social security benefits.

17 (c) To renew an existing restricted species
18 endorsement, a marine aquaculture producer possessing a valid
19 saltwater products license with a restricted species
20 endorsement may apply income from the sale of marine
21 aquaculture products to licensed wholesale dealers.

22 1. The commission is authorized to require
23 verification of such income. Acceptable proof of income earned
24 from the sale of saltwater products shall be:

25 a. Copies of trip ticket records generated pursuant to
26 this subsection (marine fisheries information system),
27 documenting qualifying sale of saltwater products;

28 b. Copies of sales records from locales other than
29 Florida documenting qualifying sale of saltwater products;

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1 c. A copy of the applicable federal income tax return,
2 including Form 1099 attachments, verifying income earned from
3 the sale of saltwater products;

4 d. Crew share statements verifying income earned from
5 the sale of saltwater products; or

6 e. A certified public accountant's notarized statement
7 attesting to qualifying source and amount of income.

8

9 Notwithstanding any other provision of law ~~Any provision of~~
10 ~~this section or any other section of the Florida Statutes to~~
11 ~~the contrary notwithstanding~~, any person who owns a retail
12 seafood market or restaurant at a fixed location for at least
13 3 years, who has had an occupational license for 3 years prior
14 to January 1, 1990, who harvests saltwater products to supply
15 his or her retail store, and who has had a saltwater products
16 license for 1 of the past 3 license years prior to January 1,
17 1990, may provide proof of his or her verification of income
18 and sales value at the person's retail seafood market or
19 restaurant and in his or her saltwater products enterprise by
20 affidavit and shall thereupon be issued a restricted species
21 endorsement.

22 2. Exceptions from income requirements shall be as
23 follows:

24 a. A permanent restricted species endorsement shall be
25 available to those persons age 62 and older who have qualified
26 for such endorsement for at least 3 ~~out~~ of the last 5 years.

27 b. Active military duty time shall be excluded from
28 consideration of time necessary to qualify and shall not be
29 counted against the applicant for purposes of qualifying.

30 c. Upon the sale of a used commercial fishing vessel
31 owned by a person, firm, or corporation possessing or eligible

1 for a restricted species endorsement, the purchaser of such
2 vessel shall be exempted from the qualifying income
3 requirement for the purpose of obtaining a restricted species
4 endorsement for a period of 1 year after purchase of the
5 vessel.

6 d. Upon the death or permanent disablement of a person
7 possessing a restricted species endorsement, an immediate
8 family member wishing to carry on the fishing operation shall
9 be exempted from the qualifying income requirement for the
10 purpose of obtaining a restricted species endorsement for a
11 period of 1 year after the death or disablement.

12 e. A restricted species endorsement may be issued on
13 an individual saltwater products license to a person age 62 or
14 older who documents that at least \$2,500 of such person's
15 income is attributable to the sale of saltwater products
16 ~~pursuant to the provisions of this paragraph.~~

17 f. A permanent restricted species endorsement may also
18 be issued on an individual saltwater products license to a
19 person age 70 or older who has held a saltwater products
20 license for at least 3 of the last 5 license years.

21 g. Any resident who is certified to be totally and
22 permanently disabled by the Railroad Retirement Board, by the
23 United States Department of Veterans Affairs or its
24 predecessor, or by any branch of the United States Armed
25 Forces, or who holds a valid identification card issued by the
26 Department of Veterans' Affairs pursuant to s. 295.17, upon
27 proof of the same, or any resident certified to be disabled by
28 the United States Social Security Administration or a licensed
29 physician, upon proof of the same, shall be exempted from the
30 income requirements if he or she also has held a saltwater
31 products license for at least 3 of the last 5 license years

1 prior to the date of the disability. A restricted species
2 endorsement issued under this paragraph may be issued only on
3 an individual saltwater products license.

4 (d) At least one saltwater products license bearing a
5 restricted species endorsement shall be aboard any vessel
6 harvesting restricted species in excess of any bag limit or
7 when fishing under a commercial quota or in commercial
8 quantities, and such vessel shall have a commercial vessel
9 registration. This subsection does not apply to any person,
10 firm, or corporation licensed under s. 370.07(1)(a)1. or (b)
11 for activities pursuant to such licenses.

12 (e) A saltwater products license may be issued in the
13 name of an individual or a valid boat registration number.
14 Such license is not transferable. A decal shall be issued with
15 each saltwater products license issued to a valid boat
16 registration number. The saltwater products license decal
17 shall be the same color as the vessel registration decal
18 issued each year pursuant to s. 328.48(5) and shall indicate
19 the period of time such license is valid. The saltwater
20 products license decal shall be placed beside the vessel
21 registration decal and, in the case of an undocumented vessel,
22 shall be placed so that the vessel registration decal lies
23 between the vessel registration number and the saltwater
24 products license decal. Any saltwater products license decal
25 for a previous year shall be removed from a vessel operating
26 on the waters of the state.

27 (f) A resident shall pay an annual license fee of \$50
28 for a saltwater products license issued in the name of an
29 individual or \$100 for a saltwater products license issued to
30 a valid boat registration number. A nonresident shall pay an
31 annual license fee of \$200 for a saltwater products license

1 issued in the name of an individual or \$400 for a saltwater
2 products license issued to a valid boat registration number.
3 An alien shall pay an annual license fee of \$300 for a
4 saltwater products license issued in the name of an individual
5 or \$600 for a saltwater products license issued to a valid
6 boat registration number.

7 (g) Any person who sells saltwater products pursuant
8 to a saltwater products ~~this~~ license may sell only to a
9 licensed wholesale dealer. A saltwater products license must
10 be presented to the licensed wholesale dealer each time
11 saltwater products are sold, and an imprint made thereof. The
12 wholesale dealer shall keep records of each transaction in
13 such detail as may be required by rule of the commission not
14 in conflict with s. 370.07(6), and shall provide the holder of
15 the saltwater products license with a copy of the record. It
16 is unlawful for any licensed wholesale dealer to buy saltwater
17 products from any unlicensed person under the provisions of
18 this section, except that a licensed wholesale dealer may buy
19 from another licensed wholesale dealer. It is unlawful for any
20 licensed wholesale dealer to buy saltwater products designated
21 as "restricted species" from any person, firm, or corporation
22 not possessing a restricted species endorsement on his or her
23 saltwater products license under the provisions of this
24 section, except that a licensed wholesale dealer may buy from
25 another licensed wholesale dealer. For purposes of this
26 subsection, any saltwater products delivered to the premises
27 of a wholesale dealer are presumed to have been purchased.

28 (h) The commission shall be the licensing agency, may
29 contract with private persons or entities to implement aspects
30 of the licensing program, and shall establish by rule a marine
31

1 fisheries information system in conjunction with the licensing
2 program to gather fisheries data.

3 (i)~~(b)~~ Any person who sells, offers for sale, barter,
4 or exchanges for merchandise saltwater products must have a
5 method of catch preservation which meets the requirements and
6 standards of the seafood quality control code promulgated by
7 the commission.

8 (j)~~(c)~~ A saltwater products license is required to
9 harvest commercial quantities of saltwater products. Any
10 vessel from which commercial quantities of saltwater products
11 are harvested must have a commercial vessel registration.
12 Commercial quantities of saltwater products shall be defined
13 as:

14 1. With respect to those species for which no bag
15 limit has been established, more than 100 pounds per person
16 per day, provided that the harvesting of two fish or less per
17 person per day shall not be considered commercial quantities
18 regardless of aggregate weight; and

19 2. With respect to those species for which a bag limit
20 has been established, more than the bag limit allowed by law
21 or rule.

22 (k)~~(d)~~1. In addition to the saltwater products
23 license, a marine life fishing endorsement is required for the
24 harvest of marine life species as defined by rule of the Fish
25 and Wildlife Conservation Commission. This endorsement may be
26 issued only to a person who is at least 16 years of age or
27 older or to a corporation holding a valid restricted species
28 endorsement.

29 2.a. Effective July 1, 1998, and until July 1, 2002, a
30 marine life endorsement may not be issued under this
31

1 paragraph, except that those endorsements that are active
2 during the 1997-1998 fiscal year may be renewed.

3 b. In 1998 persons or corporations holding a marine
4 life endorsement that was active in the 1997-1998 fiscal year
5 or an immediate family member of that person must request
6 renewal of the marine life endorsement before December 31,
7 1998.

8 c. In subsequent years and until July 1, 2002, a
9 marine life endorsement holder or member of his or her
10 immediate family must request renewal of the marine life
11 endorsement before September 30 of each year.

12 d. If a person or corporation holding an active marine
13 life fishing endorsement or a member of that person's
14 immediate family does not request renewal of the endorsement
15 before the applicable dates specified in this paragraph, the
16 commission shall deactivate that marine life fishing
17 endorsement.

18 e. In the event of the death or disability of a person
19 holding an active marine life fishing endorsement, the
20 endorsement may be transferred by the person to a member of
21 his or her immediate family or may be renewed by any person so
22 designated by the executor of the person's estate.

23 f. Persons or corporations who hold saltwater product
24 licenses with marine life fishing endorsements issued to their
25 vessel registration numbers and who subsequently replace their
26 existing vessels with new vessels may transfer the existing
27 marine life fishing endorsement to the new boat registration
28 numbers.

29 g. Persons or corporations who hold saltwater product
30 licenses with marine life fishing endorsements issued to their
31 name and who subsequently incorporate or unincorporate may

1 transfer the existing marine life fishing endorsement to the
2 new corporation or person.

3 3. The fee for a marine life fishery endorsement on a
4 saltwater products license shall be \$75. These license fees
5 shall be collected and deposited in the Marine Resources
6 Conservation Trust Fund and used for the purchase and
7 installation of vessel mooring buoys at coral reef sites and
8 for research related to marine fisheries.

9 Section 3. Section 370.061, Florida Statutes, is
10 amended to read:

11 370.061 Confiscation of property and products.--

12 (1) CONFISCATION; PROCEDURE.--Property used in
13 connection with a violation resulting in a ~~In all cases of~~
14 ~~arrest and~~ conviction for the illegal taking, or attempted
15 taking, sale, possession, or transportation of ~~saltwater fish~~
16 ~~or other~~ saltwater products is subject to forfeiture as part
17 of the commission's efforts to protect the state's marine
18 life., ~~such~~ Saltwater products and seines, nets, boats,
19 motors, other fishing devices or equipment, and vehicles or
20 other means of transportation used or attempted to be used in
21 connection with, as an instrumentality of, or in aiding and
22 abetting such illegal taking or attempted taking are ~~hereby~~
23 declared to be nuisances, ~~and may be seized and carried before~~
24 the court having jurisdiction over the criminal of such
25 offense, notwithstanding any jurisdictional limitations on the
26 amount in controversy, and said court may make a finding that
27 the property was used in connection with a saltwater products
28 violation and may order such nuisances forfeited to the Fish
29 ~~and Wildlife Conservation~~ commission immediately after a trial
30 ~~and~~ conviction of the person or persons in whose possession
31 they were found. The requirement of a conviction before

1 forfeiture establishes, to the exclusion of any reasonable
2 doubt, that the property was used in connection with the
3 violation. The procedures of chapter 932 do not apply to any
4 forfeiture under this section. For purposes of this section, a
5 conviction is any disposition other than acquittal or
6 dismissal.

7 (2) SEIZURE AND NOTICE.--Prior to the issuance of a
8 forfeiture order for any vessel, vehicle, or other property
9 under subsection (1), the commission shall seize the property
10 and notify the registered owner, if any, that the property has
11 been seized by the commission. Notification must be sent
12 within 14 days after the seizure of the property. If the
13 commission, after diligent inquiry, cannot ascertain the
14 registered owner, the notice is satisfied. Any property seized
15 under this section that is not otherwise unlawful may be
16 returned to the person or persons holding title thereto at the
17 time of the illegal act causing the seizure if such person
18 proves by a preponderance of the evidence before the court
19 having jurisdiction over the criminal offense that he or she
20 in no way aided, abetted, participated in, gave consent to, or
21 knew or had reason to know of the act. A request for such a
22 hearing from a person holding title and asserting that he or
23 she is an innocent owner must be received by the assistant
24 state attorney who prosecuted the case and the commission's
25 Division of Law Enforcement within 15 days after receipt of
26 the notice of seizure. If a request for a hearing is not
27 timely received, the court may forfeit to the commission the
28 right to, title to, and interest in the property seized,
29 subject only to the rights and interests of bona fide
30 lienholders.~~, except that, If a motor vehicle is seized under~~
31 ~~the provisions of this section act and is subject to any~~

1 existing liens recorded under ~~the provisions of~~ s. 319.27, all
2 further proceedings shall be governed by the expressed intent
3 of the Legislature not to divest any innocent person, firm, or
4 corporation holding such a recorded lien of any of its
5 reversionary rights in such motor vehicle or of any of its
6 rights as prescribed in s. 319.27, and ~~that~~, upon any default
7 by the violator purchaser, the ~~said~~ lienholder may foreclose
8 its lien and take possession of the motor vehicle involved.

9 (3) COURT ORDER OF FORFEITURE.--When any illegal or
10 illegally used seine, net, trap, or other fishing device or
11 equipment, or illegally taken, possessed, or transported
12 saltwater products, are found and taken into custody, and the
13 owner thereof is ~~shall~~ not ~~be~~ known to the officer finding the
14 item or items, ~~the same, such~~ officer shall immediately
15 procure from the county court judge of the county wherein the
16 item or items ~~they~~ were found an order forfeiting the said
17 saltwater products, seines, nets, traps, boats, motors, or
18 other fishing devices to the commission.

19 (4) DESTRUCTION OR DISPOSITION OF PROPERTY.--All
20 things forfeited under this section ~~the provisions of this law~~
21 may be destroyed, used by the commission, disposed of by gift
22 to charitable or state institutions, or sold, with ~~and~~ the
23 proceeds derived from the said sale deposited into ~~in~~ the
24 Marine Resources Conservation Trust Fund to be used for law
25 enforcement purposes or into the commission's Federal Law
26 Enforcement Trust Fund as provided in s. 372.107, as
27 applicable. ~~However, forfeited boats, motors, and legal~~
28 ~~fishing devices only, may be purchased from the commission for~~
29 ~~\$1 by the person or persons holding title thereto at the time~~
30 ~~of the illegal act causing the forfeiture, if such person~~

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1 ~~shall prove that he or she in no way participated in, gave~~
2 ~~consent to, or had knowledge of such act.~~

3 (5)~~(2)~~ CONFISCATION AND SALE OF PERISHABLE PRODUCTS;
4 PROCEDURE.--When an arrest is made pursuant to the provisions
5 of this chapter and illegal, perishable products,or
6 perishable products illegally taken or landed,are
7 apprehended, the defendant may post bond or cash deposit in an
8 amount determined by the judge to be the fair value of such
9 products. The, ~~and said~~ defendant shall have 24 hours to
10 transport the ~~said~~ products outside the limits of Florida for
11 sale or other disposition. Should no bond or cash deposit be
12 given within the time fixed by the judge, the judge shall
13 order the sale of such products at the highest price
14 obtainable, and, when feasible, at least three bids shall be
15 requested. In either event, the amounts received by the judge
16 shall be remitted to the commission to be deposited into a
17 special escrow account in the State Treasury and held in trust
18 pending the outcome of the trial of the accused. If a bond is
19 posted by the defendant, it shall also be remitted to the
20 commission to be held in escrow pending the outcome of the
21 trial of the accused. In the event of acquittal, the bond or
22 cash deposit shall be returned to the defendant, or the
23 proceeds of the sale shall be paid over to the defendant. In
24 the event of conviction, the proceeds of the sale, or proceeds
25 of the bond or cash deposit, shall be deposited by the ~~said~~
26 commission into the Marine Resources Conservation Trust Fund
27 to be used for law enforcement purposes or into the
28 commission's Federal Law Enforcement Trust Fund as provided in
29 s. 372.107, as applicable. Such deposit into the Marine
30 Resources Conservation Trust Fund or the commission's Federal
31 Law Enforcement Trust Fund shall constitute confiscation.

1 ~~(6)~~⁽³⁾ MUNICIPAL OR COUNTY ENFORCEMENT; SUPPLEMENTAL
2 FUNDING.--

3 (a) Any municipal or county law enforcement agency
4 that enforces, or assists the commission in enforcing, the
5 provisions of this chapter resulting in a forfeiture of
6 property as provided in this section shall be entitled to
7 receive all or a share of any such property based upon its
8 ~~their~~ participation in such enforcement.

9 (b) Any property delivered to any municipal or county
10 law enforcement agency as provided in paragraph (a) may be
11 retained or sold by the law enforcement agency, and the
12 property or any proceeds shall, if the agency operates a
13 marine enforcement unit, be used ~~utilized~~ to enforce the
14 provisions of this chapter and chapters 327 and 328. In the
15 event the law enforcement agency does not operate a marine
16 enforcement unit, any such property or proceeds shall be
17 disposed of under ~~pursuant to~~ the Florida Contraband
18 Forfeiture Act.

19 (c) Any funds received by a municipal or county law
20 enforcement agency pursuant to this subsection shall be
21 supplemental funds and may not be used as replacement funds by
22 the municipality or county.

23 Section 4. Subsections (4) and (8) of section 370.07,
24 Florida Statutes, are amended and, for the purpose of
25 incorporating the amendment to section 370.021, Florida
26 Statutes, in a reference thereto, paragraph (c) of subsection
27 (5) of section 370.07, Florida Statutes, is reenacted, to
28 read:

29 370.07 Wholesale and retail saltwater products
30 dealers; regulation.--

31 (4) TRANSPORTATION OF SALTWATER PRODUCTS.--

1 (a) A person transporting in this state saltwater
2 products that were produced in this state, regardless of
3 destination, shall have in his or her possession invoices,
4 bills of lading, or other similar instruments showing the
5 number of packages, boxes, or containers and the number of
6 pounds of each species and the name, physical address, and the
7 Florida wholesale dealer number of the dealer of origin.

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

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

26 (d) If the saltwater products in transit come ~~came~~
27 from more than one dealer, distributor, or producer, each lot
28 from each dealer shall be covered by invoices, bills of
29 lading, and other similar instruments showing the number of
30 boxes or containers and the number of pounds of each species.
31 Each invoice, bill of lading, and other similar instrument

1 shall display the wholesale dealer license number and the name
2 and physical address of the dealer, distributor, or producer
3 of the lot covered by the instrument.

4 (e) It is unlawful to sell, deliver, ship, or
5 transport, or to possess for the purpose of selling,
6 delivering, shipping, or transporting, any saltwater products
7 without all invoices concerning the ~~of such~~ products having
8 thereon the wholesale dealer license number in the ~~such~~ form
9 ~~as may be~~ prescribed under ~~the provisions of~~ this subsection
10 and the rules ~~and regulations~~ of the ~~Fish and Wildlife~~
11 ~~Conservation~~ commission. Any saltwater products found in the
12 possession of any person who is in violation of this paragraph
13 ~~provision~~ may be seized by the commission and disposed of in
14 the manner provided by law.

15 (f) Nothing contained in this subsection may be
16 construed to apply to the sale and delivery to a consumer of
17 saltwater products in an ordinary retail transaction by a
18 licensed retail dealer who has purchased such products from a
19 licensed wholesale dealer, or to the sale and delivery of the
20 catch or products of a saltwater products licensee to a
21 Florida-licensed wholesale dealer.

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

31

1 (h) A wholesale dealer, retail dealer, or restaurant
2 facility for public consumption shall not purchase or sell any
3 saltwater products known to be taken illegally, or known to be
4 taken in violation of s. 16, Art. X of the State Constitution,
5 or any rule or statute implementing its provisions.

6 (i)~~(h)~~ Any person who violates the provisions of this
7 subsection commits ~~is guilty of~~ a misdemeanor of the first
8 degree, punishable as provided in s. 775.082 or s. 775.083.

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

10 (c) In addition to, or in lieu of, the penalty imposed
11 pursuant to this subsection, the commission may impose
12 penalties pursuant to s. 370.021.

13 (8) UNLAWFUL PURCHASE OF SALTWATER PRODUCTS.--It is
14 unlawful for any licensed retail dealer or any restaurant
15 licensed by the Division of Hotels and Restaurants of the
16 Department of Business and Professional Regulation to buy
17 saltwater products from any person other than a licensed
18 wholesale or retail dealer. For purposes of this subsection,
19 any saltwater products delivered to the premises of a retail
20 dealer or a restaurant are presumed to have been purchased.

21 Section 5. For purposes of incorporating the amendment
22 to section 370.021, Florida Statutes, in references thereto,
23 subsections (3) and (4) of section 370.092, Florida Statutes,
24 are reenacted to read:

25 370.092 Carriage of proscribed nets across Florida
26 waters.--

27 (3) Notwithstanding subsections (1) and (2), unless
28 authorized by rule of the Fish and Wildlife Conservation
29 Commission, it is a major violation under this section,
30 punishable as provided in s. 370.021(3), for any person, firm,
31 or corporation to possess any gill or entangling net, or any

1 seine net larger than 500 square feet in mesh area, on any
2 airboat or on any other vessel less than 22 feet in length and
3 on any vessel less than 25 feet if primary power of the vessel
4 is mounted forward of the vessel center point. Gill or
5 entangling nets shall be as defined in s. 16, Art. X of the
6 State Constitution, s. 370.093(2)(b), or in a rule of the Fish
7 and Wildlife Conservation Commission implementing s. 16, Art.
8 X of the State Constitution. Vessel length shall be determined
9 in accordance with current United States Coast Guard
10 regulations specified in the Code of Federal Regulations or as
11 titled by the State of Florida. The Marine Fisheries
12 Commission is directed to initiate by July 1, 1998, rulemaking
13 to adjust by rule the use of gear on vessels longer than 22
14 feet where the primary power of the vessel is mounted forward
15 of the vessel center point in order to prevent the illegal use
16 of gill and entangling nets in state waters and to provide
17 reasonable opportunities for the use of legal net gear in
18 adjacent federal waters.

19 (4) The Fish and Wildlife Conservation Commission
20 shall adopt rules to prohibit the possession and sale of
21 mullet taken in illegal gill or entangling nets. Violations of
22 such rules shall be punishable as provided in s. 370.021(3).

23 Section 6. For purposes of incorporating the amendment
24 to section 370.021, in a reference thereto, subsection (5) of
25 section 370.093, Florida Statutes, is reenacted to read:

26 370.093 Illegal use of nets.--

27 (5) Any person who violates this section shall be
28 punished as provided in s. 370.021(3).

29 Section 7. Paragraphs (a) and (c) of subsection (2) of
30 section 370.142, Florida Statutes, are amended to read:

31 370.142 Spiny lobster trap certificate program.--

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

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

11 1. The Department of Environmental Protection shall
12 initially allot such certificates to each licenseholder with a
13 current crawfish trap number who uses traps. The number of
14 such certificates allotted to each such licenseholder shall be
15 based on the trap/catch coefficient established pursuant to
16 trip ticket records generated under the provisions of s.
17 370.06(2)~~(a)~~ over a 3-year base period ending June 30, 1991.
18 The trap/catch coefficient shall be calculated by dividing the
19 sum of the highest reported single license-year landings up to
20 a maximum of 30,000 pounds for each such licenseholder during
21 the base period by 700,000. Each such licenseholder shall then
22 be allotted the number of certificates derived by dividing his
23 or her highest reported single license-year landings up to a
24 maximum of 30,000 pounds during the base period by the
25 trap/catch coefficient. Nevertheless, no licenseholder with a
26 current crawfish trap number shall be allotted fewer than 10
27 certificates. However, certificates may only be issued to
28 individuals; therefore, all licenseholders other than
29 individual licenseholders shall designate the individual or
30 individuals to whom their certificates will be allotted and
31 the number thereof to each, if more than one. After initial

1 issuance, trap certificates are transferable on a market basis
2 and may be transferred from one licenseholder to another for a
3 fair market value agreed upon between the transferor and
4 transferee. Each such transfer shall, within 72 hours thereof,
5 be recorded on a notarized form provided for that purpose by
6 the Fish and Wildlife Conservation Commission and hand
7 delivered or sent by certified mail, return receipt requested,
8 to the commission for recordkeeping purposes. In addition, in
9 order to cover the added administrative costs of the program
10 and to recover an equitable natural resource rent for the
11 people of the state, a transfer fee of \$2 per certificate
12 transferred shall be assessed against the purchasing
13 licenseholder and sent by money order or cashier's check with
14 the certificate transfer form. Also, in addition to the
15 transfer fee, a surcharge of \$5 per certificate transferred or
16 25 percent of the actual market value, whichever is greater,
17 given to the transferor shall be assessed the first time a
18 certificate is transferred outside the original transferor's
19 immediate family. No transfer of a certificate shall be
20 effective until the commission receives the notarized transfer
21 form and the transfer fee, including any surcharge, is paid.
22 The commission may establish by rule an amount of equitable
23 rent per trap certificate that shall be recovered as partial
24 compensation to the state for the enhanced access to its
25 natural resources. Final approval of such a rule shall be by
26 the Governor and Cabinet sitting as the Board of Trustees of
27 the Internal Improvement Trust Fund. In determining whether to
28 establish such a rent and, if so, the amount thereof, the
29 commission shall consider the amount of revenues annually
30 generated by certificate fees, transfer fees, surcharges, trap
31 license fees, and sales taxes, the demonstrated fair market

1 value of transferred certificates, and the continued economic
2 viability of the commercial lobster industry. The proceeds of
3 equitable rent recovered shall be deposited in the Marine
4 Resources Conservation Trust Fund and used by the commission
5 for research, management, and protection of the spiny lobster
6 fishery and habitat. A transfer fee may not be assessed or
7 required when the transfer is within a family as a result of
8 the death or disability of the certificate owner. A surcharge
9 will not be assessed for any transfer within an individual's
10 immediate family.

11 2. No person, firm, corporation, or other business
12 entity may control, directly or indirectly, more than 1.5
13 percent of the total available certificates in any license
14 year.

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

18 4. The number of trap tags issued annually to each
19 licenseholder shall not exceed the number of certificates held
20 by the licenseholder at the time of issuance, and such tags
21 and a statement of certificates held shall be issued
22 simultaneously.

23 5. Beginning July 1, 2003, and applicable to the
24 2003-2004 lobster season and thereafter, it is unlawful for
25 any person to lease lobster trap tags or certificates.

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 68B-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 all his or her
14 saltwater fishing privileges, including his or her saltwater
15 products license, crawfish endorsement, and all trap
16 certificates allotted to him or her through this program. In
17 such cases, trap certificates and endorsements are
18 nontransferable. In addition, any person, firm, or corporation
19 convicted of violating this paragraph shall also be assessed
20 an administrative penalty of up to \$5,000. Immediately upon
21 receiving a citation for a violation involving theft from a
22 trap and until adjudicated for such a violation or, if
23 convicted of such a violation, the person, firm, or
24 corporation committing the violation is prohibited from
25 transferring any crawfish trap certificates and endorsements.

26 4. In addition to any other penalties provided in s.
27 370.021, a commercial harvester, as defined by rule
28 68B-24.002(1), Florida Administrative Code, who violates the
29 provisions of this section, or the provisions relating to
30 traps of chapter 68B-24, Florida Administrative Code, shall be
31 punished as follows:

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

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

14 c. For a third or subsequent violation of subparagraph
15 1., subparagraph 2., or subparagraph 3. which occurs within 36
16 months of any previous two such violations, the commission
17 shall assess an additional civil penalty of up to \$5,000 and
18 may suspend the crawfish trap number issued pursuant to s.
19 370.14(2) or (6) for a period of up to 24 months or may revoke
20 the crawfish trap number and, if revoking the crawfish trap
21 number, may also proceed against the licenseholder's saltwater
22 products license in accordance with the provisions of s.
23 370.021(2)(h)(~~i~~).

24 d. Any person assessed an additional civil penalty
25 pursuant to this section shall within 30 calendar days after
26 notification:

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

28 (II) Request an administrative hearing pursuant to the
29 provisions of s. 120.60.

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

4 5.a. It is unlawful for any person to make, alter,
5 forge, counterfeit, or reproduce a spiny lobster trap tag or
6 certificate.

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

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

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

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

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1 7. Any certificates for which the annual certificate
2 fee is not paid for a period of 3 years shall be considered
3 abandoned and shall revert to the commission. During any
4 period of trap reduction, any certificates reverting to the
5 commission shall become permanently unavailable and be
6 considered in that amount to be reduced during the next
7 license-year period. Otherwise, any certificates that revert
8 to the commission are to be reallocated in such manner as
9 provided by the commission.

10 8. The proceeds of all civil penalties collected
11 pursuant to subparagraph 4. and all fines collected pursuant
12 to sub-subparagraph 6.b. shall be deposited into the Marine
13 Resources Conservation Trust Fund.

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

16 Section 8. Section 372.70, Florida Statutes, is
17 amended to read:

18 372.70 Prosecutions; state attorney to represent
19 state.--

20 (1) The prosecuting officers of the several courts of
21 criminal jurisdiction of this state shall investigate and
22 prosecute all violations of the laws relating to game,
23 freshwater fish, nongame birds, and fur-bearing animals which
24 may be brought to their attention by the ~~Fish and Wildlife~~
25 ~~Conservation~~ commission or its conservation officers, or which
26 may otherwise come to their knowledge.

27 (2) The state attorney shall represent the state in
28 any forfeiture proceeding under this chapter. The Department
29 of Legal Affairs shall represent the state in all appeals from
30 judgments of forfeiture to the Supreme Court. The state may
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1 appeal any judgement denying forfeiture in whole or in part
2 that may be otherwise adverse to the state.

3 Section 9. Section 372.9901, Florida Statutes, is
4 amended to read:

5 372.9901 Seizure of illegal hunting devices;
6 disposition; ~~appraisal~~forfeiture.--

7 (1) In order to protect the state's wildlife
8 resources, any vehicle, vessel, animal, gun, light, or other
9 hunting device used or attempted to be used in connection
10 with, as an instrumentality of, or in aiding and abetting in
11 the commission of an offense prohibited by s. 372.99 is
12 subject to forfeiture., ~~shall be seized by the arresting~~
13 ~~officer, who shall promptly make return of the seizure and~~
14 ~~deliver the property to the director of the Fish and Wildlife~~
15 ~~Conservation Commission. The return shall describe the~~
16 ~~property seized and recite in detail the facts and~~
17 ~~circumstances under which it was seized, together with the~~
18 ~~reason that the property was subject to seizure. The return~~
19 ~~shall also contain the names of all persons known to the~~
20 ~~officer to be interested in the property.~~

21 ~~(2) The director of the commission, upon receipt of~~
22 ~~the property, shall promptly fix its value and make return~~
23 ~~thereof to the clerk of the circuit court of the county~~
24 ~~wherein the article was seized; after which on proper showing~~
25 ~~of ownership of the property by someone other than the person~~
26 ~~arrested the property shall be returned to the said owner.~~

27 ~~(2)(3)~~ Upon conviction of the person in whose
28 possession the property was found, the court having
29 jurisdiction over the criminal offense, notwithstanding any
30 jurisdictional limitations on the amount in controversy, may
31 make a finding that the property was used in connection with a

1 violation of s. 372.99 and, upon such finding, order the
2 property forfeited to the commission. The requirement for a
3 conviction before forfeiture establishes, to the exclusion of
4 any reasonable doubt, that the property was used in connection
5 with a violation. The procedures of chapter 932 do not apply to
6 any forfeiture under this section. For purposes of this
7 section, a conviction is any disposition other than acquittal
8 or dismissal.

9 (3) The commission shall seize the property and notify
10 the registered owner, if any, that the property has been
11 seized by the commission. Notification must be sent within 14
12 days after the seizure of the property. If the commission,
13 after diligent inquiry, cannot ascertain the registered owner,
14 the notice requirement is satisfied. Any property seized under
15 this section that is not otherwise unlawful may be returned to
16 the person or persons holding title thereto at the time of the
17 illegal act causing the seizure if such person proves by a
18 preponderance of the evidence before the court having
19 jurisdiction over the criminal offense that he or she in no
20 way aided, abetted, participated in, gave consent to, or knew
21 or had reason to know of the act. A request for such a hearing
22 from a person holding title and asserting that he or she is an
23 innocent owner must be received by the assistant state
24 attorney who prosecuted the case and the commission's Division
25 of Law Enforcement within 15 days after receipt of the notice
26 of seizure. If a request for a hearing is not timely received,
27 the court shall forfeit to the commission the right to, title
28 to, and interest in the property seized, subject only to the
29 rights and interests of bona fide lien holders.~~violation, the~~
30 ~~property, if owned by the person convicted, shall be forfeited~~
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1 ~~to the state under the procedure set forth in ss.~~
2 ~~372.312-372.318, where not inconsistent with this section.~~

3 (4) All amounts received from the sale or other
4 disposition of the property shall be paid into the State Game
5 Trust Fund or into the commission's Federal Law Enforcement
6 Trust Fund as provided in s. 372.107, as applicable. If the
7 property is not sold or converted, it shall be delivered to
8 the executive director of the ~~Fish and Wildlife Conservation~~
9 commission.

10 Section 10. Section 372.31, Florida Statutes, is
11 renumbered as section 372.99021, Florida Statutes, and amended
12 to read:

13 372.99021 ~~372.31~~ Disposition of illegal fishing
14 devices; exercise of police power.--

15 (1) In all cases of arrest and conviction for use of
16 illegal nets or traps or fishing devices, as provided in this
17 chapter, such illegal net, trap, or fishing device is declared
18 to be a nuisance and shall be seized and carried before the
19 court having jurisdiction of such offense and said court shall
20 order such illegal trap, net, or fishing device forfeited to
21 the ~~Fish and Wildlife Conservation~~ commission immediately
22 after trial and conviction of the person in whose possession
23 they were found. When any illegal net, trap, or fishing
24 device is found in the fresh waters of the state, and the
25 owner of same shall not be known to the officer finding the
26 same, such officer shall immediately procure from the county
27 court judge an order forfeiting said illegal net, trap, or
28 fishing device to the ~~Fish and Wildlife Conservation~~
29 commission. The ~~Fish and Wildlife Conservation~~ commission may
30 destroy such illegal net, trap, or fishing device, if in its
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1 judgment said net, trap, or fishing device is not of value in
2 the work of the department.

3 (2) When any nets, traps, or fishing devices are found
4 being used illegally as provided in this chapter, the same
5 shall be seized and forfeited to the ~~Fish and Wildlife~~
6 ~~Conservation~~ commission as provided in this chapter.

7 (3) This section is necessary for the more efficient
8 and proper enforcement of the statutes and laws of this state
9 prohibiting the illegal use of nets, traps, or fishing devices
10 and is a lawful exercise of the police power of the state for
11 the protection of the public welfare, health, and safety of
12 the people of the state. All the provisions of this section
13 shall be liberally construed for the accomplishment of these
14 purposes.

15 Section 11. Section 372.99022, Florida Statutes, is
16 created to read:

17 372.99022 Illegal molestation of or theft from
18 freshwater traps.--

19 (1)(a) Any person, firm, or corporation that willfully
20 molests any authorized and lawfully permitted freshwater
21 fishing gear belonging to another without the express written
22 consent of the owner commits a felony of the third degree,
23 punishable as provided in s. 775.082, s. 775.083, or s.
24 775.084. Any written consent must be available for immediate
25 inspection.

26 (b) Any person, firm, or corporation that willfully
27 removes the contents of any authorized and lawfully permitted
28 freshwater fishing gear belonging to another without the
29 express written consent of the owner commits a felony of the
30 third degree, punishable as provided in s. 775.082, s.
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1 775.083, or s. 775.084. Any written consent must be available
2 for immediate inspection.

3
4 A person, firm, or corporation that receives a citation for a
5 violation of this subsection is prohibited, immediately upon
6 receipt of such citation and until adjudicated or convicted of
7 a felony under this subsection, from transferring any
8 endorsements.

9 (2) Any person, firm, or corporation convicted
10 pursuant to subsection (1) of removing the contents of
11 freshwater fishing gear without the express written consent of
12 the owner shall permanently lose all of his or her freshwater
13 and saltwater fishing privileges, including his or her
14 recreational and commercial licenses and endorsements, and
15 shall be assessed an administrative penalty of not more than
16 \$5,000. The endorsements of such person, firm, or corporation
17 are not transferable.

18 (3) For purposes of this section, the term "freshwater
19 fishing gear" means haul seines, slat baskets, wire traps, or
20 pound nets, and includes the lines or buoys attached thereto.

21 Section 12. Subsection (3) of section 372.9904,
22 Florida Statutes, is amended to read:

23 372.9904 Seizure of illegal transportation devices;
24 disposition; appraisal; forfeiture.--

25 (3) Upon conviction of the violator, the property, if
26 owned by the person convicted, shall be forfeited to the state
27 under the procedure set forth in ss. 370.061 and 370.07
28 ~~372.312-372.318~~, when not inconsistent with this section. All
29 amounts received from the sale or other disposition of the
30 property shall be paid into the State Game Trust Fund or into
31 the commission's Federal Law Enforcement Trust Fund as

1 provided in s. 372.107, as applicable. If the property is not
2 sold or converted, it shall be delivered to the director of
3 the Fish and Wildlife Conservation Commission.

4 Section 13. Section 372.9905, Florida Statutes, is
5 amended to read:

6 372.9905 Applicability of ss. 372.99, 372.9901,
7 372.9903, and 372.9904.--The provisions of ss. 372.99,
8 372.9901, 372.9903, and 372.9904 relating to seizure and
9 forfeiture of animals or of vehicles, vessels, or other
10 transportation devices do ~~shall not apply when such vehicles,~~
11 ~~vessels, or other transportation devices are owned by, or~~
12 ~~titled in the name of, innocent parties.~~ The provisions of
13 ~~said sections shall~~ not vitiate any valid lien, retain title
14 contract, or chattel mortgage on such animals or vehicles,
15 vessels, or other transportation devices if such lien, retain
16 title contract, or chattel mortgage is properly of public
17 record at the time of the seizure.

18 Section 14. Paragraph (b) of subsection (4) of section
19 323.001, Florida Statutes, is amended to read:

20 323.001 Wrecker operator storage facilities; vehicle
21 holds.--

22 (4) The requirements for a written hold apply when the
23 following conditions are present:

24 (b) The officer has probable cause to believe the
25 vehicle should be seized and forfeited under s. 370.061 or s.
26 370.07 ~~372.312~~;

27 Section 15. Sections 372.311, 372.312, 372.313,
28 372.314, 372.315, 372.316, 372.317, 372.318, 372.319, 372.321,
29 and 372.9902, Florida Statutes, are repealed.

30 Section 16. This act shall take effect July 1, 2002.

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HOUSE SUMMARY

Revises saltwater fisheries violations and penalties. Provides additional restrictions upon a saltwater products licensee during the period of license suspension or revocation, and provides penalties for purchase or sale of illegally harvested saltwater products. Revises and clarifies requirements for saltwater products licenses and endorsements and the saltwater products license income exemption and endorsement for disabled persons. Provides that saltwater products delivered to a wholesale or retail dealer or restaurant are presumed to have been purchased. Revises and clarifies requirements and procedures for confiscation and forfeiture of property used in the illegal taking of saltwater products, deer, or wild turkey. Provides for notice of seizure to the registered owner of the property prior to issuance of a forfeiture order and return of property to an innocent owner. Prohibits purchase or sale of illegally taken saltwater products and provides a penalty. Provides penalties for molestation of or theft from freshwater traps and prohibits transfer of endorsements of violators. Repeals existing provisions relating to forfeiture proceedings. See bill for details.