

By the Council for Ready Infrastructure and 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; creating penalties
10 for purchase or sale of illegally harvested
11 saltwater products taken in violation of s. 16,
12 Art. X of the State Constitution; clarifying
13 that licenses or permits under which a
14 violation is committed may be subject to
15 suspension or revocation; clarifying that
16 persons, firms, or corporations cited for
17 violations are subject to monetary penalties
18 assessed by the commission; amending s. 370.06,
19 F.S.; revising and clarifying requirements for
20 saltwater products licenses and endorsements;
21 clarifying the saltwater products license
22 income exemption for disabled persons; limiting
23 the restricted species endorsement available to
24 such persons; providing that saltwater products
25 received at the premises of a wholesale dealer
26 are presumed to have been purchased; amending
27 s. 370.061, F.S.; revising and clarifying
28 requirements and procedures for confiscation
29 and forfeiture of property used in a saltwater
30 products violation; requiring notice of seizure
31 to the registered owner of the property prior

1 to issuance of a forfeiture order; authorizing
2 the courts to order property forfeited to the
3 commission for second or subsequent
4 convictions; revising procedure for return of
5 property to an innocent owner; amending s.
6 370.07, F.S.; prohibiting purchase or sale of
7 illegally taken saltwater products; providing a
8 penalty; providing that saltwater products
9 received at the premises of a retail dealer or
10 restaurant are presumed to have been purchased;
11 correcting a cross reference; reenacting ss.
12 370.07(5), 370.092(3) and (4), and 370.093(5),
13 F.S., to incorporate the amendment to s.
14 370.021, F.S., in references; amending s.
15 370.142, F.S.; correcting cross references;
16 amending s. 372.70, F.S.; providing that the
17 state attorney shall represent the state in
18 prosecutions of violations of hunting and
19 fishing laws; amending s. 372.9901, F.S.;
20 revising procedures for seizure and forfeiture
21 of property used in the illegal taking of deer
22 or wild turkey; requiring notice of seizure to
23 the registered owner of the property prior to
24 issuance of a forfeiture order; authorizing the
25 courts to order property forfeited to the
26 commission for second or subsequent
27 convictions; revising procedure for return of
28 property to an innocent owner; amending and
29 renumbering s. 372.31, F.S.; providing for
30 exercise of the police power of the state in
31 cases relating to illegal fishing; creating s.

1 372.99022, F.S.; providing penalties for
2 molestation of or theft from certain freshwater
3 fishing gear; prohibiting transfer of
4 endorsements under certain circumstances;
5 amending s. 372.9904, F.S.; correcting a cross
6 reference; amending s. 372.9905, F.S.;
7 combining and conforming provisions relating to
8 applicability of seizure and forfeiture
9 requirements; amending s. 323.001, F.S.;
10 correcting a cross reference; repealing ss.
11 372.311, 372.312, 372.313, 372.314, 372.315,
12 372.316, 372.317, 372.318, 372.319, 372.321,
13 and 372.9902, F.S., relating to forfeiture
14 proceedings, delivery of property to a
15 claimant, proceedings when no claim is filed or
16 a claim is filed, representation of the state
17 by the state attorney, judgments of forfeiture,
18 service charges, disposition of proceeds of
19 forfeiture, exercise of police power, and
20 applicability of certain seizure and forfeiture
21 requirements; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 370.021, Florida Statutes, is
26 amended to read:

27 370.021 Administration; rules, publications, records;
28 penalties; injunctions.--

29 (1) PENALTIES.--Unless otherwise provided by law, any
30 person, firm, or corporation who is convicted for violating
31 any provision of this chapter, or any rule of the Fish and

1 Wildlife Conservation Commission relating to the conservation
2 of marine resources, shall be punished:

3 (a) Upon a first conviction, by imprisonment for a
4 period of not more than 60 days or by a fine of not less than
5 \$100 nor more than \$500, or by both such fine and
6 imprisonment.

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

11

12 Upon final disposition of any alleged offense for which a
13 citation for any violation of this chapter or the rules of the
14 commission has been issued, the court shall, within 10 days,
15 certify the disposition to the commission.

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

20 (a) For a violation involving more than 100 illegal
21 blue crabs, crawfish, or stone crabs, an additional penalty of
22 \$10 for each illegal blue crab, crawfish, stone crab, or part
23 thereof.

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

29 (c) For a violation involving the taking or harvesting
30 of oysters from nonapproved areas or the taking or possession

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1 of unculled oysters, an additional penalty of \$10 for each
2 bushel of illegal oysters.

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

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

- 9 1. Shortnose sturgeon (*Acipenser brevirostrum*);
- 10 2. Atlantic sturgeon (*Acipenser oxyrinchus*);
- 11 3. Common snook (*Centropomus undecimalis*);
- 12 4. Atlantic loggerhead turtle (*Caretta caretta*
13 *caretta*);
- 14 5. Atlantic green turtle (*Chelonia mydas mydas*);
- 15 6. Leatherback turtle (*Dermochelys coriacea*);
- 16 7. Atlantic hawksbill turtle (*Eretmochelys imbricata*
17 *imbricata*);
- 18 8. Atlantic ridley turtle (*Lepidochelys kempfi*); or
- 19 9. West Indian manatee (*Trichechus manatus*
20 *latirostris*),

21
22 an additional penalty of \$100 for each unit of marine life or
23 part thereof.

24 (f) For a second or subsequent conviction within 24
25 months for any violation of the same law or rule involving the
26 taking or harvesting of more than 100 pounds of any finfish,
27 an additional penalty of \$5 for each pound of illegal finfish.

28 (g) For any violation involving the taking,
29 harvesting, or possession of more than 1,000 pounds of any
30 illegal finfish, an additional penalty equivalent to the
31 wholesale value of the illegal finfish.

1 ~~(h) The proceeds from the penalties assessed pursuant~~
2 ~~to this subsection shall be deposited into the Marine~~
3 ~~Resources Conservation Trust Fund to be used for marine~~
4 ~~fisheries research or into the commission's Federal Law~~
5 ~~Enforcement Trust Fund as provided in s. 372.107, as~~
6 ~~applicable.~~

7 (h)(i) Permits issued to any person, firm, or
8 corporation by the commission to take or harvest saltwater
9 products, or any license issued pursuant to s. 370.06 or s.
10 370.07 may be suspended or revoked by the commission, pursuant
11 to the provisions and procedures of s. 120.60, for any major
12 violation prescribed in this subsection:

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

15 2. Upon a second conviction ~~for a violation~~ which
16 occurs within 12 months after a prior violation, for up to 90
17 calendar days.

18 3. Upon a third conviction ~~for a violation~~ which
19 occurs within 24 months after a prior conviction violation,
20 for up to 180 calendar days.

21 4. Upon a fourth conviction ~~for a violation~~ which
22 occurs within 36 months after a prior conviction violation,
23 for a period of 6 months to 3 years.

24 (i)(j) Upon the arrest and conviction for a major
25 violation involving stone crabs, the licenseholder must show
26 just cause why his or her license should not be suspended or
27 revoked. For the purposes of this paragraph, a "major
28 violation" means a major violation as prescribed for illegal
29 stone crabs; any single violation involving possession of more
30 than 25 stone crabs during the closed season or possession of
31 25 or more whole-bodied or egg-bearing stone crabs; any

1 violation for trap molestation, trap robbing, or pulling traps
2 at night; or any combination of violations in any
3 3-consecutive-year period wherein more than 75 illegal stone
4 crabs in the aggregate are involved.

5 (j)~~(k)~~ Upon the arrest and conviction for a major
6 violation involving crawfish, the licenseholder must show just
7 cause why his or her license should not be suspended or
8 revoked. For the purposes of this paragraph, a "major
9 violation" means a major violation as prescribed for illegal
10 crawfish; any single violation involving possession of more
11 than 25 crawfish during the closed season or possession of
12 more than 25 wrung crawfish tails or more than 25 egg-bearing
13 or stripped crawfish; any violation for trap molestation, trap
14 robbing, or pulling traps at night; or any combination of
15 violations in any 3-consecutive-year period wherein more than
16 75 illegal crawfish in the aggregate are involved.

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

29 (l)~~(m)~~ Upon the conviction for a major violation
30 involving finfish, the licenseholder must show just cause why
31 his or her saltwater products license should not be suspended

1 or revoked. For the purposes of this paragraph, a major
2 violation is prescribed for the taking and harvesting of
3 illegal finfish, any single violation involving the possession
4 of more than 100 pounds of illegal finfish, or any combination
5 of violations in any 3-consecutive-year period wherein more
6 than 200 pounds of illegal finfish in the aggregate are
7 involved.

8 ~~(n) Upon final disposition of any alleged offense for~~
9 ~~which a citation for any violation of this chapter or the~~
10 ~~rules of the Fish and Wildlife Conservation Commission has~~
11 ~~been issued, the court shall, within 10 days, certify the~~
12 ~~disposition to the commission.~~

13 (m)~~(o)~~ For a violation involving the taking or
14 harvesting of any marine life species, as those species are
15 defined by rule of the commission, the harvest of which is
16 prohibited, or the taking or harvesting of such a species out
17 of season, or with an illegal gear or chemical, or any
18 violation involving the possession of 25 or more individual
19 specimens of marine life species, or any combination of
20 violations in any 3-year period involving more than 70 such
21 specimens in the aggregate, the suspension or revocation of
22 the licenseholder's marine life endorsement as provided in
23 paragraph(h)~~(i)~~.

24
25 Notwithstanding the provisions of s. 948.01, no court may
26 suspend, defer, or withhold adjudication of guilt or
27 imposition of sentence for any major violation prescribed in
28 this subsection. The proceeds from the penalties assessed
29 pursuant to this subsection shall be deposited into the Marine
30 Resources Conservation Trust Fund to be used for marine
31 fisheries research or into the commission's Federal Law

1 Enforcement Trust Fund as provided in s. 372.107, as
2 applicable.
3 (3) PENALTIES FOR USE OF ILLEGAL NETS.--
4 (a) It is ~~shall be~~ a major violation pursuant to this
5 section, punishable subsection (3) and shall be punished as
6 provided in paragraph (b) below for any person, firm, or
7 corporation to be simultaneously in possession of any species
8 of mullet in excess of the recreational daily bag limit and
9 any gill or other entangling net as defined in s. 16(c), Art.
10 X of the State Constitution. Simultaneous possession under
11 this provision shall include possession of mullet and gill or
12 other entangling nets on separate vessels or vehicles where
13 such vessels or vehicles are operated in coordination with one
14 another including vessels towed behind a main vessel. This
15 subsection does not prohibit a resident of this state from
16 transporting on land, from Alabama to this state, a commercial
17 quantity of mullet together with a gill net if:
18 1. The person possesses a valid commercial fishing
19 license that is issued by the State of Alabama and that allows
20 the person to use a gill net to legally harvest mullet in
21 commercial quantities from Alabama waters.
22 2. The person possesses a trip ticket issued in
23 Alabama and filled out to match the quantity of mullet being
24 transported, and the person is able to present such trip
25 ticket immediately upon entering this state.
26 3. The mullet are to be sold to a wholesale saltwater
27 products dealer located in Escambia County or Santa Rosa
28 County, which dealer also possesses a valid seafood dealer's
29 license issued by the State of Alabama. The dealer's name must
30 be clearly indicated on the trip ticket.
31

1 4. The mullet being transported are totally removed
2 from any net also being transported.

3 (b) In addition to being subject to the other
4 penalties provided in this chapter, any violation of s. 16(b),
5 Art. X of the State Constitution, or any rules of the ~~Fish and~~
6 ~~Wildlife Conservation~~ commission which implement the gear
7 prohibitions and restrictions specified therein shall be
8 considered a major violation; and any person, firm, or
9 corporation receiving any judicial disposition other than
10 acquittal or dismissal of such violation shall be subject to
11 the following additional penalties:

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

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

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

28
29 A court may suspend, defer, or withhold adjudication of guilt
30 or imposition of sentence only for any first violation of s.
31 16, Art. X of the State Constitution, or any rule or statute

1 implementing its restrictions, determined by a court only
2 after consideration of competent evidence of mitigating
3 circumstances to be a nonflagrant or minor violation of those
4 restrictions upon the use of nets. Any violation of s. 16,
5 Art. X of the State Constitution, or any rule or statute
6 implementing its restrictions, occurring within a 7-year
7 period commencing upon the conclusion of any judicial
8 proceeding resulting in any outcome other than acquittal shall
9 be punished as a second, third, or subsequent violation
10 accordingly.

11 (c) During the period of suspension or revocation of
12 saltwater license privileges under this subsection, the
13 licensee shall ~~may~~ not participate in the taking or
14 harvesting, or attempt the taking or harvesting, of saltwater
15 products from any vessel within the waters of the state; be
16 aboard any vessel on which a commercial quantity of saltwater
17 products is possessed through an activity requiring a license
18 pursuant to this section; or engage in, ~~or~~ any other activity
19 requiring a license, permit, or certificate issued pursuant to
20 this chapter. Any person who is convicted of violating
21 ~~violates~~ this paragraph ~~is~~:

22 1. Upon a first or second conviction, is guilty of a
23 misdemeanor of the first degree, punishable as provided in s.
24 775.082 or s. 775.083 ~~to be punished as provided by paragraph~~
25 ~~(1)(a) or paragraph (1)(b).~~

26 2. Upon a third or subsequent conviction, is guilty of
27 a felony of the third degree, punishable as provided in s.
28 775.082, s. 775.083, or s. 775.084.

29 (d) Upon reinstatement of saltwater license privileges
30 suspended pursuant to a violation of this subsection ~~section~~,
31 a licensee owning or operating a vessel containing or

1 otherwise transporting in or on Florida waters any gill net or
2 other entangling net, or containing or otherwise transporting
3 in nearshore and inshore Florida waters any net containing
4 more than 500 square feet of mesh area shall remain restricted
5 for a period of 12 months following reinstatement, to
6 operating operation under the following conditions:

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

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

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

13 (4) ADDITIONAL PENALTIES FOR MAJOR VIOLATIONS
14 INVOLVING CERTAIN FINFISH.--It is ~~shall be~~ a major violation
15 pursuant to this section, and punishable as provided in
16 ~~pursuant to~~ paragraph (3)(b), for any person to be in
17 possession of any species of trout, snook, or redfish which is
18 three fish in excess of the recreational or commercial daily
19 bag limit.

20 (5) BUYING SALTWATER PRODUCTS; UNLICENSED SELLERS;
21 ILLEGALLY HARVESTED PRODUCTS FROM UNLICENSED SELLER.--In
22 addition ~~to being subject~~ to other penalties authorized
23 ~~provided~~ in this chapter, any violation of s. 370.06 or s.
24 370.07, or rules of the commission implementing s. 370.06 or
25 s. 370.07, involving the purchase of saltwater products by a
26 commercial wholesale dealer, retail dealer, or restaurant
27 facility for public consumption from an unlicensed person,
28 firm, or corporation, or the sale of saltwater products by an
29 unlicensed person, firm, or corporation or the purchase or
30 sale of any saltwater product known to be taken in violation
31 of s. 16, Art. X of the State Constitution, or rule or statute

1 implementing the provisions thereof, by a commercial wholesale
2 dealer, retail dealer, or restaurant facility, for public
3 consumption, is ~~shall be~~ a major violation, and the commission
4 may assess the following penalties:

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

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

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

17
18 Any proceeds from the civil penalties assessed pursuant to
19 this subsection shall be deposited into the Marine Resources
20 Conservation Trust Fund and shall be used as follows: 40
21 percent for administration and processing purposes and 60
22 percent for law enforcement purposes.

23 (6) PUBLICATIONS BY COMMISSION.--The ~~Fish and Wildlife~~
24 ~~Conservation~~ commission is given authority, from time to time
25 in its discretion, to cause the statutory laws under its
26 jurisdiction, together with any rules ~~and regulations~~
27 promulgated by it, to be published in pamphlet form for free
28 distribution in this state. The commission is authorized to
29 make charges for technical and educational publications and
30 mimeographed material of use for educational or reference
31 purposes. Such charges shall be made at the discretion of the

1 commission. Such charges may be sufficient to cover cost of
2 preparation, printing, publishing, and distribution. All
3 moneys received for publications shall be deposited into the
4 fund from which the cost of the publication was paid. The
5 commission is further authorized to enter into agreements with
6 persons, firms, corporations, governmental agencies, and other
7 institutions whereby publications may be exchanged
8 reciprocally in lieu of payments for said publications.

9 (7) POWERS OF OFFICERS.--

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

1 or any saltwater products are taken or kept for sale, barter,
2 transportation, or other purposes in violation of laws or
3 rules promulgated under this law. Any such law enforcement
4 officer may at any time seize or take possession of any
5 saltwater products or contraband which have been unlawfully
6 caught, taken, or processed or which are unlawfully possessed
7 or transported in violation of any of the laws of this state
8 or any rule ~~or regulation~~ of the commission. Such law
9 enforcement officers may arrest any person in the act of
10 violating any of the provisions of this law, the rules ~~or~~
11 ~~regulations~~ of the commission, or any of the laws of this
12 state. It is hereby declared unlawful for any person to resist
13 such arrest or in any manner interfere, either by abetting or
14 assisting such resistance or otherwise interfering, with any
15 such law enforcement officer while engaged in the performance
16 of the duties imposed upon him or her by law or rule
17 ~~regulation~~ of the commission.

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

1 coolers, fish boxes, and bait wells, but specifically
2 excluding such containers that are located in sleeping or
3 living areas of the vessel.

4 (8) RETENTION, DESTRUCTION, AND REPRODUCTION OF
5 RECORDS.--Records and documents of the ~~Fish and Wildlife~~
6 ~~Conservation~~ commission created in compliance with and in the
7 implementation of this chapter or former chapter 371 shall be
8 retained by the commission as specified in record retention
9 schedules established under the general provisions of chapters
10 119 and 257. Such records retained by the Department of
11 Environmental Protection on July 1, 1999, shall be transferred
12 to the commission. Further, the commission is authorized to:

13 (a) Destroy, or otherwise dispose of, those records
14 and documents in conformity with the approved retention
15 schedules.

16 (b) Photograph, microphotograph, or reproduce such
17 records and documents on film, as authorized and directed by
18 the approved retention schedules, whereby each page will be
19 exposed in exact conformity with the original records and
20 documents retained in compliance with the provisions of this
21 section. Photographs or microphotographs in the form of film
22 or print of any records, made in compliance with the
23 provisions of this section, shall have the same force and
24 effect as the originals thereof would have and shall be
25 treated as originals for the purpose of their admissibility in
26 evidence. Duly certified or authenticated reproductions of
27 such photographs or microphotographs shall be admitted in
28 evidence equally with the original photographs or
29 microphotographs. The impression of the seal of the ~~Fish and~~
30 ~~Wildlife Conservation~~ commission on a certificate made
31 pursuant to the provisions hereof and signed by the executive

1 director of the ~~Fish and Wildlife Conservation~~ commission
2 shall entitle the same to be received in evidence in all
3 courts and in all proceedings in this state and shall be prima
4 facie evidence of all factual matters set forth in the
5 certificate. A certificate may relate to one or more records,
6 as set forth in the certificate, or in a schedule continued on
7 an attachment to the certificate.

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

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

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

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

28 (12) LICENSES AND ENTITIES SUBJECT TO PENALTIES.--For
29 purposes of imposing license or permit suspensions or
30 revocations authorized by this chapter, the license or permit
31 under which the violation was committed is subject to

1 suspension or revocation by the commission. For purposes of
2 assessing monetary civil or administrative penalties
3 authorized by this chapter, the person, firm, or corporation
4 cited and subsequently receiving a judicial disposition of
5 other than dismissal or acquittal in a court of law is subject
6 to the monetary penalty assessment by the commission. However,
7 if the license or permit holder of record is not the person,
8 firm, or corporation receiving the citation and judicial
9 disposition, the license or permit may be suspended or revoked
10 only after the license or permit holder has been notified by
11 the commission that the license or permit has been cited in a
12 major violation and is now subject to suspension or revocation
13 should the license or permit be cited for subsequent major
14 violations.

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

17 370.06 Licenses.--

18 (2) SALTWATER PRODUCTS LICENSE.--

19 (a) Every person, firm, or corporation that sells,
20 offers for sale, barter, or exchanges for merchandise any
21 saltwater products, or which harvests saltwater products with
22 certain gear or equipment as specified by law, must have a
23 valid saltwater products license, except that the holder of an
24 aquaculture certificate under s. 597.004 is not required to
25 purchase and possess a saltwater products license in order to
26 possess, transport, or sell marine aquaculture products. Each
27 saltwater products license allows the holder to engage in any
28 of the activities for which the license is required. The
29 license must be in the possession of the licenseholder or
30 aboard the vessel and is ~~shall be~~ subject to inspection at any
31

1 time that harvesting activities for which a saltwater products
2 license is required are being conducted.

3 **(b)1.** A restricted species endorsement on the
4 saltwater products license is required to sell to a licensed
5 wholesale dealer those species which the state, by law or
6 rule, has designated as "restricted species." This endorsement
7 may be issued only to a person who is at least 16 years of
8 age, or to a firm certifying that over 25 percent of its
9 income or \$5,000 of its income, whichever is less, is
10 attributable to the sale of saltwater products pursuant to a
11 saltwater products license issued under this paragraph or a
12 similar license from another state. This endorsement may also
13 be issued to a for-profit corporation if it certifies that at
14 least \$5,000 of its income is attributable to the sale of
15 saltwater products pursuant to a saltwater products license
16 issued under this paragraph or a similar license from another
17 state. However, if at least 50 percent of the annual income of
18 a person, firm, or for-profit corporation is derived from
19 charter fishing, the person, firm, or for-profit corporation
20 must certify that at least \$2,500 of the income of the person,
21 firm, or corporation is attributable to the sale of saltwater
22 products pursuant to a saltwater products license issued under
23 this paragraph or a similar license from another state, in
24 order to be issued the endorsement. Such income attribution
25 must apply to at least 1 ~~year out~~ of the last 3 years. For the
26 purpose of this section, "income" means that income that ~~which~~
27 is attributable to work, employment, entrepreneurship,
28 pensions, retirement benefits, and social security benefits.

29 **2.** To renew an existing restricted species
30 endorsement, a marine aquaculture producer possessing a valid
31 saltwater products license with a restricted species

1 endorsement may apply income from the sale of marine
2 aquaculture products to licensed wholesale dealers.

3 3.1. The commission is authorized to require
4 verification of such income for all restricted species
5 endorsements issued pursuant to this paragraph. Acceptable
6 proof of income earned from the sale of saltwater products
7 shall be:

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

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

13 c. A copy of the applicable federal income tax return,
14 including Form 1099 attachments, verifying income earned from
15 the sale of saltwater products;

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

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

20
21 Notwithstanding any other provision of law ~~Any provision of~~
22 ~~this section or any other section of the Florida Statutes to~~
23 ~~the contrary notwithstanding~~, any person who owns a retail
24 seafood market or restaurant at a fixed location for at least
25 3 years, who has had an occupational license for 3 years prior
26 to January 1, 1990, who harvests saltwater products to supply
27 his or her retail store, and who has had a saltwater products
28 license for 1 of the past 3 license years prior to January 1,
29 1990, may provide proof of his or her verification of income
30 and sales value at the person's retail seafood market or
31 restaurant and in his or her saltwater products enterprise by

1 affidavit and shall thereupon be issued a restricted species
2 endorsement.

3 ~~4.2.~~ Exceptions from income requirements shall be as
4 follows:

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

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

11 c. Upon the sale of a used commercial fishing vessel
12 owned by a person, firm, or corporation possessing or eligible
13 for a restricted species endorsement, the purchaser of such
14 vessel shall be exempted from the qualifying income
15 requirement for the purpose of obtaining a restricted species
16 endorsement for a period of 1 year after purchase of the
17 vessel.

18 d. Upon the death or permanent disablement of a person
19 possessing a restricted species endorsement, an immediate
20 family member wishing to carry on the fishing operation shall
21 be exempted from the qualifying income requirement for the
22 purpose of obtaining a restricted species endorsement for a
23 period of 1 year after the death or disablement.

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

29 f. A permanent restricted species endorsement may also
30 be issued on an individual saltwater products license to a
31

1 person age 70 or older who has held a saltwater products
2 license for at least 3 of the last 5 license years.

3 g. Any resident who is certified to be totally and
4 permanently disabled by the Railroad Retirement Board, by the
5 United States Department of Veterans Affairs or its
6 predecessor, or by any branch of the United States Armed
7 Forces, or who holds a valid identification card issued by the
8 Department of Veterans' Affairs pursuant to s. 295.17, upon
9 proof of the same, or any resident certified to be disabled by
10 the United States Social Security Administration or a licensed
11 physician, upon proof of the same, shall be exempted from the
12 income requirements if he or she also has held a saltwater
13 products license for at least 3 of the last 5 license years
14 prior to the date of the disability. A restricted species
15 endorsement issued under this paragraph may be issued only on
16 an individual saltwater products license.

17 (c) At least one saltwater products license bearing a
18 restricted species endorsement shall be aboard any vessel
19 harvesting restricted species in excess of any bag limit or
20 when fishing under a commercial quota or in commercial
21 quantities, and such vessel shall have a commercial vessel
22 registration. This subsection does not apply to any person,
23 firm, or corporation licensed under s. 370.07(1)(a)1. or (b)
24 for activities pursuant to such licenses.

25 (d) A saltwater products license may be issued in the
26 name of an individual or a valid boat registration number.
27 Such license is not transferable. A decal shall be issued with
28 each saltwater products license issued to a valid boat
29 registration number. The saltwater products license decal
30 shall be the same color as the vessel registration decal
31 issued each year pursuant to s. 328.48(5) and shall indicate

1 the period of time such license is valid. The saltwater
2 products license decal shall be placed beside the vessel
3 registration decal and, in the case of an undocumented vessel,
4 shall be placed so that the vessel registration decal lies
5 between the vessel registration number and the saltwater
6 products license decal. Any saltwater products license decal
7 for a previous year shall be removed from a vessel operating
8 on the waters of the state.

9 (e) A resident shall pay an annual license fee of \$50
10 for a saltwater products license issued in the name of an
11 individual or \$100 for a saltwater products license issued to
12 a valid boat registration number. A nonresident shall pay an
13 annual license fee of \$200 for a saltwater products license
14 issued in the name of an individual or \$400 for a saltwater
15 products license issued to a valid boat registration number.
16 An alien shall pay an annual license fee of \$300 for a
17 saltwater products license issued in the name of an individual
18 or \$600 for a saltwater products license issued to a valid
19 boat registration number.

20 (f) Any person who sells saltwater products pursuant
21 to a saltwater products ~~this~~ license may sell only to a
22 licensed wholesale dealer. A saltwater products license must
23 be presented to the licensed wholesale dealer each time
24 saltwater products are sold, and an imprint made thereof. The
25 wholesale dealer shall keep records of each transaction in
26 such detail as may be required by rule of the commission not
27 in conflict with s. 370.07(6), and shall provide the holder of
28 the saltwater products license with a copy of the record. It
29 is unlawful for any licensed wholesale dealer to buy saltwater
30 products from any unlicensed person under the provisions of
31 this section, except that a licensed wholesale dealer may buy

1 from another licensed wholesale dealer. It is unlawful for any
2 licensed wholesale dealer to buy saltwater products designated
3 as "restricted species" from any person, firm, or corporation
4 not possessing a restricted species endorsement on his or her
5 saltwater products license under the provisions of this
6 section, except that a licensed wholesale dealer may buy from
7 another licensed wholesale dealer. For purposes of this
8 subsection, any saltwater products received at the premises of
9 a wholesale dealer are presumed to have been purchased.

10 (g) The commission shall be the licensing agency, may
11 contract with private persons or entities to implement aspects
12 of the licensing program, and shall establish by rule a marine
13 fisheries information system in conjunction with the licensing
14 program to gather fisheries data.

15 ~~(h)~~(b) Any person who sells, offers for sale, barter,
16 or exchanges for merchandise saltwater products must have a
17 method of catch preservation which meets the requirements and
18 standards of the seafood quality control code promulgated by
19 the commission.

20 ~~(i)~~(c) A saltwater products license is required to
21 harvest commercial quantities of saltwater products. Any
22 vessel from which commercial quantities of saltwater products
23 are harvested must have a commercial vessel registration.
24 Commercial quantities of saltwater products shall be defined
25 as:

26 1. With respect to those species for which no bag
27 limit has been established, more than 100 pounds per person
28 per day, provided that the harvesting of two fish or less per
29 person per day shall not be considered commercial quantities
30 regardless of aggregate weight; and
31

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

4 (j)~~(d)~~1. In addition to the saltwater products
5 license, a marine life fishing endorsement is required for the
6 harvest of marine life species as defined by rule of the Fish
7 and Wildlife Conservation Commission. This endorsement may be
8 issued only to a person who is at least 16 years of age or
9 older or to a corporation holding a valid restricted species
10 endorsement.

11 2.a. Effective July 1, 1998, and until July 1, 2002, a
12 marine life endorsement may not be issued under this
13 paragraph, except that those endorsements that are active
14 during the 1997-1998 fiscal year may be renewed.

15 b. In 1998 persons or corporations holding a marine
16 life endorsement that was active in the 1997-1998 fiscal year
17 or an immediate family member of that person must request
18 renewal of the marine life endorsement before December 31,
19 1998.

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

24 d. If a person or corporation holding an active marine
25 life fishing endorsement or a member of that person's
26 immediate family does not request renewal of the endorsement
27 before the applicable dates specified in this paragraph, the
28 commission shall deactivate that marine life fishing
29 endorsement.

30 e. In the event of the death or disability of a person
31 holding an active marine life fishing endorsement, the

1 endorsement may be transferred by the person to a member of
2 his or her immediate family or may be renewed by any person so
3 designated by the executor of the person's estate.

4 f. Persons or corporations who hold saltwater product
5 licenses with marine life fishing endorsements issued to their
6 vessel registration numbers and who subsequently replace their
7 existing vessels with new vessels may transfer the existing
8 marine life fishing endorsement to the new boat registration
9 numbers.

10 g. Persons or corporations who hold saltwater product
11 licenses with marine life fishing endorsements issued to their
12 name and who subsequently incorporate or unincorporate may
13 transfer the existing marine life fishing endorsement to the
14 new corporation or person.

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

21 Section 3. Section 370.061, Florida Statutes, is
22 amended to read:

23 (Substantial rewording of section. See

24 s. 370.061, F.S., for present text.)

25 370.061 Confiscation, seizure, and forfeiture of
26 property and products.--

27 (1) SEIZURE, FORFEITURE; PROCEDURE.--Nothing in this
28 subsection affects the commission's authority to confiscate in
29 any case illegal saltwater products, illegally taken saltwater
30 products, or illegal fishing gear in accordance with this
31 section.

1 (a) Property used in connection with a violation
2 resulting in a conviction for the illegal taking, or attempted
3 taking, sale, possession, or transportation of saltwater
4 products is subject to seizure and forfeiture as part of the
5 commission's efforts to protect the state's marine life.
6 Nonperishable saltwater products and seines, nets, boats,
7 motors, other fishing devices or equipment, and vehicles or
8 other means of transportation used or attempted to be used in
9 connection with, as an instrumentality of, or in aiding and
10 abetting such illegal taking or attempted taking are hereby
11 declared to be property.

12 (b) Upon a first conviction of a person or persons in
13 whose possession the property was found, the court having
14 jurisdiction over the criminal offense, notwithstanding any
15 jurisdictional limitations on the amount in controversy, may
16 make a finding that the property was used in connection with a
17 saltwater products violation and may order such property
18 forfeited to the commission.

19 (c) Upon a second or subsequent conviction of a person
20 or persons in whose possession the property was found, the
21 court shall order the forfeiture to the commission of any
22 property used in connection with that violation.

23 (d) For purposes of this section, a conviction is any
24 disposition other than acquittal or dismissal.

25 (2) SEIZURE, FORFEITURE; NOTICE.--The requirement for
26 a conviction before forfeiture of property establishes to the
27 exclusion of any reasonable doubt that the property was used
28 in connection with the violation resulting in conviction.
29 Prior to the issuance of a forfeiture order for any vessel,
30 vehicle, or other property under subsection (1), the
31 commission shall seize the property and notify the registered

1 owner, if any, that the property has been seized by the
2 commission. Except as provided in subsection (6), the
3 procedures of chapter 932 do not apply to any seizure or
4 forfeiture of property under this section.

5 (a) Notification of property seized under this section
6 must be sent by certified mail to a registered owner within 14
7 days after seizure. If the commission, after diligent
8 inquiry, cannot ascertain the registered owner, the notice
9 requirement is satisfied.

10 (b) Upon a first conviction for a violation under this
11 chapter, the property seized under this section shall be
12 returned to the registered owner if the commission fails to
13 prove by a preponderance of the evidence before the court
14 having jurisdiction over the criminal offense that the
15 registered owner aided in, abetted in, participated in, gave
16 consent to, knew of, or had reason to know of the violation.

17 (c) Upon a second or subsequent conviction for a
18 violation under this chapter, the burden shall be on the
19 registered owner to prove by a preponderance of the evidence
20 before the court having jurisdiction over the criminal offense
21 that the registered owner in no way aided in, abetted in,
22 participated in, knew of, or had reason to know of the second
23 or subsequent violation which resulted in seizure of the
24 lawful property.

25 (d) Any request for a hearing from a registered owner
26 asserting innocence to recover property seized under these
27 provisions must be sent to the commission's Division of Law
28 Enforcement within 21 days after the registered owner's
29 receipt of the notice of seizure. If a request for a hearing
30 is not timely received, the court shall forfeit to the
31 commission the right to, title to, and interest in the

1 property seized, subject only to the rights and interests of
2 bona fide lienholders.

3 (e) If a motor vehicle is seized under this section
4 and is subject to any existing liens recorded under s. 319.27,
5 all further proceedings shall be governed by the expressed
6 intent of the Legislature not to divest any innocent person,
7 firm, or corporation holding such a recorded lien of any of
8 its reversionary rights in such motor vehicle or of any of its
9 rights as prescribed in s. 319.27, and upon any default by the
10 violator purchaser, the lienholder may foreclose its lien and
11 take possession of the motor vehicle involved.

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

22 (4) DESTRUCTION OR DISPOSITION OF PROPERTY.--All
23 things forfeited under this section may be destroyed, used by
24 the commission, disposed of by gift to charitable or state
25 institutions, or sold, with the proceeds derived from the sale
26 deposited into the Marine Resources Conservation Trust Fund to
27 be used for law enforcement purposes, or into the commission's
28 Federal Law Enforcement Trust Fund as provided in s. 372.107,
29 as applicable.

30 (5) CONFISCATION AND SALE OF PERISHABLE SALTWATER
31 PRODUCTS; PROCEDURE.--

1 (a) When an arrest is made pursuant to the provisions
2 of this chapter and illegal, perishable saltwater products or
3 saltwater products illegally taken or landed are confiscated,
4 the defendant may post bond or cash deposit in an amount
5 determined by the judge to be the fair value of such
6 confiscated products. The defendant shall have 24 hours to
7 transport the confiscated products outside the limits of
8 Florida for sale or other disposition. Should no bond or cash
9 deposit be given within the time fixed by the judge, the judge
10 shall order the sale of the confiscated saltwater products at
11 the highest price obtainable. When feasible, at least three
12 bids shall be requested.

13 (b) Moneys received from the sale of confiscated
14 saltwater products, either by the defendant or by order of the
15 court, shall be received by the judge and shall be remitted to
16 the commission to be deposited into a special escrow account
17 in the State Treasury to be held in trust pending the outcome
18 of the trial of the defendant. If bond is posted by the
19 defendant, it shall also be remitted to the commission to be
20 held in escrow pending the outcome of the trial of the
21 defendant.

22 (c) In the event of acquittal, the proceeds of a sale
23 or the bond or cash deposit required by this subsection shall
24 be returned to the defendant. In the event of a conviction,
25 the proceeds of a sale or the bond or cash deposit required by
26 this subsection shall be deposited into the Marine Resources
27 Conservation Trust Fund to be used for law enforcement
28 purposes or into the commission's Federal Law Enforcement
29 Trust Fund as provided in s. 372.107, as applicable. Such
30 deposit into the Marine Resources Conservation Trust Fund or
31

1 the Federal Law Enforcement Trust Fund shall constitute
2 confiscation.

3 (d) For purposes of confiscation under this
4 subsection, the term "saltwater products" has the meaning set
5 out in s. 370.01(25), except that the term does not include
6 saltwater products harvested under the authority of a
7 recreational license unless the amount of such harvested
8 products exceeds three times the applicable recreational bag
9 limit for trout, snook, or redfish.

10 (6) MUNICIPAL OR COUNTY ENFORCEMENT; SUPPLEMENTAL
11 FUNDING.--

12 (a) Any municipal or county law enforcement agency
13 that enforces or assists the commission in enforcing the
14 provisions of this chapter, which results in a forfeiture of
15 property as provided in this section, shall be entitled to
16 receive all or a share of any property based upon its
17 participation in such enforcement.

18 (b) If a municipal or county law enforcement agency
19 has a marine enforcement unit, any property delivered to any
20 municipal or county law enforcement agency as provided in
21 paragraph (a) may be retained or sold by the municipal or
22 county law enforcement agency, and the property or proceeds
23 shall be used to enforce the provisions of this chapter and
24 chapters 327 and 328. If a municipal or county law enforcement
25 agency does not have a marine enforcement unit, such property
26 or proceeds shall be disposed of under the provisions of
27 chapter 932.

28 (c) Any funds received by a municipal or county law
29 enforcement agency pursuant to this subsection shall be
30 supplemental funds and may not be used as replacement funds by
31 the municipality or county.

1 Section 4. Subsections (4), (7), and (8) of section
2 370.07, Florida Statutes, are amended, and, for the purpose of
3 incorporating the amendment to section 370.021, Florida
4 Statutes, in a reference thereto, paragraph (c) of subsection
5 (5) of section 370.07, Florida Statutes, is reenacted, to
6 read:

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

9 (4) TRANSPORTATION OF SALTWATER PRODUCTS.--

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

17 (b) A person transporting in this state saltwater
18 products that were produced outside this state to be delivered
19 to a destination in this state shall have in his or her
20 possession invoices, bills of lading, or other similar
21 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,
24 physical address, and Florida wholesale dealer number of the
25 Florida dealer to whom the shipment is to be delivered.

26 (c) A person transporting in this state saltwater
27 products that were produced outside this state which are to be
28 delivered to a destination outside this state shall have in
29 his or her possession invoices, bills of lading, or other
30 similar instruments showing the number of packages, boxes, or
31 containers and the number of pounds of each species, the name

1 and physical address of the dealer of origin, and the name and
2 physical address of the dealer to whom the shipment is to be
3 delivered.

4 (d) If the saltwater products in transit come ~~came~~
5 from more than one dealer, distributor, or producer, each lot
6 from each dealer shall be covered by invoices, bills of
7 lading, and other similar instruments showing the number of
8 boxes or containers and the number of pounds of each species.
9 Each invoice, bill of lading, and other similar instrument
10 shall display the wholesale dealer license number and the name
11 and physical address of the dealer, distributor, or producer
12 of the lot covered by the instrument.

13 (e) It is unlawful to sell, deliver, ship, or
14 transport, or to possess for the purpose of selling,
15 delivering, shipping, or transporting, any saltwater products
16 without all invoices concerning the ~~of such~~ products having
17 thereon the wholesale dealer license number in the ~~such~~ form
18 ~~as may be~~ prescribed under ~~the provisions of~~ this subsection
19 and the rules ~~and regulations~~ of the ~~Fish and Wildlife~~
20 ~~Conservation~~ commission. Any saltwater products found in the
21 possession of any person who is in violation of this paragraph
22 ~~provision~~ may be seized by the commission and disposed of in
23 the manner provided by law.

24 (f) Nothing contained in this subsection may be
25 construed to apply to the sale and delivery to a consumer of
26 saltwater products in an ordinary retail transaction by a
27 licensed retail dealer who has purchased such products from a
28 licensed wholesale dealer, or to the sale and delivery of the
29 catch or products of a saltwater products licensee to a
30 Florida-licensed wholesale dealer.

31

1 (g) Wholesale dealers' licenses shall be issued only
2 to applicants who furnish to the commission satisfactory
3 evidence of law-abiding reputation and who pledge themselves
4 to faithfully observe all of the laws, rules, and regulations
5 of this state relating to the conservation of, dealing in, or
6 taking, selling, transporting, or possession of saltwater
7 products, and to cooperate in the enforcement of all such laws
8 to every reasonable extent. This pledge may be included in the
9 application for license.

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

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

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

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

22 (7) PURCHASE OF SALTWATER PRODUCTS AT TEMPORARY
23 LOCATION.--Wholesale dealers purchasing saltwater products
24 pursuant to s. 370.06(2) ~~(a)~~ at any site other than a site
25 located in a county where the dealer has a permanent address
26 must notify the Fish and Wildlife Conservation Commission of
27 the location of the temporary site of business for each day
28 business is to be conducted at such site.

29 (8) UNLAWFUL PURCHASE OF SALTWATER PRODUCTS.--It is
30 unlawful for any licensed retail dealer or any restaurant
31 licensed by the Division of Hotels and Restaurants of the

1 Department of Business and Professional Regulation to buy
2 saltwater products from any person other than a licensed
3 wholesale or retail dealer. For purposes of this subsection,
4 any saltwater products received at the premises of a retail
5 dealer or a restaurant are presumed to have been purchased.

6 Section 5. For purposes of incorporating the amendment
7 to section 370.021, Florida Statutes, in references thereto,
8 subsections (3) and (4) of section 370.092, Florida Statutes,
9 are reenacted to read:

10 370.092 Carriage of proscribed nets across Florida
11 waters.--

12 (3) Notwithstanding subsections (1) and (2), unless
13 authorized by rule of the Fish and Wildlife Conservation
14 Commission, it is a major violation under this section,
15 punishable as provided in s. 370.021(3), for any person, firm,
16 or corporation to possess any gill or entangling net, or any
17 seine net larger than 500 square feet in mesh area, on any
18 airboat or on any other vessel less than 22 feet in length and
19 on any vessel less than 25 feet if primary power of the vessel
20 is mounted forward of the vessel center point. Gill or
21 entangling nets shall be as defined in s. 16, Art. X of the
22 State Constitution, s. 370.093(2)(b), or in a rule of the Fish
23 and Wildlife Conservation Commission implementing s. 16, Art.
24 X of the State Constitution. Vessel length shall be determined
25 in accordance with current United States Coast Guard
26 regulations specified in the Code of Federal Regulations or as
27 titled by the State of Florida. The Marine Fisheries
28 Commission is directed to initiate by July 1, 1998, rulemaking
29 to adjust by rule the use of gear on vessels longer than 22
30 feet where the primary power of the vessel is mounted forward
31 of the vessel center point in order to prevent the illegal use

1 of gill and entangling nets in state waters and to provide
2 reasonable opportunities for the use of legal net gear in
3 adjacent federal waters.

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

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

12 370.093 Illegal use of nets.--

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

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

17 370.142 Spiny lobster trap certificate program.--

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

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

28 1. The Department of Environmental Protection shall
29 initially allot such certificates to each licenseholder with a
30 current crawfish trap number who uses traps. The number of
31 such certificates allotted to each such licenseholder shall be

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

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

28 2. No person, firm, corporation, or other business
29 entity may control, directly or indirectly, more than 1.5
30 percent of the total available certificates in any license
31 year.

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

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

9 5. Beginning July 1, 2003, and applicable to the
10 2003-2004 lobster season and thereafter, it is unlawful for
11 any person to lease lobster trap tags or certificates.

12 (c) Prohibitions; penalties.--

13 1. It is unlawful for a person to possess or use a
14 spiny lobster trap in or on state waters or adjacent federal
15 waters without having affixed thereto the trap tag required by
16 this section. It is unlawful for a person to possess or use
17 any other gear or device designed to attract and enclose or
18 otherwise aid in the taking of spiny lobster by trapping that
19 is not a trap as defined in rule 68B-24.006(2), Florida
20 Administrative Code.

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

24 3. It is unlawful for any person to remove the
25 contents of another harvester's trap without the express
26 written consent of the trap owner available for immediate
27 inspection. Such unauthorized removal constitutes theft. Any
28 person convicted of theft from a trap shall, in addition to
29 the penalties specified in ss. 370.021 and 370.14 and the
30 provisions of this section, permanently lose all his or her
31 saltwater fishing privileges, including his or her saltwater

1 products license, crawfish endorsement, and all trap
2 certificates allotted to him or her through this program. In
3 such cases, trap certificates and endorsements are
4 nontransferable. In addition, any person, firm, or corporation
5 convicted of violating this paragraph shall also be assessed
6 an administrative penalty of up to \$5,000. Immediately upon
7 receiving a citation for a violation involving theft from a
8 trap and until adjudicated for such a violation or, if
9 convicted of such a violation, the person, firm, or
10 corporation committing the violation is prohibited from
11 transferring any crawfish trap certificates and endorsements.

12 4. In addition to any other penalties provided in s.
13 370.021, a commercial harvester, as defined by rule
14 68B-24.002(1), Florida Administrative Code, who violates the
15 provisions of this section, or the provisions relating to
16 traps of chapter 68B-24, Florida Administrative Code, shall be
17 punished as follows:

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

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

31

1 c. For a third or subsequent violation of subparagraph
2 1., subparagraph 2., or subparagraph 3. which occurs within 36
3 months of any previous two such violations, the commission
4 shall assess an additional civil penalty of up to \$5,000 and
5 may suspend the crawfish trap number issued pursuant to s.
6 370.14(2) or (6) for a period of up to 24 months or may revoke
7 the crawfish trap number and, if revoking the crawfish trap
8 number, may also proceed against the licenseholder's saltwater
9 products license in accordance with the provisions of s.
10 370.021(2)(h)(~~i~~).

11 d. Any person assessed an additional civil penalty
12 pursuant to this section shall within 30 calendar days after
13 notification:

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

15 (II) Request an administrative hearing pursuant to the
16 provisions of s. 120.60.

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

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

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

26 c. It is unlawful for any person to barter, trade,
27 sell, supply, agree to supply, aid in supplying, or give away
28 a spiny lobster trap tag or certificate or to conspire to
29 barter, trade, sell, supply, aid in supplying, or give away a
30 spiny lobster trap tag or certificate unless such action is
31

1 duly authorized by the commission as provided in this chapter
2 or in the rules of the commission.

3 6.a. Any person who violates the provisions of
4 subparagraph 5., or any person who engages in the commercial
5 harvest, trapping, or possession of spiny lobster without a
6 crawfish trap number as required by s. 370.14(2) or (6) or
7 during any period while such crawfish trap number is under
8 suspension or revocation, commits a felony of the third
9 degree, punishable as provided in s. 775.082, s. 775.083, or
10 s. 775.084.

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

17 7. Any certificates for which the annual certificate
18 fee is not paid for a period of 3 years shall be considered
19 abandoned and shall revert to the commission. During any
20 period of trap reduction, any certificates reverting to the
21 commission shall become permanently unavailable and be
22 considered in that amount to be reduced during the next
23 license-year period. Otherwise, any certificates that revert
24 to the commission are to be reallocated in such manner as
25 provided by the commission.

26 8. The proceeds of all civil penalties collected
27 pursuant to subparagraph 4. and all fines collected pursuant
28 to sub-subparagraph 6.b. shall be deposited into the Marine
29 Resources Conservation Trust Fund.

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

1 Section 8. Section 372.70, Florida Statutes, is
2 amended to read:

3 372.70 Prosecutions; state attorney to represent
4 state.--

5 (1) The prosecuting officers of the several courts of
6 criminal jurisdiction of this state shall investigate and
7 prosecute all violations of the laws relating to game,
8 freshwater fish, nongame birds, and fur-bearing animals which
9 may be brought to their attention by the ~~Fish and Wildlife~~
10 ~~Conservation~~ commission or its conservation officers, or which
11 may otherwise come to their knowledge.

12 (2) The state attorney shall represent the state in
13 any forfeiture proceeding under this chapter. The Department
14 of Legal Affairs shall represent the state in all appeals from
15 judgments of forfeiture to the Supreme Court. The state may
16 appeal any judgment denying forfeiture in whole or in part
17 that may be otherwise adverse to the state.

18 Section 9. Section 372.9901, Florida Statutes, is
19 amended to read:

20 (Substantial rewording of section. See
21 s. 372.9901, F.S., for present text.)

22 372.9901 Seizure of illegal hunting devices;
23 disposition; notice; forfeiture.--In order to protect the
24 state's wildlife resources, any vehicle, vessel, animal, gun,
25 light, or other hunting device used or attempted to be used in
26 connection with, as an instrumentality of, or in aiding and
27 abetting in the commission of an offense prohibited by s.
28 372.99 is subject to seizure and forfeiture. The provisions of
29 chapter 932 do not apply to any seizure or forfeiture under
30 this section. For purposes of this section, a conviction is
31 any disposition other than acquittal or dismissal.

1 (1)(a) Upon a first conviction of the person in whose
2 possession the property was found, the court having
3 jurisdiction over the criminal offense, notwithstanding any
4 jurisdictional limitations on the amount in controversy, may
5 make a finding that the property was used in connection with a
6 violation of s. 372.99. Upon such finding, the court may
7 order the property forfeited to the commission.

8 (b) Upon a second or subsequent conviction of a person
9 in whose possession the property was found for a violation of
10 s. 372.99, the court shall order the forfeiture to the
11 commission of any property used in connection with that
12 violation.

13 (2) The requirement for a conviction before forfeiture
14 establishes, to the exclusion of any reasonable doubt, that
15 the property was used in connection with that violation.
16 Prior to the issuance of a forfeiture order for any vessel,
17 vehicle, or other property under subsection (1), the
18 commission shall seize the property and notify the registered
19 owner, if any, that the property has been seized by the
20 commission.

21 (3) Notification of property seized under this section
22 must be sent by certified mail to a registered owner within 14
23 days after seizure. If the commission, after diligent
24 inquiry, cannot ascertain the registered owner, the notice
25 requirement is satisfied.

26 (4)(a) For a first conviction of an offense under s.
27 372.99, property seized by the commission shall be returned to
28 the registered owner if the commission fails to prove by a
29 preponderance of the evidence before the court having
30 jurisdiction over the criminal offense that the registered
31

1 owner aided in, abetted in, participated in, gave consent to,
2 knew of, or had reason to know of the offense.

3 (b) Upon a second or subsequent conviction for an
4 offense under s. 372.99, the burden shall be on the registered
5 owner to prove by a preponderance of the evidence before the
6 court having jurisdiction over the criminal offense that the
7 registered owner in no way aided in, abetted in, participated
8 in, knew of, or had reason to know of the second offense which
9 resulted in seizure of the lawful property.

10 (c) Any request for a hearing from a registered owner
11 asserting innocence to recover property seized under these
12 provisions must be sent to the commission's Division of Law
13 Enforcement within 21 days after the registered owner's
14 receipt of the notice of seizure. If a request for a hearing
15 is not timely received, the court shall forfeit to the
16 commission the right to, title to, and interest in the
17 property seized, subject only to the rights and interests of
18 bona fide lienholders.

19 (5) All amounts received from the sale or other
20 disposition of the property shall be paid into the State Game
21 Trust Fund or into the commission's Federal Law Enforcement
22 Trust Fund as provided in s. 372.107, as applicable. If the
23 property is not sold or converted, it shall be delivered to
24 the executive director of the commission.

25 Section 10. Section 372.31, Florida Statutes, is
26 renumbered as section 372.99021, Florida Statutes, and amended
27 to read:

28 372.99021 ~~372.31~~ Disposition of illegal fishing
29 devices; exercise of police power.--

30 (1) In all cases of arrest and conviction for use of
31 illegal nets or traps or fishing devices, as provided in this

1 chapter, such illegal net, trap, or fishing device is declared
2 to be a nuisance and shall be seized and carried before the
3 court having jurisdiction of such offense and said court shall
4 order such illegal trap, net, or fishing device forfeited to
5 the ~~Fish and Wildlife Conservation~~ commission immediately
6 after trial and conviction of the person in whose possession
7 they were found. When any illegal net, trap, or fishing
8 device is found in the fresh waters of the state, and the
9 owner of same shall not be known to the officer finding the
10 same, such officer shall immediately procure from the county
11 court judge an order forfeiting said illegal net, trap, or
12 fishing device to the ~~Fish and Wildlife Conservation~~
13 commission. The ~~Fish and Wildlife Conservation~~ commission may
14 destroy such illegal net, trap, or fishing device, if in its
15 judgment said net, trap, or fishing device is not of value in
16 the work of the department.

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

21 (3) This section is necessary for the more efficient
22 and proper enforcement of the statutes and laws of this state
23 prohibiting the illegal use of nets, traps, or fishing devices
24 and is a lawful exercise of the police power of the state for
25 the protection of the public welfare, health, and safety of
26 the people of the state. All the provisions of this section
27 shall be liberally construed for the accomplishment of these
28 purposes.

29 Section 11. Section 372.99022, Florida Statutes, is
30 created to read:

31

1 372.99022 Illegal molestation of or theft from
2 freshwater fishing gear.--

3 (1)(a) Any person, firm, or corporation that willfully
4 molests any authorized and lawfully permitted freshwater
5 fishing gear belonging to another without the express written
6 consent of the owner commits a felony of the third degree,
7 punishable as provided in s. 775.082, s. 775.083, or s.
8 775.084. Any written consent must be available for immediate
9 inspection.

10 (b) Any person, firm, or corporation that willfully
11 removes the contents of any authorized and lawfully permitted
12 freshwater fishing gear belonging to another without the
13 express written consent of the owner commits a felony of the
14 third degree, punishable as provided in s. 775.082, s.
15 775.083, or s. 775.084. Any written consent must be available
16 for immediate inspection.

17
18 A person, firm, or corporation that receives a citation for a
19 violation of this subsection is prohibited, immediately upon
20 receipt of such citation and until adjudicated or convicted of
21 a felony under this subsection, from transferring any
22 endorsements.

23 (2) Any person, firm, or corporation convicted
24 pursuant to subsection (1) of removing the contents of
25 freshwater fishing gear without the express written consent of
26 the owner shall permanently lose all of his or her freshwater
27 and saltwater fishing privileges, including his or her
28 recreational and commercial licenses and endorsements, and
29 shall be assessed an administrative penalty of not more than
30 \$5,000. The endorsements of such person, firm, or corporation
31 are not transferable.

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

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

7 372.9904 Seizure of illegal transportation devices;
8 disposition; appraisal; forfeiture.--

9 (3) Upon conviction of the violator, the property, if
10 owned by the person convicted, shall be forfeited to the state
11 under the procedure set forth in ss. 370.061 and 370.07
12 ~~372.312-372.318~~, when not inconsistent with this section. All
13 amounts received from the sale or other disposition of the
14 property shall be paid into the State Game Trust Fund or into
15 the commission's Federal Law Enforcement Trust Fund as
16 provided in s. 372.107, as applicable. If the property is not
17 sold or converted, it shall be delivered to the director of
18 the Fish and Wildlife Conservation Commission.

19 Section 13. Section 372.9905, Florida Statutes, is
20 amended to read:

21 372.9905 Applicability of ss. 372.99, 372.9901,
22 372.9903,and 372.9904.--The provisions of ss. 372.99,
23 372.9901,372.9903,and 372.9904 relating to seizure and
24 forfeiture of animals or of vehicles, vessels, or other
25 transportation devices do ~~shall not apply when such vehicles,~~
26 ~~vessels, or other transportation devices are owned by, or~~
27 ~~titled in the name of, innocent parties. The provisions of~~
28 ~~said sections shall not vitiate any valid lien, retain title~~
29 contract, or chattel mortgage on such animals or vehicles,
30 vessels, or other transportation devices if such lien, retain
31

1 title contract, or chattel mortgage is properly of public
2 record at the time of the seizure.

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

5 323.001 Wrecker operator storage facilities; vehicle
6 holds.--

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

9 (b) The officer has probable cause to believe the
10 vehicle should be seized and forfeited under s. 370.061 or s.
11 370.07 ~~372.312~~;

12 Section 15. Sections 372.311, 372.312, 372.313,
13 372.314, 372.315, 372.316, 372.317, 372.318, 372.319, 372.321,
14 and 372.9902, Florida Statutes, are repealed.

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