

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 by a wholesale dealer; are presumed to  
26          have been purchased; amending s. 370.061, F.S.;  
27          revising and clarifying requirements and  
28          procedures for confiscation and forfeiture of  
29          property used in a saltwater products  
30          violation; requiring notice of seizure to the  
31          registered owner of the property prior to

1 issuance of a forfeiture order; authorizing the  
2 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 by a retail dealer or restaurant are  
10 presumed to have been purchased; correcting a  
11 cross reference; reenacting ss. 370.07(5),  
12 370.092(3) and (4), and 370.093(5), F.S., to  
13 incorporate the amendment to s. 370.021, F.S.,  
14 in references; amending s. 370.142, F.S.;  
15 correcting cross references; amending s.  
16 372.70, F.S.; providing that the state attorney  
17 shall represent the state in prosecutions of  
18 violations of hunting and fishing laws;  
19 amending s. 372.9901, F.S.; revising procedures  
20 for seizure and forfeiture of property used in  
21 the illegal taking of deer or wild turkey;  
22 requiring notice of seizure to the registered  
23 owner of the property prior to issuance of a  
24 forfeiture order; authorizing the courts to  
25 order property forfeited to the commission for  
26 second or subsequent convictions; revising  
27 procedure for return of property to an innocent  
28 owner; amending and renumbering s. 372.31,  
29 F.S.; providing for exercise of the police  
30 power of the state in cases relating to illegal  
31 fishing; creating s. 372.99022, F.S.; providing

1 penalties for molestation of or theft from  
2 certain freshwater fishing gear; prohibiting  
3 transfer of endorsements under certain  
4 circumstances; amending s. 372.9904, F.S.;  
5 correcting a cross reference; amending s.  
6 372.9905, F.S.; combining and conforming  
7 provisions relating to applicability of seizure  
8 and forfeiture requirements; amending s.  
9 323.001, F.S.; correcting a cross reference;  
10 repealing ss. 372.311, 372.312, 372.313,  
11 372.314, 372.315, 372.316, 372.317, 372.318,  
12 372.319, 372.321, and 372.9902, F.S., relating  
13 to forfeiture proceedings, delivery of property  
14 to a claimant, proceedings when no claim is  
15 filed or a claim is filed, representation of  
16 the state by the state attorney, judgments of  
17 forfeiture, service charges, disposition of  
18 proceeds of forfeiture, exercise of police  
19 power, and applicability of certain seizure and  
20 forfeiture requirements; amending s. 370.12,  
21 F.S.; requiring notice to counties where  
22 manatee protection zones or manatee speed zones  
23 may be imposed by the Fish and Wildlife  
24 Conservation Commission; providing for  
25 establishment of local rule review committees;  
26 providing duties and responsibilities of the  
27 counties, committees, and commission; providing  
28 for committee reports and recommendations;  
29 providing that written reports submitted to the  
30 commission by the committees and Fish and  
31 Wildlife Conservation Commission staff

1 responses shall be part of the rulemaking  
 2 record; clarifying the Fish and Wildlife  
 3 Conservation Commission's authority to provide  
 4 comments to permitting agencies relating to the  
 5 protection of manatees; revising the  
 6 circumstances under which the commission may  
 7 post and regulate motorboat speeds to protect  
 8 manatees; requiring specified counties to  
 9 develop manatee protection plans that are  
 10 consistent with specified policy directive;  
 11 providing the commission with rulemaking  
 12 authority; amending s. 372.072, F.S.; requiring  
 13 that the commission develop a measurable  
 14 biological goal to define manatee recovery;  
 15 requiring the commission to use the goal in  
 16 developing management plans and work plans and  
 17 for determining the progress of manatee  
 18 recovery; amending s. 327.41, F.S.; conforming  
 19 a cross-reference; providing legislative intent  
 20 regarding manatee protection; providing for  
 21 compliance studies, enforcement initiatives,  
 22 and boater education plans; requiring the  
 23 commission to identify impediments to high  
 24 rates of compliance; providing legislative  
 25 intent that the provisions of the act not be  
 26 retroactively applied except as otherwise  
 27 provided; providing an exemption; providing an  
 28 effective date.

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

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

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

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

10 (a) Upon a first conviction, by imprisonment for a  
11 period of not more than 60 days or by a fine of not less than  
12 \$100 nor more than \$500, or by both such fine and  
13 imprisonment.

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

18  
19 Upon final disposition of any alleged offense for which a  
20 citation for any violation of this chapter or the rules of the  
21 commission has been issued, the court shall, within 10 days,  
22 certify the disposition to the commission.

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

27 (a) For a violation involving more than 100 illegal  
28 blue crabs, crawfish, or stone crabs, an additional penalty of  
29 \$10 for each illegal blue crab, crawfish, stone crab, or part  
30 thereof.

31

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

6 (c) For a violation involving the taking or harvesting  
7 of oysters from nonapproved areas or the taking or possession  
8 of unculled oysters, an additional penalty of \$10 for each  
9 bushel of illegal oysters.

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

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

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

28  
29 an additional penalty of \$100 for each unit of marine life or  
30 part thereof.

31

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

5 (g) For any violation involving the taking,  
6 harvesting, or possession of more than 1,000 pounds of any  
7 illegal finfish, an additional penalty equivalent to the  
8 wholesale value of the illegal finfish.

9 ~~(h) The proceeds from the penalties assessed pursuant~~  
10 ~~to this subsection shall be deposited into the Marine~~  
11 ~~Resources Conservation Trust Fund to be used for marine~~  
12 ~~fisheries research or into the commission's Federal Law~~  
13 ~~Enforcement Trust Fund as provided in s. 372.107, as~~  
14 ~~applicable.~~

15 (h)(i) Permits issued to any person, firm, or  
16 corporation by the commission to take or harvest saltwater  
17 products, or any license issued pursuant to s. 370.06 or s.  
18 370.07 may be suspended or revoked by the commission, pursuant  
19 to the provisions and procedures of s. 120.60, for any major  
20 violation prescribed in this subsection:

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

23 2. Upon a second conviction ~~for a violation~~ which  
24 occurs within 12 months after a prior violation, for up to 90  
25 calendar days.

26 3. Upon a third conviction ~~for a violation~~ which  
27 occurs within 24 months after a prior conviction violation,  
28 for up to 180 calendar days.

29 4. Upon a fourth conviction ~~for a violation~~ which  
30 occurs within 36 months after a prior conviction violation,  
31 for a period of 6 months to 3 years.

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

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

25           (k)~~(l)~~ Upon the arrest and conviction for a major  
26 violation involving blue crabs, the licenseholder shall show  
27 just cause why his or her saltwater products license should  
28 not be suspended or revoked. This paragraph shall not apply  
29 to an individual fishing with no more than five traps. For  
30 the purposes of this paragraph, a "major violation" means a  
31 major violation as prescribed for illegal blue crabs, any



1 single violation wherein 50 or more illegal blue crabs are  
 2 involved; any violation for trap molestation, trap robbing, or  
 3 pulling traps at night; or any combination of violations in  
 4 any 3-consecutive-year period wherein more than 100 illegal  
 5 blue crabs in the aggregate are involved.

6 (l)~~(m)~~ Upon the conviction for a major violation  
 7 involving finfish, the licenseholder must show just cause why  
 8 his or her saltwater products license should not be suspended  
 9 or revoked. For the purposes of this paragraph, a major  
 10 violation is prescribed for the taking and harvesting of  
 11 illegal finfish, any single violation involving the possession  
 12 of more than 100 pounds of illegal finfish, or any combination  
 13 of violations in any 3-consecutive-year period wherein more  
 14 than 200 pounds of illegal finfish in the aggregate are  
 15 involved.

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

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

1  
2 Notwithstanding the provisions of s. 948.01, no court may  
3 suspend, defer, or withhold adjudication of guilt or  
4 imposition of sentence for any major violation prescribed in  
5 this subsection. The proceeds from the penalties assessed  
6 pursuant to this subsection shall be deposited into the Marine  
7 Resources Conservation Trust Fund to be used for marine  
8 fisheries research or into the commission's Federal Law  
9 Enforcement Trust Fund as provided in s. 372.107, as  
10 applicable.

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

12 (a) It ~~is shall be~~ a major violation pursuant to this  
13 section, punishable subsection (3) and shall be punished as  
14 provided in paragraph (b) below for any person, firm, or  
15 corporation to be simultaneously in possession of any species  
16 of mullet in excess of the recreational daily bag limit and  
17 any gill or other entangling net as defined in s. 16(c), Art.  
18 X of the State Constitution. Simultaneous possession under  
19 this provision shall include possession of mullet and gill or  
20 other entangling nets on separate vessels or vehicles where  
21 such vessels or vehicles are operated in coordination with one  
22 another including vessels towed behind a main vessel. This  
23 subsection does not prohibit a resident of this state from  
24 transporting on land, from Alabama to this state, a commercial  
25 quantity of mullet together with a gill net if:

26 1. The person possesses a valid commercial fishing  
27 license that is issued by the State of Alabama and that allows  
28 the person to use a gill net to legally harvest mullet in  
29 commercial quantities from Alabama waters.

30 2. The person possesses a trip ticket issued in  
31 Alabama and filled out to match the quantity of mullet being

1 transported, and the person is able to present such trip  
2 ticket immediately upon entering this state.

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

8 4. The mullet being transported are totally removed  
9 from any net also being transported.

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

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

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

29 3. For a third or ~~and~~ subsequent major violation under  
30 this paragraph, charged within a 7-year period, resulting in a  
31 third or subsequent judicial disposition other than acquittal

1 or dismissal, a civil penalty of \$5,000, lifetime revocation  
 2 of the saltwater products license, and forfeiture of all gear  
 3 and equipment used in the violation shall be imposed.

4  
 5 A court may suspend, defer, or withhold adjudication of guilt  
 6 or imposition of sentence only for any first violation of s.  
 7 16, Art. X of the State Constitution, or any rule or statute  
 8 implementing its restrictions, determined by a court only  
 9 after consideration of competent evidence of mitigating  
 10 circumstances to be a nonflagrant or minor violation of those  
 11 restrictions upon the use of nets. Any violation of s. 16,  
 12 Art. X of the State Constitution, or any rule or statute  
 13 implementing its restrictions, occurring within a 7-year  
 14 period commencing upon the conclusion of any judicial  
 15 proceeding resulting in any outcome other than acquittal shall  
 16 be punished as a second, third, or subsequent violation  
 17 accordingly.

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

29 1. Upon a first or second conviction, is guilty of a  
 30 misdemeanor of the first degree, punishable as provided in s.  
 31

1 ~~775.082 or s. 775.083 to be punished as provided by paragraph~~  
2 ~~(1)(a) or paragraph (1)(b).~~

3 2. Upon a third or subsequent conviction, is guilty of  
4 a felony of the third degree, punishable as provided in s.  
5 775.082, s. 775.083, or s. 775.084.

6 (d) Upon reinstatement of saltwater license privileges  
7 suspended pursuant to a violation of this subsection ~~section~~,  
8 a licensee owning or operating a vessel containing or  
9 otherwise transporting in or on Florida waters any gill net or  
10 other entangling net, or containing or otherwise transporting  
11 in nearshore and inshore Florida waters any net containing  
12 more than 500 square feet of mesh area shall remain restricted  
13 for a period of 12 months following reinstatement, to  
14 operating ~~operation~~ under the following conditions:

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

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

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

21 (4) ADDITIONAL PENALTIES FOR MAJOR VIOLATIONS  
22 INVOLVING CERTAIN FINFISH.--It is ~~shall be~~ a major violation  
23 pursuant to this section, and punishable as provided in  
24 ~~pursuant to~~ paragraph (3)(b), for any person to be in  
25 possession of any species of trout, snook, or redfish which is  
26 three fish in excess of the recreational or commercial daily  
27 bag limit.

28 (5) BUYING SALTWATER PRODUCTS; UNLICENSED SELLERS;  
29 ILLEGALLY HARVESTED PRODUCTS FROM UNLICENSED SELLER.--In  
30 addition ~~to being subject~~ to other penalties authorized  
31 ~~provided~~ in this chapter, any violation of s. 370.06 or s.

1 370.07, or rules of the commission implementing s. 370.06 or  
2 s. 370.07, involving the purchase of saltwater products by a  
3 commercial wholesale dealer, retail dealer, or restaurant  
4 facility for public consumption from an unlicensed person,  
5 firm, or corporation, or the sale of saltwater products by an  
6 unlicensed person, firm, or corporation or the purchase or  
7 sale of any saltwater product known to be taken in violation  
8 of s. 16, Art. X of the State Constitution, or rule or statute  
9 implementing the provisions thereof, by a commercial wholesale  
10 dealer, retail dealer, or restaurant facility, for public  
11 consumption, is ~~shall be~~ a major violation, and the commission  
12 may assess the following penalties:

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

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

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

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

31

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

18           (7) POWERS OF OFFICERS.--

19           (a) Law enforcement officers of the ~~Fish and Wildlife~~  
20 ~~Conservation~~ commission are constituted law enforcement  
21 officers of this state with full power to investigate and  
22 arrest for any violation of the laws of this state and the  
23 rules ~~and regulations~~ of the commission under their  
24 jurisdiction. The general laws applicable to arrests by peace  
25 officers of this state shall also be applicable to law  
26 enforcement officers of the commission. Such law enforcement  
27 officers may enter upon any land or waters of the state for  
28 performance of their lawful duties and may take with them any  
29 necessary equipment, and such entry will not constitute a  
30 trespass. It is lawful for any boat, motor vehicle, or  
31 aircraft owned or chartered by the commission or its agents or

1 employees to land on and depart from any of the beaches or  
2 waters of the state. Such law enforcement officers have the  
3 authority, without warrant, to board, inspect, and search any  
4 boat, fishing appliance, storage or processing plant,  
5 fishhouse, spongehouse, oysterhouse, or other warehouse,  
6 building, or vehicle engaged in transporting or storing any  
7 fish or fishery products. Such authority to search and inspect  
8 without a search warrant is limited to those cases in which  
9 such law enforcement officers have reason to believe that fish  
10 or any saltwater products are taken or kept for sale, barter,  
11 transportation, or other purposes in violation of laws or  
12 rules promulgated under this law. Any such law enforcement  
13 officer may at any time seize or take possession of any  
14 saltwater products or contraband which have been unlawfully  
15 caught, taken, or processed or which are unlawfully possessed  
16 or transported in violation of any of the laws of this state  
17 or any rule ~~or regulation~~ of the commission. Such law  
18 enforcement officers may arrest any person in the act of  
19 violating any of the provisions of this law, the rules ~~or~~  
20 ~~regulations~~ of the commission, or any of the laws of this  
21 state. It is hereby declared unlawful for any person to resist  
22 such arrest or in any manner interfere, either by abetting or  
23 assisting such resistance or otherwise interfering, with any  
24 such law enforcement officer while engaged in the performance  
25 of the duties imposed upon him or her by law or rule  
26 ~~regulation~~ of the commission.

27 (b) The Legislature finds that the checking and  
28 inspection of saltwater products aboard vessels is critical to  
29 good fishery management and conservation and that, because  
30 almost all saltwater products are either iced or cooled in  
31 closed areas or containers, the enforcement of seasons, size



1 limits, and bag limits can only be effective when inspection  
2 of saltwater products so stored is immediate and routine.  
3 Therefore, in addition to the authority granted in paragraph  
4 (a), a law enforcement officer of the commission who has  
5 probable cause to believe that the vessel has been used for  
6 fishing prior to the inspection shall have full authority to  
7 open and inspect all containers or areas where saltwater  
8 products are normally kept aboard vessels while such vessels  
9 are on the water, such as refrigerated or iced locations,  
10 coolers, fish boxes, and bait wells, but specifically  
11 excluding such containers that are located in sleeping or  
12 living areas of the vessel.

13 (8) RETENTION, DESTRUCTION, AND REPRODUCTION OF  
14 RECORDS.--Records and documents of the ~~Fish and Wildlife~~  
15 ~~Conservation~~ commission created in compliance with and in the  
16 implementation of this chapter or former chapter 371 shall be  
17 retained by the commission as specified in record retention  
18 schedules established under the general provisions of chapters  
19 119 and 257. Such records retained by the Department of  
20 Environmental Protection on July 1, 1999, shall be transferred  
21 to the commission. Further, the commission is authorized to:

22 (a) Destroy, or otherwise dispose of, those records  
23 and documents in conformity with the approved retention  
24 schedules.

25 (b) Photograph, microphotograph, or reproduce such  
26 records and documents on film, as authorized and directed by  
27 the approved retention schedules, whereby each page will be  
28 exposed in exact conformity with the original records and  
29 documents retained in compliance with the provisions of this  
30 section. Photographs or microphotographs in the form of film  
31 or print of any records, made in compliance with the

1 provisions of this section, shall have the same force and  
2 effect as the originals thereof would have and shall be  
3 treated as originals for the purpose of their admissibility in  
4 evidence. Duly certified or authenticated reproductions of  
5 such photographs or microphotographs shall be admitted in  
6 evidence equally with the original photographs or  
7 microphotographs. The impression of the seal of the ~~Fish and~~  
8 ~~Wildlife Conservation~~ commission on a certificate made  
9 pursuant to the provisions hereof and signed by the executive  
10 director of the ~~Fish and Wildlife Conservation~~ commission  
11 shall entitle the same to be received in evidence in all  
12 courts and in all proceedings in this state and shall be prima  
13 facie evidence of all factual matters set forth in the  
14 certificate. A certificate may relate to one or more records,  
15 as set forth in the certificate, or in a schedule continued on  
16 an attachment to the certificate.

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

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

23 (10) BOND OF EMPLOYEES.--The commission ~~department~~ may  
24 require, as it determines, that bond be given by any employee  
25 of the commission ~~department~~ or divisions thereof, payable to  
26 the Governor of the state and the Governor's successor in  
27 office, for the use and benefit of those whom it may concern,  
28 in such penal sums with good and sufficient surety or sureties  
29 approved by the commission ~~department~~ conditioned for the  
30 faithful performance of the duties of such employee.

31

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

7           (12) LICENSES AND ENTITIES SUBJECT TO PENALTIES.--For  
8 purposes of imposing license or permit suspensions or  
9 revocations authorized by this chapter, the license or permit  
10 under which the violation was committed is subject to  
11 suspension or revocation by the commission. For purposes of  
12 assessing monetary civil or administrative penalties  
13 authorized by this chapter, the person, firm, or corporation  
14 cited and subsequently receiving a judicial disposition of  
15 other than dismissal or acquittal in a court of law is subject  
16 to the monetary penalty assessment by the commission. However,  
17 if the license or permit holder of record is not the person,  
18 firm, or corporation receiving the citation and judicial  
19 disposition, the license or permit may be suspended or revoked  
20 only after the license or permit holder has been notified by  
21 the commission that the license or permit has been cited in a  
22 major violation and is now subject to suspension or revocation  
23 should the license or permit be cited for subsequent major  
24 violations.

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

27           370.06 Licenses.--

28           (2) SALTWATER PRODUCTS LICENSE.--

29           (a) Every person, firm, or corporation that sells,  
30 offers for sale, barter, or exchanges for merchandise any  
31 saltwater products, or which harvests saltwater products with

1 certain gear or equipment as specified by law, must have a  
2 valid saltwater products license, except that the holder of an  
3 aquaculture certificate under s. 597.004 is not required to  
4 purchase and possess a saltwater products license in order to  
5 possess, transport, or sell marine aquaculture products. Each  
6 saltwater products license allows the holder to engage in any  
7 of the activities for which the license is required. The  
8 license must be in the possession of the licenseholder or  
9 aboard the vessel and is ~~shall be~~ subject to inspection at any  
10 time that harvesting activities for which a saltwater products  
11 license is required are being conducted.

12 (b)1. A restricted species endorsement on the  
13 saltwater products license is required to sell to a licensed  
14 wholesale dealer those species which the state, by law or  
15 rule, has designated as "restricted species." This endorsement  
16 may be issued only to a person who is at least 16 years of  
17 age, or to a firm certifying that over 25 percent of its  
18 income or \$5,000 of its income, whichever is less, is  
19 attributable to the sale of saltwater products pursuant to a  
20 saltwater products license issued under this paragraph or a  
21 similar license from another state. This endorsement may also  
22 be issued to a for-profit corporation if it certifies that at  
23 least \$5,000 of its income is attributable to the sale of  
24 saltwater products pursuant to a saltwater products license  
25 issued under this paragraph or a similar license from another  
26 state. However, if at least 50 percent of the annual income of  
27 a person, firm, or for-profit corporation is derived from  
28 charter fishing, the person, firm, or for-profit corporation  
29 must certify that at least \$2,500 of the income of the person,  
30 firm, or corporation is attributable to the sale of saltwater  
31 products pursuant to a saltwater products license issued under

1 this paragraph or a similar license from another state, in  
2 order to be issued the endorsement. Such income attribution  
3 must apply to at least 1 ~~year~~ out of the last 3 years. For the  
4 purpose of this section, "income" means that income ~~that~~ which  
5 is attributable to work, employment, entrepreneurship,  
6 pensions, retirement benefits, and social security benefits.

7 2. To renew an existing restricted species  
8 endorsement, a marine aquaculture producer possessing a valid  
9 saltwater products license with a restricted species  
10 endorsement may apply income from the sale of marine  
11 aquaculture products to licensed wholesale dealers.

12 3.1. The commission is authorized to require  
13 verification of such income for all restricted species  
14 endorsements issued pursuant to this paragraph. Acceptable  
15 proof of income earned from the sale of saltwater products  
16 shall be:

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

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

22 c. A copy of the applicable federal income tax return,  
23 including Form 1099 attachments, verifying income earned from  
24 the sale of saltwater products;

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

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

29  
30 Notwithstanding any other provision of law ~~Any provision of~~  
31 ~~this section or any other section of the Florida Statutes to~~

1 ~~the contrary notwithstanding~~, any person who owns a retail  
2 seafood market or restaurant at a fixed location for at least  
3 3 years, who has had an occupational license for 3 years prior  
4 to January 1, 1990, who harvests saltwater products to supply  
5 his or her retail store, and who has had a saltwater products  
6 license for 1 of the past 3 license years prior to January 1,  
7 1990, may provide proof of his or her verification of income  
8 and sales value at the person's retail seafood market or  
9 restaurant and in his or her saltwater products enterprise by  
10 affidavit and shall thereupon be issued a restricted species  
11 endorsement.

12 ~~4.2.~~ Exceptions from income requirements shall be as  
13 follows:

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

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

20 c. Upon the sale of a used commercial fishing vessel  
21 owned by a person, firm, or corporation possessing or eligible  
22 for a restricted species endorsement, the purchaser of such  
23 vessel shall be exempted from the qualifying income  
24 requirement for the purpose of obtaining a restricted species  
25 endorsement for a period of 1 year after purchase of the  
26 vessel.

27 d. Upon the death or permanent disablement of a person  
28 possessing a restricted species endorsement, an immediate  
29 family member wishing to carry on the fishing operation shall  
30 be exempted from the qualifying income requirement for the  
31

1 purpose of obtaining a restricted species endorsement for a  
2 period of 1 year after the death or disablement.

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

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

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

26 (c) At least one saltwater products license bearing a  
27 restricted species endorsement shall be aboard any vessel  
28 harvesting restricted species in excess of any bag limit or  
29 when fishing under a commercial quota or in commercial  
30 quantities, and such vessel shall have a commercial vessel  
31 registration. This subsection does not apply to any person,

1 firm, or corporation licensed under s. 370.07(1)(a)1. or (b)  
2 for activities pursuant to such licenses.

3 (d) A saltwater products license may be issued in the  
4 name of an individual or a valid boat registration number.  
5 Such license is not transferable. A decal shall be issued with  
6 each saltwater products license issued to a valid boat  
7 registration number. The saltwater products license decal  
8 shall be the same color as the vessel registration decal  
9 issued each year pursuant to s. 328.48(5) and shall indicate  
10 the period of time such license is valid. The saltwater  
11 products license decal shall be placed beside the vessel  
12 registration decal and, in the case of an undocumented vessel,  
13 shall be placed so that the vessel registration decal lies  
14 between the vessel registration number and the saltwater  
15 products license decal. Any saltwater products license decal  
16 for a previous year shall be removed from a vessel operating  
17 on the waters of the state.

18 (e) A resident shall pay an annual license fee of \$50  
19 for a saltwater products license issued in the name of an  
20 individual or \$100 for a saltwater products license issued to  
21 a valid boat registration number. A nonresident shall pay an  
22 annual license fee of \$200 for a saltwater products license  
23 issued in the name of an individual or \$400 for a saltwater  
24 products license issued to a valid boat registration number.  
25 An alien shall pay an annual license fee of \$300 for a  
26 saltwater products license issued in the name of an individual  
27 or \$600 for a saltwater products license issued to a valid  
28 boat registration number.

29 (f) Any person who sells saltwater products pursuant  
30 to a saltwater products ~~this~~ license may sell only to a  
31 licensed wholesale dealer. A saltwater products license must



1 be presented to the licensed wholesale dealer each time  
2 saltwater products are sold, and an imprint made thereof. The  
3 wholesale dealer shall keep records of each transaction in  
4 such detail as may be required by rule of the commission not  
5 in conflict with s. 370.07(6), and shall provide the holder of  
6 the saltwater products license with a copy of the record. It  
7 is unlawful for any licensed wholesale dealer to buy saltwater  
8 products from any unlicensed person under the provisions of  
9 this section, except that a licensed wholesale dealer may buy  
10 from another licensed wholesale dealer. It is unlawful for any  
11 licensed wholesale dealer to buy saltwater products designated  
12 as "restricted species" from any person, firm, or corporation  
13 not possessing a restricted species endorsement on his or her  
14 saltwater products license under the provisions of this  
15 section, except that a licensed wholesale dealer may buy from  
16 another licensed wholesale dealer. For purposes of this  
17 subsection, any saltwater products received by a wholesale  
18 dealer are presumed to have been purchased.

19 (g) The commission shall be the licensing agency, may  
20 contract with private persons or entities to implement aspects  
21 of the licensing program, and shall establish by rule a marine  
22 fisheries information system in conjunction with the licensing  
23 program to gather fisheries data.

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

29 (i)~~(c)~~ A saltwater products license is required to  
30 harvest commercial quantities of saltwater products. Any  
31 vessel from which commercial quantities of saltwater products

1 are harvested must have a commercial vessel registration.

2 Commercial quantities of saltwater products shall be defined  
3 as:

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

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

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

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

23 b. In 1998 persons or corporations holding a marine  
24 life endorsement that was active in the 1997-1998 fiscal year  
25 or an immediate family member of that person must request  
26 renewal of the marine life endorsement before December 31,  
27 1998.

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

1           d. If a person or corporation holding an active marine  
2 life fishing endorsement or a member of that person's  
3 immediate family does not request renewal of the endorsement  
4 before the applicable dates specified in this paragraph, the  
5 commission shall deactivate that marine life fishing  
6 endorsement.

7           e. In the event of the death or disability of a person  
8 holding an active marine life fishing endorsement, the  
9 endorsement may be transferred by the person to a member of  
10 his or her immediate family or may be renewed by any person so  
11 designated by the executor of the person's estate.

12           f. Persons or corporations who hold saltwater product  
13 licenses with marine life fishing endorsements issued to their  
14 vessel registration numbers and who subsequently replace their  
15 existing vessels with new vessels may transfer the existing  
16 marine life fishing endorsement to the new boat registration  
17 numbers.

18           g. Persons or corporations who hold saltwater product  
19 licenses with marine life fishing endorsements issued to their  
20 name and who subsequently incorporate or unincorporate may  
21 transfer the existing marine life fishing endorsement to the  
22 new corporation or person.

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

29           Section 3. Section 370.061, Florida Statutes, is  
30 amended to read:

31           (Substantial rewording of section. See

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

2 370.061 Confiscation, seizure, and forfeiture of  
3 property and products.--

4 (1) SEIZURE, FORFEITURE; PROCEDURE.--Nothing in this  
5 subsection affects the commission's authority to confiscate in  
6 any case illegal saltwater products, illegally taken saltwater  
7 products, or illegal fishing gear in accordance with this  
8 section.

9 (a) Property used in connection with a violation  
10 resulting in a conviction for the illegal taking, or attempted  
11 taking, sale, possession, or transportation of saltwater  
12 products is subject to seizure and forfeiture as part of the  
13 commission's efforts to protect the state's marine life.  
14 Saltwater products and seines, nets, boats, motors, other  
15 fishing devices or equipment, and vehicles or other means of  
16 transportation used or attempted to be used in connection  
17 with, as an instrumentality of, or in aiding and abetting such  
18 illegal taking or attempted taking are hereby declared to be  
19 nuisances.

20 (b) Upon a conviction of a person in whose possession  
21 the property was found, the court having jurisdiction over the  
22 criminal offense, notwithstanding any jurisdictional  
23 limitations on the amount in controversy, may make a finding  
24 that the property was used in connection with a saltwater  
25 products violation and may order such property forfeited to  
26 the commission.

27 (c) For purposes of this section, a conviction, except  
28 with respect to a first time offender under this chapter for  
29 whom adjudication is withheld, is any disposition other than  
30 acquittal or dismissal.

31

1           (2) SEIZURE, FORFEITURE; NOTICE.--The requirement for  
2 a conviction before forfeiture of property establishes to the  
3 exclusion of any reasonable doubt that the property was used  
4 in connection with the violation resulting in conviction.  
5 Prior to the issuance of a forfeiture order for any vessel,  
6 vehicle, or other property under subsection (1), the  
7 commission shall seize the property and notify the registered  
8 owner, if any, that the property has been seized by the  
9 commission. Except as provided in subsection (6), the  
10 procedures of chapter 932 do not apply to any seizure or  
11 forfeiture of property under this section.

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

17           (b) Upon a first conviction for a violation under this  
18 chapter, the property seized under this section shall be  
19 returned to the registered owner if the commission fails to  
20 prove by a preponderance of the evidence before the court  
21 having jurisdiction over the criminal offense that the  
22 registered owner aided in, abetted in, participated in, gave  
23 consent to, knew of, or had reason to know of the violation.

24           (c) Upon a second or subsequent conviction for a  
25 violation under this chapter, the burden shall be on the  
26 registered owner to prove by a preponderance of the evidence  
27 before the court having jurisdiction over the criminal offense  
28 that the registered owner in no way aided in, abetted in,  
29 participated in, knew of, or had reason to know of the second  
30 or subsequent violation which resulted in seizure of the  
31 lawful property.

1           (d) Any request for a hearing from a registered owner  
2 asserting innocence to recover property seized under these  
3 provisions must be sent to the commission's Division of Law  
4 Enforcement within 21 days after the registered owner's  
5 receipt of the notice of seizure. If a request for a hearing  
6 is not timely received, the court shall forfeit to the  
7 commission the right to, title to, and interest in the  
8 property seized, subject only to the rights and interests of  
9 bona fide lienholders.

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

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

29           (4) DESTRUCTION OR DISPOSITION OF PROPERTY.--All  
30 property forfeited under this section may be destroyed, used  
31 by the commission, disposed of by gift to charitable or state

1 institutions, or sold, with the proceeds derived from the sale  
2 deposited into the Marine Resources Conservation Trust Fund to  
3 be used for law enforcement purposes, or into the commission's  
4 Federal Law Enforcement Trust Fund as provided in s. 372.107,  
5 as applicable.

6 (5) CONFISCATION AND SALE OF PERISHABLE SALTWATER  
7 PRODUCTS; PROCEDURE.--

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

20 (b) Moneys received from the sale of confiscated  
21 saltwater products, either by the defendant or by order of the  
22 court, shall be received by the judge and shall be remitted to  
23 the commission to be deposited into a special escrow account  
24 in the State Treasury to be held in trust pending the outcome  
25 of the trial of the defendant. If bond is posted by the  
26 defendant, it shall also be remitted to the commission to be  
27 held in escrow pending the outcome of the trial of the  
28 defendant.

29 (c) In the event of acquittal, the proceeds of a sale  
30 or the bond or cash deposit required by this subsection shall  
31 be returned to the defendant. In the event of a conviction,

1 the proceeds of a sale or the bond or cash deposit required by  
 2 this subsection shall be deposited into the Marine Resources  
 3 Conservation Trust Fund to be used for law enforcement  
 4 purposes or into the commission's Federal Law Enforcement  
 5 Trust Fund as provided in s. 372.107, as applicable. Such  
 6 deposit into the Marine Resources Conservation Trust Fund or  
 7 the Federal Law Enforcement Trust Fund shall constitute  
 8 confiscation.

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

16 (6) MUNICIPAL OR COUNTY ENFORCEMENT; SUPPLEMENTAL  
 17 FUNDING.--

18 (a) Any municipal or county law enforcement agency  
 19 that enforces or assists the commission in enforcing the  
 20 provisions of this chapter, which results in a forfeiture of  
 21 property as provided in this section, shall be entitled to  
 22 receive all or a share of any property based upon its  
 23 participation in such enforcement.

24 (b) If a municipal or county law enforcement agency  
 25 has a marine enforcement unit, any property delivered to any  
 26 municipal or county law enforcement agency as provided in  
 27 paragraph (a) may be retained or sold by the municipal or  
 28 county law enforcement agency, and the property or proceeds  
 29 shall be used to enforce the provisions of this chapter and  
 30 chapters 327 and 328. If a municipal or county law enforcement  
 31 agency does not have a marine enforcement unit, such property



1 or proceeds shall be disposed of under the provisions of  
2 chapter 932.

3 (c) Any funds received by a municipal or county law  
4 enforcement agency pursuant to this subsection shall be  
5 supplemental funds and may not be used as replacement funds by  
6 the municipality or county.

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

13 370.07 Wholesale and retail saltwater products  
14 dealers; regulation.--

15 (4) TRANSPORTATION OF SALTWATER PRODUCTS.--

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

23 (b) A person transporting in this state saltwater  
24 products that were produced outside this state to be delivered  
25 to a destination in this state shall have in his or her  
26 possession invoices, bills of lading, or other similar  
27 instruments showing the number of packages, boxes, or  
28 containers and the number of pounds of each species, the name  
29 and physical address of the dealer of origin, and the name,  
30 physical address, and Florida wholesale dealer number of the  
31 Florida dealer to whom the shipment is to be delivered.

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

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

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

30 (f) Nothing contained in this subsection may be  
 31 construed to apply to the sale and delivery to a consumer of

1 saltwater products in an ordinary retail transaction by a  
2 licensed retail dealer who has purchased such products from a  
3 licensed wholesale dealer, or to the sale and delivery of the  
4 catch or products of a saltwater products licensee to a  
5 Florida-licensed wholesale dealer.

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

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

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

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

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

27 (7) PURCHASE OF SALTWATER PRODUCTS AT TEMPORARY  
28 LOCATION.--Wholesale dealers purchasing saltwater products  
29 pursuant to s. 370.06(2) ~~(a)~~ at any site other than a site  
30 located in a county where the dealer has a permanent address  
31 must notify the Fish and Wildlife Conservation Commission of

1 the location of the temporary site of business for each day  
2 business is to be conducted at such site.

3 (8) UNLAWFUL PURCHASE OF SALTWATER PRODUCTS.--It is  
4 unlawful for any licensed retail dealer or any restaurant  
5 licensed by the Division of Hotels and Restaurants of the  
6 Department of Business and Professional Regulation to buy  
7 saltwater products from any person other than a licensed  
8 wholesale or retail dealer. For purposes of this subsection,  
9 any saltwater products received by a retail dealer or a  
10 restaurant are presumed to have been purchased.

11 Section 5. For purposes of incorporating the amendment  
12 to section 370.021, Florida Statutes, in references thereto,  
13 subsections (3) and (4) of section 370.092, Florida Statutes,  
14 are reenacted to read:

15 370.092 Carriage of proscribed nets across Florida  
16 waters.--

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

1 titled by the State of Florida. The Marine Fisheries  
2 Commission is directed to initiate by July 1, 1998, rulemaking  
3 to adjust by rule the use of gear on vessels longer than 22  
4 feet where the primary power of the vessel is mounted forward  
5 of the vessel center point in order to prevent the illegal use  
6 of gill and entangling nets in state waters and to provide  
7 reasonable opportunities for the use of legal net gear in  
8 adjacent federal waters.

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

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

17 370.093 Illegal use of nets.--

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

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

22 370.142 Spiny lobster trap certificate program.--

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

28 (a) Transferable trap certificates.--Each holder of a  
29 saltwater products license who uses traps for taking or  
30 attempting to take spiny lobsters shall be required to have a  
31

1 certificate on record for each trap possessed or used  
2 therefor, except as otherwise provided in this section.

3 1. The Department of Environmental Protection shall  
4 initially allot such certificates to each licenseholder with a  
5 current crawfish trap number who uses traps. The number of  
6 such certificates allotted to each such licenseholder shall be  
7 based on the trap/catch coefficient established pursuant to  
8 trip ticket records generated under the provisions of s.  
9 370.06(2)~~(a)~~ over a 3-year base period ending June 30, 1991.

10 The trap/catch coefficient shall be calculated by dividing the  
11 sum of the highest reported single license-year landings up to  
12 a maximum of 30,000 pounds for each such licenseholder during  
13 the base period by 700,000. Each such licenseholder shall then  
14 be allotted the number of certificates derived by dividing his  
15 or her highest reported single license-year landings up to a  
16 maximum of 30,000 pounds during the base period by the  
17 trap/catch coefficient. Nevertheless, no licenseholder with a  
18 current crawfish trap number shall be allotted fewer than 10  
19 certificates. However, certificates may only be issued to  
20 individuals; therefore, all licenseholders other than  
21 individual licenseholders shall designate the individual or  
22 individuals to whom their certificates will be allotted and  
23 the number thereof to each, if more than one. After initial  
24 issuance, trap certificates are transferable on a market basis  
25 and may be transferred from one licenseholder to another for a  
26 fair market value agreed upon between the transferor and  
27 transferee. Each such transfer shall, within 72 hours thereof,  
28 be recorded on a notarized form provided for that purpose by  
29 the Fish and Wildlife Conservation Commission and hand  
30 delivered or sent by certified mail, return receipt requested,  
31 to the commission for recordkeeping purposes. In addition, in

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

1 will not be assessed for any transfer within an individual's  
2 immediate family.

3           2. No person, firm, corporation, or other business  
4 entity may control, directly or indirectly, more than 1.5  
5 percent of the total available certificates in any license  
6 year.

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

10           4. The number of trap tags issued annually to each  
11 licenseholder shall not exceed the number of certificates held  
12 by the licenseholder at the time of issuance, and such tags  
13 and a statement of certificates held shall be issued  
14 simultaneously.

15           5. Beginning July 1, 2003, and applicable to the  
16 2003-2004 lobster season and thereafter, it is unlawful for  
17 any person to lease lobster trap tags or certificates.

18           (c) Prohibitions; penalties.--

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

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

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



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

18 4. In addition to any other penalties provided in s.  
19 370.021, a commercial harvester, as defined by rule  
20 68B-24.002(1), Florida Administrative Code, who violates the  
21 provisions of this section, or the provisions relating to  
22 traps of chapter 68B-24, Florida Administrative Code, shall be  
23 punished as follows:

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

31

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

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

17           d. Any person assessed an additional civil penalty  
18 pursuant to this section shall within 30 calendar days after  
19 notification:

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

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

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

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

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

1           c. It is unlawful for any person to barter, trade,  
2 sell, supply, agree to supply, aid in supplying, or give away  
3 a spiny lobster trap tag or certificate or to conspire to  
4 barter, trade, sell, supply, aid in supplying, or give away a  
5 spiny lobster trap tag or certificate unless such action is  
6 duly authorized by the commission as provided in this chapter  
7 or in the rules of the commission.

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

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

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

31

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

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

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

9           372.70 Prosecutions; state attorney to represent  
10 state.--

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

18           (2) The state attorney shall represent the state in  
19 any forfeiture proceeding under this chapter. The Department  
20 of Legal Affairs shall represent the state in all appeals from  
21 judgments of forfeiture to the Supreme Court. The state may  
22 appeal any judgment denying forfeiture in whole or in part  
23 that may be otherwise adverse to the state.

24           Section 9. Section 372.9901, Florida Statutes, is  
25 amended to read:

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

28           372.9901 Seizure of illegal hunting devices;  
29 disposition; notice; forfeiture.--In order to protect the  
30 state's wildlife resources, any vehicle, vessel, animal, gun,  
31 light, or other hunting device used or attempted to be used in

1 connection with, as an instrumentality of, or in aiding and  
2 abetting in the commission of an offense prohibited by s.  
3 372.99 is subject to seizure and forfeiture. The provisions of  
4 chapter 932 do not apply to any seizure or forfeiture under  
5 this section. For purposes of this section, a conviction is  
6 any disposition other than acquittal or dismissal.

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

14 (b) Upon a second or subsequent conviction of a person  
15 in whose possession the property was found for a violation of  
16 s. 372.99, the court shall order the forfeiture to the  
17 commission of any property used in connection with that  
18 violation.

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

27 (3) Notification of property seized under this section  
28 must be sent by certified mail to a registered owner within 14  
29 days after seizure. If the commission, after diligent  
30 inquiry, cannot ascertain the registered owner, the notice  
31 requirement is satisfied.

1           (4)(a) For a first conviction of an offense under s.  
2 372.99, property seized by the commission shall be returned to  
3 the registered owner if the commission fails to prove by a  
4 preponderance of the evidence before the court having  
5 jurisdiction over the criminal offense that the registered  
6 owner aided in, abetted in, participated in, gave consent to,  
7 knew of, or had reason to know of the offense.

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

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

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

30  
31

1 Section 10. Section 372.31, Florida Statutes, is  
2 renumbered as section 372.99021, Florida Statutes, and amended  
3 to read:

4 372.99021 ~~372.31~~ Disposition of illegal fishing  
5 devices; exercise of police power.--

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

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

28 (3) This section is necessary for the more efficient  
29 and proper enforcement of the statutes and laws of this state  
30 prohibiting the illegal use of nets, traps, or fishing devices  
31 and is a lawful exercise of the police power of the state for

1 the protection of the public welfare, health, and safety of  
2 the people of the state. All the provisions of this section  
3 shall be liberally construed for the accomplishment of these  
4 purposes.

5 Section 11. Section 372.99022, Florida Statutes, is  
6 created to read:

7 372.99022 Illegal molestation of or theft from  
8 freshwater fishing gear.--

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

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

23  
24 A person, firm, or corporation that receives a citation for a  
25 violation of this subsection is prohibited, immediately upon  
26 receipt of such citation and until adjudicated or convicted of  
27 a felony under this subsection, from transferring any  
28 endorsements.

29 (2) Any person, firm, or corporation convicted  
30 pursuant to subsection (1) of removing the contents of  
31 freshwater fishing gear without the express written consent of



1 the owner shall permanently lose all of his or her freshwater  
2 and saltwater fishing privileges, including his or her  
3 recreational and commercial licenses and endorsements, and  
4 shall be assessed an administrative penalty of not more than  
5 \$5,000. The endorsements of such person, firm, or corporation  
6 are not transferable.

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

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

13 372.9904 Seizure of illegal transportation devices;  
14 disposition; appraisal; forfeiture.--

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

25 Section 13. Section 372.9905, Florida Statutes, is  
26 amended to read:

27 372.9905 Applicability of ss. 372.99, 372.9901,  
28 372.9903,and 372.9904.--The provisions of ss. 372.99,  
29 372.9901,372.9903,and 372.9904 relating to seizure and  
30 forfeiture of animals or of vehicles, vessels, or other  
31 transportation devices do ~~shall not apply when such vehicles,~~

1 ~~vessels, or other transportation devices are owned by, or~~  
2 ~~titled in the name of, innocent parties. The provisions of~~  
3 ~~said sections shall not vitiate any valid lien, retain title~~  
4 contract, or chattel mortgage on such animals or vehicles,  
5 vessels, or other transportation devices if such lien, retain  
6 title contract, or chattel mortgage is properly of public  
7 record at the time of the seizure.

8 Section 14. Paragraph (b) of subsection (4) of section  
9 323.001, Florida Statutes, is amended to read:

10 323.001 Wrecker operator storage facilities; vehicle  
11 holds.--

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

14 (b) The officer has probable cause to believe the  
15 vehicle should be seized and forfeited under Chapter 370 or  
16 Chapter 372 372.312;

17 Section 15. Sections 372.311, 372.312, 372.313,  
18 372.314, 372.315, 372.316, 372.317, 372.318, 372.319, 372.321,  
19 and 372.9902, Florida Statutes, are repealed.

20 Section 16. Subsection (2) of section 370.12, Florida  
21 Statutes, is amended to read:

22 370.12 Marine animals; regulation.--

23 (2) PROTECTION OF MANATEES OR SEA COWS.--

24 (a) This subsection shall be known and may be cited as  
25 the "Florida Manatee Sanctuary Act."

26 (b) The State of Florida is hereby declared to be a  
27 refuge and sanctuary for the manatee, the "Florida state  
28 marine mammal." The protections extended to and authorized on  
29 behalf of the manatee by this act are independent of, and  
30 therefore are not contingent upon, its status as a state or  
31 federal listed species.

1           (c) Whenever the Fish and Wildlife Conservation  
2 Commission is satisfied that the interest of science will be  
3 subserved, and that the application for a permit to possess a  
4 manatee or sea cow (*Trichechus manatus*) is for a scientific or  
5 propagational purpose and should be granted, and after  
6 concurrence by the United States Department of the Interior,  
7 the commission may grant to any person making such application  
8 a special permit to possess a manatee or sea cow, which permit  
9 shall specify the exact number which shall be maintained in  
10 captivity.

11           (d) Except as may be authorized by the terms of a  
12 valid state permit issued pursuant to paragraph (c) or by the  
13 terms of a valid federal permit, it is unlawful for any person  
14 at any time, by any means, or in any manner intentionally or  
15 negligently to annoy, molest, harass, or disturb or attempt to  
16 molest, harass, or disturb any manatee; injure or harm or  
17 attempt to injure or harm any manatee; capture or collect or  
18 attempt to capture or collect any manatee; pursue, hunt,  
19 wound, or kill or attempt to pursue, hunt, wound, or kill any  
20 manatee; or possess, literally or constructively, any manatee  
21 or any part of any manatee.

22           (e) Any gun, net, trap, spear, harpoon, boat of any  
23 kind, aircraft, automobile of any kind, other motorized  
24 vehicle, chemical, explosive, electrical equipment, scuba or  
25 other subaquatic gear, or other instrument, device, or  
26 apparatus of any kind or description used in violation of any  
27 provision of paragraph (d) may be forfeited upon conviction.  
28 The foregoing provisions relating to seizure and forfeiture of  
29 vehicles, vessels, equipment, or supplies do not apply when  
30 such vehicles, vessels, equipment, or supplies are owned by,  
31 or titled in the name of, innocent parties; and such

1 provisions shall not vitiate any valid lien, retain title  
2 contract, or chattel mortgage on such vehicles, vessels,  
3 equipment, or supplies if such lien, retain title contract, or  
4 chattel mortgage is property of public record at the time of  
5 the seizure.

6 (f)1. Except for emergency rules adopted under s.  
7 120.54, all proposed rules of the commission for which a  
8 notice of intended agency action is filed proposing to govern  
9 the speed and operation of motorboats for purposes of manatee  
10 protection shall be submitted to the counties in which the  
11 proposed rules will take effect for review by local rule  
12 review committees.

13 2. No less than 60 days prior to filing a notice of  
14 rule development in the Florida Administrative Weekly, as  
15 provided in s. 120.54(3)(a), the commission shall notify the  
16 counties for which a rule to regulate the speed and operation  
17 of motorboats for the protection of manatees is proposed. A  
18 county so notified shall establish a rule review committee or  
19 several counties may combine rule review committees.

20 3. The county commission of each county in which a  
21 rule to regulate the speed and operation of motorboats for the  
22 protection of manatees is proposed shall designate a rule  
23 review committee. The designated voting membership of the  
24 rule review committee must be comprised of waterway users,  
25 such as fishers, boaters, water skiers, other waterway users,  
26 as compared to the number of manatee and other environmental  
27 advocates. A county commission may designate an existing  
28 advisory group as the rule review committee. With regard to  
29 each committee, fifty percent of the voting members shall be  
30 manatee advocates and other environmental advocates, and fifty  
31 percent of the voting members shall be waterway users.

1           4. The county shall invite other state, federal,  
2 county, municipal, or local agency representatives to  
3 participate as nonvoting members of the local rule review  
4 committee.

5           5. The county shall provide logistical and  
6 administrative staff support to the local rule review  
7 committee and may request technical assistance from commission  
8 staff.

9           6. Each local rule review committee shall elect a  
10 chair and recording secretary from among its voting members.

11           7. Commission staff shall submit the proposed rule and  
12 supporting data used to develop the rule to the local rule  
13 review committees.

14           8. The local rule review committees shall have 60 days  
15 from the date of receipt of the proposed rule to submit a  
16 written report to commission members and staff. The local rule  
17 review committees may use supporting data supplied by the  
18 commission, as well as public testimony which may be collected  
19 by the committee, to develop the written report. The report  
20 may contain recommended changes to proposed manatee protection  
21 zones or speed zones, including a recommendation that no rule  
22 be adopted, if that is the decision of the committee.

23           9. Prior to filing a notice of proposed rulemaking in  
24 the Florida Administrative Weekly as provided in s.  
25 120.54(3)(a), the commission staff shall provide a written  
26 response to the local rule review committee reports to the  
27 appropriate counties, to the commission members, and to the  
28 public upon request.

29           10. In conducting a review of the proposed manatee  
30 protection rule, the local rule review committees may address  
31 such factors as whether the best available scientific

1 information supports the proposed rule, whether seasonal zones  
2 are warranted, and such other factors as may be necessary to  
3 balance manatee protection and public access to and use of the  
4 waters being regulated under the proposed rule.

5 11. The written reports submitted by the local rule  
6 review committees shall contain a majority opinion. If the  
7 majority opinion is not unanimous, a minority opinion shall  
8 also be included.

9 12. The members of the commission shall fully consider  
10 any timely submitted written report submitted by a local rule  
11 review committee prior to authorizing commission staff to move  
12 forward with proposed rulemaking and shall fully consider any  
13 timely submitted subsequent reports of the committee prior to  
14 adoption of a final rule. The written reports of the local  
15 rule review committees and the written responses of the  
16 commission staff shall be part of the rulemaking record and  
17 may be submitted as evidence regarding the committee's  
18 recommendations in any proceeding relating to a rule proposed  
19 or adopted pursuant to this subsection.

20 13. The commission is relieved of any obligations  
21 regarding the local rule review committee process created in  
22 this paragraph if a timely noticed county commission fails to  
23 timely designate the required rule review committee.

24 (g)(f) In order to protect manatees or sea cows from  
25 harmful collisions with motorboats or from harassment, the  
26 Fish and Wildlife Conservation Commission is authorized, in  
27 addition to all other authority, to provide a permitting  
28 agency with comments shall adopt rules under chapter 120  
29 regarding the expansion of existing, or the construction of  
30 new, marine facilities and mooring or docking slips, by the  
31 addition or construction of five or more powerboat slips. The

1 commission shall adopt rules under chapter 120, and regulating  
2 the operation and speed of motorboat traffic, only where  
3 manatee sightings are frequent and the best available  
4 scientific information, as well as other available, relevant,  
5 and reliable information, which may include but is not limited  
6 to, manatee surveys, observations, available studies of food  
7 sources, and water depths, supports the conclusions that  
8 manatees it can be generally assumed, based on available  
9 ~~scientific information, that they~~ inhabit these areas on a  
10 regular ~~or continuous~~ basis:

11           1. In Lee County: the entire Orange River, including  
12 the Tice Florida Power and Light Corporation discharge canal  
13 and adjoining waters of the Caloosahatchee River within 1 mile  
14 of the confluence of the Orange and Caloosahatchee Rivers.

15           2. In Brevard County: those portions of the Indian  
16 River within three-fourths of a mile of the Orlando Utilities  
17 Commission Delespine power plant effluent and the Florida  
18 Power and Light Frontenac power plant effluents.

19           3. In Indian River County: the discharge canals of the  
20 Vero Beach Municipal Power Plant and connecting waters within  
21 1 1/4 miles thereof.

22           4. In St. Lucie County: the discharge of the Henry D.  
23 King Municipal Electric Station and connecting waters within 1  
24 mile thereof.

25           5. In Palm Beach County: the discharges of the Florida  
26 Power and Light Riviera Beach power plant and connecting  
27 waters within 1 1/2 miles thereof.

28           6. In Broward County: the discharge canal of the  
29 Florida Power and Light Port Everglades power plant and  
30 connecting waters within 1 1/2 miles thereof and the  
31 discharge canal of the Florida Power and Light Fort Lauderdale

1 power plant and connecting waters within 2 miles thereof. For  
 2 purposes of ensuring the physical safety of boaters in a  
 3 sometimes turbulent area, the area from the easternmost edge  
 4 of the authorized navigation project of the intracoastal  
 5 waterway east through the Port Everglades Inlet is excluded  
 6 from this regulatory zone.

7 7. In Citrus County: headwaters of the Crystal River,  
 8 commonly referred to as King's Bay, and the Homosassa River.

9 8. In Volusia County: Blue Springs Run and connecting  
 10 waters of the St. Johns River within 1 mile of the confluence  
 11 of Blue Springs and the St. Johns River; and Thompson Creek,  
 12 Strickland Creek, Dodson Creek, and the Tomoka River.

13 9. In Hillsborough County: that portion of the Alafia  
 14 River from the main shipping channel in Tampa Bay to U.S.  
 15 Highway 41.

16 10. In Sarasota County: the Venice Inlet and  
 17 connecting waters within 1 mile thereof, including Lyons Bay,  
 18 Donna Bay, Roberts Bay, and Hatchett Creek, excluding the  
 19 waters of the intracoastal waterway and the right-of-way  
 20 bordering the centerline of the intracoastal waterway.

21 11. In Collier County: within the Port of Islands,  
 22 within section 9, township 52 south, range 28 east, and  
 23 certain unsurveyed lands, all east-west canals and the  
 24 north-south canals to the southerly extent of the intersecting  
 25 east-west canals which lie southerly of the centerline of U.S.  
 26 Highway 41.

27 12. In Manatee County: that portion of the Manatee  
 28 River east of the west line of section 17, range 19 east,  
 29 township 34 south; the Braden River south of the north line  
 30 and east of the west line of section 29, range 18 east,  
 31 township 34 south; Terra Ceia Bay and River, east of the west



1 line of sections 26 and 35 of range 17 east, township 33  
2 south, and east of the west line of section 2, range 17 east,  
3 township 34 south; and Bishop Harbor east of the west line of  
4 section 13, range 17 east, township 33 south.

5 13. In Miami-Dade County: those portions of Black  
6 Creek lying south and east of the water control dam, including  
7 all boat basins and connecting canals within 1 mile of the  
8 dam.

9 (h)~~(g)~~ The Fish and Wildlife Conservation Commission  
10 shall adopt rules pursuant to chapter 120 regulating the  
11 operation and speed of motorboat traffic only where manatee  
12 sightings are frequent and the best available scientific  
13 information, as well as other available, relevant, and  
14 reliable information, which may include but is not limited to,  
15 manatee surveys, observations, available studies of food  
16 sources, and water depths, supports the conclusion that  
17 manatees ~~it can be generally assumed that they~~ inhabit these  
18 areas on a regular ~~or continuous~~ basis within that portion of  
19 the Indian River between the St. Lucie Inlet in Martin County  
20 and the Jupiter Inlet in Palm Beach County and. ~~In addition,~~  
21 ~~the commission shall adopt rules pursuant to chapter 120~~  
22 ~~regulating the operation and speed of motorboat traffic only~~  
23 ~~where manatee sightings are frequent and it can be generally~~  
24 ~~assumed that they inhabit these areas on a regular or~~  
25 ~~continuous basis~~ within the Loxahatchee River in Palm Beach  
26 and Martin Counties, including the north and southwest forks  
27 thereof. ~~A limited lane or corridor providing for reasonable~~  
28 ~~motorboat speeds may be identified and designated within this~~  
29 ~~area.~~

30 (i)~~(h)~~ The commission shall adopt rules pursuant to  
31 chapter 120 regulating the operation and speed of motorboat

1 traffic only where manatee sightings are frequent and the best  
 2 available scientific information, as well as other available,  
 3 relevant, and reliable information, which may include but is  
 4 not limited to, manatee surveys, observations, available  
 5 studies of food sources, and water depths, supports the  
 6 conclusion that manatees ~~it can be generally assumed that they~~  
 7 inhabit these areas on a regular ~~or continuous~~ basis within  
 8 the Withlacoochee River and its tributaries in Citrus and Levy  
 9 Counties. The specific areas to be regulated include the  
 10 Withlacoochee River and the U.S. 19 bridge westward to a line  
 11 between U.S. Coast Guard markers number 33 and number 34 at  
 12 the mouth of the river, including all side channels and coves  
 13 along that portion of the river; Bennets' Creek from its  
 14 beginning to its confluence with the Withlacoochee River;  
 15 Bird's Creek from its beginning to its confluence with the  
 16 Withlacoochee River; and the two dredged canal systems on the  
 17 north side of the Withlacoochee River southwest of Yankeetown.  
 18 ~~A limited lane or corridor providing for reasonable motorboat~~  
 19 ~~speeds may be identified and designated within this area.~~

20 (j)(i) If any new power plant is constructed or other  
 21 source of warm water discharge is discovered within the state  
 22 which attracts a concentration of manatees or sea cows, the  
 23 ~~Fish and Wildlife Conservation~~ commission is directed to adopt  
 24 rules pursuant to chapter 120 regulating the operation and  
 25 speed of motorboat traffic within the area of such discharge.  
 26 Such rules shall designate a zone which is sufficient in size,  
 27 and which shall remain in effect for a sufficient period of  
 28 time, to protect the manatees or sea cows.

29 (k)(j) It is the intent of the Legislature ~~through~~  
 30 ~~adoption of this paragraph~~ to allow the Fish and Wildlife  
 31 Conservation Commission to post and regulate boat speeds only

1 where the best available scientific information, as well as  
2 other available, relevant, and reliable information, which may  
3 include but is not limited to, manatee surveys, observations,  
4 available studies of food sources, and water depth, supports  
5 the conclusion that manatees ~~manatee sightings are frequent~~  
6 ~~and it can be generally assumed that they~~ inhabit these areas  
7 on a periodic ~~regular or continuous~~ basis. It is not the  
8 intent of the Legislature to permit the commission to post and  
9 regulate boat speeds generally throughout the waters of the  
10 state in the above-described inlets, bays, rivers, creeks,  
11 thereby unduly interfering with the rights of fishers,  
12 boaters, and water skiers using the areas for recreational and  
13 commercial purposes. The Legislature further intends that the  
14 commission may identify and designate limited lanes or  
15 corridors providing for reasonable motorboat speeds within  
16 waters of the state whenever such lanes and corridors are  
17 consistent with manatee protection ~~may be identified and~~  
18 ~~designated within these areas.~~

19 (1)(\*) The commission shall adopt rules pursuant to  
20 chapter 120 regulating the operation and speed of motorboat  
21 traffic all year around within Turkey Creek and its  
22 tributaries and within Manatee Cove in Brevard County. The  
23 specific areas to be regulated consist of:

24 1. A body of water which starts at Melbourne-Tillman  
25 Drainage District structure MS-1, section 35, township 28  
26 south, range 37 east, running east to include all natural  
27 waters and tributaries of Turkey Creek, section 26, township  
28 28 south, range 37 east, to the confluence of Turkey Creek and  
29 the Indian River, section 24, township 28 south, range 37  
30 east, including all lagoon waters of the Indian River bordered  
31 on the west by Palm Bay Point, the north by Castaway Point,

1 the east by the four immediate spoil islands, and the south by  
2 Cape Malabar, thence northward along the shoreline of the  
3 Indian River to Palm Bay Point.

4 2. A triangle-shaped body of water forming a cove  
5 (commonly referred to as Manatee Cove) on the east side of the  
6 Banana River, with northern boundaries beginning and running  
7 parallel to the east-west cement bulkhead located 870 feet  
8 south of SR 520 Relief Bridge in Cocoa Beach and with western  
9 boundaries running in line with the City of Cocoa Beach  
10 channel markers 121 and 127 and all waters east of these  
11 boundaries in section 34, township 24 south, range 37 east;  
12 the center coordinates of this cove are 28°20'14" north,  
13 80°35'17" west.

14 (m)~~(l)~~ The commission shall promulgate regulations  
15 pursuant to chapter 120 relating to the operation and speed of  
16 motor boat traffic in port waters with due regard to the  
17 safety requirements of such traffic and the navigational  
18 hazards related to the movement of commercial vessels.

19 (n)~~(m)~~ The commission may designate by rule adopted  
20 pursuant to chapter 120 other portions of state waters where  
21 manatees are frequently sighted and the best available  
22 scientific information, as well as other available, relevant,  
23 and reliable information, which may include but is not limited  
24 to, manatee surveys, observations, available studies of food  
25 sources, and water depths, supports the conclusion that it can  
26 ~~be assumed that~~ manatees inhabit such waters periodically ~~or~~  
27 ~~continuously~~. Upon designation of such waters, the commission  
28 shall adopt rules pursuant to chapter 120 to regulate  
29 motorboat speed and operation which are necessary to protect  
30 manatees from harmful collisions with motorboats and from  
31 harassment. The commission may adopt rules pursuant to chapter

1 120 to protect manatee habitat, such as seagrass beds, within  
2 such waters from destruction by boats or other human activity.  
3 Such rules shall not protect noxious aquatic plants subject to  
4 control under s. 369.20.

5 (o)~~(n)~~ The commission may designate, by rule adopted  
6 pursuant to chapter 120, limited areas as a safe haven for  
7 manatees to rest, feed, reproduce, give birth, or nurse  
8 undisturbed by human activity. Access by motor boat to private  
9 residences, boat houses, and boat docks through these areas by  
10 residents, and their authorized guests, who must cross one of  
11 these areas to have water access to their property is  
12 permitted when the motorboat is operated at idle speed, no  
13 wake.

14 (p)~~(o)~~ Except in the marked navigation channel of the  
15 Florida Intracoastal Waterway as defined in s. 327.02 and the  
16 area within 100 feet of such channel, a local government may  
17 regulate, by ordinance, motorboat speed and operation on  
18 waters within its jurisdiction where the best available  
19 scientific information, as well as other available, relevant,  
20 and reliable information, which may include but is not limited  
21 to, manatee surveys, observations, available studies of food  
22 sources, and water depths, supports the conclusion that  
23 manatees inhabit these areas on a regular basis ~~where manatees~~  
24 ~~are frequently sighted and can be generally assumed to inhabit~~  
25 ~~periodically or continuously~~. However, such an ordinance may  
26 not take effect until it has been reviewed and approved by the  
27 commission. If the commission and a local government disagree  
28 on the provisions of an ordinance, a local manatee protection  
29 committee must be formed to review the technical data of the  
30 commission and the United States Fish and Wildlife Service,  
31

1 and to resolve conflicts regarding the ordinance. The manatee  
2 protection committee must be comprised of:

- 3 1. A representative of the commission;
- 4 2. A representative of the county;
- 5 3. A representative of the United States Fish and  
6 Wildlife Service;
- 7 4. A representative of a local marine-related  
8 business;
- 9 5. A representative of the Save the Manatee Club;
- 10 6. A local fisher;
- 11 7. An affected property owner; and
- 12 8. A representative of the Florida Marine Patrol.

13  
14 If local and state regulations are established for the same  
15 area, the more restrictive regulation shall prevail.

16 (q)~~(p)~~ The commission shall evaluate the need for use  
17 of fenders to prevent crushing of manatees between vessels  
18 (100' or larger) and bulkheads or wharves in counties where  
19 manatees have been crushed by such vessels. For areas in  
20 counties where evidence indicates that manatees have been  
21 crushed between vessels and bulkheads or wharves, the  
22 commission shall:

- 23 1. Adopt rules pursuant to chapter 120 requiring use  
24 of fenders for construction of future bulkheads or wharves;  
25 and
- 26 2. Implement a plan and time schedule to require  
27 retrofitting of existing bulkheads or wharves consistent with  
28 port bulkhead or wharf repair or replacement schedules.

29  
30 The fenders shall provide sufficient standoff from the  
31 bulkhead or wharf under maximum operational compression to

1 ensure that manatees cannot be crushed between the vessel and  
2 the bulkhead or wharf.

3 ~~(r)(q)~~ Any violation of a restricted area established  
4 by this subsection, or established by rule pursuant to chapter  
5 120 or ordinance pursuant to this subsection, shall be  
6 considered a violation of the boating laws of this state and  
7 shall be charged on a uniform boating citation as provided in  
8 s. 327.74, except as otherwise provided in paragraph (s). Any  
9 person who refuses to post a bond or accept and sign a uniform  
10 boating citation shall, as provided in s. 327.73(3), be guilty  
11 of a misdemeanor of the second degree, punishable as provided  
12 in s. 775.082 or s. 775.083.

13 ~~(s)(r)~~ Except as otherwise provided in this paragraph,  
14 any person violating the provisions of this subsection or any  
15 rule or ordinance adopted pursuant to this subsection shall be  
16 guilty of a misdemeanor, punishable as provided in s.  
17 370.021(1)(a) or (b).

18 1. Any person operating a vessel in excess of a posted  
19 speed limit shall be guilty of a civil infraction, punishable  
20 as provided in s. 327.73, except as provided in subparagraph  
21 2.

22 2. This paragraph does not apply to persons violating  
23 restrictions governing "No Entry" zones or "Motorboat  
24 Prohibited" zones, who, if convicted, shall be guilty of a  
25 misdemeanor, punishable as provided in s. 370.021(1)(a) or  
26 (b), or, if such violation demonstrates blatant or willful  
27 action, may be found guilty of harassment as described in  
28 paragraph (d).

29 (t) 1. In order to protect manatees and manatee  
30 habitat, the counties identified in the Governor and Cabinet's  
31 October 1989 Policy Directive shall develop manatee protection

1 plans consistent with commission criteria based upon "Schedule  
2 K" of the directive, and shall submit such protection plans  
3 for review and approval by the commission. Any manatee  
4 protection plans not submitted by July 1, 2004 and any plans  
5 not subsequently approved by the commission shall be addressed  
6 pursuant to subparagraph 2.

7 2. No later than January 1, 2005, the Fish and  
8 Wildlife Conservation Commission shall designate any county it  
9 has identified as a substantial risk county for manatee  
10 mortality as a county that must complete a manatee protection  
11 plan by July 1, 2006. The commission is authorized to adopt  
12 rules pursuant to s. 120.54 for identifying substantial risk  
13 counties and establishing criteria for approval of manatee  
14 protection plans for counties so identified. Manatee  
15 protection plans shall include the following elements at a  
16 minimum: education about manatees and manatee habitat; boater  
17 education; an assessment of the need for new or revised  
18 manatee protection speed zones; local law enforcement; and a  
19 boat facility siting plan to address expansion of existing and  
20 the development of new marinas, boat ramps, and other  
21 multislip boating facilities.

22 3. Counties required to adopt manatee protection plans  
23 under this paragraph shall incorporate the boating facility  
24 siting element of those protection plans within their  
25 respective comprehensive plans.

26 4. Counties that have already adopted approved manatee  
27 protection plans, or that adopt subsequently approved manatee  
28 protection plans by the effective date of this act, are in  
29 compliance with the provisions of this paragraph so long as  
30 they incorporate their approved Boat Facility Siting Plan into  
31



1 the appropriate element of their local Comprehensive Plan no  
2 later than July 1, 2003.

3 Section 17. Subsection (6) is added to section  
4 372.072, Florida Statutes, to read:

5 372.072 Endangered and Threatened Species Act.--

6 (6) MEASURABLE BIOLOGICAL GOALS.--No later than  
7 February 15, 2003, the commission, working in conjunction with  
8 the United States Fish and Wildlife Service, shall develop  
9 measurable biological goals that define manatee recovery.  
10 These measurable biological goals shall be used by the  
11 commission in its development of management plans or work  
12 plans. In addition to other criteria, these measurable  
13 biological goals shall be used by the commission when  
14 evaluating existing and proposed protection rules, and in  
15 determining progress in achieving manatee recovery.

16 Section 18. Subsection (2) of section 327.41, Florida  
17 Statutes, is amended to read:

18 327.41 Uniform waterway regulatory markers.--

19 (2) Any county or municipality which has been granted  
20 a restricted area designation, pursuant to s. 327.46, for a  
21 portion of the Florida Intracoastal Waterway within its  
22 jurisdiction or which has adopted a restricted area by  
23 ordinance pursuant to s. 327.22, s. 327.60, or s. 370.12(2)(p)  
24 ~~s. 370.12(2)(o)~~, or any other governmental entity which has  
25 legally established a restricted area, may apply to the  
26 commission for permission to place regulatory markers within  
27 the restricted area.

28 Section 19. It is the intent of the Legislature that  
29 the commission request the necessary funding and staffing  
30 through a general revenue budget request to ensure that  
31 manatees receive the maximum protection possible. The

1 Legislature recognizes that strong manatee protection depends  
2 upon consistently achieving a high degree of compliance with  
3 existing and future rules. The commission shall conduct  
4 standardized studies to determine levels of public compliance  
5 with manatee protection rules, and shall use the results of  
6 the studies, together with other relevant information, to  
7 develop and implement strategic law enforcement initiatives  
8 and boater education plans. Drawing upon information obtained  
9 from the compliance studies and the implementation of  
10 enforcement initiatives together with boater education plans,  
11 the commission shall identify any impediments in consistently  
12 achieving high levels of compliance, and adjust their  
13 enforcement and boater education efforts accordingly.

14           Section 20. The Legislature intends that the  
15 provisions of this act may not be retroactively applied to  
16 manatee protection rules existing or in the process of being  
17 adopted on the effective date of this act unless the Fish and  
18 Wildlife Conservation Commission proposes to amend or revise  
19 such rules after this act takes effect. Proposed rules that  
20 are currently subject to an administrative challenge pending  
21 as of February 12, 2002, are not subject to the provisions of  
22 this act unless a court or administrative hearing officer  
23 finds such proposed rule to be invalid and all appeals have  
24 been exhausted. Once such rules become final, any revisions or  
25 amendments of such rules shall be conducted pursuant to the  
26 provisions of this act.

27           Section 21. This act shall take effect July 1, 2002.  
28  
29  
30  
31