

By Senator Smith

312-296C-02

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.; providing penalties for use of illegal  
5           nets and for purchase or sale of illegally  
6           harvested products; providing for suspension or  
7           revocation of a license or permit under which a  
8           violation was committed; providing entities  
9           subject to the assessment of monetary  
10          penalties; amending s. 370.06, F.S.; clarifying  
11          the use of a Disability Award Notice issued by  
12          the United States Social Security  
13          Administration; providing requirements for a  
14          restricted-species endorsement issued to a  
15          disabled person; providing that saltwater  
16          products delivered to a wholesale dealer are  
17          presumed to have been purchased; amending s.  
18          370.061, F.S.; prescribing procedures for  
19          confiscation of property used in connection  
20          with illegal taking of saltwater products;  
21          amending s. 370.07, F.S.; prohibiting the  
22          purchase or sale of illegally harvested marine  
23          life; providing that saltwater products  
24          delivered to a retail dealer or restaurant are  
25          presumed to have been purchased; creating s.  
26          372.635, F.S.; providing penalties for illegal  
27          molestation of or theft from freshwater traps;  
28          amending s. 372.9901, F.S.; providing  
29          procedures for seizure and forfeiture of  
30          certain personal property used in illegal  
31          taking of deer and turkey; amending s.

1           372.9902, F.S.; providing for the applicability  
2           of seizure and forfeiture requirements;  
3           repealing ss. 372.311, 372.312, 372.313,  
4           372.314, 372.315, 372.317, and 372.318, F.S.,  
5           relating to forfeiture proceedings, delivery of  
6           property to a claimant, proceedings when no  
7           claim filed, or a claim is filed, judgments of  
8           forfeiture, and service charges; providing an  
9           effective date.

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

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13           Section 1. Paragraph (c) of subsection (3) and  
14           subsection (5) of section 370.021, Florida Statutes, are  
15           amended and subsection (12) is added to that section to read:

16           370.021 Administration; rules, publications, records;  
17           penalties; injunctions.--

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

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

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

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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, guilty of a  
4 felony of the third degree, punishable as provided in s.  
5 775.082, s. 775.083, or s. 775.084.

6           (5) BUYING SALTWATER PRODUCTS FROM UNLICENSED SELLER  
7 OR BUYING ILLEGALLY HARVESTED PRODUCTS.--In addition to being  
8 subject to other penalties provided in this chapter, any  
9 violation of s. 370.06 or s. 370.07, or rules of the  
10 commission implementing s. 370.06 or s. 370.07, involving the  
11 purchase of saltwater products by a commercial wholesale  
12 dealer, retail dealer, or restaurant facility for public  
13 consumption from an unlicensed person, firm, or corporation,  
14 or the sale of saltwater products by an unlicensed person,  
15 firm, or corporation, or involving the purchase or sale by a  
16 commercial wholesale dealer, retail dealer, or restaurant  
17 facility for public consumption of any marine life known to be  
18 taken in violation of Section 16, Article X of the State  
19 Constitution, or any rule or statute implementing its  
20 provisions, shall be a major violation, and the commission may  
21 assess the following penalties:

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

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

30           (c) For a third or subsequent violation occurring  
31 within a 24-month period, the commission shall assess a civil

1 penalty of \$5,000 and shall suspend the wholesale or retail  
2 dealer's license privileges for up to 24 months.

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4 Any proceeds from the civil penalties assessed pursuant to  
5 this subsection shall be deposited into the Marine Resources  
6 Conservation Trust Fund and shall be used as follows: 40  
7 percent for administration and processing purposes and 60  
8 percent for law enforcement purposes.

9 (12) LICENSES AND ENTITIES SUBJECT TO PENALTIES.--For  
10 purposes of imposing license or permit suspensions or  
11 revocations authorized by this chapter, the license or permit  
12 under which the violation was committed is subject to  
13 suspension or revocation by the commission. For purposes of  
14 assessing monetary civil or administrative penalties  
15 authorized by this chapter, the person, firm, or corporation  
16 cited and subsequently receiving a judicial disposition of  
17 other than dismissal or acquittal in a court of law is subject  
18 to the monetary penalty assessment by the commission.

19 Section 2. Paragraph (a) of subsection (2) of section  
20 370.06, Florida Statutes, is amended to read:

21 370.06 Licenses.--

22 (2) SALTWATER PRODUCTS LICENSE.--

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

1 of the activities for which the license is required. The  
2 license must be in the possession of the licenseholder or  
3 aboard the vessel and shall be subject to inspection at any  
4 time that harvesting activities for which a license is  
5 required are being conducted. A restricted species endorsement  
6 on the saltwater products license is required to sell to a  
7 licensed wholesale dealer those species which the state, by  
8 law or rule, has designated as "restricted species." This  
9 endorsement may be issued only to a person who is at least 16  
10 years of age, or to a firm certifying that over 25 percent of  
11 its income or \$5,000 of its income, whichever is less, is  
12 attributable to the sale of saltwater products pursuant to a  
13 license issued under this paragraph or a similar license from  
14 another state. This endorsement may also be issued to a  
15 for-profit corporation if it certifies that at least \$5,000 of  
16 its income is attributable to the sale of saltwater products  
17 pursuant to a license issued under this paragraph or a similar  
18 license from another state. However, if at least 50 percent of  
19 the annual income of a person, firm, or for-profit corporation  
20 is derived from charter fishing, the person, firm, or  
21 for-profit corporation must certify that at least \$2,500 of  
22 the income of the person, firm, or corporation is attributable  
23 to the sale of saltwater products pursuant to a license issued  
24 under this paragraph or a similar license from another state,  
25 in order to be issued the endorsement. Such income attribution  
26 must apply to at least 1 year out of the last 3 years. For the  
27 purpose of this section "income" means that income which is  
28 attributable to work, employment, entrepreneurship, pensions,  
29 retirement benefits, and social security benefits. To renew an  
30 existing restricted species endorsement, a marine aquaculture  
31 producer possessing a valid saltwater products license with a

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

3 1. The commission is authorized to require  
4 verification of such income. Acceptable proof of income earned  
5 from the sale of saltwater products shall be:

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

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

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

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

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

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

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1           2. Exceptions from income requirements shall be as  
2 follows:

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

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

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

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

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

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

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

15  
16 At least one saltwater products license bearing a restricted  
17 species endorsement shall be aboard any vessel harvesting  
18 restricted species in excess of any bag limit or when fishing  
19 under a commercial quota or in commercial quantities, and such  
20 vessel shall have a commercial vessel registration. This  
21 subsection does not apply to any person, firm, or corporation  
22 licensed under s. 370.07(1)(a)1. or (b) for activities  
23 pursuant to such licenses. A saltwater products license may be  
24 issued in the name of an individual or a valid boat  
25 registration number. Such license is not transferable. A decal  
26 shall be issued with each saltwater products license issued to  
27 a valid boat registration number. The saltwater products  
28 license decal shall be the same color as the vessel  
29 registration decal issued each year pursuant to s. 328.48(5)  
30 and shall indicate the period of time such license is valid.  
31 The saltwater products license decal shall be placed beside



1 the vessel registration decal and, in the case of an  
2 undocumented vessel, shall be placed so that the vessel  
3 registration decal lies between the vessel registration number  
4 and the saltwater products license decal. Any saltwater  
5 products license decal for a previous year shall be removed  
6 from a vessel operating on the waters of the state. A resident  
7 shall pay an annual license fee of \$50 for a saltwater  
8 products license issued in the name of an individual or \$100  
9 for a saltwater products license issued to a valid boat  
10 registration number. A nonresident shall pay an annual license  
11 fee of \$200 for a saltwater products license issued in the  
12 name of an individual or \$400 for a saltwater products license  
13 issued to a valid boat registration number. An alien shall pay  
14 an annual license fee of \$300 for a saltwater products license  
15 issued in the name of an individual or \$600 for a saltwater  
16 products license issued to a valid boat registration number.  
17 Any person who sells saltwater products pursuant to this  
18 license may sell only to a licensed wholesale dealer. A  
19 saltwater products license must be presented to the licensed  
20 wholesale dealer each time saltwater products are sold, and an  
21 imprint made thereof. The wholesale dealer shall keep records  
22 of each transaction in such detail as may be required by rule  
23 of the commission not in conflict with s. 370.07(6), and shall  
24 provide the holder of the saltwater products license with a  
25 copy of the record. It is unlawful for any licensed wholesale  
26 dealer to buy saltwater products from any unlicensed person  
27 under the provisions of this section, except that a licensed  
28 wholesale dealer may buy from another licensed wholesale  
29 dealer. It is unlawful for any licensed wholesale dealer to  
30 buy saltwater products designated as "restricted species" from  
31 any person, firm, or corporation not possessing a restricted

1 species endorsement on his or her saltwater products license  
2 under the provisions of this section, except that a licensed  
3 wholesale dealer may buy from another licensed wholesale  
4 dealer. Any saltwater products delivered to the premises of a  
5 wholesale dealer are, for purposes of this subsection,  
6 presumed to have been purchased.The commission shall be the  
7 licensing agency, may contract with private persons or  
8 entities to implement aspects of the licensing program, and  
9 shall establish by rule a marine fisheries information system  
10 in conjunction with the licensing program to gather fisheries  
11 data.

12 Section 3. Section 370.061, Florida Statutes, is  
13 amended to read:

14 370.061 Confiscation of property and products.--

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

1 the Fish and Wildlife Conservation Commission immediately  
2 after ~~a trial and~~ conviction of the person or persons in whose  
3 possession they were found. The requirement of a conviction  
4 before forfeiture establishes, to the exclusion of any  
5 reasonable doubt, that the property was used in connection  
6 with the violation. The procedures of chapter 932 do not apply  
7 to any forfeiture under this section. For purposes of this  
8 section, a conviction is any disposition other than acquittal  
9 or dismissal.

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

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

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

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

1 ~~§1 by the person or persons holding title thereto at the time~~  
2 ~~of the illegal act causing the forfeiture, if such person~~  
3 ~~shall prove that he or she in no way participated in, gave~~  
4 ~~consent to, or had knowledge of such act.~~

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

1 Resources Conservation Trust Fund or the commission's Federal  
2 Law Enforcement Trust Fund shall constitute confiscation.

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

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

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

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

25 Section 4. Subsections (4) and (8) of section 370.07,  
26 Florida Statutes, are amended to read:

27 370.07 Wholesale and retail saltwater products  
28 dealers; regulation.--

29 (4) TRANSPORTATION OF SALTWATER PRODUCTS.--

30 (a) A person transporting in this state saltwater  
31 products that were produced in this state, regardless of

1 destination, shall have in his or her possession invoices,  
2 bills of lading, or other similar instruments showing the  
3 number of packages, boxes, or containers and the number of  
4 pounds of each species and the name, physical address, and the  
5 Florida wholesale dealer number of the dealer of origin.

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

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

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

1 and physical address of the dealer, distributor, or producer  
2 of the lot covered by the instrument.

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

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

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

30 (h) A wholesale dealer, retail dealer, or restaurant  
31 facility for public consumption may not purchase or sell any



1 marine life known to be taken illegally, or known to be taken  
2 in violation of Section 16, Article X of the State  
3 Constitution, or any rule or statute implementing its  
4 provisions.

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

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

17 Section 5. Section 372.635, Florida Statutes, is  
18 created to read:

19 372.635 Illegal molestation of or theft from  
20 freshwater traps.--

21 (1) It is a felony of the third degree, punishable as  
22 provided in s. 775.082 or s. 775.083, for any person, firm, or  
23 corporation to willfully molest any authorized and lawfully  
24 permitted freshwater fishing gear, belonging to another  
25 without the express written consent of the gear's owner which  
26 is available for immediate inspection; or to willfully remove  
27 the contents of any authorized and lawfully permitted  
28 freshwater gear belonging to another without the express  
29 written consent of the gear's owner available for immediate  
30 inspection. Any person, firm, or corporation convicted of  
31 removing the contents of freshwater fishing gear shall

1 permanently lose all of his or her freshwater and saltwater  
2 fishing privileges, including his or her recreational and  
3 commercial licenses and endorsements. In addition, any person,  
4 firm, or corporation convicted of violating this subsection  
5 shall also be assessed an administrative penalty of up to  
6 \$5,000. In such cases, endorsements are nontransferable.  
7 Immediately upon receiving a citation for a violation of  
8 removing the contents of freshwater fishing gear and until  
9 adjudicated for such a violation, or if convicted of such a  
10 violation, the person, firm, or corporation committing the  
11 violation is prohibited from transferring any endorsements.

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

15 Section 6. Section 372.9901, Florida Statutes, is  
16 amended to read:

17 372.9901 Seizure of illegal hunting devices;  
18 disposition; ~~appraisal~~forfeiture.--

19 (1) Any vehicle, vessel, animal, gun, light, or other  
20 hunting device used or attempted to be used in connection  
21 with, as an instrumentality of, or aiding and abetting in the  
22 commission of an offense prohibited by s. 372.99 is subject to  
23 forfeiture in order to protect the state's wildlife  
24 resources., ~~shall be seized by the arresting officer, who~~  
25 ~~shall promptly make return of the seizure and deliver the~~  
26 ~~property to the director of the Fish and Wildlife Conservation~~  
27 ~~Commission. The return shall describe the property seized and~~  
28 ~~recite in detail the facts and circumstances under which it~~  
29 ~~was seized, together with the reason that the property was~~  
30 ~~subject to seizure. The return shall also contain the names of~~  
31

1 ~~all persons known to the officer to be interested in the~~  
2 ~~property.~~

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

9 (3) Upon conviction of the person in whose possession  
10 the property was found, the court having jurisdiction over the  
11 criminal offense, notwithstanding any jurisdictional  
12 limitations on the amount in controversy, may make a finding  
13 that the property was used in connection with a violation of  
14 s. 372.99 and, upon such finding, order the property forfeited  
15 to the commission. The requirement for a conviction before  
16 forfeiture establishes, to the exclusion of any reasonable  
17 doubt, that the property was used in connection with a  
18 violation. The procedures of chapter 932 do not apply to any  
19 forfeiture under this section. For purposes of this section, a  
20 conviction is any disposition other than acquittal or  
21 dismissal.

22 (2) The commission shall seize the property and notify  
23 the registered owner, if any, that the property has been  
24 seized by the commission. Notification must be sent within 14  
25 days after the seizure of the property. If the commission,  
26 after diligent inquiry, cannot ascertain the registered owner,  
27 the notice requirement is satisfied. Any property seized under  
28 this section which is not otherwise unlawful may be returned  
29 to the person or persons holding title thereto at the time of  
30 the illegal act causing the seizure if such person proves by a  
31 preponderance of the evidence before the court having

1 jurisdiction over the criminal offense that he or she in no  
2 way aided, abetted, participated in, gave consent to, or knew  
3 or had reason to know of the act. A request for such a hearing  
4 from a person holding title and asserting that he or she is an  
5 innocent owner must be received by the Assistant State  
6 Attorney who prosecuted the case and the commission's Division  
7 of Law Enforcement within 15 days after receipt of the notice  
8 of seizure. If a request for a hearing is not timely received,  
9 the court shall forfeit to the commission the right to, title  
10 to, and interest in the property, subject only to the rights  
11 and interests of bona fide lien holders.~~violator, the~~  
12 ~~property, if owned by the person convicted, shall be forfeited~~  
13 ~~to the state under the procedure set forth in ss.~~  
14 ~~372.312-372.318, where not inconsistent with this section.~~

15 (3) All amounts received from the sale or other  
16 disposition of the property shall be paid into the State Game  
17 Trust Fund or into the commission's Federal Law Enforcement  
18 Trust Fund as provided in s. 372.107, as applicable. If the  
19 property is not sold or converted, it shall be delivered to  
20 the director of the Fish and Wildlife Conservation Commission.

21 Section 7. Section 372.9902, Florida Statutes, is  
22 amended to read:

23 372.9902 Inapplicability of ss. 372.99 and  
24 372.9901.--The provisions of ss. 372.99 and 372.9901 relating  
25 to seizure and forfeiture of vehicles, vessels, and animals do  
26 ~~shall not apply when such vehicles, vessels, or animals are~~  
27 ~~owned by, or titled in the name of, innocent parties and~~  
28 ~~provided further that such provisions shall not vitiate any~~  
29 ~~valid lien, retain title contract, or chattel mortgage on such~~  
30 ~~vehicles, vessels, or animals if such lien, retain title~~

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

3 Section 8. Sections 372.311, 372.312, 372.313,  
4 372.314, 372.315, 372.317, and 372.318, Florida Statutes, are  
5 repealed.

6 Section 9. This act shall take effect July 1, 2002.

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9 SENATE SUMMARY

10 Provides penalties for use of illegal nets and for  
11 purchase or sale of illegally harvested marine life.  
12 Clarifies the status of a Disability Notice from the  
13 Social Security Administration. Provides a presumption  
14 when saltwater products are delivered to a wholesale  
15 dealer, retail dealer, or restaurant. Provides procedures  
16 for confiscation of property used in connection with the  
17 taking of saltwater products. Prohibits the purchase or  
18 sale of illegally harvested marine life. Provides  
19 penalties for the illegal molestation of or theft from  
20 freshwater traps. Provides procedures for seizure and  
21 forfeiture of personal property used in the illegal  
22 taking of deer and turkey. Provides for the applicability  
23 of seizure and forfeiture requirements. Repeals  
24 provisions relating to forfeiture proceedings, delivery  
25 of property to a claimant, proceeding when a claim is  
26 filed or no claims filed, judgments of forfeiture, and  
27 service charges.

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