

By the Committee on Natural Resources; and Senator Smith

312-1851-02

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.

10

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

12

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 is
25 possessed through an activity requiring a license pursuant to
26 this chapter or engage in any other activity requiring a
27 license, permit, or certificate issued pursuant to this
28 chapter. Any person who 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. However,
19 if the license or permit holder of record is not the person,
20 firm, or corporation receiving the citation and judicial
21 disposition, the license or permit may be suspended or revoked
22 only after the license or permit holder has been notified by
23 the commission that the license or permit has been cited in a
24 major violation and is now subject to suspension or revocation
25 should the license or permit be cited in subsequent major
26 violations.

27 Section 2. Paragraph (a) of subsection (2) of section
28 370.06, Florida Statutes, is amended to read:

29 370.06 Licenses.--

30 (2) SALTWATER PRODUCTS LICENSE.--

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1 (a) Every person, firm, or corporation that sells,
2 offers for sale, barter, or exchanges for merchandise any
3 saltwater products, or which harvests saltwater products with
4 certain gear or equipment as specified by law, must have a
5 valid saltwater products license, except that the holder of an
6 aquaculture certificate under s. 597.004 is not required to
7 purchase and possess a saltwater products license in order to
8 possess, transport, or sell marine aquaculture products. Each
9 saltwater products license allows the holder to engage in any
10 of the activities for which the license is required. The
11 license must be in the possession of the licenseholder or
12 aboard the vessel and shall be subject to inspection at any
13 time that harvesting activities for which a license is
14 required are being conducted. A restricted species endorsement
15 on the saltwater products license is required to sell to a
16 licensed wholesale dealer those species which the state, by
17 law or rule, has designated as "restricted species." This
18 endorsement may be issued only to a person who is at least 16
19 years of age, or to a firm certifying that over 25 percent of
20 its income or \$5,000 of its income, whichever is less, is
21 attributable to the sale of saltwater products pursuant to a
22 license issued under this paragraph or a similar license from
23 another state. This endorsement may also be issued to a
24 for-profit corporation if it certifies that at least \$5,000 of
25 its income is attributable to the sale of saltwater products
26 pursuant to a license issued under this paragraph or a similar
27 license from another state. However, if at least 50 percent of
28 the annual income of a person, firm, or for-profit corporation
29 is derived from charter fishing, the person, firm, or
30 for-profit corporation must certify that at least \$2,500 of
31 the income of the person, firm, or corporation is attributable

1 to the sale of saltwater products pursuant to a license issued
2 under this paragraph or a similar license from another state,
3 in order to be issued the endorsement. Such income attribution
4 must apply to at least 1 year out of the last 3 years. For the
5 purpose of this section "income" means that income which is
6 attributable to work, employment, entrepreneurship, pensions,
7 retirement benefits, and social security benefits. To renew an
8 existing restricted species endorsement, a marine aquaculture
9 producer possessing a valid saltwater products license with a
10 restricted species endorsement may apply income from the sale
11 of marine aquaculture products to licensed wholesale dealers.

12 1. The commission is authorized to require
13 verification of such income. Acceptable proof of income earned
14 from the sale of saltwater products shall be:

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

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

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

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

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

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28 Any provision of this section or any other section of the
29 Florida Statutes to the contrary notwithstanding, any person
30 who owns a retail seafood market or restaurant at a fixed
31 location for at least 3 years who has had an occupational

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

9 2. Exceptions from income requirements shall be as
10 follows:

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

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

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

24 d. Upon the death or permanent disablement of a person
25 possessing a restricted species endorsement, an immediate
26 family member wishing to carry on the fishing operation shall
27 be exempted from the qualifying income requirement for the
28 purpose of obtaining a restricted species endorsement for a
29 period of 1 year after the death or disablement.

30 e. A restricted species endorsement may be issued on
31 an individual saltwater products license to a person age 62 or

1 older who documents that at least \$2,500 is attributable to
2 the sale of saltwater products pursuant to the provisions of
3 this paragraph.

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

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

22
23 At least one saltwater products license bearing a restricted
24 species endorsement shall be aboard any vessel harvesting
25 restricted species in excess of any bag limit or when fishing
26 under a commercial quota or in commercial quantities, and such
27 vessel shall have a commercial vessel registration. This
28 subsection does not apply to any person, firm, or corporation
29 licensed under s. 370.07(1)(a)1. or (b) for activities
30 pursuant to such licenses. A saltwater products license may be
31 issued in the name of an individual or a valid boat

1 registration number. Such license is not transferable. A decal
2 shall be issued with each saltwater products license issued to
3 a valid boat registration number. The saltwater products
4 license decal shall be the same color as the vessel
5 registration decal issued each year pursuant to s. 328.48(5)
6 and shall indicate the period of time such license is valid.
7 The saltwater products license decal shall be placed beside
8 the vessel registration decal and, in the case of an
9 undocumented vessel, shall be placed so that the vessel
10 registration decal lies between the vessel registration number
11 and the saltwater products license decal. Any saltwater
12 products license decal for a previous year shall be removed
13 from a vessel operating on the waters of the state. A resident
14 shall pay an annual license fee of \$50 for a saltwater
15 products license issued in the name of an individual or \$100
16 for a saltwater products license issued to a valid boat
17 registration number. A nonresident shall pay an annual license
18 fee of \$200 for a saltwater products license issued in the
19 name of an individual or \$400 for a saltwater products license
20 issued to a valid boat registration number. An alien shall pay
21 an annual license fee of \$300 for a saltwater products license
22 issued in the name of an individual or \$600 for a saltwater
23 products license issued to a valid boat registration number.
24 Any person who sells saltwater products pursuant to this
25 license may sell only to a licensed wholesale dealer. A
26 saltwater products license must be presented to the licensed
27 wholesale dealer each time saltwater products are sold, and an
28 imprint made thereof. The wholesale dealer shall keep records
29 of each transaction in such detail as may be required by rule
30 of the commission not in conflict with s. 370.07(6), and shall
31 provide the holder of the saltwater products license with a

1 copy of the record. It is unlawful for any licensed wholesale
2 dealer to buy saltwater products from any unlicensed person
3 under the provisions of this section, except that a licensed
4 wholesale dealer may buy from another licensed wholesale
5 dealer. It is unlawful for any licensed wholesale dealer to
6 buy saltwater products designated as "restricted species" from
7 any person, firm, or corporation not possessing a restricted
8 species endorsement on his or her saltwater products license
9 under the provisions of this section, except that a licensed
10 wholesale dealer may buy from another licensed wholesale
11 dealer. Any saltwater products delivered to the premises of a
12 wholesale dealer are, for purposes of this subsection,
13 presumed to have been purchased.The commission shall be the
14 licensing agency, may contract with private persons or
15 entities to implement aspects of the licensing program, and
16 shall establish by rule a marine fisheries information system
17 in conjunction with the licensing program to gather fisheries
18 data.

19 Section 3. Section 370.061, Florida Statutes, is
20 amended to read:

21 370.061 Confiscation of property and products.--

22 (1) CONFISCATION; PROCEDURE.--Property used in
23 connection with the illegal taking of saltwater products is
24 subject to forfeiture as part of the commission's efforts to
25 protect the state's marine life.In all cases of ~~arrest and~~
26 conviction for the illegal taking, or attempted taking, sale,
27 possession, or transportation of saltwater fish or other
28 saltwater products, such saltwater products and seines, nets,
29 boats, motors, other fishing devices or equipment, and
30 vehicles or other means of transportation used or attempted to
31 be used in connection with, as an instrumentality of, or

1 aiding and abetting in such illegal taking or attempted taking
2 are hereby declared to be nuisances, and may be seized and
3 carried before the court having jurisdiction over the criminal
4 of such offense, notwithstanding any jurisdictional
5 limitations on the amount in controversy, and said court may
6 make a finding that the property was used in connection with a
7 saltwater violation and may order such nuisances forfeited to
8 the Fish and Wildlife Conservation Commission immediately
9 after a trial and conviction of the person or persons in whose
10 possession they were found. The requirement of a conviction
11 before forfeiture establishes, to the exclusion of any
12 reasonable doubt, that the property was used in connection
13 with the violation. The procedures of chapter 932 do not apply
14 to any forfeiture under this section. For purposes of this
15 section, a conviction, except with respect to a first-time
16 offender under this chapter for whom adjudication is withheld,
17 is any disposition other than acquittal or dismissal. Nothing
18 in this subsection affects the commission's authority to
19 confiscate in any case illegally taken saltwater products in
20 accordance with subsection (5) or illegal fishing gear in
21 accordance with this subsection. For purposes of confiscation
22 under this subsection, the term "saltwater products" has the
23 meaning set out in s. 370.01(25), except that the term does
24 not include saltwater products harvested under the authority
25 of a recreational license unless the amount of such harvested
26 products exceeds three times the applicable recreational bag
27 limit for trout, snook, or redfish.

28 (2) SEIZURE AND NOTICE.--Prior to the issuance of a
29 forfeiture order for any vessel, vehicle, or other property
30 under subsection (1), the commission shall seize the property
31 and notify the registered owner, if any, that the property has

1 been seized by the commission. Notification must be sent
2 within 14 days after the seizure of the property. If the
3 commission, after diligent inquiry, cannot ascertain the
4 registered owner, the notice is satisfied. Any property seized
5 under this section which is not otherwise unlawful, may be
6 returned to the person or persons holding title thereto at the
7 time of the illegal act causing the forfeiture if such person
8 proves by a preponderance of the evidence before the court
9 having jurisdiction over the criminal offense that he or she
10 in no way aided, abetted, participated in, gave consent to, or
11 knew or had reason to know of the act. A request for such a
12 hearing from a person holding title and asserting that he or
13 she is an innocent owner must be received by the Assistant
14 State Attorney who prosecuted the case and the commission's
15 Division of Law Enforcement within 15 days after receipt of
16 the notice of seizure. If a request for a hearing is not
17 timely received, the court may forfeit to the commission the
18 right to, title to, and interest in the property, subject only
19 to the rights and interests of bona fide lienholders.,~~except~~
20 ~~that,~~If a motor vehicle is seized under the provisions of
21 this act and is subject to any existing liens recorded under
22 the provisions of s. 319.27, all further proceedings shall be
23 governed by the expressed intent of the Legislature not to
24 divest any innocent person, firm, or corporation holding such
25 a recorded lien of any of its reversionary rights in such
26 motor vehicle or of any of its rights as prescribed in s.
27 319.27, and ~~that,~~ upon any default by the violator purchaser,
28 the ~~said~~ lienholder may foreclose its lien and take possession
29 of the motor vehicle involved.

30 (3) COURT ORDER OF FORFEITURE.--When any illegal or
31 illegally used seine, net, trap, or other fishing device or

1 equipment, or illegally taken, possessed, or transported
2 saltwater products, are found and taken into custody, and the
3 owner thereof is ~~shall not be~~ known to the officer finding the
4 item or items ~~same~~, such officer shall immediately procure
5 from the county court judge of the county wherein the item or
6 items ~~they~~ were found an order forfeiting the ~~said~~ saltwater
7 products, seines, nets, traps, boats, motors, or other fishing
8 devices to the commission.

9 (4) DESTRUCTION OR DISPOSITION OF PROPERTY.--All
10 things forfeited under this section ~~the provisions of this law~~
11 may be destroyed, used by the commission, disposed of by gift
12 to charitable or state institutions, or sold, with ~~and~~ the
13 proceeds derived from the ~~said~~ sale deposited in the Marine
14 Resources Conservation Trust Fund to be used for law
15 enforcement purposes or into the commission's Federal Law
16 Enforcement Trust Fund as provided in s. 372.107, as
17 applicable. ~~However, forfeited boats, motors, and legal~~
18 ~~fishing devices only, may be purchased from the commission for~~
19 ~~\$1 by the person or persons holding title thereto at the time~~
20 ~~of the illegal act causing the forfeiture, if such person~~
21 ~~shall prove that he or she in no way participated in, gave~~
22 ~~consent to, or had knowledge of such act.~~

23 (5)~~(2)~~ CONFISCATION AND SALE OF PERISHABLE PRODUCTS;
24 PROCEDURE.--When an arrest is made pursuant to the provisions
25 of this chapter and illegal, perishable products, or
26 perishable products illegally taken or landed, are
27 apprehended, the defendant may post bond or cash deposit in an
28 amount determined by the judge to be the fair value of such
29 products, and the ~~said~~ defendant shall have 24 hours to
30 transport the ~~said~~ products outside the limits of Florida for
31 sale or other disposition. Should no bond or cash deposit be

1 given within the time fixed by the judge, the judge shall
2 order the sale of such products at the highest price
3 obtainable, and, when feasible, at least three bids shall be
4 requested. In either event, the amounts received by the judge
5 shall be remitted to the commission to be deposited into a
6 special escrow account in the State Treasury and held in trust
7 pending the outcome of the trial of the accused. If a bond is
8 posted by the defendant, it shall also be remitted to the
9 commission to be held in escrow pending the outcome of the
10 trial of the accused. In the event of acquittal, the bond or
11 cash deposit shall be returned to the defendant, or the
12 proceeds of the sale shall be paid over to the defendant. In
13 the event of conviction, the proceeds of the sale, or proceeds
14 of the bond or cash deposit, shall be deposited by the ~~said~~
15 commission into the Marine Resources Conservation Trust Fund
16 to be used for law enforcement purposes or into the
17 commission's Federal Law Enforcement Trust Fund as provided in
18 s. 372.107, as applicable. Such deposit into the Marine
19 Resources Conservation Trust Fund or the commission's Federal
20 Law Enforcement Trust Fund shall constitute confiscation.

21 (6)~~(3)~~ MUNICIPAL OR COUNTY ENFORCEMENT; SUPPLEMENTAL
22 FUNDING.--

23 (a) Any municipal or county law enforcement agency
24 that enforces, or assists the commission in enforcing, the
25 provisions of this chapter resulting in a forfeiture of
26 property as provided in this section shall be entitled to
27 receive all or a share of any such property based upon its
28 ~~their~~ participation in such enforcement.

29 (b) Any property delivered to any municipal or county
30 law enforcement agency as provided in paragraph (a) may be
31 retained or sold by the law enforcement agency, and the

1 property or any proceeds shall, if the agency operates a
2 marine enforcement unit, be used ~~utilized~~ to enforce the
3 provisions of this chapter and chapters 327 and 328. In the
4 event the law enforcement agency does not operate a marine
5 enforcement unit, any such property or proceeds shall be
6 disposed of under ~~pursuant to~~ the Florida Contraband
7 Forfeiture Act.

8 (c) Any funds received by a municipal or county law
9 enforcement agency pursuant to this subsection shall be
10 supplemental funds and may not be used as replacement funds by
11 the municipality or county.

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

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

16 (4) TRANSPORTATION OF SALTWATER PRODUCTS.--

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

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

1 physical address, and Florida wholesale dealer number of the
2 Florida dealer to whom the shipment is to be delivered.

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

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

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

1 (f) Nothing contained in this subsection may be
2 construed to apply to the sale and delivery to a consumer of
3 saltwater products in an ordinary retail transaction by a
4 licensed retail dealer who has purchased such products from a
5 licensed wholesale dealer, or to the sale and delivery of the
6 catch or products of a saltwater products licensee to a
7 Florida-licensed wholesale dealer.

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

17 (h) A wholesale dealer, retail dealer, or restaurant
18 facility for public consumption may not purchase or sell any
19 marine life known to be taken illegally, or known to be taken
20 in violation of Section 16, Article X of the State
21 Constitution, or any rule or statute implementing its
22 provisions.

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

26 (8) UNLAWFUL PURCHASE OF SALTWATER PRODUCTS.--It is
27 unlawful for any licensed retail dealer or any restaurant
28 licensed by the Division of Hotels and Restaurants of the
29 Department of Business and Professional Regulation to buy
30 saltwater products from any person other than a licensed
31 wholesale or retail dealer. Any saltwater products delivered

1 to the premises of a retail dealer or a restaurant are
2 presumed, for purposes of this subsection, to have been
3 purchased.

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

6 372.635 Illegal molestation of or theft from
7 freshwater traps.--

8 (1) It is a felony of the third degree, punishable as
9 provided in s. 775.082 or s. 775.083, for any person, firm, or
10 corporation to willfully molest any authorized and lawfully
11 permitted freshwater fishing gear, belonging to another
12 without the express written consent of the gear's owner which
13 is available for immediate inspection; or to willfully remove
14 the contents of any authorized and lawfully permitted
15 freshwater gear belonging to another without the express
16 written consent of the gear's owner available for immediate
17 inspection. Any person, firm, or corporation convicted of
18 removing the contents of freshwater fishing gear shall
19 permanently lose all of his or her freshwater and saltwater
20 fishing privileges, including his or her recreational and
21 commercial licenses and endorsements. In addition, any person,
22 firm, or corporation convicted of violating this subsection
23 shall also be assessed an administrative penalty of up to
24 \$5,000. In such cases, endorsements are nontransferable.

25 Immediately upon receiving a citation for a violation of
26 removing the contents of freshwater fishing gear and until
27 adjudicated for such a violation, or if convicted of such a
28 violation, the person, firm, or corporation committing the
29 violation is prohibited from transferring any endorsements.

30 (2) For purposes of this section, the term "freshwater
31 fishing gear" means haul seines, slat baskets, wire traps,

1 hoop nets, or pound nets, and includes the lines or buoys
2 attached thereto.

3 Section 6. Section 372.9901, Florida Statutes, is
4 amended to read:

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

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

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

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

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

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

1 to, and interest in the property, subject only to the rights
2 and interests of bona fide lien holders.~~violation, the~~
3 ~~property, if owned by the person convicted, shall be forfeited~~
4 ~~to the state under the procedure set forth in ss.~~
5 ~~372.312-372.318, where not inconsistent with this section.~~

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

12 Section 7. Section 372.9902, Florida Statutes, is
13 amended to read:

14 372.9902 Inapplicability of ss. 372.99 and
15 372.9901.--The provisions of ss. 372.99 and 372.9901 relating
16 to seizure and forfeiture of vehicles, vessels, and animals do
17 ~~shall not apply when such vehicles, vessels, or animals are~~
18 ~~owned by, or titled in the name of, innocent parties and~~
19 ~~provided further that such provisions shall not vitiate any~~
20 ~~valid lien, retain title contract, or chattel mortgage on such~~
21 ~~vehicles, vessels, or animals if such lien, retain title~~
22 ~~contract, or chattel mortgage is properly of public record at~~
23 ~~the time of the seizure.~~

24 Section 8. Sections 372.311, 372.312, 372.313.
25 372.314, 372.315, 372.317, and 372.318, Florida Statutes, are
26 repealed.

27 Section 9. This act shall take effect July 1, 2002.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 556

4 The committee substitute includes the following changes:

5 The prohibition in s. 370.021, F.S., against a person whose
6 license has been suspended or revoked for constitutional net
7 limitation violations being aboard a vessel on which legal or
8 illegal net gear is present has been revised to prohibit such
9 presence aboard a vessel on which a commercial quantity of
10 saltwater products is possessed through an activity requiring
11 a license under ch. 370, F.S.

12 Provisions permitting penalties to be imposed against a
13 licensee for violations committed by those fishing under the
14 licensee's license have been modified to permit such penalties
15 only after the licensee has been notified of such violations
16 and the possibility that his or her license may be suspended
17 for future major violations.

18 Provisions specifying that, for purposes of forfeiture of
19 property for saltwater violations, conviction is any
20 disposition other than acquittal or dismissal have been
21 changed to exempt from forfeiture a first-time offender for
22 whom adjudication is withheld. Also, forfeiture of property may
23 not occur when illegally-harvested products are taken under a
24 recreational license, unless the quantity harvested exceeds
25 three times the applicable bag limit for trout, snook, or
26 redfish.

27 For purposes of theft from freshwater fishing gear, such
28 "gear" now includes hoop nets.

29 Provisions have been included to require a court to order
30 property used in night hunting for turkey or deer to be
31 forfeited to the FWC upon a second or subsequent violation.