

By the Committees on Judiciary; Natural Resources; and Senator Smith

308-2141-02

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.; 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 the purchase or sale of illegally harvested  
11          saltwater products taken in violation of s. 16,  
12          Article 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; reenacting ss.  
11 370.092(3) and (4), 370.093(5), F.S., to  
12 incorporate the amendment to s. 370.021, F.S.,  
13 in references; amending s. 370.142, F.S.;  
14 correcting cross-references; amending s.  
15 372.70, F.S.; providing that the state attorney  
16 shall represent the state in prosecutions of  
17 violations of hunting and fishing laws;  
18 amending s. 372.9901, F.S.; revising procedures  
19 for seizure and forfeiture of property used in  
20 the illegal taking of deer or wild turkey;  
21 requiring notice of seizure to the registered  
22 owner of the property prior to issuance of a  
23 forfeiture order; authorizing the courts to  
24 order property forfeited to the commission for  
25 second or subsequent convictions; revising  
26 procedure for return of property to an innocent  
27 owner; transferring, renumbering, and amending  
28 s. 372.31, F.S.; providing for exercise of the  
29 police power of the state in cases relating to  
30 illegal fishing; creating s. 372.99022, F.S.;  
31 providing penalties for molestation of or theft

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

21  
22 Be It Enacted by the Legislature of the State of Florida:  
23

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

26 370.021 Administration; rules, publications, records;  
27 penalties; injunctions.--

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

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

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

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

11

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

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

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

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

29 (c) For a violation involving the taking or harvesting  
30 of oysters from nonapproved areas or the taking or possession  
31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1 Enforcement Trust Fund as provided in s. 372.107, as  
2 applicable.

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

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

18 1. The person possesses a valid commercial fishing  
19 license that is issued by the State of Alabama and that allows  
20 the person to use a gill net to legally harvest mullet in  
21 commercial quantities from Alabama waters.

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

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

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (7) POWERS OF OFFICERS.--

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

17 370.06 Licenses.--

18 (2) SALTWATER PRODUCTS LICENSE.--

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

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

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

30       **2.** To renew an existing restricted species  
31 endorsement, a marine aquaculture producer possessing a valid

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

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

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

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

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

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

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

21  
22 ~~Notwithstanding any other provision of law this section or any~~  
23 ~~other section of the Florida Statutes to the contrary~~

24 ~~notwithstanding~~, any person who owns a retail seafood market  
25 or restaurant at a fixed location for at least 3 years, who  
26 has had an occupational license for 3 years prior to January  
27 1, 1990, who harvests saltwater products to supply his or her  
28 retail store, and who has had a saltwater products license for  
29 1 of the past 3 license years prior to January 1, 1990, may  
30 provide proof of his or her verification of income and sales  
31 value at the person's retail seafood market or restaurant and

1 in his or her saltwater products enterprise by affidavit and  
2 shall thereupon be issued a restricted species endorsement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31



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

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

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

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

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

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

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

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

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

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

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

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

23 370.061 Confiscation, seizure, forfeiture of property  
24 and products.--

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

30 (a) Property used in connection with a violation  
31 resulting in a ~~all cases of arrest and conviction for the~~

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

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

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

22 (2) SEIZURE; FORFEITURE; NOTICE.--Except as provided  
23 in subsection (6), the procedures of chapter 932 do not apply  
24 to any seizure or forfeiture of property under this section.  
25 For purposes of this section, a conviction is any disposition  
26 other than acquittal or dismissal. The requirement for a  
27 conviction before forfeiture of property establishes, to the  
28 exclusion of any reasonable doubt, that the property was used  
29 in connection with the violation resulting in conviction.  
30 Prior to the issuance of a forfeiture order for any vessel,  
31 vehicle, or other property under subsection (1), the

1 commission shall seize the property and notify the registered  
2 owner, if any, that the property has been seized by the  
3 commission.

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

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

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

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

1 property seized, subject only to the rights and interests of  
2 bona fide lien holders.~~nuisances and may be seized and~~  
3 ~~carried before the court having jurisdiction of such offense,~~  
4 ~~and said court may order such nuisances forfeited to the Fish~~  
5 ~~and Wildlife Conservation Commission immediately after trial~~  
6 ~~and conviction of the person or persons in whose possession~~  
7 ~~they were found, except that,~~

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

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

28       (4) DESTRUCTION OR DISPOSITION OF PROPERTY.--All  
29 property things forfeited under this section ~~the provisions of~~  
30 ~~this law~~ may be destroyed, used by the commission, disposed of  
31 by gift to charitable or state institutions, or sold, with and

1 the proceeds derived from the ~~said~~ sale deposited into ~~in~~ the  
2 Marine Resources Conservation Trust Fund to be used for law  
3 enforcement purposes or into the commission's Federal Law  
4 Enforcement Trust Fund as provided in s. 372.107, as  
5 applicable. ~~However, forfeited boats, motors, and legal~~  
6 ~~fishing devices only, may be purchased from the commission for~~  
7 ~~\$1 by the person or persons holding title thereto at the time~~  
8 ~~of the illegal act causing the forfeiture, if such person~~  
9 ~~shall prove that he or she in no way participated in, gave~~  
10 ~~consent to, or had knowledge of such act.~~

11 (5)~~(2)~~ CONFISCATION AND SALE OF PERISHABLE PRODUCTS;  
12 PROCEDURE.--

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

25 (b) ~~Moneys in either event, the amounts~~ received from  
26 the sale of confiscated saltwater products, either by the  
27 defendant or by order of the court, shall be received by the  
28 judge and shall be remitted to the commission to be deposited  
29 into a special escrow account in the State Treasury to be ~~and~~  
30 held in trust pending the outcome of the trial of the  
31 defendant ~~accused~~. If a bond is posted by the defendant, it

1 shall also be remitted to the commission to be held in escrow  
2 pending the outcome of the trial of the defendant ~~accused~~.

3 (c) In the event of an acquittal, proceeds of a sale  
4 or the bond or cash deposit required by this subsection shall  
5 be returned to the defendant, ~~or the proceeds of the sale~~  
6 ~~shall be paid over to the defendant~~. In the event of a  
7 conviction, the proceeds of a ~~the~~ sale, ~~or proceeds of the~~  
8 bond or cash deposit required by this subsection, shall be  
9 deposited by the ~~said~~ commission into the Marine Resources  
10 Conservation Trust Fund to be used for law enforcement  
11 purposes or into the commission's Federal Law Enforcement  
12 Trust Fund as provided in s. 372.107, as applicable. Such  
13 deposit into the Marine Resources Conservation Trust Fund or  
14 the commission's Federal Law Enforcement Trust Fund shall  
15 constitute confiscation.

16 (d) For purposes of confiscation under this  
17 subsection, the term "saltwater products" has the meaning  
18 ascribed in s. 370.01(25), except that the term does not  
19 include saltwater products harvested under the authority of a  
20 recreational license, unless the amount of such harvest  
21 products exceeds three times the applicable recreational bag  
22 limit for trout, snook, or redfish.

23 (6)(3) MUNICIPAL OR COUNTY ENFORCEMENT; SUPPLEMENTAL  
24 FUNDING.--

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

31

1           (b) If a municipal or county law enforcement agency  
2 has a marine enforcement unit, any property delivered to any  
3 municipal or county law enforcement agency as provided in  
4 paragraph (a) may be retained or sold by the municipal or  
5 county law enforcement agency, and the property or any  
6 proceeds shall, ~~if the agency operates a marine enforcement~~  
7 ~~unit~~, be used ~~utilized~~ to enforce the provisions of this  
8 chapter and chapters 327 and 328. If a municipal or county ~~in~~  
9 ~~the event the~~ law enforcement agency does not have ~~operate~~ a  
10 marine enforcement unit, ~~any~~ such property or proceeds shall  
11 be disposed of under the provisions of chapter 932 ~~pursuant to~~  
12 ~~the Florida Contraband Forfeiture Act.~~

13           (c) Any funds received by a municipal or county law  
14 enforcement agency pursuant to this subsection shall be  
15 supplemental funds and may not be used as replacement funds by  
16 the municipality or county.

17           Section 4. Subsections (4), (5), and (8) of section  
18 370.07, Florida Statutes, are amended to read:

19           370.07 Wholesale and retail saltwater products  
20 dealers; regulation.--

21           (4) TRANSPORTATION OF SALTWATER PRODUCTS.--

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

29           (b) A person transporting in this state saltwater  
30 products that were produced outside this state to be delivered  
31 to a destination in this state shall have in his or her



1 possession invoices, bills of lading, or other similar  
2 instruments showing the number of packages, boxes, or  
3 containers and the number of pounds of each species, the name  
4 and physical address of the dealer of origin, and the name,  
5 physical address, and Florida wholesale dealer number of the  
6 Florida dealer to whom the shipment is to be delivered.

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

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

25 (e) It is unlawful to sell, deliver, ship, or  
26 transport, or to possess for the purpose of selling,  
27 delivering, shipping, or transporting, any saltwater products  
28 without all invoices concerning the ~~of such~~ products having  
29 thereon the wholesale dealer license number in the ~~such~~ form  
30 ~~as may be prescribed under the provisions of this subsection~~  
31 and the rules ~~and regulations~~ of the ~~Fish and Wildlife~~

1 ~~Conservation~~ commission. Any saltwater products found in the  
2 possession of any person who is in violation of this paragraph  
3 ~~provision~~ may be seized by the commission and disposed of in  
4 the manner provided by law.

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

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

21 (h) A wholesale dealer, retail dealer, or restaurant  
22 facility shall not purchase or sell for public consumption any  
23 saltwater products known to be taken illegally, or known to be  
24 taken in violation of Section 16, Article X of the State  
25 Constitution, or any rule or statute implementing its  
26 provisions.

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

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

31

1           (a) A license issued to a wholesale or retail dealer  
2 is good only to the person to whom issued and named in the  
3 license ~~therein~~ and is not transferable. The commission may  
4 revoke, suspend, or deny the renewal of the license of any  
5 licensee:

6           1. Upon the conviction of the licensee of any  
7 violation of the laws or regulations designed for the  
8 conservation of saltwater products;

9           2. Upon conviction of the licensee of knowingly  
10 dealing in, buying, selling, transporting, possessing, or  
11 taking any saltwater product, at any time and from any waters,  
12 in violation of the laws of this state; or

13           3. Upon satisfactory evidence of any violation of the  
14 laws or any regulations of this state designed for the  
15 conservation of saltwater products or of any of the laws of  
16 this state relating to dealing in, buying, selling,  
17 transporting, possession, or taking of saltwater products.

18           (b) Upon revocation of such license, no other or  
19 further license may be issued to the dealer within 3 years  
20 from the date of revocation except upon special order of the  
21 commission. After revocation, it is unlawful for such dealer  
22 to exercise any of the privileges of a licensed wholesale or  
23 retail dealer.

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

1 wholesale or retail dealer. For purposes of this subsection,  
2 any saltwater products received by a retail dealer or a  
3 restaurant are presumed to have been purchased.

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

8 370.092 Carriage of proscribed nets across Florida  
9 waters.--

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

1 reasonable opportunities for the use of legal net gear in  
2 adjacent federal waters.

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

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

11 370.093 Illegal use of nets.--

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

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

16 370.142 Spiny lobster trap certificate program.--

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

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

27 1. The Department of Environmental Protection shall  
28 initially allot such certificates to each licenseholder with a  
29 current crawfish trap number who uses traps. The number of  
30 such certificates allotted to each such licenseholder shall be  
31 based on the trap/catch coefficient established pursuant to

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

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

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

31

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

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

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

12           (c) Prohibitions; penalties.--

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

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

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



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

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

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

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

31

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

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

- 14           (I) Pay the civil penalty to the commission; or  
15           (II) Request an administrative hearing pursuant to the  
16 provisions of s. 120.60.

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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

20 372.9901 Seizure of illegal hunting devices;  
21 disposition; notice appraisal; forfeiture.--

22 (1) In order to protect state wildlife resources, any  
23 vehicle, vessel, animal, gun, light, or other hunting device  
24 used or attempted to be used in connection with, as an  
25 instrumentality of, or aiding and abetting in the commission  
26 of an offense prohibited by s. 372.99 is subject to  
27 forfeiture. The provisions of chapter 932 do not apply to any  
28 seizure or forfeiture under this section. For purposes of this  
29 section, a conviction is any disposition other than acquittal  
30 or dismissal., shall be seized by the arresting officer, who  
31 shall promptly make return of the seizure and deliver the

1 ~~property to the director of the Fish and Wildlife Conservation~~  
2 ~~Commission. The return shall describe the property seized and~~  
3 ~~recite in detail the facts and circumstances under which it~~  
4 ~~was seized, together with the reason that the property was~~  
5 ~~subject to seizure. The return shall also contain the names of~~  
6 ~~all persons known to the officer to be interested in the~~  
7 ~~property.~~

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

14 ~~(a)(3)~~ Upon a first conviction of the person in whose  
15 possession the property was found, the court having  
16 jurisdiction over the criminal offense, notwithstanding any  
17 jurisdictional limitations on the amount in controversy, may  
18 make a finding that the property was used in connection with a  
19 violation of s. 372.99. Upon such finding, the court may order  
20 the property forfeited to the commission.

21 (b) Upon a second or subsequent conviction for a  
22 violation of s. 372.99, the court shall order the forfeiture  
23 to the commission of any property used in connection with that  
24 violation.

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

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

6           (b) Upon a first conviction for a violation under s.  
7 372.99, the property seized under this section shall be  
8 returned to the registered owner if the commission fails to  
9 prove by a preponderance of the evidence before the court  
10 having jurisdiction over the criminal offense that the  
11 registered owner aided, abetted, participated in, gave consent  
12 to, knew, or had reason to know of the offense.

13           (c) Upon a second or subsequent conviction for a  
14 violation under s. 372.99, the property seized under this  
15 section shall be returned to the registered owner if the  
16 registered owner proves by a preponderance of the evidence  
17 before the court having jurisdiction over the criminal  
18 offense, that the registered owner in no way aided, abetted,  
19 participated in, gave consent to, knew, or had reason to know  
20 of the second offense which resulted in seizure of the lawful  
21 property.

22           (d) Any request for a hearing from a registered owner  
23 asserting innocence to recover property seized under these  
24 provisions must be sent to the commission's Division of Law  
25 Enforcement within 21 days after the registered owner's  
26 receipt of the notice of seizure. If a request for a hearing  
27 is not timely received, the court shall forfeit to the  
28 commission the right to, title to, and interest in the  
29 property seized, subject only to the rights and interests of  
30 bona fide lien holders.~~violator, the property, if owned by~~  
31 ~~the person convicted, shall be forfeited to the state under~~

1 ~~the procedure set forth in ss. 372.312-372.318, where not~~  
2 ~~inconsistent with this section.~~

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

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

13       372.99021 ~~372.31~~ Disposition of illegal fishing  
14 devices.--

15       (1) In all cases of arrest and conviction for use of  
16 illegal nets or traps or fishing devices, as provided in this  
17 chapter, such illegal net, trap, or fishing device is declared  
18 to be a nuisance and shall be seized and carried before the  
19 court having jurisdiction of such offense and said court shall  
20 order such illegal trap, net, or fishing device forfeited to  
21 the ~~Fish and Wildlife Conservation~~ commission immediately  
22 after trial and conviction of the person in whose possession  
23 they were found. When any illegal net, trap, or fishing  
24 device is found in the fresh waters of the state, and the  
25 owner of same shall not be known to the officer finding the  
26 same, such officer shall immediately procure from the county  
27 court judge an order forfeiting said illegal net, trap, or  
28 fishing device to the ~~Fish and Wildlife Conservation~~  
29 commission. The Fish and Wildlife Conservation Commission may  
30 destroy such illegal net, trap, or fishing device, if in its  
31

1 judgment said net, trap, or fishing device is not of value in  
2 the work of the department.

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

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

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

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

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

26 (b) Any person, firm, or corporation that willfully  
27 removes the contents of any authorized and lawfully permitted  
28 freshwater fishing gear belonging to another without the  
29 express written consent of the owner commits a felony of the  
30 third degree, punishable as provided in s. 775.082, s.  
31



1 775.083, or s. 775.084. Any written consent must be available  
2 for immediate inspection.

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

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

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

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

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

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

1 the commission's Federal Law Enforcement Trust Fund as  
2 provided in s. 372.107, as applicable. If the property is not  
3 sold or converted, it shall be delivered to the director of  
4 the Fish and Wildlife Conservation Commission.

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

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

19 Section 14. Subsection (4) of section 323.001, Florida  
20 Statutes, is amended to read:

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

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

25 (a) The officer has probable cause to believe the  
26 vehicle should be seized and forfeited under the Florida  
27 Contraband Forfeiture Act, ss. 932.701-932.707;

28 (b) The officer has probable cause to believe the  
29 vehicle should be seized and forfeited under chapter 370 or  
30 chapter 372 ~~s. 372.312;~~

31

1 (c) The officer has probable cause to believe the  
2 vehicle was used as the means of committing a crime;

3 (d) The officer has probable cause to believe that the  
4 vehicle is itself evidence that tends to show that a crime has  
5 been committed or that the vehicle contains evidence, which  
6 cannot readily be removed, which tends to show that a crime  
7 has been committed;

8 (e) The officer has probable cause to believe the  
9 vehicle was involved in a traffic accident resulting in death  
10 or personal injury and should be sealed for investigation and  
11 collection of evidence by a vehicular homicide investigator;

12 (f) The vehicle is impounded or immobilized pursuant  
13 to s. 316.193 or s. 322.34; or

14 (g) The officer is complying with a court order.

15 Section 15. Sections 372.311, 372.312, 372.313,  
16 372.314, 372.315, 372.316, 372.317, 372.318, 372.319, 372.321,  
17 and 372.9902, Florida Statutes, are repealed.

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

19  
20 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
21 COMMITTEE SUBSTITUTE FOR  
22 CS for Senate Bill 556

- 23 -- Revises presumption in underlying offense for the  
24 purchase of illegal saltwater products to presume that  
25 receipt by, rather than delivery to, a wholesale dealer,  
26 retail dealer or restaurant, will constitute purchase.  
27 -- Revises and clarifies the process for seizure and  
28 forfeiture, notice and recovery of seized property, to  
29 provide more due process.  
30 -- Makes conforming amendments to include or update  
31 cross-references to statutory provisions revised by the  
bill.