

By the Committee on Appropriations; and Senator Smith

309-2334-03

1 A bill to be entitled
2 An act relating to the Fish and Wildlife
3 Conservation Commission; amending s. 370.021,
4 F.S.; providing additional penalties for the
5 unlicensed sale or purchase of a saltwater
6 product or the harvest or attempted harvest
7 with intent to sell of a saltwater product;
8 provides for civil penalties, imprisonment,
9 permanent revocation of license privileges, and
10 forfeiture of property involved in the offense;
11 amending s. 327.30, F.S.; increasing the
12 threshold amount at which a boating accident
13 resulting in property damage only must be
14 reported to the Division of Law Enforcement of
15 the commission and certain other law
16 enforcement agencies; amending s. 327.43, F.S.;
17 deleting certain restrictions and penalties for
18 anchoring or mooring a vessel within Silver
19 Glen Run and Silver Glen Springs; repealing ss.
20 370.15(6) and 370.153(3)(c), F.S., relating to
21 live bait shrimping; amending ss. 370.1535 and
22 370.154, F.S., relating to the regulation of
23 shrimp fishing; conforming provisions to
24 changes made by the act; amending s. 370.01,
25 F.S.; defining the term "molest" for purposes
26 of saltwater fisheries; amending s. 370.061,
27 F.S.; conforming a cross-reference; amending s.
28 370.1107, F.S.; providing additional penalties
29 for offenses involving unlawful possession of
30 or interference with saltwater fisheries traps;
31 amending s. 370.13, F.S.; revising penalties

1 for theft from, and providing penalties for
2 theft of, stone crab traps; amending s.
3 370.135, F.S.; revising penalties for theft
4 from, and providing penalties for theft of,
5 blue crab traps; amending s. 370.142, F.S.;
6 revising penalties for theft from, and
7 providing penalties for theft or molestation
8 of, spiny lobster traps; providing an effective
9 date.

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

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13 Section 1. Present subsections (6) through (12) of
14 section 370.021, Florida Statutes, are redesignated as
15 subsections (7) through (13), respectively, and a new
16 subsection (6) is added to that section to read:

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

19 (6) PENALTIES FOR UNLICENSED SALE, PURCHASE, OR
20 HARVEST.--It is a major violation and punishable as provided
21 in this section for an unlicensed person who is required to be
22 licensed under this chapter to sell or purchase any saltwater
23 product or to harvest or attempt to harvest any saltwater
24 product with intent to sell the saltwater product.

25 (a) Any person who sells or purchases any saltwater
26 product without having purchased the licenses required by this
27 chapter for such sale is subject to additional penalties as
28 follows:

29 1. A first violation is a misdemeanor of the second
30 degree, punishable as provided in s. 775.082 or s. 775.083.

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1 2. A second violation is a misdemeanor of the first
2 degree, punishable as provided in s. 775.082 or s. 775.083,
3 and such person may also be assessed a civil penalty of up to
4 \$2,500 and is subject to a suspension of all license
5 privileges under chapters 370 and 372 for a period not
6 exceeding 90 days.

7 3. A third violation is a misdemeanor of the first
8 degree, punishable as provided in s. 775.082 or s. 775.083,
9 with a mandatory minimum term of imprisonment of 6 months, and
10 such person may also be assessed a civil penalty of up to
11 \$5,000 and is subject to a suspension of all license
12 privileges under chapters 370 and 372 for a period not
13 exceeding 6 months.

14 4. A third violation within 1 year after a second
15 violation is a felony of the third degree, punishable as
16 provided in s. 775.082 or s. 775.083, with a mandatory minimum
17 term of imprisonment of 1 year, and such person shall be
18 assessed a civil penalty of \$5,000 and all license privileges
19 under chapters 370 and 372 shall be permanently revoked.

20 5. A fourth or subsequent violation is a felony of the
21 third degree, punishable as provided in s. 775.082 or s.
22 775.083, with a mandatory minimum term of imprisonment of 1
23 year, and such person shall be assessed a civil penalty of
24 \$5,000 and all license privileges under chapters 370 and 372
25 shall be permanently revoked.

26 (b) Any person whose license privileges under chapter
27 370 have been permanently revoked and who thereafter sells or
28 purchases or who attempts to sell or purchase any saltwater
29 product commits a felony of the third degree, punishable as
30 provided in s. 775.082 or s. 775.083, with a mandatory minimum
31 term of imprisonment of 1 year, and such person shall also be

1 assessed a civil penalty of \$5,000. All property involved in
2 such offense shall be forfeited pursuant to s. 370.061.

3 (c) Any person whose license privileges under chapter
4 370 are under suspension and who during such period of
5 suspension sells or purchases or attempts to sell or purchase
6 any saltwater product shall be assessed the following
7 penalties:

8 1. A first violation, or a second violation occurring
9 more than 12 months after a first violation, is a first degree
10 misdemeanor, punishable as provided in ss. 775.082 and
11 775.083, and such person may be assessed a civil penalty of up
12 to \$2,500 and an additional suspension of all license
13 privileges under chapters 370 and 372 for a period not
14 exceeding 90 days.

15 2. A second violation occurring within 12 months of a
16 first violation is a third degree felony, punishable as
17 provided in ss. 775.082 and 775.083, with a mandatory minimum
18 term of imprisonment of 1 year, and such person may be
19 assessed a civil penalty of up to \$5,000 and an additional
20 suspension of all license privileges under chapters 370 and
21 372 for a period not exceeding 180 days. All property involved
22 in such offense shall be forfeited pursuant to s. 370.061.

23 3. A third violation within 24 months of the second
24 violation or subsequent violation is a third degree felony,
25 punishable as provided in ss. 775.082 and 775.083, with a
26 mandatory minimum term of imprisonment of 1 year, and such
27 person shall be assessed a mandatory civil penalty of up to
28 \$5,000 and an additional suspension of all license privileges
29 under chapters 370 and 372 for a period not exceeding 24
30 months. All property involved in such offense shall be
31 forfeited pursuant to s. 370.061.

1 (d) Any person who harvests or attempts to harvest any
2 saltwater product with intent to sell the saltwater product
3 without having purchased a saltwater products license with the
4 requisite endorsements is subject to penalties as follows:

5 1. A first violation is a misdemeanor of the second
6 degree, punishable as provided in s. 775.082 or s. 775.083.

7 2. A second violation is a misdemeanor of the first
8 degree, punishable as provided in s. 775.082 or s. 775.083,
9 and such person may also be assessed a civil penalty of up to
10 \$2,500 and is subject to a suspension of all license
11 privileges under chapters 370 and 372 for a period not
12 exceeding 90 days.

13 3. A third violation is a misdemeanor of the first
14 degree, punishable as provided in s. 775.082 or s. 775.083,
15 with a mandatory minimum term of imprisonment of 6 months, and
16 such person may also be assessed a civil penalty of up to
17 \$5,000 and is subject to a suspension of all license
18 privileges under chapters 370 and 372 for a period not
19 exceeding 6 months.

20 4. A third violation within 1 year after a second
21 violation is a felony of the third degree, punishable as
22 provided in s. 775.082 or s. 775.083, with a mandatory minimum
23 term of imprisonment of 1 year, and such person shall also be
24 assessed a civil penalty of \$5,000 and all license privileges
25 under chapters 370 and 372 shall be permanently revoked.

26 5. A fourth or subsequent violation is a felony of the
27 third degree, punishable as provided in s. 775.082 or s.
28 775.083, with a mandatory minimum term of imprisonment of 1
29 year, and such person shall also be assessed a mandatory civil
30 penalty of \$5,000 and all license privileges under chapters
31 370 and 372 shall be permanently revoked.

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For purposes of this subsection, a violation means any judicial disposition other than acquittal or dismissal.

Section 2. Subsection (2) of section 327.30, Florida Statutes, is amended to read:

327.30 Collisions, accidents, and casualties.--

(2) In the case of collision, accident, or other casualty involving a vessel in or upon or entering into or exiting from the water, including capsizing, collision with another vessel or object, sinking, personal injury requiring medical treatment beyond immediate first aid, death, disappearance of any person from on board under circumstances which indicate the possibility of death or injury, or damage to any vessel or other property in an apparent aggregate amount of at least \$2,000~~\$500~~, the operator shall without delay, by the quickest means available give notice of the accident to one of the following agencies: the Division of Law Enforcement of the Fish and Wildlife Conservation Commission; the sheriff of the county within which the accident occurred; or the police chief of the municipality within which the accident occurred, if applicable.

Section 3. Section 327.43, Florida Statutes, is amended to read:

327.43 Silver Glen Run and Silver Glen Springs; navigation channel; ~~anchorage buoys; violations.~~--

(1) The Fish and Wildlife Conservation Commission is hereby directed to mark a navigation channel within Silver Glen Run and Silver Glen Springs, located on the western shore of Lake George on the St. Johns River.

1 ~~(2) The commission is further directed to establish~~
2 ~~permanent anchorage buoys within Silver Glen Run and Silver~~
3 ~~Glen Springs.~~

4 ~~(3) Vessel anchorage or mooring shall only be allowed~~
5 ~~utilizing permanently established anchorage buoys. No vessel~~
6 ~~shall anchor or otherwise attach, temporarily or permanently,~~
7 ~~to the bottom within Silver Glen Run or Silver Glen Springs.~~

8 ~~(4) Any violation of this act shall constitute a~~
9 ~~violation of the boating laws of this state and shall be~~
10 ~~punishable by issuance of a uniform boating citation as~~
11 ~~provided in s. 327.74. Any person who refuses to post a bond~~
12 ~~or accept and sign a uniform boating citation, as provided in~~
13 ~~s. 327.73(3), commits a misdemeanor of the second degree,~~
14 ~~punishable as provided in s. 775.082 or s. 775.083.~~

15 Section 4. Subsection (6) of section 370.15, Florida
16 Statutes, and paragraph (c) of subsection (3) of section
17 370.153, Florida Statutes, are repealed.

18 Section 5. Paragraph (d) of subsection (2) of section
19 370.1535, Florida Statutes, is amended to read:

20 370.1535 Regulation of shrimp fishing in Tampa Bay;
21 licensing requirements.--

22 (2) The Fish and Wildlife Conservation Commission is
23 authorized to issue a dead shrimp production permit to persons
24 qualified pursuant to the following criteria:

25 (d) No person shall be issued a permit or be allowed
26 to renew a permit if such person is registered for
27 noncommercial trawling pursuant to s. 370.15(4) ~~or if such~~
28 ~~person holds a live bait shrimping license issued pursuant to~~
29 ~~s. 370.15(6).~~

30 Section 6. Section 370.154, Florida Statutes, is
31 amended to read:

1 370.154 Shrimp regulations; closed areas; suspension
2 of license, etc.--Any person convicted of taking shrimp in a
3 closed area who is punishable under s. 370.15(5) ~~or (6)~~ shall,
4 in addition to the penalties set forth therein, have his or
5 her permit and the permit of the boat involved in the
6 violation, issued pursuant to s. 370.15(4), revoked, if the
7 person holds such a permit, and he or she shall be ineligible
8 to make application for such a permit for a period of 2 years
9 from the date of such conviction. If a person not having a
10 permit is convicted hereunder, that person and the boat
11 involved in the violation shall not be eligible for such a
12 permit for 5 years.

13 Section 7. Present subsections (15) through (27) of
14 section 370.01, Florida Statutes, are renumbered as
15 subsections (16) through (28), respectively, and a new
16 subsection (15) is added to that section, to read:

17 370.01 Definitions.--In construing these statutes,
18 where the context does not clearly indicate otherwise, the
19 word, phrase, or term:

20 (15) "Molest," in connection with any fishing trap or
21 its buoy or buoy line, means to touch, bother, disturb, or
22 interfere or tamper with, in any manner.

23 Section 8. Paragraph (d) of subsection (5) of section
24 370.061, Florida Statutes, is amended to read:

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

27 (5) CONFISCATION AND SALE OF PERISHABLE SALTWATER
28 PRODUCTS; PROCEDURE.--

29 (d) For purposes of confiscation under this
30 subsection, the term "saltwater products" has the meaning set
31 out in s. 130.01 ~~s. 370.01(25)~~, except that the term does not

1 include saltwater products harvested under the authority of a
2 recreational license unless the amount of such harvested
3 products exceeds three times the applicable recreational bag
4 limit for trout, snook, or redfish.

5 Section 9. Paragraph (c) of subsection (2) of section
6 370.1107, Florida Statutes, is amended to read:

7 370.1107 Definition; possession of certain licensed
8 traps prohibited; penalties; exceptions; consent.--

9 (2) It is unlawful for any person, firm, corporation,
10 or association to be in actual or constructive possession of a
11 licensed saltwater fisheries trap registered with the Fish and
12 Wildlife Conservation Commission in another person's, firm's,
13 corporation's, or association's name.

14 (c) Upon receipt of any judicial disposition other
15 than dismissal or acquittal on a charge of violating the
16 arrest and conviction for violation of this section or any
17 provision of law or rule making unlawful the possession of
18 another's saltwater fishing trap, a person shall permanently
19 lose all saltwater fishing privileges, including licenses,
20 trap certificates, and the ability to transfer trap
21 certificates, any licenseholder shall show just cause why his
22 or her license shall not be suspended or permanently revoked.

23 Section 10. Paragraph (b) of subsection (2) of section
24 370.13, Florida Statutes, is amended to read:

25 370.13 Stone crab; regulation.--

26 (2) PENALTIES.--For purposes of this subsection,
27 conviction is any disposition other than acquittal or
28 dismissal, regardless of whether the violation was adjudicated
29 under any state or federal law.

30 (b) It is unlawful for any person to remove the
31 contents of another harvester's trap or take possession of

1 such without the express written consent of the trap owner
2 available for immediate inspection. ~~Such~~ Unauthorized
3 possession of another's trap gear or removal of trap contents
4 constitutes theft. Any person convicted of theft of or from a
5 trap pursuant to this subsection or s. 370.1107 shall, in
6 addition to the penalties specified in s. 370.021 and the
7 provisions of this section, permanently lose all his or her
8 saltwater fishing privileges, including saltwater products
9 licenses, stone crab or incidental take endorsements, and all
10 trap certificates allotted to him or her by the commission. In
11 such cases, trap certificates and endorsements are
12 nontransferable. In addition, any person, firm, or corporation
13 convicted of violating the prohibitions referenced in this
14 paragraph shall also be assessed an administrative penalty of
15 up to \$5,000. Immediately upon receiving a citation for a
16 violation involving theft of or from a trap and until
17 adjudicated for such a violation, or, upon receipt of a
18 judicial disposition other than dismissal or acquittal on if
19 ~~convicted of~~ such a violation, the violator is prohibited from
20 transferring any stone crab or lobster certificates.

21 Section 11. Subsection (1) of section 370.135, Florida
22 Statutes, is amended to read:

23 370.135 Blue crab; regulation.--

24 (1) No person, firm, or corporation shall transport on
25 the water, fish with or cause to be fished with, set, or place
26 any trap designed for taking blue crabs unless such person,
27 firm, or corporation is the holder of a valid saltwater
28 products license issued pursuant to s. 370.06 and the trap has
29 a current state number permanently attached to the buoy. The
30 trap number shall be affixed in legible figures at least 1
31 inch high on each buoy used. The saltwater products license

1 must be on board the boat, and both the license and the crabs
2 shall be subject to inspection at all times. Only one trap
3 number may be issued for each boat by the commission upon
4 receipt of an application on forms prescribed by it. This
5 subsection shall not apply to an individual fishing with no
6 more than five traps. It is a felony of the third degree,
7 punishable as provided in s. 775.082, s. 775.083, or s.
8 775.084, for any person willfully to molest any traps, lines,
9 or buoys, as defined herein, belonging to another without the
10 express written consent of the trap owner ~~permission of the~~
11 ~~licenseholder~~. Any person receiving a judicial disposition
12 other than dismissal or acquittal on a charge of willful
13 molestation of a trap, in addition to the penalties specified
14 in s. 370.021, shall lose all saltwater fishing privileges for
15 a period of 24 calendar months. It is unlawful for any person
16 to remove the contents of or take possession of another
17 harvester's trap without the express written consent of the
18 trap owner available for immediate inspection. ~~Such~~
19 Unauthorized possession of another's trap gear or removal of
20 trap contents constitutes theft. Any person receiving a
21 judicial disposition other than dismissal or acquittal on a
22 charge ~~convicted~~ of theft of or from a trap pursuant to this
23 section or s. 370.1107 shall, in addition to the penalties
24 specified in s. 370.021 and the provisions of this section,
25 permanently lose all his or her saltwater fishing privileges
26 including his or her saltwater products license and blue crab
27 endorsement. In such cases endorsements, landings history, and
28 trap certificates are nontransferable. In addition, any
29 person, firm, or corporation receiving a judicial disposition
30 other than dismissal or acquittal for ~~convicted of~~ violating
31 this subsection or s. 370.1107 shall also be assessed an

1 administrative penalty of up to \$5,000. Immediately upon
2 receiving a citation for a violation involving theft of or
3 from a trap and until adjudicated for such a violation, or
4 receiving a judicial disposition other than dismissal or
5 acquittal for ~~if convicted of~~ such a violation, the person,
6 firm, or corporation committing the violation is prohibited
7 from transferring any blue crab endorsements, landings
8 history, or trap certificates.

9 Section 12. Paragraph (c) of subsection (2) of section
10 370.142, Florida Statutes, is amended to read:

11 370.142 Spiny lobster trap certificate program.--

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

17 (c) Prohibitions; penalties.--

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

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

29 3. It is unlawful for any person to willfully molest,
30 take possession of, or remove the contents of another
31 harvester's trap without the express written consent of the

1 trap owner available for immediate inspection. ~~Such~~
2 Unauthorized possession of another's trap gear or removal of
3 trap contents constitutes theft. Any person receiving a
4 judicial disposition other than dismissal or acquittal on a
5 charge ~~convicted~~ of theft of or from a trap pursuant to this
6 subparagraph or s. 370.1107 shall, in addition to the
7 penalties specified in ss. 370.021 and 370.14 and the
8 provisions of this section, permanently lose all his or her
9 saltwater fishing privileges, including his or her saltwater
10 products license, crawfish endorsement, and all trap
11 certificates allotted to him or her through this program. In
12 such cases, trap certificates and endorsements are
13 nontransferable. Any person receiving a judicial disposition
14 other than dismissal or acquittal on a charge of willful
15 molestation of a trap, in addition to the penalties specified
16 in ss. 370.021 and 370.14, shall lose all saltwater fishing
17 privileges for a period of 24 calendar months.In addition,
18 any person, firm, or corporation charged with ~~convicted of~~
19 violating this paragraph and receiving a judicial disposition
20 other than dismissal or acquittal for violating this
21 subparagraph or s. 370.1107 shall also be assessed an
22 administrative penalty of up to \$5,000. Immediately upon
23 receiving a citation for a violation involving theft of or
24 from a trap, or molestation of a trap,and until adjudicated
25 for such a violation or, upon receipt of a judicial
26 disposition other than dismissal or acquittal ~~if convicted~~ of
27 such a violation, the person, firm, or corporation committing
28 the violation is prohibited from transferring any crawfish
29 trap certificates and endorsements.

30 4. In addition to any other penalties provided in s.
31 370.021, a commercial harvester, as defined by rule

1 68B-24.002(1), Florida Administrative Code, who violates the
2 provisions of this section, or the provisions relating to
3 traps of chapter 68B-24, Florida Administrative Code, shall be
4 punished as follows:

5 a. If the first violation is for violation of
6 subparagraph 1. or subparagraph 2., the commission shall
7 assess an additional civil penalty of up to \$1,000 and the
8 crawfish trap number issued pursuant to s. 370.14(2) or (6)
9 may be suspended for the remainder of the current license
10 year. For all other first violations, the commission shall
11 assess an additional civil penalty of up to \$500.

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

18 c. For a third or subsequent violation of subparagraph
19 1., subparagraph 2., or subparagraph 3. which occurs within 36
20 months of any previous two such violations, the commission
21 shall assess an additional civil penalty of up to \$5,000 and
22 may suspend the crawfish trap number issued pursuant to s.
23 370.14(2) or (6) for a period of up to 24 months or may revoke
24 the crawfish trap number and, if revoking the crawfish trap
25 number, may also proceed against the licenseholder's saltwater
26 products license in accordance with the provisions of s.
27 370.021(2)(h).

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

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

1 (II) Request an administrative hearing pursuant to the
2 provisions of s. 120.60.

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

6 5.a. It is unlawful for any person to make, alter,
7 forge, counterfeit, or reproduce a spiny lobster trap tag or
8 certificate.

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

12 c. It is unlawful for any person to barter, trade,
13 sell, supply, agree to supply, aid in supplying, or give away
14 a spiny lobster trap tag or certificate or to conspire to
15 barter, trade, sell, supply, aid in supplying, or give away a
16 spiny lobster trap tag or certificate unless such action is
17 duly authorized by the commission as provided in this chapter
18 or in the rules of the commission.

19 6.a. Any person who violates the provisions of
20 subparagraph 5., or any person who engages in the commercial
21 harvest, trapping, or possession of spiny lobster without a
22 crawfish trap number as required by s. 370.14(2) or (6) or
23 during any period while such crawfish trap number is under
24 suspension or revocation, commits a felony of the third
25 degree, punishable as provided in s. 775.082, s. 775.083, or
26 s. 775.084.

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

3 7. Any certificates for which the annual certificate
4 fee is not paid for a period of 3 years shall be considered
5 abandoned and shall revert to the commission. During any
6 period of trap reduction, any certificates reverting to the
7 commission shall become permanently unavailable and be
8 considered in that amount to be reduced during the next
9 license-year period. Otherwise, any certificates that revert
10 to the commission are to be reallocated in such manner as
11 provided by the commission.

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

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

18 Section 13. This act shall take effect July 1, 2003.

19
20 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
21 COMMITTEE SUBSTITUTE FOR
22 Senate Bill 1050

23 The Committee Substitutue makes technical corrections to s.
24 370.021, F.S., related to penalties for unlicensed commercial
fishing.

25 Provides consistency among penalties for blue crab, stone
26 crab, and lobster trap theft and removal of trap contents.

27 Provides a definition and willful standard for the molestation
28 of traps among blue crab, stone crab and lobster trap
29 fisheries.
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31