

CHAMBER ACTION

1 The Committee on Natural Resources recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to use of illegal nets; amending s.
7 370.021, F.S.; providing civil and criminal penalties for
8 flagrant violations; providing a definition; reenacting
9 ss. 370.092(3) and (4) and 370.093, F.S., relating to
10 illegal use of nets, to incorporate the amendment to s.
11 370.021, F.S., in references thereto; providing an
12 effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Paragraph (b) of subsection (3) of section
17 370.021, Florida Statutes, is amended to read:

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

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

21 (b)1. A flagrant violation of any rule or statute which
22 implements s. 16(b), Art. X of the State Constitution shall be
23 considered a felony of the third degree, punishable as provided

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24 | in s. 775.082 or s. 775.083. For purposes of this paragraph, a
 25 | flagrant violation shall be the illegal possession or use of a
 26 | monofilament net or a net with a mesh area larger than 2000
 27 | square feet. A violation means any judicial disposition other
 28 | than acquittal or dismissal.

29 | 2.(b) In addition to being subject to the other penalties
 30 | provided in this chapter, any violation of s. 16(b), Art. X of
 31 | the State Constitution, or any statute or rule ~~rules~~ of the
 32 | commission which implements ~~implement~~ the gear prohibitions and
 33 | restrictions specified therein shall be considered a major
 34 | violation; and any person, firm, or corporation receiving any
 35 | judicial disposition other than acquittal or dismissal of such
 36 | violation shall be subject to the following additional
 37 | penalties:

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

42 | b.2. For a second major violation under this subparagraph
 43 | ~~paragraph~~ charged within 7 years of a previous judicial
 44 | disposition, which results in a second judicial disposition
 45 | other than acquittal or dismissal, a civil penalty of \$5,000 and
 46 | suspension of all saltwater products license privileges for 12
 47 | months shall be imposed.

48 | c.3. For a third or subsequent major violation under this
 49 | subparagraph ~~paragraph~~, charged within a 7-year period,
 50 | resulting in a third or subsequent judicial disposition other
 51 | than acquittal or dismissal, a civil penalty of \$5,000, lifetime

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52 | revocation of the saltwater products license, and forfeiture of
53 | all gear and equipment used in the violation shall be imposed.

54 | d. For a first flagrant violation under this subparagraph,
55 | a civil penalty of \$5,000 and a suspension of all saltwater
56 | license privileges for 12 months shall be imposed. For a second
57 | or subsequent flagrant violation under this subparagraph, a
58 | civil penalty of \$5,000, a lifetime revocation of the saltwater
59 | products license, and the forfeiture of all gear and equipment
60 | used in the violation shall be imposed.

61 |
62 | A court may suspend, defer, or withhold adjudication of guilt or
63 | imposition of sentence only for any first violation of s. 16,
64 | Art. X of the State Constitution, or any rule or statute
65 | implementing its restrictions, determined by a court only after
66 | consideration of competent evidence of mitigating circumstances
67 | to be a nonflagrant or minor violation of those restrictions
68 | upon the use of nets. Any violation of s. 16, Art. X of the
69 | State Constitution, or any rule or statute implementing its
70 | restrictions, occurring within a 7-year period commencing upon
71 | the conclusion of any judicial proceeding resulting in any
72 | outcome other than acquittal shall be punished as a second,
73 | third, or subsequent violation accordingly.

74 | Section 2. For the purpose of incorporating the amendment
75 | to section 370.021, Florida Statutes, in references thereto,
76 | subsections (3) and (4) of section 370.092, Florida Statutes,
77 | are reenacted to read:

78 | 370.092 Carriage of proscribed nets across Florida
79 | waters.--

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80 (3) Notwithstanding subsections (1) and (2), unless
81 authorized by rule of the Fish and Wildlife Conservation
82 Commission, it is a major violation under this section,
83 punishable as provided in s. 370.021(3), for any person, firm,
84 or corporation to possess any gill or entangling net, or any
85 seine net larger than 500 square feet in mesh area, on any
86 airboat or on any other vessel less than 22 feet in length and
87 on any vessel less than 25 feet if primary power of the vessel
88 is mounted forward of the vessel center point. Gill or
89 entangling nets shall be as defined in s. 16, Art. X of the
90 State Constitution, s. 370.093(2)(b), or in a rule of the Fish
91 and Wildlife Conservation Commission implementing s. 16, Art. X
92 of the State Constitution. Vessel length shall be determined in
93 accordance with current United States Coast Guard regulations
94 specified in the Code of Federal Regulations or as titled by the
95 State of Florida. The Marine Fisheries Commission is directed to
96 initiate by July 1, 1998, rulemaking to adjust by rule the use
97 of gear on vessels longer than 22 feet where the primary power
98 of the vessel is mounted forward of the vessel center point in
99 order to prevent the illegal use of gill and entangling nets in
100 state waters and to provide reasonable opportunities for the use
101 of legal net gear in adjacent federal waters.

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

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106 Section 3. For the purpose of incorporating the amendment
107 to section 370.021, Florida Statutes, in a reference thereto,
108 section 370.093, Florida Statutes, is reenacted to read:

109 370.093 Illegal use of nets.--

110 (1) It is unlawful to take or harvest, or to attempt to
111 take or harvest, any marine life in Florida waters with any net
112 that is not consistent with the provisions of s. 16, Art. X of
113 the State Constitution.

114 (2)(a) Beginning July 1, 1998, it is also unlawful to take
115 or harvest, or to attempt to take or harvest, any marine life in
116 Florida waters with any net, as defined in subsection (3) and
117 any attachments to such net, that combined are larger than 500
118 square feet and have not been expressly authorized for such use
119 by rule of the Fish and Wildlife Conservation Commission. The
120 use of currently legal shrimp trawls and purse seines outside
121 nearshore and inshore Florida waters shall continue to be legal
122 until the commission implements rules regulating those types of
123 gear.

124 (b) The use of gill or entangling nets of any size is
125 prohibited, as such nets are defined in s. 16, Art. X of the
126 State Constitution. Any net constructed wholly or partially of
127 monofilament or multistrand monofilament material, other than a
128 hand thrown cast net, or a handheld landing or dip net, shall be
129 considered to be an entangling net within the prohibition of s.
130 16, Art. X of the State Constitution unless specifically
131 authorized by rule of the commission. Multistrand monofilament
132 material shall not be defined to include nets constructed of

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133 braided or twisted nylon, cotton, linen twine, or polypropylene
134 twine.

135 (c) This subsection shall not be construed to apply to
136 aquaculture activities licenses issued pursuant to s. 370.26.

137 (3) As used in s. 16, Art. X of the State Constitution and
138 this subsection, the term "net" or "netting" must be broadly
139 construed to include all manner or combination of mesh or
140 webbing or any other solid or semisolid fabric or other material
141 used to comprise a device that is used to take or harvest marine
142 life.

143 (4) Upon the arrest of any person for violation of this
144 subsection, the arresting officer shall seize the nets illegally
145 used. Upon conviction of the offender, the arresting authority
146 shall destroy the nets.

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

149 (6) The Fish and Wildlife Conservation Commission is
150 granted authority to adopt rules pursuant to s. 370.025
151 implementing this section and the prohibitions and restrictions
152 of s. 16, Art. X of the State Constitution.

153 Section 4. This act shall take effect July 1, 2004.