

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

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Paragraph (b) of subsection (3) of section
 13 370.021, Florida Statutes, is amended to read:

14 370.021 Administration; rules, publications, records;
 15 penalties; injunctions.--

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

17 (b)1. A flagrant violation of any rule or statute which
 18 implements s. 16(b), Art. X of the State Constitution shall be
 19 considered a felony of the third degree, punishable as provided
 20 in s. 775.082 or s. 775.083. For purposes of this paragraph, a
 21 flagrant violation shall be the illegal possession or use of a
 22 monofilament net or a net with a mesh area larger than 2000
 23 square feet. A violation means any judicial disposition other
 24 than acquittal or dismissal.

25 2.(b) In addition to being subject to the other penalties
 26 provided in this chapter, any violation of s. 16(b), Art. X of
 27 the State Constitution, or any statute or rule ~~rules~~ of the
 28 commission which implements ~~implement~~ the gear prohibitions and

29 | restrictions specified therein shall be considered a major
 30 | violation; and any person, firm, or corporation receiving any
 31 | judicial disposition other than acquittal or dismissal of such
 32 | violation shall be subject to the following additional
 33 | penalties:

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

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

44 | ~~c.3.~~ For a third or subsequent major violation under this
 45 | subparagraph ~~paragraph~~, charged within a 7-year period,
 46 | resulting in a third or subsequent judicial disposition other
 47 | than acquittal or dismissal, a civil penalty of \$5,000, lifetime
 48 | revocation of the saltwater products license, and forfeiture of
 49 | all gear and equipment used in the violation shall be imposed.

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

57
58 A court may suspend, defer, or withhold adjudication of guilt or
59 imposition of sentence only for any first violation of s. 16,
60 Art. X of the State Constitution, or any rule or statute
61 implementing its restrictions, determined by a court only after
62 consideration of competent evidence of mitigating circumstances
63 to be a nonflagrant or minor violation of those restrictions
64 upon the use of nets. Any violation of s. 16, Art. X of the
65 State Constitution, or any rule or statute implementing its
66 restrictions, occurring within a 7-year period commencing upon
67 the conclusion of any judicial proceeding resulting in any
68 outcome other than acquittal shall be punished as a second,
69 third, or subsequent violation accordingly.

70 Section 2. For the purpose of incorporating the amendment
71 to section 370.021, Florida Statutes, in references thereto,
72 subsections (3) and (4) of section 370.092, Florida Statutes,
73 are reenacted to read:

74 370.092 Carriage of proscribed nets across Florida
75 waters.--

76 (3) Notwithstanding subsections (1) and (2), unless
77 authorized by rule of the Fish and Wildlife Conservation
78 Commission, it is a major violation under this section,
79 punishable as provided in s. 370.021(3), for any person, firm,
80 or corporation to possess any gill or entangling net, or any
81 seine net larger than 500 square feet in mesh area, on any
82 airboat or on any other vessel less than 22 feet in length and
83 on any vessel less than 25 feet if primary power of the vessel
84 is mounted forward of the vessel center point. Gill or

85 | entangling nets shall be as defined in s. 16, Art. X of the
86 | State Constitution, s. 370.093(2)(b), or in a rule of the Fish
87 | and Wildlife Conservation Commission implementing s. 16, Art. X
88 | of the State Constitution. Vessel length shall be determined in
89 | accordance with current United States Coast Guard regulations
90 | specified in the Code of Federal Regulations or as titled by the
91 | State of Florida. The Marine Fisheries Commission is directed to
92 | initiate by July 1, 1998, rulemaking to adjust by rule the use
93 | of gear on vessels longer than 22 feet where the primary power
94 | of the vessel is mounted forward of the vessel center point in
95 | order to prevent the illegal use of gill and entangling nets in
96 | state waters and to provide reasonable opportunities for the use
97 | of legal net gear in adjacent federal waters.

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

102 | Section 3. For the purpose of incorporating the amendment
103 | to section 370.021, Florida Statutes, in a reference thereto,
104 | section 370.093, Florida Statutes, is reenacted to read:

105 | 370.093 Illegal use of nets.--

106 | (1) It is unlawful to take or harvest, or to attempt to
107 | take or harvest, any marine life in Florida waters with any net
108 | that is not consistent with the provisions of s. 16, Art. X of
109 | the State Constitution.

110 | (2)(a) Beginning July 1, 1998, it is also unlawful to take
111 | or harvest, or to attempt to take or harvest, any marine life in
112 | Florida waters with any net, as defined in subsection (3) and

113 any attachments to such net, that combined are larger than 500
114 square feet and have not been expressly authorized for such use
115 by rule of the Fish and Wildlife Conservation Commission. The
116 use of currently legal shrimp trawls and purse seines outside
117 nearshore and inshore Florida waters shall continue to be legal
118 until the commission implements rules regulating those types of
119 gear.

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

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

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

139 (4) Upon the arrest of any person for violation of this
140 subsection, the arresting officer shall seize the nets illegally

141 | used. Upon conviction of the offender, the arresting authority
142 | shall destroy the nets.

143 | (5) Any person who violates this section shall be punished
144 | as provided in s. 370.021(3).

145 | (6) The Fish and Wildlife Conservation Commission is
146 | granted authority to adopt rules pursuant to s. 370.025
147 | implementing this section and the prohibitions and restrictions
148 | of s. 16, Art. X of the State Constitution.

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