

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1367

Fish and Wildlife Conservation Commission

SPONSOR(S): Seiler

TIED BILLS:

IDEN./SIM. BILLS: SB 1866

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Environmental Regulation Committee		Winker	Kliner
2) Criminal Justice Committee			
3) Agriculture & Environment Appropriations Committee			
4) State Resources Council			
5) _____			

SUMMARY ANALYSIS

HB 1367 makes numerous changes to statutes related to the Florida Fish and Wildlife Conservation Commission (FWCC). The bill increases the age requirement for persons having to pass the boating safety education course to all persons born after September 30, 1983. The bill revises the membership criteria and the nominating process of the Boating Advisory Council to the FWCC. The bill reduces the stone crab certificate transfer fees in half for the 2005-2006 season and for the 2006-2007 seasons and beyond, authorizes the FWCC to establish the fees by rule up to the level currently authorized by statute. The bill creates an individual/vessel saltwater products license for commercial fishers. The bill increases the penalties for persons who habitually violate dog hunting laws and for persons who hunt with a suspended or revoked license. The bill eliminates the FWCC's environmental education grant program and the Advisory Council on Environmental Education. And finally, the bill requires persons hunting on private lands to wear orange garments for safety reasons.

Except as otherwise expressly provided in the bill, the bill will take effect on July 1, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill requires the Florida Fish and Wildlife Commission to promulgate additional rules.

Ensure lower taxes – The bill allows for a reduction of certain fees.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The Florida Fish and Wildlife Conservation Commission (FWCC) was created as a result of the passage of Revision #5 to the State Constitution in the November 1998 General Election, as implemented by the 1999 Legislative Session. Revision #5 provided that one entity regulate wild animal life, freshwater aquatic life, and marine life in Florida. This was accomplished by merging the former Game and Fresh Water Fish Commission, the former Marine Fisheries Commission, and most of the former divisions of Marine Resources and Law Enforcement within the Department of Environmental Protection.

The FWCC is comprised of seven Commissioners appointed by the Governor and confirmed by the Senate. For FY 2004-2005, the FWCC has 1,867 agency employees and a total budget of about \$222 million.

The FWCC is responsible for managing Florida's freshwater aquatic life, marine life, and wild animal life. For example, it issues licenses or permits for the commercial and recreational take of fish and wildlife. Compliance with rules and laws is accomplished through public education and the efforts of the FWCC's Division of Law Enforcement.

FWCC is authorized by the Legislature to regulate recreational boating in Florida. The Division of Law Enforcement implements the provisions of Chapter 327, F.S., relating to vessel safety, vessel and motor testing, boating education requirements and boaters driving under the influence of alcohol or drugs. Section 327.395, F.S., requires anyone under age 21 years-of-age or younger to pass a boating safety education course and obtain a Florida Boating Safety Education Identification Card. Boating safety courses for persons older than 21 year-of-age in Florida is voluntary. FWCC reports that boating safety education courses have a positive impact on boating safety indicators and that most boaters support boating educational courses.

The Boating Advisory Council was created in 1994 (see s. 327.803, F.S.) for the purpose of making recommendations to the Department of Environmental Protection and the Department of Community Affairs. In 1999, the Advisory Council was transferred to the FWCC.

Section 370.06, F.S. provides that any person harvesting commercial quantities of saltwater products must be licensed by the State through the FWCC. An individual saltwater products license permits only the person receiving the license to fish commercially. Such a license currently costs \$50 for a Florida resident, \$200 for a non-resident, and \$300 for an alien. A vessel saltwater product license permits anyone on board a licensed vessel to harvest fish without having to obtain an individual license. Such a license currently costs \$100 for a resident, \$400 for a non-resident, and \$600 for an alien.

Section 370.13, F.S., provides for a stone crab trap limitation program administered by the FWCC. When certificates for stone crab traps are transferred or sold, the seller is authorized by FWCC rule to transfer a percentage (77.5%) of the trap inventory with the remaining 22.5% of the traps removed from the fishery. This is done to reduce the total inventory of traps from their FY 2004-2005 number of 1,458,708 to 600,000. The current fee to transfer stone crab trap certificates is \$2 per certificate

transferred with limited exceptions depending if the person is a family member or a member of the fishing crew.

FWCC enforces hunting law through its Division of Law Enforcement with corresponding penalties as provided for in Florida statutes. Section 372.83, F.S., provides that the current penalty for hunting with a suspended or revoked hunting license is a \$50 fine, plus the cost of a hunting license and court costs. Current penalties for violating any of the taking of deer using dogs laws (see s. 372.83, F.S.) is a second degree misdemeanor (up to a \$500 fine and up to 60 days in jail) for the first conviction and a first degree misdemeanor (up to a \$1,000 fine and up to 60 days in jail) for a second conviction.

FWCC is authorized to develop and implement an environmental education grant program to assist the public through school teachers, the Department of Education, and other groups in understanding Florida's environment and the problems and issues facing the state's ecosystem. An Advisory Council on Environmental Education with the FWCC serves to recommend to the FWCC an annual list of projects to be funded through the grant program. Declining revenues in the two funding sources for the program (Save the Manatee Trust Fund and the Florida Panther Research and Management Trust Fund) have resulted in the elimination of funding for the program and its staff effective July 1, 2003.

Effect of Proposed Changes

HB 1367 makes numerous changes to statutes related to the Florida Fish and Wildlife Conservation Commission.

The bill increases the age requirement for persons having to pass the boating safety education course to all persons born after September 30, 1983. The bill revises the membership criteria of the Boating Advisory Council to the FWCC to include a representative of marine special events. The bill changes the nominating process for the Advisory Council from the FWCC's Executive Director nominating members and appointed by the Governor to only having the FWCC Commissioners appoint members to the Advisory Council. The bill also; extends the term of service for council members from 2 to 3 years; adds boat access and working waterfronts to the council's purview; and allows for the removal of a council member for cause.

The bill reduces the stone crab certificate transfer fees in half (currently \$2 and \$1) for the 2005-2006 season and for the 2006-2007 seasons and beyond, authorizes the FWCC to establish the fees by rule up to the level currently authorized by statute.

The bill creates an individual/vessel saltwater products license for commercial fishers. This will allow a commercial fisher who may have several vessels, but who only uses one vessel at a time, the opportunity to purchase only one license.

The bill increases the penalties for persons who habitually violate dog hunting laws and for persons who hunt with a suspended or revoked license. Current law provides for a second degree misdemeanor penalty for a first conviction of a hunting with dogs law violation. The bill adds a first degree misdemeanor penalty (minimum mandatory \$250 fine) for a second conviction within a 3-year period, a first degree misdemeanor penalty (minimum mandatory \$500 fine and a mandatory suspension of a hunting license for one year) for a third conviction within a 4-year period, and a first degree misdemeanor penalty (minimum mandatory \$1,000 fine and a mandatory suspension of a hunting license for 3 years) for a fourth conviction within a 5-year period. The bill makes it a first degree misdemeanor penalty (mandatory \$1,000 fine and a suspension of a hunting license for 1 year) for the deliberate use of dogs for hunting deer on private property without the written permission of a landowner. And finally, the bill provides for a first degree misdemeanor penalty (minimum mandatory \$500) fine for a first conviction of hunting with a suspended or revoked hunting license and a first degree misdemeanor penalty (mandatory \$1,000 fine) for a second and subsequent conviction.

The bill eliminates the FWCC's environmental education grant program and the Advisory Council on Environmental Education. And finally, the bill requires persons hunting on private lands to wear orange garments for safety reasons.

Except as otherwise expressly provided in the bill, the bill will take effect on July 1, 2005.

C. SECTION DIRECTORY:

Section 1: Amends subsections (1) and (7) of s. 327.395, F.S., relating to boater safety identification cards; requires all persons born after September 30, 1983 while operating a boat to have a boater safety identification card having taken and passed a boater education course.

Section 2: Amends s. 327.803, F.S., related to the boating advisory council; changes the affiliation of a member of the council to be a representative of marine special events; changes the nominating process for members of the advisory council; extends the term of service on the council from 2 to 3 years; adds boat access and working waterfronts to the list of issues for the council to review and make recommendations to the FWCC; provides for reimbursement for expenses for council members; provides a procedure when a vacancy occurs; and provides that members may be removed for cause.

Section 3: Amends paragraphs (d) and (e) of subsection (2) of s. 370.06, F.S., related to saltwater products license; creates a new saltwater product license and individual/vessel license that is a combination of the current two licenses.

Section 4: Amends paragraph (b) of subsection (1) of s. 370.13, F.S., related to the regulation of stone crab traps; reduces the stone crab trap transfers fees in half for the 2005-2006 season; and authorizes the FWCC by rule to set the fees up to the current level authorized in statute for the 2006-2007 season and beyond.

Section 5: Adds subsection (6) to s. 372.83, F.S., related to penalties for suspension and revocation of licenses and permits; provides for a first misdemeanor penalty for a first conviction and a second degree conviction for a second and subsequent conviction.

Section 6: Creates s. 372.831, F.S., related to hunting with dogs; adds additional escalating penalties for persons unlawfully using dogs for taking and attempting to take wildlife; requires written permission from a landowner for the use of dogs to take or attempt to take wildlife; creates a new penalty for the deliberate use of dogs for hunting on private property without the permission of the land owner; and provides that such penalties may only apply for violations committed after July 1, 2005.

Section 7: Amends s. 372.988, F.S., related to required clothing for persons hunting deer; requires persons hunting deer on private lands in addition to public lands to wear at least 500 square inches of daylight fluorescent orange material as an outer garment.

Section 8: Reenacts subsection (1) of s. 372.83, F.S. for purposes of incorporating amendments to s. 372.988, F.S.

Section 9: Repeals s. 372.674, F.S., related to the FWCC environmental education grant program.

Section 10: Amends subsection (2) of s. 372.672, F.S., related to the Florida Panther Research and Management Trust Fund; deletes the use of funds from the trust fund for FWCC environmental education grant program.

Section 11: Except as otherwise expressly provided in the act (see Section 8), the bill will take effect on July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Provisions of the related to increasing penalties for hunting violations will have an indeterminate positive fiscal impact.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to: require cities or counties to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the FWCC to promulgate rules related to the regulation of stone crab traps.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Committee staff have been informed by staff in the Governor's Office that it does not support lines 91-94 of the bill which changes the appointment process for the Boating Advisory Council, by removing the Governor as the appointer of members to the Advisory Council.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES