

1 A bill to be entitled
2 An act relating to saltwater fisheries; amending s.
3 370.135, F.S.; establishing certain endorsement fees for
4 the taking of blue crabs; establishing an annual trap tag
5 fee; authorizing the Fish and Wildlife Conservation
6 Commission to establish by rule an amount of equitable
7 rent for access to state natural resources; requiring
8 approval of such rule by the Governor and Cabinet;
9 requiring the deposit of certain proceeds into the Marine
10 Resources Conservation Trust Fund; specifying the use of
11 such proceeds; providing administrative penalties for
12 certain violations; prohibiting the unauthorized
13 possession of trap gear or removal of trap contents and
14 providing penalties therefor; providing penalties for
15 certain other prohibited activities relating to traps,
16 lines, buoys, and trap tags; providing penalties for
17 fraudulent reports related to endorsement transfers;
18 prohibiting certain activities during endorsement
19 suspension and revocation; preserving state jurisdiction
20 for certain convictions; providing requirements for
21 certain license renewal; appropriating certain fee
22 revenues to the commission for blue crab effort management
23 program costs; requiring the commission to create an
24 advisory board; amending s. 370.142, F.S.; providing
25 administrative penalties for certain violations of the
26 spiny lobster trap certificate program; amending s.
27 370.143, F.S.; revising provisions for certain trap
28 retrieval programs and fees; providing an effective date.

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

Section 1. Subsection (1) of section 370.135, Florida Statutes, is amended, and subsections (3), (4), and (5) are added to that section, to read:

370.135 Blue crab; regulation.--

(1) No person, firm, or corporation shall transport on the water, fish with or cause to be fished with, set, or place any trap designed for taking blue crabs unless such person, firm, or corporation is the holder of a valid saltwater products license issued pursuant to s. 370.06 and the trap has a current state number permanently attached to the buoy. The trap number shall be affixed in legible figures at least 1 inch high on each buoy used. The saltwater products license must be on board the boat, and both the license and the crabs shall be subject to inspection at all times. Only one trap number may be issued for each boat by the commission upon receipt of an application on forms prescribed by it. This subsection shall not apply to an individual fishing with no more than five traps. ~~It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully to molest any traps, lines, or buoys, as defined herein, belonging to another without the express written consent of the trap owner. Any person receiving a judicial disposition other than dismissal or acquittal on a charge of willful molestation of a trap, in addition to the penalties specified in s. 370.021, shall lose all saltwater fishing privileges for a period of 24 calendar~~

57 ~~months. It is unlawful for any person to remove the contents of~~
 58 ~~or take possession of another harvester's trap without the~~
 59 ~~express written consent of the trap owner available for~~
 60 ~~immediate inspection. Unauthorized possession of another's trap~~
 61 ~~gear or removal of trap contents constitutes theft. Any person~~
 62 ~~receiving a judicial disposition other than dismissal or~~
 63 ~~acquittal on a charge of theft of or from a trap pursuant to~~
 64 ~~this section or s. 370.1107 shall, in addition to the penalties~~
 65 ~~specified in s. 370.021 and the provisions of this section,~~
 66 ~~permanently lose all his or her saltwater fishing privileges~~
 67 ~~including his or her saltwater products license and blue crab~~
 68 ~~endorsement. In such cases endorsements, landings history, and~~
 69 ~~trap certificates are nontransferable. In addition, any person,~~
 70 ~~firm, or corporation receiving a judicial disposition other than~~
 71 ~~dismissal or acquittal for violating this subsection or s.~~
 72 ~~370.1107 shall also be assessed an administrative penalty of up~~
 73 ~~to \$5,000. Immediately upon receiving a citation for a violation~~
 74 ~~involving theft of or from a trap and until adjudicated for such~~
 75 ~~a violation, or receiving a judicial disposition other than~~
 76 ~~dismissal or acquittal for such a violation, the person, firm,~~
 77 ~~or corporation committing the violation is prohibited from~~
 78 ~~transferring any blue crab endorsements, landings history, or~~
 79 ~~trap certificates.~~

80 (3) (a) Endorsement fees.--

81 1. The fee for a hard-shell blue crab endorsement for the
 82 taking of hard-shell blue crabs, as required by rule of the
 83 commission, is \$125, \$25 of which must be used solely for trap

84 retrieval under s. 370.143 and rule 68B-55, Florida
85 Administrative Code.

86 2. The fee for a soft-shell blue crab endorsement for the
87 taking of soft-shell blue crabs, as required by rule of the
88 commission, is \$250, \$25 of which must be used solely for trap
89 retrieval under s. 370.143 and rule 68B-55, Florida
90 Administrative Code.

91 3. The fee for a nontransferable blue crab endorsement for
92 the taking of hard-shell blue crabs, as required by rule of the
93 commission, is \$125, \$25 of which must be used solely for trap
94 retrieval under s. 370.143 and rule 68B-55, Florida
95 Administrative Code.

96 4. The fee for an incidental-take blue crab endorsement
97 for the taking of blue crabs as bycatch in shrimp trawls and
98 stone crab traps, as established by commission rule, is \$25.

99 (b) Trap tag fees.--For each trap tag issued by the
100 commission under the requirements of the blue crab effort
101 management program established by commission rule, there is an
102 annual fee of 50 cents per tag. The fee for replacement tags for
103 lost or damaged tags is 50 cents each plus shipping, except that
104 the commission shall either temporarily defer or permanently
105 wave fees for replacement tags for traps lost in the event of a
106 major natural disaster declared as an emergency by the Governor
107 in any area of massive trap losses within the designated
108 disaster area.

109 (c) Equitable rent.--The commission may establish by rule
110 an amount of equitable rent that may be recovered as partial
111 compensation to the state for the enhanced access to its natural

112 resources. In determining whether to establish such a rent and
 113 the amount thereof, the commission may consider the amount of
 114 revenues annually generated by endorsement fees, trap tag fees,
 115 replacement trap tag fees, trap retrieval fees, and the
 116 continued economic viability of the commercial blue crab
 117 industry. Final approval of such a rule shall be by the Governor
 118 and Cabinet sitting as the Board of Trustees of the Internal
 119 Improvement Trust Fund.

120 (d) Disposition of fees, surcharges, civil penalties and
 121 finances, and equitable rent.--Endorsement fees, trap tag fees,
 122 civil penalties and fines, replacement trap tag fees, trap
 123 retrieval fees, and equitable rent, if any, shall be deposited
 124 in the Marine Resources Conservation Trust Fund. Not more than
 125 50 percent of the revenues generated under this section may be
 126 used for the operation and administration of the blue crab
 127 effort management program. The remaining revenues generated
 128 under this section shall be used for trap retrieval, management
 129 of the blue crab fishery, public education activities, research,
 130 and enforcement activities in support of the blue crab effort
 131 management program.

132 (4) (a) Untagged trap penalties.--In addition to any other
 133 penalties provided in s. 370.021 for any person, firm, or
 134 corporation that violates rule 68B-45.007(6) (b), Florida
 135 Administrative Code, the following administrative penalties
 136 apply:

137 1. For a first violation, the commission shall assess an
 138 administrative penalty of up to \$1,000 and the blue crab

139 endorsement holder's blue crab fishing privileges may be
 140 suspended for the remainder of the current license year.

141 2. For a second violation that occurs within 24 months
 142 after any previous such violation, the commission shall assess
 143 an administrative penalty of up to \$2,000 and the blue crab
 144 endorsement holder's blue crab fishing privileges may be
 145 suspended for 12 calendar months.

146 3. For a third violation that occurs within 36 months
 147 after any two previous such violations, the commission shall
 148 assess an administrative penalty of up to \$5,000 and the blue
 149 crab endorsement holder's blue crab fishing privileges may be
 150 suspended for 24 calendar months.

151 4. A fourth violation that occurs within 48 months after
 152 any three previous such violations shall result in permanent
 153 revocation of all of the violator's saltwater fishing
 154 privileges, including having the commission proceed against the
 155 endorsement holder's saltwater products license in accordance
 156 with s. 370.021.

157
 158 Any person assessed an administrative penalty under this
 159 paragraph shall, within 30 calendar days after notification, pay
 160 the administrative penalty to the commission or request an
 161 administrative hearing under ss. 120.569 and 120.57. The
 162 proceeds of all administrative penalties collected under this
 163 paragraph shall be deposited in the Marine Resources
 164 Conservation Trust Fund.

165 (b) Trap theft; prohibitions and penalties.--It is
 166 unlawful for any person to remove or take possession of the

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167 contents of another harvester's trap without the express written
168 consent of the trap owner, which must be available for immediate
169 inspection. Unauthorized possession of another harvester's trap
170 gear or removal of trap contents constitutes theft. Any person
171 convicted of theft of or from a trap pursuant to this paragraph
172 shall, in addition to the penalties specified in s. 370.021 and
173 the provisions of this section, permanently lose all of his or
174 her saltwater fishing privileges, including saltwater products
175 licenses, blue crab endorsements, and all trap tags allotted to
176 him or her by the commission. In such cases, endorsements are
177 nontransferable. In addition, any person, firm, or corporation
178 convicted of a violation of this paragraph shall also be
179 assessed an administrative penalty of up to \$5,000. Immediately
180 upon receiving a citation for a violation involving theft of or
181 from a trap and until adjudicated for such a violation or upon
182 receipt of a judicial disposition other than dismissal or
183 acquittal on such a violation, the violator is prohibited from
184 transferring any blue crab endorsement.

185 (c) Criminal activities.--Any person, firm, or corporation
186 convicted of violating commission rules that prohibit any of the
187 following commits a felony of the third degree, punishable as
188 provided in s. 775.082, s. 775.083, or s. 775.084:

189 1. The willful molestation of any blue crab trap, line, or
190 buoy that is the property of any licenseholder, without the
191 permission of that licenseholder.

192 2. The bartering, trading, leasing, or sale, or conspiring
193 or aiding in such barter, trade, lease, or sale, or supplying,
194 agreeing to supply, aiding in supplying, or giving away blue

195 crab trap tags unless the action is duly authorized by the
196 commission as provided by commission rules.

197 3. The making, altering, forging, counterfeiting, or
198 reproducing of blue crab trap tags.

199 4. Possession of altered, forged, counterfeit, or
200 imitation blue crab trap tags.

201 5. Possession of commission-issued original trap tags and
202 commission-issued replacement trap tags, the sum of which
203 exceeds by 1 percent the number of traps allowed by rule of the
204 commission.

205 6. Engaging in the commercial harvest of blue crabs during
206 the time the licenseholder's blue crab endorsements are under
207 suspension or revocation.

208
209 Any person, firm, or corporation convicted of a violation of
210 this paragraph shall be assessed an administrative penalty of up
211 to \$5,000, and all of the blue crab endorsements possessed by
212 the person, firm, or corporation may be suspended for up to 24
213 calendar months. Immediately upon receiving a citation involving
214 a violation of this paragraph and until adjudicated for such a
215 violation, or if convicted of such a violation, the person,
216 firm, or corporation committing the violation is prohibited from
217 transferring any blue crab endorsements.

218 (d) Endorsement transfers; fraudulent reports;
219 penalties.--For any person, firm, or corporation convicted of
220 fraudulently reporting the actual value of transferred blue crab
221 endorsements, the commission may automatically suspend or
222 permanently revoke the seller's or the purchaser's blue crab

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223 endorsements. If the endorsement is permanently revoked, the
224 commission shall also permanently deactivate the endorsement
225 holder's blue crab trap tag accounts.

226 (e) Prohibitions during endorsement suspension and
227 revocation.--During any period of suspension or revocation of a
228 blue crab endorsement holder's endorsements, he or she shall,
229 within 15 days after notice provided by the commission, remove
230 from the water all traps subject to that endorsement. Failure to
231 do so shall extend the period of suspension or revocation for an
232 additional 6 calendar months.

233 (5) For purposes of this section, a conviction is any
234 disposition other than acquittal or dismissal.

235 (6) An endorsement may not be renewed until all fees and
236 administrative penalties imposed under this section are paid.

237 Section 2. In order to implement the blue crab effort
238 management program pursuant to s. 370.135(3)(b), Florida
239 Statutes, including the creation of the Blue Crab Advisory Board
240 by commission rule, there is appropriated from the commercial
241 saltwater license fee revenues in the Marine Resources
242 Conservation Trust Fund to the Office of Licenses and Permits in
243 the Fish and Wildlife Conservation Commission the sum of
244 \$120,000 for program cost and the cost of blue crab trap tags
245 for the fiscal year 2006-2007, and there is appropriated from
246 the commercial saltwater license fee revenues in the Marine
247 Resources Conservation Trust Fund to the Division of Marine
248 Fisheries Management an additional sum of \$12,000 for the
249 operational and administrative costs of the Blue Crab Advisory
250 Board.

251 Section 3. Paragraph (c) of subsection (2) of section
 252 370.142, Florida Statutes, is amended to read:

253 370.142 Spiny lobster trap certificate program.--

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

259 (c) Prohibitions; penalties.--

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

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

270 3. It is unlawful for any person to willfully molest, take
 271 possession of, or remove the contents of another harvester's
 272 trap without the express written consent of the trap owner
 273 available for immediate inspection. Unauthorized possession of
 274 another's trap gear or removal of trap contents constitutes
 275 theft. Any person receiving a judicial disposition other than
 276 dismissal or acquittal on a charge of theft of or from a trap
 277 pursuant to this subparagraph or s. 370.1107 shall, in addition
 278 to the penalties specified in ss. 370.021 and 370.14 and the

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279 provisions of this section, permanently lose all his or her
280 saltwater fishing privileges, including his or her saltwater
281 products license, crawfish endorsement, and all trap
282 certificates allotted to him or her through this program. In
283 such cases, trap certificates and endorsements are
284 nontransferable. Any person receiving a judicial disposition
285 other than dismissal or acquittal on a charge of willful
286 molestation of a trap, in addition to the penalties specified in
287 ss. 370.021 and 370.14, shall lose all saltwater fishing
288 privileges for a period of 24 calendar months. In addition, any
289 person, firm, or corporation charged with violating this
290 paragraph and receiving a judicial disposition other than
291 dismissal or acquittal for violating this subparagraph or s.
292 370.1107 shall also be assessed an administrative penalty of up
293 to \$5,000. Immediately upon receiving a citation for a violation
294 involving theft of or from a trap, or molestation of a trap, and
295 until adjudicated for such a violation or, upon receipt of a
296 judicial disposition other than dismissal or acquittal of such a
297 violation, the person, firm, or corporation committing the
298 violation is prohibited from transferring any crawfish trap
299 certificates and endorsements.

300 4. In addition to any other penalties provided in s.
301 370.021, a commercial harvester, as defined by rule 68B-
302 24.002(1), Florida Administrative Code, who violates the
303 provisions of this section, or the provisions relating to traps
304 of chapter 68B-24, Florida Administrative Code, shall be
305 punished as follows:

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306 a. If the first violation is for violation of subparagraph
307 1. or subparagraph 2., the commission shall assess an additional
308 civil penalty of up to \$1,000 and the crawfish trap number
309 issued pursuant to s. 370.14(2) or (6) may be suspended for the
310 remainder of the current license year. For all other first
311 violations, the commission shall assess an additional civil
312 penalty of up to \$500.

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

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

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

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

332 (II) Request an administrative hearing pursuant to the
333 provisions of s. 120.60.

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

337 5.a. It is unlawful for any person to make, alter, forge,
 338 counterfeit, or reproduce a spiny lobster trap tag or
 339 certificate.

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

343 c. It is unlawful for any person to barter, trade, sell,
 344 supply, agree to supply, aid in supplying, or give away a spiny
 345 lobster trap tag or certificate or to conspire to barter, trade,
 346 sell, supply, aid in supplying, or give away a spiny lobster
 347 trap tag or certificate unless such action is duly authorized by
 348 the commission as provided in this chapter or in the rules of
 349 the commission.

350 6.a. Any person who violates the provisions of
 351 subparagraph 5., or any person who engages in the commercial
 352 harvest, trapping, or possession of spiny lobster without a
 353 crawfish trap number as required by s. 370.14(2) or (6) or
 354 during any period while such crawfish trap number is under
 355 suspension or revocation, commits a felony of the third degree,
 356 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

357 b. In addition to any penalty imposed pursuant to sub-
 358 subparagraph a., the commission shall levy a fine of up to twice
 359 the amount of the appropriate surcharge to be paid on the fair
 360 market value of the transferred certificates, as provided in

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361 subparagraph (a)1., on any person who violates the provisions of
362 sub-subparagraph 5.c.

363 c. In addition to any penalty imposed pursuant to sub-
364 subparagraph a., any person receiving any judicial disposition
365 other than acquittal or dismissal for a violation of
366 subparagraph 5. shall be assessed an administrative penalty of
367 up to \$5,000, and the crawfish endorsement under which the
368 violation was committed may be suspended for up to 24 calendar
369 months. Immediately upon issuance of a citation involving a
370 violation of subparagraph 5. and until adjudication of such a
371 violation, and after receipt of any judicial disposition other
372 than acquittal or dismissal for such a violation, the person
373 holding the crawfish endorsement listed on the citation is
374 prohibited from transferring any spiny lobster trap
375 certificates.

376 7. Any certificates for which the annual certificate fee
377 is not paid for a period of 3 years shall be considered
378 abandoned and shall revert to the commission. During any period
379 of trap reduction, any certificates reverting to the commission
380 shall become permanently unavailable and be considered in that
381 amount to be reduced during the next license-year period.
382 Otherwise, any certificates that revert to the commission are to
383 be reallocated in such manner as provided by the commission.

384 8. The proceeds of all civil penalties collected pursuant
385 to subparagraph 4. and all fines collected pursuant to sub-
386 subparagraph 6.b. shall be deposited into the Marine Resources
387 Conservation Trust Fund.

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

390 Section 4. Subsections (1), (2), and (3) of section
 391 370.143, Florida Statutes, are amended to read:

392 370.143 Retrieval of spiny lobster, ~~erawfish,~~ and stone
 393 crab, blue crab, and black sea bass traps during closed season;
 394 commission authority; fees.--

395 (1) The Fish and Wildlife Conservation Commission is
 396 authorized to implement a trap retrieval program for retrieval
 397 of spiny lobster, ~~erawfish,~~ and stone crab, blue crab, and black
 398 sea bass traps remaining in the water during the closed season
 399 for each species. The commission is authorized to contract with
 400 outside agents for the program operation.

401 (2) A retrieval fee of \$10 per trap retrieved shall be
 402 assessed trap owners. However, for each person holding a spiny
 403 lobster endorsement, ~~erawfish stamp number~~ or a stone crab
 404 endorsement, or a blue crab endorsement issued under rule of the
 405 commission, the retrieval fee shall be waived for the first five
 406 traps retrieved. Traps recovered under this program shall become
 407 the property of the commission or its contract agent, as
 408 determined by the commission, and shall be either destroyed or
 409 resold to the original owner. Revenue from retrieval fees shall
 410 be deposited in the Marine Resources Conservation Trust Fund and
 411 used solely for operation of the trap retrieval program.

412 (3) Payment of all assessed retrieval fees shall be
 413 required prior to renewal of the trap owner's saltwater products
 414 license ~~and stone crab and or erawfish endorsements.~~ Retrieval

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415 | fees assessed under this program shall stand in lieu of other
416 | penalties imposed for such trap violations.

417 | Section 5. This act shall take effect July 1, 2006.