

Bill No. CS for SB 2490

Barcode 295634

CHAMBER ACTION

Senate

House

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The Committee on Governmental Oversight and Productivity
(Argenziano) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 370.135, Florida Statutes, is
amended 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

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1 receipt of an application on forms prescribed by it. This
2 subsection shall not apply to an individual fishing with no
3 more than five traps. ~~It is a felony of the third degree,~~
4 ~~punishable as provided in s. 775.082, s. 775.083, or s.~~
5 ~~775.084, for any person willfully to molest any traps, lines,~~
6 ~~or buoys, as defined herein, belonging to another without the~~
7 ~~express written consent of the trap owner. Any person~~
8 ~~receiving a judicial disposition other than dismissal or~~
9 ~~acquittal on a charge of willful molestation of a trap, in~~
10 ~~addition to the penalties specified in s. 370.021, shall lose~~
11 ~~all saltwater fishing privileges for a period of 24 calendar~~
12 ~~months. It is unlawful for any person to remove the contents~~
13 ~~of or take possession of another harvester's trap without the~~
14 ~~express written consent of the trap owner available for~~
15 ~~immediate inspection. Unauthorized possession of another's~~
16 ~~trap gear or removal of trap contents constitutes theft. Any~~
17 ~~person receiving a judicial disposition other than dismissal~~
18 ~~or acquittal on a charge of theft of or from a trap pursuant~~
19 ~~to this section or s. 370.1107 shall, in addition to the~~
20 ~~penalties specified in s. 370.021 and the provisions of this~~
21 ~~section, permanently lose all his or her saltwater fishing~~
22 ~~privileges including his or her saltwater products license and~~
23 ~~blue crab endorsement. In such cases endorsements, landings~~
24 ~~history, and trap certificates are nontransferable. In~~
25 ~~addition, any person, firm, or corporation receiving a~~
26 ~~judicial disposition other than dismissal or acquittal for~~
27 ~~violating this subsection or s. 370.1107 shall also be~~
28 ~~assessed an administrative penalty of up to \$5,000.~~
29 ~~Immediately upon receiving a citation for a violation~~
30 ~~involving theft of or from a trap and until adjudicated for~~
31 ~~such a violation, or receiving a judicial disposition other~~

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1 ~~than dismissal or acquittal for such a violation, the person,~~
2 ~~firm, or corporation committing the violation is prohibited~~
3 ~~from transferring any blue crab endorsements, landings~~
4 ~~history, or trap certificates.~~

5 (2) No person shall harvest blue crabs with more than
6 five traps, harvest blue crabs in commercial quantities, or
7 sell blue crabs unless such person holds a valid saltwater
8 products license with a restricted species endorsement and a
9 blue crab endorsement ~~(trap number)~~ issued pursuant to this
10 section ~~subsection.~~

11 ~~(a) Effective June 1, 1998, and until July 1, 2002, no~~
12 ~~blue crab endorsement (trap number), except those endorsements~~
13 ~~that are active during the 1997-1998 fiscal year, shall be~~
14 ~~renewed or replaced.~~

15 ~~(b) Effective January 1, 1999, and until July 1, 2002,~~
16 ~~a trap number holder, or members of his or her immediate~~
17 ~~family, must request renewal of the endorsement prior to~~
18 ~~September 30 of each year.~~

19 ~~(c) If a person holding an active blue crab~~
20 ~~endorsement, or a member of that person's immediate family,~~
21 ~~does not request renewal of the endorsement before the~~
22 ~~applicable dates as specified in this subsection, the~~
23 ~~commission shall deactivate that endorsement.~~

24 ~~(a)(d)~~ In the event of the death or disability of a
25 person holding an active blue crab endorsement, the
26 endorsement may be transferred by the person to a member of
27 his or her immediate family or may be renewed by any person so
28 designated by the executor of the person's estate.

29 ~~(b)(e)~~ Persons who hold saltwater products licenses
30 with blue crab endorsements issued to their boat registration
31 numbers and who subsequently replace their existing vessels

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1 with new vessels shall be permitted to transfer the existing
2 licenses to the new boat registration numbers.

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

4 1. The fee for a hard-shell blue crab endorsement for
5 the taking of hard-shell blue crabs, as authorized by rule of
6 the commission, is \$125, \$25 of which must be used solely for
7 the trap-retrieval program authorized under s. 370.143 and in
8 commission rules.

9 2. The fee for a soft-shell blue crab endorsement for
10 the taking of soft-shell blue crabs, as authorized by rule of
11 the commission, is \$250, \$25 of which must be used solely for
12 the trap-retrieval program authorized under s. 370.143 and in
13 commission rules.

14 3. The fee for a nontransferable hard-shell blue crab
15 endorsement for the taking of hard-shell blue crabs, as
16 authorized by rule of the commission, is \$125, \$25 of which
17 must be used solely for the trap-retrieval program authorized
18 under s. 370.143 and in commission rules.

19 4. The fee for an incidental-take blue crab
20 endorsement for the taking of blue crabs as bycatch in shrimp
21 trawls and stone crab traps, as authorized in commission
22 rules, is \$25.

23 (b) Trap tag fees.--The annual fee for each trap tag
24 issued by the commission under the requirements of the blue
25 crab effort management program established by rule of the
26 commission is 50 cents per tag. The fee for replacement tags
27 for lost or damaged tags is 50 cents per tag plus the cost of
28 shipping. In the event of a major natural disaster, such as a
29 hurricane or major storm, which causes massive trap losses
30 within an area declared by the Governor to be a disaster
31 emergency area, the commission may temporarily defer or

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1 permanently waive replacement tag fees.

2 (c) Disposition of fees and fines for civil or
3 criminal penalties.--The fees generated from the sale of blue
4 crab endorsements, trap tags, and replacement trap tags, and
5 fines assessed with civil or criminal penalties authorized
6 under this section, shall be deposited into the Marine
7 Resources Conservation Trust Fund. Not more than 50 percent of
8 the revenue generated by the sale of endorsements and trap
9 tags and the assessment of fines may be used for the operation
10 and administration of the blue crab effort management program.
11 The remaining revenues generated from the sale of endorsements
12 and trap tags and the assessment of fines may be used for trap
13 retrieval; management of the blue crab fishery; and
14 public-education activities, research, and enforcement
15 activities in support of the blue crab effort management
16 program.

17 (d) Waiver of fees.--For the 2006-2007 license year,
18 the commission shall waive all fees under this subsection for
19 all persons who qualify by September 30, 2006, to participate
20 in the blue crab effort management program established by
21 commission rule.

22 (4)(a) Untagged trap penalties.--In addition to any
23 other penalties provided in s. 370.021 for any person, firm,
24 or corporation that violates commission rules requiring the
25 placement of trap tags for each trap used for the directed
26 harvest of blue crabs, the following administrative penalties
27 apply:

28 1. For a first violation, the commission shall assess
29 an administrative penalty of up to \$1,000 and the blue crab
30 endorsement holder's blue crab fishing privileges may be
31 suspended for the remainder of the current license year.

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

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

11 4. A fourth violation that occurs within 48 months
 12 after any three previous such violations shall result in
 13 permanent revocation of all of the violator's saltwater
 14 fishing privileges, including having the commission proceed
 15 against the endorsement holder's saltwater products license in
 16 accordance with s. 370.021.

17
 18 Any person assessed an administrative penalty under this
 19 paragraph shall, within 30 calendar days after notification,
 20 pay the administrative penalty to the commission or request an
 21 administrative hearing under ss. 120.569 and 120.57. The
 22 proceeds of all administrative penalties collected under this
 23 paragraph shall be deposited in the Marine Resources
 24 Conservation Trust Fund.

25 (b) Trap theft; prohibitions and penalties.--It is
 26 unlawful for any person to remove or take possession of the
 27 contents of another harvester's blue crab trap without the
 28 express written consent of the trap owner, which must be
 29 available for immediate inspection. Unauthorized possession of
 30 another harvester's blue crab trap gear or removal of trap
 31 contents constitutes theft. Any person convicted of theft of

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1 or from a blue crab trap pursuant to this paragraph shall, in
 2 addition to the penalties specified in s. 370.021 and the
 3 provisions of this section, permanently lose all of his or her
 4 saltwater fishing privileges, including saltwater products
 5 licenses, blue crab endorsements, and all blue crab trap tags
 6 allotted to him or her by the commission. In such cases, blue
 7 crab endorsements are nontransferable. In addition, any
 8 person, firm, or corporation convicted of a violation of this
 9 paragraph shall also be assessed an administrative penalty of
 10 up to \$5,000. Immediately upon receiving a citation for a
 11 violation involving theft of or from a trap and until
 12 adjudicated for such a violation or upon receipt of a judicial
 13 disposition other than dismissal or acquittal on such a
 14 violation, the violator is prohibited from transferring any
 15 blue crab endorsement.

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

21 1. The willful molestation of any blue crab trap,
 22 line, or buoy that is the property of any licenseholder,
 23 without the permission of that licenseholder.

24 2. The bartering, trading, leasing, or sale, or
 25 conspiring or aiding in such barter, trade, lease, or sale, or
 26 supplying, agreeing to supply, aiding in supplying, or giving
 27 away blue crab trap tags unless the action is duly authorized
 28 by commission rules.

29 3. The making, altering, forging, counterfeiting, or
 30 reproducing of blue crab trap tags.

31 4. Possession of altered, forged, counterfeit, or

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1 imitation blue crab trap tags.

2 5. Possession of original trap tags and replacement
3 trap tags, the sum of which exceeds by 1 percent the number of
4 traps allowed by rule of the commission.

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

8
9 In addition, any person, firm, or corporation convicted of a
10 violation of this paragraph shall be assessed an
11 administrative penalty of up to \$5,000, and all of the blue
12 crab endorsements possessed by the person, firm, or
13 corporation may be suspended for up to 24 calendar months.
14 Immediately upon receiving a citation involving a violation of
15 this paragraph and until adjudicated for such a violation, or
16 if convicted of such a violation, the person, firm, or
17 corporation committing the violation is prohibited from
18 transferring any blue crab endorsements.

19 (d) Endorsement transfers; fraudulent reports;
20 penalties.--For any person, firm, or corporation convicted of
21 fraudulently reporting the actual value of transferred blue
22 crab endorsements, the commission may automatically suspend or
23 permanently revoke the seller's or the purchaser's blue crab
24 endorsements. If the endorsement is permanently revoked, the
25 commission shall also permanently deactivate the endorsement
26 holder's blue crab trap tag accounts.

27 (e) Prohibitions during endorsement suspension and
28 revocation.--During any period of suspension or after
29 revocation of a blue crab endorsement holder's endorsements,
30 he or she shall, within 15 days after notice provided by the
31 commission, remove from the water all traps subject to that

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1 endorsement. Failure to do so shall extend the period of
2 suspension for an additional 6 calendar months.

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

5 (6) A blue crab endorsement may not be renewed until
6 all fees and administrative penalties imposed under this
7 section are paid.

8 Section 2. For the 2006-2007 fiscal year, the sum of
9 \$132,000 is appropriated from the Marine Resources
10 Conservation Trust Fund to the Fish and Wildlife Conservation
11 Commission on a recurring basis for the purpose of
12 implementing the blue crab effort management program pursuant
13 to s. 370.135(3)(b), Florida Statutes, and administrative
14 costs of the Blue Crab Advisory Board as created by commission
15 rule.

16 Section 3. Subsection (1) of section 370.13, Florida
17 Statutes, is amended to read:

18 370.13 Stone crab; regulation.--

19 (1) FEES ~~AND EQUITABLE RENT~~.--

20 (a) Endorsement fee.--The fee for a stone crab
21 endorsement for the taking of stone crabs, as required by rule
22 of the Fish and Wildlife Conservation Commission, is \$125, \$25
23 of which must be used solely for trap retrieval under s.
24 370.143.

25 (b) Certificate fees.--

26 1. For each trap certificate issued by the commission
27 under the requirements of the stone crab trap limitation
28 program established by commission rule, there is an annual fee
29 of 50 cents per certificate. Replacement tags for lost or
30 damaged tags cost 50 cents each. In the event of a major
31 natural disaster, such as a hurricane or major storm, which

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1 causes massive trap losses within an area declared by the
 2 Governor to be a disaster emergency area, the commission may
 3 temporarily defer or permanently waive replacement tag fees.
 4 ~~except that tags lost in the event of a major natural disaster~~
 5 ~~declared as an emergency disaster by the Governor shall be~~
 6 ~~replaced for the cost of the tag as incurred by the~~
 7 ~~commission.~~

8 2. The fee for transferring trap certificates is \$1
 9 per certificate transferred, except that the fee for eligible
 10 crew members is 50 cents per certificate transferred. Eligible
 11 crew members shall be determined according to criteria
 12 established by rule of the commission. Payment must be made by
 13 money order or cashier's check, submitted with the certificate
 14 transfer form developed by the commission.

15 3. In addition to the transfer fee, a surcharge of \$1
 16 per certificate transferred, or 25 percent of the actual value
 17 of the transferred certificate, whichever is greater, will be
 18 assessed the first time a certificate is transferred outside
 19 the original holder's immediate family.

20 4. Transfer fees and surcharges only apply to the
 21 actual number of certificates received by the purchaser. A
 22 transfer of a certificate is not effective until the
 23 commission receives a notarized copy of the bill of sale as
 24 proof of the actual value of the transferred certificate or
 25 certificates, which must also be submitted with the transfer
 26 form and payment.

27 5. A transfer fee will not be assessed or required
 28 when the transfer is within a family as a result of the death
 29 or disability of the certificate owner. A surcharge will not
 30 be assessed for any transfer within an individual's immediate
 31 family.

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1 ~~6. The fees and surcharge amounts in this paragraph~~
2 ~~apply in the 2005-2006 license year and subsequent years.~~

3 (c) Incidental take endorsement.--The cost of an
4 incidental take endorsement, as established by commission
5 rule, is \$25.

6 ~~(d) Equitable rent.--The commission may establish by~~
7 ~~rule an amount of equitable rent per trap certificate that may~~
8 ~~be recovered as partial compensation to the state for the~~
9 ~~enhanced access to its natural resources. In determining~~
10 ~~whether to establish such a rent and the amount thereof, the~~
11 ~~commission may consider the amount of revenues annually~~
12 ~~generated by endorsement fees, trap certificate fees, transfer~~
13 ~~fees, surcharges, replacement trap tag fees, trap retrieval~~
14 ~~fees, incidental take endorsement fees, and the continued~~
15 ~~economic viability of the commercial stone crab industry.~~
16 ~~Final approval of such a rule shall be by the Governor and~~
17 ~~Cabinet sitting as the Board of Trustees of the Internal~~
18 ~~Improvement Trust Fund.~~

19 ~~(d)(e)~~ Disposition of fees, surcharges, civil
20 penalties and fines, ~~and equitable rent.~~--Endorsement fees,
21 trap certificate fees, transfer fees, civil penalties and
22 fines, surcharges, replacement trap tag fees, trap retrieval
23 fees, and incidental take endorsement fees, ~~and equitable~~
24 ~~rent, if any,~~ must be deposited in the Marine Resources
25 Conservation Trust Fund. Not more than 50 percent of the
26 revenues generated under this section may be used for
27 operation and administration of the stone crab trap limitation
28 program. The remaining revenues generated under this program
29 are to be used for trap retrieval, management of the stone
30 crab fishery, public education activities, evaluation of the
31 impact of trap reductions on the stone crab fishery, and

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1 enforcement activities in support of the stone crab trap
2 limitation program.

3 ~~(e)(f)~~ Program to be self-supporting.--The stone crab
4 trap limitation program is intended to be a self-supporting
5 program funded from proceeds generated under this section.

6 ~~(f)(g)~~ No vested rights.--The stone crab trap
7 limitation program does not create any vested rights for
8 endorsement or certificateholders and may be altered or
9 terminated by the commission as necessary to protect the stone
10 crab resource, the participants in the fishery, or the public
11 interest.

12 Section 4. Section 370.14, Florida Statutes, is
13 amended to read:

14 370.14 Spiny lobster ~~Crawfish~~; regulation.--

15 (1) It is the intent of the Legislature to maintain
16 the spiny lobster ~~crawfish~~ industry for the economy of the
17 state and to conserve the stocks supplying this industry. The
18 provisions of this act regulating the taking of spiny lobster
19 ~~saltwater crawfish~~ are for the purposes of ensuring and
20 maintaining the highest possible production of spiny lobster
21 ~~saltwater crawfish~~.

22 (2)(a)1. Each person taking or attempting to take
23 spiny lobster ~~crawfish~~ with a trap in commercial quantities or
24 for commercial purposes shall obtain and exhibit a spiny
25 lobster ~~crawfish~~ trap number, as required by the Fish and
26 Wildlife Conservation Commission. The annual fee for a spiny
27 lobster ~~crawfish~~ trap number is \$125. This trap number may be
28 issued by the commission upon the receipt of application by
29 the person when accompanied by the payment of the fee. The
30 design of the applications and of the trap number shall be
31 determined by the commission. Any trap or device used in

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1 taking or attempting to take spiny lobster ~~crawfish~~, other
 2 than a trap with the trap number, shall be seized and
 3 destroyed by the commission. The proceeds of the fees imposed
 4 by this paragraph shall be deposited and used as provided in
 5 paragraph (b). The commission may adopt rules to carry out the
 6 intent of this section.

7 2. Each person taking or attempting to take spiny
 8 lobster ~~crawfish~~ in commercial quantities or for commercial
 9 purposes by any method, other than with a trap having a spiny
 10 lobster ~~crawfish~~ trap number issued by the commission, must
 11 pay an annual fee of \$100.

12 (b) Twenty-five dollars of the \$125 fee for a spiny
 13 lobster ~~crawfish~~ trap number required under subparagraph (a)1.
 14 must be used only for trap retrieval as provided in s.
 15 370.143. The remainder of the fees collected pursuant to
 16 paragraph (a) shall be deposited as follows:

17 1. Fifty percent of the fees collected shall be
 18 deposited in the Marine Resources Conservation Trust Fund for
 19 use in enforcing the provisions of paragraph (a) through
 20 aerial and other surveillance and trap retrieval.

21 2. Fifty percent of the fees collected shall be
 22 deposited as provided in s. 370.142(5).

23 (3) The spiny lobster ~~crawfish~~ license must be on
 24 board the boat, and both the license and the harvested spiny
 25 lobster ~~crawfish~~ shall be subject to inspection at all times.
 26 Only one license shall be issued for each boat. The spiny
 27 lobster ~~crawfish~~ license number must be prominently displayed
 28 above the topmost portion of the boat so as to be easily and
 29 readily identified.

30 (4) It is a felony of the third degree, punishable as
 31 provided in s. 775.082 or s. 775.083, for any person willfully

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1 to molest any spiny lobster ~~crawfish~~ traps, lines, or buoys
2 belonging to another without permission of the licenseholder.

3 (5) Any spiny lobster ~~crawfish~~ licenseholder, upon
4 selling licensed spiny lobster ~~crawfish~~ traps, shall furnish
5 the commission notice of such sale of all or part of his or
6 her interest within 15 days thereof. Any holder of said
7 license shall also notify the commission within 15 days if his
8 or her address no longer conforms to the address appearing on
9 the license and shall, as a part of such notification, furnish
10 the commission with his or her new address.

11 (6)(a) By a special permit granted by the commission,
12 a Florida-licensed seafood dealer may lawfully import,
13 process, and package spiny lobster ~~saltwater crawfish~~ or
14 uncooked tails of the species *Panulirus argus* during the
15 closed season. However, spiny lobster ~~crawfish~~ landed under
16 special permit shall not be sold in the state.

17 (b) The licensed seafood dealer importing any such
18 spiny lobster ~~crawfish~~ under the permit shall, 12 hours prior
19 to the time the seagoing vessel or airplane delivering such
20 imported spiny lobster ~~crawfish~~ enters the state, notify the
21 commission as to the seagoing vessel's name or the airplane's
22 registration number and its captain, location, and point of
23 destination.

24 (c) At the time the spiny lobster ~~crawfish~~ cargo is
25 delivered to the permitholder's place of business, the spiny
26 lobster ~~crawfish~~ cargo shall be weighed and shall be available
27 for inspection by the commission. A signed receipt of such
28 quantity in pounds shall be forwarded to the commission within
29 48 hours after shipment weigh-in completion. If requested by
30 the commission, the weigh-in process will be delayed up to 4
31 hours to allow for a commission representative to be present

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1 during the process.

2 (d) Within 48 hours after shipment weigh-in
3 completion, the permitholder shall submit to the commission,
4 on forms provided by the commission, a sworn report of the
5 quantity in pounds of the spiny lobster ~~saltwater crawfish~~
6 received, which report shall include the location of said
7 spiny lobster ~~crawfish~~ and a sworn statement that said spiny
8 lobster ~~crawfish~~ were taken at least 50 miles from Florida's
9 shoreline. The landing of spiny lobster ~~crawfish~~ or spiny
10 lobster ~~crawfish~~ tails from which the eggs, swimmerettes, or
11 pleopods have been removed; the falsification of information
12 as to area from which spiny lobster ~~crawfish~~ were obtained; or
13 the failure to file the report called for in this section
14 shall be grounds to revoke the permit.

15 (e) Each permitholder shall keep throughout the period
16 of the closed season copies of the bill of sale or invoices
17 covering each transaction involving spiny lobster ~~crawfish~~
18 imported under this permit. Such invoices and bills shall be
19 kept available at all times for inspection by the commission.

20 (7)(a) A Florida-licensed seafood dealer may obtain a
21 special permit to import, process, and package uncooked tails
22 of spiny lobster ~~saltwater crawfish~~ upon the payment of the
23 sum of \$100 to the commission.

24 (b) A special permit must be obtained by any airplane
25 or seagoing vessel other than a common carrier used to
26 transport spiny lobster ~~saltwater crawfish~~ or spiny lobster
27 ~~crawfish~~ tails for purchase by licensed seafood dealers for
28 purposes as provided herein upon the payment of \$50.

29 (c) All special permits issued under this subsection
30 are nontransferable.

31 (8) No common carrier or employee of said carrier may

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1 carry, knowingly receive for carriage, or permit the carriage
 2 of any spiny lobster ~~crawfish~~ of the species Panulirus argus,
 3 regardless of where taken, during the closed season, except of
 4 the species Panulirus argus lawfully imported from a foreign
 5 country for reshipment outside of the territorial limits of
 6 the state under United States Customs bond or in accordance
 7 with paragraph (7)(a).

8 Section 5. Paragraphs (a), (b), and (c) of subsection
 9 (2) of section 370.142, Florida Statutes, are amended to read:

10 370.142 Spiny lobster trap certificate program.--

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

16 (a) Transferable trap certificates.--Each holder of a
 17 saltwater products license who uses traps for taking or
 18 attempting to take spiny lobsters shall be required to have a
 19 certificate on record for each trap possessed or used
 20 therefor, except as otherwise provided in this section.

21 1. The Department of Environmental Protection shall
 22 initially allot such certificates to each licenseholder with a
 23 current spiny lobster ~~crawfish~~ trap number who uses traps.
 24 The number of such certificates allotted to each such
 25 licenseholder shall be based on the trap/catch coefficient
 26 established pursuant to trip ticket records generated under
 27 the provisions of s. 370.06(2) over a 3-year base period
 28 ending June 30, 1991. The trap/catch coefficient shall be
 29 calculated by dividing the sum of the highest reported single
 30 license-year landings up to a maximum of 30,000 pounds for
 31 each such licenseholder during the base period by 700,000.

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1 Each such licenseholder shall then be allotted the number of
2 certificates derived by dividing his or her highest reported
3 single license-year landings up to a maximum of 30,000 pounds
4 during the base period by the trap/catch coefficient.
5 Nevertheless, no licenseholder with a current spiny lobster
6 ~~crawfish~~ trap number shall be allotted fewer than 10
7 certificates. However, certificates may only be issued to
8 individuals; therefore, all licenseholders other than
9 individual licenseholders shall designate the individual or
10 individuals to whom their certificates will be allotted and
11 the number thereof to each, if more than one. After initial
12 issuance, trap certificates are transferable on a market basis
13 and may be transferred from one licenseholder to another for a
14 fair market value agreed upon between the transferor and
15 transferee. Each such transfer shall, within 72 hours thereof,
16 be recorded on a notarized form provided for that purpose by
17 the Fish and Wildlife Conservation Commission and hand
18 delivered or sent by certified mail, return receipt requested,
19 to the commission for recordkeeping purposes. ~~In addition,~~ In
20 order to cover the added administrative costs of the program
21 ~~and to recover an equitable natural resource rent for the~~
22 ~~people of the state~~, a transfer fee of \$2 per certificate
23 transferred shall be assessed against the purchasing
24 licenseholder and sent by money order or cashier's check with
25 the certificate transfer form. Also, in addition to the
26 transfer fee, a surcharge of \$5 per certificate transferred or
27 25 percent of the actual market value, whichever is greater,
28 given to the transferor shall be assessed the first time a
29 certificate is transferred outside the original transferor's
30 immediate family. No transfer of a certificate shall be
31 effective until the commission receives the notarized transfer

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1 form and the transfer fee, including any surcharge, is paid.
2 ~~The commission may establish by rule an amount of equitable~~
3 ~~rent per trap certificate that shall be recovered as partial~~
4 ~~compensation to the state for the enhanced access to its~~
5 ~~natural resources. Final approval of such a rule shall be by~~
6 ~~the Governor and Cabinet sitting as the Board of Trustees of~~
7 ~~the Internal Improvement Trust Fund. In determining whether to~~
8 ~~establish such a rent and, if so, the amount thereof, the~~
9 ~~commission shall consider the amount of revenues annually~~
10 ~~generated by certificate fees, transfer fees, surcharges, trap~~
11 ~~license fees, and sales taxes, the demonstrated fair market~~
12 ~~value of transferred certificates, and the continued economic~~
13 ~~viability of the commercial lobster industry. The proceeds of~~
14 ~~equitable rent recovered shall be deposited in the Marine~~
15 ~~Resources Conservation Trust Fund and used by the commission~~
16 ~~for research, management, and protection of the spiny lobster~~
17 ~~fishery and habitat. A transfer fee may not be assessed or~~
18 required when the transfer is within a family as a result of
19 the death or disability of the certificate owner. A surcharge
20 will not be assessed for any transfer within an individual's
21 immediate family.

22 2. No person, firm, corporation, or other business
23 entity may control, directly or indirectly, more than 1.5
24 percent of the total available certificates in any license
25 year.

26 3. The commission shall maintain records of all
27 certificates and their transfers and shall annually provide
28 each licenseholder with a statement of certificates held.

29 4. The number of trap tags issued annually to each
30 licenseholder shall not exceed the number of certificates held
31 by the licenseholder at the time of issuance, and such tags

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1 and a statement of certificates held shall be issued
2 simultaneously.

3 5. ~~Beginning July 1, 2003, and applicable to the~~
4 ~~2003-2004 lobster season and thereafter,~~ It is unlawful for
5 any person to lease spiny lobster trap tags or certificates.

6 (b) Trap tags.--Each trap used to take or attempt to
7 take spiny lobsters in state waters or adjacent federal waters
8 shall, in addition to the spiny lobster ~~crawfish~~ trap number
9 required by s. 370.14(2), have affixed thereto an annual trap
10 tag issued by the commission. Each such tag shall be made of
11 durable plastic or similar material and shall, based on the
12 number of certificates held, have stamped thereon the owner's
13 license number. To facilitate enforcement and recordkeeping,
14 such tags shall be issued each year in a color different from
15 that of each of the previous 3 years. The annual certificate
16 fee shall be \$1 per certificate. Replacement tags for lost or
17 damaged tags may be obtained as provided by rule of the
18 commission. In the event of a major natural disaster, such as
19 a hurricane or major storm, which causes massive trap losses
20 within an area declared by the Governor to be a disaster
21 emergency area, the commission may temporarily defer or
22 permanently waive replacement tag fees.

23 (c) Prohibitions; penalties.--

24 1. It is unlawful for a person to possess or use a
25 spiny lobster trap in or on state waters or adjacent federal
26 waters without having affixed thereto the trap tag required by
27 this section. It is unlawful for a person to possess or use
28 any other gear or device designed to attract and enclose or
29 otherwise aid in the taking of spiny lobster by trapping that
30 is not a trap as defined by commission rule ~~in rule~~
31 ~~68B-24.006(2), Florida Administrative Code.~~

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

4 3. It is unlawful for any person to willfully molest,
5 take possession of, or remove the contents of another
6 harvester's spiny lobster trap without the express written
7 consent of the trap owner available for immediate inspection.
8 Unauthorized possession of another's trap gear or removal of
9 trap contents constitutes theft.

10 a. Any person receiving a judicial disposition other
11 than dismissal or acquittal on a charge of theft of or from a
12 spiny lobster trap pursuant to this subparagraph or s.
13 370.1107 shall, in addition to the penalties specified in ss.
14 370.021 and 370.14 and the provisions of this section,
15 permanently lose all his or her saltwater fishing privileges,
16 including his or her saltwater products license, spiny lobster
17 ~~crawfish~~ endorsement, and all trap certificates allotted to
18 him or her through this program. In such cases, trap
19 certificates and endorsements are nontransferable.

20 b. Any person receiving a judicial disposition other
21 than dismissal or acquittal on a charge of willful molestation
22 of a trap, in addition to the penalties specified in ss.
23 370.021 and 370.14, shall lose all saltwater fishing
24 privileges for a period of 24 calendar months.

25 c. In addition, any person, firm, or corporation
26 charged with violating this paragraph and receiving a judicial
27 disposition other than dismissal or acquittal for violating
28 this subparagraph or s. 370.1107 shall also be assessed an
29 administrative penalty of up to \$5,000.

30
31 Immediately upon receiving a citation for a violation

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1 involving theft of or from a trap, or molestation of a trap,
 2 and until adjudicated for such a violation or, upon receipt of
 3 a judicial disposition other than dismissal or acquittal of
 4 such a violation, the person, firm, or corporation committing
 5 the violation is prohibited from transferring any crawfish
 6 trap certificates and endorsements.

7 4. In addition to any other penalties provided in s.
 8 370.021, a commercial harvester, ~~as defined by rule~~
 9 ~~68B-24.002(1), Florida Administrative Code~~, who violates the
 10 provisions of this section, or commission rules ~~the provisions~~
 11 relating to spiny lobster traps ~~of chapter 68B-24, Florida~~
 12 ~~Administrative Code~~, shall be punished as follows:

13 a. If the first violation is for violation of
 14 subparagraph 1. or subparagraph 2., the commission shall
 15 assess an additional administrative ~~civil~~ penalty of up to
 16 \$1,000 and the spiny lobster ~~crawfish~~ trap number issued
 17 pursuant to s. 370.14(2) or (6) may be suspended for the
 18 remainder of the current license year. For all other first
 19 violations, the commission shall assess an additional
 20 administrative ~~civil~~ penalty of up to \$500.

21 b. For a second violation of subparagraph 1. or
 22 subparagraph 2. which occurs within 24 months of any previous
 23 such violation, the commission shall assess an additional
 24 administrative ~~civil~~ penalty of up to \$2,000 and the spiny
 25 lobster ~~crawfish~~ trap number issued pursuant to s. 370.14(2)
 26 or (6) may be suspended for the remainder of the current
 27 license year.

28 c. For a third or subsequent violation of subparagraph
 29 1., subparagraph 2., or subparagraph 3. which occurs within 36
 30 months of any previous two such violations, the commission
 31 shall assess an additional administrative ~~civil~~ penalty of up

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1 to \$5,000 and may suspend the spiny lobster ~~crawfish~~ trap
 2 number issued pursuant to s. 370.14(2) or (6) for a period of
 3 up to 24 months or may revoke the spiny lobster ~~crawfish~~ trap
 4 number and, if revoking the spiny lobster ~~crawfish~~ trap
 5 number, may also proceed against the licenseholder's saltwater
 6 products license in accordance with the provisions of s.
 7 370.021(2)(h).

8 d. Any person assessed an additional administrative
 9 ~~civil~~ penalty pursuant to this section shall within 30
 10 calendar days after notification:

11 (I) Pay the administrative ~~civil~~ penalty to the
 12 commission; or

13 (II) Request an administrative hearing pursuant to the
 14 provisions of ss. 120.569 and 120.57 ~~s. 120.60~~.

15 e. The commission shall suspend the spiny lobster
 16 ~~crawfish~~ trap number issued pursuant to s. 370.14(2) or (6)
 17 for any person failing to comply with the provisions of
 18 sub-subparagraph d.

19 5.a. It is unlawful for any person to make, alter,
 20 forge, counterfeit, or reproduce a spiny lobster trap tag or
 21 certificate.

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

25 c. It is unlawful for any person to barter, trade,
 26 sell, supply, agree to supply, aid in supplying, or give away
 27 a spiny lobster trap tag or certificate or to conspire to
 28 barter, trade, sell, supply, aid in supplying, or give away a
 29 spiny lobster trap tag or certificate unless such action is
 30 duly authorized by the commission as provided in this chapter
 31 or in the rules of the commission.

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1 6.a. Any person who violates the provisions of
2 subparagraph 5., or any person who engages in the commercial
3 harvest, trapping, or possession of spiny lobster without a
4 spiny lobster ~~crawfish~~ trap number as required by s. 370.14(2)
5 or (6) or during any period while such spiny lobster ~~crawfish~~
6 trap number is under suspension or revocation, commits a
7 felony of the third degree, punishable as provided in s.
8 775.082, s. 775.083, or s. 775.084.

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

15 c. In addition to any penalty imposed pursuant to
16 sub-subparagraph a., any person receiving any judicial
17 disposition other than acquittal or dismissal for a violation
18 of subparagraph 5. shall be assessed an administrative penalty
19 of up to \$5,000, and the spiny lobster endorsement under which
20 the violation was committed may be suspended for up to 24
21 calendar months. Immediately upon issuance of a citation
22 involving a violation of subparagraph 5. and until
23 adjudication of such a violation, and after receipt of any
24 judicial disposition other than acquittal or dismissal for
25 such a violation, the person holding the spiny lobster
26 endorsement listed on the citation is prohibited from
27 transferring any spiny lobster trap certificates.

28 7. Any certificates for which the annual certificate
29 fee is not paid for a period of 3 years shall be considered
30 abandoned and shall revert to the commission. During any
31 period of trap reduction, any certificates reverting to the

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1 | commission shall become permanently unavailable and be
 2 | considered in that amount to be reduced during the next
 3 | license-year period. Otherwise, any certificates that revert
 4 | to the commission are to be reallocated in such manner as
 5 | provided by the commission.

6 | 8. The proceeds of all administrative ~~civil~~ penalties
 7 | collected pursuant to subparagraph 4. and all fines collected
 8 | pursuant to sub-subparagraph 6.b. shall be deposited into the
 9 | Marine Resources Conservation Trust Fund.

10 | 9. All traps shall be removed from the water during
 11 | any period of suspension or revocation.

12 | Section 6. Section 370.143, Florida Statutes, is
 13 | amended to read:

14 | 370.143 Retrieval of spiny lobster, ~~crawfish,~~ and
 15 | stone crab, blue crab, and black sea bass traps during closed
 16 | season; commission authority; fees.--

17 | (1) The Fish and Wildlife Conservation Commission is
 18 | authorized to implement a trap retrieval program for retrieval
 19 | of spiny lobster, ~~crawfish,~~ and stone crab, blue crab, and
 20 | black sea bass traps remaining in the water during the closed
 21 | season for each species. The commission is authorized to
 22 | contract with outside agents for the program operation.

23 | (2) A retrieval fee of \$10 per trap retrieved shall be
 24 | assessed trap owners. However, for each person holding a spiny
 25 | lobster endorsement, ~~crawfish stamp number~~ or a stone crab
 26 | endorsement, or a blue crab endorsement issued under rule of
 27 | the commission, the retrieval fee shall be waived for the
 28 | first five traps retrieved. Traps recovered under this program
 29 | shall become the property of the commission or its contract
 30 | agent, as determined by the commission, and shall be either
 31 | destroyed or resold to the original owner. Revenue from

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1 retrieval fees shall be deposited in the Marine Resources
2 Conservation Trust Fund and used solely for operation of the
3 trap retrieval program.

4 (3) Payment of all assessed retrieval fees shall be
5 required prior to renewal of the trap owner's saltwater
6 products license ~~and stone crab and or crawfish endorsements.~~
7 Retrieval fees assessed under this program shall stand in lieu
8 of other penalties imposed for such trap violations.

9 (4) In the event of a major natural disaster, such as
10 a hurricane or major storm, which causes major trap losses
11 within an area declared by the Governor to be a disaster
12 emergency area, the commission shall waive the trap retrieval
13 fee. ~~In the event of a major natural disaster in an area~~
14 ~~declared by the Governor to be a disaster emergency area, such~~
15 ~~as a hurricane or major storm causing massive trap losses, the~~
16 ~~commission shall waive the trap retrieval fee.~~

17 Section 7. Paragraph (j) is added to subsection (1) of
18 section 370.0603, Florida Statutes, and paragraphs (c) and (d)
19 of subsection (2) of that section are amended, to read:

20 370.0603 Marine Resources Conservation Trust Fund;
21 purposes.--

22 (1) The Marine Resources Conservation Trust Fund
23 within the Fish and Wildlife Conservation Commission shall
24 serve as a broad-based depository for funds from various
25 marine-related and boating-related activities and shall be
26 administered by the commission for the purposes of:

27 (j) Funding for the stone crab trap reduction program
28 under s. 370.13, the blue crab effort management program under
29 s. 370.135, the spiny lobster trap certificate program under
30 s. 370.142, and the trap retrieval program under s. 370.143.

31 (2) The Marine Resources Conservation Trust Fund shall

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1 receive the proceeds from:

2 (c) All fees collected pursuant to ss. 370.063,
3 370.13, 370.135, 370.142, 370.143, and 372.5704.

4 (d) All fines and penalties pursuant to ss. ~~37~~
5 370.021, 370.13, 370.135, and 370.142.

6 Section 8. Paragraph (a) of subsection (3) of section
7 921.0022, Florida Statutes, is amended to read:

8 921.0022 Criminal Punishment Code; offense severity
9 ranking chart.--

10 (3) OFFENSE SEVERITY RANKING CHART

| 12 Florida Statute | Felony Degree | Description |
|--------------------|---------------|---|
| | | (a) LEVEL 1 |
| 16 24.118(3)(a) | 3rd | Counterfeit or altered state lottery ticket. |
| 18 212.054(2)(b) | 3rd | Discretionary sales surtax; limitations, administration, and collection. |
| 21 212.15(2)(b) | 3rd | Failure to remit sales taxes, amount greater than \$300 but less than \$20,000. |
| 24 316.1935(1) | 3rd | Fleeing or attempting to elude law enforcement officer. |
| 26 319.30(5) | 3rd | Sell, exchange, give away certificate of title or identification number plate. |
| 29 319.35(1)(a) | 3rd | Tamper, adjust, change, etc., an odometer. |

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| | | | |
|----|---------------------------|----------------|--|
| 1 | 320.26(1)(a) | 3rd | Counterfeit, manufacture, or sell |
| 2 | | | registration license plates or |
| 3 | | | validation stickers. |
| 4 | 322.212 | | |
| 5 | (1)(a)-(c) | 3rd | Possession of forged, stolen, |
| 6 | | | counterfeit, or unlawfully issued |
| 7 | | | driver's license; possession of |
| 8 | | | simulated identification. |
| 9 | 322.212(4) | 3rd | Supply or aid in supplying |
| 10 | | | unauthorized driver's license or |
| 11 | | | identification card. |
| 12 | 322.212(5)(a) | 3rd | False application for driver's |
| 13 | | | license or identification card. |
| 14 | 370.13(2)(c)1. | 3rd | Molest any stone crab trap, line, |
| 15 | | | or buoy which is property of |
| 16 | | | licenseholder. |
| 17 | 370.135(1) | 3rd | Molest any blue crab trap, line, |
| 18 | | | or buoy which is property of |
| 19 | | | licenseholder. |
| 20 | 372.663(1) | 3rd | Poach any alligator or |
| 21 | | | crocodilia. |
| 22 | 414.39(2) | 3rd | Unauthorized use, possession, |
| 23 | | | forgery, or alteration of food |
| 24 | | | stamps, Medicaid ID, value |
| 25 | | | greater than \$200. |
| 26 | 414.39(3)(a) | 3rd | Fraudulent misappropriation of |
| 27 | | | public assistance funds by |
| 28 | | | employee/official, value more |
| 29 | | | than \$200. |
| 30 | 443.071(1) | 3rd | False statement or representation |
| 31 | | | to obtain or increase |

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| | | | |
|----|---------------|-----|-----------------------------------|
| 1 | | | unemployment compensation |
| 2 | | | benefits. |
| 3 | 509.151(1) | 3rd | Defraud an innkeeper, food or |
| 4 | | | lodging value greater than \$300. |
| 5 | 517.302(1) | 3rd | Violation of the Florida |
| 6 | | | Securities and Investor |
| 7 | | | Protection Act. |
| 8 | 562.27(1) | 3rd | Possess still or still apparatus. |
| 9 | 713.69 | 3rd | Tenant removes property upon |
| 10 | | | which lien has accrued, value |
| 11 | | | more than \$50. |
| 12 | 812.014(3)(c) | 3rd | Petit theft (3rd conviction); |
| 13 | | | theft of any property not |
| 14 | | | specified in subsection (2). |
| 15 | 812.081(2) | 3rd | Unlawfully makes or causes to be |
| 16 | | | made a reproduction of a trade |
| 17 | | | secret. |
| 18 | 815.04(4)(a) | 3rd | Offense against intellectual |
| 19 | | | property (i.e., computer |
| 20 | | | programs, data). |
| 21 | 817.52(2) | 3rd | Hiring with intent to defraud, |
| 22 | | | motor vehicle services. |
| 23 | 817.569(2) | 3rd | Use of public record or public |
| 24 | | | records information to facilitate |
| 25 | | | commission of a felony. |
| 26 | 826.01 | 3rd | Bigamy. |
| 27 | 828.122(3) | 3rd | Fighting or baiting animals. |
| 28 | 831.04(1) | 3rd | Any erasure, alteration, etc., of |
| 29 | | | any replacement deed, map, plat, |
| 30 | | | or other document listed in s. |
| 31 | | | 92.28. |

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| | | | |
|----|------------------|-----|-----------------------------------|
| 1 | 831.31(1)(a) | 3rd | Sell, deliver, or possess |
| 2 | | | counterfeit controlled |
| 3 | | | substances, all but s. 893.03(5) |
| 4 | | | drugs. |
| 5 | 832.041(1) | 3rd | Stopping payment with intent to |
| 6 | | | defraud \$150 or more. |
| 7 | 832.05 | | |
| 8 | (2)(b)&(4)(c) | 3rd | Knowing, making, issuing |
| 9 | | | worthless checks \$150 or more or |
| 10 | | | obtaining property in return for |
| 11 | | | worthless check \$150 or more. |
| 12 | 838.15(2) | 3rd | Commercial bribe receiving. |
| 13 | 838.16 | 3rd | Commercial bribery. |
| 14 | 843.18 | 3rd | Fleeing by boat to elude a law |
| 15 | | | enforcement officer. |
| 16 | 847.011(1)(a) | 3rd | Sell, distribute, etc., obscene, |
| 17 | | | lewd, etc., material (2nd |
| 18 | | | conviction). |
| 19 | 849.01 | 3rd | Keeping gambling house. |
| 20 | 849.09(1)(a)-(d) | 3rd | Lottery; set up, promote, etc., |
| 21 | | | or assist therein, conduct or |
| 22 | | | advertise drawing for prizes, or |
| 23 | | | dispose of property or money by |
| 24 | | | means of lottery. |
| 25 | 849.23 | 3rd | Gambling-related machines; |
| 26 | | | "common offender" as to property |
| 27 | | | rights. |
| 28 | 849.25(2) | 3rd | Engaging in bookmaking. |
| 29 | 860.08 | 3rd | Interfere with a railroad signal. |
| 30 | 860.13(1)(a) | 3rd | Operate aircraft while under the |
| 31 | | | influence. |

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- 1 893.13(2)(a)2. 3rd Purchase of cannabis.
- 2 893.13(6)(a) 3rd Possession of cannabis (more than
- 3 20 grams).
- 4 934.03(1)(a) 3rd Intercepts, or procures any other
- 5 person to intercept, any wire or
- 6 oral communication.

7 Section 9. This act shall take effect July 1, 2006.

8
9
10 ===== T I T L E A M E N D M E N T =====

11 And the title is amended as follows:

12 Delete everything before the enacting clause

13
14 and insert:

15 A bill to be entitled

16 An act relating to saltwater fisheries;

17 amending s. 370.135, F.S.; establishing certain

18 endorsement fees for the taking of blue crabs;

19 establishing an annual trap tag fee;

20 authorizing the Fish and Wildlife Conservation

21 Commission to waive endorsement and trap tag

22 fees for a 1-year period; authorizing the

23 waiver of blue crab trap replacement tag fees

24 under certain conditions; requiring the deposit

25 of certain proceeds into the Marine Resources

26 Conservation Trust Fund; specifying the use of

27 such proceeds; providing administrative

28 penalties for certain violations; prohibiting

29 the unauthorized possession of blue crab trap

30 gear or removal of blue crab trap contents and

31 providing penalties therefor; providing

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1 penalties for certain other prohibited
2 activities relating to blue crab traps, lines,
3 buoys, and trap tags; providing penalties for
4 fraudulent reports related to endorsement
5 transfers; prohibiting certain activities
6 during endorsement suspension and revocation;
7 preserving state jurisdiction for certain
8 convictions; providing requirements for certain
9 license renewal; appropriating certain fee
10 revenues to the commission for blue crab effort
11 management program costs; amending s. 370.13,
12 F.S.; deleting authorization for the
13 establishment of equitable rent; authorizing
14 the waiver of stone crab trap replacement tag
15 fees under certain conditions; amending s.
16 370.14, F.S.; clarifying provisions regulating
17 spiny lobsters; amending s. 370.142, F.S.;
18 providing administrative penalties for certain
19 violations of the spiny lobster trap
20 certificate program; authorizing the waiver of
21 spiny lobster trap replacement tag fees under
22 certain conditions; deleting the authority of
23 the commission to recover a natural resource
24 rent; deleting authorization for the
25 establishment of an equitable rent; amending s.
26 370.143, F.S.; revising provisions for certain
27 trap retrieval programs and fees; amending s.
28 370.0603, F.S.; authorizing the deposit of
29 certain funds into the Marine Resources
30 Conservation Trust Fund; providing purposes for
31 which funds may be used; amending s. 921.0022,

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F.S.; deleting certain Level One offense
designations; providing an effective date.