

By Senator Argenziano

3-1244B-06

See HB 1345

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

1 amending s. 370.143, F.S.; revising provisions
2 for certain trap retrieval programs and fees;
3 providing an effective date.
4

5 Be It Enacted by the Legislature of the State of Florida:
6

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

10 370.135 Blue crab; regulation.--

11 (1) No person, firm, or corporation shall transport on
12 the water, fish with or cause to be fished with, set, or place
13 any trap designed for taking blue crabs unless such person,
14 firm, or corporation is the holder of a valid saltwater
15 products license issued pursuant to s. 370.06 and the trap has
16 a current state number permanently attached to the buoy. The
17 trap number shall be affixed in legible figures at least 1
18 inch high on each buoy used. The saltwater products license
19 must be on board the boat, and both the license and the crabs
20 shall be subject to inspection at all times. Only one trap
21 number may be issued for each boat by the commission upon
22 receipt of an application on forms prescribed by it. This
23 subsection shall not apply to an individual fishing with no
24 more than five traps. ~~It is a felony of the third degree,~~
25 ~~punishable as provided in s. 775.082, s. 775.083, or s.~~
26 ~~775.084, for any person willfully to molest any traps, lines,~~
27 ~~or buoys, as defined herein, belonging to another without the~~
28 ~~express written consent of the trap owner. Any person~~
29 ~~receiving a judicial disposition other than dismissal or~~
30 ~~acquittal on a charge of willful molestation of a trap, in~~
31 ~~addition to the penalties specified in s. 370.021, shall lose~~

1 ~~all saltwater fishing privileges for a period of 24 calendar~~
2 ~~months. It is unlawful for any person to remove the contents~~
3 ~~of or take possession of another harvester's trap without the~~
4 ~~express written consent of the trap owner available for~~
5 ~~immediate inspection. Unauthorized possession of another's~~
6 ~~trap gear or removal of trap contents constitutes theft. Any~~
7 ~~person receiving a judicial disposition other than dismissal~~
8 ~~or acquittal on a charge of theft of or from a trap pursuant~~
9 ~~to this section or s. 370.1107 shall, in addition to the~~
10 ~~penalties specified in s. 370.021 and the provisions of this~~
11 ~~section, permanently lose all his or her saltwater fishing~~
12 ~~privileges including his or her saltwater products license and~~
13 ~~blue crab endorsement. In such cases endorsements, landings~~
14 ~~history, and trap certificates are nontransferable. In~~
15 ~~addition, any person, firm, or corporation receiving a~~
16 ~~judicial disposition other than dismissal or acquittal for~~
17 ~~violating this subsection or s. 370.1107 shall also be~~
18 ~~assessed an administrative penalty of up to \$5,000.~~
19 ~~Immediately upon receiving a citation for a violation~~
20 ~~involving theft of or from a trap and until adjudicated for~~
21 ~~such a violation, or receiving a judicial disposition other~~
22 ~~than dismissal or acquittal for such a violation, the person,~~
23 ~~firm, or corporation committing the violation is prohibited~~
24 ~~from transferring any blue crab endorsements, landings~~
25 ~~history, or trap certificates.~~

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

27 1. The fee for a hard-shell blue crab endorsement for
28 the taking of hard-shell blue crabs, as required by rule of
29 the commission, is \$125, \$25 of which must be used solely for
30 trap retrieval under s. 370.143 and rule 68B-55, Florida
31 Administrative Code.

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

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

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

15 (b) Trap tag fees.--For each trap tag issued by the
16 commission under the requirements of the blue crab effort
17 management program established by commission rule, there is an
18 annual fee of 50 cents per tag. The fee for replacement tags
19 for lost or damaged tags is 50 cents each plus shipping,
20 except that the commission shall either temporarily defer or
21 permanently waive fees for replacement tags for traps lost in
22 the event of a major natural disaster declared as an emergency
23 by the Governor in any area of massive trap losses within the
24 designated disaster area.

25 (c) Equitable rent.--The commission may establish by
26 rule an amount of equitable rent that may be recovered as
27 partial compensation to the state for the enhanced access to
28 its natural resources. In determining whether to establish
29 such a rent and the amount thereof, the commission may
30 consider the amount of revenues annually generated by
31 endorsement fees, trap tag fees, replacement trap tag fees,

1 trap retrieval fees, and the continued economic viability of
2 the commercial blue crab industry. Final approval of such a
3 rule shall be by the Governor and Cabinet sitting as the Board
4 of Trustees of the Internal Improvement Trust Fund.

5 (d) Disposition of fees, surcharges, civil penalties
6 and fines, and equitable rent.--Endorsement fees, trap tag
7 fees, civil penalties and fines, replacement trap tag fees,
8 trap retrieval fees, and equitable rent, if any, shall be
9 deposited in the Marine Resources Conservation Trust Fund. Not
10 more than 50 percent of the revenues generated under this
11 section may be used for the operation and administration of
12 the blue crab effort management program. The remaining
13 revenues generated under this section shall be used for trap
14 retrieval, management of the blue crab fishery, public
15 education activities, research, and enforcement activities in
16 support of the blue crab effort management program.

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

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

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

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

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

12
13 Any person assessed an administrative penalty under this
14 paragraph shall, within 30 calendar days after notification,
15 pay the administrative penalty to the commission or request an
16 administrative hearing under ss. 120.569 and 120.57. The
17 proceeds of all administrative penalties collected under this
18 paragraph shall be deposited in the Marine Resources
19 Conservation Trust Fund.

20 (b) Trap theft; prohibitions and penalties.--It is
21 unlawful for any person to remove or take possession of the
22 contents of another harvester's trap without the express
23 written consent of the trap owner, which must be available for
24 immediate inspection. Unauthorized possession of another
25 harvester's trap gear or removal of trap contents constitutes
26 theft. Any person convicted of theft of or from a trap
27 pursuant to this paragraph shall, in addition to the penalties
28 specified in s. 370.021 and the provisions of this section,
29 permanently lose all of his or her saltwater fishing
30 privileges, including saltwater products licenses, blue crab
31 endorsements, and all trap tags allotted to him or her by the

1 commission. In such cases, endorsements are nontransferable.
2 In addition, any person, firm, or corporation convicted of a
3 violation of this paragraph shall also be assessed an
4 administrative penalty of up to \$5,000. Immediately upon
5 receiving a citation for a violation involving theft of or
6 from a trap and until adjudicated for such a violation or upon
7 receipt of a judicial disposition other than dismissal or
8 acquittal on such a violation, the violator is prohibited from
9 transferring any blue crab endorsement.

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

15 1. The willful molestation of any blue crab trap,
16 line, or buoy that is the property of any licenseholder,
17 without the permission of that licenseholder.

18 2. The bartering, trading, leasing, or sale, or
19 conspiring or aiding in such barter, trade, lease, or sale, or
20 supplying, agreeing to supply, aiding in supplying, or giving
21 away blue crab trap tags unless the action is duly authorized
22 by the commission as provided by commission rules.

23 3. The making, altering, forging, counterfeiting, or
24 reproducing of blue crab trap tags.

25 4. Possession of altered, forged, counterfeit, or
26 imitation blue crab trap tags.

27 5. Possession of commission-issued original trap tags
28 and commission-issued replacement trap tags, the sum of which
29 exceeds by 1 percent the number of traps allowed by rule of
30 the commission.

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

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

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

22 (e) Prohibitions during endorsement suspension and
23 revocation.--During any period of suspension or revocation of
24 a blue crab endorsement holder's endorsements, he or she
25 shall, within 15 days after notice provided by the commission,
26 remove from the water all traps subject to that endorsement.
27 Failure to do so shall extend the period of suspension or
28 revocation for an additional 6 calendar months.

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

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

4 Section 2. In order to implement the blue crab effort
5 management program pursuant to s. 370.135(3)(b), Florida
6 Statutes, including the creation of the Blue Crab Advisory
7 Board by commission rule, there is appropriated from the
8 commercial saltwater license fee revenues in the Marine
9 Resources Conservation Trust Fund to the Office of Licenses
10 and Permits in the Fish and Wildlife Conservation Commission
11 the sum of \$120,000 for program cost and the cost of blue crab
12 trap tags for the fiscal year 2006-2007, and there is
13 appropriated from the commercial saltwater license fee
14 revenues in the Marine Resources Conservation Trust Fund to
15 the Division of Marine Fisheries Management an additional sum
16 of \$12,000 for the operational and administrative costs of the
17 Blue Crab Advisory Board.

18 Section 3. Paragraph (c) of subsection (2) of section
19 370.142, Florida Statutes, is amended to read:

20 370.142 Spiny lobster trap certificate program.--

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

26 (c) Prohibitions; penalties.--

27 1. It is unlawful for a person to possess or use a
28 spiny lobster trap in or on state waters or adjacent federal
29 waters without having affixed thereto the trap tag required by
30 this section. It is unlawful for a person to possess or use
31 any other gear or device designed to attract and enclose or

1 otherwise aid in the taking of spiny lobster by trapping that
2 is not a trap as defined in rule 68B-24.006(2), Florida
3 Administrative Code.

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

7 3. It is unlawful for any person to willfully molest,
8 take possession of, or remove the contents of another
9 harvester's trap without the express written consent of the
10 trap owner available for immediate inspection. Unauthorized
11 possession of another's trap gear or removal of trap contents
12 constitutes theft. Any person receiving a judicial disposition
13 other than dismissal or acquittal on a charge of theft of or
14 from a trap pursuant to this subparagraph or s. 370.1107
15 shall, in addition to the penalties specified in ss. 370.021
16 and 370.14 and the provisions of this section, permanently
17 lose all his or her saltwater fishing privileges, including
18 his or her saltwater products license, crawfish endorsement,
19 and all trap certificates allotted to him or her through this
20 program. In such cases, trap certificates and endorsements are
21 nontransferable. Any person receiving a judicial disposition
22 other than dismissal or acquittal on a charge of willful
23 molestation of a trap, in addition to the penalties specified
24 in ss. 370.021 and 370.14, shall lose all saltwater fishing
25 privileges for a period of 24 calendar months. In addition,
26 any person, firm, or corporation charged with violating this
27 paragraph and receiving a judicial disposition other than
28 dismissal or acquittal for violating this subparagraph or s.
29 370.1107 shall also be assessed an administrative penalty of
30 up to \$5,000. Immediately upon receiving a citation for a
31 violation involving theft of or from a trap, or molestation of

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

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

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

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

25 c. For a third or subsequent violation of subparagraph
26 1., subparagraph 2., or subparagraph 3. which occurs within 36
27 months of any previous two such violations, the commission
28 shall assess an additional civil penalty of up to \$5,000 and
29 may suspend the crawfish trap number issued pursuant to s.
30 370.14(2) or (6) for a period of up to 24 months or may revoke
31 the crawfish trap number and, if revoking the crawfish trap

1 | number, may also proceed against the licenseholder's saltwater
2 | products license in accordance with the provisions of s.
3 | 370.021(2)(h).

4 | d. Any person assessed an additional civil penalty
5 | pursuant to this section shall within 30 calendar days after
6 | notification:

7 | (I) Pay the civil penalty to the commission; or

8 | (II) Request an administrative hearing pursuant to the
9 | provisions of s. 120.60.

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

13 | 5.a. It is unlawful for any person to make, alter,
14 | forge, counterfeit, or reproduce a spiny lobster trap tag or
15 | certificate.

16 | b. It is unlawful for any person to knowingly have in
17 | his or her possession a forged, counterfeit, or imitation
18 | spiny lobster trap tag or certificate.

19 | c. It is unlawful for any person to barter, trade,
20 | sell, supply, agree to supply, aid in supplying, or give away
21 | a spiny lobster trap tag or certificate or to conspire to
22 | barter, trade, sell, supply, aid in supplying, or give away a
23 | spiny lobster trap tag or certificate unless such action is
24 | duly authorized by the commission as provided in this chapter
25 | or in the rules of the commission.

26 | 6.a. Any person who violates the provisions of
27 | subparagraph 5., or any person who engages in the commercial
28 | harvest, trapping, or possession of spiny lobster without a
29 | crawfish trap number as required by s. 370.14(2) or (6) or
30 | during any period while such crawfish trap number is under
31 | suspension or revocation, commits a felony of the third

1 degree, punishable as provided in s. 775.082, s. 775.083, or
2 s. 775.084.

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

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

22 7. Any certificates for which the annual certificate
23 fee is not paid for a period of 3 years shall be considered
24 abandoned and shall revert to the commission. During any
25 period of trap reduction, any certificates reverting to the
26 commission shall become permanently unavailable and be
27 considered in that amount to be reduced during the next
28 license-year period. Otherwise, any certificates that revert
29 to the commission are to be reallocated in such manner as
30 provided by the commission.

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

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

7 Section 4. Section 370.143, Florida Statutes, is
8 amended to read:

9 370.143 Retrieval of spiny lobster, ~~crawfish,~~ and
10 stone crab, blue crab, and black sea bass traps during closed
11 season; commission authority; fees.--

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

18 (2) A retrieval fee of \$10 per trap retrieved shall be
19 assessed trap owners. However, for each person holding a spiny
20 lobster endorsement, ~~crawfish stamp number~~ or a stone crab
21 endorsement, or a blue crab endorsement issued under rule of
22 the commission, the retrieval fee shall be waived for the
23 first five traps retrieved. Traps recovered under this program
24 shall become the property of the commission or its contract
25 agent, as determined by the commission, and shall be either
26 destroyed or resold to the original owner. Revenue from
27 retrieval fees shall be deposited in the Marine Resources
28 Conservation Trust Fund and used solely for operation of the
29 trap retrieval program.

30 (3) Payment of all assessed retrieval fees shall be
31 required prior to renewal of the trap owner's saltwater

1 | products license ~~and stone crab and or crawfish endorsements.~~
2 | Retrieval fees assessed under this program shall stand in lieu
3 | of other penalties imposed for such trap violations.

4 | (4) In the event of a major natural disaster in an
5 | area declared by the Governor to be a disaster emergency area,
6 | such as a hurricane or major storm causing massive trap
7 | losses, the commission shall waive the trap retrieval fee.

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

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