

1 certain license renewal; appropriating certain
2 fee revenues to the commission for blue crab
3 effort management program costs; amending s.
4 370.13, F.S.; providing for legislative
5 approval of commission rules establishing
6 equitable rent; authorizing the waiver of stone
7 crab trap replacement tag fees under certain
8 conditions; amending s. 370.14, F.S.;
9 clarifying provisions regulating spiny
10 lobsters; amending s. 370.142, F.S.; providing
11 administrative penalties for certain violations
12 of the spiny lobster trap certificate program;
13 authorizing the waiver of spiny lobster trap
14 replacement tag fees under certain conditions;
15 providing for legislative approval of rules
16 establishing equitable rent; amending s.
17 370.143, F.S.; revising provisions for certain
18 trap retrieval programs and fees; amending s.
19 370.0603, F.S.; authorizing the deposit of
20 certain funds into the Marine Resources
21 Conservation Trust Fund; providing purposes for
22 which funds may be used; amending s.370.025,
23 F.S.; revising rulemaking authority; requiring
24 the commission to adopt an adequate due-process
25 rule; providing legislative intent; amending s.
26 921.0022, F.S.; deleting certain Level One
27 offense designations; providing an effective
28 date.

29
30 Be It Enacted by the Legislature of the State of Florida:
31

1 Section 1. The Legislature ratifies chapter
2 68B-45.007, Florida Administrative Code, approved by the Fish
3 and Wildlife Conservation Commission on March 30, 2006, as the
4 blue crab limited entry endorsement program. Amendments to the
5 rule shall become effective only after submitted to the
6 President of the Senate and the Speaker of the House of
7 Representatives for review by the Legislature not later than
8 30 days prior to the next regular session. The commission
9 shall conform the rule to changes made by the Legislature, or
10 if no action is taken, such rule shall become effective.

11 Section 2. Section 370.135, Florida Statutes, is
12 amended to read:

13 370.135 Blue crab; regulation.--

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

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

29 (2) No person shall harvest blue crabs with more than
30 five traps, harvest blue crabs in commercial quantities, or
31 sell blue crabs unless such person holds a valid saltwater

1 products license with a restricted species endorsement and a
2 blue crab endorsement(~~trap number~~) issued pursuant to this
3 section subsection.

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

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

12 ~~(c) If a person holding an active blue crab~~
13 ~~endorsement, or a member of that person's immediate family,~~
14 ~~does not request renewal of the endorsement before the~~
15 ~~applicable dates as specified in this subsection, the~~
16 ~~commission shall deactivate that endorsement.~~

17 ~~(a)(d)~~ In the event of the death or disability of a
18 person holding an active blue crab endorsement, the
19 endorsement may be transferred by the person to a member of
20 his or her immediate family or may be renewed by any person so
21 designated by the executor of the person's estate.

22 ~~(b)(e)~~ Persons who hold saltwater products licenses
23 with blue crab endorsements issued to their boat registration
24 numbers and who subsequently replace their existing vessels
25 with new vessels shall be permitted to transfer the existing
26 licenses to the new boat registration numbers.

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

28 1. The fee for a hard-shell blue crab endorsement for
29 the taking of hard-shell blue crabs, as authorized by rule of
30 the commission, is \$125, \$25 of which must be used solely for
31

1 the trap-retrieval program authorized under s. 370.143 and in
2 commission rules.

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

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

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

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

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

1 consider the amount of revenues annually generated by
2 endorsement fees, trap tag fees, replacement trap tag fees,
3 trap retrieval fees, and the continued economic viability of
4 the commercial blue crab industry. A rule establishing an
5 amount of equitable rent shall become effective only upon
6 approval by act of the Legislature.

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

22 (e) Waiver of fees.--For the 2006-2007 license year,
23 the commission shall waive all fees under this subsection for
24 all persons who qualify by September 30, 2006, to participate
25 in the blue crab effort management program established by
26 commission rule.

27 (4)(a) Untagged trap penalties.--In addition to any
28 other penalties provided in s. 370.021 for any person, firm,
29 or corporation that violates commission rules requiring the
30 placement of trap tags for each trap used for the directed
31

1 harvest of blue crabs, the following administrative penalties
2 apply:

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

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

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

17 4. A fourth violation that occurs within 48 months
18 after any three previous such violations shall result in
19 permanent revocation of all of the violator's saltwater
20 fishing privileges, including having the commission proceed
21 against the endorsement holder's saltwater products license in
22 accordance with s. 370.021.

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

31

1 (b) Trap theft; prohibitions and penalties.--It is
2 unlawful for any person to remove or take possession of the
3 contents of another harvester's blue crab trap without the
4 express written consent of the trap owner, which must be
5 available for immediate inspection. Unauthorized possession of
6 another harvester's blue crab trap gear or removal of trap
7 contents constitutes theft. Any person convicted of theft of
8 or from a blue crab trap pursuant to this paragraph shall, in
9 addition to the penalties specified in s. 370.021 and the
10 provisions of this section, permanently lose all of his or her
11 saltwater fishing privileges, including saltwater products
12 licenses, blue crab endorsements, and all blue crab trap tags
13 allotted to him or her by the commission. In such cases, blue
14 crab endorsements are nontransferable. In addition, any
15 person, firm, or corporation convicted of a violation of this
16 paragraph shall also be assessed an administrative penalty of
17 up to \$5,000. Immediately upon receiving a citation for a
18 violation involving theft of or from a trap and until
19 adjudicated for such a violation or upon receipt of a judicial
20 disposition other than dismissal or acquittal on such a
21 violation, the violator is prohibited from transferring any
22 blue crab endorsement.

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

28 1. The willful molestation of any blue crab trap,
29 line, or buoy that is the property of any licenseholder,
30 without the permission of that licenseholder.
31

1 2. The bartering, trading, leasing, or sale, or
2 conspiring or aiding in such barter, trade, lease, or sale, or
3 supplying, agreeing to supply, aiding in supplying, or giving
4 away blue crab trap tags unless the action is duly authorized
5 by commission rules.

6 3. The making, altering, forging, counterfeiting, or
7 reproducing of blue crab trap tags.

8 4. Possession of altered, forged, counterfeit, or
9 imitation blue crab trap tags.

10 5. Possession of original trap tags and replacement
11 trap tags, the sum of which exceeds by 1 percent the number of
12 traps allowed by rule of the commission.

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

16
17 In addition, any person, firm, or corporation convicted of a
18 violation of this paragraph shall be assessed an
19 administrative penalty of up to \$5,000, and all of the blue
20 crab endorsements possessed by the person, firm, or
21 corporation may be suspended for up to 24 calendar months.
22 Immediately upon receiving a citation involving a violation of
23 this paragraph and until adjudicated for such a violation, or
24 if convicted of such a violation, the person, firm, or
25 corporation committing the violation is prohibited from
26 transferring any blue crab endorsements.

27 (d) Endorsement transfers; fraudulent reports;
28 penalties.--For any person, firm, or corporation convicted of
29 fraudulently reporting the actual value of transferred blue
30 crab endorsements, the commission may automatically suspend or
31 permanently revoke the seller's or the purchaser's blue crab

1 endorsements. If the endorsement is permanently revoked, the
2 commission shall also permanently deactivate the endorsement
3 holder's blue crab trap tag accounts.

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

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

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

16 Section 3. For the 2006-2007 fiscal year, the sum of
17 \$132,000 is appropriated from the Marine Resources
18 Conservation Trust Fund to the Fish and Wildlife Conservation
19 Commission on a recurring basis for the purpose of
20 implementing the blue crab effort management program pursuant
21 to s. 370.135(3)(b), Florida Statutes, and administrative
22 costs of the Blue Crab Advisory Board as created by commission
23 rule.

24 Section 4. Subsection (1) of section 370.13, Florida
25 Statutes, is amended to read:

26 370.13 Stone crab; regulation.--

27 (1) FEES AND EQUITABLE RENT.--

28 (a) Endorsement fee.--The fee for a stone crab
29 endorsement for the taking of stone crabs, as required by rule
30 of the Fish and Wildlife Conservation Commission, is \$125, \$25
31

1 of which must be used solely for trap retrieval under s.
2 370.143.

3 (b) Certificate fees.--

4 1. For each trap certificate issued by the commission
5 under the requirements of the stone crab trap limitation
6 program established by commission rule, there is an annual fee
7 of 50 cents per certificate. Replacement tags for lost or
8 damaged tags cost 50 cents each. In the event of a major
9 natural disaster, such as a hurricane or major storm, which
10 causes massive trap losses within an area declared by the
11 Governor to be a disaster emergency area, the commission may
12 temporarily defer or permanently waive replacement tag fees.~~7~~
13 ~~except that tags lost in the event of a major natural disaster~~
14 ~~declared as an emergency disaster by the Governor shall be~~
15 ~~replaced for the cost of the tag as incurred by the~~
16 ~~commission.~~

17 2. The fee for transferring trap certificates is \$1
18 per certificate transferred, except that the fee for eligible
19 crew members is 50 cents per certificate transferred. Eligible
20 crew members shall be determined according to criteria
21 established by rule of the commission. Payment must be made by
22 money order or cashier's check, submitted with the certificate
23 transfer form developed by the commission.

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

29 4. Transfer fees and surcharges only apply to the
30 actual number of certificates received by the purchaser. A
31 transfer of a certificate is not effective until the

1 | commission receives a notarized copy of the bill of sale as
2 | proof of the actual value of the transferred certificate or
3 | certificates, which must also be submitted with the transfer
4 | form and payment.

5 | 5. A transfer fee will not be assessed or required
6 | when the transfer is within a family as a result of the death
7 | or disability of the certificate owner. A surcharge will not
8 | be assessed for any transfer within an individual's immediate
9 | family.

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

12 | (c) Incidental take endorsement.--The cost of an
13 | incidental take endorsement, as established by commission
14 | rule, is \$25.

15 | (d) Equitable rent.--The commission may establish by
16 | rule an amount of equitable rent per trap certificate that may
17 | be recovered as partial compensation to the state for the
18 | enhanced access to its natural resources. In determining
19 | whether to establish such a rent and the amount thereof, the
20 | commission may consider the amount of revenues annually
21 | generated by endorsement fees, trap certificate fees, transfer
22 | fees, surcharges, replacement trap tag fees, trap retrieval
23 | fees, incidental take endorsement fees, and the continued
24 | economic viability of the commercial stone crab industry. A
25 | rule establishing an amount of equitable rent shall become
26 | effective only upon approval by act of the Legislature. Final
27 | ~~approval of such a rule shall be by the Governor and Cabinet~~
28 | ~~sitting as the Board of Trustees of the Internal Improvement~~
29 | ~~Trust Fund.~~

30 | ~~(d)(e)~~ Disposition of fees, surcharges, civil
31 | penalties and fines, and equitable rent.--Endorsement fees,

1 trap certificate fees, transfer fees, civil penalties and
2 fines, surcharges, replacement trap tag fees, trap retrieval
3 fees, and incidental take endorsement fees, and equitable
4 rent, if any, must be deposited in the Marine Resources
5 Conservation Trust Fund. Not more than 50 percent of the
6 revenues generated under this section may be used for
7 operation and administration of the stone crab trap limitation
8 program. The remaining revenues generated under this program
9 are to be used for trap retrieval, management of the stone
10 crab fishery, public education activities, evaluation of the
11 impact of trap reductions on the stone crab fishery, and
12 enforcement activities in support of the stone crab trap
13 limitation program.

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

17 ~~(f)(g)~~ No vested rights.--The stone crab trap
18 limitation program does not create any vested rights for
19 endorsement or certificateholders and may be altered or
20 terminated by the commission as necessary to protect the stone
21 crab resource, the participants in the fishery, or the public
22 interest.

23 Section 5. Section 370.14, Florida Statutes, is
24 amended to read:

25 370.14 Spiny lobster ~~Crawfish~~; regulation.--

26 (1) It is the intent of the Legislature to maintain
27 the spiny lobster ~~crawfish~~ industry for the economy of the
28 state and to conserve the stocks supplying this industry. The
29 provisions of this act regulating the taking of spiny lobster
30 ~~saltwater crawfish~~ are for the purposes of ensuring and
31

1 maintaining the highest possible production of spiny lobster
2 ~~saltwater crawfish~~.

3 (2)(a)1. Each person taking or attempting to take
4 spiny lobster ~~crawfish~~ with a trap in commercial quantities or
5 for commercial purposes shall obtain and exhibit a spiny
6 lobster ~~crawfish~~ trap number, as required by the Fish and
7 Wildlife Conservation Commission. The annual fee for a spiny
8 lobster ~~crawfish~~ trap number is \$125. This trap number may be
9 issued by the commission upon the receipt of application by
10 the person when accompanied by the payment of the fee. The
11 design of the applications and of the trap number shall be
12 determined by the commission. Any trap or device used in
13 taking or attempting to take spiny lobster ~~crawfish~~, other
14 than a trap with the trap number, shall be seized and
15 destroyed by the commission. The proceeds of the fees imposed
16 by this paragraph shall be deposited and used as provided in
17 paragraph (b). The commission may adopt rules to carry out the
18 intent of this section.

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

24 (b) Twenty-five dollars of the \$125 fee for a spiny
25 lobster ~~crawfish~~ trap number required under subparagraph (a)1.
26 must be used only for trap retrieval as provided in s.
27 370.143. The remainder of the fees collected pursuant to
28 paragraph (a) shall be deposited as follows:

29 1. Fifty percent of the fees collected shall be
30 deposited in the Marine Resources Conservation Trust Fund for
31

1 use in enforcing the provisions of paragraph (a) through
2 aerial and other surveillance and trap retrieval.

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

5 (3) The spiny lobster ~~erawfish~~ license must be on
6 board the boat, and both the license and the harvested spiny
7 lobster ~~erawfish~~ shall be subject to inspection at all times.
8 Only one license shall be issued for each boat. The spiny
9 lobster ~~erawfish~~ license number must be prominently displayed
10 above the topmost portion of the boat so as to be easily and
11 readily identified.

12 (4) It is a felony of the third degree, punishable as
13 provided in s. 775.082 or s. 775.083, for any person willfully
14 to molest any spiny lobster ~~erawfish~~ traps, lines, or buoys
15 belonging to another without permission of the licenseholder.

16 (5) Any spiny lobster ~~erawfish~~ licenseholder, upon
17 selling licensed spiny lobster ~~erawfish~~ traps, shall furnish
18 the commission notice of such sale of all or part of his or
19 her interest within 15 days thereof. Any holder of said
20 license shall also notify the commission within 15 days if his
21 or her address no longer conforms to the address appearing on
22 the license and shall, as a part of such notification, furnish
23 the commission with his or her new address.

24 (6)(a) By a special permit granted by the commission,
25 a Florida-licensed seafood dealer may lawfully import,
26 process, and package spiny lobster ~~saltwater erawfish~~ or
27 uncooked tails of the species *Panulirus argus* during the
28 closed season. However, spiny lobster ~~erawfish~~ landed under
29 special permit shall not be sold in the state.

30 (b) The licensed seafood dealer importing any such
31 spiny lobster ~~erawfish~~ under the permit shall, 12 hours prior

1 to the time the seagoing vessel or airplane delivering such
2 imported spiny lobster ~~crayfish~~ enters the state, notify the
3 commission as to the seagoing vessel's name or the airplane's
4 registration number and its captain, location, and point of
5 destination.

6 (c) At the time the spiny lobster ~~crayfish~~ cargo is
7 delivered to the permit holder's place of business, the spiny
8 lobster ~~crayfish~~ cargo shall be weighed and shall be available
9 for inspection by the commission. A signed receipt of such
10 quantity in pounds shall be forwarded to the commission within
11 48 hours after shipment weigh-in completion. If requested by
12 the commission, the weigh-in process will be delayed up to 4
13 hours to allow for a commission representative to be present
14 during the process.

15 (d) Within 48 hours after shipment weigh-in
16 completion, the permit holder shall submit to the commission,
17 on forms provided by the commission, a sworn report of the
18 quantity in pounds of the spiny lobster ~~saltwater crayfish~~
19 received, which report shall include the location of said
20 spiny lobster ~~crayfish~~ and a sworn statement that said spiny
21 lobster ~~crayfish~~ were taken at least 50 miles from Florida's
22 shoreline. The landing of spiny lobster ~~crayfish~~ or spiny
23 lobster ~~crayfish~~ tails from which the eggs, swimmerettes, or
24 pleopods have been removed; the falsification of information
25 as to area from which spiny lobster ~~crayfish~~ were obtained; or
26 the failure to file the report called for in this section
27 shall be grounds to revoke the permit.

28 (e) Each permit holder shall keep throughout the period
29 of the closed season copies of the bill of sale or invoices
30 covering each transaction involving spiny lobster ~~crayfish~~
31

1 imported under this permit. Such invoices and bills shall be
2 kept available at all times for inspection by the commission.

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

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

12 (c) All special permits issued under this subsection
13 are nontransferable.

14 (8) No common carrier or employee of said carrier may
15 carry, knowingly receive for carriage, or permit the carriage
16 of any spiny lobster ~~crawfish~~ of the species *Panulirus argus*,
17 regardless of where taken, during the closed season, except of
18 the species *Panulirus argus* lawfully imported from a foreign
19 country for reshipment outside of the territorial limits of
20 the state under United States Customs bond or in accordance
21 with paragraph (7)(a).

22 Section 6. Paragraphs (a), (b), and (c) of subsection
23 (2) of section 370.142, Florida Statutes, are amended to read:

24 370.142 Spiny lobster trap certificate program.--

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

30 (a) Transferable trap certificates.--Each holder of a
31 saltwater products license who uses traps for taking or

1 attempting to take spiny lobsters shall be required to have a
2 certificate on record for each trap possessed or used
3 therefor, except as otherwise provided in this section.

4 1. The Department of Environmental Protection shall
5 initially allot such certificates to each licenseholder with a
6 current spiny lobster ~~crayfish~~ trap number who uses traps.

7 The number of such certificates allotted to each such
8 licenseholder shall be based on the trap/catch coefficient
9 established pursuant to trip ticket records generated under
10 the provisions of s. 370.06(2) over a 3-year base period
11 ending June 30, 1991. The trap/catch coefficient shall be
12 calculated by dividing the sum of the highest reported single
13 license-year landings up to a maximum of 30,000 pounds for
14 each such licenseholder during the base period by 700,000.
15 Each such licenseholder shall then be allotted the number of
16 certificates derived by dividing his or her highest reported
17 single license-year landings up to a maximum of 30,000 pounds
18 during the base period by the trap/catch coefficient.

19 Nevertheless, no licenseholder with a current spiny lobster
20 ~~crayfish~~ trap number shall be allotted fewer than 10
21 certificates. However, certificates may only be issued to
22 individuals; therefore, all licenseholders other than
23 individual licenseholders shall designate the individual or
24 individuals to whom their certificates will be allotted and
25 the number thereof to each, if more than one. After initial
26 issuance, trap certificates are transferable on a market basis
27 and may be transferred from one licenseholder to another for a
28 fair market value agreed upon between the transferor and
29 transferee. Each such transfer shall, within 72 hours thereof,
30 be recorded on a notarized form provided for that purpose by
31 the Fish and Wildlife Conservation Commission and hand

1 delivered or sent by certified mail, return receipt requested,
2 to the commission for recordkeeping purposes. ~~In addition,~~ In
3 order to cover the added administrative costs of the program
4 and to recover an equitable natural resource rent for the
5 people of the state, a transfer fee of \$2 per certificate
6 transferred shall be assessed against the purchasing
7 licenseholder and sent by money order or cashier's check with
8 the certificate transfer form. Also, in addition to the
9 transfer fee, a surcharge of \$5 per certificate transferred or
10 25 percent of the actual market value, whichever is greater,
11 given to the transferor shall be assessed the first time a
12 certificate is transferred outside the original transferor's
13 immediate family. No transfer of a certificate shall be
14 effective until the commission receives the notarized transfer
15 form and the transfer fee, including any surcharge, is paid.
16 The commission may establish by rule an amount of equitable
17 rent per trap certificate that shall be recovered as partial
18 compensation to the state for the enhanced access to its
19 natural resources. A rule establishing an amount of equitable
20 rent shall become effective only upon approval by act of the
21 Legislature. ~~Final approval of such a rule shall be by the~~
22 ~~Governor and Cabinet sitting as the Board of Trustees of the~~
23 ~~Internal Improvement Trust Fund.~~ In determining whether to
24 establish such a rent and, if so, the amount thereof, the
25 commission shall consider the amount of revenues annually
26 generated by certificate fees, transfer fees, surcharges, trap
27 license fees, and sales taxes, the demonstrated fair market
28 value of transferred certificates, and the continued economic
29 viability of the commercial lobster industry. The proceeds of
30 equitable rent recovered shall be deposited in the Marine
31 Resources Conservation Trust Fund and used by the commission

1 for research, management, and protection of the spiny lobster
2 fishery and habitat. A transfer fee may not be assessed or
3 required when the transfer is within a family as a result of
4 the death or disability of the certificate owner. A surcharge
5 will not be assessed for any transfer within an individual's
6 immediate family.

7 2. No person, firm, corporation, or other business
8 entity may control, directly or indirectly, more than 1.5
9 percent of the total available certificates in any license
10 year.

11 3. The commission shall maintain records of all
12 certificates and their transfers and shall annually provide
13 each licenseholder with a statement of certificates held.

14 4. The number of trap tags issued annually to each
15 licenseholder shall not exceed the number of certificates held
16 by the licenseholder at the time of issuance, and such tags
17 and a statement of certificates held shall be issued
18 simultaneously.

19 5. ~~Beginning July 1, 2003, and applicable to the~~
20 ~~2003-2004 lobster season and thereafter,~~ It is unlawful for
21 any person to lease spiny lobster trap tags or certificates.

22 (b) Trap tags.--Each trap used to take or attempt to
23 take spiny lobsters in state waters or adjacent federal waters
24 shall, in addition to the spiny lobster ~~crayfish~~ trap number
25 required by s. 370.14(2), have affixed thereto an annual trap
26 tag issued by the commission. Each such tag shall be made of
27 durable plastic or similar material and shall, based on the
28 number of certificates held, have stamped thereon the owner's
29 license number. To facilitate enforcement and recordkeeping,
30 such tags shall be issued each year in a color different from
31 that of each of the previous 3 years. The annual certificate

1 fee shall be \$1 per certificate. Replacement tags for lost or
2 damaged tags may be obtained as provided by rule of the
3 commission. In the event of a major natural disaster, such as
4 a hurricane or major storm, which causes massive trap losses
5 within an area declared by the Governor to be a disaster
6 emergency area, the commission may temporarily defer or
7 permanently waive replacement tag fees.

8 (c) Prohibitions; penalties.--

9 1. It is unlawful for a person to possess or use a
10 spiny lobster trap in or on state waters or adjacent federal
11 waters without having affixed thereto the trap tag required by
12 this section. It is unlawful for a person to possess or use
13 any other gear or device designed to attract and enclose or
14 otherwise aid in the taking of spiny lobster by trapping that
15 is not a trap as defined by commission rule in rule
16 ~~68B 24.006(2), Florida Administrative Code.~~

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

20 3. It is unlawful for any person to willfully molest,
21 take possession of, or remove the contents of another
22 harvester's spiny lobster trap without the express written
23 consent of the trap owner available for immediate inspection.
24 Unauthorized possession of another's trap gear or removal of
25 trap contents constitutes theft.

26 a. Any person receiving a judicial disposition other
27 than dismissal or acquittal on a charge of theft of or from a
28 spiny lobster trap pursuant to this subparagraph or s.
29 370.1107 shall, in addition to the penalties specified in ss.
30 370.021 and 370.14 and the provisions of this section,
31 permanently lose all his or her saltwater fishing privileges,

1 including his or her saltwater products license, spiny lobster
2 ~~crawfish~~ endorsement, and all trap certificates allotted to
3 him or her through this program. In such cases, trap
4 certificates and endorsements are nontransferable.

5 b. Any person receiving a judicial disposition other
6 than dismissal or acquittal on a charge of willful molestation
7 of a trap, in addition to the penalties specified in ss.
8 370.021 and 370.14, shall lose all saltwater fishing
9 privileges for a period of 24 calendar months.

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

15
16 Immediately upon receiving a citation for a violation
17 involving theft of or from a trap, or molestation of a trap,
18 and until adjudicated for such a violation or, upon receipt of
19 a judicial disposition other than dismissal or acquittal of
20 such a violation, the person, firm, or corporation committing
21 the violation is prohibited from transferring any crawfish
22 trap certificates and endorsements.

23 4. In addition to any other penalties provided in s.
24 370.021, a commercial harvester, ~~as defined by rule~~
25 ~~68B-24.002(1), Florida Administrative Code,~~ who violates the
26 provisions of this section, or commission rules the provisions
27 relating to spiny lobster traps ~~of chapter 68B-24, Florida~~
28 ~~Administrative Code,~~ shall be punished as follows:

29 a. If the first violation is for violation of
30 subparagraph 1. or subparagraph 2., the commission shall
31 assess an additional administrative ~~civil~~ penalty of up to

1 | \$1,000 and the spiny lobster ~~erawfish~~ trap number issued
2 | pursuant to s. 370.14(2) or (6) may be suspended for the
3 | remainder of the current license year. For all other first
4 | violations, the commission shall assess an additional
5 | administrative ~~civil~~ penalty of up to \$500.

6 | b. For a second violation of subparagraph 1. or
7 | subparagraph 2. which occurs within 24 months of any previous
8 | such violation, the commission shall assess an additional
9 | administrative ~~civil~~ penalty of up to \$2,000 and the spiny
10 | lobster ~~erawfish~~ trap number issued pursuant to s. 370.14(2)
11 | or (6) may be suspended for the remainder of the current
12 | license year.

13 | c. For a third or subsequent violation of subparagraph
14 | 1., subparagraph 2., or subparagraph 3. which occurs within 36
15 | months of any previous two such violations, the commission
16 | shall assess an additional administrative ~~civil~~ penalty of up
17 | to \$5,000 and may suspend the spiny lobster ~~erawfish~~ trap
18 | number issued pursuant to s. 370.14(2) or (6) for a period of
19 | up to 24 months or may revoke the spiny lobster ~~erawfish~~ trap
20 | number and, if revoking the spiny lobster ~~erawfish~~ trap
21 | number, may also proceed against the licenseholder's saltwater
22 | products license in accordance with the provisions of s.
23 | 370.021(2)(h).

24 | d. Any person assessed an additional administrative
25 | ~~civil~~ penalty pursuant to this section shall within 30
26 | calendar days after notification:

27 | (I) Pay the administrative ~~civil~~ penalty to the
28 | commission; or

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

31 |

1 e. The commission shall suspend the spiny lobster
2 ~~crayfish~~ trap number issued pursuant to s. 370.14(2) or (6)
3 for any person failing to comply with the provisions of
4 sub-subparagraph d.

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

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

11 c. It is unlawful for any person to barter, trade,
12 sell, supply, agree to supply, aid in supplying, or give away
13 a spiny lobster trap tag or certificate or to conspire to
14 barter, trade, sell, supply, aid in supplying, or give away a
15 spiny lobster trap tag or certificate unless such action is
16 duly authorized by the commission as provided in this chapter
17 or in the rules of the commission.

18 6.a. Any person who violates the provisions of
19 subparagraph 5., or any person who engages in the commercial
20 harvest, trapping, or possession of spiny lobster without a
21 spiny lobster ~~crayfish~~ trap number as required by s. 370.14(2)
22 or (6) or during any period while such spiny lobster ~~crayfish~~
23 trap number is under suspension or revocation, commits a
24 felony of the third degree, punishable as provided in s.
25 775.082, s. 775.083, or s. 775.084.

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

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

14 7. Any certificates for which the annual certificate
15 fee is not paid for a period of 3 years shall be considered
16 abandoned and shall revert to the commission. During any
17 period of trap reduction, any certificates reverting to the
18 commission shall become permanently unavailable and be
19 considered in that amount to be reduced during the next
20 license-year period. Otherwise, any certificates that revert
21 to the commission are to be reallocated in such manner as
22 provided by the commission.

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

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

29 Section 7. Section 370.143, Florida Statutes, is
30 amended to read:

31

1 370.143 Retrieval of spiny lobster, ~~crawfish,~~ and
2 stone crab, blue crab, and black sea bass traps during closed
3 season; commission authority; fees.--

4 (1) The Fish and Wildlife Conservation Commission is
5 authorized to implement a trap retrieval program for retrieval
6 of spiny lobster, ~~crawfish,~~ and stone crab, blue crab, and
7 black sea bass traps remaining in the water during the closed
8 season for each species. The commission is authorized to
9 contract with outside agents for the program operation.

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

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

27 (4) In the event of a major natural disaster, such as
28 a hurricane or major storm, which causes major trap losses
29 within an area declared by the Governor to be a disaster
30 emergency area, the commission shall waive the trap retrieval
31 fee. ~~In the event of a major natural disaster in an area~~

1 ~~declared by the Governor to be a disaster emergency area, such~~
2 ~~as a hurricane or major storm causing massive trap losses, the~~
3 ~~commission shall waive the trap retrieval fee.~~

4 Section 8. Paragraph (j) is added to subsection (1) of
5 section 370.0603, Florida Statutes, and paragraphs (c) and (d)
6 of subsection (2) of that section are amended, to read:

7 370.0603 Marine Resources Conservation Trust Fund;
8 purposes.--

9 (1) The Marine Resources Conservation Trust Fund
10 within the Fish and Wildlife Conservation Commission shall
11 serve as a broad-based depository for funds from various
12 marine-related and boating-related activities and shall be
13 administered by the commission for the purposes of:

14 (j) Funding for the stone crab trap reduction program
15 under s. 370.13, the blue crab effort management program under
16 s. 370.135, the spiny lobster trap certificate program under
17 s. 370.142, and the trap retrieval program under s. 370.143.

18 (2) The Marine Resources Conservation Trust Fund shall
19 receive the proceeds from:

20 (c) All fees collected pursuant to ss. 370.063,
21 370.13, 370.135, 370.142, 370.143, and 372.5704.

22 (d) All fines and penalties pursuant to ~~ss. s-~~
23 370.021, 370.13, 370.135, and 370.142.

24 Section 9. Subsection (4) of section 370.025, Florida
25 Statutes, is amended, and subsection (5) is added to that
26 section, to read:

27 370.025 Marine fisheries; policy and standards.--

28 (4) Pursuant to s. 9, Art. IV of the State
29 Constitution, the commission has ~~full constitutional~~
30 rulemaking authority over marine life, and listed species as
31 defined in s. 372.072(3), except for:

1 (a) Endangered or threatened marine species for which
2 rulemaking shall be done pursuant to chapter 120; and

3 (b) The authority to regulate fishing gear in
4 residential, manmade saltwater canals which is retained by the
5 Legislature and specifically not delegated to the commission.

6 (c) Marine aquaculture products produced by an
7 individual certified under s. 597.004. This exception does not
8 apply to snook, prohibited and restricted marine species
9 identified by rule of the commission, and rulemaking authority
10 granted pursuant to s. 370.027.

11 (5) The commission shall adopt a rule establishing
12 adequate due-process procedures to be accorded to any party,
13 as defined in s. 120.52, whose substantial interests are
14 affected by any action of the commission in the performance of
15 its constitutional duties and responsibilities. The adequate
16 due-process rule shall be published in the Florida
17 Administrative Code.

18 Section 10. It is the intent of the Legislature to
19 review, prior to the 2007 legislative session, laws relating
20 to the Fish and Wildlife Conservation Commission's role in the
21 management of marine fisheries resources.

22 Section 11. Paragraph (a) of subsection (3) of section
23 921.0022, Florida Statutes, is amended to read:

24 921.0022 Criminal Punishment Code; offense severity
25 ranking chart.--

26 (3) OFFENSE SEVERITY RANKING CHART

27
28 Florida Felony
29 Statute Degree Description

30
31 (a) LEVEL 1

1	24.118(3)(a)	3rd	Counterfeit or altered state
2			lottery ticket.
3	212.054(2)(b)	3rd	Discretionary sales surtax;
4			limitations, administration, and
5			collection.
6	212.15(2)(b)	3rd	Failure to remit sales taxes,
7			amount greater than \$300 but less
8			than \$20,000.
9	316.1935(1)	3rd	Fleeing or attempting to elude
10			law enforcement officer.
11	319.30(5)	3rd	Sell, exchange, give away
12			certificate of title or
13			identification number plate.
14	319.35(1)(a)	3rd	Tamper, adjust, change, etc., an
15			odometer.
16	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell
17			registration license plates or
18			validation stickers.
19	322.212		
20	(1)(a)-(c)	3rd	Possession of forged, stolen,
21			counterfeit, or unlawfully issued
22			driver's license; possession of
23			simulated identification.
24	322.212(4)	3rd	Supply or aid in supplying
25			unauthorized driver's license or
26			identification card.
27	322.212(5)(a)	3rd	False application for driver's
28			license or identification card.
29	370.13(2)(c)1.	3rd	Molest any stone crab trap, line,
30			or buoy which is property of
31			licenseholder.

1	370.135(1)	3rd	Molest any blue crab trap, line,
2			or buoy which is property of
3			licenseholder.
4	372.663(1)	3rd	Poach any alligator or
5			crocodilia.
6	414.39(2)	3rd	Unauthorized use, possession,
7			forgery, or alteration of food
8			stamps, Medicaid ID, value
9			greater than \$200.
10	414.39(3)(a)	3rd	Fraudulent misappropriation of
11			public assistance funds by
12			employee/official, value more
13			than \$200.
14	443.071(1)	3rd	False statement or representation
15			to obtain or increase
16			unemployment compensation
17			benefits.
18	509.151(1)	3rd	Defraud an innkeeper, food or
19			lodging value greater than \$300.
20	517.302(1)	3rd	Violation of the Florida
21			Securities and Investor
22			Protection Act.
23	562.27(1)	3rd	Possess still or still apparatus.
24	713.69	3rd	Tenant removes property upon
25			which lien has accrued, value
26			more than \$50.
27	812.014(3)(c)	3rd	Petit theft (3rd conviction);
28			theft of any property not
29			specified in subsection (2).
30			
31			

1	812.081(2)	3rd	Unlawfully makes or causes to be
2			made a reproduction of a trade
3			secret.
4	815.04(4)(a)	3rd	Offense against intellectual
5			property (i.e., computer
6			programs, data).
7	817.52(2)	3rd	Hiring with intent to defraud,
8			motor vehicle services.
9	817.569(2)	3rd	Use of public record or public
10			records information to facilitate
11			commission of a felony.
12	826.01	3rd	Bigamy.
13	828.122(3)	3rd	Fighting or baiting animals.
14	831.04(1)	3rd	Any erasure, alteration, etc., of
15			any replacement deed, map, plat,
16			or other document listed in s.
17			92.28.
18	831.31(1)(a)	3rd	Sell, deliver, or possess
19			counterfeit controlled
20			substances, all but s. 893.03(5)
21			drugs.
22	832.041(1)	3rd	Stopping payment with intent to
23			defraud \$150 or more.
24	832.05		
25	(2)(b)&(4)(c)	3rd	Knowing, making, issuing
26			worthless checks \$150 or more or
27			obtaining property in return for
28			worthless check \$150 or more.
29	838.15(2)	3rd	Commercial bribe receiving.
30	838.16	3rd	Commercial bribery.
31			

1	843.18	3rd	Fleeing by boat to elude a law
2			enforcement officer.
3	847.011(1)(a)	3rd	Sell, distribute, etc., obscene,
4			lewd, etc., material (2nd
5			conviction).
6	849.01	3rd	Keeping gambling house.
7	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc.,
8			or assist therein, conduct or
9			advertise drawing for prizes, or
10			dispose of property or money by
11			means of lottery.
12	849.23	3rd	Gambling-related machines;
13			"common offender" as to property
14			rights.
15	849.25(2)	3rd	Engaging in bookmaking.
16	860.08	3rd	Interfere with a railroad signal.
17	860.13(1)(a)	3rd	Operate aircraft while under the
18			influence.
19	893.13(2)(a)2.	3rd	Purchase of cannabis.
20	893.13(6)(a)	3rd	Possession of cannabis (more than
21			20 grams).
22	934.03(1)(a)	3rd	Intercepts, or procures any other
23			person to intercept, any wire or
24			oral communication.

25 Section 12. This act shall take effect July 1, 2006.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS for CS for SB 2490
4 Authorizes the Fish and Wildlife Commission (FWC) to assess
5 administrative penalties for criminal violations of the
6 commercial blue crab fishery regulations.
7 Ratifies the FWC's rule to implement the blue crab program and
8 provides that amendments to the rule will take effect only
9 after the Legislature reviews the proposed changes.
10 Revises the FWC's authority to create by rule an amount of
11 equitable rent for enhanced access to the commercial fisheries
12 by providing that the Legislature and not the Cabinet will
13 have final approval of the rule.
14 Requires the FWC to adopt an adequate due process rule and
15 publish it in the Florida Administrative Code.
16 Revises the FWC's rulemaking authority with regard to marine
17 life.
18 Establishes the Legislature's intent to review all laws
19 relating to the FWC's role in marine fishery resources before
20 the 2007 Regular Session.
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