

Bill No. SB 1300



404874

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
3/19/2008	.	
	.	
	.	

1 The Committee on Environmental Preservation and Conservation  
 2 (Saunders) recommended the following **amendment**:

3  
 4 **Senate Amendment (with title amendments)**

5 Delete line(s) 8 through 29

6 and insert:

7 Section 1. Subsection (4) of section 253.04, Florida  
 8 Statutes, is amended to read:

9 253.04 Duty of board to protect, etc., state lands; state  
 10 may join in any action brought.--

11 (4) Whenever any person or the agent of any person  
 12 knowingly refuses to comply with or willfully violates any of  
 13 the provisions of this chapter so that such person causes damage  
 14 to the lands of the state or products thereof, including removal  
 15 of those products, such violator is liable for such damage.

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16 Whenever two or more persons or their agents cause damage, and  
17 if such damage is indivisible, each violator is jointly and  
18 severally liable for such damage; however, if such damage is  
19 divisible and may be attributed to a particular violator or  
20 violators, each violator is liable only for that damage and  
21 subject to the fine attributable to his or her violation.

22 (a) Any person operating a vessel outside a lawfully marked  
23 channel in a careless manner that causes seagrass scarring  
24 within an aquatic preserve established in ss. 258.39 (except for  
25 the Lake Jackson, Wekiva River and Rainbow Springs aquatic  
26 preserves), 258.391, 258.392, 258.3925, 258.393, 258.394,  
27 258.395, 258.396 and 258.397 commits a civil infraction,  
28 punishable as provided in s. 327.73. Each violation shall be a  
29 separate offense. For purposes of this subsection:

30 1. "Seagrass scarring" means destruction of seagrass roots,  
31 shoots or stems that results in tracks on the substrate, caused  
32 by the operation of a motorized vessel in waters supporting  
33 seagrasses, commonly referred to as prop-scars or propeller  
34 scars;

35 2. "Seagrasses" means Cuban shoal grass (*Halodule*  
36 *wrightii*), turtle grass (*Thalassia testudinum*), manatee grass  
37 (*Syringodium filiforme*), star grass (*Halophila engelmannii*),  
38 paddle grass (*Halophila decipiens*), Johnsons seagrass (*Halophila*  
39 *johnsonii*) or widgeon grass (*Ruppia maritima*).

40 (b) Any violation of this subsection is a violation of the  
41 boating laws of this state and shall be charged on a uniform  
42 boating citation as provided in s. 327.74. Any person who  
43 refuses to post a bond or accept and sign a uniform boating

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44 citation shall, as provided in s. 327.73(3), be guilty of a  
45 misdemeanor of the second degree, punishable as provided in s.  
46 775.082 or s. 775.083.

47 Section 2. Paragraph (x) of subsection (1) of section  
48 327.73, Florida Statutes, is added to read:

49 327.73 Noncriminal infractions.--

50 (1) Violations of the following provisions of the vessel  
51 laws of this state are noncriminal infractions:

52 (x) Section 253.04(4)(a), relating to carelessly causing  
53 seagrass scarring, for which the civil penalty is:

54 1. \$50 upon conviction for a first offense;

55 2. \$250 upon conviction for a second offense occurring  
56 within 12 months of a prior conviction;

57 3. \$500 upon conviction for a third offense occurring  
58 within 36 months of a prior conviction;

59 4. \$1,000 upon conviction for a fourth or subsequent  
60 offense.

61  
62 Any person cited for a violation of any such provision shall be  
63 deemed to be charged with a noncriminal infraction, shall be  
64 cited for such an infraction, and shall be cited to appear  
65 before the county court. The civil penalty for any such  
66 infraction is \$50, except as otherwise provided in this section.  
67 Any person who fails to appear or otherwise properly respond to  
68 a uniform boating citation shall, in addition to the charge  
69 relating to the violation of the boating laws of this state, be  
70 charged with the offense of failing to respond to such citation  
71 and, upon conviction, be guilty of a misdemeanor of the second

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72 degree, punishable as provided in s. 775.082 or s. 775.083. A  
73 written warning to this effect shall be provided at the time  
74 such uniform boating citation is issued.

75 Section 3. Section 372.73, Florida Statutes, is amended to  
76 read:

77 372.73 Confiscation and disposition of illegally taken  
78 wildlife, freshwater fish, and saltwater fish ~~game~~.--

79 (1) All wildlife, ~~game and~~ freshwater fish, and saltwater  
80 fish seized under the authority of this chapter, any other  
81 chapter, or rules of the commission shall, upon conviction of  
82 the offender or sooner in accordance with a court order if the  
83 court so orders, be forfeited to the investigating law  
84 enforcement agency. The law enforcement agency may elect to:  
85 retain the wildlife, freshwater fish or saltwater fish for the  
86 agency's official use; transfer it to another unit of state or  
87 local government for official use; donate it to a charitable  
88 organization; sell it at public sale, pursuant to the provisions  
89 of s. 705.103; or destroy the wildlife, freshwater fish or  
90 saltwater fish if none of the other options are practicable or  
91 if the wildlife, freshwater fish, or saltwater fish is  
92 unwholesome or otherwise not of appreciable value. All live  
93 wildlife, freshwater fish, and saltwater fish, the possession of  
94 which is unlawful, shall be properly documented as evidence as  
95 provided in s. 372.731, and returned to the habitat unharmed,  
96 except that non-native species may be released only as allowed  
97 by rules of the commission. Any unclaimed wildlife, freshwater  
98 fish or saltwater fish shall be retained by the investigating  
99 law enforcement agency and disposed of in accordance with the

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100 ~~above provisions. and given to some hospital or charitable~~  
101 ~~institution and receipt therefor sent to the Fish and Wildlife~~  
102 ~~Conservation Commission.~~

103       (2) All furs or hides or fur-bearing animals seized under  
104 the authority of this chapter shall, upon conviction of the  
105 offender, be forfeited and sent to the commission, which shall  
106 sell the same and deposit the proceeds of such sale to the  
107 credit of the State Game Trust Fund or into the commission's  
108 Federal Law Enforcement Trust Fund as provided in s. 372.107, as  
109 applicable. If any such hides or furs are seized and the  
110 offender is unknown, the court shall order such hides or furs  
111 sent to the Fish and Wildlife Conservation Commission, which  
112 shall sell such hides and furs.

113       (3) Except as otherwise provided, the and deposit the  
114 proceeds of any such sale pursuant to this section shall be  
115 remitted to the Department of Revenue to be deposited to the  
116 credit of the State Game Trust Fund or the Marine Resources  
117 Conservation Trust Fund, into the commission's Federal Law  
118 Enforcement Trust Fund as provided in s. 372.107, as applicable.

119       (4) Any state, municipal or county law enforcement agency  
120 that enforces or assists the commission in enforcing the  
121 provisions of this chapter, which results in a forfeiture of  
122 property as provided in this section, shall be entitled to  
123 receive all or a share of any property based upon its  
124 participation in such enforcement.

125       Section 4. Section 372.731, Florida Statutes, is created  
126 to read:



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127       372.731 Photographs of illegally taken wildlife,  
 128 freshwater fish, and saltwater fish.-- In any prosecution for a  
 129 violation of Chapter 370, Chapter 372 or rules of the  
 130 commission, a photograph of the illegally taken wildlife,  
 131 freshwater fish or saltwater fish may be deemed competent  
 132 evidence of such property and may be admissible in the  
 133 prosecution to the same extent as if such wildlife, freshwater  
 134 or saltwater fish were introduced as evidence. Such photograph  
 135 shall bear a written description of the wildlife, freshwater  
 136 fish or saltwater fish alleged to have been illegally taken, the  
 137 name of the violator, the location where the alleged wrongful  
 138 taking occurred, the name of the investigating law enforcement  
 139 officer, the date the photograph was taken, and the name of the  
 140 photographer. Such writing shall be made under oath by the  
 141 investigating law enforcement officer, and the photograph shall  
 142 be identified by the signature of the photographer.

143       Section 5. This act shall take effect October 1, 2008.

144  
 145 ===== T I T L E   A M E N D M E N T =====

146 And the title is amended as follows:

147       Delete line(s) 2 through 4

148 and insert:

149       An act relating to fish and wildlife; amending s. 253.04,  
 150       F.S., relating to the protection of seagrasses; providing  
 151       definitions and penalties for the destruction of  
 152       seagrasses; amending s. 327.73, F.S., relating to  
 153       noncriminal infractions; establishing civil penalties for  
 154       the destruction of seagrasses; amending s. 372.73, F.S.,

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155 relating to the disposition of illegally taken wildlife;  
156 providing for the disposition of such wildlife; providing  
157 for the documentation of illegally taken wildlife;  
158 creating s. 372.731, F.S., relating to photographs of  
159 illegally taken wildlife; providing for the admission of  
160 photographs as evidentiary materials; providing conditions  
161 under which such photographs shall be taken; providing an  
162 effective date.