

By the Committee on Environmental Preservation and Conservation;
and Senator Saunders

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1 A bill to be entitled

2 An act relating to fish and wildlife; amending s. 253.04,
3 F.S., relating to the protection of state lands; providing
4 definitions; providing that it is a civil infraction to
5 operate a vessel outside a marked channel in a manner that
6 causes seagrass scarring; providing penalties; amending s.
7 327.73, F.S., relating to noncriminal infractions;
8 establishing civil penalties for the destruction of
9 seagrasses; amending s. 372.73, F.S., relating to the
10 disposition of illegally taken wildlife; providing for the
11 disposition of such wildlife; providing for the
12 documentation of illegally taken wildlife; creating s.
13 372.731, F.S., relating to photographs of illegally taken
14 wildlife; providing for the admission of photographs as
15 evidentiary materials; providing conditions under which
16 such photographs shall be taken; providing an effective
17 date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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

23 253.04 Duty of board to protect, etc., state lands; state
24 may join in any action brought.--

25 (4) Whenever any person or the agent of any person
26 knowingly refuses to comply with or willfully violates any of the
27 provisions of this chapter so that such person causes damage to
28 the lands of the state or products thereof, including removal of
29 those products, such violator is liable for such damage. Whenever

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30 two or more persons or their agents cause damage, and if such
31 damage is indivisible, each violator is jointly and severally
32 liable for such damage; however, if such damage is divisible and
33 may be attributed to a particular violator or violators, each
34 violator is liable only for that damage and subject to the fine
35 attributable to his or her violation.

36 (a) Any person operating a vessel outside a lawfully marked
37 channel in a careless manner that causes seagrass scarring within
38 an aquatic preserve established in s. 258.39, except for the Lake
39 Jackson, Wekiva River, and Rainbow Springs aquatic preserves, and
40 ss. 258.391, 258.392, 258.3925, 258.393, 258.394, 258.395,
41 258.396, and 258.397 commits a civil infraction, punishable as
42 provided in s. 327.73. Each violation shall be a separate
43 offense. For purposes of this subsection:

44 1. "Seagrass scarring" means destruction of seagrass roots,
45 shoots or stems that results in tracks on the substrate, caused
46 by the operation of a motorized vessel in waters supporting
47 seagrasses, commonly referred to as prop-scars or propeller
48 scars.

49 2. "Seagrasses" means Cuban shoal grass (Halodule wrightii),
50 turtle grass (Thalassia testudinum), manatee grass (Syringodium
51 filiforme), star grass (Halophila engelmannii), paddle grass
52 (Halophila decipiens), Johnsons seagrass (Halophila johnsonii) or
53 widgeon grass (Ruppia maritima).

54 (b) Any violation of this subsection is a violation of the
55 boating laws of this state and shall be charged on a uniform
56 boating citation as provided in s. 327.74. Any person who refuses
57 to post a bond or accept and sign a uniform boating citation
58 shall, as provided in s. 327.73(3), commits a misdemeanor of the

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59 second degree, punishable as provided in s. 775.082 or s.
60 775.083.

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

63 327.73 Noncriminal infractions.--

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

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

68 1. Fifty dollars upon conviction for a first offense;

69 2. Two hundred and fifty dollars upon conviction for a
70 second offense occurring within 12 months after a prior
71 conviction;

72 3. Five hundred dollars upon conviction for a third offense
73 occurring within 36 months after a prior conviction; and

74 4. One thousand dollars upon conviction for a fourth or
75 subsequent offense.

76
77 Any person cited for a violation of any such provision shall be
78 deemed to be charged with a noncriminal infraction, shall be
79 cited for such an infraction, and shall be cited to appear before
80 the county court. The civil penalty for any such infraction is
81 \$50, except as otherwise provided in this section. Any person who
82 fails to appear or otherwise properly respond to a uniform
83 boating citation shall, in addition to the charge relating to the
84 violation of the boating laws of this state, be charged with the
85 offense of failing to respond to such citation and, upon
86 conviction, be guilty of a misdemeanor of the second degree,
87 punishable as provided in s. 775.082 or s. 775.083. A written

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88 warning to this effect shall be provided at the time such uniform
89 boating citation is issued.

90 Section 3. Section 372.73, Florida Statutes, is amended to
91 read:

92 372.73 Confiscation and disposition of illegally taken
93 wildlife, freshwater fish, and saltwater fish ~~game~~.--

94 (1) All wildlife, ~~game and~~ freshwater fish, and saltwater
95 fish seized under the authority of this chapter, any other
96 chapter, or rules of the commission shall, upon conviction of the
97 offender or sooner in accordance with a court order if the court
98 so orders, be forfeited to the investigating law enforcement
99 agency. The law enforcement agency may elect to retain the
100 wildlife, freshwater fish, or saltwater fish for the agency's
101 official use; transfer it to another unit of state or local
102 government for official use; donate it to a charitable
103 organization; sell it at public sale, pursuant to the provisions
104 of s. 705.103; or destroy the wildlife, freshwater fish, or
105 saltwater fish if none of the other options are practicable or if
106 the wildlife, freshwater fish, or saltwater fish is unwholesome
107 or otherwise not of appreciable value. All live wildlife,
108 freshwater fish, and saltwater fish, the possession of which is
109 unlawful, shall be properly documented as evidence as provided in
110 s. 372.731, and returned to the habitat unharmed, except that
111 nonnative species may be released only as allowed by rules of the
112 commission. Any unclaimed wildlife, freshwater fish, or saltwater
113 fish shall be retained by the investigating law enforcement
114 agency and disposed of in accordance with the above provisions
115 ~~and given to some hospital or charitable institution and receipt~~
116 ~~therefor sent to the Fish and Wildlife Conservation Commission.~~

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117 (2) All furs or hides or fur-bearing animals seized under
118 the authority of this chapter shall, upon conviction of the
119 offender, be forfeited and sent to the commission, which shall
120 sell the same and ~~deposit the proceeds of such sale to the credit~~
121 ~~of the State Game Trust Fund or into the commission's Federal Law~~
122 ~~Enforcement Trust Fund as provided in s. 372.107, as applicable.~~
123 If any such hides or furs are seized and the offender is unknown,
124 the court shall order such hides or furs sent to the Fish and
125 Wildlife Conservation Commission, which shall sell such hides and
126 furs.

127 (3) Except as otherwise provided, ~~and deposit~~ the proceeds
128 of ~~any such~~ sale pursuant to this section shall be remitted to
129 the Department of Revenue to be deposited to the credit of the
130 State Game Trust Fund or the Marine Resources Conservation Trust
131 Fund ~~into the commission's Federal Law Enforcement Trust Fund as~~
132 ~~provided in s. 372.107, as applicable.~~

133 (4) Any state, municipal, or county law enforcement agency
134 that enforces or assists the commission in enforcing the
135 provisions of this chapter, which results in a forfeiture of
136 property as provided in this section, shall be entitled to
137 receive all or a share of any property based upon its
138 participation in such enforcement.

139 Section 4. Section 372.731, Florida Statutes, is created to
140 read:

141 372.731 Photographs of illegally taken wildlife, freshwater
142 fish, and saltwater fish.--In any prosecution for a violation of
143 chapter 370, this chapter, or rules of the commission, a
144 photograph of the illegally taken wildlife, freshwater fish, or
145 saltwater fish may be deemed competent evidence of such property

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146 and may be admissible in the prosecution to the same extent as if
147 such wildlife, freshwater fish, or saltwater fish were introduced
148 as evidence. Such photograph shall bear a written description of
149 the wildlife, freshwater fish, or saltwater fish alleged to have
150 been illegally taken, the name of the violator, the location
151 where the alleged wrongful taking occurred, the name of the
152 investigating law enforcement officer, the date the photograph
153 was taken, and the name of the photographer. Such writing shall
154 be made under oath by the investigating law enforcement officer,
155 and the photograph shall be identified by the signature of the
156 photographer.

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