

By Senator Aronberg

27-03409B-08

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1 A bill to be entitled

2 An act relating to mangrove protection; amending s.
3 403.121, F.S.; expanding the penalty previously applicable
4 to violations involving mangrove trimming or alteration to
5 apply to any violation under the Mangrove Trimming and
6 Preservation Act; amending s. 403.9323, F.S.; clarifying
7 legislative intent with respect to the protection of
8 mangroves; amending s. 403.9324, F.S.; authorizing the
9 Department of Environmental Protection to adopt by rule
10 certain exemptions and general permits under the Mangrove
11 Trimming and Preservation Act; amending s. 403.9329, F.S.;
12 clarifying the department's authority to revoke a person's
13 status as a professional mangrove trimmer; amending s.
14 403.9331, F.S.; providing that the Mangrove Trimming and
15 Preservation Act does not authorize trimming on
16 uninhabited islands or lands that are publicly owned or
17 set aside for conservation or mitigation except under
18 specified circumstances; providing an effective date.

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

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22 Section 1. Paragraph (d) of subsection (3) of section
23 403.121, Florida Statutes, is amended to read:

24 403.121 Enforcement; procedure; remedies.--The department
25 shall have the following judicial and administrative remedies
26 available to it for violations of this chapter, as specified in
27 s. 403.161(1).

27-03409B-08

20082230__

28 (3) Except for violations involving hazardous wastes,
29 asbestos, or underground injection, administrative penalties must
30 be calculated according to the following schedule:

31 (d) ~~For mangrove trimming or alteration violations,~~ The
32 department shall assess a penalty of \$5,000 per violation against
33 any person who violates any provision of ss. 403.9321-403.9333
34 ~~the contractor or agent of the owner or tenant that conducts~~
35 ~~mangrove trimming or alteration without a permit as required by~~
36 ~~s. 403.9328. For purposes of this paragraph, the preparation or~~
37 ~~signing of a permit application by a person currently licensed~~
38 ~~under chapter 471 to practice as a professional engineer shall~~
39 ~~not make that person an agent of the owner or tenant.~~

40 Section 2. Subsection (3) of section 403.9323, Florida
41 Statutes, is amended to read:

42 403.9323 Legislative intent.--

43 (3) It is the intent of the Legislature to provide
44 waterfront property owners their riparian right of view, and
45 other rights of riparian property ownership as recognized by s.
46 253.141 and any other provision of law, by allowing mangrove
47 trimming in riparian mangrove fringes without prior government
48 approval when conducted in conformance with the provisions of ss.
49 403.9321-403.9333 ~~the trimming activities will not result in the~~
50 ~~removal, defoliation, or destruction of the mangroves.~~

51 Section 3. Present subsections (1) through (6) of section
52 403.9324, Florida Statutes, are redesignated as subsections (2)
53 through (7), respectively, a new subsection (1) is added to that
54 section, and present subsections (1) and (4) of that section are
55 amended, to read:

27-03409B-08

20082230__

56 403.9324 Mangrove protection rule; delegation of mangrove
57 protection to local governments.--

58 (1) The department may adopt rules providing for exemptions
59 and general permits authorizing activities that have, singularly
60 or cumulatively, a minimal adverse effect on the water resources
61 of the state.

62 (2)~~(1)~~ Sections 403.9321-403.9333 and any lawful
63 regulations adopted in accordance with this section by a local
64 government that receives a delegation of the department's
65 authority to administer and enforce the regulation of mangroves
66 as provided by this section shall be the sole regulations in this
67 state for the trimming and alteration of mangroves on privately
68 or publicly owned lands. All other state and local regulation of
69 mangrove is as provided in subsection (4) ~~(3)~~.

70 (5)~~(4)~~ Within 45 days after receipt of a written request
71 for delegation from a local government, the department shall
72 grant or deny the request in writing. The request is deemed
73 approved if the department fails to respond within the 45-day
74 time period. In reviewing requests for delegation, the department
75 shall limit its review to whether the request complies with the
76 requirements of subsection (3) ~~(2)~~. The department shall set
77 forth in writing with specificity the reasons for denial of a
78 request for delegation. The department's determination regarding
79 delegation constitutes final agency action and is subject to
80 review under chapter 120.

81 Section 4. Subsection (5) of section 403.9329, Florida
82 Statutes, is amended to read:

83 403.9329 Professional mangrove trimmers.--

27-03409B-08

20082230__

84 (5) A professional mangrove trimmer status granted under
85 ss. 403.9321-403.9333 or by the department may be revoked by the
86 department for any person who is responsible for any violations
87 of ss. 403.9321-403.9333 or any adopted mangrove rules.

88 Section 5. Subsection (3) is added to section 403.9331,
89 Florida Statutes, to read:

90 403.9331 Applicability; rules and policies.--

91 (3) Pursuant to s. 403.9323(2) the provisions of ss.
92 403.9321-403.9333 do not allow the trimming of mangroves on
93 uninhabited islands that are publicly owned, or on lands that are
94 set aside for conservation and preservation or mitigation, except
95 where necessary to protect the public health, safety, and welfare
96 or to enhance public use of, or access to, conservation areas in
97 accordance with approved management plans.

98 Section 6. This act shall take effect July 1, 2008.