

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

592-04553-08

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1 A bill to be entitled
2 An act relating to the protection and restoration of
3 seagrass beds; creating a pilot program for the
4 restoration of seagrass beds within specified counties and
5 related natural resources; providing definitions;
6 providing legislative findings and purposes; requiring
7 that damages recovered for injury to, and the destruction
8 of, seagrass beds in certain counties and related natural
9 resources be deposited into the Ecosystem Management and
10 Restoration Trust Fund; requiring the Department of
11 Environmental Protection to expend the funds for
12 restoration, assessment, or rehabilitation of seagrass
13 beds and natural resources; providing criteria governing
14 such expenditures by the department; providing for
15 auditing and reporting by a private recipient of funds;
16 prohibiting any reduction of other appropriations to a
17 state agency that receives funds under the act; requiring
18 that the department report to the Legislature whether the
19 pilot program should be expanded; authorizing rulemaking
20 by the department; amending s. 253.04, F.S.; providing
21 that careless operation of a vessel outside a marked
22 channel which causes propeller scarring in an aquatic
23 preserve is a civil infraction; defining the terms
24 "propeller scarring" and "seagrasses"; providing that
25 refusal to post bond or sign a boating citation is a
26 second-degree misdemeanor; requiring that civil penalties
27 collected for the careless operation of a vessel be
28 deposited into the Internal Improvement Trust Fund and
29 used for specified purposes; amending s. 327.73, F.S.;

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30 providing civil penalties; amending s. 327.803, F.S.;

31 increasing the number of members of the Boating Advisory

32 Council; adding a representative of the recreational

33 airboating community; amending s. 403.1651, F.S., relating

34 to the Ecosystem Management and Restoration Trust Fund;

35 conforming provisions to changes made by the act;

36 providing effective dates.

37

38 Be It Enacted by the Legislature of the State of Florida:

39

40 Section 1. Pilot program for the restoration of seagrass

41 beds.--

42 (1) As used in this section, the term:

43 (a) "Damages" means money damages paid by any person,

44 whether voluntarily or as a result of administrative or judicial

45 action, to the state as compensation, restitution, or punitive

46 damages for causing injury to or the destruction of the seagrass

47 beds of Brevard County, Charlotte County, Lee County, Manatee

48 County, Monroe County, or Pinellas County or the natural

49 resources that depend on the health and productivity of those

50 seagrass beds.

51 (b) "Fund" means the Ecosystem Management and Restoration

52 Trust Fund.

53 (c) "Natural resources" means land, air, water, ground

54 water, drinking water supplies, fish and their habitats, wildlife

55 and their habitats, biota, and other such resources belonging to,

56 managed by, held in trust by, appertaining to, or otherwise

57 controlled by the state.

58 (d) "Seagrass bed" means a community of flowering

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59 underwater plants which is located in shallow marine waters, such
60 as in a bay or lagoon, or along the continental shelf in the Gulf
61 of Mexico.

62 (2) The Legislature finds that:

63 (a) The preservation of seagrass beds is critical to
64 protecting the marine life, water quality, and ocean-based
65 economy of this state. Seagrass beds maintain water quality and
66 provide food, habitat, and nursery areas for numerous species of
67 marine life. This state's multimillion-dollar fishing and diving
68 industries depend on the health and productivity of the seagrass
69 beds. Estimates indicate that thousands of acres of seagrass beds
70 in this state have been scarred from boat propellers. Impacts
71 from boat groundings fragment the grass bed, restricting the
72 movement of the marine life that depend upon the habitat.
73 Seagrass beds can take up to a decade to recover from propeller
74 scars.

75 (b) Seagrass beds and the natural resources that depend on
76 the health and productivity of seagrass beds are subject to
77 instantaneous injury or loss from a variety of negligent and
78 willful acts in ways that cannot be foreseen and provided for in
79 the normal budget process. Due to the unforeseeability of such
80 incidents, funds have not been available for reimbursement of
81 extraordinary expenses incurred by the Department of
82 Environmental Protection in seeking compensation, on behalf of
83 the residents of the state, for the injury to or destruction of
84 these natural resources. As a result, a significant amount of
85 monetary damages recovered by the state for injury to or
86 destruction of its seagrass beds and the natural resources that
87 depend on the health and productivity of seagrass beds are

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88 deposited into the general accounts of the State Treasury and are
89 not specifically set aside for the restoration or rehabilitation
90 of the injured or destroyed natural resources in areas of the
91 state where the injury or loss occurred.

92 (3) The purpose of this section is to establish a pilot
93 program that provides for the immediate stabilization and
94 restoration of seagrass beds in Brevard, Charlotte, Lee, Manatee,
95 Monroe, and Pinellas Counties where damage has occurred and to
96 remediate the injury to or destruction of natural resources that
97 are dependent upon the health and productivity of those seagrass
98 beds.

99 (4) (a) All damages recovered by or on behalf of the state
100 for injury to or destruction of the seagrass beds in Brevard,
101 Charlotte, Lee, Manatee, Monroe, and Pinellas Counties, or the
102 natural resources that depend on the health and productivity of
103 those seagrass beds which would otherwise be deposited into the
104 general revenue accounts of the State Treasury or into the
105 Internal Improvement Trust Fund shall be deposited into the
106 Ecosystem Management and Restoration Trust Fund and shall remain
107 in that fund until expended by the Department of Environmental
108 Protection under the pilot program established in this section.

109 (b) Moneys in the fund shall be expended only for
110 restoration, assessment, or rehabilitation of such injured or
111 destroyed seagrass beds and natural resources through a contract
112 with a qualified person. In order to prevent further erosion,
113 turbidity, and potential loss of natural resources, each contract
114 must require assessment and stabilization of the seagrass bed
115 within 30 days after an incident occurs which damages the
116 seagrass bed, must use a stabilization protocol following the

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117 guidelines in the Final Programmatic Environmental Impact
118 Statement for Seagrass Restoration in the Florida Keys National
119 Marine Sanctuary, and must use only those stabilization
120 techniques that are scientifically proven and published in peer-
121 reviewed literature.

122 (5) (a) Each recipient of disbursements from the fund must
123 agree in advance that its accounts and records of expenditures of
124 such moneys are subject to audit at any time by appropriate state
125 officials and shall submit a final written report describing its
126 expenditures within 90 days after the moneys are expended.

127 (b) When payments are made to a state agency from the fund
128 under paragraph (4) (a), such payments shall be considered as
129 payments for extraordinary expenses, and other appropriations to
130 that agency may not be reduced by any amount as a result of such
131 payments.

132 (6) The Department of Environmental Protection shall
133 evaluate the pilot program and report to the President of the
134 Senate and the Speaker of the House of Representatives on whether
135 the pilot program should be expanded in order to restore
136 additional areas of the state's seagrass beds and natural
137 resources. The report on the pilot program is due by January 1,
138 2010.

139 (7) The Department of Environmental Protection may adopt
140 rules under ss. 120.536(1) and 120.54, Florida Statutes, to
141 administer this section.

142 Section 2. Effective October 1, 2008, present subsections
143 (4), (5), (6), and (7) of section 253.04, Florida Statutes, are
144 redesignated as subsections (5), (6), (7), and (8), respectively,
145 and a new subsection (4) is added to that section, to read:

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146 253.04 Duty of board to protect, etc., state lands; state
147 may join in any action brought.--

148 (4) (a) Any person operating a vessel outside a lawfully
149 marked channel in a careless manner that causes propeller
150 scarring within an aquatic preserve commits a civil infraction,
151 punishable as provided in s. 327.73. Each violation is a separate
152 offense. As used in this subsection, the term:

153 1. "Propeller scarring" means damage caused by the
154 operation of a vessel in waters supporting seagrasses, resulting
155 in the destruction of roots, shoots, or stems of seagrass plants,
156 which causes denuding of vegetation in tracks of sediment
157 commonly referred to as prop-scars or propeller scars.

158 2. "Seagrasses" means Cuban shoal grass (Halodule
159 wrightii), turtle grass (Thalassia testudinum), manatee grass
160 (Syringodium filiforme), star grass (Halophila engelmannii),
161 paddle grass (Halophila decipiens), Johnson's seagrass (Halophila
162 johnsonii), or widgeon grass (Ruppia maritima).

163 (b) Any violation of this subsection is a violation of the
164 boating laws of this state and shall be charged on a uniform
165 boating citation as provided in s. 327.74. Any person who refuses
166 to post a bond or accept and sign a uniform boating citation
167 commits a misdemeanor of the second degree as provided in s.
168 327.73(3), punishable as provided in s. 775.082 or s. 775.083.

169 (c) All civil penalties imposed and collected pursuant to
170 this subsection shall be deposited into the Internal Improvement
171 Trust Fund and used solely to implement, administer, and enforce
172 this subsection; provide for seagrass restoration; and conduct a
173 program to educate vessel operators about the need to protect
174 seagrasses from damage caused by the operation of vessels.

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175 Section 3. Effective October 1, 2008, paragraph (x) is
176 added to subsection (1) of section 327.73, Florida Statutes, and
177 subsection (8) of that section is amended, to read:

178 327.73 Noncriminal infractions.--

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

181 (x) Section 253.04(4)(a), relating to carelessly causing
182 propeller scarring in an aquatic preserve, for which the civil
183 penalty is:

184 1. Fifty dollars upon conviction for a first offense.

185 2. Two hundred and fifty dollars upon conviction for a
186 second offense occurring within 12 months after a prior
187 conviction.

188 3. Five hundred dollars upon conviction for a third offense
189 occurring within 36 months after a prior conviction.

190 4. One thousand dollars upon conviction for a fourth or
191 subsequent offense.

192
193 Any person cited for a violation of any such provision shall be
194 deemed to be charged with a noncriminal infraction, shall be
195 cited for such an infraction, and shall be cited to appear before
196 the county court. The civil penalty for any such infraction is
197 \$50, except as otherwise provided in this section. Any person who
198 fails to appear or otherwise properly respond to a uniform
199 boating citation shall, in addition to the charge relating to the
200 violation of the boating laws of this state, be charged with the
201 offense of failing to respond to such citation and, upon
202 conviction, be guilty of a misdemeanor of the second degree,
203 punishable as provided in s. 775.082 or s. 775.083. A written

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

206 (8) Except as otherwise provided in s. 253.04(4)(c), all
207 fees and civil penalties assessed and collected pursuant to this
208 section shall be remitted by the clerk of the court to the
209 Department of Revenue to be deposited into the Marine Resources
210 Conservation Trust Fund for boating safety education purposes.

211 Section 4. Subsection (1) of section 327.803, Florida
212 Statutes, is amended to read:

213 327.803 Boating Advisory Council.--

214 (1) The Boating Advisory Council is created within the Fish
215 and Wildlife Conservation Commission and shall be composed of 19
216 ~~18~~ members. The members include:

217 (a) One representative from the Fish and Wildlife
218 Conservation Commission, who shall serve as the chair of the
219 council.

220 (b) One representative each from the Department of
221 Environmental Protection, the United States Coast Guard
222 Auxiliary, the United States Power Squadron, and the inland
223 navigation districts.

224 (c) One representative of manatee protection interests, one
225 representative of the marine industries, one representative of
226 water-related environmental groups, one representative of canoe
227 or kayak enthusiasts, one representative of marine manufacturers,
228 one representative of commercial vessel owners or operators, one
229 representative of marine special events, one representative
230 actively involved and working full-time in the scuba diving
231 industry who has experience in recreational boating, one
232 representative of either the commercial fishing industry or the

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233 commercial shellfishing industry, one representative of the
234 recreational airboating community, and two representatives of the
235 boating public, each of whom shall be nominated by the executive
236 director of the Fish and Wildlife Conservation Commission and
237 appointed by the Governor to serve staggered 3-year terms.
238 Members appointed by the Governor may serve no more than two full
239 consecutive terms.

240 (d) One member of the House of Representatives, who shall
241 be appointed by the Speaker of the House of Representatives.

242 (e) One member of the Senate, who shall be appointed by the
243 President of the Senate.

244 Section 5. Paragraph (f) is added to subsection (1) of
245 section 403.1651, Florida Statutes, and paragraph (b) of
246 subsection (2) of that section is amended, to read:

247 403.1651 Ecosystem Management and Restoration Trust Fund.--

248 (1) There is created the Ecosystem Management and
249 Restoration Trust Fund to be administered by the Department of
250 Environmental Protection for the purposes of:

251 (f) Funding the expenditures authorized under section 1 of
252 this act.

253 (2) The trust fund shall be used for the deposit of all
254 moneys recovered by the state:

255 (b) For injury to or destruction of coral reefs, sea grass
256 beds, or natural resources under section 1 of this act and s.
257 380.0558, which moneys would otherwise be deposited into the
258 General Revenue Fund or the Internal Improvement Trust Fund.

259 Section 6. Except as otherwise expressly provided in this
260 act, this act shall take effect July 1, 2008.