

1 A bill to be entitled
2 An act relating to the protection of wild and aquatic
3 life; amending s. 253.04, F.S.; providing that careless
4 operation of a vessel outside a marked channel that causes
5 seagrass scarring within certain aquatic preserves is a
6 civil infraction; defining the terms "seagrass scarring"
7 and "seagrasses"; providing that refusal to post bond or
8 sign a boating citation is a second degree misdemeanor;
9 providing criminal penalties; requiring that civil
10 penalties collected for the careless operation of a vessel
11 causing seagrass scarring be deposited into the Internal
12 Improvement Trust Fund and used for specified purposes;
13 amending s. 327.73, F.S.; providing civil penalties for
14 seagrass scarring; amending s. 372.73, F.S.; providing for
15 the forfeiture of illegally taken wildlife, freshwater
16 fish, and saltwater fish to investigating law enforcement
17 agencies; authorizing investigating law enforcement
18 agencies to dispose of such wildlife, freshwater fish, and
19 saltwater fish in a specified manner; requiring certain
20 documentation; requiring the release of certain wildlife,
21 freshwater fish, and saltwater fish to native habitats;
22 providing for release of nonnative species by rule;
23 revising provisions for the deposit of certain proceeds
24 relating to the confiscation and disposition of illegally
25 taken wildlife, freshwater fish, and saltwater fish;
26 authorizing certain law enforcement agencies to receive
27 specified portions of forfeited property; creating s.
28 372.731, F.S.; providing for photographs of illegally

29 taken wildlife, freshwater fish, or saltwater fish to be
 30 admissible as evidence in the prosecution of certain
 31 violations; specifying requirements and procedures for
 32 such photographs; repealing s. 372.107, F.S., relating to
 33 the Federal Law Enforcement Trust Fund within the Fish and
 34 Wildlife Conservation Commission; amending ss. 370.021,
 35 370.061, 372.9901, 372.9904, and 932.7055, F.S.;
 36 conforming cross-references; providing an effective date.

37

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

39

40 Section 1. Subsections (4) through (7) of section 253.04,
 41 Florida Statutes, are renumbered as subsections (5) through (8),
 42 respectively, and a new subsection (4) is added to that section
 43 to read:

44 253.04 Duty of board to protect, etc., state lands; state
 45 may join in any action brought.--

46 (4) (a) Any person operating a vessel outside a lawfully
 47 marked channel in a careless manner that causes seagrass
 48 scarring within an aquatic preserve established in ss. 258.39-
 49 258.399 with the exception of the Lake Jackson, Wekiva River,
 50 and Rainbow River aquatic preserves, commits a civil infraction,
 51 punishable as provided in s. 327.73. Each violation is a
 52 separate offense. As used in this subsection, the term:

53 1. "Seagrass scarring" means the destruction of roots,
 54 shoots, or stems of seagrass plants that results in tracks on
 55 the substrate caused by the operation of a motorized vessel in
 56 waters supporting seagrasses, commonly known as prop-scars or

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57 propeller scars.

58 2. "Seagrasses" means Cuban shoal grass (Halodule
59 wrightii), turtle grass (Thalassia testudinum), manatee grass
60 (Syringodium filiforme), star grass (Halophila engelmannii),
61 paddle grass (Halophila decipiens), Johnson's seagrass
62 (Halophila johnsonii), or widgeon grass (Ruppia maritima).

63 (b) Any violation of this subsection is a violation of the
64 boating laws of this state and shall be charged on a uniform
65 boating citation as provided in s. 327.74. Any person who
66 refuses to post a bond or accept and sign a uniform boating
67 citation commits a misdemeanor of the second degree as provided
68 in s. 327.73(3), punishable as provided in s. 775.082 or s.
69 775.083.

70 (c) All civil penalties imposed and collected pursuant to
71 this subsection shall be deposited into the Internal Improvement
72 Trust Fund and used solely to implement, administer, and enforce
73 this subsection; provide for seagrass restoration; conduct a
74 program to educate vessel operators about the need to protect
75 seagrasses from damage caused by the operation of vessels; and
76 fund the marking of seagrass.

77 Section 2. Paragraph (x) is added to subsection (1) of
78 section 327.73, Florida Statutes, and subsection (8) of that
79 section is amended, to read:

80 327.73 Noncriminal infractions.--

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

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

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

86 2. Two hundred and fifty dollars upon conviction for a
87 second offense occurring within 12 months after a prior
88 conviction.

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

91 4. One thousand dollars upon conviction for a fourth or
92 subsequent offense.

93
94 Any person cited for a violation of any such provision shall be
95 deemed to be charged with a noncriminal infraction, shall be
96 cited for such an infraction, and shall be cited to appear
97 before the county court. The civil penalty for any such
98 infraction is \$50, except as otherwise provided in this section.
99 Any person who fails to appear or otherwise properly respond to
100 a uniform boating citation shall, in addition to the charge
101 relating to the violation of the boating laws of this state, be
102 charged with the offense of failing to respond to such citation
103 and, upon conviction, be guilty of a misdemeanor of the second
104 degree, punishable as provided in s. 775.082 or s. 775.083. A
105 written warning to this effect shall be provided at the time
106 such uniform boating citation is issued.

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

112 Section 3. Section 372.73, Florida Statutes, is amended to
 113 read:

114 372.73 Confiscation and disposition of illegally taken
 115 wildlife, freshwater fish, and saltwater fish ~~game~~.--

116 (1)(a) All wildlife, ~~game~~ and freshwater fish, and
 117 saltwater fish seized under the authority of this chapter, any
 118 other chapter, or rules of the commission shall, upon conviction
 119 of the offender or sooner in accordance with a court order if
 120 the court so orders, be forfeited to the investigating law
 121 enforcement agency. The law enforcement agency may elect to
 122 retain the wildlife, freshwater fish, or saltwater fish for the
 123 agency's official use; transfer the wildlife, freshwater fish,
 124 or saltwater fish to another unit of state or local government
 125 for official use; donate the wildlife, freshwater fish, or
 126 saltwater fish to a charitable organization; sell the wildlife,
 127 freshwater fish, or saltwater fish at a public sale, pursuant to
 128 the provisions of s. 705.103; or destroy the wildlife,
 129 freshwater fish, or saltwater fish if none of the other options
 130 are practicable or if the wildlife, freshwater fish, or
 131 saltwater fish is unwholesome or otherwise not of appreciable
 132 value.

133 (b) All live wildlife, freshwater fish, or saltwater fish,
 134 the possession of which is unlawful, shall be properly
 135 documented as evidence under s. 372.731 and returned to the
 136 habitat unharmed, except that nonnative species may be released
 137 only as allowed by rules of the commission. Any unclaimed
 138 wildlife, freshwater fish, or saltwater fish shall be retained
 139 by the investigating law enforcement agency and disposed of in

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140 accordance with the provisions of this subsection ~~and given to~~
141 ~~some hospital or charitable institution and receipt therefor~~
142 ~~sent to the Fish and Wildlife Conservation Commission.~~

143 (2) All furs or hides or fur-bearing animals seized under
144 the authority of this chapter shall, upon conviction of the
145 offender, be forfeited and sent to the commission, which shall
146 sell such hides and furs ~~the same and deposit the proceeds of~~
147 ~~such sale to the credit of the State Game Trust Fund or into the~~
148 ~~commission's Federal Law Enforcement Trust Fund as provided in~~
149 ~~s. 372.107, as applicable.~~ If any such hides or furs are seized
150 and the offender is unknown, the court shall order such hides or
151 furs sent to the ~~Fish and Wildlife Conservation~~ commission,
152 which shall sell such hides and furs.

153 (3) Except as otherwise provided in subsection (4), and
154 ~~deposit~~ the proceeds of any such sale pursuant to this section
155 shall be remitted to the Department of Revenue for deposit to
156 the credit of the State Game Trust Fund or the Marine Resources
157 Conservation Trust Fund ~~into the commission's Federal Law~~
158 ~~Enforcement Trust Fund as provided in s. 372.107, as applicable.~~

159 (4) Any state, municipal, or county law enforcement agency
160 that enforces or assists the commission in enforcing the
161 provisions of this chapter, which enforcement or assistance
162 results in a forfeiture of property as provided in this section,
163 shall be entitled to receive all or a share of any property
164 based upon the agency's participation in such enforcement.

165 Section 4. Section 372.731, Florida Statutes, is created
166 to read:

167 372.731 Photographs of illegally taken wildlife,
 168 freshwater fish, and saltwater fish.--In any prosecution for a
 169 violation of this chapter, chapter 370, or rules of the
 170 commission, a photograph of the illegally taken wildlife,
 171 freshwater fish, or saltwater fish may be deemed competent
 172 evidence of such property and may be admissible in the
 173 prosecution to the same extent as if such wildlife, freshwater
 174 fish, or saltwater fish were introduced as evidence. Such
 175 photograph shall bear a written description of the wildlife,
 176 freshwater fish, or saltwater fish alleged to have been
 177 illegally taken, the name of the violator, the location where
 178 the alleged wrongful taking occurred, the name of the
 179 investigating law enforcement officer, the date the photograph
 180 was taken, and the name of the photographer. Such writing shall
 181 be made under oath by the investigating law enforcement officer,
 182 and the photograph shall be identified by the signature of the
 183 photographer.

184 Section 5. Section 372.107, Florida Statutes, is repealed.

185 Section 6. Subsection (2) of section 370.021, Florida
 186 Statutes, is amended to read:

187 370.021 Administration; rules, publications, records;
 188 penalties; injunctions.--

189 (2) MAJOR VIOLATIONS.--In addition to the penalties
 190 provided in paragraphs (1)(a) and (b), the court shall assess
 191 additional penalties against any commercial harvester convicted
 192 of major violations as follows:

193 (a) For a violation involving more than 100 illegal blue
 194 crabs, spiny lobster, or stone crabs, an additional penalty of

195 \$10 for each illegal blue crab, spiny lobster, stone crab, or
 196 part thereof.

197 (b) For a violation involving the taking or harvesting of
 198 shrimp from a nursery or other prohibited area, or any two
 199 violations within a 12-month period involving shrimping gear,
 200 minimum size (count), or season, an additional penalty of \$10
 201 for each pound of illegal shrimp or part thereof.

202 (c) For a violation involving the taking or harvesting of
 203 oysters from nonapproved areas or the taking or possession of
 204 unculled oysters, an additional penalty of \$10 for each bushel
 205 of illegal oysters.

206 (d) For a violation involving the taking or harvesting of
 207 clams from nonapproved areas, an additional penalty of \$100 for
 208 each 500 count bag of illegal clams.

209 (e) For a violation involving the taking, harvesting, or
 210 possession of any of the following species, which are
 211 endangered, threatened, or of special concern:

- 212 1. Shortnose sturgeon (*Acipenser brevirostrum*);
- 213 2. Atlantic sturgeon (*Acipenser oxyrinchus*);
- 214 3. Common snook (*Centropomus undecimalis*);
- 215 4. Atlantic loggerhead turtle (*Caretta caretta caretta*);
- 216 5. Atlantic green turtle (*Chelonia mydas mydas*);
- 217 6. Leatherback turtle (*Dermochelys coriacea*);
- 218 7. Atlantic hawksbill turtle (*Eretmochelys imbricata*
 219 *imbracata*);
- 220 8. Atlantic ridley turtle (*Lepidochelys kempfi*); or
- 221 9. West Indian manatee (*Trichechus manatus latirostris*),
- 222

223 an additional penalty of \$100 for each unit of marine life or
 224 part thereof.

225 (f) For a second or subsequent conviction within 24 months
 226 for any violation of the same law or rule involving the taking
 227 or harvesting of more than 100 pounds of any finfish, an
 228 additional penalty of \$5 for each pound of illegal finfish.

229 (g) For any violation involving the taking, harvesting, or
 230 possession of more than 1,000 pounds of any illegal finfish, an
 231 additional penalty equivalent to the wholesale value of the
 232 illegal finfish.

233 (h) Permits issued to any commercial harvester by the
 234 commission to take or harvest saltwater products, or any license
 235 issued pursuant to s. 370.06 or s. 370.07 may be suspended or
 236 revoked by the commission, pursuant to the provisions and
 237 procedures of s. 120.60, for any major violation prescribed in
 238 this subsection:

- 239 1. Upon a first conviction, for up to 30 calendar days.
- 240 2. Upon a second conviction which occurs within 12 months
 241 after a prior violation, for up to 90 calendar days.
- 242 3. Upon a third conviction which occurs within 24 months
 243 after a prior conviction, for up to 180 calendar days.
- 244 4. Upon a fourth conviction which occurs within 36 months
 245 after a prior conviction, for a period of 6 months to 3 years.

246 (i) Upon the arrest and conviction for a major violation
 247 involving stone crabs, the licenseholder must show just cause
 248 why his or her license should not be suspended or revoked. For
 249 the purposes of this paragraph, a "major violation" means a
 250 major violation as prescribed for illegal stone crabs; any

251 single violation involving possession of more than 25 stone
252 crabs during the closed season or possession of 25 or more
253 whole-bodied or egg-bearing stone crabs; any violation for trap
254 molestation, trap robbing, or pulling traps at night; or any
255 combination of violations in any 3-consecutive-year period
256 wherein more than 75 illegal stone crabs in the aggregate are
257 involved.

258 (j) Upon the arrest and conviction for a major violation
259 involving spiny lobster, the licenseholder must show just cause
260 why his or her license should not be suspended or revoked. For
261 the purposes of this paragraph, a "major violation" means a
262 major violation as prescribed for illegal spiny lobster; any
263 single violation involving possession of more than 25 spiny
264 lobster during the closed season or possession of more than 25
265 wrung spiny lobster tails or more than 25 egg-bearing or
266 stripped spiny lobster; any violation for trap molestation, trap
267 robbing, or pulling traps at night; or any combination of
268 violations in any 3-consecutive-year period wherein more than 75
269 illegal spiny lobster in the aggregate are involved.

270 (k) Upon the arrest and conviction for a major violation
271 involving blue crabs, the licenseholder shall show just cause
272 why his or her saltwater products license should not be
273 suspended or revoked. This paragraph shall not apply to an
274 individual fishing with no more than five traps. For the
275 purposes of this paragraph, a "major violation" means a major
276 violation as prescribed for illegal blue crabs, any single
277 violation wherein 50 or more illegal blue crabs are involved;
278 any violation for trap molestation, trap robbing, or pulling

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279 traps at night; or any combination of violations in any 3-
280 consecutive-year period wherein more than 100 illegal blue crabs
281 in the aggregate are involved.

282 (1) Upon the conviction for a major violation involving
283 finfish, the licenseholder must show just cause why his or her
284 saltwater products license should not be suspended or revoked.
285 For the purposes of this paragraph, a major violation is
286 prescribed for the taking and harvesting of illegal finfish, any
287 single violation involving the possession of more than 100
288 pounds of illegal finfish, or any combination of violations in
289 any 3-consecutive-year period wherein more than 200 pounds of
290 illegal finfish in the aggregate are involved.

291 (m) For a violation involving the taking or harvesting of
292 any marine life species, as those species are defined by rule of
293 the commission, the harvest of which is prohibited, or the
294 taking or harvesting of such a species out of season, or with an
295 illegal gear or chemical, or any violation involving the
296 possession of 25 or more individual specimens of marine life
297 species, or any combination of violations in any 3-year period
298 involving more than 70 such specimens in the aggregate, the
299 suspension or revocation of the licenseholder's marine life
300 endorsement as provided in paragraph (h).

301
302 The penalty provisions of this subsection apply to commercial
303 harvesters and wholesale and retail dealers as defined in s.
304 370.07. Any other person who commits a major violation under
305 this subsection commits a Level Three violation under s. 372.83.
306 Notwithstanding the provisions of s. 948.01, no court may

307 suspend, defer, or withhold adjudication of guilt or imposition
 308 of sentence for any major violation prescribed in this
 309 subsection. The proceeds from the penalties assessed pursuant to
 310 this subsection shall be deposited into the Marine Resources
 311 Conservation Trust Fund to be used for marine fisheries research
 312 ~~or into the commission's Federal Law Enforcement Trust Fund as~~
 313 ~~provided in s. 372.107, as applicable.~~

314 Section 7. Subsection (4) and paragraph (c) of subsection
 315 (5) of section 370.061, Florida Statutes, are amended to read:

316 370.061 Confiscation, seizure, and forfeiture of property
 317 and products.--

318 (4) DESTRUCTION OR DISPOSITION OF PROPERTY.--All property
 319 forfeited under this section may be destroyed, used by the
 320 commission, disposed of by gift to charitable or state
 321 institutions, or sold, with the proceeds derived from the sale
 322 deposited into the Marine Resources Conservation Trust Fund to
 323 be used for law enforcement purposes, ~~or into the commission's~~
 324 ~~Federal Law Enforcement Trust Fund as provided in s. 372.107, as~~
 325 ~~applicable.~~

326 (5) CONFISCATION AND SALE OF PERISHABLE SALTWATER
 327 PRODUCTS; PROCEDURE.--

328 (c) In the event of acquittal, the proceeds of a sale or
 329 the bond or cash deposit required by this subsection shall be
 330 returned to the defendant. In the event of a conviction, the
 331 proceeds of a sale or the bond or cash deposit required by this
 332 subsection shall be deposited into the Marine Resources
 333 Conservation Trust Fund to be used for law enforcement purposes
 334 ~~or into the commission's Federal Law Enforcement Trust Fund as~~

335 ~~provided in s. 372.107, as applicable.~~ Such deposit into the
 336 Marine Resources Conservation Trust Fund ~~or the Federal Law~~
 337 ~~Enforcement Trust Fund~~ shall constitute confiscation.

338 Section 8. Subsection (5) of section 372.9901, Florida
 339 Statutes, is amended to read:

340 372.9901 Seizure of illegal hunting devices; disposition;
 341 notice; forfeiture.--In order to protect the state's wildlife
 342 resources, any vehicle, vessel, animal, gun, light, or other
 343 hunting device used or attempted to be used in connection with,
 344 as an instrumentality of, or in aiding and abetting in the
 345 commission of an offense prohibited by s. 372.99 is subject to
 346 seizure and forfeiture. The provisions of chapter 932 do not
 347 apply to any seizure or forfeiture under this section. For
 348 purposes of this section, a conviction is any disposition other
 349 than acquittal or dismissal.

350 (5) All amounts received from the sale or other
 351 disposition of the property shall be paid into the State Game
 352 Trust Fund ~~or into the commission's Federal Law Enforcement~~
 353 ~~Trust Fund as provided in s. 372.107, as applicable.~~ If the
 354 property is not sold or converted, it shall be delivered to the
 355 executive director of the commission.

356 Section 9. Subsection (3) of section 372.9904, Florida
 357 Statutes, is amended to read:

358 372.9904 Seizure of illegal transportation devices;
 359 disposition; appraisal; forfeiture.--

360 (3) Upon conviction of the violator, the property, if
 361 owned by the person convicted, shall be forfeited to the state
 362 under the procedure set forth in ss. 370.061 and 370.07, when

363 not inconsistent with this section. All amounts received from
 364 the sale or other disposition of the property shall be paid into
 365 the State Game Trust Fund ~~or into the commission's Federal Law~~
 366 ~~Enforcement Trust Fund as provided in s. 372.107, as applicable.~~
 367 If the property is not sold or converted, it shall be delivered
 368 to the director of the Fish and Wildlife Conservation
 369 Commission.

370 Section 10. Paragraph (e) of subsection (6) of section
 371 932.7055, Florida Statutes, is amended to read:

372 932.7055 Disposition of liens and forfeited property.--

373 (6) If the seizing agency is a state agency, all remaining
 374 proceeds shall be deposited into the General Revenue Fund.

375 However, if the seizing agency is:

376 (e) The Fish and Wildlife Conservation Commission, the
 377 proceeds accrued pursuant to the provisions of the Florida
 378 Contraband Forfeiture Act shall be deposited into the State Game
 379 Trust Fund as provided in ss. 372.73, 372.9901, and 372.9904,
 380 into the Marine Resources Conservation Trust Fund as provided in
 381 s. 370.061, ~~or into the commission's Federal Law Enforcement~~
 382 ~~Trust Fund as provided in s. 372.107, as applicable.~~

383 Section 11. This act shall take effect October 1, 2008.