

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 certain  
4           duties of the Board of Trustees of the Internal  
5           Improvement Trust Fund include the preservation and  
6           regeneration of seagrass; providing that careless  
7           operation of a vessel outside a marked channel that causes  
8           seagrass scarring within certain aquatic preserves is a  
9           civil infraction; defining the terms "seagrass scarring"  
10          and "seagrasses"; providing that refusal to post bond or  
11          sign a boating citation is a second degree misdemeanor;  
12          providing criminal penalties; requiring that civil  
13          penalties collected for the careless operation of a vessel  
14          causing seagrass scarring be deposited into the Internal  
15          Improvement Trust Fund and used for specified purposes;  
16          requiring the board to adopt rules for the stabilization  
17          of propeller scarring and boat groundings; providing  
18          mitigation credits for restored and created seagrasses;  
19          specifying a methodology for determining such credits;  
20          authorizing the board to conduct pilot projects in certain  
21          waters; amending s. 327.73, F.S.; providing civil  
22          penalties for seagrass scarring; amending s. 372.73, F.S.;  
23          providing for the forfeiture of illegally taken wildlife,  
24          freshwater fish, and saltwater fish to investigating law  
25          enforcement agencies; authorizing investigating law  
26          enforcement agencies to dispose of such wildlife,  
27          freshwater fish, and saltwater fish in a specified manner;  
28          requiring certain documentation; requiring the release of

29 certain wildlife, freshwater fish, and saltwater fish to  
 30 native habitats; providing for release of nonnative  
 31 species by rule; revising provisions for the deposit of  
 32 certain proceeds relating to the confiscation and  
 33 disposition of illegally taken wildlife, freshwater fish,  
 34 and saltwater fish; authorizing certain law enforcement  
 35 agencies to receive specified portions of forfeited  
 36 property; creating s. 372.731, F.S.; providing for  
 37 photographs of illegally taken wildlife, freshwater fish,  
 38 or saltwater fish to be admissible as evidence in the  
 39 prosecution of certain violations; specifying requirements  
 40 and procedures for such photographs; amending ss. 370.021,  
 41 370.061, 372.9901, 372.9904, and 932.7055, F.S.;

42 conforming cross-references; repealing s. 327.803, F.S.,  
 43 relating to the Boating Advisory Council; repealing s.  
 44 372.107, F.S., relating to the Federal Law Enforcement  
 45 Trust Fund within the Fish and Wildlife Conservation  
 46 Commission; providing an effective date.

47  
 48 Be It Enacted by the Legislature of the State of Florida:

49  
 50 Section 1. Subsections (4) through (7) of section 253.04,  
 51 Florida Statutes, are renumbered as subsections (5) through (8),  
 52 respectively, and a new subsection (4) is added to that section  
 53 to read:

54 253.04 Duty of board to protect, etc., state lands; state  
 55 may join in any action brought.--

56 (4) (a) The duty to conserve and improve state-owned lands

57 and the products thereof shall include the preservation and  
58 regeneration of seagrass, which is deemed essential to the  
59 oceans, gulfs, estuaries, and shorelines of the state.

60 (b) Any person operating a vessel outside a lawfully  
61 marked channel in a careless manner that causes seagrass  
62 scarring within an aquatic preserve established in ss. 258.39-  
63 258.399 with the exception of the Lake Jackson, Wekiva River,  
64 and Rainbow River aquatic preserves, commits a civil infraction,  
65 punishable as provided in s. 327.73. Each violation is a  
66 separate offense. As used in this subsection, the term:

67 1. "Seagrass scarring" means the destruction of roots,  
68 shoots, or stems of seagrass plants that results in tracks on  
69 the substrate caused by the operation of a motorized vessel in  
70 waters supporting seagrasses, commonly known as prop-scars or  
71 propeller scars.

72 2. "Seagrasses" means Cuban shoal grass (Halodule  
73 wrightii), turtle grass (Thalassia testudinum), manatee grass  
74 (Syringodium filiforme), star grass (Halophila engelmannii),  
75 paddle grass (Halophila decipiens), Johnson's seagrass  
76 (Halophila johnsonii), or widgeon grass (Ruppia maritima).

77 (c) Any violation of this subsection is a violation of the  
78 boating laws of this state and shall be charged on a uniform  
79 boating citation as provided in s. 327.74. Any person who  
80 refuses to post a bond or accept and sign a uniform boating  
81 citation commits a misdemeanor of the second degree as provided  
82 in s. 327.73(3), punishable as provided in s. 775.082 or s.  
83 775.083.

84 (d) All civil penalties imposed and collected pursuant to

85 this subsection shall be deposited into the Internal Improvement  
 86 Trust Fund and used solely to implement, administer, and enforce  
 87 this subsection; provide for seagrass restoration; conduct a  
 88 program to educate vessel operators about the need to protect  
 89 seagrasses from damage caused by the operation of vessels; and  
 90 fund the marking of seagrass.

91 (e) The board shall, by rule, provide for the selection of  
 92 private sector companies with scientifically established  
 93 techniques utilizing containerized fine grain sediment to  
 94 stabilize propeller scars and boat groundings proven to  
 95 establish, without cost to the state, the recolonization of  
 96 seagrasses. Mitigation credits shall be provided for seagrasses  
 97 actually restored and created. Such credits shall be determined  
 98 by the uniform mitigation assessment methodology. The board may  
 99 conduct pilot projects for the stabilization of propeller scars  
 100 and boat groundings in outstanding Florida waters in compliance  
 101 with this paragraph.

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

105 327.73 Noncriminal infractions.--

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

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

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

111 2. Two hundred and fifty dollars upon conviction for a  
 112 second offense occurring within 12 months after a prior

113 conviction.

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

116 4. One thousand dollars upon conviction for a fourth or  
 117 subsequent offense.

118  
 119 Any person cited for a violation of any such provision shall be  
 120 deemed to be charged with a noncriminal infraction, shall be  
 121 cited for such an infraction, and shall be cited to appear  
 122 before the county court. The civil penalty for any such  
 123 infraction is \$50, except as otherwise provided in this section.  
 124 Any person who fails to appear or otherwise properly respond to  
 125 a uniform boating citation shall, in addition to the charge  
 126 relating to the violation of the boating laws of this state, be  
 127 charged with the offense of failing to respond to such citation  
 128 and, upon conviction, be guilty of a misdemeanor of the second  
 129 degree, punishable as provided in s. 775.082 or s. 775.083. A  
 130 written warning to this effect shall be provided at the time  
 131 such uniform boating citation is issued.

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

137 Section 3. Section 372.73, Florida Statutes, is amended to  
 138 read:

139 372.73 Confiscation and disposition of illegally taken  
 140 wildlife, freshwater fish, and saltwater fish ~~game~~.--

141       (1) (a) All wildlife, ~~game and~~ freshwater fish, and  
 142 saltwater fish seized under the authority of this chapter, any  
 143 other chapter, or rules of the commission shall, upon conviction  
 144 of the offender or sooner in accordance with a court order if  
 145 the court so orders, be forfeited to the investigating law  
 146 enforcement agency. The law enforcement agency may elect to  
 147 retain the wildlife, freshwater fish, or saltwater fish for the  
 148 agency's official use; transfer the wildlife, freshwater fish,  
 149 or saltwater fish to another unit of state or local government  
 150 for official use; donate the wildlife, freshwater fish, or  
 151 saltwater fish to a charitable organization; sell the wildlife,  
 152 freshwater fish, or saltwater fish at a public sale, pursuant to  
 153 the provisions of s. 705.103; or destroy the wildlife,  
 154 freshwater fish, or saltwater fish if none of the other options  
 155 are practicable or if the wildlife, freshwater fish, or  
 156 saltwater fish is unwholesome or otherwise not of appreciable  
 157 value.

158       (b) All live wildlife, freshwater fish, or saltwater fish,  
 159 the possession of which is unlawful, shall be properly  
 160 documented as evidence under s. 372.731 and returned to the  
 161 habitat unharmed, except that nonnative species may be released  
 162 only as allowed by rules of the commission. Any unclaimed  
 163 wildlife, freshwater fish, or saltwater fish shall be retained  
 164 by the investigating law enforcement agency and disposed of in  
 165 accordance with the provisions of this subsection ~~and given to~~  
 166 ~~some hospital or charitable institution and receipt therefor~~  
 167 ~~sent to the Fish and Wildlife Conservation Commission.~~

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168        (2) All furs or hides or fur-bearing animals seized under  
169 the authority of this chapter shall, upon conviction of the  
170 offender, be forfeited and sent to the commission, which shall  
171 sell such hides and furs ~~the same and deposit the proceeds of~~  
172 ~~such sale to the credit of the State Game Trust Fund or into the~~  
173 ~~commission's Federal Law Enforcement Trust Fund as provided in~~  
174 ~~s. 372.107, as applicable.~~ If any such hides or furs are seized  
175 and the offender is unknown, the court shall order such hides or  
176 furs sent to the ~~Fish and Wildlife Conservation~~ commission,  
177 which shall sell such hides and furs.

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

184        (4) Any state, municipal, or county law enforcement agency  
185 that enforces or assists the commission in enforcing the  
186 provisions of this chapter, which enforcement or assistance  
187 results in a forfeiture of property as provided in this section,  
188 shall be entitled to receive all or a share of any property  
189 based upon the agency's participation in such enforcement.

190        Section 4. Section 372.731, Florida Statutes, is created  
191 to read:

192        372.731 Photographs of illegally taken wildlife,  
193 freshwater fish, and saltwater fish.--In any prosecution for a  
194 violation of this chapter, chapter 370, or rules of the  
195 commission, a photograph of the illegally taken wildlife,

196 freshwater fish, or saltwater fish may be deemed competent  
 197 evidence of such property and may be admissible in the  
 198 prosecution to the same extent as if such wildlife, freshwater  
 199 fish, or saltwater fish were introduced as evidence. Such  
 200 photograph shall bear a written description of the wildlife,  
 201 freshwater fish, or saltwater fish alleged to have been  
 202 illegally taken, the name of the violator, the location where  
 203 the alleged wrongful taking occurred, the name of the  
 204 investigating law enforcement officer, the date the photograph  
 205 was taken, and the name of the photographer. Such writing shall  
 206 be made under oath by the investigating law enforcement officer,  
 207 and the photograph shall be identified by the signature of the  
 208 photographer.

209 Section 5. Subsection (2) of section 370.021, Florida  
 210 Statutes, is amended to read:

211 370.021 Administration; rules, publications, records;  
 212 penalties; injunctions.--

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

217 (a) For a violation involving more than 100 illegal blue  
 218 crabs, spiny lobster, or stone crabs, an additional penalty of  
 219 \$10 for each illegal blue crab, spiny lobster, stone crab, or  
 220 part thereof.

221 (b) For a violation involving the taking or harvesting of  
 222 shrimp from a nursery or other prohibited area, or any two  
 223 violations within a 12-month period involving shrimping gear,



224 minimum size (count), or season, an additional penalty of \$10  
 225 for each pound of illegal shrimp or part thereof.

226 (c) For a violation involving the taking or harvesting of  
 227 oysters from nonapproved areas or the taking or possession of  
 228 unculled oysters, an additional penalty of \$10 for each bushel  
 229 of illegal oysters.

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

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

- 236 1. Shortnose sturgeon (*Acipenser brevirostrum*);
- 237 2. Atlantic sturgeon (*Acipenser oxyrinchus*);
- 238 3. Common snook (*Centropomus undecimalis*);
- 239 4. Atlantic loggerhead turtle (*Caretta caretta caretta*);
- 240 5. Atlantic green turtle (*Chelonia mydas mydas*);
- 241 6. Leatherback turtle (*Dermochelys coriacea*);
- 242 7. Atlantic hawksbill turtle (*Eretmochelys imbricata*  
 243 *imbricata*);
- 244 8. Atlantic ridley turtle (*Lepidochelys kempfi*); or
- 245 9. West Indian manatee (*Trichechus manatus latirostris*),

246  
 247 an additional penalty of \$100 for each unit of marine life or  
 248 part thereof.

249 (f) For a second or subsequent conviction within 24 months  
 250 for any violation of the same law or rule involving the taking

251 or harvesting of more than 100 pounds of any finfish, an  
 252 additional penalty of \$5 for each pound of illegal finfish.

253 (g) For any violation involving the taking, harvesting, or  
 254 possession of more than 1,000 pounds of any illegal finfish, an  
 255 additional penalty equivalent to the wholesale value of the  
 256 illegal finfish.

257 (h) Permits issued to any commercial harvester by the  
 258 commission to take or harvest saltwater products, or any license  
 259 issued pursuant to s. 370.06 or s. 370.07 may be suspended or  
 260 revoked by the commission, pursuant to the provisions and  
 261 procedures of s. 120.60, for any major violation prescribed in  
 262 this subsection:

- 263 1. Upon a first conviction, for up to 30 calendar days.
- 264 2. Upon a second conviction which occurs within 12 months  
 265 after a prior violation, for up to 90 calendar days.
- 266 3. Upon a third conviction which occurs within 24 months  
 267 after a prior conviction, for up to 180 calendar days.
- 268 4. Upon a fourth conviction which occurs within 36 months  
 269 after a prior conviction, for a period of 6 months to 3 years.

270 (i) Upon the arrest and conviction for a major violation  
 271 involving stone crabs, the licenseholder must show just cause  
 272 why his or her license should not be suspended or revoked. For  
 273 the purposes of this paragraph, a "major violation" means a  
 274 major violation as prescribed for illegal stone crabs; any  
 275 single violation involving possession of more than 25 stone  
 276 crabs during the closed season or possession of 25 or more  
 277 whole-bodied or egg-bearing stone crabs; any violation for trap  
 278 molestation, trap robbing, or pulling traps at night; or any

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279 combination of violations in any 3-consecutive-year period  
280 wherein more than 75 illegal stone crabs in the aggregate are  
281 involved.

282 (j) Upon the arrest and conviction for a major violation  
283 involving spiny lobster, the licenseholder must show just cause  
284 why his or her license should not be suspended or revoked. For  
285 the purposes of this paragraph, a "major violation" means a  
286 major violation as prescribed for illegal spiny lobster; any  
287 single violation involving possession of more than 25 spiny  
288 lobster during the closed season or possession of more than 25  
289 wrung spiny lobster tails or more than 25 egg-bearing or  
290 stripped spiny lobster; any violation for trap molestation, trap  
291 robbing, or pulling traps at night; or any combination of  
292 violations in any 3-consecutive-year period wherein more than 75  
293 illegal spiny lobster in the aggregate are involved.

294 (k) Upon the arrest and conviction for a major violation  
295 involving blue crabs, the licenseholder shall show just cause  
296 why his or her saltwater products license should not be  
297 suspended or revoked. This paragraph shall not apply to an  
298 individual fishing with no more than five traps. For the  
299 purposes of this paragraph, a "major violation" means a major  
300 violation as prescribed for illegal blue crabs, any single  
301 violation wherein 50 or more illegal blue crabs are involved;  
302 any violation for trap molestation, trap robbing, or pulling  
303 traps at night; or any combination of violations in any 3-  
304 consecutive-year period wherein more than 100 illegal blue crabs  
305 in the aggregate are involved.

306 (1) Upon the conviction for a major violation involving  
 307 finfish, the licenseholder must show just cause why his or her  
 308 saltwater products license should not be suspended or revoked.  
 309 For the purposes of this paragraph, a major violation is  
 310 prescribed for the taking and harvesting of illegal finfish, any  
 311 single violation involving the possession of more than 100  
 312 pounds of illegal finfish, or any combination of violations in  
 313 any 3-consecutive-year period wherein more than 200 pounds of  
 314 illegal finfish in the aggregate are involved.

315 (m) For a violation involving the taking or harvesting of  
 316 any marine life species, as those species are defined by rule of  
 317 the commission, the harvest of which is prohibited, or the  
 318 taking or harvesting of such a species out of season, or with an  
 319 illegal gear or chemical, or any violation involving the  
 320 possession of 25 or more individual specimens of marine life  
 321 species, or any combination of violations in any 3-year period  
 322 involving more than 70 such specimens in the aggregate, the  
 323 suspension or revocation of the licenseholder's marine life  
 324 endorsement as provided in paragraph (h).

325  
 326 The penalty provisions of this subsection apply to commercial  
 327 harvesters and wholesale and retail dealers as defined in s.  
 328 370.07. Any other person who commits a major violation under  
 329 this subsection commits a Level Three violation under s. 372.83.  
 330 Notwithstanding the provisions of s. 948.01, no court may  
 331 suspend, defer, or withhold adjudication of guilt or imposition  
 332 of sentence for any major violation prescribed in this  
 333 subsection. The proceeds from the penalties assessed pursuant to

334 this subsection shall be deposited into the Marine Resources  
 335 Conservation Trust Fund to be used for marine fisheries research  
 336 ~~or into the commission's Federal Law Enforcement Trust Fund as~~  
 337 ~~provided in s. 372.107, as applicable.~~

338 Section 6. Subsection (4) and paragraph (c) of subsection  
 339 (5) of section 370.061, Florida Statutes, are amended to read:

340 370.061 Confiscation, seizure, and forfeiture of property  
 341 and products.--

342 (4) DESTRUCTION OR DISPOSITION OF PROPERTY.--All property  
 343 forfeited under this section may be destroyed, used by the  
 344 commission, disposed of by gift to charitable or state  
 345 institutions, or sold, with the proceeds derived from the sale  
 346 deposited into the Marine Resources Conservation Trust Fund to  
 347 be used for law enforcement purposes, ~~or into the commission's~~  
 348 ~~Federal Law Enforcement Trust Fund as provided in s. 372.107, as~~  
 349 ~~applicable.~~

350 (5) CONFISCATION AND SALE OF PERISHABLE SALTWATER  
 351 PRODUCTS; PROCEDURE.--

352 (c) In the event of acquittal, the proceeds of a sale or  
 353 the bond or cash deposit required by this subsection shall be  
 354 returned to the defendant. In the event of a conviction, the  
 355 proceeds of a sale or the bond or cash deposit required by this  
 356 subsection shall be deposited into the Marine Resources  
 357 Conservation Trust Fund to be used for law enforcement purposes  
 358 ~~or into the commission's Federal Law Enforcement Trust Fund as~~  
 359 ~~provided in s. 372.107, as applicable.~~ Such deposit into the  
 360 Marine Resources Conservation Trust Fund ~~or the Federal Law~~  
 361 ~~Enforcement Trust Fund~~ shall constitute confiscation.

362 Section 7. Subsection (5) of section 372.9901, Florida  
 363 Statutes, is amended to read:

364 372.9901 Seizure of illegal hunting devices; disposition;  
 365 notice; forfeiture.--In order to protect the state's wildlife  
 366 resources, any vehicle, vessel, animal, gun, light, or other  
 367 hunting device used or attempted to be used in connection with,  
 368 as an instrumentality of, or in aiding and abetting in the  
 369 commission of an offense prohibited by s. 372.99 is subject to  
 370 seizure and forfeiture. The provisions of chapter 932 do not  
 371 apply to any seizure or forfeiture under this section. For  
 372 purposes of this section, a conviction is any disposition other  
 373 than acquittal or dismissal.

374 (5) All amounts received from the sale or other  
 375 disposition of the property shall be paid into the State Game  
 376 Trust Fund ~~or into the commission's Federal Law Enforcement~~  
 377 ~~Trust Fund as provided in s. 372.107, as applicable.~~ If the  
 378 property is not sold or converted, it shall be delivered to the  
 379 executive director of the commission.

380 Section 8. Subsection (3) of section 372.9904, Florida  
 381 Statutes, is amended to read:

382 372.9904 Seizure of illegal transportation devices;  
 383 disposition; appraisal; forfeiture.--

384 (3) Upon conviction of the violator, the property, if  
 385 owned by the person convicted, shall be forfeited to the state  
 386 under the procedure set forth in ss. 370.061 and 370.07, when  
 387 not inconsistent with this section. All amounts received from  
 388 the sale or other disposition of the property shall be paid into  
 389 the State Game Trust Fund ~~or into the commission's Federal Law~~

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390 ~~Enforcement Trust Fund as provided in s. 372.107, as applicable.~~  
 391 If the property is not sold or converted, it shall be delivered  
 392 to the director of the Fish and Wildlife Conservation  
 393 Commission.

394 Section 9. Paragraph (e) of subsection (6) of section  
 395 932.7055, Florida Statutes, is amended to read:

396 932.7055 Disposition of liens and forfeited property.--

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

399 However, if the seizing agency is:

400 (e) The Fish and Wildlife Conservation Commission, the  
 401 proceeds accrued pursuant to the provisions of the Florida  
 402 Contraband Forfeiture Act shall be deposited into the State Game  
 403 Trust Fund as provided in ss. 372.73, 372.9901, and 372.9904,  
 404 into the Marine Resources Conservation Trust Fund as provided in  
 405 s. 370.061, ~~or into the commission's Federal Law Enforcement~~  
 406 ~~Trust Fund as provided in s. 372.107, as applicable.~~

407 Section 10. Sections 327.803 and 372.107, Florida  
 408 Statutes, are repealed.

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