

1 A bill to be entitled
2 An act relating to the protection of wild and aquatic
3 life; amending s. 253.03, F.S.; requiring the Board of
4 Trustees of the Internal Improvement Trust Fund to provide
5 for the establishment of seagrass mitigation banks for
6 specified purposes; amending s. 253.04, F.S.; providing
7 that careless operation of a vessel outside a marked
8 channel that causes seagrass scarring within certain
9 aquatic preserves is a civil infraction; defining the
10 terms "seagrass scarring" and "seagrasses"; providing that
11 refusal to post bond or sign a boating citation is a
12 second degree misdemeanor; providing criminal penalties;
13 requiring that civil penalties collected for the careless
14 operation of a vessel causing seagrass scarring be
15 deposited into the Internal Improvement Trust Fund and
16 used for specified purposes; requiring the board to adopt
17 rules for the stabilization of propeller scarring and boat
18 groundings; providing mitigation credits for restored and
19 created seagrasses; specifying a methodology for
20 determining such credits; requiring the board to conduct
21 pilot projects in certain waters; amending s. 327.73,
22 F.S.; providing civil penalties for seagrass scarring;
23 amending s. 372.73, F.S.; providing for the forfeiture of
24 illegally taken wildlife, freshwater fish, and saltwater
25 fish to investigating law enforcement agencies;
26 authorizing investigating law enforcement agencies to
27 dispose of such wildlife, freshwater fish, and saltwater
28 fish in a specified manner; requiring certain

29 | documentation; requiring the release of certain wildlife,
 30 | freshwater fish, and saltwater fish to native habitats;
 31 | providing for release of nonnative species by rule;
 32 | revising provisions for the deposit of certain proceeds
 33 | relating to the confiscation and disposition of illegally
 34 | taken wildlife, freshwater fish, and saltwater fish;
 35 | authorizing certain law enforcement agencies to receive
 36 | specified portions of forfeited property; creating s.
 37 | 372.731, F.S.; providing for photographs of illegally
 38 | taken wildlife, freshwater fish, or saltwater fish to be
 39 | admissible as evidence in the prosecution of certain
 40 | violations; specifying requirements and procedures for
 41 | such photographs; amending ss. 370.021, 370.061, 372.9901,
 42 | 372.9904, and 932.7055, F.S.; conforming cross-references;
 43 | repealing s. 327.803, F.S., relating to the Boating
 44 | Advisory Council; repealing s. 372.107, F.S., relating to
 45 | the Federal Law Enforcement Trust Fund within the Fish and
 46 | Wildlife Conservation Commission; providing an effective
 47 | date.

48 |
 49 | Be It Enacted by the Legislature of the State of Florida:
 50 |

51 | Section 1. Subsection (18) is added to section 253.03,
 52 | Florida Statutes, to read:

53 | 253.03 Board of trustees to administer state lands; lands
 54 | enumerated.--

55 | (18) The Board of Trustees of the Internal Improvement
 56 | Trust Fund shall ensure the preservation and regeneration of

57 seagrass, as defined in s. 253.04(4)(b)2., by providing for the
 58 establishment of seagrass mitigation banks, pursuant to s.
 59 373.4136, to offset the unavoidable impacts of projects where
 60 such banks meet the applicable public interest test of chapters
 61 253 and 258. This subsection shall not prohibit mitigation for
 62 impacts to seagrass or other habitats on sovereignty submerged
 63 lands for other types of projects, or for projects occurring on
 64 nonsovereign submerged lands, upon applicable approval of the
 65 board of trustees.

66 Section 2. Subsections (4) through (7) of section 253.04,
 67 Florida Statutes, are renumbered as subsections (5) through (8),
 68 respectively, and a new subsection (4) is added to that section
 69 to read:

70 253.04 Duty of board to protect, etc., state lands; state
 71 may join in any action brought.--

72 (4) (a) The duty to conserve and improve state-owned lands
 73 and the products thereof shall include the preservation and
 74 regeneration of seagrass, which is deemed essential to the
 75 oceans, gulfs, estuaries, and shorelines of the state.

76 (b) Any person operating a vessel outside a lawfully
 77 marked channel in a careless manner that causes seagrass
 78 scarring within an aquatic preserve established in ss. 258.39-
 79 258.399 with the exception of the Lake Jackson, Wekiva River,
 80 and Rainbow River aquatic preserves, commits a civil infraction,
 81 punishable as provided in s. 327.73. Each violation is a
 82 separate offense. As used in this subsection, the term:

83 1. "Seagrass scarring" means the destruction of roots,
 84 shoots, or stems of seagrass plants that results in tracks on

85 the substrate caused by the operation of a motorized vessel in
 86 waters supporting seagrasses, commonly known as prop-scars or
 87 propeller scars.

88 2. "Seagrasses" means Cuban shoal grass (Halodule
 89 wrightii), turtle grass (Thalassia testudinum), manatee grass
 90 (Syringodium filiforme), star grass (Halophila engelmannii),
 91 paddle grass (Halophila decipiens), Johnson's seagrass
 92 (Halophila johnsonii), or widgeon grass (Ruppia maritima).

93 (c) Any violation of this subsection is a violation of the
 94 boating laws of this state and shall be charged on a uniform
 95 boating citation as provided in s. 327.74. Any person who
 96 refuses to post a bond or accept and sign a uniform boating
 97 citation commits a misdemeanor of the second degree as provided
 98 in s. 327.73(3), punishable as provided in s. 775.082 or s.
 99 775.083.

100 (d) All civil penalties imposed and collected pursuant to
 101 this subsection shall be deposited into the Internal Improvement
 102 Trust Fund and used solely to implement, administer, and enforce
 103 this subsection; provide for seagrass restoration; conduct a
 104 program to educate vessel operators about the need to protect
 105 seagrasses from damage caused by the operation of vessels; and
 106 fund the marking of seagrass.

107 (e) The board shall, by rule, provide for the selection of
 108 private sector companies that use scientifically established
 109 techniques utilizing containerized fine grain sediment to
 110 stabilize seagrass scars and damage to seagrasses from boat
 111 groundings and use proven methods to establish the
 112 recolonization of seagrasses. Such restoration and

113 recolonization efforts shall be accomplished without cost to the
 114 state. Mitigation credits shall be provided for efforts that
 115 achieve successful restoration of damaged seagrass beds and
 116 creation of new seagrass beds. Such credits shall be determined
 117 by the uniform mitigation assessment methodology. The board
 118 shall conduct pilot projects for the stabilization of propeller
 119 scars and boat groundings in outstanding Florida waters in
 120 compliance with this paragraph.

121 Section 3. Paragraph (x) is added to subsection (1) of
 122 section 327.73, Florida Statutes, and subsection (8) of that
 123 section is amended, to read:

124 327.73 Noncriminal infractions.--

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

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

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

130 2. Two hundred and fifty dollars upon conviction for a
 131 second offense occurring within 12 months after a prior
 132 conviction.

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

135 4. One thousand dollars upon conviction for a fourth or
 136 subsequent offense.

137
 138 Any person cited for a violation of any such provision shall be
 139 deemed to be charged with a noncriminal infraction, shall be
 140 cited for such an infraction, and shall be cited to appear

141 before the county court. The civil penalty for any such
 142 infraction is \$50, except as otherwise provided in this section.
 143 Any person who fails to appear or otherwise properly respond to
 144 a uniform boating citation shall, in addition to the charge
 145 relating to the violation of the boating laws of this state, be
 146 charged with the offense of failing to respond to such citation
 147 and, upon conviction, be guilty of a misdemeanor of the second
 148 degree, punishable as provided in s. 775.082 or s. 775.083. A
 149 written warning to this effect shall be provided at the time
 150 such uniform boating citation is issued.

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

156 Section 4. Section 372.73, Florida Statutes, is amended to
 157 read:

158 372.73 Confiscation and disposition of illegally taken
 159 wildlife, freshwater fish, and saltwater fish ~~game~~.--

160 (1)(a) All wildlife, ~~game~~ and freshwater fish, and
 161 saltwater fish seized under the authority of this chapter, any
 162 other chapter, or rules of the commission shall, upon conviction
 163 of the offender or sooner in accordance with a court order if
 164 the court so orders, be forfeited to the investigating law
 165 enforcement agency. The law enforcement agency may elect to
 166 retain the wildlife, freshwater fish, or saltwater fish for the
 167 agency's official use; transfer the wildlife, freshwater fish,
 168 or saltwater fish to another unit of state or local government

169 for official use; donate the wildlife, freshwater fish, or
170 saltwater fish to a charitable organization; sell the wildlife,
171 freshwater fish, or saltwater fish at a public sale, pursuant to
172 the provisions of s. 705.103; or destroy the wildlife,
173 freshwater fish, or saltwater fish if none of the other options
174 are practicable or if the wildlife, freshwater fish, or
175 saltwater fish is unwholesome or otherwise not of appreciable
176 value.

177 (b) All live wildlife, freshwater fish, or saltwater fish,
178 the possession of which is unlawful, shall be properly
179 documented as evidence under s. 372.731 and returned to the
180 habitat unharmed, except that nonnative species may be released
181 only as allowed by rules of the commission. Any unclaimed
182 wildlife, freshwater fish, or saltwater fish shall be retained
183 by the investigating law enforcement agency and disposed of in
184 accordance with the provisions of this subsection and given to
185 some hospital or charitable institution and receipt therefor
186 sent to the Fish and Wildlife Conservation Commission.

187 (2) All furs or hides or fur-bearing animals seized under
188 the authority of this chapter shall, upon conviction of the
189 offender, be forfeited and sent to the commission, which shall
190 sell such hides and furs the same and deposit the proceeds of
191 such sale to the credit of the State Game Trust Fund or into the
192 commission's Federal Law Enforcement Trust Fund as provided in
193 s. 372.107, as applicable. If any such hides or furs are seized
194 and the offender is unknown, the court shall order such hides or
195 furs sent to the Fish and Wildlife Conservation commission,
196 which shall sell such hides and furs.

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

203 (4) Any state, municipal, or county law enforcement agency
 204 that enforces or assists the commission in enforcing the
 205 provisions of this chapter, which enforcement or assistance
 206 results in a forfeiture of property as provided in this section,
 207 shall be entitled to receive all or a share of any property
 208 based upon the agency's participation in such enforcement.

209 Section 5. Section 372.731, Florida Statutes, is created
 210 to read:

211 372.731 Photographs of illegally taken wildlife,
 212 freshwater fish, and saltwater fish.--In any prosecution for a
 213 violation of this chapter, chapter 370, or rules of the
 214 commission, a photograph of the illegally taken wildlife,
 215 freshwater fish, or saltwater fish may be deemed competent
 216 evidence of such property and may be admissible in the
 217 prosecution to the same extent as if such wildlife, freshwater
 218 fish, or saltwater fish were introduced as evidence. Such
 219 photograph shall bear a written description of the wildlife,
 220 freshwater fish, or saltwater fish alleged to have been
 221 illegally taken, the name of the violator, the location where
 222 the alleged wrongful taking occurred, the name of the
 223 investigating law enforcement officer, the date the photograph
 224 was taken, and the name of the photographer. Such writing shall

225 be made under oath by the investigating law enforcement officer,
 226 and the photograph shall be identified by the signature of the
 227 photographer.

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

230 370.021 Administration; rules, publications, records;
 231 penalties; injunctions.--

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

236 (a) For a violation involving more than 100 illegal blue
 237 crabs, spiny lobster, or stone crabs, an additional penalty of
 238 \$10 for each illegal blue crab, spiny lobster, stone crab, or
 239 part thereof.

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

245 (c) For a violation involving the taking or harvesting of
 246 oysters from nonapproved areas or the taking or possession of
 247 unculled oysters, an additional penalty of \$10 for each bushel
 248 of illegal oysters.

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

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

- 255 1. Shortnose sturgeon (*Acipenser brevirostrum*);
- 256 2. Atlantic sturgeon (*Acipenser oxyrinchus*);
- 257 3. Common snook (*Centropomus undecimalis*);
- 258 4. Atlantic loggerhead turtle (*Caretta caretta caretta*);
- 259 5. Atlantic green turtle (*Chelonia mydas mydas*);
- 260 6. Leatherback turtle (*Dermochelys coriacea*);
- 261 7. Atlantic hawksbill turtle (*Eretmochelys imbricata*
- 262 *imbricata*);
- 263 8. Atlantic ridley turtle (*Lepidochelys kemp*); or
- 264 9. West Indian manatee (*Trichechus manatus latirostris*),

265
 266 an additional penalty of \$100 for each unit of marine life or
 267 part thereof.

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

272 (g) For any violation involving the taking, harvesting, or
 273 possession of more than 1,000 pounds of any illegal finfish, an
 274 additional penalty equivalent to the wholesale value of the
 275 illegal finfish.

276 (h) Permits issued to any commercial harvester by the
 277 commission to take or harvest saltwater products, or any license
 278 issued pursuant to s. 370.06 or s. 370.07 may be suspended or
 279 revoked by the commission, pursuant to the provisions and

280 procedures of s. 120.60, for any major violation prescribed in
281 this subsection:

- 282 1. Upon a first conviction, for up to 30 calendar days.
- 283 2. Upon a second conviction which occurs within 12 months
284 after a prior violation, for up to 90 calendar days.
- 285 3. Upon a third conviction which occurs within 24 months
286 after a prior conviction, for up to 180 calendar days.
- 287 4. Upon a fourth conviction which occurs within 36 months
288 after a prior conviction, for a period of 6 months to 3 years.

289 (i) Upon the arrest and conviction for a major violation
290 involving stone crabs, the licenseholder must show just cause
291 why his or her license should not be suspended or revoked. For
292 the purposes of this paragraph, a "major violation" means a
293 major violation as prescribed for illegal stone crabs; any
294 single violation involving possession of more than 25 stone
295 crabs during the closed season or possession of 25 or more
296 whole-bodied or egg-bearing stone crabs; any violation for trap
297 molestation, trap robbing, or pulling traps at night; or any
298 combination of violations in any 3-consecutive-year period
299 wherein more than 75 illegal stone crabs in the aggregate are
300 involved.

301 (j) Upon the arrest and conviction for a major violation
302 involving spiny lobster, the licenseholder must show just cause
303 why his or her license should not be suspended or revoked. For
304 the purposes of this paragraph, a "major violation" means a
305 major violation as prescribed for illegal spiny lobster; any
306 single violation involving possession of more than 25 spiny
307 lobster during the closed season or possession of more than 25

308 | wrung spiny lobster tails or more than 25 egg-bearing or
309 | stripped spiny lobster; any violation for trap molestation, trap
310 | robbing, or pulling traps at night; or any combination of
311 | violations in any 3-consecutive-year period wherein more than 75
312 | illegal spiny lobster in the aggregate are involved.

313 | (k) Upon the arrest and conviction for a major violation
314 | involving blue crabs, the licenseholder shall show just cause
315 | why his or her saltwater products license should not be
316 | suspended or revoked. This paragraph shall not apply to an
317 | individual fishing with no more than five traps. For the
318 | purposes of this paragraph, a "major violation" means a major
319 | violation as prescribed for illegal blue crabs, any single
320 | violation wherein 50 or more illegal blue crabs are involved;
321 | any violation for trap molestation, trap robbing, or pulling
322 | traps at night; or any combination of violations in any 3-
323 | consecutive-year period wherein more than 100 illegal blue crabs
324 | in the aggregate are involved.

325 | (l) Upon the conviction for a major violation involving
326 | finfish, the licenseholder must show just cause why his or her
327 | saltwater products license should not be suspended or revoked.
328 | For the purposes of this paragraph, a major violation is
329 | prescribed for the taking and harvesting of illegal finfish, any
330 | single violation involving the possession of more than 100
331 | pounds of illegal finfish, or any combination of violations in
332 | any 3-consecutive-year period wherein more than 200 pounds of
333 | illegal finfish in the aggregate are involved.

334 | (m) For a violation involving the taking or harvesting of
335 | any marine life species, as those species are defined by rule of

336 the commission, the harvest of which is prohibited, or the
 337 taking or harvesting of such a species out of season, or with an
 338 illegal gear or chemical, or any violation involving the
 339 possession of 25 or more individual specimens of marine life
 340 species, or any combination of violations in any 3-year period
 341 involving more than 70 such specimens in the aggregate, the
 342 suspension or revocation of the licenseholder's marine life
 343 endorsement as provided in paragraph (h).

344
 345 The penalty provisions of this subsection apply to commercial
 346 harvesters and wholesale and retail dealers as defined in s.
 347 370.07. Any other person who commits a major violation under
 348 this subsection commits a Level Three violation under s. 372.83.
 349 Notwithstanding the provisions of s. 948.01, no court may
 350 suspend, defer, or withhold adjudication of guilt or imposition
 351 of sentence for any major violation prescribed in this
 352 subsection. The proceeds from the penalties assessed pursuant to
 353 this subsection shall be deposited into the Marine Resources
 354 Conservation Trust Fund to be used for marine fisheries research
 355 ~~or into the commission's Federal Law Enforcement Trust Fund as~~
 356 ~~provided in s. 372.107, as applicable.~~

357 Section 7. Subsection (4) and paragraph (c) of subsection
 358 (5) of section 370.061, Florida Statutes, are amended to read:
 359 370.061 Confiscation, seizure, and forfeiture of property
 360 and products.--

361 (4) DESTRUCTION OR DISPOSITION OF PROPERTY.--All property
 362 forfeited under this section may be destroyed, used by the
 363 commission, disposed of by gift to charitable or state

364 institutions, or sold, with the proceeds derived from the sale
 365 deposited into the Marine Resources Conservation Trust Fund to
 366 be used for law enforcement purposes, ~~or into the commission's~~
 367 ~~Federal Law Enforcement Trust Fund as provided in s. 372.107, as~~
 368 applicable.

369 (5) CONFISCATION AND SALE OF PERISHABLE SALTWATER
 370 PRODUCTS; PROCEDURE.--

371 (c) In the event of acquittal, the proceeds of a sale or
 372 the bond or cash deposit required by this subsection shall be
 373 returned to the defendant. In the event of a conviction, the
 374 proceeds of a sale or the bond or cash deposit required by this
 375 subsection shall be deposited into the Marine Resources
 376 Conservation Trust Fund to be used for law enforcement purposes
 377 ~~or into the commission's Federal Law Enforcement Trust Fund as~~
 378 ~~provided in s. 372.107, as applicable.~~ Such deposit into the
 379 Marine Resources Conservation Trust Fund ~~or the Federal Law~~
 380 ~~Enforcement Trust Fund~~ shall constitute confiscation.

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

383 372.9901 Seizure of illegal hunting devices; disposition;
 384 notice; forfeiture.--In order to protect the state's wildlife
 385 resources, any vehicle, vessel, animal, gun, light, or other
 386 hunting device used or attempted to be used in connection with,
 387 as an instrumentality of, or in aiding and abetting in the
 388 commission of an offense prohibited by s. 372.99 is subject to
 389 seizure and forfeiture. The provisions of chapter 932 do not
 390 apply to any seizure or forfeiture under this section. For

391 purposes of this section, a conviction is any disposition other
 392 than acquittal or dismissal.

393 (5) All amounts received from the sale or other
 394 disposition of the property shall be paid into the State Game
 395 Trust Fund ~~or into the commission's Federal Law Enforcement~~
 396 ~~Trust Fund as provided in s. 372.107, as applicable.~~ If the
 397 property is not sold or converted, it shall be delivered to the
 398 executive director of the commission.

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

401 372.9904 Seizure of illegal transportation devices;
 402 disposition; appraisal; forfeiture.--

403 (3) Upon conviction of the violator, the property, if
 404 owned by the person convicted, shall be forfeited to the state
 405 under the procedure set forth in ss. 370.061 and 370.07, when
 406 not inconsistent with this section. All amounts received from
 407 the sale or other disposition of the property shall be paid into
 408 the State Game Trust Fund ~~or into the commission's Federal Law~~
 409 ~~Enforcement Trust Fund as provided in s. 372.107, as applicable.~~
 410 If the property is not sold or converted, it shall be delivered
 411 to the director of the Fish and Wildlife Conservation
 412 Commission.

413 Section 10. Paragraph (e) of subsection (6) of section
 414 932.7055, Florida Statutes, is amended to read:

415 932.7055 Disposition of liens and forfeited property.--

416 (6) If the seizing agency is a state agency, all remaining
 417 proceeds shall be deposited into the General Revenue Fund.
 418 However, if the seizing agency is:

419 (e) The Fish and Wildlife Conservation Commission, the
420 proceeds accrued pursuant to the provisions of the Florida
421 Contraband Forfeiture Act shall be deposited into the State Game
422 Trust Fund as provided in ss. 372.73, 372.9901, and 372.9904,
423 into the Marine Resources Conservation Trust Fund as provided in
424 s. 370.061, ~~or into the commission's Federal Law Enforcement~~
425 ~~Trust Fund as provided in s. 372.107, as applicable.~~

426 Section 11. Sections 327.803 and 372.107, Florida
427 Statutes, are repealed.

428 Section 12. This act shall take effect October 1, 2008.