

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1423

Fish and Wildlife Conservation Commission

SPONSOR(S): Troutman

TIED BILLS:

IDEN./SIM. BILLS:

| | REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|----|---|-----------|----------|----------------|
| 1) | Agriculture & Natural Resources Policy Committee | 16 Y, 2 N | Deslatte | Reese |
| 2) | General Government Policy Council | | | |
| 3) | Finance & Tax Council | | | |
| 4) | Full Appropriations Council on General Government & Health Care | | | |
| 5) | | | | |

SUMMARY ANALYSIS

The bill amends numerous statutes relating to various programs under the Florida Fish and Wildlife Conservation Commission’s (FWC/Commission) authority. The bill:

- Increases vehicle license fees for vehicles previously registered outside of Florida;
- Increases fees for the Conserve Wildlife and Save the Manatee specialty license plates;
- Lowers blood alcohol level thresholds for enhanced penalties for boating under the influence;
- Eventually requires all boat operators to take an education course through a phased in process;
- Makes numerous changes to statutes governing uniform waterway markers;
- Revises statutes governing FWC and local government designation of boating restricted areas;
- Changes from under 6 to under 10 years of age the current requirement to wear a personal flotation device;
- Revises statutes governing local regulations and limitations relating to boating activities;
- Establishes requirements for the carriage of fuel on vessels and establishes penalties for violations;
- Clarifies current statutes relating certificates of boat titles;
- Revises statutes governing the confiscation and disposition of evidence in saltwater fish, freshwater fish, and wildlife cases;
- Repeals Florida’s shoreline saltwater fishing license exemption;
- Revises the time period for when spiny lobster trap certificates are considered abandoned;
- Updates regulations governing alligator trapping and farming agents to reflect current conditions;
- Directs FWC to implement one to five pilot projects for regulating the anchoring or mooring of non-live-aboard vessels outside the marked boundaries of public mooring fields.

The bill has a significant overall positive fiscal impact on the state. The bill generates revenue by: increasing vehicle license fees for vehicles previously registered outside of Florida; increasing fees for two specialty license plates; and requiring residents to possess a saltwater fishing license if they fish from Florida’s saltwater shoreline or from a structure fixed to the land. The bill should reduce expenditures associated with transporting, securing, and managing evidence. The additional revenue will offset the expenditures FWC expects for fewer spiny lobster trap licenses, the increase in identification cards for boating, and decreased alligator trapping and farming agent license sales. The bill could reduce revenues to county tax collectors for alligator trapping and farming agent license sales. Significant fiscal impacts to the private sector include the repeal of the current saltwater license shoreline exemption. Residents who recreationally saltwater fish from the shoreline or from a fixed structure will be required to purchase a saltwater fishing license, unless they qualify for another exemption. The new exemption for persons eligible for Medicaid, food stamps, and temporary cash assistance eliminates the impact for these low-income individuals. See Fiscal Section of analysis for details.

The bill has an effective date of July 1, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Vehicle License Fees

Current Situation

Currently, the Department of Highway Safety and Motor Vehicles (DHSMV) charges \$28 for each original title issued for vehicles previously registered outside of Florida. Four dollars of this fee is directed to the FWC's Non-Game Wildlife Trust Fund (NGWTF).

The NGWTF supports wildlife management, conservation, and research. FWC focuses these funds on species such as birds, reptiles, amphibians, and land mammals and their habitats. The trust fund supports FWC's efforts to conserve and manage non-game (not hunted or fished) species with an emphasis on imperiled species

Appropriations from the NGWTF currently support 10 studies to acquire information necessary for the management and conservation of non-game wildlife. The studies include work on bears, shore birds, beach mice, and several threatened and declining bird species. However, staff has identified over 375 studies that should be conducted to support conservation and management of Florida's most vulnerable species. Current funding falls far short of the amount needed to address these species.

Effect of Proposed Changes

The bill amends s. 319.32, F.S., increasing the NGWTF portion of the vehicle title fee to \$10, thereby increasing revenues to the NGWTF to stabilize the trust fund and prevent the agency from making permanent, significant reductions in services to the citizens of Florida. The increased fee would allow the agency to continue species conservation activities including bear management, environmental commenting, and development and implementation of non-regulatory incentive-based programs for landowners and developers. The agency would also continue to provide regulatory consistency through a streamlined permitting program, as well as provide technical assistance relating to wildlife to the inquiring public, landowners, non-governmental organizations, and the regulated community. Lastly, the agency would be able to continue conducting research, and awarding research grants.

The fee increase becomes effective July 1, 2009, to coincide with the new fiscal year.

Specialty License Plates

Current Situation

Since 2000, proceeds from sales of the *Conserve Wildlife* specialty vehicle tag have benefitted the FWC. The funds are directed to the Wildlife Foundation of Florida, Inc. (Foundation) a citizen support organization for FWC created under s. 379.223 F.S. The Foundation, in turn, makes these funds available as grants to the FWC for projects to benefit non-game wildlife programs. Since 2000, Conserve Wildlife grants have provided approximately \$2.945 million for 83 projects. Projects have benefitted species such as the Florida black bear, burrowing owl, and red-cockaded woodpecker. Nearly all divisions of the FWC have received assistance from Conserve Wildlife Tag (CWT) grants.

In 2008, there were 53,452 *Save the Manatee* specialty license plates renewed and 12,608 new plates issued - 66,060 total plates. In January 2009, the manatee plate was the sixth most popular specialty plate in Florida. Sale of these plates generated \$1,232,564 in FY 07-08. The funds were used by the FWC for manatee research, protection and conservation activities.

Manatee protection in Florida began in 1893 when a state law (Chapter 4208.94) prohibiting the hunting of manatees was established. The federal Endangered Species Preservation Act of 1966 (P.L. 89-669; 80 Stat. 926) first listed manatees as an endangered species. Further federal protection was implemented under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

The Save the Manatee Trust Fund (not affiliated with the Save the Manatee Club) receives funds from a portion of boat registrations and from the sale of manatee specialty license plates and manatee decals, and other voluntary donations. The trust fund has funded much of the manatee research efforts and management activities carried out by the program. The manatee data collected by the Fish and Wildlife Research Institute (FWRI) and others research groups is the foundation of information used to support management actions undertaken by FWC's Division of Habitat and Species Conservation. Initial efforts focused on gathering data about local manatee abundance, distribution, and movement patterns, and on understanding the various risk factors present throughout the state by recovering carcasses and determining causes of death. More recently, managers have requested that researchers assist with analysis of manatee/human interactions, the effectiveness of past management actions, and population dynamics (including analysis of the effects of the various risk factors). Thus, over the years, the program has grown from one that collected basic manatee data to one that analyzes complex interactions between manatees and their environment.

Effect of Proposed Changes

The bill increases the Conserve Wildlife license plate fee from \$15 to \$20 and the Save the Manatee license plate fee from \$20 to \$25. The additional revenue from each plate goes towards funding high priority wildlife conservation and research projects as well as maintaining and implementing manatee programs.

Boating Under the Influence

Current Situation

Section 327.35, F.S., prohibits the offense of boating under the influence (BUI) and has the same elements (other than the substitution of the word "vessel" for "vehicle") as the offense of driving under the influence. The fine and imprisonment provisions in the BUI statute are identical to those in the DUI statute; however BUI penalties do not include suspension of a driver's license. In the past, as DUI sections of law were changed during a legislative session, BUI provisions were also amended to ensure that the sections of law remained consistent. Changes were made to DUI statutes during the 2008 Legislative Session, some of which create disparity between BUI and DUI statutes. The specific changes include:

- Section 316.193, F.S., lowered the Blood Alcohol Level (BAL) for purposes of triggering DUI enhanced penalties from 0.20 or more to 0.15 or more. According to the Department of

Transportation (DOT), this change was needed to facilitate continued receipt of federal safety grant funds (approximately \$5 million received last year) under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). This section was also changed to delete an obsolete provision and allow the court to require the use of an approved ignition interlock device for a period of not less than 6 continuous months for a first DUI offense and for not less than 2 continuous years for a second offense.

- Section 316.656(2)(a), F.S., modified the threshold for enhanced penalties for DUI from 0.20 percent or more to 0.15 percent or more. Specifically, this section provides that a trial judge may not accept a guilty plea to a lesser offense from a person who has been given a breath or blood test to determine levels of alcohol content, the results of which show a blood or breath alcohol content by weight of 0.15 percent or more. According to the DOT, this change was needed to facilitate continued receipt of federal safety grant funds under SAFETEA-LU¹.

Effect of proposed Changes

The bill lowers the threshold for enhanced penalties when charged with a BUI, from a BAL of 0.20 or more to 0.15 or more. This change makes the threshold for BUI the same as for DUI.

Boating Safety Identification Cards

Current Situation

Section 327.395, F.S., requires persons 21 years of age and younger to carry proof of completion of a boating safety course when operating boats with 10 horsepower or more. Exemptions are authorized for anyone who is:

- Licensed by the U. S. Coast Guard as a master of a vessel;
- Operating a vessel on a private lake or pond;
- Accompanied by a person who is exempt or who holds an identification card, is 18 years of age or older, is attendant to the operation of the vessel, and is responsible for any violation that occurs during the operation of the vessel;
- A non-resident who has proof of completing a National Association of State Boating Law Administrators (NASBLA)-approved boating safety education course in another state; or
- Exempted by Commission rule.

Since its enactment in 1996, the number of operators within the affected age group (21 years of age and younger) involved in reportable boating accidents has declined from greater than 21% in 1995 to 14% in 2007. While this decrease provides some evidence of the effectiveness of boating safety education, 83% of Florida's boating accidents reported in 2007 involved operators who were 22 and older. Almost two-thirds (60%) were 36 and older, which makes this age group a critical target audience for basic boating safety education. The 21 year age cap of Florida's current law is unlikely to extend basic boating safety education to a broad segment of the target audience. Examples include those who begin operating a boat after the age of 21 and those exempt from this requirement, such as a child operating a boat with a parent or guardian. Both the U. S. Coast Guard and other states have released information or reports that show a correlation between increased boating safety education and lower accident and fatality rates, especially among older operator age groups.

The Florida Boating Advisory Council (Council) has been an advocate for legislation requiring boat operators of all ages to take an education course through a 3 to 5-year phase-in process. The Council is composed of 18 individuals representing a wide variety of boating interests who are tasked with providing advice to the Commission on issues relating to boating in Florida. The appointees represent the boating public, marine industry, water-related environmental groups, the dive industry, canoe/kayak interests, manatee protection, marine manufacturers, commercial vessel owners/operators, commercial fishing/shellfishing industry, with additional members from the Florida House of Representatives, the Florida Senate, the Department of Environmental Protection, the U. S. Coast Guard Auxiliary, the U. S. Power Squadrons, and the Florida Inland Navigation Districts.

¹ 2009 FWC analysis

Effect of Proposed Changes

The bill amends s. 327.395, F.S., to apply the section to any person who has not attained 22 years of age. The bill requires anyone operating a boat with 10 horsepower or more (except those specifically exempted) to take an approved boating safety course and obtain a Florida Boating Safety Education Identification Card on an age-based phase-in as follows:

- Effective January 1, 2010, the section applies to any person who has not attained 26 years of age.
- Effective January 1, 2011, the section applies to any person who has not attained 31 years of age.
- Effective January 1, 2012, the section applies to any person who has not attained 36 years of age.
- Effective January 1, 2013, the section applies to any person who has not attained 41 years of age.
- Effective January 1, 2014, the section applies to any person who has not attained 46 years of age.
- Effective January 1, 2015, the section applies to any person who has not attained 51 years of age.
- Effective January 1, 2016, the section applies to any person who has not attained 56 years of age.
- Effective January 1, 2017, the section applies to any person who has not attained 61 years of age.
- Effective January 1, 2018, the section applies to any person who has not attained 66 years of age.
- Effective January 1, 2019, the section applies to every person.

Exemptions to the boater safety education card requirement are expanded to include anyone operating a vessel within 90 days after the purchase of that vessel who has available for inspection aboard that vessel a bill of sale meeting the requirements of s. 328.46(1), F.S. Also exempted from the \$2 fee are governmental employees required to take the course as a condition of employment.

Uniform Waterway Markers

Current Situation

There is much confusion for local government entities when applying for permits to post uniform waterway markers. Local governments do not know what can and cannot be marked as boating restricted areas and for what reasons under current law (s. 327.40, F.S.); what locations can be marked as boating restricted areas; who has the authority to mark restricted areas and from whom do they get a permit; and how boating restricted areas may be marked under the law.

According to FWC, current law inadvertently requires signs that were never considered waterway markers to conform to the U.S. Aids to Navigation System and FWC rules. Examples include “no swimming” signs, public health notices, trash receptacles, “end of boat ramp” signs, emergency notices, and similar signs.

Section 327.41(2), F.S., directs local governments to apply to the Commission for permission to place uniform waterway markers within a boating restricted area.

Section 327.42, F.S., only allows someone to moor or fasten a vessel to a lawfully placed government marker for emergency reasons but not for repairs. Furthermore, no person shall willfully damage, alter, or move a lawfully placed marker.

Effect of Proposed Changes

The bill clarifies existing language to assist permit applicants (local governments) with the what, where, who, and how regarding uniform waterway markers. The bill also eliminates permitting requirements

for non-regulatory signs never intended to be permitted because they are never considered uniform waterway markers.

The bill conforms language to use the term “uniform waterway marker” and expands the prohibition against tying to a marker from governmentally placed markers to all lawfully permitted and placed markers. Tying to markers will remain lawful in emergency situations. The bill also allows a person to tie a vessel to a marker with the written consent of the marker’s owner.

Boating-restricted Areas

Current Situation

Section 327.46, F.S., grants the commission authority to establish boating-restricted areas by rule. It also requires the commission to develop these areas in consultation with the applicable local government governing body, the U.S. Coast Guard, and the United States Army Corps of Engineers. It does not provide any guidance to local governments on this issue nor does it incorporate recent District Court of Appeal (DCA) direction to the commission that local governments creating boating-restricted area ordinances need to be approved by the commission².

Effect of Proposed Changes

The bill amends s. 327.46, F.S., clarifying the criteria needed to create boating-restricted areas for both the commission and local governments. The bill incorporates the recent DCA ruling providing that ordinances created by local governments cannot take effect until approved by the commission. It also requires the commission to establish, by rule, the criteria substantially similar to rule 68D-23.105, F.A.C., for such approval, pursuant to chapter 120, F.S.

Restrictions in a boating-restricted area, pursuant to this section, shall not apply in the case of an emergency or to a law enforcement, firefighting, or rescue vessel owned or operated by a governmental entity.

The bill provides that noncriminal violations committed within legally established boating-restricted areas that are properly marked may be enforced by a uniform boating citation mailed to the registered owner of the vessel.

Citations issued to livery vessels shall be the responsibility of the lessee of the vessel if the livery has included a warning of this responsibility as a part of the rental agreement and has provided to the agency issuing the citation the name, address, and date of birth of the lessee when requested by that agency. The livery is not responsible for the payment of citations if the livery provides the required warning and lessee information. This provision does not prohibit a law enforcement officer from issuing a citation for a violation of this section in accordance with normal boating enforcement techniques.

Personal Flotation Devices

Current Situation

Currently, federal law and state statutes have different ages for persons required to wear a personal flotation device. Florida law provides a requirement for children under 6 years of age to wear an approved life jacket while on vessels, recreational and commercial, less than 26 feet in length. Section 327.50(1)(b), F.S., states:

(b) No person shall operate a vessel less than 26 feet in length on the waters of this state unless every person under 6 years of age on board the vessel is wearing a type I, type II, or type III Coast Guard approved personal flotation device while such vessel is underway. For the purpose of this section, “underway” shall mean at all times except when a vessel is anchored, moored, made fast to the shore, or aground.

² *Collier County Bd. of County Comm'rs v. Fish and Wildlife Conservation Comm'n*, 993 So.2d 69 (Fla. 2d DCA 2008).

Current Federal law addressing this issue is found in Section 175.15 of Title 33, CFR, and reads as follows:

- c) No person may operate a recreational vessel underway with any child under 13 years old aboard unless each such child is either—*
- (1) Wearing an appropriate PFD approved by the Coast Guard; or*
 - (2) Below decks or in an enclosed cabin.*

The National Transportation Safety Board (NTSB) solicited a professional recommendation from the American Association of Pediatrics, the National Association of State Boating Law Administrators, and the U.S. Coast Guard on the appropriate age for mandatory wear of life jackets by children. Research showed that children under 13 have an inability to put a life jacket on while in the water. Since 1993, the NTSB has been recommending that the states adopt a regulation for mandatory life jacket wear for children under 13 years of age to improve their safety while boating.

Effect of Proposed Changes

The bill provides that any person operating a vessel less than 26 feet in length with children who are under the age of 10 is required to have said children in a personal flotation device (approved by the Coast Guard) while the boat is underway and the children are either above decks or outside an enclosed cabin.

Local regulations and limitations relating to boating activities

Current Situation

Section 327.60, F.S., provides that local governmental authorities shall not be prohibited from the enactment or enforcement of regulations that prohibit or restrict the mooring or anchoring of floating structures or live-aboard vessels within their jurisdictions. However, local governmental authorities are prohibited from regulating the anchoring outside of such mooring fields of non-live-aboard vessels in navigation.

Effect of Proposed Changes

The bill provides that nothing in chapter 328, F.S., shall be construed to prevent the adoption of any ordinance or local regulation relating to the operation of vessels (but not equipment as in current law), except that no county or municipality shall enact, continue in effect, or enforce any ordinance or local regulation:

- Imposing manufacturing safety or performance standards or regulating the carrying or use of marine safety articles;
- Regulating the design, manufacture, installation, or use of any marine sanitation device on any vessel
- Regulating any vessel upon the Florida Intracoastal Waterway
- Discriminating against personal watercraft
- Discriminating against airboats, for ordinances adopted after July 1, 2006, unless adopted by a two-thirds vote of the governing body enacting such ordinance.
- Regulating the anchoring of non-live-aboard vessels outside of the marked boundaries of mooring fields permitted as provided in s. 327.40, F.S.
- Regulating engine or exhaust noise, except as provided in s. 327.65, F.S.
- That is in conflict with this chapter or any amendments thereto or rules thereunder.

The bill also removes cross-references.

Carriage of fuel on vessels

Current Situation

Currently, s. 318.80, F.S., provides that it is unlawful for any person to maintain, or possess any conveyance or vehicle that is equipped with fuel tanks, bladders, drums, or other containers that do not conform to federal regulations, 49 C.F.R., or have not been approved by the United States Department of Transportation for the purpose of hauling, transporting, or conveying motor or diesel fuel over any

public highway. Any person who violates any provision of this law commits a felony of the third degree. In addition, such persons are subject to the revocation of driver license privileges as provided in s. 322.26, F.S.

Section 330.40, F.S., provides that in the interests of the public welfare, it is unlawful for any person, firm, corporation, or association to install, maintain, or possess any aircraft that has been equipped with, or had installed in its wings or fuselage, fuel tanks, bladders, drums, or other containers that will hold fuel if such fuel tanks, bladders, drums, or other containers do not conform to federal aviation regulations or have not been approved by the Federal Aviation Administration by inspection or special permit. This provision also includes any pipes, hoses, or auxiliary pumps that, when present in the aircraft, could be used to introduce fuel into the primary fuel system of the aircraft from such tanks, bladders, drums, or containers. Any person who violates any provision of this section is guilty of a felony of the third degree.

There is no statute applicable to boats/vessels in state waters.

Effect of Proposed Changes

The bill creates s. 327.66, F.S. It prohibits a person from:

- Possessing or operating any vessel that has been equipped with fuel tanks, bladders, drums, or other containers designed or intended to hold fuel, or installing or maintaining such containers in a vessel, if such containers do not conform to federal regulations or have not been approved by the U.S. Coast Guard by inspection or special permit.
- Transporting any fuel in an approved portable container when the container is in a compartment that is not ventilated in strict compliance with U.S. Coast Guard regulations pertaining to ventilation of compartments containing fuel tanks.

A violation of the above will result in a felony of the third degree, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.

Fuel possessed or transported in violation of this section and all containers holding such fuel are declared to be a public nuisance. A law enforcement agency discovering fuel possessed or transported in violation of the new prohibitions shall abate the nuisance by removing the fuel and containers from the vessel and from the waters of this state. A law enforcement agency that removes fuel or containers may elect to:

- Retain the property for the agency's own use;
- Transfer the property to another unit of state or local government;
- Donate the property to a charitable organization; or
- Sell the property at public sale pursuant to s. 705.103, F.S.

A law enforcement agency that seizes fuel or containers pursuant to this law shall remove and reclaim, recycle, or otherwise dispose of the fuel as soon as practicable in a safe and proper manner.

All conveyances, vessels, vehicles, and other equipment described in violation of the new section or used in the commission of a violation of the new provision, other than fuel or containers removed as provided above, are declared to be contraband.

Upon conviction of a person arrested for a violation, the judge shall issue an order adjudging and ordering that all conveyances, vessels, vehicles, and other equipment used in the violation to be forfeited to the arresting agency. The bill declares the requirement for a conviction before forfeiture of property establishes to the exclusion of any reasonable doubt that the property was used in connection with the violation resulting in the conviction, and the procedures of chapter 932, F.S., do not apply to any forfeiture of property under this subsection following a conviction. In the absence of an arrest or conviction, any such conveyance, vessel, vehicle, or other equipment shall be subject to seizure and forfeiture as provided by the Florida Contraband Forfeiture Act. The bill defines "conviction" to mean a finding of guilt or the acceptance of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld or whether imposition of sentence is withheld, deferred, or suspended.

The bill provides that costs incurred by the law enforcement agency in the removal of any fuel, fuel container, other equipment, or vessel shall be recoverable against the owner thereof. Any person who neglects or refuses to pay such amount shall not be issued a certificate of registration for such vessel or for any other vessel or motor vehicle until the costs have been paid.

Noncriminal infractions

The bill amends s. 327.73, F.S., providing that any violations relating to boating-restricted areas and speed limits must be established by the commission or by local governmental authorities pursuant to s. 327.46, F.S.

Certificate of title

Current Situation

Currently there is no uniformity in statutes relating to certificate of title, registration, numbering and the requirements that apply for vessels. Current statutes refer to vessels that may be "used on the waters of this state", "using the waters of this state", "operating on the waters of the state", "stored in the water", or "on the waters of this state."

Currently, statutes do not address the ability to cite an operator for no registration unless the person is operating the vessel. The registration number is a key tool for enforcement to determine ownership.

Effect of Proposed Changes

The bill makes applicable statutes consistent using the phrase "operate, use, or store". The bill also provides law enforcement the ability to better track owners of vessels stored on the waters of the state.

Confiscation and Disposition of Evidence in Saltwater Fish, Freshwater Fish, and Wildlife Cases

Current Situation

A forfeiture process for handling commercial harvested saltwater products is outlined in s. 379.337, F.S. A conviction is required before the saltwater products are disposed of, or the proceeds of the sale of the saltwater products can be disbursed. No such provision, however, exists for recreationally harvested saltwater fish that are deemed to be in violation of statute or rule.

Section 379.338, F.S., allows game and freshwater fish to "be forfeited and given to some hospital or charitable institution". It also provides for disposal of the game and freshwater fish "upon conviction of the offender or sooner if the court so orders." In most counties statewide, there is a standing administrative order with the courts authorizing the pre-conviction disposal of freshwater fish and game; but Florida law does not have such a provision for recreationally-caught saltwater fish.

In the majority of cases, illegally harvested saltwater fish that are seized are seldom presented as evidence at trial and become severely freezer burned and unwholesome after being stored in evidence freezers for an extensive amount of time. After the case is closed, the evidence is no longer useful to the court, charity, or the defendant and is disposed at a landfill.

Currently, fish and wildlife are being seized and stored at a faster rate than they are being removed from evidence by court order. A large number of local police and sheriff's departments that seize fish and wildlife do not have freezers to accommodate such evidence and use FWC freezers for storage. This adds to the volume and places an additional administrative burden on FWC staff to process additional evidence. These situations have required FWC to purchase and create space for more freezers. All evidence facilities must be in compliance with accreditation standards and expanding evidence facilities often requires the installation of fencing and other security measures, further increasing the cost to store evidence.

To complete the evidence process, an officer may be required to spend several hours away from patrol. Currently, the process begins from the initial seizure and ends when the officer returns from the

evidence storage facility. Officers are usually patrolling in remote areas and may drive an excess of fifty miles one way to a storage facility.

Effect of Proposed Changes

The bill allows recreationally harvested saltwater fish to be disposed of in the same manner as freshwater fish and game. It expands the authorizations for confiscation and disposition of game in law enforcement cases to include all wildlife cases, not just game. The disposition in such cases is specified to allow a law enforcement agency the option to donate confiscated evidence to charitable organizations, DNA labs, and research facilities, or use it as evidence for covert buy/sell operations and K9 training. Additionally, the law enforcement agency has the option to sell the evidence, if appropriate, or destroy the evidence if it were deemed unwholesome.

FWC identifies the local hospitals and charitable institutions that are interested in receiving fish and wildlife donations and develops a rotation process so that donations are divided equally.

All live fish and wildlife is to be documented and returned to the wild unharmed, or if an exotic, it is to be disposed of according to Commission rule.

The bill clarifies and specifies how evidence is to be photographed in order for the photograph to be introduced as evidence in court, rather than the actual fish or wildlife. The photograph is to have a written description of the fish or wildlife, the name of the violator, the location where the incident occurred, the name of the investigating officer, the date the photograph was taken, and the name of the photographer. This writing must be made under oath by the investigating officer, and the photograph must be identified by the signature of the photographer.

Recreational licenses and permits

Current Situation

The 2006 Congressional reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act created a registry program for recreational fishermen fishing in federal waters and those fishing for anadromous species (spawn in freshwater, live in saltwater). The program was mandated to assist in data collection with statistical surveys and evaluating the effects of proposed conservation and management measures. Congress directed the Department of Commerce to complete the registry program and implement an improved statistical survey not later than January 1, 2009, and authorized a fee to be charged not before January 1, 2011. The legislation allows for an exemption from federal licensing in states that have a system to provide complete information on their saltwater anglers to the national registry.

The Department of Commerce, through the National Oceanic and Atmospheric Administration (NOAA) released the final rule creating the required national saltwater registry on December 23, 2008. Under the final rule, effective January 1, 2010, saltwater recreational anglers and spearfishers who are not individually exempt from the registry requirement or licensed or registered by a state that has been exempted will be required to register with NOAA to fish in federal waters and in tidal waters for migratory fish such as striped bass and salmon that spawn in rivers and spend their adult lives in estuaries and oceans. At the request of several states, the final rule delayed the registration requirement for a year to allow the states additional time to consider strategies for gathering and sharing the information required by the national registry.

Beginning January 2009, NOAA will exempt from the federal registration rule states that have a system in place to provide complete information on their saltwater anglers to the national registry. To be designated as exempted, a state must:

- Submit state angler and for-hire vessel license holder data to the National Marine Fisheries Service (NMFS) for inclusion in a national or regional registry database; or
- Participate in regional surveys of recreational catch and effort and make the data from those surveys available to NMFS.

Under the final rule, unless a state can demonstrate that a given category of anglers is so small it has no significant probability of biasing estimates of fishing effort if excluded from samples, a state may not be designated as an exempted state through its licensing program if it excludes anglers that meet several conditions, including:

- Fishing from privately owned land;
- Fishing on a public pier;
- Fishing from shore.

Florida resident anglers fishing from the saltwater shoreline or from a structure fixed to the land have been exempt from the requirement to purchase a saltwater fishing license since the inception of the licensure requirement in 1989. In addition, Florida residents fishing for a saltwater species in fresh water from land or from a structure fixed to land are exempt. According to the FWC, survey data indicate that approximately 71% of resident shoreline anglers do not possess a license. The FWC estimates that between 210,000 and 338,000 resident anglers would be required to buy a license if the shoreline exemption were repealed.

According to officials with the NMFS and the Florida FWC, Florida's shoreline exemption would prohibit its license system from being designated as exempted.

Under the final national saltwater angler registry rule, the alternative exemption option of participating in a regional survey of recreational catch and effort and making the data from the survey available to NMFS does not appear to be available to Florida. For a regional survey to qualify under the final rule, it must include all the states within the regions designated in the rule. Florida is included in two regions:

- The Atlantic coast, which includes Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, and the Atlantic coast of Florida; and
- The Gulf of Mexico coast, which includes the Gulf coast of Florida, Alabama, Mississippi, Louisiana, and Texas.

All the other states in the Gulf of Mexico region have licensing programs that will establish their exempt status, as do several states in the Atlantic Coast region. These states will have no incentive to go to the added expense of developing and participating in an alternative regional survey.

Effect of Proposed Changes

The bill requires all Florida residents to possess a saltwater fishing license if fishing from Florida's saltwater shoreline or from a structure fixed to the land. An exemption is authorized for residents who have been determined eligible for the food stamp, temporary cash assistance, or Medicaid programs administered by the Department of Children and Family Services or the Medicaid program administered by the Social Security Administration. A benefit issuance or program identification card issued by the Department of Children and Family Services or the Agency for Health Care Administration shall serve as proof of program eligibility. The individual must have the benefit issuance or program identification card and positive proof of identification in his or her possession when fishing. In addition, resident shoreline anglers are not required to have a license if they are otherwise exempted (65 years or older, younger than 16, etc.).

Spiny Lobster Trap Certificate Program

Current Situation

In 1992, the Legislature created the Lobster Trap Certificate Program in response to concerns about the rapid growth of the lobster trap fishery, which had resulted in increased congestion and conflict on the water, excessive mortality of undersized lobsters, a declining yield per trap, and public concern over petroleum and debris pollution from existing traps. The goal of this program was to solve these and related problems by reducing the number of traps while stabilizing the fishery.

The Lobster Trap Certificate Program controls the number of traps in the lobster fishery using trap

certificates that are issued to individual lobster fishers by the FWC. Fishers may fish one lobster trap for each certificate they own. A tag comes with every certificate and is required to be attached to the respective trap. There is an annual \$1 fee per certificate. Fishery-wide, the average number of certificates held by lobster trappers is approximately 700. A recently conducted socio-economic analysis of the spiny lobster trap fishery revealed that most full-time lobster trappers typically own approximately 1,000 certificates or more.

In 2005, the Division of Marine Fisheries Management staff assembled an *ad hoc* Spiny Lobster Advisory Board (Board). This Board was composed of stakeholders in the spiny lobster fishery, including recreational and commercial lobster harvesters, a wholesale seafood dealer, an FWC representative, a member of a non-governmental organization, and a staff member from the Florida Keys National Marine Sanctuary. The Board was assembled to assist FWC staff with its comprehensive evaluation of Florida's spiny lobster fishery management strategy. The Board met nine times at publically-noticed meetings in the Florida Keys from July 2005 through May 2007. At the May 2007 meeting, the Board finalized several recommendations to the FWC on ways to improve the management of the spiny lobster fishery. One such recommendation was to reduce the legislatively-defined time that unpaid lobster trap certificates are considered to be abandoned and revert to the FWC. The Board recommended that this time period be reduced from three to two years.

Effect of Proposed Changes

The bill provides that prior to the 2010-2011 license year, any certificates for which the annual certificate fee is not paid for a period of 3 years shall be considered abandoned and shall revert to the commission. Beginning with the 2010-2011 license year, any certificate for which the annual certificate fee is not paid for a period of 2 consecutive years shall be considered abandoned and shall revert to the commission.

Alligator Trapping and Farming Agents

Current Situation

Section 379.3751, F.S., was enacted in 1987 as part of a suite of alligator management statutes to address the then Game and Freshwater Fish Commission's new alligator harvest program. The licensing statute was enacted to ensure there would be no long-term negative impacts on the alligator resource and to prohibit persons who had been illegally exploiting the resource from participating in the industry. The statute provides the framework for the current FWC to charge for and issue alligator farming, alligator farming agent, alligator trapping, alligator trapping agent, and alligator processing licenses. It also details the types of activities authorized for each of these licenses relative to taking alligators and alligator eggs, provides prohibitions on who cannot be issued these licenses, provides the framework for the Commission to charge for alligator egg collection permits, and requires a portion of these fees to be transferred to the Department of Agriculture and Consumer Services for alligator marketing and education activities.

Currently, there are approximately 50 licensed alligator farmers. The alligator farming license costs \$250, regardless of residency. The license is required for raising and propagating alligators in captivity for the sale of the alligators' hides and meat. On average, 25,000 alligators are slaughtered each year for this purpose. Persons assisting alligator farmers must be in possession of an alligator farming agent license, which costs \$50 regardless of residency.

Alligator trappers desiring to engage in the harvesting of alligators must purchase an alligator trapping license at a cost \$250 for residents or \$1,000 for non-residents. This license is a prerequisite for participating in any one of three harvest programs established by the Commission:

- Statewide Alligator Harvests - these harvests are recreational in nature and provide more than 4,800 hunting opportunities to the general public.
- Private Lands Alligator Harvests - these harvests are commercial in nature and are designed to return some of the economic value of the alligator resource back to the landowner as an incentive for the landowner to maintain wetland habitats.

- Nuisance Alligator Harvests - these harvests are for public safety, but provide monetary returns to contracted trappers through the sale of the hides and meat, and a state-funded stipend, to compensate the trappers for expenses incurred.

Persons assisting alligator trappers must be in possession of an alligator trapping agent license, which costs \$50 regardless of residency.

Under the current statute, alligator trapping and farming agents are bound to an individual trapper or farmer; so individuals wishing to be an agent for multiple trappers or farmers must purchase multiple agent licenses. The original intent was to ensure that every agent could be traced back to a permitted trapper or farmer. This trace-ability is no longer necessary. The agent's license provides adequate identification information.

The current statute does not provide for trapping and farming agents to possess, process, and sell hides and meat, which is a normal, common business practice. These privileges are authorized for alligator trappers and farmers, although the statutory language for alligator farmers is confusing. These privileges were originally excluded for agents to ensure that all business transactions were tied only to a permitted trapper or farmer to allow for greater oversight. Given the changes in the alligator industry since 1987, there is no longer a need to restrict these business opportunities to this degree.³

Effect of Proposed Changes

The bill amends s. 379.3751, F.S., by:

- Eliminating the requirement that all farming and trapping agent licenses be issued under a specific alligator farming or alligator trapping license holder;
- Providing for alligator farming and alligator trapping agents to possess, process, and sell alligator hides and meat;
- Eliminating the prohibition on issuing alligator farming, alligator farming agent, alligator trapping, alligator trapping agent, and alligator processor licenses to persons who have been convicted of any violation of s. 379.3015 or s. 379.409, F.S., or Commission rules related to the illegal taking of crocodilian species;
- Clarifying language that allows alligator farmers to possess and process alligator hides and meat for sale.

Anchoring of Vessels

Current Situation

Currently, local governments are prohibited from regulating the anchoring of vessels (other than live-aboard vessels) outside of legally permitted mooring fields. The unregulated anchoring and mooring leads to various problems including:

- The accumulation of anchored vessels in inappropriate locations;
- Unattended vessels;
- Vessels with no anchor watch (dragging anchor, no lights, bilge);
- Vessels that are not properly maintained;
- Vessels ignored by owners that tend to become derelict;
- Confusion with the interpretation of statutes that provide jurisdictional guidance for local governments.

FWC staff met with interested stakeholders over a two-year period to try to find solutions to the unregulated anchoring. FWC Commissioners came up with two recommendations:

- Develop a model anchoring/mooring ordinance that local governments can adopt.
- Clarify State and local authority to regulate vessels. This addresses the issues of unregulated anchoring, waterway management, and local government authority and suggests cleanup

³ /D

language for some of the more confusing boating statutes. Examples of this approach include combining and clarifying s. 327.22, F.S., (regulation of vessels by municipalities or counties); s. 327.40, F.S., (uniform waterway markers for safety and navigation; informational markers); s. 327.41, F.S., (uniform waterway regulatory markers); s. 327.46, F.S., (restricted areas); s. 327.60, F.S., (local regulations; limitations); and rule 68D-22 (Uniform Waterway Markers in Florida Waters), Florida Administrative Code.

Effect of Proposed Changes

The bill directs the FWC, in consultation with the DEP, to establish a pilot program in at least one, but not more than five locations to explore potential options for regulating the anchoring or mooring of non-live-aboard vessels outside the marked boundaries of public mooring fields.

The goals of the pilot program are to encourage the establishment of additional public mooring fields and to develop and test policies and regulatory regimes that:

- Promote the establishment and use of public mooring fields;
- Promote public access to the waters of this state;
- Enhance navigational safety;
- Protect maritime infrastructure;
- Protect the marine environment;
- Deter improperly stored, abandoned, or derelict vessels.

Each location must be associated with a properly permitted mooring field. The FWC, in consultation with the DEP, must select all locations prior to July 1, 2011. If more than one is selected, the selections must be geographically diverse and take into consideration the various users and means of using the waters of this state.

Notwithstanding the provisions of s. 327.60, F.S., a county or municipality selected for participation in the program may regulate by ordinance the anchoring of vessels, other than live-aboard vessels as defined in s. 327.02, F.S., outside of a mooring field. Any ordinance enacted under the pilot program shall take effect and become enforceable only after the Commission's approval. The Commission shall not approve any ordinance not consistent with the goals of the pilot program.

The Commission shall:

- Provide consultation and technical assistance to each municipality or county selected for participation in the pilot program to facilitate accomplishment of the pilot program's goals;
- Coordinate the review of any proposed ordinance with the DEP, the Coast Guard; the Florida Inland Navigation District or the West Coast Inland Navigation District, as appropriate; and associations or other organizations representing vessel owners or operators;
- Monitor and evaluate at least annually each location selected for participation in the pilot program and make such modifications as may be necessary to accomplish the pilot program's goals.

The Commission must submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2014. The pilot program will expire on July 1, 2014, unless reenacted by the Legislature. All ordinances enacted under this section shall expire concurrently with the expiration of the pilot program and shall be inoperative and unenforceable thereafter.

Repealed statutes

The bill repeals s. 327.22, F.S., relating to regulation of vessels by municipalities and counties. Furthermore, effective July 1, 2009, subsection (7) of s. 379.366, F.S., which sunsets several provisions in statute relating to blue crab regulation, is repealed.

B. SECTION DIRECTORY:

Section 1. Amends s. 319.32, F.S., increasing the certificate of title fee for certain vehicles.

Section 2. Amends s. 320.08056, F.S., increasing the annual use fee for certain specialty license plates.

Section 3. Amends s. 327.35, F.S., revising penalties for boating under the influence of alcohol; revising the blood-alcohol level or breath-alcohol level at which certain penalties apply.

Section 4. Amends s. 327.36, F.S., revising a prohibition against accepting a plea to a lesser included offense from a person who is charged with certain offenses involving the operation of a vessel; revising the blood-alcohol level or breath-alcohol level at which the prohibition applies.

Section 5. Amends s. 327.395, F.S., providing a phase-in schedule whereby all boaters will be required to possess an identification card and a boater safety identification card issued by the FWC showing compliance with specified boating education requirements; providing exemptions; providing penalties.

Section 6. Amends s. 327.40, F.S., revising provisions for placement of navigation, safety, and informational markers of waterways; providing for uniform waterway markers; removing an exemption from permit requirements for certain markers placed by county, municipal, or other government entities.

Section 7. Amends s. 327.41, F.S., relating to placement of markers by a county or municipality; revising terminology; providing for a county or municipality that has adopted a boating-restricted area by ordinance under specified provisions to apply for permission to place regulatory markers.

Section 8. Amends s. 327.42, F.S., revising provisions prohibiting mooring to or damaging markers or buoys.

Section 9. Amends s. 327.46, F.S., revising provisions for establishment by the FWC of boating-restricted areas; providing for counties and municipalities to establish boating-restricted areas with approval of the commission; directing the commission to adopt rules for the approval; revising a prohibition against operating a vessel in a prohibited manner in a boating-restricted area; providing for enforcement by citation mailed to the owner of the vessel; specifying responsibility for citations issued to livery vessels; providing construction.

Section 10. Amends s. 327.50, F.S., revising requirements for persons on board a vessel to wear a personal floatation device; revising the age at which such device is required; providing exceptions.

Section 11. Amends s. 327.60, F.S., revising provisions limiting regulation by a county or municipality of the operation, equipment, and other matters relating to vessels operated upon the waters of this state; prohibiting certain county or municipality ordinances or regulations.

Section 12. Creates s. 327.66, F.S., prohibiting possessing or operating a vessel equipped with certain fuel containers or related equipment; prohibiting transporting fuel in a vessel except in compliance with certain federal regulations; providing penalties; declaring fuel transported in violation of such prohibitions to be a public nuisance and directing the enforcing agency to abate the nuisance; providing for disposal of the containers and fuel; declaring conveyances, vessels, vehicles, and equipment used in such violation to be contraband; providing for seizure of the contraband; defining the term "conviction" for specified purposes; providing for costs to remove fuel, containers, vessels, and equipment to be paid by the owner; providing that a person who fails to pay such cost shall not be issued a certificate of registration for a vessel or motor vehicle.

Section 13. Amends s. 327.73, F.S., revising provisions for citation of a noncriminal infraction to provide for violations relating to boating-restricted areas and speed limits; revising provisions relating to establishment of such limits by counties and municipalities.

Section 14. Amends s. 328.03, F.S., requiring vessels used or stored on the waters of this state to be titled by this state pursuant to specified provisions; providing exceptions.

Section 15. Amends s. 328.07, F.S., requiring certain vessels used or stored on the waters of this state to have affixed a hull identification number; providing that a vessel in violation may be seized and subject to forfeiture.

Section 16. Amends s. 328.40, F.S., clarifying a provision relating to certain vessel records maintained by the Department of Highway Safety and Motor Vehicles.

Section 17. Amends s. 328.46, F.S., requiring vessels operated, used, or stored on the waters of this state to be registered and display the registration number; providing exceptions.

Section 18. Amends s. 328.48, F.S., requiring vessels operated, used, or stored on the waters of this state to be registered and display the registration number; providing exceptions.

Section 19. Amends s. 328.56, F.S., requiring vessels operated, used, or stored on the waters of this state to be registered and display the registration number; providing exceptions.

Section 20. Amends s. 328.58, F.S., relating to reciprocity of nonresident or alien vessels; requiring the owner of a vessel with a valid registration from another state, a vessel with a valid registration from the United States Coast Guard in another state, or a federally documented vessel from another state to record the registration number with the Department of Highway Safety and Motor Vehicles when using or storing the vessel on the waters of this state in excess of the 90-day reciprocity period.

Section 21. Amends s. 328.60, F.S., providing an exception to registration requirements for military personnel using or storing on the waters of this state a vessel with a valid registration from another state, a vessel with a valid registration from the United States Coast Guard in another state, or a federally documented vessel from another state.

Section 22. Amends s. 328.65, F.S., revising legislative intent with respect to registration and numbering of vessels.

Section 23. Amends s. 328.66, F.S., authorizing a county to impose an annual registration fee on vessels used on the waters of this state within its jurisdiction.

Section 24. Amends s. 328.72, F.S., providing noncriminal penalties for use or storage of a previously registered vessel after the expiration of the registration period.

Section 25. Amends s. 379.304, F.S., revising cross-references for permitting and violation provisions relating to the exhibition or sale of wildlife.

Section 26. Amends s. 379.338, F.S., providing for confiscation and disposition of illegally taken wildlife, freshwater fish, and saltwater fish; providing for proceeds from sales to be deposited into the Marine Resources Conservation Trust Fund; providing for an agency that assists in the enforcement action to receive a portion or all of any forfeited property.

Section 27. Creates s. 379.3381, F.S., providing for photographs of wildlife, freshwater fish, and saltwater fish to be used as evidence in a prosecution in lieu of the wildlife, freshwater fish, or saltwater fish.

Section 28. Amends s. 379.353, F.S., revising eligibility criteria for exemption from certain recreational license and permit requirements.

Section 29. Amends s. 379.3671, F.S., revising provisions for abandonment and reversion of lobster trap certificates under specified conditions.

Section 30. Amends s. 379.3751, F.S., specifying activities relating to the taking and possession of alligators that require a license and payment of the applicable fee; deleting provisions relating to the issuance, form, and content of such licenses.

Section 31. Amends s. 379.3761, F.S., providing penalties for violations relating to the exhibition or sale of wildlife.

Section 32. Amends s. 379.3762, F.S., revising a cross-reference with respect to the penalties imposed for violations relating to the personal possession of wildlife.

Section 33. Amends s. 379.401, F.S., revising applicability of violation provisions relating to alligators and crocodiles; conforming references to wildlife.

Section 34. Amends s. 379.4015, F.S., specifying applicability of captive wildlife penalty provisions relating to the exhibition or sale of wildlife.

Section 35. Directing the commission, in consultation with the Department of Environmental Protection, to establish a pilot program to explore options for regulating anchoring or mooring of non-live-aboard vessels outside the marked boundaries of public mooring fields; providing goals and procedures; providing duties of the commission; requiring a report to the Governor and the Legislature; providing for expiration of the pilot program and any ordinance enacted thereunder.

Section 36. Repeals s. 327.22, F.S., relating to regulation of vessels by municipalities or counties.

Section 37. Repeals s. 379.366(7), F.S., to abrogate the expiration of provisions imposing blue crab endorsement program fees and penalties.

Section 38. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

| <u>FWC</u> | <u>2009-2010</u> |
|---|------------------|
| Alligator Trapping License Sales State Game Trust Fund | \$ (5,500) |
| Conserve Wildlife License Plate Fee Increase To Wildlife Foundation for grants | 236,000 |
| Lobster Trap Certificate Reversion Marine Resources Conservation Trust Fund | (3,500) |
| Manatee License Plate Fee Increase Save the Manatee Trust Fund | 303,000 |
| Shoreline Exemption Repeal Marine Resources Conservation Trust Fund | 1.7M – 2.5M |
| Vehicle Title Increase for Non-game Program Non-Game Wildlife Trust Fund | 2.5M – 3.2M |

2. Expenditures:

| | |
|--|----------|
| <u>Disposition of Evidence</u> Marine Resources Conservation Trust Fund | (40,000) |
|--|----------|

Boating Safety Identification Cards

FWC anticipates total expenditures to be at least \$370,000 annually until 2019, when all boaters will be required to have taken the course. There is a provision in current law for FWC to charge up to \$2 for each card, but FWC believes it currently has sufficient funding from boating safety violation fines to absorb additional costs.

Specialty License Plates

The Department of Highway Safety and Motor Vehicles will experience an unknown administrative cost to implement the fee increase. The fee structure for the license plates will need to be changed.

Anchoring of Vessels

Section 35 of the bill directs the FWC, in consultation with the DEP, to establish a pilot program in at least one, but not more than five, locations to explore potential options for regulating the anchoring or mooring of non-live-aboard vessels outside the marked boundaries of public mooring fields. The cost of establishing such a program is unknown.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Alligator Trapping and Farming Agents

Approximately 110 fewer agent licenses are expected to be sold, which would negatively impact some county tax collector's offices. The fiscal impact is expected to be negligible.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Boating Safety Identification Cards

FWC currently offers a home-study course with no attached fee and plans to expand the Internet course availability. There are several Internet course providers and associated fees range from free to \$29. There are also several private sector providers offering approved courses in a classroom setting, which averages about \$35 per student. There is also a grace period for those who show a bill of sale for the boat, and visiting boat operators are already exempted from Florida's boating safety education requirement provided they have proof of completing an approved course from another state. Those that have not completed a course in their state can pass a test and receive a certificate.

Specialty License Plates

Purchasing a specialty plate remains a voluntary choice made by a vehicle owner.

Confiscation and disposition of evidence in saltwater fish, freshwater fish, and wildlife cases

There is a standing administrative court order that allows for the donation of freshwater fish and game in most counties; however, this is not available for saltwater fish. The bill allows charities and non-profit organizations to receive donated saltwater fish to help defer costs.

Recreational licenses and permits

Florida residents who recreationally saltwater fishing from the shoreline or from a fixed structure will be required to purchase a saltwater fishing license, unless they qualify for another exemption. The new exemption for persons eligible for Medicaid, food stamps, and temporary cash assistance eliminates the impact for these low-income individuals.

Spiny Lobster Trap Certificate Program

According to the FWC analysis, the bill increases the number of lobster trap certificate owners who will have their certificates considered abandoned and revert back to FWC. Since 2002, on average 1,100 certificates annually (0.2% of total available certificates) were forfeited due to non-payment.

A large majority of the certificate owners affected by the proposal are likely not actively participating in the spiny lobster trap fishery, and are certainly not full-time commercial spiny lobster fishers.

Alligator Trapping and Farming Agents

Approximately 110 fewer agent licenses are anticipated to be sold, which would negatively impact online and walk-up license merchants. The fiscal impact is negligible.

D. FISCAL COMMENTS:

Confiscation and disposition of evidence in saltwater fish, freshwater fish, and wildlife cases

According to the FWC analysis, currently the transportation costs average \$44/case involving seizure. The average officer's time involved in transporting and checking in the evidence is approximately 2.5 hours at an average hourly officer rate of \$33.93/hour. The positive fiscal impact for FWC could exceed \$40,000 annually.

Recreational licenses and permits

FWC provided the following comments:

If the shoreline exemption were removed, it is estimated that 210,000 – 338,000 resident anglers would be required to buy a license. The 210,000 is the low end of the range of shore anglers that would need a license; 338,000 is the high end. A further estimate of the number of anglers that would actually purchase a license is provided below. This estimate is based on a 25% protest loss (those “protesting” the change and choosing not to fish), and a 27% simple noncompliance rate. Multiplying that number by the \$15.50 price of the license gives a range of \$1.7million - \$2.5 million the first year. This does not include projections of decreased protest loss and increased compliance in subsequent years. These calculations are all based on the 2006 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, the Federal Marine Recreational Fishing Statistics Survey and an independent angler survey conducted for FWC in 2005.

| | | |
|---|-------------|-------------|
| Shoreline anglers needing a license | 210,000 | 338,000 |
| # of new shoreline anglers who would purchase a license (at \$15.50) | 115,000 | 185,000 |
| Estimated revenue | \$1,782,500 | \$2,867,500 |

Spiny Lobster Trap Certificate Program

FWC anticipates that the bill will result in, at most, only a negligible decrease in revenue collected by the lobster trap certificate program, as those affected by the proposal would be lobster trap certificate holders not paying their annual certificate fees and may or may not eventually pay those fees.

Anchoring of Vessels

Section 328.56, F.S., only requires motorized vessels “used” on the waters of the state to be registered. Vessels are considered to be “used” if the vessel is being operated; it does not include vessels that are left anchored, moored or docked on the waters of the state. Therefore, those vessels are not required to be registered. The bill requires owners to maintain a current registration while the vessel is in state waters. It is common for owners to anchor or moor their boats in state waters year-round. The bill does not allow for a lapse in vessel registration status and requires the boat owner to register his/her boat annually if anchored or moored in state waters.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The bill gives the Commission rule-making authority to establish boating-restricted areas.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES