



626310

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/03/2009	.	
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The Committee on Environmental Preservation and Conservation
(Sobel) recommended the following:

Senate Amendment

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (d) of subsection (3) of section
403.121, Florida Statutes, is amended to read:

403.121 Enforcement; procedure; remedies.—The department
shall have the following judicial and administrative remedies
available to it for violations of this chapter, as specified in
s. 403.161(1).

(3) Except for violations involving hazardous wastes,



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12 asbestos, or underground injection, administrative penalties
13 must be calculated according to the following schedule:

14 (d) ~~For mangrove trimming or alteration violations,~~ The
15 department shall assess a penalty of \$5,000 per violation
16 against any person who violates any provision of ss. 403.9321-
17 403.9333 ~~the contractor or agent of the owner or tenant that~~
18 ~~conducts mangrove trimming or alteration without a permit as~~
19 ~~required by s. 403.9328.~~ For purposes of this paragraph, the
20 preparation or signing of a permit application by a person
21 currently licensed under chapter 471 to practice as a
22 professional engineer does shall not constitute a violation ~~make~~
23 ~~that person an agent of the owner or tenant.~~

24 Section 2. Subsection (3) of section 403.9323, Florida
25 Statutes, is amended to read:

26 403.9323 Legislative intent.—

27 (3) It is the intent of the Legislature to provide
28 waterfront property owners their riparian right of view, and
29 other rights of riparian property ownership as recognized by s.
30 253.141 and any other provision of law, by allowing mangrove
31 trimming in riparian mangrove fringes without prior government
32 approval when conducted in conformance with the provisions of
33 ss. 403.9321-403.9333 and the trimming ~~activities~~ will not
34 result in the removal, defoliation, or destruction of the
35 mangroves.

36 Section 3. Present subsections (1) through (6) of section
37 403.9324, Florida Statutes, are redesignated as subsections (2)
38 through (7), respectively, a new subsection (1) is added to that
39 section, and present subsections (1) and (4) of that section are
40 amended, to read:



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41 403.9324 Mangrove protection rule; delegation of mangrove
42 protection to local governments.-

43 (1) The department may adopt rules providing for exemptions
44 and general permits authorizing activities that have, singularly
45 or cumulatively, a minimal adverse effect on the water resources
46 of the state. This subsection does not grant the department the
47 authority to adopt rules for the exemptions and general permits
48 provided in ss. 403.9326 and 403.9327.

49 (2)~~(1)~~ Sections 403.9321-403.9333 and any lawful
50 regulations adopted in accordance with this section by a local
51 government that receives a delegation of the department's
52 authority to administer and enforce the regulation of mangroves
53 as provided by this section shall be the sole regulations in
54 this state for the trimming and alteration of mangroves on
55 privately or publicly owned lands. All other state and local
56 regulation of mangrove is as provided in subsection (4) ~~(3)~~.

57 (5)~~(4)~~ Within 45 days after receipt of a written request
58 for delegation from a local government, the department shall
59 grant or deny the request in writing. The request is deemed
60 approved if the department fails to respond within the 45-day
61 ~~time~~ period. In reviewing requests for delegation, the
62 department shall limit its review to whether the request
63 complies with the requirements of subsection (3) ~~(2)~~. The
64 department shall set forth in writing with specificity the
65 reasons for denial of a request for delegation. The department's
66 determination regarding delegation constitutes final agency
67 action and is subject to review under chapter 120.

68 Section 4. Subsection (5) of section 403.9329, Florida
69 Statutes, is amended to read:



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70 403.9329 Professional mangrove trimmers.-

71 (5) A professional mangrove trimmer status granted under
72 ss. 403.9321-403.9333 or by the department may be revoked by the
73 department for any person who is responsible for any violations
74 of ss. 403.9321-403.9333 or any adopted mangrove rules.

75 Section 5. Subsection (3) is added to section 403.9331,
76 Florida Statutes, to read:

77 403.9331 Applicability; rules and policies.-

78 (3) Pursuant to s. 403.9323(2), the provisions of ss.
79 403.9321-403.9333 do not allow the trimming of mangroves on
80 uninhabited islands that are publicly owned or on lands that are
81 set aside for conservation and preservation or mitigation,
82 except where necessary to protect the public health, safety, and
83 welfare or to enhance public use of, or access to, conservation
84 areas in accordance with approved management plans.

85 Section 6. This act shall take effect July 1, 2009.