



708694

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/24/2009	.	
	.	
	.	
	.	

The Committee on Environmental Preservation and Conservation
(Sobel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (1) of section
206.606, Florida Statutes, is amended to read

206.606 Distribution of certain proceeds.—

(1) Moneys collected pursuant to ss. 206.41(1)(g) and
206.87(1)(e) shall be deposited in the Fuel Tax Collection Trust
Fund. Such moneys, after deducting the service charges imposed
by s. 215.20, the refunds granted pursuant to s. 206.41, and the



708694

12 administrative costs incurred by the department in collecting,
13 administering, enforcing, and distributing the tax, which
14 administrative costs may not exceed 2 percent of collections,
15 shall be distributed monthly to the State Transportation Trust
16 Fund, except that:

17 (a) \$6.30 million shall be transferred to the Fish and
18 Wildlife Conservation Commission in each fiscal year and
19 deposited in the Invasive Plant Control Trust Fund to be used
20 for aquatic plant management, including nonchemical control of
21 aquatic weeds, research into nonchemical controls, and
22 enforcement activities. ~~Beginning in fiscal year 1993-1994,~~ The
23 commission department shall allocate at least \$1 million of such
24 funds to the eradication of melaleuca.

25 Section 2. Section 253.002, Florida Statutes, is amended to
26 read

27 253.002 Department of Environmental Protection, water
28 management districts, ~~and~~ Department of Agriculture and Consumer
29 Services, and Fish and Wildlife Conservation Commission; duties
30 with respect to state lands.-

31 (1) The Department of Environmental Protection shall
32 perform all staff duties and functions related to the
33 acquisition, administration, and disposition of state lands,
34 title to which is or will be vested in the Board of Trustees of
35 the Internal Improvement Trust Fund. However, upon the effective
36 date of rules adopted pursuant to s. 373.427, a water management
37 district created under s. 373.069 shall perform the staff duties
38 and functions related to the review of any application for
39 authorization to use board of trustees-owned submerged lands
40 necessary for an activity regulated under part IV of chapter 373



708694

41 for which the water management district has permitting
42 responsibility as set forth in an operating agreement adopted
43 pursuant to s. 373.046(4); and the Department of Agriculture and
44 Consumer Services shall perform the staff duties and functions
45 related to the review of applications and compliance with
46 conditions for use of board of trustees-owned submerged lands
47 under authorizations or leases issued pursuant to ss. 253.67-
48 253.75 and 597.010. Unless expressly prohibited by law, the
49 board of trustees may delegate to the department any statutory
50 duty or obligation relating to the acquisition, administration,
51 or disposition of lands, title to which is or will be vested in
52 the board of trustees. The board of trustees may also delegate
53 to any water management district created under s. 373.069 the
54 authority to take final agency action, without any action on
55 behalf of the board, on applications for authorization to use
56 board of trustees-owned submerged lands for any activity
57 regulated under part IV of chapter 373 for which the water
58 management district has permitting responsibility as set forth
59 in an operating agreement adopted pursuant to s. 373.046(4).
60 This water management district responsibility under this
61 subsection shall be subject to the department's general
62 supervisory authority pursuant to s. 373.026(7). The board of
63 trustees may also delegate to the Department of Agriculture and
64 Consumer Services the authority to take final agency action on
65 behalf of the board on applications to use board of trustees-
66 owned submerged lands for any activity for which that department
67 has responsibility pursuant to ss. 253.67-253.75, and 597.010,
68 and ss. 369.25-369.251. However, the board of trustees shall
69 retain the authority to take final agency action on establishing



708694

70 any areas for leasing, new leases, expanding existing lease
71 areas, or changing the type of lease activity in existing
72 leases. Upon issuance of an aquaculture lease or other real
73 property transaction relating to aquaculture, the Department of
74 Agriculture and Consumer Services must send a copy of the
75 document and the accompanying survey to the Department of
76 Environmental Protection. The board of trustees may also
77 delegate to the Fish and Wildlife Conservation Commission the
78 authority to take final agency action, without any action on
79 behalf of the board, on applications for authorization to use
80 board of trustees-owned submerged lands for any activity
81 regulated under ss. 369.20 and 369.22 ~~s. 369.20~~.

82 (2) Delegations to the department, or a water management
83 district, or the Department of Agriculture and Consumer Services
84 of authority to take final agency action on applications for
85 authorization to use submerged lands owned by the board of
86 trustees, without any action on behalf of the board of trustees,
87 shall be by rule. Until rules adopted pursuant to this
88 subsection become effective, existing delegations by the board
89 of trustees shall remain in full force and effect. However, the
90 board of trustees is not limited or prohibited from amending
91 these delegations. The board of trustees shall adopt by rule any
92 delegations of its authority to take final agency action without
93 action by the board of trustees on applications for
94 authorization to use board of trustees-owned submerged lands.
95 Any final agency action, without action by the board of
96 trustees, taken by the department, or a water management
97 district, or the Department of Agriculture and Consumer Services
98 on applications to use board of trustees-owned submerged lands



708694

99 shall be subject to the provisions of s. 373.4275.

100 Notwithstanding any other provision of this subsection, the
101 board of trustees, the Department of Legal Affairs, and the
102 department retain the concurrent authority to assert or defend
103 title to submerged lands owned by the board of trustees.

104 Section 3. Effective October 1, 2009, subsection (4) of
105 section 253.04, Florida Statutes, is amended to read

106 253.04 Duty of board to protect, etc., state lands; state
107 may join in any action brought.—

108 (4) Whenever any person or the agent of any person
109 knowingly refuses to comply with or willfully violates any of
110 the provisions of this chapter so that such person causes damage
111 to the lands of the state or products thereof, including removal
112 of those products, such violator is liable for such damage.
113 Whenever two or more persons or their agents cause damage, and
114 if such damage is indivisible, each violator is jointly and
115 severally liable for such damage; however, if such damage is
116 divisible and may be attributed to a particular violator or
117 violators, each violator is liable only for that damage and
118 subject to the fine attributable to his or her violation.

119 (a) The duty to conserve and improve state-owned lands and
120 the products thereof shall include the preservation and
121 regeneration of seagrass, which is deemed essential to the
122 oceans, gulfs, estuaries, and shorelines of the state. A person
123 operating a vessel outside a lawfully marked channel in a
124 careless manner that causes seagrass scarring within an aquatic
125 preserve established in ss. 258.39-258.399, with the exception
126 of the Lake Jackson, Oklawaha River, Wekiva River, and Rainbow
127 Springs aquatic preserves, commits a noncriminal infraction,



708694

128 punishable as provided in s. 327.73. Each violation is a
129 separate offense. As used in this subsection, the term:

130 1. "Seagrass scarring" means destruction of seagrass roots,
131 shoots, or stems that results in tracks on the substrate, caused
132 by the operation of a motorized vessel in waters supporting
133 seagrasses, commonly referred to as prop scars or propeller
134 scars.

135 2. "Seagrass" means Cuban shoal grass (*Halodule wrightii*),
136 turtle grass (*Thalassia testudinum*), manatee grass (*Syringodium*
137 *filiforme*), star grass (*Halophila engelmannii*), paddle grass
138 (*Halophila decipiens*), Johnsons seagrass (*Halophila johnsonii*),
139 or widgeon grass (*Ruppia maritima*).

140 (b) Any violation under paragraph (a) is a violation of the
141 vessel laws of this state and shall be charged on a uniform
142 boating citation as provided in s. 327.74. Any person who
143 refuses to post a bond or accept and sign a uniform boating
144 citation commits a misdemeanor of the second degree, as provided
145 in s. 327.73(3), punishable as provided in s. 775.082 or s.
146 775.083.

147 Section 4. Effective October 1, 2009, subsection (3) of
148 section 319.32, Florida Statutes, is amended to read:

149 319.32 Fees; service charges; disposition.-

150 (3) The department shall charge a fee of \$10 ~~\$4~~ in addition
151 to that charged in subsection (1) for each original certificate
152 of title issued for a vehicle previously registered outside this
153 state.

154 Section 5. Effective October 1, 2009, paragraphs (a) and
155 (x) of subsection (4) of section 320.08056, Florida Statutes,
156 are amended to read:



708694

157 320.08056 Specialty license plates.—

158 (4) The following license plate annual use fees shall be
159 collected for the appropriate specialty license plates:

160 (a) Manatee license plate, \$25 ~~\$20~~.

161 (x) Conserve Wildlife license plate, \$25 ~~\$15~~.

162 Section 6. Subsection (4) of section 327.35, Florida
163 Statutes, is amended to read:

164 327.35 Boating under the influence; penalties; "designated
165 drivers".—

166 (1) A person is guilty of the offense of boating under the
167 influence and is subject to punishment as provided in subsection

168 (2) if the person is operating a vessel within this state and:

169 (a) The person is under the influence of alcoholic
170 beverages, any chemical substance set forth in s. 877.111, or
171 any substance controlled under chapter 893, when affected to the
172 extent that the person's normal faculties are impaired;

173 (b) The person has a blood-alcohol level of 0.08 or more
174 grams of alcohol per 100 milliliters of blood; or

175 (c) The person has a breath-alcohol level of 0.08 or more
176 grams of alcohol per 210 liters of breath.

177 (4) Any person who is convicted of a violation of
178 subsection (1) and who has a blood-alcohol level or breath-
179 alcohol level of 0.15 ~~0.20~~ or higher, or any person who is
180 convicted of a violation of subsection (1) and who at the time
181 of the offense was accompanied in the vessel by a person under
182 the age of 18 years, shall be punished:

183 (a) By a fine of:

184 1. Not less than \$1,000 or more than \$2,000 for a first
185 conviction.



708694

186 2. Not less than \$2,000 or more than \$4,000 for a second
187 conviction.

188 3. Not less than \$4,000 for a third or subsequent
189 conviction.

190 (b) By imprisonment for:

191 1. Not more than 9 months for a first conviction.

192 2. Not more than 12 months for a second conviction.

193

194 For the purposes of this subsection, only the instant
195 offense is required to be a violation of subsection (1) by a
196 person who has a blood-alcohol level or breath-alcohol level of
197 0.15 ~~0.20~~ or higher.

198 Section 7. Paragraph (a) of subsection (2) of section
199 327.36, Florida Statutes, is amended to read:

200 327.36 Mandatory adjudication; prohibition against
201 accepting plea to lesser included offense.—

202 (2) (a) No trial judge may accept a plea of guilty to a
203 lesser offense from a person who is charged with a violation of
204 s. 327.35, manslaughter resulting from the operation of a
205 vessel, or vessel homicide and who has been given a breath or
206 blood test to determine blood or breath alcohol content, the
207 results of which show a blood-alcohol level or breath-alcohol
208 level of 0.15 ~~0.16~~ or more.

209 Section 8. Effective October 1, 2009, section 327.40,
210 Florida Statutes, is amended to read:

211 327.40 Uniform waterway markers ~~for safety and navigation;~~
212 ~~informational markers.~~—

213 (1) Waters of this state ~~Waterways in Florida which need~~
214 ~~marking for safety or navigation purposes~~ shall be marked only



708694

215 in conformity with ~~under~~ the United States Aids to Navigation
216 System, 33 C.F.R. part 62. ~~Until December 31, 2003, channel~~
217 ~~markers and obstruction markers conforming to the Uniform State~~
218 ~~Waterway Marking System, 33 C.F.R. subpart 66.10, may continue~~
219 ~~to be used on waters of this state that are not navigable waters~~
220 ~~of the United States.~~

221 (2) (a) Application for marking inland lakes and state
222 waters and any navigable waters under concurrent jurisdiction of
223 the Coast Guard and the division shall be made to the division,
224 accompanied by a map locating the approximate placement of
225 markers, a list of the markers to be placed, a statement of the
226 specification of the markers, a statement of the purpose of
227 marking, and the names of persons responsible for the placement
228 and upkeep of such markers. The division will assist the
229 applicant to secure the proper permission from the Coast Guard
230 where required, make such investigations as needed, and issue a
231 permit. The division shall furnish the applicant with the
232 information concerning the system adopted and the rules existing
233 for placing and maintaining the markers. The division shall keep
234 records of all approvals given and counsel with individuals,
235 counties, municipalities, motorboat clubs, or other groups
236 desiring to mark waterways for safety and navigation purposes in
237 Florida.

238 (b) ~~1.~~ No person or municipality, county, or other
239 governmental entity shall place any uniform waterway marker
240 ~~safety or navigation markers~~ in, on, or over the waters or
241 shores of the state without a permit from the division.

242 ~~2. The placement of informational markers, including, but~~
243 ~~not limited to, markers indicating end of boat ramp, no~~



708694

244 ~~swimming, swimming area, lake name, trash receptacle, public~~
245 ~~health notice, or underwater hazard and canal, regulatory,~~
246 ~~emergency, and special event markers, by counties,~~
247 ~~municipalities, or other governmental entities on inland lakes~~
248 ~~and their associated canals are exempt from permitting under~~
249 ~~this section. Such markers, excluding swimming area and special~~
250 ~~event markers, may be no more than 50 feet from the normal~~
251 ~~shoreline.~~

252 (c) The commission is authorized to adopt rules pursuant to
253 chapter 120 to implement this section.

254 (3) The placement under this section or s. 327.41 of any
255 uniform waterway marker ~~safety or navigation marker or any~~
256 ~~informational marker under subparagraph (2)(b)2.~~ on state
257 submerged lands ~~under this section~~ does not subject such lands
258 to the lease requirements of chapter 253.

259 Section 9. Effective October 1, 2009, subsection (2) of
260 section 327.41, Florida Statutes, is amended to read:

261 327.41 Uniform waterway regulatory markers.—

262 (2) Any county or municipality which has been granted a
263 boating-restricted ~~restricted~~ area designation, by rule of the
264 commission pursuant to s. 327.46, for a portion of the Florida
265 Intracoastal Waterway within its jurisdiction or which has
266 adopted a boating-restricted ~~restricted~~ area by ordinance
267 pursuant to s. 327.46(1)(b) ~~s. 327.22, s. 327.60,~~ or s.
268 379.2431(2)(p), or any other governmental entity which has
269 legally established a boating-restricted ~~restricted~~ area, may
270 apply to the commission for permission to place regulatory
271 markers within the boating-restricted ~~restricted~~ area.

272 Section 10. Effective October 1, 2009, section 327.42,



708694

273 Florida Statutes, is amended to read:

274 327.42 Mooring to or damaging of markers or buoys
275 prohibited.-

276 (1) No person shall moor or fasten a vessel to a lawfully
277 placed uniform waterway aid-to-navigation marker ~~or buoy,~~
278 ~~regulatory marker or buoy, or area boundary marker or buoy,~~
279 ~~placed or erected by any governmental agency,~~ except in case of
280 emergency or with the written consent of the marker's owner.

281 (2) No person shall willfully damage, alter, or move a
282 lawfully placed uniform waterway aid-to-navigation marker ~~or~~
283 ~~buoy, regulatory marker or buoy, or area boundary marker or~~
284 ~~buoy.~~

285 Section 11. Effective October 1, 2009, section 327.46,
286 Florida Statutes, is amended to read:

287 327.46 Boating-restricted ~~Restricted~~ areas.-

288 (1) Boating-restricted ~~The commission has the authority to~~
289 ~~establish by rule, pursuant to chapter 120, restricted areas,~~
290 including, but not limited to, restrictions of vessel speeds and
291 vessel traffic, may be established on the waters of this the
292 state for any purpose deemed necessary to protect for the safety
293 of the public, ~~including, but not limited to, vessel speeds and~~
294 ~~vessel traffic,~~ where such restrictions are ~~deemed~~ necessary
295 based on boating accidents, visibility, hazardous currents or
296 water levels, vessel traffic congestion, or other navigational
297 hazards.

298 (a) The commission may establish boating-restricted areas
299 by rule, pursuant to chapter 120.

300 (b) Municipalities and counties have the authority to
301 establish the following boating restricted areas by ordinance:



708694

302 1. An ordinance establishing an Idle Speed-No Wake boating
303 restricted area, if the area is:

304 a. Within 500 feet of any boat ramp, hoist, marine railway,
305 or other launching or landing facility available for use by the
306 general boating public on waterways more than 300 feet in width
307 or within 300 feet of any boat ramp, hoist, marine railway, or
308 other launching or landing facility available for use by the
309 general boating public on waterways not exceeding 300 feet in
310 width.

311 b. Within 500 feet of fuel pumps or dispensers at any
312 marine fueling facility which sells motor fuel to the general
313 boating public on waterways more than 300 feet in width or
314 within 300 feet of the fuel pumps or dispensers at any licensed
315 terminal facility which sells motor fuel to the general boating
316 public on waterways not exceeding 300 feet in width.

317 c. Inside or within 300 feet of any lock structure.

318 2. An ordinance establishing a Slow Speed Minimum Wake
319 boating restricted area if the area is:

320 a. Within 300 feet of any bridge fender system.

321 b. Within 300 feet of any bridge span presenting a vertical
322 clearance of less than 25 feet or a horizontal clearance of less
323 than 100 feet.

324 c. Within 300 feet of a confluence of water bodies
325 presenting a blind corner, a bend in a narrow channel or
326 fairway, or such other area where an intervening obstruction to
327 visibility may obscure other vessels or other users of the
328 waterway.

329 d. On a creek, stream, canal, or similar linear waterway
330 where the waterway is less than 75 feet in width from shoreline



708694

331 to shoreline.
332 e. On a lake or pond of less than 10 acres in total surface
333 area.
334 3. An ordinance establishing a vessel exclusion zone if the
335 area is:
336 a. Designated as a public bathing beach or swim area.
337 b. Reserved exclusively as a canoe trail or otherwise
338 limited to vessels under oars.
339 c. Within 300 feet of a dam, spillway, or flood control
340 structure.
341 (c) Except as provided in s. 327.60, municipalities and
342 counties have the authority to establish by ordinance such other
343 boating restricted areas as are necessary to protect human life
344 and limb, vessel traffic safety, or maritime property; however,
345 such an ordinance may not take effect until the commission has
346 reviewed the ordinance and determined that the ordinance is
347 necessary to protect human life and limb, vessel traffic safety,
348 or maritime property. The commission shall establish by rule,
349 pursuant to chapter 120, the criteria for making such
350 determinations.
351 (2) Each such boating-restricted ~~restricted~~ area shall be
352 developed in consultation and coordination with the governing
353 body of the county or municipality in which the boating-
354 restricted ~~restricted~~ area is located and, when the boating-
355 restricted area is to be on the navigable waters of the United
356 States ~~where required~~, with the United States Coast Guard and
357 the United States Army Corps of Engineers.
358 (3)~~(2)~~ It is unlawful for any person to operate a vessel in
359 a prohibited manner or to carry on any prohibited activity, as



708694

360 defined in this chapter, ~~deemed a safety hazard or interference~~
361 ~~with navigation as provided above~~ within a boating-restricted
362 ~~restricted water~~ area which has been clearly marked by
363 regulatory markers as authorized under this chapter.

364 (4)(3) Restrictions in a boating-restricted area
365 established pursuant to this section shall not apply in the case
366 of an emergency or to a law enforcement, firefighting, or rescue
367 vessel owned or operated by a governmental entity.

368 (5) (a) Noncriminal violations committed within legally
369 established boating-restricted areas that are properly marked as
370 permitted under ss. 327.40 and 327.41 may be enforced by a
371 uniform boating citation mailed to the registered owner of the
372 vessel.

373 (b) Citations issued to livery vessels under this
374 subsection shall be the responsibility of the lessee of the
375 vessel if the livery has included a warning of this
376 responsibility as a part of the rental agreement and has
377 provided to the agency issuing the citation the name, address,
378 and date of birth of the lessee when requested by that agency.
379 The livery is not responsible for the payment of citations if
380 the livery provides the required warning and lessee information.

381 (c) This subsection supplements the enforcement of this
382 section by law enforcement officers and does not prohibit a law
383 enforcement officer from issuing a citation for a violation of
384 this section in accordance with normal boating enforcement
385 techniques.

386 Section 12. Effective October 1, 2009, section 327.60,
387 Florida Statutes, is amended to read:

388 327.60 Local regulations; limitations.-



708694

389 (1) The provisions of this chapter and chapter 328 ~~ss.~~
390 ~~327.01, 327.02, 327.30-327.40, 327.44-327.50, 327.54, 327.56,~~
391 ~~327.65, 328.40-328.48, 328.52-328.58, 328.62, and 328.64~~ shall
392 govern the operation, equipment, and all other matters relating
393 thereto whenever any vessel shall be operated upon the waters of
394 this state waterways or when any activity regulated hereby shall
395 take place thereon.

396 (2) Nothing in this chapter or chapter 328 ~~these sections~~
397 shall be construed to prevent the adoption of any ordinance or
398 local regulation law relating to operation ~~and equipment~~ of
399 vessels, except that no county or municipality shall enact,
400 continue in effect, or enforce any ordinance or local
401 regulation:

402 (a) Establishing a vessel or associated equipment
403 performance or other safety standard, imposing a requirement for
404 associated equipment, or regulating the carrying or use of
405 marine safety articles;

406 (b) With respect to the design, manufacture, installation,
407 or use of any marine sanitation device on any vessel;

408 (c) Regulating any vessel upon the Florida Intracoastal
409 Waterway;

410 (d) Discriminating against personal watercraft;

411 (e) Discriminating against airboats, for ordinances adopted
412 after July 1, 2006, unless adopted by a two-thirds vote of the
413 governing body enacting such ordinance;

414 (f) Regulating the anchoring of vessels other than live-
415 aboard vessels outside of the marked boundaries of mooring
416 fields permitted as provided in s. 327.40;

417 (g) Regulating engine or exhaust noise, except as provided



708694

418 in s. 327.65; or

419 (h) That is in conflict with this chapter or any amendments
420 thereto or rules thereunder. no such ordinance or local law may
421 apply to the Florida Intracoastal Waterway and except that such
422 ordinances or local laws shall be operative only when they are
423 not in conflict with this chapter or any amendments thereto or
424 regulations thereunder. Any ordinance or local law which has
425 been adopted pursuant to this section or to any other state law
426 may not discriminate against personal watercraft as defined in
427 s. 327.02. Effective July 1, 2006, any ordinance or local law
428 adopted pursuant to this section or any other state law may not
429 discriminate against airboats except by a two-thirds vote of the
430 governing body enacting such ordinance.

431 (3)(2) Nothing contained in the provisions of this section
432 shall be construed to prohibit local governmental authorities
433 from the enactment or enforcement of regulations which prohibit
434 or restrict the mooring or anchoring of floating structures or
435 live-aboard vessels within their jurisdictions or of any vessels
436 within the marked boundaries of mooring fields permitted as
437 provided in s. 327.40. However, local governmental authorities
438 are prohibited from regulating the anchoring outside of such
439 mooring fields of vessels other than live-aboard vessels as
440 defined in s. 327.02 non-live-aboard vessels in navigation.

441 Section 13. Section 327.66, Florida Statutes, is created to
442 read:

443 327.66 Carriage of gasoline on vessels.-

444 (1) (a) A person shall not:

445 1. Possess or operate any vessel that has been equipped
446 with tanks, bladders, drums, or other containers designed or



708694

447 intended to hold gasoline, or install or maintain such
448 containers in a vessel, if such containers do not conform to
449 federal regulations or have not been approved by the United
450 States Coast Guard by inspection or special permit.

451 2. Transport any gasoline in an approved portable container
452 when the container is in a compartment that is not ventilated in
453 strict compliance with United States Coast Guard regulations
454 pertaining to ventilation of compartments containing gasoline
455 tanks.

456 (b) A person who violates paragraph (a) commits a
457 misdemeanor of the second degree, punishable as provided in s.
458 775.082, s. 775.083, or s. 775.084.

459 (2) (a) Gasoline possessed or transported in violation of
460 this section and all containers holding such gasoline are
461 declared to be a public nuisance. A law enforcement agency
462 discovering gasoline possessed or transported in violation of
463 paragraph (1) (a) shall abate the nuisance by removing the
464 gasoline and containers from the vessel and from the waters of
465 this state. A law enforcement agency that removes gasoline or
466 containers pursuant to this subsection may elect to:

- 467 1. Retain the property for the agency's own use;
468 2. Transfer the property to another unit of state or local
469 government;
470 3. Donate the property to a charitable organization; or
471 4. Sell the property at public sale pursuant to s. 705.103.

472 (b) A law enforcement agency that seizes gasoline or
473 containers pursuant to this subsection shall remove and reclaim,
474 recycle, or otherwise dispose of the gasoline as soon as
475 practicable in a safe and proper manner.



708694

476 (3) All conveyances, vessels, vehicles, and other equipment
477 described in paragraph (1)(a) or used in the commission of a
478 violation of paragraph (1)(a), other than gasoline or containers
479 removed as provided in subsection (2), are declared to be
480 contraband.

481 (a) Upon conviction of a person arrested for a violation of
482 paragraph (1)(a), the judge shall issue an order adjudging and
483 ordering that all conveyances, vessels, vehicles, and other
484 equipment used in the violation shall be forfeited to the
485 arresting agency. The requirement for a conviction before
486 forfeiture of property establishes to the exclusion of any
487 reasonable doubt that the property was used in connection with
488 the violation resulting in the conviction, and the procedures of
489 chapter 932 do not apply to any forfeiture of property under
490 this subsection following a conviction.

491 (b) In the absence of an arrest or conviction, any such
492 conveyance, vessel, vehicle, or other equipment used in
493 violation of paragraph (1)(a) shall be subject to seizure and
494 forfeiture as provided by the Florida Contraband Forfeiture Act.

495 (c) As used in this subsection, the term "conviction" means
496 a finding of guilt or the acceptance of a plea of guilty or nolo
497 contendere, regardless of whether adjudication is withheld or
498 whether imposition of sentence is withheld, deferred, or
499 suspended.

500 (4) All costs incurred by the law enforcement agency in the
501 removal of any gasoline, gasoline container, other equipment, or
502 vessel as provided in this section shall be recoverable against
503 the owner thereof. Any person who neglects or refuses to pay
504 such amount shall not be issued a certificate of registration



708694

505 for such vessel or for any other vessel or motor vehicle until
506 the costs have been paid.

507 (5) Foreign flagged vessels entering United States waters
508 and Florida state waters in compliance with 19 USC 1433 are
509 exempt from this section.

510 Section 14. Effective October 1, 2009, subsection (1) of
511 section 327.73, Florida Statutes, is amended to read:

512 327.73 Noncriminal infractions.—

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

515 (a) Section 328.46, relating to operation of unregistered
516 and unnumbered vessels.

517 (b) Section 328.48(4), relating to display of number and
518 possession of registration certificate.

519 (c) Section 328.48(5), relating to display of decal.

520 (d) Section 328.52(2), relating to display of number.

521 (e) Section 328.54, relating to spacing of digits and
522 letters of identification number.

523 (f) Section 328.60, relating to military personnel and
524 registration of vessels.

525 (g) Section 328.72(13), relating to operation with an
526 expired registration.

527 (h) Section 327.33(2), relating to careless operation.

528 (i) Section 327.37, relating to water skiing, aquaplaning,
529 parasailing, and similar activities.

530 (j) Section 327.44, relating to interference with
531 navigation.

532 (k) Violations relating to boating-restricted areas and
533 speed limits:



708694

534 1. Established by the commission or by local governmental
535 authorities pursuant to s. 327.46.

536 ~~2. Established by local governmental authorities pursuant~~
537 ~~to s. 327.22 or s. 327.60.~~

538 ~~2.3-~~ Speed limits established pursuant to s. 379.2431(2).

539 (l) Section 327.48, relating to regattas and races.

540 (m) Section 327.50(1) and (2), relating to required safety
541 equipment, lights, and shapes.

542 (n) Section 327.65, relating to muffling devices.

543 (o) Section 327.33(3)(b), relating to navigation rules.

544 (p) Section 327.39(1), (2), (3), and (5), relating to
545 personal watercraft.

546 (q) Section 327.53(1), (2), and (3), relating to marine
547 sanitation.

548 (r) Section 327.53(4), (5), and (7), relating to marine
549 sanitation, for which the civil penalty is \$250.

550 (s) Section 327.395, relating to boater safety education.

551 (t) Section 327.52(3), relating to operation of overloaded
552 or overpowered vessels.

553 (u) Section 327.331, relating to divers-down flags, except
554 for violations meeting the requirements of s. 327.33.

555 (v) Section 327.391(1), relating to the requirement for an
556 adequate muffler on an airboat.

557 (w) Section 327.391(3), relating to the display of a flag
558 on an airboat.

559 (x) Section 253.04(4)(a), relating to carelessly causing
560 seagrass scarring, for which the civil penalty upon conviction
561 is:

562 1. For a first offense, \$50.



708694

563 2. For a second offense occurring within 12 months after a
564 prior conviction, \$250.

565 3. For a third offense occurring within 36 months after a
566 prior conviction, \$500.

567 4. For a fourth or subsequent offense, \$1,000.
568

569 Any person cited for a violation of any such provision shall be
570 deemed to be charged with a noncriminal infraction, shall be
571 cited for such an infraction, and shall be cited to appear
572 before the county court. The civil penalty for any such
573 infraction is \$50, except as otherwise provided in this section.
574 Any person who fails to appear or otherwise properly respond to
575 a uniform boating citation shall, in addition to the charge
576 relating to the violation of the boating laws of this state, be
577 charged with the offense of failing to respond to such citation
578 and, upon conviction, be guilty of a misdemeanor of the second
579 degree, punishable as provided in s. 775.082 or s. 775.083. A
580 written warning to this effect shall be provided at the time
581 such uniform boating citation is issued.

582 Section 15. Effective October 1, 2009, subsections (1) and
583 (2) of section 328.03, Florida Statutes, are amended to read:

584 328.03 Certificate of title required.-

585 (1) Each vessel that is operated, used, or stored on the
586 waters of this state must be titled by this state pursuant to
587 this chapter, unless it is:

588 (a) A vessel operated, used, and stored exclusively on
589 private lakes and ponds;—

590 (b) A vessel owned by the United States Government;—

591 (c) A non-motor-powered vessel less than 16 feet in



708694

592 length;~~;~~

593 (d) A federally documented vessel;~~;~~

594 (e) A vessel already covered by a registration number in
595 full force and effect which was awarded to it pursuant to a
596 federally approved numbering system of another state or by the
597 United States Coast Guard in a state without a federally
598 approved numbering system, if the vessel is not located in this
599 state for a period in excess of 90 consecutive days;~~;~~

600 (f) A vessel from a country other than the United States
601 temporarily used, operated, or stored on ~~using~~ the waters of
602 this state for a period that is not in excess of 90 days;~~;~~

603 (g) An amphibious vessel for which a vehicle title is
604 issued by the Department of Highway Safety and Motor Vehicles;~~;~~

605 (h) A vessel used solely for demonstration, testing, or
606 sales promotional purposes by the manufacturer or dealer; ~~or;~~

607 (i) A vessel owned and operated by the state or a political
608 subdivision thereof.

609 (2) A person shall not operate, use, or store a vessel for
610 which a certificate of title is required unless the owner has
611 received from the Department of Highway Safety and Motor
612 Vehicles a valid certificate of title for such vessel. However,
613 such vessel may be operated, used, or stored for a period of up
614 to 180 days after ~~from~~ the date of application for a certificate
615 of title while the application is pending.

616 Section 16. Effective October 1, 2009, subsections (1) and
617 (2) of section 328.07, Florida Statutes, are amended to read:

618 328.07 Hull identification number required.—

619 (1) No person shall operate, use, or store on the waters of
620 this state a vessel the construction of which began after



708694

621 October 31, 1972, for which the department has issued a
622 certificate of title or which is required by law to be
623 registered, unless the vessel displays the assigned hull
624 identification number affixed by the manufacturer as required by
625 the United States Coast Guard or by the department for a
626 homemade vessel or other vessel for which a hull identification
627 number is not required by the United States Coast Guard. The
628 hull identification number must be carved, burned, stamped,
629 embossed, or otherwise permanently affixed to the outboard side
630 of the transom or, if there is no transom, to the outermost
631 starboard side at the end of the hull that bears the rudder or
632 other steering mechanism, above the waterline of the vessel in
633 such a way that alteration, removal, or replacement would be
634 obvious and evident. The characters of the hull identification
635 number must be no less than 12 in number and no less than one-
636 fourth inch in height.

637 (2) No person shall operate, use, or store on the waters of
638 this state a vessel the construction of which was completed
639 before November 1, 1972, for which the department has issued a
640 certificate of title or which is required by law to be
641 registered, unless the vessel displays a hull identification
642 number. The hull identification number shall be clearly
643 imprinted in the transom or on the hull by stamping, impressing,
644 or marking with pressure. In lieu of imprinting, the hull
645 identification number may be displayed on a plate in a permanent
646 manner. A vessel for which the manufacturer has provided no hull
647 identification number or a homemade vessel shall be assigned a
648 hull identification number by the department which shall be
649 affixed to the vessel pursuant to this section.



708694

650 (3) (a) No person, firm, association, or corporation shall
651 destroy, remove, alter, cover, or deface the hull identification
652 number or hull serial number, or plate bearing such number, of
653 any vessel, except to make necessary repairs which require the
654 removal of the hull identification number and immediately upon
655 completion of such repairs shall reaffix the hull identification
656 number in accordance with subsection (2).

657 (b) If any of the hull identification numbers required by
658 the United States Coast Guard for a vessel manufactured after
659 October 31, 1972, do not exist or have been altered, removed,
660 destroyed, covered, or defaced or the real identity of the
661 vessel cannot be determined, the vessel may be seized as
662 contraband property by a law enforcement agency or the division,
663 and shall be subject to forfeiture pursuant to ss. 932.701-
664 932.706. Such vessel may not be sold or operated on the waters
665 of the state unless the division receives a request from a law
666 enforcement agency providing adequate documentation or is
667 directed by written order of a court of competent jurisdiction
668 to issue to the vessel a replacement hull identification number
669 which shall thereafter be used for identification purposes. No
670 vessel shall be forfeited under the Florida Contraband
671 Forfeiture Act when the owner unknowingly, inadvertently, or
672 neglectfully altered, removed, destroyed, covered, or defaced
673 the vessel hull identification number.

674 Section 17. Effective October 1, 2009, section 328.46,
675 Florida Statutes, is amended to read:

676 328.46 Operation of registered vessels.—

677 (1) Every vessel that is required to be registered and that
678 is being operated, used, or stored on ~~using~~ the waters of this



708694

679 state shall be registered and numbered within 30 days after
680 purchase by the owner except as specifically exempt. During this
681 30-day period, the operator is required to have aboard the
682 vessel and available for inspection a bill of sale. The bill of
683 sale for the vessel shall serve as the temporary certificate of
684 number that is required by federal law and must contain the
685 following information:

- 686 (a) Make of the vessel.
- 687 (b) Length of the vessel.
- 688 (c) Type of propulsion.
- 689 (d) Hull identification number.
- 690 (e) A statement declaring Florida to be the state where the
691 vessel is principally used.
- 692 (f) Name of the purchaser.
- 693 (g) Address of the purchaser, including ZIP code.
- 694 (h) Signature of the purchaser.
- 695 (i) Name of the seller.
- 696 (j) Signature of the seller.
- 697 (k) Date of the sale of the vessel. The date of sale shall
698 also serve as the date of issuance of the temporary certificate
699 of number.

700 (1) Notice to the purchaser and operator that the temporary
701 authority to use the vessel on the waters of this state is
702 invalid after 30 days following the date of sale of the vessel.

703 (2) No person shall operate, use, or store or give
704 permission for the operation, use, or storage of any such vessel
705 on such waters unless:

- 706 (a) Such vessel is registered within 30 days after purchase
707 by the owner and numbered with the identifying number set forth



708694

708 in the certificate of registration, displayed:

709 1. In accordance with s. 328.48(4), except, if the vessel
710 is an airboat, the registration number may be displayed on each
711 side of the rudder; or

712 2. In accordance with 33 C.F.R. s. 173.27, or with a
713 federally approved numbering system of another state; and

714 (b) The certificate of registration or temporary
715 certificate of number awarded to such vessel is in full force
716 and effect.

717 Section 18. Effective October 1, 2009, subsection (2) of
718 section 328.48, Florida Statutes, is amended to read:

719 328.48 Vessel registration, application, certificate,
720 number, decal, duplicate certificate.-

721 (2) Each vessel operated, All vessels used, or stored on
722 the waters of this the state must be registered as a, either
723 commercial vessel or recreational vessel as defined in s. 327.02
724 this chapter, unless it is except as follows:

725 (a) A vessel operated, used, and stored exclusively on
726 private lakes and ponds; -

727 (b) A vessel owned by the United States Government; -

728 (c) A vessel used exclusively as a ship's lifeboat; or-

729 (d) A non-motor-powered vessel less than 16 feet in length,
730 or a and any non-motor-powered canoe, kayak, racing shell, or
731 rowing scull, regardless of length.

732 Section 19. Effective October 1, 2009, section 328.56,
733 Florida Statutes, is amended to read:

734 328.56 Vessel registration number.-Each vessel that is
735 operated, used, or stored on the waters of this the state must
736 display a commercial or recreational Florida registration



708694

737 number, unless it is:

738 (1) A vessel operated, used, and stored exclusively on
739 private lakes and ponds;~~;~~

740 (2) A vessel owned by the United States Government;~~;~~

741 (3) A vessel used exclusively as a ship's lifeboat;~~;~~

742 (4) A non-motor-powered vessel less than 16 feet in length,
743 or a ~~and any~~ non-motor-powered canoe, kayak, racing shell, or
744 rowing scull, regardless of length;~~;~~

745 (5) A federally documented vessel;~~;~~

746 (6) A vessel already covered by a registration number in
747 full force and effect which has been awarded to it pursuant to a
748 federally approved numbering system of another state or by the
749 United States Coast Guard in a state without a federally
750 approved numbering system, if the vessel has not been within
751 this state for a period in excess of 90 consecutive days;~~;~~

752 (7) A vessel operating under a valid temporary certificate
753 of number;~~;~~

754 (8) A vessel from a country other than the United States
755 temporarily using the waters of this state; or;

756 (9) An undocumented vessel used exclusively for racing.

757 Section 20. Effective October 1, 2009, section 328.58,
758 Florida Statutes, is amended to read:

759 328.58 Reciprocity of nonresident or alien vessels.—The
760 owner of any vessel already covered by a registration number in
761 full force and effect which has been awarded by:

762 (1) ~~By~~ Another state pursuant to a federally approved
763 numbering system of another state;

764 (2) ~~By~~ The United States Coast Guard in a state without a
765 federally approved numbering system; or



708694

766 (3) ~~By~~ The United States Coast Guard for a federally
767 documented vessel with a valid registration in full force and
768 effect from another state, shall record the number with the
769 Department of Highway Safety and Motor Vehicles prior to
770 operating, using, or storing the vessel on the waters of this
771 state in excess of the 90-day reciprocity period provided for in
772 this chapter. Such recordation shall be pursuant to the
773 procedure required for the award of an original registration
774 number, except that no additional or substitute registration
775 number shall be issued if the vessel owner maintains the
776 previously awarded registration number in full force and effect.

777 Section 21. Effective October 1, 2009, section 328.60,
778 Florida Statutes, is amended to read:

779 328.60 Military personnel; registration; penalties.—Any
780 military personnel on active duty in this state operating,
781 using, or storing a vessel on the waters of this state that has
782 a registration number in full force and effect which has been
783 awarded to it pursuant to a federally approved numbering system
784 of another state or by the United States Coast Guard in a state
785 without a federally approved numbering system, or a federally
786 documented vessel with a valid registration in full force and
787 effect from another state shall not be required to register his
788 or her vessel in this state while such certificate of
789 registration remains valid; but, at the expiration of such
790 registration certificate, all registration and titling shall be
791 issued by this state. In the case of a federally documented
792 vessel, the issuance of a title is not required by this chapter.

793 Section 22. Effective October 1, 2009, section 328.65,
794 Florida Statutes, is amended to read:



708694

795 328.65 Legislative intent with respect to registration and
796 numbering of vessels.—It is the legislative intent that vessels
797 be registered and numbered uniformly throughout the state. The
798 purpose of ss. 327.58, 327.70, 327.72, 328.66, 328.68, and
799 328.72 is to make registration and numbering procedures similar
800 to those of automobiles and airplanes and to provide for a
801 vessel registration fee and certificate so as to determine the
802 ownership of vessels which are operated, used, or stored ~~operate~~
803 on the waters of this state and to aid in the advancement of
804 maritime safety.

805 Section 23. Effective October 1, 2009, subsection (1) of
806 section 328.66, Florida Statutes, is amended to read:

807 328.66 County and municipality optional registration fee.—

808 (1) Any county may impose an annual registration fee on
809 vessels registered, operated, used, or stored on the waters of
810 this state ~~in the water~~ within its jurisdiction. This fee shall
811 be 50 percent of the applicable state registration fee. However,
812 the first \$1 of every registration imposed under this subsection
813 shall be remitted to the state for deposit in the Save the
814 Manatee Trust Fund created within the Fish and Wildlife
815 Conservation Commission, and shall be used only for the purposes
816 specified in s. 379.2431(4). All other moneys received from such
817 fee shall be expended for the patrol, regulation, and
818 maintenance of the lakes, rivers, and waters and for other
819 boating-related activities of such municipality or county. A
820 municipality that was imposing a registration fee before April
821 1, 1984, may continue to levy such fee, notwithstanding the
822 provisions of this section.

823 Section 24. Effective October 1, 2009, subsection (13) of



708694

824 section 328.72, Florida Statutes, is amended to read:

825 328.72 Classification; registration; fees and charges;
826 surcharge; disposition of fees; fines; marine turtle stickers.—

827 (13) EXPIRED REGISTRATION.—The operation, use, or storage
828 on the waters of this state of a previously registered vessel
829 after the expiration of the registration period is a noncriminal
830 violation, as defined in s. 327.73.

831 Section 25. Subsections (13) and (14) are added to section
832 369.20, Florida Statutes, to read:

833 369.20 Florida Aquatic Weed Control Act.—

834 (13) The commission has the power to enforce this section
835 as provided in ss. 379.501-379.504.

836 (14) Activities that are exempt from permitting in
837 accordance with s. 403.813(1)(r), are granted a mixing zone for
838 turbidity for a distance not to exceed 150 meters downstream in
839 flowing streams or 150 meters in radius in other water bodies
840 as, measured from the cutterhead, return flow discharge, or
841 other points of generation of turbidity.

842 Section 26. Subsections (13) and (14) are added to section
843 369.22, Florida Statutes, to read:

844 369.22 Aquatic plant management.—

845 (13) The commission has the power to enforce this section
846 as provided in ss. 379.501-379.504.

847 (14) Activities that are exempt from permitting in
848 accordance with s. 403.813(1)(r), are granted a mixing zone for
849 turbidity for a distance not to exceed 150 meters downstream in
850 flowing streams or 150 meters in radius in other water bodies
851 as, measured from the cutterhead, return flow discharge, or
852 other points of generation of turbidity.



708694

853 Section 27. Paragraph (j) of subsection (3) of section
854 369.25, Florida Statutes, is amended to read:

855 369.25 Aquatic plants; definitions; permits; powers of
856 department; penalties.-

857 (3) The department has the following powers:

858 (j) To enforce ss. 369.25 and 369.251 ~~this chapter~~ in the
859 same manner and to the same extent as provided in s. 581.211.

860 Section 28. Subsections (1) and (5) of section 379.304,
861 Florida Statutes, are amended to read:

862 379.304 Exhibition or sale of wildlife.-

863 (1) Permits issued pursuant to s. 379.3761 ~~this section~~ and
864 places where wildlife is kept or held in captivity shall be
865 subject to inspection by officers of the commission at all
866 times. The commission shall have the power to release or
867 confiscate any specimens of any wildlife, specifically birds,
868 mammals, amphibians, or reptiles, whether indigenous to the
869 state or not, when it is found that conditions under which they
870 are being confined are unsanitary, or unsafe to the public in
871 any manner, or that the species of wildlife are being
872 maltreated, mistreated, or neglected or kept in any manner
873 contrary to the provisions of chapter 828, any such permit to
874 the contrary notwithstanding. Before any such wildlife is
875 confiscated or released under the authority of this section, the
876 owner thereof shall have been advised in writing of the
877 existence of such unsatisfactory conditions; the owner shall
878 have been given 30 days in which to correct such conditions; the
879 owner shall have failed to correct such conditions; the owner
880 shall have had an opportunity for a proceeding pursuant to
881 chapter 120; and the commission shall have ordered such



708694

882 confiscation or release after careful consideration of all
883 evidence in the particular case in question. The final order of
884 the commission shall constitute final agency action.

885 (5) A violation of this section is punishable as provided
886 by s. 379.4015 ~~379.401~~.

887 Section 29. Section 379.338, Florida Statutes, is amended
888 to read:

889 379.338 Confiscation and disposition of illegally taken
890 wildlife, freshwater fish, and saltwater fish ~~game~~.-

891 (1) All wildlife, ~~game~~ and freshwater fish, and saltwater
892 fish seized under the authority of this chapter, any other
893 chapter, or rules of the commission shall, upon conviction of
894 the offender or sooner in accordance with a court order if the
895 court so orders, be forfeited to the investigating law
896 enforcement agency. The law enforcement agency may elect to
897 retain the wildlife, freshwater fish, or saltwater fish for the
898 agency's official use; transfer it to another unit of state or
899 local government for official use; donate it to a charitable
900 organization; sell it at public sale pursuant to s. 705.103; or
901 destroy the wildlife, freshwater fish, or saltwater fish if none
902 of the other options is practicable or if the wildlife,
903 freshwater fish, or saltwater fish is unwholesome or otherwise
904 not of appreciable value. All illegally possessed live wildlife,
905 freshwater fish, and saltwater fish that are properly documented
906 as evidence as provided in s. 379.3381 may be returned to the
907 habitat unharmed. Any unclaimed wildlife, freshwater fish, or
908 saltwater fish shall be retained by the investigating law
909 enforcement agency and disposed of in accordance with this
910 subsection and ~~given to some hospital or charitable institution~~



708694

911 ~~and receipt therefore sent to the Fish and Wildlife Conservation~~
912 ~~Commission.~~

913 (2) All furs or hides or fur-bearing animals seized under
914 the authority of this chapter shall, upon conviction of the
915 offender, be forfeited and sent to the commission, which shall
916 sell the same and deposit the proceeds of such sale to the
917 credit of the State Game Trust Fund. If any such hides or furs
918 are seized and the offender is unknown, the court shall order
919 such hides or furs sent to the Fish and Wildlife Conservation
920 Commission, which shall sell such hides and furs.

921 (3) Except as otherwise provided by law, and deposit the
922 proceeds of any such sale under this section shall be remitted
923 to the Department of Revenue to be deposited to the credit of
924 the State Game Trust Fund or the Marine Resources Conservation
925 Trust Fund.

926 (4) Any state, county, or municipal law enforcement agency
927 that enforces or assists the commission in enforcing this
928 chapter, which enforcement results in a forfeiture of property
929 as provided in this section, is entitled to receive all or a
930 share of any property based upon its participation in the
931 enforcement.

932 Section 30. Section 379.3381, Florida Statutes, is created
933 to read:

934 379.3381 Photographic evidence of illegally taken wildlife,
935 freshwater fish, and saltwater fish.—In any prosecution for a
936 violation of this chapter, any other chapter, or rules of the
937 commission, a photograph of illegally taken wildlife, freshwater
938 fish, or saltwater fish may be deemed competent evidence of such
939 property and may be admissible in the prosecution to the same



708694

940 extent as if such wildlife, freshwater fish, or saltwater fish
941 were introduced as evidence. Such photograph shall bear a
942 written description of the wildlife, freshwater fish, or
943 saltwater fish alleged to have been illegally taken, the name of
944 the violator, the location where the alleged illegal taking
945 occurred, the name of the investigating law enforcement officer,
946 the date the photograph was taken, and the name of the
947 photographer. Such writing shall be made under oath by the
948 investigating law enforcement officer, and the photograph shall
949 be identified by the signature of the photographer.

950 Section 31. Paragraphs (n) through (q) of subsection (2) of
951 section 379.353, Florida Statutes, are redesignated as
952 paragraphs (m) through (p), respectively, and paragraphs (h) and
953 (m) of subsection (2) of that section are amended to read:

954 379.353 Recreational licenses and permits; exemptions from
955 fees and requirements.—

956 (2) A hunting, freshwater fishing, or saltwater fishing
957 license or permit is not required for:

958 (h) Any resident saltwater fishing from land or from a
959 structure fixed to the land who has been determined eligible for
960 the food stamp, temporary cash assistance, or Medicaid programs
961 by the Department of Children and Family Services. A benefit
962 issuance or program identification card issued by the Department
963 of Children and Family Services or the Agency for Health Care
964 Administration shall serve as proof of program eligibility. The
965 individual must have the benefit issuance or program
966 identification card and positive proof of identification in his
967 or her possession when fishing.

968 ~~(m) Any resident fishing for a saltwater species in fresh~~



708694

969 ~~water from land or from a structure fixed to land.~~

970 Section 32. Paragraph (c) of subsection (2) of section
971 379.3671, Florida Statutes, is amended to read:

972 379.3671 Spiny lobster trap certificate program.—

973 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;
974 PENALTIES.—The Fish and Wildlife Conservation Commission shall
975 establish a trap certificate program for the spiny lobster
976 fishery of this state and shall be responsible for its
977 administration and enforcement as follows:

978 (c) Prohibitions; penalties.—

979 1. It is unlawful for a person to possess or use a spiny
980 lobster trap in or on state waters or adjacent federal waters
981 without having affixed thereto the trap tag required by this
982 section. It is unlawful for a person to possess or use any other
983 gear or device designed to attract and enclose or otherwise aid
984 in the taking of spiny lobster by trapping that is not a trap as
985 defined by commission rule.

986 2. It is unlawful for a person to possess or use spiny
987 lobster trap tags without having the necessary number of
988 certificates on record as required by this section.

989 3. It is unlawful for any person to willfully molest, take
990 possession of, or remove the contents of another harvester's
991 spiny lobster trap without the express written consent of the
992 trap owner available for immediate inspection. Unauthorized
993 possession of another's trap gear or removal of trap contents
994 constitutes theft.

995 a. A commercial harvester who violates this subparagraph
996 shall be punished under ss. 379.367 and 379.407. Any commercial
997 harvester receiving a judicial disposition other than dismissal



708694

998 or acquittal on a charge of theft of or from a trap pursuant to
999 this subparagraph or s. 379.402 shall, in addition to the
1000 penalties specified in ss. 379.367 and 379.407 and the
1001 provisions of this section, permanently lose all his or her
1002 saltwater fishing privileges, including his or her saltwater
1003 products license, spiny lobster endorsement, and all trap
1004 certificates allotted to him or her through this program. In
1005 such cases, trap certificates and endorsements are
1006 nontransferable.

1007 b. Any commercial harvester receiving a judicial
1008 disposition other than dismissal or acquittal on a charge of
1009 willful molestation of a trap, in addition to the penalties
1010 specified in ss. 379.367 and 379.407, shall lose all saltwater
1011 fishing privileges for a period of 24 calendar months.

1012 c. In addition, any commercial harvester charged with
1013 violating this subparagraph and receiving a judicial disposition
1014 other than dismissal or acquittal for violating this
1015 subparagraph or s. 379.402 shall also be assessed an
1016 administrative penalty of up to \$5,000.

1017
1018 Immediately upon receiving a citation for a violation
1019 involving theft of or from a trap, or molestation of a trap, and
1020 until adjudicated for such a violation or, upon receipt of a
1021 judicial disposition other than dismissal or acquittal of such a
1022 violation, the commercial harvester committing the violation is
1023 prohibited from transferring any spiny lobster trap certificates
1024 and endorsements.

1025 4. In addition to any other penalties provided in s.
1026 379.407, a commercial harvester who violates the provisions of



708694

1027 this section or commission rules relating to spiny lobster traps
1028 shall be punished as follows:

1029 a. If the first violation is for violation of subparagraph
1030 1. or subparagraph 2., the commission shall assess an additional
1031 administrative penalty of up to \$1,000. For all other first
1032 violations, the commission shall assess an additional
1033 administrative penalty of up to \$500.

1034 b. For a second violation of subparagraph 1. or
1035 subparagraph 2. which occurs within 24 months of any previous
1036 such violation, the commission shall assess an additional
1037 administrative penalty of up to \$2,000 and the spiny lobster
1038 endorsement issued under s. 379.367(2) or (6) may be suspended
1039 for the remainder of the current license year.

1040 c. For a third or subsequent violation of subparagraph 1.,
1041 subparagraph 2., or subparagraph 3. which occurs within 36
1042 months of any previous two such violations, the commission shall
1043 assess an additional administrative penalty of up to \$5,000 and
1044 may suspend the spiny lobster endorsement issued under s.
1045 379.367(2) or (6) for a period of up to 24 months or may revoke
1046 the spiny lobster endorsement and, if revoking the spiny lobster
1047 endorsement, may also proceed against the licenseholder's
1048 saltwater products license in accordance with the provisions of
1049 s. 379.407(2) (h).

1050 d. Any person assessed an additional administrative penalty
1051 pursuant to this section shall within 30 calendar days after
1052 notification:

1053 (I) Pay the administrative penalty to the commission; or

1054 (II) Request an administrative hearing pursuant to the
1055 provisions of ss. 120.569 and 120.57.



708694

1056 e. The commission shall suspend the spiny lobster
1057 endorsement issued under s. 379.367(2) or (6) for any person
1058 failing to comply with the provisions of sub-subparagraph d.

1059 5.a. It is unlawful for any person to make, alter, forge,
1060 counterfeit, or reproduce a spiny lobster trap tag or
1061 certificate.

1062 b. It is unlawful for any person to knowingly have in his
1063 or her possession a forged, counterfeit, or imitation spiny
1064 lobster trap tag or certificate.

1065 c. It is unlawful for any person to barter, trade, sell,
1066 supply, agree to supply, aid in supplying, or give away a spiny
1067 lobster trap tag or certificate or to conspire to barter, trade,
1068 sell, supply, aid in supplying, or give away a spiny lobster
1069 trap tag or certificate unless such action is duly authorized by
1070 the commission as provided in this chapter or in the rules of
1071 the commission.

1072 6.a. Any commercial harvester who violates the provisions
1073 of subparagraph 5., or any commercial harvester who engages in
1074 the commercial harvest, trapping, or possession of spiny lobster
1075 without a spiny lobster endorsement as required by s. 379.367(2)
1076 or (6) or during any period while such spiny lobster endorsement
1077 is under suspension or revocation, commits a felony of the third
1078 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1079 775.084.

1080 b. In addition to any penalty imposed pursuant to sub-
1081 subparagraph a., the commission shall levy a fine of up to twice
1082 the amount of the appropriate surcharge to be paid on the fair
1083 market value of the transferred certificates, as provided in
1084 subparagraph (a)1., on any commercial harvester who violates the



708694

1085 provisions of sub-subparagraph 5.c.

1086 c. In addition to any penalty imposed pursuant to sub-
1087 subparagraph a., any commercial harvester receiving any judicial
1088 disposition other than acquittal or dismissal for a violation of
1089 subparagraph 5. shall be assessed an administrative penalty of
1090 up to \$5,000, and the spiny lobster endorsement under which the
1091 violation was committed may be suspended for up to 24 calendar
1092 months. Immediately upon issuance of a citation involving a
1093 violation of subparagraph 5. and until adjudication of such a
1094 violation, and after receipt of any judicial disposition other
1095 than acquittal or dismissal for such a violation, the commercial
1096 harvester holding the spiny lobster endorsement listed on the
1097 citation is prohibited from transferring any spiny lobster trap
1098 certificates.

1099 d. Any other person who violates the provisions of
1100 subparagraph 5. commits a Level Four violation under s. 379.401.

1101 7. Prior to the 2010-2011 license year, any certificates
1102 for which the annual certificate fee is not paid for a period of
1103 3 years shall be considered abandoned and shall revert to the
1104 commission. Beginning with the 2010-2011 license year, any
1105 certificate for which the annual certificate fee is not paid for
1106 a period of 2 consecutive years shall be considered abandoned
1107 and shall revert to the commission. During any period of trap
1108 reduction, any certificates reverting to the commission shall
1109 become permanently unavailable and be considered in that amount
1110 to be reduced during the next license-year period. Otherwise,
1111 any certificates that revert to the commission are to be
1112 reallocated in such manner as provided by the commission.

1113 8. The proceeds of all administrative penalties collected



708694

1114 pursuant to subparagraph 4. and all fines collected pursuant to
1115 sub-subparagraph 6.b. shall be deposited into the Marine
1116 Resources Conservation Trust Fund.

1117 9. All traps shall be removed from the water during any
1118 period of suspension or revocation.

1119 10. Except as otherwise provided, any person who violates
1120 this paragraph commits a Level Two violation under s. 379.401.

1121 Section 33. Paragraphs (c), (d), and (e) of subsection (2)
1122 of section 379.3751, Florida Statutes, are amended to read:

1123 379.3751 Taking and possession of alligators; trapping
1124 licenses; fees.—

1125 (2) The license and issuance fee, and the activity
1126 authorized thereby, shall be as follows:

1127 (c) The annual fee for issuance of an alligator trapping
1128 agent's license, which permits a person to act as an agent of
1129 any person who has been issued a resident or nonresident
1130 alligator trapping license as provided in paragraph (a) or
1131 paragraph (b) and to take alligators occurring in the wild other
1132 than alligator hatchlings, ~~and to possess and process alligators~~
1133 ~~taken under authority of such agency relationship, and to~~
1134 ~~possess, process, and sell their hides and meat,~~ shall be \$50.
1135 ~~Such alligator trapping agent's license shall be issued only in~~
1136 ~~conjunction with an alligator trapping license and shall bear on~~
1137 ~~its face in indelible ink the name and license number of the~~
1138 ~~alligator trapping licenseholder for whom the holder of this~~
1139 ~~license is acting as an agent.~~

1140 (d) The annual fee for issuance of an alligator farming
1141 license, which permits a person to operate a facility for
1142 captive propagation of alligators, to possess alligators for



708694

1143 captive propagation, to take alligator hatchlings and alligator
1144 eggs occurring in the wild, to rear such alligators, alligator
1145 hatchlings, and alligator eggs in captivity, to process
1146 alligators taken or possessed under authority of such alligator
1147 farming license or otherwise legally acquired, and to possess,
1148 process, and sell their hides and meat, shall be \$250.

1149 (e) The annual fee for issuance of an alligator farming
1150 agent's license, which permits a person to act as an agent of
1151 any person who has been issued an alligator farming license as
1152 provided in paragraph (d) and to take alligator hatchlings and
1153 alligator eggs occurring in the wild, ~~and~~ to possess and process
1154 alligators taken under authority of such agency relationship,
1155 and to possess, process, and sell their hides and meat, shall be
1156 \$50. ~~Such license shall be issued only in conjunction with an~~
1157 ~~alligator farming license, and shall bear on its face in~~
1158 ~~indelible ink the name and license number of the alligator~~
1159 ~~farming licenseholder for whom the holder of this license is~~
1160 ~~acting as an agent.~~

1161 Section 34. Subsection (6) is added to section 379.3761,
1162 Florida Statutes, to read:

1163 379.3761 Exhibition or sale of wildlife; fees;
1164 classifications.—

1165 (6) A person who violates this section is punishable as
1166 provided in s. 379.4015.

1167 Section 35. Subsection (5) of section 379.3762, Florida
1168 Statutes, is amended to read:

1169 379.3762 Personal possession of wildlife.—

1170 (5) A person who violates ~~Persons in violation of this~~
1171 ~~section is shall be~~ punishable as provided in s. 379.4015



708694

1172 ~~379.401.~~

1173 Section 36. Paragraph (a) of subsection (2) and paragraph
1174 (a) of subsection (4) of section 379.401, Florida Statutes, are
1175 amended to read:

1176 379.401 Penalties and violations; civil penalties for
1177 noncriminal infractions; criminal penalties; suspension and
1178 forfeiture of licenses and permits.—

1179 (2) (a) LEVEL TWO VIOLATIONS.—A person commits a Level Two
1180 violation if he or she violates any of the following provisions:

1181 1. Rules or orders of the commission relating to seasons or
1182 time periods for the taking of wildlife, freshwater fish, or
1183 saltwater fish.

1184 2. Rules or orders of the commission establishing bag,
1185 possession, or size limits or restricting methods of taking
1186 wildlife, freshwater fish, or saltwater fish.

1187 3. Rules or orders of the commission prohibiting access or
1188 otherwise relating to access to wildlife management areas or
1189 other areas managed by the commission.

1190 4. Rules or orders of the commission relating to the
1191 feeding of wildlife, freshwater fish, or saltwater fish.

1192 5. Rules or orders of the commission relating to landing
1193 requirements for freshwater fish or saltwater fish.

1194 6. Rules or orders of the commission relating to restricted
1195 hunting areas, critical wildlife areas, or bird sanctuaries.

1196 7. Rules or orders of the commission relating to tagging
1197 requirements for wildlife game and fur-bearing animals.

1198 8. Rules or orders of the commission relating to the use of
1199 dogs for the taking of wildlife game.

1200 9. Rules or orders of the commission which are not



708694

1201 otherwise classified.

1202 10. Rules or orders of the commission prohibiting the
1203 unlawful use of finfish traps.

1204 11. All prohibitions in this chapter which are not
1205 otherwise classified.

1206 12. Section 379.33, prohibiting the violation of or
1207 noncompliance with commission rules.

1208 13. Section 379.407(6), prohibiting the sale, purchase,
1209 harvest, or attempted harvest of any saltwater product with
1210 intent to sell.

1211 14. Section 379.2421, prohibiting the obstruction of
1212 waterways with net gear.

1213 15. Section 379.413, prohibiting the unlawful taking of
1214 bonefish.

1215 16. Section 379.365(2)(a) and (b), prohibiting the
1216 possession or use of stone crab traps without trap tags and
1217 theft of trap contents or gear.

1218 17. Section 379.366(4)(b), prohibiting the theft of blue
1219 crab trap contents or trap gear.

1220 18. Section 379.3671(2)(c), prohibiting the possession or
1221 use of spiny lobster traps without trap tags or certificates and
1222 theft of trap contents or trap gear.

1223 19. Section 379.357, prohibiting the possession of tarpon
1224 without purchasing a tarpon tag.

1225 20. Rules or orders of the commission ~~Section 379.409,~~
1226 prohibiting the feeding or enticement of alligators or
1227 crocodiles.

1228 21. Section 379.105, prohibiting the intentional harassment
1229 of hunters, fishers, or trappers.



708694

1230 (4) (a) LEVEL FOUR VIOLATIONS.—A person commits a Level Four
1231 violation if he or she violates any of the following provisions:

1232 1. Section 379.365(2) (c), prohibiting criminal activities
1233 relating to the taking of stone crabs.

1234 2. Section 379.366(4) (c), prohibiting criminal activities
1235 relating to the taking and harvesting of blue crabs.

1236 3. Section 379.367(4), prohibiting the willful molestation
1237 of spiny lobster gear.

1238 4. Section 379.3671(2) (c)5., prohibiting the unlawful
1239 reproduction, possession, sale, trade, or barter of spiny
1240 lobster trap tags or certificates.

1241 5. Section 379.354(16), prohibiting the making, forging,
1242 counterfeiting, or reproduction of a recreational license or
1243 possession of same without authorization from the commission.

1244 6. Section 379.404(5), prohibiting the sale of illegally-
1245 taken deer or wild turkey.

1246 7. Section 379.405, prohibiting the molestation or theft of
1247 freshwater fishing gear.

1248 8. Section 379.409, prohibiting the unlawful killing,
1249 injuring, possessing, or capturing of alligators or other
1250 crocodilia or their eggs.

1251 Section 37. Paragraph (a) of subsection (2) of section
1252 379.4015, Florida Statutes, is amended to read:

1253 379.4015 Captive wildlife penalties.—

1254 (2) LEVEL TWO.—Unless otherwise provided by law, the
1255 following classifications and penalties apply:

1256 (a) A person commits a Level Two violation if he or she
1257 violates any of the following provisions:

1258 1. Unless otherwise stated in subsection (1), rules or



708694

1259 orders of the commission that require a person to pay a fee to
1260 obtain a permit to possess captive wildlife or that require the
1261 maintenance of records relating to captive wildlife.

1262 2. Rules or orders of the commission relating to captive
1263 wildlife not specified in subsection (1) or subsection (3).

1264 3. Rules or orders of the commission that require housing
1265 of wildlife in a safe manner when a violation results in an
1266 escape of wildlife other than Class I wildlife.

1267 4. Section 379.372, relating to capturing, keeping,
1268 possessing, transporting, or exhibiting venomous reptiles or
1269 reptiles of concern.

1270 5. Section 379.373, relating to requiring a license or
1271 permit for the capturing, keeping, possessing, or exhibiting of
1272 venomous reptiles or reptiles of concern.

1273 6. Section 379.374, relating to bonding requirements for
1274 public exhibits of venomous reptiles.

1275 7. Section 379.305, relating to commission rules and
1276 regulations to prevent the escape of venomous reptiles or
1277 reptiles of concern.

1278 8. Section 379.304, relating to exhibition or sale of
1279 wildlife.

1280 9. Section 379.3761, relating to exhibition or sale of
1281 wildlife.

1282 10. Section 379.3762, relating to personal possession of
1283 wildlife.

1284 Section 38. The Fish and Wildlife Conservation Commission,
1285 in consultation with the Department of Environmental Protection,
1286 is directed to establish a pilot program in at least one but not
1287 more than five locations to explore potential options for



708694

1288 regulating the anchoring or mooring of non-live-aboard vessels
1289 outside the marked boundaries of public mooring fields.

1290 (1) The goals of the pilot program are to encourage the
1291 establishment of additional public mooring fields and to develop
1292 and test policies and regulatory regimes that:

1293 (a) Promote the establishment and use of public mooring
1294 fields.

1295 (b) Promote public access to the waters of this state.

1296 (c) Enhance navigational safety.

1297 (d) Protect maritime infrastructure.

1298 (e) Protect the marine environment.

1299 (f) Deter improperly stored, abandoned, or derelict
1300 vessels.

1301 (2) Each location selected for inclusion in the pilot
1302 program must be associated with a properly permitted mooring
1303 field. The commission, in consultation with the department,
1304 shall select all locations for the pilot program prior to July
1305 1, 2011. If more than one location is selected, the selections
1306 must be geographically diverse and take into consideration the
1307 various users and means of using the waters of this state.

1308 (3) Notwithstanding the provisions of s. 327.60, Florida
1309 Statutes, a county or municipality selected for participation in
1310 the pilot program may regulate by ordinance the anchoring of
1311 vessels, other than live-aboard vessels as defined in s. 327.02,
1312 Florida Statutes, outside of a mooring field. Any ordinance
1313 enacted under the pilot program shall take effect and become
1314 enforceable only after approval by the commission. The
1315 commission shall not approve any ordinance not consistent with
1316 the goals of the pilot program.



708694

1317 (4) The commission shall:
1318 (a) Provide consultation and technical assistance to each
1319 municipality or county selected for participation in the pilot
1320 program to facilitate accomplishment of the pilot program's
1321 goals.
1322 (b) Coordinate the review of any proposed ordinance with
1323 the department; the Coast Guard; the Florida Inland Navigation
1324 District or the West Coast Inland Navigation District, as
1325 appropriate; and associations or other organizations
1326 representing vessel owners or operators.
1327 (c) Monitor and evaluate at least annually each location
1328 selected for participation in the pilot program and make such
1329 modifications as may be necessary to accomplish the pilot
1330 program's goals.
1331 (5) The commission shall submit a report of its findings
1332 and recommendations to the Governor, the President of the
1333 Senate, and the Speaker of the House of Representatives by
1334 January 1, 2014.
1335 (6) The pilot program shall expire on July 1, 2014, unless
1336 reenacted by the Legislature. All ordinances enacted under this
1337 section shall expire concurrently with the expiration of the
1338 pilot program and shall be inoperative and unenforceable
1339 thereafter.
1340 Section 39. Section 379.501, Florida Statutes, is created
1341 to read:
1342 379.501 .-Aquatic weeds or plants; prohibitions, violation,
1343 penalty, intent.-
1344 (1) A person may not:
1345 (a) Violate this section or any provision of s. 369.20 or



708694

1346 s. 369.22 related to aquatic weeds or plants;

1347 (b) Fail to obtain any permit required by s. 369.20 or s.
1348 369.22 or by commission rule implementing s. 369.20 or s.
1349 369.22, or violate or fail to comply with any rule, regulation,
1350 order, permit, or certification adopted or issued by the
1351 commission pursuant to s. 369.20 or s. 369.22; or

1352 (c) Knowingly make any false statement, representation, or
1353 certification in any application, record, report, plan, or other
1354 document filed or required to be maintained under s. 369.20 or
1355 s. 369.22, or to falsify, tamper with, or knowingly render
1356 inaccurate any monitoring device or method required to be
1357 maintained under s. 369.20 or s. 369.22 or by any permit, rule,
1358 regulation, or order issued under s. 369.20 or s. 369.22.

1359 (2) Any person who violates any provision specified in
1360 subsection (1) is liable to the state for any damage caused to
1361 the aquatic weeds or plants and for civil penalties as provided
1362 in s. 379.502.

1363 (3) Any person who willfully commits a violation of
1364 paragraph (1) (a) commits a felony of the third degree,
1365 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
1366 Each day during any portion of which such violation occurs
1367 constitutes a separate offense.

1368 (4) Any person who commits a violation specified in
1369 paragraph (1) (a) due to reckless indifference or gross careless
1370 disregard commits a misdemeanor of the second degree, punishable
1371 as provided in s. 775.082 or s. 775.083.

1372 (5) Any person who willfully commits a violation specified
1373 in paragraph (1) (b) or paragraph (1) (c) commits a misdemeanor of
1374 the first degree, punishable as provided in s. 775.082 or s.



708694

1375 775.083.

1376 (6) It is the intent of the Legislature that the civil
1377 penalties and criminal fines imposed by a court be of such an
1378 amount as to ensure immediate and continued compliance with this
1379 section.

1380 (7) Penalties assessed pursuant to ss. 379.501-379.504 are
1381 in addition to any penalties assessed by the Board of Trustees
1382 of the Internal Improvement Trust Fund, the Department of
1383 Environmental Protection, or a water management district
1384 pursuant to chapters 253, 373, or 403.

1385 Section 40. Section 379.502, Florida Statutes, is created
1386 to read:

1387 379.502 .-Enforcement; procedure; remedies.-The commission
1388 has the following judicial and administrative remedies available
1389 to it for violations of s. 379.501.

1390 (1)(a) The commission may institute a civil action in a
1391 court of competent jurisdiction to establish liability and to
1392 recover damages for any injury to the waters or property of the
1393 state, including animal, plant, and aquatic life, caused by any
1394 violation of s. 379.501.

1395 (b) The commission may institute a civil action in a court
1396 of competent jurisdiction to impose and to recover a civil
1397 penalty for each violation in an amount of not more than \$10,000
1398 per offense. However, the court may receive evidence in
1399 mitigation. Each day, during any portion of which such violation
1400 occurs, constitutes a separate offense.

1401 (c) Except as provided in paragraph (2)(c), the fact that
1402 the commission has failed to exhaust its administrative
1403 remedies, has failed to serve a notice of violation, or has



708694

1404 failed to hold an administrative hearing before initiating a
1405 civil action is not a defense to, or grounds for dismissal of,
1406 the judicial remedies for damages and civil penalties.

1407 (2)(a) The commission may institute an administrative
1408 proceeding to establish liability and to recover damages for any
1409 injury to the waters or property of the state, including animal,
1410 plant, or aquatic life, caused by any violation of s. 379.501.
1411 The commission may order that the violator pay a specified sum
1412 as damages to the state. Judgment for the amount of damages
1413 determined by the commission may be entered in any court having
1414 jurisdiction thereof and may be enforced as any other judgment.

1415 (b) If the commission has reason to believe that a
1416 violation has occurred, it may institute an administrative
1417 proceeding to order the prevention, abatement, or control of the
1418 conditions creating the violation or other appropriate
1419 corrective action. The commission shall proceed administratively
1420 in all cases in which the commission seeks administrative
1421 penalties that do not exceed \$10,000 per assessment as
1422 calculated in accordance with subsections (3), (4), (5), and(6).
1423 The commission may not impose administrative penalties in excess
1424 of \$10,000 in a notice of violation. The commission may not have
1425 more than one notice of violation seeking administrative
1426 penalties pending against the same party at the same time unless
1427 the violations occurred at a different site or the violations
1428 were discovered by the commission subsequent to the filing of a
1429 previous notice of violation.

1430 (c) An administrative proceeding shall be instituted by the
1431 commission's serving of a written notice of violation upon the
1432 alleged violator by certified mail. If the commission is unable



708694

1433 to effect service by certified mail, the notice of violation may
1434 be hand delivered or personally served in accordance with
1435 chapter 48. The notice shall specify the provision of the law,
1436 rule, regulation, permit, certification, or order of the
1437 commission alleged to have been violated and the facts alleged
1438 to constitute a violation thereof. An order for corrective
1439 action, penalty assessment, or damages may be included along
1440 with the notice. If the commission is seeking to impose an
1441 administrative penalty for any violation of s. 379.501 by
1442 issuing a notice of violation, any corrective action needed to
1443 correct the violation or damages caused by the violation must be
1444 pursued in the notice of violation or they are waived. However,
1445 an order does not become effective until after service and an
1446 administrative hearing, if requested within 20 days after
1447 service. Failure to request an administrative hearing within
1448 this period constitutes a waiver, unless the respondent files a
1449 written notice with the commission within this period opting out
1450 of the administrative process initiated by the commission. Any
1451 respondent choosing to opt out of the administrative process
1452 initiated by the commission must file a written notice with the
1453 commission within 20 days after service of the notice of
1454 violation opting out of the administrative process. A
1455 respondent's decision to opt out of the administrative process
1456 does not preclude the commission from initiating a state court
1457 action seeking injunctive relief, damages, and the judicial
1458 imposition of civil penalties.

1459 (d) If a person timely files a petition challenging a
1460 notice of violation, that person will thereafter be referred to
1461 as the respondent. The hearing requested by the respondent shall



708694

1462 be held within 180 days after the commission has referred the
1463 initial petition to the Division of Administrative Hearings
1464 unless the parties agree to a later date. The commission has the
1465 burden of proving by the preponderance of the evidence that the
1466 respondent is responsible for the violation. An administrative
1467 penalty may not be imposed unless the commission satisfies that
1468 burden. Following the close of the hearing, the administrative
1469 law judge shall issue a final order on all matters, including
1470 the imposition of an administrative penalty. If the commission
1471 seeks to enforce that portion of a final order imposing
1472 administrative penalties pursuant to s. 120.69, the respondent
1473 may not assert as a defense the inappropriateness of the
1474 administrative remedy. The commission retains its final-order
1475 authority in all administrative actions that do not request the
1476 imposition of administrative penalties.

1477 (e) After filing a petition requesting a formal hearing in
1478 response to a notice of violation, a respondent may request that
1479 a private mediator be appointed to mediate the dispute by
1480 contacting the Florida Conflict Resolution Consortium within 10
1481 days after receipt of the initial order from the administrative
1482 law judge. The Florida Conflict Resolution Consortium shall pay
1483 all of the costs of the mediator and for up to 8 hours of the
1484 mediator's time per case at \$150 per hour. Upon notice from the
1485 respondent, the Florida Conflict Resolution Consortium shall
1486 provide the respondent with a panel of possible mediators from
1487 the area in which the hearing on the petition would be heard.
1488 The respondent shall select the mediator and notify the Florida
1489 Conflict Resolution Consortium of the selection within 15 days
1490 after receipt of the proposed panel of mediators. The Florida



708694

1491 Conflict Resolution Consortium shall provide all of the
1492 administrative support for the mediation process. The mediation
1493 must be completed at least 15 days before the final hearing date
1494 set by the administrative law judge.

1495 (f) In any administrative proceeding brought by the
1496 commission, the prevailing party shall recover all costs as
1497 provided in ss. 57.041 and 57.071. The costs must be included in
1498 the final order. The respondent is the prevailing party when an
1499 order is entered awarding no penalties to the commission and the
1500 order has not been reversed on appeal or the time for seeking
1501 judicial review has expired. The respondent is entitled to an
1502 award of attorney's fees if the administrative law judge
1503 determines that the notice of violation issued by the commission
1504 was not substantially justified as defined in s. 57.111(3)(e).
1505 An award of attorney's fees as provided by this subsection may
1506 not exceed \$15,000.

1507 (g) This section does not prevent any other legal or
1508 administrative action in accordance with law. This subsection
1509 does not limit the commission's authority set forth in this
1510 section and ss. 379.503 and 379.504 to judicially pursue
1511 injunctive relief. If the commission exercises its authority to
1512 judicially pursue injunctive relief, penalties in any amount up
1513 to the statutory maximum sought by the commission must be
1514 pursued as part of the state court action and not by initiating
1515 a separate administrative proceeding. The commission retains the
1516 authority to judicially pursue penalties in excess of \$10,000
1517 for violations not specifically included in the administrative
1518 penalty schedule, or for multiple or multiday violations alleged
1519 to exceed a total of \$10,000. The commission also retains the



708694

1520 authority provided in this section and ss. 379.503 and 379.504
1521 to judicially pursue injunctive relief and damages, if a notice
1522 of violation seeking the imposition of administrative penalties
1523 has not been issued. The commission may enter into a settlement
1524 before or after initiating a notice of violation, and the
1525 settlement may include a penalty amount that is different from
1526 the administrative penalty schedule. Any case filed in state
1527 court because it is alleged to exceed a total of \$10,000 in
1528 penalties may be settled in the court action for less than
1529 \$10,000.

1530 (h) Chapter 120 does apply to any administrative action
1531 taken by the commission under this section or any delegated
1532 program pursuing administrative penalties in accordance with
1533 this section.

1534 (3) Administrative penalties must be calculated according
1535 to the following schedule:

1536 (a) For violations of s. 379.501(1)(a) or (b), \$3,000.

1537 (b) For failure to conduct required monitoring or testing
1538 in compliance with a permit, \$2,000.

1539 (c) For failure to prepare, submit, maintain, or use
1540 required reports or other required documentation, \$500.

1541 (d) For failure to comply with any other regulatory statute
1542 or rule requirement relating to the administration of the
1543 commission's powers under s. 369.20 or s. 369.22 not otherwise
1544 identified in this section, \$500.

1545 (4) For each additional day during which a violation
1546 occurs, the administrative penalties in subsection (3) may be
1547 assessed per day, per violation.

1548 (5) The history of noncompliance of the violator for any



708694

1549 previous violation resulting in an executed consent order, but
1550 not including a consent order entered into without a finding of
1551 violation, or resulting in a final order or judgment on or after
1552 July 1, 2009, involving the imposition of \$2,000 or more in
1553 penalties, shall be taken into consideration in the following
1554 manner:

1555 (a) One previous such violation within 5 years prior to the
1556 filing of the notice of violation shall result in a 25 percent
1557 per day increase in the scheduled administrative penalty.

1558 (b) Two previous such violations within 5 years prior to
1559 the filing of the notice of violation shall result in a 50
1560 percent per day increase in the scheduled administrative
1561 penalty.

1562 (c) Three or more previous such violations within 5 years
1563 before the filing of the notice of violation shall result in a
1564 100 percent per day increase in the scheduled administrative
1565 penalty.

1566 (6) The direct economic benefit gained by the violator from
1567 the violation shall be added to the scheduled administrative
1568 penalty. The total administrative penalty, including any
1569 economic benefit added to the scheduled administrative penalty,
1570 may not exceed \$10,000.

1571 (7) The administrative penalties assessed for any
1572 particular violation may not exceed \$3,000 against any one
1573 violator, unless the violator has a history of noncompliance,
1574 the economic benefit of the violation as described in
1575 subsection(6) exceeds \$3,000, or there are multiday violations.
1576 The total administrative penalties may not exceed \$10,000 per
1577 assessment for all violations attributable to a specific person



708694

1578 in the notice of violation.

1579 (8) The administrative law judge may receive evidence in
1580 mitigation. The penalties identified in subsection (3) may be
1581 reduced up to 50 percent by the administrative law judge for
1582 mitigating circumstances, including good faith efforts to comply
1583 prior to or after discovery of the violations by the commission.
1584 Upon an affirmative finding that the violation was caused by
1585 circumstances beyond the reasonable control of the respondent
1586 and could not have been prevented by the respondent's due
1587 diligence, the administrative law judge may further reduce the
1588 penalty.

1589 (9) Penalties collected under this section shall be
1590 deposited into the Invasive Plant Control Trust Fund to carry
1591 out the purposes set forth in ss. 369.20, 369.22, and 369.252.
1592 The Florida Conflict Resolution Consortium may use a portion of
1593 the fund to administer the mediation process provided in
1594 paragraph (2) (e) and to contract with private mediators for
1595 administrative penalty cases related to s. 369.20 or s. 369.22.

1596 (10) The purpose of the administrative penalty schedule and
1597 process is to provide a more predictable and efficient manner
1598 for individuals and businesses to resolve relatively minor
1599 environmental disputes. Subsections (3) through (7) do not limit
1600 a state court in the assessment of damages. The administrative
1601 penalty schedule does not apply to the judicial imposition of
1602 civil penalties in state court as provided in this section.

1603 Section 41. Section 379.503, Florida Statutes, is created
1604 to read:

1605 379.503 Civil action.—

1606 (1) The commission may institute a civil action in a court



708694

1607 of competent jurisdiction to seek injunctive relief to enforce
1608 compliance with ss. 379.501, 379.502, and 379.504 or any rule,
1609 regulation, permit, certification, or order adopted or issued by
1610 the commission pursuant to s. 369.20 or s. 369.22; to enjoin any
1611 violation specified in s. 379.501(1); and to seek injunctive
1612 relief to prevent irreparable injury to the waters and property,
1613 including animal, plant, and aquatic life, of the state and to
1614 protect human health, safety, and welfare caused or threatened
1615 by any violation of s. 379.501.

1616 (2) All the judicial and administrative remedies to recover
1617 damages and penalties in this section and s. 379.502 are
1618 alternative and mutually exclusive.

1619 Section 42. Section 379.504, Florida Statutes, is created
1620 to read:

1621 379.504 Civil liability; joint and several liability.—

1622 (1) Whoever commits a violation specified in s. 379.501(1)
1623 is liable to the state for any damage caused to the waters or
1624 property of the state, including animal, plant, or aquatic life,
1625 and for reasonable costs and expenses of the state in restoring
1626 its waters and property, including animal, plant, and aquatic
1627 life, to their former condition, and furthermore is subject to
1628 the judicial imposition of a civil penalty for each offense in
1629 an amount of not more than \$10,000 per offense. However, the
1630 court may receive evidence in mitigation. Each day during any
1631 portion of which such violation occurs constitutes a separate
1632 offense. This section does not give the commission the right to
1633 bring an action on behalf of any private person.

1634 (2) If two or more persons violate s. 379.501 so that the
1635 damage is indivisible, each violator shall be jointly and



708694

1636 severally liable for the damage and for the reasonable cost and
1637 expenses of the state incurred in restoring the waters and
1638 property of the state, including the animal, plant, and aquatic
1639 life, to their former condition. However, if the damage is
1640 divisible and may be attributed to a particular violator or
1641 violators, each violator is liable only for that damage
1642 attributable to his or her violation.

1643 (3) In assessing damages for fish killed, the value of the
1644 fish shall be determined in accordance with a table of values
1645 for individual categories of fish, which shall be adopted by the
1646 Department of Environmental Protection pursuant to s.
1647 403.141(3). The total number of fish killed may be estimated by
1648 standard practices used in estimating fish population.

1649 Section 43. Subsection (1) of section 403.088, Florida
1650 Statutes, is amended to read:

1651 403.088 Water pollution operation permits; conditions.—

1652 (1) No person, without written authorization of the
1653 department, shall discharge into waters within the state any
1654 waste which, by itself or in combination with the wastes of
1655 other sources, reduces the quality of the receiving waters below
1656 the classification established for them. However, this section
1657 shall not be deemed to prohibit the application of pesticides to
1658 waters in the state for the control of insects, aquatic weeds,
1659 or algae, provided the application is performed pursuant to a
1660 program approved by the Department of Health, in the case of
1661 insect control, or the Fish and Wildlife Conservation Commission
1662 department, in the case of aquatic weed or algae control. The
1663 department is directed to enter into interagency agreements to
1664 establish the procedures for program approval. Such agreements



708694

1665 shall provide for public health, welfare, and safety, as well as
1666 environmental factors. Approved programs must provide that only
1667 chemicals approved for the particular use by the United States
1668 Environmental Protection Agency or by the Department of
1669 Agriculture and Consumer Services may be employed and that they
1670 be applied in accordance with registered label instructions,
1671 state standards for such application, and the provisions of the
1672 Florida Pesticide Law, part I of chapter 487.

1673 Section 44. The statutory powers, duties and functions
1674 related to ss. 369.20, 369.22 and 369.252 which were transferred
1675 by Chapter 2008-150, Laws of Florida, and all records,
1676 personnel, and property; unexpended balances of appropriations,
1677 allocations, and other funds; administrative authority;
1678 administrative rules; pending issues; and existing contracts of
1679 the Bureau of Invasive Plant Management in the Department of
1680 Environmental Protection are transferred by a type two transfer,
1681 pursuant to s. 20.06(2), Florida Statutes, to the Fish and
1682 Wildlife Conservation Commission. All actions taken pursuant to
1683 Chapter 2008-150, Laws of Florida and the Interagency Agreement
1684 executed thereto are ratified.

1685 Section 45. For the purpose of incorporating the amendment
1686 made by this act to section 319.32, Florida Statutes, in a
1687 reference thereto, paragraph (a) of subsection (2) of section
1688 379.209, Florida Statutes, is reenacted to read:

1689 379.209 Nongame Wildlife Trust Fund.—

1690 (2) (a) There is established within the Fish and Wildlife
1691 Conservation Commission the Nongame Wildlife Trust Fund. The
1692 fund shall be credited with moneys collected pursuant to ss.
1693 319.32(3) and 320.02(8). Additional funds may be provided from



708694

1694 legislative appropriations and by donations from interested
1695 individuals and organizations. The commission shall designate an
1696 identifiable unit to administer the trust fund.

1697 Section 46. For the purpose of incorporating the amendment
1698 made by this act to section 379.353, Florida Statutes, in a
1699 reference thereto, subsection (7) of section 379.3581, Florida
1700 Statutes, is reenacted to read:

1701 379.3581 Hunter safety course; requirements; penalty.—

1702 (7) The hunter safety requirements of this section do not
1703 apply to persons for whom licenses are not required under s.
1704 379.353(2).

1705 Section 47. The sum of \$185,000 is appropriated to the Fish
1706 and Wildlife Conservation Commission from the State Game Trust
1707 Fund on a recurring basis beginning in fiscal year 2009-2010 for
1708 license issuance costs associated with section 31.

1709 Section 48. Effective October 1, 2009, section 327.22,
1710 Florida Statutes, is repealed.

1711 Section 49. Subsection (7) of section 379.366, Florida
1712 Statutes, is repealed.

1713 Section 50. Except as otherwise expressly provided in this
1714 act, this act shall take effect July 1, 2009.

1715

1716

1717 ===== T I T L E A M E N D M E N T =====

1718 And the title is amended as follows:

1719 Delete everything before the enacting clause
1720 and insert:

1721 A bill to be entitled

1722 An act relating to the Fish and Wildlife Conservation



708694

1723 Commission; amending s. 206.606, F.S.; requiring the Fish and
1724 Wildlife Conservation Commission rather than the Department of
1725 Revenue to distribute a specified sum from the Invasive Plant
1726 Control Trust Fund to eradicate melaleuca; amending s. 253.002,
1727 F.S.; setting forth duties of the commission as they relate to
1728 state lands; amending s. 253.04, F.S.; providing for preservation
1729 of sea grasses; providing penalties; amending s. 319.32, F.S.;
1730 increasing the certificate of title fee for certain vehicles;
1731 amending s. 320.08056, F.S.; increasing the annual use fee for
1732 certain specialty license plates; amending s. 327.35, F.S.;
1733 revising penalties for boating under the influence of alcohol;
1734 revising the blood-alcohol level or breath-alcohol level at
1735 which certain penalties apply; amending s. 327.36, F.S.;
1736 revising a prohibition against accepting a plea to a lesser
1737 included offense from a person who is charged with certain
1738 offenses involving the operation of a vessel; revising the
1739 blood-alcohol level or breath-alcohol level at which the
1740 prohibition applies; amending s. 327.40, F.S.; revising
1741 provisions for placement of navigation, safety, and
1742 informational markers of waterways; providing for uniform
1743 waterway markers; removing an exemption from permit requirements
1744 for certain markers placed by county, municipal, or other
1745 government entities; amending s. 327.41, F.S., relating to
1746 placement of markers by a county or municipality; revising
1747 terminology; providing for a county or municipality that has
1748 adopted a boating-restricted area by ordinance under specified
1749 provisions to apply for permission to place regulatory markers;
1750 amending s. 327.42, F.S.; revising provisions prohibiting
1751 mooring to or damaging markers or buoys; amending s. 327.46,



708694

1752 F.S.; revising provisions for establishment by the Fish and
1753 Wildlife Conservation Commission of boating-restricted areas;
1754 providing for counties and municipalities to establish boating-
1755 restricted areas with approval of the commission; directing the
1756 commission to adopt rules for the approval; revising a
1757 prohibition against operating a vessel in a prohibited manner in
1758 a boating-restricted area; providing for enforcement by citation
1759 mailed to the owner of the vessel; specifying responsibility for
1760 citations issued to livery vessels; providing construction;
1761 amending s. 327.60, F.S.; revising provisions limiting
1762 regulation by a county or municipality of the operation,
1763 equipment, and other matters relating to vessels operated upon
1764 the waters of this state; prohibiting certain county or
1765 municipality ordinances or regulations; creating s. 327.66,
1766 F.S.; prohibiting possessing or operating a vessel equipped with
1767 certain fuel containers or related equipment; prohibiting
1768 transporting fuel in a vessel except in compliance with certain
1769 federal regulations; providing penalties; declaring fuel
1770 transported in violation of such prohibitions to be a public
1771 nuisance and directing the enforcing agency to abate the
1772 nuisance; providing for disposal of the containers and fuel;
1773 declaring conveyances, vessels, vehicles, and equipment used in
1774 such violation to be contraband; providing for seizure of the
1775 contraband; defining the term "conviction" for specified
1776 purposes; providing for costs to remove fuel, containers,
1777 vessels, and equipment to be paid by the owner; providing that a
1778 person who fails to pay such cost shall not be issued a
1779 certificate of registration for a vessel or motor vehicle;
1780 amending s. 327.73, F.S.; revising provisions for citation of a



708694

1781 noncriminal infraction to provide for violations relating to
1782 boating-restricted areas and speed limits; revising provisions
1783 relating to establishment of such limits by counties and
1784 municipalities; amending s. 328.03, F.S.; requiring vessels used
1785 or stored on the waters of this state to be titled by this state
1786 pursuant to specified provisions; providing exceptions; amending
1787 s. 328.07, F.S.; requiring certain vessels used or stored on the
1788 waters of this state to have affixed a hull identification
1789 number; providing that a vessel in violation may be seized and
1790 subject to forfeiture; amending ss. 328.46, 328.48, and 328.56,
1791 F.S.; requiring vessels operated, used, or stored on the waters
1792 of this state to be registered and display the registration
1793 number; providing exceptions; amending s. 328.58, F.S., relating
1794 to reciprocity of nonresident or alien vessels; requiring the
1795 owner of a vessel with a valid registration from another state,
1796 a vessel with a valid registration from the United States Coast
1797 Guard in another state, or a federally documented vessel from
1798 another state to record the registration number with the
1799 Department of Highway Safety and Motor Vehicles when using or
1800 storing the vessel on the waters of this state in excess of the
1801 90-day reciprocity period; amending s. 328.60, F.S.; providing
1802 an exception to registration requirements for military personnel
1803 using or storing on the waters of this state a vessel with a
1804 valid registration from another state, a vessel with a valid
1805 registration from the United States Coast Guard in another
1806 state, or a federally documented vessel from another state;
1807 amending s. 328.65, F.S.; revising legislative intent with
1808 respect to registration and numbering of vessels; amending s.
1809 328.66, F.S.; authorizing a county to impose an annual



708694

1810 registration fee on vessels used on the waters of this state
1811 within its jurisdiction; amending s. 328.72, F.S.; providing
1812 noncriminal penalties for use or storage of a previously
1813 registered vessel after the expiration of the registration
1814 period; amending ss. 369.20, 369.22, and 369.25, F.S.; providing
1815 that the commission has the authority to enforce statutes
1816 relating to aquatic weeds and plants; amending s. 379.304, F.S.;
1817 providing that anyone violating the provisions governing the
1818 sale or exhibition of wildlife are subject to specified
1819 penalties relating to captive wildlife; amending s. 379.338,
1820 F.S.; authorizing an investigating law enforcement agency to
1821 dispose of illegally taken wildlife, freshwater fish, or
1822 saltwater fish in certain specified ways; requiring that live
1823 wildlife, freshwater fish, and saltwater fish be properly
1824 documented as evidence and returned to the habitat unharmed;
1825 requiring that nonnative species be disposed of in accordance
1826 with rules of the Fish and Wildlife Conservation Commission;
1827 providing for the disposition of furs and hides; requiring that
1828 the proceeds of sales be deposited in the State Game Trust Fund
1829 or the Marine Resources Conservation Trust Fund; requiring the
1830 Fish and Wildlife Conservation Commission to give to a state,
1831 municipal, or county law enforcement agency that enforces or
1832 assists the commission in enforcing the law all or a portion of
1833 the value of any property forfeited during an enforcement
1834 action; creating s. 379.3381, F.S.; providing that photographs
1835 of wildlife or freshwater or saltwater fish may be offered into
1836 evidence to the same extent as if the wildlife, freshwater fish,
1837 or saltwater fish were directly introduced as evidence;
1838 requiring that the photograph be accompanied by a writing



708694

1839 containing specified information relating to the illegal seizure
1840 of the wildlife or freshwater or saltwater fish; requiring that
1841 the wildlife or freshwater or saltwater fish be disposed of as
1842 provided by law; amending s. 379.353, F.S.; providing that a
1843 resident of this state is exempt from paying certain
1844 recreational licenses if the person is eligible for Medicaid
1845 services and has been issued an identification card by the
1846 Agency for Health Care Administration; amending s. 379.3671,
1847 F.S.; providing that if a certificate issued to a person to use
1848 a spiny lobster trap is not renewed within a specified period,
1849 the certificate will be considered abandoned and revert to the
1850 commission; amending s. 379.3751, F.S.; revising the alligator
1851 trapping agent's license and the alligator farming agent's
1852 license to allow the trapper and the farmer to possess, process,
1853 and sell the hides and meat of the alligator; removing the
1854 limitation that an alligator trapping agent's license could be
1855 issued only in conjunction with an alligator trapping license;
1856 amending s. 379.3761, F.S.; providing penalties for the wrongful
1857 exhibition or sale of wildlife; amending s. 379.3762, F.S.;
1858 revising penalties for a person who unlawfully possesses
1859 wildlife; amending s. 379.401, F.S.; making it a level 2
1860 violation for a person to feed or entice an alligator or
1861 crocodile and a level 4 violation for a person to illegally
1862 kill, injure, or capture an alligator or crocodile; amending s.
1863 379.4015, F.S.; making it a level 2 violation for a person to
1864 illegally exhibit or sell wildlife; creating s. 379.501, F.S.;
1865 providing penalties for unlawfully disturbing aquatic weeds and
1866 plants; providing that a person is liable to the state for any
1867 damage caused to the aquatic weeds or plants and for civil



708694

1868 penalties; providing that if a person willfully harm aquatic
1869 weeds and plants he or she commits a felony of the third degree;
1870 providing criminal penalties; creating s. 379.502, F.S.;
1871 authorizing the commission to seek judicial or administrative
1872 remedies for unlawfully disturbing aquatic weeds and plants;
1873 providing for procedures; authorizing a respondent to request
1874 mediation; providing for an award of attorney's fees; providing
1875 requirements for calculating administrative penalties; providing
1876 for the administrative law judge to consider evidence of
1877 mitigation; requiring that penalties be deposited into the
1878 Invasive Plant Control Trust Fund; creating 379.503, F.S.;
1879 authorizing the commission to seek injunctive relief; providing
1880 that the judicial and administrative remedies are alternative
1881 and mutually exclusive; creating s. 379.504, F.S.; providing
1882 that anyone who unlawfully disturbs aquatic weeds or plants is
1883 subject to civil penalties; authorizing a court to impose a
1884 civil penalty for each offense in an amount not to exceed
1885 \$10,000 per offense; providing for joint and several liability;
1886 providing for determining the value of fish killed for purposes
1887 of assessing damages; amending s. 403.088, F.S.; requiring the
1888 commission to approve a program intended to control aquatic
1889 weeds or algae; reenacting s. 379.209(2), F.S., relating to
1890 funds credited to the Nongame Wildlife Trust Fund, to
1891 incorporate an amendment made to s. 319.32 F.S., in a reference
1892 thereto; reenacting s. 379.3581(7), F.S., relating to hunting
1893 safety, to incorporate the amendment made to s. 379.353, F.S.,
1894 in a reference thereto; providing an appropriation; repealing s.
1895 327.22, F.S.; repealing s. 379.366(7), F.S.; to abrogate the
1896 expiration of provisions imposing blue crab effort management



708694

1897 program fees and penalties; providing effective dates.
1898