

By the Committee on Environmental Preservation and Conservation;  
and Senator Constantine

592-03360-09

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1                                   A bill to be entitled  
2           An act relating to the Fish and Wildlife Conservation  
3           Commission; amending s. 206.606, F.S.; requiring the  
4           Fish and Wildlife Conservation Commission rather than  
5           the Department of Revenue to distribute a specified  
6           sum from the Invasive Plant Control Trust Fund to  
7           eradicate melaleuca; amending s. 253.002, F.S.;  
8           setting forth duties of the commission as they relate  
9           to state lands; amending s. 253.04, F.S.; providing  
10          for preservation of sea grasses; providing penalties;  
11          amending s. 319.32, F.S.; increasing the certificate  
12          of title fee for certain vehicles; amending s.  
13          320.08056, F.S.; increasing the annual use fee for  
14          certain specialty license plates; amending s. 327.35,  
15          F.S.; revising penalties for boating under the  
16          influence of alcohol; revising the blood-alcohol level  
17          or breath-alcohol level at which certain penalties  
18          apply; amending s. 327.36, F.S.; revising a  
19          prohibition against accepting a plea to a lesser  
20          included offense from a person who is charged with  
21          certain offenses involving the operation of a vessel;  
22          revising the blood-alcohol level or breath-alcohol  
23          level at which the prohibition applies; amending s.  
24          327.395, F.S.; revising certain age limitations on the  
25          operation of a vessel powered by a 10-horsepower motor  
26          or greater; amending s. 327.40, F.S.; revising  
27          provisions for placement of navigation, safety, and  
28          informational markers of waterways; providing for  
29          uniform waterway markers; removing an exemption from

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30 permit requirements for certain markers placed by  
31 county, municipal, or other government entities;  
32 amending s. 327.41, F.S., relating to placement of  
33 markers by a county or municipality; revising  
34 terminology; providing for a county or municipality  
35 that has adopted a boating-restricted area by  
36 ordinance under specified provisions to apply for  
37 permission to place regulatory markers; amending s.  
38 327.42, F.S.; revising provisions prohibiting mooring  
39 to or damaging markers or buoys; amending s. 327.46,  
40 F.S.; revising provisions for establishment by the  
41 Fish and Wildlife Conservation Commission of boating-  
42 restricted areas; providing for counties and  
43 municipalities to establish boating-restricted areas  
44 with approval of the commission; directing the  
45 commission to adopt rules for the approval; revising a  
46 prohibition against operating a vessel in a prohibited  
47 manner in a boating-restricted area; providing for  
48 enforcement by citation mailed to the owner of the  
49 vessel; specifying responsibility for citations issued  
50 to livery vessels; providing for construction;  
51 amending s. 327.60, F.S.; revising provisions limiting  
52 regulation by a county or municipality of the  
53 operation, equipment, and other matters relating to  
54 vessels operated upon the waters of this state;  
55 prohibiting certain county or municipality ordinances  
56 or regulations; creating s. 327.66, F.S.; prohibiting  
57 possessing or operating a vessel equipped with certain  
58 fuel containers or related equipment; prohibiting

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59 transporting fuel in a vessel except in compliance  
60 with certain federal regulations; providing penalties;  
61 declaring fuel transported in violation of such  
62 prohibitions to be a public nuisance and directing the  
63 enforcing agency to abate the nuisance; providing for  
64 disposal of the containers and fuel; declaring  
65 conveyances, vessels, vehicles, and equipment used in  
66 such violation to be contraband; providing for seizure  
67 of the contraband; defining the term "conviction" for  
68 specified purposes; providing for costs to remove  
69 fuel, containers, vessels, and equipment to be paid by  
70 the owner; providing that a person who fails to pay  
71 such cost shall not be issued a certificate of  
72 registration for a vessel or motor vehicle; amending  
73 s. 327.73, F.S.; revising provisions for citation of a  
74 noncriminal infraction to provide for violations  
75 relating to boating-restricted areas and speed limits;  
76 revising provisions relating to establishment of such  
77 limits by counties and municipalities; amending s.  
78 328.03, F.S.; requiring vessels used or stored on the  
79 waters of this state to be titled by this state  
80 pursuant to specified provisions; providing  
81 exceptions; amending s. 328.07, F.S.; requiring  
82 certain vessels used or stored on the waters of this  
83 state to have affixed a hull identification number;  
84 providing that a vessel in violation may be seized and  
85 subject to forfeiture; amending ss. 328.46, 328.48,  
86 and 328.56, F.S.; requiring vessels operated, used, or  
87 stored on the waters of this state to be registered

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88 and display the registration number; providing  
89 exceptions; amending s. 328.58, F.S., relating to  
90 reciprocity of nonresident or alien vessels; requiring  
91 the owner of a vessel with a valid registration from  
92 another state, a vessel with a valid registration from  
93 the United States Coast Guard in another state, or a  
94 federally documented vessel from another state to  
95 record the registration number with the Department of  
96 Highway Safety and Motor Vehicles when using or  
97 storing the vessel on the waters of this state in  
98 excess of the 90-day reciprocity period; amending s.  
99 328.60, F.S.; providing an exception to registration  
100 requirements for military personnel using or storing  
101 on the waters of this state a vessel with a valid  
102 registration from another state, a vessel with a valid  
103 registration from the United States Coast Guard in  
104 another state, or a federally documented vessel from  
105 another state; amending s. 328.65, F.S.; revising  
106 legislative intent with respect to registration and  
107 numbering of vessels; amending s. 328.66, F.S.;  
108 authorizing a county to impose an annual registration  
109 fee on vessels used on the waters of this state within  
110 its jurisdiction; amending s. 328.72, F.S.; providing  
111 noncriminal penalties for use or storage of a  
112 previously registered vessel after the expiration of  
113 the registration period; amending ss. 369.20, 369.22,  
114 and 369.25, F.S.; providing that the commission has  
115 the authority to enforce statutes relating to aquatic  
116 weeds and plants; amending s. 379.304, F.S.; providing

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117 that anyone violating the provisions governing the  
118 sale or exhibition of wildlife is subject to specified  
119 penalties relating to captive wildlife; amending s.  
120 379.338, F.S.; authorizing an investigating law  
121 enforcement agency to dispose of illegally taken  
122 wildlife, freshwater fish, or saltwater fish in  
123 certain specified ways; requiring that live wildlife,  
124 freshwater fish, and saltwater fish be properly  
125 documented as evidence and returned to the habitat  
126 unharmed; requiring that nonnative species be disposed  
127 of in accordance with rules of the Fish and Wildlife  
128 Conservation Commission; providing for the disposition  
129 of furs and hides; requiring that the proceeds of  
130 sales be deposited in the State Game Trust Fund or the  
131 Marine Resources Conservation Trust Fund; requiring  
132 the Fish and Wildlife Conservation Commission to give  
133 to a state, municipal, or county law enforcement  
134 agency that enforces or assists the commission in  
135 enforcing the law all or a portion of the value of any  
136 property forfeited during an enforcement action;  
137 creating s. 379.3381, F.S.; providing that photographs  
138 of wildlife or freshwater or saltwater fish may be  
139 offered into evidence to the same extent as if the  
140 wildlife, freshwater fish, or saltwater fish were  
141 directly introduced as evidence; requiring that the  
142 photograph be accompanied by a writing containing  
143 specified information relating to the illegal seizure  
144 of the wildlife or freshwater or saltwater fish;  
145 requiring that the wildlife or freshwater or saltwater

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146 fish be disposed of as provided by law; amending s.  
147 379.353, F.S.; providing that a resident of this state  
148 is exempt from paying certain recreational licenses if  
149 the person is eligible for Medicaid services and has  
150 been issued an identification card by the Agency for  
151 Health Care Administration; amending s. 379.3671,  
152 F.S.; providing that if a certificate issued to a  
153 person to use a spiny lobster trap is not renewed  
154 within a specified period, the certificate will be  
155 considered abandoned and revert to the commission;  
156 amending s. 379.3751, F.S.; revising the alligator  
157 trapping agent's license and the alligator farming  
158 agent's license to allow the trapper and the farmer to  
159 possess, process, and sell the hides and meat of the  
160 alligator; removing the limitation that an alligator  
161 trapping agent's license could be issued only in  
162 conjunction with an alligator trapping license;  
163 amending s. 379.3761, F.S.; providing penalties for  
164 the wrongful exhibition or sale of wildlife; amending  
165 s. 379.3762, F.S.; revising penalties for a person who  
166 unlawfully possesses wildlife; amending s. 379.401,  
167 F.S.; making it a level 2 violation for a person to  
168 feed or entice an alligator or crocodile and a level 4  
169 violation for a person to illegally kill, injure, or  
170 capture an alligator or crocodile; amending s.  
171 379.4015, F.S.; making it a level 2 violation for a  
172 person to illegally exhibit or sell wildlife;  
173 requiring the commission to establish a pilot program  
174 for regulating the anchoring or mooring of non-live-

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175       aboard vessels outside public mooring fields;  
176       specifying the goals of the pilot program; providing  
177       requirements; requiring a report to the Governor and  
178       Legislature; creating s. 379.501, F.S.; providing  
179       penalties for unlawfully disturbing aquatic weeds and  
180       plants; providing that a person is liable to the state  
181       for any damage caused to the aquatic weeds or plants  
182       and for civil penalties; providing that if a person  
183       willfully harm aquatic weeds and plants he or she  
184       commits a felony of the third degree; providing  
185       criminal penalties; creating s. 379.502, F.S.;  
186       authorizing the commission to seek judicial or  
187       administrative remedies for unlawfully disturbing  
188       aquatic weeds and plants; providing for procedures;  
189       authorizing a respondent to request mediation;  
190       providing for an award of attorney's fees; providing  
191       requirements for calculating administrative penalties;  
192       providing for the administrative law judge to consider  
193       evidence of mitigation; requiring that penalties be  
194       deposited into the Invasive Plant Control Trust Fund;  
195       creating s. 379.503, F.S.; authorizing the commission  
196       to seek injunctive relief; providing that the judicial  
197       and administrative remedies are alternative and  
198       mutually exclusive; creating s. 379.504, F.S.;  
199       providing that anyone who unlawfully disturbs aquatic  
200       weeds or plants is subject to civil penalties;  
201       authorizing a court to impose a civil penalty for each  
202       offense in an amount not to exceed \$10,000 per  
203       offense; providing for joint and several liability;

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204 providing for determining the value of fish killed for  
205 purposes of assessing damages; amending s. 403.088,  
206 F.S.; requiring the commission to approve a program  
207 intended to control aquatic weeds or algae; providing  
208 for a type II transfer of the Bureau of Invasive Plant  
209 Management in the Department of Environmental  
210 Protection to the Fish and Wildlife Conservation  
211 Commission; providing for the transfer of the Invasive  
212 Plant Control Trust Fund to the Fish and Wildlife  
213 Conservation Commission; reenacting s. 379.209(2),  
214 F.S., relating to funds credited to the Nongame  
215 Wildlife Trust Fund, to incorporate an amendment made  
216 to s. 319.32 F.S., in a reference thereto; reenacting  
217 s. 379.3581(7), F.S., relating to hunting safety, to  
218 incorporate the amendment made to s. 379.353, F.S., in  
219 a reference thereto; providing an appropriation;  
220 repealing s. 327.22, F.S.; repealing s. 379.366(7),  
221 F.S.; to abrogate the expiration of provisions  
222 imposing blue crab effort management program fees and  
223 penalties; providing effective dates.

224  
225 Be It Enacted by the Legislature of the State of Florida:

226  
227 Section 1. Paragraph (a) of subsection (1) of section  
228 206.606, Florida Statutes, is amended to read

229 206.606 Distribution of certain proceeds.—

230 (1) Moneys collected pursuant to ss. 206.41(1)(g) and  
231 206.87(1)(e) shall be deposited in the Fuel Tax Collection Trust  
232 Fund. Such moneys, after deducting the service charges imposed



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233 by s. 215.20, the refunds granted pursuant to s. 206.41, and the  
234 administrative costs incurred by the department in collecting,  
235 administering, enforcing, and distributing the tax, which  
236 administrative costs may not exceed 2 percent of collections,  
237 shall be distributed monthly to the State Transportation Trust  
238 Fund, except that:

239 (a) \$6.30 million shall be transferred to the Fish and  
240 Wildlife Conservation Commission in each fiscal year and  
241 deposited in the Invasive Plant Control Trust Fund to be used  
242 for aquatic plant management, including nonchemical control of  
243 aquatic weeds, research into nonchemical controls, and  
244 enforcement activities. ~~Beginning in fiscal year 1993-1994,~~ The  
245 commission ~~department~~ shall allocate at least \$1 million of such  
246 funds to the eradication of melaleuca.

247 Section 2. Section 253.002, Florida Statutes, is amended to  
248 read

249 253.002 Department of Environmental Protection, water  
250 management districts, ~~and~~ Department of Agriculture and Consumer  
251 Services, and Fish and Wildlife Conservation Commission; duties  
252 with respect to state lands.—

253 (1) The Department of Environmental Protection shall  
254 perform all staff duties and functions related to the  
255 acquisition, administration, and disposition of state lands,  
256 title to which is or will be vested in the Board of Trustees of  
257 the Internal Improvement Trust Fund. However, upon the effective  
258 date of rules adopted pursuant to s. 373.427, a water management  
259 district created under s. 373.069 shall perform the staff duties  
260 and functions related to the review of any application for  
261 authorization to use board of trustees-owned submerged lands

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262 necessary for an activity regulated under part IV of chapter 373  
263 for which the water management district has permitting  
264 responsibility as set forth in an operating agreement adopted  
265 pursuant to s. 373.046(4); and the Department of Agriculture and  
266 Consumer Services shall perform the staff duties and functions  
267 related to the review of applications and compliance with  
268 conditions for use of board of trustees-owned submerged lands  
269 under authorizations or leases issued pursuant to ss. 253.67-  
270 253.75 and 597.010. Unless expressly prohibited by law, the  
271 board of trustees may delegate to the department any statutory  
272 duty or obligation relating to the acquisition, administration,  
273 or disposition of lands, title to which is or will be vested in  
274 the board of trustees. The board of trustees may also delegate  
275 to any water management district created under s. 373.069 the  
276 authority to take final agency action, without any action on  
277 behalf of the board, on applications for authorization to use  
278 board of trustees-owned submerged lands for any activity  
279 regulated under part IV of chapter 373 for which the water  
280 management district has permitting responsibility as set forth  
281 in an operating agreement adopted pursuant to s. 373.046(4).  
282 This water management district responsibility under this  
283 subsection shall be subject to the department's general  
284 supervisory authority pursuant to s. 373.026(7). The board of  
285 trustees may also delegate to the Department of Agriculture and  
286 Consumer Services the authority to take final agency action on  
287 behalf of the board on applications to use board of trustees-  
288 owned submerged lands for any activity for which that department  
289 has responsibility pursuant to ss. 253.67-253.75, and 597.010,  
290 and ss. 369.25-369.251. However, the board of trustees shall

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291 retain the authority to take final agency action on establishing  
292 any areas for leasing, new leases, expanding existing lease  
293 areas, or changing the type of lease activity in existing  
294 leases. Upon issuance of an aquaculture lease or other real  
295 property transaction relating to aquaculture, the Department of  
296 Agriculture and Consumer Services must send a copy of the  
297 document and the accompanying survey to the Department of  
298 Environmental Protection. The board of trustees may also  
299 delegate to the Fish and Wildlife Conservation Commission the  
300 authority to take final agency action, without any action on  
301 behalf of the board, on applications for authorization to use  
302 board of trustees-owned submerged lands for any activity  
303 regulated under ss. 369.20 and 369.22 ~~s. 369.20~~.

304 (2) Delegations to the department, or a water management  
305 district, or the Department of Agriculture and Consumer Services  
306 of authority to take final agency action on applications for  
307 authorization to use submerged lands owned by the board of  
308 trustees, without any action on behalf of the board of trustees,  
309 shall be by rule. Until rules adopted pursuant to this  
310 subsection become effective, existing delegations by the board  
311 of trustees shall remain in full force and effect. However, the  
312 board of trustees is not limited or prohibited from amending  
313 these delegations. The board of trustees shall adopt by rule any  
314 delegations of its authority to take final agency action without  
315 action by the board of trustees on applications for  
316 authorization to use board of trustees-owned submerged lands.  
317 Any final agency action, without action by the board of  
318 trustees, taken by the department, or a water management  
319 district, or the Department of Agriculture and Consumer Services

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320 on applications to use board of trustees-owned submerged lands  
321 shall be subject to the provisions of s. 373.4275.

322 Notwithstanding any other provision of this subsection, the  
323 board of trustees, the Department of Legal Affairs, and the  
324 department retain the concurrent authority to assert or defend  
325 title to submerged lands owned by the board of trustees.

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

328 253.04 Duty of board to protect, etc., state lands; state  
329 may join in any action brought.-

330 (4) Whenever any person or the agent of any person  
331 knowingly refuses to comply with or willfully violates any of  
332 the provisions of this chapter so that such person causes damage  
333 to the lands of the state or products thereof, including removal  
334 of those products, such violator is liable for such damage.  
335 Whenever two or more persons or their agents cause damage, and  
336 if such damage is indivisible, each violator is jointly and  
337 severally liable for such damage; however, if such damage is  
338 divisible and may be attributed to a particular violator or  
339 violators, each violator is liable only for that damage and  
340 subject to the fine attributable to his or her violation.

341 (a) The duty to conserve and improve state-owned lands and  
342 the products thereof shall include the preservation and  
343 regeneration of seagrass, which is deemed essential to the  
344 oceans, gulfs, estuaries, and shorelines of the state. A person  
345 operating a vessel outside a lawfully marked channel in a  
346 careless manner that causes seagrass scarring within an aquatic  
347 preserve established in ss. 258.39-258.399, with the exception  
348 of the Lake Jackson, Oklawaha River, Wekiva River, and Rainbow

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349 Springs aquatic preserves, commits a noncriminal infraction,  
350 punishable as provided in s. 327.73. Each violation is a  
351 separate offense. As used in this subsection, the term:

352 1. "Seagrass scarring" means destruction of seagrass roots,  
353 shoots, or stems that results in tracks on the substrate, caused  
354 by the operation of a motorized vessel in waters supporting  
355 seagrasses, commonly referred to as prop scars or propeller  
356 scars.

357 2. "Seagrass" means Cuban shoal grass (*Halodule wrightii*),  
358 turtle grass (*Thalassia testudinum*), manatee grass (*Syringodium*  
359 *filiforme*), star grass (*Halophila engelmannii*), paddle grass  
360 (*Halophila decipiens*), Johnsons seagrass (*Halophila johnsonii*),  
361 or widgeon grass (*Ruppia maritima*).

362 (b) Any violation under paragraph (a) is a violation of the  
363 vessel laws of this state and shall be charged on a uniform  
364 boating citation as provided in s. 327.74. Any person who  
365 refuses to post a bond or accept and sign a uniform boating  
366 citation commits a misdemeanor of the second degree, as provided  
367 in s. 327.73(3), punishable as provided in s. 775.082 or s.  
368 775.083.

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

371 319.32 Fees; service charges; disposition.—

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

376 Section 5. Effective October 1, 2009, paragraphs (a) and  
377 (x) of subsection (4) of section 320.08056, Florida Statutes,

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378 are amended to read:

379 320.08056 Specialty license plates.—

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

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

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

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

386 327.35 Boating under the influence; penalties; "designated  
387 drivers".—

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

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

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

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

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

399 (4) Any person who is convicted of a violation of  
400 subsection (1) and who has a blood-alcohol level or breath-  
401 alcohol level of 0.15 ~~0.20~~ or higher, or any person who is  
402 convicted of a violation of subsection (1) and who at the time  
403 of the offense was accompanied in the vessel by a person under  
404 the age of 18 years, shall be punished:

405 (a) By a fine of:

406 1. Not less than \$1,000 or more than \$2,000 for a first

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407 conviction.

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

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

412 (b) By imprisonment for:

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

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

415

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

420 Section 7. Paragraph (a) of subsection (2) of section  
421 327.36, Florida Statutes, is amended to read:

422 327.36 Mandatory adjudication; prohibition against  
423 accepting plea to lesser included offense.—

424 (2) (a) No trial judge may accept a plea of guilty to a  
425 lesser offense from a person who is charged with a violation of  
426 s. 327.35, manslaughter resulting from the operation of a  
427 vessel, or vessel homicide and who has been given a breath or  
428 blood test to determine blood or breath alcohol content, the  
429 results of which show a blood-alcohol level or breath-alcohol  
430 level of 0.15 ~~0.16~~ or more.

431 Section 8. Effective January 1, 2010, section 327.395,  
432 Florida Statutes, is amended to read:

433 327.395 Boating safety identification cards.—

434 (1) A person born on or after January 1, 1988, ~~21 years of~~  
435 ~~age or younger~~ may not operate a vessel powered by a motor of 10

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436 horsepower or greater unless such person has in his or her  
437 possession aboard the vessel photographic identification and a  
438 boater safety identification card issued by the commission which  
439 shows that he or she has:

440 (a) Completed a commission-approved boater education course  
441 that meets the minimum 8-hour instruction requirement  
442 established by the National Association of State Boating Law  
443 Administrators;

444 (b) Passed a course equivalency examination approved by the  
445 commission; or

446 (c) Passed a temporary certificate examination developed or  
447 approved by the commission.

448 (2) Any person may obtain a boater safety identification  
449 card by complying with the requirements of this section.

450 (3) Any commission-approved boater education or boater  
451 safety course, course-equivalency examination developed or  
452 approved by the commission, or temporary certificate examination  
453 developed or approved by the commission must include a component  
454 regarding diving vessels, awareness of divers in the water,  
455 divers-down flags, and the requirements of s. 327.331.

456 (4) The commission may appoint liveries, marinas, or other  
457 persons as its agents to administer the course, course  
458 equivalency examination, or temporary certificate examination  
459 and issue identification cards under guidelines established by  
460 the commission. An agent must charge the \$2 examination fee,  
461 which must be forwarded to the commission with proof of passage  
462 of the examination and may charge and keep a \$1 service fee.

463 (5) An identification card issued to a person who has  
464 completed a boating education course or a course equivalency



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465 examination is valid for life. A card issued to a person who has  
466 passed a temporary certification examination is valid for 12  
467 months from the date of issuance.

468 (6) A person is exempt from subsection (1) if he or she:

469 (a) Is licensed by the United States Coast Guard to serve  
470 as master of a vessel.

471 (b) Operates a vessel only on a private lake or pond.

472 (c) Is accompanied in the vessel by a person who is exempt  
473 from this section or who holds an identification card in  
474 compliance with this section, is 18 years of age or older, and  
475 is attendant to the operation of the vessel and responsible for  
476 the safe operation of the vessel and for any violation that  
477 occurs during the operation.

478 (d) Is a nonresident who has in his or her possession proof  
479 that he or she has completed a boater education course or  
480 equivalency examination in another state which meets or exceeds  
481 the requirements of subsection (1).

482 (e) Is operating a vessel within 90 days after the purchase  
483 of that vessel and has available for inspection aboard that  
484 vessel a bill of sale meeting the requirements of s. 328.46(1).

485 (f) ~~(e)~~ Is exempted by rule of the commission.

486 (7) A person who operates a vessel in violation of  
487 subsection (1) commits ~~violates this section is guilty of a~~  
488 noncriminal infraction, punishable as provided in s. 327.73.

489 (8) The commission shall design forms and adopt rules to  
490 administer this section. Such rules shall include provision for  
491 educational and other public and private entities to offer the  
492 course and administer examinations.

493 (9) The commission shall institute and coordinate a

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494 statewide program of boating safety instruction and  
495 certification to ensure that boating courses and examinations  
496 are available in each county of the state.

497 (10) The commission is authorized to establish and to  
498 collect a \$2 examination fee to cover administrative costs.

499 (11) The commission is authorized to adopt rules pursuant  
500 to chapter 120 to implement the provisions of this section.

501 Section 9. Effective October 1, 2009, section 327.40,  
502 Florida Statutes, is amended to read:

503 327.40 Uniform waterway markers ~~for safety and navigation;~~  
504 ~~informational markers.~~

505 (1) Waters of this state ~~Waterways in Florida which need~~  
506 ~~marking for safety or navigation purposes~~ shall be marked only  
507 in conformity with ~~under~~ the United States Aids to Navigation  
508 System, 33 C.F.R. part 62. ~~Until December 31, 2003, channel~~  
509 ~~markers and obstruction markers conforming to the Uniform State~~  
510 ~~Waterway Marking System, 33 C.F.R. subpart 66.10, may continue~~  
511 ~~to be used on waters of this state that are not navigable waters~~  
512 ~~of the United States.~~

513 (2) (a) Application for marking inland lakes and state  
514 waters and any navigable waters under concurrent jurisdiction of  
515 the Coast Guard and the division shall be made to the division,  
516 accompanied by a map locating the approximate placement of  
517 markers, a list of the markers to be placed, a statement of the  
518 specification of the markers, a statement of the purpose of  
519 marking, and the names of persons responsible for the placement  
520 and upkeep of such markers. The division will assist the  
521 applicant to secure the proper permission from the Coast Guard  
522 where required, make such investigations as needed, and issue a

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523 permit. The division shall furnish the applicant with the  
524 information concerning the system adopted and the rules existing  
525 for placing and maintaining the markers. The division shall keep  
526 records of all approvals given and counsel with individuals,  
527 counties, municipalities, motorboat clubs, or other groups  
528 desiring to mark waterways for safety and navigation purposes in  
529 Florida.

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

534 ~~2. The placement of informational markers, including, but~~  
535 ~~not limited to, markers indicating end of boat ramp, no~~  
536 ~~swimming, swimming area, lake name, trash receptacle, public~~  
537 ~~health notice, or underwater hazard and canal, regulatory,~~  
538 ~~emergency, and special event markers, by counties,~~  
539 ~~municipalities, or other governmental entities on inland lakes~~  
540 ~~and their associated canals are exempt from permitting under~~  
541 ~~this section. Such markers, excluding swimming area and special~~  
542 ~~event markers, may be no more than 50 feet from the normal~~  
543 ~~shoreline.~~

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

546 (3) The placement under this section or s. 327.41 of any  
547 uniform waterway marker ~~safety or navigation marker or any~~  
548 ~~informational marker under subparagraph (2)(b)2.~~ on state  
549 submerged lands ~~under this section~~ does not subject such lands  
550 to the lease requirements of chapter 253.

551 Section 10. Effective October 1, 2009, subsection (2) of

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552 section 327.41, Florida Statutes, is amended to read:

553 327.41 Uniform waterway regulatory markers.—

554 (2) Any county or municipality which has been granted a  
555 boating-restricted ~~restricted~~ area designation, by rule of the  
556 commission pursuant to s. 327.46, for a portion of the Florida  
557 Intracoastal Waterway within its jurisdiction or which has  
558 adopted a boating-restricted ~~restricted~~ area by ordinance  
559 pursuant to s. 327.46(1)(b) ~~s. 327.22, s. 327.60~~, or s.  
560 379.2431(2)(p), or any other governmental entity which has  
561 legally established a boating-restricted ~~restricted~~ area, may  
562 apply to the commission for permission to place regulatory  
563 markers within the boating-restricted ~~restricted~~ area.

564 Section 11. Effective October 1, 2009, section 327.42,  
565 Florida Statutes, is amended to read:

566 327.42 Mooring to or damaging of markers or buoys  
567 prohibited.—

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

573 (2) No person shall willfully damage, alter, or move a  
574 lawfully placed uniform waterway ~~aid-to-navigation~~ marker ~~or~~  
575 ~~buoy, regulatory marker or buoy, or area boundary marker or~~  
576 ~~buoy.~~

577 Section 12. Effective October 1, 2009, section 327.46,  
578 Florida Statutes, is amended to read:

579 327.46 Boating-restricted ~~Restricted~~ areas.—

580 (1) Boating-restricted ~~The commission has the authority to~~

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581 ~~establish by rule, pursuant to chapter 120, restricted areas,~~  
582 including, but not limited to, restrictions of vessel speeds and  
583 vessel traffic, may be established on the waters of this the  
584 state for any purpose ~~deemed~~ necessary to protect for the safety  
585 of the public, including, but not limited to, vessel speeds and  
586 vessel traffic, where such restrictions are ~~deemed~~ necessary  
587 based on boating accidents, visibility, hazardous currents or  
588 water levels, vessel traffic congestion, or other navigational  
589 hazards.

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

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

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

596 a. Within 500 feet of any boat ramp, hoist, marine railway,  
597 or other launching or landing facility available for use by the  
598 general boating public on waterways more than 300 feet in width  
599 or within 300 feet of any boat ramp, hoist, marine railway, or  
600 other launching or landing facility available for use by the  
601 general boating public on waterways not exceeding 300 feet in  
602 width.

603 b. Within 500 feet of fuel pumps or dispensers at any  
604 marine fueling facility that sells motor fuel to the general  
605 boating public on waterways more than 300 feet in width or  
606 within 300 feet of the fuel pumps or dispensers at any licensed  
607 terminal facility that sells motor fuel to the general boating  
608 public on waterways not exceeding 300 feet in width.

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

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- 610       2. An ordinance establishing a Slow Speed Minimum Wake  
611 boating-restricted area if the area is:
- 612           a. Within 300 feet of any bridge fender system.  
613           b. Within 300 feet of any bridge span presenting a vertical  
614 clearance of less than 25 feet or a horizontal clearance of less  
615 than 100 feet.
- 616           c. Within 300 feet of a confluence of water bodies  
617 presenting a blind corner, a bend in a narrow channel or  
618 fairway, or such other area where an intervening obstruction to  
619 visibility may obscure other vessels or other users of the  
620 waterway.
- 621           d. On a creek, stream, canal, or similar linear waterway  
622 where the waterway is less than 75 feet in width from shoreline  
623 to shoreline.
- 624           e. On a lake or pond of less than 10 acres in total surface  
625 area.
- 626       3. An ordinance establishing a vessel exclusion zone if the  
627 area is:
- 628           a. Designated as a public bathing beach or swim area.  
629           b. Reserved exclusively as a canoe trail or otherwise  
630 limited to vessels under oars.
- 631           c. Within 300 feet of a dam, spillway, or flood control  
632 structure.
- 633       (c) Except as provided in s. 327.60, municipalities and  
634 counties have the authority to establish by ordinance such other  
635 boating-restricted areas as are necessary to protect human life  
636 and limb, vessel traffic safety, or maritime property; however,  
637 such an ordinance may not take effect until the commission has  
638 reviewed the ordinance and determined that the ordinance is

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639 necessary to protect human life and limb, vessel traffic safety,  
640 or maritime property. The commission shall establish by rule,  
641 pursuant to chapter 120, the criteria for making such  
642 determinations.

643 (2) Each such boating-restricted ~~restricted~~ area shall be  
644 developed in consultation and coordination with the governing  
645 body of the county or municipality in which the boating-  
646 restricted ~~restricted~~ area is located and, when the boating-  
647 restricted area is to be on the navigable waters of the United  
648 States where required, with the United States Coast Guard and  
649 the United States Army Corps of Engineers.

650 (3) ~~(2)~~ It is unlawful for any person to operate a vessel in  
651 a prohibited manner or to carry on any prohibited activity, as  
652 defined in this chapter, deemed a safety hazard or interference  
653 with navigation as provided above within a boating-restricted  
654 ~~restricted water~~ area which has been clearly marked by  
655 regulatory markers as authorized under this chapter.

656 (4) ~~(3)~~ Restrictions in a boating-restricted area  
657 established pursuant to this section shall not apply in the case  
658 of an emergency or to a law enforcement, firefighting, or rescue  
659 vessel owned or operated by a governmental entity.

660 (5) (a) Noncriminal violations committed within legally  
661 established boating-restricted areas that are properly marked as  
662 permitted under ss. 327.40 and 327.41 may be enforced by a  
663 uniform boating citation mailed to the registered owner of the  
664 vessel.

665 (b) Citations issued to livery vessels under this  
666 subsection shall be the responsibility of the lessee of the  
667 vessel if the livery has included a warning of this

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668 responsibility as a part of the rental agreement and has  
669 provided to the agency issuing the citation the name, address,  
670 and date of birth of the lessee when requested by that agency.  
671 The livery is not responsible for the payment of citations if  
672 the livery provides the required warning and lessee information.

673 (c) This subsection supplements the enforcement of this  
674 section by law enforcement officers and does not prohibit a law  
675 enforcement officer from issuing a citation for a violation of  
676 this section in accordance with normal boating enforcement  
677 techniques.

678 Section 13. Effective October 1, 2009, section 327.60,  
679 Florida Statutes, is amended to read:

680 327.60 Local regulations; limitations.—

681 (1) The provisions of this chapter and chapter 328 ~~ss.~~  
682 ~~327.01, 327.02, 327.30-327.40, 327.44-327.50, 327.54, 327.56,~~  
683 ~~327.65, 328.40-328.48, 328.52-328.58, 328.62, and 328.64~~ shall  
684 govern the operation, equipment, and all other matters relating  
685 thereto whenever any vessel shall be operated upon the waters of  
686 this state waterways or when any activity regulated hereby shall  
687 take place thereon.

688 (2) Nothing in this chapter or chapter 328 ~~these sections~~  
689 shall be construed to prevent the adoption of any ordinance or  
690 local regulation ~~law~~ relating to operation ~~and equipment~~ of  
691 vessels, except that no county or municipality shall enact,  
692 continue in effect, or enforce any ordinance or local  
693 regulation:

694 (a) Establishing a vessel or associated equipment  
695 performance or other safety standard, imposing a requirement for  
696 associated equipment, or regulating the carrying or use of



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697 marine safety articles;

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

700 (c) Regulating any vessel upon the Florida Intracoastal  
701 Waterway;

702 (d) Discriminating against personal watercraft;

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

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

709 (g) Regulating engine or exhaust noise, except as provided  
710 in s. 327.65; or

711 (h) That is in conflict with this chapter or any amendments  
712 thereto or rules thereunder. ~~no such ordinance or local law may~~  
713 ~~apply to the Florida Intracoastal Waterway and except that such~~  
714 ~~ordinances or local laws shall be operative only when they are~~  
715 ~~not in conflict with this chapter or any amendments thereto or~~  
716 ~~regulations thereunder. Any ordinance or local law which has~~  
717 ~~been adopted pursuant to this section or to any other state law~~  
718 ~~may not discriminate against personal watercraft as defined in~~  
719 ~~s. 327.02. Effective July 1, 2006, any ordinance or local law~~  
720 ~~adopted pursuant to this section or any other state law may not~~  
721 ~~discriminate against airboats except by a two-thirds vote of the~~  
722 ~~governing body enacting such ordinance.~~

723 (3)-(2) Nothing contained in the provisions of this section  
724 shall be construed to prohibit local governmental authorities  
725 from the enactment or enforcement of regulations which prohibit

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726 or restrict the mooring or anchoring of floating structures or  
727 live-aboard vessels within their jurisdictions or of any vessels  
728 within the marked boundaries of mooring fields permitted as  
729 provided in s. 327.40. However, local governmental authorities  
730 are prohibited from regulating the anchoring outside of such  
731 mooring fields of vessels other than live-aboard vessels as  
732 defined in s. 327.02 ~~non-live-aboard vessels in navigation.~~

733 Section 14. Section 327.66, Florida Statutes, is created to  
734 read:

735 327.66 Carriage of gasoline on vessels.-

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

737 1. Possess or operate any vessel that has been equipped  
738 with tanks, bladders, drums, or other containers designed or  
739 intended to hold gasoline, or install or maintain such  
740 containers in a vessel, if such containers do not conform to  
741 federal regulations or have not been approved by the United  
742 States Coast Guard by inspection or special permit.

743 2. Transport any gasoline in an approved portable container  
744 when the container is in a compartment that is not ventilated in  
745 strict compliance with United States Coast Guard regulations  
746 pertaining to ventilation of compartments containing gasoline  
747 tanks.

748 (b) A person who violates paragraph (a) commits a  
749 misdemeanor of the second degree, punishable as provided in s.  
750 775.082, s. 775.083, or s. 775.084.

751 (2) (a) Gasoline possessed or transported in violation of  
752 this section and all containers holding such gasoline are  
753 declared to be a public nuisance. A law enforcement agency  
754 discovering gasoline possessed or transported in violation of

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755 paragraph (1)(a) shall abate the nuisance by removing the  
756 gasoline and containers from the vessel and from the waters of  
757 this state. A law enforcement agency that removes gasoline or  
758 containers pursuant to this subsection may elect to:

759 1. Retain the property for the agency's own use;

760 2. Transfer the property to another unit of state or local  
761 government;

762 3. Donate the property to a charitable organization; or

763 4. Sell the property at public sale pursuant to s. 705.103.

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

768 (3) All conveyances, vessels, vehicles, and other equipment  
769 described in paragraph (1)(a) or used in the commission of a  
770 violation of paragraph (1)(a), other than gasoline or containers  
771 removed as provided in subsection (2), are declared to be  
772 contraband.

773 (a) Upon conviction of a person arrested for a violation of  
774 paragraph (1)(a), the judge shall issue an order adjudging and  
775 ordering that all conveyances, vessels, vehicles, and other  
776 equipment used in the violation shall be forfeited to the  
777 arresting agency. The requirement for a conviction before  
778 forfeiture of property establishes to the exclusion of any  
779 reasonable doubt that the property was used in connection with  
780 the violation resulting in the conviction, and the procedures of  
781 chapter 932 do not apply to any forfeiture of property under  
782 this subsection following a conviction.

783 (b) In the absence of an arrest or conviction, any such

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784 conveyance, vessel, vehicle, or other equipment used in  
785 violation of paragraph (1) (a) shall be subject to seizure and  
786 forfeiture as provided by the Florida Contraband Forfeiture Act.

787 (c) As used in this subsection, the term "conviction" means  
788 a finding of guilt or the acceptance of a plea of guilty or nolo  
789 contendere, regardless of whether adjudication is withheld or  
790 whether imposition of sentence is withheld, deferred, or  
791 suspended.

792 (4) All costs incurred by the law enforcement agency in the  
793 removal of any gasoline, gasoline container, other equipment, or  
794 vessel as provided in this section shall be recoverable against  
795 the owner thereof. Any person who neglects or refuses to pay  
796 such amount shall not be issued a certificate of registration  
797 for such vessel or for any other vessel or motor vehicle until  
798 the costs have been paid.

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

802 Section 15. Effective October 1, 2009, subsection (1) of  
803 section 327.73, Florida Statutes, is amended to read:

804 327.73 Noncriminal infractions.—

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

807 (a) Section 328.46, relating to operation of unregistered  
808 and unnumbered vessels.

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

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

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

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

815 (f) Section 328.60, relating to military personnel and  
816 registration of vessels.

817 (g) Section 328.72(13), relating to operation with an  
818 expired registration.

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

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

822 (j) Section 327.44, relating to interference with  
823 navigation.

824 (k) Violations relating to boating-restricted ~~restricted~~  
825 areas and speed limits:

826 1. Established by the commission or by local governmental  
827 authorities pursuant to s. 327.46.

828 ~~2. Established by local governmental authorities pursuant~~  
829 ~~to s. 327.22 or s. 327.60.~~

830 ~~2.3.~~ Speed limits established pursuant to s. 379.2431(2).

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

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

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

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

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

838 (q) Section 327.53(1), (2), and (3), relating to marine  
839 sanitation.

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

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

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

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

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

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

851 (x) Section 253.04(4)(a), relating to carelessly causing  
852 seagrass scarring, for which the civil penalty upon conviction  
853 is:

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

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

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

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

860

861 Any person cited for a violation of any such provision shall be  
862 deemed to be charged with a noncriminal infraction, shall be  
863 cited for such an infraction, and shall be cited to appear

864 before the county court. The civil penalty for any such  
865 infraction is \$50, except as otherwise provided in this section.  
866 Any person who fails to appear or otherwise properly respond to  
867 a uniform boating citation shall, in addition to the charge  
868 relating to the violation of the boating laws of this state, be  
869 charged with the offense of failing to respond to such citation  
870 and, upon conviction, be guilty of a misdemeanor of the second

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871 degree, punishable as provided in s. 775.082 or s. 775.083. A  
872 written warning to this effect shall be provided at the time  
873 such uniform boating citation is issued.

874 Section 16. Effective October 1, 2009, subsections (1) and  
875 (2) of section 328.03, Florida Statutes, are amended to read:

876 328.03 Certificate of title required.—

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

880 (a) A vessel operated, used, and stored exclusively on  
881 private lakes and ponds;~~—~~

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

883 (c) A non-motor-powered vessel less than 16 feet in  
884 length;~~—~~

885 (d) A federally documented vessel;~~—~~

886 (e) A vessel already covered by a registration number in  
887 full force and effect which was awarded to it pursuant to a  
888 federally approved numbering system of another state or by the  
889 United States Coast Guard in a state without a federally  
890 approved numbering system, if the vessel is not located in this  
891 state for a period in excess of 90 consecutive days;~~—~~

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

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

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

899 (i) A vessel owned and operated by the state or a political

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900 subdivision thereof.

901 (2) A person shall not operate, use, or store a vessel for  
902 which a certificate of title is required unless the owner has  
903 received from the Department of Highway Safety and Motor  
904 Vehicles a valid certificate of title for such vessel. However,  
905 such vessel may be operated, used, or stored for a period of up  
906 to 180 days after ~~from~~ the date of application for a certificate  
907 of title while the application is pending.

908 Section 17. Effective October 1, 2009, subsections (1) and  
909 (2) of section 328.07, Florida Statutes, are amended to read:

910 328.07 Hull identification number required.—

911 (1) No person shall operate, use, or store on the waters of  
912 this state a vessel the construction of which began after  
913 October 31, 1972, for which the department has issued a  
914 certificate of title or which is required by law to be  
915 registered, unless the vessel displays the assigned hull  
916 identification number affixed by the manufacturer as required by  
917 the United States Coast Guard or by the department for a  
918 homemade vessel or other vessel for which a hull identification  
919 number is not required by the United States Coast Guard. The  
920 hull identification number must be carved, burned, stamped,  
921 embossed, or otherwise permanently affixed to the outboard side  
922 of the transom or, if there is no transom, to the outermost  
923 starboard side at the end of the hull that bears the rudder or  
924 other steering mechanism, above the waterline of the vessel in  
925 such a way that alteration, removal, or replacement would be  
926 obvious and evident. The characters of the hull identification  
927 number must be no less than 12 in number and no less than one-  
928 fourth inch in height.



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929           (2) No person shall operate, use, or store on the waters of  
930 this state a vessel the construction of which was completed  
931 before November 1, 1972, for which the department has issued a  
932 certificate of title or which is required by law to be  
933 registered, unless the vessel displays a hull identification  
934 number. The hull identification number shall be clearly  
935 imprinted in the transom or on the hull by stamping, impressing,  
936 or marking with pressure. In lieu of imprinting, the hull  
937 identification number may be displayed on a plate in a permanent  
938 manner. A vessel for which the manufacturer has provided no hull  
939 identification number or a homemade vessel shall be assigned a  
940 hull identification number by the department which shall be  
941 affixed to the vessel pursuant to this section.

942           (3) (a) No person, firm, association, or corporation shall  
943 destroy, remove, alter, cover, or deface the hull identification  
944 number or hull serial number, or plate bearing such number, of  
945 any vessel, except to make necessary repairs which require the  
946 removal of the hull identification number and immediately upon  
947 completion of such repairs shall reattach the hull identification  
948 number in accordance with subsection (2).

949           (b) If any of the hull identification numbers required by  
950 the United States Coast Guard for a vessel manufactured after  
951 October 31, 1972, do not exist or have been altered, removed,  
952 destroyed, covered, or defaced or the real identity of the  
953 vessel cannot be determined, the vessel may be seized as  
954 contraband property by a law enforcement agency or the division,  
955 and shall be subject to forfeiture pursuant to ss. 932.701-  
956 932.706. Such vessel may not be sold or operated on the waters  
957 of the state unless the division receives a request from a law

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958 enforcement agency providing adequate documentation or is  
959 directed by written order of a court of competent jurisdiction  
960 to issue to the vessel a replacement hull identification number  
961 which shall thereafter be used for identification purposes. No  
962 vessel shall be forfeited under the Florida Contraband  
963 Forfeiture Act when the owner unknowingly, inadvertently, or  
964 neglectfully altered, removed, destroyed, covered, or defaced  
965 the vessel hull identification number.

966 Section 18. Effective October 1, 2009, section 328.46,  
967 Florida Statutes, is amended to read:

968 328.46 Operation of registered vessels.—

969 (1) Every vessel that is required to be registered and that  
970 is being operated, used, or stored on ~~using~~ the waters of this  
971 state shall be registered and numbered within 30 days after  
972 purchase by the owner except as specifically exempt. During this  
973 30-day period, the operator is required to have aboard the  
974 vessel and available for inspection a bill of sale. The bill of  
975 sale for the vessel shall serve as the temporary certificate of  
976 number that is required by federal law and must contain the  
977 following information:

978 (a) Make of the vessel.

979 (b) Length of the vessel.

980 (c) Type of propulsion.

981 (d) Hull identification number.

982 (e) A statement declaring Florida to be the state where the  
983 vessel is principally used.

984 (f) Name of the purchaser.

985 (g) Address of the purchaser, including ZIP code.

986 (h) Signature of the purchaser.

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987 (i) Name of the seller.

988 (j) Signature of the seller.

989 (k) Date of the sale of the vessel. The date of sale shall  
990 also serve as the date of issuance of the temporary certificate  
991 of number.

992 (l) Notice to the purchaser and operator that the temporary  
993 authority to use the vessel on the waters of this state is  
994 invalid after 30 days following the date of sale of the vessel.

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

998 (a) Such vessel is registered within 30 days after purchase  
999 by the owner and numbered with the identifying number set forth  
1000 in the certificate of registration, displayed:

1001 1. In accordance with s. 328.48(4), except, if the vessel  
1002 is an airboat, the registration number may be displayed on each  
1003 side of the rudder; or

1004 2. In accordance with 33 C.F.R. s. 173.27, or with a  
1005 federally approved numbering system of another state; and

1006 (b) The certificate of registration or temporary  
1007 certificate of number awarded to such vessel is in full force  
1008 and effect.

1009 Section 19. Effective October 1, 2009, subsection (2) of  
1010 section 328.48, Florida Statutes, is amended to read:

1011 328.48 Vessel registration, application, certificate,  
1012 number, decal, duplicate certificate.-

1013 (2) Each vessel operated, All vessels used, or stored on  
1014 the waters of this ~~the~~ state must be registered as a, ~~either~~  
1015 commercial vessel or recreational vessel as defined in s. 327.02

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1016 ~~this chapter, unless it is~~ except as follows:

1017 (a) A vessel operated, used, and stored exclusively on  
1018 private lakes and ponds;~~;~~

1019 (b) A vessel owned by the United States Government;~~;~~

1020 (c) A vessel used exclusively as a ship's lifeboat; ~~or;~~

1021 (d) A non-motor-powered vessel less than 16 feet in length,  
1022 or a ~~and any~~ non-motor-powered canoe, kayak, racing shell, or  
1023 rowing scull, regardless of length.

1024 Section 20. Effective October 1, 2009, section 328.56,  
1025 Florida Statutes, is amended to read:

1026 328.56 Vessel registration number.—Each vessel that is  
1027 operated, used, or stored on the waters of this ~~the~~ state must  
1028 display a commercial or recreational Florida registration  
1029 number, unless it is:

1030 (1) A vessel operated, used, and stored exclusively on  
1031 private lakes and ponds;~~;~~

1032 (2) A vessel owned by the United States Government;~~;~~

1033 (3) A vessel used exclusively as a ship's lifeboat;~~;~~

1034 (4) A non-motor-powered vessel less than 16 feet in length,  
1035 or a ~~and any~~ non-motor-powered canoe, kayak, racing shell, or  
1036 rowing scull, regardless of length;~~;~~

1037 (5) A federally documented vessel;~~;~~

1038 (6) A vessel already covered by a registration number in  
1039 full force and effect which has been awarded to it pursuant to a  
1040 federally approved numbering system of another state or by the  
1041 United States Coast Guard in a state without a federally  
1042 approved numbering system, if the vessel has not been within  
1043 this state for a period in excess of 90 consecutive days;~~;~~

1044 (7) A vessel operating under a valid temporary certificate

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1045 of number;~~—~~

1046 (8) A vessel from a country other than the United States  
1047 temporarily using the waters of this state; or~~—~~

1048 (9) An undocumented vessel used exclusively for racing.

1049 Section 21. Effective October 1, 2009, section 328.58,  
1050 Florida Statutes, is amended to read:

1051 328.58 Reciprocity of nonresident or alien vessels.—The  
1052 owner of any vessel already covered by a registration number in  
1053 full force and effect which has been awarded by:

1054 (1) ~~By~~ Another state pursuant to a federally approved  
1055 numbering system of another state;

1056 (2) ~~By~~ The United States Coast Guard in a state without a  
1057 federally approved numbering system; or

1058 (3) ~~By~~ The United States Coast Guard for a federally  
1059 documented vessel with a valid registration in full force and  
1060 effect from another state,  shall record the number with the  
1061 Department of Highway Safety and Motor Vehicles prior to  
1062 operating, using, or storing the vessel on the waters of this  
1063 state in excess of the 90-day reciprocity period provided for in  
1064 this chapter. Such recordation shall be pursuant to the  
1065 procedure required for the award of an original registration  
1066 number, except that no additional or substitute registration  
1067 number shall be issued if the vessel owner maintains the  
1068 previously awarded registration number in full force and effect.

1069 Section 22. Effective October 1, 2009, section 328.60,  
1070 Florida Statutes, is amended to read:

1071 328.60 Military personnel; registration; penalties.—Any  
1072 military personnel on active duty in this state operating,  
1073 using, or storing a vessel on the waters of this state that has

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1074 a registration number in full force and effect which has been  
1075 awarded to it pursuant to a federally approved numbering system  
1076 of another state or by the United States Coast Guard in a state  
1077 without a federally approved numbering system, or a federally  
1078 documented vessel with a valid registration in full force and  
1079 effect from another state shall not be required to register his  
1080 or her vessel in this state while such certificate of  
1081 registration remains valid; but, at the expiration of such  
1082 registration certificate, all registration and titling shall be  
1083 issued by this state. In the case of a federally documented  
1084 vessel, the issuance of a title is not required by this chapter.

1085 Section 23. Effective October 1, 2009, section 328.65,  
1086 Florida Statutes, is amended to read:

1087 328.65 Legislative intent with respect to registration and  
1088 numbering of vessels.—It is the legislative intent that vessels  
1089 be registered and numbered uniformly throughout the state. The  
1090 purpose of ss. 327.58, 327.70, 327.72, 328.66, 328.68, and  
1091 328.72 is to make registration and numbering procedures similar  
1092 to those of automobiles and airplanes and to provide for a  
1093 vessel registration fee and certificate so as to determine the  
1094 ownership of vessels which are operated, used, or stored ~~operate~~  
1095 on the waters of this state and to aid in the advancement of  
1096 maritime safety.

1097 Section 24. Effective October 1, 2009, subsection (1) of  
1098 section 328.66, Florida Statutes, is amended to read:

1099 328.66 County and municipality optional registration fee.—

1100 (1) Any county may impose an annual registration fee on  
1101 vessels registered, operated, used, or stored on the waters of  
1102 this state ~~in the water~~ within its jurisdiction. This fee shall

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1103 be 50 percent of the applicable state registration fee. However,  
1104 the first \$1 of every registration imposed under this subsection  
1105 shall be remitted to the state for deposit in the Save the  
1106 Manatee Trust Fund created within the Fish and Wildlife  
1107 Conservation Commission, and shall be used only for the purposes  
1108 specified in s. 379.2431(4). All other moneys received from such  
1109 fee shall be expended for the patrol, regulation, and  
1110 maintenance of the lakes, rivers, and waters and for other  
1111 boating-related activities of such municipality or county. A  
1112 municipality that was imposing a registration fee before April  
1113 1, 1984, may continue to levy such fee, notwithstanding the  
1114 provisions of this section.

1115 Section 25. Effective October 1, 2009, subsection (13) of  
1116 section 328.72, Florida Statutes, is amended to read:

1117 328.72 Classification; registration; fees and charges;  
1118 surcharge; disposition of fees; fines; marine turtle stickers.-

1119 (13) EXPIRED REGISTRATION.-The operation, use, or storage  
1120 on the waters of this state of a previously registered vessel  
1121 after the expiration of the registration period is a noncriminal  
1122 violation, as defined in s. 327.73.

1123 Section 26. Subsections (13) and (14) are added to section  
1124 369.20, Florida Statutes, to read:

1125 369.20 Florida Aquatic Weed Control Act.-

1126 (13) The commission has the power to enforce this section  
1127 as provided in ss. 379.501-379.504.

1128 (14) Activities that are exempt from permitting in  
1129 accordance with s. 403.813(1)(r), are granted a mixing zone for  
1130 turbidity for a distance not to exceed 150 meters downstream in  
1131 flowing streams or 150 meters in radius in other water bodies

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1132 as, measured from the cutterhead, return flow discharge, or  
1133 other points of generation of turbidity.

1134 Section 27. Subsections (13) and (14) are added to section  
1135 369.22, Florida Statutes, to read:

1136 369.22 Aquatic plant management.—

1137 (13) The commission has the power to enforce this section  
1138 as provided in ss. 379.501-379.504.

1139 (14) Activities that are exempt from permitting in  
1140 accordance with s. 403.813(1)(r), are granted a mixing zone for  
1141 turbidity for a distance not to exceed 150 meters downstream in  
1142 flowing streams or 150 meters in radius in other water bodies  
1143 as, measured from the cutterhead, return flow discharge, or  
1144 other points of generation of turbidity.

1145 Section 28. Paragraph (j) of subsection (3) of section  
1146 369.25, Florida Statutes, is amended to read:

1147 369.25 Aquatic plants; definitions; permits; powers of  
1148 department; penalties.—

1149 (3) The department has the following powers:

1150 (j) To enforce ss. 369.25 and 369.251 ~~this chapter~~ in the  
1151 same manner and to the same extent as provided in s. 581.211.

1152 Section 29. Subsections (1) and (5) of section 379.304,  
1153 Florida Statutes, are amended to read:

1154 379.304 Exhibition or sale of wildlife.—

1155 (1) Permits issued pursuant to s. 379.3761 ~~this section~~ and  
1156 places where wildlife is kept or held in captivity shall be  
1157 subject to inspection by officers of the commission at all  
1158 times. The commission shall have the power to release or  
1159 confiscate any specimens of any wildlife, specifically birds,  
1160 mammals, amphibians, or reptiles, whether indigenous to the



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1161 state or not, when it is found that conditions under which they  
1162 are being confined are unsanitary, or unsafe to the public in  
1163 any manner, or that the species of wildlife are being  
1164 maltreated, mistreated, or neglected or kept in any manner  
1165 contrary to the provisions of chapter 828, any such permit to  
1166 the contrary notwithstanding. Before any such wildlife is  
1167 confiscated or released under the authority of this section, the  
1168 owner thereof shall have been advised in writing of the  
1169 existence of such unsatisfactory conditions; the owner shall  
1170 have been given 30 days in which to correct such conditions; the  
1171 owner shall have failed to correct such conditions; the owner  
1172 shall have had an opportunity for a proceeding pursuant to  
1173 chapter 120; and the commission shall have ordered such  
1174 confiscation or release after careful consideration of all  
1175 evidence in the particular case in question. The final order of  
1176 the commission shall constitute final agency action.

1177 (5) A violation of this section is punishable as provided  
1178 by s. 379.4015 ~~379.401~~.

1179 Section 30. Section 379.338, Florida Statutes, is amended  
1180 to read:

1181 379.338 Confiscation and disposition of illegally taken  
1182 wildlife, freshwater fish, and saltwater fish ~~game~~.-

1183 (1) All wildlife, ~~game~~ and freshwater fish, and saltwater  
1184 fish seized under the authority of this chapter, any other  
1185 chapter, or rules of the commission shall, upon conviction of  
1186 the offender or sooner in accordance with a court order if the  
1187 court so orders, be forfeited to the investigating law  
1188 enforcement agency. The law enforcement agency may elect to  
1189 retain the wildlife, freshwater fish, or saltwater fish for the

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1190 agency's official use; transfer it to another unit of state or  
1191 local government for official use; donate it to a charitable  
1192 organization; sell it at public sale pursuant to s. 705.103; or  
1193 destroy the wildlife, freshwater fish, or saltwater fish if none  
1194 of the other options is practicable or if the wildlife,  
1195 freshwater fish, or saltwater fish is unwholesome or otherwise  
1196 not of appreciable value. All illegally possessed live wildlife,  
1197 freshwater fish, and saltwater fish that are properly documented  
1198 as evidence as provided in s. 379.3381 may be returned to the  
1199 habitat unharmed. Any unclaimed wildlife, freshwater fish, or  
1200 saltwater fish shall be retained by the investigating law  
1201 enforcement agency and disposed of in accordance with this  
1202 subsection and given to some hospital or charitable institution  
1203 and receipt therefor sent to the Fish and Wildlife Conservation  
1204 Commission.

1205       (2) All furs or hides or fur-bearing animals seized under  
1206 the authority of this chapter shall, upon conviction of the  
1207 offender, be forfeited and sent to the commission, which shall  
1208 sell the same and deposit the proceeds of such sale to the  
1209 credit of the State Game Trust Fund. If any such hides or furs  
1210 are seized and the offender is unknown, the court shall order  
1211 such hides or furs sent to the Fish and Wildlife Conservation  
1212 Commission, which shall sell such hides and furs.

1213       (3) Except as otherwise provided by law, and deposit the  
1214 proceeds of any such sale under this section shall be remitted  
1215 to the Department of Revenue to be deposited to the credit of  
1216 the State Game Trust Fund or the Marine Resources Conservation  
1217 Trust Fund.

1218       (4) Any state, county, or municipal law enforcement agency

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1219 that enforces or assists the commission in enforcing this  
1220 chapter, which enforcement results in a forfeiture of property  
1221 as provided in this section, is entitled to receive all or a  
1222 share of any property based upon its participation in the  
1223 enforcement.

1224 Section 31. Section 379.3381, Florida Statutes, is created  
1225 to read:

1226 379.3381 Photographic evidence of illegally taken wildlife,  
1227 freshwater fish, and saltwater fish.—In any prosecution for a  
1228 violation of this chapter, any other chapter, or rules of the  
1229 commission, a photograph of illegally taken wildlife, freshwater  
1230 fish, or saltwater fish may be deemed competent evidence of such  
1231 property and may be admissible in the prosecution to the same  
1232 extent as if such wildlife, freshwater fish, or saltwater fish  
1233 were introduced as evidence. Such photograph shall bear a  
1234 written description of the wildlife, freshwater fish, or  
1235 saltwater fish alleged to have been illegally taken, the name of  
1236 the violator, the location where the alleged illegal taking  
1237 occurred, the name of the investigating law enforcement officer,  
1238 the date the photograph was taken, and the name of the  
1239 photographer. Such writing shall be made under oath by the  
1240 investigating law enforcement officer, and the photograph shall  
1241 be identified by the signature of the photographer.

1242 Section 32. Paragraphs (n) through (q) of subsection (2) of  
1243 section 379.353, Florida Statutes, are redesignated as  
1244 paragraphs (m) through (p), respectively, and paragraphs (h) and  
1245 (m) of subsection (2) of that section are amended to read:

1246 379.353 Recreational licenses and permits; exemptions from  
1247 fees and requirements.—

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1248 (2) A hunting, freshwater fishing, or saltwater fishing  
1249 license or permit is not required for:

1250 (h) Any resident saltwater fishing from land or from a  
1251 structure fixed to the land who has been determined eligible for  
1252 the food stamp, temporary cash assistance, or Medicaid programs  
1253 by the Department of Children and Family Services. A benefit  
1254 issuance or program identification card issued by the Department  
1255 of Children and Family Services or the Agency for Health Care  
1256 Administration shall serve as proof of program eligibility. The  
1257 individual must have the benefit issuance or program  
1258 identification card and positive proof of identification in his  
1259 or her possession when fishing.

1260 ~~(m) Any resident fishing for a saltwater species in fresh~~  
1261 ~~water from land or from a structure fixed to land.~~

1262 Section 33. Paragraph (c) of subsection (2) of section  
1263 379.3671, Florida Statutes, is amended to read:

1264 379.3671 Spiny lobster trap certificate program.—

1265 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;  
1266 PENALTIES.—The Fish and Wildlife Conservation Commission shall  
1267 establish a trap certificate program for the spiny lobster  
1268 fishery of this state and shall be responsible for its  
1269 administration and enforcement as follows:

1270 (c) *Prohibitions; penalties.*—

1271 1. It is unlawful for a person to possess or use a spiny  
1272 lobster trap in or on state waters or adjacent federal waters  
1273 without having affixed thereto the trap tag required by this  
1274 section. It is unlawful for a person to possess or use any other  
1275 gear or device designed to attract and enclose or otherwise aid  
1276 in the taking of spiny lobster by trapping that is not a trap as

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1277 defined by commission rule.

1278         2. It is unlawful for a person to possess or use spiny  
1279 lobster trap tags without having the necessary number of  
1280 certificates on record as required by this section.

1281         3. It is unlawful for any person to willfully molest, take  
1282 possession of, or remove the contents of another harvester's  
1283 spiny lobster trap without the express written consent of the  
1284 trap owner available for immediate inspection. Unauthorized  
1285 possession of another's trap gear or removal of trap contents  
1286 constitutes theft.

1287             a. A commercial harvester who violates this subparagraph  
1288 shall be punished under ss. 379.367 and 379.407. Any commercial  
1289 harvester receiving a judicial disposition other than dismissal  
1290 or acquittal on a charge of theft of or from a trap pursuant to  
1291 this subparagraph or s. 379.402 shall, in addition to the  
1292 penalties specified in ss. 379.367 and 379.407 and the  
1293 provisions of this section, permanently lose all his or her  
1294 saltwater fishing privileges, including his or her saltwater  
1295 products license, spiny lobster endorsement, and all trap  
1296 certificates allotted to him or her through this program. In  
1297 such cases, trap certificates and endorsements are  
1298 nontransferable.

1299             b. Any commercial harvester receiving a judicial  
1300 disposition other than dismissal or acquittal on a charge of  
1301 willful molestation of a trap, in addition to the penalties  
1302 specified in ss. 379.367 and 379.407, shall lose all saltwater  
1303 fishing privileges for a period of 24 calendar months.

1304             c. In addition, any commercial harvester charged with  
1305 violating this subparagraph and receiving a judicial disposition

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1306 other than dismissal or acquittal for violating this  
1307 subparagraph or s. 379.402 shall also be assessed an  
1308 administrative penalty of up to \$5,000.

1309  
1310 Immediately upon receiving a citation for a violation involving  
1311 theft of or from a trap, or molestation of a trap, and until  
1312 adjudicated for such a violation or, upon receipt of a judicial  
1313 disposition other than dismissal or acquittal of such a  
1314 violation, the commercial harvester committing the violation is  
1315 prohibited from transferring any spiny lobster trap certificates  
1316 and endorsements.

1317 4. In addition to any other penalties provided in s.  
1318 379.407, a commercial harvester who violates the provisions of  
1319 this section or commission rules relating to spiny lobster traps  
1320 shall be punished as follows:

1321 a. If the first violation is for violation of subparagraph  
1322 1. or subparagraph 2., the commission shall assess an additional  
1323 administrative penalty of up to \$1,000. For all other first  
1324 violations, the commission shall assess an additional  
1325 administrative penalty of up to \$500.

1326 b. For a second violation of subparagraph 1. or  
1327 subparagraph 2. which occurs within 24 months of any previous  
1328 such violation, the commission shall assess an additional  
1329 administrative penalty of up to \$2,000 and the spiny lobster  
1330 endorsement issued under s. 379.367(2) or (6) may be suspended  
1331 for the remainder of the current license year.

1332 c. For a third or subsequent violation of subparagraph 1.,  
1333 subparagraph 2., or subparagraph 3. which occurs within 36  
1334 months of any previous two such violations, the commission shall

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1335 assess an additional administrative penalty of up to \$5,000 and  
1336 may suspend the spiny lobster endorsement issued under s.  
1337 379.367(2) or (6) for a period of up to 24 months or may revoke  
1338 the spiny lobster endorsement and, if revoking the spiny lobster  
1339 endorsement, may also proceed against the licenseholder's  
1340 saltwater products license in accordance with the provisions of  
1341 s. 379.407(2)(h).

1342 d. Any person assessed an additional administrative penalty  
1343 pursuant to this section shall within 30 calendar days after  
1344 notification:

1345 (I) Pay the administrative penalty to the commission; or

1346 (II) Request an administrative hearing pursuant to the  
1347 provisions of ss. 120.569 and 120.57.

1348 e. The commission shall suspend the spiny lobster  
1349 endorsement issued under s. 379.367(2) or (6) for any person  
1350 failing to comply with the provisions of sub-subparagraph d.

1351 5.a. It is unlawful for any person to make, alter, forge,  
1352 counterfeit, or reproduce a spiny lobster trap tag or  
1353 certificate.

1354 b. It is unlawful for any person to knowingly have in his  
1355 or her possession a forged, counterfeit, or imitation spiny  
1356 lobster trap tag or certificate.

1357 c. It is unlawful for any person to barter, trade, sell,  
1358 supply, agree to supply, aid in supplying, or give away a spiny  
1359 lobster trap tag or certificate or to conspire to barter, trade,  
1360 sell, supply, aid in supplying, or give away a spiny lobster  
1361 trap tag or certificate unless such action is duly authorized by  
1362 the commission as provided in this chapter or in the rules of  
1363 the commission.

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1364           6.a. Any commercial harvester who violates the provisions  
1365 of subparagraph 5., or any commercial harvester who engages in  
1366 the commercial harvest, trapping, or possession of spiny lobster  
1367 without a spiny lobster endorsement as required by s. 379.367(2)  
1368 or (6) or during any period while such spiny lobster endorsement  
1369 is under suspension or revocation, commits a felony of the third  
1370 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1371 775.084.

1372           b. In addition to any penalty imposed pursuant to sub-  
1373 subparagraph a., the commission shall levy a fine of up to twice  
1374 the amount of the appropriate surcharge to be paid on the fair  
1375 market value of the transferred certificates, as provided in  
1376 subparagraph (a)1., on any commercial harvester who violates the  
1377 provisions of sub-subparagraph 5.c.

1378           c. In addition to any penalty imposed pursuant to sub-  
1379 subparagraph a., any commercial harvester receiving any judicial  
1380 disposition other than acquittal or dismissal for a violation of  
1381 subparagraph 5. shall be assessed an administrative penalty of  
1382 up to \$5,000, and the spiny lobster endorsement under which the  
1383 violation was committed may be suspended for up to 24 calendar  
1384 months. Immediately upon issuance of a citation involving a  
1385 violation of subparagraph 5. and until adjudication of such a  
1386 violation, and after receipt of any judicial disposition other  
1387 than acquittal or dismissal for such a violation, the commercial  
1388 harvester holding the spiny lobster endorsement listed on the  
1389 citation is prohibited from transferring any spiny lobster trap  
1390 certificates.

1391           d. Any other person who violates the provisions of  
1392 subparagraph 5. commits a Level Four violation under s. 379.401.



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1393           7. Prior to the 2010-2011 license year, any certificates  
1394 for which the annual certificate fee is not paid for a period of  
1395 3 years shall be considered abandoned and shall revert to the  
1396 commission. Beginning with the 2010-2011 license year, any  
1397 certificate for which the annual certificate fee is not paid for  
1398 a period of 2 consecutive years shall be considered abandoned  
1399 and shall revert to the commission. During any period of trap  
1400 reduction, any certificates reverting to the commission shall  
1401 become permanently unavailable and be considered in that amount  
1402 to be reduced during the next license-year period. Otherwise,  
1403 any certificates that revert to the commission are to be  
1404 reallocated in such manner as provided by the commission.

1405           8. The proceeds of all administrative penalties collected  
1406 pursuant to subparagraph 4. and all fines collected pursuant to  
1407 sub-subparagraph 6.b. shall be deposited into the Marine  
1408 Resources Conservation Trust Fund.

1409           9. All traps shall be removed from the water during any  
1410 period of suspension or revocation.

1411           10. Except as otherwise provided, any person who violates  
1412 this paragraph commits a Level Two violation under s. 379.401.

1413           Section 34. Paragraphs (c), (d), and (e) of subsection (2)  
1414 of section 379.3751, Florida Statutes, are amended to read:

1415           379.3751 Taking and possession of alligators; trapping  
1416 licenses; fees.—

1417           (2) The license and issuance fee, and the activity  
1418 authorized thereby, shall be as follows:

1419           (c) The annual fee for issuance of an alligator trapping  
1420 agent's license, which permits a person to act as an agent of  
1421 any person who has been issued a resident or nonresident

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1422 alligator trapping license as provided in paragraph (a) or  
1423 paragraph (b) and to take alligators occurring in the wild other  
1424 than alligator hatchlings, ~~and~~ to possess and process alligators  
1425 taken under authority of such agency relationship, and to  
1426 possess, process, and sell their hides and meat, shall be \$50.  
1427 ~~Such alligator trapping agent's license shall be issued only in~~  
1428 ~~conjunction with an alligator trapping license and shall bear on~~  
1429 ~~its face in indelible ink the name and license number of the~~  
1430 ~~alligator trapping licenseholder for whom the holder of this~~  
1431 ~~license is acting as an agent.~~

1432 (d) The annual fee for issuance of an alligator farming  
1433 license, which permits a person to operate a facility for  
1434 captive propagation of alligators, to possess alligators for  
1435 captive propagation, to take alligator hatchlings and alligator  
1436 eggs occurring in the wild, to rear such alligators, alligator  
1437 hatchlings, and alligator eggs in captivity, to process  
1438 alligators taken or possessed under authority of such alligator  
1439 farming license or otherwise legally acquired, and to possess,  
1440 process, and sell their hides and meat, shall be \$250.

1441 (e) The annual fee for issuance of an alligator farming  
1442 agent's license, which permits a person to act as an agent of  
1443 any person who has been issued an alligator farming license as  
1444 provided in paragraph (d) and to take alligator hatchlings and  
1445 alligator eggs occurring in the wild, ~~and~~ to possess and process  
1446 alligators taken under authority of such agency relationship,  
1447 and to possess, process, and sell their hides and meat, shall be  
1448 \$50. ~~Such license shall be issued only in conjunction with an~~  
1449 ~~alligator farming license, and shall bear on its face in~~  
1450 ~~indelible ink the name and license number of the alligator~~

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1451 ~~farming licenseholder for whom the holder of this license is~~  
1452 ~~acting as an agent.~~

1453 Section 35. Subsection (6) is added to section 379.3761,  
1454 Florida Statutes, to read:

1455 379.3761 Exhibition or sale of wildlife; fees;  
1456 classifications.—

1457 (6) A person who violates this section is punishable as  
1458 provided in s. 379.4015.

1459 Section 36. Subsection (5) of section 379.3762, Florida  
1460 Statutes, is amended to read:

1461 379.3762 Personal possession of wildlife.—

1462 (5) A person who violates ~~Persons in violation of this~~  
1463 ~~section is shall be~~ punishable as provided in s. 379.4015  
1464 ~~379.401.~~

1465 Section 37. Paragraph (a) of subsection (2) and paragraph  
1466 (a) of subsection (4) of section 379.401, Florida Statutes, are  
1467 amended to read:

1468 379.401 Penalties and violations; civil penalties for  
1469 noncriminal infractions; criminal penalties; suspension and  
1470 forfeiture of licenses and permits.—

1471 (2) (a) LEVEL TWO VIOLATIONS.—A person commits a Level Two  
1472 violation if he or she violates any of the following provisions:

1473 1. Rules or orders of the commission relating to seasons or  
1474 time periods for the taking of wildlife, freshwater fish, or  
1475 saltwater fish.

1476 2. Rules or orders of the commission establishing bag,  
1477 possession, or size limits or restricting methods of taking  
1478 wildlife, freshwater fish, or saltwater fish.

1479 3. Rules or orders of the commission prohibiting access or

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1480 otherwise relating to access to wildlife management areas or  
1481 other areas managed by the commission.

1482 4. Rules or orders of the commission relating to the  
1483 feeding of wildlife, freshwater fish, or saltwater fish.

1484 5. Rules or orders of the commission relating to landing  
1485 requirements for freshwater fish or saltwater fish.

1486 6. Rules or orders of the commission relating to restricted  
1487 hunting areas, critical wildlife areas, or bird sanctuaries.

1488 7. Rules or orders of the commission relating to tagging  
1489 requirements for wildlife ~~game~~ and fur-bearing animals.

1490 8. Rules or orders of the commission relating to the use of  
1491 dogs for the taking of wildlife ~~game~~.

1492 9. Rules or orders of the commission which are not  
1493 otherwise classified.

1494 10. Rules or orders of the commission prohibiting the  
1495 unlawful use of finfish traps.

1496 11. All prohibitions in this chapter which are not  
1497 otherwise classified.

1498 12. Section 379.33, prohibiting the violation of or  
1499 noncompliance with commission rules.

1500 13. Section 379.407(6), prohibiting the sale, purchase,  
1501 harvest, or attempted harvest of any saltwater product with  
1502 intent to sell.

1503 14. Section 379.2421, prohibiting the obstruction of  
1504 waterways with net gear.

1505 15. Section 379.413, prohibiting the unlawful taking of  
1506 bonefish.

1507 16. Section 379.365(2)(a) and (b), prohibiting the  
1508 possession or use of stone crab traps without trap tags and

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1509 theft of trap contents or gear.

1510 17. Section 379.366(4)(b), prohibiting the theft of blue  
1511 crab trap contents or trap gear.

1512 18. Section 379.3671(2)(c), prohibiting the possession or  
1513 use of spiny lobster traps without trap tags or certificates and  
1514 theft of trap contents or trap gear.

1515 19. Section 379.357, prohibiting the possession of tarpon  
1516 without purchasing a tarpon tag.

1517 20. Rules or orders of the commission ~~Section 379.409,~~  
1518 prohibiting the feeding or enticement of alligators or  
1519 crocodiles.

1520 21. Section 379.105, prohibiting the intentional harassment  
1521 of hunters, fishers, or trappers.

1522 (4)(a) LEVEL FOUR VIOLATIONS.—A person commits a Level Four  
1523 violation if he or she violates any of the following provisions:

1524 1. Section 379.365(2)(c), prohibiting criminal activities  
1525 relating to the taking of stone crabs.

1526 2. Section 379.366(4)(c), prohibiting criminal activities  
1527 relating to the taking and harvesting of blue crabs.

1528 3. Section 379.367(4), prohibiting the willful molestation  
1529 of spiny lobster gear.

1530 4. Section 379.3671(2)(c)5., prohibiting the unlawful  
1531 reproduction, possession, sale, trade, or barter of spiny  
1532 lobster trap tags or certificates.

1533 5. Section 379.354(16), prohibiting the making, forging,  
1534 counterfeiting, or reproduction of a recreational license or  
1535 possession of same without authorization from the commission.

1536 6. Section 379.404(5), prohibiting the sale of illegally-  
1537 taken deer or wild turkey.

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1538           7. Section 379.405, prohibiting the molestation or theft of  
1539 freshwater fishing gear.

1540           8. Section 379.409, prohibiting the unlawful killing,  
1541 injuring, possessing, or capturing of alligators or other  
1542 crocodilia or their eggs.

1543           Section 38. Paragraph (a) of subsection (2) of section  
1544 379.4015, Florida Statutes, is amended to read:

1545           379.4015 Captive wildlife penalties.—

1546           (2) LEVEL TWO.—Unless otherwise provided by law, the  
1547 following classifications and penalties apply:

1548           (a) A person commits a Level Two violation if he or she  
1549 violates any of the following provisions:

1550           1. Unless otherwise stated in subsection (1), rules or  
1551 orders of the commission that require a person to pay a fee to  
1552 obtain a permit to possess captive wildlife or that require the  
1553 maintenance of records relating to captive wildlife.

1554           2. Rules or orders of the commission relating to captive  
1555 wildlife not specified in subsection (1) or subsection (3).

1556           3. Rules or orders of the commission that require housing  
1557 of wildlife in a safe manner when a violation results in an  
1558 escape of wildlife other than Class I wildlife.

1559           4. Section 379.372, relating to capturing, keeping,  
1560 possessing, transporting, or exhibiting venomous reptiles or  
1561 reptiles of concern.

1562           5. Section 379.373, relating to requiring a license or  
1563 permit for the capturing, keeping, possessing, or exhibiting of  
1564 venomous reptiles or reptiles of concern.

1565           6. Section 379.374, relating to bonding requirements for  
1566 public exhibits of venomous reptiles.

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1567 7. Section 379.305, relating to commission rules and  
1568 regulations to prevent the escape of venomous reptiles or  
1569 reptiles of concern.

1570 8. Section 379.304, relating to exhibition or sale of  
1571 wildlife.

1572 9. Section 379.3761, relating to exhibition or sale of  
1573 wildlife.

1574 10. Section 379.3762, relating to personal possession of  
1575 wildlife.

1576 Section 39. The Fish and Wildlife Conservation Commission,  
1577 in consultation with the Department of Environmental Protection,  
1578 is directed to establish a pilot program in at least one but not  
1579 more than five locations to explore potential options for  
1580 regulating the anchoring or mooring of non-live-aboard vessels  
1581 outside the marked boundaries of public mooring fields.

1582 (1) The goals of the pilot program are to encourage the  
1583 establishment of additional public mooring fields and to develop  
1584 and test policies and regulatory regimes that:

1585 (a) Promote the establishment and use of public mooring  
1586 fields.

1587 (b) Promote public access to the waters of this state.

1588 (c) Enhance navigational safety.

1589 (d) Protect maritime infrastructure.

1590 (e) Protect the marine environment.

1591 (f) Deter improperly stored, abandoned, or derelict  
1592 vessels.

1593 (2) Each location selected for inclusion in the pilot  
1594 program must be associated with a properly permitted mooring  
1595 field. The commission, in consultation with the department,

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1596 shall select all locations for the pilot program prior to July  
1597 1, 2011. If more than one location is selected, the selections  
1598 must be geographically diverse and take into consideration the  
1599 various users and means of using the waters of this state.

1600 (3) Notwithstanding the provisions of s. 327.60, Florida  
1601 Statutes, a county or municipality selected for participation in  
1602 the pilot program may regulate by ordinance the anchoring of  
1603 vessels, other than live-aboard vessels as defined in s. 327.02,  
1604 Florida Statutes, outside of a mooring field. Any ordinance  
1605 enacted under the pilot program shall take effect and become  
1606 enforceable only after approval by the commission. The  
1607 commission shall not approve any ordinance not consistent with  
1608 the goals of the pilot program.

1609 (4) The commission shall:

1610 (a) Provide consultation and technical assistance to each  
1611 municipality or county selected for participation in the pilot  
1612 program to facilitate accomplishment of the pilot program's  
1613 goals.

1614 (b) Coordinate the review of any proposed ordinance with  
1615 the department; the Coast Guard; the Florida Inland Navigation  
1616 District or the West Coast Inland Navigation District, as  
1617 appropriate; and associations or other organizations  
1618 representing vessel owners or operators.

1619 (c) Monitor and evaluate at least annually each location  
1620 selected for participation in the pilot program and make such  
1621 modifications as may be necessary to accomplish the pilot  
1622 program's goals.

1623 (5) The commission shall submit a report of its findings  
1624 and recommendations to the Governor, the President of the



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1625 Senate, and the Speaker of the House of Representatives by  
1626 January 1, 2014.

1627 (6) The pilot program shall expire on July 1, 2014, unless  
1628 reenacted by the Legislature. All ordinances enacted under this  
1629 section shall expire concurrently with the expiration of the  
1630 pilot program and shall be inoperative and unenforceable  
1631 thereafter.

1632 Section 40. Section 379.501, Florida Statutes, is created  
1633 to read:

1634 379.501 Aquatic weeds or plants; prohibitions, violation,  
1635 penalty, intent.-

1636 (1) A person may not:

1637 (a) Violate this section or any provision of s. 369.20 or  
1638 s. 369.22 related to aquatic weeds or plants;

1639 (b) Fail to obtain any permit required by s. 369.20 or s.  
1640 369.22 or by commission rule implementing s. 369.20 or s.  
1641 369.22, or violate or fail to comply with any rule, regulation,  
1642 order, permit, or certification adopted or issued by the  
1643 commission pursuant to s. 369.20 or s. 369.22; or

1644 (c) Knowingly make any false statement, representation, or  
1645 certification in any application, record, report, plan, or other  
1646 document filed or required to be maintained under s. 369.20 or  
1647 s. 369.22, or to falsify, tamper with, or knowingly render  
1648 inaccurate any monitoring device or method required to be  
1649 maintained under s. 369.20 or s. 369.22 or by any permit, rule,  
1650 regulation, or order issued under s. 369.20 or s. 369.22.

1651 (2) Any person who violates any provision specified in  
1652 subsection (1) is liable to the state for any damage caused to  
1653 the aquatic weeds or plants and for civil penalties as provided

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1654 in s. 379.502.

1655 (3) Any person who willfully commits a violation of  
1656 paragraph (1) (a) commits a felony of the third degree,  
1657 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
1658 Each day during any portion of which such violation occurs  
1659 constitutes a separate offense.

1660 (4) Any person who commits a violation specified in  
1661 paragraph (1) (a) due to reckless indifference or gross careless  
1662 disregard commits a misdemeanor of the second degree, punishable  
1663 as provided in s. 775.082 or s. 775.083.

1664 (5) Any person who willfully commits a violation specified  
1665 in paragraph (1) (b) or paragraph (1) (c) commits a misdemeanor of  
1666 the first degree, punishable as provided in s. 775.082 or s.  
1667 775.083.

1668 (6) It is the intent of the Legislature that the civil  
1669 penalties and criminal fines imposed by a court be of such an  
1670 amount as to ensure immediate and continued compliance with this  
1671 section.

1672 (7) Penalties assessed pursuant to ss. 379.501-379.504 are  
1673 in addition to any penalties assessed by the Board of Trustees  
1674 of the Internal Improvement Trust Fund, the Department of  
1675 Environmental Protection, or a water management district  
1676 pursuant to chapter 253, chapter 373, or chapter 403.

1677 Section 41. Section 379.502, Florida Statutes, is created  
1678 to read:

1679 379.502 Enforcement; procedure; remedies.—The commission  
1680 has the following judicial and administrative remedies available  
1681 to it for violations of s. 379.501.

1682 (1) (a) The commission may institute a civil action in a

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1683 court of competent jurisdiction to establish liability and to  
1684 recover damages for any injury to the waters or property of the  
1685 state, including animal, plant, and aquatic life, caused by any  
1686 violation of s. 379.501.

1687 (b) The commission may institute a civil action in a court  
1688 of competent jurisdiction to impose and to recover a civil  
1689 penalty for each violation in an amount of not more than \$10,000  
1690 per offense. However, the court may receive evidence in  
1691 mitigation. Each day, during any portion of which such violation  
1692 occurs, constitutes a separate offense.

1693 (c) Except as provided in paragraph (2) (c), the fact that  
1694 the commission has failed to exhaust its administrative  
1695 remedies, has failed to serve a notice of violation, or has  
1696 failed to hold an administrative hearing before initiating a  
1697 civil action is not a defense to, or grounds for dismissal of,  
1698 the judicial remedies for damages and civil penalties.

1699 (2) (a) The commission may institute an administrative  
1700 proceeding to establish liability and to recover damages for any  
1701 injury to the waters or property of the state, including animal,  
1702 plant, or aquatic life, caused by any violation of s. 379.501.  
1703 The commission may order that the violator pay a specified sum  
1704 as damages to the state. Judgment for the amount of damages  
1705 determined by the commission may be entered in any court having  
1706 jurisdiction thereof and may be enforced as any other judgment.

1707 (b) If the commission has reason to believe that a  
1708 violation has occurred, it may institute an administrative  
1709 proceeding to order the prevention, abatement, or control of the  
1710 conditions creating the violation or other appropriate  
1711 corrective action. The commission shall proceed administratively

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1712 in all cases in which the commission seeks administrative  
1713 penalties that do not exceed \$10,000 per assessment as  
1714 calculated in accordance with subsections (3), (4), (5), and  
1715 (6). The commission may not impose administrative penalties in  
1716 excess of \$10,000 in a notice of violation. The commission may  
1717 not have more than one notice of violation seeking  
1718 administrative penalties pending against the same party at the  
1719 same time unless the violations occurred at a different site or  
1720 the violations were discovered by the commission subsequent to  
1721 the filing of a previous notice of violation.

1722 (c) An administrative proceeding shall be instituted by the  
1723 commission's serving of a written notice of violation upon the  
1724 alleged violator by certified mail. If the commission is unable  
1725 to effect service by certified mail, the notice of violation may  
1726 be hand delivered or personally served in accordance with  
1727 chapter 48. The notice shall specify the provision of the law,  
1728 rule, regulation, permit, certification, or order of the  
1729 commission alleged to have been violated and the facts alleged  
1730 to constitute a violation thereof. An order for corrective  
1731 action, penalty assessment, or damages may be included along  
1732 with the notice. If the commission is seeking to impose an  
1733 administrative penalty for any violation of s. 379.501 by  
1734 issuing a notice of violation, any corrective action needed to  
1735 correct the violation or damages caused by the violation must be  
1736 pursued in the notice of violation or they are waived. However,  
1737 an order does not become effective until after service and an  
1738 administrative hearing, if requested within 20 days after  
1739 service. Failure to request an administrative hearing within  
1740 this period constitutes a waiver, unless the respondent files a

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1741 written notice with the commission within this period opting out  
1742 of the administrative process initiated by the commission. Any  
1743 respondent choosing to opt out of the administrative process  
1744 initiated by the commission must file a written notice with the  
1745 commission within 20 days after service of the notice of  
1746 violation opting out of the administrative process. A  
1747 respondent's decision to opt out of the administrative process  
1748 does not preclude the commission from initiating a state court  
1749 action seeking injunctive relief, damages, and the judicial  
1750 imposition of civil penalties.

1751 (d) If a person timely files a petition challenging a  
1752 notice of violation, that person will thereafter be referred to  
1753 as the respondent. The hearing requested by the respondent shall  
1754 be held within 180 days after the commission has referred the  
1755 initial petition to the Division of Administrative Hearings  
1756 unless the parties agree to a later date. The commission has the  
1757 burden of proving by the preponderance of the evidence that the  
1758 respondent is responsible for the violation. An administrative  
1759 penalty may not be imposed unless the commission satisfies that  
1760 burden. Following the close of the hearing, the administrative  
1761 law judge shall issue a final order on all matters, including  
1762 the imposition of an administrative penalty. If the commission  
1763 seeks to enforce that portion of a final order imposing  
1764 administrative penalties pursuant to s. 120.69, the respondent  
1765 may not assert as a defense the inappropriateness of the  
1766 administrative remedy. The commission retains its final-order  
1767 authority in all administrative actions that do not request the  
1768 imposition of administrative penalties.

1769 (e) After filing a petition requesting a formal hearing in

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1770 response to a notice of violation, a respondent may request that  
1771 a private mediator be appointed to mediate the dispute by  
1772 contacting the Florida Conflict Resolution Consortium within 10  
1773 days after receipt of the initial order from the administrative  
1774 law judge. The Florida Conflict Resolution Consortium shall pay  
1775 all of the costs of the mediator and for up to 8 hours of the  
1776 mediator's time per case at \$150 per hour. Upon notice from the  
1777 respondent, the Florida Conflict Resolution Consortium shall  
1778 provide the respondent with a panel of possible mediators from  
1779 the area in which the hearing on the petition would be heard.  
1780 The respondent shall select the mediator and notify the Florida  
1781 Conflict Resolution Consortium of the selection within 15 days  
1782 after receipt of the proposed panel of mediators. The Florida  
1783 Conflict Resolution Consortium shall provide all of the  
1784 administrative support for the mediation process. The mediation  
1785 must be completed at least 15 days before the final hearing date  
1786 set by the administrative law judge.

1787 (f) In any administrative proceeding brought by the  
1788 commission, the prevailing party shall recover all costs as  
1789 provided in ss. 57.041 and 57.071. The costs must be included in  
1790 the final order. The respondent is the prevailing party when an  
1791 order is entered awarding no penalties to the commission and the  
1792 order has not been reversed on appeal or the time for seeking  
1793 judicial review has expired. The respondent is entitled to an  
1794 award of attorney's fees if the administrative law judge  
1795 determines that the notice of violation issued by the commission  
1796 was not substantially justified as defined in s. 57.111(3)(e).  
1797 An award of attorney's fees as provided by this subsection may  
1798 not exceed \$15,000.

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1799       (g) This section does not prevent any other legal or  
1800 administrative action in accordance with law. This subsection  
1801 does not limit the commission's authority set forth in this  
1802 section and ss. 379.503 and 379.504 to judicially pursue  
1803 injunctive relief. If the commission exercises its authority to  
1804 judicially pursue injunctive relief, penalties in any amount up  
1805 to the statutory maximum sought by the commission must be  
1806 pursued as part of the state court action and not by initiating  
1807 a separate administrative proceeding. The commission retains the  
1808 authority to judicially pursue penalties in excess of \$10,000  
1809 for violations not specifically included in the administrative  
1810 penalty schedule, or for multiple or multiday violations alleged  
1811 to exceed a total of \$10,000. The commission also retains the  
1812 authority provided in this section and ss. 379.503 and 379.504  
1813 to judicially pursue injunctive relief and damages, if a notice  
1814 of violation seeking the imposition of administrative penalties  
1815 has not been issued. The commission may enter into a settlement  
1816 before or after initiating a notice of violation, and the  
1817 settlement may include a penalty amount that is different from  
1818 the administrative penalty schedule. Any case filed in state  
1819 court because it is alleged to exceed a total of \$10,000 in  
1820 penalties may be settled in the court action for less than  
1821 \$10,000.

1822       (h) Chapter 120 does apply to any administrative action  
1823 taken by the commission under this section or any delegated  
1824 program pursuing administrative penalties in accordance with  
1825 this section.

1826       (3) Administrative penalties must be calculated according  
1827 to the following schedule:

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- 1828       (a) For violations of s. 379.501(1) (a) or (b), \$3,000.
- 1829       (b) For failure to conduct required monitoring or testing  
1830 in compliance with a permit, \$2,000.
- 1831       (c) For failure to prepare, submit, maintain, or use  
1832 required reports or other required documentation, \$500.
- 1833       (d) For failure to comply with any other regulatory statute  
1834 or rule requirement relating to the administration of the  
1835 commission's powers under s. 369.20 or s. 369.22 not otherwise  
1836 identified in this section, \$500.
- 1837       (4) For each additional day during which a violation  
1838 occurs, the administrative penalties in subsection (3) may be  
1839 assessed per day, per violation.
- 1840       (5) The history of noncompliance of the violator for any  
1841 previous violation resulting in an executed consent order, but  
1842 not including a consent order entered into without a finding of  
1843 violation, or resulting in a final order or judgment on or after  
1844 July 1, 2009, involving the imposition of \$2,000 or more in  
1845 penalties, shall be taken into consideration in the following  
1846 manner:
- 1847       (a) One previous such violation within 5 years prior to the  
1848 filing of the notice of violation shall result in a 25 percent  
1849 per day increase in the scheduled administrative penalty.
- 1850       (b) Two previous such violations within 5 years prior to  
1851 the filing of the notice of violation shall result in a 50  
1852 percent per day increase in the scheduled administrative  
1853 penalty.
- 1854       (c) Three or more previous such violations within 5 years  
1855 before the filing of the notice of violation shall result in a  
1856 100 percent per day increase in the scheduled administrative



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1857 penalty.

1858 (6) The direct economic benefit gained by the violator from  
1859 the violation shall be added to the scheduled administrative  
1860 penalty. The total administrative penalty, including any  
1861 economic benefit added to the scheduled administrative penalty,  
1862 may not exceed \$10,000.

1863 (7) The administrative penalties assessed for any  
1864 particular violation may not exceed \$3,000 against any one  
1865 violator, unless the violator has a history of noncompliance,  
1866 the economic benefit of the violation as described in subsection  
1867 (6) exceeds \$3,000, or there are multiday violations. The total  
1868 administrative penalties may not exceed \$10,000 per assessment  
1869 for all violations attributable to a specific person in the  
1870 notice of violation.

1871 (8) The administrative law judge may receive evidence in  
1872 mitigation. The penalties identified in subsection (3) may be  
1873 reduced up to 50 percent by the administrative law judge for  
1874 mitigating circumstances, including good faith efforts to comply  
1875 prior to or after discovery of the violations by the commission.  
1876 Upon an affirmative finding that the violation was caused by  
1877 circumstances beyond the reasonable control of the respondent  
1878 and could not have been prevented by the respondent's due  
1879 diligence, the administrative law judge may further reduce the  
1880 penalty.

1881 (9) Penalties collected under this section shall be  
1882 deposited into the Invasive Plant Control Trust Fund to carry  
1883 out the purposes set forth in ss. 369.20, 369.22, and 369.252.  
1884 The Florida Conflict Resolution Consortium may use a portion of  
1885 the fund to administer the mediation process provided in

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1886 paragraph (2) (e) and to contract with private mediators for  
1887 administrative penalty cases related to s. 369.20 or s. 369.22.

1888 (10) The purpose of the administrative penalty schedule and  
1889 process is to provide a more predictable and efficient manner  
1890 for individuals and businesses to resolve relatively minor  
1891 environmental disputes. Subsections (3) through (7) do not limit  
1892 a state court in the assessment of damages. The administrative  
1893 penalty schedule does not apply to the judicial imposition of  
1894 civil penalties in state court as provided in this section.

1895 Section 42. Section 379.503, Florida Statutes, is created  
1896 to read:

1897 379.503 Civil action.—

1898 (1) The commission may institute a civil action in a court  
1899 of competent jurisdiction to seek injunctive relief to enforce  
1900 compliance with ss. 379.501, 379.502, and 379.504 or any rule,  
1901 regulation, permit, certification, or order adopted or issued by  
1902 the commission pursuant to s. 369.20 or s. 369.22; to enjoin any  
1903 violation specified in s. 379.501(1); and to seek injunctive  
1904 relief to prevent irreparable injury to the waters and property,  
1905 including animal, plant, and aquatic life, of the state and to  
1906 protect human health, safety, and welfare caused or threatened  
1907 by any violation of s. 379.501.

1908 (2) All the judicial and administrative remedies to recover  
1909 damages and penalties in this section and s. 379.502 are  
1910 alternative and mutually exclusive.

1911 Section 43. Section 379.504, Florida Statutes, is created  
1912 to read:

1913 379.504 Civil liability; joint and several liability.—

1914 (1) Whoever commits a violation specified in s. 379.501(1)

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1915 is liable to the state for any damage caused to the waters or  
1916 property of the state, including animal, plant, or aquatic life,  
1917 and for reasonable costs and expenses of the state in restoring  
1918 its waters and property, including animal, plant, and aquatic  
1919 life, to their former condition, and furthermore is subject to  
1920 the judicial imposition of a civil penalty for each offense in  
1921 an amount of not more than \$10,000 per offense. However, the  
1922 court may receive evidence in mitigation. Each day during any  
1923 portion of which such violation occurs constitutes a separate  
1924 offense. This section does not give the commission the right to  
1925 bring an action on behalf of any private person.

1926 (2) If two or more persons violate s. 379.501 so that the  
1927 damage is indivisible, each violator shall be jointly and  
1928 severally liable for the damage and for the reasonable cost and  
1929 expenses of the state incurred in restoring the waters and  
1930 property of the state, including the animal, plant, and aquatic  
1931 life, to their former condition. However, if the damage is  
1932 divisible and may be attributed to a particular violator or  
1933 violators, each violator is liable only for that damage  
1934 attributable to his or her violation.

1935 (3) In assessing damages for fish killed, the value of the  
1936 fish shall be determined in accordance with a table of values  
1937 for individual categories of fish, which shall be adopted by the  
1938 Department of Environmental Protection pursuant to s.  
1939 403.141(3). The total number of fish killed may be estimated by  
1940 standard practices used in estimating fish population.

1941 Section 44. Subsection (1) of section 403.088, Florida  
1942 Statutes, is amended to read:

1943 403.088 Water pollution operation permits; conditions.—

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1944 (1) No person, without written authorization of the  
1945 department, shall discharge into waters within the state any  
1946 waste which, by itself or in combination with the wastes of  
1947 other sources, reduces the quality of the receiving waters below  
1948 the classification established for them. However, this section  
1949 shall not be deemed to prohibit the application of pesticides to  
1950 waters in the state for the control of insects, aquatic weeds,  
1951 or algae, provided the application is performed pursuant to a  
1952 program approved by the Department of Health, in the case of  
1953 insect control, or the Fish and Wildlife Conservation Commission  
1954 ~~department~~, in the case of aquatic weed or algae control. The  
1955 department is directed to enter into interagency agreements to  
1956 establish the procedures for program approval. Such agreements  
1957 shall provide for public health, welfare, and safety, as well as  
1958 environmental factors. Approved programs must provide that only  
1959 chemicals approved for the particular use by the United States  
1960 Environmental Protection Agency or by the Department of  
1961 Agriculture and Consumer Services may be employed and that they  
1962 be applied in accordance with registered label instructions,  
1963 state standards for such application, and the provisions of the  
1964 Florida Pesticide Law, part I of chapter 487.

1965 Section 45. The statutory powers, duties, and functions  
1966 related to ss. 369.20, 369.22, and 369.252, Florida Statutes,  
1967 which were transferred by chapter 2008-150, Laws of Florida, and  
1968 all records, personnel, and property; unexpended balances of  
1969 appropriations, allocations, and other funds; administrative  
1970 authority; administrative rules; pending issues; and existing  
1971 contracts of the Bureau of Invasive Plant Management in the  
1972 Department of Environmental Protection are transferred by a type

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1973 two transfer, pursuant to s. 20.06(2), Florida Statutes, to the  
1974 Fish and Wildlife Conservation Commission. All actions taken  
1975 pursuant to chapter 2008-150, Laws of Florida, and the  
1976 Interagency Agreement executed thereto are ratified.

1977 Section 46. The Invasive Plant Control Trust Fund, FLAIR  
1978 number 37-2-030, in the Department of Environmental Protection  
1979 is transferred to the Fish and Wildlife Conservation Commission,  
1980 FLAIR number 77-2-030.

1981 Section 47. For the purpose of incorporating the amendment  
1982 made by this act to section 319.32, Florida Statutes, in a  
1983 reference thereto, paragraph (a) of subsection (2) of section  
1984 379.209, Florida Statutes, is reenacted to read:

1985 379.209 Nongame Wildlife Trust Fund.—

1986 (2) (a) There is established within the Fish and Wildlife  
1987 Conservation Commission the Nongame Wildlife Trust Fund. The  
1988 fund shall be credited with moneys collected pursuant to ss.  
1989 319.32(3) and 320.02(8). Additional funds may be provided from  
1990 legislative appropriations and by donations from interested  
1991 individuals and organizations. The commission shall designate an  
1992 identifiable unit to administer the trust fund.

1993 Section 48. For the purpose of incorporating the amendment  
1994 made by this act to section 379.353, Florida Statutes, in a  
1995 reference thereto, subsection (7) of section 379.3581, Florida  
1996 Statutes, is reenacted to read:

1997 379.3581 Hunter safety course; requirements; penalty.—

1998 (7) The hunter safety requirements of this section do not  
1999 apply to persons for whom licenses are not required under s.  
2000 379.353(2).

2001 Section 49. The sum of \$185,000 is appropriated to the Fish

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2002 and Wildlife Conservation Commission from the State Game Trust  
2003 Fund on a recurring basis beginning in the 2009-2010 fiscal year  
2004 for license issuance costs associated with section 31.

2005 Section 50. Effective October 1, 2009, section 327.22,  
2006 Florida Statutes, is repealed.

2007 Section 51. Subsection (7) of section 379.366, Florida  
2008 Statutes, is repealed.

2009 Section 52. Except as otherwise expressly provided in this  
2010 act, this act shall take effect July 1, 2009.