

By the Committees on Judiciary; and Environmental Preservation
and Conservation; and Senator Constantine

590-04430A-09

20092536c2

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. 327.02,
15 F.S.; amending the definition of the term "live-aboard
16 vessel"; amending s. 327.35, F.S.; revising penalties
17 for boating under the influence of alcohol; revising
18 the blood-alcohol level or breath-alcohol level at
19 which certain penalties apply; amending s. 327.36,
20 F.S.; revising a prohibition against accepting a plea
21 to a lesser included offense from a person who is
22 charged with certain offenses involving the operation
23 of a vessel; revising the blood-alcohol level or
24 breath-alcohol level at which the prohibition applies;
25 amending s. 327.395, F.S.; revising certain age
26 limitations on the operation of a vessel powered by a
27 10-horsepower motor or greater; amending s. 327.40,
28 F.S.; revising provisions for placement of navigation,
29 safety, and informational markers of waterways;

590-04430A-09

20092536c2

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

590-04430A-09

20092536c2

59 declaring fuel transported in violation of such
60 prohibitions to be a public nuisance and directing the
61 enforcing agency to abate the nuisance; providing for
62 disposal of the containers and fuel; declaring
63 conveyances, vessels, vehicles, and equipment used in
64 such violation to be contraband; providing for seizure
65 of the contraband; defining the term "conviction" for
66 specified purposes; providing for costs to remove
67 fuel, containers, vessels, and equipment to be paid by
68 the owner; providing that a person who fails to pay
69 such cost shall not be issued a certificate of
70 registration for a vessel or motor vehicle; amending
71 s. 327.70, F.S.; providing for the mailing of
72 citations; amending s. 327.73, F.S.; revising
73 provisions for citation of a noncriminal infraction to
74 provide for violations relating to boating-restricted
75 areas and speed limits; revising provisions relating
76 to establishment of such limits by counties and
77 municipalities; amending s. 328.03, F.S.; requiring
78 vessels used or stored on the waters of this state to
79 be titled by this state pursuant to specified
80 provisions; providing exceptions; amending s. 328.07,
81 F.S.; requiring certain vessels used or stored on the
82 waters of this state to have affixed a hull
83 identification number; providing that a vessel in
84 violation may be seized and subject to forfeiture;
85 amending ss. 328.46, 328.48, and 328.56, F.S.;

86 requiring vessels operated, used, or stored on the
87 waters of this state to be registered and display the

590-04430A-09

20092536c2

88 registration number; providing exceptions; amending s.
89 328.58, F.S., relating to reciprocity of nonresident
90 or alien vessels; requiring the owner of a vessel with
91 a valid registration from another state, a vessel with
92 a valid registration from the United States Coast
93 Guard in another state, or a federally documented
94 vessel from another state to record the registration
95 number with the Department of Highway Safety and Motor
96 Vehicles when using or storing the vessel on the
97 waters of this state in excess of the 90-day
98 reciprocity period; amending s. 328.60, F.S.;

99 providing an exception to registration requirements
100 for military personnel using or storing on the waters
101 of this state a vessel with a valid registration from
102 another state, a vessel with a valid registration from
103 the United States Coast Guard in another state, or a
104 federally documented vessel from another state;
105 amending s. 328.65, F.S.; revising legislative intent
106 with respect to registration and numbering of vessels;
107 amending s. 328.66, F.S.; authorizing a county to
108 impose an annual registration fee on vessels used on
109 the waters of this state within its jurisdiction;
110 amending s. 328.72, F.S.; providing noncriminal
111 penalties for use or storage of a previously
112 registered vessel after the expiration of the
113 registration period; exempting vessels lawfully stored
114 at a dock or in a marina; amending ss. 369.20, 369.22,
115 and 369.25, F.S.; providing that the commission has
116 the authority to enforce statutes relating to aquatic

590-04430A-09

20092536c2

117 weeds and plants; amending s. 379.304, F.S.; providing
118 that anyone violating the provisions governing the
119 sale or exhibition of wildlife is subject to specified
120 penalties relating to captive wildlife; amending s.
121 379.338, F.S.; authorizing an investigating law
122 enforcement agency to dispose of illegally taken
123 wildlife, freshwater fish, or saltwater fish in
124 certain specified ways; requiring that live wildlife,
125 freshwater fish, and saltwater fish be properly
126 documented as evidence and returned to the habitat
127 unharmed; requiring that nonnative species be disposed
128 of in accordance with rules of the Fish and Wildlife
129 Conservation Commission; providing for the disposition
130 of furs and hides; requiring that the proceeds of
131 sales be deposited in the State Game Trust Fund or the
132 Marine Resources Conservation Trust Fund; requiring
133 the Fish and Wildlife Conservation Commission to give
134 to a state, municipal, or county law enforcement
135 agency that enforces or assists the commission in
136 enforcing the law all or a portion of the value of any
137 property forfeited during an enforcement action;
138 creating s. 379.3381, F.S.; providing that photographs
139 of wildlife or freshwater or saltwater fish may be
140 offered into evidence to the same extent as if the
141 wildlife, freshwater fish, or saltwater fish were
142 directly introduced as evidence; requiring that the
143 photograph be accompanied by a writing containing
144 specified information relating to the illegal seizure
145 of the wildlife or freshwater or saltwater fish;

590-04430A-09

20092536c2

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

590-04430A-09

20092536c2

175 for regulating the anchoring or mooring of non-live-
176 aboard vessels outside public mooring fields;
177 providing geographic regions for the pilot project;
178 specifying the goals of the pilot program; providing
179 requirements; requiring a report to the Governor and
180 Legislature; creating s. 379.501, F.S.; providing
181 penalties for unlawfully disturbing aquatic weeds and
182 plants; providing that a person is liable to the state
183 for any damage caused to the aquatic weeds or plants
184 and for civil penalties; providing that if a person
185 willfully harm aquatic weeds and plants he or she
186 commits a felony of the third degree; providing
187 criminal penalties; creating s. 379.502, F.S.;

188 authorizing the commission to seek judicial or
189 administrative remedies for unlawfully disturbing
190 aquatic weeds and plants; providing for procedures;
191 authorizing a respondent to request mediation;
192 providing for an award of attorney's fees; providing
193 requirements for calculating administrative penalties;
194 providing for the administrative law judge to consider
195 evidence of mitigation; requiring that penalties be
196 deposited into the Invasive Plant Control Trust Fund;
197 creating s. 379.503, F.S.; authorizing the commission
198 to seek injunctive relief; providing that the judicial
199 and administrative remedies are alternative and
200 mutually exclusive; creating s. 379.504, F.S.;

201 providing that anyone who unlawfully disturbs aquatic
202 weeds or plants is subject to civil penalties;
203 authorizing a court to impose a civil penalty for each

590-04430A-09

20092536c2

204 offense in an amount not to exceed \$10,000 per
205 offense; providing for joint and several liability;
206 providing for determining the value of fish killed for
207 purposes of assessing damages; amending s. 403.088,
208 F.S.; requiring the commission to approve a program
209 intended to control aquatic weeds or algae; providing
210 for a type II transfer of the Bureau of Invasive Plant
211 Management in the Department of Environmental
212 Protection to the Fish and Wildlife Conservation
213 Commission; providing for the transfer of the Invasive
214 Plant Control Trust Fund to the Fish and Wildlife
215 Conservation Commission; reenacting s. 379.209(2),
216 F.S., relating to funds credited to the Nongame
217 Wildlife Trust Fund, to incorporate an amendment made
218 to s. 319.32 F.S., in a reference thereto; reenacting
219 s. 379.3581(7), F.S., relating to hunting safety, to
220 incorporate the amendment made to s. 379.353, F.S., in
221 a reference thereto; providing an appropriation;
222 repealing s. 327.22, F.S.; repealing s. 379.366(7),
223 F.S.; to abrogate the expiration of provisions
224 imposing blue crab effort management program fees and
225 penalties; providing effective dates.

226

227 Be It Enacted by the Legislature of the State of Florida:

228

229 Section 1. Paragraph (a) of subsection (1) of section
230 206.606, Florida Statutes, is amended to read

231 206.606 Distribution of certain proceeds.—

232 (1) Moneys collected pursuant to ss. 206.41(1)(g) and

590-04430A-09

20092536c2

233 206.87(1)(e) shall be deposited in the Fuel Tax Collection Trust
 234 Fund. Such moneys, after deducting the service charges imposed
 235 by s. 215.20, the refunds granted pursuant to s. 206.41, and the
 236 administrative costs incurred by the department in collecting,
 237 administering, enforcing, and distributing the tax, which
 238 administrative costs may not exceed 2 percent of collections,
 239 shall be distributed monthly to the State Transportation Trust
 240 Fund, except that:

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

249 Section 2. Section 253.002, Florida Statutes, is amended to
 250 read

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

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

590-04430A-09

20092536c2

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

590-04430A-09

20092536c2

291 has responsibility pursuant to ss. 253.67-253.75, and 597.010,
292 and ss. 369.25-369.251. However, the board of trustees shall
293 retain the authority to take final agency action on establishing
294 any areas for leasing, new leases, expanding existing lease
295 areas, or changing the type of lease activity in existing
296 leases. Upon issuance of an aquaculture lease or other real
297 property transaction relating to aquaculture, the Department of
298 Agriculture and Consumer Services must send a copy of the
299 document and the accompanying survey to the Department of
300 Environmental Protection. The board of trustees may also
301 delegate to the Fish and Wildlife Conservation Commission the
302 authority to take final agency action, without any action on
303 behalf of the board, on applications for authorization to use
304 board of trustees-owned submerged lands for any activity
305 regulated under ss. 369.20 and 369.22 ~~s. 369.20~~.

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

590-04430A-09

20092536c2

320 trustees, taken by the department, or a water management
321 district, or the Department of Agriculture and Consumer Services
322 on applications to use board of trustees-owned submerged lands
323 shall be subject to the provisions of s. 373.4275.

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

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

330 253.04 Duty of board to protect, etc., state lands; state
331 may join in any action brought.-

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

343 (a) The duty to conserve and improve state-owned lands and
344 the products thereof shall include the preservation and
345 regeneration of seagrass, which is deemed essential to the
346 oceans, gulfs, estuaries, and shorelines of the state. A person
347 operating a vessel outside a lawfully marked channel in a
348 careless manner that causes seagrass scarring within an aquatic

590-04430A-09

20092536c2

349 preserve established in ss. 258.39-258.399, with the exception
350 of the Lake Jackson, Oklawaha River, Wekiva River, and Rainbow
351 Springs aquatic preserves, commits a noncriminal infraction,
352 punishable as provided in s. 327.73. Each violation is a
353 separate offense. As used in this subsection, the term:

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

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

364 (b) Any violation under paragraph (a) is a violation of the
365 vessel laws of this state and shall be charged on a uniform
366 boating citation as provided in s. 327.74. Any person who
367 refuses to post a bond or accept and sign a uniform boating
368 citation commits a misdemeanor of the second degree, as provided
369 in s. 327.73(3), punishable as provided in s. 775.082 or s.
370 775.083.

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

373 319.32 Fees; service charges; disposition.-

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

590-04430A-09

20092536c2

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

381 320.08056 Specialty license plates.—

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

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

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

386 Section 6. Subsection (17) of section 327.02, Florida
387 Statutes, is amended to read:

388 327.02 Definitions of terms used in this chapter and in
389 chapter 328.—As used in this chapter and in chapter 328, unless
390 the context clearly requires a different meaning, the term:

391 (17) "Live-aboard vessel" means:

392 (a) Any vessel used solely as a residence and not for
393 navigation; ~~or~~

394 (b) Any vessel represented as a place of business, a
395 professional or other commercial enterprise; ~~or a legal~~
396 ~~residence~~.

397 (c) Any vessel for which a declaration of domicile has been
398 filed pursuant to s. 222.17.

399
400 A commercial fishing boat is expressly excluded from the term
401 "live-aboard vessel."

402 Section 7. Subsection (4) of section 327.35, Florida
403 Statutes, is amended to read:

404 327.35 Boating under the influence; penalties; "designated
405 drivers".—

406 (1) A person is guilty of the offense of boating under the

590-04430A-09

20092536c2

407 influence and is subject to punishment as provided in subsection
408 (2) if the person is operating a vessel within this state and:

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

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

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

417 (4) Any person who is convicted of a violation of
418 subsection (1) and who has a blood-alcohol level or breath-
419 alcohol level of 0.15 ~~0.20~~ or higher, or any person who is
420 convicted of a violation of subsection (1) and who at the time
421 of the offense was accompanied in the vessel by a person under
422 the age of 18 years, shall be punished:

423 (a) By a fine of:

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

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

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

430 (b) By imprisonment for:

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

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

433

434 For the purposes of this subsection, only the instant offense is
435 required to be a violation of subsection (1) by a person who has

590-04430A-09

20092536c2

436 a blood-alcohol level or breath-alcohol level of 0.15 ~~0.20~~ or
437 higher.

438 Section 8. Paragraph (a) of subsection (2) of section
439 327.36, Florida Statutes, is amended to read:

440 327.36 Mandatory adjudication; prohibition against
441 accepting plea to lesser included offense.—

442 (2) (a) No trial judge may accept a plea of guilty to a
443 lesser offense from a person who is charged with a violation of
444 s. 327.35, manslaughter resulting from the operation of a
445 vessel, or vessel homicide and who has been given a breath or
446 blood test to determine blood or breath alcohol content, the
447 results of which show a blood-alcohol level or breath-alcohol
448 level of 0.15 ~~0.16~~ or more.

449 Section 9. Effective January 1, 2010, section 327.395,
450 Florida Statutes, is amended to read:

451 327.395 Boating safety identification cards.—

452 (1) A person born on or after January 1, 1988, ~~21 years of~~
453 ~~age or younger~~ may not operate a vessel powered by a motor of 10
454 horsepower or greater unless such person has in his or her
455 possession aboard the vessel photographic identification and a
456 boater safety identification card issued by the commission which
457 shows that he or she has:

458 (a) Completed a commission-approved boater education course
459 that meets the minimum 8-hour instruction requirement
460 established by the National Association of State Boating Law
461 Administrators;

462 (b) Passed a course equivalency examination approved by the
463 commission; or

464 (c) Passed a temporary certificate examination developed or

590-04430A-09

20092536c2

465 approved by the commission.

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

468 (3) Any commission-approved boater education or boater
469 safety course, course-equivalency examination developed or
470 approved by the commission, or temporary certificate examination
471 developed or approved by the commission must include a component
472 regarding diving vessels, awareness of divers in the water,
473 divers-down flags, and the requirements of s. 327.331.

474 (4) The commission may appoint liveries, marinas, or other
475 persons as its agents to administer the course, course
476 equivalency examination, or temporary certificate examination
477 and issue identification cards under guidelines established by
478 the commission. An agent must charge the \$2 examination fee,
479 which must be forwarded to the commission with proof of passage
480 of the examination and may charge and keep a \$1 service fee.

481 (5) An identification card issued to a person who has
482 completed a boating education course or a course equivalency
483 examination is valid for life. A card issued to a person who has
484 passed a temporary certification examination is valid for 12
485 months from the date of issuance.

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

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

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

490 (c) Is accompanied in the vessel by a person who is exempt
491 from this section or who holds an identification card in
492 compliance with this section, is 18 years of age or older, and
493 is attendant to the operation of the vessel and responsible for

590-04430A-09

20092536c2

494 the safe operation of the vessel and for any violation that
495 occurs during the operation.

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

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

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

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

507 (8) The commission shall design forms and adopt rules to
508 administer this section. Such rules shall include provision for
509 educational and other public and private entities to offer the
510 course and administer examinations.

511 (9) The commission shall institute and coordinate a
512 statewide program of boating safety instruction and
513 certification to ensure that boating courses and examinations
514 are available in each county of the state.

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

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

519 Section 10. Effective October 1, 2009, section 327.40,
520 Florida Statutes, is amended to read:

521 327.40 Uniform waterway markers ~~for safety and navigation;~~
522 ~~informational markers.-~~

590-04430A-09

20092536c2

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

531 (2) (a) Application for marking inland lakes and state
532 waters and any navigable waters under concurrent jurisdiction of
533 the Coast Guard and the division shall be made to the division,
534 accompanied by a map locating the approximate placement of
535 markers, a list of the markers to be placed, a statement of the
536 specification of the markers, a statement of the purpose of
537 marking, and the names of persons responsible for the placement
538 and upkeep of such markers. The division will assist the
539 applicant to secure the proper permission from the Coast Guard
540 where required, make such investigations as needed, and issue a
541 permit. The division shall furnish the applicant with the
542 information concerning the system adopted and the rules existing
543 for placing and maintaining the markers. The division shall keep
544 records of all approvals given and counsel with individuals,
545 counties, municipalities, motorboat clubs, or other groups
546 desiring to mark waterways for safety and navigation purposes in
547 Florida.

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

590-04430A-09

20092536c2

552 ~~2. The placement of informational markers, including, but~~
553 ~~not limited to, markers indicating end of boat ramp, no~~
554 ~~swimming, swimming area, lake name, trash receptacle, public~~
555 ~~health notice, or underwater hazard and canal, regulatory,~~
556 ~~emergency, and special event markers, by counties,~~
557 ~~municipalities, or other governmental entities on inland lakes~~
558 ~~and their associated canals are exempt from permitting under~~
559 ~~this section. Such markers, excluding swimming area and special~~
560 ~~event markers, may be no more than 50 feet from the normal~~
561 ~~shoreline.~~

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

564 (3) The placement under this section or s. 327.41 of any
565 uniform waterway marker ~~safety or navigation marker or any~~
566 ~~informational marker under subparagraph (2)(b)2.~~ on state
567 submerged lands ~~under this section~~ does not subject such lands
568 to the lease requirements of chapter 253.

569 Section 11. Effective October 1, 2009, subsection (2) of
570 section 327.41, Florida Statutes, is amended to read:

571 327.41 Uniform waterway regulatory markers.—

572 (2) Any county or municipality which has been granted a
573 boating-restricted ~~restricted~~ area designation, by rule of the
574 commission pursuant to s. 327.46(1)(a), for a portion of the
575 Florida Intracoastal Waterway within its jurisdiction or which
576 has adopted a boating-restricted ~~restricted~~ area by ordinance
577 pursuant to s. 327.46(1)(b) or (c) ~~s. 327.22, s. 327.60,~~ or s.
578 379.2431(2)(p), or any other governmental entity which has
579 legally established a boating-restricted ~~restricted~~ area, may
580 apply to the commission for permission to place regulatory

590-04430A-09

20092536c2

581 markers within the boating-restricted ~~restricted~~ area.

582 Section 12. Effective October 1, 2009, section 327.42,
583 Florida Statutes, is amended to read:

584 327.42 Mooring to or damaging of markers or buoys
585 prohibited.—

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

591 (2) No person shall willfully damage, alter, or move a
592 lawfully placed uniform waterway aid-to-navigation marker ~~or~~
593 ~~buoy, regulatory marker or buoy, or area boundary marker or~~
594 ~~buoy.~~

595 Section 13. Effective October 1, 2009, section 327.46,
596 Florida Statutes, is amended to read:

597 327.46 Boating-restricted ~~Restricted~~ areas.—

598 (1) Boating-restricted ~~The commission has the authority to~~
599 ~~establish by rule, pursuant to chapter 120, restricted areas,~~
600 including, but not limited to, restrictions of vessel speeds and
601 vessel traffic, may be established on the waters of this the
602 state for any purpose ~~deemed necessary to protect~~ for the safety
603 of the public, ~~including, but not limited to, vessel speeds and~~
604 ~~vessel traffic,~~ where such restrictions are ~~deemed necessary~~
605 based on boating accidents, visibility, hazardous currents or
606 water levels, vessel traffic congestion, or other navigational
607 hazards.

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

590-04430A-09

20092536c2

- 610 (b) Municipalities and counties have the authority to
611 establish the following boating-restricted areas by ordinance:
612 1. An ordinance establishing an Idle Speed-No Wake boating-
613 restricted area, if the area is:
614 a. Within 500 feet of any boat ramp, hoist, marine railway,
615 or other launching or landing facility available for use by the
616 general boating public on waterways more than 300 feet in width
617 or within 300 feet of any boat ramp, hoist, marine railway, or
618 other launching or landing facility available for use by the
619 general boating public on waterways not exceeding 300 feet in
620 width.
621 b. Within 500 feet of fuel pumps or dispensers at any
622 marine fueling facility that sells motor fuel to the general
623 boating public on waterways more than 300 feet in width or
624 within 300 feet of the fuel pumps or dispensers at any licensed
625 terminal facility that sells motor fuel to the general boating
626 public on waterways not exceeding 300 feet in width.
627 c. Inside or within 300 feet of any lock structure.
628 2. An ordinance establishing a Slow Speed Minimum Wake
629 boating-restricted area if the area is:
630 a. Within 300 feet of any bridge fender system.
631 b. Within 300 feet of any bridge span presenting a vertical
632 clearance of less than 25 feet or a horizontal clearance of less
633 than 100 feet.
634 c. On a creek, stream, canal, or similar linear waterway
635 where the waterway is less than 75 feet in width from shoreline
636 to shoreline.
637 d. On a lake or pond of less than 10 acres in total surface
638 area.

590-04430A-09

20092536c2

639 3. An ordinance establishing a vessel exclusion zone if the
640 area is:

641 a. Designated as a public bathing beach or swim area.

642 b. Within 300 feet of a dam, spillway, or flood-control
643 structure.

644 (c) Municipalities and counties have the authority to
645 establish by ordinance the following other boating-restricted
646 areas:

647 1. An ordinance establishing an Idle Speed-No Wake boating-
648 restricted area, if the area is within 300 feet of a confluence
649 of water bodies presenting a blind corner, a bend in a narrow
650 channel or fairway, or such other area where an intervening
651 obstruction to visibility may obscure other vessels or other
652 users of the waterway.

653 2. An ordinance establishing a Slow Speed Minimum Wake or a
654 numerical speed limit boating-restricted area if the area is:

655 a. Within 300 feet of a confluence of water bodies
656 presenting a blind corner, a bend in a narrow channel or
657 fairway, or such other area where an intervening obstruction to
658 visibility may obscure other vessels or other users of the
659 waterway.

660 b. Subject to unsafe levels of vessel traffic congestion.

661 c. Subject to hazardous water levels or currents, or
662 containing other navigational hazards.

663 d. An area that accident reports, uniform boating
664 citations, vessel traffic studies, or other creditable data
665 demonstrate to present a significant risk of collision or a
666 significant threat to boating safety.

667 3. An ordinance establishing a vessel-exclusion zone if the

590-04430A-09

20092536c2

668 area is reserved exclusively:

669 a. As a canoe trail or otherwise limited to vessels under
670 oars or under sail.

671 b. For a particular activity and user group, separation
672 must be imposed to protect the safety of those participating in
673 such activity.

674

675 Any of the ordinances adopted pursuant to this paragraph shall
676 not take effect until the commission has reviewed the ordinance
677 and determined by substantial competent evidence that the
678 ordinance is necessary to protect public safety pursuant to this
679 paragraph. Any application for approval of an ordinance shall be
680 reviewed and acted upon within 90 days after receipt of a
681 completed application. Within 30 days after a municipality or
682 county submits an application for approval to the commission,
683 the commission shall advise the municipality or county as to
684 what information, if any, is needed to deem the application
685 properly completed. An application shall be considered complete
686 upon receipt of all requested information and correction of any
687 error or omission for which the applicant was timely notified or
688 when the time for such notification has expired. The
689 commission's action on the application is subject to review
690 under chapter 120. The commission shall initiate rulemaking
691 within 180 days after the effective date of this act to provide
692 criteria and procedures for reviewing applications submitted
693 under this part and procedures for providing for public notice
694 and participation.

695 (2) Each such boating-restricted ~~restricted~~ area shall be
696 developed in consultation and coordination with the governing

590-04430A-09

20092536c2

697 body of the county or municipality in which the boating-
698 restricted ~~restricted~~ area is located and, when the boating-
699 restricted area is to be on the navigable waters of the United
700 States ~~where required~~, with the United States Coast Guard and
701 the United States Army Corps of Engineers.

702 (3) ~~(2)~~ It is unlawful for any person to operate a vessel in
703 a prohibited manner or to carry on any prohibited activity, as
704 defined in this chapter, ~~deemed a safety hazard or interference~~
705 ~~with navigation as provided above~~ within a boating-restricted
706 ~~restricted water~~ area that ~~which~~ has been clearly marked by
707 regulatory markers as authorized under this chapter.

708 (4) ~~(3)~~ Restrictions in a boating-restricted area
709 established pursuant to this section shall not apply in the case
710 of an emergency or to a law enforcement, firefighting, or rescue
711 vessel owned or operated by a governmental entity.

712 Section 14. Effective October 1, 2009, section 327.60,
713 Florida Statutes, is amended to read:

714 327.60 Local regulations; limitations.-

715 (1) The provisions of this chapter and chapter 328 ~~ss.~~
716 ~~327.01, 327.02, 327.30-327.40, 327.44-327.50, 327.54, 327.56,~~
717 ~~327.65, 328.40-328.48, 328.52-328.58, 328.62, and 328.64~~ shall
718 govern the operation, equipment, and all other matters relating
719 thereto whenever any vessel shall be operated upon the waters of
720 this state ~~waterways~~ or when any activity regulated hereby shall
721 take place thereon.

722 (2) Nothing in this chapter or chapter 328 ~~these sections~~
723 shall be construed to prevent the adoption of any ordinance or
724 local regulation ~~law~~ relating to operation ~~and equipment~~ of
725 vessels, except that no county or municipality shall enact,

590-04430A-09

20092536c2

726 continue in effect, or enforce any ordinance or local
727 regulation:

728 (a) Establishing a vessel or associated equipment
729 performance or other safety standard, imposing a requirement for
730 associated equipment, or regulating the carrying or use of
731 marine safety articles;

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

734 (c) Regulating any vessel upon the Florida Intracoastal
735 Waterway;

736 (d) Discriminating against personal watercraft;

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

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

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

745 (h) That is in conflict with this chapter or any amendments
746 thereto or rules thereunder. ~~no such ordinance or local law may~~
747 apply to the Florida Intracoastal Waterway and except that such
748 ordinances or local laws shall be operative only when they are
749 not in conflict with this chapter or any amendments thereto or
750 regulations thereunder. Any ordinance or local law which has
751 been adopted pursuant to this section or to any other state law
752 may not discriminate against personal watercraft as defined in
753 s. 327.02. Effective July 1, 2006, any ordinance or local law
754 adopted pursuant to this section or any other state law may not

590-04430A-09

20092536c2

755 ~~discriminate against airboats except by a two-thirds vote of the~~
756 ~~governing body enacting such ordinance.~~

757 ~~(3)(2) Nothing contained in the provisions of this section~~
758 shall be construed to prohibit local governmental authorities
759 from the enactment or enforcement of regulations which prohibit
760 or restrict the mooring or anchoring of floating structures or
761 live-aboard vessels within their jurisdictions or of any vessels
762 within the marked boundaries of mooring fields permitted as
763 provided in s. 327.40. However, local governmental authorities
764 are prohibited from regulating the anchoring outside of such
765 mooring fields of vessels other than live-aboard vessels as
766 defined in s. 327.02 ~~non-live-aboard vessels in navigation.~~

767 Section 15. Section 327.66, Florida Statutes, is created to
768 read:

769 327.66 Carriage of gasoline on vessels.-

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

771 1. Possess or operate any vessel that has been equipped
772 with tanks, bladders, drums, or other containers designed or
773 intended to hold gasoline, or install or maintain such
774 containers in a vessel, if such containers do not conform to
775 federal regulations or have not been approved by the United
776 States Coast Guard by inspection or special permit.

777 2. Transport any gasoline in an approved portable container
778 when the container is in a compartment that is not ventilated in
779 strict compliance with United States Coast Guard regulations
780 pertaining to ventilation of compartments containing gasoline
781 tanks.

782 (b) A person who violates paragraph (a) commits a
783 misdemeanor of the second degree, punishable as provided in s.

590-04430A-09

20092536c2

784 775.082, s. 775.083, or s. 775.084.

785 (2) (a) Gasoline possessed or transported in violation of
786 this section and all containers holding such gasoline are
787 declared to be a public nuisance. A law enforcement agency
788 discovering gasoline possessed or transported in violation of
789 paragraph (1) (a) shall abate the nuisance by removing the
790 gasoline and containers from the vessel and from the waters of
791 this state. A law enforcement agency that removes gasoline or
792 containers pursuant to this subsection may elect to:

- 793 1. Retain the property for the agency's own use;
794 2. Transfer the property to another unit of state or local
795 government;
796 3. Donate the property to a charitable organization; or
797 4. Sell the property at public sale pursuant to s. 705.103.

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

802 (3) All conveyances, vessels, vehicles, and other equipment
803 described in paragraph (1) (a) or used in the commission of a
804 violation of paragraph (1) (a), other than gasoline or containers
805 removed as provided in subsection (2), are declared to be
806 contraband.

807 (a) Upon conviction of a person arrested for a violation of
808 paragraph (1) (a), the judge shall issue an order adjudging and
809 ordering that all conveyances, vessels, vehicles, and other
810 equipment used in the violation shall be forfeited to the
811 arresting agency. The requirement for a conviction before
812 forfeiture of property establishes to the exclusion of any

590-04430A-09

20092536c2

813 reasonable doubt that the property was used in connection with
814 the violation resulting in the conviction, and the procedures of
815 chapter 932 do not apply to any forfeiture of property under
816 this subsection following a conviction.

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

821 (c) As used in this subsection, the term "conviction" means
822 a finding of guilt or the acceptance of a plea of guilty or nolo
823 contendere, regardless of whether adjudication is withheld or
824 whether imposition of sentence is withheld, deferred, or
825 suspended.

826 (4) All costs incurred by the law enforcement agency in the
827 removal of any gasoline, gasoline container, other equipment, or
828 vessel as provided in this section shall be recoverable against
829 the owner thereof. Any person who neglects or refuses to pay
830 such amount shall not be issued a certificate of registration
831 for such vessel or for any other vessel or motor vehicle until
832 the costs have been paid.

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

836 Section 16. Effective October 1, 2009, section 327.70,
837 Florida Statutes, is amended to read:

838 327.70 Enforcement of this chapter and chapter 328.—

839 (1) This chapter and chapter 328 shall be enforced by the
840 Division of Law Enforcement of the Fish and Wildlife
841 Conservation Commission and its officers, the sheriffs of the

590-04430A-09

20092536c2

842 various counties and their deputies, municipal police officers,
843 and any other ~~authorized~~ law enforcement officer as defined in
844 s. 943.10, all of whom may order the removal of vessels deemed
845 to be an interference or a hazard to public safety, enforce the
846 provisions of this chapter and chapter 328, or cause any
847 inspections to be made of all vessels in accordance with this
848 chapter and chapter 328.

849 (2) (a) Noncriminal violations of the following statutes may
850 be enforced by a uniform boating citation mailed to the
851 registered owner of an unattended vessel anchored, aground, or
852 moored on the waters of this state:

853 1. Section 327.33(3) (b), relating to navigation rules.

854 2. Section 327.44, relating to interference with
855 navigation.

856 3. Section 327.50(2), relating to required lights and
857 shapes.

858 4. Section 327.53, relating to marine sanitation.

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

860 6. Section 328.52(2), relating to display of number.

861 (b) Citations issued to livery vessels under this
862 subsection shall be the responsibility of the lessee of the
863 vessel if the livery has included a warning of this
864 responsibility as a part of the rental agreement and has
865 provided to the agency issuing the citation the name, address,
866 and date of birth of the lessee when requested by that agency.
867 The livery is not responsible for the payment of citations if
868 the livery provides the required warning and lessee information.

869 (3) Such officers shall have the power and duty to issue
870 such orders and to make such investigations, reports, and

590-04430A-09

20092536c2

871 arrests in connection with any violation of the provisions of
872 this chapter and chapter 328 as are necessary to effectuate the
873 intent and purpose of this chapter and chapter 328.

874 (4)~~(3)~~ The Fish and Wildlife Conservation Commission or any
875 other law enforcement agency may make any investigation
876 necessary to secure information required to carry out and
877 enforce the provisions of this chapter and chapter 328.

878 Section 17. Effective October 1, 2009, subsection (1) of
879 section 327.73, Florida Statutes, is amended to read:

880 327.73 Noncriminal infractions.—

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

883 (a) Section 328.46, relating to operation of unregistered
884 and unnumbered vessels.

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

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

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

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

891 (f) Section 328.60, relating to military personnel and
892 registration of vessels.

893 (g) Section 328.72(13), relating to operation with an
894 expired registration.

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

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

898 (j) Section 327.44, relating to interference with
899 navigation.

590-04430A-09

20092536c2

- 900 (k) Violations relating to boating-restricted ~~restricted~~
901 areas and speed limits:
- 902 1. Established by the commission or by local governmental
903 authorities pursuant to s. 327.46.
- 904 ~~2. Established by local governmental authorities pursuant~~
905 ~~to s. 327.22 or s. 327.60.~~
- 906 2.3. Speed limits established pursuant to s. 379.2431(2).
- 907 (l) Section 327.48, relating to regattas and races.
- 908 (m) Section 327.50(1) and (2), relating to required safety
909 equipment, lights, and shapes.
- 910 (n) Section 327.65, relating to muffling devices.
- 911 (o) Section 327.33(3)(b), relating to navigation rules.
- 912 (p) Section 327.39(1), (2), (3), and (5), relating to
913 personal watercraft.
- 914 (q) Section 327.53(1), (2), and (3), relating to marine
915 sanitation.
- 916 (r) Section 327.53(4), (5), and (7), relating to marine
917 sanitation, for which the civil penalty is \$250.
- 918 (s) Section 327.395, relating to boater safety education.
- 919 (t) Section 327.52(3), relating to operation of overloaded
920 or overpowered vessels.
- 921 (u) Section 327.331, relating to divers-down flags, except
922 for violations meeting the requirements of s. 327.33.
- 923 (v) Section 327.391(1), relating to the requirement for an
924 adequate muffler on an airboat.
- 925 (w) Section 327.391(3), relating to the display of a flag
926 on an airboat.
- 927 (x) Section 253.04(4)(a), relating to carelessly causing
928 seagrass scarring, for which the civil penalty upon conviction

590-04430A-09

20092536c2

929

is:

930

1. For a first offense, \$50.

931

2. For a second offense occurring within 12 months after a

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prior conviction, \$250.

933

3. For a third offense occurring within 36 months after a

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prior conviction, \$500.

935

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

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937

Any person cited for a violation of any such provision shall be

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deemed to be charged with a noncriminal infraction, shall be

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cited for such an infraction, and shall be cited to appear

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before the county court. The civil penalty for any such

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infraction is \$50, except as otherwise provided in this section.

942

Any person who fails to appear or otherwise properly respond to

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a uniform boating citation shall, in addition to the charge

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relating to the violation of the boating laws of this state, be

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charged with the offense of failing to respond to such citation

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and, upon conviction, be guilty of a misdemeanor of the second

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degree, punishable as provided in s. 775.082 or s. 775.083. A

948

written warning to this effect shall be provided at the time

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such uniform boating citation is issued.

950

Section 18. Effective October 1, 2009, subsections (1) and

951

(2) of section 328.03, Florida Statutes, are amended to read:

952

328.03 Certificate of title required.-

953

(1) Each vessel that is operated, used, or stored on the

954

waters of this state must be titled by this state pursuant to

955

this chapter, unless it is:

956

(a) A vessel operated, used, and stored exclusively on

957

private lakes and ponds;~~-~~

590-04430A-09

20092536c2

- 958 (b) A vessel owned by the United States Government;~~;~~
- 959 (c) A non-motor-powered vessel less than 16 feet in
960 length;~~;~~
- 961 (d) A federally documented vessel;~~;~~
- 962 (e) A vessel already covered by a registration number in
963 full force and effect which was awarded to it pursuant to a
964 federally approved numbering system of another state or by the
965 United States Coast Guard in a state without a federally
966 approved numbering system, if the vessel is not located in this
967 state for a period in excess of 90 consecutive days;~~;~~
- 968 (f) A vessel from a country other than the United States
969 temporarily used, operated, or stored on ~~using~~ the waters of
970 this state for a period that is not in excess of 90 days;~~;~~
- 971 (g) An amphibious vessel for which a vehicle title is
972 issued by the Department of Highway Safety and Motor Vehicles;~~;~~
- 973 (h) A vessel used solely for demonstration, testing, or
974 sales promotional purposes by the manufacturer or dealer; ~~or;~~
- 975 (i) A vessel owned and operated by the state or a political
976 subdivision thereof.
- 977 (2) A person shall not operate, use, or store a vessel for
978 which a certificate of title is required unless the owner has
979 received from the Department of Highway Safety and Motor
980 Vehicles a valid certificate of title for such vessel. However,
981 such vessel may be operated, used, or stored for a period of up
982 to 180 days after ~~from~~ the date of application for a certificate
983 of title while the application is pending.
- 984 Section 19. Effective October 1, 2009, subsections (1) and
985 (2) of section 328.07, Florida Statutes, are amended to read:
986 328.07 Hull identification number required.-

590-04430A-09

20092536c2

987 (1) No person shall operate, use, or store on the waters of
988 this state a vessel the construction of which began after
989 October 31, 1972, for which the department has issued a
990 certificate of title or which is required by law to be
991 registered, unless the vessel displays the assigned hull
992 identification number affixed by the manufacturer as required by
993 the United States Coast Guard or by the department for a
994 homemade vessel or other vessel for which a hull identification
995 number is not required by the United States Coast Guard. The
996 hull identification number must be carved, burned, stamped,
997 embossed, or otherwise permanently affixed to the outboard side
998 of the transom or, if there is no transom, to the outermost
999 starboard side at the end of the hull that bears the rudder or
1000 other steering mechanism, above the waterline of the vessel in
1001 such a way that alteration, removal, or replacement would be
1002 obvious and evident. The characters of the hull identification
1003 number must be no less than 12 in number and no less than one-
1004 fourth inch in height.

1005 (2) No person shall operate, use, or store on the waters of
1006 this state a vessel the construction of which was completed
1007 before November 1, 1972, for which the department has issued a
1008 certificate of title or which is required by law to be
1009 registered, unless the vessel displays a hull identification
1010 number. The hull identification number shall be clearly
1011 imprinted in the transom or on the hull by stamping, impressing,
1012 or marking with pressure. In lieu of imprinting, the hull
1013 identification number may be displayed on a plate in a permanent
1014 manner. A vessel for which the manufacturer has provided no hull
1015 identification number or a homemade vessel shall be assigned a

590-04430A-09

20092536c2

1016 hull identification number by the department which shall be
1017 affixed to the vessel pursuant to this section.

1018 (3) (a) No person, firm, association, or corporation shall
1019 destroy, remove, alter, cover, or deface the hull identification
1020 number or hull serial number, or plate bearing such number, of
1021 any vessel, except to make necessary repairs which require the
1022 removal of the hull identification number and immediately upon
1023 completion of such repairs shall reattach the hull identification
1024 number in accordance with subsection (2).

1025 (b) If any of the hull identification numbers required by
1026 the United States Coast Guard for a vessel manufactured after
1027 October 31, 1972, do not exist or have been altered, removed,
1028 destroyed, covered, or defaced or the real identity of the
1029 vessel cannot be determined, the vessel may be seized as
1030 contraband property by a law enforcement agency or the division,
1031 and shall be subject to forfeiture pursuant to ss. 932.701-
1032 932.706. Such vessel may not be sold or operated on the waters
1033 of the state unless the division receives a request from a law
1034 enforcement agency providing adequate documentation or is
1035 directed by written order of a court of competent jurisdiction
1036 to issue to the vessel a replacement hull identification number
1037 which shall thereafter be used for identification purposes. No
1038 vessel shall be forfeited under the Florida Contraband
1039 Forfeiture Act when the owner unknowingly, inadvertently, or
1040 neglectfully altered, removed, destroyed, covered, or defaced
1041 the vessel hull identification number.

1042 Section 20. Effective October 1, 2009, section 328.46,
1043 Florida Statutes, is amended to read:

1044 328.46 Operation of registered vessels.—

590-04430A-09

20092536c2

1045 (1) Every vessel that is required to be registered and that
1046 is being operated, used, or stored on ~~using~~ the waters of this
1047 state shall be registered and numbered within 30 days after
1048 purchase by the owner except as specifically exempt. During this
1049 30-day period, the operator is required to have aboard the
1050 vessel and available for inspection a bill of sale. The bill of
1051 sale for the vessel shall serve as the temporary certificate of
1052 number that is required by federal law and must contain the
1053 following information:

1054 (a) Make of the vessel.

1055 (b) Length of the vessel.

1056 (c) Type of propulsion.

1057 (d) Hull identification number.

1058 (e) A statement declaring Florida to be the state where the
1059 vessel is principally used.

1060 (f) Name of the purchaser.

1061 (g) Address of the purchaser, including ZIP code.

1062 (h) Signature of the purchaser.

1063 (i) Name of the seller.

1064 (j) Signature of the seller.

1065 (k) Date of the sale of the vessel. The date of sale shall
1066 also serve as the date of issuance of the temporary certificate
1067 of number.

1068 (1) Notice to the purchaser and operator that the temporary
1069 authority to use the vessel on the waters of this state is
1070 invalid after 30 days following the date of sale of the vessel.

1071 (2) No person shall operate, use, or store or give
1072 permission for the operation, use, or storage of any such vessel
1073 on such waters unless:

590-04430A-09

20092536c2

1074 (a) Such vessel is registered within 30 days after purchase
 1075 by the owner and numbered with the identifying number set forth
 1076 in the certificate of registration, displayed:

1077 1. In accordance with s. 328.48(4), except, if the vessel
 1078 is an airboat, the registration number may be displayed on each
 1079 side of the rudder; or

1080 2. In accordance with 33 C.F.R. s. 173.27, or with a
 1081 federally approved numbering system of another state; and

1082 (b) The certificate of registration or temporary
 1083 certificate of number awarded to such vessel is in full force
 1084 and effect.

1085 Section 21. Effective October 1, 2009, subsection (2) of
 1086 section 328.48, Florida Statutes, is amended to read:

1087 328.48 Vessel registration, application, certificate,
 1088 number, decal, duplicate certificate.-

1089 (2) Each vessel operated, All vessels used, or stored on
 1090 the waters of this ~~the~~ state must be registered as a, ~~either~~
 1091 commercial vessel or recreational vessel as defined in s. 327.02
 1092 ~~this chapter, unless it is except as follows:~~

1093 (a) A vessel operated, used, and stored exclusively on
 1094 private lakes and ponds;~~;~~

1095 (b) A vessel owned by the United States Government;~~;~~

1096 (c) A vessel used exclusively as a ship's lifeboat; ~~or;~~

1097 (d) A non-motor-powered vessel less than 16 feet in length,
 1098 or a ~~and any~~ non-motor-powered canoe, kayak, racing shell, or
 1099 rowing scull, regardless of length.

1100 Section 22. Effective October 1, 2009, section 328.56,
 1101 Florida Statutes, is amended to read:

1102 328.56 Vessel registration number.-Each vessel that is

590-04430A-09

20092536c2

1103 operated, used, or stored on the waters of this ~~the~~ state must
1104 display a commercial or recreational Florida registration
1105 number, unless it is:

1106 (1) A vessel operated, used, and stored exclusively on
1107 private lakes and ponds;~~;~~

1108 (2) A vessel owned by the United States Government;~~;~~

1109 (3) A vessel used exclusively as a ship's lifeboat;~~;~~

1110 (4) A non-motor-powered vessel less than 16 feet in length,
1111 or a ~~and any~~ non-motor-powered canoe, kayak, racing shell, or
1112 rowing scull, regardless of length;~~;~~

1113 (5) A federally documented vessel;~~;~~

1114 (6) A vessel already covered by a registration number in
1115 full force and effect which has been awarded to it pursuant to a
1116 federally approved numbering system of another state or by the
1117 United States Coast Guard in a state without a federally
1118 approved numbering system, if the vessel has not been within
1119 this state for a period in excess of 90 consecutive days;~~;~~

1120 (7) A vessel operating under a valid temporary certificate
1121 of number;~~;~~

1122 (8) A vessel from a country other than the United States
1123 temporarily using the waters of this state; or~~;~~

1124 (9) An undocumented vessel used exclusively for racing.

1125 Section 23. Effective October 1, 2009, section 328.58,
1126 Florida Statutes, is amended to read:

1127 328.58 Reciprocity of nonresident or alien vessels.—The
1128 owner of any vessel already covered by a registration number in
1129 full force and effect which has been awarded by:

1130 (1) ~~By~~ Another state pursuant to a federally approved
1131 numbering system of another state;

590-04430A-09

20092536c2

1132 (2) ~~By~~ The United States Coast Guard in a state without a
1133 federally approved numbering system; or

1134 (3) ~~By~~ The United States Coast Guard for a federally
1135 documented vessel with a valid registration in full force and
1136 effect from another state, shall record the number with the
1137 Department of Highway Safety and Motor Vehicles prior to
1138 operating, using, or storing the vessel on the waters of this
1139 state in excess of the 90-day reciprocity period provided for in
1140 this chapter. Such recordation shall be pursuant to the
1141 procedure required for the award of an original registration
1142 number, except that no additional or substitute registration
1143 number shall be issued if the vessel owner maintains the
1144 previously awarded registration number in full force and effect.

1145 Section 24. Effective October 1, 2009, section 328.60,
1146 Florida Statutes, is amended to read:

1147 328.60 Military personnel; registration; penalties.—Any
1148 military personnel on active duty in this state operating,
1149 using, or storing a vessel on the waters of this state that has
1150 a registration number in full force and effect which has been
1151 awarded to it pursuant to a federally approved numbering system
1152 of another state or by the United States Coast Guard in a state
1153 without a federally approved numbering system, or a federally
1154 documented vessel with a valid registration in full force and
1155 effect from another state shall not be required to register his
1156 or her vessel in this state while such certificate of
1157 registration remains valid; but, at the expiration of such
1158 registration certificate, all registration and titling shall be
1159 issued by this state. In the case of a federally documented
1160 vessel, the issuance of a title is not required by this chapter.

590-04430A-09

20092536c2

1161 Section 25. Effective October 1, 2009, section 328.65,
1162 Florida Statutes, is amended to read:

1163 328.65 Legislative intent with respect to registration and
1164 numbering of vessels.—It is the legislative intent that vessels
1165 be registered and numbered uniformly throughout the state. The
1166 purpose of ss. 327.58, 327.70, 327.72, 328.66, 328.68, and
1167 328.72 is to make registration and numbering procedures similar
1168 to those of automobiles and airplanes and to provide for a
1169 vessel registration fee and certificate so as to determine the
1170 ownership of vessels which are operated, used, or stored ~~operate~~
1171 on the waters of this state and to aid in the advancement of
1172 maritime safety.

1173 Section 26. Effective October 1, 2009, subsection (1) of
1174 section 328.66, Florida Statutes, is amended to read:

1175 328.66 County and municipality optional registration fee.—

1176 (1) Any county may impose an annual registration fee on
1177 vessels registered, operated, used, or stored on the waters of
1178 this state ~~in the water~~ within its jurisdiction. This fee shall
1179 be 50 percent of the applicable state registration fee. However,
1180 the first \$1 of every registration imposed under this subsection
1181 shall be remitted to the state for deposit in the Save the
1182 Manatee Trust Fund created within the Fish and Wildlife
1183 Conservation Commission, and shall be used only for the purposes
1184 specified in s. 379.2431(4). All other moneys received from such
1185 fee shall be expended for the patrol, regulation, and
1186 maintenance of the lakes, rivers, and waters and for other
1187 boating-related activities of such municipality or county. A
1188 municipality that was imposing a registration fee before April
1189 1, 1984, may continue to levy such fee, notwithstanding the

590-04430A-09

20092536c2

1190 provisions of this section.

1191 Section 27. Effective October 1, 2009, subsection (13) of
1192 section 328.72, Florida Statutes, is amended to read:

1193 328.72 Classification; registration; fees and charges;
1194 surcharge; disposition of fees; fines; marine turtle stickers.-

1195 (13) EXPIRED REGISTRATION.-The operation, use, or storage
1196 on the waters of this state of a previously registered vessel
1197 after the expiration of the registration period is a noncriminal
1198 violation, as defined in s. 327.73. This subsection does not
1199 apply to vessels lawfully stored at a dock or in a marina.

1200 Section 28. Subsections (13) and (14) are added to section
1201 369.20, Florida Statutes, to read:

1202 369.20 Florida Aquatic Weed Control Act.-

1203 (13) The commission has the power to enforce this section
1204 as provided in ss. 379.501-379.504.

1205 (14) Activities that are exempt from permitting in
1206 accordance with s. 403.813(1)(r), are granted a mixing zone for
1207 turbidity for a distance not to exceed 150 meters downstream in
1208 flowing streams or 150 meters in radius in other water bodies
1209 as, measured from the cutterhead, return flow discharge, or
1210 other points of generation of turbidity.

1211 Section 29. Subsections (13) and (14) are added to section
1212 369.22, Florida Statutes, to read:

1213 369.22 Aquatic plant management.-

1214 (13) The commission has the power to enforce this section
1215 as provided in ss. 379.501-379.504.

1216 (14) Activities that are exempt from permitting in
1217 accordance with s. 403.813(1)(r), are granted a mixing zone for
1218 turbidity for a distance not to exceed 150 meters downstream in

590-04430A-09

20092536c2

1219 flowing streams or 150 meters in radius in other water bodies
1220 as, measured from the cutterhead, return flow discharge, or
1221 other points of generation of turbidity.

1222 Section 30. Paragraph (j) of subsection (3) of section
1223 369.25, Florida Statutes, is amended to read:

1224 369.25 Aquatic plants; definitions; permits; powers of
1225 department; penalties.—

1226 (3) The department has the following powers:

1227 (j) To enforce ss. 369.25 and 369.251 ~~this chapter~~ in the
1228 same manner and to the same extent as provided in s. 581.211.

1229 Section 31. Subsections (1) and (5) of section 379.304,
1230 Florida Statutes, are amended to read:

1231 379.304 Exhibition or sale of wildlife.—

1232 (1) Permits issued pursuant to s. 379.3761 ~~this section~~ and
1233 places where wildlife is kept or held in captivity shall be
1234 subject to inspection by officers of the commission at all
1235 times. The commission shall have the power to release or
1236 confiscate any specimens of any wildlife, specifically birds,
1237 mammals, amphibians, or reptiles, whether indigenous to the
1238 state or not, when it is found that conditions under which they
1239 are being confined are unsanitary, or unsafe to the public in
1240 any manner, or that the species of wildlife are being
1241 maltreated, mistreated, or neglected or kept in any manner
1242 contrary to the provisions of chapter 828, any such permit to
1243 the contrary notwithstanding. Before any such wildlife is
1244 confiscated or released under the authority of this section, the
1245 owner thereof shall have been advised in writing of the
1246 existence of such unsatisfactory conditions; the owner shall
1247 have been given 30 days in which to correct such conditions; the

590-04430A-09

20092536c2

1248 owner shall have failed to correct such conditions; the owner
1249 shall have had an opportunity for a proceeding pursuant to
1250 chapter 120; and the commission shall have ordered such
1251 confiscation or release after careful consideration of all
1252 evidence in the particular case in question. The final order of
1253 the commission shall constitute final agency action.

1254 (5) A violation of this section is punishable as provided
1255 by s. 379.4015 ~~379.401~~.

1256 Section 32. Section 379.338, Florida Statutes, is amended
1257 to read:

1258 379.338 Confiscation and disposition of illegally taken
1259 wildlife, freshwater fish, and saltwater fish ~~game~~.-

1260 (1) All wildlife, ~~game~~ and freshwater fish, and saltwater
1261 fish seized under the authority of this chapter, any other
1262 chapter, or rules of the commission shall, upon conviction of
1263 the offender or sooner in accordance with a court order if the
1264 court so orders, be forfeited to the investigating law
1265 enforcement agency. The law enforcement agency may elect to
1266 retain the wildlife, freshwater fish, or saltwater fish for the
1267 agency's official use; transfer it to another unit of state or
1268 local government for official use; donate it to a charitable
1269 organization; sell it at public sale pursuant to s. 705.103; or
1270 destroy the wildlife, freshwater fish, or saltwater fish if none
1271 of the other options is practicable or if the wildlife,
1272 freshwater fish, or saltwater fish is unwholesome or otherwise
1273 not of appreciable value. All illegally possessed live wildlife,
1274 freshwater fish, and saltwater fish that are properly documented
1275 as evidence as provided in s. 379.3381 may be returned to the
1276 habitat unharmed. Any unclaimed wildlife, freshwater fish, or

590-04430A-09

20092536c2

1277 saltwater fish shall be retained by the investigating law
1278 enforcement agency and disposed of in accordance with this
1279 subsection and ~~given to some hospital or charitable institution~~
1280 and receipt therefor sent to the Fish and Wildlife Conservation
1281 Commission.

1282 (2) All furs or hides or fur-bearing animals seized under
1283 the authority of this chapter shall, upon conviction of the
1284 offender, be forfeited and sent to the commission, which shall
1285 sell the same ~~and deposit the proceeds of such sale to the~~
1286 ~~credit of the State Game Trust Fund.~~ If any such hides or furs
1287 are seized and the offender is unknown, the court shall order
1288 such hides or furs sent to the Fish and Wildlife Conservation
1289 Commission, which shall sell such hides and furs.

1290 (3) Except as otherwise provided by law, and ~~deposit~~ the
1291 proceeds of any such sale under this section shall be deposited
1292 in ~~to the credit of~~ the State Game Trust Fund ~~or in the Marine~~
1293 Resources Conservation Trust Fund.

1294 (4) Any state, county, or municipal law enforcement agency
1295 that enforces or assists the commission in enforcing this
1296 chapter, which enforcement results in a forfeiture of property
1297 as provided in this section, is entitled to receive all or a
1298 share of any property based upon its participation in the
1299 enforcement.

1300 Section 33. Section 379.3381, Florida Statutes, is created
1301 to read:

1302 379.3381 Photographic evidence of illegally taken wildlife,
1303 freshwater fish, and saltwater fish.-In any prosecution for a
1304 violation of this chapter, any other chapter, or rules of the
1305 commission, a photograph of illegally taken wildlife, freshwater

590-04430A-09

20092536c2

1306 fish, or saltwater fish may be deemed competent evidence of such
1307 property and may be admissible in the prosecution to the same
1308 extent as if such wildlife, freshwater fish, or saltwater fish
1309 were introduced as evidence. Such photograph shall bear a
1310 written description of the wildlife, freshwater fish, or
1311 saltwater fish alleged to have been illegally taken, the name of
1312 the violator, the location where the alleged illegal taking
1313 occurred, the name of the investigating law enforcement officer,
1314 the date the photograph was taken, and the name of the
1315 photographer. Such writing shall be made under oath by the
1316 investigating law enforcement officer, and the photograph shall
1317 be identified by the signature of the photographer.

1318 Section 34. Paragraphs (n) through (q) of subsection (2) of
1319 section 379.353, Florida Statutes, are redesignated as
1320 paragraphs (m) through (p), respectively, and paragraphs (h) and
1321 (m) of subsection (2) of that section are amended to read:

1322 379.353 Recreational licenses and permits; exemptions from
1323 fees and requirements.-

1324 (2) A hunting, freshwater fishing, or saltwater fishing
1325 license or permit is not required for:

1326 (h) Any resident saltwater fishing from land or from a
1327 structure fixed to the land who has been determined eligible for
1328 the food stamp, temporary cash assistance, or Medicaid programs
1329 by the Department of Children and Family Services. A benefit
1330 issuance or program identification card issued by the Department
1331 of Children and Family Services or the Agency for Health Care
1332 Administration shall serve as proof of program eligibility. The
1333 individual must have the benefit issuance or program
1334 identification card and positive proof of identification in his

590-04430A-09

20092536c2

1335 or her possession when fishing.

1336 ~~(m) Any resident fishing for a saltwater species in fresh~~
1337 ~~water from land or from a structure fixed to land.~~

1338 Section 35. Paragraph (c) of subsection (2) of section
1339 379.3671, Florida Statutes, is amended to read:

1340 379.3671 Spiny lobster trap certificate program.—

1341 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;
1342 PENALTIES.—The Fish and Wildlife Conservation Commission shall
1343 establish a trap certificate program for the spiny lobster
1344 fishery of this state and shall be responsible for its
1345 administration and enforcement as follows:

1346 (c) *Prohibitions; penalties.*—

1347 1. It is unlawful for a person to possess or use a spiny
1348 lobster trap in or on state waters or adjacent federal waters
1349 without having affixed thereto the trap tag required by this
1350 section. It is unlawful for a person to possess or use any other
1351 gear or device designed to attract and enclose or otherwise aid
1352 in the taking of spiny lobster by trapping that is not a trap as
1353 defined by commission rule.

1354 2. It is unlawful for a person to possess or use spiny
1355 lobster trap tags without having the necessary number of
1356 certificates on record as required by this section.

1357 3. It is unlawful for any person to willfully molest, take
1358 possession of, or remove the contents of another harvester's
1359 spiny lobster trap without the express written consent of the
1360 trap owner available for immediate inspection. Unauthorized
1361 possession of another's trap gear or removal of trap contents
1362 constitutes theft.

1363 a. A commercial harvester who violates this subparagraph

590-04430A-09

20092536c2

1364 shall be punished under ss. 379.367 and 379.407. Any commercial
1365 harvester receiving a judicial disposition other than dismissal
1366 or acquittal on a charge of theft of or from a trap pursuant to
1367 this subparagraph or s. 379.402 shall, in addition to the
1368 penalties specified in ss. 379.367 and 379.407 and the
1369 provisions of this section, permanently lose all his or her
1370 saltwater fishing privileges, including his or her saltwater
1371 products license, spiny lobster endorsement, and all trap
1372 certificates allotted to him or her through this program. In
1373 such cases, trap certificates and endorsements are
1374 nontransferable.

1375 b. Any commercial harvester receiving a judicial
1376 disposition other than dismissal or acquittal on a charge of
1377 willful molestation of a trap, in addition to the penalties
1378 specified in ss. 379.367 and 379.407, shall lose all saltwater
1379 fishing privileges for a period of 24 calendar months.

1380 c. In addition, any commercial harvester charged with
1381 violating this subparagraph and receiving a judicial disposition
1382 other than dismissal or acquittal for violating this
1383 subparagraph or s. 379.402 shall also be assessed an
1384 administrative penalty of up to \$5,000.

1385
1386 Immediately upon receiving a citation for a violation involving
1387 theft of or from a trap, or molestation of a trap, and until
1388 adjudicated for such a violation or, upon receipt of a judicial
1389 disposition other than dismissal or acquittal of such a
1390 violation, the commercial harvester committing the violation is
1391 prohibited from transferring any spiny lobster trap certificates
1392 and endorsements.

590-04430A-09

20092536c2

1393 4. In addition to any other penalties provided in s.
1394 379.407, a commercial harvester who violates the provisions of
1395 this section or commission rules relating to spiny lobster traps
1396 shall be punished as follows:

1397 a. If the first violation is for violation of subparagraph
1398 1. or subparagraph 2., the commission shall assess an additional
1399 administrative penalty of up to \$1,000. For all other first
1400 violations, the commission shall assess an additional
1401 administrative penalty of up to \$500.

1402 b. For a second violation of subparagraph 1. or
1403 subparagraph 2. which occurs within 24 months of any previous
1404 such violation, the commission shall assess an additional
1405 administrative penalty of up to \$2,000 and the spiny lobster
1406 endorsement issued under s. 379.367(2) or (6) may be suspended
1407 for the remainder of the current license year.

1408 c. For a third or subsequent violation of subparagraph 1.,
1409 subparagraph 2., or subparagraph 3. which occurs within 36
1410 months of any previous two such violations, the commission shall
1411 assess an additional administrative penalty of up to \$5,000 and
1412 may suspend the spiny lobster endorsement issued under s.
1413 379.367(2) or (6) for a period of up to 24 months or may revoke
1414 the spiny lobster endorsement and, if revoking the spiny lobster
1415 endorsement, may also proceed against the licenseholder's
1416 saltwater products license in accordance with the provisions of
1417 s. 379.407(2)(h).

1418 d. Any person assessed an additional administrative penalty
1419 pursuant to this section shall within 30 calendar days after
1420 notification:

1421 (I) Pay the administrative penalty to the commission; or

590-04430A-09

20092536c2

1422 (II) Request an administrative hearing pursuant to the
1423 provisions of ss. 120.569 and 120.57.

1424 e. The commission shall suspend the spiny lobster
1425 endorsement issued under s. 379.367(2) or (6) for any person
1426 failing to comply with the provisions of sub-subparagraph d.

1427 5.a. It is unlawful for any person to make, alter, forge,
1428 counterfeit, or reproduce a spiny lobster trap tag or
1429 certificate.

1430 b. It is unlawful for any person to knowingly have in his
1431 or her possession a forged, counterfeit, or imitation spiny
1432 lobster trap tag or certificate.

1433 c. It is unlawful for any person to barter, trade, sell,
1434 supply, agree to supply, aid in supplying, or give away a spiny
1435 lobster trap tag or certificate or to conspire to barter, trade,
1436 sell, supply, aid in supplying, or give away a spiny lobster
1437 trap tag or certificate unless such action is duly authorized by
1438 the commission as provided in this chapter or in the rules of
1439 the commission.

1440 6.a. Any commercial harvester who violates the provisions
1441 of subparagraph 5., or any commercial harvester who engages in
1442 the commercial harvest, trapping, or possession of spiny lobster
1443 without a spiny lobster endorsement as required by s. 379.367(2)
1444 or (6) or during any period while such spiny lobster endorsement
1445 is under suspension or revocation, commits a felony of the third
1446 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1447 775.084.

1448 b. In addition to any penalty imposed pursuant to sub-
1449 subparagraph a., the commission shall levy a fine of up to twice
1450 the amount of the appropriate surcharge to be paid on the fair

590-04430A-09

20092536c2

1451 market value of the transferred certificates, as provided in
1452 subparagraph (a)1., on any commercial harvester who violates the
1453 provisions of sub-subparagraph 5.c.

1454 c. In addition to any penalty imposed pursuant to sub-
1455 subparagraph a., any commercial harvester receiving any judicial
1456 disposition other than acquittal or dismissal for a violation of
1457 subparagraph 5. shall be assessed an administrative penalty of
1458 up to \$5,000, and the spiny lobster endorsement under which the
1459 violation was committed may be suspended for up to 24 calendar
1460 months. Immediately upon issuance of a citation involving a
1461 violation of subparagraph 5. and until adjudication of such a
1462 violation, and after receipt of any judicial disposition other
1463 than acquittal or dismissal for such a violation, the commercial
1464 harvester holding the spiny lobster endorsement listed on the
1465 citation is prohibited from transferring any spiny lobster trap
1466 certificates.

1467 d. Any other person who violates the provisions of
1468 subparagraph 5. commits a Level Four violation under s. 379.401.

1469 7. Prior to the 2010-2011 license year, any certificates
1470 for which the annual certificate fee is not paid for a period of
1471 3 years shall be considered abandoned and shall revert to the
1472 commission. Beginning with the 2010-2011 license year, any
1473 certificate for which the annual certificate fee is not paid for
1474 a period of 2 consecutive years shall be considered abandoned
1475 and shall revert to the commission. During any period of trap
1476 reduction, any certificates reverting to the commission shall
1477 become permanently unavailable and be considered in that amount
1478 to be reduced during the next license-year period. Otherwise,
1479 any certificates that revert to the commission are to be

590-04430A-09

20092536c2

1480 reallocated in such manner as provided by the commission.

1481 8. The proceeds of all administrative penalties collected
1482 pursuant to subparagraph 4. and all fines collected pursuant to
1483 sub-subparagraph 6.b. shall be deposited into the Marine
1484 Resources Conservation Trust Fund.

1485 9. All traps shall be removed from the water during any
1486 period of suspension or revocation.

1487 10. Except as otherwise provided, any person who violates
1488 this paragraph commits a Level Two violation under s. 379.401.

1489 Section 36. Paragraphs (c), (d), and (e) of subsection (2)
1490 of section 379.3751, Florida Statutes, are amended to read:

1491 379.3751 Taking and possession of alligators; trapping
1492 licenses; fees.—

1493 (2) The license and issuance fee, and the activity
1494 authorized thereby, shall be as follows:

1495 (c) The annual fee for issuance of an alligator trapping
1496 agent's license, which permits a person to act as an agent of
1497 any person who has been issued a resident or nonresident
1498 alligator trapping license as provided in paragraph (a) or
1499 paragraph (b) and to take alligators occurring in the wild other
1500 than alligator hatchlings, ~~and~~ to possess and process alligators
1501 taken under authority of such agency relationship, and to
1502 possess, process, and sell their hides and meat, shall be \$50.
1503 ~~Such alligator trapping agent's license shall be issued only in~~
1504 ~~conjunction with an alligator trapping license and shall bear on~~
1505 ~~its face in indelible ink the name and license number of the~~
1506 ~~alligator trapping licenseholder for whom the holder of this~~
1507 ~~license is acting as an agent.~~

1508 (d) The annual fee for issuance of an alligator farming

590-04430A-09

20092536c2

1509 license, which permits a person to operate a facility for
1510 captive propagation of alligators, to possess alligators for
1511 captive propagation, to take alligator hatchlings and alligator
1512 eggs occurring in the wild, to rear such alligators, alligator
1513 hatchlings, and alligator eggs in captivity, to process
1514 alligators taken or possessed under authority of such alligator
1515 farming license or otherwise legally acquired, and to possess,
1516 process, and sell their hides and meat, shall be \$250.

1517 (e) The annual fee for issuance of an alligator farming
1518 agent's license, which permits a person to act as an agent of
1519 any person who has been issued an alligator farming license as
1520 provided in paragraph (d) and to take alligator hatchlings and
1521 alligator eggs occurring in the wild, ~~and~~ to possess and process
1522 alligators taken under authority of such agency relationship,
1523 and to possess, process, and sell their hides and meat, shall be
1524 \$50. ~~Such license shall be issued only in conjunction with an~~
1525 ~~alligator farming license, and shall bear on its face in~~
1526 ~~indelible ink the name and license number of the alligator~~
1527 ~~farming licenseholder for whom the holder of this license is~~
1528 ~~acting as an agent.~~

1529 Section 37. Subsection (6) is added to section 379.3761,
1530 Florida Statutes, to read:

1531 379.3761 Exhibition or sale of wildlife; fees;
1532 classifications.-

1533 (6) A person who violates this section is punishable as
1534 provided in s. 379.4015.

1535 Section 38. Subsection (5) of section 379.3762, Florida
1536 Statutes, is amended to read:

1537 379.3762 Personal possession of wildlife.-

590-04430A-09

20092536c2

1538 (5) A person who violates ~~Persons in violation of this~~
1539 section is ~~shall be~~ punishable as provided in s. 379.4015
1540 ~~379.401~~.

1541 Section 39. Paragraph (a) of subsection (2) and paragraph
1542 (a) of subsection (4) of section 379.401, Florida Statutes, are
1543 amended to read:

1544 379.401 Penalties and violations; civil penalties for
1545 noncriminal infractions; criminal penalties; suspension and
1546 forfeiture of licenses and permits.—

1547 (2) (a) LEVEL TWO VIOLATIONS.—A person commits a Level Two
1548 violation if he or she violates any of the following provisions:

1549 1. Rules or orders of the commission relating to seasons or
1550 time periods for the taking of wildlife, freshwater fish, or
1551 saltwater fish.

1552 2. Rules or orders of the commission establishing bag,
1553 possession, or size limits or restricting methods of taking
1554 wildlife, freshwater fish, or saltwater fish.

1555 3. Rules or orders of the commission prohibiting access or
1556 otherwise relating to access to wildlife management areas or
1557 other areas managed by the commission.

1558 4. Rules or orders of the commission relating to the
1559 feeding of wildlife, freshwater fish, or saltwater fish.

1560 5. Rules or orders of the commission relating to landing
1561 requirements for freshwater fish or saltwater fish.

1562 6. Rules or orders of the commission relating to restricted
1563 hunting areas, critical wildlife areas, or bird sanctuaries.

1564 7. Rules or orders of the commission relating to tagging
1565 requirements for wildlife ~~game~~ and fur-bearing animals.

1566 8. Rules or orders of the commission relating to the use of

590-04430A-09

20092536c2

1567 dogs for the taking of wildlife ~~game~~.

1568 9. Rules or orders of the commission which are not
1569 otherwise classified.

1570 10. Rules or orders of the commission prohibiting the
1571 unlawful use of finfish traps.

1572 11. All prohibitions in this chapter which are not
1573 otherwise classified.

1574 12. Section 379.33, prohibiting the violation of or
1575 noncompliance with commission rules.

1576 13. Section 379.407(6), prohibiting the sale, purchase,
1577 harvest, or attempted harvest of any saltwater product with
1578 intent to sell.

1579 14. Section 379.2421, prohibiting the obstruction of
1580 waterways with net gear.

1581 15. Section 379.413, prohibiting the unlawful taking of
1582 bonefish.

1583 16. Section 379.365(2)(a) and (b), prohibiting the
1584 possession or use of stone crab traps without trap tags and
1585 theft of trap contents or gear.

1586 17. Section 379.366(4)(b), prohibiting the theft of blue
1587 crab trap contents or trap gear.

1588 18. Section 379.3671(2)(c), prohibiting the possession or
1589 use of spiny lobster traps without trap tags or certificates and
1590 theft of trap contents or trap gear.

1591 19. Section 379.357, prohibiting the possession of tarpon
1592 without purchasing a tarpon tag.

1593 20. Rules or orders of the commission ~~Section 379.409,~~
1594 prohibiting the feeding or enticement of alligators or
1595 crocodiles.

590-04430A-09

20092536c2

1596 21. Section 379.105, prohibiting the intentional harassment
1597 of hunters, fishers, or trappers.

1598 (4) (a) LEVEL FOUR VIOLATIONS.—A person commits a Level Four
1599 violation if he or she violates any of the following provisions:

1600 1. Section 379.365(2) (c), prohibiting criminal activities
1601 relating to the taking of stone crabs.

1602 2. Section 379.366(4) (c), prohibiting criminal activities
1603 relating to the taking and harvesting of blue crabs.

1604 3. Section 379.367(4), prohibiting the willful molestation
1605 of spiny lobster gear.

1606 4. Section 379.3671(2) (c)5., prohibiting the unlawful
1607 reproduction, possession, sale, trade, or barter of spiny
1608 lobster trap tags or certificates.

1609 5. Section 379.354(16), prohibiting the making, forging,
1610 counterfeiting, or reproduction of a recreational license or
1611 possession of same without authorization from the commission.

1612 6. Section 379.404(5), prohibiting the sale of illegally-
1613 taken deer or wild turkey.

1614 7. Section 379.405, prohibiting the molestation or theft of
1615 freshwater fishing gear.

1616 8. Section 379.409, prohibiting the unlawful killing,
1617 injuring, possessing, or capturing of alligators or other
1618 crocodilia or their eggs.

1619 Section 40. Paragraph (a) of subsection (2) of section
1620 379.4015, Florida Statutes, is amended to read:

1621 379.4015 Captive wildlife penalties.—

1622 (2) LEVEL TWO.—Unless otherwise provided by law, the
1623 following classifications and penalties apply:

1624 (a) A person commits a Level Two violation if he or she

590-04430A-09

20092536c2

1625 violates any of the following provisions:

1626 1. Unless otherwise stated in subsection (1), rules or
1627 orders of the commission that require a person to pay a fee to
1628 obtain a permit to possess captive wildlife or that require the
1629 maintenance of records relating to captive wildlife.

1630 2. Rules or orders of the commission relating to captive
1631 wildlife not specified in subsection (1) or subsection (3).

1632 3. Rules or orders of the commission that require housing
1633 of wildlife in a safe manner when a violation results in an
1634 escape of wildlife other than Class I wildlife.

1635 4. Section 379.372, relating to capturing, keeping,
1636 possessing, transporting, or exhibiting venomous reptiles or
1637 reptiles of concern.

1638 5. Section 379.373, relating to requiring a license or
1639 permit for the capturing, keeping, possessing, or exhibiting of
1640 venomous reptiles or reptiles of concern.

1641 6. Section 379.374, relating to bonding requirements for
1642 public exhibits of venomous reptiles.

1643 7. Section 379.305, relating to commission rules and
1644 regulations to prevent the escape of venomous reptiles or
1645 reptiles of concern.

1646 8. Section 379.304, relating to exhibition or sale of
1647 wildlife.

1648 9. Section 379.3761, relating to exhibition or sale of
1649 wildlife.

1650 10. Section 379.3762, relating to personal possession of
1651 wildlife.

1652 Section 41. The Fish and Wildlife Conservation Commission,
1653 in consultation with the Department of Environmental Protection,

590-04430A-09

20092536c2

1654 is directed to establish a pilot program to explore potential
1655 options for regulating the anchoring or mooring of nonlive-
1656 aboard vessels outside the marked boundaries of public mooring
1657 fields.

1658 (1) The goals of the pilot program are to encourage the
1659 establishment of additional public mooring fields and to develop
1660 and test policies and regulatory regimes that:

1661 (a) Promote the establishment and use of public mooring
1662 fields.

1663 (b) Promote public access to the waters of this state.

1664 (c) Enhance navigational safety.

1665 (d) Protect maritime infrastructure.

1666 (e) Protect the marine environment.

1667 (f) Deter improperly stored, abandoned, or derelict
1668 vessels.

1669 (2) Each location selected for inclusion in the pilot
1670 program must be associated with a properly permitted mooring
1671 field. The commission, in consultation with the department,
1672 shall select all locations for the pilot program prior to July
1673 1, 2011. Two locations shall be off the east coast of Florida,
1674 two locations shall be off the west coast of Florida, and one
1675 location shall be within Monroe County. The locations selected
1676 must be geographically diverse and take into consideration the
1677 various users and means of using the waters of this state.

1678 (3) Notwithstanding the provisions of s. 327.60, Florida
1679 Statutes, a county or municipality selected for participation in
1680 the pilot program may regulate by ordinance the anchoring of
1681 vessels, other than live-aboard vessels as defined in s. 327.02,
1682 Florida Statutes, outside of a mooring field. Any ordinance

590-04430A-09

20092536c2

1683 enacted under the pilot program shall take effect and become
1684 enforceable only after approval by the commission. The
1685 commission shall not approve any ordinance not consistent with
1686 the goals of the pilot program.

1687 (4) The commission shall:

1688 (a) Provide consultation and technical assistance to each
1689 municipality or county selected for participation in the pilot
1690 program to facilitate accomplishment of the pilot program's
1691 goals.

1692 (b) Coordinate the review of any proposed ordinance with
1693 the department; the Coast Guard; the Florida Inland Navigation
1694 District or the West Coast Inland Navigation District, as
1695 appropriate; and associations or other organizations
1696 representing vessel owners or operators.

1697 (c) Monitor and evaluate at least annually each location
1698 selected for participation in the pilot program and make such
1699 modifications as may be necessary to accomplish the pilot
1700 program's goals.

1701 (5) The commission shall submit a report of its findings
1702 and recommendations to the Governor, the President of the
1703 Senate, and the Speaker of the House of Representatives by
1704 January 1, 2014.

1705 (6) The pilot program shall expire on July 1, 2014, unless
1706 reenacted by the Legislature. All ordinances enacted under this
1707 section shall expire concurrently with the expiration of the
1708 pilot program and shall be inoperative and unenforceable
1709 thereafter.

1710 (7) Nothing in this section shall be construed to affect
1711 any mooring field authorized pursuant to s. 327.40, part IV of

590-04430A-09

20092536c2

1712 chapter 373, and s. 253.77, Florida Statutes, as applicable, or
1713 any lawful ordinance regulating the anchoring of any vessels
1714 within the marked boundaries of such mooring fields.

1715 Section 42. Section 379.501, Florida Statutes, is created
1716 to read:

1717 379.501 Aquatic weeds or plants; prohibitions, violation,
1718 penalty, intent.—

1719 (1) A person may not:

1720 (a) Violate this section or any provision of s. 369.20 or
1721 s. 369.22 related to aquatic weeds or plants;

1722 (b) Fail to obtain any permit required by s. 369.20 or s.
1723 369.22 or by commission rule implementing s. 369.20 or s.
1724 369.22, or violate or fail to comply with any rule, regulation,
1725 order, permit, or certification adopted or issued by the
1726 commission pursuant to s. 369.20 or s. 369.22; or

1727 (c) Knowingly make any false statement, representation, or
1728 certification in any application, record, report, plan, or other
1729 document filed or required to be maintained under s. 369.20 or
1730 s. 369.22, or to falsify, tamper with, or knowingly render
1731 inaccurate any monitoring device or method required to be
1732 maintained under s. 369.20 or s. 369.22 or by any permit, rule,
1733 regulation, or order issued under s. 369.20 or s. 369.22.

1734 (2) Any person who violates any provision specified in
1735 subsection (1) is liable to the state for any damage caused to
1736 the aquatic weeds or plants and for civil penalties as provided
1737 in s. 379.502.

1738 (3) Any person who willfully commits a violation of
1739 paragraph (1)(a) commits a felony of the third degree,
1740 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

590-04430A-09

20092536c2

1741 Each day during any portion of which such violation occurs
1742 constitutes a separate offense.

1743 (4) Any person who commits a violation specified in
1744 paragraph (1)(a) due to reckless indifference or gross careless
1745 disregard commits a misdemeanor of the second degree, punishable
1746 as provided in s. 775.082 or s. 775.083.

1747 (5) Any person who willfully commits a violation specified
1748 in paragraph (1)(b) or paragraph (1)(c) commits a misdemeanor of
1749 the first degree, punishable as provided in s. 775.082 or s.
1750 775.083.

1751 (6) It is the intent of the Legislature that the civil
1752 penalties and criminal fines imposed by a court be of such an
1753 amount as to ensure immediate and continued compliance with this
1754 section.

1755 (7) Penalties assessed pursuant to ss. 379.501-379.504 are
1756 in addition to any penalties assessed by the Board of Trustees
1757 of the Internal Improvement Trust Fund, the Department of
1758 Environmental Protection, or a water management district
1759 pursuant to chapter 253, chapter 373, or chapter 403.

1760 Section 43. Section 379.502, Florida Statutes, is created
1761 to read:

1762 379.502 Enforcement; procedure; remedies.—The commission
1763 has the following judicial and administrative remedies available
1764 to it for violations of s. 379.501.

1765 (1)(a) The commission may institute a civil action in a
1766 court of competent jurisdiction to establish liability and to
1767 recover damages for any injury to the waters or property of the
1768 state, including animal, plant, and aquatic life, caused by any
1769 violation of s. 379.501.

590-04430A-09

20092536c2

1770 (b) The commission may institute a civil action in a court
1771 of competent jurisdiction to impose and to recover a civil
1772 penalty for each violation in an amount of not more than \$10,000
1773 per offense. However, the court may receive evidence in
1774 mitigation. Each day, during any portion of which such violation
1775 occurs, constitutes a separate offense.

1776 (c) Except as provided in paragraph (2)(c), the fact that
1777 the commission has failed to exhaust its administrative
1778 remedies, has failed to serve a notice of violation, or has
1779 failed to hold an administrative hearing before initiating a
1780 civil action is not a defense to, or grounds for dismissal of,
1781 the judicial remedies for damages and civil penalties.

1782 (2)(a) The commission may institute an administrative
1783 proceeding to establish liability and to recover damages for any
1784 injury to the waters or property of the state, including animal,
1785 plant, or aquatic life, caused by any violation of s. 379.501.
1786 The commission may order that the violator pay a specified sum
1787 as damages to the state. Judgment for the amount of damages
1788 determined by the commission may be entered in any court having
1789 jurisdiction thereof and may be enforced as any other judgment.

1790 (b) If the commission has reason to believe that a
1791 violation has occurred, it may institute an administrative
1792 proceeding to order the prevention, abatement, or control of the
1793 conditions creating the violation or other appropriate
1794 corrective action. The commission shall proceed administratively
1795 in all cases in which the commission seeks administrative
1796 penalties that do not exceed \$10,000 per assessment as
1797 calculated in accordance with subsections (3), (4), (5), and
1798 (6). The commission may not impose administrative penalties in

590-04430A-09

20092536c2

1799 excess of \$10,000 in a notice of violation. The commission may
1800 not have more than one notice of violation seeking
1801 administrative penalties pending against the same party at the
1802 same time unless the violations occurred at a different site or
1803 the violations were discovered by the commission subsequent to
1804 the filing of a previous notice of violation.

1805 (c) An administrative proceeding shall be instituted by the
1806 commission's serving of a written notice of violation upon the
1807 alleged violator by certified mail. If the commission is unable
1808 to effect service by certified mail, the notice of violation may
1809 be hand delivered or personally served in accordance with
1810 chapter 48. The notice shall specify the provision of the law,
1811 rule, regulation, permit, certification, or order of the
1812 commission alleged to have been violated and the facts alleged
1813 to constitute a violation thereof. An order for corrective
1814 action, penalty assessment, or damages may be included along
1815 with the notice. If the commission is seeking to impose an
1816 administrative penalty for any violation of s. 379.501 by
1817 issuing a notice of violation, any corrective action needed to
1818 correct the violation or damages caused by the violation must be
1819 pursued in the notice of violation or they are waived. However,
1820 an order does not become effective until after service and an
1821 administrative hearing, if requested within 20 days after
1822 service. Failure to request an administrative hearing within
1823 this period constitutes a waiver, unless the respondent files a
1824 written notice with the commission within this period opting out
1825 of the administrative process initiated by the commission. Any
1826 respondent choosing to opt out of the administrative process
1827 initiated by the commission must file a written notice with the

590-04430A-09

20092536c2

1828 commission within 20 days after service of the notice of
1829 violation opting out of the administrative process. A
1830 respondent's decision to opt out of the administrative process
1831 does not preclude the commission from initiating a state court
1832 action seeking injunctive relief, damages, and the judicial
1833 imposition of civil penalties.

1834 (d) If a person timely files a petition challenging a
1835 notice of violation, that person will thereafter be referred to
1836 as the respondent. The hearing requested by the respondent shall
1837 be held within 180 days after the commission has referred the
1838 initial petition to the Division of Administrative Hearings
1839 unless the parties agree to a later date. The commission has the
1840 burden of proving by the preponderance of the evidence that the
1841 respondent is responsible for the violation. An administrative
1842 penalty may not be imposed unless the commission satisfies that
1843 burden. Following the close of the hearing, the administrative
1844 law judge shall issue a final order on all matters, including
1845 the imposition of an administrative penalty. If the commission
1846 seeks to enforce that portion of a final order imposing
1847 administrative penalties pursuant to s. 120.69, the respondent
1848 may not assert as a defense the inappropriateness of the
1849 administrative remedy. The commission retains its final-order
1850 authority in all administrative actions that do not request the
1851 imposition of administrative penalties.

1852 (e) After filing a petition requesting a formal hearing in
1853 response to a notice of violation, a respondent may request that
1854 a private mediator be appointed to mediate the dispute by
1855 contacting the Florida Conflict Resolution Consortium within 10
1856 days after receipt of the initial order from the administrative

590-04430A-09

20092536c2

1857 law judge. The Florida Conflict Resolution Consortium shall pay
1858 all of the costs of the mediator and for up to 8 hours of the
1859 mediator's time per case at \$150 per hour. Upon notice from the
1860 respondent, the Florida Conflict Resolution Consortium shall
1861 provide the respondent with a panel of possible mediators from
1862 the area in which the hearing on the petition would be heard.
1863 The respondent shall select the mediator and notify the Florida
1864 Conflict Resolution Consortium of the selection within 15 days
1865 after receipt of the proposed panel of mediators. The Florida
1866 Conflict Resolution Consortium shall provide all of the
1867 administrative support for the mediation process. The mediation
1868 must be completed at least 15 days before the final hearing date
1869 set by the administrative law judge.

1870 (f) In any administrative proceeding brought by the
1871 commission, the prevailing party shall recover all costs as
1872 provided in ss. 57.041 and 57.071. The costs must be included in
1873 the final order. The respondent is the prevailing party when an
1874 order is entered awarding no penalties to the commission and the
1875 order has not been reversed on appeal or the time for seeking
1876 judicial review has expired. The respondent is entitled to an
1877 award of attorney's fees if the administrative law judge
1878 determines that the notice of violation issued by the commission
1879 was not substantially justified as defined in s. 57.111(3)(e).
1880 An award of attorney's fees as provided by this subsection may
1881 not exceed \$15,000.

1882 (g) This section does not prevent any other legal or
1883 administrative action in accordance with law. This subsection
1884 does not limit the commission's authority set forth in this
1885 section and ss. 379.503 and 379.504 to judicially pursue

590-04430A-09

20092536c2

1886 injunctive relief. If the commission exercises its authority to
1887 judicially pursue injunctive relief, penalties in any amount up
1888 to the statutory maximum sought by the commission must be
1889 pursued as part of the state court action and not by initiating
1890 a separate administrative proceeding. The commission retains the
1891 authority to judicially pursue penalties in excess of \$10,000
1892 for violations not specifically included in the administrative
1893 penalty schedule, or for multiple or multiday violations alleged
1894 to exceed a total of \$10,000. The commission also retains the
1895 authority provided in this section and ss. 379.503 and 379.504
1896 to judicially pursue injunctive relief and damages, if a notice
1897 of violation seeking the imposition of administrative penalties
1898 has not been issued. The commission may enter into a settlement
1899 before or after initiating a notice of violation, and the
1900 settlement may include a penalty amount that is different from
1901 the administrative penalty schedule. Any case filed in state
1902 court because it is alleged to exceed a total of \$10,000 in
1903 penalties may be settled in the court action for less than
1904 \$10,000.

1905 (h) Chapter 120 does apply to any administrative action
1906 taken by the commission under this section or any delegated
1907 program pursuing administrative penalties in accordance with
1908 this section.

1909 (3) Administrative penalties must be calculated according
1910 to the following schedule:

1911 (a) For violations of s. 379.501(1)(a) or (b), \$3,000.

1912 (b) For failure to conduct required monitoring or testing
1913 in compliance with a permit, \$2,000.

1914 (c) For failure to prepare, submit, maintain, or use

590-04430A-09

20092536c2

1915 required reports or other required documentation, \$500.

1916 (d) For failure to comply with any other regulatory statute
1917 or rule requirement relating to the administration of the
1918 commission's powers under s. 369.20 or s. 369.22 not otherwise
1919 identified in this section, \$500.

1920 (4) For each additional day during which a violation
1921 occurs, the administrative penalties in subsection (3) may be
1922 assessed per day, per violation.

1923 (5) The history of noncompliance of the violator for any
1924 previous violation resulting in an executed consent order, but
1925 not including a consent order entered into without a finding of
1926 violation, or resulting in a final order or judgment on or after
1927 July 1, 2009, involving the imposition of \$2,000 or more in
1928 penalties, shall be taken into consideration in the following
1929 manner:

1930 (a) One previous such violation within 5 years prior to the
1931 filing of the notice of violation shall result in a 25 percent
1932 per day increase in the scheduled administrative penalty.

1933 (b) Two previous such violations within 5 years prior to
1934 the filing of the notice of violation shall result in a 50
1935 percent per day increase in the scheduled administrative
1936 penalty.

1937 (c) Three or more previous such violations within 5 years
1938 before the filing of the notice of violation shall result in a
1939 100 percent per day increase in the scheduled administrative
1940 penalty.

1941 (6) The direct economic benefit gained by the violator from
1942 the violation shall be added to the scheduled administrative
1943 penalty. The total administrative penalty, including any

590-04430A-09

20092536c2

1944 economic benefit added to the scheduled administrative penalty,
1945 may not exceed \$10,000.

1946 (7) The administrative penalties assessed for any
1947 particular violation may not exceed \$3,000 against any one
1948 violation, unless the violator has a history of noncompliance,
1949 the economic benefit of the violation as described in subsection
1950 (6) exceeds \$3,000, or there are multiday violations. The total
1951 administrative penalties may not exceed \$10,000 per assessment
1952 for all violations attributable to a specific person in the
1953 notice of violation.

1954 (8) The administrative law judge may receive evidence in
1955 mitigation. The penalties identified in subsection (3) may be
1956 reduced up to 50 percent by the administrative law judge for
1957 mitigating circumstances, including good faith efforts to comply
1958 prior to or after discovery of the violations by the commission.
1959 Upon an affirmative finding that the violation was caused by
1960 circumstances beyond the reasonable control of the respondent
1961 and could not have been prevented by the respondent's due
1962 diligence, the administrative law judge may further reduce the
1963 penalty.

1964 (9) Penalties collected under this section shall be
1965 deposited into the Invasive Plant Control Trust Fund to carry
1966 out the purposes set forth in ss. 369.20, 369.22, and 369.252.
1967 The Florida Conflict Resolution Consortium may use a portion of
1968 the fund to administer the mediation process provided in
1969 paragraph (2) (e) and to contract with private mediators for
1970 administrative penalty cases related to s. 369.20 or s. 369.22.

1971 (10) The purpose of the administrative penalty schedule and
1972 process is to provide a more predictable and efficient manner

590-04430A-09

20092536c2

1973 for individuals and businesses to resolve relatively minor
1974 environmental disputes. Subsections (3) through (7) do not limit
1975 a state court in the assessment of damages. The administrative
1976 penalty schedule does not apply to the judicial imposition of
1977 civil penalties in state court as provided in this section.

1978 Section 44. Section 379.503, Florida Statutes, is created
1979 to read:

1980 379.503 Civil action.-

1981 (1) The commission may institute a civil action in a court
1982 of competent jurisdiction to seek injunctive relief to enforce
1983 compliance with ss. 379.501, 379.502, and 379.504 or any rule,
1984 regulation, permit, certification, or order adopted or issued by
1985 the commission pursuant to s. 369.20 or s. 369.22; to enjoin any
1986 violation specified in s. 379.501(1); and to seek injunctive
1987 relief to prevent irreparable injury to the waters and property,
1988 including animal, plant, and aquatic life, of the state and to
1989 protect human health, safety, and welfare caused or threatened
1990 by any violation of s. 379.501.

1991 (2) All the judicial and administrative remedies to recover
1992 damages and penalties in this section and s. 379.502 are
1993 alternative and mutually exclusive.

1994 Section 45. Section 379.504, Florida Statutes, is created
1995 to read:

1996 379.504 Civil liability; joint and several liability.-

1997 (1) Whoever commits a violation specified in s. 379.501(1)
1998 is liable to the state for any damage caused to the waters or
1999 property of the state, including animal, plant, or aquatic life,
2000 and for reasonable costs and expenses of the state in restoring
2001 its waters and property, including animal, plant, and aquatic

590-04430A-09

20092536c2

2002 life, to their former condition, and furthermore is subject to
2003 the judicial imposition of a civil penalty for each offense in
2004 an amount of not more than \$10,000 per offense. However, the
2005 court may receive evidence in mitigation. Each day during any
2006 portion of which such violation occurs constitutes a separate
2007 offense. This section does not give the commission the right to
2008 bring an action on behalf of any private person.

2009 (2) If two or more persons violate s. 379.501 so that the
2010 damage is indivisible, each violator shall be jointly and
2011 severally liable for the damage and for the reasonable cost and
2012 expenses of the state incurred in restoring the waters and
2013 property of the state, including the animal, plant, and aquatic
2014 life, to their former condition. However, if the damage is
2015 divisible and may be attributed to a particular violator or
2016 violators, each violator is liable only for that damage
2017 attributable to his or her violation.

2018 (3) In assessing damages for fish killed, the value of the
2019 fish shall be determined in accordance with a table of values
2020 for individual categories of fish, which shall be adopted by the
2021 Department of Environmental Protection pursuant to s.
2022 403.141(3). The total number of fish killed may be estimated by
2023 standard practices used in estimating fish population.

2024 Section 46. Subsection (1) of section 403.088, Florida
2025 Statutes, is amended to read:

2026 403.088 Water pollution operation permits; conditions.—

2027 (1) No person, without written authorization of the
2028 department, shall discharge into waters within the state any
2029 waste which, by itself or in combination with the wastes of
2030 other sources, reduces the quality of the receiving waters below

590-04430A-09

20092536c2

2031 the classification established for them. However, this section
2032 shall not be deemed to prohibit the application of pesticides to
2033 waters in the state for the control of insects, aquatic weeds,
2034 or algae, provided the application is performed pursuant to a
2035 program approved by the Department of Health, in the case of
2036 insect control, or the Fish and Wildlife Conservation Commission
2037 ~~department~~, in the case of aquatic weed or algae control. The
2038 department is directed to enter into interagency agreements to
2039 establish the procedures for program approval. Such agreements
2040 shall provide for public health, welfare, and safety, as well as
2041 environmental factors. Approved programs must provide that only
2042 chemicals approved for the particular use by the United States
2043 Environmental Protection Agency or by the Department of
2044 Agriculture and Consumer Services may be employed and that they
2045 be applied in accordance with registered label instructions,
2046 state standards for such application, and the provisions of the
2047 Florida Pesticide Law, part I of chapter 487.

2048 Section 47. The statutory powers, duties, and functions
2049 related to ss. 369.20, 369.22, and 369.252, Florida Statutes,
2050 which were transferred by chapter 2008-150, Laws of Florida, and
2051 all records, personnel, and property; unexpended balances of
2052 appropriations, allocations, and other funds; administrative
2053 authority; administrative rules; pending issues; and existing
2054 contracts of the Bureau of Invasive Plant Management in the
2055 Department of Environmental Protection are transferred by a type
2056 two transfer, pursuant to s. 20.06(2), Florida Statutes, to the
2057 Fish and Wildlife Conservation Commission. All actions taken
2058 pursuant to chapter 2008-150, Laws of Florida, and the
2059 Interagency Agreement executed thereto are ratified.

590-04430A-09

20092536c2

2060 Section 48. The Invasive Plant Control Trust Fund, FLAIR
2061 number 37-2-030, in the Department of Environmental Protection
2062 is transferred to the Fish and Wildlife Conservation Commission,
2063 FLAIR number 77-2-030.

2064 Section 49. For the purpose of incorporating the amendment
2065 made by this act to section 319.32, Florida Statutes, in a
2066 reference thereto, paragraph (a) of subsection (2) of section
2067 379.209, Florida Statutes, is reenacted to read:

2068 379.209 Nongame Wildlife Trust Fund.—

2069 (2) (a) There is established within the Fish and Wildlife
2070 Conservation Commission the Nongame Wildlife Trust Fund. The
2071 fund shall be credited with moneys collected pursuant to ss.
2072 319.32(3) and 320.02(8). Additional funds may be provided from
2073 legislative appropriations and by donations from interested
2074 individuals and organizations. The commission shall designate an
2075 identifiable unit to administer the trust fund.

2076 Section 50. For the purpose of incorporating the amendment
2077 made by this act to section 379.353, Florida Statutes, in a
2078 reference thereto, subsection (7) of section 379.3581, Florida
2079 Statutes, is reenacted to read:

2080 379.3581 Hunter safety course; requirements; penalty.—

2081 (7) The hunter safety requirements of this section do not
2082 apply to persons for whom licenses are not required under s.
2083 379.353(2).

2084 Section 51. The sum of \$185,000 is appropriated to the Fish
2085 and Wildlife Conservation Commission from the State Game Trust
2086 Fund on a recurring basis beginning in the 2009-2010 fiscal year
2087 for license issuance costs associated with section 31.

2088 Section 52. Effective October 1, 2009, section 327.22,

590-04430A-09

20092536c2

2089 Florida Statutes, is repealed.

2090 Section 53. Subsection (7) of section 379.366, Florida
2091 Statutes, is repealed.

2092 Section 54. Except as otherwise expressly provided in this
2093 act, this act shall take effect July 1, 2009.