

By Senator Constantine

22-01169C-09

20092618

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 ss. 369.20, 369.22, and
10 369.25, F.S.; providing that the commission has the
11 authority to enforce statutes relating to aquatic
12 weeds and plants; amending s. 379.304, F.S.; providing
13 that anyone violating the provisions governing the
14 sale or exhibition of wildlife are subject to
15 specified penalties relating to captive wildlife;
16 amending s. 379.338, F.S.; authorizing an
17 investigating law enforcement agency to dispose of
18 illegally taken wildlife, freshwater fish, or
19 saltwater fish in certain specified ways; requiring
20 that live wildlife, freshwater fish, and saltwater
21 fish be properly documented as evidence and returned
22 to the habitat unharmed; requiring that nonnative
23 species be disposed of in accordance with rules of the
24 Fish and Wildlife Conservation Commission; providing
25 for the disposition of furs and hides; requiring that
26 the proceeds of sales be deposited in the State Game
27 Trust Fund or the Marine Resources Conservation Trust
28 Fund; requiring the Fish and Wildlife Conservation
29 Commission to give to a state, municipal, or county

22-01169C-09

20092618

30 law enforcement agency that enforces or assists the
31 commission in enforcing the law all or a portion of
32 the value of any property forfeited during an
33 enforcement action; creating s. 379.3381, F.S.;

34 providing that photographs of wildlife or freshwater
35 or saltwater fish may be offered into evidence to the
36 same extent as if the wildlife, freshwater fish, or
37 saltwater fish were directly introduced as evidence;
38 requiring that the photograph be accompanied by a
39 writing containing specified information relating to
40 the illegal seizure of the wildlife or freshwater or
41 saltwater fish; requiring that the wildlife or
42 freshwater or saltwater fish be disposed of as
43 provided by law; amending s. 379.353, F.S.; providing
44 that a resident of this state is exempt from paying
45 certain recreational licenses if the person is
46 eligible for Medicaid services and has been issued an
47 identification card by the Agency for Health Care
48 Administration; repealing s. 379.366(7), F.S.,
49 relating to the regulation of the commercial
50 harvesting of blue crabs; amending s. 379.3671, F.S.;

51 providing that if a certificate issued to a person to
52 use a spiny lobster trap is not renewed within a
53 specified period, the certificate will be considered
54 abandoned and revert to the commission; amending s.
55 379.3751, F.S.; revising the alligator trapping
56 agent's license and the alligator farming agent's
57 license to allow the trapper and the farmer to
58 possess, process, and sell the hides and meat of the

22-01169C-09

20092618

59 alligator; removing the limitation that an alligator
60 trapping agent's license could be issued only in
61 conjunction with an alligator trapping license;
62 amending s. 379.3761, F.S.; providing penalties for
63 the wrongful exhibition or sale of wildlife; amending
64 s. 379.3762, F.S.; revising penalties for a person who
65 unlawfully possesses wildlife; amending s. 379.401,
66 F.S.; making it a level 2 violation for a person to
67 feed or entice an alligator or crocodile and a level 4
68 violation for a person to illegally kill, injure, or
69 capture an alligator or crocodile; amending s.
70 379.4015, F.S.; making it a level 2 violation for a
71 person to illegally exhibit or sell wildlife; creating
72 s. 379.501, F.S.; providing penalties for unlawfully
73 disturbing aquatic weeds and plants; providing that a
74 person is liable to the state for any damage caused to
75 the aquatic weeds or plants and for civil penalties;
76 providing that if a person willfully harm aquatic
77 weeds and plants he or she commits a felony of the
78 third degree; providing criminal penalties; creating
79 s. 379.502, F.S.; authorizing the commission to seek
80 judicial or administrative remedies for unlawfully
81 disturbing aquatic weeds and plants; providing for
82 procedures; authorizing a respondent to request
83 mediation; providing for an award of attorney's fees;
84 providing requirements for calculating administrative
85 penalties; providing for the administrative law judge
86 to consider evidence of mitigation; requiring that
87 penalties be deposited into the Invasive Plant Control

22-01169C-09

20092618

88 Trust Fund; creating 379.503, F.S.; authorizing the
89 commission to seek injunctive relief; providing that
90 the judicial and administrative remedies are
91 alternative and mutually exclusive; creating s.
92 379.504, F.S.; providing that anyone who unlawfully
93 disturbs aquatic weeds or plants is subject to civil
94 penalties; authorizing a court to impose a civil
95 penalty for each offense in an amount not to exceed
96 \$10,000 per offense; providing for joint and several
97 liability; providing for determining the value of fish
98 killed for purposes of assessing damages; amending s.
99 403.088, F.S.; requiring the commission to approve a
100 program intended to control aquatic weeds or algae;
101 creating s. 15.3055, F.S.; designating the osprey as
102 the official state bird of Florida; amending s.
103 319.32, F.S.; increasing the title fee for each
104 original certificate of title issued for a vehicle
105 previously registered outside this state, the proceeds
106 of which are to be paid to the Nongame Wildlife Trust
107 Fund; amending s. 320.08056, F.S.; increasing the
108 license plate fees for the Manatee license plate and
109 the Conserve Wildlife license plate to \$25; reenacting
110 s. 379.209(2), F.S., relating to funds credited to the
111 Nongame Wildlife Trust Fund, to incorporate an
112 amendment made to s. 319.32 F.S., in a reference
113 thereto; reenacting s. 379.3581(7), F.S., relating to
114 hunting safety, to incorporate the amendment made to
115 s. 379.353, F.S., in a reference thereto; providing
116 effective dates.

22-01169C-09

20092618

117

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

119

120 Section 1. Paragraph (a) of subsection (1) of section
121 206.606, Florida Statutes, is amended to read:

122 206.606 Distribution of certain proceeds.—

123 (1) Moneys collected pursuant to ss. 206.41(1)(g) and
124 206.87(1)(e) shall be deposited in the Fuel Tax Collection Trust
125 Fund. Such moneys, after deducting the service charges imposed
126 by s. 215.20, the refunds granted pursuant to s. 206.41, and the
127 administrative costs incurred by the department in collecting,
128 administering, enforcing, and distributing the tax, which
129 administrative costs may not exceed 2 percent of collections,
130 shall be distributed monthly to the State Transportation Trust
131 Fund, except that:

132 (a) \$6.30 million shall be transferred to the Fish and
133 Wildlife Conservation Commission in each fiscal year and
134 deposited in the Invasive Plant Control Trust Fund to be used
135 for aquatic plant management, including nonchemical control of
136 aquatic weeds, research into nonchemical controls, and
137 enforcement activities. ~~Beginning in fiscal year 1993-1994, The~~
138 commission department shall allocate at least \$1 million of such
139 funds to the eradication of melaleuca.

140 Section 2. Section 253.002, Florida Statutes, is amended to
141 read:

142 253.002 Department of Environmental Protection, water
143 management districts, ~~and~~ Department of Agriculture and Consumer
144 Services, and Fish and Wildlife Conservation Commission; duties
145 with respect to state lands.—

22-01169C-09

20092618

146 (1) The Department of Environmental Protection shall
147 perform all staff duties and functions related to the
148 acquisition, administration, and disposition of state lands,
149 title to which is or will be vested in the Board of Trustees of
150 the Internal Improvement Trust Fund. However, upon the effective
151 date of rules adopted pursuant to s. 373.427, a water management
152 district created under s. 373.069 shall perform the staff duties
153 and functions related to the review of any application for
154 authorization to use board of trustees-owned submerged lands
155 necessary for an activity regulated under part IV of chapter 373
156 for which the water management district has permitting
157 responsibility as set forth in an operating agreement adopted
158 pursuant to s. 373.046(4); and the Department of Agriculture and
159 Consumer Services shall perform the staff duties and functions
160 related to the review of applications and compliance with
161 conditions for use of board of trustees-owned submerged lands
162 under authorizations or leases issued pursuant to ss. 253.67-
163 253.75 and 597.010. Unless expressly prohibited by law, the
164 board of trustees may delegate to the department any statutory
165 duty or obligation relating to the acquisition, administration,
166 or disposition of lands, title to which is or will be vested in
167 the board of trustees. The board of trustees may also delegate
168 to any water management district created under s. 373.069 the
169 authority to take final agency action, without any action on
170 behalf of the board, on applications for authorization to use
171 board of trustees-owned submerged lands for any activity
172 regulated under part IV of chapter 373 for which the water
173 management district has permitting responsibility as set forth
174 in an operating agreement adopted pursuant to s. 373.046(4).

22-01169C-09

20092618

175 This water management district responsibility under this
176 subsection shall be subject to the department's general
177 supervisory authority pursuant to s. 373.026(7). The board of
178 trustees may also delegate to the Department of Agriculture and
179 Consumer Services the authority to take final agency action on
180 behalf of the board on applications to use board of trustees-
181 owned submerged lands for any activity for which that department
182 has responsibility pursuant to ss. 253.67-253.75, ~~and~~ 597.010,
183 and ss. 369.25-369.251. However, the board of trustees shall
184 retain the authority to take final agency action on establishing
185 any areas for leasing, new leases, expanding existing lease
186 areas, or changing the type of lease activity in existing
187 leases. Upon issuance of an aquaculture lease or other real
188 property transaction relating to aquaculture, the Department of
189 Agriculture and Consumer Services must send a copy of the
190 document and the accompanying survey to the Department of
191 Environmental Protection. The board of trustees may also
192 delegate to the Fish and Wildlife Conservation Commission the
193 authority to take final agency action, without any action on
194 behalf of the board, on applications for authorization to use
195 board of trustees-owned submerged lands for any activity
196 regulated under ss. 369.20 and 369.22 ~~s. 369.20~~.

197 (2) Delegations to the department, or a water management
198 district, or the Department of Agriculture and Consumer Services
199 of authority to take final agency action on applications for
200 authorization to use submerged lands owned by the board of
201 trustees, without any action on behalf of the board of trustees,
202 shall be by rule. Until rules adopted pursuant to this
203 subsection become effective, existing delegations by the board

22-01169C-09

20092618

204 of trustees shall remain in full force and effect. However, the
205 board of trustees is not limited or prohibited from amending
206 these delegations. The board of trustees shall adopt by rule any
207 delegations of its authority to take final agency action without
208 action by the board of trustees on applications for
209 authorization to use board of trustees-owned submerged lands.
210 Any final agency action, without action by the board of
211 trustees, taken by the department, or a water management
212 district, or the Department of Agriculture and Consumer Services
213 on applications to use board of trustees-owned submerged lands
214 shall be subject to the provisions of s. 373.4275.

215 Notwithstanding any other provision of this subsection, the
216 board of trustees, the Department of Legal Affairs, and the
217 department retain the concurrent authority to assert or defend
218 title to submerged lands owned by the board of trustees.

219 Section 3. Subsection (13) is added to section 369.20,
220 Florida Statutes, to read:

221 369.20 Florida Aquatic Weed Control Act.—

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

224 Section 4. Subsection (13) is added to section 369.22,
225 Florida Statutes, to read:

226 369.22 Aquatic plant management.—

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

229 Section 5. Paragraph (j) of subsection (3) of section
230 369.25, Florida Statutes, is amended to read:

231 369.25 Aquatic plants; definitions; permits; powers of
232 department; penalties.—

22-01169C-09

20092618

233 (3) The department has the following powers:

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

236 Section 6. Subsections (1) and (5) of section 379.304,
237 Florida Statutes, are amended to read:

238 379.304 Exhibition or sale of wildlife.—

239 (1) Permits issued pursuant to s. 379.3761 ~~this section~~ and
240 places where wildlife is kept or held in captivity shall be
241 subject to inspection by officers of the commission at all
242 times. The commission shall have the power to release or
243 confiscate any specimens of any wildlife, specifically birds,
244 mammals, amphibians, or reptiles, whether indigenous to the
245 state or not, when it is found that conditions under which they
246 are being confined are unsanitary, or unsafe to the public in
247 any manner, or that the species of wildlife are being
248 maltreated, mistreated, or neglected or kept in any manner
249 contrary to the provisions of chapter 828, any such permit to
250 the contrary notwithstanding. Before any such wildlife is
251 confiscated or released under the authority of this section, the
252 owner thereof shall have been advised in writing of the
253 existence of such unsatisfactory conditions; the owner shall
254 have been given 30 days in which to correct such conditions; the
255 owner shall have failed to correct such conditions; the owner
256 shall have had an opportunity for a proceeding pursuant to
257 chapter 120; and the commission shall have ordered such
258 confiscation or release after careful consideration of all
259 evidence in the particular case in question. The final order of
260 the commission shall constitute final agency action.

261 (5) A violation of this section is punishable as provided

22-01169C-09

20092618

262 by s. 379.4015 ~~s. 379.401~~.

263 Section 7. Section 379.338, Florida Statutes, is amended to
264 read:

265 379.338 Confiscation and disposition of illegally taken
266 wildlife, freshwater fish, and saltwater fish ~~game~~.-

267 (1) All ~~game~~ wildlife, and freshwater fish, and saltwater
268 fish seized under the authority of this or any other chapter or
269 rules of the commission shall, upon conviction of the offender
270 or sooner in accordance with a if the court order ~~so orders~~, be
271 forfeited to the investigating law enforcement agency. The law
272 enforcement agency may elect to retain the wildlife, freshwater
273 fish, or saltwater fish for the agency's official use; transfer
274 the wildlife, freshwater fish, or saltwater fish to another unit
275 of state or local government for official use; donate the
276 wildlife, freshwater fish, or saltwater fish to a charitable
277 organization; sell the game, wildlife, freshwater fish, or
278 saltwater fish at public sale under s. 705.103; or destroy the
279 wildlife, freshwater fish, or saltwater fish if none of the
280 other options are practicable or if the wildlife, freshwater
281 fish, or saltwater fish is unwholesome or otherwise not of
282 appreciable value. All illegally possessed live wildlife,
283 freshwater fish, and saltwater fish must be properly documented
284 as evidence as provided in s. 379.3381 and returned to the
285 habitat unharmed. Nonnative species may be released only as
286 allowed by rules of the commission. Any unclaimed wildlife,
287 freshwater fish, or saltwater fish must be retained by the
288 investigating law enforcement agency and disposed of in
289 accordance with this section and given to some hospital or
290 charitable institution and receipt therefor sent to the Fish and

22-01169C-09

20092618

291 ~~Wildlife Conservation Commission.~~

292 (2) All furs or hides or fur-bearing animals seized under
293 the authority of this chapter shall, upon conviction of the
294 offender, be forfeited and sent to the commission, which shall
295 sell the same and ~~deposit the proceeds of such sale to the~~
296 ~~credit of the State Game Trust Fund.~~ If any such hides or furs
297 are seized and the offender is unknown, the court shall order
298 such hides or furs sent to the Fish and Wildlife Conservation
299 Commission, which shall sell such hides and furs. ~~and deposit~~

300 (3) The proceeds of ~~any such~~ sale under this section must
301 be remitted to the Department of Revenue to be deposited to the
302 credit of the State Game Trust Fund or the Marine Resources
303 Conservation Trust Fund.

304 (4) The Fish and Wildlife Conservation Commission shall
305 give to a state, municipal, or county law enforcement agency
306 that enforces or assists the commission in enforcing this
307 chapter all or a portion of the value of any property forfeited
308 during an enforcement action, based upon the percentage of
309 participation by the state, municipal, or county law enforcement
310 agency in the enforcement action.

311 Section 8. Section 379.3381, Florida Statutes, is created
312 to read:

313 379.3381 Photographs of illegally taken wildlife or
314 freshwater or saltwater fish.—In any prosecution for a violation
315 of this chapter or the rules of the commission, a photograph of
316 the illegally taken wildlife, freshwater fish, or saltwater fish
317 may be considered as competent evidence of the wildlife,
318 freshwater fish, or saltwater fish and is admissible in the
319 prosecution of the case to the same extent as if the wildlife,

22-01169C-09

20092618

320 freshwater fish, or saltwater fish were introduced as evidence.
321 The photograph shall bear a written description of the wildlife,
322 freshwater fish, or saltwater fish alleged to have been
323 illegally taken, the name of the violator, the location where
324 the alleged illegal taking occurred, the name of the
325 investigating law enforcement officer, the date the photograph
326 was taken, and the name of the photographer. The writing must be
327 made under oath by the investigating law enforcement officer,
328 and the photograph shall be identified by the signature of the
329 photographer. Upon the filing of the photograph and writing with
330 the law enforcement agency or court, the wildlife, freshwater
331 fish, or saltwater fish may be disposed of in accordance with s.
332 379.338.

333 Section 9. Subsection (2) of section 379.353, Florida
334 Statutes, is amended to read:

335 379.353 Recreational licenses and permits; exemptions from
336 fees and requirements.—

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

339 (a) Any child under 16 years of age, except as otherwise
340 provided in this part.

341 (b) Any person hunting or freshwater fishing on her or his
342 homestead property, or on the homestead property of the person's
343 spouse or minor child; or any minor child hunting or freshwater
344 fishing on the homestead property of her or his parent.

345 (c) Any resident who is a member of the United States Armed
346 Forces and not stationed in this state, when home on leave for
347 30 days or less, upon submission of orders.

348 (d) Any resident freshwater fishing for recreational

22-01169C-09

20092618

349 purposes only, within her or his county of residence with live
350 or natural bait, using poles or lines not equipped with a
351 fishing line retrieval mechanism. This exemption does not apply
352 to residents fishing in a legally established fish management
353 area.

354 (e) Any person freshwater fishing in a fish pond of 20
355 acres or less that is located entirely within the private
356 property of the fish pond owner.

357 (f) Any person freshwater fishing in a fish pond that is
358 licensed in accordance with s. 379.356.

359 (g) Any person fishing who has been accepted as a client
360 for developmental disabilities services by the Department of
361 Children and Family Services, provided the department furnishes
362 proof thereof.

363 (h) Any resident saltwater fishing from land or from a
364 structure fixed to the land who has been determined eligible for
365 Medicaid services by the Department of Children and Family
366 Services or by the Social Security Administration and who has
367 been issued an identification card by the Florida Medicaid
368 Program of the Agency for Health Care Administration. The client
369 must have in his or her possession the identification card and
370 positive proof of identification when fishing.

371 (i) Any person saltwater fishing from a vessel licensed
372 pursuant to s. 379.354(7).

373 (j) Any person saltwater fishing from a vessel the operator
374 of which is licensed pursuant to s. 379.354(7).

375 (k) Any person saltwater fishing who holds a valid
376 saltwater products license issued under s. 379.361(2).

377 (l) Any person saltwater fishing for recreational purposes

22-01169C-09

20092618

378 from a pier licensed under s. 379.354.

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

381 (m)~~(n)~~ Any resident fishing for mullet in fresh water who
382 has a valid Florida freshwater fishing license.

383 (n)~~(o)~~ Any resident 65 years of age or older who has in her
384 or his possession proof of age and residency. A no-cost license
385 under this paragraph may be obtained from any tax collector's
386 office upon proof of age and residency and must be in the
387 possession of the resident during hunting, freshwater fishing,
388 and saltwater fishing activities.

389 (o)~~(p)~~ Any employee of the commission who takes freshwater
390 fish, saltwater fish, or game as part of employment with the
391 commission, or any other person authorized by commission permit
392 to take freshwater fish, saltwater fish, or game for scientific
393 or educational purposes.

394 (p)~~(q)~~ Any resident recreationally freshwater fishing who
395 holds a valid commercial fishing license issued under s.
396 379.3625(1)(a).

397 Section 10. Subsection (7) of section 379.366, Florida
398 Statutes, is repealed.

399 Section 11. Paragraph (c) of subsection (2) of section
400 379.3671, Florida Statutes, is amended to read:

401 379.3671 Spiny lobster trap certificate program.—

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

22-01169C-09

20092618

407 (c) *Prohibitions; penalties.*—

408 1. It is unlawful for a person to possess or use a spiny
409 lobster trap in or on state waters or adjacent federal waters
410 without having affixed thereto the trap tag required by this
411 section. It is unlawful for a person to possess or use any other
412 gear or device designed to attract and enclose or otherwise aid
413 in the taking of spiny lobster by trapping that is not a trap as
414 defined by commission rule.

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

418 3. It is unlawful for any person to willfully molest, take
419 possession of, or remove the contents of another harvester's
420 spiny lobster trap without the express written consent of the
421 trap owner available for immediate inspection. Unauthorized
422 possession of another's trap gear or removal of trap contents
423 constitutes theft.

424 a. A commercial harvester who violates this subparagraph
425 shall be punished under ss. 379.367 and 379.407. Any commercial
426 harvester receiving a judicial disposition other than dismissal
427 or acquittal on a charge of theft of or from a trap pursuant to
428 this subparagraph or s. 379.402 shall, in addition to the
429 penalties specified in ss. 379.367 and 379.407 and the
430 provisions of this section, permanently lose all his or her
431 saltwater fishing privileges, including his or her saltwater
432 products license, spiny lobster endorsement, and all trap
433 certificates allotted to him or her through this program. In
434 such cases, trap certificates and endorsements are
435 nontransferable.

22-01169C-09

20092618

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

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

446
447 Immediately upon receiving a citation for a violation involving
448 theft of or from a trap, or molestation of a trap, and until
449 adjudicated for such a violation or, upon receipt of a judicial
450 disposition other than dismissal or acquittal of such a
451 violation, the commercial harvester committing the violation is
452 prohibited from transferring any spiny lobster trap certificates
453 and endorsements.

454 4. In addition to any other penalties provided in s.
455 379.407, a commercial harvester who violates the provisions of
456 this section or commission rules relating to spiny lobster traps
457 shall be punished as follows:

458 a. If the first violation is for violation of subparagraph
459 1. or subparagraph 2., the commission shall assess an additional
460 administrative penalty of up to \$1,000. For all other first
461 violations, the commission shall assess an additional
462 administrative penalty of up to \$500.

463 b. For a second violation of subparagraph 1. or
464 subparagraph 2. which occurs within 24 months of any previous

22-01169C-09

20092618

465 such violation, the commission shall assess an additional
466 administrative penalty of up to \$2,000 and the spiny lobster
467 endorsement issued under s. 379.367(2) or (6) may be suspended
468 for the remainder of the current license year.

469 c. For a third or subsequent violation of subparagraph 1.,
470 subparagraph 2., or subparagraph 3. which occurs within 36
471 months of any previous two such violations, the commission shall
472 assess an additional administrative penalty of up to \$5,000 and
473 may suspend the spiny lobster endorsement issued under s.
474 379.367(2) or (6) for a period of up to 24 months or may revoke
475 the spiny lobster endorsement and, if revoking the spiny lobster
476 endorsement, may also proceed against the licenseholder's
477 saltwater products license in accordance with the provisions of
478 s. 379.407(2) (h).

479 d. Any person assessed an additional administrative penalty
480 pursuant to this section shall within 30 calendar days after
481 notification:

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

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

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

488 5.a. It is unlawful for any person to make, alter, forge,
489 counterfeit, or reproduce a spiny lobster trap tag or
490 certificate.

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

22-01169C-09

20092618

494 c. It is unlawful for any person to barter, trade, sell,
495 supply, agree to supply, aid in supplying, or give away a spiny
496 lobster trap tag or certificate or to conspire to barter, trade,
497 sell, supply, aid in supplying, or give away a spiny lobster
498 trap tag or certificate unless such action is duly authorized by
499 the commission as provided in this chapter or in the rules of
500 the commission.

501 6.a. Any commercial harvester who violates the provisions
502 of subparagraph 5., or any commercial harvester who engages in
503 the commercial harvest, trapping, or possession of spiny lobster
504 without a spiny lobster endorsement as required by s. 379.367(2)
505 or (6) or during any period while such spiny lobster endorsement
506 is under suspension or revocation, commits a felony of the third
507 degree, punishable as provided in s. 775.082, s. 775.083, or s.
508 775.084.

509 b. In addition to any penalty imposed pursuant to sub-
510 subparagraph a., the commission shall levy a fine of up to twice
511 the amount of the appropriate surcharge to be paid on the fair
512 market value of the transferred certificates, as provided in
513 subparagraph (a)1., on any commercial harvester who violates the
514 provisions of sub-subparagraph 5.c.

515 c. In addition to any penalty imposed pursuant to sub-
516 subparagraph a., any commercial harvester receiving any judicial
517 disposition other than acquittal or dismissal for a violation of
518 subparagraph 5. shall be assessed an administrative penalty of
519 up to \$5,000, and the spiny lobster endorsement under which the
520 violation was committed may be suspended for up to 24 calendar
521 months. Immediately upon issuance of a citation involving a
522 violation of subparagraph 5. and until adjudication of such a

22-01169C-09

20092618

523 violation, and after receipt of any judicial disposition other
524 than acquittal or dismissal for such a violation, the commercial
525 harvester holding the spiny lobster endorsement listed on the
526 citation is prohibited from transferring any spiny lobster trap
527 certificates.

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

530 7. Until the 2010-2011 license year, any certificates for
531 which the annual certificate fee is not paid for a period of 3
532 years shall be considered abandoned and shall revert to the
533 commission. Beginning with the 2010-2011 license year, any
534 certificate for which the annual certificate fee is not paid for
535 a period of 2 consecutive years shall be considered abandoned
536 and shall revert to the commission. During any period of trap
537 reduction, any certificates reverting to the commission shall
538 become permanently unavailable and be considered in that amount
539 to be reduced during the next license-year period. Otherwise,
540 any certificates that revert to the commission are to be
541 reallocated in such manner as provided by the commission.

542 8. The proceeds of all administrative penalties collected
543 pursuant to subparagraph 4. and all fines collected pursuant to
544 sub-subparagraph 6.b. shall be deposited into the Marine
545 Resources Conservation Trust Fund.

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

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

550 Section 12. Paragraphs (c), (d), and (e) of subsection (2)
551 of section 379.3751, Florida Statutes, are amended to read:

22-01169C-09

20092618

552 379.3751 Taking and possession of alligators; trapping
553 licenses; fees.—

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

556 (c) The annual fee for issuance of an alligator trapping
557 agent's license, which permits a person to act as an agent of
558 any person who has been issued a resident or nonresident
559 alligator trapping license as provided in paragraph (a) or
560 paragraph (b), ~~and~~ to take alligators occurring in the wild
561 other than alligator hatchlings, ~~and~~ to possess and process
562 alligators taken under authority of such agency relationship,
563 and to possess, process, or sell their hides and meat, shall be
564 \$50. ~~Such alligator trapping agent's license shall be issued
565 only in conjunction with an alligator trapping license and shall
566 bear on its face in indelible ink the name and license number of
567 the alligator trapping licenseholder for whom the holder of this
568 license is acting as an agent.~~

569 (d) The annual fee for issuance of an alligator farming
570 license, which permits a person to operate a facility for
571 captive propagation of alligators, to possess alligators for
572 captive propagation, to take alligator hatchlings and alligator
573 eggs occurring in the wild, to rear such alligators, alligator
574 hatchlings, and alligator eggs in captivity, to process
575 alligators taken or possessed under authority of such alligator
576 farming license or otherwise legally acquired, and to possess,
577 process, or sell their hides and meat, shall be \$250.

578 (e) The annual fee for issuance of an alligator farming
579 agent's license, which permits a person to act as an agent of
580 any person who has been issued an alligator farming license as

22-01169C-09

20092618

581 provided in paragraph (d), ~~and~~ to take alligator hatchlings and
582 alligator eggs occurring in the wild, ~~and~~ to possess and process
583 alligators taken under authority of such agency relationship,
584 and to possess, process, or sell their hides and meat, shall be
585 \$50. ~~Such license shall be issued only in conjunction with an~~
586 ~~alligator farming license, and shall bear on its face in~~
587 ~~indelible ink the name and license number of the alligator~~
588 ~~farming licenseholder for whom the holder of this license is~~
589 ~~acting as an agent.~~

590 Section 13. Subsection (6) is added to section 379.3761,
591 Florida Statutes, to read:

592 379.3761 Exhibition or sale of wildlife; fees;
593 classifications.—

594 (6) A person who violates this section shall be punished as
595 provided in s. 379.4015

596 Section 14. Subsection (5) of section 379.3762, Florida
597 Statutes, is amended to read:

598 379.3762 Personal possession of wildlife.—

599 (5) Persons in violation of this section shall be
600 punishable as provided in s. 379.4015 ~~s. 379.401~~.

601 Section 15. Paragraph (a) of subsection (2) and paragraph
602 (a) of subsection (4) of section 379.401, Florida Statutes, are
603 amended to read:

604 379.401 Penalties and violations; civil penalties for
605 noncriminal infractions; criminal penalties; suspension and
606 forfeiture of licenses and permits.—

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

609 1. Rules or orders of the commission relating to seasons or

22-01169C-09

20092618__

610 time periods for the taking of wildlife, freshwater fish, or
611 saltwater fish.

612 2. Rules or orders of the commission establishing bag,
613 possession, or size limits or restricting methods of taking
614 wildlife, freshwater fish, or saltwater fish.

615 3. Rules or orders of the commission prohibiting access or
616 otherwise relating to access to wildlife management areas or
617 other areas managed by the commission.

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

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

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

624 7. Rules or orders of the commission relating to tagging
625 requirements for game and fur-bearing animals.

626 8. Rules or orders of the commission relating to the use of
627 dogs for the taking of game.

628 9. Rules or orders of the commission which are not
629 otherwise classified.

630 10. Rules or orders of the commission prohibiting the
631 unlawful use of finfish traps.

632 11. All prohibitions in this chapter which are not
633 otherwise classified.

634 12. Section 379.33, prohibiting the violation of or
635 noncompliance with commission rules.

636 13. Section 379.407(6), prohibiting the sale, purchase,
637 harvest, or attempted harvest of any saltwater product with
638 intent to sell.

22-01169C-09

20092618

- 639 14. Section 379.2421, prohibiting the obstruction of
640 waterways with net gear.
- 641 15. Section 379.413, prohibiting the unlawful taking of
642 bonefish.
- 643 16. Section 379.365(2)(a) and (b), prohibiting the
644 possession or use of stone crab traps without trap tags and
645 theft of trap contents or gear.
- 646 17. Section 379.366(4)(b), prohibiting the theft of blue
647 crab trap contents or trap gear.
- 648 18. Section 379.3671(2)(c), prohibiting the possession or
649 use of spiny lobster traps without trap tags or certificates and
650 theft of trap contents or trap gear.
- 651 19. Section 379.357, prohibiting the possession of tarpon
652 without purchasing a tarpon tag.
- 653 20. Rules of the commission ~~Section 379.409~~, prohibiting
654 the feeding or enticement of alligators or crocodiles.
- 655 21. Section 379.105, prohibiting the intentional harassment
656 of hunters, fishers, or trappers.
- 657 (4)(a) LEVEL FOUR VIOLATIONS.—A person commits a Level Four
658 violation if he or she violates any of the following provisions:
- 659 1. Section 379.365(2)(c), prohibiting criminal activities
660 relating to the taking of stone crabs.
- 661 2. Section 379.366(4)(c), prohibiting criminal activities
662 relating to the taking and harvesting of blue crabs.
- 663 3. Section 379.367(4), prohibiting the willful molestation
664 of spiny lobster gear.
- 665 4. Section 379.3671(2)(c)5., prohibiting the unlawful
666 reproduction, possession, sale, trade, or barter of spiny
667 lobster trap tags or certificates.

22-01169C-09

20092618

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

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

673 7. Section 379.405, prohibiting the molestation or theft of
674 freshwater fishing gear.

675 8. Section 379.409, prohibiting the illegal killing,
676 injuring, possession, or capture of an alligator or other
677 crocodilian or eggs thereof.

678 Section 16. Paragraph (a) of subsection (2) of section
679 379.4015, Florida Statutes, is amended to read:

680 379.4015 Captive wildlife penalties.—

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

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

685 1. Unless otherwise stated in subsection (1), rules or
686 orders of the commission that require a person to pay a fee to
687 obtain a permit to possess captive wildlife or that require the
688 maintenance of records relating to captive wildlife.

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

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

694 4. Section 379.372, relating to capturing, keeping,
695 possessing, transporting, or exhibiting venomous reptiles or
696 reptiles of concern.

22-01169C-09

20092618

697 5. Section 379.373, relating to requiring a license or
698 permit for the capturing, keeping, possessing, or exhibiting of
699 venomous reptiles or reptiles of concern.

700 6. Section 379.374, relating to bonding requirements for
701 public exhibits of venomous reptiles.

702 7. Section 379.305, relating to commission rules and
703 regulations to prevent the escape of venomous reptiles or
704 reptiles of concern.

705 8. Section 379.304, relating to exhibition or sale of
706 wildlife.

707 9. Section 379.3762, relating to personal possession of
708 wildlife.

709 10. Section 379.3761, relating to exhibition or sale of
710 wildlife.

711 Section 17. Section 379.501, Florida Statutes, is created
712 to read:

713 379.501 Aquatic weeds or plants; prohibitions, violation,
714 penalty, intent.-

715 (1) A person may not:

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

718 (b) Fail to obtain any permit required by s. 369.20 or s.
719 369.22 or by commission rule implementing s. 369.20 or s.
720 369.22, or violate or fail to comply with any rule, regulation,
721 order, permit, or certification adopted or issued by the
722 commission pursuant to s. 369.20 or s. 369.22; or

723 (c) Knowingly make any false statement, representation, or
724 certification in any application, record, report, plan, or other
725 document filed or required to be maintained under s. 369.20 or

22-01169C-09

20092618

726 s. 369.22, or to falsify, tamper with, or knowingly render
727 inaccurate any monitoring device or method required to be
728 maintained under s. 369.20 or s. 369.22 or by any permit, rule,
729 regulation, or order issued under s. 369.20 or s. 369.22.

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

734 (3) Any person who willfully commits a violation of
735 paragraph (1) (a) commits a felony of the third degree,
736 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
737 Each day during any portion of which such violation occurs
738 constitutes a separate offense.

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

743 (5) Any person who willfully commits a violation specified
744 in paragraph (1) (b) or paragraph (1) (c) commits a misdemeanor of
745 the first degree, punishable as provided in s. 775.082 or s.
746 775.083.

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

751 (7) Penalties assessed pursuant to ss. 379.501-379.504 are
752 in addition to any penalties assessed by the Department of
753 Environmental Protection pursuant to chapter 403.

754 Section 18. Section 379.502, Florida Statutes, is created

22-01169C-09

20092618

755 to read:

756 379.502 Enforcement; procedure; remedies.—The commission
757 has the following judicial and administrative remedies available
758 to it for violations of s. 379.501.

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

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

770 (c) Except as provided in paragraph (2) (c), the fact that
771 the commission has failed to exhaust its administrative
772 remedies, has failed to serve a notice of violation, or has
773 failed to hold an administrative hearing before initiating a
774 civil action is not a defense to, or grounds for dismissal of,
775 the judicial remedies for damages and civil penalties.

776 (2) (a) The commission may institute an administrative
777 proceeding to establish liability and to recover damages for any
778 injury to the waters or property of the state, including animal,
779 plant, or aquatic life, caused by any violation of s. 379.501.
780 The commission may order that the violator pay a specified sum
781 as damages to the state. Judgment for the amount of damages
782 determined by the commission may be entered in any court having
783 jurisdiction thereof and may be enforced as any other judgment.

22-01169C-09

20092618

784 (b) If the commission has reason to believe that a
785 violation has occurred, it may institute an administrative
786 proceeding to order the prevention, abatement, or control of the
787 conditions creating the violation or other appropriate
788 corrective action. The commission shall proceed administratively
789 in all cases in which the commission seeks administrative
790 penalties that do not exceed \$10,000 per assessment as
791 calculated in accordance with subsections (3), (4), (5), and
792 (6). The commission may not impose administrative penalties in
793 excess of \$10,000 in a notice of violation. The commission may
794 not have more than one notice of violation seeking
795 administrative penalties pending against the same party at the
796 same time unless the violations occurred at a different site or
797 the violations were discovered by the commission subsequent to
798 the filing of a previous notice of violation.

799 (c) An administrative proceeding shall be instituted by the
800 commission's serving of a written notice of violation upon the
801 alleged violator by certified mail. If the commission is unable
802 to effect service by certified mail, the notice of violation may
803 be hand delivered or personally served in accordance with
804 chapter 48. The notice shall specify the provision of the law,
805 rule, regulation, permit, certification, or order of the
806 commission alleged to have been violated and the facts alleged
807 to constitute a violation thereof. An order for corrective
808 action, penalty assessment, or damages may be included along
809 with the notice. If the commission is seeking to impose an
810 administrative penalty for any violation of s. 379.501 by
811 issuing a notice of violation, any corrective action needed to
812 correct the violation or damages caused by the violation must be

22-01169C-09

20092618

813 pursued in the notice of violation or they are waived. However,
814 an order does not become effective until after service and an
815 administrative hearing, if requested within 20 days after
816 service. Failure to request an administrative hearing within
817 this period constitutes a waiver, unless the respondent files a
818 written notice with the commission within this period opting out
819 of the administrative process initiated by the commission. Any
820 respondent choosing to opt out of the administrative process
821 initiated by the commission must file a written notice with the
822 commission within 20 days after service of the notice of
823 violation opting out of the administrative process. A
824 respondent's decision to opt out of the administrative process
825 does not preclude the commission from initiating a state court
826 action seeking injunctive relief, damages, and the judicial
827 imposition of civil penalties.

828 (d) If a person timely files a petition challenging a
829 notice of violation, that person will thereafter be referred to
830 as the respondent. The hearing requested by the respondent shall
831 be held within 180 days after the commission has referred the
832 initial petition to the Division of Administrative Hearings
833 unless the parties agree to a later date. The commission has the
834 burden of proving by the preponderance of the evidence that the
835 respondent is responsible for the violation. An administrative
836 penalty may not be imposed unless the commission satisfies that
837 burden. Following the close of the hearing, the administrative
838 law judge shall issue a final order on all matters, including
839 the imposition of an administrative penalty. If the commission
840 seeks to enforce that portion of a final order imposing
841 administrative penalties pursuant to s. 120.69, the respondent

22-01169C-09

20092618

842 may not assert as a defense the inappropriateness of the
843 administrative remedy. The commission retains its final-order
844 authority in all administrative actions that do not request the
845 imposition of administrative penalties.

846 (e) After filing a petition requesting a formal hearing in
847 response to a notice of violation, a respondent may request that
848 a private mediator be appointed to mediate the dispute by
849 contacting the Florida Conflict Resolution Consortium within 10
850 days after receipt of the initial order from the administrative
851 law judge. The Florida Conflict Resolution Consortium shall pay
852 all of the costs of the mediator and for up to 8 hours of the
853 mediator's time per case at \$150 per hour. Upon notice from the
854 respondent, the Florida Conflict Resolution Consortium shall
855 provide the respondent with a panel of possible mediators from
856 the area in which the hearing on the petition would be heard.
857 The respondent shall select the mediator and notify the Florida
858 Conflict Resolution Consortium of the selection within 15 days
859 after receipt of the proposed panel of mediators. The Florida
860 Conflict Resolution Consortium shall provide all of the
861 administrative support for the mediation process. The mediation
862 must be completed at least 15 days before the final hearing date
863 set by the administrative law judge.

864 (f) In any administrative proceeding brought by the
865 commission, the prevailing party shall recover all costs as
866 provided in ss. 57.041 and 57.071. The costs must be included in
867 the final order. The respondent is the prevailing party when an
868 order is entered awarding no penalties to the commission and the
869 order has not been reversed on appeal or the time for seeking
870 judicial review has expired. The respondent is entitled to an

22-01169C-09

20092618

871 award of attorney's fees if the administrative law judge
872 determines that the notice of violation issued by the commission
873 was not substantially justified as defined in s. 57.111(3)(e).
874 An award of attorney's fees as provided by this subsection may
875 not exceed \$15,000.

876 (g) This section does not prevent any other legal or
877 administrative action in accordance with law. This subsection
878 does not limit the commission's authority set forth in this
879 section and ss. 379.503 and 379.504 to judicially pursue
880 injunctive relief. If the commission exercises its authority to
881 judicially pursue injunctive relief, penalties in any amount up
882 to the statutory maximum sought by the commission must be
883 pursued as part of the state court action and not by initiating
884 a separate administrative proceeding. The commission retains the
885 authority to judicially pursue penalties in excess of \$10,000
886 for violations not specifically included in the administrative
887 penalty schedule, or for multiple or multiday violations alleged
888 to exceed a total of \$10,000. The commission also retains the
889 authority provided in this section and ss. 379.503 and 379.504
890 to judicially pursue injunctive relief and damages, if a notice
891 of violation seeking the imposition of administrative penalties
892 has not been issued. The commission may enter into a settlement
893 before or after initiating a notice of violation, and the
894 settlement may include a penalty amount that is different from
895 the administrative penalty schedule. Any case filed in state
896 court because it is alleged to exceed a total of \$10,000 in
897 penalties may be settled in the court action for less than
898 \$10,000.

899 (h) Chapter 120 does apply to any administrative action

22-01169C-09

20092618

900 taken by the commission under this section or any delegated
901 program pursuing administrative penalties in accordance with
902 this section.

903 (3) Administrative penalties must be calculated according
904 to the following schedule:

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

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

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

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

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

917 (5) The history of noncompliance of the violator for any
918 previous violation resulting in an executed consent order, but
919 not including a consent order entered into without a finding of
920 violation, or resulting in a final order or judgment on or after
921 July 1, 2009, involving the imposition of \$2,000 or more in
922 penalties, shall be taken into consideration in the following
923 manner:

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

927 (b) Two previous such violations within 5 years prior to
928 the filing of the notice of violation shall result in a 50

22-01169C-09

20092618

929 percent per day increase in the scheduled administrative
930 penalty.

931 (c) Three or more previous such violations within 5 years
932 before the filing of the notice of violation shall result in a
933 100 percent per day increase in the scheduled administrative
934 penalty.

935 (6) The direct economic benefit gained by the violator from
936 the violation shall be added to the scheduled administrative
937 penalty. The total administrative penalty, including any
938 economic benefit added to the scheduled administrative penalty,
939 may not exceed \$10,000.

940 (7) The administrative penalties assessed for any
941 particular violation may not exceed \$3,000 against any one
942 violator, unless the violator has a history of noncompliance,
943 the economic benefit of the violation as described in subsection
944 (6) exceeds \$3,000, or there are multiday violations. The total
945 administrative penalties may not exceed \$10,000 per assessment
946 for all violations attributable to a specific person in the
947 notice of violation.

948 (8) The administrative law judge may receive evidence in
949 mitigation. The penalties identified in subsection (3) may be
950 reduced up to 50 percent by the administrative law judge for
951 mitigating circumstances, including good faith efforts to comply
952 prior to or after discovery of the violations by the commission.
953 Upon an affirmative finding that the violation was caused by
954 circumstances beyond the reasonable control of the respondent
955 and could not have been prevented by the respondent's due
956 diligence, the administrative law judge may further reduce the
957 penalty.

22-01169C-09

20092618

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

965 (10) The purpose of the administrative penalty schedule and
966 process is to provide a more predictable and efficient manner
967 for individuals and businesses to resolve relatively minor
968 environmental disputes. Subsections (3) through (7) do not limit
969 a state court in the assessment of damages. The administrative
970 penalty schedule does not apply to the judicial imposition of
971 civil penalties in state court as provided in this section.

972 Section 19. Section 379.503, Florida Statutes, is created
973 to read:

974 379.503 Injunctive relief; remedies.-

975 (1) The commission may institute a civil action in a court
976 of competent jurisdiction to seek injunctive relief to enforce
977 compliance with ss. 379.501, 379.502, and 379.504 or any rule,
978 regulation, permit, certification, or order adopted or issued by
979 the commission pursuant to s. 369.20 or s. 369.22; to enjoin any
980 violation specified in s. 379.501(1); and to seek injunctive
981 relief to prevent irreparable injury to the waters and property,
982 including animal, plant, and aquatic life, of the state and to
983 protect human health, safety, and welfare caused or threatened
984 by any violation of s. 379.501.

985 (2) All the judicial and administrative remedies to recover
986 damages and penalties in this section and s. 379.502 are

22-01169C-09

20092618

987 alternative and mutually exclusive.

988 Section 20. Section 379.504, Florida Statutes, is created
989 to read:

990 379.504 Civil liability; joint and several liability.-

991 (1) Whoever commits a violation specified in s. 379.501(1)
992 is liable to the state for any damage caused to the waters or
993 property of the state, including animal, plant, or aquatic life,
994 and for reasonable costs and expenses of the state in restoring
995 its waters and property, including animal, plant, and aquatic
996 life, to their former condition, and furthermore is subject to
997 the judicial imposition of a civil penalty for each offense in
998 an amount of not more than \$10,000 per offense. However, the
999 court may receive evidence in mitigation. Each day during any
1000 portion of which such violation occurs constitutes a separate
1001 offense. This section does not give the commission the right to
1002 bring an action on behalf of any private person.

1003 (2) If two or more persons violate s. 379.501 so that the
1004 damage is indivisible, each violator shall be jointly and
1005 severally liable for the damage and for the reasonable cost and
1006 expenses of the state incurred in restoring the waters and
1007 property of the state, including the animal, plant, and aquatic
1008 life, to their former condition. However, if the damage is
1009 divisible and may be attributed to a particular violator or
1010 violators, each violator is liable only for that damage
1011 attributable to his or her violation.

1012 (3) In assessing damages for fish killed, the value of the
1013 fish shall be determined in accordance with a table of values
1014 for individual categories of fish, which shall be adopted by the
1015 Department of Environmental Protection pursuant to s.

22-01169C-09

20092618

1016 403.141(3). The total number of fish killed may be estimated by
1017 standard practices used in estimating fish population.

1018 Section 21. Subsection (1) of section 403.088, Florida
1019 Statutes, is amended to read:

1020 403.088 Water pollution operation permits; conditions.—

1021 (1) No person, without written authorization of the
1022 department, shall discharge into waters within the state any
1023 waste which, by itself or in combination with the wastes of
1024 other sources, reduces the quality of the receiving waters below
1025 the classification established for them. However, this section
1026 shall not be deemed to prohibit the application of pesticides to
1027 waters in the state for the control of insects, aquatic weeds,
1028 or algae, provided the application is performed pursuant to a
1029 program approved by the Department of Health, in the case of
1030 insect control, or the Fish and Wildlife Conservation Commission
1031 ~~department~~, in the case of aquatic weed or algae control. The
1032 department is directed to enter into interagency agreements to
1033 establish the procedures for program approval. Such agreements
1034 shall provide for public health, welfare, and safety, as well as
1035 environmental factors. Approved programs must provide that only
1036 chemicals approved for the particular use by the United States
1037 Environmental Protection Agency or by the Department of
1038 Agriculture and Consumer Services may be employed and that they
1039 be applied in accordance with registered label instructions,
1040 state standards for such application, and the provisions of the
1041 Florida Pesticide Law, part I of chapter 487.

1042 Section 22. Effective October 1, 2009, section 15.0355,
1043 Florida Statutes, is created to read:

1044 15.0355 Official state bird.—The osprey is designated and

22-01169C-09

20092618__

1045 declared as the official Florida state bird.

1046 Section 23. Subsection (3) of section 319.32, Florida
1047 Statutes, is amended to read:

1048 319.32 Fees; service charges; disposition.—

1049 (3) The department shall charge a fee of \$10 ~~\$4~~ in addition
1050 to that charged in subsection (1) for each original certificate
1051 of title issued for a vehicle previously registered outside this
1052 state.

1053 Section 24. Paragraphs (a) and (x) of subsection (4) of
1054 section 320.08056, Florida Statutes, are amended to read:

1055 320.08056 Specialty license plates.—

1056 (4) The following license plate annual use fees shall be
1057 collected for the appropriate specialty license plates:

1058 (a) Manatee license plate, \$25 ~~\$20~~.

1059 (x) Conserve Wildlife license plate, \$25 ~~\$15~~.

1060 Section 25. For the purpose of incorporating the amendment
1061 made by this act to section 319.32, Florida Statutes, in a
1062 reference thereto, paragraph (a) of subsection (2) of section
1063 379.209, Florida Statutes, is reenacted to read:

1064 379.209 Nongame Wildlife Trust Fund.—

1065 (2) (a) There is established within the Fish and Wildlife
1066 Conservation Commission the Nongame Wildlife Trust Fund. The
1067 fund shall be credited with moneys collected pursuant to ss.
1068 319.32(3) and 320.02(8). Additional funds may be provided from
1069 legislative appropriations and by donations from interested
1070 individuals and organizations. The commission shall designate an
1071 identifiable unit to administer the trust fund.

1072 Section 26. For the purpose of incorporating the amendment
1073 made by this act to section 379.353, Florida Statutes, in a

22-01169C-09

20092618__

1074 reference thereto, subsection (7) of section 379.3581, Florida
1075 Statutes, is reenacted to read:

1076 379.3581 Hunter safety course; requirements; penalty.—

1077 (7) The hunter safety requirements of this section do not
1078 apply to persons for whom licenses are not required under s.
1079 379.353(2).

1080 Section 27. Except as otherwise expressly provided in this
1081 act, this act shall take effect July 1, 2009.