

1 A bill to be entitled
 2 An act relating to mangrove protection; amending s.
 3 403.121, F.S.; expanding the penalty previously applicable
 4 to violations involving mangrove trimming or alteration to
 5 apply to any violation under the Mangrove Trimming and
 6 Preservation Act; providing a reduced penalty amount for
 7 specified mangrove trimming and alteration violations;
 8 providing additional penalty amounts for major
 9 unauthorized or second or subsequent mangrove trimming and
 10 alteration violations; providing a limitation; amending s.
 11 403.9323, F.S.; clarifying legislative intent with respect
 12 to the protection of mangroves; amending s. 403.9324,
 13 F.S.; authorizing the Department of Environmental
 14 Protection to adopt by rule certain exemptions and general
 15 permits under the Mangrove Trimming and Preservation Act;
 16 providing construction; amending s. 403.9329, F.S.;
 17 clarifying the department's authority to revoke a person's
 18 status as a professional mangrove trimmer; amending s.
 19 403.9331, F.S.; providing that the Mangrove Trimming and
 20 Preservation Act does not authorize trimming on
 21 uninhabited islands or lands that are publicly owned or
 22 set aside for conservation or mitigation except under
 23 specified circumstances; providing an effective date.

24
 25 Be It Enacted by the Legislature of the State of Florida:

26
 27 Section 1. Paragraph (d) of subsection (3) of section
 28 403.121, Florida Statutes, is amended to read:

29 403.121 Enforcement; procedure; remedies.--The department
 30 shall have the following judicial and administrative remedies
 31 available to it for violations of this chapter, as specified in
 32 s. 403.161(1).

33 (3) Except for violations involving hazardous wastes,
 34 asbestos, or underground injection, administrative penalties
 35 must be calculated according to the following schedule:

36 (d) ~~For mangrove trimming or alteration violations,~~ The
 37 department shall assess:

38 1. A penalty of \$5,000 per violation against any person
 39 who violates any provision of ss. 403.9321-403.9333 the
 40 contractor or agent of the owner or tenant that conducts
 41 mangrove trimming or alteration without a permit as required by
 42 s. 403.9328. However, for minor unauthorized trimming that
 43 otherwise would have qualified for a general permit under s.
 44 403.9327 or that has only minimal or insignificant individual or
 45 cumulative adverse impacts on mangrove resources, the department
 46 shall assess a penalty of \$1,000 for the first offense. For
 47 purposes of this paragraph, the preparation or signing of a
 48 permit application by a person currently licensed under chapter
 49 471 to practice as a professional engineer does shall not
 50 constitute a violation make that person an agent of the owner or
 51 tenant.

52 2. For major unauthorized trimming or a second or
 53 subsequent violation of subparagraph 1., an additional penalty
 54 of \$100 for each mangrove illegally trimmed and \$250 for each
 55 mangrove illegally altered, not to exceed a total of \$10,000.

56 3. For major unauthorized trimming or a second or
57 subsequent violation of subparagraph 1. by a professional
58 mangrove trimmer, an additional penalty of \$250 for each
59 mangrove illegally trimmed or altered, not to exceed a total of
60 \$10,000.

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

63 403.9323 Legislative intent.--

64 (3) It is the intent of the Legislature to provide
65 waterfront property owners their riparian right of view, and
66 other rights of riparian property ownership as recognized by s.
67 253.141 and any other provision of law, by allowing mangrove
68 trimming in riparian mangrove fringes without prior government
69 approval when conducted in conformance with the provisions of
70 ss. 403.9321-403.9333 and the trimming ~~activities~~ will not
71 result in the removal, defoliation, or destruction of the
72 mangroves.

73 Section 3. Present subsections (1) through (6) of section
74 403.9324, Florida Statutes, are redesignated as subsections (2)
75 through (7), respectively, a new subsection (1) is added to that
76 section, and present subsections (1) and (4) of that section are
77 amended, to read:

78 403.9324 Mangrove protection rule; delegation of mangrove
79 protection to local governments.--

80 (1) The department may adopt rules providing for
81 exemptions and general permits authorizing activities that have,
82 singularly or cumulatively, a minimal adverse effect on the
83 water resources of the state. This subsection does not grant the

84 department the authority to adopt rules for the exemptions and
85 general permits provided in ss. 403.9326 and 403.9327.

86 (2)~~(1)~~ Sections 403.9321-403.9333 and any lawful
87 regulations adopted in accordance with this section by a local
88 government that receives a delegation of the department's
89 authority to administer and enforce the regulation of mangroves
90 as provided by this section shall be the sole regulations in
91 this state for the trimming and alteration of mangroves on
92 privately or publicly owned lands. All other state and local
93 regulation of mangrove is as provided in subsection (4) ~~(3)~~.

94 (5)~~(4)~~ Within 45 days after receipt of a written request
95 for delegation from a local government, the department shall
96 grant or deny the request in writing. The request is deemed
97 approved if the department fails to respond within the 45-day
98 ~~time~~ period. In reviewing requests for delegation, the
99 department shall limit its review to whether the request
100 complies with the requirements of subsection (3) ~~(2)~~. The
101 department shall set forth in writing with specificity the
102 reasons for denial of a request for delegation. The department's
103 determination regarding delegation constitutes final agency
104 action and is subject to review under chapter 120.

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

107 403.9329 Professional mangrove trimmers.--

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

CS/HB 625

2009

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

114 403.9331 Applicability; rules and policies.--

115 (3) Pursuant to s. 403.9323(2), the provisions of ss.
116 403.9321-403.9333 do not allow the trimming of mangroves on
117 uninhabited islands that are publicly owned or on lands that are
118 set aside for conservation and preservation, or mitigation,
119 except where necessary to protect the public health, safety, and
120 welfare or to enhance public use of, or access to, conservation
121 areas in accordance with approved management plans.

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