

By Senator Latvala

16-00981A-12

20121782

1 A bill to be entitled
2 An act relating to the Fish and Wildlife Conservation
3 Commission; transferring and reassigning functions and
4 responsibilities of the Division of Law Enforcement
5 within the Department of Environmental Protection to
6 the Division of Law Enforcement within the Fish and
7 Wildlife Conservation Commission; providing for the
8 transfer of additional positions to the commission;
9 providing for a memorandum of agreement between the
10 department and the commission regarding the
11 responsibilities of the commission to the department;
12 transferring and reassigning functions and
13 responsibilities of sworn positions funded by the
14 Conservation and Recreation Lands Program and assigned
15 to the Florida Forest Service within the Department of
16 Agriculture and Consumer Services and the investigator
17 responsible for the enforcement of aquaculture
18 violations at the Department of Agriculture and
19 Consumer Services to the Division of Law Enforcement
20 within the Fish and Wildlife Conservation Commission;
21 providing for transition advisory working groups;
22 assigning powers, duties, responsibilities, and
23 functions for enforcement of the laws and rules
24 governing certain lands managed by the Department of
25 Environmental Protection and certain lands and
26 aquaculture managed by the Department of Agriculture
27 and Consumer Services to the Fish and Wildlife
28 Conservation Commission; conferring full power to the
29 law enforcement officers of the Fish and Wildlife

16-00981A-12

20121782

30 Conservation Commission to investigate and arrest for
31 violations of rules of the Department of Environmental
32 Protection and the Board of Trustees of the Internal
33 Improvement Trust Fund; providing for the retention
34 and transfer of specified benefits for employees that
35 are transferred from the Department of Environmental
36 Protection and the Department of Agriculture and
37 Consumer Services to fill positions transferred to the
38 Fish and Wildlife Conservation Commission; amending
39 ss. 20.255, 206.9935, 258.008, 258.501, 282.709,
40 287.0595, 316.2397, 316.640, 376.021, 376.031,
41 376.051, 376.065, 376.07, 376.0705, 376.071, 376.09,
42 376.10, 376.12, 376.121, 376.123, 376.14, 376.15,
43 376.16, 376.19, 376.30, 376.301, 376.303, 376.305,
44 376.307, 376.308, 379.3311, 379.3312, 379.3313,
45 379.333, 379.341, 403.413, 403.703, 403.704, 403.727,
46 784.07, 843.08, 870.04, and 932.7055, F.S.; conforming
47 provisions to changes made by the act; amending s.
48 376.11, F.S.; deleting provisions authorizing the
49 disbursement of moneys in the Florida Coastal
50 Protection Trust Fund for the purpose of making loans
51 to the Inland Protection Trust Fund and providing a
52 temporary transfer of funds to the Minerals Trust
53 Fund; creating ss. 258.601, 376.3031, and 403.7041,
54 F.S.; specifying powers and duties of the commission
55 relating to state parks and preserves and wild and
56 scenic rivers, removal of pollutant discharges, and
57 response to hazardous waste emergencies; amending ss.
58 171.205, 316.003, 376.40, 377.709, 403.707, and

16-00981A-12

20121782

59 487.048, F.S.; conforming cross-references; providing
60 an effective date.
61

62 Be It Enacted by the Legislature of the State of Florida:
63

64 Section 1. (1) All powers, duties, functions, records,
65 offices, personnel, property, pending issues and existing
66 contracts, administrative authority, administrative rules, and
67 unexpended balances of appropriations, allocations, and other
68 funds relating to the Division of Law Enforcement within the
69 Department of Environmental Protection are transferred by a type
70 two transfer, as defined in s. 20.06(2), Florida Statutes, to
71 the Division of Law Enforcement within the Florida Fish and
72 Wildlife Conservation Commission.

73 (2) The Secretary of Environmental Protection shall
74 transfer to the Fish and Wildlife Conservation Commission the
75 number of administrative, auditing, inspector general, attorney,
76 and operational support positions proportionate to the number of
77 Division of Law Enforcement full-time equivalent and other
78 personal services positions being transferred from the
79 department to the commission.

80 (3) A memorandum of agreement shall be developed between
81 the department and the commission detailing the responsibilities
82 of the commission to the department, to include, at a minimum,
83 the following:

84 (a) Support and response for oil spills, hazardous spills,
85 and natural disasters.

86 (b) Law enforcement patrol and investigative services for
87 all state-owned lands managed by the department.

16-00981A-12

20121782

88 (c) Law enforcement services, including investigative
89 services, for all criminal law violations of chapters 258, 376,
90 and 403, Florida Statutes.

91 (d) Enforcement services for all civil violations of all
92 department administrative rules related to the following program
93 areas:

94 1. Division of Recreation and Parks.

95 2. Office of Coastal and Aquatic Managed Areas.

96 3. Office of Greenways and Trails.

97 Section 2. All powers, duties, functions, records,
98 property, pending issues and existing contracts, administrative
99 authority, administrative rules, and unexpended balances of
100 appropriations, allocations, and other funds relating to sworn
101 positions funded by the Conservation and Recreation Lands
102 Program and assigned to the Florida Forest Service within the
103 Department of Agriculture and Consumer Services as of July 1,
104 2011, and the investigator responsible for the enforcement of
105 aquaculture violations at the Department of Agriculture and
106 Consumer Services as of July 1, 2011, are transferred by a type
107 two transfer, as defined in s. 20.06(2), Florida Statutes, to
108 the Division of Law Enforcement within the Fish and Wildlife
109 Conservation Commission.

110 Section 3. (1) The Secretary of Environmental Protection
111 and the executive director of the Fish and Wildlife Conservation
112 Commission shall each appoint three staff members to a
113 transition advisory working group to review and determine the
114 following:

115 (a) The appropriate proportionate number of administrative,
116 auditing, inspector general, attorney, and operational support

16-00981A-12

20121782

117 positions and their related funding levels and sources to be
118 transferred from the Office of General Counsel, Office of
119 Inspector General, and Division of Administrative Services
120 within the Department of Environmental Protection to the Fish
121 and Wildlife Conservation Commission.

122 (b) The development of a recommended plan addressing the
123 transfer or shared use of buildings, regional offices, and other
124 facilities used or owned by the Department of Environmental
125 Protection.

126 (c) Any operating budget adjustments as necessary to
127 implement the requirements of this act. Adjustments made to the
128 operating budgets of the department or the commission in the
129 implementation of this act must be made in consultation with the
130 appropriate substantive and fiscal committees of the Senate and
131 the House of Representatives. The revisions to the approved
132 operating budget for the 2012-2013 fiscal year which are
133 necessary to reflect the organizational changes made by this act
134 shall be implemented pursuant to s. 216.292(4)(d), Florida
135 Statutes, and subject to s. 216.177, Florida Statutes.
136 Subsequent adjustments between agencies which are determined
137 necessary by the department or commission and approved by the
138 Executive Office of the Governor are authorized and subject to
139 s. 216.177, Florida Statutes. The appropriate substantive
140 committees of the Senate and the House of Representatives shall
141 also be notified of the proposed revisions to ensure consistency
142 with legislative policy and intent.

143 (2) The Secretary of Environmental Protection, the
144 Commissioner of Agriculture, and the executive director of the
145 Fish and Wildlife Conservation Commission shall each appoint two

16-00981A-12

20121782

146 staff members to a transition advisory working group to identify
147 rules of the Department of Environmental Protection, the
148 Department of Agriculture and Consumer Services, and the Fish
149 and Wildlife Conservation Commission which need to be amended to
150 reflect the changes made by this act.

151 Section 4. (1) The Fish and Wildlife Conservation
152 Commission is assigned all powers, duties, responsibilities, and
153 functions necessary for enforcement of the laws and rules
154 governing:

155 (a) Management, protection, conservation, improvement, and
156 expansion of the state-owned lands managed by the Department of
157 Environmental Protection, including state parks, coastal and
158 aquatic managed areas, and greenways and trails.

159 (b) Conservation and recreation lands and commercial
160 aquaculture managed by the Department of Agriculture and
161 Consumer Services.

162 (2) Law enforcement officers of the Fish and Wildlife
163 Conservation Commission are conferred full power to investigate
164 and arrest for any violation of the rules of the Department of
165 Environmental Protection and the Board of Trustees of the
166 Internal Improvement Trust Fund.

167 Section 5. Notwithstanding chapter 60K-5, Florida
168 Administrative Code, or any provision of law to the contrary,
169 employees who are transferred from the Department of
170 Environmental Protection and the Department of Agriculture and
171 Consumer Services to fill positions transferred to the Fish and
172 Wildlife Conservation Commission shall retain and transfer any
173 accrued annual leave, sick leave, and regular and special
174 compensatory leave balances.

16-00981A-12

20121782

175 Section 6. Subsections (5) through (8) of section 20.255,
176 Florida Statutes, are renumbered as subsections (4) through (7),
177 respectively, and present subsections (3) and (4) of that
178 section are amended to read:

179 20.255 Department of Environmental Protection.—There is
180 created a Department of Environmental Protection.

181 (3) The following divisions of the Department of
182 Environmental Protection are established:

183 (a) Division of Administrative Services.

184 (b) Division of Air Resource Management.

185 (c) Division of Water Resource Management.

186 ~~(d) Division of Law Enforcement.~~

187 (d)~~(e)~~ Division of Environmental Assessment and
188 Restoration.

189 (e)~~(f)~~ Division of Waste Management.

190 (f)~~(g)~~ Division of Recreation and Parks.

191 (g)~~(h)~~ Division of State Lands, the director of which is to
192 be appointed by the secretary of the department, subject to
193 confirmation by the Governor and Cabinet sitting as the Board of
194 Trustees of the Internal Improvement Trust Fund.

195
196 In order to ensure statewide and intradepartmental consistency,
197 the department's divisions shall direct the district offices and
198 bureaus on matters of interpretation and applicability of the
199 department's rules and programs.

200 ~~(4) Law enforcement officers of the Department of~~
201 ~~Environmental Protection who meet the provisions of s. 943.13~~
202 ~~are constituted law enforcement officers of this state with full~~
203 ~~power to investigate and arrest for any violation of the laws of~~

16-00981A-12

20121782

204 ~~this state, and the rules of the department and the Board of~~
205 ~~Trustees of the Internal Improvement Trust Fund. The general~~
206 ~~laws applicable to investigations, searches, and arrests by~~
207 ~~peace officers of this state apply to such law enforcement~~
208 ~~officers.~~

209 Section 7. Subsection (1) of section 206.9935, Florida
210 Statutes, is amended to read:

211 206.9935 Taxes imposed.—

212 (1) TAX FOR COASTAL PROTECTION.—

213 (a)1. There is hereby levied an excise tax for the
214 privilege of producing in, importing into, or causing to be
215 imported into this state pollutants for sale, use, or otherwise.

216 2. The tax shall be imposed only once on each barrel of
217 pollutant, other than petroleum products, when first produced in
218 or imported into this state. The tax on pollutants first
219 imported into or produced in this state shall be imposed when
220 the product is first sold or first removed from storage. The tax
221 shall be paid and remitted by any person who is licensed by the
222 department to engage in the production or importation of motor
223 fuel, diesel fuel, aviation fuel, or other pollutants.

224 3. The tax shall be imposed on petroleum products and
225 remitted to the department in the same manner as the motor fuel
226 tax imposed pursuant to s. 206.41.

227 (b) The excise tax shall be 2 cents per barrel of
228 pollutant, or equivalent measure as established by the
229 department, produced in or imported into this state until the
230 balance in the Coastal Protection Trust Fund equals or exceeds
231 \$50 million. For the fiscal year immediately following the year
232 in which the balance in the fund equals or exceeds \$50 million,

16-00981A-12

20121782

233 no excise tax shall be levied unless:

234 1. The balance in the fund is less than or equal to \$40
235 million. For the fiscal year immediately following the year in
236 which the balance in the fund is less than or equal to \$40
237 million, the excise tax shall be and shall remain 2 cents per
238 barrel or equivalent measure until the fund again equals or
239 exceeds \$50 million. For the fiscal year immediately following
240 the year in which the fund again is equal to or exceeds \$50
241 million, the excise tax and fund shall be controlled as when the
242 fund first was equal to or exceeded \$50 million.

243 2. There is a discharge of catastrophic proportions, the
244 results of which could significantly reduce the balance in the
245 fund. In the event of such a catastrophic occurrence, the
246 executive director of the Fish and Wildlife Conservation
247 Commission ~~Secretary of Environmental Protection~~ may, by rule,
248 levy the excise tax in an amount not to exceed 10 cents per
249 barrel for a period of time sufficient to maintain the fund at a
250 balance of \$50 million, after payment of the costs and damages
251 related to the catastrophic discharge.

252 3. The fund is unable to pay any proven claims against the
253 fund at the end of the fiscal year. Notwithstanding any other
254 provision of this subsection, for the fiscal year following the
255 year in which the fund is unable to pay any proven claims
256 against the fund at the end of the fiscal year, the excise tax
257 shall be and shall remain 5 cents per barrel or equivalent
258 measure until all outstanding proven claims have been paid and
259 the fund again equals or exceeds \$20 million. For the fiscal
260 year immediately following the year in which the fund, after
261 levy of the 5-cent excise tax, again is equal to or exceeds \$20

16-00981A-12

20121782

262 million, the excise tax and fund shall be controlled in
263 accordance with subparagraph 1., unless otherwise provided.

264 4. The fund has had appropriated to it by the Legislature,
265 but has not yet repaid, state funds from the General Revenue
266 Fund. In such event, the excise tax shall continue to be in
267 effect until all such funds are repaid to the General Revenue
268 Fund.

269 (c)1. Excluding natural gas drilling activities, if
270 offshore oil drilling activity is approved by the United States
271 Department of the Interior for the waters off the coast of this
272 state in the Atlantic Ocean, Gulf of Mexico, or Straits of
273 Florida, paragraph (b) shall not apply. Instead, the excise tax
274 shall be 2 cents per barrel of pollutant, or equivalent measure
275 as established by the department, produced in or imported into
276 this state, and the proceeds shall be deposited into the Coastal
277 Protection Trust Fund with a cap of \$100 million.

278 2. If a discharge of catastrophic proportions occurs, the
279 results of which could significantly reduce the balance in the
280 fund, the executive director of the Fish and Wildlife
281 Conservation Commission ~~Secretary of Environmental Protection~~
282 may, by rule, increase the levy of the excise tax to an amount
283 not to exceed 10 cents per barrel for a period of time
284 sufficient to pay any proven claim against the fund and restore
285 the balance in the fund until it again equals or exceeds \$50
286 million; except that for any fiscal year immediately following
287 the year in which the fund is equal to or exceeds \$50 million,
288 the excise tax and fund shall be governed by ~~the provisions of~~
289 subparagraph 1.

290 Section 8. Subsection (1) of section 258.008, Florida

16-00981A-12

20121782__

291 Statutes, is amended to read:

292 258.008 Prohibited activities; penalties.—

293 (1) Except as provided in subsection (3), any person who
 294 violates or otherwise fails to comply with the rules adopted
 295 under this chapter commits a noncriminal infraction for which
 296 ejection from all property managed by the Division of Recreation
 297 and Parks and a fine of up to \$500 may be imposed by the
 298 division. Fines paid under this subsection shall be paid to the
 299 Fish and Wildlife Conservation Commission ~~Department of~~
 300 ~~Environmental Protection~~ and deposited in the State Game Park
 301 Trust Fund as provided in ss. 379.338, 379.339, and 379.3395.

302 Section 9. Subsection (16) of section 258.501, Florida
 303 Statutes, is amended to read:

304 258.501 Myakka River; wild and scenic segment.—

305 (16) ENFORCEMENT.—Officers of the Fish and Wildlife
 306 Conservation Commission ~~department~~ shall have full authority to
 307 enforce any rule adopted by the department ~~under this section~~
 308 ~~with the same police powers given them by law to enforce the~~
 309 ~~rules of state parks and the rules pertaining to saltwater areas~~
 310 ~~under the jurisdiction of the Florida Marine Patrol.~~

311 Section 10. Part IV of chapter 258, Florida Statutes,
 312 consisting of section 258.601, is created to read:

313 PART IV

314 MISCELLANEOUS PROVISIONS

315 258.601 Enforcement of prohibited activities.—Prohibited
 316 activities under this chapter shall be enforced by the Division
 317 of Law Enforcement of the Fish and Wildlife Conservation
 318 Commission and its officers.

319 Section 11. Paragraph (a) of subsection (2) of section

16-00981A-12

20121782

320 282.709, Florida Statutes, is amended to read:

321 282.709 State agency law enforcement radio system and
322 interoperability network.—

323 (2) The Joint Task Force on State Agency Law Enforcement
324 Communications is created adjunct to the department to advise
325 the department of member-agency needs relating to the planning,
326 designing, and establishment of the statewide communication
327 system.

328 (a) The Joint Task Force on State Agency Law Enforcement
329 Communications shall consist of the following ~~eight~~ members, ~~as~~
330 ~~follows~~:

331 1. A representative of the Division of Alcoholic Beverages
332 and Tobacco of the Department of Business and Professional
333 Regulation who shall be appointed by the secretary of the
334 department.

335 2. A representative of the Division of Florida Highway
336 Patrol of the Department of Highway Safety and Motor Vehicles
337 who shall be appointed by the executive director of the
338 department.

339 3. A representative of the Department of Law Enforcement
340 who shall be appointed by the executive director of the
341 department.

342 4. A representative of the Fish and Wildlife Conservation
343 Commission who shall be appointed by the executive director of
344 the commission.

345 ~~5. A representative of the Division of Law Enforcement of~~
346 ~~the Department of Environmental Protection who shall be~~
347 ~~appointed by the secretary of the department.~~

348 5.6. A representative of the Department of Corrections who

16-00981A-12

20121782__

349 shall be appointed by the secretary of the department.

350 ~~6.7.~~ A representative of the Division of State Fire Marshal
351 of the Department of Financial Services who shall be appointed
352 by the State Fire Marshal.

353 ~~7.8.~~ A representative of the Department of Transportation
354 who shall be appointed by the secretary of the department.

355 Section 12. Subsections (1) and (2) of section 287.0595,
356 Florida Statutes, are amended to read:

357 287.0595 Pollution response action contracts; department
358 and commission rules.-

359 (1) The Department of Environmental Protection and the Fish
360 and Wildlife Conservation Commission shall establish, by
361 adopting administrative rules as provided in chapter 120:

362 (a) Procedures for determining the qualifications of
363 responsible potential vendors prior to advertisement for and
364 receipt of bids, proposals, or replies for pollution response
365 action contracts, including procedures for the rejection of
366 unqualified vendors. Response actions are those activities
367 described in s. 376.301(40) ~~376.301(39)~~.

368 (b) Procedures for awarding such contracts to the lowest
369 responsible and responsive vendor as well as procedures to be
370 followed in cases in which the department declares a valid
371 emergency to exist which would necessitate the waiver of the
372 rules governing the awarding of such contracts to the lowest
373 responsible and responsive vendor.

374 (c) Procedures governing payment of contracts.

375 (d) Procedures to govern negotiations for contracts,
376 modifications to contract documents, and terms and conditions of
377 contracts.

16-00981A-12

20121782

378 (2) In adopting rules under this section, the Department of
379 Environmental Protection and the Fish and Wildlife Conservation
380 Commission shall follow the criteria applicable to the
381 department's contracting to the maximum extent possible,
382 consistent with the goals and purposes of each agency pursuant
383 to ss. 376.307 and 376.3071. For the purposes of this
384 subsection, the Fish and Wildlife Conservation Commission may
385 use the rules adopted by the Department of Environmental
386 Protection.

387 Section 13. Subsections (3) and (9) of section 316.2397,
388 Florida Statutes, are amended to read:

389 316.2397 Certain lights prohibited; exceptions.—

390 (3) Vehicles of the fire department and fire patrol,
391 including vehicles of volunteer firefighters as permitted under
392 s. 316.2398, vehicles of medical staff physicians or technicians
393 of medical facilities licensed by the state as authorized under
394 s. 316.2398, ambulances as authorized under this chapter, and
395 buses and taxicabs as authorized under s. 316.2399 may are
396 ~~permitted to~~ show or display red lights. Vehicles of the fire
397 department, fire patrol, police vehicles, and such ambulances
398 and emergency vehicles of municipal and county departments,
399 public service corporations operated by private corporations,
400 the Fish and Wildlife Conservation Commission ~~Department of~~
401 ~~Environmental Protection~~, the Department of Transportation, the
402 Department of Agriculture and Consumer Services, and the
403 Department of Corrections as are designated or authorized by
404 their respective department or the chief of police of an
405 incorporated city or any sheriff of any county may are hereby
406 ~~authorized to~~ operate emergency lights and sirens in an

16-00981A-12

20121782

407 emergency. Wreckers, mosquito control fog and spray vehicles,
408 and emergency vehicles of governmental departments or public
409 service corporations may show or display amber lights when in
410 actual operation or when a hazard exists provided they are not
411 used going to and from the scene of operation or hazard without
412 specific authorization of a law enforcement officer or law
413 enforcement agency. Wreckers must use amber rotating or flashing
414 lights while performing recoveries and loading on the roadside
415 day or night, and may use such lights while towing a vehicle on
416 wheel lifts, slings, or under reach if the operator of the
417 wrecker deems such lights necessary. A flatbed, car carrier, or
418 rollback may not use amber rotating or flashing lights when
419 hauling a vehicle on the bed unless it creates a hazard to other
420 motorists because of protruding objects. Further, escort
421 vehicles may show or display amber lights when in the actual
422 process of escorting overdimensioned equipment, material, or
423 buildings as authorized by law. Vehicles owned or leased by
424 private security agencies may show or display green and amber
425 lights, with either color being no greater than 50 percent of
426 the lights displayed, while the security personnel are engaged
427 in security duties on private or public property.

428 (9) Flashing red lights may be used by emergency response
429 vehicles of the Fish and Wildlife Conservation Commission
430 ~~Department of Environmental Protection~~ and the Department of
431 Health when responding to an emergency in the line of duty.

432 Section 14. Paragraph (a) of subsection (1) of section
433 316.640, Florida Statutes, is amended to read:

434 316.640 Enforcement.—The enforcement of the traffic laws of
435 this state is vested as follows:

16-00981A-12

20121782__

436 (1) STATE.—

437 (a)1.a. The Division of Florida Highway Patrol of the
438 Department of Highway Safety and Motor Vehicles; the Division of
439 Law Enforcement of the Fish and Wildlife Conservation
440 Commission; ~~the Division of Law Enforcement of the Department of~~
441 ~~Environmental Protection;~~ and the agents, inspectors, and
442 officers of the Department of Law Enforcement each have
443 authority to enforce all of the traffic laws of this state on
444 all the streets and highways thereof and elsewhere throughout
445 the state wherever the public has a right to travel by motor
446 vehicle.

447 b. University police officers may ~~shall have authority to~~
448 enforce all of the traffic laws of this state when violations
449 occur on or within 1,000 feet of any property or facilities that
450 are under the guidance, supervision, regulation, or control of a
451 state university, a direct-support organization of such state
452 university, or any other organization controlled by the state
453 university or a direct-support organization of the state
454 university, or when such violations occur within a specified
455 jurisdictional area as agreed upon in a mutual aid agreement
456 entered into with a law enforcement agency pursuant to s.
457 23.1225(1). Traffic laws may also be enforced off-campus when
458 hot pursuit originates on or within 1,000 feet of any such
459 property or facilities, or as agreed upon in accordance with the
460 mutual aid agreement.

461 c. Community college police officers may ~~shall have the~~
462 ~~authority to~~ enforce all the traffic laws of this state only
463 when such violations occur on any property or facilities that
464 are under the guidance, supervision, regulation, or control of

16-00981A-12

20121782

465 the community college system.

466 d. Police officers employed by an airport authority may
467 ~~shall have the authority to~~ enforce all of the traffic laws of
468 this state only when such violations occur on any property or
469 facilities that are owned or operated by an airport authority.

470 (I) An airport authority may employ as a parking
471 enforcement specialist any individual who successfully completes
472 a training program established and approved by the Criminal
473 Justice Standards and Training Commission for parking
474 enforcement specialists but who does not otherwise meet the
475 uniform minimum standards established by the commission for law
476 enforcement officers or auxiliary or part-time officers under s.
477 943.12. ~~Nothing in~~ This sub-sub-subparagraph may not ~~shall~~ be
478 construed to permit the carrying of firearms or other weapons,
479 nor shall such parking enforcement specialist have arrest
480 authority.

481 (II) A parking enforcement specialist employed by an
482 airport authority may ~~is authorized to~~ enforce all state,
483 county, and municipal laws and ordinances governing parking only
484 when such violations are on property or facilities owned or
485 operated by the airport authority employing the specialist, by
486 appropriate state, county, or municipal traffic citation.

487 e. The Office of Agricultural Law Enforcement of the
488 Department of Agriculture and Consumer Services may ~~shall have~~
489 ~~the authority to~~ enforce traffic laws of this state.

490 f. School safety officers may ~~shall have the authority to~~
491 enforce all of the traffic laws of this state when such
492 violations occur on or about any property or facilities that
493 ~~which~~ are under the guidance, supervision, regulation, or

16-00981A-12

20121782

494 control of the district school board.

495 2. An agency of the state as described in subparagraph 1.
496 is prohibited from establishing a traffic citation quota. A
497 violation of this subparagraph is not subject to the penalties
498 provided in chapter 318.

499 3. Any disciplinary action taken or performance evaluation
500 conducted by an agency of the state as described in subparagraph
501 1. of a law enforcement officer's traffic enforcement activity
502 must be in accordance with written work-performance standards.
503 Such standards must be approved by the agency and any collective
504 bargaining unit representing such law enforcement officer. A
505 violation of this subparagraph is not subject to the penalties
506 provided in chapter 318.

507 4. The Division of the Florida Highway Patrol may employ as
508 a traffic accident investigation officer any individual who
509 successfully completes instruction in traffic accident
510 investigation and court presentation through the Selective
511 Traffic Enforcement Program as approved by the Criminal Justice
512 Standards and Training Commission and funded through the
513 National Highway Traffic Safety Administration or a similar
514 program approved by the commission, but who does not necessarily
515 meet the uniform minimum standards established by the commission
516 for law enforcement officers or auxiliary law enforcement
517 officers under chapter 943. Any such traffic accident
518 investigation officer who makes an investigation at the scene of
519 a traffic accident may issue traffic citations, based upon
520 personal investigation, when he or she has reasonable and
521 probable grounds to believe that a person who was involved in
522 the accident committed an offense under this chapter, chapter

16-00981A-12

20121782__

523 319, chapter 320, or chapter 322 in connection with the
524 accident. This subparagraph does not permit the officer to carry
525 firearms or other weapons, and such an officer does not have
526 authority to make arrests.

527 Section 15. Subsection (4) of section 376.021, Florida
528 Statutes, is amended to read:

529 376.021 Legislative intent with respect to pollution of
530 coastal waters and lands.—

531 (4) The Legislature intends by the enactment of ss.
532 376.011-376.21 to exercise the police power of the state by
533 conferring upon the Fish and Wildlife Conservation Commission
534 ~~Department of Environmental Protection~~ power to:

535 (a) Deal with the hazards and threats of danger and damage
536 posed by such transfers and related activities;

537 (b) Require the prompt containment and removal of pollution
538 occasioned thereby; and

539 (c) Establish a fund to provide for the inspection and
540 supervision of such activities and guarantee the prompt payment
541 of reasonable damage claims resulting therefrom.

542 Section 16. Subsections (5) through (21) of section
543 376.031, Florida Statutes, are amended to read:

544 376.031 Definitions; ss. 376.011-376.21.—When used in ss.
545 376.011-376.21, unless the context clearly requires otherwise,
546 the term:

547 (5) "Commission" means the Fish and Wildlife Conservation
548 Commission.

549 (6) ~~(5)~~ "Damage" means the documented extent of any
550 destruction to or loss of any real or personal property, or the
551 documented extent, pursuant to s. 376.121, of any destruction of

16-00981A-12

20121782__

552 the environment and natural resources, including all living
553 things except human beings, as the direct result of the
554 discharge of a pollutant.

555 ~~(6) "Department" means the Department of Environmental~~
556 ~~Protection.~~

557 (7) "Director" means the executive director of the Fish and
558 Wildlife Conservation Commission.

559 (8)~~(7)~~ "Discharge" includes, but is not limited to, any
560 spilling, leaking, seeping, pouring, emitting, emptying, or
561 dumping which occurs within the territorial limits of the state
562 or outside the territorial limits of the state and affects lands
563 and waters within the territorial limits of the state.

564 (9)~~(8)~~ "Discharge cleanup organization" means any group,
565 incorporated or unincorporated, of owners or operators of
566 waterfront terminal facilities in any port or harbor of the
567 state, and any other person who may elect to join, organized for
568 the purpose of containing and cleaning up discharges of
569 pollutants through cooperative efforts and shared equipment and
570 facilities. For the purposes of ss. 376.011-376.21, any third-
571 party cleanup contractor or any local government shall be
572 recognized as a discharge cleanup organization, if provided such
573 contractor or local government is properly certified by the
574 commission ~~department~~.

575 (10)~~(9)~~ "Fund" means the Florida Coastal Protection Trust
576 Fund.

577 (11)~~(10)~~ "Marine fueling facility" means a commercial or
578 recreational coastal facility providing fuel to vessels,
579 excluding a bulk product facility.

580 (12)~~(11)~~ "Operator" means any person operating a terminal

16-00981A-12

20121782__

581 facility or vessel, whether by lease, contract, or other form of
582 agreement.

583 (13)~~(12)~~ "Other measurements" means measurements set by the
584 commission ~~department~~ for products transferred at terminals
585 which are other than fluid or which are not commonly measured by
586 the barrel.

587 (14)~~(13)~~ "Owner" means any person owning a terminal
588 facility or vessel.

589 (15)~~(14)~~ "Person" means any individual, partner, joint
590 venture, corporation; any group of the foregoing, organized or
591 united for a business purpose; or any governmental entity.

592 (16)~~(15)~~ "Person in charge" means the person on the scene
593 who is in direct, responsible charge of a terminal facility or
594 vessel from which pollutants are discharged, when the discharge
595 occurs.

596 (17)~~(16)~~ "Pollutants" includes oil of any kind and in any
597 form, gasoline, pesticides, ammonia, chlorine, and derivatives
598 thereof, excluding liquefied petroleum gas.

599 (18)~~(17)~~ "Pollution" means the presence in the outdoor
600 atmosphere or waters of the state of any one or more substances
601 or pollutants in quantities which are or may be potentially
602 harmful or injurious to human health or welfare, animal or plant
603 life, or property or which may unreasonably interfere with the
604 enjoyment of life or property, including outdoor recreation.

605 (19)~~(18)~~ "Remove" or "removal" means containment, cleanup,
606 and removal of oil or a hazardous substance from water and
607 shorelines or the taking of other actions as may be necessary to
608 minimize or mitigate damage to the public health or welfare,
609 including, but not limited to, fish, shellfish, and wildlife,

16-00981A-12

20121782

610 and public and private property, shorelines, and beaches.

611 (20)~~(19)~~ "Removal costs" means the costs of removal that
612 are incurred after a discharge of oil has occurred or, in any
613 case in which there is a substantial threat of a discharge of
614 oil, the costs to prevent, minimize, or mitigate oil pollution
615 from such an incident.

616 (21)~~(20)~~ "Responsible party" means:

617 (a) *Vessels*.—In the case of a vessel, any person owning,
618 operating, or demise-chartering the vessel.

619 (b) *Onshore facilities*.—In the case of an onshore facility,
620 other than a pipeline, any person owning or operating the
621 facility, except a federal agency, the state or a political
622 subdivision of the state, a municipality, a commission, or any
623 interstate body, that, as the owner of the facility, transfers
624 possession and right to use the property to another person by
625 lease, assignment, or permit.

626 (c) *Offshore facilities*.—In the case of an offshore
627 facility, other than a pipeline or a deepwater port licensed
628 under the Deepwater Port Act of 1974, 33 U.S.C. ss. 1501 et
629 seq., the lessee or permittee of the area in which the facility
630 is located or the holder of a right of use and easement granted
631 under applicable state law or the Outer Continental Shelf Lands
632 Act, 43 U.S.C. ss. 1301-1356, for the area in which the facility
633 is located, if the holder is a different person than the lessee
634 or permittee, except a federal agency, the state, a
635 municipality, a commission, a political subdivision of any
636 state, or any interstate body, that, as the owner of the
637 facility, transfers possession and right to use the property to
638 another person by lease, assignment, or permit.

16-00981A-12

20121782

639 (d) *Deepwater ports.*—In the case of a deepwater port
 640 licensed under the Deepwater Port Act of 1974, 33 U.S.C. ss.
 641 1501-1524, the licensee.

642 (e) *Pipelines.*—In the case of a pipeline, any person owning
 643 or operating the pipeline.

644 (f) *Abandonment.*—In the case of an abandoned vessel,
 645 onshore facility, deepwater port, pipeline, or offshore
 646 facility, the persons who would have been responsible parties
 647 immediately prior to the abandonment of the vessel or facility.

648 ~~(21) "Secretary" means the Secretary of Environmental~~
 649 ~~Protection.~~

650 Section 17. Section 376.051, Florida Statutes, is amended
 651 to read:

652 376.051 Powers and duties of the Fish and Wildlife
 653 Conservation Commission ~~Department of Environmental Protection.~~—

654 (1) The powers and duties conferred by ss. 376.011-376.21
 655 shall be exercised by the commission ~~department~~ and shall be
 656 deemed to be an essential governmental function in the exercise
 657 of the police power of the state. The commission ~~department~~ may
 658 call upon any other state agency for consultative services and
 659 technical advice and the agencies are directed to cooperate in
 660 such ~~said~~ request.

661 (2) The powers and duties of the commission ~~department~~
 662 under ss. 376.011-376.21 shall extend to the boundaries of the
 663 state described in s. 1, Art. II of the State Constitution.

664 (3) Registration certificates and discharge prevention and
 665 response certificates required under ss. 376.011-376.21 shall be
 666 issued from the commission ~~department~~ subject to such terms and
 667 conditions as are set forth in ss. 376.011-376.21 and as set

16-00981A-12

20121782

668 forth in rules adopted by the commission ~~department~~ as
669 authorized herein.

670 (4) Whenever it becomes necessary for the state to protect
671 the public interest under ss. 376.011-376.21, it shall be the
672 duty of the commission ~~department~~ to keep an accurate record of
673 any sums expended from the fund to meet the goals and duties of
674 ss. 376.011-376.21 ~~costs and expenses incurred~~ and thereafter
675 diligently to pursue the recovery of any sums so expended
676 ~~incurred~~ from the person responsible or from the Government of
677 the United States under any applicable federal act.

678 (5) The commission ~~department~~ may bring an action on behalf
679 of the state to enforce the liabilities imposed by s. 376.12.
680 The Department of Legal Affairs shall represent the commission
681 ~~department~~ in any such proceeding.

682 (6) The commission may use ~~department is specifically~~
683 ~~authorized to utilize~~ risk-based cleanup criteria as described
684 in ss. 376.3071, 376.3078, and 376.81 in conducting cleanups on
685 lands owned by the state university system.

686 Section 18. Section 376.065, Florida Statutes, is amended
687 to read:

688 376.065 Operation of terminal facility without discharge
689 prevention and response certificate prohibited; penalty.-

690 (1) Every owner or operator of a terminal facility shall
691 obtain a discharge prevention and response certificate issued by
692 the commission ~~department~~. Terminal facilities which are
693 vessels, motor vehicles, rolling stock, pipelines, equipment, or
694 other related appurtenances may, at the discretion of the owner
695 or operator, be covered under the discharge prevention and
696 response certificate of the terminal facility from which they

16-00981A-12

20121782

697 are located or dispatched. A certificate shall be valid for 12
698 months after the date of issuance, subject to such terms and
699 conditions as the commission ~~department~~ may determine are
700 necessary to carry out the purposes of ss. 376.011-376.21.

701 (2) Each applicant for a discharge prevention and response
702 certificate shall submit information, in a form satisfactory to
703 the commission ~~department~~, describing the following:

704 (a) The barrel or other measurement capacity of the
705 terminal facility and the length of the largest vessel docking
706 at or providing service from the terminal facility.

707 (b) All prevention, containment, and removal equipment,
708 including, but not limited to, vehicles, vessels, pumps,
709 skimmers, booms, chemicals, and communication devices to which
710 the facility has access, whether through direct ownership or by
711 contract or membership in an approved discharge cleanup
712 organization.

713 (c) The terms of agreement and the operation plan of any
714 discharge cleanup organization to which the owner or operator of
715 the terminal facility belongs.

716 (3) A ~~No~~ person may not ~~shall~~ operate or cause to be
717 operated a terminal facility without access to minimum
718 containment equipment measuring five times the length of the
719 largest vessel docking at or the largest vessel providing
720 service from the terminal facility, whichever is larger. The
721 containment equipment and adequate numbers of trained personnel,
722 as identified in the federal Oil Pollution Act of 1990 and
723 related guidelines adopted thereunder, to operate the
724 containment equipment shall be available to begin deployment on
725 the water within 1 hour after discovery of the discharge. Within

16-00981A-12

20121782

726 a reasonable time period, additional cleanup equipment and
727 trained personnel shall be available, either through direct
728 ownership or by contract or membership in an approved cleanup
729 organization, to reasonably clean up 10,000 gallons of
730 pollutants, unless the terminal facility does not have the
731 capacity to store that quantity as fuel or cargo and does not
732 service vessels having the capacity to carry that quantity as
733 fuel or cargo. The commission ~~department~~ may impose less
734 stringent requirements for marine fueling facilities. Cleanup or
735 containment equipment purchased with state funds does ~~shall~~ not
736 count as required equipment under this section. The requirements
737 of this section do ~~shall~~ not apply to terminal facilities that
738 ~~which~~ store only motor fuel, ammonia, or chlorine, or service
739 only motor fuel to vessels. For purposes of this subsection,
740 "motor fuel" means gasoline, gasohol, and other mixtures of
741 gasoline. The exemptions provided by this subsection do not
742 eliminate any responsibilities arising from the discharge of a
743 pollutant and for conducting remedial action as required by this
744 chapter or chapter 403.

745 (4) Upon a showing of satisfactory containment and cleanup
746 capability required by the commission ~~department~~ under this
747 section, the applicant shall be issued a discharge prevention
748 and response certificate covering the terminal facility and
749 related appurtenances, including vessels as defined in s.
750 376.031.

751 (5) (a) A ~~Any~~ person who violates this section or the terms
752 and requirements of such certification commits a noncriminal
753 infraction. The civil penalty for any such infraction shall be
754 \$500, except as otherwise provided in this section.

16-00981A-12

20121782__

755 (b) A ~~Any~~ person cited for an infraction under this section
756 may:

757 1. Pay the civil penalty;

758 ~~2. Post a bond equal to the amount of the applicable civil~~
759 ~~penalty;~~ or

760 2.3. Sign and accept a citation indicating a promise to
761 appear before the county court.

762

763 The officer authorized to issue these citations may indicate on
764 the citation the time and location of the scheduled hearing and
765 shall indicate the applicable civil penalty.

766 (c) A ~~Any~~ person who willfully refuses to ~~post bond or~~
767 accept and sign a citation commits a misdemeanor of the second
768 degree, punishable as provided in s. 775.082 or s. 775.083.

769 (d) After compliance with ~~the provisions of~~ subparagraph
770 (b)2. ~~or subparagraph (b)3.~~, a any person charged with a
771 noncriminal infraction under this section shall ~~may~~:

772 ~~1.~~ pay the civil penalty, either by mail or in person,
773 within 30 days after the date of receiving the citation; ~~or~~

774 ~~2. If the person has posted bond, forfeit the bond by not~~
775 ~~appearing at the designated time and location.~~

776

777 A person cited for an infraction under this section who pays the
778 civil penalty ~~or forfeits the bond~~ has admitted the infraction
779 and waives the right to a hearing on the issue of commission of
780 the infraction. Such admission may not be used as evidence in
781 any other proceedings.

782 (e) A ~~Any~~ person who elects to appear before the county
783 court or who is required to so appear waives the limitations of

16-00981A-12

20121782__

784 the civil penalty specified in paragraph (a). The court, after a
785 hearing, shall make a determination as to whether an infraction
786 has been committed. If the commission of the infraction is
787 proved, the court shall impose a civil penalty of \$500.

788 (f) At a hearing under this subsection, the commission of a
789 charged infraction must be proved by the greater weight of the
790 evidence.

791 (g) A person who is found by the hearing official to have
792 committed an infraction may appeal that finding to the circuit
793 court.

794 (h) A ~~Any person who has not posted bond and who~~ fails
795 either to pay the fine specified in paragraph (a) within 30 days
796 after receipt of the citation or to appear before the court
797 commits a misdemeanor of the second degree, punishable as
798 provided in s. 775.082 or s. 775.083.

799 Section 19. Section 376.07, Florida Statutes, is amended to
800 read:

801 376.07 Regulatory powers of commission ~~department~~;
802 penalties for inadequate booming by terminal facilities.—

803 (1) The commission ~~department~~ shall adopt rules pursuant to
804 ss. 120.536(1) and 120.54 to implement ss. 376.011-376.21.

805 (2) The commission ~~department~~ shall adopt rules including,
806 but not limited to, the following matters:

807 (a) Operation and inspection requirements for discharge
808 prevention, abatement, and cleanup capabilities of terminal
809 facilities and vessels, and other matters relating to
810 certification under ss. 376.011-376.21.

811 (b) Procedures and methods of reporting discharges and
812 other occurrences prohibited by ss. 376.011-376.21.

16-00981A-12

20121782

813 (c) Procedures, methods, means, and equipment to be used by
814 persons subject to regulation by ss. 376.011-376.21 in the
815 removal of pollutants.

816 (d) Development and implementation of criteria and plans to
817 meet pollution occurrences of various degrees and kinds.

818 (e) Creation by contract or administrative action of a
819 state response team which shall be responsible for creating and
820 maintaining a contingency plan of response, organization, and
821 equipment for handling emergency cleanup operations and wildlife
822 rescue and rehabilitation operations. The state plans shall
823 include detailed emergency operating procedures for the state as
824 a whole, and the team shall from time to time conduct practice
825 alerts. These plans shall be filed with the Governor and all
826 Coast Guard stations in the state and Coast Guard captains of
827 the port having responsibility for enforcement of federal
828 pollution laws within the state. The contingency plan shall
829 include all necessary information for the total containment and
830 cleanup of pollution, including, but not limited to, an
831 inventory of equipment and its location, a table of organization
832 with the names, addresses, and telephone numbers of all persons
833 responsible for implementing every phase of the plan, including
834 a plan for wildlife rescue and rehabilitation operations, a list
835 of available sources of supplies necessary for cleanup, and a
836 designation of priority zones to determine the sequence and
837 methods of cleanup. The state response team shall act
838 independently of agencies of the Federal Government but is
839 directed to cooperate with any federal cleanup operation.

840 (f) Requirements for minimum weather and sea conditions for
841 permitting a vessel to enter port and for the safety and

16-00981A-12

20121782__

842 operation of vessels, barges, tugs, motor vehicles, motorized
843 equipment, and other equipment relating to the use and operation
844 of terminals, facilities, and refineries, the approach and
845 departure from terminals, facilities, and refineries, and
846 requirements that containment gear approved by the commission
847 ~~department~~ be on hand and maintained by terminal facilities and
848 refineries with adequate personnel trained in its use.

849 (g) Requirements that, prior to being granted entry into
850 any port in this state, the master of a vessel shall report:

851 1. Any discharges of pollutants the vessel has had since
852 leaving the last port.

853 2. Any mechanical problem on the vessel which creates the
854 possibility of a discharge.

855 3. Any denial of entry into any port during the current
856 cruise of the vessel.

857 (h) Requirements that any terminal facility be subject to a
858 complete and thorough inspection whenever the terminal facility
859 causes or permits the discharge of a pollutant in violation of
860 ~~the provisions of~~ ss. 376.011-376.21, and at other reasonable
861 times. If the commission ~~department~~ determines there are
862 unsatisfactory preventive measures or containment and cleanup
863 capabilities, it shall, within a reasonable time after notice
864 and hearing in compliance with chapter 120, suspend the
865 registration until such time as there is compliance with the
866 commission ~~department~~ requirements.

867 (3) The commission ~~may department shall~~ not require vessels
868 to maintain discharge prevention gear, holding tanks, and
869 containment gear which exceed federal requirements. However, a
870 terminal facility transferring heavy oil to or from a vessel

16-00981A-12

20121782

871 with a heavy oil storage capacity greater than 10,000 gallons
872 shall be required, considering existing weather and tidal
873 conditions, to adequately boom or seal off the transfer area
874 during a transfer, including, but not limited to, a bunkering
875 operation, to minimize the escape of such pollutants from the
876 containment area. As used in this subsection, the term "adequate
877 booming" means booming with proper containment equipment which
878 is employed and located for the purpose of preventing, for the
879 most likely discharge, as much of the pollutant as possible from
880 escaping out of the containment area.

881 (a) The owner or operator of a terminal facility involved
882 in the transfer of such pollutant to or from a vessel which is
883 not adequately boomed commits a noncriminal infraction and shall
884 be cited for such infraction. The civil penalty for such an
885 infraction shall be \$2,500, except as otherwise provided in this
886 section.

887 (b) A ~~Any~~ person cited for an infraction under this section
888 may:

889 1. Pay the civil penalty;

890 ~~2. Post bond equal to the amount of the applicable civil~~
891 ~~penalty; or~~

892 2.3. Sign and accept a citation indicating a promise to
893 appear before the county court.

894
895 The officer authorized to issue these citations may indicate on
896 the citation the time and location of the scheduled hearing and
897 shall indicate the applicable civil penalty.

898 (c) A ~~Any~~ person who willfully refuses to ~~post bond or~~
899 accept and sign a citation commits a misdemeanor of the second

16-00981A-12

20121782

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

901 (d) After compliance with subparagraph (b)2. ~~or~~
902 ~~subparagraph (b)3.~~, a any person charged with a noncriminal
903 infraction under this section shall ~~may~~:

904 ~~1.~~ pay the civil penalty, either by mail or in person,
905 within 30 days after the date of receiving the citation; ~~or~~

906 ~~2. If the person has posted bond, forfeit the bond by not~~
907 ~~appearing at the designated time and location.~~

908
909 A person cited for an infraction under this section who pays the
910 civil penalty ~~or forfeits the bond~~ has admitted the infraction
911 and waives the right to a hearing on the issue of commission of
912 the infraction. Such admission may not be used as evidence in
913 any other proceedings.

914 (e) A ~~Any~~ person who elects to appear before the county
915 court or who is required to appear waives the limitations of the
916 civil penalty specified in paragraph (a). The issue of whether
917 an infraction has been committed and the severity of the
918 infraction shall be determined by a hearing official at a
919 hearing. If the commission of the infraction is proved by the
920 greater weight of the evidence, the court shall impose a civil
921 penalty of \$2,500. If the court determines that the owner or
922 operator of the terminal facility failed to deploy any boom
923 equipment during such a transfer, including, but not limited to,
924 a bunkering operation, the civil penalty shall be \$5,000.

925 (f) A person who is found by the hearing official to have
926 committed an infraction may appeal that finding to the circuit
927 court.

928 (g) A ~~Any~~ person who ~~has not posted bond and who~~ fails

16-00981A-12

20121782

929 either to pay the civil penalty specified in paragraph (a)
930 within 30 days after receipt of the citation or to appear before
931 the court commits a misdemeanor of the second degree, punishable
932 as provided in s. 775.082 or s. 775.083.

933 Section 20. Section 376.0705, Florida Statutes, is amended
934 to read:

935 376.0705 Development of training programs and educational
936 materials.—The commission ~~department~~ shall encourage the
937 development of training programs for personnel needed for
938 pollutant discharge prevention and cleanup activities. The
939 commission ~~department~~ shall work with accredited community
940 colleges, career centers, state universities, and private
941 institutions in developing educational materials, courses of
942 study, and other such information to be made available for
943 persons seeking to be trained for pollutant discharge prevention
944 and cleanup activities.

945 Section 21. Subsection (1) of section 376.071, Florida
946 Statutes, is amended to read:

947 376.071 Discharge contingency plan for vessels.—

948 (1) A ~~Any~~ vessel operating in state waters with a storage
949 capacity to carry 10,000 gallons or more of pollutants as fuel
950 or cargo shall maintain an adequate written ship-specific
951 discharge prevention and control contingency plan. ~~Any~~ Such
952 vessel shall have on board a "discharge officer," designated by
953 the contingency plan, who is responsible for training crew
954 members to carry out discharge response efforts required in the
955 contingency plan and coordinating all on-board response efforts
956 in case of a discharge. An adequate plan shall include
957 provisions for on-board response, including notification,

16-00981A-12

20121782

958 verification, pollutant incident assessment, vessel
959 stabilization, discharge mitigation, and on-board discharge
960 containment, in accordance with this chapter, commission
961 ~~department~~ rules, and the Florida Coastal Pollutant Discharge
962 Contingency Plan. A plan in compliance with the federal
963 requirement for a ship-specific discharge contingency plan
964 satisfies ~~shall satisfy~~ the requirements for an adequate ship-
965 specific discharge contingency plan required by this section.

966 Section 22. Section 376.09, Florida Statutes, is amended to
967 read:

968 376.09 Removal of prohibited discharges.—

969 (1) A ~~Any~~ person discharging pollutants as prohibited by s.
970 376.041 shall immediately undertake to contain, remove, and
971 abate the discharge to the commission's ~~department's~~
972 satisfaction. Notwithstanding the above requirement, the
973 commission ~~department~~ may undertake the removal of the discharge
974 and may contract and retain agents who shall operate under the
975 direction of the commission ~~department~~.

976 (2) If the person causing a discharge, or the person in
977 charge of facilities at which a discharge has taken place, fails
978 to act, the commission ~~department~~ may arrange for the removal of
979 the pollutant, except that if the pollutant was discharged into
980 or upon the navigable waters of the United States, the
981 commission ~~department~~ shall act in accordance with the national
982 contingency plan for removal of such pollutant as established
983 pursuant to the Federal Water Pollution Control Act, as amended,
984 or other federal law, and the costs of removal incurred by the
985 commission ~~department~~ shall be paid in accordance with the
986 applicable provisions of federal law. Federal funds shall be

16-00981A-12

20121782

987 used to the maximum extent possible prior to the expenditure of
988 state funds.

989 (3) In the event of discharge the source of which is
990 unknown, any local discharge cleanup organization shall, upon
991 the request of the commission ~~department~~ or its designee,
992 immediately contain and remove the discharge. An ~~No~~ action taken
993 by a ~~any~~ person to contain or remove a discharge, whether such
994 action is taken voluntarily or at the request of the commission
995 ~~department~~ or its designee, is not ~~shall be construed as an~~
996 admission of liability for the discharge.

997 (4) A ~~No~~ person who, voluntarily or at the request of the
998 commission ~~department~~ or its designee, renders assistance in
999 containing or removing pollutants is not ~~shall be~~ liable for any
1000 civil damages to third parties resulting solely from acts or
1001 omissions of such person in rendering such assistance, except
1002 for acts or omissions amounting to gross negligence or willful
1003 misconduct.

1004 (5) Notwithstanding ~~the provisions in~~ subsection (4), any
1005 person who is authorized by the commission ~~department~~ or the
1006 Federal Government or the person alleged to be responsible for
1007 the discharge, or by a designee thereof, to render assistance in
1008 containing or removing pollutants shall not be liable for costs,
1009 expenses, and damages, unless such costs, expenses, and damages
1010 are a proximate result of acts or omissions caused by gross
1011 negligence or willful misconduct of such authorized person.

1012 (6) Nothing in ss. 376.011-376.21 affects ~~shall affect~~ the
1013 right of any person to render assistance in containing or
1014 removing any pollutant or any rights which that person may have
1015 against any third party whose acts or omissions in any way have

16-00981A-12

20121782

1016 caused or contributed to the discharge of the pollutant.

1017 (7) (a) A ~~Any~~ person, other than the responsible party, who
1018 renders assistance in containing or removing any pollutant may
1019 assert a claim against the fund, under s. 376.12, for
1020 reimbursement of the reasonable costs expended for containment,
1021 abatement, or removal, provided prior approval for such
1022 reimbursement is granted by the commission ~~department~~. The
1023 commission ~~department~~ may, upon petition and for good cause
1024 shown, waive the prior-approval prerequisite.

1025 (b) A responsible party may assert a claim against the fund
1026 only under the following circumstances:

1027 1. A responsible party who complies with the requests of
1028 the state and federal on-scene coordinators and later pleads and
1029 proves a valid defense under s. 376.12 may assert a claim
1030 against the fund, pursuant to s. 376.123, for reimbursement of
1031 the reasonable costs expended for containment, abatement, or
1032 removal.

1033 2. A responsible party who complies with the requests of
1034 the state and federal on-scene coordinators and later pleads and
1035 proves a valid limitation of liability under s. 376.12 may
1036 assert a claim against the fund, pursuant to s. 376.123, for
1037 reimbursement of the reasonable costs expended in excess of the
1038 applicable limitation of liability.

1039 3. If the commission ~~department~~ has determined, pursuant to
1040 s. 376.12(3)(b)2., that a particular request by a state or
1041 federal on-scene coordinator for the responsible party's
1042 cooperation or assistance was unreasonable, the responsible
1043 party may assert a claim against the fund, pursuant to s.
1044 376.123, for reimbursement of the costs expended in complying

16-00981A-12

20121782__

1045 with the particular request.

1046 (8) Notwithstanding any other provision of law, including
1047 provisions relating to discharge prohibitions or permit
1048 requirements, the federal on-scene coordinator or the commission
1049 ~~department~~ may authorize discharges in connection with
1050 activities related to removal of pollutants that have entered
1051 the waters of the state.

1052 Section 23. Section 376.10, Florida Statutes, is amended to
1053 read:

1054 376.10 Personnel and equipment.—The commission ~~department~~
1055 shall establish and maintain at such ports within the state and
1056 other places as it shall determine such employees and equipment
1057 as in its judgment may be necessary to carry out the provisions
1058 of ss. 376.011-376.21. The commission ~~department~~ may employ and
1059 prescribe the duties of such employees, subject to the rules and
1060 regulations of the Department of Management Services. The
1061 salaries of the employees and the cost of the equipment shall be
1062 paid from the Florida Coastal Protection Trust Fund established
1063 by ss. 376.011-376.21. The commission ~~department~~ shall
1064 periodically consult with other departments of the state
1065 relative to procedures for the prevention of discharges of
1066 pollutants into or affecting the coastal waters of the state
1067 from operations regulated by ss. 376.011-376.21.

1068 Section 24. Section 376.11, Florida Statutes, is amended to
1069 read:

1070 376.11 Florida Coastal Protection Trust Fund.—

1071 (1) The purpose of this section is to provide a mechanism
1072 to have financial resources immediately available for prevention
1073 of, and cleanup and rehabilitation after, a pollutant discharge,

16-00981A-12

20121782

1074 to prevent further damage by the pollutant, and to pay for
1075 damages. It is the legislative intent that this section be
1076 liberally construed to effect the purposes set forth, such
1077 interpretation being especially imperative in light of the
1078 danger to the environment and resources.

1079 (2) The Florida Coastal Protection Trust Fund is
1080 established, to be used by the ~~department and the Fish and~~
1081 ~~Wildlife Conservation~~ commission as a nonlapsing revolving fund
1082 for carrying out the purposes of ss. 376.011-376.21. To this
1083 fund shall be credited all registration fees, penalties,
1084 judgments, damages recovered pursuant to s. 376.121, other fees
1085 and charges related to ss. 376.011-376.21, and the excise tax
1086 revenues levied, collected, and credited pursuant to ss.
1087 206.9935(1) and 206.9945(1)(a). Charges against the fund shall
1088 be in accordance with this section.

1089 (3) Moneys in the fund that are not needed currently to
1090 meet the obligations of the commission ~~department~~ in the
1091 exercise of its responsibilities under ss. 376.011-376.21 shall
1092 be deposited with the Chief Financial Officer to the credit of
1093 the fund and may be invested in such manner as is provided for
1094 by statute. Interest received on such investment shall be
1095 credited to the fund, except as otherwise specified herein.

1096 (4) Moneys in the Florida Coastal Protection Trust Fund
1097 shall be disbursed for the following purposes and no others:

1098 (a) Administrative expenses, personnel expenses, and
1099 equipment costs of the ~~department and the Fish and Wildlife~~
1100 ~~Conservation~~ commission related to the enforcement of ss.
1101 376.011-376.21.

1102 (b) All costs involved in the prevention and abatement of

16-00981A-12

20121782

1103 pollution related to the discharge of pollutants covered by ss.
1104 376.011-376.21 and the abatement of other potential pollution
1105 hazards as authorized herein.

1106 (c) All costs and expenses of the cleanup, restoration, and
1107 rehabilitation of waterfowl, wildlife, and all other natural
1108 resources damaged by the discharge of pollutants, including the
1109 costs of assessing and recovering damages to natural resources,
1110 whether performed or authorized by the commission ~~department~~ or
1111 any other state or local agency.

1112 (d) All provable costs and damages which are the proximate
1113 results of the discharge of pollutants covered by ss. 376.011-
1114 376.21.

1115 ~~(e) Loans to the Inland Protection Trust Fund created in s.~~
1116 ~~376.3071.~~

1117 (e) ~~(f)~~ The interest earned from investments of the balance
1118 in the Florida Coastal Protection Trust Fund shall be used for
1119 funding the administrative expenses, personnel expenses, and
1120 equipment costs of the commission ~~department~~ relating to the
1121 enforcement of ss. 376.011-376.21.

1122 (f) ~~(g)~~ The funding of a grant program to local governments,
1123 pursuant to s. 376.15(2)(b) and (c), for the removal of derelict
1124 vessels from the public waters of the state.

1125 (g) ~~(h)~~ The commission ~~department~~ may spend up to \$1 million
1126 per year from the principal of the fund to acquire, design,
1127 train, and maintain emergency cleanup response teams and
1128 equipment located at appropriate ports throughout the state for
1129 the purpose of cleaning oil and other toxic materials from
1130 coastal waters. When the teams and equipment are not needed for
1131 these purposes they may be used for any other valid purpose of

16-00981A-12

20121782

1132 the commission department.

1133 ~~(i) To provide a temporary transfer of funds in an amount~~
1134 ~~not to exceed \$10 million to the Minerals Trust Fund as set~~
1135 ~~forth in s. 376.40.~~

1136 (h)~~(j)~~ Funding for marine law enforcement.

1137 ~~(5) Any interest in lands acquired using moneys in the~~
1138 ~~Florida Coastal Protection Trust Fund shall be held by the~~
1139 ~~Trustees of the Internal Improvement Trust Fund, and such lands~~
1140 ~~shall be acquired pursuant to the procedures set forth in s.~~
1141 ~~253.025.~~

1142 (5)~~(6)~~ The commission ~~department~~ shall recover to the use
1143 of the fund from the person or persons causing the discharge or
1144 from the Federal Government, jointly and severally, all sums
1145 owed or expended from the fund, pursuant to s. 376.123(10),
1146 except that recoveries resulting from damage due to a discharge
1147 of a pollutant or other similar disaster shall be apportioned
1148 between the Florida Coastal Protection Trust Fund and the
1149 General Revenue Fund so as to repay the full costs to the
1150 General Revenue Fund of any sums disbursed therefrom as a result
1151 of such disaster. Requests for reimbursement to the fund for the
1152 above costs, if not paid within 30 days of demand, shall be
1153 turned over to the Department of Legal Affairs for collection.

1154 Section 25. Subsections (3), (6), (7), (8), (10), and (11)
1155 of section 376.12, Florida Statutes, are amended to read:

1156 376.12 Liabilities and defenses of responsible parties;
1157 liabilities of third parties; financial security requirements
1158 for vessels; liability of cargo owners; notification
1159 requirements.-

1160 (3) EXCEPTIONS TO LIMITATION OF LIABILITY.-The provisions

16-00981A-12

20121782

1161 of subsection (2) do ~~shall~~ not apply when:

1162 (a) The commission ~~department~~ demonstrates that such
1163 discharge was the result of willful or gross negligence or
1164 willful misconduct of, or the violation of an applicable federal
1165 or state safety, construction, or operating regulation or rule
1166 by, the responsible party, an agent or employee of the
1167 responsible party, or a person acting pursuant to a contractual
1168 relationship with the responsible party, except where the sole
1169 contractual arrangement arises in connection with carriage by a
1170 common carrier by rail; or

1171 (b) The responsible party fails or refuses:

1172 1. To report the incident as required by law and the
1173 responsible party knows or has reason to know of the incident;
1174 or

1175 2. To provide reasonable cooperation and assistance
1176 requested by a state or federal on-scene coordinator in
1177 connection with cleanup activities. The responsible party must
1178 file an objection with the commission ~~department~~ if such party
1179 deems that cooperation or assistance requested by a state or
1180 federal on-scene coordinator is unreasonable. Such an objection
1181 must be filed with the commission ~~department~~ within 2 working
1182 days after the request. If such request is determined by the
1183 commission ~~department~~ to be unreasonable, the responsible party
1184 may assert a claim against the fund, pursuant to s. 376.123, for
1185 reimbursement of expenses incurred in carrying out such request.
1186 The responsible party may not file an objection to a request
1187 based solely on the premise that the requested activity did not
1188 have satisfactory results, that the responsible party has
1189 exceeded the applicable limitation of liability, or that the

16-00981A-12

20121782

1190 responsible party has a defense to liability.

1191 (6) ADMINISTRATIVE REMEDIES OF RESPONSIBLE PARTIES.—A
1192 responsible party that disputes any claim by the commission
1193 ~~department~~ may request a hearing pursuant to s. 120.57.

1194 (7) DEFENSES TO LIABILITY.—In any proceeding determining
1195 claims of the fund or any other claims by the state pursuant to
1196 ss. 376.011-376.21, it is ~~shall~~ not ~~be~~ necessary for the
1197 commission ~~department~~ to plead or prove negligence in any form
1198 or manner. The commission ~~department~~ need only plead and prove
1199 that the prohibited discharge or other polluting condition
1200 occurred. The only defenses of a person alleged to be
1201 responsible for the discharge to an action or proceeding for
1202 damages or cleanup costs shall be to plead and prove that the
1203 occurrence was solely the result of any of the following or any
1204 combination of the following:

1205 (a) An act of war.

1206 (b) An act of government, either federal, state, county, or
1207 municipal.

1208 (c) An act of God, which means only an unforeseeable act
1209 exclusively occasioned by the violence of nature without the
1210 interference of any human agency.

1211 (d) An act or omission of a third party other than an
1212 employee or agent of the responsible party or a third party
1213 whose act or omission occurs in connection with any contractual
1214 relationship with the responsible party, except where the sole
1215 contractual arrangement arises in connection with carriage by
1216 rail,

1217
1218 provided that, to establish entitlement to any of the foregoing

16-00981A-12

20121782

1219 defenses, the responsible party shall plead and prove that the
1220 responsible party exercised due care with respect to the
1221 pollutant concerned, taking into consideration the
1222 characteristics of the pollutant and in light of all relevant
1223 facts and circumstances, and took precautions against
1224 foreseeable acts or omissions of others and the foreseeable
1225 consequences of those acts or omissions.

1226 (8) EXCEPTIONS TO DEFENSES.—The defenses provided in
1227 subsection (7) do ~~shall~~ not apply with respect to a responsible
1228 party who fails or refuses:

1229 (a) To report the discharge as required by law, when the
1230 responsible party knows or has reason to know of the discharge;
1231 or

1232 (b) To provide reasonable cooperation and assistance
1233 requested by a state or federal on-scene coordinator in
1234 connection with cleanup activities. The responsible party must
1235 file an objection with the commission ~~department~~, pursuant to
1236 subsection (3), if such party deems that cooperation or
1237 assistance requested by a state or federal on-scene coordinator
1238 is unreasonable.

1239 (10) LIABILITY OF CARGO OWNERS.—The owner of a pollutant
1240 transported as cargo on any vessel suffering a discharge within
1241 state waters is liable for all cleanup costs within the
1242 applicable vessel liability limits established under this
1243 section, not paid for by the owner or operator of the vessel.
1244 However, the cargo owner is not liable under this subsection if
1245 the vessel owner, operator, or master is found in compliance
1246 with the financial security requirements of this section at the
1247 time of the discharge or fails to provide certified notification

16-00981A-12

20121782

1248 of the cancellation or withdrawal of financial security to the
1249 commission ~~department~~ and the cargo owner at least 3 working
1250 days before the vessel entered state waters.

1251 (11) NOTIFICATION REQUIREMENTS FOR VESSELS AND TERMINAL
1252 FACILITIES.—In addition to any civil penalties which may apply,
1253 any person responsible who fails to give immediate notification
1254 of a discharge to the commission ~~department~~ or the nearest Coast
1255 Guard Marine Safety Office or National Response Center commits a
1256 felony of the third degree, punishable as provided in s.
1257 775.082, s. 775.083, or s. 775.084. However, a discharge of 5
1258 gallons or less of gasoline or diesel from a vessel does ~~shall~~
1259 not give rise to felony penalties for failure to comply with the
1260 state notification requirements in this subsection. After
1261 reporting a discharge, a vessel shall remain in the jurisdiction
1262 of the commission ~~department~~ until such time as the commission
1263 ~~department~~ is able to prove financial responsibility for the
1264 damages resulting from the discharge. The master of a vessel
1265 that fails to remain in the jurisdiction of the commission
1266 ~~department~~ for a reasonable time after notice of a discharge
1267 commits a felony of the third degree, punishable as provided in
1268 s. 775.082, s. 775.083, or s. 775.084. The commission ~~may~~
1269 ~~department~~ ~~shall~~ not detain the vessel longer than 12 hours
1270 after receiving proof of financial responsibility. The
1271 commission ~~department~~ shall, by rule, require that the terminal
1272 facility designate a person at the terminal facility as the
1273 person in charge of that facility for the purposes specified by
1274 this section.

1275 Section 26. Section 376.121, Florida Statutes, is amended
1276 to read:

16-00981A-12

20121782

1277 376.121 Liability for damage to natural resources.—The
1278 Legislature finds that extensive damage to the state's natural
1279 resources is the likely result of a pollutant discharge and that
1280 it is essential that the state adequately assess and recover the
1281 cost of such damage from responsible parties. It is the state's
1282 goal to recover the costs of restoration from the responsible
1283 parties and to restore damaged natural resources to their
1284 predischarge condition. In many instances, however, restoration
1285 is not technically feasible. In such instances, the state has
1286 the responsibility to its citizens to recover the cost of all
1287 damage to natural resources. To ensure that the public does not
1288 bear a substantial loss as a result of the destruction of
1289 natural resources, the procedures set out in this section shall
1290 be used to assess the cost of damage to such resources. Natural
1291 resources include coastal waters, wetlands, estuaries, tidal
1292 flats, beaches, lands adjoining the seacoasts of the state, and
1293 all living things except human beings. The Legislature
1294 recognizes the difficulty historically encountered in
1295 calculating the value of damaged natural resources. The value of
1296 certain qualities of the state's natural resources is not
1297 readily quantifiable, yet the resources and their qualities have
1298 an intrinsic value to the residents of the state, and any damage
1299 to natural resources and their qualities should not be dismissed
1300 as nonrecoverable merely because of the difficulty in
1301 quantifying their value. In order to avoid unnecessary
1302 speculation and expenditure of limited resources to determine
1303 these values, the Legislature hereby establishes a schedule for
1304 compensation for damage to the state's natural resources and the
1305 quality of such ~~said~~ resources. As an alternative to the

16-00981A-12

20121782__

1306 compensation schedule described in subsections (4), (5), (6),
1307 and (9), the commission ~~department~~, when no responsible party is
1308 identified, when a responsible party opts out of the formula
1309 pursuant to paragraph (10) (a), or when the commission ~~department~~
1310 conducts a cooperative damage assessment with federal agencies,
1311 may use methods of calculating natural resources damages in
1312 accordance with federal rules implementing the Oil Pollution Act
1313 of 1990, as amended.

1314 (1) The commission ~~department~~ shall assess and recover from
1315 responsible parties the compensation for the injury or
1316 destruction of natural resources, including, but not limited to,
1317 the death or injury of living things and damage to or
1318 destruction of habitat, resulting from pollutant discharges
1319 prohibited by s. 376.041. The amount of compensation and any
1320 costs of assessing damage and recovering compensation received
1321 by the commission ~~department~~ shall be deposited into the Florida
1322 Coastal Protection Trust Fund pursuant to s. 376.12 and
1323 disbursed according to subsection (11). Whoever violates, or
1324 causes to be violated, s. 376.041 shall be liable to the state
1325 for damage to natural resources.

1326 (2) The compensation schedule for damage to natural
1327 resources is based upon the cost of restoration and the loss of
1328 ecological, consumptive, intrinsic, recreational, scientific,
1329 economic, aesthetic, and educational values of such injured or
1330 destroyed resources. The compensation schedule takes into
1331 account:

1332 (a) The volume of the discharge.

1333 (b) The characteristics of the pollutant discharged. The
1334 toxicity, dispersibility, solubility, and persistence

16-00981A-12

20121782

1335 characteristics of a pollutant as affects the severity of the
1336 effects on the receiving environment, living things, and
1337 recreational and aesthetic resources. Pollutants have varying
1338 propensities to injure natural resources based upon their
1339 potential exposure and effects. Exposure to natural resources is
1340 determined by the dispersibility and degradability of the
1341 pollutant. Effects to natural resources result from mechanical
1342 injury and toxicity and include physical contamination,
1343 smothering, feeding prevention, immobilization, respiratory
1344 distress, direct mortality, lost recruitment of larvae and
1345 juveniles killed, changes in the food web, and chronic effects
1346 of sublethal levels of contaminates in tissues or the
1347 environment. For purposes of the compensation schedule,
1348 pollutants have been ranked for their propensity to cause injury
1349 to natural resources based upon a combination of their acute
1350 toxicity, mechanical injury, degradability, and dispersibility
1351 characteristics on a 1-to-3 relative scale with Category 1
1352 containing the pollutants with the greatest propensity to cause
1353 injury to natural resources. The following pollutants are
1354 categorized:

- 1355 1. Category 1: bunker and residual fuel.
- 1356 2. Category 2: waste oils, crude oil, lubricating oil,
1357 asphalt, and tars.
- 1358 3. Category 3: hydraulic fluids, numbers 1 and 2 diesel
1359 fuels, heating oil, jet aviation fuels, motor gasoline,
1360 including aviation gasoline, kerosene, stationary turbine fuels,
1361 ammonia and its derivatives, and chlorine and its derivatives.

1362
1363 The commission ~~department~~ shall adopt rules establishing the

16-00981A-12

20121782__

1364 pollutant category of pesticides and other pollutants as defined
1365 in s. 376.031 and not listed in this paragraph.

1366 (c) The type and sensitivity of natural resources affected
1367 by a discharge, determined by the following factors:

1368 1. The location of a discharge. Inshore discharges are
1369 discharges that occur within waters under the jurisdiction of
1370 the commission ~~department~~ and within an area extending seaward
1371 from the coastline of the state to a point 1 statute mile
1372 seaward of the coastline. Nearshore discharges are discharges
1373 that occur more than 1 statute mile, but within 3 statute miles,
1374 seaward of the coastline. Offshore discharges are discharges
1375 that occur more than 3 statute miles seaward of the coastline.

1376 2. The location of the discharge with respect to special
1377 management areas designated because of their unique habitats;
1378 living resources; recreational use; aesthetic importance; and
1379 other ecological, educational, consumptive, intrinsic,
1380 scientific, and economic values of the natural resources located
1381 therein. Special management areas are state parks; recreation
1382 areas; national parks, seashores, estuarine research reserves,
1383 marine sanctuaries, wildlife refuges, and national estuary
1384 program water bodies; state aquatic preserves and reserves;
1385 classified shellfish harvesting areas; areas of critical state
1386 concern; federally designated critical habitat for endangered or
1387 threatened species; and outstanding Florida waters.

1388 3. The areal or linear extent of the natural resources
1389 impacted.

1390 (3) Compensation for damage to natural resources for any
1391 discharge of less than 25 gallons of gasoline or diesel fuel
1392 shall be \$50.

16-00981A-12

20121782__

1393 (4) Compensation schedule:

1394 (a) The amount of compensation assessed under this schedule
1395 is calculated by: multiplying \$1 per gallon or its equivalent
1396 measurement of pollutant discharged, by the number of gallons or
1397 its equivalent measurement, times the location of the discharge
1398 factor, times the special management area factor.

1399 (b) Added to the amount obtained in paragraph (a) is the
1400 value of the observable natural resources damaged, which is
1401 calculated by multiplying the areal or linear coverage of
1402 impacted habitat by the corresponding habitat factor, times the
1403 special management area factor.

1404 (c) The sum of paragraphs (a) and (b) is then multiplied by
1405 the pollutant category factor.

1406 (d) The final damage assessment figure is the sum of the
1407 amount calculated in paragraph (c) plus the compensation for
1408 death of endangered or threatened species, plus the cost of
1409 conducting the damage assessment as determined by the commission
1410 ~~department~~.

1411 (5) (a) The factors used in calculating the damage
1412 assessment are:

1413 1. Location of discharge factor:

1414 a. Discharges that originate inshore have a factor of
1415 eight. Discharges that originate nearshore have a factor of
1416 five. Discharges that originate offshore have a factor of one.

1417 b. Compensation for damage to natural resources resulting
1418 from discharges that originate outside of state waters but that
1419 traverse the state's boundaries and therefore have an impact
1420 upon the state's natural resources shall be calculated using a
1421 location factor of one.

16-00981A-12

20121782

1422 c. Compensation for damage to natural resources resulting
1423 from discharges of less than 10,000 gallons of pollutants which
1424 originate within 100 yards of an established terminal facility
1425 or point of routine pollutant transfer in a designated port
1426 authority as defined in s. 315.02 shall be assessed a location
1427 factor of one.

1428 2. Special management area factor: Discharges that
1429 originate in special management areas described in subparagraph
1430 (2)(c)2. have a factor of two. Discharges that originate outside
1431 a special management area described in subparagraph (2)(c)2.
1432 have a location factor of one. For discharges that originate
1433 outside of a special management area but impact the natural
1434 resources within a special management area, the value of the
1435 natural resources damaged within the area shall be multiplied by
1436 the special management area factor of two.

1437 3. Pollutant category factor: Discharges of category 1
1438 pollutants have a factor of eight. Discharges of category 2
1439 pollutants have a factor of four. Discharges of category 3
1440 pollutants have a factor of one.

1441 4. Habitat factor: The amount of compensation for damage to
1442 the natural resources of the state is established as follows:

- 1443 a. \$10 per square foot of coral reef impacted.
1444 b. \$1 per square foot of mangrove or seagrass impacted.
1445 c. \$1 per linear foot of sandy beach impacted.
1446 d. \$0.50 per square foot of live bottom, oyster reefs, worm
1447 rock, perennial algae, saltmarsh, or freshwater tidal marsh
1448 impacted.
1449 e. \$0.05 per square foot of sand bottom or mud flats, or
1450 combination thereof, impacted.

16-00981A-12

20121782

1451 (b) The areal and linear coverage of habitat impacted shall
1452 be determined by the commission ~~department~~ using a combination
1453 of field measurements, aerial photogrammetry, and satellite
1454 imagery. An area is impacted when the pollutant comes in contact
1455 with the habitat.

1456 (6) It is understood that a pollutant will, by its very
1457 nature, result in damage to the flora and fauna of the waters of
1458 the state and the adjoining land. Therefore, compensation for
1459 such resources, which is difficult to calculate, is included in
1460 the compensation schedule. Not included, however, in this base
1461 figure is compensation for the death of endangered or threatened
1462 species directly attributable to the pollutant discharged.
1463 Compensation for the death of any animal designated by rule as
1464 endangered by the ~~Fish and Wildlife Conservation~~ commission is
1465 \$10,000. Compensation for the death of any animal designated by
1466 rule as threatened by the ~~Fish and Wildlife Conservation~~
1467 commission is \$5,000. These amounts are not intended to reflect
1468 the actual value of such ~~said~~ endangered or threatened species,
1469 but are included for the purposes of this section.

1470 (7) The owner or operator of the vessel or facility
1471 responsible for a discharge may designate a representative or
1472 agent to work with the commission ~~department~~ in assessing the
1473 amount of damage to natural resources resulting from the
1474 discharge.

1475 (8) When assessing the amount of damages to natural
1476 resources, the commission ~~department~~ shall be assisted, if
1477 requested by the commission ~~department~~, by representatives of
1478 other state agencies and local governments that would enhance
1479 the commission's ~~department's~~ damage assessment. The ~~Fish and~~

16-00981A-12

20121782__

1480 ~~Wildlife Conservation~~ commission shall assess ~~assist~~ the
1481 ~~department in the assessment of~~ damages to wildlife impacted by
1482 a pollutant discharge and shall recover ~~assist the department in~~
1483 ~~recovering~~ the costs of such damages.

1484 (9) Compensation for damage resulting from the discharge of
1485 two or more pollutants shall be calculated for the volume of
1486 each pollutant discharged. If the separate volume for each
1487 pollutant discharged cannot be determined, the highest
1488 multiplier for the pollutants discharged shall be applied to the
1489 entire volume of the spill. Compensation for commingled
1490 discharges that contact habitat shall be calculated on a
1491 proportional basis of discharged volumes. The highest multiplier
1492 for such commingled pollutants may only be applied if a
1493 reasonable proportionality of the commingled pollutants cannot
1494 be determined at the point of any contact with natural
1495 resources.

1496 (10) For cases in which the commission ~~department~~ is
1497 authorized to use a method of natural resources damage
1498 assessment other than the compensation schedules described in
1499 subsections (4), (5), (6), and (9), the commission ~~department~~
1500 may use the methods described in federal rules implementing the
1501 Oil Pollution Act of 1990, as amended.

1502 (a) When a responsible party is identified and the
1503 commission ~~department~~ is not conducting a cooperative damage
1504 assessment with federal agencies, the person responsible has the
1505 option to pay the amount of compensation calculated pursuant to
1506 the compensation schedule established in subsection (4) or pay
1507 the amount determined by a damage assessment performed by the
1508 commission ~~department~~. If the person responsible for the

16-00981A-12

20121782__

1509 discharge elects to have a damage assessment performed, then
1510 such person shall notify the commission ~~department~~ in writing of
1511 such decision within 30 days after identification of the
1512 discharge by the commission ~~department~~. The decision to have a
1513 damage assessment performed to determine compensation for a
1514 discharge shall be final; the person responsible for a discharge
1515 may not later elect to use the compensation schedule for
1516 computing compensation. Failure to make such notice shall result
1517 in the amount of compensation for the total damage to natural
1518 resources being calculated based on the compensation schedule.
1519 The compensation shall be paid within 90 days after receipt of a
1520 written request from the commission ~~department~~.

1521 (b) In the event the person responsible for a discharge
1522 elects to have a damage assessment performed, such ~~said~~ person
1523 shall pay to the commission ~~department~~ an amount equal to the
1524 compensation calculated pursuant to subsection (4) for the
1525 discharge using the lesser of the volume of the discharge or a
1526 volume of 30,000 gallons. The payment shall be made within 90
1527 days after receipt of a written request from the commission
1528 ~~department~~.

1529 (c) After completion of the damage assessment, the
1530 commission ~~department~~ shall advise the person responsible for
1531 the discharge of the amount of compensation due to the
1532 commission ~~state~~. A credit shall be given for the amount paid
1533 pursuant to paragraph (b). Payment shall be made within 90 days
1534 after receipt of a written request from the commission
1535 ~~department~~.

1536 (11) (a) Moneys recovered by the commission ~~department~~ as
1537 compensation for damage to natural resources shall be expended

16-00981A-12

20121782

1538 only for the following purposes:

- 1539 1. To the maximum extent practicable, the restoration of
1540 natural resources damaged by the discharge for which
1541 compensation is paid.
- 1542 2. Restoration of damaged resources.
- 1543 3. Developing restoration and enhancement techniques for
1544 natural resources.
- 1545 4. Investigating methods for improving and refining
1546 techniques for containment, abatement, and removal of pollutants
1547 from the environment, especially from mangrove forests, corals,
1548 seagrasses, benthic communities, rookeries, nurseries, and other
1549 habitats which are unique to Florida's coastal environment.
- 1550 5. Developing and updating the "Sensitivity of Coastal
1551 Environments and Wildlife to Spilled Oil in Florida" atlas.
- 1552 6. Investigating the long-term effects of pollutant
1553 discharges on natural resources, including pelagic organisms,
1554 critical habitats, and marine ecosystems.
- 1555 7. Developing an adequate wildlife rescue and
1556 rehabilitation program.
- 1557 8. Expanding and enhancing the state's pollution prevention
1558 and control education program.
- 1559 9. Restoring natural resources previously impacted by
1560 pollutant discharges, but never completely restored.
- 1561 10. Funding alternative projects selected by the commission
1562 ~~Board of Trustees of the Internal Improvement Trust Fund~~. Any
1563 such project shall be selected on the basis of its anticipated
1564 benefits to the marine natural resources available to the
1565 residents of this state who previously benefited from the
1566 injured or destroyed nonrestorable natural resources.

16-00981A-12

20121782__

1567 (b) All interest earned from investment of moneys recovered
1568 by the commission ~~department~~ for damage to natural resources
1569 shall be expended only for the activities described in paragraph
1570 (a).

1571 (c) The person or parties responsible for a discharge for
1572 which the commission ~~department~~ has requested compensation for
1573 damage pursuant to this section shall pay the commission
1574 ~~department~~, within 90 days after receipt of the request, the
1575 entire amount due to the commission ~~state~~. In the event that
1576 payment is not made within the 90 days, the person or parties
1577 are liable for interest on the outstanding balance, which
1578 interest shall be calculated at the rate prescribed under s.
1579 55.03.

1580 (12) Any determination or assessment of damage to natural
1581 resources for the purposes of this section by the commission
1582 ~~department~~ in accordance with the compensation sections or in
1583 accordance with the rules adopted under subsection (10) shall
1584 have the force and effect of rebuttable presumption on behalf of
1585 the commission ~~department~~ in any administrative or judicial
1586 proceeding.

1587 (13) There shall be no double recovery under this law for
1588 natural resource damage resulting from a discharge, including
1589 the costs of damage assessment or restoration, rehabilitation,
1590 replacement, or acquisition for the same incident and natural
1591 resource. The commission ~~department~~ shall meet with and develop
1592 memoranda of understanding with appropriate federal trustees as
1593 defined in Pub. L. No. 101-380 (Oil Pollution Act of 1990) to
1594 provide further assurances of no double recovery.

1595 (14) The commission ~~department~~ shall adopt rules necessary

16-00981A-12

20121782

1596 or convenient for carrying out the duties, obligations, powers,
1597 and responsibilities set forth in this section.

1598 Section 27. Subsections (2), (3), (4), (5), (8), (9), and
1599 (10) of section 376.123, Florida Statutes, are amended to read:

1600 376.123 Claims against the Florida Coastal Protection Trust
1601 Fund.—

1602 (2) (a) Whenever the commission ~~department~~ has designated a
1603 vessel or terminal facility as a source of a moderate or major
1604 discharge, all claims for cleanup costs or damages under ss.
1605 376.011-376.21 shall be presented first to the responsible party
1606 for the designated source, pursuant to paragraph (b), before
1607 they may be presented to the fund.

1608 (b) If a responsible party fails to inform the commission
1609 ~~department~~, within 5 days after receiving notification of a
1610 designation under paragraph (a), of the party's denial of the
1611 designation, such party shall advertise the designation and the
1612 procedures by which claims may be presented, in accordance with
1613 commission ~~department~~ rules. Advertisement shall begin no later
1614 than 15 days after the date the commission ~~department~~ has made
1615 the designation. If advertisement is not otherwise made in
1616 accordance with this paragraph, the commission ~~department~~ shall
1617 promptly and at the expense of the responsible party advertise
1618 the designation and the procedures by which claims may be
1619 presented to the responsible party.

1620 (c) If a claim is presented in accordance with paragraph
1621 (b) and:

1622 1. Each party who has been alleged to be the responsible
1623 party and to whom the claim has been presented denies all
1624 liability for the claim; or

16-00981A-12

20121782__

1625 2. Full and adequate payment of the claim for cleanup costs
1626 and damages is not made by the responsible party within 90 days
1627 after the claim is presented or the advertisement is begun,
1628 whichever is later,

1629
1630 the claimant may present the claim to the fund.

1631 (3) A ~~Any~~ person who is eligible under s. 376.09 may assert
1632 a claim against the Florida Coastal Protection Trust Fund for
1633 reimbursement of cleanup costs, provided that:

1634 (a) Such claim is presented within 180 days of completion
1635 of the person's assistance with cleanup. The director ~~secretary~~
1636 may, upon petition and for good cause shown, waive the
1637 prescribed time period for filing cleanup claims. The prescribed
1638 time period shall be tolled during pendency of the claimant's
1639 claim against a responsible party pursuant to subsection (2),
1640 until the time specified in paragraph (2)(c).

1641 (b) The claimant shall provide the commission ~~department~~
1642 with the required documentation concerning amounts expended for
1643 cleanup costs. The commission ~~department~~ shall prescribe
1644 appropriate forms and other requirements for such claims.

1645 (4) A ~~Any~~ person claiming to have suffered damages, as
1646 defined in s. 376.031, excluding natural resource damages, as a
1647 result of a discharge of pollutants prohibited by s. 376.041
1648 may, within 180 days after the date of such discharge, apply to
1649 the commission ~~department~~ for reimbursement from the Florida
1650 Coastal Protection Trust Fund. It shall be the responsibility of
1651 the claimant to provide the commission ~~department~~ with the
1652 required documentation concerning the damages suffered as a
1653 direct result of the discharge. The commission ~~department~~ shall

16-00981A-12

20121782

1654 prescribe appropriate forms and requirements for such
1655 application, which application shall include a provision
1656 requiring the applicant to make a sworn verification of the
1657 damage claimed to the best of the applicant's knowledge. The
1658 director ~~secretary of the department~~ may, upon petition and for
1659 good cause shown, waive the 180-day limitation for filing damage
1660 claims. The prescribed time period shall be tolled during
1661 pendency of the claimant's claim against a responsible party
1662 pursuant to subsection (2), until the time specified in
1663 paragraph (2)(c).

1664 (5) The director ~~secretary~~ shall establish the amount to be
1665 awarded and shall certify the amount of the award and the name
1666 of the claimant to the Chief Financial Officer, who shall pay
1667 the award from the fund, subject to ~~the provisions of~~ subsection
1668 (12). If the claimant agrees with the established amount of
1669 award, the settlement shall be binding upon both parties as to
1670 all issues and cannot be further attacked, collaterally or by
1671 separate action, in the future.

1672 (8) If a person chooses to make a claim against the fund
1673 and accepts payment from, or a judgment against, the fund, then
1674 the commission ~~department~~ shall be subrogated to any cause of
1675 action that the claimant may have had, to the extent of such
1676 payment or judgment, and shall diligently pursue recovery on
1677 that cause of action pursuant to subsection (10) and s.

1678 376.11(5) ~~376.11(6)~~. In any such action, the amount of damages
1679 shall be proved by the commission ~~department~~ by submitting to
1680 the court a written report of the amounts paid or owed from the
1681 fund to claimants. Such written report shall be admissible as
1682 evidence, and the amounts paid from or owed by the fund to the

16-00981A-12

20121782

1683 claimants stated therein shall be irrebuttably presumed to be
1684 the amount of damages.

1685 (9) The commission ~~department~~ shall be a necessary party to
1686 all administrative hearings and court proceedings under this
1687 section.

1688 (10) It shall be the duty of the commission ~~department~~ in
1689 administering the fund to pursue diligently the reimbursement to
1690 the fund of any sum expended from the fund for, and any other
1691 state moneys not budgeted for but expended for, cleanup,
1692 abatement, and damages in accordance with ~~the provisions of~~ ss.
1693 376.011-376.21.

1694 Section 28. Subsection (1) of section 376.14, Florida
1695 Statutes, is amended to read:

1696 376.14 Vessels; financial responsibility; claims against
1697 providers of financial responsibility; service of process
1698 against responsible parties.—

1699 (1) Each owner or operator of a terminal facility or
1700 vessel, including any barge, using any port in Florida shall be
1701 required to establish and maintain evidence of financial
1702 responsibility pursuant to federal laws and regulations. Such
1703 evidence of financial responsibility shall be the only evidence
1704 required by the commission ~~department~~ that such registrant or
1705 vessel has the ability to meet the liabilities which may be
1706 incurred under ss. 376.011-376.21.

1707 Section 29. Paragraph (a) of subsection (2) of section
1708 376.15, Florida Statutes, is amended to read:

1709 376.15 Derelict vessels; removal from public waters.—

1710 (2) (a) The ~~Fish and Wildlife Conservation~~ commission and
1711 its officers and all law enforcement officers as specified in s.

16-00981A-12

20121782

1712 327.70 are authorized and empowered to remove any derelict
1713 vessel as defined in s. 823.11(1) from public waters. All costs
1714 incurred by the commission or other law enforcement agency in
1715 the removal of any abandoned or derelict vessel shall be
1716 recoverable against the owner of the vessel. The Department of
1717 Legal Affairs shall represent the commission in such actions.

1718 Section 30. Subsections (1) through (6) and subsection (11)
1719 of section 376.16, Florida Statutes, are amended to read:

1720 376.16 Enforcement and penalties.—

1721 (1) It is unlawful for a ~~any~~ person to violate any
1722 provision of ss. 376.011-376.21 or any rule or order of the
1723 commission ~~department~~ made pursuant to ss. 376.011-376.21 ~~this~~
1724 ~~act~~. Violation shall be punishable by a civil penalty of up to
1725 \$50,000 per violation per day to be assessed by the commission
1726 ~~department~~. Each day during any portion of which the violation
1727 occurs constitutes a separate offense. The penalty provisions of
1728 this subsection do ~~shall~~ not apply to any discharge promptly
1729 reported and removed by a person responsible, in accordance with
1730 the rules and orders of the commission ~~department~~, or to any
1731 discharge of pollutants equal to or less than 5 gallons.

1732 (2) In addition to the penalty provisions which may apply
1733 under subsection (1), a person responsible for two or more
1734 discharges of any pollutant reported pursuant to s. 376.12
1735 within a 12-month period at the same facility commits a
1736 noncriminal infraction and shall be cited by the commission
1737 ~~department~~ for such infraction.

1738 (a) For discharges of gasoline or diesel over 5 gallons,
1739 the civil penalty for the second discharge shall be \$500 and the
1740 civil penalty for each subsequent discharge within a 12-month

16-00981A-12

20121782

1741 period shall be \$1,000, except as otherwise provided in this
1742 section.

1743 (b) For discharges of any pollutant other than gasoline or
1744 diesel, the civil penalty for a second discharge shall be \$2,500
1745 and the civil penalty for each subsequent discharge within a 12-
1746 month period shall be \$5,000, except as otherwise provided in
1747 this section.

1748 (3) A person responsible for two or more discharges of any
1749 pollutant reported pursuant to s. 376.12 within a 12-month
1750 period at the same facility commits a noncriminal infraction and
1751 shall be cited by the commission ~~department~~ for such infraction.

1752 (a) For discharges of gasoline or diesel equal to or less
1753 than 5 gallons, the civil penalty shall be \$50 for each
1754 discharge subsequent to the first.

1755 (b) For discharges of pollutants other than gasoline or
1756 diesel equal to or less than 5 gallons, the civil penalty shall
1757 be \$100 for each discharge subsequent to the first.

1758 (4) A ~~Any~~ person charged with a noncriminal infraction
1759 pursuant to subsection (2) or subsection (3) may:

1760 (a) Pay the civil penalty;

1761 ~~(b) Post a bond equal to the amount of the applicable civil~~
1762 ~~penalty;~~ or

1763 (b) ~~(c)~~ Sign and accept a citation indicating a promise to
1764 appear before the county court.

1765
1766 The officer authorized to issue these citations may indicate on
1767 the citation the time and location of the scheduled hearing and
1768 shall indicate the applicable civil penalty.

1769 (5) A ~~Any~~ person who willfully refuses to ~~post bond or~~

16-00981A-12

20121782

1770 accept and sign a citation commits a misdemeanor of the second
1771 degree, punishable as provided in s. 775.082 or s. 775.083.

1772 (6) After compliance with paragraph (4) (b) ~~or paragraph~~
1773 ~~(4) (c)~~, a ~~any~~ person charged with a noncriminal infraction under
1774 subsection (2) or subsection (3) shall ~~may~~:-

1775 ~~(a)~~ pay the civil penalty, either by mail or in person,
1776 within 30 days after the date of receiving the citation; ~~or~~

1777 ~~(b) If the person has posted bond, forfeit the bond by not~~
1778 ~~appearing at the designated time and location.~~

1779
1780 A person cited for an infraction under this section who pays the
1781 civil penalty ~~or forfeits the bond~~ has admitted the infraction
1782 and waives the right to a hearing on the issue of commission of
1783 the infraction. Such admission may not be used as evidence in
1784 any other proceeding.

1785 (11) A ~~Any~~ person who has not paid ~~posted bond and who~~
1786 ~~neither pays~~ the applicable civil penalty, as specified in
1787 subsection (2) or subsection (3) within 30 days of receipt of
1788 the citation nor appears before the court commits a misdemeanor
1789 of the second degree, punishable as provided in s. 775.082 or s.
1790 775.083.

1791 Section 31. Section 376.19, Florida Statutes, is amended to
1792 read:

1793 376.19 County and municipal ordinances; powers limited.—
1794 Nothing in ss. 376.011-376.21 may ~~shall~~ be construed to deny any
1795 county or municipality authority to exercise police powers by
1796 ordinance or law under any general or special act, and laws and
1797 ordinances promulgated in furtherance of the intent of ss.
1798 376.011-376.21 to promote the general welfare, public health,

16-00981A-12

20121782

1799 and public safety shall be valid unless in direct conflict with
1800 ~~the provisions of~~ ss. 376.011-376.21 or any rule, regulation, or
1801 order of the commission ~~department~~ adopted under authority of
1802 ss. 376.011-376.21. However, in order to avoid unnecessary
1803 duplication, no county, municipality, or other political
1804 subdivision of the state may adopt or establish a similar
1805 program of licensing and fees for the accomplishment of the
1806 purposes of ss. 376.011-376.21.

1807 Section 32. Subsection (3) of section 376.30, Florida
1808 Statutes, is amended, subsections (4) and (5) are renumbered as
1809 subsections (5) and (6), respectively, and a new subsection (4)
1810 is added to that section, to read:

1811 376.30 Legislative intent with respect to pollution of
1812 surface and ground waters.—

1813 (3) The Legislature intends by the enactment of ss. 376.30-
1814 376.317 to exercise the ~~police~~ power of the state by conferring
1815 upon the Department of Environmental Protection the power to:

1816 (a) Deal with the environmental and health hazards and
1817 threats of danger and damage posed by such storage,
1818 transportation, disposal, and related activities that are
1819 neither imminent nor immediate;

1820 (b) Require the prompt containment and removal of products
1821 occasioned thereby; and

1822 (c) Establish a program which will enable the department
1823 to:

1824 1. Provide for expeditious restoration or replacement of
1825 potable water systems or potable private wells of affected
1826 persons where health hazards exist due to contamination from
1827 pollutants (which may include provision of bottled water on a

16-00981A-12

20121782

1828 temporary basis, after which a more stable and convenient source
1829 of potable water shall be provided) and hazardous substances,
1830 subject to the following conditions:

1831 a. For the purposes of this subparagraph, the term
1832 "restoration" means restoration of a contaminated potable water
1833 supply to a level which meets applicable water quality standards
1834 or applicable water quality criteria, as adopted by rule, for
1835 the contaminant or contaminants present in the water supply, or,
1836 where no such standards or criteria have been adopted, to a
1837 level that is determined to be a safe, potable level by the
1838 State Health Officer in the Department of Health, through the
1839 installation of a filtration system and provision of replacement
1840 filters as necessary or through employment of repairs or another
1841 treatment method or methods designed to remove or filter out
1842 contamination from the water supply; and the term "replacement"
1843 means replacement of a well or well field or connection to an
1844 alternative source of safe, potable water.

1845 b. For the purposes of the Inland Protection Trust Fund and
1846 the drycleaning facility restoration funds in the Water Quality
1847 Assurance Trust Fund as provided in s. 376.3078, such
1848 restoration or replacement shall take precedence over other uses
1849 of the unobligated moneys within the fund after payment of
1850 amounts appropriated annually from the Inland Protection Trust
1851 Fund for payments under any service contract entered into by the
1852 department pursuant to s. 376.3075.

1853 c. Funding for activities described in this subparagraph
1854 may ~~shall~~ not exceed \$10 million for any one county for any one
1855 year, other than for the provision of bottled water.

1856 d. Funding for activities described in this subparagraph

16-00981A-12

20121782__

1857 may ~~shall~~ not be used ~~available~~ to fund any increase in the
1858 capacity of a potable water system or potable private well over
1859 the capacity that ~~which~~ existed prior to such restoration or
1860 replacement, unless such increase is the result of the use of a
1861 more cost-effective alternative than other alternatives
1862 available.

1863 2. Provide for the inspection and supervision of activities
1864 described in this subsection.

1865 3. Guarantee the prompt payment of reasonable costs
1866 resulting therefrom, including those administrative costs
1867 incurred by the Department of Health in providing field and
1868 laboratory services, toxicological risk assessment, and other
1869 services to the department in the investigation of drinking
1870 water contamination complaints.

1871 (4) The Legislature intends by the enactment of ss. 376.30-
1872 376.317 to exercise the power of the state by conferring upon
1873 the Fish and Wildlife Conservation Commission the power to:

1874 (a) Deal with the environmental and health hazards and
1875 threats of danger and damage posed by such storage,
1876 transportation, and disposal of pollutants and hazardous
1877 substances and related activities that are imminent and
1878 immediate; and

1879 (b) Require the prompt containment and removal of products
1880 occasioned thereby.

1881 Section 33. Subsections (9) through (17) of section
1882 376.301, Florida Statutes, are renumbered as subsections (10)
1883 through (18), respectively, present subsection (18) is
1884 renumbered as subsection (51), present subsection (50) is
1885 renumbered as subsection (26), present subsections (26) through

16-00981A-12

20121782__

1886 (49) are renumbered as subsections (27) through (50),
1887 respectively, and a new subsection (9) is added to that section,
1888 to read:

1889 376.301 Definitions of terms used in ss. 376.30-376.317,
1890 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and
1891 376.75, unless the context clearly requires otherwise, the term:

1892 (9) "Commission" means the Fish and Wildlife Conservation
1893 Commission.

1894 Section 34. Paragraph (i) of subsection (1) of section
1895 376.303, Florida Statutes, is amended to read:

1896 376.303 Powers and duties of the Department of
1897 Environmental Protection.—

1898 (1) The department has the power and the duty to:

1899 (i) Keep an accurate record of any sums expended from the
1900 Water Quality Assurance Trust Fund ~~the costs and expenses~~
1901 ~~incurred~~ for the removal of prohibited discharges and, except as
1902 otherwise provided by law, thereafter diligently pursue the
1903 recovery of any sums so expended ~~incurred~~ from the person
1904 responsible or from the United States Government under any
1905 applicable federal act, unless the department finds the amount
1906 involved too small or the likelihood of recovery too uncertain.

1907 Section 35. Section 376.3031, Florida Statutes, is created
1908 to read:

1909 376.3031 Powers and duties of the Fish and Wildlife
1910 Conservation Commission.—

1911 (1) The commission has the power to undertake the removal
1912 of a pollutant discharge prohibited by ss. 376.30-376.317 and
1913 may contract and retain agents who shall operate under the
1914 direction of the commission.

16-00981A-12

20121782

1915 (2) The commission may expend funds from the Water Quality
1916 Assurance Trust Fund for the removal of prohibited discharges
1917 and shall keep an accurate record of any sums so expended and,
1918 except as otherwise provided by law, thereafter diligently
1919 pursue the recovery of any sums so expended from the person
1920 responsible or from the United States Government under any
1921 applicable federal act, unless the commission finds the amount
1922 involved too small or the likelihood of recovery too uncertain.

1923 (3) The powers and duties of the commission under ss.
1924 376.30-376.317 shall extend to the boundaries of the state
1925 described in s. 1, Art. II of the State Constitution.

1926 (4) The commission may require a property owner to provide
1927 site access for activities associated with contamination
1928 assessment or remedial action. This section does not prohibit an
1929 action by the property owner to compel restoration of the
1930 property or to recover damages from the person responsible for
1931 the polluting condition requiring assessment or remedial action
1932 activities.

1933 (5) The commission may use and enforce any administrative
1934 rule adopted by any agency pursuant to ss. 376.30-376.317.

1935 Section 36. Subsections (1), (2), (3), and (4) of section
1936 376.305, Florida Statutes, are amended to read:

1937 376.305 Removal of prohibited discharges.—

1938 (1) Any person discharging a pollutant as prohibited by ss.
1939 376.30-376.317 shall immediately undertake to contain, remove,
1940 and abate the discharge to the satisfaction of the department or
1941 commission. However, such an undertaking to contain, remove, or
1942 abate a discharge may ~~shall~~ not be deemed an admission of
1943 responsibility for the discharge by the person taking such

16-00981A-12

20121782__

1944 action. Notwithstanding this requirement, the department or
1945 commission may undertake the removal of the discharge and may
1946 contract and retain agents who shall operate under the direction
1947 of the department or commission.

1948 (2) If the person causing the discharge, or the person in
1949 charge of facilities at which the discharge has taken place,
1950 fails to act immediately, the department or commission may
1951 arrange for the removal of the pollutant; except that, if the
1952 pollutant was discharged into or upon the navigable waters of
1953 the United States, the department or commission shall act in
1954 accordance with the national contingency plan for removal of
1955 such pollutant as established pursuant to the Federal Water
1956 Pollution Control Act, as amended, and the costs of removal
1957 incurred by the department or the commission shall be paid in
1958 accordance with the applicable provisions of that law. Federal
1959 funds provided under that act shall be used to the maximum
1960 extent possible prior to the expenditure of state funds.

1961 (3) An ~~No~~ action taken by a ~~any~~ person to contain or remove
1962 a discharge, whether such action is taken voluntarily or at the
1963 request of the department or commission or their designees ~~its~~
1964 ~~designee, is not shall be construed as~~ an admission of liability
1965 for the discharge.

1966 (4) A ~~No~~ person who, voluntarily or at the request of the
1967 department or commission or their designees ~~its designee,~~
1968 renders assistance in containing or removing any pollutant is
1969 not shall be liable for any civil damages to third parties
1970 resulting solely from the acts or omissions of such person in
1971 rendering such assistance, except for acts or omissions
1972 amounting to gross negligence or willful misconduct.

16-00981A-12

20121782__

1973 Section 37. Paragraph (a) of subsection (4) and subsections
1974 (5) and (7) of section 376.307, Florida Statutes, are amended to
1975 read:

1976 376.307 Water Quality Assurance Trust Fund.—

1977 (4) The trust fund shall be funded as follows:

1978 (a) An annual transfer of interest funds from the Florida
1979 Coastal Protection Trust Fund pursuant to s. 376.11(4)(e)
1980 ~~376.11(4)(f)~~.

1981 (5) Except as otherwise provided by law, the department or
1982 commission shall recover to the use of the fund from a person or
1983 persons at any time causing or having caused the discharge or
1984 from the Federal Government, jointly and severally, all sums
1985 owed or expended from the fund, pursuant to s. 376.308, except
1986 that the department or commission may decline to pursue such
1987 recovery if it finds the amount involved too small or the
1988 likelihood of recovery too uncertain. A recovery of sums
1989 expended by the department from such person or persons or from
1990 the Federal Government does not preclude the commission from
1991 pursuing recovery of sums it also expended from the same party
1992 or vice versa. Sums recovered as a result of damage due to
1993 discharge of a pollutant or other similar disaster shall be
1994 apportioned between the fund and the General Revenue Fund so as
1995 to repay the full costs to the General Revenue Fund of any sums
1996 disbursed therefrom as a result of such disaster. Any request
1997 for reimbursement to the fund for such costs, if not paid within
1998 30 days of demand, shall be turned over to the department or
1999 commission, as applicable, for collection.

2000 (7) Except as otherwise provided by law, the department or
2001 commission, in administering the fund, shall diligently pursue

16-00981A-12

20121782

2002 the reimbursement to the fund of any sum expended from the fund
2003 in accordance with this section for cleanup and abatement,
2004 unless the department or commission finds the amount involved
2005 too small or the likelihood of recovery too uncertain. For the
2006 purposes of s. 95.11, the limitation period within which to
2007 institute an action to recover such sums commences on the last
2008 date on which any such sums were expended, and not the date that
2009 the discharge occurred.

2010 Section 38. Subsection (1) of section 376.308, Florida
2011 Statutes, is amended to read:

2012 376.308 Liabilities and defenses of facilities.-

2013 (1) In any suit instituted by the department or commission
2014 under ss. 376.30-376.317, it is not necessary to plead or prove
2015 negligence in any form or matter. The department or commission
2016 need only plead and prove that the prohibited discharge or other
2017 polluting condition has occurred. The following persons shall be
2018 liable to the department or commission for any discharges or
2019 polluting condition:

2020 (a) Any person who caused a discharge or other polluting
2021 condition or who owned or operated the facility, or the
2022 stationary tanks or the nonresidential location which
2023 constituted the facility, at the time the discharge occurred.

2024 (b) In the case of a discharge of hazardous substances, all
2025 persons specified in s. 403.727(4).

2026 (c) In the case of a discharge of petroleum, petroleum
2027 products, or drycleaning solvents, the owner of the facility,
2028 the drycleaning facility, or the wholesale supply facility,
2029 unless the owner can establish that he or she acquired title to
2030 property contaminated by the activities of a previous owner or

16-00981A-12

20121782

2031 operator or other third party, that he or she did not cause or
2032 contribute to the discharge, and that he or she did not know of
2033 the polluting condition at the time the owner acquired title. If
2034 the owner acquired title subsequent to July 1, 1992, or, in the
2035 case of a drycleaning facility or wholesale supply facility,
2036 subsequent to July 1, 1994, he or she must also establish by a
2037 preponderance of the evidence that he or she undertook, at the
2038 time of acquisition, all appropriate inquiry into the previous
2039 ownership and use of the property consistent with good
2040 commercial or customary practice in an effort to minimize
2041 liability. The court or hearing officer shall take into account
2042 any specialized knowledge or experience on the part of the
2043 defendant, the relationship of the purchase price to the value
2044 of the property if uncontaminated, commonly known or reasonably
2045 ascertainable information about the property, the obviousness of
2046 the presence or likely presence of contamination at the
2047 property, and the ability to detect such contamination by
2048 appropriate inspection. In an action relating to a discharge of
2049 petroleum, petroleum products, or drycleaning solvents under
2050 chapter 403, the defenses and definitions set forth herein shall
2051 apply.

2052 Section 39. Section 379.3311, Florida Statutes, is amended
2053 to read:

2054 379.3311 Police powers of commission and its agents.—

2055 (1) The ~~Fish and Wildlife Conservation~~ commission, the
2056 executive director and the executive director's assistants
2057 designated by her or him, and each wildlife officer are
2058 constituted peace officers with the power to make arrests for
2059 violations of the laws of this state when committed in the

16-00981A-12

20121782__

2060 presence of the officer or when committed on lands under the
2061 supervision and management of the commission, the department, or
2062 the Department of Agriculture and Consumer Services, including
2063 state parks, coastal and aquatic managed areas, and greenways
2064 and trails. The general laws applicable to arrests by peace
2065 officers of this state shall also be applicable to such ~~said~~
2066 director, assistants, and wildlife officers. Such persons may
2067 enter upon any land or waters of the state for performance of
2068 their lawful duties and may take with them any necessary
2069 equipment, and such entry does ~~shall~~ not constitute a trespass.

2070 (2) Such officers shall have power and authority to enforce
2071 throughout the state all laws relating to game, nongame birds,
2072 fish, and fur-bearing animals and all rules and regulations of
2073 the ~~Fish and Wildlife Conservation~~ commission relating to wild
2074 animal life, marine life, and freshwater aquatic life, and in
2075 connection with said laws, rules, and regulations, in the
2076 enforcement thereof and in the performance of their duties
2077 thereunder, to:

2078 (a) Go upon all premises, posted or otherwise;

2079 (b) Execute warrants and search warrants for the violation
2080 of such ~~said~~ laws;

2081 (c) Serve subpoenas issued for the examination,
2082 investigation, and trial of all offenses against such ~~said~~ laws;

2083 (d) Carry firearms or other weapons, concealed or
2084 otherwise, in the performance of their duties;

2085 (e) Arrest upon probable cause without warrant any person
2086 found in the act of violating any such ~~of the provisions of said~~
2087 laws or, in pursuit immediately following such violations, to
2088 examine any person, boat, conveyance, vehicle, game bag, game

16-00981A-12

20121782

2089 coat, or other receptacle for wild animal life, marine life, or
2090 freshwater aquatic life, or any camp, tent, cabin, or roster, in
2091 the presence of any person stopping at or belonging to such
2092 camp, tent, cabin, or roster, when such ~~said~~ officer has reason
2093 to believe, and has exhibited her or his authority and stated to
2094 the suspected person in charge the officer's reason for
2095 believing, that any of the aforesaid laws have been violated at
2096 such camp;

2097 (f) Secure and execute search warrants and in pursuance
2098 thereof to enter any building, enclosure, or car and to break
2099 open, when found necessary, any apartment, chest, locker, box,
2100 trunk, crate, basket, bag, package, or container and examine the
2101 contents thereof; and

2102 (g) Seize and take possession of all wild animal life,
2103 marine life, or freshwater aquatic life taken or in possession
2104 or under control of, or shipped or about to be shipped by, any
2105 person at any time in any manner contrary to such ~~said~~ laws.

2106 (3) It is unlawful for any person to resist an arrest
2107 authorized by this section or in any manner to interfere, either
2108 by abetting, assisting such resistance, or otherwise interfering
2109 with such ~~said~~ executive director, assistants, or wildlife
2110 officers while engaged in the performance of the duties imposed
2111 upon them by law or regulation of the ~~Fish and Wildlife~~
2112 ~~Conservation~~ commission or the department.

2113 (4) Upon final disposition of any alleged offense for which
2114 a citation for any violation of this chapter or the rules of the
2115 commission has been issued, the court shall, within 10 days
2116 after the final disposition of the action, certify the
2117 disposition to the commission.

16-00981A-12

20121782

2118 Section 40. Section 379.3312, Florida Statutes, is amended
2119 to read:

2120 379.3312 Powers of arrest by agents of ~~Department of~~
2121 ~~Environmental Protection or Fish and Wildlife Conservation~~
2122 commission.—Any certified law enforcement officer of the
2123 ~~Department of Environmental Protection or the Fish and Wildlife~~
2124 ~~Conservation~~ commission, upon receiving information, relayed to
2125 her or him from any law enforcement officer stationed on the
2126 ground, on the water, or in the air, that a driver, operator, or
2127 occupant of any vehicle, boat, or airboat has violated any
2128 section of chapter 327, chapter 328, or this chapter, or s.
2129 597.010 or s. 597.020, may arrest the driver, operator, or
2130 occupant for violation of such ~~said~~ laws when reasonable and
2131 proper identification of the vehicle, boat, or airboat and
2132 reasonable and probable grounds to believe that the driver,
2133 operator, or occupant has committed or is committing any such
2134 offense have been communicated to the arresting officer by the
2135 other officer stationed on the ground, on the water, or in the
2136 air.

2137 Section 41. Subsection (1) of section 379.3313, Florida
2138 Statutes, is amended to read:

2139 379.3313 Powers of commission law enforcement officers.—

2140 (1) Law enforcement officers of the commission are
2141 constituted law enforcement officers of this state with full
2142 power to investigate and arrest for any violation of the laws of
2143 this state and the rules of the commission, the department, and
2144 the Department of Agriculture and Consumer Services under their
2145 jurisdiction. The general laws applicable to arrests by peace
2146 officers of this state shall also be applicable to law

16-00981A-12

20121782

2147 enforcement officers of the commission. Such law enforcement
2148 officers may enter upon any land or waters of the state for
2149 performance of their lawful duties and may take with them any
2150 necessary equipment, and such entry will not constitute a
2151 trespass. It is lawful for any boat, motor vehicle, or aircraft
2152 owned or chartered by the commission or its agents or employees
2153 to land on and depart from any of the beaches or waters of the
2154 state. Such law enforcement officers have the authority, without
2155 warrant, to board, inspect, and search any boat, fishing
2156 appliance, storage or processing plant, fishhouse, spongehouse,
2157 oysterhouse, or other warehouse, building, or vehicle engaged in
2158 transporting or storing any fish or fishery products. Such
2159 authority to search and inspect without a search warrant is
2160 limited to those cases in which such law enforcement officers
2161 have reason to believe that fish or any saltwater products are
2162 taken or kept for sale, barter, transportation, or other
2163 purposes in violation of laws or rules adopted ~~promulgated~~ under
2164 this law. ~~Any~~ Such law enforcement officers ~~officer~~ may at any
2165 time seize or take possession of any saltwater products or
2166 contraband which have been unlawfully caught, taken, or
2167 processed or which are unlawfully possessed or transported in
2168 violation of any of the laws of this state or any rule of the
2169 commission. Such law enforcement officers may arrest any person
2170 in the act of violating ~~any of the provisions of~~ this law, the
2171 rules of the commission, or any of the laws of this state. It is
2172 ~~hereby declared~~ unlawful for a ~~any~~ person to resist such arrest
2173 or in any manner interfere, either by abetting or assisting such
2174 resistance or otherwise interfering, with any such law
2175 enforcement officer while engaged in the performance of the

16-00981A-12

20121782

2176 duties imposed upon him or her by law or rule of the commission.

2177 Section 42. Subsections (1) and (2) of section 379.333,
2178 Florida Statutes, are amended to read:

2179 379.333 Arrest by officers of the ~~Fish and Wildlife~~
2180 ~~Conservation~~ commission; recognizance; cash bond; citation.—

2181 (1) In all cases of arrest by officers of the ~~Fish and~~
2182 ~~Wildlife Conservation~~ commission and the ~~Department of~~
2183 ~~Environmental Protection~~, the person arrested shall be delivered
2184 forthwith by such ~~said~~ officer to the sheriff of the county, or
2185 shall obtain from such person arrested a recognizance or, if
2186 deemed necessary, a cash bond or other sufficient security
2187 conditioned for her or his appearance before the proper tribunal
2188 of such county to answer the charge for which the person has
2189 been arrested.

2190 (2) All officers of the commission shall ~~and the department~~
2191 ~~are hereby directed to~~ deliver all bonds accepted and approved
2192 by them to the sheriff of the county in which the offense is
2193 alleged to have been committed.

2194 Section 43. Subsection (1) of section 379.341, Florida
2195 Statutes, is amended to read:

2196 379.341 Disposition of illegal fishing devices; exercise of
2197 police power.—

2198 (1) In all cases of arrest and conviction for use of
2199 illegal nets or traps or fishing devices, as provided in this
2200 chapter, such illegal net, trap, or fishing device is declared
2201 to be a nuisance and shall be seized and carried before the
2202 court having jurisdiction of such offense and such ~~said~~ court
2203 shall order such illegal trap, net, or fishing device forfeited
2204 to the commission immediately after trial and conviction of the

16-00981A-12

20121782__

2205 person in whose possession they were found. When any illegal
2206 net, trap, or fishing device is found in the fresh waters of the
2207 state, and its ~~the~~ owner is ~~of same shall~~ not be known to the
2208 officer finding it ~~the same~~, such officer shall immediately
2209 procure from the county court judge an order forfeiting such
2210 ~~said~~ illegal net, trap, or fishing device to the commission. The
2211 commission may destroy such illegal net, trap, or fishing
2212 device, if in its judgment such ~~said~~ net, trap, or fishing
2213 device is not of value in the work of the commission ~~department~~.

2214 Section 44. Subsection (2) of section 403.413, Florida
2215 Statutes, is reordered and amended to read:

2216 403.413 Florida Litter Law.—

2217 (2) DEFINITIONS.—As used in this section:

2218 (f) ~~(a)~~ "Litter" means any garbage; rubbish; trash; refuse;
2219 can; bottle; box; container; paper; tobacco product; tire;
2220 appliance; mechanical equipment or part; building or
2221 construction material; tool; machinery; wood; motor vehicle or
2222 motor vehicle part; vessel; aircraft; farm machinery or
2223 equipment; sludge from a waste treatment facility, water supply
2224 treatment plant, or air pollution control facility; or substance
2225 in any form resulting from domestic, industrial, commercial,
2226 mining, agricultural, or governmental operations.

2227 (h) ~~(b)~~ "Person" means any individual, firm, sole
2228 proprietorship, partnership, corporation, or unincorporated
2229 association.

2230 (e) ~~(c)~~ "Law enforcement officer" means any officer of the
2231 Florida Highway Patrol, a county sheriff's department, a
2232 municipal law enforcement department, a law enforcement
2233 department of any other political subdivision, ~~the department,~~

16-00981A-12

20121782

2234 or the Fish and Wildlife Conservation Commission. In addition,
2235 and solely for the purposes of this section, "law enforcement
2236 officer" means any employee of a county or municipal park or
2237 recreation department designated by the department head as a
2238 litter enforcement officer.

2239 (a)~~(d)~~ "Aircraft" means a motor vehicle or other vehicle
2240 that is used or designed to fly but does not include a parachute
2241 or any other device used primarily as safety equipment.

2242 (b)~~(e)~~ "Commercial purpose" means for the purpose of
2243 economic gain.

2244 (c)~~(f)~~ "Commercial vehicle" means a vehicle that is owned
2245 or used by a business, corporation, association, partnership, or
2246 sole proprietorship or any other entity conducting business for
2247 a commercial purpose.

2248 (d)~~(g)~~ "Dump" means to dump, throw, discard, place,
2249 deposit, or dispose of.

2250 (g)~~(h)~~ "Motor vehicle" means an automobile, motorcycle,
2251 truck, trailer, semitrailer, truck tractor, or semitrailer
2252 combination or any other vehicle that is powered by a motor.

2253 (i) "Vessel" means a boat, barge, or airboat or any other
2254 vehicle used for transportation on water.

2255 Section 45. Subsections (6) through (43) of section
2256 403.703, Florida Statutes, are renumbered as subsections (7)
2257 through (44), respectively, present subsection (32) is amended,
2258 and a new subsection (6) is added to that section, to read:

2259 403.703 Definitions.—As used in this part, the term:

2260 (6) "Commission" means the Fish and Wildlife Conservation
2261 Commission.

2262 (33)~~(32)~~ "Solid waste" means sludge unregulated under the

16-00981A-12

20121782__

2263 federal Clean Water Act or Clean Air Act, sludge from a waste
2264 treatment works, water supply treatment plant, or air pollution
2265 control facility, or garbage, rubbish, refuse, special waste, or
2266 other discarded material, including solid, liquid, semisolid, or
2267 contained gaseous material resulting from domestic, industrial,
2268 commercial, mining, agricultural, or governmental operations.
2269 Recovered materials as defined in subsection (25) ~~(24)~~ are not
2270 solid waste.

2271 Section 46. Subsections (21) and (22) of section 403.704,
2272 Florida Statutes, are renumbered as subsections (20) and (21),
2273 respectively, and present subsection (20) of that section is
2274 amended to read:

2275 403.704 Powers and duties of the department.—The department
2276 shall have responsibility for the implementation and enforcement
2277 of this act. In addition to other powers and duties, the
2278 department shall:

2279 ~~(20) Institute a hazardous waste emergency response program~~
2280 ~~which would include emergency telecommunication capabilities and~~
2281 ~~coordination with appropriate agencies.~~

2282 Section 47. Section 403.7041, Florida Statutes, is created
2283 to read:

2284 403.7041 Powers and duties of the commission.—The
2285 commission shall institute a hazardous waste emergency response
2286 program, which includes emergency telecommunication
2287 capabilities, and coordination with appropriate agencies. The
2288 commission may adopt rules, delegate its powers, enter into
2289 contracts, or take such other actions as may be necessary to
2290 implement this section.

2291 Section 48. Paragraph (a) of subsection (1) and subsection

16-00981A-12

20121782

2292 (4) of section 403.727, Florida Statutes, are amended to read:

2293 403.727 Violations; defenses, penalties, and remedies.—

2294 (1) It is unlawful for any hazardous waste generator,
2295 transporter, or facility owner or operator to:

2296 (a) Fail to comply with the provisions of this act or
2297 departmental or commission rules or orders;

2298 (4) In addition to any other liability under this chapter,
2299 and subject only to the defenses set forth in subsections (5),
2300 (6), and (7):

2301 (a) The owner and operator of a facility;

2302 (b) A ~~Any~~ person who at the time of disposal of any
2303 hazardous substance owned or operated any facility at which such
2304 hazardous substance was disposed of;

2305 (c) A ~~Any~~ person who, by contract, agreement, or otherwise,
2306 arranged for disposal or treatment, or arranged with a
2307 transporter for transport for disposal or treatment, of
2308 hazardous substances owned or possessed by such person or by any
2309 other party or entity at any facility owned or operated by
2310 another party or entity and containing such hazardous
2311 substances; and

2312 (d) A ~~Any~~ person who accepts or has accepted any hazardous
2313 substances for transport to disposal or treatment facilities or
2314 sites selected by such person,

2315
2316 is liable for all costs of removal or remedial action incurred
2317 by the department or commission under this section and damages
2318 for injury to, destruction of, or loss of natural resources,
2319 including the reasonable costs of assessing such injury,
2320 destruction, or loss resulting from the release or threatened

16-00981A-12

20121782__

2321 release of a hazardous substance as defined in the Comprehensive
 2322 Environmental Response, Compensation, and Liability Act of 1980,
 2323 Pub. L. No. 96-510.

2324 Section 49. Paragraph (d) of subsection (1) of section
 2325 784.07, Florida Statutes, is amended to read:

2326 784.07 Assault or battery of law enforcement officers,
 2327 firefighters, emergency medical care providers, public transit
 2328 employees or agents, or other specified officers;
 2329 reclassification of offenses; minimum sentences.—

2330 (1) As used in this section, the term:

2331 (d) "Law enforcement officer" includes a law enforcement
 2332 officer, a correctional officer, a correctional probation
 2333 officer, a part-time law enforcement officer, a part-time
 2334 correctional officer, an auxiliary law enforcement officer, and
 2335 an auxiliary correctional officer, as those terms are
 2336 respectively defined in s. 943.10, and any county probation
 2337 officer; an employee or agent of the Department of Corrections
 2338 who supervises or provides services to inmates; an officer of
 2339 the Parole Commission; a federal law enforcement officer as
 2340 defined in s. 901.1505; and law enforcement personnel of the
 2341 Fish and Wildlife Conservation Commission, ~~the Department of~~
 2342 ~~Environmental Protection,~~ or the Department of Law Enforcement.

2343 Section 50. Section 843.08, Florida Statutes, is amended to
 2344 read:

2345 843.08 Falsely personating officer, etc.—A person who
 2346 falsely assumes or pretends to be a sheriff, officer of the
 2347 Florida Highway Patrol, officer of the Fish and Wildlife
 2348 Conservation Commission, ~~officer of the Department of~~
 2349 ~~Environmental Protection,~~ officer of the Department of

16-00981A-12

20121782

2350 Transportation, officer of the Department of Financial Services,
2351 officer of the Department of Corrections, correctional probation
2352 officer, deputy sheriff, state attorney or assistant state
2353 attorney, statewide prosecutor or assistant statewide
2354 prosecutor, state attorney investigator, coroner, police
2355 officer, lottery special agent or lottery investigator, beverage
2356 enforcement agent, or watchman, or any member of the Parole
2357 Commission and any administrative aide or supervisor employed by
2358 the commission, or any personnel or representative of the
2359 Department of Law Enforcement, or a federal law enforcement
2360 officer as defined in s. 901.1505, and takes upon himself or
2361 herself to act as such, or to require any other person to aid or
2362 assist him or her in a matter pertaining to the duty of any such
2363 officer, commits a felony of the third degree, punishable as
2364 provided in s. 775.082, s. 775.083, or s. 775.084; however, a
2365 person who falsely personates any such officer during the course
2366 of the commission of a felony commits a felony of the second
2367 degree, punishable as provided in s. 775.082, s. 775.083, or s.
2368 775.084; except that if the commission of the felony results in
2369 the death or personal injury of another human being, the person
2370 commits a felony of the first degree, punishable as provided in
2371 s. 775.082, s. 775.083, or s. 775.084.

2372 Section 51. Section 870.04, Florida Statutes, is amended to
2373 read:

2374 870.04 Specified officers to disperse riotous assembly.—If
2375 any number of persons, whether armed or not, are unlawfully,
2376 riotously or tumultuously assembled in any county, city or
2377 municipality, the sheriff or the sheriff's deputies, or the
2378 mayor, or any commissioner, council member, alderman or police

16-00981A-12

20121782__

2379 officer of the ~~said~~ city or municipality, or any officer or
2380 member of the Florida Highway Patrol, or any officer or agent of
2381 the Fish and Wildlife Conservation Commission, ~~Department of~~
2382 ~~Environmental Protection~~, or beverage enforcement agent, any
2383 personnel or representatives of the Department of Law
2384 Enforcement or its successor, or any other peace officer, shall
2385 go among the persons so assembled, or as near to them as may be
2386 with safety, and shall in the name of the state command all the
2387 persons so assembled immediately and peaceably to disperse; and
2388 if such persons do not thereupon immediately and peaceably
2389 disperse, such ~~said~~ officers shall command the assistance of all
2390 such persons in seizing, arresting and securing such persons in
2391 custody; and if any person present being so commanded to aid and
2392 assist in seizing and securing such rioter or persons so
2393 unlawfully assembled, or in suppressing such riot or unlawful
2394 assembly, refuses or neglects to obey such command, or, when
2395 required by such officers to depart from the place, refuses and
2396 neglects to do so, the person shall be deemed one of the rioters
2397 or persons unlawfully assembled, and may be prosecuted and
2398 punished accordingly.

2399 Section 52. Paragraphs (c) through (n) of subsection (6) of
2400 section 932.7055, Florida Statutes, are redesignated as
2401 paragraphs (b) through (m), respectively, and present paragraph
2402 (b) of that subsection is amended to read:

2403 932.7055 Disposition of liens and forfeited property.—

2404 (6) If the seizing agency is a state agency, all remaining
2405 proceeds shall be deposited into the General Revenue Fund.

2406 However, if the seizing agency is:

2407 ~~(b) The Department of Environmental Protection, the~~

16-00981A-12

20121782

2408 ~~proceeds accrued pursuant to the provisions of the Florida~~
2409 ~~Contraband Forfeiture Act shall be deposited into the Internal~~
2410 ~~Improvement Trust Fund.~~

2411 Section 53. Subsection (2) of section 171.205, Florida
2412 Statutes, is amended to read:

2413 171.205 Consent requirements for annexation of land under
2414 this part.—Notwithstanding part I, an interlocal service
2415 boundary agreement may provide a process for annexation
2416 consistent with this section or with part I.

2417 (2) If the area to be annexed includes a privately owned
2418 solid waste disposal facility as defined in s. 403.703(34)
2419 ~~403.703(33)~~ which receives municipal solid waste collected
2420 within the jurisdiction of multiple local governments, the
2421 annexing municipality must set forth in its plan the effects
2422 that the annexation of the solid waste disposal facility will
2423 have on the other local governments. The plan must also indicate
2424 that the owner of the affected solid waste disposal facility has
2425 been contacted in writing concerning the annexation, that an
2426 agreement between the annexing municipality and the solid waste
2427 disposal facility to govern the operations of the solid waste
2428 disposal facility if the annexation occurs has been approved,
2429 and that the owner of the solid waste disposal facility does not
2430 object to the proposed annexation.

2431 Section 54. Subsection (69) of section 316.003, Florida
2432 Statutes, is amended to read:

2433 316.003 Definitions.—The following words and phrases, when
2434 used in this chapter, shall have the meanings respectively
2435 ascribed to them in this section, except where the context
2436 otherwise requires:

16-00981A-12

20121782

2437 (69) HAZARDOUS MATERIAL.—Any substance or material which
2438 has been determined by the secretary of the United States
2439 Department of Transportation to be capable of imposing an
2440 unreasonable risk to health, safety, and property. This term
2441 includes hazardous waste as defined in s. 403.703(14)
2442 ~~403.703(13)~~.

2443 Section 55. Subsection (4) of section 376.40, Florida
2444 Statutes, is amended to read:

2445 376.40 Petroleum exploration and production; purposes;
2446 funding.—

2447 (4) FUNDING.—There shall be deposited in the Minerals Trust
2448 Fund:

2449 (a) All fees charged permittees under ss. 377.24(1),
2450 377.2408(1), and 377.2425(1) (b).

2451 (b) All penalties, judgments, recoveries, reimbursements,
2452 and other fees and charges related to the implementation of this
2453 section.

2454 (c) Any other funds required to be deposited in the trust
2455 fund under provisions of law.

2456

2457 ~~If moneys on deposit in the trust fund are not sufficient to~~
2458 ~~satisfy the needed remedial or corrective action, and if the~~
2459 ~~responsible party does not take remedial and corrective action~~
2460 ~~in a timely manner or if a catastrophic event occurs, a~~
2461 ~~temporary transfer of the required amount, or a maximum of \$10~~
2462 ~~million, from the Florida Coastal Protection Trust Fund pursuant~~
2463 ~~to s. 376.11(4) (i) is authorized. The Florida Coastal Protection~~
2464 ~~Trust Fund shall be reimbursed immediately upon deposit into the~~
2465 ~~Minerals Trust Fund of moneys referred to in paragraph (b).~~

16-00981A-12

20121782

2466 Section 56. Paragraph (f) of subsection (2) of section
2467 377.709, Florida Statutes, is amended to read:

2468 377.709 Funding by electric utilities of local governmental
2469 solid waste facilities that generate electricity.—

2470 (2) DEFINITIONS.—As used in this section, the term:

2471 (f) "Solid waste facility" means a facility owned or
2472 operated by, or on behalf of, a local government for the purpose
2473 of disposing of solid waste, as that term is defined in s.
2474 403.703(33) ~~403.703(32)~~, by any process that produces heat and
2475 incorporates, as a part of the facility, the means of converting
2476 heat to electrical energy in amounts greater than actually
2477 required for the operation of the facility.

2478 Section 57. Paragraph (j) of subsection (9) of section
2479 403.707, Florida Statutes, is amended to read:

2480 403.707 Permits.—

2481 (9) The department shall establish a separate category for
2482 solid waste management facilities that accept only construction
2483 and demolition debris for disposal or recycling. The department
2484 shall establish a reasonable schedule for existing facilities to
2485 comply with this section to avoid undue hardship to such
2486 facilities. However, a permitted solid waste disposal unit that
2487 receives a significant amount of waste prior to the compliance
2488 deadline established in this schedule shall not be required to
2489 be retrofitted with liners or leachate control systems.

2490 (j) The Legislature recognizes that recycling, waste
2491 reduction, and resource recovery are important aspects of an
2492 integrated solid waste management program and as such are
2493 necessary to protect the public health and the environment. If
2494 necessary to promote such an integrated program, the county may

16-00981A-12

20121782

2495 determine, after providing notice and an opportunity for a
 2496 hearing prior to April 30, 2008, that some or all of the
 2497 material described in s. 403.703(7)(b) ~~403.703(6)(b)~~ shall be
 2498 excluded from the definition of "construction and demolition
 2499 debris" in s. 403.703(7) ~~403.703(6)~~ within the jurisdiction of
 2500 such county. The county may make such a determination only if it
 2501 finds that, prior to June 1, 2007, the county has established an
 2502 adequate method for the use or recycling of such wood material
 2503 at an existing or proposed solid waste management facility that
 2504 is permitted or authorized by the department on June 1, 2007.
 2505 The county is not required to hold a hearing if the county
 2506 represents that it previously has held a hearing for such
 2507 purpose, or if the county represents that it previously has held
 2508 a public meeting or hearing that authorized such method for the
 2509 use or recycling of trash or other nonputrescible waste
 2510 materials and that such materials include those materials
 2511 described in s. 403.703(7)(b) ~~403.703(6)(b)~~. The county shall
 2512 provide written notice of its determination to the department by
 2513 no later than April 30, 2008; thereafter, the materials
 2514 described in s. 403.703(7) ~~403.703(6)~~ shall be excluded from the
 2515 definition of "construction and demolition debris" in s.
 2516 403.703(7) ~~403.703(6)~~ within the jurisdiction of such county.
 2517 The county may withdraw or revoke its determination at any time
 2518 by providing written notice to the department.

2519 Section 58. Subsection (1) of section 487.048, Florida
 2520 Statutes, is amended to read:

2521 487.048 Dealer's license; records.—

2522 (1) Each person holding or offering for sale, selling, or
 2523 distributing restricted-use pesticides shall obtain a dealer's

16-00981A-12

20121782__

2524 license from the department. Application for the license shall
2525 be made on a form prescribed by the department. The license must
2526 be obtained before entering into business or transferring
2527 ownership of a business. The department may require examination
2528 or other proof of competency of individuals to whom licenses are
2529 issued or of individuals employed by persons to whom licenses
2530 are issued. Demonstration of continued competency may be
2531 required for license renewal, as set by rule. The license shall
2532 be renewed annually as provided by rule. An annual license fee
2533 not exceeding \$250 shall be established by rule. However, a user
2534 of a restricted-use pesticide may distribute unopened containers
2535 of a properly labeled pesticide to another user who is legally
2536 entitled to use that restricted-use pesticide without obtaining
2537 a pesticide dealer's license. The exclusive purpose of
2538 distribution of the restricted-use pesticide is to keep it from
2539 becoming a hazardous waste as defined in s. 403.703(14)
2540 ~~403.703(13)~~.

2541 Section 59. This act shall take effect July 1, 2012.