

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: CS/SB 804

INTRODUCER: Environmental Preservation and Conservation Committee; and Environmental Preservation and Conservation Committee

SUBJECT: Fish and wildlife conservation

DATE: December 8, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	Fav/CS
2.	_____	_____	BC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 804 (CS) removes outdated references to documentary stamp tax appropriations for marine mammal care and replaces it with permissive use for vessel registration fees. Marine mammal care is now funded by vessel registration fees and documentary stamp taxes no longer fund marine mammal care appropriations. The CS removes the provision requiring that undistributed funds be carried over to the next fiscal year. The CS repeals the law requiring a printed version of the *Florida Wildlife* magazine, as well as dissolves the Florida Wildlife Magazine Advisory Council (Council), a seven-member group whose role is to provide advice to the Fish and Wildlife Conservation Commission (FWC) on the publication *Florida Wildlife*.

The CS modifies the mentor option of the hunter safety education course, deletes the one-year deferral, and allows individuals to hunt under supervision, indefinitely, without taking the course. The CS reduces the fee for a commercial blue crab soft shell endorsement by one-half, from \$250 to \$125 for each endorsement. This will make the endorsements the same for all trap fisheries: spiny lobster, stone crab, soft shell blue crab, and hard shell blue crab. The CS adds willful molestation of a commercial harvester's spiny lobster trap, line, or buoy or the unauthorized possession or removal of trap contents or trap gear to the offense severity ranking

chart, of a Level 5, to allow judges the discretion to assess the full range of the penalty to include up to 5 years in prison.

The CS amends ss. 379.208, 379.3581, 379.366, 921.0022, of the Florida Statutes. The CS repeals, s. 379.2342(2), of the F.S.

II. Present Situation:

Marine Resources Conservation Trust Fund

According to the FWC, during the 2000 Session, the Legislature passed Senate Bill 186 providing a fixed amount of \$2 million dollars from documentary stamp taxes to support marine mammal care. The revenue was appropriated on a recurring basis providing \$1.15 million for manatee rehabilitation, \$810,000 for University of Florida marine mammal veterinary training and \$40,000 for program administration. The sections of law that were modified in Senate Bill 186 (2000) were s. 201.15, F.S., pertaining to distributions of documentary stamp revenues, and s. 370.0603, F.S., pertaining to the Marine Resources Conservation Trust Fund

In 2008, with the passage of Senate Bill 1882, the Legislature changed the fixed amount of documentary stamp revenues to a percentage of documentary stamp revenues with a \$2 million cap. The recurring appropriation remained the same (\$2 million) with the intent that when documentary stamp tax revenues dipped below \$2 million, the difference would be supported from vessel registration fees. The sections of law that were modified in Senate Bill 1882 (2008) were s. 201.15(1)(c)5, F.S., pertaining to distributions of documentary stamp revenues, and s. 370.0603, F.S., pertaining to the Marine Resources Conservation Trust Fund.

In 2009, the Legislature passed Senate Bill 1750 that eliminated the provision of documentary stamp taxes for marine mammal care. The recurring appropriation was left to be supported entirely from vessel registration fees. Senate Bill 1750 (2009) repealed s. 201.15(1)(c)5, F.S., pertaining to distributions of documentary stamp revenues; however, the residual language in s. 379.208, F.S., pertaining to the Marine Resources Trust Fund (the successor statute to s. 370.0603, F.S.) referencing how those documentary stamp taxes were to be used in the Marine Resources Conservation Trust Fund was not updated.¹

Florida Wildlife magazine repeal

The Game and Fresh Water Fish Commission, predecessor to the FWC, first published *Florida Wildlife* magazine in 1947. It began as a monthly magazine, switching to a bi-monthly schedule in the 1970s. As the official magazine of the FWC, the goal of *Florida Wildlife* is to promote the heritage of hunting, fishing and nature-based recreation in Florida and to encourage wise stewardship of the State's fish and wildlife resources.

During the 2003 Session, the Florida Legislature concurred with the FWC's potential reductions submission to eliminate the magazine's budget and positions. There were approximately 15,000 paid subscribers at the time, and the magazine ceased accepting new and renewal subscriptions.

¹ Florida Fish and Wildlife Conservation Commission, *Senate Bill 804*(Dec.2,2011) (on file with the Committee on Environmental Preservation and Conservation).

After *Florida Wildlife* published its final issue in November-December 2003, the FWC processed approximately \$84,000 in refunds for the approximately 6,000 remaining subscribers.

During the 2004 Session, the Legislature reinstated the funding of the magazine and included statutory provisions that allowed the sale of advertising and established a seven-member Florida Wildlife Magazine Advisory Council. The Council's role was to provide advice and guidance regarding the editorial and advertising content of the magazine, as well as strategies to increase circulation and reduce costs. The first issue of the re-established *Florida Wildlife* was published in April 2005. The Council has been inactive since 2006.

During the 2011 Session, the Legislature concurred with the FWC's potential reductions submissions to eliminate the printed publication of the *Florida Wildlife* magazine. Beginning July 1, 2011, the budget for the *Florida Wildlife* magazine was permanently cut by \$240,000. Section 41 of the Implementing bill (SB 2002) states: "notwithstanding the provisions of s. 379.2342(2), F.S., for the 2011-2012 fiscal year only, the FWC shall suspend the publication of a printed version of the *Florida Wildlife* magazine and the operations of the Florida Wildlife Magazine Advisory Council." The implementing bill is tied to the annual General Appropriations Act and is therefore limited to adjusting statutory requirements for one year only. The 2011-12 General Appropriations Act, however, reduced the funding permanently. A statutory change is needed for the FWC to carry out the legislative intent of the permanent cut to the funding of the printed version, and to repeal the authorization of the Council.

The number of paid subscriptions to *Florida Wildlife* was approximately 4,900, as of May 2011. Those 4,900 subscribers are eligible for refunds totaling approximately \$68,000.

Hunter Safety

Section 379.3581, F.S., covers the hunter safety course, requirements, and penalties. The statute covering hunter safety became law in 1991. This statute requires everyone born after June 1, 1975, to successfully complete a hunter safety course before purchasing a hunting license. Since a hunting license is required once you turn 16 years of age, it is necessary for students to take the course before turning 16-years-old.

According to the FWC, for those who fail to take the course before turning 16 years of age, it is important for them to take the course before hunting season begins in the fall when all the volunteer instructors are hunting and not teaching hunter safety courses. Over the years, there became an ever increasing number of individuals who were over 16 years of age who wanted to hunt, but waited until after hunting season started to try to purchase a license. When they discovered the hunter safety requirement, the lack of course offerings during hunting season hindered their ability to participate.²

In 2006, the hunter safety statute was amended to allow FWC to defer the hunter safety course requirement for one year and issue a hunting license to a person allowing for only supervised hunting under certain circumstances. Anyone 16 years or older and born after May 31, 1975, can

² Florida Fish and Wildlife Conservation Commission, Senate Bill 804, Analysis (December 2, 2011) (on will with the Senate Committee on Environmental Preservation and Conservation.

hunt under the supervision of a licensed hunter, 21 or older, without having to complete the state's hunter safety certification. The newly established "Hunter Safety Mentoring Exemption" enables those persons to purchase a Florida hunting license and hunt during a one-year trial basis. The new mentoring exemption was passed by the Florida Legislature to help persuade more people to experience hunting. It is designed to encourage experienced hunters to teach novice hunters about safety, ethics, wildlife, hunting skills and respect for Florida's outdoors. Those who use this exemption are only eligible for this deferral for one year. After that, individuals taking advantage of this would have to take and pass a hunter safety class to be eligible to purchase a hunting license and hunt the following year.³

Commercial blue crab soft shell endorsement fee

A Saltwater Products License (SPL) is the fishing license for commercial fishermen harvesting in Florida's state waters. The SPL authorizes the licensee to fish for commercial quantities of fish, rather than recreational bag limits. The price of the SPL is \$50 for Florida residents, \$100 for nonresidents, and for aliens⁴ is \$150. Anyone may purchase an SPL.

An endorsement is required for some fisheries in addition to the SPL. As used by the FWC, an "endorsement" gives permission to the commercial fisherman to legally harvest and/or use specific methods of commercial harvest in a particular fishery, and may be based on qualifying criteria.

During the 1998 Legislative Session, concerns about the rapidly increasing number of traps in the blue crab fishery and the resulting stress on marine natural resources resulted in a moratorium on the issuance of new blue crab endorsements. The moratorium was established to allow for the completion and adoption of a blue crab effort management program. The moratorium was extended two times and lasted until July 1, 2007.

In 2003, the FWC assembled an ad hoc 15 member industry advisory board made up of blue crab harvesters and wholesale dealers to develop an effort management program. Included in the management program would be management of the blue crab fishery, trap retrieval, research, enforcement, public education activities, and issuance of licenses, endorsements, and trap tags. The ad hoc Blue Crab Advisory Board endorsed the adoption of an effort management program that would limit the total number of participants in the fishery, and allow for an equal number of trap tags available for each endorsement issued. They further recommended separating the hard shell blue crab fishery from the soft shell blue crab fishery and the creation of a distinct endorsement for each fishery.

In order to qualify for a hard shell crab endorsement, an applicant had to demonstrate reported hard shell blue crab landings of 500 pounds on their SPL during any one of the qualifying years (license years 2000-2001, 2001-2002, or 2002-2003). In order to qualify for additional hard shell crab endorsements, applicants had to demonstrate reported landings of at least 7,500 pounds on any of their SPLs during any one of the qualifying years. Each qualified hard shell crab

³ Florida Fish and Wildlife Conservation Commission, Hunting, Hunter Safety Mentoring Exemption, [http://myfwc.com/hunting/safety-education/mentoring/\(last](http://myfwc.com/hunting/safety-education/mentoring/(last) visited Dec. 5, 2011).

⁴ Alien is defined as a person who does not have documentation from the Immigration and Naturalization Service showing permanent residency status in the United States.

endorsement is allotted 600 trap tags, which can be used anywhere, and an additional 400 trap tags to be used only in offshore waters of the Gulf of Mexico.

In order to qualify for a soft shell crab endorsement, applicants had to demonstrate reported soft shell (or peeler) blue crab landings of 750 crabs on their SPL during any one of the same qualifying years (license years 2000-2001, 2001-2002, or 2002-2003). In order to qualify for an additional soft shell crab endorsement on one additional SPL, an applicant had to demonstrate reported landings of 2,500 soft shell crabs. Each qualified soft shell crab endorsement is allotted 400 trap tags with an additional 250 trap tags for a subsequent qualified endorsement. After the initial allotment, endorsements could be traded or sold between participants.

In addition to the ad hoc Blue Crab Advisory Board recommendation, the FWC elected to allow qualified commercial fishermen affected by the Net Limitation Amendment to be issued a non-transferable blue crab endorsement that is allotted 100 trap tags.

The hard and soft shell endorsements must be requalified every three years. To requalify endorsements, the holder must document crab landings in one of the three previous years. The requalifying amounts are the same as the amounts that qualified the applicant to obtain an endorsement originally. If the endorsement holder does not requalify, the endorsement is not renewed the next year and is required to be forfeited.

The FWC also addressed commercial fisheries (such as shrimp and stone crab) in which blue crab harvest is permitted as a bycatch. In the years prior to the moratorium, blue crab endorsements were provided to these commercial fisheries at no additional cost and were renewed over the years as additional fishery options. The FWC has permitted a blue crab bycatch in shrimp trawls (200 pounds per day) since 1993, and nominal amounts of blue crabs have historically been landed as bycatch from stone crab traps. Therefore, FWC established an incidental take endorsement to allow the incidental harvest, possession, and sale of 200 pounds of blue crabs from shrimp trawls and stone crab traps.

The endorsement fees were set by the Legislature, at the recommendation of FWC and the ad hoc Blue Crab Advisory Board, at \$125 for the hard shell crab and net limitation endorsements, \$250 for the soft shell crab endorsement, and \$25 for the incidental take endorsement. The original fee for the soft shell crab endorsement was set higher because the market value of soft shell crabs is higher and therefore the value of the endorsement to the crabber was greater. To illustrate, in 2010, the price per pound of hardshell crabs averaged \$1.16 while the price per pound of soft shell crabs was \$8.34.

In 2007, at the beginning of the current limited endorsement program, there were 152 qualified crabbers that purchased and were issued a soft shell crab endorsement, as opposed to 1,016 hard shell crab endorsements. The effort management program stipulates that only endorsements that were issued in the 2007-2008 license year can be eligible for renewal, thereby capping the number of available endorsements. Additionally, if an endorsement is not renewed by September 30 each year, the endorsement is forfeited and is removed from the fishery. Because of the cap on the fishery and the forfeiture of non-renewed licenses, the number of soft shell crab endorsements has dropped from 152 the first year of the program to 83 available to be issued for the 2012 license year. If endorsement holders wish to leave the fishery, they are able to sell or

transfer their endorsement(s) to another commercial harvester; however, many have not renewed or sold their endorsements, therefore permanently reducing the number of available soft shell crab endorsements.

Once the management plan was adopted by the FWC and the Legislature passed the endorsement fees and penalties for violations, a Blue Crab Advisory Board was formally established to make recommendations on the fishery. Due to the significantly reduced number of soft shell crab endorsements, the Blue Crab Advisory Board voted unanimously in 2009, recommending that FWC reduce the fee for the soft shell crab endorsement from \$250 to \$125 annually.

Industry representatives from the Organized Fisherman of Florida and the Southeastern Fisheries Association, Inc., are also in favor of reducing the price of the soft shell crab endorsement.

Currently, the fees for all other commercial fishing license endorsements that allow the use of traps, spiny lobster and stone crab are set at \$125.

Section 379.366(3)(d), F.S., directs moneys generated from the sale of all blue crab endorsements (soft shell, hard shell, net limitation, and incidental take), trap tags, replacement tags, and from the assessment of administrative penalties into the Marine Resources Conservation Trust Fund (Trust Fund). Revenues are to be used for management of the fishery, trap retrieval, research, law enforcement, and public education. In Fiscal Year 2010-11, \$244,179.50 was deposited into the Trust Fund from the purchase of blue crab endorsements and blue crab trap tags.

Modification of the Lobster Trap Theft Penalty

The penalty for a lobster trap theft violation, including the theft of the contents or the trap itself is a 3rd degree felony. The penalty for a 3rd degree felony is up to five years in prison and/or up to a \$5,000 fine. The commercial fishermen have estimated that in 2009-2010 season the loss revenues due to trap theft or molestations were approximately \$2.7 million dollars. The Florida Keys Commercial Fishermen's Association has estimated that trap theft annual losses to fisherman represents about 8-10 % of the total annual harvest. Even though the violation is a third degree felony and the maximum penalty would be a period of five years in prison and up to a \$5,000 fine because it is considered a non-violent felony the courts are restricted in the sentence they can impose. According to the FWC, it is difficult to apprehend/charge trap robbing offenders and sophisticated trap robbing efforts are not deterred by the current penalties.⁵

III. Effect of Proposed Changes:

Section 1 amends s. 379.208, F.S., and removes outdated references to documentary stamp tax appropriations for marine mammal care and replaces it with permissive use for vessel registration fees. Vessel registration fees now fund marine mammal care and documentary stamp taxes no longer fund marine mammal care appropriations.

⁵ Florida Fish and Wildlife Conservation Commission, Senate Bill 804 , Analysis (December 2, 2011) (on file with the Senate Committee on Environmental Preservation and Conservation

Section 2 repeals s. 379.2342(2), F.S., requiring a printed version of the *Florida Wildlife* magazine, and dissolves the Florida Wildlife Magazine Advisory Council. It is FWC's intent to provide the majority of the magazine's content on their website at no cost.

Section 3 amends s. 379.3581, F.S., of the hunter safety course one-year deferral, and allows individuals to hunt under supervision, indefinitely, without taking the course.

Section 4 amends s. 379.366, F.S., to reduce the fee for a soft shell crab endorsement by one-half, from \$250 to \$125 for each endorsement, making the fee for endorsements for all trap fisheries the same. This change would take effect at the beginning of the 2012 blue crab license year, and mostly affect soft shell crab trap fishermen who operate as small businesses.

Section 5 amends s. 921.0022, F.S., to add willful molestation of a commercial harvester's spiny lobster trap, line, or buoy or the unauthorized possession or removal of trap contents or trap gear to the offense severity ranking chart, of a Level 5, to allow judges the discretion to assess the full range of the penalty to include up to 5 years in prison.

Section 6 sets an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The members of the public who currently have subscriptions to *Florida Wildlife* will not receive all printed volumes to which they subscribed and will receive refunds. This change will provide the public with free access to magazine content in an electronic format where previously they had to pay a subscription fee for the printed magazine.

This CS would have a positive fiscal impact for commercial soft shell blue

crabbers in Florida. Each commercial soft shell blue crabber would see a reduction in licensing fees of \$125 per endorsement, of which they can hold two.

The modification of the lobster trap theft penalty to allow judges to impose jail time for offenders might decrease trap theft, which could reduce lost revenue related to trap theft for commercial fisherman.

C. Government Sector Impact:

The CS would eliminate annual Florida Wildlife magazine subscription fees to FWC of \$38,000. The CS would result in a slight reduction of revenues to the Trust Fund. There are 83 current soft shell crab endorsements in the fishery. If all 83 of these endorsements are renewed for Fiscal Year 2011-2012, at a cost of \$125 rather than \$250, the reduction of revenue to the Trust Fund would be \$10,375 (4.25% of the monies generated from blue crab regulation). All of the blue crab revenues in the Trust Fund are appropriated to the FWC's Division of Marine Fisheries Management, Fish and Wildlife Research Institute, Division of Law Enforcement, and the Office of Licensing and Permitting. The small reduction of revenue to the Trust Fund resulting from the CS would be absorbed by these entities.

The cost of administrating the soft shell crab endorsement is the same as the hard shell crab and net limitation endorsements. Therefore, reducing the fee of the soft shell crab endorsement to the same price as the other two endorsements should still adequately fund the soft shell portion of the blue crab management program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environmental Preservation and Conservation on December 6, 2011:

The CS provides a technical fix to the Marine Resources Conservation Trust Fund. It modifies the hunter safety education course mentor option to allow individuals to hunt under supervision, indefinitely, without taking the course. The CS amends the lobster trap theft penalty to a Level 5, which allows the judge to use their discretion to assess the full range of the penalty within a 3rd degree felony to include up to 5 years in prison.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
