

**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.)

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

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BILL: SB 1126

INTRODUCER: Senator Dean

SUBJECT: Fish and Wildlife Conservation Commission

DATE: March 18, 2014

REVISED: \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION             |
|----|---------|----------------|-----------|--------------------|
| 1. | Hinton  | Uchino         | EP        | <b>Pre-meeting</b> |
| 2. |         |                | AP        |                    |

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**I. Summary:**

SB 1126 relates to the Fish and Wildlife Conservation Commission (FWC). Specifically, the bill:

- Requires boating law violators to complete a mandatory boating safety course in person or online;
- Defines the term “wildlife” and authorizes the FWC to require a hunting license for the taking of wildlife on public lands;
- Amends the definition of “game” to exclude wild hogs;
- Specifies that the annual military gold sportsman’s license authorizes the same activities as the annual gold sportsman’s license;
- Specifies requirements for any person seeking to take game, fur-bearing animals, or other wildlife;
- Repeals the fee the FWC is authorized to charge for hunting on areas subject to cooperative agreements between the FWC and the U.S. Forest Service (Forest Service);
- Extends the FWC’s anchoring and mooring pilot program until July 1, 2017, and requires an updated report by Jan. 1, 2017;
- Repeals the provision allowing for trawling for shrimp for personal use in the St. Johns River;
- Eliminates the Special Recreational Spiny Lobster license;
- Expands uses of the Marine Resources Conservation Trust Fund to include additional boating-related projects;
- Repeals the fees for the freshwater trawl seine gear license and the statewide freshwater haul seine gear license. It also repeals the ability to charge fees for the Lake Okeechobee haul and trawl seine permits; and
- Makes technical and conforming changes.

## II. Present Situation:

The present situation for the relevant provisions of the bill is discussed in the Effect of Proposed Changes section of this bill analysis.

## III. Effect of Proposed Changes:

### Boating Safety Education for Boating Law Violators (Sections 1 and 3):

Section 327.395(1), F.S., requires that, subject to exceptions listed in s. 327.395(6), F.S., a person born on or after January 1, 1988, may not operate a vessel powered by a motor of 10 horsepower or greater unless that person has a photographic identification and a boater safety identification card issued by the FWC, which shows he or she has:

- Completed an FWC approved boater education course that meets the minimum 8-hour instruction requirement established by the National Association of State Boating Law Administrators;
- Passed a course equivalency examination approved by the FWC; or
- Passed a temporary certificate examination developed or approved by the FWC.

The boater safety education course covers a broad range of subjects designed to educate boaters on safe boating in Florida.<sup>1</sup>

The boater safety education course may be taken in person, in a classroom, where available, or online.<sup>2</sup> Failure to comply with the boating safety education requirement is a noncriminal infraction under s. 327.395(7), F.S., and is punishable with a \$50 fine.

For violations of certain FWC rules related to boating, the boating safety education and/or a MEV course is required. These courses must be completed following the date of the violation that triggered the education requirement. The courses may not be taken online.<sup>3</sup>

The MEV course must, at a minimum, cover:

- Florida boating laws;
- Causes and prevention of boating accidents;
- The importance of wearing personal flotation devices;
- The use of common sense and common courtesy; and
- Operating defensively.<sup>4</sup>

If convicted of two non-criminal infractions within a 12 month period, the violator must take the boating safety course. If convicted of any criminal boating violation or convicted of any infraction that includes a reportable boating accident, the person must take the boating safety course and the MEV course.<sup>5</sup>

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<sup>1</sup> Rule 68D-36.104, F.A.C.

<sup>2</sup> FWC, *Boating Courses*, <http://myfwc.com/boating/safety-education/courses/>, (last visited Mar. 15, 2014).

<sup>3</sup> *Id.*

<sup>4</sup> Rule 68D-36.106(2), F.A.C.

<sup>5</sup> FWC, *FAQs: Florida Mandatory Education for Violators*, <http://myfwc.com/boating/regulations/mandatory-boating-education/> (last visited Mar. 18, 2014).

Criminal violations of ch. 327, F.S., include:

- Unlawfully leaving the scene of a boating accident;<sup>6</sup>
- Reckless operation of a vessel of personal watercraft;<sup>7</sup> or
- Boating under the influence of alcohol or drugs.<sup>8</sup>

Reportable boating accidents are accidents that involve:

- Personal injury requiring medical treatment beyond first aid;
- The death of a person;
- The disappearance of a person under circumstances that indicate the possibility of death or injury; or
- Damage to a vessel or other property totaling \$2,000 or more.<sup>9</sup>

Section 327.355(5)(c), F.S., requires any person under the age of 21 who is convicted of being in control of a vessel with a breath-alcohol level of 0.02 or higher to enroll in, attend, and complete only the boater safety education course.<sup>10</sup>

Approximately 500 boaters are required to complete MEV courses each year.<sup>11</sup> They are not offered online. Section 327.731, F.S., authorizes the FWC to provide by rule for waivers of the attendance requirement for violators residing in areas where classroom presentation of the course is not available.<sup>12</sup>

When ss. 327.355<sup>13</sup> and 327.731, F.S.,<sup>14</sup> were adopted, boating safety education courses were available only in a classroom setting or through home study courses. The home study course consists of a booklet containing the course material, the test, and the test sheet. Home study students take the course and complete the test at their leisure and without any oversight. Section 327.731, F.S., was changed to require classroom attendance, in part because of a concern about a lack of supervision for the home study course.<sup>15</sup>

There were no online boating safety courses available in Florida then the requirement to attend courses for violations was instituted.<sup>16</sup> With advances in technology, online courses have been growing in availability and popularity, and classroom course offerings have been declining. Over sixty percent of students who take an approved basic boating safety course in Florida do so online.<sup>17</sup>

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<sup>6</sup> Section 327.30(5), F.S.

<sup>7</sup> Section 327.33(1), F.S.

<sup>8</sup> Section 327.35(2)(a-b), F.S.

<sup>9</sup> FWC, *Boating Accidents: 2012 Boating Accident Statistics: Glossary of Definitions*, XIV available at <http://myfwc.com/media/2602447/2012-BoatingStatistics-Glossary.pdf> (last visited Mar. 15, 2014).

<sup>10</sup> Section 327.355, F.S.

<sup>11</sup> FWC, *Senate Bill 1126 Agency Analysis*, 3 (July 1, 2014) (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>12</sup> *Supra*, note 5

<sup>13</sup> See ch. 98-308, s. 8, Laws of Fla.

<sup>14</sup> See ch. 88-133, s. 7, Laws of Fla.

<sup>15</sup> *Supra* note 11

<sup>16</sup> *Supra* note 11, at 3.

<sup>17</sup> *Id.*

Of the 500 people required to complete the boater safety education courses each year, approximately 50 complaints are received concerning the difficulty people have in finding a course within a reasonable distance.<sup>18</sup>

### *Effect of Proposed Changes*

**Section 1** amends s. 327.355, F.S., providing that operators of vessels by persons under 21 years of age who have consumed alcoholic beverages must complete a boater safety education course at their own expense and may take the course in a classroom or online.

**Section 3** amends s. 327.731, F.S., provides the option of taking the boater education safety course in a classroom or online. It also removes the FWC's rulemaking authority to waive the attendance requirement in areas where the class is not available. Lastly, it removes the exemption from taking the boater safety education course if the violator has previously taken a boater safety education course.

### **Anchoring and Mooring Pilot Program (Section 2):**

Local governments face problems resolving issues with improperly stored, abandoned, and derelict boats. They must also interact with homeowners who dislike vessels anchored close to their residences and address property damage resulting from vessels breaking loose during weather events. These considerations present complex issues for local governments that want to regulate anchoring but have no legal means to do so outside properly permitted mooring fields.<sup>19</sup>

In 2009, the Florida Legislature directed the FWC, in consultation with the Florida Department of Environmental Protection, to establish a pilot program to explore potential options for regulating the anchoring or mooring of non-live-aboard vessels outside the marked boundaries of public mooring fields. This has come to be called the "Anchoring and Mooring Pilot Program."<sup>20</sup>

The purpose of establishing the pilot program in five locations is to test policies and regulatory schemes that:

- Promote the establishment and use of public mooring fields;
- Promote public access to the waters of the state;
- Enhance navigational safety;
- Protect maritime infrastructure;
- Protect the environment; and
- Deter improperly stored, abandoned, or derelict vessels.<sup>21</sup>

The State of Florida has jurisdiction over the anchoring or mooring of non-live-aboard vessels outside the marked boundaries of public mooring fields. Local governments have jurisdiction over the anchoring and mooring of live-aboard vessels and vessels within their permitted

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<sup>18</sup> *Supra* note 11, at 4.

<sup>19</sup> FWC, Division of Law Enforcement, *Anchoring and Mooring Pilot Program: Report of Findings and Recommendations*, 1 (Dec. 31, 2013), available at <http://myfwc.com/media/2704721/FindingsRecommendations.pdf>, (last visited Mar. 13, 2014).

<sup>20</sup> *Id.*

<sup>21</sup> Section 327.4105, F.S.

mooring fields. The program seeks to explore the question of how much authority local governments should have with respect to vessels anchoring within their jurisdictions.<sup>22</sup>

Multiple locations were chosen to allow for the study of different approaches to the issue. The locations chosen for the pilot program are the Cities of St. Augustine, St. Petersburg, and Sarasota, and Martin, and Monroe Counties.<sup>23</sup>

General provisions of the program in St. Augustine provide examples of some of the approaches being taken, including:

- Buffer zones preventing anchoring near marine infrastructure;
- Buffer zones around sensitive environmental resources such as shellfish harvesting areas;
- Check-in provisions requiring stored vessels to navigate to the city marina twice a year; and
- Provisions providing limits on the amount of time an occupied vessel may stay anchored before it has to either move out of the jurisdiction for one day or move to one of the city's mooring fields.<sup>24</sup>

The pilot program is set to expire on July 1, 2014.<sup>25</sup> The latest program status report states that an extension of the program is necessary to “more fully evaluate each of the pilot program locations and assess effectiveness through continued data collection and public input opportunities.”<sup>26</sup>

### *Effect of Proposed Changes*

**Section 2** amends s. 327.4105, F.S., extending the Anchoring and Mooring Pilot Program to July 1, 2017. It also requires an updated report on the program by January 1, 2014.

### **Use of Vessel Registration Fees (Section 4):**

Section 328.72, F.S., concerns vessel registration fees. It details fees for seven classifications of vessels and the fee for a dealer registration certificate.<sup>27</sup> It also specifies the portion of each fee that is remitted to the county in which the vessel is registered. The fee schedule is based on boat length:

- **Class A-1** - Less than 12 feet in length, and all canoes to which propulsion motors have been attached, regardless of length: \$5.50 for each 12-month period registered;
- **Class A-2** - 12 feet or more and less than 16 feet in length: \$16.25 for each 12-month period registered; **County portion: \$2.85** for each 12-month period registered;
- **Class 1** - 16 feet or more and less than 26 feet in length: \$28.75 for each 12-month period registered. **County portion: \$8.85** for each 12-month period registered;
- **Class 2** - 26 feet or more and less than 40 feet in length: \$78.25 for each 12-month period registered. **County portion: \$32.85** for each 12-month period registered;

<sup>22</sup> *Supra* note 19.

<sup>23</sup> *Supra* note 19.

<sup>24</sup> *Supra* note 19, at 19.

<sup>25</sup> Section 327.4105(6), F.S.

<sup>26</sup> *Supra* note 19, at 2.

<sup>27</sup> Section 328.48(2), F.S.

- **Class 3** - 40 feet or more and less than 65 feet in length: \$127.75 for each 12-month period registered. **County portion: \$56.85** for each 12-month period registered;
- **Class 4** - 65 feet or more and less than 110 feet in length: \$152.75 for each 12-month period registered. **County portion: \$68.85** for each 12-month period registered; and
- **Class 5** - 110 feet or more in length: \$189.75 for each 12-month period registered. **County portion: \$86.85** for each 12-month period registered.<sup>28</sup>

There are restrictions on what the funds remitted to the county may be used for. Specifically, they can be spent to provide for:

- Recreational channel marking and other uniform water markers;
- Public boat ramps;
- Lifts and hoists;
- Marine railways and other public launching facilities;
- Derelict vessel removal; and
- Removal of vessels and floating structures deemed a hazard to public safety and health for failure to comply with s. 327.53, F.S., which concerns marine sanitation.<sup>29</sup>

These designated uses do not allow for any other uses of the registration fees remitted to the counties, even if they could also be used for other marine and boating related projects and uses, such as piers and docks.<sup>30</sup> It allows for the removal of derelict vessels, but does not allow for the removal of waterway debris, which may inhibit navigation.<sup>31</sup> The statute allows for construction of boat ramps, uniform waterway markers, and other boat access facilities but it does not provide for operation and maintenance of them.<sup>32</sup>

Counties must report yearly on how vessel registration fees are used.<sup>33</sup> The FWC reports that counties frequently ask the FWC if they may use the fees for the benefit of the boating community and in keeping with the spirit of the statute. However, any uses not specifically permitted by statute are not allowed.<sup>34</sup>

### *Effect of Proposed Changes*

**Section 4** amends s. 328.72, F.S., expanding the list of acceptable uses of county portions of vessel registration fees. It:

- Provides for the maintenance and operation of channel markers, public boat ramps, lifts, hoists, marine railways, boat piers, docks, mooring buoys, and other public launching facilities, the removal of derelict vessels, and debris that impedes boat access;
- Adds boat piers, docks, and mooring buoys to the list of projects that may be funded by county vessel registration fees;
- Allows the removal of debris that impedes boat access; and
- Provides that the fees may not be used for dredging channels.

<sup>28</sup> Section 328.72(1), F.S.

<sup>29</sup> Section 328.72(15), F.S.

<sup>30</sup> *Supra* note 19, at 6.

<sup>31</sup> *Supra* note 11, at 6.

<sup>32</sup> *Supra* note 11, at 6.

<sup>33</sup> *Supra* note 19.

<sup>34</sup> *Supra* note 11, at 6.

**Recreational Licenses, Permits, and Authorization Numbers; Hunter Safety Courses; and Wildlife (Sections 5, 9, and 11):**

Subject to several exceptions,<sup>35</sup> no one in the state may hunt game without having first obtained a license, permit, or authorization number and paid any applicable fees.<sup>36</sup> The Hunter Safety Mentoring Exemption provides an exemption to the license requirement by allowing anyone 16 years or older to hunt under the supervision of an adult, 21 years or older, who has a valid hunting license, unless exempted from the hunting license requirement, who has met the hunter safety requirement or who is exempt from the hunter safety requirement.<sup>37</sup>

The FWC and other law enforcement agencies are charged with protecting the public. There is an expectation that people hunting on public land have completed the hunter safety requirements. The FWC states that the, “hunter safety course or the mentor option is critical to maintaining public support for hunting and ensuring that hunters using public lands are safe and act responsibly.”<sup>38</sup>

By law, “no person shall take game, freshwater or saltwater fish, or fur-bearing animals within this state without having first obtained a license, permit, or authorization number and paid the fees set forth in [ch. 379, F.S.].”<sup>39</sup> Game species are deer, bear, squirrel, rabbits, and, where designated by commission rules, wild hogs, ducks, geese, rails, coots, gallinules, snipe, woodcock, wild turkeys, grouse, pheasants, quail, and doves.<sup>40</sup>

FWC defines wildlife as “all wild or non-domestic birds, mammals, fur-bearing animals, reptiles and amphibians.”<sup>41</sup> Game species are included in the definition of wildlife. The definitions of open and closed season refer to game, not wildlife.

In order to obtain a hunting license to hunt in Florida with a firearm, gun (including a muzzleloading gun), bow, or crossbow, a hunter must successfully complete a hunter safety course, if the hunter was born after June 1, 1975. An individual exempted from needing a hunting license is not required to take the hunter safety course.<sup>42</sup>

There are several recreational hunting licenses offered by the FWC. The three licenses relevant to this analysis are:

- The Annual Sportsman’s License, which includes hunting and Freshwater fishing licenses; and Wildlife Management Area, Archery, Muzzloading Gun, Crossbow, Deer, Turkey, and

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<sup>35</sup> See s. 379.353, F.S. Some examples of exceptions are: Florida residents in the Armed Forces in Florida on leave for less than 30 days, anyone freshwater fishing on a pond of 20 acres or less located entirely within the private property of the pond owner, and any person saltwater fishing for recreational purposes from a pier.

<sup>36</sup> Section 379.354, F.S., which establishes fees for recreational hunting licenses, permits and authorization numbers.

<sup>37</sup> FWC, *Hunting in Florida*, <http://myfwc.com/hunting/> (last accessed Mar. 15, 2015).

<sup>38</sup> *Supra* note 11, at 7.

<sup>39</sup> Section 379.354(1), F.S.

<sup>40</sup> Section 379.101(20), F.S.

<sup>41</sup> Rule 68A-1.004, F.A.C.

<sup>42</sup> FWC, *Hunter Safety Requirement*, <http://myfwc.com/license/recreational/hunter-safety-requirement/> (last visited Mar. 15, 2014).

Florida Waterfowl permits; but does not include the Saltwater Fishing License, or Snook or Lobster Permits. The license costs \$80.50;

- The Annual Gold Sportsman’s License, which includes hunting, Freshwater, and Saltwater fishing licenses; and Wildlife Management Area, Archery, Muzzleloading Gun, Crossbow, Deer, Turkey, Florida Waterfowl, Snook, and Lobster permits. The license costs \$100.00; and
- The Annual Military Gold Sportsman’s license, which includes all the privileges of the Annual Gold Sportsman’s License. The license is only available to resident active duty or retired military personnel. The license costs \$20.

The definition of game does include wild hogs, which are the second most hunted species in the state,<sup>43</sup> but only when designated by commission rules. By rule, the FWC does not classify wild hogs as game, meaning there is no license requirement to hunt wild hogs.<sup>44</sup> A potential problem is that someone hunting a species that requires a hunting license could easily say that they were actually hunting wild hogs when approached by law enforcement.<sup>45</sup>

The FWC began working on a proposal to designate wild hogs as a game species in 2012, which would require a hunting license and the hunter safety course, but it was opposed by hunting stakeholders concerned that it would lead to increased regulation, since regulations on game are stricter than regulations governing non-game wildlife. Those same stakeholders were not opposed to requiring hunting licenses and completion of the hunter safety requirements to hunt wild hogs on public lands.<sup>46</sup>

### *Effect of Proposed Changes for Sections 5, 9, and 11 of the Bill*

**Section 5** amends s. 379.101, F.S., redefining:

- “Closed Season” and “Open Season,” expanding the terms to apply to “wildlife” species instead of “game” species; and
- “Game” by removing wild hogs from the definition of game, thus making wild hogs a wildlife species and not a game species. It also designates ducks, geese, rails, coots, gallinules, snipe, woodcock, wild turkeys, grouse, pheasants, quail, and doves as game species, which the FWC had already done by rule.

For species the FWC have not designated as game species, the effect is that those species are now wildlife species. The section defines “public lands” as “lands within the state which are available for public use and are owned, operated, or managed by a federal, state, county, or municipal government entity,” and “wildlife” as “a wild or nondomesticated bird, mammal, fur-bearing animal, reptile, or amphibian.”

**Section 9** amends s. 379.354, F.S., authorizing the FWC to require a hunting license, permit, or authorization number for the taking of wildlife, rather than just game species, on public lands if it is determined by the FWC to be necessary for the proper management of natural resources, public safety, or public access. Specifically, the conforming changes in the bill are:

<sup>43</sup> *Supra* note 37.

<sup>44</sup> *Supra* note 11, at 7.

<sup>45</sup> *Supra* note 11, at 7.

<sup>46</sup> *Supra* note 11, at 7.



- Replacing “game” with “wildlife” so that a license, permit, or authorization number to take wildlife (instead of game) can only be used to take wildlife, freshwater or saltwater fish for which the license, permit, or authorization number is issued;
- Requiring sportsmen to have in their possession each license, permit or authorization number when the person is taking or possessing wildlife for which a license, permit, or authorization number is required;
- Changing the resident annual hunting license, resident annual sportsman’s license, the resident annual gold sportsman’s license, the non-resident 10-day hunting license, and the non-resident annual hunting licenses to allow the take of wildlife;
- Requiring, subject to exceptions, an annual license to take fur-bearing animals;
- Providing that a person may not take wildlife under a suspended license for which the FWC determines that a license, permit, or authorization number is required;
- Providing that a person born on or after June 1, 1975, may not be issued a license to take wildlife without having completed a hunter safety course and without having in the person’s possession a hunter safety certification card. It also allows a person hunting under the special authorization for supervised hunting to take wildlife instead of game;
- Providing that the 5-year hunting license authorizes the take or attempted take of wildlife; and
- Requiring that a special authorization for supervised hunting must be designated on any license or permit required for taking wildlife, instead of game or fur-bearing animals.

The effect of changing references from game to wildlife is to allow the FWC to require a hunting license, permit, or authorization number for the taking of wildlife, other than just game species, on public lands if the FWC determines it to be necessary for the proper management of natural resources, public safety, or public access. Under the bill, if it were determined by the FWC to be necessary, the FWC would be able to require a person to possess a hunting permit, license, or authorization number in order to take non-game species.

The bill provides that those who possess the resident annual military gold sportsman’s license have the same privileges as those of the resident annual gold sportsman’s license. The privileges are already the same so it will have no effect.

**Section 11** amends s. 379.3581, F.S., requiring proof of completion of the hunter safety course and requires a valid hunter safety certification card number to purchase a Florida hunting license and states how to provide proof. This will have no effect other than to provide requirements for the possession of documentation.

**Cooperative Agreements between the FWC and the U.S. Forest Service (Forest Service) (Section 6):**

The FWC is authorized to enter into cooperative agreements with the Forest Service to develop game bird, fish, reptile, or fur-bearing animal management and demonstration projects.<sup>47</sup> The law also provides that, in addition to the hunting license fees already required, the FWC may charge up to an additional \$5 for every person 18 years of age or older using lands covered by the cooperative agreements, and up to an additional \$2 for every person under the age of 18, using

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<sup>47</sup> Section 379.2257(1), F.S.

lands covered by the cooperative agreement.<sup>48</sup> Neither the FWC, nor its predecessor, the Game and Freshwater Fish Commission, has charged those fees since at least 1978.<sup>49</sup>

The FWC issues a management area permit to hunt on lands owned, leased, or managed by the FWC. The fee may not exceed \$30 per year.<sup>50</sup> Currently, the Annual Management Area Permit costs \$26.50.<sup>51</sup> Even if the additional fees were being charged, they would be much less than the current fee. Also, both fees are directed at essentially the same purpose. The fees are therefore duplicative.

### *Effect of Proposed Changes*

**Section 6** repeals s. 379.2257(1), F.S., eliminating the ability to charge a fee in addition to the fee for a hunting license on land subject to cooperative agreements with the Forest Service.

### **Non-commercial Shrimp Trawling for Personal Food Use in the St. Johns River (Section 7)**

Section 379.247(5), F.S., authorizes noncommercial trawling for shrimp in the St. Johns River for personal use as food. To do so, each person wanting to trawl for shrimp must obtain a permit, costing \$50. All trawling is restricted to the St. Johns River north of the Acosta Bridge in Jacksonville, Florida, and none of the shrimp that are caught under the permit may be sold or offered for sale.<sup>52</sup>

In January 1996, the Marine Fisheries Commission (predecessor to the FWC) adopted a rule prohibiting the use of trawls in the recreational shrimp fishery.<sup>53</sup> Since then, no noncommercial permits have been issued.

### *Effect of Proposed Changes*

**Section 7** repeals s. 379.247(5), F.S., removing authorization for noncommercial shrimp trawling. The bill also amends s. 379.247(4)(d), F.S., making a conforming change by removing a prohibition on holding a commercial dead shrimp permit and a noncommercial dead shrimp permit at the same time. Since 1996, the FWC has prohibited noncommercial trawling for shrimp, therefore the change will have no effect.

### **Recreational Hunting and Fishing License Exceptions (Section 8):**

A person who wants to hunt or fish recreationally in Florida must obtain a recreational license, permit, or authorization number and pay the appropriate fee.<sup>54</sup> Section 379.353(2), F.S., exempts specified individuals from having to possess a recreational license while hunting or fishing. Section 379.353(2)(g), F.S., provides an exemption for any person fishing who has been

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<sup>48</sup> Section 379.2257(3), F.S.

<sup>49</sup> *Supra* note 11, at 9.

<sup>50</sup> Section 379.354(8)(g), F.S.

<sup>51</sup> FWC, *Recreational Land Use Permits*, <http://myfwc.com/license/public-land-use/> (last visited Mar. 15, 2014). The Wildlife Management Permit fee is in addition to fees charged for a required hunting license.

<sup>52</sup> Section 379.247(5)(a-c), F.S.

<sup>53</sup> See Rule 68B-31.007, F.A.C., which lists the gear that may be used to harvest shrimp recreationally. Trawls are absent from the list.

<sup>54</sup> Section 379.354, F.S.

accepted as a client for developmental disabilities services by the Department of Children and Family Service (DCF), provided the DCF furnishes the necessary proof.

In 2004, HB 1823 was signed into law, creating the Agency for Persons with Disabilities (APD) as an entity separate from the DCF.<sup>55</sup> The APD was subsequently tasked with serving the needs of Floridians with developmental disabilities. Consequently, s. 379.353(2)(g), F.S., has an incorrect statutory reference.

### ***Effect of Proposed Changes***

The bill amends s. 379.353, F.S., to correct the incorrect reference to DCF. The bill correctly references the APD.

### **Repeal of the Special Recreational Spiny Lobster Permit (Section 10):**

Spiny lobster may be harvested both commercially and recreationally. Spiny lobsters and stone crabs may be harvested recreationally by anyone who has a valid recreational saltwater fishing license and a spiny lobster permit.<sup>56</sup> The spiny lobster bag limit during the regular recreational spiny lobster season is six spiny lobsters per person per day. During the two-day sport season, the recreational bag limit is 12 spiny lobster per person per day, except in Monroe County, where the limit is six spiny lobsters per day. For commercial fishermen fishing during the commercial season, there is no bag limit when using traps.<sup>57</sup>

In order to harvest spiny lobster commercially, fishermen must possess a saltwater products license (SPL) and a restricted species (RS) and crawfish endorsement.

Florida offers three types of SPLs:<sup>58</sup>

- An individual SPL authorizes one individual person to engage in commercial fishing activities from the shore or a vessel. The Individual SPL is not tied to any one vessel and is issued in the individual's name.
- A crew SPL is also issued in an individual's name and authorizes the named individual to engage in commercial fishing activities from shore or a vessel. It also authorizes each person who is fishing with the named individual aboard a vessel to engage in such activities. This means the license holder can take a crew out on any vessel to harvest saltwater fish and the SPL covers the crew as well.
- A vessel SPL is issued to a valid commercial vessel registration number and authorizes each person aboard that registered vessel to engage in commercial saltwater fishing activities. Unlike the first two SPLs, the vessel SPL is tied to a vessel rather than a person.

The cost for each license:<sup>59</sup>

<sup>55</sup> Chapter 2004-267, s. 70, Laws of Fla.

<sup>56</sup> FWC, *Spiny Lobster – Panulirus argus*, <http://myfwc.com/fishing/saltwater/recreational/lobster/> (last visited Mar. 14, 2014).

<sup>57</sup> FWC, *Commercial Regulations for Spiny Lobster (Crawfish)*, <http://myfwc.com/fishing/saltwater/recreational/lobster/> (last visited Mar. 15, 2014).

<sup>58</sup> Section 379.361(2)(e)1.-3., F.S.

<sup>59</sup> FWC, *Commercial Saltwater Products License Fees*, <http://myfwc.com/license/saltwater/commercial-fishing/csl-fees/> (last visited Mar. 16, 2014).

| <b>SPL Type</b> | <b>Florida Resident</b> | <b>Non-Resident</b> | <b>Alien</b> |
|-----------------|-------------------------|---------------------|--------------|
| Individual      | \$50.00                 | \$200.00            | \$300.00     |
| Crew            | \$150.00                | \$600.00            | \$900.00     |
| Vessel          | \$100.00                | \$400.00            | \$600.00     |

In addition to an SPL, a restricted species endorsement (RS) is required to commercially harvest and sell the following species: amberjack, bluefish, cobia, dolphin, black drum, flounder, golden tilefish, most types of grouper, hogfish (hog snapper), jack, king and Spanish mackerel, mullet, permit fish, pompano, red porgy, rudderfish, sea bass, spotted seatrout, sheepshead, most types of snapper, tripletail, wahoo, blue crab, stone crab, spiny lobster, and most types of shrimp.<sup>60</sup>

There is no cost to acquire an RS. In order to receive one, however, licensed commercial fishermen must qualify by showing proof of landings (actual saltwater products harvested and brought to shore) reported under their SPLs that indicate either \$5,000 or 25 percent of their total annual income during one of the previous three years was attributable to reported landings and sales of saltwater products to a Florida wholesale dealer unless the fisherman qualifies for an exemption.<sup>61</sup>

The spiny lobster was designated a restricted species in 1994.<sup>62</sup> That same year, the Florida Legislature created the Special Recreational Spiny Lobster License.<sup>63</sup> The license was available to any individual with a spiny lobster trap number who also had an SPL during the 1993-1994 license year.<sup>64</sup> People issued the license were precluded from having both the special recreational spiny lobster license and a trap number. They were required, however, to have a recreational spiny lobster license.<sup>65</sup> The total number of special recreational spiny lobster licenses is limited to the number of licenses issued during the 1994-1995 license year.<sup>66</sup>

Provisions for receiving a special recreational crawfish license are detailed in rule 68B-24.0035, Florida Administrative Code (F.A.C.). The rule specifies that beginning with the 2012-2013 license year and every year thereafter, no special recreational Spiny Recreational Spiny Lobster License are to be issued or renewed.<sup>67</sup> Rule 68B-24.004 established Special Recreational Spiny Lobster bag limits. Starting in the 2003-2004 permit year, the bag limit was 50 spiny lobsters. Every year thereafter, the bag limit was reduced by five. The current bag limit is less than the recreational harvest limit of six spiny lobsters per day.<sup>68</sup>

***Effect of Proposed Changes***

<sup>60</sup> FWC, *Commercial Food and Bait Species*, <http://www.myfwc.com/license/saltwater/commercial-fishing/restricted-species/> (last visited Mar. 15, 2014).

<sup>61</sup> FWC, *Qualifying for the Restricted Species Endorsement (RS)*, <http://myfwc.com/license/saltwater/commercial-fishing/qualifying-for-rs/> (last visited Mar. 15, 2014).

<sup>62</sup> See rule 68B-24.001, F.A.C.

<sup>63</sup> The license was originally called the Special Recreational Crawfish License, but has come to be known as the Special Recreational Spiny Lobster License

<sup>64</sup> Section 379.355(1), F.S.

<sup>65</sup> Section 379.355(3), F.S.

<sup>66</sup> Section 379.355(4), F.S.

<sup>67</sup> Rule 68B-24.0035(2)(g), F.A.C.

<sup>68</sup> Rule 68B-24.004(3)(a-j), F.A.C.

**Section 10** repeals s. 379.355, F.S., eliminating the Special Recreational Spiny Lobster License, which is outdated and has no effect since the bag limit is now less than the recreational bag limit. By rule, no SPLs are being issued as of the 2012-2013 license year.

**Haul and Trawl Seine Annual Gear License Fees (Section 12):**

All commercial fishermen permitted to fish in freshwaters with trawl seine nets (baglike nets that are pulled behind a boat to harvest fish) are required to pay a \$50 annual gear license fee.<sup>69</sup> All commercial fishermen permitted to fish in freshwaters with haul seines (long nets pulled by boats to harvest fish) must pay a \$100 annual gear license fee.<sup>70</sup> Both fees have remained unchanged since 1978.<sup>71</sup>

The FWC issues five freshwater haul seine annual gear licenses each year, which are limited for use in Polk County.<sup>72</sup> The number of permits that may be issued annually is five.<sup>73</sup> The FWC has not issued a statewide trawl seine license in more than 25 years.<sup>74</sup>

*Effect of Proposed Changes*

**Section 12** repeals s. 379.363(h) and (i), F.S., removing the annual gear license fees for trawl and haul seine nets.

**Haul and Trawl Seine Permits in Lake Okeechobee (Section 13):**

The FWC is authorized to issue permits for the commercial use of haul or trawl seines on Lake Okeechobee.<sup>75</sup> The three permits that may be issued by the FWC and their fees are:

- Resident Trawl Seine Permit: \$50;
- Resident Haul Seine Permit: \$100; and
- Nonresident Trawl or Haul Seine Permit: \$500.<sup>76</sup>

Currently, the FWC issues six resident haul seine permits for commercial activity on Lake Okeechobee. Permits for resident Trawl Seines for commercial activity have not been issued in over 30 years and nonresident trawl or haul seine permits have never been issued.<sup>77</sup>

*Effect of Proposed Changes*

**Section 13** repeals s. 379.3635, F.S., eliminating the FWC's authority to charge fees for haul or trawl seines in Lake Okeechobee. The FWC may still issue permits under its constitutional authority. This only eliminates the ability to charge fees.

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<sup>69</sup> Section 379.363(1)(h), F.S.

<sup>70</sup> Section 379.363(1)(i), F.S.

<sup>71</sup> *Supra* note 11, at 12.

<sup>72</sup> Rule 68A-23.003(9)(a)4., F.A.C.

<sup>73</sup> Rule 68A-23.003(9)(a)1., F.A.C.

<sup>74</sup> *Supra* note 11, at 13.

<sup>75</sup> See rule 68A-23.012, F.A.C. See also ss. 379.363 and 379.3635, F.S.

<sup>76</sup> Section 379.3635(2), F.S.

<sup>77</sup> *Supra* note 11, at 11.

**Sections 14 - 17** amend ss. 379.208, 379.337, 379.401, and 589.19, F.S., respectively, making conforming and cross-reference changes.

**Section 18** provides an effective date of July 1, 2014.

**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 bill may result in a small negative impact on hunters wishing to hunt wild hogs or other species designated by the FWC as species that require a hunting license. The FWC has no data on the number of hunters who hunt wild hogs who also do not possess a hunting license so it is difficult to determine the private sector impact.

Because the fees for MEV classroom courses tend to be higher than for online courses, there may be a negative effect on businesses offering those courses. They may offer the online courses as well, so the impact will likely be minimal. The ability to take the MEV course online will benefit those who would otherwise have to travel a significant distance to take the course in person. The online course may also cost less.

Repealing permit fees for haul and trawl seines will have a positive effect on those using those permits to fish, but given the number of permits issued, the effect will be minimal.

C. Government Sector Impact:

The repeal of fees on freshwater haul and trawl seines will, according to FWC, have a minimal negative effect on revenues.

The bill may increase the number of hunting licenses issued to hunt for wild hogs on public land. As mentioned above, since the FWC does not know how many people hunt wild hogs without a permit, the effect is positive but indeterminate.

Expanding the acceptable uses of vessel registration funds for counties to other boating-related activities will provide a new source of funds for those additional activities. For those activities that would otherwise require county funds, this will provide a positive financial impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 327.355, 327.4105, 327.731, 328.72, 379.101, 379.247, 379.353, 379.354, 379.3581, 379.208, 379.337, 379.401, and 589.19.

This bill repeals the following sections of the Florida Statutes: 379.2257(3), 379.355, 379.363(1)(h) and (i), and 379.3635.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.