

By Senator Latvala

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1                   A bill to be entitled  
 2       An act relating to crustaceans; amending s. 379.407,  
 3       F.S.; providing that certain violations relating to  
 4       spiny lobsters and stone crabs are separate and  
 5       distinct offenses; conforming cross-references;  
 6       amending s. 379.2431, F.S.; conforming a cross-  
 7       reference; providing an effective date.

8  
 9   Be It Enacted by the Legislature of the State of Florida:

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 11       Section 1. Subsections (1) and (2) and paragraph (d) of  
 12       subsection (3) of section 379.407, Florida Statutes, are amended  
 13       to read:

14       379.407 Administration; rules, publications, records;  
 15       penalties; injunctions.—

16       (1) BASE PENALTIES.—Unless otherwise provided by law:7

17       (a) A violation any person, firm, or corporation who  
 18       ~~violates any provision~~ of this chapter~~7~~, or the rules any rule of  
 19       the ~~Fish and Wildlife Conservation~~ commission relating to the  
 20       conservation of marine resources is punishable~~7~~, shall be  
 21       punished:

22       1.(a) Upon a first conviction, by imprisonment for ~~a period~~  
 23       ~~of~~ not more than 60 days or by a fine of not less than \$100 or  
 24       ~~not~~ more than \$500, or by both such fine and imprisonment.

25       2.(b) ~~Upon~~ ~~On~~ a second or subsequent conviction within 12  
 26       months, by imprisonment for not more than 6 months or by a fine  
 27       of not less than \$250 or ~~not~~ more than \$1,000, or by both such  
 28       fine and imprisonment.

29       (b) Each spiny lobster or stone crab taken in violation of

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30 this chapter or the rules of the commission constitutes a  
31 separate and distinct violation.

32  
33 Upon final disposition of an ~~any~~ alleged offense for which a  
34 citation for a ~~any~~ violation of this chapter or the rules of the  
35 commission has been issued, the court shall, within 10 days,  
36 certify the disposition to the commission.

37 (2) MAJOR VIOLATIONS.—In addition to the penalties provided  
38 in subsection (1) ~~paragraphs (1)(a) and (b)~~, the court shall  
39 assess additional penalties against any commercial harvester  
40 convicted of major violations as follows:

41 (a) For a violation involving more than 100 illegal blue  
42 crabs, spiny lobster, or stone crabs, an additional penalty of  
43 \$10 for each illegal blue crab, spiny lobster, stone crab, or  
44 part thereof.

45 (b)1. For a violation involving the taking or harvesting of  
46 shrimp from a nursery or other prohibited area, or any two  
47 violations within a 12-month period involving shrimping gear,  
48 minimum size (count), or season, an additional penalty of \$10  
49 for each pound of illegal shrimp or part thereof.

50 2. A violation ~~For violations~~ involving the taking of food  
51 shrimp in certain closed areas:

52 a. A ~~Any~~ person with a saltwater products license issued by  
53 the commission who is convicted of taking food shrimp in Santa  
54 Rosa Sound in violation of commission rule designating a closed  
55 area shall have that license and the saltwater products license  
56 of the boat involved in the violation revoked and shall be  
57 ineligible to make application for such a license for a period  
58 of 2 years from the date of such conviction. If a person who

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59 does not have a saltwater products license is convicted  
60 hereunder, that person and the boat involved in the violation is  
61 ~~shall not be~~ eligible for such a license for 5 years.

62 b. A third or subsequent violation by a ~~any~~ person of the  
63 designated closure to food shrimping in Santa Rosa Sound within  
64 a 3-year period is a felony of the third degree, punishable as  
65 provided in s. 775.082, s. 775.083, or s. 775.084.

66 c. A second or any subsequent violation by a ~~any~~ person for  
67 taking food shrimp in a food shrimp production closed area in a  
68 portion of Monroe County designated by the commission is a  
69 felony of the third degree, punishable as provided in s. 775.082  
70 or s. 775.083.

71 d. A third or any subsequent violation by the owner or  
72 master of any vessel engaged in food shrimp production in the  
73 Tortugas Shrimp Beds closed area designated by the commission  
74 within a 3-year period is a felony of the third degree,  
75 punishable as provided in s. 775.082 or s. 775.083.

76 e. This subparagraph does not apply to persons shrimping  
77 for live bait shrimp in the designated closed area when such  
78 persons are shrimping with a live bait shrimping license issued  
79 by the commission.

80 3. The owner or master of any vessel not equipped with live  
81 shrimp bait tanks dragging shrimp nets in the Tortugas Shrimp  
82 Beds without a live bait shrimping license for this area is  
83 subject to the base penalties in subsection (1) for a first or  
84 second violation. A third or subsequent violation by any person  
85 under this subparagraph within a 3-year period is a felony of  
86 the third degree, punishable as provided in s. 775.082 or s.  
87 775.083.

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88 (c) For a violation involving the taking or harvesting of  
89 oysters from nonapproved areas or the taking or possession of  
90 unculled oysters, an additional penalty of \$10 for each bushel  
91 of illegal oysters.

92 (d) For a violation involving the taking or harvesting of  
93 clams from nonapproved areas, an additional penalty of \$100 for  
94 each 500 count bag of illegal clams.

95 (e) For a violation involving the taking, harvesting, or  
96 possession of any of the following species, which are  
97 endangered, threatened, or of special concern:

- 98 1. Shortnose sturgeon (*Acipenser brevirostrum*);
- 99 2. Atlantic sturgeon (*Acipenser oxyrhynchus*);
- 100 3. Common snook (*Centropomus undecimalis*);
- 101 4. Atlantic loggerhead turtle (*Caretta caretta caretta*);
- 102 5. Atlantic green turtle (*Chelonia mydas mydas*);
- 103 6. Leatherback turtle (*Dermochelys coriacea*);
- 104 7. Atlantic hawksbill turtle (*Eretmochelys imbricata*  
105 *imbracata*);
- 106 8. Atlantic ridley turtle (*Lepidochelys kempi*); or
- 107 9. West Indian manatee (*Trichechus manatus latirostris*),

108  
109 an additional penalty of \$100 for each unit of marine life or  
110 part thereof.

111 (f) For a second or subsequent conviction within 24 months  
112 for any violation of the same law or rule involving the taking  
113 or harvesting of more than 100 pounds of any finfish, an  
114 additional penalty of \$5 for each pound of illegal finfish.

115 (g) For a ~~any~~ violation involving the taking, harvesting,  
116 or possession of more than 1,000 pounds of any illegal finfish,

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117 an additional penalty equivalent to the wholesale value of the  
118 illegal finfish.

119 (h) A permit ~~Permits~~ issued to any commercial harvester by  
120 the commission to take or harvest saltwater products, ~~or a~~ any  
121 license issued pursuant to s. 379.361 or s. 379.362 may be  
122 suspended or revoked by the commission, pursuant to the  
123 provisions and procedures of s. 120.60, for any major violation  
124 prescribed in this subsection:

125 1. Upon a first conviction, for up to 30 calendar days.

126 2. Upon a second conviction which occurs within 12 months  
127 after a prior violation, for up to 90 calendar days.

128 3. Upon a third conviction which occurs within 24 months  
129 after a prior conviction, for up to 180 calendar days.

130 4. Upon a fourth conviction which occurs within 36 months  
131 after a prior conviction, for a period of 6 months to 3 years.

132 (i) Upon the arrest and conviction for a major violation  
133 involving stone crabs, the licenseholder must show just cause  
134 why his or her license should not be suspended or revoked. For  
135 the purposes of this paragraph, a "major violation" means a  
136 major violation as prescribed for illegal stone crabs; any  
137 single violation involving possession of more than 25 stone  
138 crabs during the closed season or possession of 25 or more  
139 whole-bodied or egg-bearing stone crabs; any violation for trap  
140 molestation, trap robbing, or pulling traps at night; or any  
141 combination of violations in any 3-consecutive-year period  
142 wherein more than 75 illegal stone crabs in the aggregate are  
143 involved.

144 (j) Upon the arrest and conviction for a major violation  
145 involving spiny lobster, the licenseholder must show just cause

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146 why his or her license should not be suspended or revoked. For  
147 the purposes of this paragraph, a "major violation" means a  
148 major violation as prescribed for illegal spiny lobster; any  
149 single violation involving possession of more than 25 spiny  
150 lobster during the closed season or possession of more than 25  
151 wrung spiny lobster tails or more than 25 egg-bearing or  
152 stripped spiny lobster; any violation for trap molestation, trap  
153 robbing, or pulling traps at night; or any combination of  
154 violations in any 3-consecutive-year period wherein more than 75  
155 illegal spiny lobster in the aggregate are involved.

156 (k) Upon the arrest and conviction for a major violation  
157 involving blue crabs, the licenseholder shall show just cause  
158 why his or her saltwater products license should not be  
159 suspended or revoked. This paragraph shall not apply to an  
160 individual fishing with no more than five traps. For the  
161 purposes of this paragraph, a "major violation" means a major  
162 violation as prescribed for illegal blue crabs, any single  
163 violation wherein 50 or more illegal blue crabs are involved;  
164 any violation for trap molestation, trap robbing, or pulling  
165 traps at night; or any combination of violations in any 3-  
166 consecutive-year period wherein more than 100 illegal blue crabs  
167 in the aggregate are involved.

168 (l) Upon the conviction for a major violation involving  
169 finfish, the licenseholder must show just cause why his or her  
170 saltwater products license should not be suspended or revoked.  
171 For the purposes of this paragraph, a major violation is  
172 prescribed for the taking and harvesting of illegal finfish, any  
173 single violation involving the possession of more than 100  
174 pounds of illegal finfish, or any combination of violations in

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175 any 3-consecutive-year period wherein more than 200 pounds of  
176 illegal finfish in the aggregate are involved.

177 (m) For a violation involving the taking or harvesting of  
178 any marine life species, as those species are defined by rule of  
179 the commission, the harvest of which is prohibited, or the  
180 taking or harvesting of such a species out of season, or with an  
181 illegal gear or chemical, or any violation involving the  
182 possession of 25 or more individual specimens of marine life  
183 species, or any combination of violations in any 3-year period  
184 involving more than 70 such specimens in the aggregate, the  
185 suspension or revocation of the licenseholder's marine life  
186 endorsement as provided in paragraph (h).

187  
188 The penalty provisions of this subsection apply to commercial  
189 harvesters and wholesale and retail dealers as defined in s.  
190 379.362. Any other person who commits a major violation under  
191 this subsection commits a Level Three violation under s.  
192 379.401. Notwithstanding the provisions of s. 948.01, no court  
193 may suspend, defer, or withhold adjudication of guilt or  
194 imposition of sentence for any major violation prescribed in  
195 this subsection. The proceeds from the penalties assessed  
196 pursuant to this subsection shall be deposited into the Marine  
197 Resources Conservation Trust Fund to be used for marine  
198 fisheries research.

199 (3) PENALTIES FOR USE OF ILLEGAL NETS.—

200 (d) Upon reinstatement of saltwater license privileges  
201 suspended pursuant to a violation of this subsection, a licensee  
202 owning or operating a vessel containing or otherwise  
203 transporting in or on Florida waters any gill net or other

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204 entangling net, or containing or otherwise transporting in  
 205 nearshore and inshore Florida waters any net containing more  
 206 than 500 square feet of mesh area shall remain restricted for a  
 207 period of 12 months following reinstatement, to operating under  
 208 the following conditions:

209 1. Vessels subject to this reinstatement period shall be  
 210 restricted to the corridors established by commission rule.

211 2. A violation of the reinstatement period provisions shall  
 212 be punishable pursuant to subsection (1) ~~paragraphs (1)(a) and~~  
 213 ~~(b)~~.

214 Section 2. Paragraph (s) of subsection (2) of section  
 215 379.2431, Florida Statutes, is amended to read:

216 379.2431 Marine animals; regulation.—

217 (2) PROTECTION OF MANATEES OR SEA COWS.—

218 (s) Except as otherwise provided in this paragraph, a ~~any~~  
 219 ~~person violating the provisions of~~ person ~~violating the provisions of~~ this subsection or a ~~any~~ rule  
 220 or ordinance adopted pursuant to this subsection commits a  
 221 misdemeanor, punishable as provided in s. 379.407(1)(a) ~~or (b)~~.

222 1. A ~~Any~~ person operating a vessel in excess of a posted  
 223 speed limit commits ~~shall be guilty of~~ a civil infraction,  
 224 punishable as provided in s. 327.73, except as provided in  
 225 subparagraph 2.

226 2. This paragraph does not apply to a person ~~persons~~  
 227 violating restrictions governing "No Entry" zones or "Motorboat  
 228 Prohibited" zones, who, if convicted, commits ~~shall be guilty of~~  
 229 a misdemeanor, punishable as provided in s. 379.407(1)(a) ~~or~~  
 230 ~~(b)~~, or, if such violation demonstrates blatant or willful  
 231 action, may be found guilty of harassment as described in  
 232 paragraph (d).



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233           3. A person may engage in an ~~any~~ activity otherwise  
234 prohibited by this subsection or a ~~any~~ rule or ordinance adopted  
235 pursuant to this subsection if the activity is reasonably  
236 necessary in order to prevent the loss of human life or a vessel  
237 in distress due to weather conditions or other reasonably  
238 unforeseen circumstances, or in order to render emergency  
239 assistance to a person ~~persons~~ or a vessel in distress.

240           Section 3. This act shall take effect July 1, 2014.