

1 A bill to be entitled

2 An act relating to crustaceans; amending s. 379.365,
3 F.S.; revising the administrative penalties for
4 violations related to stone crab traps; amending s.
5 379.3671, F.S.; revising the administrative penalties
6 for violations related to spiny lobster traps;
7 amending s. 379.407, F.S.; prohibiting the possession
8 of undersized spiny lobsters by certain persons;
9 specifying that each undersized spiny lobster may be
10 charged as a separate offense of certain violations;
11 specifying maximum penalties for such violations;
12 specifying the criminal and administrative penalties
13 for violations related to undersized spiny lobsters;
14 amending s. 921.0022, F.S.; revising the offense
15 severity ranking chart to include certain violations
16 related to stone crabs and spiny lobsters; providing
17 an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:
20

21 Section 1. Paragraph (a) of subsection (2) of section
22 379.365, Florida Statutes, is amended to read:

23 379.365 Stone crab; regulation.—

24 (2) PENALTIES.—For purposes of this subsection, conviction
25 is any disposition other than acquittal or dismissal, regardless
26 of whether the violation was adjudicated under any state or

27 federal law.

28 (a) It is unlawful to violate commission rules regulating
 29 stone crab trap certificates and trap tags. A ~~No~~ person may not
 30 use an expired tag or a stone crab trap tag not issued by the
 31 commission or possess or use a stone crab trap in or on state
 32 waters or adjacent federal waters without having a trap tag
 33 required by the commission firmly attached thereto.

34 1. In addition to any other penalties provided in s.
 35 379.407, for a ~~any~~ commercial harvester who violates this
 36 paragraph, the following administrative penalties apply::-

37 a. For a first violation, the commission shall assess an
 38 additional administrative penalty of up to \$1,000.

39 b. For a second violation that occurs within 24 months
 40 after ~~of~~ any previous such violation, the commission shall
 41 assess an additional administrative penalty of up to \$2,000, and
 42 the stone crab endorsement under which the violation was
 43 committed may be suspended for 12 ~~calendar~~ months.

44 c. For a third violation that occurs within 36 months
 45 after ~~of~~ any two previous ~~two~~ such violations, the commission
 46 shall assess an additional administrative penalty of up to
 47 \$5,000, and the stone crab endorsement under which the violation
 48 was committed may be suspended for 24 ~~calendar~~ months.

49 d. A fourth violation that occurs within 48 months after
 50 ~~of~~ any three previous such violations, shall result in permanent
 51 revocation of all of the violator's saltwater fishing
 52 privileges, including having the commission proceed against the

53 endorsement holder's saltwater products license in accordance
 54 with s. 379.407.

55 2. Any other person who violates ~~the provisions of this~~
 56 paragraph commits a Level Two violation under s. 379.401.

57
 58 A ~~Any~~ commercial harvester assessed an administrative penalty
 59 under this paragraph shall, within 30 ~~calendar~~ days after
 60 notification, pay the administrative penalty to the commission,
 61 or request an administrative hearing under ss. 120.569 and
 62 120.57. The proceeds of all administrative penalties collected
 63 under this paragraph shall be deposited in the Marine Resources
 64 Conservation Trust Fund.

65 Section 2. Paragraph (c) of subsection (2) of section
 66 379.3671, Florida Statutes, is amended to read:

67 379.3671 Spiny lobster trap certificate program.—

68 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;
 69 PENALTIES.—The Fish and Wildlife Conservation Commission shall
 70 establish a trap certificate program for the spiny lobster
 71 fishery of this state and shall be responsible for its
 72 administration and enforcement as follows:

73 (c) Prohibitions; penalties.—

74 1. ~~It is unlawful for~~ A person may not ~~to~~ possess or use a
 75 spiny lobster trap in or on state waters or adjacent federal
 76 waters without having affixed thereto the trap tag required by
 77 this section. ~~It is unlawful for~~ A person may not ~~to~~ possess or
 78 use any other gear or device designed to attract and enclose or

79 otherwise aid in the taking of spiny lobster by trapping that is
80 not a trap as defined by commission rule.

81 2. ~~It is unlawful for~~ A person may not ~~to~~ possess or use
82 spiny lobster trap tags without having the necessary number of
83 certificates on record as required by this section.

84 3. ~~A It is unlawful for any person~~ may not ~~to~~ willfully
85 molest, take possession of, or remove the contents of another
86 harvester's spiny lobster trap without the express written
87 consent of the trap owner available for immediate inspection.
88 Unauthorized possession of another harvester's ~~another's~~ trap
89 gear or removal of another harvester's trap contents constitutes
90 theft.

91 a. A commercial harvester who violates this subparagraph
92 shall be punished under ss. 379.367 and 379.407. ~~A~~ Any
93 commercial harvester receiving a judicial disposition other than
94 dismissal or acquittal on a charge of theft of or from a trap
95 pursuant to this subparagraph or s. 379.402 shall, in addition
96 to the penalties specified in ss. 379.367 and 379.407 and ~~the~~
97 ~~provisions of~~ this section, permanently lose all of his or her
98 saltwater fishing privileges, including his or her saltwater
99 products license, spiny lobster endorsement, and all trap
100 certificates allotted to him or her through this program. In
101 such cases, trap certificates and endorsements are
102 nontransferable.

103 b. ~~A~~ Any commercial harvester receiving a judicial
104 disposition other than dismissal or acquittal on a charge of

105 willful molestation of a trap, in addition to the penalties
 106 specified in ss. 379.367 and 379.407, shall lose all of his or
 107 her saltwater fishing privileges for a period of 24 ~~calendar~~
 108 months.

109 c. In addition to any other penalties specified in this
 110 subparagraph, a ~~any~~ commercial harvester charged with violating
 111 this subparagraph and receiving a judicial disposition other
 112 than dismissal or acquittal for violating this subparagraph or
 113 s. 379.402 shall also be assessed an administrative penalty of
 114 up to \$5,000.

115
 116 Immediately upon receiving a citation for a violation involving
 117 theft of or from a trap, or molestation of a trap, and until
 118 adjudicated for such a violation or, upon receipt of a judicial
 119 disposition other than dismissal or acquittal of such a
 120 violation, the commercial harvester committing the violation is
 121 prohibited from transferring any of his or her spiny lobster
 122 trap certificates and endorsements.

123 4. In addition to any other penalties provided in s.
 124 379.407, a commercial harvester who violates ~~the provisions of~~
 125 this section or commission rules relating to spiny lobster traps
 126 shall be punished as follows:

127 a. If the first violation is for a violation of
 128 subparagraph 1. or subparagraph 2., the commission shall assess
 129 an additional administrative penalty of up to \$1,000. For all
 130 other first violations, the commission shall assess an

131 additional administrative penalty of up to \$500.

132 b. For a second violation of subparagraph 1. or
 133 subparagraph 2. that ~~which~~ occurs within 24 months after ~~of~~ any
 134 previous such violation, the commission shall assess an
 135 additional administrative penalty of up to \$2,000, and the spiny
 136 lobster endorsement issued under s. 379.367(2) or (6) may be
 137 suspended for 12 months ~~the remainder of the current license~~
 138 ~~year.~~

139 c. For a third ~~or subsequent~~ violation of subparagraph 1.
 140 or, ~~subparagraph 2. that, or subparagraph 3. which~~ occurs within
 141 36 months after ~~of~~ any two previous ~~two~~ such violations, the
 142 commission shall assess an additional administrative penalty of
 143 up to \$5,000, and ~~may suspend~~ the spiny lobster endorsement
 144 issued under s. 379.367(2) or (6) may be suspended for a ~~period~~
 145 ~~of up to 24 months or may revoke the spiny lobster endorsement~~
 146 ~~and, if revoking the spiny lobster endorsement, may also proceed~~
 147 ~~against the licenseholder's saltwater products license in~~
 148 ~~accordance with the provisions of s. 379.407(2) (h).~~

149 d. A fourth violation that occurs within 48 months after
 150 any three previous such violations shall result in permanent
 151 revocation of all of the violator's saltwater fishing
 152 privileges, including having the commission proceed against the
 153 endorsement holder's saltwater products license in accordance
 154 with s. 379.407.

155 ~~e.d.~~ Within 30 days after notification, a ~~Any~~ person
 156 assessed an additional administrative penalty pursuant to this

157 section shall ~~within 30 calendar days after notification:~~

158 (I) Pay the administrative penalty to the commission; or

159 (II) Request an administrative hearing pursuant to ~~the~~
 160 ~~provisions of ss. 120.569 and 120.57.~~

161 ~~f.e.~~ The commission shall suspend the spiny lobster
 162 endorsement issued under s. 379.367(2) or (6) if a ~~for any~~
 163 person fails ~~ailing~~ to comply with ~~the provisions of~~ sub-
 164 subparagraph e. ~~d.~~

165 5.a. A ~~It is unlawful for any person~~ may not ~~to~~ make,
 166 alter, forge, counterfeit, or reproduce a spiny lobster trap tag
 167 or certificate.

168 b. A ~~It is unlawful for any person~~ may not ~~to~~ knowingly
 169 have in his or her possession a forged, counterfeit, or
 170 imitation spiny lobster trap tag or certificate.

171 c. A ~~It is unlawful for any person~~ may not ~~to~~ barter,
 172 trade, sell, supply, agree to supply, aid in supplying, or give
 173 away a spiny lobster trap tag or certificate or ~~to~~ conspire to
 174 barter, trade, sell, supply, aid in supplying, or give away a
 175 spiny lobster trap tag or certificate unless such action is ~~duly~~
 176 authorized by the commission as provided in this chapter or in
 177 the rules of the commission.

178 6.a. A ~~Any~~ commercial harvester who violates ~~the~~
 179 ~~provisions of~~ subparagraph 5., or a ~~any~~ commercial harvester who
 180 engages in the commercial harvest, trapping, or possession of
 181 spiny lobster without a spiny lobster endorsement as required by
 182 s. 379.367(2) or (6) or during any period while such spiny

183 lobster endorsement is under suspension or revocation, commits a
184 felony of the third degree, punishable as provided in s.
185 775.082, s. 775.083, or s. 775.084.

186 b. In addition to any penalty imposed pursuant to sub-
187 subparagraph a., the commission shall assess ~~levy~~ a fine of up
188 to twice the amount of the appropriate surcharge to be paid on
189 the fair market value of the transferred certificates, as
190 provided in subparagraph (a)1., on a ~~any~~ commercial harvester
191 who violates ~~the provisions of~~ sub-subparagraph 5.c.

192 c. In addition to any penalty imposed pursuant to sub-
193 subparagraph a., a ~~any~~ commercial harvester receiving any
194 judicial disposition other than acquittal or dismissal for a
195 violation of subparagraph 5. shall be assessed an administrative
196 penalty of up to \$5,000, and the spiny lobster endorsement under
197 which the violation was committed may be suspended for up to 24
198 ~~calendar~~ months. Immediately upon issuance of a citation
199 involving a violation of subparagraph 5. and until adjudication
200 of such a violation, and after receipt of any judicial
201 disposition other than acquittal or dismissal for such a
202 violation, the commercial harvester holding the spiny lobster
203 endorsement listed on the citation is prohibited from
204 transferring any spiny lobster trap certificates.

205 d. A ~~Any other~~ person who violates ~~the provisions of~~
206 subparagraph 5. commits a Level Four violation under s. 379.401.

207 7. Before ~~Prior to~~ the 2010-2011 license year, any
208 certificates for which the annual certificate fee is not paid

209 | for a period of 3 years shall be considered abandoned and shall
 210 | revert to the commission. Beginning with the 2010-2011 license
 211 | year, any certificate for which the annual certificate fee is
 212 | not paid for a period of 2 consecutive years shall be considered
 213 | abandoned and shall revert to the commission. During any period
 214 | of trap reduction, any certificates reverting to the commission
 215 | shall become permanently unavailable and be considered in that
 216 | amount to be reduced during the next license-year period.
 217 | Otherwise, any certificates that revert to the commission are to
 218 | be reallocated in such manner as provided by the commission.

219 | 8. The proceeds of all administrative penalties collected
 220 | pursuant to subparagraph 4. and all fines collected pursuant to
 221 | sub-subparagraph 6.b. shall be deposited into the Marine
 222 | Resources Conservation Trust Fund.

223 | 9. All traps shall be removed from the water during any
 224 | period of suspension or revocation.

225 | 10. Except as otherwise provided, a ~~any~~ person who
 226 | violates this paragraph commits a Level Two violation under s.
 227 | 379.401.

228 | Section 3. Subsection (5) of section 379.407, Florida
 229 | Statutes, is amended to read:

230 | 379.407 Administration; rules, publications, records;
 231 | penalties; injunctions.—

232 | (5) PENALTIES FOR POSSESSION OF SPINY LOBSTER; CLOSED
 233 | SEASON AND WRUNG TAILS.—

234 | (a) It is a major violation under this section for any

235 person, firm, or corporation to be in possession of spiny
236 lobster during the closed season or, while on the water, to be
237 in possession of spiny lobster tails that have been wrung or
238 separated from the body, unless such possession is allowed by
239 commission rule. A ~~Any~~ person, firm, or corporation that
240 violates this paragraph subsection is subject to the following
241 penalties ~~as follows~~:

242 1.(a) A first violation is a misdemeanor of the second
243 degree, punishable as provided in s. 775.082 or s. 775.083. If
244 the violation involves 25 or more lobster, the violation is a
245 misdemeanor of the first degree, punishable as provided in s.
246 775.082 or s. 775.083.

247 2.(b) A second violation is a misdemeanor of the first
248 degree, punishable as provided in s. 775.082 or s. 775.083, and
249 such person is subject to a suspension of his or her ~~all~~ license
250 privileges under this chapter for a period not to exceed 90
251 days.

252 3.(e) A third violation is a misdemeanor of the first
253 degree, punishable as provided in s. 775.082 or s. 775.083, with
254 a mandatory minimum term of imprisonment of 6 months, and such
255 person may be assessed a civil penalty of up to \$2,500 and is
256 subject to a suspension of all license privileges under this
257 chapter for a period not to exceed 6 months.

258 4.(d) A third violation within 1 year after a second
259 violation is a felony of the third degree, punishable as
260 provided in s. 775.082 or s. 775.083, with a mandatory minimum

261 term of imprisonment of 1 year, and such person shall be
262 assessed a civil penalty of \$5,000 and all license privileges
263 under this chapter shall be permanently revoked.

264 5.(e) A fourth or subsequent violation is a felony of the
265 third degree, punishable as provided in s. 775.082 or s.
266 775.083, with a mandatory minimum term of imprisonment of 1
267 year, and such person shall be assessed a civil penalty of
268 \$5,000 and all license privileges under this chapter shall be
269 permanently revoked.

270 (b) It is a major violation under this section for a
271 recreational or commercial harvester to possess an undersized
272 spiny lobster, unless authorized by commission rule. For
273 violations of this paragraph involving fewer than 100 undersized
274 spiny lobsters, each undersized spiny lobster may be charged as
275 a separate offense under subparagraphs 1. and 2. However, the
276 total penalties assessed under subparagraphs 1. and 2. for any
277 one scheme or course of conduct may not exceed 4 years'
278 imprisonment and a fine of \$4,000 under such subparagraphs. A
279 person who violates this paragraph is subject to the following
280 penalties:

281 1. A first violation is a misdemeanor of the second
282 degree, punishable as provided in s. 775.082 or s. 775.083.

283 2. A second or subsequent violation is a misdemeanor of
284 the first degree, punishable as provided in s. 775.082 or s.
285 775.083.

286 3. If a violation involves 100 or more undersized spiny

287 lobsters, the violation is a felony of the third degree,
 288 punishable as provided in s. 775.082, s. 775.083, or s. 775.084
 289 and a mandatory civil fine of at least \$500. In addition, the
 290 commission shall assess the violator with an administrative
 291 penalty of up to \$2,000 and may suspend the violator's license
 292 privileges under this chapter for a period of up to 12 months.

293 Section 4. Paragraph (e) of subsection (3) of section
 294 921.0022, Florida Statutes, is amended to read:

295 921.0022 Criminal Punishment Code; offense severity
 296 ranking chart.—

297 (3) OFFENSE SEVERITY RANKING CHART

298 (e) LEVEL 5

299

Florida Statute	Felony Degree	Description
316.027 (2) (a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
322.34 (6)	3rd	Careless operation of

300

301

302

motor vehicle with
suspended license,
resulting in death or
serious bodily injury.

303

327.30 (5)

3rd

Vessel accidents
involving personal
injury; leaving scene.

304

379.365 (2) (c) 1.

3rd

Violation of rules
relating to: willful
molestation of stone
crab traps, lines, or
buoys; illegal
bartering, trading, or
sale, conspiring or
aiding in such barter,
trade, or sale, or
supplying, agreeing to
supply, aiding in
supplying, or giving
away stone crab trap
tags or certificates;
making, altering,
forging, counterfeiting,
or reproducing stone

crab trap tags;
possession of forged,
counterfeit, or
imitation stone crab
trap tags; and engaging
in the commercial
harvest of stone crabs
while license is
suspended or revoked.

305

379.367(4)

3rd

Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.

306

~~379.3671(2)(c)3.~~

~~3rd~~

~~Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.~~

307

379.407(5)(b)3.

3rd

Possession of 100 or more undersized spiny lobsters.

308

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309	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
310	440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
311	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
312	440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.

313	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
314	790.01 (2)	3rd	Carrying a concealed firearm.
315	790.162	2nd	Threat to throw or discharge destructive device.
316	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
317	790.221 (1)	2nd	Possession of short- barreled shotgun or machine gun.
318	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
319	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.
320			

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321	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
322	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
323	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
324	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
325	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.

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812.131 (2) (b)	3rd	Robbery by sudden snatching.
812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
817.2341 (1), (2) (a) & (3) (a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
817.568 (2) (b)	2nd	Fraudulent use of personal identification information; value of benefit, services

received, payment avoided,
 or amount of injury or
 fraud, \$5,000 or more or use
 of personal identification
 information of 10 or more
 persons.

332

817.625 (2) (b)

2nd Second or subsequent
 fraudulent use of
 scanning device or
 reencoder.

333

825.1025 (4)

3rd Lewd or lascivious
 exhibition in the
 presence of an elderly
 person or disabled adult.

334

827.071 (4)

2nd Possess with intent to
 promote any photographic
 material, motion picture,
 etc., which includes sexual
 conduct by a child.

335

827.071 (5)

3rd Possess, control, or
 intentionally view any
 photographic material, motion

picture, etc., which includes sexual conduct by a child.

336

839.13(2)(b)

2nd Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.

337

843.01

3rd Resist officer with violence to person; resist arrest with violence.

338

847.0135(5)(b)

2nd Lewd or lascivious exhibition using computer; offender 18 years or older.

339

847.0137(2) & (3)

3rd Transmission of pornography by electronic device or equipment.

340

847.0138(2) & (3)

3rd Transmission of material harmful to minors to a minor by electronic device or equipment.

341	874.05 (1) (b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
342	874.05 (2) (a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
343	893.13 (1) (a) 1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4. drugs).
344	893.13 (1) (c) 2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs) within 1,000 feet of a child care facility,

school, or state, county,
 or municipal park or
 publicly owned
 recreational facility or
 community center.

345

893.13(1)(d)1.

1st

Sell, manufacture, or
 deliver cocaine (or other
 s. 893.03(1)(a), (1)(b),
 (1)(d), (2)(a), (2)(b), or
 (2)(c)4. drugs) within
 1,000 feet of university.

346

893.13(1)(e)2.

2nd

Sell, manufacture, or
 deliver cannabis or other
 drug prohibited under s.
 893.03(1)(c), (2)(c)1.,
 (2)(c)2., (2)(c)3.,
 (2)(c)5., (2)(c)6.,
 (2)(c)7., (2)(c)8.,
 (2)(c)9., (3), or (4)
 within 1,000 feet of
 property used for
 religious services or a
 specified business site.

347

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348 893.13(1)(f)1. 1st Sell, manufacture, or
 deliver cocaine (or other
 s. 893.03(1)(a), (1)(b),
 (1)(d), or (2)(a), (2)(b),
 or (2)(c)4. drugs) within
 1,000 feet of public
 housing facility.

349 893.13(4)(b) 2nd Deliver to minor cannabis
 (or other s. 893.03(1)(c),
 (2)(c)1., (2)(c)2.,
 (2)(c)3., (2)(c)5.,
 (2)(c)6., (2)(c)7.,
 (2)(c)8., (2)(c)9., (3), or
 (4) drugs).

350 893.1351(1) 3rd Ownership, lease, or rental
 for trafficking in or
 manufacturing of controlled
 substance.

351 Section 5. This act shall take effect October 1, 2016.

352