



954882

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2016	.	
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The Committee on Environmental Preservation and Conservation (Evers) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

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

379.365 Stone crab; regulation.—

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



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11 federal law.

12 (a) It is unlawful to violate commission rules regulating  
13 stone crab trap certificates and trap tags. A ~~No~~ person may not  
14 use an expired tag or a stone crab trap tag not issued by the  
15 commission or possess or use a stone crab trap in or on state  
16 waters or adjacent federal waters without having a trap tag  
17 required by the commission firmly attached thereto.

18 1. In addition to any other penalties provided in s.  
19 379.407, for a ~~any~~ commercial harvester who violates this  
20 paragraph, the following administrative penalties apply:—

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

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

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

33 d. A fourth violation that occurs within 48 months after ~~of~~  
34 any three previous such violations, shall result in permanent  
35 revocation of all of the violator's saltwater fishing  
36 privileges, including having the commission proceed against the  
37 endorsement holder's saltwater products license in accordance  
38 with s. 379.407.

39 2. Any other person who violates ~~the provisions of~~ this



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40 paragraph commits a Level Two violation under s. 379.401.

41

42 A ~~Any~~ commercial harvester assessed an administrative penalty  
43 under this paragraph shall, within 30 ~~calendar~~ days after  
44 notification, pay the administrative penalty to the commission,  
45 or request an administrative hearing under ss. 120.569 and  
46 120.57. The proceeds of all administrative penalties collected  
47 under this paragraph shall be deposited in the Marine Resources  
48 Conservation Trust Fund.

49 Section 2. Paragraph (c) of subsection (2) of section  
50 379.3671, Florida Statutes, is amended to read:

51 379.3671 Spiny lobster trap certificate program.—

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

57 (c) *Prohibitions; penalties.*—

58 1. ~~It is unlawful for~~ A person may not ~~to~~ possess or use a  
59 spiny lobster trap in or on state waters or adjacent federal  
60 waters without having affixed thereto the trap tag required by  
61 this section. ~~It is unlawful for~~ A person may not ~~to~~ possess or  
62 use any other gear or device designed to attract and enclose or  
63 otherwise aid in the taking of spiny lobster by trapping that is  
64 not a trap as defined by commission rule.

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

68 3. A ~~It is unlawful for any person~~ may not ~~to~~ willfully



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69 molest, take possession of, or remove the contents of another  
70 harvester's spiny lobster trap without the express written  
71 consent of the trap owner available for immediate inspection.  
72 Unauthorized possession of another harvester's ~~another's~~ trap  
73 gear or removal of another harvester's trap contents constitutes  
74 theft.

75 a. A commercial harvester who violates this subparagraph  
76 shall be punished under ss. 379.367 and 379.407. A ~~Any~~  
77 commercial harvester receiving a judicial disposition other than  
78 dismissal or acquittal on a charge of theft of or from a trap  
79 pursuant to this subparagraph or s. 379.402 shall, in addition  
80 to the penalties specified in ss. 379.367 and 379.407 and ~~the~~  
81 ~~provisions of~~ this section, permanently lose all of his or her  
82 saltwater fishing privileges, including his or her saltwater  
83 products license, spiny lobster endorsement, and all trap  
84 certificates allotted to him or her through this program. In  
85 such cases, trap certificates and endorsements are  
86 nontransferable.

87 b. A ~~Any~~ commercial harvester receiving a judicial  
88 disposition other than dismissal or acquittal on a charge of  
89 willful molestation of a trap, in addition to the penalties  
90 specified in ss. 379.367 and 379.407, shall lose all of his or  
91 her saltwater fishing privileges for a period of 24 ~~calendar~~  
92 months.

93 c. In addition to any other penalties specified in this  
94 subparagraph, a ~~any~~ commercial harvester charged with violating  
95 this subparagraph and receiving a judicial disposition other  
96 than dismissal or acquittal for violating this subparagraph or  
97 s. 379.402 shall also be assessed an administrative penalty of



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98 up to \$5,000.

99

100 Immediately upon receiving a citation for a violation involving  
101 theft of or from a trap, or molestation of a trap, and until  
102 adjudicated for such a violation or, upon receipt of a judicial  
103 disposition other than dismissal or acquittal of such a  
104 violation, the commercial harvester committing the violation is  
105 prohibited from transferring any of his or her spiny lobster  
106 trap certificates and endorsements.

107 4. In addition to any other penalties provided in s.  
108 379.407, a commercial harvester who violates ~~the provisions of~~  
109 this section or commission rules relating to spiny lobster traps  
110 shall be punished as follows:

111 a. If the first violation is for a violation of  
112 subparagraph 1. or subparagraph 2., the commission shall assess  
113 an additional administrative penalty of up to \$1,000. For all  
114 other first violations, the commission shall assess an  
115 additional administrative penalty of up to \$500.

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

123 c. For a third ~~or subsequent~~ violation of subparagraph 1.  
124 ~~or~~ subparagraph 2. that, ~~or subparagraph 3. which~~ occurs within  
125 36 months after ~~of~~ any two previous ~~two~~ such violations, the  
126 commission shall assess an additional administrative penalty of



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127 up to \$5,000, and ~~may suspend~~ the spiny lobster endorsement  
128 issued under s. 379.367(2) or (6) may be suspended for a period  
129 ~~of up to 24 months or may revoke the spiny lobster endorsement~~  
130 ~~and, if revoking the spiny lobster endorsement, may also proceed~~  
131 ~~against the licenseholder's saltwater products license in~~  
132 ~~accordance with the provisions of s. 379.407(2)(h).~~

133 d. A fourth violation that occurs within 48 months after  
134 any three previous such violations shall result in permanent  
135 revocation of all of the violator's saltwater fishing  
136 privileges, including having the commission proceed against the  
137 endorsement holder's saltwater products license in accordance  
138 with s. 379.407.

139 ~~e.d.~~ Within 30 days after notification, a Any person  
140 assessed an additional administrative penalty pursuant to this  
141 section shall ~~within 30 calendar days after notification:~~

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

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

145 ~~f.e.~~ The commission shall suspend the spiny lobster  
146 endorsement issued under s. 379.367(2) or (6) if a ~~for any~~  
147 person fails ~~failing~~ to comply with ~~the provisions of~~ sub-  
148 subparagraph e. d.

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

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

155 c. A ~~It is unlawful for any person~~ may not ~~to~~ barter,



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156 trade, sell, supply, agree to supply, aid in supplying, or give  
157 away a spiny lobster trap tag or certificate or ~~to~~ conspire to  
158 barter, trade, sell, supply, aid in supplying, or give away a  
159 spiny lobster trap tag or certificate unless such action is ~~duly~~  
160 authorized by the commission as provided in this chapter or in  
161 the rules of the commission.

162 6.a. A ~~Any~~ commercial harvester who violates ~~the provisions~~  
163 ~~of~~ subparagraph 5., or a ~~any~~ commercial harvester who engages in  
164 the commercial harvest, trapping, or possession of spiny lobster  
165 without a spiny lobster endorsement as required by s. 379.367(2)  
166 or (6) or during any period while such spiny lobster endorsement  
167 is under suspension or revocation, commits a felony of the third  
168 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
169 775.084.

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

176 c. In addition to any penalty imposed pursuant to sub-  
177 subparagraph a., a ~~any~~ commercial harvester receiving any  
178 judicial disposition other than acquittal or dismissal for a  
179 violation of subparagraph 5. shall be assessed an administrative  
180 penalty of up to \$5,000, and the spiny lobster endorsement under  
181 which the violation was committed may be suspended for up to 24  
182 ~~calendar~~ months. Immediately upon issuance of a citation  
183 involving a violation of subparagraph 5. and until adjudication  
184 of such a violation, and after receipt of any judicial



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185 disposition other than acquittal or dismissal for such a  
186 violation, the commercial harvester holding the spiny lobster  
187 endorsement listed on the citation is prohibited from  
188 transferring any spiny lobster trap certificates.

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

191 7. ~~Before~~ ~~Prior to~~ the 2010-2011 license year, any  
192 certificates for which the annual certificate fee is not paid  
193 for a period of 3 years shall be considered abandoned and shall  
194 revert to the commission. Beginning with the 2010-2011 license  
195 year, any certificate for which the annual certificate fee is  
196 not paid for a period of 2 consecutive years shall be considered  
197 abandoned and shall revert to the commission. During any period  
198 of trap reduction, any certificates reverting to the commission  
199 shall become permanently unavailable and be considered in that  
200 amount to be reduced during the next license-year period.  
201 Otherwise, any certificates that revert to the commission are to  
202 be reallocated in such manner as provided by the commission.

203 8. The proceeds of all administrative penalties collected  
204 pursuant to subparagraph 4. and all fines collected pursuant to  
205 sub-subparagraph 6.b. shall be deposited into the Marine  
206 Resources Conservation Trust Fund.

207 9. All traps shall be removed from the water during any  
208 period of suspension or revocation.

209 10. Except as otherwise provided, a any person who violates  
210 this paragraph commits a Level Two violation under s. 379.401.

211 Section 3. Subsection (5) of section 379.407, Florida  
212 Statutes, is amended to read:

213 379.407 Administration; rules, publications, records;





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214 penalties; injunctions.-

215 (5) PENALTIES FOR POSSESSION OF SPINY LOBSTER; CLOSED  
216 SEASON AND WRUNG TAILS.-

217 (a) It is a major violation under this section for any  
218 person, firm, or corporation to be in possession of spiny  
219 lobster during the closed season or, while on the water, to be  
220 in possession of spiny lobster tails that have been wrung or  
221 separated from the body, unless such possession is allowed by  
222 commission rule. A ~~Any~~ person, firm, or corporation that  
223 violates this paragraph subsection is subject to the following  
224 penalties ~~as follows~~:

225 1.~~(a)~~ A first violation is a misdemeanor of the second  
226 degree, punishable as provided in s. 775.082 or s. 775.083. If  
227 the violation involves 25 or more lobster, the violation is a  
228 misdemeanor of the first degree, punishable as provided in s.  
229 775.082 or s. 775.083.

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

235 3.~~(c)~~ A third violation is a misdemeanor of the first  
236 degree, punishable as provided in s. 775.082 or s. 775.083, with  
237 a mandatory minimum term of imprisonment of 6 months, and such  
238 person may be assessed a civil penalty of up to \$2,500 and is  
239 subject to a suspension of all license privileges under this  
240 chapter for a period not to exceed 6 months.

241 4.~~(d)~~ A third violation within 1 year after a second  
242 violation is a felony of the third degree, punishable as



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243 provided in s. 775.082 or s. 775.083, with a mandatory minimum  
244 term of imprisonment of 1 year, and such person shall be  
245 assessed a civil penalty of \$5,000 and all license privileges  
246 under this chapter shall be permanently revoked.

247 5.(e) A fourth or subsequent violation is a felony of the  
248 third degree, punishable as provided in s. 775.082 or s.  
249 775.083, with a mandatory minimum term of imprisonment of 1  
250 year, and such person shall be assessed a civil penalty of  
251 \$5,000 and all license privileges under this chapter shall be  
252 permanently revoked.

253 (b) It is a major violation under this section for a  
254 recreational or commercial harvester to possess an undersized  
255 spiny lobster, unless authorized by commission rule. For  
256 violations of this paragraph involving fewer than 100 undersized  
257 spiny lobsters, each undersized spiny lobster may be charged as  
258 a separate offense under subparagraphs 1. and 2. However, the  
259 total penalties assessed under subparagraphs 1. and 2. for any  
260 one scheme or course of conduct may not exceed 4 years'  
261 imprisonment and a fine of \$4,000 under such subparagraphs. A  
262 person who violates this paragraph is subject to the following  
263 penalties:

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

266 2. A second or subsequent violation is a misdemeanor of the  
267 first degree, punishable as provided in s. 775.082 or s.  
268 775.083.

269 3. If a violation involves 100 or more undersized spiny  
270 lobsters, the violation is a felony of the third degree,  
271 punishable as provided in s. 775.082, s. 775.083, or s. 775.084



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272 and a mandatory civil fine of at least \$500. In addition, the  
273 commission shall assess the violator with an administrative  
274 penalty of up to \$2,000 and may suspend the violator's license  
275 privileges under this chapter for a period of up to 12 months.

276 Section 4. Paragraph (e) of subsection (3) of section  
277 921.0022, Florida Statutes, is amended to read:

278 921.0022 Criminal Punishment Code; offense severity ranking  
279 chart.—

280 (3) OFFENSE SEVERITY RANKING CHART

281 (e) LEVEL 5

282

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

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287

327.30 (5)

3rd

Vessel accidents  
involving personal  
injury; leaving scene.

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.

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289	379.367 (4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
290	<del>379.3671(2)(c)3.</del>	<del>3rd</del>	<del>Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.</del>
291	<u>379.407 (5) (b) 3.</u>	<u>3rd</u>	<u>Possession of 100 or more undersized spiny lobsters.</u>
292	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
293	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
294	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.



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295	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
296	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
297	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
298	790.01 (2)	3rd	Carrying a concealed firearm.
299	790.162	2nd	Threat to throw or discharge destructive device.
300	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
	790.221 (1)	2nd	Possession of short-



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301			barreled shotgun or machine gun.
	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
302			
	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.
303			
	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
304			
	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
305			
	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
306			
	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
307			



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308	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
309	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
310	812.131 (2) (b)	3rd	Robbery by sudden snatching.
311	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
312	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
313	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
314	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.





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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.

315

817.625 (2) (b)                      2nd                      Second or subsequent  
fraudulent use of  
scanning device or  
reencoder.

316

825.1025 (4)                      3rd                      Lewd or lascivious  
exhibition in the  
presence of an elderly  
person or disabled adult.

317

827.071 (4)                      2nd                      Possess with intent to  
promote any photographic  
material, motion picture,  
etc., which includes  
sexual conduct by a  
child.

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319	827.071 (5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
320	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.
321	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
322	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
323	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a



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minor by electronic  
device or equipment.

324

874.05 (1) (b)

2nd

Encouraging or recruiting  
another to join a  
criminal gang; second or  
subsequent offense.

325

874.05 (2) (a)

2nd

Encouraging or recruiting  
person under 13 years of  
age to join a criminal  
gang.

326

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).

327

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



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

328

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.

329

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.

330

893.13(1)(f)1.

1st

Sell, manufacture, or  
deliver cocaine (or other  
s. 893.03(1)(a), (1)(b),





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343 F.S.; revising the administrative penalties for  
344 violations related to stone crab traps; amending s.  
345 379.3671, F.S.; revising the administrative penalties  
346 for violations related to spiny lobster traps;  
347 amending s. 379.407, F.S.; prohibiting the possession  
348 of undersized spiny lobsters by certain persons;  
349 specifying that each undersized spiny lobster may be  
350 charged as a separate offense of certain violations;  
351 specifying maximum penalties for such violations;  
352 specifying the criminal and administrative penalties  
353 for violations related to undersized spiny lobsters;  
354 amending s. 921.0022, F.S.; revising the offense  
355 severity ranking chart to include certain violations  
356 related to stone crabs and spiny lobsters; providing  
357 an effective date.