

CHAPTER 97-172

Senate Bill No. 292

An act relating to artificial reefs; amending s. 370.25, F.S.; providing requirements with respect to the artificial reef program within the Department of Environmental Protection; directing the department to establish criteria for determining eligibility of nonprofit organizations to apply for and receive available reef development funds; establishing an office to act as a coordinating authority for artificial reef construction; providing that certain acts are unlawful; providing penalties; providing for disposal of certain materials; providing that certain persons are deemed responsible for violations; providing for administrative fines; providing an effective date.

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

Section 1. Subsections (1), (2), and (3) of section 370.25, Florida Statutes, are amended, and subsections (4), (5), (6), (7), and (8) are added to that section, to read:

370.25 Artificial fishing reef program; construction grants to local governments.—

(1) An artificial fishing reef program is created within the Department of Environmental Protection to enhance saltwater fishing opportunities and to promote proper management of fisheries resources associated with artificial reefs for the public interest. Under the program, the department shall provide grants and technical assistance to coastal local governments and nonprofit organizations qualified under s. 501(c)(3) of the U.S. Internal Revenue Code for the siting and development of ~~constructing~~ saltwater artificial fishing reefs as well as monitoring and evaluating their recreational, economic, and biological effectiveness. The program may ~~shall~~ be funded from state, federal, and private contributions.

(2) The department may ~~shall~~ adopt by rule procedures for submitting a grant application and criteria for allocating available funds. Such criteria shall include, but not be limited to, the following:

(a) The number of artificial fishing reefs and extent of the natural reef community currently located in the general vicinity;

(b) The documented demand and public support for the proposed reef;

(c) The number of public and private access points to the proposed reef;

(d) The commitment of the local government or authorized nonprofit organization to provide funds or other support for the development, monitoring, evaluation, and management of ~~to construct and maintain~~ the proposed reef; and

(e) The estimated cost for developing or monitoring of ~~constructing~~ the proposed reef;

(f) The stated objectives for developing or evaluating the reef and a means to measure the level of attainment of these objectives; and

(g) The ability of applicants to conduct artificial reef monitoring projects using established scientific protocol either independently or in collaboration with marine research entities.

(3) The department shall establish criteria for ~~siting, constructing, managing and evaluating the effectiveness of artificial reefs,~~ including the specification of what materials are permissible to use in constructing, fishing reefs and ~~guidelines for managing, monitoring, and assessing the productivity of artificial fishing reefs.~~ No material shall be permitted to be used as an artificial reef under conditions where hurricane force storm events could reasonably be expected to cause the underwater lateral movement of the material off the permitted reef site, or cause substantial structural failure of the material. No material shall be permitted to be used as an artificial reef which has a demonstrated life expectancy in sea water as a functioning reef community of less than 20 years, or ~~in construction~~ which has not been found to be safe for marine life and human health by the department. Each artificial reef must be constructed in a manner that is consistent with the public interest, will not harm the marine environment, or impede navigation or other traditional uses.

(4) The department shall establish criteria for determining the eligibility of nonprofit organizations qualified under s. 501(c)(3) of the U.S. Internal Revenue Code to apply for and receive available reef development or evaluation funds. The criteria must include, but are not limited to:

(a) The organization must show proof that it is a nonprofit organization qualified under s. 501(c)(3) of the U.S. Internal Revenue Code and currently operating in full compliance with U.S. Internal Revenue Service regulations defining and governing those organizations.

(b) The organization must have as one of its principal charges the development or monitoring of artificial reefs and must agree to use the best science-based management practices available.

(c) The organization must be a not-for-profit corporation and must have its principal place of business within the state.

(5) The department's artificial reef program shall track artificial reef development activities statewide and maintain a computer data base of this activity for the public interest and to facilitate long range planning and coordination within the department and among local governments.

(6) It is unlawful for any person to:

(a) Place artificial-reef-construction materials in state water outside zones permitted under the terms and conditions defined in the applicable environmental permits and under U.S. Army Corps of Engineers permits held by the department or a local government.

(b) Place in state waters artificial-reef-construction materials that have not been inspected and approved by the department or a department-certified inspector.

(7)(a) An initial violation of subsection (4) is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A subsequent violation of subsection (4) which is committed within 12 months after a previous violation of that subsection is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If a violation of paragraph (a), paragraph (c), or paragraph (d) of subsection (4) occurs, a law enforcement officer must terminate a vessel's voyage and order the vessel operator to return immediately to port. The vessel operator must immediately dispose of the materials on shore according to applicable waste-disposal laws.

(c) If, at the time of the violation, the vessel that is involved in the violation:

1. Is moored, the registered owner of the vessel is responsible for the violation.

2. Is underway, the captain or operator of the vessel and the registered owner of the vessel are jointly responsible for the violation.

(d) In addition to the penalties imposed in paragraph (5)(a) any person convicted of violating subsection (4), regardless of whether adjudication was withheld or imposition of sentence deferred or suspended, the department shall assess civil penalties of up to \$5,000 and may suspend or revoke the vessel registration and may revoke existing reef-construction permits and other state marine licenses held by the violator.

Section 2. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.