

## CHAPTER 98-203

### Committee Substitute for Senate Bill No. 1506

An act relating to marine resources; amending s. 253.72, F.S.; amending s. 370.01, F.S.; defining food fish for human consumption; providing restrictions for certain areas for harvesting shellfish; amending s. 370.06, F.S.; providing an exemption for totally disabled residents for a restricted species endorsement; providing qualifications for the issuance of a marine life endorsement on a saltwater products license; providing for a moratorium on the issuance of endorsements; providing for the transfer and reissuance of endorsements; providing for a report; amending s. 370.0608, F.S.; revising the distribution of funds collected from the sale of recreational saltwater fishing licenses; amending s. 370.092, F.S.; creating a major violation for the possession of specified nets on certain vessels; providing specific rulemaking authority for the regulation of nets on boats of a specific length; directing the Marine Fisheries Commission to adopt rules prohibiting the possession and sale of mullet taken in illegal gill or entangling nets; providing a penalty for violations; prohibiting the use of certain nets composed of specified materials; providing a definition; amending s. 370.093, F.S.; authorizing the Marine Fisheries Commission to adopt rules implementing s. 370.093, F.S.; amending s. 370.1405, F.S.; authorizing the Department of Environmental Protection to adopt certain rules; amending s. 370.142, F.S.; providing for a surcharge to be assessed upon the initial transfer of a transferable crawfish trap certificate outside the original transferor's immediate family; prohibiting the lease of lobster trap certificates after July 1, 1998; providing additional penalties for violations relating to traps; providing for the continuation of the Marine Fisheries Commission notwithstanding its scheduled abolition; amending s. 370.13, F.S.; restricting the issuance of stone crab trap numbers until July 1, 2000; providing for renewal under certain circumstances; amending s. 370.135, F.S.; restricting the issuance of new blue crab endorsements for a certain period of time; providing for renewal or replacement under certain circumstances; amending s. 370.021, F.S.; providing additional penalties for violations involving buying saltwater products from an unlicensed seller or the sale of saltwater products by an unlicensed seller; authorizing the suspension, revocation, or denial of renewal of licenses for specified major violations involving finfish, shrimp, marine life species, crawfish, stone crabs, and blue crabs; requiring clerks of courts to certify the final disposition of specified court proceedings to the Department of Environmental Protection; amending s. 370.07, F.S.; authorizing the sharing of wholesale saltwater products dealer reports with other states under specified conditions; providing civil penalties for violation of recordkeeping and reporting requirements; prohibiting a licensed retail dealer or a licensed restaurant from buying saltwater products from any person other than a licensed wholesale or retail dealer; repealing s. 370.1127, F.S., relating to mullet regulation west

of the Ochlockonee River; amending s. 373.046, F.S.; clarifying jurisdiction over aquaculture activities; providing exemption for management and storage of surface water; amending s. 403.0885, F.S.; providing exemptions from the state National Pollutant Discharge Elimination System program; providing an effective date.

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

Section 1. Subsection (3) is added to section 253.72, Florida Statutes, to read:

253.72 Marking of leased areas; restrictions on public use.—

(3) To assist in protecting shellfish aquaculture products produced on leases authorized pursuant to this chapter and chapter 370, harvesting shellfish is prohibited within a distance of 25 feet outside lawfully marked lease boundaries or within setback and access corridors within specifically designated high-density aquaculture lease areas and aquaculture use zones.

Section 2. Subsection (12) of section 370.01, Florida Statutes, is amended to read:

370.01 Definitions.—In construing these statutes, where the context does not clearly indicate otherwise, the word, phrase, or term:

(12) “Food fish” shall include mullet, trout, redfish, sheepshead, pompano, mackerel, bluefish, red snapper, grouper, black drum, jack crevalle, and all other fish generally used for human consumption.

Section 3. Subsection (2) of section 370.06, Florida Statutes, is amended to read:

370.06 Licenses.—

(2) SALTWATER PRODUCTS LICENSE.—

(a) Every person, firm, or corporation that sells, offers for sale, barter, or exchanges for merchandise any saltwater products, or which harvests saltwater products with certain gear or equipment as specified by law, must have a valid saltwater products license, except that the holder of an aquaculture certificate is not required to purchase and possess a saltwater products license in order to possess, transport, or sell marine aquaculture products. Each saltwater products license allows the holder to engage in any of the activities for which the license is required. The license must be in the possession of the licenseholder or aboard the vessel and shall be subject to inspection at any time that harvesting activities for which a license is required are being conducted. A restricted species endorsement on the saltwater products license is required to sell to a licensed wholesale dealer those species which the state, by law or rule, has designated as “restricted species.” This endorsement may be issued only to a person who is at least 16 years of age, or to a firm certifying that over 25 percent of its income or \$5,000 of its income, whichever is less, is attributable to the sale of saltwater products pursuant to a license issued under this paragraph or a similar license from

another state. This endorsement may also be issued to a for-profit corporation if it certifies that at least \$5,000 of its income is attributable to the sale of saltwater products pursuant to a license issued under this paragraph or a similar license from another state. However, if at least 50 percent of the annual income of a person, firm, or for-profit corporation is derived from charter fishing, the person, firm, or for-profit corporation must certify that at least \$2,500 of the income of the person, firm, or corporation is attributable to the sale of saltwater products pursuant to a license issued under this paragraph or a similar license from another state, in order to be issued the endorsement. Such income attribution must apply to at least 1 year out of the last 3 years. For the purpose of this section "income" means that income which is attributable to work, employment, entrepreneurship, pensions, retirement benefits, and social security benefits.

1. The department is authorized to require verification of such income. Acceptable proof of income earned from the sale of saltwater products shall be:

a. Copies of trip ticket records generated pursuant to this subsection (marine fisheries information system), documenting qualifying sale of saltwater products;

b. Copies of sales records from locales other than Florida documenting qualifying sale of saltwater products;

c. A copy of the applicable federal income tax return, including Form 1099 attachments, verifying income earned from the sale of saltwater products;

d. Crew share statements verifying income earned from the sale of saltwater products; or

e. A certified public accountant's notarized statement attesting to qualifying source and amount of income.

Any provision of this section or any other section of the Florida Statutes to the contrary notwithstanding, any person who owns a retail seafood market and/or restaurant at a fixed location for at least 3 years who has had an occupational license for 3 years prior to January 1, 1990, who harvests saltwater products to supply his or her retail store and has had a saltwater products license for 1 of the past 3 years prior to January 1, 1990, may provide proof of his or her verification of income and sales value at the person's retail seafood market and/or restaurant and in his or her saltwater products enterprise by affidavit and shall thereupon be issued a restricted species endorsement.

2. Exceptions from income requirements shall be as follows:

a. A permanent restricted species endorsement shall be available to those persons age 62 and older who have qualified for such endorsement for at least 3 out of the last 5 years.

b. Active military duty time shall be excluded from consideration of time necessary to qualify and shall not be counted against the applicant for purposes of qualifying.

c. Upon the sale of a used commercial fishing vessel owned by a person, firm, or corporation possessing or eligible for a restricted species endorsement, the purchaser of such vessel shall be exempted from the qualifying income requirement for the purpose of obtaining a restricted species endorsement for a period of 1 year after purchase of the vessel.

d. Upon the death or permanent disablement of a person possessing a restricted species endorsement, an immediate family member wishing to carry on the fishing operation shall be exempted from the qualifying income requirement for the purpose of obtaining a restricted species endorsement for a period of 1 year after the death or disablement.

e. A restricted species endorsement may be issued on an individual saltwater products license to a person age 62 or older who documents that at least \$2,500 is attributable to the sale of saltwater products pursuant to the provisions of this paragraph.

f. A permanent restricted species endorsement may also be issued on an individual saltwater products license to a person age 70 or older who has held a saltwater products license for at least 3 of the last 5 license years.

g. Any resident who is certified to be totally and permanently disabled by a verified written statement, based upon the criteria for permanent total disability in chapter 440 from a physician licensed in this state, by any branch of the United States Armed Services, by the Social Security Administration, or by the United States Department of Veterans Affairs or its predecessor, or any resident who holds a valid identification card issued by the Department of Veterans' Affairs pursuant to s. 295.17, shall be exempted from the income requirements if he or she also has held a saltwater products license for at least 3 of the last 5 license years prior to the date of the disability. A Disability Award Notice issued by the United States Social Security Administration is not sufficient certification for a resident to obtain the income exemption unless the notice certifies that the resident is totally and permanently disabled.

At least one saltwater products license bearing a restricted species endorsement shall be aboard any vessel harvesting restricted species in excess of any bag limit or when fishing under a commercial quota or in commercial quantities, and such vessel shall have a commercial vessel registration. This subsection does not apply to any person, firm, or corporation licensed under s. 370.07(1)(a)1. or (b) for activities pursuant to such licenses. A saltwater products license may be issued in the name of an individual or a valid boat registration number. Such license is not transferable. A decal shall be issued with each saltwater products license issued to a valid boat registration number. The saltwater products license decal shall be the same color as the vessel registration decal issued each year pursuant to s. 327.11(7) and shall indicate the period of time such license is valid. The saltwater products license decal shall be placed beside the vessel registration decal and, in the

case of an undocumented vessel, shall be placed so that the vessel registration decal lies between the vessel registration number and the saltwater products license decal. Any saltwater products license decal for a previous year shall be removed from a vessel operating on the waters of the state. A resident shall pay an annual license fee of \$50 for a saltwater products license issued in the name of an individual or \$100 for a saltwater products license issued to a valid boat registration number. A nonresident shall pay an annual license fee of \$200 for a saltwater products license issued in the name of an individual or \$400 for a saltwater products license issued to a valid boat registration number. An alien shall pay an annual license fee of \$300 for a saltwater products license issued in the name of an individual or \$600 for a saltwater products license issued to a valid boat registration number. Any person who sells saltwater products pursuant to this license may sell only to a licensed wholesale dealer. A saltwater products license must be presented to the licensed wholesale dealer each time saltwater products are sold, and an imprint made thereof. The wholesale dealer shall keep records of each transaction in such detail as may be required by rule of the Department of Environmental Protection not in conflict with s. 370.07(6), and shall provide the holder of the saltwater products license with a copy of the record. It is unlawful for any licensed wholesale dealer to buy saltwater products from any unlicensed person under the provisions of this section, except that a licensed wholesale dealer may buy from another licensed wholesale dealer. It is unlawful for any licensed wholesale dealer to buy saltwater products designated as "restricted species" from any person, firm, or corporation not possessing a restricted species endorsement on his or her saltwater products license under the provisions of this section, except that a licensed wholesale dealer may buy from another licensed wholesale dealer. The Department of Environmental Protection shall be the licensing agency, may contract with private persons or entities to implement aspects of the licensing program, and shall establish by rule a marine fisheries information system in conjunction with the licensing program to gather fisheries data.

(b) Any person who sells, offers for sale, barter, or exchanges for merchandise saltwater products must have a method of catch preservation which meets the requirements and standards of the seafood quality control code promulgated by the Department of Environmental Protection.

(c) A saltwater products license is required to harvest commercial quantities of saltwater products. Any vessel from which commercial quantities of saltwater products are harvested must have a commercial vessel registration. Commercial quantities of saltwater products shall be defined as:

1. With respect to those species for which no bag limit has been established, more than 100 pounds per person per day, provided that the harvesting of two fish or less per person per day shall not be considered commercial quantities regardless of aggregate weight; and
2. With respect to those species for which a bag limit has been established, more than the bag limit allowed by law or rule.

(d)1. In addition to the saltwater products license, a marine life fishing endorsement ~~is shall be~~ required for the harvest of marine life species as

defined by rule of the Marine Fisheries Commission. This endorsement may be issued only to a person who is at least 16 years of age or older or to a corporation holding a valid restricted species endorsement.

2.a. Effective July 1, 1998, and until July 1, 2002, a marine life endorsement may not be issued under this paragraph, except that those endorsements that are active during the 1997-1998 fiscal year may be renewed.

b. In 1998 persons or corporations holding a marine life endorsement that was active in the 1997-1998 fiscal year or an immediate family member of that person must request renewal of the marine life endorsement before December 31, 1998.

c. In subsequent years and until July 1, 2002, a marine life endorsement holder or member of his or her immediate family must request renewal of the marine life endorsement before September 30 of each year.

d. If a person or corporation holding an active marine life fishing endorsement or a member of that person's immediate family does not request renewal of the endorsement before the applicable dates specified in this paragraph, the department shall deactivate that marine life fishing endorsement.

e. In the event of the death or disability of a person holding an active marine life fishing endorsement, the endorsement may be transferred by the person to a member of his or her immediate family or may be renewed by any person so designated by the executor of the person's estate.

f. Persons or corporations who hold saltwater product licenses with marine life fishing endorsements issued to their vessel registration numbers and who subsequently replace their existing vessels with new vessels may transfer the existing marine life fishing endorsement to the new boat registration numbers.

g. Persons or corporations who hold saltwater product licenses with marine life fishing endorsements issued to their name and who subsequently incorporate or unincorporate may transfer the existing marine life fishing endorsement to the new corporation or person.

h. By July 1, 2000, the Marine Fisheries Commission shall prepare a report regarding options for the establishment of a limited-entry program for the marine life fishery and submit the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the Senate and House committees having jurisdiction over marine resources.

3.2. The fee for a marine life fishery endorsement on a saltwater products license shall be \$75. These license fees shall be collected and deposited in the Marine Resources Conservation Trust Fund and used for the purchase and installation of vessel mooring buoys at coral reef sites and for research related to marine fisheries.

Section 4. Subsection (1) of section 370.0608, Florida Statutes, is amended to read:

370.0608 Deposit of license fees; allocation of federal funds.—

(1) All license fees collected pursuant to s. 370.0605 shall be deposited into the Marine Resources Conservation Trust Fund, to be used as follows:

(a) Not more than 5 ~~2.5~~ percent of the total fees collected shall be for the Marine Fisheries Commission to be used to carry out the responsibilities of the commission and to provide for the award of funds to marine research institutions in this state for the purposes of enabling such institutions to conduct worthy marine research projects.

(b) Not less than 2.5 percent of the total fees collected shall be used for aquatic education purposes.

(c)1. The remainder of such fees shall be used by the department for the following program functions:

a. Not more than 5 percent of the total fees collected, for administration of the licensing program and for information and education.

b. Not more than 30 percent of the total fees collected, for law enforcement.

c. Not less than 27.5 ~~30~~ percent of the total fees collected, for marine research.

d. Not less than 30 percent of the total fees collected, for fishery enhancement, including, but not limited to, fishery statistics development, artificial reefs, and fish hatcheries.

2. The Legislature shall annually appropriate to the Department of Environmental Protection from the General Revenue Fund for the activities and programs specified in subparagraph 1. at least the same amount of money as was appropriated to the department from the General Revenue Fund for such activities and programs for fiscal year 1988-1989, and the amounts appropriated to the department for such activities and programs from the Marine Resources Conservation Trust Fund shall be in addition to the amount appropriated to the department for such activities and programs from the General Revenue Fund. The proceeds from recreational saltwater fishing license fees paid by fishers shall only be appropriated to the Department of Environmental Protection.

Section 5. Subsection (3) of section 370.092, Florida Statutes, is amended to read:

370.092 Carriage of proscribed nets across Florida waters.—

(3)(a) Notwithstanding subsections (1) and (2), unless authorized by rule of the Marine Fisheries Commission, it is a major violation under this section, punishable as provided in subsection (4), for any person, firm, or corporation to possess any gill or entangling net, or any seine net larger than 500 square feet in mesh area, on any airboat or on any other vessel less than 22 feet in length and on any vessel less than 25 feet if primary power of the vessel is mounted forward of the vessel center point. Gill or entangling nets

shall be as defined in s. 16, Art. X of the State Constitution, s. 370.093(2)(b), or in a rule of the Marine Fisheries Commission implementing s. 16, Art. X of the State Constitution. Vessel length shall be determined in accordance with current U.S. Coast Guard regulations specified in the Code of Federal Regulations or as titled by the State of Florida. The Marine Fisheries Commission is directed to initiate by July 1, 1998, rulemaking to adjust by rule the use of gear on vessels longer than 22 feet where the primary power of the vessel is mounted forward of the vessel center point in order to prevent the illegal use of gill and entangling nets in state waters and to provide reasonable opportunities for the use of legal net gear in adjacent federal waters.

(b)(a) It shall be a major violation pursuant to this section and shall be punished as provided in subsection (4) for any person, firm, or corporation to be simultaneously in possession of any species of mullet in excess of the recreational daily bag limit and any gill or other entangling net as defined in s. 16(c), Art. X of the State Constitution. Simultaneous possession under this provision shall include possession of mullet and gill or other entangling nets on separate vessels or vehicles where such vessels or vehicles are operated in coordination with one another including vessels towed behind a main vessel. This subsection does not prohibit a resident of this state from transporting on land, from Alabama to this state, a commercial quantity of mullet together with a gill net if:

1. The person possesses a valid commercial fishing license that is issued by the State of Alabama and that allows the person to use a gill net to legally harvest mullet in commercial quantities from Alabama waters.

2. The person possesses a trip ticket issued in Alabama and filled out to match the quantity of mullet being transported, and the person is able to present such trip ticket immediately upon entering this state.

3. The mullet are to be sold to a wholesale saltwater products dealer located in Escambia County or Santa Rosa County, which dealer also possesses a valid seafood dealer's license issued by the State of Alabama. The dealer's name must be clearly indicated on the trip ticket.

4. The mullet being transported are totally removed from any net also being transported.

(c)(b) It shall be a major violation pursuant to this section for any person to be in possession of any species of trout, snook, or redfish which is three fish in excess of the recreational or commercial daily bag limit.

(d) The Marine Fisheries Commission shall adopt rules to prohibit the possession and sale of mullet taken in illegal gill or entangling nets. Violations of such rules shall be punishable as provided in subsection (4).

Section 6. Section 370.093, Florida Statutes, is amended to read:

370.093 Illegal use of nets.—

(1) It is unlawful to take or harvest, or to attempt to take or harvest, any marine life in Florida waters with any net that is not consistent with the provisions of s. 16, Art. X of the State Constitution.



(2)(a) Beginning July 1, 1998, it is also unlawful to take or harvest, or to attempt to take or harvest, any marine life in Florida waters with any net, as defined in subsection (3) and any attachments to such net, that combined are larger than 500 square feet and have not been expressly authorized for such use by rule of the Marine Fisheries Commission under s. 370.027. The use of currently legal shrimp trawls and purse seines outside nearshore and inshore Florida waters shall continue to be legal until the commission implements rules regulating those types of gear.

(b) The use of gill or entangling nets of any size is prohibited, as such nets are defined in s. 16, Art. X of the State Constitution. Any net constructed wholly or partially of monofilament or ~~multistrand monofilament multifilament~~ material, other than a hand thrown cast net, or a handheld landing or dip net, shall be considered to be an entangling net within the prohibition of s. 16, Art. X of the State Constitution unless specifically authorized by rule of the commission. Multistrand monofilament ~~Multifilament~~ material shall not be defined to include nets constructed of braided or twisted nylon, cotton, linen twine, or polypropylene twine.

(c) This subsection shall not be construed to apply to aquaculture activities licenses issued pursuant to s. 370.26.

(3) As used in s. 16, Art. X of the State Constitution and this subsection, the term “net” or “netting” must be broadly construed to include all manner or combination of mesh or webbing or any other solid or semisolid fabric or other material used to comprise a device that is used to take or harvest marine life.

(4) Upon the arrest of any person for violation of this subsection, the arresting officer shall seize the nets illegally used. Upon conviction of the offender, the arresting authority shall destroy the nets.

(5) Any person who violates this section shall be punished as provided in s. 370.092(4).

(6) The Marine Fisheries Commission is granted authority to adopt rules pursuant to ss. 370.025 and 370.027 implementing this section and the prohibitions and restrictions of s. 16, Art. X of the State Constitution.

Section 7. Subsection (2) of section 370.142, Florida Statutes, is amended to read:

370.142 Spiny lobster trap certificate program.—

(2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES; PENALTIES.—The Department of Environmental Protection shall establish a trap certificate program for the spiny lobster fishery of this state and shall be responsible for its administration and enforcement as follows:

(a) Transferable trap certificates.—Each holder of a saltwater products license who uses traps for taking or attempting to take spiny lobsters shall be required to have a certificate on record for each trap possessed or used therefor, except as otherwise provided in this section.

1. The department shall initially allot such certificates to each licenseholder with a current crawfish trap number who uses traps. The number of such certificates allotted to each such licenseholder shall be based on the trap/catch coefficient established pursuant to trip ticket records generated under the provisions of s. 370.06(2)(a) over a 3-year base period ending June 30, 1991. The trap/catch coefficient shall be calculated by dividing the sum of the highest reported single license-year landings up to a maximum of 30,000 pounds for each such licenseholder during the base period by 700,000. Each such licenseholder shall then be allotted the number of certificates derived by dividing his or her highest reported single license-year landings up to a maximum of 30,000 pounds during the base period by the trap/catch coefficient. Nevertheless, no licenseholder with a current crawfish trap number shall be allotted fewer than 10 certificates. However, certificates may only be issued to individuals; therefore, all licenseholders other than individual licenseholders shall designate the individual or individuals to whom their certificates will be allotted and the number thereof to each, if more than one. After initial issuance, trap certificates are transferable on a market basis and may be transferred from one licenseholder to another for a fair market value agreed upon between the transferor and transferee. Each such transfer shall, within 72 hours thereof, be recorded on a notarized form provided for that purpose by the department and hand delivered or sent by certified mail, return receipt requested, to the department for recordkeeping purposes. In addition, in order to cover the added administrative costs of the program and to recover an equitable natural resource rent for the people of the state, a transfer fee of \$2 per certificate transferred shall be assessed against the purchasing licenseholder and sent by money order or cashier's check with the certificate transfer form. Also, in addition to the transfer fee, a surcharge of \$5 per certificate transferred or 25 percent of the actual fair market value, whichever is greater, given to the transferor shall be assessed the first time a certificate is transferred outside the original transferor's immediate family. No transfer of a certificate shall be effective until the department receives the notarized transfer form and the transfer fee, including any surcharge, is paid. The department may establish by rule an amount of equitable rent per trap certificate that shall be recovered as partial compensation to the state for the enhanced access to its natural resources. In determining whether to establish such a rent and, if so, the amount thereof, the department shall consider the amount of revenues annually generated by certificate fees, transfer fees, surcharges, trap license fees, and sales taxes, the demonstrated fair market value of transferred certificates, and the continued economic viability of the commercial lobster industry. The proceeds of equitable rent recovered shall be deposited in the Marine Resources Conservation Trust Fund and used by the department for research, management, and protection of the spiny lobster fishery and habitat.

2. No person, firm, corporation, or other business entity may control, directly or indirectly, more than 1.5 percent of the total available certificates in any license year.

3. The department shall maintain records of all certificates and their transfers and shall annually provide each licenseholder with a statement of certificates held.

4. The number of trap tags issued annually to each licenseholder shall not exceed the number of certificates held by the licenseholder at the time of issuance, and such tags and a statement of certificates held shall be issued simultaneously.

5. Beginning July 1, 2003, and applicable to the 2003-2004 lobster season and thereafter, it is unlawful for any person to lease lobster trap tags or certificates.

(b) Trap tags.—Each trap used to take or attempt to take spiny lobsters in state waters or adjacent federal waters shall, in addition to the crawfish trap number required by s. 370.14(2), have affixed thereto an annual trap tag issued by the department. Each such tag shall be made of durable plastic or similar material and shall, beginning with those tags issued for the 1993-1994 season based on the number of certificates held, have stamped thereon the owner's license number. To facilitate enforcement and recordkeeping, such tags shall be issued each year in a color different from that of each of the previous 3 years. A fee of 50 cents per tag issued other than on the basis of a certificate held shall be assessed through March 31, 1993. Until 1995, an annual fee of 50 cents per certificate shall be assessed, and thereafter, until 1998, an annual fee of 75 cents per certificate shall be assessed upon issuance in order to recover administrative costs of the tags and the certificate program. Beginning in 1998, the annual certificate fee shall be \$1 per certificate. Replacement tags for lost or damaged tags may be obtained as provided by rule of the department.

(c) Prohibitions; penalties.—

1. It is unlawful for a person to possess or use a spiny lobster trap in or on state waters or adjacent federal waters without having affixed thereto the trap tag required by this section. It is unlawful for a person to possess or use any other gear or device designed to attract and enclose or otherwise aid in the taking of spiny lobster by trapping that is not a trap as defined in rule 46-24.006(2), Florida Administrative Code.

2. It is unlawful for a person to possess or use spiny lobster trap tags without having the necessary number of certificates on record as required by this section.

3. ~~In addition to any other penalties provided in s. 370.021 Unless otherwise provided in this section,~~ a commercial harvester, as defined by rule 46-24.002(1), Florida Administrative Code, who violates the provisions of this section, or the provisions relating to traps of chapter 46-24, Florida Administrative Code, shall be punished as follows:

a. If the first violation is for violation of subparagraph 1. or subparagraph 2., the department shall assess an additional a civil penalty of up to \$1,000 and the crawfish trap number issued pursuant to s. 370.14(2) or (7) may be suspended for the remainder of the current license year. For all other first violations, the department shall assess an additional a civil penalty of up to \$500.

b. For a second violation of subparagraph 1. or subparagraph 2. which occurs within 24 months of any previous such violation, the department shall assess an additional a civil penalty of up to \$2,000 and the crawfish trap number issued pursuant to s. 370.14(2) or (7) may be suspended for the remainder of the current license year.

c. For a third or subsequent violation of subparagraph 1. or subparagraph 2. which occurs within 36 months of any previous two such violations, the department shall assess an additional a civil penalty of up to \$5,000 and may suspend the crawfish trap number issued pursuant to s. 370.14(2) or (7) for a period of up to 24 months or may revoke the crawfish trap number and, if revoking the crawfish trap number, may also proceed against the licenseholder's saltwater products license in accordance with the provisions of s. 370.021(2)(e).

d. Any person assessed an additional a civil penalty pursuant to this section shall within 30 calendar days after notification:

(I) Pay the civil penalty to the department; or

(II) Request an administrative hearing pursuant to the provisions of s. 120.60.

e. The department shall suspend the crawfish trap number issued pursuant to s. 370.14(2) or (7) for any person failing to comply with the provisions of sub-subparagraph d.

4.a. It is unlawful for any person to make, alter, forge, counterfeit, or reproduce a spiny lobster trap tag or certificate.

b. It is unlawful for any person to knowingly have in his or her possession a forged, counterfeit, or imitation spiny lobster trap tag or certificate.

c. It is unlawful for any person to barter, trade, sell, supply, agree to supply, aid in supplying, or give away a spiny lobster trap tag or certificate or to conspire to barter, trade, sell, supply, aid in supplying, or give away a spiny lobster trap tag or certificate unless such action is duly authorized by the department as provided in this chapter or in the rules of the department.

5.a. Any person who violates the provisions of subparagraph 4., or any person who engages in the commercial harvest, trapping, or possession of spiny lobster without a crawfish trap number as required by s. 370.14(2) or (7) or during any period while such crawfish trap number is under suspension or revocation, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. In addition to any penalty imposed pursuant to sub-subparagraph a., the department shall levy a fine of up to twice the amount of the appropriate surcharge to be paid on the fair market value of the transferred certificates, as provided in subparagraph (a)1., on any person who violates the provisions of sub-subparagraph 4.c.

6. Any certificates for which the annual certificate fee is not paid for a period of 3 years shall be considered abandoned and shall revert to the department. During any period of trap reduction, any certificates reverting to the department shall become permanently unavailable and be considered in that amount to be reduced during the next license-year period. Otherwise, any certificates that revert to the department are to be reallocated in such manner as provided by the department.

7. The proceeds of all civil penalties collected pursuant to subparagraph 3. and all fines collected pursuant to sub-subparagraph 5.b. shall be deposited into the Marine Resources Conservation Trust Fund.

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

(d) No vested rights.—The trap certificate program shall not create vested rights in licenseholders whatsoever and may be altered or terminated as necessary to protect the spiny lobster resource, the participants in the fishery, or the public interest.

Section 8. Notwithstanding the provisions of section 2 of chapter 94-247, Laws of Florida, the statutory authorization for the creation and functions of the Marine Fisheries Commission contained in sections 370.025-370.028, Florida Statutes, shall not stand repealed as scheduled by those provisions, but shall continue in full force and effect.

Section 9. Section 370.13, Florida Statutes, is amended to read:

370.13 Stone crab; regulation.—

(1)(a) It is unlawful for any person, firm, or corporation to catch or have in his or her possession, regardless of where taken, for his or her own use or to sell or offer for sale, any stone crab, or parts thereof, of any size between May 15 and October 15 of each year, except for stone crabs, or parts thereof, placed in inventory prior to May 15 of each year.

(b) “Stone crab” means the species *Menippe mercenaria* or any other species of the family Xanthidae as the Marine Fisheries Commission may define by rule.

(2) Upon the arrest and conviction for a major violation involving stone crabs, the licenseholder must show just cause why his or her license should not be suspended or revoked. For the purposes of this subsection, a “major violation” means a major violation as prescribed in s. 370.021(2)(c) for illegal stone crabs; any single violation involving possession of more than 25 stone crabs during the closed season or possession of 25 or more whole-bodied or egg-bearing stone crabs; any violation for trap molestation, trap robbing, or pulling traps at night; or any combination of violations in any 3-consecutive-year period wherein more than 75 illegal stone crabs in the aggregate are involved.

(3) Any law, general or special, in conflict with provisions of this section is hereby expressly repealed to the extent of such conflict.

(4)(a) It is unlawful for any person to willfully molest any stone crab trap, line, or buoy that is the property of any licenseholder, without the permission of that licenseholder.

(b) Any person who violates paragraph (a) is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(5) Any gear, equipment, boat, vehicle, or item used in the violation of this section is subject to confiscation. In addition, the Department of Environmental Protection shall revoke the permit of any permitholder convicted of a violation of paragraph (1)(a) for a period of 1 year from the date of the conviction, and he or she is prohibited during that period from catching or having in his or her possession any stone crab for the person's own use or to sell or offer to sell, whether or not he or she is accompanied by the holder of a valid permit and regardless of where taken.

(6)(a) Effective July 1, 1995, and until July 1, ~~2000~~ 1999, no stone crab trap numbers issued pursuant to rule ~~46-13.002(2)(e)~~ 46-3.002(2)(f), Florida Administrative Code, except those numbers that are active during the 1994-1995 fiscal year, shall be renewed or replaced.

(b) In 1995, persons holding a trap number that was active in the 1994-1995 fiscal year, or an immediate family member of that person, must request renewal of the number prior to December 31, 1995.

(c) In subsequent years and until July 1, ~~2000~~ 1999, a trap number holder, or members of his or her immediate family, must request renewal of the number prior to September 30 of each year.

(d) If a person holding an active trap number, or a member of that person's immediate family, does not request renewal of the number before the applicable dates as specified in this subsection, the department shall deactivate that trap number.

(e) In the event of the death or disability of a person holding an active stone crab endorsement ~~trap number~~, the endorsement may be transferred by the person to a member of his or her immediate family or ~~trap number~~ may be renewed by any person so designated by the executor of the person's estate.

(f) Persons who hold saltwater products licenses with stone crab endorsements issued to their boat registration numbers and who subsequently replace their existing vessels with new vessels shall be permitted to transfer the existing licenses to the new boat registration numbers.

(7) No person shall harvest stone crabs with more than five traps, harvest stone crabs in commercial quantities, or sell stone crabs unless such person holds a valid saltwater products license with a restricted species endorsement and a stone crab endorsement issued pursuant to this section.

~~(8)~~(7) Beginning October 1995, stone crabs shall be designated as a restricted species pursuant to s. 370.01(20).

Section 10. Section 370.135, Florida Statutes, is amended to read:

370.135 Blue crab; regulation.—

(1) No person, firm, or corporation shall transport on the water, fish with or cause to be fished with, set, or place any trap designed for taking blue crabs unless such person, firm, or corporation is the holder of a valid saltwater products license issued pursuant to s. 370.06 and the trap has a current state number permanently attached to the buoy. The trap number shall be affixed in legible figures at least 1 inch high on each buoy used. The saltwater products license must be on board the boat, and both the license and the crabs shall be subject to inspection at all times. Only one trap number may be issued for each boat by the department upon receipt of an application on forms prescribed by it. This subsection shall not apply to an individual fishing with no more than five traps. It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully to molest any traps, lines, or buoys, as defined herein, belonging to another without permission of the licenseholder.

(2) A buoy or a time release buoy shall be attached to each trap or at each end of a weighted trot line and shall be of sufficient strength and buoyancy to float and of such color, hue, and brilliancy to be easily distinguished, seen, and located. Such color and trap number shall also be permanently and conspicuously displayed on the boat used for setting and collecting said traps and buoys, in the manner prescribed by the Division of Law Enforcement, so as to be readily identifiable from the air and water. This subsection shall not apply to an individual fishing with no more than five traps.

(3) It is unlawful for any person to sell or offer for sale any eggbearing blue crabs. Except when authorized by a special activity license issued by the department pursuant to s. 370.06 for the soft-shell crab or bait trade, it is unlawful for any person to possess for sale blue crabs measuring less than 5 inches from point to point across the carapace in an amount greater than 10 percent of the total number of blue crabs in that person's possession. Traps may be worked during daylight hours only, and the pulling of traps from 1 hour after official sunset until 1 hour before official sunrise is prohibited.

(4) No person shall harvest blue crabs with more than five traps, harvest blue crabs in commercial quantities, or sell blue crabs unless such person holds a valid saltwater products license with a restricted species endorsement and a blue crab endorsement (trap number) issued pursuant to this subsection.

(a) Effective June 1, 1998, and until July 1, 2002, no blue crab endorsement (trap number), except those endorsements that are active during the 1997-1998 fiscal year, shall be renewed or replaced.

(b) In 1998, persons holding an endorsement that was active in the 1997-1998 fiscal year, or an immediate family member of that person, must request approval of the endorsement prior to December 31, 1998.

(c) In subsequent years and until July 1, 2002, a trap number holder, or members of his or her immediate family, must request renewal of the endorsement prior to September 30 of each year.

(d) If a person holding an active blue crab endorsement, or a member of that person's immediate family, does not request renewal of the endorsement before the applicable dates as specified in this subsection, the department shall deactivate that endorsement.

(e) In the event of the death or disability of a person holding an active blue crab endorsement, the endorsement may be transferred by the person to a member of his or her immediate family or may be renewed by any person so designated by the executor of the person's estate.

(f) Persons who hold saltwater products licenses with blue crab endorsements issued to their boat registration numbers and who subsequently replace their existing vessels with new vessels shall be permitted to transfer the existing licenses to the new boat registration numbers.

(5)(4) Upon the arrest and conviction for a major violation involving blue crabs, the licenseholder shall show just cause why his or her saltwater products license should not be suspended or revoked. This subsection shall not apply to an individual fishing with no more than five traps. For the purposes of this subsection, a "major violation" means a major violation as prescribed in s. 370.021(2)(c) for illegal blue crabs, any single violation wherein 50 or more illegal blue crabs are involved, or any combination of violations in any 3-consecutive-year period wherein more than 100 illegal blue crabs in the aggregate are involved.

Section 11. Subsection (4) is added to section 370.021, Florida Statutes, to read:

370.021 Administration; rules, publications, records; penalty for violation of chapter; injunctions.—

(4) In addition to being subject to other penalties provided in this chapter, any violation of ss. 370.06 or 370.07, or rules of the department implementing ss. 370.06 or 370.07, involving buying saltwater products from an unlicensed person, firm, or corporation, shall be a major violation, and the department may assess the following penalties:

1. For a first violation, the department may assess a civil penalty of up to \$2,500 and may suspend the wholesale and/or retail dealer's license privileges for up to 90 calendar days.

2. For a second violation occurring within 12 months of a prior violation, the department may assess a civil penalty of up to \$5,000 and may suspend the wholesale and/or retail dealer's license privileges for up to 180 calendar days.

3. For a third or subsequent violation occurring within a 24 month period, the department shall assess a civil penalty of \$5,000 and shall suspend the wholesale and/or retail dealer's license privileges for up to 24 months.



Any proceeds from the civil penalties assessed pursuant to this subsection shall be deposited into the Marine Resources Conservation Trust Fund and shall be used as follows: 40 percent for administration and processing purposes; and 60 percent for law enforcement purposes.

Section 12. Subsection (6) of section 370.07, Florida Statutes, is amended, and subsection (8) is added to that section to read:

370.07 Wholesale and retail saltwater products dealers; regulation.—

(6) RECORDS TO BE KEPT ON SALTWATER PRODUCTS.—

(a) Wholesale dealers shall be required by the department to make and preserve a record of the names and addresses of persons from whom or to whom saltwater products are purchased or sold, the quantity so purchased or sold from or to each vendor or purchaser, and the date of each such transaction. Retail dealers shall be required to make and preserve a record from whom all saltwater products are purchased. Such record shall be open to inspection at all times by the department. A report covering the sale of saltwater products shall be made monthly or as often as required by rule to the department by each wholesale dealer. All reports required under this subsection are confidential and shall be exempt from the provisions of s. 119.07(1) except that, pursuant to authority related to interstate fishery compacts as provided by s. 370.19(3) and s. 370.20(3), reports may be shared with another state if that state is a member of an interstate fisheries compact, and if that state has signed a Memorandum of Agreement or a similar instrument agreeing to preserve confidentiality as established by Florida law.

(b) The department may revoke, suspend, or deny the renewal of the license of any dealer for failure to make and keep required records, for failure to make required reports, for failure or refusal to permit the examination of required records, or for falsifying any such record. In addition to, or in lieu of, the penalties penalty imposed pursuant to this paragraph and s. 370.021, the department may impose against any person, firm, or corporation who is determined to have violated any provision of this paragraph or any provisions of any department rules promulgated pursuant to s. 370.0607, the following additional penalties:

1. For the first violation, a civil penalty of up to \$1,000;
2. For a second violation committed within 24 months of any previous violation, a civil penalty of up to \$2,500; and
3. For a third or subsequent violation committed within 36 months of any previous two violations, a civil penalty of up to \$5,000.

The proceeds of all civil penalties collected pursuant to this subsection shall be deposited into the Marine Resources Conservation Trust Fund and shall be used for administration, auditing, and law enforcement purposes penalties pursuant to s. 370.021.

(8) UNLAWFUL PURCHASE OF SALTWATER PRODUCTS.—It is unlawful for any licensed retail dealer or any restaurant licensed by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to buy saltwater products from any person other than a licensed wholesale or retail dealer.

Section 13. Subsection (6) is added to section 370.1405, Florida Statutes, to read:

370.1405 Crawfish reports by dealers during closed season required.—

(6) The Department of Environmental Protection is authorized to adopt rules incorporating by reference such forms as are necessary to implement the provisions of this section.

Section 14. Section 370.1127, Florida Statutes, is repealed.

Section 15. (1) Notwithstanding Section 1. of CS/HB 3673 to the contrary, this section shall be considered the last and complete intent of the Legislature regardless of when it is presented to the Secretary of State.

(2) Subsection (8) is added to section 373.406, Florida Statutes, to read:

373.406 Exemptions.—The following exemptions shall apply:

(8) Certified aquaculture activities which apply appropriate best management practices adopted pursuant to s. 597.004 are exempt from this part.

Section 16. (1) Notwithstanding Section 1. of CS/HB 3673 to the contrary, this section shall be considered the last and complete intent of the Legislature regardless of when it is presented to the Secretary of State.

(2) Subsection (5) is added to section 403.0885, Florida Statutes, to read:

403.0885 Establishment of federally approved state National Pollutant Discharge Elimination System (NPDES) Program.—

(5) Certified aquaculture activities under s. 597.004 that have individual production units whose annual production and water discharge are less than the parameters established by the NPDES program are exempt from wastewater management regulations. For purposes herein, the term “individual production units” shall be determined by rule of the Department of Agriculture and Consumer Services.

Section 17. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 24, 1998.

Filed in Office Secretary of State May 22, 1998.