

## Committee Substitute for Senate Bill No. 1050

An act relating to the Fish and Wildlife Conservation Commission; amending s. 370.021, F.S.; providing additional penalties for the unlicensed sale or purchase of a saltwater product or the harvest or attempted harvest with intent to sell of a saltwater product; provides for civil penalties, imprisonment, permanent revocation of license privileges, and forfeiture of property involved in the offense; amending s. 327.30, F.S.; increasing the threshold amount at which a boating accident resulting in property damage only must be reported to the Division of Law Enforcement of the commission and certain other law enforcement agencies; amending s. 327.43, F.S.; deleting certain restrictions and penalties for anchoring or mooring a vessel within Silver Glen Run and Silver Glen Springs; repealing ss. 370.15(6) and 370.153(3)(c), F.S., relating to live bait shrimping; amending ss. 370.1535 and 370.154, F.S., relating to the regulation of shrimp fishing; conforming provisions to changes made by the act; amending s. 370.01, F.S.; defining the term “molest” for purposes of saltwater fisheries; amending s. 370.061, F.S.; conforming a cross-reference; amending s. 370.1107, F.S.; providing additional penalties for offenses involving unlawful possession of or interference with saltwater fisheries traps; amending s. 370.13, F.S.; revising penalties for theft from, and providing penalties for theft of, stone crab traps; amending s. 370.135, F.S.; revising penalties for theft from, and providing penalties for theft of, blue crab traps; amending s. 370.142, F.S.; revising penalties for theft from, and providing penalties for theft or molestation of, spiny lobster traps; amending s. 327.73, F.S.; correcting a cross-reference; authorizing the clerk of the court to dismiss expired vessel registration citations upon proof of valid registration at the time of the offense; authorizing a dismissal fee; repealing s. 5(4), ch. 99-245, Laws of Florida, relating to the assignment of bureaus within the commission; providing an effective date.

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

Section 1. Present subsections (6) through (12) of section 370.021, Florida Statutes, are redesignated as subsections (7) through (13), respectively, and a new subsection (6) is added to that section to read:

370.021 Administration; rules, publications, records; penalties; injunctions.—

(6) PENALTIES FOR UNLICENSED SALE, PURCHASE, OR HARVEST.—It is a major violation and punishable as provided in this subsection for an unlicensed person who is required to be licensed under this chapter to sell or purchase any saltwater product or to harvest or attempt to harvest any saltwater product with intent to sell the saltwater product.

(a) Any person who sells or purchases any saltwater product without having purchased the licenses required by this chapter for such sale is subject to additional penalties as follows:

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

2. A second violation is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and such person may also be assessed a civil penalty of up to \$2,500 and is subject to a suspension of all license privileges under chapters 370 and 372 for a period not exceeding 90 days.

3. A third violation is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 6 months, and such person may also be assessed a civil penalty of up to \$5,000 and is subject to a suspension of all license privileges under chapters 370 and 372 for a period not exceeding 6 months.

4. A third violation within 1 year after a second violation is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 1 year, and such person shall be assessed a civil penalty of \$5,000 and all license privileges under chapters 370 and 372 shall be permanently revoked.

5. A fourth or subsequent violation is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 1 year, and such person shall be assessed a civil penalty of \$5,000 and all license privileges under chapters 370 and 372 shall be permanently revoked.

(b) Any person whose license privileges under chapter 370 have been permanently revoked and who thereafter sells or purchases or who attempts to sell or purchase any saltwater product commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 1 year, and such person shall also be assessed a civil penalty of \$5,000. All property involved in such offense shall be forfeited pursuant to s. 370.061.

(c) Any person whose license privileges under chapter 370 are under suspension and who during such period of suspension sells or purchases or attempts to sell or purchase any saltwater product shall be assessed the following penalties:

1. A first violation, or a second violation occurring more than 12 months after a first violation, is a first degree misdemeanor, punishable as provided in ss. 775.082 and 775.083, and such person may be assessed a civil penalty of up to \$2,500 and an additional suspension of all license privileges under chapters 370 and 372 for a period not exceeding 90 days.

2. A second violation occurring within 12 months of a first violation is a third degree felony, punishable as provided in ss. 775.082 and 775.083, with a mandatory minimum term of imprisonment of 1 year, and such person may be assessed a civil penalty of up to \$5,000 and an additional suspension

of all license privileges under chapters 370 and 372 for a period not exceeding 180 days. All property involved in such offense shall be forfeited pursuant to s. 370.061.

3. A third violation within 24 months of the second violation or subsequent violation is a third degree felony, punishable as provided in ss. 775.082 and 775.083, with a mandatory minimum term of imprisonment of 1 year, and such person shall be assessed a mandatory civil penalty of up to \$5,000 and an additional suspension of all license privileges under chapters 370 and 372 for a period not exceeding 24 months. All property involved in such offense shall be forfeited pursuant to s. 370.061.

(d) Any person who harvests or attempts to harvest any saltwater product with intent to sell the saltwater product without having purchased a saltwater products license with the requisite endorsements is subject to penalties as follows:

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

2. A second violation is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and such person may also be assessed a civil penalty of up to \$2,500 and is subject to a suspension of all license privileges under chapters 370 and 372 for a period not exceeding 90 days.

3. A third violation is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 6 months, and such person may also be assessed a civil penalty of up to \$5,000 and is subject to a suspension of all license privileges under chapters 370 and 372 for a period not exceeding 6 months.

4. A third violation within 1 year after a second violation is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 1 year, and such person shall also be assessed a civil penalty of \$5,000 and all license privileges under chapters 370 and 372 shall be permanently revoked.

5. A fourth or subsequent violation is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 1 year, and such person shall also be assessed a mandatory civil penalty of \$5,000 and all license privileges under chapters 370 and 372 shall be permanently revoked.

For purposes of this subsection, a violation means any judicial disposition other than acquittal or dismissal.

Section 2. Subsection (2) of section 327.30, Florida Statutes, is amended to read:

327.30 Collisions, accidents, and casualties.—

(2) In the case of collision, accident, or other casualty involving a vessel in or upon or entering into or exiting from the water, including capsizing,

collision with another vessel or object, sinking, personal injury requiring medical treatment beyond immediate first aid, death, disappearance of any person from on board under circumstances which indicate the possibility of death or injury, or damage to any vessel or other property in an apparent aggregate amount of at least ~~\$2,000~~ \$500, the operator shall without delay, by the quickest means available give notice of the accident to one of the following agencies: the Division of Law Enforcement of the Fish and Wildlife Conservation Commission; the sheriff of the county within which the accident occurred; or the police chief of the municipality within which the accident occurred, if applicable.

Section 3. Section 327.43, Florida Statutes, is amended to read:

327.43 Silver Glen Run and Silver Glen Springs; navigation channel; anchorage buoys; violations.—

(1) The Fish and Wildlife Conservation Commission is hereby directed to mark a navigation channel within Silver Glen Run and Silver Glen Springs, located on the western shore of Lake George on the St. Johns River.

~~(2) The commission is further directed to establish permanent anchorage buoys within Silver Glen Run and Silver Glen Springs.~~

~~(3) Vessel anchorage or mooring shall only be allowed utilizing permanently established anchorage buoys. No vessel shall anchor or otherwise attach, temporarily or permanently, to the bottom within Silver Glen Run or Silver Glen Springs.~~

~~(4) Any violation of this act shall constitute a violation of the boating laws of this state and shall be punishable by issuance of a uniform boating citation as provided in s. 327.74. Any person who refuses to post a bond or accept and sign a uniform boating citation, as provided in s. 327.73(3), commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

Section 4. Subsection (6) of section 370.15, Florida Statutes, and paragraph (c) of subsection (3) of section 370.153, Florida Statutes, are repealed.

Section 5. Paragraph (d) of subsection (2) of section 370.1535, Florida Statutes, is amended to read:

370.1535 Regulation of shrimp fishing in Tampa Bay; licensing requirements.—

(2) The Fish and Wildlife Conservation Commission is authorized to issue a dead shrimp production permit to persons qualified pursuant to the following criteria:

(d) No person shall be issued a permit or be allowed to renew a permit if such person is registered for noncommercial trawling pursuant to s. 370.15(4) ~~or if such person holds a live bait shrimping license issued pursuant to s. 370.15(6).~~

Section 6. Section 370.154, Florida Statutes, is amended to read:

370.154 Shrimp regulations; closed areas; suspension of license, etc.— Any person convicted of taking shrimp in a closed area who is punishable under s. 370.15(5) ~~or (6)~~ shall, in addition to the penalties set forth therein, have his or her permit and the permit of the boat involved in the violation, issued pursuant to s. 370.15(4), revoked, if the person holds such a permit, and he or she shall be ineligible to make application for such a permit for a period of 2 years from the date of such conviction. If a person not having a permit is convicted hereunder, that person and the boat involved in the violation shall not be eligible for such a permit for 5 years.

Section 7. Present subsections (15) through (27) of section 370.01, Florida Statutes, are renumbered as subsections (16) through (28), respectively, and a new subsection (15) is added to that section, to read:

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

(15) “Molest,” in connection with any fishing trap or its buoy or buoy line, means to touch, bother, disturb, or interfere or tamper with, in any manner.

Section 8. Paragraph (d) of subsection (5) of section 370.061, Florida Statutes, is amended to read:

370.061 Confiscation, seizure, and forfeiture of property and products.—

(5) CONFISCATION AND SALE OF PERISHABLE SALTWATER PRODUCTS; PROCEDURE.—

(d) For purposes of confiscation under this subsection, the term “saltwater products” has the meaning set out in s. 370.01(26) ~~s. 370.01(25)~~, except that the term does not include saltwater products harvested under the authority of a recreational license unless the amount of such harvested products exceeds three times the applicable recreational bag limit for trout, snook, or redfish.

Section 9. Paragraph (c) of subsection (2) of section 370.1107, Florida Statutes, is amended to read:

370.1107 Definition; possession of certain licensed traps prohibited; penalties; exceptions; consent.—

(2) It is unlawful for any person, firm, corporation, or association to be in actual or constructive possession of a licensed saltwater fisheries trap registered with the Fish and Wildlife Conservation Commission in another person’s, firm’s, corporation’s, or association’s name.

(c) Upon receipt of any judicial disposition other than dismissal or acquittal on a charge of violating the arrest and conviction for violation of this section or any provision of law or rule making unlawful the possession of another’s saltwater fishing trap, a person shall permanently lose all saltwater fishing privileges, including licenses, trap certificates, and the ability to

~~transfer trap certificates, any licenseholder shall show just cause why his or her license shall not be suspended or permanently revoked.~~

Section 10. Paragraph (b) of subsection (2) of section 370.13, Florida Statutes, is amended to read:

370.13 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 federal law.

(b) It is unlawful for any person to remove the contents of another harvester's trap or take possession of such without the express written consent of the trap owner available for immediate inspection. ~~Such~~ Unauthorized possession of another's trap gear or removal of trap contents constitutes theft. Any person convicted of theft of or from a trap pursuant to this subsection or s. 370.1107 shall, in addition to the penalties specified in s. 370.021 and the provisions of this section, permanently lose all his or her saltwater fishing privileges, including saltwater products licenses, stone crab or incidental take endorsements, and all trap certificates allotted to him or her by the commission. In such cases, trap certificates and endorsements are nontransferable. In addition, any person, firm, or corporation convicted of violating the prohibitions referenced in this paragraph shall also be assessed an administrative penalty of up to \$5,000. Immediately upon receiving a citation for a violation involving theft of or from a trap and until adjudicated for such a violation, or, upon receipt of a judicial disposition other than dismissal or acquittal on ~~if convicted of~~ such a violation, the violator is prohibited from transferring any stone crab or lobster certificates.

Section 11. Subsection (1) of 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 commission 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 the express written consent of the trap owner permission of the licenseholder. Any person receiving a judicial disposition other than dismissal or acquittal on a charge of willful molestation of a trap, in addition to the penalties specified in s. 370.021, shall lose all saltwater fishing privileges for a period of 24 calendar months. It is unlawful for any person to

remove the contents of or take possession of another harvester's trap without the express written consent of the trap owner available for immediate inspection. ~~Such~~ Unauthorized possession of another's trap gear or removal of trap contents constitutes theft. Any person receiving a judicial disposition other than dismissal or acquittal on a charge ~~convicted~~ of theft of or from a trap pursuant to this section or s. 370.1107 shall, in addition to the penalties specified in s. 370.021 and the provisions of this section, permanently lose all his or her saltwater fishing privileges including his or her saltwater products license and blue crab endorsement. In such cases endorsements, landings history, and trap certificates are nontransferable. In addition, any person, firm, or corporation receiving a judicial disposition other than dismissal or acquittal for ~~convicted~~ of violating this subsection or s. 370.1107 shall also be assessed an administrative penalty of up to \$5,000. Immediately upon receiving a citation for a violation involving theft of or from a trap and until adjudicated for such a violation, or receiving a judicial disposition other than dismissal or acquittal for ~~if convicted~~ of such a violation, the person, firm, or corporation committing the violation is prohibited from transferring any blue crab endorsements, landings history, or trap certificates.

Section 12. Paragraph (c) of 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 Fish and Wildlife Conservation Commission 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:

(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 68B-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. It is unlawful for any person to willfully molest, take possession of, or remove the contents of another harvester's trap without the express written consent of the trap owner available for immediate inspection. ~~Such~~ Unauthorized possession of another's trap gear or removal of trap contents constitutes theft. Any person receiving a judicial disposition other than dismissal or acquittal on a charge ~~convicted~~ of theft of or from a trap pursuant to this subparagraph or s. 370.1107 shall, in addition to the penalties specified in ss. 370.021 and 370.14 and the provisions of this section, permanently lose all his or her saltwater fishing privileges, including his or her saltwater products license, crawfish endorsement, and all trap certificates allotted to

him or her through this program. In such cases, trap certificates and endorsements are nontransferable. Any person receiving a judicial disposition other than dismissal or acquittal on a charge of willful molestation of a trap, in addition to the penalties specified in ss. 370.021 and 370.14, shall lose all saltwater fishing privileges for a period of 24 calendar months. In addition, any person, firm, or corporation charged with ~~convicted of~~ violating this paragraph and receiving a judicial disposition other than dismissal or acquittal for violating this subparagraph or s. 370.1107 shall also be assessed an administrative penalty of up to \$5,000. Immediately upon receiving a citation for a violation involving theft of or from a trap, or molestation of a trap, and until adjudicated for such a violation or, upon receipt of a judicial disposition other than dismissal or acquittal if ~~convicted of~~ such a violation, the person, firm, or corporation committing the violation is prohibited from transferring any crawfish trap certificates and endorsements.

4. In addition to any other penalties provided in s. 370.021, a commercial harvester, as defined by rule 68B-24.002(1), Florida Administrative Code, who violates the provisions of this section, or the provisions relating to traps of chapter 68B-24, Florida Administrative Code, shall be punished as follows:

a. If the first violation is for violation of subparagraph 1. or subparagraph 2., the commission shall assess an additional civil penalty of up to \$1,000 and the crawfish trap number issued pursuant to s. 370.14(2) or (6) may be suspended for the remainder of the current license year. For all other first violations, the commission shall assess an additional 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 commission shall assess an additional civil penalty of up to \$2,000 and the crawfish trap number issued pursuant to s. 370.14(2) or (6) may be suspended for the remainder of the current license year.

c. For a third or subsequent violation of subparagraph 1., subparagraph 2., or subparagraph 3. which occurs within 36 months of any previous two such violations, the commission shall assess an additional civil penalty of up to \$5,000 and may suspend the crawfish trap number issued pursuant to s. 370.14(2) or (6) 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)(h).

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

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

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

e. The commission shall suspend the crawfish trap number issued pursuant to s. 370.14(2) or (6) for any person failing to comply with the provisions of sub-subparagraph d.



5.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 commission as provided in this chapter or in the rules of the commission.

6.a. Any person who violates the provisions of subparagraph 5., 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 (6) 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 commission 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 5.c.

7. 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 commission. During any period of trap reduction, any certificates reverting to the commission 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 commission are to be reallocated in such manner as provided by the commission.

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

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

Section 13. Paragraph (g) of subsection (1) and subsection (4) of section 327.73, Florida Statutes, are amended to read:

327.73 Noncriminal infractions.—

(1) Violations of the following provisions of the vessel laws of this state are noncriminal infractions:

(g) Section 328.72(~~13~~)(14), relating to operation with an expired registration.

Any person cited for a violation of any such provision shall be deemed to be charged with a noncriminal infraction, shall be cited for such an infraction,

and shall be cited to appear before the county court. The civil penalty for any such infraction is \$50, except as otherwise provided in this section. Any person who fails to appear or otherwise properly respond to a uniform boating citation shall, in addition to the charge relating to the violation of the boating laws of this state, be charged with the offense of failing to respond to such citation and, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A written warning to this effect shall be provided at the time such uniform boating citation is issued.

(4) Any person charged with a noncriminal infraction under this section may:

(a) Pay the civil penalty, either by mail or in person, within 30 days of the date of receiving the citation; or,

(b) If he or she has posted bond, forfeit bond by not appearing at the designated time and location.

If the person cited follows either of the above procedures, he or she shall be deemed to have admitted the noncriminal infraction and to have waived the right to a hearing on the issue of commission of the infraction. Such admission shall not be used as evidence in any other proceedings. If a person who is cited for a violation of s. 327.395 can show a boating safety identification card issued to that person and valid at the time of the citation, the clerk of the court may dismiss the case and may assess a \$5 dismissal fee. If a person who is cited for a violation of s. 328.72(13) can show proof of having a registration for that vessel which was valid at the time of the citation, the clerk may dismiss the case and may assess a \$5 dismissal fee.

Section 14. Subsection (4) of section 5 of chapter 99-245, Laws of Florida, is repealed.

Section 15. This act shall take effect July 1, 2003.

Approved by the Governor June 12, 2003.

Filed in Office Secretary of State June 12, 2003.