

Committee Substitute for Senate Bill No. 540

An act relating to manatee protection; amending s. 370.12, F.S.; creating an exception from penalties for activities that are otherwise prohibited if the activity is reasonably necessary in order to prevent loss of human life or a vessel in distress or render necessary assistance to persons or a vessel in distress; prescribing guidelines for considering existing manatee protection rules in relation to formulation of new rules; providing that the commission may amend existing rules or adopt new rules to address risks or circumstances affecting manatees within a region; defining the term "region" for purposes of the act; creating s. 370.1202, F.S.; requiring the Fish and Wildlife Conservation Commission to implement an enhanced manatee protection study; providing goals for manatee protection research relating to decisions based on sound science-based policies; directing the commission to contract with Mote Marine Laboratory to conduct a manatee habitat and submerged aquatic vegetation assessment; providing requirements for the assessment; directing that reports be made to the Governor, Legislature, and commission which include recommendations based upon study results; requiring an annual audit; directing the Fish and Wildlife Conservation Commission to conduct a signage and boat speed assessment of the effectiveness of signs warning boaters of manatee slow-speed zones in the waters of this state; providing requirements for the assessment; directing the commission to prepare and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives; directing the commission to make specific policy recommendations regarding signs in manatee slow-speed zones; authorizing the Fish and Wildlife Conservation Commission to develop and implement a genetic tagging program for manatees; amending s. 372.072, F.S.; requiring the Fish and Wildlife Conservation Commission to develop rules not later than July 1, 2005, which define how measurable biological goals will be used when evaluating the need for additional manatee protection rules; providing for a contract; providing an effective date.

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

Section 1. Paragraph (s) of subsection (2) of section 370.12, Florida Statutes, is amended and paragraph (u) is added to that subsection, to read:

370.12 Marine animals; regulation.—

(2) PROTECTION OF MANATEES OR SEA COWS.—

(s) Except as otherwise provided in this paragraph, any person violating the provisions of this subsection or any rule or ordinance adopted pursuant to this subsection commits ~~shall be guilty of~~ a misdemeanor, punishable as provided in s. 370.021(1)(a) or (b).

1. Any person operating a vessel in excess of a posted speed limit shall be guilty of a civil infraction, punishable as provided in s. 327.73, except as provided in subparagraph 2.

2. This paragraph does not apply to persons violating restrictions governing “No Entry” zones or “Motorboat Prohibited” zones, who, if convicted, shall be guilty of a misdemeanor, punishable as provided in s. 370.021(1)(a) or (b), or, if such violation demonstrates blatant or willful action, may be found guilty of harassment as described in paragraph (d).

3. A person may engage in any activity otherwise prohibited by this subsection or any rule or ordinance adopted pursuant to this subsection if the activity is reasonably necessary in order to prevent the loss of human life or a vessel in distress due to weather conditions or other reasonably unforeseen circumstances, or in order to render emergency assistance to persons or a vessel in distress.

(u)1. Existing state manatee protection rules shall be given great weight in determining whether additional rules are necessary in a region where the measurable goals developed pursuant to s. 372.072 have been achieved. However, the commission may amend existing rules or adopt new rules to address risks or circumstances in a particular area or waterbody to protect manatees.

2. As used in this paragraph, the term “region” means one of the four geographic areas defined by the United States Fish and Wildlife Service in the Florida Manatee Recovery Plan, 3rd revision (October 30, 2001).

Section 2. Section 370.1202, Florida Statutes, is created to read:

370.1202 Enhanced manatee protection study.—

(1) The Fish and Wildlife Conservation Commission shall implement and administer an enhanced manatee protection study designed to increase knowledge of the factors that determine the size and distribution of the manatee population in the waters of the state. The enhanced study shall be used by the commission in its mission to provide manatees with the maximum protection possible, while also allowing maximum recreational use of the state’s waterways. The goal of the enhanced study is to collect data that will enable resource managers and state and local policymakers, in consultation with the public, to develop and implement sound science-based policies to improve manatee habitat, establish manatee protection zones, and maximize the size of safe boating areas for recreational use of state waters without endangering the manatee population.

(2)(a) As part of the enhanced manatee protection study, the Legislature intends that the commission shall contract with Mote Marine Laboratory to conduct a manatee habitat and submerged aquatic vegetation assessment that specifically considers:

1. Manatee populations that congregate in the warm water discharge sites at power plants in the state and the potential risks for disease resulting from increased congregation of manatees at these sites;

2. Development of research, monitoring, and submerged aquatic vegetation restoration priorities for manatee habitat in and near the warm water discharge sites at power plants in the state; and

3. The potential impacts on manatees and manatee habitat if power plants that provide warm water discharge sites where manatees congregate are closed, including how closure will affect the size and health of submerged aquatic vegetation areas.

(b) The Mote Marine Laboratory must submit an interim report on the manatee habitat and submerged aquatic vegetation assessment to the Governor, the Legislature, and the commission by September 1, 2006. The interim report must detail the progress of the assessment. The final report, due to the Governor, the Legislature, and the commission by January 1, 2007, must detail the results of the assessment and include recommendations for protection of manatee habitat in warm water discharge sites at power plants in the state.

(c) The commission shall ensure that funds allocated to implement the manatee habitat and submerged aquatic vegetation assessment are expended in a manner that is consistent with the requirements of this subsection. The commission may require an annual audit of the expenditures made by Mote Marine Laboratory. Copies of any audit requested under this subsection must be provided to the appropriate substantive and appropriations committees of the Senate and the House of Representatives as they become available.

(3) As part of the enhanced manatee protection study, the Legislature intends that the commission must conduct a signage and boat speed assessment to evaluate the effectiveness of manatee protection signs and sign placement and to assess boat speeds. The commission shall evaluate existing data on manatee mortality before and after existing manatee protection zones were established, boater compliance and comprehension of regulatory signs and buoys, changes in boating traffic patterns, and manatee distribution and behavior. The commission shall also provide recommendations on innovative marker designs that are in compliance with the federal aids to navigation system. The signage and boat speed assessment must address:

(a) The effectiveness of signs and buoys to warn boaters of manatee slow-speed zones, with a goal of developing federally approved standards for marking manatee protection zones;

(b) A determination of where buoys may be used in place of pilings for boating safety purposes; and

(c) An evaluation of higher speed travel corridors in manatee zones to determine the most effective speed to balance safe boating, recreational use, vessel operating characteristics, and manatee protection.

The commission shall complete its signage and boat speed assessment by January 1, 2007, and must submit a report of its findings to the Governor, the President of the Senate, and the Speaker of the House of Representa-

tives by February 1, 2007. The report must detail the results of the assessment and identify specific recommendations for developing state and local policies relating to the appropriate placement of signs, including innovative markers, in manatee slow-speed zones.

(4) The commission is authorized to develop and implement the use of genetic tagging to improve its ability to assess the status and health of the manatee population, including the health and reproductive capacity of manatees, estimating annual survival rates through mark recapture studies, determining migration patterns, and determining maternity and paternity. The development and use of genetic tagging may be done in cooperation with federal agencies or other entities, such as genetic laboratories at schools within the State University System.

Section 3. Subsection (6) of section 372.072, Florida Statutes, is amended to read:

372.072 Endangered and Threatened Species Act.—

(6) MEASURABLE BIOLOGICAL GOALS.—No later than February 15, 2003, the commission, working in conjunction with the United States Fish and Wildlife Service, shall develop measurable biological goals that define manatee recovery. These Measurable biological goals that define manatee recovery developed by the commission, working in conjunction with the United States Fish and Wildlife Service, shall be used by the commission in its development of management plans or work plans. In addition to other criteria, these measurable biological goals shall be used by the commission when evaluating existing and proposed protection rules, and in determining progress in achieving manatee recovery. Not later than July 1, 2005, the commission shall develop rules to define how measurable biological goals will be used by the commission when evaluating the need for additional manatee protection rules.

Section 4. Subject to an appropriation by the Legislature, the Fish and Wildlife Conservation Commission shall contract with Mote Marine Laboratory to conduct the manatee habitat and submerged aquatic vegetation assessment as provided in this act.

Section 5. This act shall take effect July 1, 2004.

Approved by the Governor June 23, 2004.

Filed in Office Secretary of State June 23, 2004.