

Council Substitute for  
Committee Substitute for House Bill No. 1423

An act relating to the Fish and Wildlife Conservation Commission; amending s. 206.606, F.S.; transferring authority from the Department of Revenue to the Fish and Wildlife Conservation Commission to allocate funds from the Invasive Plant Control Trust Fund for specified purposes; amending s. 253.002, F.S.; authorizing the Board of Trustees of the Internal Improvement Trust Fund to delegate certain authority relating to aquatic and noninvasive plants to the Department of Agriculture and Consumer Services and the Fish and Wildlife Conservation Commission; amending s. 253.04, F.S.; providing for the preservation and regeneration of seagrasses; providing definitions; providing penalties; amending s. 319.32, F.S.; increasing the certificate of title fee for certain vehicles; amending s. 320.08056, F.S.; increasing the annual use fee for certain specialty license plates; amending s. 327.02, F.S.; revising the definition of the term "live-aboard vessel"; amending s. 327.35, F.S.; revising penalties for boating under the influence of alcohol; revising the blood-alcohol level or breath-alcohol level at which certain penalties apply; amending s. 327.36, F.S.; revising a prohibition against accepting a plea to a lesser included offense from a person who is charged with certain offenses involving the operation of a vessel; revising the blood-alcohol level or breath-alcohol level at which the prohibition applies; amending s. 327.395, F.S.; revising the age limitation for the operation of specified vessels; revising provisions relating to boating safety identification cards; providing exemptions and penalties; providing a short title; amending s. 327.40, F.S.; revising provisions for placement of navigation, safety, and informational markers of waterways; providing for uniform waterway markers; amending s. 327.41, F.S., relating to placement of markers by a county, municipality, or other governmental entity; revising terminology; providing for a county, municipality, or other governmental entity that has been granted or has adopted or established a boating-restricted area to apply for permission to place regulatory markers; amending s. 327.42, F.S.; revising provisions prohibiting mooring to or damaging markers or buoys; amending s. 327.46, F.S.; revising provisions for establishment by the Fish and Wildlife Conservation Commission of boating-restricted areas; providing for counties and municipalities to establish boating-restricted areas with approval of the commission; directing the commission to adopt rules; revising a prohibition against operating a vessel in a prohibited manner in a boating-restricted area; amending s. 327.60, F.S.; revising provisions limiting local regulations relating to vessels operated upon the waters of this state; prohibiting specified county or municipality ordinances or regulations; amending s. 327.65, F.S.; conforming a cross-reference; creating s. 327.66, F.S.; prohibiting possessing or operating a vessel equipped with certain fuel containers or related equipment; prohibiting transporting fuel in a vessel except in compliance with certain

federal regulations; providing penalties; declaring fuel transported in violation of such prohibitions to be a public nuisance and directing the enforcing agency to abate the nuisance; providing for disposal of the containers and fuel; declaring conveyances, vessels, vehicles, and equipment used in such violation to be contraband; providing for seizure of the contraband; defining the term “conviction” for specified purposes; providing for the costs to remove fuel, containers, vessels, and equipment to be paid by the owner; providing that a person who fails to pay such cost shall not be issued a certificate of registration for a vessel or motor vehicle; providing an exemption; amending s. 327.70, F.S.; authorizing municipal police officers and specified law enforcement officers to enforce the provisions of chs. 327 and 328; providing for enforcement of noncriminal violations by citation mailed to the owner of a vessel; specifying responsibility for citations issued to livery vessels; amending s. 327.73, F.S.; revising provisions for citation of a noncriminal infraction to provide for violations relating to boating-restricted areas and speed limits; revising provisions relating to establishment of such limits by counties and municipalities; providing civil penalties for seagrass scarring; amending s. 327.731, F.S.; conforming a cross-reference; amending s. 328.03, F.S.; requiring vessels used or stored on the waters of this state to be titled by this state pursuant to specified provisions; providing exceptions; amending s. 328.07, F.S.; requiring certain vessels used or stored on the waters of this state to have affixed a hull identification number; amending ss. 328.46, 328.48, and 328.56, F.S.; requiring vessels operated, used, or stored on the waters of this state to be registered and display the registration number; providing exceptions; amending s. 328.58, F.S., relating to reciprocity of non-resident or alien vessels; requiring the owner of a vessel with a valid registration from another state, a vessel with a valid registration from the United States Coast Guard in another state, or a federally documented vessel from another state to record the registration number with the Department of Highway Safety and Motor Vehicles when using or storing the vessel on the waters of this state in excess of the 90-day reciprocity period; amending s. 328.60, F.S.; providing an exception to registration requirements for military personnel using or storing on the waters of this state a vessel with a valid registration from another state, a vessel with a valid registration from the United States Coast Guard in another state, or a federally documented vessel from another state; amending s. 328.65, F.S.; revising legislative intent with respect to registration and numbering of vessels; amending s. 328.66, F.S.; authorizing a county to impose an annual registration fee on vessels used on the waters of this state within its jurisdiction; amending s. 328.72, F.S.; providing noncriminal penalties for use or storage of a previously registered vessel after the expiration of the registration period; amending ss. 369.20, 369.22, and 369.25, F.S.; authorizing the commission to enforce specified provisions relating to aquatic weeds and plants; granting certain activities a mixing zone for turbidity; amending s. 379.304, F.S.; revising cross-references for permitting and violation provisions relating to the exhibition or sale of wildlife; amending s.

379.338, F.S.; providing for confiscation and disposition of illegally taken wildlife, freshwater fish, or saltwater fish; providing for disposition of the proceeds from sales; providing for an agency that assists in the enforcement action to receive a portion or all of any forfeited property; creating s. 379.3381, F.S.; providing for photographs of wildlife, freshwater fish, and saltwater fish to be used as evidence in a prosecution in lieu of the wildlife, freshwater fish, or saltwater fish; amending s. 379.354, F.S.; authorizing the commission to use proceeds of specified hunting, fishing, and recreational licenses for certain purposes; increasing the fee amounts for waterfowl, wild turkey, snook, spiny lobster, management area, special use, and recreational user permits; providing for a management area permit and fee for outdoor recreational activities other than hunting and fishing; providing for a deer permit and fee; requiring the commission to prepare an annual report and submit the report to the Governor and the Legislature; providing report requirements; amending s. 379.3671, F.S.; revising provisions for abandonment and reversion of lobster trap certificates under specified conditions; amending s. 379.3751, F.S.; specifying activities relating to the taking and possession of alligators that require a license and payment of the applicable fee; deleting provisions relating to the issuance, form, and content of such licenses; amending s. 379.3761, F.S.; providing penalties for violations relating to the exhibition or sale of wildlife; amending s. 379.3762, F.S.; revising a cross-reference with respect to the penalties imposed for violations relating to the personal possession of wildlife; amending s. 379.401, F.S.; revising applicability of violation provisions relating to alligators and crocodiles; conforming references to wildlife; amending s. 379.4015, F.S.; specifying applicability of captive wildlife penalty provisions relating to the exhibition or sale of wildlife; creating s. 379.501, F.S.; providing penalties for violations relating to aquatic weeds and plants; providing legislative intent for civil penalties and criminal fines imposed by a court; creating s. 379.502, F.S.; providing judicial and administrative procedures and remedies to enforce penalty provisions for violations relating to aquatic weeds and plants; providing for mediation; providing for recovery of costs and attorney's fees; requiring proceeds from related penalties to be credited to the Invasive Plant Control Trust Fund; creating s. 379.503, F.S.; authorizing the commission to seek injunctive relief; providing that judicial and administrative remedies are alternative and mutually exclusive; creating s. 379.504, F.S.; providing civil penalties for violations relating to aquatic weeds and plants; authorizing a court to impose a civil penalty for each offense not to exceed a specified amount; providing for joint and several liability; providing for a methodology for assessing certain damages; amending s. 403.088, F.S.; requiring the commission to approve an aquatic weeds and algae control program; directing the commission, in consultation with the Department of Environmental Protection, to establish a pilot program to explore options for regulating the anchoring or mooring of non-live-aboard vessels outside the marked boundaries of public mooring fields; providing geographic locations for the pilot program; providing goals and procedures; providing duties of the commission; requiring a report to

the Governor and the Legislature; providing for expiration of the pilot program and any ordinance enacted thereunder; providing for construction; providing for a type two transfer of the Bureau of Invasive Plant Management within the Department of Environmental Protection to the Fish and Wildlife Conservation Commission; ratifying actions taken pursuant to ch. 2008-150, Laws of Florida, and an interagency agreement executed pursuant thereto; transferring the Invasive Plant Control Trust Fund within the Department of Environmental Protection to the Fish and Wildlife Conservation Commission; providing a continuing appropriation to the commission for the costs associated with the shoreline fishing license exemption; reenacting s. 379.209(2)(a), F.S., relating to funds credited to the Nongame Wildlife Trust Fund, to incorporate an amendment made to s. 319.32, F.S., in a reference thereto; reenacting s. 379.3581(7), F.S., relating to hunting safety, to incorporate the amendment made to s. 379.353, F.S., in a reference thereto; reenacting ss. 379.2213, 379.3501, and 379.3712, F.S., relating to management area permit revenues, expiration of licenses and permits, and commercial hunting preserve licenses, respectively, to incorporate the amendment made to s. 379.354, F.S., in references thereto; creating s. 403.9335, F.S.; creating the "Florida Coral Reef Protection Act"; providing definitions; providing legislative intent; requiring responsible parties to notify the Department of Environmental Protection if their vessel runs aground or damages a coral reef; requiring the responsible party to remove the vessel; requiring the responsible party to cooperate with the department to assess the damage and restore the coral reef; authorizing the department to recover damages from the responsible party; authorizing the department to use a certain method to calculate compensation for damage of coral reefs; authorizing the department to assess civil penalties; authorizing the department to enter into delegation agreements; providing that moneys collected from damages and civil penalties for injury to coral reefs be deposited in the Ecosystem Management and Restoration Trust Fund within the Department of Environmental Protection; providing requirements; authorizing the department to adopt rules; amending s. 403.1651, F.S.; authorizing the department to enter into settlement agreements that require responsible parties to pay another government entity or nonprofit organization to fund projects consistent with the conservation or protection of coral reefs; repealing s. 253.04(3), F.S., relating to civil penalties for damage to coral reefs; repealing s. 380.0558, F.S., relating to coral reef restoration; repealing s. 327.22, F.S.; relating to regulation of vessels by municipalities or counties; repealing ss. 379.2211 and 379.2212, F.S., relating to Florida waterfowl permit revenues and Florida wild turkey permit revenues, respectively; repealing s. 379.366(7), F.S., to abrogate the expiration of provisions imposing blue crab effort management program fees and penalties; providing effective dates.

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

Section 1. Paragraph (a) of subsection (1) of section 206.606, Florida Statutes, is amended to read:

## 206.606 Distribution of certain proceeds.—

(1) Moneys collected pursuant to ss. 206.41(1)(g) and 206.87(1)(e) shall be deposited in the Fuel Tax Collection Trust Fund. Such moneys, after deducting the service charges imposed by s. 215.20, the refunds granted pursuant to s. 206.41, and the administrative costs incurred by the department in collecting, administering, enforcing, and distributing the tax, which administrative costs may not exceed 2 percent of collections, shall be distributed monthly to the State Transportation Trust Fund, except that:

(a) \$6.30 million shall be transferred to the Fish and Wildlife Conservation Commission in each fiscal year and deposited in the Invasive Plant Control Trust Fund to be used for aquatic plant management, including nonchemical control of aquatic weeds, research into nonchemical controls, and enforcement activities. ~~Beginning in fiscal year 1993-1994, The commission~~ department shall allocate at least \$1 million of such funds to the eradication of melaleuca.

Section 2. Subsection (1) of section 253.002, Florida Statutes, is amended to read:

253.002 Department of Environmental Protection, water management districts, Fish and Wildlife Conservation Commission, and Department of Agriculture and Consumer Services; duties with respect to state lands.—

(1) The Department of Environmental Protection shall perform all staff duties and functions related to the acquisition, administration, and disposition of state lands, title to which is or will be vested in the Board of Trustees of the Internal Improvement Trust Fund. However, upon the effective date of rules adopted pursuant to s. 373.427, a water management district created under s. 373.069 shall perform the staff duties and functions related to the review of any application for authorization to use board of trustees-owned submerged lands necessary for an activity regulated under part IV of chapter 373 for which the water management district has permitting responsibility as set forth in an operating agreement adopted pursuant to s. 373.046(4); and the Department of Agriculture and Consumer Services shall perform the staff duties and functions related to the review of applications and compliance with conditions for use of board of trustees-owned submerged lands under authorizations or leases issued pursuant to ss. 253.67-253.75 and 597.010. Unless expressly prohibited by law, the board of trustees may delegate to the department any statutory duty or obligation relating to the acquisition, administration, or disposition of lands, title to which is or will be vested in the board of trustees. The board of trustees may also delegate to any water management district created under s. 373.069 the authority to take final agency action, without any action on behalf of the board, on applications for authorization to use board of trustees-owned submerged lands for any activity regulated under part IV of chapter 373 for which the water management district has permitting responsibility as set forth in an operating agreement adopted pursuant to s. 373.046(4). This water management district responsibility under this subsection shall be subject to the department's general supervisory authority pursuant to s. 373.026(7). The board of trustees may also delegate to the Department of

Agriculture and Consumer Services the authority to take final agency action on behalf of the board on applications to use board of trustees-owned submerged lands for any activity for which that department has responsibility pursuant to ss. 253.67-253.75, 369.25, 369.251, and 597.010. However, the board of trustees shall retain the authority to take final agency action on establishing any areas for leasing, new leases, expanding existing lease areas, or changing the type of lease activity in existing leases. Upon issuance of an aquaculture lease or other real property transaction relating to aquaculture, the Department of Agriculture and Consumer Services must send a copy of the document and the accompanying survey to the Department of Environmental Protection. The board of trustees may also delegate to the Fish and Wildlife Conservation Commission the authority to take final agency action, without any action on behalf of the board, on applications for authorization to use board of trustees-owned submerged lands for any activity regulated under ss. s. 369.20 and 369.22.

Section 3. Effective October 1, 2009, subsections (4) through (7) of section 253.04, Florida Statutes, are renumbered as subsections (5) through (8), respectively, and a new subsection (4) is added to that section to read:

253.04 Duty of board to protect, etc., state lands; state may join in any action brought.—

(4)(a) The duty to conserve and improve state-owned lands and the products thereof shall include the preservation and regeneration of seagrass, which is deemed essential to the oceans, gulfs, estuaries, and shorelines of the state. A person operating a vessel outside a lawfully marked channel in a careless manner that causes seagrass scarring within an aquatic preserve established in ss. 258.39-258.399, with the exception of the Lake Jackson, Oklawaha River, Wekiva River, and Rainbow Springs aquatic preserves, commits a noncriminal infraction, punishable as provided in s. 327.73. Each violation is a separate offense. As used in this subsection, the term:

1. “Seagrass” means Cuban shoal grass (Halodule wrightii), turtle grass (Thalassia testudinum), manatee grass (Syringodium filiforme), star grass (Halophila engelmannii), paddle grass (Halophila decipiens), Johnson’s seagrass (Halophila johnsonii), or widgeon grass (Ruppia maritima).

2. “Seagrass scarring” means destruction of seagrass roots, shoots, or stems that results in tracks on the substrate commonly referred to as prop scars or propeller scars caused by the operation of a motorized vessel in waters supporting seagrasses.

(b) Any violation under paragraph (a) is a violation of the vessel laws of this state and shall be charged on 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 commits a misdemeanor of the second degree, as provided in s. 327.73(3), punishable as provided in s. 775.082 or s. 775.083.

Section 4. Effective September 1, 2009, subsection (3) of section 319.32, Florida Statutes, is amended to read:

319.32 Fees; service charges; disposition.—

(3) The department shall charge a fee of ~~\$10~~ \$4 in addition to that charged in subsection (1) for each original certificate of title issued for a vehicle previously registered outside this state.

Section 5. Effective September 1, 2009, paragraphs (a) and (x) of subsection (4) of section 320.08056, Florida Statutes, are amended to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(a) Manatee license plate, ~~\$25~~ \$20.

(x) Conserve Wildlife license plate, ~~\$25~~ \$15.

Section 6. Subsection (17) of section 327.02, Florida Statutes, is amended to read:

327.02 Definitions of terms used in this chapter and in chapter 328.—As used in this chapter and in chapter 328, unless the context clearly requires a different meaning, the term:

(17) “Live-aboard vessel” means:

(a) Any vessel used solely as a residence and not for navigation; or

(b) Any vessel represented as a place of business, or a professional or other commercial enterprise; ~~or~~

(c) Any vessel for which a declaration of domicile has been filed pursuant to s. 222.17 a legal residence.

A commercial fishing boat is expressly excluded from the term “live-aboard vessel.”

Section 7. Subsection (4) of section 327.35, Florida Statutes, is amended to read:

327.35 Boating under the influence; penalties; “designated drivers”.—

(1) A person is guilty of the offense of boating under the influence and is subject to punishment as provided in subsection (2) if the person is operating a vessel within this state and:

(a) The person is under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, when affected to the extent that the person’s normal faculties are impaired;

(b) The person has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or

(c) The person has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.

(4) Any person who is convicted of a violation of subsection (1) and who has a blood-alcohol level or breath-alcohol level of 0.15 ~~0.20~~ or higher, or any person who is convicted of a violation of subsection (1) and who at the time of the offense was accompanied in the vessel by a person under the age of 18 years, shall be punished:

(a) By a fine of:

1. Not less than \$1,000 or more than \$2,000 for a first conviction.
2. Not less than \$2,000 or more than \$4,000 for a second conviction.
3. Not less than \$4,000 for a third or subsequent conviction.

(b) By imprisonment for:

1. Not more than 9 months for a first conviction.
2. Not more than 12 months for a second conviction.

For the purposes of this subsection, only the instant offense is required to be a violation of subsection (1) by a person who has a blood-alcohol level or breath-alcohol level of 0.15 ~~0.20~~ or higher.

Section 8. Paragraph (a) of subsection (2) of section 327.36, Florida Statutes, is amended to read:

327.36 Mandatory adjudication; prohibition against accepting plea to lesser included offense.—

(2)(a) No trial judge may accept a plea of guilty to a lesser offense from a person who is charged with a violation of s. 327.35, manslaughter resulting from the operation of a vessel, or vessel homicide and who has been given a breath or blood test to determine blood or breath alcohol content, the results of which show a blood-alcohol level or breath-alcohol level of 0.15 ~~0.16~~ or more.

Section 9. Effective January 1, 2010, subsections (1), (6), and (7) of section 327.395, Florida Statutes, are amended, and subsection (12) is added to that section, to read:

327.395 Boating safety identification cards.—

(1) A person ~~born on or after January 1, 1988, 21 years of age or younger~~ may not operate a vessel powered by a motor of 10 horsepower or greater unless such person has in his or her possession aboard the vessel photographic identification and a boater safety identification card issued by the commission which shows that he or she has:

(a) Completed a commission-approved boater education course that meets the minimum 8-hour instruction requirement established by the National Association of State Boating Law Administrators;



(b) Passed a course equivalency examination approved by the commission; or

(c) Passed a temporary certificate examination developed or approved by the commission.

(6) A person is exempt from subsection (1) if he or she:

(a) Is licensed by the United States Coast Guard to serve as master of a vessel.

(b) Operates a vessel only on a private lake or pond.

(c) Is accompanied in the vessel by a person who is exempt from this section or who holds an identification card in compliance with this section, is 18 years of age or older, and is attendant to the operation of the vessel and responsible for the safe operation of the vessel and for any violation that occurs during the operation.

(d) Is a nonresident who has in his or her possession proof that he or she has completed a boater education course or equivalency examination in another state which meets or exceeds the requirements of subsection (1).

(e) Is operating a vessel within 90 days after the purchase of that vessel and has available for inspection aboard that vessel a bill of sale meeting the requirements of s. 328.46(1).

(f)(e) Is exempted by rule of the commission.

(7) A person who operates a vessel in violation of subsection (1) commits violates this section is guilty of a noncriminal infraction, punishable as provided in s. 327.73.

(12) This section may be cited as the “Osmany ‘Ozzie’ Castellanos Boat-ing Safety Education Act.”

Section 10. Effective October 1, 2009, section 327.40, Florida Statutes, is amended to read:

327.40 Uniform waterway markers ~~for safety and navigation; informational markers.~~—

~~(1) Waters of this state Waterways in Florida which need marking for safety or navigation purposes shall be marked only in conformity with under the United States Aids to Navigation System, 33 C.F.R. part 62. Until December 31, 2003, channel markers and obstruction markers conforming to the Uniform State Waterway Marking System, 33 C.F.R. subpart 66.10, may continue to be used on waters of this state that are not navigable waters of the United States.~~

(2)(a) Application for marking inland lakes and state waters and any navigable waters under concurrent jurisdiction of the Coast Guard and the division shall be made to the division, accompanied by a map locating the approximate placement of markers, a list of the markers to be placed, a

statement of the specification of the markers, a statement of the purpose of marking, and the names of persons responsible for the placement and up-keep of such markers. The division will assist the applicant to secure the proper permission from the Coast Guard where required, make such investigations as needed, and issue a permit. The division shall furnish the applicant with the information concerning the system adopted and the rules existing for placing and maintaining the markers. The division shall keep records of all approvals given and counsel with individuals, counties, municipalities, motorboat clubs, or other groups desiring to mark waterways for safety and navigation purposes in Florida.

(b)1. No person or municipality, county, or other governmental entity shall place any uniform waterway marker ~~safety or navigation markers~~ in, on, or over the waters or shores of the state without a permit from the division.

2. The placement of information ~~informational~~ markers, including, but not limited to, ~~markers indicating end of boat ramp, no swimming, swimming area, lake name, trash receptacle, public health notice, or underwater hazard and canal, regulatory, emergency, and special event markers,~~ by counties, municipalities, or other governmental entities on inland lakes and their associated canals are exempt from permitting under this section. ~~Such markers, excluding swimming area and special event markers, may be no more than 50 feet from the normal shoreline.~~

(c) The commission is authorized to adopt rules pursuant to chapter 120 to implement this section.

(3) The placement under this section or s. 327.41 of any uniform waterway marker ~~safety or navigation marker or any informational marker under subparagraph (2)(b)2.~~ on state submerged lands ~~under this section~~ does not subject such lands to the lease requirements of chapter 253.

Section 11. Effective October 1, 2009, subsection (2) of section 327.41, Florida Statutes, is amended to read:

327.41 Uniform waterway regulatory markers.—

(2) Any county or municipality which has been granted a boating-restricted ~~restricted~~ area designation, by rule of the commission pursuant to s. 327.46(1)(a), for a portion of the Florida Intracoastal Waterway within its jurisdiction or which has adopted a boating-restricted ~~restricted~~ area by ordinance pursuant to s. 327.46(1)(b) or (c) ~~s. 327.22, s. 327.60, or s. 379.2431(2)(p),~~ or any other governmental entity which has legally established a boating-restricted ~~restricted~~ area, may apply to the commission for permission to place regulatory markers within the boating-restricted ~~restricted~~ area.

Section 12. Effective October 1, 2009, section 327.42, Florida Statutes, is amended to read:

327.42 Mooring to or damaging of uniform waterway markers ~~or buoys~~ prohibited.—

(1) ~~No person shall moor or fasten a vessel to a lawfully placed uniform waterway aid-to-navigation marker or buoy, regulatory marker or buoy, or area boundary marker or buoy, placed or erected by any governmental agency, except in case of emergency or with the written consent of the marker's owner.~~

(2) ~~No person shall willfully damage, alter, or move a lawfully placed uniform waterway aid-to-navigation marker or buoy, regulatory marker or buoy, or area boundary marker or buoy.~~

Section 13. Effective October 1, 2009, section 327.46, Florida Statutes, is amended to read:

327.46 ~~Boating-restricted~~ Restricted areas.—

(1) ~~Boating-restricted~~ The commission has the authority to establish by rule, pursuant to chapter 120, restricted areas, including, but not limited to, restrictions of vessel speeds and vessel traffic, may be established on the waters of this the state for any purpose deemed necessary to protect for the safety of the public if, including, but not limited to, vessel speeds and vessel traffic, where such restrictions are deemed necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards.

(a) The commission may establish boating-restricted areas by rule pursuant to chapter 120.

(b) Municipalities and counties have the authority to establish the following boating-restricted areas by ordinance:

1. An ordinance establishing an idle speed, no wake boating-restricted area, if the area is:

a. Within 500 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways more than 300 feet in width or within 300 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways not exceeding 300 feet in width.

b. Within 500 feet of fuel pumps or dispensers at any marine fueling facility that sells motor fuel to the general boating public on waterways more than 300 feet in width or within 300 feet of the fuel pumps or dispensers at any licensed terminal facility that sells motor fuel to the general boating public on waterways not exceeding 300 feet in width.

c. Inside or within 300 feet of any lock structure.

2. An ordinance establishing a slow speed, minimum wake boating-restricted area if the area is:

a. Within 300 feet of any bridge fender system.

b. Within 300 feet of any bridge span presenting a vertical clearance of less than 25 feet or a horizontal clearance of less than 100 feet.

c. On a creek, stream, canal, or similar linear waterway if the waterway is less than 75 feet in width from shoreline to shoreline.

d. On a lake or pond of less than 10 acres in total surface area.

3. An ordinance establishing a vessel-exclusion zone if the area is:

a. Designated as a public bathing beach or swim area.

b. Within 300 feet of a dam, spillway, or flood control structure.

(c) Municipalities and counties have the authority to establish by ordinance the following other boating-restricted areas:

1. An ordinance establishing an idle speed, no wake boating-restricted area, if the area is within 300 feet of a confluence of water bodies presenting a blind corner, a bend in a narrow channel or fairway, or such other area if an intervening obstruction to visibility may obscure other vessels or other users of the waterway.

2. An ordinance establishing a slow speed, minimum wake, or numerical speed limit boating-restricted area if the area is:

a. Within 300 feet of a confluence of water bodies presenting a blind corner, a bend in a narrow channel or fairway, or such other area if an intervening obstruction to visibility may obscure other vessels or other users of the waterway.

b. Subject to unsafe levels of vessel traffic congestion.

c. Subject to hazardous water levels or currents, or containing other navigational hazards.

d. An area that accident reports, uniform boating citations, vessel traffic studies, or other creditable data demonstrate to present a significant risk of collision or a significant threat to boating safety.

3. An ordinance establishing a vessel-exclusion zone if the area is reserved exclusively:

a. As a canoe trail or otherwise limited to vessels under oars or under sail.

b. For a particular activity and user group separation must be imposed to protect the safety of those participating in such activity.

Any of the ordinances adopted pursuant to this paragraph shall not take effect until the commission has reviewed the ordinance and determined by substantial competent evidence that the ordinance is necessary to protect public safety pursuant to this paragraph. Any application for approval of an ordinance shall be reviewed and acted upon within 90 days after receipt of

a completed application. Within 30 days after a municipality or county submits an application for approval to the commission, the commission shall advise the municipality or county as to what information, if any, is needed to deem the application complete. An application shall be considered complete upon receipt of all requested information and correction of any error or omission for which the applicant was timely notified or when the time for such notification has expired. The commission's action on the application shall be subject to review under chapter 120. The commission shall initiate rulemaking no later than January 1, 2010, to provide criteria and procedures for reviewing applications and procedures for providing for public notice and participation pursuant to this paragraph.

(2) Each such ~~boating-restricted~~ restricted area shall be developed in consultation and coordination with the governing body of the county or municipality in which the ~~boating-restricted~~ restricted area is located and, when the boating-restricted area is to be on the navigable waters of the ~~United States where required~~, with the United States Coast Guard and the United States Army Corps of Engineers.

(3)(2) It is unlawful for any person to operate a vessel in a prohibited manner or to carry on any prohibited activity, as defined in this chapter, ~~deemed a safety hazard or interference with navigation as provided above~~ within a ~~boating-restricted~~ restricted water area which has been clearly marked by regulatory markers as authorized under this chapter.

(4)(3) Restrictions in a boating-restricted area established pursuant to this section shall not apply in the case of an emergency or to a law enforcement, firefighting, or rescue vessel owned or operated by a governmental entity.

Section 14. Effective October 1, 2009, section 327.60, Florida Statutes, is amended to read:

327.60 Local regulations; limitations.—

(1) The provisions of ~~this chapter and chapter 328 ss. 327.01, 327.02, 327.30-327.40, 327.44-327.50, 327.54, 327.56, 327.65, 328.40-328.48, 328.52-328.58, 328.62, and 328.64~~ shall govern the operation, equipment, and all other matters relating thereto whenever any vessel shall be operated upon the waters of this state waterways or when any activity regulated hereby shall take place thereon.

(2) Nothing in ~~this chapter or chapter 328 these sections~~ shall be construed to prevent the adoption of any ordinance or local regulation law relating to operation and ~~equipment~~ of vessels, except that a county or municipality shall not enact, continue in effect, or enforce any ordinance or local regulation:

(a) Establishing a vessel or associated equipment performance or other safety standard, imposing a requirement for associated equipment, or regulating the carrying or use of marine safety articles;

(b) Relating to the design, manufacture, installation, or use of any marine sanitation device on any vessel;

(c) Regulating any vessel upon the Florida Intracoastal Waterway;

(d) Discriminating against personal watercraft;

(e) Discriminating against airboats, for ordinances adopted after July 1, 2006, unless adopted by a two-thirds vote of the governing body enacting such ordinance;

(f) Regulating the anchoring of vessels other than live-aboard vessels outside the marked boundaries of mooring fields permitted as provided in s. 327.40;

(g) Regulating engine or exhaust noise, except as provided in s. 327.65; or

(h) That conflicts with any provisions of this chapter or any amendments thereto or rules adopted thereunder. no such ordinance or local law may apply to the Florida Intracoastal Waterway and except that such ordinances or local laws shall be operative only when they are not in conflict with this chapter or any amendments thereto or regulations thereunder. Any ordinance or local law which has been adopted pursuant to this section or to any other state law may not discriminate against personal watercraft as defined in s. 327.02. Effective July 1, 2006, any ordinance or local law adopted pursuant to this section or any other state law may not discriminate against airboats except by a two-thirds vote of the governing body enacting such ordinance.

(3)(2) Nothing contained in the provisions of this section shall be construed to prohibit local governmental authorities from the enactment or enforcement of regulations which prohibit or restrict the mooring or anchoring of floating structures or live-aboard vessels within their jurisdictions or of any vessels within the marked boundaries of mooring fields permitted as provided in s. 327.40. However, local governmental authorities are prohibited from regulating the anchoring outside of such mooring fields of vessels other than live-aboard vessels as defined in s. 327.02 ~~non-live-aboard vessels in navigation.~~

Section 15. Paragraph (a) of subsection (2) of section 327.65, Florida Statutes, is amended to read:

327.65 Muffling devices.—

(2)(a) Any county wishing to impose additional noise pollution and exhaust regulations on vessels may, pursuant to s. 327.60(2)(1), adopt by county ordinance the following regulations:

1. No person shall operate or give permission for the operation of any vessel on the waters of any county or on a specified portion of the waters of any county, including the Florida Intracoastal Waterway, which has adopted the provisions of this section in such a manner as to exceed the following sound levels at a distance of 50 feet from the vessel: for all vessels, a maximum sound level of 90 dB A.

2. Any person who refuses to submit to a sound level test when requested to do so by a law enforcement officer is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 16. Section 327.66, Florida Statutes, is created to read:

327.66 Carriage of gasoline on vessels.—

(1)(a) A person shall not:

1. Possess or operate any vessel that has been equipped with tanks, bladders, drums, or other containers designed or intended to hold gasoline, or install or maintain such containers in a vessel, if such containers do not conform to federal regulations or have not been approved by the United States Coast Guard by inspection or special permit.

2. Transport any gasoline in an approved portable container when the container is in a compartment that is not ventilated in strict compliance with United States Coast Guard regulations pertaining to ventilation of compartments containing gasoline tanks.

(b) A person who violates paragraph (a) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2)(a) Gasoline possessed or transported in violation of this section and all containers holding such gasoline are declared to be a public nuisance. A law enforcement agency discovering gasoline possessed or transported in violation of paragraph (1)(a) shall abate the nuisance by removing the gasoline and containers from the vessel and from the waters of this state. A law enforcement agency that removes gasoline or containers pursuant to this subsection may elect to:

1. Retain the property for the agency's own use;
2. Transfer the property to another unit of state or local government;
3. Donate the property to a charitable organization; or
4. Sell the property at public sale pursuant to s. 705.103.

(b) A law enforcement agency that seizes gasoline or containers pursuant to this subsection shall remove and reclaim, recycle, or otherwise dispose of the gasoline as soon as practicable in a safe and proper manner.

(3) All conveyances, vessels, vehicles, and other equipment described in paragraph (1)(a) or used in the commission of a violation of paragraph (1)(a), other than gasoline or containers removed as provided in subsection (2), are declared to be contraband.

(a) Upon conviction of a person arrested for a violation of paragraph (1)(a), the judge shall issue an order adjudging and ordering that all conveyances, vessels, vehicles, and other equipment used in the violation shall be forfeited to the arresting agency. The requirement for a conviction before forfeiture of property establishes to the exclusion of any reasonable doubt

that the property was used in connection with the violation resulting in the conviction, and the procedures of chapter 932 do not apply to any forfeiture of property under this subsection following a conviction.

(b) In the absence of an arrest or conviction, any such conveyance, vessel, vehicle, or other equipment used in violation of paragraph (1)(a) shall be subject to seizure and forfeiture as provided by the Florida Contraband Forfeiture Act.

(c) As used in this subsection, the term “conviction” means a finding of guilt or the acceptance of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld or whether imposition of sentence is withheld, deferred, or suspended.

(4) All costs incurred by the law enforcement agency in the removal of any gasoline, gasoline container, other equipment, or vessel as provided in this section shall be recoverable against the owner thereof. Any person who neglects or refuses to pay such amount shall not be issued a certificate of registration for such vessel or for any other vessel or motor vehicle until the costs have been paid.

(5) Foreign flagged vessels entering United States waters and waters of this state in compliance with 19 U.S.C. s. 1433 are exempt from this section.

Section 17. Effective October 1, 2009, section 327.70, Florida Statutes, is amended to read:

327.70 Enforcement of this chapter and chapter 328.—

(1) This chapter and chapter 328 shall be enforced by the Division of Law Enforcement of the Fish and Wildlife Conservation Commission and its officers, the sheriffs of the various counties and their deputies, municipal police officers, and any other authorized law enforcement officer as defined in s. 943.10, all of whom may order the removal of vessels deemed to be an interference or a hazard to public safety, enforce the provisions of this chapter and chapter 328, or cause any inspections to be made of all vessels in accordance with this chapter and chapter 328.

(2)(a) Noncriminal violations of the following statutes may be enforced by a uniform boating citation mailed to the registered owner of an unattended vessel anchored, aground, or moored on the waters of this state:

1. Section 327.33(3)(b), relating to navigation rules.
2. Section 327.44, relating to interference with navigation.
3. Section 327.50(2), relating to required lights and shapes.
4. Section 327.53, relating to marine sanitation.
5. Section 328.48(5), relating to display of decal.
6. Section 328.52(2), relating to display of number.



(b) Citations issued to livery vessels under this subsection shall be the responsibility of the lessee of the vessel if the livery has included a warning of this responsibility as a part of the rental agreement and has provided to the agency issuing the citation the name, address, and date of birth of the lessee when requested by that agency. The livery is not responsible for the payment of citations if the livery provides the required warning and lessee information.

~~(3)(2)~~ Such officers shall have the power and duty to issue such orders and to make such investigations, reports, and arrests in connection with any violation of the provisions of this chapter and chapter 328 as are necessary to effectuate the intent and purpose of this chapter and chapter 328.

~~(4)(3)~~ The Fish and Wildlife Conservation Commission or any other law enforcement agency may make any investigation necessary to secure information required to carry out and enforce the provisions of this chapter and chapter 328.

Section 18. Effective October 1, 2009, paragraph (k) of subsection (1) of section 327.73, Florida Statutes, is amended, and paragraph (x) is added to that subsection, to read:

327.73 Noncriminal infractions.—

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

(k) Violations relating to boating-restricted ~~restricted~~ areas and speed limits:

1. Established by the commission or by local governmental authorities pursuant to s. 327.46.

~~2. Established by local governmental authorities pursuant to s. 327.22 or s. 327.60.~~

~~2.3.~~ Speed limits established pursuant to s. 379.2431(2).

(x) Section 253.04(4)(a), relating to carelessly causing seagrass scarring, for which the civil penalty upon conviction is:

1. For a first offense, \$50.

2. For a second offense occurring within 12 months after a prior conviction, \$250.

3. For a third offense occurring within 36 months after a prior conviction, \$500.

4. For a fourth or subsequent offense occurring within 72 months after a prior conviction, \$1,000.

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.

Section 19. Subsection (1) of section 327.731, Florida Statutes, is amended to read:

**327.731 Mandatory education for violators.—**

(1) Every person convicted of a criminal violation of this chapter, every person convicted of a noncriminal infraction under this chapter if the infraction resulted in a reportable boating accident, and every person convicted of two noncriminal infractions as defined in s. 327.73(1)(h)-(k), (m), (o), (p), and ~~(s)-(x)~~ ~~(s)-(w)~~, said infractions occurring within a 12-month period, must:

(a) Enroll in, attend, and successfully complete, at his or her own expense, a boating safety course that meets minimum standards established by the commission by rule; however, the commission may provide by rule pursuant to chapter 120 for waivers of the attendance requirement for violators residing in areas where classroom presentation of the course is not available;

(b) File with the commission within 90 days proof of successful completion of the course;

(c) Refrain from operating a vessel until he or she has filed the proof of successful completion of the course with the commission.

Any person who has successfully completed an approved boating course shall be exempt from these provisions upon showing proof to the commission as specified in paragraph (b).

Section 20. Effective October 1, 2009, subsections (1) and (2) of section 328.03, Florida Statutes, are amended to read:

**328.03 Certificate of title required.—**

(1) Each vessel that is operated, used, or stored on the waters of this state must be titled by this state pursuant to this chapter, unless it is:

(a) A vessel operated, used, or stored exclusively on private lakes and ponds;:-

(b) A vessel owned by the United States Government;:-

(c) A non-motor-powered vessel less than 16 feet in length;:-

(d) A federally documented vessel;:-

(e) A vessel already covered by a registration number in full force and effect which was awarded to it pursuant to a federally approved numbering system of another state or by the United States Coast Guard in a state without a federally approved numbering system, if the vessel is not located in this state for a period in excess of 90 consecutive days;:-

(f) A vessel from a country other than the United States temporarily used, operated, or stored on ~~using~~ the waters of this state for a period that is not in excess of 90 days;:-

(g) An amphibious vessel for which a vehicle title is issued by the Department of Highway Safety and Motor Vehicles;:-

(h) A vessel used solely for demonstration, testing, or sales promotional purposes by the manufacturer or dealer; or:-

(i) A vessel owned and operated by the state or a political subdivision thereof.

(2) A person shall not operate, use, or store a vessel for which a certificate of title is required unless the owner has received from the Department of Highway Safety and Motor Vehicles a valid certificate of title for such vessel. However, such vessel may be operated, used, or stored for a period of up to 180 days after ~~from~~ the date of application for a certificate of title while the application is pending.

Section 21. Effective October 1, 2009, subsections (1) and (2) of section 328.07, Florida Statutes, are amended to read:

328.07 Hull identification number required.—

(1) No person shall operate, use, or store on the waters of this state a vessel the construction of which began after October 31, 1972, for which the department has issued a certificate of title or which is required by law to be registered, unless the vessel displays the assigned hull identification number affixed by the manufacturer as required by the United States Coast Guard or by the department for a homemade vessel or other vessel for which a hull identification number is not required by the United States Coast Guard. The hull identification number must be carved, burned, stamped, embossed, or otherwise permanently affixed to the outboard side of the transom or, if there is no transom, to the outermost starboard side at the end of the hull that bears the rudder or other steering mechanism, above the waterline of the vessel in such a way that alteration, removal, or replacement would be obvious and evident. The characters of the hull identification number must be no less than 12 in number and no less than one-fourth inch in height.

(2) No person shall operate, use, or store on the waters of this state a vessel the construction of which was completed before November 1, 1972, for which the department has issued a certificate of title or which is required by law to be registered, unless the vessel displays a hull identification

number. The hull identification number shall be clearly imprinted in the transom or on the hull by stamping, impressing, or marking with pressure. In lieu of imprinting, the hull identification number may be displayed on a plate in a permanent manner. A vessel for which the manufacturer has provided no hull identification number or a homemade vessel shall be assigned a hull identification number by the department which shall be affixed to the vessel pursuant to this section.

Section 22. Effective October 1, 2009, section 328.46, Florida Statutes, is amended to read:

328.46 Operation of registered vessels.—

(1) Every vessel that is required to be registered and that is being operated, used, or stored on using the waters of this state shall be registered and numbered within 30 days after purchase by the owner except as specifically exempt. During this 30-day period, the operator is required to have aboard the vessel and available for inspection a bill of sale. The bill of sale for the vessel shall serve as the temporary certificate of number that is required by federal law and must contain the following information:

- (a) Make of the vessel.
- (b) Length of the vessel.
- (c) Type of propulsion.
- (d) Hull identification number.
- (e) A statement declaring Florida to be the state where the vessel is principally used.
- (f) Name of the purchaser.
- (g) Address of the purchaser, including ZIP code.
- (h) Signature of the purchaser.
- (i) Name of the seller.
- (j) Signature of the seller.
- (k) Date of the sale of the vessel. The date of sale shall also serve as the date of issuance of the temporary certificate of number.

(1) Notice to the purchaser and operator that the temporary authority to use the vessel on the waters of this state is invalid after 30 days following the date of sale of the vessel.

(2) No person shall operate, use, or store or give permission for the operation, use, or storage of any such vessel on such waters unless:

(a) Such vessel is registered within 30 days after purchase by the owner and numbered with the identifying number set forth in the certificate of registration, displayed:

1. In accordance with s. 328.48(4), except, if the vessel is an airboat, the registration number may be displayed on each side of the rudder; or

2. In accordance with 33 C.F.R. s. 173.27, or with a federally approved numbering system of another state; and

(b) The certificate of registration or temporary certificate of number awarded to such vessel is in full force and effect.

Section 23. Effective October 1, 2009, subsection (2) of section 328.48, Florida Statutes, is amended to read:

328.48 Vessel registration, application, certificate, number, decal, duplicate certificate.—

(2) Each vessel operated, All vessels used, or stored on the waters of this the state must be registered as a ~~either commercial vessel or recreational vessel~~ as defined in s. 327.02 this chapter, unless it is except as follows:

(a) A vessel operated, used, and stored exclusively on private lakes and ponds;:-

(b) A vessel owned by the United States Government;:-

(c) A vessel used exclusively as a ship's lifeboat; or-

(d) A non-motor-powered vessel less than 16 feet in length, or a and any non-motor-powered canoe, kayak, racing shell, or rowing scull, regardless of length.

Section 24. Effective October 1, 2009, section 328.56, Florida Statutes, is amended to read:

328.56 Vessel registration number.—Each vessel that is operated, used, or stored on the waters of ~~this~~ the state must display a commercial or recreational Florida registration number, unless it is:

(1) A vessel operated, used, and stored exclusively on private lakes and ponds;:-

(2) A vessel owned by the United States Government;:-

(3) A vessel used exclusively as a ship's lifeboat;:-

(4) A non-motor-powered vessel less than 16 feet in length, or a and any non-motor-powered canoe, kayak, racing shell, or rowing scull, regardless of length;:-

(5) A federally documented vessel;:-

(6) A vessel already covered by a registration number in full force and effect which has been awarded to it pursuant to a federally approved numbering system of another state or by the United States Coast Guard in a state without a federally approved numbering system, if the vessel has not been within this state for a period in excess of 90 consecutive days;:-

- (7) A vessel operating under a valid temporary certificate of number;-
- (8) A vessel from a country other than the United States temporarily using the waters of this state; or;
- (9) An undocumented vessel used exclusively for racing.

Section 25. Effective October 1, 2009, section 328.58, Florida Statutes, is amended to read:

328.58 Reciprocity of nonresident or alien vessels.—The owner of any vessel already covered by a registration number in full force and effect which has been awarded by:

- (1) ~~By~~ Another state pursuant to a federally approved numbering system of another state;
- (2) ~~By~~ The United States Coast Guard in a state without a federally approved numbering system; or
- (3) ~~By~~ The United States Coast Guard for a federally documented vessel with a valid registration in full force and effect from another state,

shall record the number with the Department of Highway Safety and Motor Vehicles prior to operating, using, or storing the vessel on the waters of this state in excess of the 90-day reciprocity period provided for in this chapter. Such recordation shall be pursuant to the procedure required for the award of an original registration number, except that no additional or substitute registration number shall be issued if the vessel owner maintains the previously awarded registration number in full force and effect.

Section 26. Effective October 1, 2009, section 328.60, Florida Statutes, is amended to read:

328.60 Military personnel; registration; penalties.—Any military personnel on active duty in this state operating, using, or storing a vessel on the waters of this state that has a registration number in full force and effect which has been awarded to it pursuant to a federally approved numbering system of another state or by the United States Coast Guard in a state without a federally approved numbering system, or a federally documented vessel with a valid registration in full force and effect from another state shall not be required to register his or her vessel in this state while such certificate of registration remains valid; but, at the expiration of such registration certificate, all registration and titling shall be issued by this state. In the case of a federally documented vessel, the issuance of a title is not required by this chapter.

Section 27. Effective October 1, 2009, section 328.65, Florida Statutes, is amended to read:

328.65 Legislative intent with respect to registration and numbering of vessels.—It is the legislative intent that vessels be registered and numbered uniformly throughout the state. The purpose of ss. 327.58, 327.70, 327.72,

328.66, 328.68, and 328.72 is to make registration and numbering procedures similar to those of automobiles and airplanes and to provide for a vessel registration fee and certificate so as to determine the ownership of vessels which are operated, used, or stored ~~operate~~ on the waters of this state and to aid in the advancement of maritime safety.

Section 28. Effective October 1, 2009, subsection (1) of section 328.66, Florida Statutes, is amended to read:

328.66 County and municipality optional registration fee.—

(1) Any county may impose an annual registration fee on vessels registered, operated, used, or stored on the waters of this state ~~in the water~~ within its jurisdiction. This fee shall be 50 percent of the applicable state registration fee. However, the first \$1 of every registration imposed under this subsection shall be remitted to the state for deposit in the Save the Manatee Trust Fund created within the Fish and Wildlife Conservation Commission, and shall be used only for the purposes specified in s. 379.2431(4). All other moneys received from such fee shall be expended for the patrol, regulation, and maintenance of the lakes, rivers, and waters and for other boating-related activities of such municipality or county. A municipality that was imposing a registration fee before April 1, 1984, may continue to levy such fee, notwithstanding the provisions of this section.

Section 29. Effective October 1, 2009, subsection (13) of section 328.72, Florida Statutes, is amended to read:

328.72 Classification; registration; fees and charges; surcharge; disposition of fees; fines; marine turtle stickers.—

(13) EXPIRED REGISTRATION.—The operation, use, or storage on the waters of this state of a previously registered vessel after the expiration of the registration period is a noncriminal violation, as defined in s. 327.73. This subsection does not apply to vessels lawfully stored at a dock or in a marina.

Section 30. Subsections (13) and (14) are added to section 369.20, Florida Statutes, to read:

369.20 Florida Aquatic Weed Control Act.—

(13) The commission has the power to enforce this section in the same manner and to the same extent as provided in ss. 379.501-379.504.

(14) Activities that are exempt from permitting pursuant to s. 403.813(1)(r) are granted a mixing zone for turbidity for a distance not to exceed 150 meters downstream in flowing streams or 150 meters in radius in other water bodies as measured from the cutterhead, return flow discharge, or other points of generation of turbidity.

Section 31. Subsections (13) and (14) are added to section 369.22, Florida Statutes, to read:

369.22 Aquatic plant management.—

(13) The commission has the power to enforce this section in the same manner and to the same extent as provided in ss. 379.501-379.504.

(14) Activities that are exempt from permitting pursuant to s. 403.813(1)(r) are granted a mixing zone for turbidity for a distance not to exceed 150 meters downstream in flowing streams or 150 meters in radius in other water bodies as measured from the cutterhead, return flow discharge, or other points of generation of turbidity.

Section 32. Paragraph (j) of subsection (3) of section 369.25, Florida Statutes, is amended to read:

369.25 Aquatic plants; definitions; permits; powers of department; penalties.—

(3) The department has the following powers:

(j) To enforce this section and s. 369.251 ~~this chapter~~ in the same manner and to the same extent as provided in s. 581.211.

Section 33. Subsections (1) and (5) of section 379.304, Florida Statutes, are amended to read:

379.304 Exhibition or sale of wildlife.—

(1) Permits issued pursuant to s. 379.3761 ~~this section~~ and places where wildlife is kept or held in captivity shall be subject to inspection by officers of the commission at all times. The commission shall have the power to release or confiscate any specimens of any wildlife, specifically birds, mammals, amphibians, or reptiles, whether indigenous to the state or not, when it is found that conditions under which they are being confined are unsanitary, or unsafe to the public in any manner, or that the species of wildlife are being maltreated, mistreated, or neglected or kept in any manner contrary to the provisions of chapter 828, any such permit to the contrary notwithstanding. Before any such wildlife is confiscated or released under the authority of this section, the owner thereof shall have been advised in writing of the existence of such unsatisfactory conditions; the owner shall have been given 30 days in which to correct such conditions; the owner shall have failed to correct such conditions; the owner shall have had an opportunity for a proceeding pursuant to chapter 120; and the commission shall have ordered such confiscation or release after careful consideration of all evidence in the particular case in question. The final order of the commission shall constitute final agency action.

(5) A violation of this section is punishable as provided by s. 379.4015 ~~379.401~~.

Section 34. Section 379.338, Florida Statutes, is amended to read:

379.338 Confiscation and disposition of illegally taken wildlife, freshwater fish, and saltwater fish ~~game~~.—



(1) All wildlife, game and freshwater fish, and saltwater fish seized under the authority of this chapter, any other chapter, or rules of the commission shall, upon conviction of the offender or sooner in accordance with a court order if the court so orders, be forfeited to the investigating law enforcement agency. The law enforcement agency may elect to retain the wildlife, freshwater fish, or saltwater fish for the agency's official use; transfer it to another unit of state or local government for official use; donate it to a charitable organization; sell it at a public sale pursuant to s. 705.103; or destroy the wildlife, freshwater fish, or saltwater fish if none of the other options is practicable or if the wildlife, freshwater fish, or saltwater fish is unwholesome or otherwise not of appreciable value. All illegally possessed live wildlife, freshwater fish, and saltwater fish that are properly documented as evidence as provided in s. 379.3381 may be returned to the habitat unharmed. Any unclaimed wildlife, freshwater fish, or saltwater fish shall be retained by the investigating law enforcement agency and disposed of in accordance with this subsection and given to some hospital or charitable institution and receipt therefor sent to the Fish and Wildlife Conservation Commission.

(2) All furs or hides or fur-bearing animals seized under the authority of this chapter shall, upon conviction of the offender, be forfeited and sent to the commission, which shall sell the same and deposit the proceeds of such sale to the credit of the State Game Trust Fund. If any such hides or furs are seized and the offender is unknown, the court shall order such hides or furs sent to the Fish and Wildlife Conservation commission, which shall sell such hides and furs.

(3) Except as otherwise provided by law, and deposit the proceeds of any such sale under this section shall be deposited in to the credit of the State Game Trust Fund or the Marine Resources Conservation Trust Fund.

(4) Any state, county, or municipal law enforcement agency that enforces or assists the commission in enforcing this chapter, which enforcement results in a forfeiture of property as provided in this section, is entitled to receive all or a share of any property based upon its participation in the enforcement.

Section 35. Section 379.3381, Florida Statutes, is created to read:

379.3381 Photographic evidence of illegally taken wildlife, freshwater fish, and saltwater fish.—In any prosecution for a violation of this chapter, any other chapter, or rules of the commission, a photograph of illegally taken wildlife, freshwater fish, or saltwater fish may be deemed competent evidence of such property and may be admissible in the prosecution to the same extent as if such wildlife, freshwater fish, or saltwater fish were introduced as evidence. Such photograph shall bear a written description of the wildlife, freshwater fish, or saltwater fish alleged to have been illegally taken, the name of the violator, the location where the alleged illegal taking occurred, the name of the investigating law enforcement officer, the date the photograph was taken, and the name of the photographer. Such writing shall be made under oath by the investigating law enforcement officer, and the photograph shall be identified by the signature of the photographer.

Section 36. Effective July 1, 2010, paragraphs (h), (i), and (j) of subsection (4) and subsections (8), (11), and (12) of section 379.354, Florida Statutes, are amended, and effective July 15, 2009, paragraph (k) is added to subsection (4) of that section, to read:

379.354 Recreational licenses, permits, and authorization numbers; fees established.—

(4) RESIDENT HUNTING AND FISHING LICENSES.—The licenses and fees for residents participating in hunting and fishing activities in this state are as follows:

(h) Annual sportsman's license, \$79, except that an annual sportsman's license for a resident 64 years of age or older is \$12. A sportsman's license authorizes the person to whom it is issued to take game and freshwater fish, subject to the state and federal laws, rules, and regulations, including rules of the commission, in effect at the time of the taking. Other authorized activities include activities authorized by a management area permit, a muzzle-loading gun season permit, a crossbow season permit, a turkey permit, a Florida waterfowl permit, a deer permit, and an archery season permit.

(i) Annual gold sportsman's license, \$98.50. The gold sportsman's license authorizes the person to whom it is issued to take freshwater fish, saltwater fish, and game, subject to the state and federal laws, rules, and regulations, including rules of the commission, in effect at the time of taking. Other authorized activities include activities authorized by a management area permit, a muzzle-loading gun season permit, a crossbow season permit, a turkey permit, a Florida waterfowl permit, a deer permit, an archery season permit, a snook permit, and a spiny lobster permit.

(j) Annual military gold sportsman's license, \$18.50. The gold sportsman's license authorizes the person to whom it is issued to take freshwater fish, saltwater fish, and game, subject to the state and federal laws, rules, and regulations, including rules of the commission, in effect at the time of taking. Other authorized activities include activities authorized by a management area permit, a muzzle-loading gun season permit, a crossbow season permit, a turkey permit, a Florida waterfowl permit, a deer permit, an archery season permit, a snook permit, and a spiny lobster permit. Any resident who is an active or retired member of the United States Armed Forces, the United States Armed Forces Reserve, the National Guard, the United States Coast Guard, or the United States Coast Guard Reserve is eligible to purchase the military gold sportsman's license upon submission of a current military identification card.

(8) SPECIFIED HUNTING, FISHING, AND RECREATIONAL ACTIVITY PERMITS.—In order to ensure that the cultural heritage of hunting and sport fishing as recognized in s. 379.104 is passed on to future Floridians, the commission shall use up to 10 percent of the proceeds from the hunting and sport fishing permits issued pursuant to this subsection to promote hunting and sport fishing activities with an emphasis on youth participation. In addition to any license required under this chapter, the

following permits and fees for specified hunting, fishing, and other recreational uses and activities are required:

(a) An annual Florida waterfowl permit for a resident or nonresident to take wild ducks or geese within the state or its coastal waters is ~~\$5~~ \$3. Revenue generated from the sale of waterfowl permits or that pro rata portion of any license that includes waterfowl hunting privileges provided for in this paragraph shall be used for conservation, research, and management of waterfowl; for the development, restoration, maintenance, and preservation of wetlands within the state; or to promote the cultural heritage of hunting.

(b)1. An annual Florida turkey permit for a resident to take wild turkeys within the state is ~~\$10~~ \$5. Revenue generated from the sale of resident wild turkey permits or that pro rata portion of any license that includes turkey hunting privileges provided for in this subparagraph shall be used for the conservation, research, and management of wild turkeys or to promote the cultural heritage of hunting.

2. An annual Florida turkey permit for a nonresident to take wild turkeys within the state is ~~\$125~~ \$100. Revenue generated from the sale of nonresident wild turkey permits or that pro rata portion of any license that includes turkey hunting privileges provided for in this subparagraph shall be used for the conservation, research, and management of wild turkeys or to promote the cultural heritage of hunting.

(c) An annual snook permit for a resident or nonresident to take or possess any snook from any waters of the state is ~~\$10~~ \$2. Revenue generated from the sale of snook permits shall be used exclusively for programs to benefit the snook population.

(d) An annual spiny lobster permit for a resident or nonresident to take or possess any spiny lobster for recreational purposes from any waters of the state is ~~\$5~~ \$2. Revenue generated from the sale of spiny lobster permits shall be used exclusively for programs to benefit the spiny lobster population.

(e) A \$5 fee is imposed for each of the following permits:

1. An annual archery season permit for a resident or nonresident to hunt within the state during any archery season authorized by the commission.

2. An annual crossbow season permit for a resident or nonresident to hunt within the state during any crossbow season authorized by the commission.

3. An annual muzzle-loading gun season permit for a resident or nonresident to hunt within the state during any muzzle-loading gun season authorized by the commission.

(f) A special use permit for a resident or nonresident to participate in limited entry hunting or fishing activities as authorized by commission rule shall not exceed ~~\$150~~ \$100 per day or ~~\$300~~ \$250 per week. Notwithstanding any other provision of this chapter, there are no exclusions, exceptions, or

exemptions from this permit fee. In addition to the permit fee, the commission may charge each special use permit applicant a nonrefundable application fee not to exceed \$10.

(g)1. A management area permit for a resident or nonresident to hunt on, fish on, or otherwise use for outdoor recreational purposes land owned, leased, or managed by the commission, or by the state for the use and benefit of the commission, shall not exceed ~~\$30~~ \$25 per year.

2. Permit fees for short-term use of land that is owned, leased, or managed by the commission may be established by rule of the commission for activities on such lands. Such permits may be in lieu of, or in addition to, the annual management area permit authorized in subparagraph 1. and subparagraph 4.

3. Other than for hunting or fishing, the provisions of this paragraph shall not apply on any lands not owned by the commission, unless the commission has obtained the written consent of the owner or primary custodian of such lands.

4. A management area permit for a resident or nonresident to hike, camp, or otherwise engage in other outdoor recreational activities, except hunting or fishing, on management area lands shall not exceed \$5 per day or \$30 per year.

(h)1. A recreational user permit is required to hunt on, fish on, or otherwise use for outdoor recreational purposes land leased by the commission from private nongovernmental owners, ~~except for those lands located directly north of the Apalachicola National Forest, east of the Ochlocknee River until the point the river meets the dam forming Lake Talquin, and south of the closest federal highway.~~ The fee for a recreational user permit shall be based upon the economic compensation desired by the landowner, game population levels, desired hunter density, and administrative costs. The permit fee shall be set by commission rule on a per-acre basis. The recreational user permit fee, less administrative costs of up to ~~\$30~~ \$25 per permit, shall be remitted to the landowner as provided in the lease agreement for each area.

2. One minor dependent under 16 years of age may hunt under the supervision of the permittee and is exempt from the recreational user permit requirements. The spouse and dependent children of a permittee are exempt from the recreational user permit requirements when engaged in outdoor recreational activities other than hunting and when accompanied by a permittee. Notwithstanding any other provision of this chapter, no other exclusions, exceptions, or exemptions from the recreational user permit fee are authorized.

(i) An annual deer permit for a resident or nonresident to take deer within the state during any season authorized by the commission is \$5. Revenue generated from the sale of deer permits shall be used for the conservation, research, and management of white-tailed deer or to promote the cultural heritage of hunting.

The commission shall prepare an annual report documenting the use of funds generated pursuant to paragraphs (a) and (b) and shall submit the report to the Governor, the Speaker of the House of Representatives, and the President of the Senate no later than September 1 of each year.

(11) RESIDENT LIFETIME HUNTING LICENSES.—

(a) Lifetime hunting licenses are available to residents only, as follows, for:

1. Persons 4 years of age or younger, for a fee of \$200.
2. Persons 5 years of age or older, but under 13 years of age, for a fee of \$350.
3. Persons 13 years of age or older, for a fee of \$500.

(b) The following activities are authorized by the purchase of a lifetime hunting license:

1. Taking, or attempting to take or possess, game consistent with the state and federal laws and regulations and rules of the commission in effect at the time of the taking.

2. All activities authorized by a muzzle-loading gun season permit, a crossbow season permit, a turkey permit, an archery season permit, a Florida waterfowl permit, a deer permit, and a management area permit, excluding fishing.

(12) RESIDENT LIFETIME SPORTSMAN'S LICENSES.—

(a) Lifetime sportsman's licenses are available to residents only, as follows, for:

1. Persons 4 years of age or younger, for a fee of \$400.
2. Persons 5 years of age or older, but under 13 years of age, for a fee of \$700.
3. Persons 13 years of age or older, for a fee of \$1,000.

(b) The following activities are authorized by the purchase of a lifetime sportsman's license:

1. Taking, or attempting to take or possess, freshwater and saltwater fish, and game, consistent with the state and federal laws and regulations and rules of the commission in effect at the time of taking.

2. All activities authorized by a management area permit, a muzzle-loading gun season permit, a crossbow season permit, a turkey permit, an archery season permit, a Florida waterfowl permit, a deer permit, a snook permit, and a spiny lobster permit.

Section 37. Paragraph (c) of subsection (2) of section 379.3671, Florida Statutes, is amended to read:

379.3671 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 by commission rule.

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 spiny lobster trap without the express written consent of the trap owner available for immediate inspection. Unauthorized possession of another's trap gear or removal of trap contents constitutes theft.

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

b. Any commercial harvester 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. 379.367 and 379.407, shall lose all saltwater fishing privileges for a period of 24 calendar months.

c. In addition, any commercial harvester charged with violating this subparagraph and receiving a judicial disposition other than dismissal or acquittal for violating this subparagraph or s. 379.402 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 of such a violation, the commercial harvester committing the violation is prohibited from transferring any spiny lobster trap certificates and endorsements.

4. In addition to any other penalties provided in s. 379.407, a commercial harvester who violates the provisions of this section or commission rules relating to spiny lobster traps 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 administrative penalty of up to \$1,000. For all other first violations, the commission shall assess an additional administrative 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 administrative penalty of up to \$2,000 and the spiny lobster endorsement issued under s. 379.367(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 administrative penalty of up to \$5,000 and may suspend the spiny lobster endorsement issued under s. 379.367(2) or (6) for a period of up to 24 months or may revoke the spiny lobster endorsement and, if revoking the spiny lobster endorsement, may also proceed against the licenseholder's saltwater products license in accordance with the provisions of s. 379.407(2)(h).

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

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

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

e. The commission shall suspend the spiny lobster endorsement issued under s. 379.367(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 commercial harvester who violates the provisions of subparagraph 5., or any commercial harvester who engages in the commercial harvest, trapping, or possession of spiny lobster without a spiny lobster endorsement as required by s. 379.367(2) or (6) or during any period while such

spiny lobster endorsement 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 commercial harvester who violates the provisions of sub-subparagraph 5.c.

c. In addition to any penalty imposed pursuant to sub-subparagraph a., any commercial harvester receiving any judicial disposition other than acquittal or dismissal for a violation of subparagraph 5. shall be assessed an administrative penalty of up to \$5,000, and the spiny lobster endorsement under which the violation was committed may be suspended for up to 24 calendar months. Immediately upon issuance of a citation involving a violation of subparagraph 5. and until adjudication of such a violation, and after receipt of any judicial disposition other than acquittal or dismissal for such a violation, the commercial harvester holding the spiny lobster endorsement listed on the citation is prohibited from transferring any spiny lobster trap certificates.

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

7. Prior to the 2010-2011 license year, 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. Beginning with the 2010-2011 license year, any certificate for which the annual certificate fee is not paid for a period of 2 consecutive 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 administrative 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.

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

Section 38. Paragraphs (c), (d), and (e) of subsection (2) of section 379.3751, Florida Statutes, are amended to read:

379.3751 Taking and possession of alligators; trapping licenses; fees.—

(2) The license and issuance fee, and the activity authorized thereby, shall be as follows:



(c) The annual fee for issuance of an alligator trapping agent's license, which permits a person to act as an agent of any person who has been issued a resident or nonresident alligator trapping license as provided in paragraph (a) or paragraph (b) and to take alligators occurring in the wild other than alligator hatchlings, ~~and to possess and process alligators taken under authority of such agency relationship, and to possess, process, and sell their hides and meat,~~ shall be \$50. ~~Such alligator trapping agent's license shall be issued only in conjunction with an alligator trapping license and shall bear on its face in indelible ink the name and license number of the alligator trapping licenseholder for whom the holder of this license is acting as an agent.~~

(d) The annual fee for issuance of an alligator farming license, which permits a person to operate a facility for captive propagation of alligators, to possess alligators for captive propagation, to take alligator hatchlings and alligator eggs occurring in the wild, to rear such alligators, alligator hatchlings, and alligator eggs in captivity, to process alligators taken or possessed under authority of such alligator farming license or otherwise legally acquired, and to possess, process, and sell their hides and meat, shall be \$250.

(e) The annual fee for issuance of an alligator farming agent's license, which permits a person to act as an agent of any person who has been issued an alligator farming license as provided in paragraph (d) and to take alligator hatchlings and alligator eggs occurring in the wild, ~~and to possess and process alligators taken under authority of such agency relationship, and to~~ possess, process, and sell their hides and meat, shall be \$50. ~~Such license shall be issued only in conjunction with an alligator farming license, and shall bear on its face in indelible ink the name and license number of the alligator farming licenseholder for whom the holder of this license is acting as an agent.~~

Section 39. Subsection (6) is added to section 379.3761, Florida Statutes, to read:

379.3761 Exhibition or sale of wildlife; fees; classifications.—

(6) A person who violates this section is punishable as provided in s. 379.4015.

Section 40. Subsection (5) of section 379.3762, Florida Statutes, is amended to read:

379.3762 Personal possession of wildlife.—

(5) A person who violates ~~Persons in violation of~~ this section ~~is~~ shall be punishable as provided in s. 379.4015 ~~379.401~~.

Section 41. Paragraph (a) of subsection (2) and paragraph (a) of subsection (4) of section 379.401, Florida Statutes, are amended to read:

379.401 Penalties and violations; civil penalties for noncriminal infractions; criminal penalties; suspension and forfeiture of licenses and permits.—

(2)(a) LEVEL TWO VIOLATIONS.—A person commits a Level Two violation if he or she violates any of the following provisions:

1. Rules or orders of the commission relating to seasons or time periods for the taking of wildlife, freshwater fish, or saltwater fish.
2. Rules or orders of the commission establishing bag, possession, or size limits or restricting methods of taking wildlife, freshwater fish, or saltwater fish.
3. Rules or orders of the commission prohibiting access or otherwise relating to access to wildlife management areas or other areas managed by the commission.
4. Rules or orders of the commission relating to the feeding of wildlife, freshwater fish, or saltwater fish.
5. Rules or orders of the commission relating to landing requirements for freshwater fish or saltwater fish.
6. Rules or orders of the commission relating to restricted hunting areas, critical wildlife areas, or bird sanctuaries.
7. Rules or orders of the commission relating to tagging requirements for wildlife game and fur-bearing animals.
8. Rules or orders of the commission relating to the use of dogs for the taking of wildlife game.
9. Rules or orders of the commission which are not otherwise classified.
10. Rules or orders of the commission prohibiting the unlawful use of finfish traps.
11. All prohibitions in this chapter which are not otherwise classified.
12. Section 379.33, prohibiting the violation of or noncompliance with commission rules.
13. Section 379.407(6), prohibiting the sale, purchase, harvest, or attempted harvest of any saltwater product with intent to sell.
14. Section 379.2421, prohibiting the obstruction of waterways with net gear.
15. Section 379.413, prohibiting the unlawful taking of bonefish.
16. Section 379.365(2)(a) and (b), prohibiting the possession or use of stone crab traps without trap tags and theft of trap contents or gear.
17. Section 379.366(4)(b), prohibiting the theft of blue crab trap contents or trap gear.
18. Section 379.3671(2)(c), prohibiting the possession or use of spiny lobster traps without trap tags or certificates and theft of trap contents or trap gear.

19. Section 379.357, prohibiting the possession of tarpon without purchasing a tarpon tag.

20. ~~Rules or orders of the commission Section 379.409~~, prohibiting the feeding or enticement of alligators or crocodiles.

21. Section 379.105, prohibiting the intentional harassment of hunters, fishers, or trappers.

(4)(a) LEVEL FOUR VIOLATIONS.—A person commits a Level Four violation if he or she violates any of the following provisions:

1. Section 379.365(2)(c), prohibiting criminal activities relating to the taking of stone crabs.

2. Section 379.366(4)(c), prohibiting criminal activities relating to the taking and harvesting of blue crabs.

3. Section 379.367(4), prohibiting the willful molestation of spiny lobster gear.

4. Section 379.3671(2)(c)5., prohibiting the unlawful reproduction, possession, sale, trade, or barter of spiny lobster trap tags or certificates.

5. Section 379.354(16), prohibiting the making, forging, counterfeiting, or reproduction of a recreational license or possession of same without authorization from the commission.

6. Section 379.404(5), prohibiting the sale of illegally-taken deer or wild turkey.

7. Section 379.405, prohibiting the molestation or theft of freshwater fishing gear.

8. Section 379.409, prohibiting the unlawful killing, injuring, possessing, or capturing of alligators or other crocodilia or their eggs.

Section 42. Paragraph (a) of subsection (2) of section 379.4015, Florida Statutes, is amended to read:

379.4015 Captive wildlife penalties.—

(2) LEVEL TWO.—Unless otherwise provided by law, the following classifications and penalties apply:

(a) A person commits a Level Two violation if he or she violates any of the following provisions:

1. Unless otherwise stated in subsection (1), rules or orders of the commission that require a person to pay a fee to obtain a permit to possess captive wildlife or that require the maintenance of records relating to captive wildlife.

2. Rules or orders of the commission relating to captive wildlife not specified in subsection (1) or subsection (3).

3. Rules or orders of the commission that require housing of wildlife in a safe manner when a violation results in an escape of wildlife other than Class I wildlife.

4. Section 379.372, relating to capturing, keeping, possessing, transporting, or exhibiting venomous reptiles or reptiles of concern.

5. Section 379.373, relating to requiring a license or permit for the capturing, keeping, possessing, or exhibiting of venomous reptiles or reptiles of concern.

6. Section 379.374, relating to bonding requirements for public exhibits of venomous reptiles.

7. Section 379.305, relating to commission rules and regulations to prevent the escape of venomous reptiles or reptiles of concern.

8. Section 379.304, relating to exhibition or sale of wildlife.

9. Section 379.3761, relating to exhibition or sale of wildlife.

10. Section 379.3762, relating to personal possession of wildlife.

Section 43. Section 379.501, Florida Statutes, is created to read:

379.501 Aquatic weeds and plants; prohibitions; violations; penalties; intent.—

(1) A person may not:

(a) Violate this section or any provision of s. 369.20 or s. 369.22 related to aquatic weeds and plants;

(b) Fail to obtain any permit required by s. 369.20 or s. 369.22 or by commission rule implementing s. 369.20 or s. 369.22, or violate or fail to comply with any rule, regulation, order, permit, or certification adopted or issued by the commission pursuant to s. 369.20 or s. 369.22; or

(c) Knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under s. 369.20 or s. 369.22, or falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under s. 369.20 or s. 369.22 or by any permit, rule, regulation, or order issued under s. 369.20 or s. 369.22.

(2) Any person who violates any provision of subsection (1) is liable to the state for any damage caused to the aquatic weeds or plants and for civil penalties as provided in s. 379.502.

(3) Any person who willfully commits a violation of paragraph (1)(a) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each day during any portion of which such violation occurs constitutes a separate offense.

(4) Any person who commits a violation specified in paragraph (1)(a) due to reckless indifference or gross careless disregard commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) Any person who willfully commits a violation specified in paragraph (1)(b) or paragraph (1)(c) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(6) It is the intent of the Legislature that the civil penalties and criminal fines imposed by a court be of such an amount as to ensure immediate and continued compliance with this section.

(7) Penalties assessed pursuant to ss. 379.501-379.504 are in addition to any penalties assessed by the Board of Trustees of the Internal Improvement Trust Fund, the Department of Environmental Protection, or a water management district pursuant to chapter 253, chapter 373, or chapter 403.

Section 44. Section 379.502, Florida Statutes, is created to read:

379.502 Enforcement; procedure; remedies.—The commission has the following judicial and administrative remedies available to it for violations of s. 379.501:

(1)(a) The commission may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the waters or property of the state, including animal, plant, and aquatic life, caused by any violation of s. 379.501.

(b) The commission may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than \$10,000 per offense. However, the court may receive evidence in mitigation. Each day, during any portion of which such violation occurs, constitutes a separate offense.

(c) Except as provided in paragraph (2)(c), the fact that the commission has failed to exhaust its administrative remedies, has failed to serve a notice of violation, or has failed to hold an administrative hearing before initiating a civil action is not a defense to, or grounds for dismissal of, the judicial remedies for damages and civil penalties.

(2)(a) The commission may institute an administrative proceeding to establish liability and to recover damages for any injury to the waters or property of the state, including animal, plant, or aquatic life, caused by any violation of s. 379.501. The commission may order that the violator pay a specified sum as damages to the state. Judgment for the amount of damages determined by the commission may be entered in any court having jurisdiction thereof and may be enforced as any other judgment.

(b) If the commission has reason to believe that a violation has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. The commission shall proceed administratively in all cases in which the commission seeks administrative penalties that do not exceed

\$10,000 per assessment as calculated in accordance with subsections (3), (4), (5), and (6). The commission may not impose administrative penalties in excess of \$10,000 in a notice of violation. The commission may not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the commission subsequent to the filing of a previous notice of violation.

(c) An administrative proceeding shall be instituted by the commission's serving of a written notice of violation upon the alleged violator by certified mail. If the commission is unable to effect service by certified mail, the notice of violation may be hand delivered or personally served in accordance with chapter 48. The notice shall specify the provision of the law, rule, regulation, permit, certification, or order of the commission alleged to have been violated and the facts alleged to constitute a violation thereof. An order for corrective action, penalty assessment, or damages may be included along with the notice. If the commission is seeking to impose an administrative penalty for any violation of s. 379.501 by issuing a notice of violation, any corrective action needed to correct the violation or damages caused by the violation must be pursued in the notice of violation or they are waived. However, an order does not become effective until after service and an administrative hearing, if requested within 20 days after service. Failure to request an administrative hearing within this period constitutes a waiver, unless the respondent files a written notice with the commission within this period opting out of the administrative process initiated by the commission. Any respondent choosing to opt out of the administrative process initiated by the commission must file a written notice with the commission, within 20 days after service of the notice of violation, opting out of the administrative process. A respondent's decision to opt out of the administrative process does not preclude the commission from initiating a state court action seeking injunctive relief, damages, and the judicial imposition of civil penalties.

(d) If a person timely files a petition challenging a notice of violation, that person will thereafter be referred to as the respondent. The hearing requested by the respondent shall be held within 180 days after the commission has referred the initial petition to the Division of Administrative Hearings unless the parties agree to a later date. The commission has the burden of proving by the preponderance of the evidence that the respondent is responsible for the violation. An administrative penalty may not be imposed unless the commission satisfies that burden. Following the close of the hearing, the administrative law judge shall issue a final order on all matters, including the imposition of an administrative penalty. If the commission seeks to enforce that portion of a final order imposing administrative penalties pursuant to s. 120.69, the respondent may not assert as a defense the inappropriateness of the administrative remedy. The commission retains its final-order authority in all administrative actions that do not request the imposition of administrative penalties.

(e) After filing a petition requesting a formal hearing in response to a notice of violation, a respondent may request that a private mediator be appointed to mediate the dispute by contacting the Florida Conflict Resolution Consortium within 10 days after receipt of the initial order from the

administrative law judge. The Florida Conflict Resolution Consortium shall pay all of the costs of the mediator and for up to 8 hours of the mediator's time per case at \$150 per hour. Upon notice from the respondent, the Florida Conflict Resolution Consortium shall provide the respondent with a panel of possible mediators from the area in which the hearing on the petition would be heard. The respondent shall select the mediator and notify the Florida Conflict Resolution Consortium of the selection within 15 days after receipt of the proposed panel of mediators. The Florida Conflict Resolution Consortium shall provide all of the administrative support for the mediation process. The mediation must be completed at least 15 days before the final hearing date set by the administrative law judge.

(f) In any administrative proceeding brought by the commission, the prevailing party shall recover all costs as provided in ss. 57.041 and 57.071. The costs must be included in the final order. The respondent is the prevailing party when an order is entered awarding no penalties to the commission and the order has not been reversed on appeal or the time for seeking judicial review has expired. The respondent is entitled to an award of attorney's fees if the administrative law judge determines that the notice of violation issued by the commission was not substantially justified as defined in s. 57.111(3)(e). An award of attorney's fees as provided by this subsection may not exceed \$15,000.

(g) This section does not prevent any other legal or administrative action in accordance with law. This subsection does not limit the commission's authority set forth in this section and ss. 379.503 and 379.504 to judicially pursue injunctive relief. If the commission exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory maximum sought by the commission must be pursued as part of the state court action and not by initiating a separate administrative proceeding. The commission retains the authority to judicially pursue penalties in excess of \$10,000 for violations not specifically included in the administrative penalty schedule, or for multiple or multiday violations alleged to exceed a total of \$10,000. The commission also retains the authority provided in this section and ss. 379.503 and 379.504 to judicially pursue injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued. The commission may enter into a settlement before or after initiating a notice of violation, and the settlement may include a penalty amount that is different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of \$10,000 in penalties may be settled in the court action for less than \$10,000.

(h) The provisions of chapter 120 shall apply to any administrative action taken by the commission under this section or any delegated program pursuing administrative penalties in accordance with this section.

(3) Administrative penalties must be calculated according to the following schedule:

(a) For violations of s. 379.501(1)(a) or (b), \$3,000.

(b) For failure to conduct required monitoring or testing in compliance with a permit, \$2,000.

(c) For failure to prepare, submit, maintain, or use required reports or other required documentation, \$500.

(d) For failure to comply with any other regulatory statute or rule requirement relating to the administration of the commission's powers under s. 369.20 or s. 369.22 not otherwise identified in this section, \$500.

(4) For each additional day during which a violation occurs, the administrative penalties in subsection (3) may be assessed per day, per violation.

(5) The history of noncompliance of the violator for any previous violation resulting in an executed consent order, but not including a consent order entered into without a finding of violation, or resulting in a final order or judgment on or after July 1, 2009, involving the imposition of \$2,000 or more in penalties, shall be taken into consideration in the following manner:

(a) One previous such violation within 5 years prior to the filing of the notice of violation shall result in a 25-percent per day increase in the scheduled administrative penalty.

(b) Two previous such violations within 5 years prior to the filing of the notice of violation shall result in a 50-percent per day increase in the scheduled administrative penalty.

(c) Three or more previous such violations within 5 years before the filing of the notice of violation shall result in a 100-percent per day increase in the scheduled administrative penalty.

(6) The direct economic benefit gained by the violator from the violation shall be added to the scheduled administrative penalty. The total administrative penalty, including any economic benefit added to the scheduled administrative penalty, may not exceed \$10,000.

(7) The administrative penalties assessed for any particular violation may not exceed \$3,000 against any one violator unless the violator has a history of noncompliance, the economic benefit of the violation as described in subsection (6) exceeds \$3,000, or there are multiday violations. The total administrative penalties may not exceed \$10,000 per assessment for all violations attributable to a specific person in the notice of violation.

(8) The administrative law judge may receive evidence in mitigation. The penalties identified in subsection (3) may be reduced up to 50 percent by the administrative law judge for mitigating circumstances, including good faith efforts to comply prior to or after discovery of the violations by the commission. Upon an affirmative finding that the violation was caused by circumstances beyond the reasonable control of the respondent and could not have been prevented by the respondent's due diligence, the administrative law judge may further reduce the penalty.

(9) Penalties collected under this section shall be deposited into the Invasive Plant Control Trust Fund to carry out the purposes set forth in ss. 369.20, 369.22, and 369.252. The Florida Conflict Resolution Consortium may use a portion of the fund to administer the mediation process provided



in paragraph (2)(e) and to contract with private mediators for administrative penalty cases related to s. 369.20 or s. 369.22.

(10) The purpose of the administrative penalty schedule and process is to provide a more predictable and efficient manner for individuals and businesses to resolve relatively minor environmental disputes. Subsections (3) through (7) do not limit a state court in the assessment of damages. The administrative penalty schedule does not apply to the judicial imposition of civil penalties in state court as provided in this section.

Section 45. Section 379.503, Florida Statutes, is created to read:

379.503 Civil action.—

(1) The commission may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with ss. 379.501, 379.502, and 379.504 or any rule, regulation, permit, certification, or order adopted or issued by the commission pursuant to s. 369.20 or s. 369.22; to enjoin any violation specified in s. 379.501(1); and to seek injunctive relief to prevent irreparable injury to the waters and property, including animal, plant, and aquatic life, of the state and to protect human health, safety, and welfare caused or threatened by any violation of s. 379.501.

(2) All the judicial and administrative remedies to recover damages and penalties in this section and s. 379.502 are alternative and mutually exclusive.

Section 46. Section 379.504, Florida Statutes, is created to read:

379.504 Civil liability; joint and several liability.—

(1) A person who commits a violation specified in s. 379.501(1) is liable to the state for any damage caused to the waters or property of the state, including animal, plant, or aquatic life, and for reasonable costs and expenses of the state in restoring its waters and property, including animal, plant, and aquatic life, to their former condition, and furthermore is subject to the judicial imposition of a civil penalty for each offense in an amount of not more than \$10,000 per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense. This section does not give the commission the right to bring an action on behalf of any private person.

(2) If two or more persons violate s. 379.501(1) so that the damage is indivisible, each violator shall be jointly and severally liable for the damage and for the reasonable cost and expenses of the state incurred in restoring the waters and property of the state, including the animal, plant, and aquatic life, to their former condition. However, if the damage is divisible and may be attributed to a particular violator or violators, each violator is liable only for that damage attributable to his or her violation.

(3) In assessing damages for fish killed, the value of the fish shall be determined in accordance with a table of values for individual categories of fish, which shall be adopted by the Department of Environmental Protection

pursuant to s. 403.141(3). The total number of fish killed may be estimated by standard practices used in estimating fish population.

Section 47. Subsection (1) of section 403.088, Florida Statutes, is amended to read:

403.088 Water pollution operation permits; conditions.—

(1) No person, without written authorization of the department, shall discharge into waters within the state any waste which, by itself or in combination with the wastes of other sources, reduces the quality of the receiving waters below the classification established for them. However, this section shall not be deemed to prohibit the application of pesticides to waters in the state for the control of insects, aquatic weeds, or algae, provided the application is performed pursuant to a program approved by the Department of Health, in the case of insect control, or the Fish and Wildlife Conservation Commission department, in the case of aquatic weed or algae control. The department is directed to enter into interagency agreements to establish the procedures for program approval. Such agreements shall provide for public health, welfare, and safety, as well as environmental factors. Approved programs must provide that only chemicals approved for the particular use by the United States Environmental Protection Agency or by the Department of Agriculture and Consumer Services may be employed and that they be applied in accordance with registered label instructions, state standards for such application, and the provisions of the Florida Pesticide Law, part I of chapter 487.

Section 48. The Fish and Wildlife Conservation Commission, in consultation with the Department of Environmental Protection, is directed to establish a pilot program to explore potential options for regulating the anchoring or mooring of non-live-aboard vessels outside the marked boundaries of public mooring fields.

(1) The goals of the pilot program are to encourage the establishment of additional public mooring fields and to develop and test policies and regulatory regimes that:

- (a) Promote the establishment and use of public mooring fields.
- (b) Promote public access to the waters of this state.
- (c) Enhance navigational safety.
- (d) Protect maritime infrastructure.
- (e) Protect the marine environment.
- (f) Deter improperly stored, abandoned, or derelict vessels.

(2) Each location selected for inclusion in the pilot program must be associated with a properly permitted mooring field. The commission, in consultation with the department, shall select all locations for the pilot program prior to July 1, 2011. Two locations shall be off the east coast of the state, two locations shall be off the west coast of the state, and one location

shall be within Monroe County. The locations selected must be geographically diverse and take into consideration the various users and means of using the waters of this state.

(3) Notwithstanding the provisions of s. 327.60, Florida Statutes, a county or municipality selected for participation in the pilot program may regulate by ordinance the anchoring of vessels, other than live-aboard vessels as defined in s. 327.02, Florida Statutes, outside of a mooring field. Any ordinance enacted under the pilot program shall take effect and become enforceable only after approval by the commission. The commission shall not approve any ordinance not consistent with the goals of the pilot program.

(4) The commission shall:

(a) Provide consultation and technical assistance to each municipality or county selected for participation in the pilot program to facilitate accomplishment of the pilot program's goals.

(b) Coordinate the review of any proposed ordinance with the department; the United States Coast Guard; the Florida Inland Navigation District or the West Coast Inland Navigation District, as appropriate; and associations or other organizations representing vessel owners or operators.

(c) Monitor and evaluate at least annually each location selected for participation in the pilot program and make such modifications as may be necessary to accomplish the pilot program's goals.

(5) The commission shall submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2014.

(6) The pilot program shall expire on July 1, 2014, unless reenacted by the Legislature. All ordinances enacted under this section shall expire concurrently with the expiration of the pilot program and shall be inoperative and unenforceable thereafter.

(7) Nothing in this section shall be construed to affect any mooring field authorized pursuant to s. 253.77, s. 327.40, or part IV of chapter 373, Florida Statutes, as applicable, or any lawful ordinance regulating the anchoring of any vessels within the marked boundaries of such mooring fields.

Section 49. The statutory powers, duties, and functions related to ss. 369.20, 369.22, and 369.252, Florida Statutes, which were transferred by chapter 2008-150, Laws of Florida, and all records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the Bureau of Invasive Plant Management in the Department of Environmental Protection are transferred by a type two transfer, pursuant to s. 20.06(2), Florida Statutes, to the Fish and Wildlife Conservation Commission. All actions taken pursuant to chapter 2008-150, Laws of Florida, and the Interagency Agreement executed pursuant thereto are ratified.

Section 50. The Invasive Plant Control Trust Fund, FLAIR number 37-2-030, in the Department of Environmental Protection is transferred to the Fish and Wildlife Conservation Commission, FLAIR number 77-2-030.

Section 51. Beginning in the 2009-2010 fiscal year and continuing each fiscal year thereafter, the sum of \$185,000 is appropriated from the State Game Trust Fund to the Fish and Wildlife Conservation Commission for the costs associated with the shoreline fishing license exemption pursuant to s. 379.354(4)(k), Florida Statutes.

Section 52. For the purpose of incorporating the amendment made by this act to section 319.32, Florida Statutes, in a reference thereto, paragraph (a) of subsection (2) of section 379.209, Florida Statutes, is reenacted to read:

379.209 Nongame Wildlife Trust Fund.—

(2)(a) There is established within the Fish and Wildlife Conservation Commission the Nongame Wildlife Trust Fund. The fund shall be credited with moneys collected pursuant to ss. 319.32(3) and 320.02(8). Additional funds may be provided from legislative appropriations and by donations from interested individuals and organizations. The commission shall designate an identifiable unit to administer the trust fund.

Section 53. For the purpose of incorporating the amendment made by this act to section 379.353, Florida Statutes, in a reference thereto, subsection (7) of section 379.3581, Florida Statutes, is reenacted to read:

379.3581 Hunter safety course; requirements; penalty.—

(7) The hunter safety requirements of this section do not apply to persons for whom licenses are not required under s. 379.353(2).

Section 54. For the purpose of incorporating the amendment made by this act to section 379.354, Florida Statutes, in a reference thereto, section 379.2213, Florida Statutes, is reenacted to read:

379.2213 Management area permit revenues.—The commission shall expend the revenue generated from the sale of the management area permit as provided for in s. 379.354(8)(g) or that pro rata portion of any license that includes management area privileges as provided for in s. 379.354(4)(h), (i), and (j) for the lease, management, and protection of lands for public hunting, fishing, and other outdoor recreation.

Section 55. For the purpose of incorporating the amendment made by this act to section 379.354, Florida Statutes, in a reference thereto, section 379.3501, Florida Statutes, is reenacted to read:

379.3501 Expiration of licenses and permits.—Each license or permit issued under this part must be dated when issued. Each license or permit issued under this part remains valid for 12 months after the date of issuance, except for a lifetime license issued pursuant to s. 379.354 which is valid from the date of issuance until the death of the individual to whom the license is issued unless otherwise revoked in accordance with s. 379.401 or s. 379.404, or a 5-year license issued pursuant to s. 379.354 which is valid for 5 consecutive years from the date of purchase unless otherwise revoked in accordance with s. 379.401 or s. 379.404, or a license issued pursuant to s. 379.354(5)(a), (b), (c), (d), or (g) or (8)(f), (g)2., or (h)1., which is valid for

the period specified on the license. A resident lifetime license or a resident 5-year license that has been purchased by a resident of this state and who subsequently resides in another state shall be honored for activities authorized by that license.

Section 56. For the purpose of incorporating the amendment made by this act to section 379.354, Florida Statutes, in a reference thereto, subsection (2) of section 379.3712, Florida Statutes, is reenacted to read:

379.3712 Private hunting preserve license fees; exception.—

(2) A commercial hunting preserve license, which shall exempt patrons of licensed preserves from the license and permit requirements of s. 379.354(4)(c), (d), (f), (h), (i) and (j); (5)(g) and (h); (8)(a), (b), and (e); (9)(a)2.; (11); and (12) while hunting on the licensed preserve property, shall be \$500. Such commercial hunting preserve license shall be available only to those private hunting preserves licensed pursuant to this section which are operated exclusively for commercial purposes, which are open to the public, and for which a uniform fee is charged to patrons for hunting privileges.

Section 57. Section 403.9335, Florida Statutes, is created to read:

403.9335 Coral reef protection.—

(1) This section may be cited as the “Florida Coral Reef Protection Act.”

(2) This act applies to the sovereign submerged lands that contain coral reefs as defined in this act off the coasts of Broward, Martin, Miami-Dade, Monroe, and Palm Beach counties.

(3) As used in this section, the term:

(a) “Aggravating circumstances” means operating, anchoring, or mooring a vessel in a reckless or wanton manner; under the influence of drugs or alcohol; or otherwise with disregard for boating regulations concerning speed, navigation, or safe operation.

(b) “Coral” means species of the phylum Cnidaria found in state waters including:

1. Class Anthozoa, including the subclass Octocorallia, commonly known as gorgonians, soft corals, and telestaceans; and

2. Orders Scleractinia, commonly known as stony corals; Stolonifera, including, among others, the organisms commonly known as organ-pipe corals; Antipatharia, commonly known as black corals; and Hydrozoa, including the family Millaporidae and family Stylasteridae, commonly known as hydrocoral.

(c) “Coral reefs” mean:

1. Limestone structures composed wholly or partially of living corals, their skeletal remains, or both, and hosting other coral, associated benthic invertebrates, and plants; or

2. Hard-bottom communities, also known as live bottom habitat or colonized pavement, characterized by the presence of coral and associated reef organisms or worm reefs created by the Phragmatopoma species.

(d) “Damages” means moneys paid by any person or entity, whether voluntarily or as a result of administrative or judicial action, to the state as compensation, restitution, penalty, civil penalty, or mitigation for causing injury to or destruction of coral reefs.

(e) “Department” means the Department of Environmental Protection.

(f) “Fund” means the Ecosystem Management and Restoration Trust Fund.

(g) “Person” means any and all persons, natural or artificial, foreign or domestic, including any individual, firm, partnership, business, corporation, and company and the United States and all political subdivisions, regions, districts, municipalities, and public agencies thereof.

(h) “Responsible party” means the owner, operator, manager, or insurer of any vessel.

(4) The Legislature finds that coral reefs are valuable natural resources that contribute ecologically, aesthetically, and economically to the state. Therefore, the Legislature declares it is in the best interest of the state to clarify the department’s powers and authority to protect coral reefs through timely and efficient recovery of monetary damages resulting from vessel groundings and anchoring-related injuries. It is the intent of the Legislature that the department be recognized as the state’s lead trustee for coral reef resources located within waters of the state or on sovereignty submerged lands unless preempted by federal law. This section does not divest other state agencies and political subdivisions of the state of their interests in protecting coral reefs.

(5) The responsible party who knows or should know that their vessel has run aground, struck, or otherwise damaged coral reefs must notify the department of such an event within 24 hours after its occurrence. Unless otherwise prohibited or restricted by the United States Coast Guard, the responsible party must remove or cause the removal of the grounded or anchored vessel within 72 hours after the initial grounding or anchoring absent extenuating circumstances such as weather, or marine hazards that would prevent safe removal of the vessel. The responsible party must remove or cause the removal of the vessel or its anchor in a manner that avoids further damage to coral reefs and shall consult with the department in accomplishing this task. The responsible party must cooperate with the department to undertake damage assessment and primary restoration of the coral reef in a timely fashion.

(6) In any action or suit initiated pursuant to chapter 253 on the behalf of the Board of Trustees of the Internal Improvement Trust Fund, or under chapter 373 or this chapter for damage to coral reefs, the department may recover all damages from the responsible party, including, but not limited to:

(a) Compensation for the cost of replacing, restoring, or acquiring the equivalent of the coral reef injured and the value of the lost use and services of the coral reef pending its restoration, replacement, or acquisition of the equivalent coral reef, or the value of the coral reef if the coral reef cannot be restored or replaced or if the equivalent cannot be acquired.

(b) The cost of damage assessments, including staff time.

(c) The cost of activities undertaken by or at the request of the department to minimize or prevent further injury to coral or coral reefs pending restoration, replacement, or acquisition of an equivalent.

(d) The reasonable cost of monitoring the injured, restored, or replaced coral reef for at least 10 years. Such monitoring is not required for a single occurrence of damage to a coral reef damage totaling less than or equal to 1 square meter.

(e) The cost of enforcement actions undertaken in response to the destruction or loss of or injury to a coral reef, including court costs, attorney's fees, and expert witness fees.

(7) The department may use habitat equivalency analysis as the method by which the compensation described in subsection (5) is calculated. The parameters for calculation by this method may be prescribed by rule adopted by the department.

(8) In addition to the compensation described in subsection (5), the department may assess, per occurrence, civil penalties according the following schedule:

(a) For any anchoring of a vessel on a coral reef or for any other damage to a coral reef totaling less than or equal to an area of 1 square meter, \$150, provided that a responsible party who has anchored a recreational vessel as defined in s. 327.02 which is lawfully registered or exempt from registration pursuant to chapter 328 is issued, at least once, a warning letter in lieu of penalty; with aggravating circumstances, an additional \$150; occurring within a state park or aquatic preserve, an additional \$150.

(b) For damage totaling more than an area of 1 square meter but less than or equal to an area of 10 square meters, \$300 per square meter; with aggravating circumstances, an additional \$300 per square meter; occurring within a state park or aquatic preserve, an additional \$300 per square meter.

(c) For damage exceeding an area of 10 square meters, \$1,000 per square meter; with aggravating circumstances, an additional \$1,000 per square meter; occurring within a state park or aquatic preserve, an additional \$1,000 per square meter.

(d) For a second violation, the total penalty may be doubled.

(e) For a third violation, the total penalty may be tripled.

(f) For any violation after a third violation, the total penalty may be quadrupled.

(g) The total of penalties levied may not exceed \$250,000 per occurrence.

(9) To carry out the intent of this section, the department may enter into delegation agreements with another state agency or any coastal county with coral reefs within its jurisdiction. In deciding to execute such agreements, the department must consider the ability of the potential delegee to adequately and competently perform the duties required to fulfill the intent of this section. When such agreements are executed by the parties and incorporated in department rule, the delegee shall have all rights accorded the department by this section. Nothing herein shall be construed to require the department, another state agency, or a coastal county to enter into such an agreement.

(10) Nothing in this section shall be construed to prevent the department or other state agencies from entering into agreements with federal authorities related to the administration of the Florida Keys National Marine Sanctuary.

(11) All damages recovered by or on behalf of this state for injury to, or destruction of, the coral reefs of the state that would otherwise be deposited in the general revenue accounts of the State Treasury or in the Internal Improvement Trust Fund shall be deposited in the Ecosystem Management and Restoration Trust Fund in the department and shall remain in such account until expended by the department for the purposes of this section. Moneys in the fund received from damages recovered for injury to, or destruction of, coral reefs must be expended only for the following purposes:

(a) To provide funds to the department for reasonable costs incurred in obtaining payment of the damages for injury to, or destruction of, coral reefs, including administrative costs and costs of experts and consultants. Such funds may be provided in advance of recovery of damages.

(b) To pay for restoration or rehabilitation of the injured or destroyed coral reefs or other natural resources by a state agency or through a contract to any qualified person.

(c) To pay for alternative projects selected by the department. Any such project shall be selected on the basis of its anticipated benefits to the residents of this state who used the injured or destroyed coral reefs or other natural resources or will benefit from the alternative project.

(d) All claims for trust fund reimbursements under paragraph (a) must be made within 90 days after payment of damages is made to the state.

(e) Each private recipient of fund disbursements shall be required to agree in advance that its accounts and records of expenditures of such moneys are subject to audit at any time by appropriate state officials and to submit a final written report describing such expenditures within 90 days after the funds have been expended.



(f) When payments are made to a state agency from the fund for expenses compensable under this subsection, such expenditures shall be considered as being for extraordinary expenses, and no agency appropriation shall be reduced by any amount as a result of such reimbursement.

(12) The department may adopt rules pursuant to ss. 120.536 and 120.54 to administer this section.

Section 58. Paragraph (b) of subsection (2) of section 403.1651, Florida Statutes, is amended to read:

403.1651 Ecosystem Management and Restoration Trust Fund.—

(2) The trust fund shall be used for the deposit of all moneys recovered by the state:

(b) For injury to or destruction of coral reefs, which moneys would otherwise be deposited into the General Revenue Fund or the Internal Improvement Trust Fund. The department may enter into settlement agreements that require responsible parties to pay a third party to fund projects related to the restoration of a coral reef, to accomplish mitigation for injury to a coral reef, or to support the activities of law enforcement agencies related to coral reef injury response, investigation and assessment. Participation of a law enforcement agency in the receipt of funds through this mechanism shall be at the law enforcement agency's discretion.

Section 59. Subsection (3) of section 253.04, Florida Statutes, is repealed.

Section 60. Section 380.0558, Florida Statutes, is repealed.

Section 61. Effective October 1, 2009, section 327.22, Florida Statutes, is repealed.

Section 62. Effective July 1, 2010, sections 379.2211 and 379.2212, Florida Statutes, are repealed.

Section 63. Subsection (7) of section 379.366, Florida Statutes, is repealed.

Section 64. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2009.

Approved by the Governor May 27, 2009.

Filed in Office Secretary of State May 27, 2009.