

CHAPTER 2012-88

Committee Substitute for Committee Substitute for House Bill No. 1383

An act relating to the Fish and Wildlife Conservation Commission; transferring and reassigning functions and responsibilities of the Division of Law Enforcement, excluding the Bureau of Emergency Response, within the Department of Environmental Protection to the Division of Law Enforcement within the Fish and Wildlife Conservation Commission; reassigning the Bureau of Emergency Response within the Department of Environmental Protection to the Secretary of Environmental Protection as the Office of Emergency Response within the Department of Environmental Protection; providing for the transfer of additional positions to the commission; providing for a memorandum of agreement between the department and the commission regarding the responsibilities of the commission to the department; transferring and reassigning functions and responsibilities of sworn positions funded by the Conservation and Recreation Lands Program and assigned to the Florida Forest Service within the Department of Agriculture and Consumer Services and the investigator responsible for the enforcement of aquaculture violations at the Department of Agriculture and Consumer Services to the Division of Law Enforcement within the Fish and Wildlife Conservation Commission; providing for a memorandum of agreement between the department and the commission regarding the responsibilities between the commission and the department; providing for transition advisory working groups; assigning powers, duties, responsibilities, and functions for enforcement of the laws and rules governing certain lands managed by the Department of Environmental Protection and certain lands and aquaculture managed by the Department of Agriculture and Consumer Services to the Fish and Wildlife Conservation Commission; conferring full power to the law enforcement officers of the Fish and Wildlife Conservation Commission to investigate and arrest for violations of rules of the Department of Agriculture and Consumer Services, the Department of Environmental Protection, and the Board of Trustees of the Internal Improvement Trust Fund; providing for the retention and transfer of specified benefits for employees that are transferred from the Department of Environmental Protection and the Department of Agriculture and Consumer Services to fill positions transferred to the Fish and Wildlife Conservation Commission; creating s. 258.601, F.S.; specifying powers and duties of the commission relating to state parks and preserves and wild and scenic rivers; amending ss. 20.255, 258.008, 258.501, 282.709, 316.003, 316.2397, 316.640, 375.041, 376.065, 376.07, 376.071, 376.16, 376.3071, 379.3311, 379.3312, 379.3313, 379.333, 379.341, 379.343, 403.413, 784.07, 843.08, 843.085, 870.04, and 932.7055, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. (1) All powers, duties, functions, records, offices, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds relating to the Division of Law Enforcement within the Department of Environmental Protection, excluding the Bureau of Emergency Response, are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Division of Law Enforcement within the Florida Fish and Wildlife Conservation Commission.

(2) The Bureau of Emergency Response within the Department of Environmental Protection is reassigned to the Secretary of Environmental Protection as the Office of Emergency Response within the Department of Environmental Protection.

(3) The Secretary of Environmental Protection shall transfer to the Fish and Wildlife Conservation Commission the number of administrative, auditing, inspector general, attorney, and operational support positions, including any related powers, duties, functions, property, and funding, proportionate to the number of Division of Law Enforcement full-time equivalent and other personal services positions being transferred from the department to the commission.

(4) A memorandum of agreement shall be developed between the department and the commission detailing the responsibilities of the commission to the department, to include, at a minimum, the following:

(a) Support and response for oil spills, hazardous spills, and natural disasters.

(b) Law enforcement patrol and investigative services for all state-owned lands managed by the department.

(c) Law enforcement services, including investigative services, for all criminal law violations of chapters 161, 258, 373, 376, and 403, Florida Statutes.

(d) Enforcement services for all civil violations of all department administrative rules related to the following program areas:

1. Division of Recreation and Parks.
2. Office of Coastal and Aquatic Managed Areas.
3. Office of Greenways and Trails.

(e) Current and future funding for positions and property being transferred from the department to the commission that is funded through any trust fund.

Section 2. (1) All powers, duties, functions, records, property, pending issues and existing contracts, administrative authority, administrative

rules, and unexpended balances of appropriations, allocations, and other funds relating to sworn positions funded by the Conservation and Recreation Lands Program and assigned to the Florida Forest Service within the Department of Agriculture and Consumer Services as of July 1, 2011, and the investigator responsible for the enforcement of aquaculture violations at the Department of Agriculture and Consumer Services as of July 1, 2011, are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Division of Law Enforcement within the Fish and Wildlife Conservation Commission.

(2) A memorandum of agreement shall be developed between the department and the commission detailing the responsibilities between the commission and the department, to include, at a minimum, the following:

(a) Law enforcement patrol and investigative services for all state-owned forests managed by the department.

(b) Current and future funding for positions and property assigned to the Conservation and Recreation Lands Program that are transferred from the department to the commission.

Section 3. (1) The Secretary of Environmental Protection and the Executive Director of the Fish and Wildlife Conservation Commission shall each appoint three staff members to a transition advisory working group to review and determine the following:

(a) The appropriate proportionate number of administrative, auditing, inspector general, attorney, and operational support positions and their related funding levels and sources and assigned property to be transferred from the Office of General Counsel, Office of Inspector General, and Division of Administrative Services or other relevant offices or divisions within the Department of Environmental Protection to the Fish and Wildlife Conservation Commission.

(b) The development of a recommended plan addressing the transfer or shared use of buildings, regional offices, and other facilities used or owned by the Department of Environmental Protection.

(c) Any operating budget adjustments as necessary to implement the requirements of this act. Adjustments made to the operating budgets of the department and the commission in the implementation of this act must be made in consultation with the appropriate substantive and fiscal committees of the Senate and the House of Representatives. The revisions to the approved operating budgets for the 2012-2013 fiscal year which are necessary to reflect the organizational changes made by this act shall be implemented pursuant to s. 216.292(4)(d), Florida Statutes, and subject to s. 216.177, Florida Statutes. Subsequent adjustments between agencies that are determined necessary by the department or commission and approved by the Executive Office of the Governor are authorized and subject to s. 216.177, Florida Statutes. The appropriate substantive committees of the Senate and

the House of Representatives shall also be notified of the proposed revisions to ensure consistency with legislative policy and intent.

(2) The Secretary of Environmental Protection, the Commissioner of Agriculture, and the Executive Director of the Fish and Wildlife Conservation Commission shall each appoint two staff members to a transition advisory working group to identify rules of the Department of Environmental Protection, the Board of Trustees of the Internal Improvement Trust Fund, the Department of Agriculture and Consumer Services, and the Fish and Wildlife Conservation Commission that need to be amended to reflect the changes made by this act.

Section 4. (1) The Fish and Wildlife Conservation Commission is assigned all powers, duties, responsibilities, functions, positions, and property necessary for enforcement of the laws and rules governing:

(a) Management, protection, conservation, improvement, and expansion of the state-owned lands managed by the Department of Environmental Protection, including state parks, coastal and aquatic managed areas, and greenways and trails.

(b) Conservation and recreation lands and commercial aquaculture managed by the Department of Agriculture and Consumer Services.

(2) Law enforcement officers of the Fish and Wildlife Conservation Commission are conferred full power to investigate and arrest for any violation of the rules of the Department of Agriculture and Consumer Services, the Department of Environmental Protection, and the Board of Trustees of the Internal Improvement Trust Fund.

Section 5. Notwithstanding chapter 60K-5, Florida Administrative Code, or any provision of law to the contrary, employees who are transferred from the Department of Environmental Protection and the Department of Agriculture and Consumer Services to fill positions transferred to the Fish and Wildlife Conservation Commission shall retain and transfer any accrued annual leave, sick leave, and regular and special compensatory leave balances.

Section 6. Part IV of chapter 258, Florida Statutes, consisting of section 258.601, is created to read:

PART IV MISCELLANEOUS PROVISIONS

258.601 Enforcement of prohibited activities.—Prohibited activities under this chapter shall be enforced by the Department of Environmental Protection and the Division of Law Enforcement of the Fish and Wildlife Conservation Commission and its officers.

Section 7. Subsections (5) through (8) of section 20.255, Florida Statutes, are renumbered as subsections (4) through (7), respectively, and present subsections (2), (3), and (4) of that section are amended to read:

20.255 Department of Environmental Protection.—There is created a Department of Environmental Protection.

(2)(a) There shall be three deputy secretaries who are to be appointed by and shall serve at the pleasure of the secretary. The secretary may assign any deputy secretary the responsibility to supervise, coordinate, and formulate policy for any division, office, or district. The following special offices are established and headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary:

1. Office of Chief of Staff;
2. Office of General Counsel;
3. Office of Inspector General;
4. Office of External Affairs;
5. Office of Legislative Affairs;
6. Office of Intergovernmental Programs; and
7. Office of Greenways and Trails.
8. Office of Emergency Response.

(b) There shall be six administrative districts involved in regulatory matters of waste management, water resource management, wetlands, and air resources, which shall be headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary. Divisions of the department may have one assistant or two deputy division directors, as required to facilitate effective operation.

The managers of all divisions and offices specifically named in this section and the directors of the six administrative districts are exempt from part II of chapter 110 and are included in the Senior Management Service in accordance with s. 110.205(2)(j).

(3) The following divisions of the Department of Environmental Protection are established:

- (a) Division of Administrative Services.
- (b) Division of Air Resource Management.
- (c) Division of Water Resource Management.
- (d)—~~Division of Law Enforcement.~~

~~(d)~~(e) Division of Environmental Assessment and Restoration.

~~(e)~~(f) Division of Waste Management.

~~(f)~~(g) Division of Recreation and Parks.

~~(g)~~(h) Division of State Lands, the director of which is to be appointed by the secretary of the department, subject to confirmation by the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

In order to ensure statewide and intradepartmental consistency, the department's divisions shall direct the district offices and bureaus on matters of interpretation and applicability of the department's rules and programs.

~~(4) Law enforcement officers of the Department of Environmental Protection who meet the provisions of s. 943.13 are constituted law enforcement officers of this state with full power to investigate and arrest for any violation of the laws of this state, and the rules of the department and the Board of Trustees of the Internal Improvement Trust Fund. The general laws applicable to investigations, searches, and arrests by peace officers of this state apply to such law enforcement officers.~~

Section 8. Subsection (1) of section 258.008, Florida Statutes, is amended to read:

258.008 Prohibited activities; penalties.—

(1) Except as provided in subsection (3), any person who violates or otherwise fails to comply with the rules adopted under this chapter commits a noncriminal infraction for which ejection from all property managed by the Division of Recreation and Parks and a fine of up to \$500 may be imposed by the division. Fines paid under this subsection shall be paid to the Fish and Wildlife Conservation Commission Department of Environmental Protection and deposited in the State Game Park Trust Fund as provided in ss. 379.338, 379.339, and 379.3395.

Section 9. Subsection (16) of section 258.501, Florida Statutes, is amended to read:

258.501 Myakka River; wild and scenic segment.—

(16) ENFORCEMENT.—~~Officers of The department and the Fish and Wildlife Conservation Commission~~ shall have full authority to enforce any rule adopted by the department under this section with the same police powers given them by law to enforce the rules of state parks and the rules pertaining to saltwater areas under the jurisdiction of the Florida Marine Patrol.

Section 10. Paragraph (a) of subsection (2) of section 282.709, Florida Statutes, is amended to read:

282.709 State agency law enforcement radio system and interoperability network.—

(2) The Joint Task Force on State Agency Law Enforcement Communications is created adjunct to the department to advise the department of member-agency needs relating to the planning, designing, and establishment of the statewide communication system.

(a) The Joint Task Force on State Agency Law Enforcement Communications shall consist of the following eight members, as follows:

1. A representative of the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation who shall be appointed by the secretary of the department.

2. A representative of the Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles who shall be appointed by the executive director of the department.

3. A representative of the Department of Law Enforcement who shall be appointed by the executive director of the department.

4. A representative of the Fish and Wildlife Conservation Commission who shall be appointed by the executive director of the commission.

~~5. A representative of the Division of Law Enforcement of the Department of Environmental Protection who shall be appointed by the secretary of the department.~~

~~5.6.~~ A representative of the Department of Corrections who shall be appointed by the secretary of the department.

~~6.7.~~ A representative of the Division of State Fire Marshal of the Department of Financial Services who shall be appointed by the State Fire Marshal.

~~7.8.~~ A representative of the Department of Transportation who shall be appointed by the secretary of the department.

Section 11. Subsection (1) of section 316.003, Florida Statutes, is amended to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(1) AUTHORIZED EMERGENCY VEHICLES.—Vehicles of the fire department (fire patrol), police vehicles, and such ambulances and emergency vehicles of municipal departments, public service corporations

operated by private corporations, the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, the Department of Health, the Department of Transportation, and the Department of Corrections as are designated or authorized by their respective department or the chief of police of an incorporated city or any sheriff of any of the various counties.

Section 12. Subsections (3) and (9) of section 316.2397, Florida Statutes, are amended to read:

316.2397 Certain lights prohibited; exceptions.—

(3) Vehicles of the fire department and fire patrol, including vehicles of volunteer firefighters as permitted under s. 316.2398, vehicles of medical staff physicians or technicians of medical facilities licensed by the state as authorized under s. 316.2398, ambulances as authorized under this chapter, and buses and taxicabs as authorized under s. 316.2399 may ~~are permitted to~~ show or display red lights. Vehicles of the fire department, fire patrol, police vehicles, and such ambulances and emergency vehicles of municipal and county departments, public service corporations operated by private corporations, the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, the Department of Transportation, the Department of Agriculture and Consumer Services, and the Department of Corrections as are designated or authorized by their respective department or the chief of police of an incorporated city or any sheriff of any county may ~~are hereby authorized to~~ operate emergency lights and sirens in an emergency. Wreckers, mosquito control fog and spray vehicles, and emergency vehicles of governmental departments or public service corporations may show or display amber lights when in actual operation or when a hazard exists provided they are not used going to and from the scene of operation or hazard without specific authorization of a law enforcement officer or law enforcement agency. Wreckers must use amber rotating or flashing lights while performing recoveries and loading on the roadside day or night, and may use such lights while towing a vehicle on wheel lifts, slings, or under reach if the operator of the wrecker deems such lights necessary. A flatbed, car carrier, or rollback may not use amber rotating or flashing lights when hauling a vehicle on the bed unless it creates a hazard to other motorists because of protruding objects. Further, escort vehicles may show or display amber lights when in the actual process of escorting oversized equipment, material, or buildings as authorized by law. Vehicles owned or leased by private security agencies may show or display green and amber lights, with either color being no greater than 50 percent of the lights displayed, while the security personnel are engaged in security duties on private or public property.

(9) Flashing red lights may be used by emergency response vehicles of the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, and the Department of Health when responding to an emergency in the line of duty.

Section 13. Paragraph (a) of subsection (1) of section 316.640, Florida Statutes, is amended to read:

316.640 Enforcement.—The enforcement of the traffic laws of this state is vested as follows:

(1) STATE.—

(a)1.a. The Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles; the Division of Law Enforcement of the Fish and Wildlife Conservation Commission; ~~the Division of Law Enforcement of the Department of Environmental Protection;~~ and the agents, inspectors, and officers of the Department of Law Enforcement each have authority to enforce all of the traffic laws of this state on all the streets and highways thereof and elsewhere throughout the state wherever the public has a right to travel by motor vehicle.

b. University police officers may ~~shall have authority to~~ enforce all of the traffic laws of this state when violations occur on or within 1,000 feet of any property or facilities that are under the guidance, supervision, regulation, or control of a state university, a direct-support organization of such state university, or any other organization controlled by the state university or a direct-support organization of the state university, or when such violations occur within a specified jurisdictional area as agreed upon in a mutual aid agreement entered into with a law enforcement agency pursuant to s. 23.1225(1). Traffic laws may also be enforced off-campus when hot pursuit originates on or within 1,000 feet of any such property or facilities, or as agreed upon in accordance with the mutual aid agreement.

c. Community college police officers may ~~shall have the authority to~~ enforce all the traffic laws of this state only when such violations occur on any property or facilities that are under the guidance, supervision, regulation, or control of the community college system.

d. Police officers employed by an airport authority may ~~shall have the authority to~~ enforce all of the traffic laws of this state only when such violations occur on any property or facilities that are owned or operated by an airport authority.

(I) An airport authority may employ as a parking enforcement specialist any individual who successfully completes a training program established and approved by the Criminal Justice Standards and Training Commission for parking enforcement specialists but who does not otherwise meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary or part-time officers under s. 943.12. ~~Nothing in This sub-sub-subparagraph~~ may not ~~shall~~ be construed to permit the carrying of firearms or other weapons, nor shall such parking enforcement specialist have arrest authority.

(II) A parking enforcement specialist employed by an airport authority may ~~is authorized to~~ enforce all state, county, and municipal laws and ordinances governing parking only when such violations are on property or facilities owned or operated by the airport authority employing the specialist, by appropriate state, county, or municipal traffic citation.

e. The Office of Agricultural Law Enforcement of the Department of Agriculture and Consumer Services may ~~shall have the authority to~~ enforce traffic laws of this state.

f. School safety officers may ~~shall have the authority to~~ enforce all of the traffic laws of this state when such violations occur on or about any property or facilities that ~~which~~ are under the guidance, supervision, regulation, or control of the district school board.

2. An agency of the state as described in subparagraph 1. is prohibited from establishing a traffic citation quota. A violation of this subparagraph is not subject to the penalties provided in chapter 318.

3. Any disciplinary action taken or performance evaluation conducted by an agency of the state as described in subparagraph 1. of a law enforcement officer's traffic enforcement activity must be in accordance with written work-performance standards. Such standards must be approved by the agency and any collective bargaining unit representing such law enforcement officer. A violation of this subparagraph is not subject to the penalties provided in chapter 318.

4. The Division of the Florida Highway Patrol may employ as a traffic accident investigation officer any individual who successfully completes instruction in traffic accident investigation and court presentation through the Selective Traffic Enforcement Program as approved by the Criminal Justice Standards and Training Commission and funded through the National Highway Traffic Safety Administration or a similar program approved by the commission, but who does not necessarily meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary law enforcement officers under chapter 943. Any such traffic accident investigation officer who makes an investigation at the scene of a traffic accident may issue traffic citations, based upon personal investigation, when he or she has reasonable and probable grounds to believe that a person who was involved in the accident committed an offense under this chapter, chapter 319, chapter 320, or chapter 322 in connection with the accident. This subparagraph does not permit the officer to carry firearms or other weapons, and such an officer does not have authority to make arrests.

Section 14. Subsection (4) of section 375.041, Florida Statutes, is amended to read:

375.041 Land Acquisition Trust Fund.—

(4) The department may disburse moneys in the Land Acquisition Trust Fund to pay all necessary expenses to carry out the purposes of this act. The department shall disburse moneys from the Land Acquisition Trust Fund to the Fish and Wildlife Conservation Commission for the purpose of funding law enforcement services on state lands.

Section 15. Subsection (5) of section 376.065, Florida Statutes, is amended to read:

376.065 Operation of terminal facility without discharge prevention and response certificate prohibited; penalty.—

(5)(a) A Any person who violates this section or the terms and requirements of such certification commits a noncriminal infraction. The civil penalty for any such infraction shall be \$500, except as otherwise provided in this section.

(b) A Any person cited for an infraction under this section may:

1. Pay the civil penalty;
2. Post a bond equal to the amount of the applicable civil penalty; or
3. Sign and accept a citation indicating a promise to appear before the county court.

The department employee officer authorized to issue these citations may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.

(c) A Any person who willfully refuses to post bond or accept and sign a citation commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(d) After compliance with ~~the provisions of~~ subparagraph (b)2. or subparagraph (b)3., a any person charged with a noncriminal infraction under this section may:

1. Pay the civil penalty, either by mail or in person, within 30 days after the date of receiving the citation; or
2. If the person has posted bond, forfeit the bond by not appearing at the designated time and location.

A person cited for an infraction under this section who pays the civil penalty or forfeits the bond has admitted the infraction and waives the right to a hearing on the issue of commission of the infraction. Such admission may not be used as evidence in any other proceedings.

(e) A Any person who elects to appear before the county court or who is required to so appear waives the limitations of the civil penalty specified in paragraph (a). The court, after a hearing, shall make a determination as to

whether an infraction has been committed. If the commission of the infraction is proved, the court shall impose a civil penalty of \$500.

(f) At a hearing under this subsection, the commission of a charged infraction must be proved by the greater weight of the evidence.

(g) A person who is found by the hearing official to have committed an infraction may appeal that finding to the circuit court.

(h) ~~A~~ Any person who has not posted bond and who fails either to pay the fine specified in paragraph (a) within 30 days after receipt of the citation or to appear before the court commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 16. Subsection (3) of section 376.07, Florida Statutes, is amended to read:

376.07 Regulatory powers of department; penalties for inadequate booming by terminal facilities.—

(3) The department shall not require vessels to maintain discharge prevention gear, holding tanks, and containment gear which exceed federal requirements. However, a terminal facility transferring heavy oil to or from a vessel with a heavy oil storage capacity greater than 10,000 gallons shall be required, considering existing weather and tidal conditions, to adequately boom or seal off the transfer area during a transfer, including, but not limited to, a bunkering operation, to minimize the escape of such pollutants from the containment area. As used in this subsection, the term “adequate booming” means booming with proper containment equipment which is employed and located for the purpose of preventing, for the most likely discharge, as much of the pollutant as possible from escaping out of the containment area.

(a) The owner or operator of a terminal facility involved in the transfer of such pollutant to or from a vessel which is not adequately boomed commits a noncriminal infraction and shall be cited for such infraction. The civil penalty for such an infraction shall be \$2,500, except as otherwise provided in this section.

(b) ~~A~~ Any person cited for an infraction under this section may:

1. Pay the civil penalty;
2. Post bond equal to the amount of the applicable civil penalty; or
3. Sign and accept a citation indicating a promise to appear before the county court.

The ~~department employee officer~~ authorized to issue these citations may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.

(c) A ~~Any~~ person who willfully refuses to post bond or accept and sign a citation commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(d) After compliance with subparagraph (b)2. or subparagraph (b)3., a ~~any~~ person charged with a noncriminal infraction under this section may:

1. Pay the civil penalty, either by mail or in person, within 30 days after the date of receiving the citation; or
2. If the person has posted bond, forfeit the bond by not appearing at the designated time and location.

A person cited for an infraction under this section who pays the civil penalty or forfeits the bond has admitted the infraction and waives the right to a hearing on the issue of commission of the infraction. Such admission may not be used as evidence in any other proceedings.

(e) A ~~Any~~ person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalty specified in paragraph (a). The issue of whether an infraction has been committed and the severity of the infraction shall be determined by a hearing official at a hearing. If the commission of the infraction is proved by the greater weight of the evidence, the court shall impose a civil penalty of \$2,500. If the court determines that the owner or operator of the terminal facility failed to deploy any boom equipment during such a transfer, including, but not limited to, a bunkering operation, the civil penalty shall be \$5,000.

(f) A person who is found by the hearing official to have committed an infraction may appeal that finding to the circuit court.

(g) A ~~Any~~ person who has not posted bond and who fails either to pay the civil penalty specified in paragraph (a) within 30 days after receipt of the citation or to appear before the court commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 17. Subsection (2) of section 376.071, Florida Statutes, is amended to read:

376.071 Discharge contingency plan for vessels.—

(2)(a) A ~~Any~~ master of a vessel ~~that which~~ violates subsection (1) commits a noncriminal infraction and shall be cited for such infraction. The civil penalty for such an infraction shall be \$5,000, except as otherwise provided in this subsection.

(b) A ~~Any~~ person charged with a noncriminal infraction under this section may:

1. Pay the civil penalty;

2. Post bond equal to the amount of the applicable civil penalty; or

3. Sign and accept a citation indicating a promise to appear before the county court for the county in which the violation occurred or the county closest to the location at which the violation occurred.

The department employee ~~officer~~ authorized to issue these citations may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.

(c) A ~~Any~~ person who willfully refuses to post bond or accept and sign a citation commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(d) After complying with the provisions of subparagraph (b)2. or subparagraph (b)3., a ~~any~~ person charged with a noncriminal infraction under this section may:

1. Pay the civil penalty, either by mail or in person, within 30 days after the date of receiving the citation; or

2. If the person has posted bond, forfeit the bond by not appearing at the designated time and location.

A person cited for an infraction under this section who pays the civil penalty or forfeits the bond has admitted the infraction and waives the right to a hearing on the issue of commission of the infraction. Such admission may not be used as evidence in any other proceedings.

(e) A ~~Any~~ person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalty specified in paragraph (a). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of the infraction is proved, the court shall impose a civil penalty of \$5,000.

(f) At a hearing under this subsection, the commission of a charged infraction must be proved by the greater weight of the evidence.

(g) A person who is found by the hearing official to have committed an infraction may appeal that finding to the circuit court.

(h) A ~~Any~~ person who has not posted bond and who fails either to pay the civil penalty specified in paragraph (a) within 30 days after receipt of the citation or to appear before the court commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 18. Subsection (4) of section 376.16, Florida Statutes, is amended to read:

376.16 Enforcement and penalties.—

(4) ~~A~~ Any person charged with a noncriminal infraction pursuant to subsection (2) or subsection (3) may:

- (a) Pay the civil penalty;
- (b) Post a bond equal to the amount of the applicable civil penalty; or
- (c) Sign and accept a citation indicating a promise to appear before the county court.

The ~~department employee officer~~ authorized to issue these citations may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.

Section 19. Paragraph (q) is added to subsection (4) of section 376.3071, Florida Statutes, to read:

376.3071 Inland Protection Trust Fund; creation; purposes; funding.—

(4) USES.—Whenever, in its determination, incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the environment or the public health, safety, or welfare, the department shall obligate moneys available in the fund to provide for:

(q) Enforcement of this section and ss. 376.30-376.317 by the Fish and Wildlife Conservation Commission. The department shall disburse moneys to the commission for such purpose.

The Inland Protection Trust Fund may only be used to fund the activities in ss. 376.30-376.317 except ss. 376.3078 and 376.3079. Amounts on deposit in the Inland Protection Trust Fund in each fiscal year shall first be applied or allocated for the payment of amounts payable by the department pursuant to paragraph (o) under a service contract entered into by the department pursuant to s. 376.3075 and appropriated in each year by the Legislature prior to making or providing for other disbursements from the fund. Nothing in this subsection shall authorize the use of the Inland Protection Trust Fund for cleanup of contamination caused primarily by a discharge of solvents as defined in s. 206.9925(6), or polychlorinated biphenyls when their presence causes them to be hazardous wastes, except solvent contamination which is the result of chemical or physical breakdown of petroleum products and is otherwise eligible. Facilities used primarily for the storage of motor or diesel fuels as defined in ss. 206.01 and 206.86 shall be presumed not to be excluded from eligibility pursuant to this section.

Section 20. Section 379.3311, Florida Statutes, is amended to read:

379.3311 Police powers of commission and its agents.—

(1) ~~The Fish and Wildlife Conservation~~ commission, the executive director and the executive director's assistants designated by her or him, and each commission ~~wildlife~~ officer are constituted peace officers with the

power to make arrests for violations of the laws of this state when committed in the presence of the officer or when committed on lands under the supervision and management of the commission, the department, the Board of Trustees of the Internal Improvement Trust Fund, or the Department of Agricultural and Consumer Services, including state parks, coastal and aquatic managed areas, and greenways and trails. The general laws applicable to arrests by peace officers of this state shall also be applicable to such said director, assistants, and commission wildlife officers. Such persons may enter upon any land or waters of the state for performance of their lawful duties and may take with them any necessary equipment, and such entry does ~~shall~~ not constitute a trespass.

(2) Such officers ~~may shall have power and authority to enforce~~ throughout the state all laws relating to game, nongame birds, fish, and fur-bearing animals and all rules and regulations of the ~~Fish and Wildlife Conservation~~ commission relating to wild animal life, marine life, and freshwater aquatic life, and in connection with such said laws, rules, and regulations, in the enforcement thereof and in the performance of their duties thereunder, to:

- (a) Go upon all premises, posted or otherwise;
- (b) Execute warrants and search warrants for the violation of such said laws;
- (c) Serve subpoenas issued for the examination, investigation, and trial of all offenses against such said laws;
- (d) Carry firearms or other weapons, concealed or otherwise, in the performance of their duties;
- (e) Arrest upon probable cause without warrant any person found in the act of violating any such ~~of the provisions of said laws~~ or, in pursuit immediately following such violations, to examine any person, boat, conveyance, vehicle, game bag, game coat, or other receptacle for wild animal life, marine life, or freshwater aquatic life, or any camp, tent, cabin, or roster, in the presence of any person stopping at or belonging to such camp, tent, cabin, or roster, when such said officer has reason to believe, and has exhibited her or his authority and stated to the suspected person in charge the officer's reason for believing, that any of the aforesaid laws have been violated at such camp;
- (f) Secure and execute search warrants and in pursuance thereof to enter any building, enclosure, or car and to break open, when found necessary, any apartment, chest, locker, box, trunk, crate, basket, bag, package, or container and examine the contents thereof;
- (g) Seize and take possession of all wild animal life, marine life, or freshwater aquatic life taken or in possession or under control of, or shipped

or about to be shipped by, any person at any time in any manner contrary to such said laws.

(3) It is unlawful for any person to resist an arrest authorized by this section or in any manner to interfere, either by abetting, assisting such resistance, or otherwise interfering with such said executive director, assistants, or commission wildlife officers while engaged in the performance of the duties imposed upon them by law or regulation of the Fish and Wildlife Conservation commission, the department, the Board of Trustees of the Internal Improvement Trust Fund, or the Department of Agriculture and Consumer Services.

(4) Upon final disposition of any alleged offense for which a citation for any violation of this chapter or the rules of the commission has been issued, the court shall, within 10 days after the final disposition of the action, certify the disposition to the commission.

Section 21. Section 379.3312, Florida Statutes, is amended to read:

~~379.3312 Powers of arrest by agents of Department of Environmental Protection or Fish and Wildlife Conservation commission.—~~Any certified law enforcement officer of the ~~Department of Environmental Protection or the Fish and Wildlife Conservation~~ commission, upon receiving information, relayed to her or him from any law enforcement officer stationed on the ground, on the water, or in the air, that a driver, operator, or occupant of any vehicle, boat, or airboat has violated any section of chapter 327, chapter 328, or this chapter, or s. 597.010 or s. 597.020, may arrest the driver, operator, or occupant for violation of such said laws when reasonable and proper identification of the vehicle, boat, or airboat and reasonable and probable grounds to believe that the driver, operator, or occupant has committed or is committing any such offense have been communicated to the arresting officer by the other officer stationed on the ground, on the water, or in the air.

Section 22. Subsection (1) of section 379.3313, Florida Statutes, is amended to read:

379.3313 Powers of commission law enforcement officers.—

(1) Law enforcement officers of the commission are constituted law enforcement officers of this state with full power to investigate and arrest for any violation of the laws of this state and the rules of the commission, the department, the Board of Trustees of the Internal Improvement Trust Fund, and the Department of Agriculture and Consumer Services under their jurisdiction. The general laws applicable to arrests by peace officers of this state shall also be applicable to law enforcement officers of the commission. Such law enforcement officers may enter upon any land or waters of the state for performance of their lawful duties and may take with them any necessary equipment, and such entry will not constitute a trespass. It is lawful for any boat, motor vehicle, or aircraft owned or chartered by the commission or its agents or employees to land on and depart from any of the beaches or waters

of the state. Such law enforcement officers have the authority, without warrant, to board, inspect, and search any boat, fishing appliance, storage or processing plant, fishhouse, spongehouse, oysterhouse, or other warehouse, building, or vehicle engaged in transporting or storing any fish or fishery products. Such authority to search and inspect without a search warrant is limited to those cases in which such law enforcement officers have reason to believe that fish or any saltwater products are taken or kept for sale, barter, transportation, or other purposes in violation of laws or rules adopted promulgated under this law. ~~Any~~ Such law enforcement officers ~~officer~~ may at any time seize or take possession of any saltwater products or contraband which have been unlawfully caught, taken, or processed or which are unlawfully possessed or transported in violation of any of the laws of this state or any rule of the commission. Such law enforcement officers may arrest any person in the act of violating ~~any of the provisions of this law, the rules of the commission, or any of the laws of this state.~~ It is ~~hereby declared~~ unlawful for a ~~any~~ person to resist such arrest or in any manner interfere, either by abetting or assisting such resistance or otherwise interfering, with any such law enforcement officer while engaged in the performance of the duties imposed upon him or her by law or rule of the commission.

Section 23. Subsections (1) and (2) of section 379.333, Florida Statutes, are amended to read:

379.333 Arrest by officers of the ~~Fish and Wildlife Conservation~~ commission; recognizance; cash bond; citation.—

(1) In all cases of arrest by officers of the ~~Fish and Wildlife Conservation~~ commission ~~and the Department of Environmental Protection~~, the person arrested shall be delivered forthwith by such ~~said~~ officer to the sheriff of the county, or shall obtain from such person arrested a recognizance or, if deemed necessary, a cash bond or other sufficient security conditioned for her or his appearance before the proper tribunal of such county to answer the charge for which the person has been arrested.

(2) All officers of the commission shall ~~and the department are hereby directed to deliver~~ all bonds accepted and approved by them to the sheriff of the county in which the offense is alleged to have been committed.

Section 24. Subsection (1) of section 379.341, Florida Statutes, is amended to read:

379.341 Disposition of illegal fishing devices; exercise of police power.

(1) In all cases of arrest and conviction for use of illegal nets or traps or fishing devices, as provided in this chapter, such illegal net, trap, or fishing device is declared to be a nuisance and shall be seized and carried before the court having jurisdiction of such offense and such ~~said~~ court shall order such illegal trap, net, or fishing device forfeited to the commission immediately after trial and conviction of the person in whose possession they were found. When any illegal net, trap, or fishing device is found in the fresh waters of the

state, and ~~its~~ the owner ~~is of same~~ shall not be known to the officer finding ~~it the same~~, such officer shall immediately procure from the county court judge an order forfeiting such said illegal net, trap, or fishing device to the commission. The commission may destroy such illegal net, trap, or fishing device, if in its judgment such said net, trap, or fishing device is not of value in the work of the commission department.

Section 25. Section 379.343, Florida Statutes, is amended to read:

379.343 Rewards.—The Fish and Wildlife Conservation Commission is authorized to offer rewards in amounts of up to \$500 to any person furnishing information leading to the arrest and conviction of any person who has inflicted or attempted to inflict bodily injury upon any commission wildlife officer engaged in the enforcement of the provisions of this chapter or the rules and regulations of the Fish and Wildlife Conservation Commission.

Section 26. Subsection (2) of section 403.413, Florida Statutes, is amended to read:

403.413 Florida Litter Law.—

(2) DEFINITIONS.—As used in this section:

~~(f)~~(a) “Litter” means any garbage; rubbish; trash; refuse; can; bottle; box; container; paper; tobacco product; tire; appliance; mechanical equipment or part; building or construction material; tool; machinery; wood; motor vehicle or motor vehicle part; vessel; aircraft; farm machinery or equipment; sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility; or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

~~(h)~~(b) “Person” means any individual, firm, sole proprietorship, partnership, corporation, or unincorporated association.

~~(e)~~(c) “Law enforcement officer” means any officer of the Florida Highway Patrol, a county sheriff’s department, a municipal law enforcement department, a law enforcement department of any other political subdivision, ~~the department~~, or the Fish and Wildlife Conservation Commission. In addition, and solely for the purposes of this section, “law enforcement officer” means any employee of a county or municipal park or recreation department designated by the department head as a litter enforcement officer.

~~(a)~~(d) “Aircraft” means a motor vehicle or other vehicle that is used or designed to fly but does not include a parachute or any other device used primarily as safety equipment.

~~(b)~~(e) “Commercial purpose” means for the purpose of economic gain.

~~(c)~~(f) “Commercial vehicle” means a vehicle that is owned or used by a business, corporation, association, partnership, or sole proprietorship or any other entity conducting business for a commercial purpose.

~~(d)(g)~~ “Dump” means to dump, throw, discard, place, deposit, or dispose of.

~~(g)(h)~~ “Motor vehicle” means an automobile, motorcycle, truck, trailer, semitrailer, truck tractor, or semitrailer combination or any other vehicle that is powered by a motor.

(i) “Vessel” means a boat, barge, or airboat or any other vehicle used for transportation on water.

Section 27. Paragraph (d) of subsection (1) of section 784.07, Florida Statutes, is amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers; reclassification of offenses; minimum sentences.—

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

(d) “Law enforcement officer” includes a law enforcement officer, a correctional officer, a correctional probation officer, a part-time law enforcement officer, a part-time correctional officer, an auxiliary law enforcement officer, and an auxiliary correctional officer, as those terms are respectively defined in s. 943.10, and any county probation officer; an employee or agent of the Department of Corrections who supervises or provides services to inmates; an officer of the Parole Commission; a federal law enforcement officer as defined in s. 901.1505; and law enforcement personnel of the Fish and Wildlife Conservation Commission, ~~the Department of Environmental Protection,~~ or the Department of Law Enforcement.

Section 28. Section 843.08, Florida Statutes, is amended to read:

843.08 Falsely personating officer, etc.—A person who falsely assumes or pretends to be a sheriff, officer of the Florida Highway Patrol, officer of the Fish and Wildlife Conservation Commission, ~~officer of the Department of Environmental Protection,~~ officer of the Department of Transportation, officer of the Department of Financial Services, officer of the Department of Corrections, correctional probation officer, deputy sheriff, state attorney or assistant state attorney, statewide prosecutor or assistant statewide prosecutor, state attorney investigator, coroner, police officer, lottery special agent or lottery investigator, beverage enforcement agent, or watchman, or any member of the Parole Commission and any administrative aide or supervisor employed by the commission, or any personnel or representative of the Department of Law Enforcement, or a federal law enforcement officer as defined in s. 901.1505, and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.; However, a person who falsely personates any such officer during the course of the commission of a felony commits a felony of the second degree, punishable as

provided in s. 775.082, s. 775.083, or s. 775.084.;—except—that If the commission of the felony results in the death or personal injury of another human being, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 29. Section 843.085, Florida Statutes, is amended to read:

843.085 Unlawful use of police badges or other indicia of authority.—It is unlawful for any person:

(1) Unless appointed by the Governor pursuant to chapter 354, authorized by the appropriate agency, or displayed in a closed or mounted case as a collection or exhibit, to wear or display any authorized indicia of authority, including any badge, insignia, emblem, identification card, or uniform, or any colorable imitation thereof, of any federal, state, county, or municipal law enforcement agency, or other criminal justice agency as now or hereafter defined in s. 943.045, which could deceive a reasonable person into believing that such item is authorized by any of the agencies described above for use by the person displaying or wearing it, or which displays in any manner or combination the word or words “police,” “patrolman,” “agent,” “sheriff,” “deputy,” “trooper,” “highway patrol,” “commission officer,” “Wildlife Officer,” “Marine Patrol Officer,” “state attorney,” “public defender,” “marshal,” “constable,” or “bailiff,” which could deceive a reasonable person into believing that such item is authorized by any of the agencies described above for use by the person displaying or wearing it.

(2) To own or operate a motor vehicle marked or identified in any manner or combination by the word or words “police,” “patrolman,” “sheriff,” “deputy,” “trooper,” “highway patrol,” “commission officer,” “Wildlife Officer,” “Marine Patrol Officer,” “marshal,” “constable,” or “bailiff,” or by any lettering, marking, or insignia, or colorable imitation thereof, including, but not limited to, stars, badges, or shields, officially used to identify the vehicle as a federal, state, county, or municipal law enforcement vehicle or a vehicle used by a criminal justice agency as now or hereafter defined in s. 943.045, which could deceive a reasonable person into believing that such vehicle is authorized by any of the agencies described above for use by the person operating the motor vehicle, unless such vehicle is owned or operated by the appropriate agency and its use is authorized by such agency, or the local law enforcement agency authorizes the use of such vehicle or unless the person is appointed by the Governor pursuant to chapter 354.

(3) To sell, transfer, or give away the authorized badge, or colorable imitation thereof, including miniatures, of any criminal justice agency as now or hereafter defined in s. 943.045, or bearing in any manner or combination the word or words “police,” “patrolman,” “sheriff,” “deputy,” “trooper,” “highway patrol,” “commission officer,” “Wildlife Officer,” “Marine Patrol Officer,” “marshal,” “constable,” “agent,” “state attorney,” “public defender,” or “bailiff,” which could deceive a reasonable person into believing that such item is authorized by any of the agencies described above, except for agency purchases or upon the presentation and recordation of both a

driver's license and other identification showing any transferee to actually be a member of such criminal justice agency or unless the person is appointed by the Governor pursuant to chapter 354. A transferor of an item covered by this subsection is required to maintain for 2 years a written record of such transaction, including records showing compliance with this subsection, and if such transferor is a business, it shall make such records available during normal business hours for inspection by any law enforcement agency having jurisdiction in the area where the business is located.

(4) Nothing in this section shall prohibit a fraternal, benevolent, or labor organization or association, or their chapters or subsidiaries, from using the following words, in any manner or in any combination, if those words appear in the official name of the organization or association: "police," "patrolman," "sheriff," "deputy," "trooper," "highway patrol," "commission officer," "Wild-life Officer," "Marine Patrol Officer," "marshal," "constable," or "bailiff."

(5) Violation of any provision of this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. This section is cumulative to any law now in force in the state.

Section 30. Section 870.04, Florida Statutes, is amended to read:

870.04 Specified officers to disperse riotous assembly.—If any number of persons, whether armed or not, are unlawfully, riotously, or tumultuously assembled in any county, city, or municipality, the sheriff or the sheriff's deputies, or the mayor, or any commissioner, council member, alderman, or police officer of the said city or municipality, or any officer or member of the Florida Highway Patrol, or any officer or agent of the Fish and Wildlife Conservation Commission, ~~Department of Environmental Protection, any or~~ beverage enforcement agent, any personnel or representatives of the Department of Law Enforcement or its successor, or any other peace officer, shall go among the persons so assembled, or as near to them as may be done with safety, and shall in the name of the state command all the persons so assembled immediately and peaceably to disperse;~~;~~ and If such persons do not thereupon immediately and peaceably disperse, such said officers shall command the assistance of all such persons in seizing, arresting, and securing such persons in custody;~~;~~ and If any person present being so commanded to aid and assist in seizing and securing such rioter or persons so unlawfully assembled, or in suppressing such riot or unlawful assembly, refuses or neglects to obey such command, or, when required by such officers to depart from the place, refuses and neglects to do so, the person shall be deemed one of the rioters or persons unlawfully assembled, and may be prosecuted and punished accordingly.

Section 31. Paragraphs (c) through (n) of subsection (6) of section 932.7055, Florida Statutes, are redesignated as paragraphs (b) through (m), respectively, and present paragraph (b) of that subsection is amended to read:

932.7055 Disposition of liens and forfeited property.—

(6) If the seizing agency is a state agency, all remaining proceeds shall be deposited into the General Revenue Fund. However, if the seizing agency is:

~~(b) The Department of Environmental Protection, the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act shall be deposited into the Internal Improvement Trust Fund.~~

Section 32. This act shall take effect July 1, 2012.

Approved by the Governor April 6, 2012.

Filed in Office Secretary of State April 6, 2012.