

(5) **WHEN EXPANSION OF OPERATION NOT PERMITTED.**—This act shall not be construed to permit an existing commercial or recreational fishing operation to change to a larger operation with regard to emitting more noise or odor, where such change violates local ordinances or regulations or creates a nuisance.

**History.**—s. 3, ch. 89-273; s. 56, ch. 2008-247.

**Note.**—Former s. 370.1103.

**379.2352 State employment; priority consideration for qualified displaced employees of the saltwater fishing industry.**—All state agencies must give priority consideration to any job applicant who is able to document the loss of full-time employment in the commercial saltwater fishing industry as a result of the adoption of the constitutional amendment limiting the use of nets to harvest marine species, provided the applicant meets the minimum requirements for the position sought.

**History.**—s. 5, ch. 95-414; s. 57, ch. 2008-247.

**Note.**—Former s. 370.27.

**379.236 Retention, destruction, and reproduction of commission records.**—Records and documents of the commission created in compliance with and in the implementation of this chapter or former chapter 370, former chapter 371, or former chapter 372 shall be retained by the commission as specified in record retention schedules established under the general provisions of chapters 119 and 257. Such records retained by the Department of Environmental Protection on July 1, 1999, shall be transferred to the commission. Further, the commission is authorized to:

(1) Destroy, or otherwise dispose of, those records and documents in conformity with the approved retention schedules.

(2) Photograph, microphotograph, or reproduce such records and documents on film, as authorized and directed by the approved retention schedules, whereby each page will be exposed in exact conformity with the original records and documents retained in compliance with the provisions of this section. Photographs or microphotographs in the form of film or print of any records, made in compliance with the provisions of this section, shall have the same force and effect as the originals thereof would have and shall be treated as originals for the purpose of their admissibility in evidence. Duly certified or authenticated reproductions of such photographs or microphotographs shall be admitted in evidence equally with the original photographs or microphotographs. The impression of the seal of the commission on a certificate made pursuant to the provisions hereof and signed by the executive director of the commission shall entitle the same to be received in evidence in all courts and in all proceedings in this state and shall be prima facie evidence of all factual matters set forth in the certificate. A certificate may relate to one or more records, as set forth in the certificate, or in a schedule continued on an attachment to the certificate.

(3) Furnish certified copies of such records for a fee of \$1 which shall be deposited in the Marine Resources Conservation Trust Fund.

**History.**—s. 2, ch. 61-231; s. 1, ch. 80-356; s. 86, ch. 91-221; s. 197, ch. 94-356; s. 2, ch. 98-227; s. 95, ch. 99-245; s. 1, ch. 2002-264; s. 59, ch. 2008-247.

**Note.**—Former s. 370.021(9).

**379.237 Courts of equity may enjoy.**—Courts of equity in this state have jurisdiction to enforce the conservation laws of this state by injunction.

**History.**—s. 2, ch. 61-231; s. 2, ch. 98-227; s. 95, ch. 99-245; s. 1, ch. 2002-264; s. 60, ch. 2008-247.

**Note.**—Former s. 370.021(10).

## **PART II**

### **MARINE LIFE**

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**379.2401 Marine fisheries; policy and standards. —**

(1) The Legislature hereby declares the policy of the state to be management and preservation of its renewable marine fishery resources, based upon the best available information, emphasizing protection and enhancement of the marine and estuarine environment in such a manner as to provide for optimum sustained benefits and use to all the people of this state for present and future generations.

(2) The commission is instructed to make recommendations annually to the Governor and the Legislature regarding marine fisheries research priorities and funding. All administrative and enforcement responsibilities which are unaffected by the specific provisions of this act are the responsibility of the commission.

(3) All rules relating to saltwater fisheries adopted by the commission shall be consistent with the following standards:

(a) The paramount concern of conservation and management measures shall be the continuing health and abundance of the marine fisheries resources of this state.

(b) Conservation and management measures shall be based upon the best information available, including biological, sociological, economic, and other information deemed relevant by the commission.

(c) Conservation and management measures shall permit reasonable means and quantities of annual harvest, consistent with maximum practicable sustainable stock abundance on a continuing basis.

(d) When possible and practicable, stocks of fish shall be managed as a biological unit.

(e) Conservation and management measures shall assure proper quality control of marine resources that enter commerce.

(f) State marine fishery management plans shall be developed to implement management of important marine fishery resources.

(g) Conservation and management decisions shall be fair and equitable to all the people of this state and carried out in such a manner that no individual, corporation, or entity acquires an excessive share of such privileges.

(h) Federal fishery management plans and fishery management plans of other states or interstate commissions should be considered when developing state marine fishery management plans. Inconsistencies should be avoided unless it is determined that it is in the best interest of the fisheries or residents of this state to be inconsistent.

**History.**—ss. 4, 5, ch. 83-134; ss. 16, 17, 18, ch. 93-213; ss. 1, 2, 3, ch. 94-247; s. 199, ch. 94-356; s. 8, ch. 98-203; s. 39, ch. 99-245; s. 1, ch. 2000-153; s. 4, ch. 2007-223; s. 63, ch. 2008-247.

**Note.**— Former s. 370.025.

**379.2402 Marine information system.**— The Fish and Wildlife Conservation Commission shall establish a marine information system in conjunction with the licensing program to gather marine fisheries data.

**History.**—s. 6, ch. 89-270; s. 211, ch. 94-356; s. 239, ch. 99-245; s. 64, ch. 2008-247; s. 19, ch. 2017-5.

**Note.**— Former s. 370.0607.

**379.2411 Saltwater fish; regulations.**—

(1) The Fish and Wildlife Conservation Commission is authorized to establish weight equivalencies when minimum lengths of saltwater fish are established by law, in those cases where the fish are artificially cultivated.

(2) A special activity license may be issued by the commission pursuant to s. 379.361 for catching and possession of fish protected by law after it has first established that such protected specimens are to be used as stock for artificial cultivation.

(3) A permit may not be issued pursuant to subsection (2) until the commission determines that the artificial cultivation activity complies with the provisions of ss. 253.67-253.75 and any other specific provisions contained within this chapter regarding leases, licenses, or permits for maricultural activities of each saltwater fish, so that the public interest in such fish stocks is fully protected.

**History.**—s. 1, ch. 67-546; ss. 25, 35, ch. 69-106; s. 1, ch. 78-78; s. 78, ch. 79-164; s. 8, ch. 86-240; s. 13, ch. 2000-197; s. 65, ch. 2008-247.

**Note.**— Former s. 370.101.

**379.2412 State preemption of power to regulate.**— The power to regulate the taking or possession of saltwater fish, as defined in s. 379.101, is expressly reserved to the state. This section does not prohibit a local government from prohibiting, for reasons of protecting the public health, safety, or welfare, saltwater fishing from real property owned by that local government.

**History.**—s. 1, ch. 73-208; s. 1, ch. 89-273; s. 66, ch. 2008-247.

**Note.**— Former s. 370.102.

**379.2413 Catching food fish for the purposes of making oil.**— No person shall take any food fish from the waters under the jurisdiction of the state for the purpose of making oil, fertilizer, or compost therefrom. Purse seines may be used for the taking of nonfood fish for the purpose of making oil, fertilizer, or compost.

**History.**—s. 2, ch. 28145, 1953; ss. 1, chs. 29869, 29877, ss. 1, 2, ch. 29945, s. 24, ch. 29615, 1955; s. 1, ch. 57-372; s. 1, ch. 57-127; s. 1, ch. 59-384; s. 1, ch. 59-473; s. 1, ch. 61-169; ss. 25, 35, ch. 69-106; s. 1, ch. 70-96; s. 285, ch. 71-136; s. 1, ch. 71-154; ss. 1, 1A, 2, ch. 71-156; s. 1, ch. 73-38; s. 1, ch. 74-220; s. 1, ch. 77-95; s. 7, ch. 83-134; s. 2, ch. 84-121; s. 1, ch. 85-163; ss. 9, 17, ch. 85-234; ss. 2, 12, ch. 89-98; s. 224, ch. 94-356; s. 989, ch. 95-148; s. 14, ch. 98-227; s. 14, ch. 2000-197; s. 67, ch. 2008-247.

<sup>1</sup>**Note.**— Section 7, ch. 83-134, as amended by s. 2, ch. 84-121, and by s. 1, ch. 85-163, repealed the then-existing section effective July 1, 1985, and further provided that if the Governor and Cabinet had not adopted appropriate rules by July 1, 1985, the section would remain in force until such rules were effective. Section 9, ch. 83-134, provided that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 7, the Marine Fisheries Commission would hold a public hearing thereon, and no such amendment, readoption, or repeal would be acted upon until it had been determined, based upon appropriate findings of fact, that such action would not adversely affect the resource. The Marine Fisheries Commission was transferred to the Fish and Wildlife Conservation Commission by s. 3, ch. 99-245.

**Note.**— Former s. 370.11.

**1379.2421 Fishers and equipment; regulation.—**

(1) **ILLEGAL POSSESSION OF SEINES AND NETS.**—No person may have in his or her custody or possession in any county of this state any fishing seine or net, the use of which for fishing purposes in such county is prohibited by law. Such possession shall be evidence of a violation of this subsection by both the owner thereof and the person using or possessing said net. The provisions of this subsection shall not apply to shrimp nets, to pound nets or purse nets when used in taking menhaden fish, to seines used exclusively for taking herring, or to legal beach seines used in the open gulf or Atlantic Ocean if the possession of such nets is not prohibited in the county where found.

(2) **STOP NETTING DEFINED; PROHIBITION.**—

(a) It is unlawful for any person to obstruct any river, creek, canal, pass, bayou or other waterway in this state by placing or setting therein any screen, net, seine, rack, wire or other device, or to use, set, or place any net or seine or similar device of any kind, either singularly or in rotation or one behind another in any manner whatsoever so as to prevent the free passage of fish.

(b) It is unlawful for any person, while fishing or attempting to fish for shrimp or saltwater fish, to attach or otherwise secure a frame net, trawl net, trap net, or similar device to any state road bridge or associated structure situated over any saltwater body or to use more than one such net or device while fishing from such bridge or structure. For the purposes of this paragraph, a “frame net” is any net similar to a hoop net, the mouth of which is held open by a frame, with a trailing mesh net, of any size. Cast nets, dip nets, and similar devices are specifically excluded from the operation of this paragraph.

(3) **USE OF PURSE SEINES, GILL NETS, POUND NETS, ETC.**—No person may take food fish within or without the waters of this state with a purse seine, purse gill net, or other net using rings or other devices on the lead line thereof, through which a purse line is drawn, or pound net, or have any food fish so taken in his or her possession for sale or shipment. The provisions of this section shall not apply to shrimp nets or to pound nets or purse seines when used for the taking of tuna or menhaden fish only.

(4) **RETURN OF FISH TO WATER.**—All persons taking food fish from any of the waters of this state by use of seines, nets, or other fishing devices and not using any of such fish because of size or other reasons shall immediately release and return such fish alive to the water from which taken and no such fish may be placed or deposited on any bank, shore, beach or other place out of the water.

(5) **SEINES, POCKET BUNTS.**—In any counties where seines are not prohibited on the open gulf or Atlantic Ocean, such seines may have a pocket bunt on the middle of the seine of a mesh size less than that provided by law.

(6) **USE OF POISONS, DRUGS, OR CHEMICALS.**—Upon application on forms furnished by the commission, the commission may issue a license to use poisons, drugs, or other chemicals in the marine waters of this state for the purpose of capturing live marine species. The application and license shall specify the area in which collecting will be done; the drugs, chemicals, or poisons to be used; and the maximum amounts and concentrations at each sampling.

(7) **PENALTIES.**—A commercial harvester who violates this section shall be punished under s. 379.407. Any other person who violates this section commits a Level Two violation under s. 379.401.

**History.**—s. 2, ch. 28145, 1953; s. 1, ch. 57-765; s. 1, ch. 57-766; s. 1, ch. 59-477; s. 1, ch. 65-182; ss. 25, 35, ch. 69-106; s. 1, ch. 69-231; s. 283, ch. 71-136; s. 1, ch. 73-66; s. 1, ch. 76-101; s. 1, ch. 78-80; s. 1, ch. 78-159; s. 2, ch. 78-404; s. 2, ch. 79-263; s. 7, ch. 83-134; s. 2, ch. 84-121; s. 1, ch. 85-163; ss. 6, 17, ch. 85-234; s. 6, ch. 86-240; ss. 1, 12, ch. 89-98; s. 219, ch. 94-356; s. 988, ch. 95-148; s. 11, ch. 98-227; s. 242, ch. 99-245; s. 6, ch. 2006-304; s. 68, ch. 2008-247.

<sup>1</sup>**Note.**—Section 7, ch. 83-134, as amended by s. 2, ch. 84-121, and by s. 1, ch. 85-163, repealed the then-existing subsections (1)-(3) and (5)-(12), effective July 1, 1985, and further provided that if the Governor and Cabinet had not adopted appropriate rules by July 1, 1985, these subsections would remain in force until such rules were effective. Section 9, ch. 83-134, provided that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 7, the Marine Fisheries Commission would hold a public hearing thereon, and no such amendment, readoption, or repeal would be acted upon until it had been determined, based upon appropriate findings of fact, that such action would not adversely affect the resource. The Marine Fisheries Commission was transferred to the Fish and Wildlife Conservation Commission by s. 3, ch. 99-245.

**Note.**—Former s. 370.08.

**379.2422 Illegal use of nets.—**

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

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

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

(c) This subsection shall not be construed to apply to aquaculture activities licenses issued pursuant to s. 379.2523.

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

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

(5) Any person who violates this section shall be punished as provided in s. 379.407(3).

(6) The Fish and Wildlife Conservation Commission is granted authority to adopt rules pursuant to s. 379.2401 implementing this section and the prohibitions and restrictions of s. 16, Art. X of the State Constitution.

**History.**—s. 39, ch. 97-160; s. 21, ch. 97-164; s. 235, ch. 98-200; s. 6, ch. 98-203; s. 50, ch. 99-245; s. 4, ch. 2001-62; s. 6, ch. 2002-264; s. 3, ch. 2004-61; s. 69, ch. 2008-247.

**Note.**—Former s. 370.093.

### **379.2423 Carriage of proscribed nets across Florida waters.—**

(1) This section applies to all vessels containing or otherwise transporting in or on Florida waters any gill net or other entangling net and to all vessels containing or otherwise transporting in or on Florida waters any net containing more than 500 square feet of mesh area the use of which is restricted or prohibited by s. 16, Art. X of the State Constitution. This section does not apply to vessels containing or otherwise transporting in or on Florida waters dry nets which are rolled, folded, or otherwise properly stowed in sealed containers so as to make their immediate use as fishing implements impracticable.

(2) Every vessel containing or otherwise transporting in or on Florida waters any gill net or other entangling net and every vessel containing or otherwise transporting in or on nearshore and inshore Florida waters any net containing more than 500 square feet of mesh area shall proceed as directly, continuously, and expeditiously as possible from the place where the vessel is regularly docked, moored, or otherwise stored to waters where the use of said nets is lawful and from waters where the use of said nets is lawful back to the place where the vessel is regularly docked, moored, or otherwise stored or back to the licensed wholesale dealer where the catch is to be sold. Exceptions shall be provided for docked vessels, for vessels which utilize nets in a licensed aquaculture operation, and for vessels containing trawl nets as long as the trawl’s doors or frame are not deployed in the water. Otherwise, hovering, drifting, and other similar activities inconsistent with the direct, continuous, and expeditious transit of such vessels shall be evidence of the unlawful use of such nets. The presence of fish in such a net is not evidence of the unlawful use of the net if the vessel is otherwise in compliance with this section.

(3) Notwithstanding subsections (1) and (2), unless authorized by rule of the Fish and Wildlife Conservation Commission, it is a major violation under this section, punishable as provided in s. 379.407(3), for any person, firm, or corporation to possess any gill or entangling net, or any seine net larger than 500 square feet in mesh area, on any airboat or on any other vessel less than 22 feet in length and on any vessel less than 25 feet if primary power of the vessel is mounted forward of the vessel center point. Gill or entangling nets shall be as defined in s. 16, Art. X of the

State Constitution, s. 379.2422(2)(b), or in a rule of the Fish and Wildlife Conservation Commission implementing s. 16, Art. X of the State Constitution. Vessel length shall be determined in accordance with current United States Coast Guard regulations specified in the Code of Federal Regulations or as titled by the State of Florida. The <sup>1</sup>Marine Fisheries Commission is directed to initiate by July 1, 1998, rulemaking to adjust by rule the use of gear on vessels longer than 22 feet where the primary power of the vessel is mounted forward of the vessel center point in order to prevent the illegal use of gill and entangling nets in state waters and to provide reasonable opportunities for the use of legal net gear in adjacent federal waters.

(4) The Fish and Wildlife Conservation Commission shall adopt rules to prohibit the possession and sale of mullet taken in illegal gill or entangling nets. Violations of such rules shall be punishable as provided in s. 379.407(3).

(5) The commission has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

**History.**—s. 7, ch. 95-414; s. 2, ch. 96-300; s. 59, ch. 97-100; s. 38, ch. 97-160; s. 20, ch. 97-164; ss. 79, 234, ch. 98-200; s. 5, ch. 98-203; s. 13, ch. 98-227; s. 103, ch. 99-245; s. 3, ch. 2001-62; s. 5, ch. 2002-264; s. 2, ch. 2004-61; s. 70, ch. 2008-247.

<sup>1</sup>**Note.**— Transferred to the Fish and Wildlife Conservation Commission by s. 3, ch. 99-245.

**Note.**— Former s. 370.092.

**379.2424 Retrieval of spiny lobster, stone crab, blue crab, and black sea bass traps during closed season; commission authority.**— The Fish and Wildlife Conservation Commission is authorized to implement a trap retrieval program for retrieval of spiny lobster, stone crab, blue crab, and black sea bass traps remaining in the water during the closed season for each species. The commission is authorized to contract with outside agents for the program operation.

**History.**—s. 4, ch. 87-116; s. 4, ch. 87-120; s. 230, ch. 94-356; s. 246, ch. 99-245; s. 2, ch. 2004-72; s. 13, ch. 2007-223; s. 71, ch. 2008-247.

**Note.**— Former s. 370.143(1).

**<sup>1</sup>379.2425 Spearfishing; definition; limitations; penalty.**—

(1) For the purposes of this section, “spearfishing” means the taking of any saltwater fish through the instrumentality of a spear, gig, or lance operated by a person swimming at or below the surface of the water.

(2)(a) Except as otherwise provided by commission rule or order, spearfishing is prohibited within the boundaries of the John Pennekamp Coral Reef State Park, the waters of Collier County, and the area in Monroe County known as Upper Keys, which includes all salt waters under the jurisdiction of the commission beginning at the county line between Miami-Dade and Monroe Counties and running south, including all of the keys down to and including Long Key.

(b) For the purposes of this subsection, the possession in the water of a spear, gig, or lance by a person swimming at or below the surface of the water in a prohibited area is prima facie evidence of a violation of the provisions of this subsection regarding spearfishing.

(3) The Fish and Wildlife Conservation Commission shall have the power to establish restricted areas when it is determined that safety hazards exist or when needs are determined by biological findings. Restricted areas shall be established only after an investigation has been conducted and upon application by the governing body of the county or municipality in which the restricted areas are to be located and one publication in a local newspaper of general circulation in said county or municipality in addition to any other notice required by law. Prior to promulgation of regulations, the local governing body of the area affected shall agree to post and maintain notices in the area affected.

(4) A person who violates this section commits a Level Two violation under s. 379.401.

**History.**—s. 1, ch. 57-303; ss. 25, 35, ch. 69-106; s. 301, ch. 71-136; ss. 1, 2, ch. 73-141; s. 1, ch. 77-174; s. 1, ch. 77-381; s. 23, ch. 78-95; s. 6, ch. 83-134; s. 2, ch. 84-121; ss. 16, 17, ch. 85-234; s. 5, ch. 86-219; s. 19, ch. 86-240; ss. 9, 12, ch. 89-98; s. 236, ch. 94-356; s. 251, ch. 99-245; s. 13, ch. 2004-264; s. 77, ch. 2008-4; s. 72, ch. 2008-247; s. 3, ch. 2016-107.

<sup>1</sup>**Note.**— Section 6, ch. 83-134, as amended by s. 2, ch. 84-121; by s. 5, ch. 86-219; and by s. 19, ch. 86-240, repealed the then-existing section effective July 1, 1984, and further provided that if the Governor and Cabinet had not adopted appropriate rules by July 1, 1984, this section would remain in force until such rules were effective. Section 9, ch. 83-134, provided that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 6, the Marine Fisheries Commission would hold a public hearing thereon, and no such amendment,

readoption, or repeal would be acted upon until it had been determined, based upon appropriate findings of fact, that such action would not adversely affect the resource. The Marine Fisheries Commission was transferred to the Fish and Wildlife Conservation Commission by s. 3, ch. 99-245.

**Note.**— Former s. 370.172.

**379.2426 Possession of separated shark fins on the water prohibited; penalties.**—

- (1) As used in this section, the term:
  - (a) “Land” means the physical act of bringing a harvested organism, or any part thereof, ashore.
  - (b) “Shark” means any species of the orders *Carcharhiniformes*, *Lamniformes*, *Hexanchiformes*, *Orectolobiformes*, *Pristiophoriformes*, *Squaliformes*, *Squatiniiformes*, or any part thereof.
  - (c) “Shark fin” means the detached fin of a shark, including the caudal or tail fin, or any portion thereof.
  - (d) “Separated,” with respect to a shark fin, means not naturally attached to the corresponding shark body through some portion of uncut skin.
- (2) A person may not possess in or on the waters of this state a shark fin that has been separated from a shark or land a separated shark fin in this state, unless:
  - (a) Such possession is authorized by commission rule; or
  - (b) Such fin has been lawfully obtained on land, prepared by taxidermy, and is possessed for the purposes of display.
- (3) A person who violates this section is subject to the following penalties:
  - (a) For a first violation, a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. In addition, the commission shall assess an administrative fine of \$4,500 and suspend all of the person’s license privileges under this chapter for 180 days.
  - (b) For a second violation, a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. In addition, the commission shall assess an administrative fine of \$9,500 and suspend all of the person’s license privileges under this chapter for 365 days.
  - (c) For a third and any subsequent violation, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. In addition, the commission shall assess an administrative fine of \$9,500 and permanently revoke all of the person’s license privileges under this chapter.

While his or her license privileges are under suspension or revocation pursuant to this subsection, a person may not participate in the taking or harvesting, or attempt the taking or harvesting, of saltwater products from any vessel within the waters of the state; be aboard any vessel on which a commercial quantity of saltwater products is possessed through an activity requiring a license pursuant to this chapter; or engage in any other activity requiring a license, permit, or certificate issued pursuant to this chapter.

**History.**—s. 1, ch. 2017-24.

**379.2431 Marine animals; regulation.**—

- (1) PROTECTION OF MARINE TURTLES.—
  - (a) This subsection may be cited as the “Marine Turtle Protection Act.”
  - (b) The Legislature intends, pursuant to the provisions of this subsection, to ensure that the Fish and Wildlife Conservation Commission has the appropriate authority and resources to implement its responsibilities under the recovery plans of the United States Fish and Wildlife Service for the following species of marine turtle:
    1. Atlantic loggerhead turtle (*Caretta caretta*).
    2. Atlantic green turtle (*Chelonia mydas*).
    3. Leatherback turtle (*Dermochelys coriacea*).
    4. Atlantic hawksbill turtle (*Eretmochelys imbricata*).
    5. Atlantic ridley turtle (*Lepidochelys kempfi*).
  - (c) As used in this subsection, the following phrases have the following meanings:
    1. A “properly accredited person” is:

- a. Students of colleges or universities whose studies with saltwater animals are under the direction of their teacher or professor; or
- b. Scientific or technical faculty of public or private colleges or universities; or
- c. Scientific or technical employees of private research institutions and consulting firms; or
- d. Scientific or technical employees of city, county, state, or federal research or regulatory agencies; or
- e. Members in good standing or recognized and properly chartered conservation organizations, the Audubon Society, or the Sierra Club; or
- f. Persons affiliated with aquarium facilities or museums, or contracted as an agent therefor, which are open to the public with or without an admission fee; or
- g. Persons without specific affiliations listed above, but who are recognized by the commission for their contributions to marine conservation such as scientific or technical publications, or through a history of cooperation with the commission in conservation programs such as turtle nesting surveys, or through advanced educational programs such as high school marine science centers.

2. "Take" means an act that actually kills or injures marine turtles, and includes significant habitat modification or degradation that kills or injures marine turtles by significantly impairing essential behavioral patterns, such as breeding, feeding, or sheltering.

(d) Except as authorized in this paragraph, or unless otherwise provided by the Federal Endangered Species Act or its implementing regulations, a person, firm, or corporation may not knowingly possess, take, disturb, mutilate, destroy, cause to be destroyed, transfer, sell, offer to sell, molest, or harass any marine turtle species or hatchling, or parts thereof, or the eggs or nest of any marine turtle species described in this subsection. The commission may:

1. Issue a special permit or loan agreement to a person, firm, or corporation to possess a marine turtle species or hatchling, or parts thereof, including nests or eggs, for scientific, education, or exhibition purposes, or for conservation activities such as the relocation of nests, eggs, or marine turtles or hatchlings away from construction sites. Notwithstanding other provisions of law, the commission may issue such special permit or loan agreement to a properly accredited person as defined in paragraph (c) for the purposes of marine turtle conservation.

2. Adopt rules pursuant to chapter 120 to prescribe terms, conditions, and restrictions for marine turtle conservation, and to permit the possession of marine turtle species or hatchlings, or parts thereof, including nests or eggs.

(e)1. A person, firm, or corporation that commits any act prohibited in paragraph (d) involving any egg of any marine turtle species described in this subsection shall pay a penalty of \$100 per egg in addition to other penalties provided in this paragraph.

2. A person, firm, or corporation that illegally possesses 11 or fewer eggs of any marine turtle species described in this subsection commits a first degree misdemeanor, punishable as provided in ss. 775.082 and 775.083.

3. For a second or subsequent violation of subparagraph 2., a person, firm, or corporation that illegally possesses 11 or fewer eggs of any marine turtle species described in this subsection commits a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. A person, firm, or corporation that illegally possesses more than 11 eggs of any marine turtle species described in this subsection commits a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

5. A person, firm, or corporation that illegally takes, disturbs, mutilates, destroys, causes to be destroyed, transfers, sells, offers to sell, molests, or harasses any marine turtle species or hatchling, or parts thereof, or the eggs or nest of any marine turtle species described in this subsection, commits a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

6. A person, firm, or corporation that illegally possesses any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in this subsection, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

7. Notwithstanding s. 777.04, a person, firm, or corporation that solicits or conspires with another person, firm, or corporation, to commit an act prohibited by this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

8. The proceeds from the penalties assessed pursuant to this paragraph shall be deposited into the Marine Resources Conservation Trust Fund.

(f) Any application for a Department of Environmental Protection permit or other type of approval for an activity that affects marine turtles or their nests or habitat shall be subject to conditions and requirements for marine turtle protection as part of the permitting or approval process.

(g) The Department of Environmental Protection may condition the nature, timing, and sequence of construction of permitted activities to provide protection to nesting marine turtles and hatchlings and their habitat pursuant to s. 161.053(4). If the department is considering a permit for a beach restoration, beach renourishment, or inlet sand transfer project and the applicant has had an active marine turtle nest relocation program or the applicant has agreed to and has the ability to administer a program, the department may not restrict the timing of the project. If appropriate, the department, in accordance with the applicable rules of the Fish and Wildlife Conservation Commission, shall require as a condition of the permit that the applicant relocate and monitor all turtle nests that would be affected by the beach restoration, beach renourishment, or sand transfer activities. Such relocation and monitoring activities shall be conducted in a manner that ensures successful hatching. This limitation on the department's authority applies only on the Atlantic coast of Florida.

(h) The department shall recommend denial of a permit application if the activity would result in a "take" as defined in this subsection, unless, as provided for in the federal Endangered Species Act and its implementing regulations, such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

(i) The department shall give special consideration to beach preservation and beach nourishment projects that restore habitat of endangered marine turtle species. Nest relocation shall be considered for all such projects in urbanized areas. When an applicant for a beach restoration, beach renourishment, or inlet sand transfer project has had an active marine turtle nest relocation program or the applicant has agreed to have and has the ability to administer a program, the department in issuing a permit for a project must not restrict the timing of the project. Where appropriate, the department, in accordance with the applicable rules of the Fish and Wildlife Conservation Commission, shall require as a condition of the permit that the applicant relocate and monitor all turtle nests that would be affected by the beach restoration, beach renourishment, or sand transfer activities. Such relocation and monitoring activities shall be conducted in a manner that ensures successful hatching. This limitation on the department's authority applies only on the Atlantic coast of Florida.

(2) PROTECTION OF MANATEES OR SEA COWS.—

(a) This subsection shall be known and may be cited as the "Florida Manatee Sanctuary Act."

(b) The State of Florida is hereby declared to be a refuge and sanctuary for the manatee, the "Florida state marine mammal." The protections extended to and authorized on behalf of the manatee by this act are independent of, and therefore are not contingent upon, its status as a state or federal listed species.

(c) Whenever the Fish and Wildlife Conservation Commission is satisfied that the interest of science will be subserved, and that the application for a permit to possess a manatee or sea cow (*Trichechus manatus*) is for a scientific or propagational purpose and should be granted, and after concurrence by the United States Department of the Interior, the commission may grant to any person making such application a special permit to possess a manatee or sea cow, which permit shall specify the exact number which shall be maintained in captivity.

(d) Except as may be authorized by the terms of a valid state permit issued pursuant to paragraph (c) or by the terms of a valid federal permit, it is unlawful for any person at any time, by any means, or in any manner intentionally or negligently to annoy, molest, harass, or disturb or attempt to molest, harass, or disturb any manatee; injure or harm or attempt to injure or harm any manatee; capture or collect or attempt to capture or collect any manatee; pursue, hunt, wound, or kill or attempt to pursue, hunt, wound, or kill any manatee; or possess, literally or constructively, any manatee or any part of any manatee.

(e) Any gun, net, trap, spear, harpoon, boat of any kind, aircraft, automobile of any kind, other motorized vehicle, chemical, explosive, electrical equipment, scuba or other subaquatic gear, or other instrument, device, or apparatus of any kind or description used in violation of any provision of paragraph (d) may be forfeited upon conviction. The foregoing provisions relating to seizure and forfeiture of vehicles, vessels, equipment, or supplies do not apply when such vehicles, vessels, equipment, or supplies are owned by, or titled in the name of, innocent parties; and such

provisions shall not vitiate any valid lien, retain title contract, or chattel mortgage on such vehicles, vessels, equipment, or supplies if such lien, retain title contract, or chattel mortgage is property of public record at the time of the seizure.

(f)1. Except for emergency rules adopted under s. 120.54, all proposed rules of the commission for which a notice of intended agency action is filed proposing to govern the speed and operation of motorboats for purposes of manatee protection shall be submitted to the counties in which the proposed rules will take effect for review by local rule review committees.

2. No less than 60 days prior to filing a notice of rule development in the Florida Administrative Register, as provided in s. 120.54(3)(a), the commission shall notify the counties for which a rule to regulate the speed and operation of motorboats for the protection of manatees is proposed. A county so notified shall establish a rule review committee or several counties may combine rule review committees.

3. The county commission of each county in which a rule to regulate the speed and operation of motorboats for the protection of manatees is proposed shall designate a rule review committee. The designated voting membership of the rule review committee must be comprised of waterway users, such as fishers, boaters, water skiers, other waterway users, as compared to the number of manatee and other environmental advocates. A county commission may designate an existing advisory group as the rule review committee. With regard to each committee, fifty percent of the voting members shall be manatee advocates and other environmental advocates, and fifty percent of the voting members shall be waterway users.

4. The county shall invite other state, federal, county, municipal, or local agency representatives to participate as nonvoting members of the local rule review committee.

5. The county shall provide logistical and administrative staff support to the local rule review committee and may request technical assistance from commission staff.

6. Each local rule review committee shall elect a chair and recording secretary from among its voting members.

7. Commission staff shall submit the proposed rule and supporting data used to develop the rule to the local rule review committees.

8. The local rule review committees shall have 60 days from the date of receipt of the proposed rule to submit a written report to commission members and staff. The local rule review committees may use supporting data supplied by the commission, as well as public testimony which may be collected by the committee, to develop the written report. The report may contain recommended changes to proposed manatee protection zones or speed zones, including a recommendation that no rule be adopted, if that is the decision of the committee.

9. Prior to filing a notice of proposed rulemaking in the Florida Administrative Register as provided in s. 120.54(3)(a), the commission staff shall provide a written response to the local rule review committee reports to the appropriate counties, to the commission members, and to the public upon request.

10. In conducting a review of the proposed manatee protection rule, the local rule review committees may address such factors as whether the best available scientific information supports the proposed rule, whether seasonal zones are warranted, and such other factors as may be necessary to balance manatee protection and public access to and use of the waters being regulated under the proposed rule.

11. The written reports submitted by the local rule review committees shall contain a majority opinion. If the majority opinion is not unanimous, a minority opinion shall also be included.

12. The members of the commission shall fully consider any timely submitted written report submitted by a local rule review committee prior to authorizing commission staff to move forward with proposed rulemaking and shall fully consider any timely submitted subsequent reports of the committee prior to adoption of a final rule. The written reports of the local rule review committees and the written responses of the commission staff shall be part of the rulemaking record and may be submitted as evidence regarding the committee's recommendations in any proceeding relating to a rule proposed or adopted pursuant to this subsection.

13. The commission is relieved of any obligations regarding the local rule review committee process created in this paragraph if a timely noticed county commission fails to timely designate the required rule review committee.

(g) In order to protect manatees or sea cows from harmful collisions with motorboats or from harassment, the Fish and Wildlife Conservation Commission is authorized, in addition to all other authority, to provide a permitting agency

with comments regarding the expansion of existing, or the construction of new, marine facilities and mooring or docking slips, by the addition or construction of five or more powerboat slips. The commission shall adopt rules under chapter 120 regulating the operation and speed of motorboat traffic only where manatee sightings are frequent and the best available scientific information, as well as other available, relevant, and reliable information, which may include but is not limited to, manatee surveys, observations, available studies of food sources, and water depths, supports the conclusions that manatees inhabit these areas on a regular basis:

1. In Lee County: the entire Orange River, including the Tice Florida Power and Light Corporation discharge canal and adjoining waters of the Caloosahatchee River within 1 mile of the confluence of the Orange and Caloosahatchee Rivers.

2. In Brevard County: those portions of the Indian River within three-fourths of a mile of the Orlando Utilities Commission Delespine power plant effluent and the Florida Power and Light Frontenac power plant effluents.

3. In Indian River County: the discharge canals of the Vero Beach Municipal Power Plant and connecting waters within 1¼ miles thereof.

4. In St. Lucie County: the discharge of the Henry D. King Municipal Electric Station and connecting waters within 1 mile thereof.

5. In Palm Beach County: the discharges of the Florida Power and Light Riviera Beach power plant and connecting waters within 1½ miles thereof.

6. In Broward County: the discharge canal of the Florida Power and Light Port Everglades power plant and connecting waters within 1½ miles thereof and the discharge canal of the Florida Power and Light Fort Lauderdale power plant and connecting waters within 2 miles thereof. For purposes of ensuring the physical safety of boaters in a sometimes turbulent area, the area from the easternmost edge of the authorized navigation project of the intracoastal waterway east through the Port Everglades Inlet is excluded from this regulatory zone.

7. In Citrus County: headwaters of the Crystal River, commonly referred to as King's Bay, and the Homosassa River.

8. In Volusia County: Blue Springs Run and connecting waters of the St. Johns River within 1 mile of the confluence of Blue Springs and the St. Johns River; and Thompson Creek, Strickland Creek, Dodson Creek, and the Tomoka River.

9. In Hillsborough County: that portion of the Alafia River from the main shipping channel in Tampa Bay to U.S. Highway 41.

10. In Sarasota County: the Venice Inlet and connecting waters within 1 mile thereof, including Lyons Bay, Donna Bay, Roberts Bay, and Hatchett Creek, excluding the waters of the intracoastal waterway and the right-of-way bordering the centerline of the intracoastal waterway.

11. In Collier County: within the Port of Islands, within section 9, township 52 south, range 28 east, and certain unsurveyed lands, all east-west canals and the north-south canals to the southerly extent of the intersecting east-west canals which lie southerly of the centerline of U.S. Highway 41.

12. In Manatee County: that portion of the Manatee River east of the west line of section 17, range 19 east, township 34 south; the Braden River south of the north line and east of the west line of section 29, range 18 east, township 34 south; Terra Ceia Bay and River, east of the west line of sections 26 and 35 of range 17 east, township 33 south, and east of the west line of section 2, range 17 east, township 34 south; and Bishop Harbor east of the west line of section 13, range 17 east, township 33 south.

13. In Miami-Dade County: those portions of Black Creek lying south and east of the water control dam, including all boat basins and connecting canals within 1 mile of the dam.

(h) The Fish and Wildlife Conservation Commission shall adopt rules pursuant to chapter 120 regulating the operation and speed of motorboat traffic only where manatee sightings are frequent and the best available scientific information, as well as other available, relevant, and reliable information, which may include but is not limited to, manatee surveys, observations, available studies of food sources, and water depths, supports the conclusion that manatees inhabit these areas on a regular basis within that portion of the Indian River between the St. Lucie Inlet in Martin County and the Jupiter Inlet in Palm Beach County and within the Loxahatchee River in Palm Beach and Martin Counties, including the north and southwest forks thereof.

(i) The commission shall adopt rules pursuant to chapter 120 regulating the operation and speed of motorboat traffic only where manatee sightings are frequent and the best available scientific information, as well as other available, relevant, and reliable information, which may include but is not limited to, manatee surveys, observations, available studies of food sources, and water depths, supports the conclusion that manatees inhabit these areas on a regular basis within the Withlacoochee River and its tributaries in Citrus and Levy Counties. The specific areas to be regulated include the Withlacoochee River and the U.S. 19 bridge westward to a line between U.S. Coast Guard markers number 33 and number 34 at the mouth of the river, including all side channels and coves along that portion of the river; Bennets' Creek from its beginning to its confluence with the Withlacoochee River; Bird's Creek from its beginning to its confluence with the Withlacoochee River; and the two dredged canal systems on the north side of the Withlacoochee River southwest of Yankeetown.

(j) If any new power plant is constructed or other source of warm water discharge is discovered within the state which attracts a concentration of manatees or sea cows, the commission is directed to adopt rules pursuant to chapter 120 regulating the operation and speed of motorboat traffic within the area of such discharge. Such rules shall designate a zone which is sufficient in size, and which shall remain in effect for a sufficient period of time, to protect the manatees or sea cows.

(k) It is the intent of the Legislature to allow the Fish and Wildlife Conservation Commission to post and regulate boat speeds only where the best available scientific information, as well as other available, relevant, and reliable information, which may include but is not limited to, manatee surveys, observations, available studies of food sources, and water depth, supports the conclusion that manatees inhabit these areas on a periodic basis. It is not the intent of the Legislature to permit the commission to post and regulate boat speeds generally throughout the waters of the state, thereby unduly interfering with the rights of fishers, boaters, and water skiers using the areas for recreational and commercial purposes. The Legislature further intends that the commission may identify and designate limited lanes or corridors providing for reasonable motorboat speeds within waters of the state whenever such lanes and corridors are consistent with manatee protection.

(l) The commission shall adopt rules pursuant to chapter 120 regulating the operation and speed of motorboat traffic all year around within Turkey Creek and its tributaries and within Manatee Cove in Brevard County. The specific areas to be regulated consist of:

1. A body of water which starts at Melbourne-Tillman Drainage District structure MS-1, section 35, township 28 south, range 37 east, running east to include all natural waters and tributaries of Turkey Creek, section 26, township 28 south, range 37 east, to the confluence of Turkey Creek and the Indian River, section 24, township 28 south, range 37 east, including all lagoon waters of the Indian River bordered on the west by Palm Bay Point, the north by Castaway Point, the east by the four immediate spoil islands, and the south by Cape Malabar, thence northward along the shoreline of the Indian River to Palm Bay Point.

2. A triangle-shaped body of water forming a cove (commonly referred to as Manatee Cove) on the east side of the Banana River, with northern boundaries beginning and running parallel to the east-west cement bulkhead located 870 feet south of SR 520 Relief Bridge in Cocoa Beach and with western boundaries running in line with the City of Cocoa Beach channel markers 121 and 127 and all waters east of these boundaries in section 34, township 24 south, range 37 east; the center coordinates of this cove are 28°20'14" north, 80°35'17" west.

(m) The commission shall promulgate regulations pursuant to chapter 120 relating to the operation and speed of motor boat traffic in port waters with due regard to the safety requirements of such traffic and the navigational hazards related to the movement of commercial vessels.

(n) The commission may designate by rule adopted pursuant to chapter 120 other portions of state waters where manatees are frequently sighted and the best available scientific information, as well as other available, relevant, and reliable information, which may include but is not limited to, manatee surveys, observations, available studies of food sources, and water depths, supports the conclusion that manatees inhabit such waters periodically. Upon designation of such waters, the commission shall adopt rules pursuant to chapter 120 to regulate motorboat speed and operation which are necessary to protect manatees from harmful collisions with motorboats and from harassment. The commission may adopt rules pursuant to chapter 120 to protect manatee habitat, such as seagrass beds, within such

waters from destruction by boats or other human activity. Such rules shall not protect noxious aquatic plants subject to control under s. 369.20.

(o) The commission may designate, by rule adopted pursuant to chapter 120, limited areas as a safe haven for manatees to rest, feed, reproduce, give birth, or nurse undisturbed by human activity. Access by motor boat to private residences, boat houses, and boat docks through these areas by residents, and their authorized guests, who must cross one of these areas to have water access to their property is permitted when the motorboat is operated at idle speed, no wake.

(p) Except in the marked navigation channel of the Florida Intracoastal Waterway as defined in s. 327.02 and the area within 100 feet of such channel, a local government may regulate, by ordinance, motorboat speed and operation on waters within its jurisdiction where the best available scientific information, as well as other available, relevant, and reliable information, which may include but is not limited to, manatee surveys, observations, available studies of food sources, and water depths, supports the conclusion that manatees inhabit these areas on a regular basis. However, such an ordinance may not take effect until it has been reviewed and approved by the commission. If the commission and a local government disagree on the provisions of an ordinance, a local manatee protection committee must be formed to review the technical data of the commission and the United States Fish and Wildlife Service, and to resolve conflicts regarding the ordinance. The manatee protection committee must be comprised of:

1. A representative of the commission;
2. A representative of the county;
3. A representative of the United States Fish and Wildlife Service;
4. A representative of a local marine-related business;
5. A representative of the Save the Manatee Club;
6. A local fisher;
7. An affected property owner; and
8. A representative of the Florida Marine Patrol.

If local and state regulations are established for the same area, the more restrictive regulation shall prevail.

(q) The commission shall evaluate the need for use of fenders to prevent crushing of manatees between vessels (100' or larger) and bulkheads or wharves in counties where manatees have been crushed by such vessels. For areas in counties where evidence indicates that manatees have been crushed between vessels and bulkheads or wharves, the commission shall:

1. Adopt rules pursuant to chapter 120 requiring use of fenders for construction of future bulkheads or wharves; and
2. Implement a plan and time schedule to require retrofitting of existing bulkheads or wharves consistent with port bulkhead or wharf repair or replacement schedules.

The fenders shall provide sufficient standoff from the bulkhead or wharf under maximum operational compression to ensure that manatees cannot be crushed between the vessel and the bulkhead or wharf.

(r) Any violation of a restricted area established by this subsection, or established by rule pursuant to chapter 120 or ordinance pursuant to this subsection, shall be considered a violation of the boating laws of this state and shall be charged on a uniform boating citation as provided in s. 327.74, except as otherwise provided in paragraph (s). Any person who refuses to post a bond or accept and sign a uniform boating citation shall, as provided in s. 327.73(3), be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(s) Except as otherwise provided in this paragraph, any person violating the provisions of this subsection or any rule or ordinance adopted pursuant to this subsection commits a misdemeanor, punishable as provided in s. 379.407(1)(a) or (b).

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

2. This paragraph does not apply to persons violating restrictions governing “No Entry” zones or “Motorboat Prohibited” zones, who, if convicted, shall be guilty of a misdemeanor, punishable as provided in s. 379.407(1)(a) or (b), or, if such violation demonstrates blatant or willful action, may be found guilty of harassment as described in paragraph (d).

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

(t)1. In order to protect manatees and manatee habitat, the counties identified in the Governor and Cabinet’s October 1989 Policy Directive shall develop manatee protection plans consistent with commission criteria based upon “Schedule K” of the directive, and shall submit such protection plans for review and approval by the commission. Any manatee protection plans not submitted by July 1, 2004, and any plans not subsequently approved by the commission shall be addressed pursuant to subparagraph 2.

2. No later than January 1, 2005, the Fish and Wildlife Conservation Commission shall designate any county it has identified as a substantial risk county for manatee mortality as a county that must complete a manatee protection plan by July 1, 2006. The commission is authorized to adopt rules pursuant to s. 120.54 for identifying substantial risk counties and establishing criteria for approval of manatee protection plans for counties so identified. Manatee protection plans shall include the following elements at a minimum: education about manatees and manatee habitat; boater education; an assessment of the need for new or revised manatee protection speed zones; local law enforcement; and a boat facility siting plan to address expansion of existing and the development of new marinas, boat ramps, and other multislip boating facilities.

3. Counties required to adopt manatee protection plans under this paragraph shall incorporate the boating facility siting element of those protection plans within their respective comprehensive plans.

4. Counties that have already adopted approved manatee protection plans, or that adopt subsequently approved manatee protection plans by the effective date of this act, are in compliance with the provisions of this paragraph so long as they incorporate their approved boat facility siting plan into the appropriate element of their local comprehensive plan no later than July 1, 2003.

(u)1. Existing state manatee protection rules shall be given great weight in determining whether additional rules are necessary in a region where the measurable goals developed pursuant to s. 379.2291 have been achieved. However, the commission may amend existing rules or adopt new rules to address risks or circumstances in a particular area or waterbody to protect manatees.

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

(3) PROTECTION OF MAMMALIAN DOLPHINS (PORPOISES).—It is unlawful to catch, attempt to catch, molest, injure, kill, or annoy, or otherwise interfere with the normal activity and well-being of, mammalian dolphins (porpoises), except as may be authorized by a federal permit.

(4) ANNUAL FUNDING OF PROGRAMS FOR MARINE ANIMALS.—

(a) Each fiscal year the Save the Manatee Trust Fund shall be available to fund an impartial scientific benchmark census of the manatee population in the state. Weather permitting, the study shall be conducted annually by the Fish and Wildlife Conservation Commission and the results shall be made available to the President of the Senate, the Speaker of the House of Representatives, and the Governor and Cabinet for use in the evaluation and development of manatee protection measures. In addition, the Save the Manatee Trust Fund shall be available for annual funding of activities of public and private organizations and those of the commission intended to provide manatee and marine mammal protection and recovery effort; manufacture and erection of informational and regulatory signs; production, publication, and distribution of educational materials; participation in manatee and marine mammal research programs, including carcass salvage and other programs; programs intended to assist the recovery of the manatee as an endangered species, assist the recovery of the endangered or threatened marine mammals, and prevent the endangerment of other species of marine mammals; and other similar programs intended to protect and enhance the recovery of the manatee and other species of marine mammals.

(b) By December 1 each year, the Fish and Wildlife Conservation Commission shall provide the President of the Senate and the Speaker of the House of Representatives a written report, enumerating the amounts and purposes for which all proceeds in the Save the Manatee Trust Fund for the previous fiscal year are expended, in a manner consistent with those recovery tasks enumerated within the manatee recovery plan as required by the Endangered Species Act.

(c) When the federal and state governments remove the manatee from status as an endangered or threatened species, the annual allocation may be reduced.

(d) Up to 10 percent of the annual use fee deposited in the Save the Manatee Trust Fund from the sale of the manatee license plate authorized in s. 320.08058 may be used to promote and market the license plate issued by the Department of Highway Safety and Motor Vehicles after June 30, 2007.

**History.**—s. 2, ch. 28145, 1953; ss. 1, 2, ch. 57-771; s. 1, ch. 59-483; s. 1, ch. 67-2198; ss. 25, 35, ch. 69-106; s. 1, ch. 70-48; s. 1, ch. 70-357; s. 1, ch. 71-120; s. 289, ch. 71-136; ss. 1, 1A, ch. 71-145; s. 1, ch. 74-20; s. 1, ch. 77-174; s. 1, ch. 78-252; s. 79, ch. 79-164; s. 6, ch. 81-228; ss. 1, 2, ch. 82-170; s. 1, ch. 83-81; s. 68, ch. 84-338; s. 10, ch. 85-234; s. 7, ch. 89-168; s. 1, ch. 89-314; s. 5, ch. 90-219; s. 3, ch. 91-199; s. 2, ch. 91-215; s. 1, ch. 93-83; s. 1, ch. 93-254; s. 226, ch. 94-356; s. 991, ch. 95-148; s. 1, ch. 95-248; s. 31, ch. 96-321; s. 3, ch. 97-272; s. 2, ch. 98-200; ss. 7, 17, ch. 98-227; s. 154, ch. 99-13; s. 45, ch. 99-245; s. 35, ch. 99-289; s. 2, ch. 2000-153; s. 36, ch. 2000-197; s. 5, ch. 2001-62; s. 16, ch. 2002-264; s. 1, ch. 2003-59; s. 3, ch. 2003-111; s. 1, ch. 2003-156; s. 1, ch. 2004-343; s. 7, ch. 2007-223; s. 73, ch. 2008-247; s. 192, ch. 2010-102; s. 38, ch. 2013-14; s. 4, ch. 2016-107.

**Note.**— Former s. 370.12.

**379.2432 Manatee protection; intent; conduct of studies; initiatives and plans.**— It is the intent of the Legislature that the commission request the necessary funding and staffing through a general revenue budget request to ensure that manatees receive the maximum protection possible. The Legislature recognizes that strong manatee protection depends upon consistently achieving a high degree of compliance with existing and future rules. The commission shall conduct standardized studies to determine levels of public compliance with manatee protection rules, and shall use the results of the studies, together with other relevant information, to develop and implement strategic law enforcement initiatives and boater education plans. Drawing upon information obtained from the compliance studies and the implementation of enforcement initiatives together with boater education plans, the commission shall identify any impediments in consistently achieving high levels of compliance, and adjust their enforcement and boater education efforts accordingly.

**History.**—s. 19, ch. 2002-264; s. 74, ch. 2008-247.

**Note.**— Former s. 370.1201.

**1379.2433 Enhanced manatee protection study.**—

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

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

**History.**—s. 2, ch. 2004-343; s. 75, ch. 2008-247; s. 62, ch. 2013-15.

<sup>1</sup>**Note.**— Section 4, ch. 2004-343, provides that “[s]ubject to an appropriation by the Legislature, the Fish and Wildlife Conservation Commission shall contract with Mote Marine Laboratory to conduct the manatee habitat and submerged aquatic vegetation assessment as provided in this act.”

**Note.**— Former s. 370.1202.

**379.244 Crustacea, marine animals, fish; regulations; general provisions.—**

(1) OWNERSHIP OF FISH, SPONGES, ETC.— All fish, shellfish, sponges, oysters, clams, and crustacea found within the rivers, creeks, canals, lakes, bayous, lagoons, bays, sounds, inlets, and other bodies of water within the jurisdiction of the state, and within the Gulf of Mexico and the Atlantic Ocean within the jurisdiction of the state, excluding all privately owned enclosed fish ponds not exceeding 150 acres, are the property of the state and may be taken and used by its citizens and persons not citizens, subject to the reservations and restrictions imposed by these statutes. No water bottoms owned by the state shall ever be sold, transferred, dedicated, or otherwise conveyed without reserving in the people the absolute right to fish thereon, except as otherwise provided in these statutes.

(2) TAKING SALTWATER SPECIES FOR EXPERIMENTAL, AQUACULTURAL, SCIENTIFIC, EDUCATION, AND EXHIBITION PURPOSES.— Notwithstanding any other provisions of general or special law to the contrary, the Fish and Wildlife Conservation Commission may authorize, upon such terms, conditions, and restrictions as it may prescribe by rule, any properly accredited person to harvest or possess native or nonnative saltwater species for experimental, scientific, education, and exhibition purposes or to harvest or possess reasonable quantities of aquacultural species for brood stock. Such authorizations may allow collection of specimens without regard to, and not limited to, size, seasonal closure, collection method, reproductive state, or bag limit. Authorizations issued under the provisions of this section may be suspended or revoked by the Fish and Wildlife Conservation Commission if it finds that the person has violated this section, Fish and Wildlife Conservation Commission rules or orders, or terms or conditions of the authorization or has submitted false or inaccurate information in his or her application.

**History.**— s. 2, ch. 28145, 1953; ss. 25, 35, ch. 69-106; s. 284, ch. 71-136; s. 1, ch. 78-70; s. 1, ch. 80-90; s. 221, ch. 81-259; s. 8, ch. 85-234; s. 557, ch. 95-148; s. 12, ch. 98-333; s. 3, ch. 99-390; s. 76, ch. 2008-247; s. 9, ch. 2010-185.

**Note.**— Former s. 370.10.

**379.245 Spiny lobster reports by dealers during closed season required.—**

(1) Within 3 days after the commencement of the closed season for the taking of spiny lobster, each and every seafood dealer, either retail or wholesale, intending to possess whole spiny lobster, spiny lobster tails, or spiny lobster meat during closed season shall submit to the Fish and Wildlife Conservation Commission, on forms provided by the commission, a sworn report of the quantity, in pounds, of whole spiny lobster, spiny lobster tails, and spiny lobster meat in the dealer's name or possession as of the date the season closed. This report shall state the location and number of pounds of whole spiny lobster, spiny lobster tails, and spiny lobster meat. The commission shall not accept any reports not delivered or postmarked by midnight of the 3rd calendar day after the commencement of the closed season, and any stocks of spiny lobster reported therein are declared a nuisance and may be seized by the commission.

(2) Failure to submit a report as described in subsection (1) or reporting a greater or lesser amount of whole spiny lobster, spiny lobster tails, or spiny lobster meat than is actually in the dealer's possession or name is a major violation of this chapter, punishable as provided in s. 379.407(1), s. 379.414, or both. The commission shall seize the entire supply of unreported or falsely reported whole spiny lobster, spiny lobster tails, or spiny lobster meat, and shall carry the same before the court for disposal. The dealer shall post a cash bond in the amount of the fair value of the entire quantity of unreported or falsely reported spiny lobster as determined by the judge. After posting the cash bond, the dealer shall have 24 hours to transport said products outside the limits of Florida for sale as provided by s. 379.337. Otherwise, the product shall be declared a nuisance and disposed of by the commission according to law.

(3) All dealers having reported stocks of spiny lobster may sell or offer to sell such stocks of spiny lobster; however, such dealers shall submit an additional report on the last day of each month during the duration of the closed season. Reports shall be made on forms supplied by the commission. Each dealer shall state on this report the number of pounds brought forward from the previous report period, the number of pounds sold during the report period, the number of pounds, if any, acquired from a licensed wholesale dealer during the report period, and the number of pounds remaining on hand. In every case, the amount of spiny lobster sold plus the amount reported on hand shall equal the amount acquired plus the amount reported remaining on hand in the last submitted report. Copies of records or invoices documenting the number of pounds acquired during the closed season must be

maintained by the wholesale or retail dealer and shall be kept available for inspection by the commission for a period not less than 3 years from the date of the recorded transaction. Reports postmarked later than midnight on the 3rd calendar day of each month during the duration of the closed season will not be accepted by the commission. Dealers for which late supplementary reports are not accepted by the commission must show just cause why their entire stock of whole spiny lobster, spiny lobster tails, or spiny lobster meat should not be seized by the commission. Whenever a dealer fails to timely submit the monthly supplementary report as described in this subsection, the dealer may be subject to the following civil penalties:

(a) For a first violation, the commission shall assess a civil penalty of \$500.

(b) For a second violation within the same spiny lobster closed season, the commission shall assess a civil penalty of \$1,000.

(c) For a third violation within the same spiny lobster closed season, the commission shall assess a civil penalty of \$2,500 and may seize said dealer's entire stock of whole spiny lobster, spiny lobster tails, or spiny lobster meat and carry the same before the court for disposal. The dealer shall post a cash bond in the amount of the fair value of the entire remaining quantity of spiny lobster as determined by the judge. After posting the cash bond, a dealer shall have 24 hours to transport said products outside the limits of Florida for sale as provided by s. 379.337. Otherwise, the product shall be declared a nuisance and disposed of by the commission according to law.

(4) All seafood dealers shall at all times during the closed season make their stocks of whole spiny lobster, spiny lobster tails, or spiny lobster meat available for inspection by the commission.

(5) Each wholesale and retail dealer in whole spiny lobster, spiny lobster tails, or spiny lobster meat shall keep throughout the period of the spiny lobster closed season copies of the bill of sale or invoice covering each transaction involving whole spiny lobster, spiny lobster tails, or spiny lobster meat. Such invoices and bills shall be kept available at all times for inspection by the commission.

**History.**—s. 41, ch. 97-160; s. 23, ch. 97-164; s. 13, ch. 98-203; s. 8, ch. 98-227; s. 108, ch. 99-245; s. 16, ch. 2000-197; s. 11, ch. 2007-223; s. 77, ch. 2008-247; s. 37, ch. 2013-18.

**Note.**—Former s. 370.1405.

#### **1379.246 Tortugas shrimp beds; gifted and loan property.**—

(1) The Fish and Wildlife Conservation Commission is authorized to take title in the name of the state to any vessel or vessels suitable for use in carrying out the inspection and patrol of the Tortugas Bed which may be offered as a gift to the state by any person, firm, corporation, or association in the shrimp industry for the purpose of carrying out the provisions of this section. In the event such title is taken to such vessel or vessels, the commission is authorized to operate and keep said vessel or vessels in proper repair.

(2) The commission is further authorized to accept the temporary loan of any vessel or vessels, suitable for use in carrying out the provisions of this section, for periods not exceeding 1 year. However, the state shall not assume any liability to the owner or owners of said vessels for any damage done by said vessels to other vessels, persons, or property. In the operation of said loaned vessels, upkeep and repair shall consist only of minor repairs and routine maintenance. The owner or owners shall carry full marine insurance coverage on said loaned vessel or vessels for the duration of the period during which said vessels are operated by the state.

**History.**—ss. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, ch. 57-358; s. 1, ch. 61-470; ss. 25, 35, ch. 69-106; s. 62, ch. 69-353; s. 1, ch. 70-163; s. 296, ch. 71-136; s. 2, ch. 72-54; s. 1, ch. 74-1; s. 23, ch. 78-95; s. 32, ch. 79-65; s. 8, ch. 83-134; s. 2, ch. 84-121; s. 1, ch. 85-163; ss. 13, 17, ch. 85-234; s. 13, ch. 86-240; s. 22, ch. 98-227; s. 248, ch. 99-245; s. 78, ch. 2008-247.

<sup>1</sup>**Note.**—Section 8, ch. 83-134, as amended by s. 2, ch. 84-121, and by s. 1, ch. 85-163, repealed the then-existing section, effective July 1, 1986, and further provided that if the Governor and Cabinet had not adopted appropriate rules by July 1, 1986, it would remain in force until such rules were effective. Section 9, ch. 83-134, provided that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 8, the Marine Fisheries Commission would hold a public hearing thereon, and no such amendment, readoption, or repeal would be acted upon until it had been determined, based upon appropriate findings of fact, that such action would not adversely affect the resource. The Marine Fisheries Commission was transferred to the Fish and Wildlife Conservation Commission by s. 3, ch. 99-245.

**Note.**—Former s. 370.151.

**1379.247 Regulation of shrimp fishing; Clay, Duval, Nassau, Putnam, Flagler, and St. Johns Counties. —**

(1) DEFINITIONS. — When used in this section, unless the context clearly requires otherwise:

(a) “Inland waters” means all creeks, rivers, bayous, bays, inlets, and canals.

(b) “Sample” means one or more shrimp taken from an accurately defined part of the area defined.

(c) “Series” means 10 or more samples taken within a period of not more than 1 week, each sample being taken at a different station within the pattern.

(d) “Pattern” means 10 or more stations.

(e) “Station” means a single location on the water of the areas defined.

(f) “Licensed live bait shrimp producer” means any individual licensed by the Fish and Wildlife Conservation Commission to employ the use of any trawl for the taking of live bait shrimp within the inland waters of Nassau, Duval, St. Johns, Putnam, Flagler, or Clay Counties.

(g) “Licensed dead shrimp producer” means any individual licensed by the Fish and Wildlife Conservation Commission to employ the use of any trawl for the taking of shrimp within the inland waters of Nassau, Duval, St. Johns, Putnam, Flagler, or Clay Counties.

(2) SHRIMPING PROHIBITED. — It is unlawful to employ the use of any trawl or other net, except a common cast net, designed for or capable of taking shrimp, within the inland waters of Nassau, Duval, St. Johns, Putnam, Flagler, or Clay Counties, except as hereinafter provided.

(3) LIVE BAIT SHRIMP PRODUCTION. —

(a) A live bait shrimp production license shall be issued by the Fish and Wildlife Conservation Commission upon the receipt of an application by a person intending to use a boat, not to exceed 35 feet in length in Duval, St. Johns, Putnam, Flagler, and Clay Counties and not to exceed 45 feet in length in Nassau County, for live shrimp production within the inland waters of Nassau, Duval, St. Johns, Putnam, Flagler, or Clay Counties and the payment of a fee of \$250. The annual fee of \$250 shall be collected by the commission for the issuance of the license during a 60-day period beginning June 1 of each year. The design of the application and permit shall be determined by the commission. The proceeds of the fee imposed by this paragraph shall be used by the Fish and Wildlife Conservation Commission for the purposes of enforcement of marine resource laws.

(b) The Executive Director of the Fish and Wildlife Conservation Commission, or his or her designated representative, may by order close certain areas to live bait shrimp production when sampling procedures justify the closing based upon sound conservation practices. The revocation of any order to close has the effect of opening the area.

(c)1. Each licensed live bait shrimp producer who stores his or her catch for sale or sells his or her catch shall either:

a. Maintain onshore facilities which have been annually checked and approved by the local commission office to assure the facilities’ ability to maintain the catch alive when the live bait shrimp producer produces for his or her own facility; or

b. Sell his or her catch only to persons who have onshore facilities that have been annually checked and approved by the local commission office to assure the facilities’ ability to maintain the catch alive, when the producer sells his or her catch to an onshore facility. The producer shall provide the commission with the wholesale number of the facility to which the shrimp have been sold and shall submit this number on a form designed and approved by the commission.

2. All persons who maintain onshore facilities as described in this paragraph, whether the facilities are maintained by the licensed live bait shrimp producer or by another party who purchases shrimp from live bait shrimp producers, shall keep records of their transactions in conformance with the provisions of s. 379.362(6).

(d) All commercial trawling in Clay, Duval, and St. Johns Counties shall be restricted to the inland waters of the St. Johns River proper in the area north of the Acosta Bridge in Jacksonville and at least 100 yards from the nearest shoreline.

(e) A live shrimp producer must also be a licensed wholesale dealer. Such person shall not sell live bait shrimp unless he or she produces a live bait shrimp production license at the time of sale.

(f) The commission shall rename the Live Bait Shrimp Production License as the Commercial Live Shrimp Production License.

(4) DEAD SHRIMP PRODUCTION.— Any person may operate as a commercial dead shrimp producer provided that:

(a) A dead shrimp production permit is procured from the Fish and Wildlife Conservation Commission upon the receipt by the commission of a properly filled out and approved application by a person intending to use a boat, not to exceed 35 feet in length in Duval, St. Johns, Putnam, and Clay Counties, and not to exceed 45 feet in length in Nassau County, for dead shrimp production within the inland waters of Nassau County and the inland waters of the St. Johns River of Duval, Putnam, St. Johns, Flagler, or Clay Counties, which permit shall cost \$250 and shall be required for each vessel used for dead shrimp production. The design of the application and permit shall be determined by the Fish and Wildlife Conservation Commission. The proceeds of the fees imposed by this paragraph shall be deposited into the account of the Marine Resources Conservation Trust Fund to be used by the commission for the purpose of enforcement of marine resource laws.

(b) All commercial trawling in the St. Johns River proper shall be restricted to the area north of the Acosta Bridge in Jacksonville and at least 100 yards from the nearest shoreline.

(c) All commercial shrimping activities shall be allowed during daylight hours from Tuesday through Friday each week.

(d) The number of permits issued by the commission for commercial trawling or dead shrimp production in any one year shall be limited to those active in the base year, 1976, and renewed annually since 1976. All permits for dead shrimp production issued pursuant to this section shall be inheritable or transferable to an immediate family member and annually renewable by the holder thereof. Such inheritance or transfer shall be valid upon being registered with the commission. Each permit not renewed shall expire and shall not be renewed under any circumstances.

(e) It is illegal for any person to sell dead shrimp caught in the inland waters of Nassau, Duval, Clay, Putnam, and St. Johns Counties, unless the seller is in possession of a dead shrimp production license issued pursuant to this subsection.

(f) It is illegal for any person to purchase shrimp for consumption or bait from any seller (with respect to shrimp caught in the inland waters of Nassau, Duval, Clay, Putnam, and St. Johns Counties (St. Johns River)) who does not produce his or her dead shrimp production license prior to the sale of the shrimp.

(g) In addition to any other penalties provided for in this section, any person who violates the provisions of this subsection shall have his or her license revoked by the commission.

(h) The commission shall rename the Dead Shrimp Production License as the Commercial Food Shrimp Production License.

(5) SAMPLING PROCEDURE.—

(a) The Executive Director of the Fish and Wildlife Conservation Commission shall have samples taken at established stations within patterns at frequent intervals.

(b) No area may be closed to live bait shrimp production unless a series of samples has been taken and it has been determined that the shrimp are undersized or that continued shrimping in this area would have an adverse effect on conservation. Standards for size may be established by rule of the commission.

(c) No area may be opened to dead shrimp production unless a series of samples has been taken and it has been determined that the shrimp are of legal size. Legal-sized shrimp shall be defined as not more than 47 shrimp with heads on, or 70 shrimp with heads off, per pound.

(6) LICENSE POSSESSION.— The operator of a boat employing the use of any trawl for shrimp production must be in possession of a current shrimp production license issued to him or her pursuant to the provisions of this section.

(7) USE OF TRAWL; LIMITATION.—

(a) The use of a trawl by either a live bait shrimp producer or dead shrimp producer shall be limited to the daylight hours, and the taking of dead shrimp shall not take place on Saturdays, Sundays, or legal state holidays.

(b) The use of a trawl by either a live bait shrimp producer or dead shrimp producer within 100 yards of any shoreline is prohibited. The Fish and Wildlife Conservation Commission, by rule or order, may define the area or areas where this subsection shall apply.

(c)1. It is unlawful to employ the use of any trawl designed for, or capable of, taking shrimp within  $\frac{1}{4}$  mile of any natural or manmade inlet in Duval County or St. Johns County.

2. It is unlawful for anyone to trawl in the Trout River west of the bridge on U.S. 17 in Duval County.

(8) CREDITS.—Fees paid pursuant to paragraphs (3)(a) and (4)(a) of this section shall be credited against the saltwater products license fee.

**History.**—ss. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, ch. 71-460; ss. 1, 2, ch. 72-116; s. 1, ch. 73-150; ss. 1, 2, ch. 74-140; s. 1, ch. 77-174; s. 1, ch. 77-186; s. 80, ch. 79-164; s. 8, ch. 83-134; s. 1, ch. 83-295; s. 2, ch. 84-121; s. 1, ch. 85-163; ss. 16, 17, ch. 85-234; s. 1, ch. 87-201; ss. 3, 6, ch. 88-412; ss. 6, 12, ch. 89-98; s. 7, ch. 90-310; s. 231, ch. 94-356; s. 995, ch. 95-148; s. 13, ch. 95-414; s. 35, ch. 96-321; s. 45, ch. 97-96; s. 23, ch. 98-227; s. 249, ch. 99-245; s. 44, ch. 2000-364; s. 4, ch. 2003-143; s. 79, ch. 2008-247; s. 6, ch. 2014-136.

<sup>1</sup>**Note.**—Section 8, ch. 83-134, as amended by s. 2, ch. 84-121, and by s. 1, ch. 85-163, repealed then-existing subsections (1), (2), and (4)-(9), and paragraphs (3)(b)-(f), effective July 1, 1986, and further provided that if the Governor and Cabinet had not adopted appropriate rules by July 1, 1986, they would remain in force until such rules were effective. Section 9, ch. 83-134, provided that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 8, the Marine Fisheries Commission would hold a public hearing thereon, and no such amendment, reoption, or repeal would be acted upon until it had been determined, based upon appropriate findings of fact, that such action would not adversely affect the resource. The Marine Fisheries Commission was transferred to the Fish and Wildlife Conservation Commission by s. 3, ch. 99-245.

**Note.**—Former s. 370.153.

### **1379.248 Sponges; regulation.—**

(1) NONRESIDENT LICENSE; SPONGE FISHING.— Any nonresident of the state, who desires to engage in the business or occupation of sponge fishing, either for that person or any other person, shall, before entering into said business or occupation, procure a nonresident saltwater products license issued in the name of an individual or to a valid boat registration pursuant to s. 379.361.

(2) USE AND SIZE OF HOOKS.— Any person engaged in gathering sponges by use of a hook shall use a hook 5 inches wide for the purpose of removing sponges from the bottom, and no hook of other dimensions may be used.

(3) TAKING, POSSESSING COMMERCIAL; SIZE.—

(a) No person may take, by any means or method, from the waters of the Gulf of Mexico, the straits of this state or the other waters within the territorial limits of this state, any commercial sponges, measuring, when wet, less than 5 inches in their maximum diameter.

(b) To make effective the foregoing subsection it is further provided that no person may land, cure, deliver, offer for sale, sell, or have in his or her possession, within the territorial limits of this state, or upon any boat, vessel, or vehicle, other than those operated interstate by common carriers, within the territorial limits of this state, any commercial sponges measuring, when wet, less than 5 inches in their maximum diameter.

(c) The presence of commercial sponges within the territorial limits of this state, or upon any boat, vessel, or vehicle, other than those operated interstate by common carriers, within the territorial limits of this state, measuring, when wet, less than 5 inches in their maximum diameter, shall be evidence that the person having such sponges in his or her possession has violated this section.

(4) POWERS OF THE COMMISSION.—The commission is authorized and empowered to make, promulgate, and put into effect all rules and regulations which the commission may consider and decide to be necessary to accomplish the purpose of this chapter for the taking and cultivation of sponges, including the power and authority to determine and fix, in its discretion, the seasons and period of time within which public state grounds may be closed to the taking, possessing, buying, selling, or transporting of sponges from the sponge cultivation districts herein provided for and to regulate and prescribe the means and methods to be employed in the harvesting thereof; however, notice of all rules, regulations, and orders, and all revisions and amendments thereto, prescribing closed seasons or prescribing the means and methods of harvesting sponges adopted by the commission shall be published in a newspaper of general circulation in the conservation district affected within 10 days from the adoption thereof, in addition to any notice required by chapter 120.

(5) COOPERATION WITH UNITED STATES FISH AND WILDLIFE SERVICE.—The commission shall cooperate with the United States Fish and Wildlife Service, under existing federal laws, rules and regulations, and is authorized

to accept donations, grants and matching funds from said federal government under such conditions as are reasonable and proper, for the purposes of carrying out this chapter, and the commission is further authorized to accept any and all donations including funds and loan of vessels.

(6) PENALTY.— Any person violating any of the foregoing provisions shall, for the second offense, be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and by the confiscation of all boats, tackle and equipment used in the commission of such violation.

**History.**—s. 2, ch. 28145, 1953; ss. 10, 25, 35, ch. 69-106; s. 299, ch. 71-136; s. 23, ch. 78-95; s. 6, ch. 83-134; s. 2, ch. 84-121; ss. 15, 17, ch. 85-234; s. 5, ch. 86-219; ss. 17, 19, ch. 86-240; ss. 8, 12, ch. 89-98; s. 4, ch. 89-116; s. 564, ch. 95-148; s. 111, ch. 99-245; s. 80, ch. 2008-247.

<sup>1</sup>**Note.**— Section 6, ch. 83-134, as amended by s. 2, ch. 84-121; by s. 5, ch. 86-219; and by s. 19, ch. 86-240, repealed the then-existing section effective July 1, 1984, and further provided that if the Governor and Cabinet had not adopted appropriate rules by July 1, 1984, this section would remain in force until such rules were effective. Section 9, ch. 83-134, provided that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 6, the Marine Fisheries Commission would hold a public hearing thereon, and no such amendment, readoption, or repeal would be acted upon until it had been determined, based upon appropriate findings of fact, that such action would not adversely affect the resource. The Marine Fisheries Commission was transferred to the Fish and Wildlife Conservation Commission by s. 3, ch. 99-245.

**Note.**— Former s. 370.17.

### **379.249 Artificial reef program; grants and financial and technical assistance to local governments.—**

(1) An artificial reef program is created within the commission to enhance saltwater opportunities and to promote proper management of fisheries resources associated with artificial reefs for the public interest. Under the program, the commission may provide grants and financial and technical assistance to coastal local governments, state universities, and nonprofit corporations qualified under s. 501(c)(3) of the Internal Revenue Code for the siting and development of artificial reefs as well as for monitoring and evaluating such reefs and their recreational, economic, and biological effectiveness. The commission is authorized to accept title, on behalf of the state, to vessels for use in the artificial reef program as offshore artificial reefs. The program may be funded from state, federal, and private contributions.

(2) The commission may adopt by rule procedures for submitting an application for financial assistance and criteria for allocating available funds.

(3) The commission may adopt by rule criteria for siting, constructing, managing, and evaluating the effectiveness of artificial reefs placed in state or adjacent federal waters and criteria implementing the transfer of vessel titles to the state for use as an offshore artificial reef.

(4) The commission may adopt by rule criteria for determining the eligibility of nonprofit corporations qualified under s. 501(c)(3) of the Internal Revenue Code to apply for and receive funds available for artificial reef development or evaluation. The criteria must include, but are not limited to, the following:

(a) The corporation must show proof that it is a nonprofit corporation qualified under s. 501(c)(3) of the Internal Revenue Code.

(b) The corporation must state in its articles of incorporation or bylaws that one of its objectives is the development or monitoring of artificial reefs.

(5) The commission's artificial reef program shall track all artificial-reef-development activities statewide, and maintain a computer database of these activities for the public interest and to facilitate long-range planning and coordination within the commission and among local governments.

(6) It is unlawful for any person to:

(a) Place artificial-reef-construction materials in state waters outside zones permitted under the terms and conditions defined in any artificial-reef permits issued by the United States Army Corps of Engineers or by the Department of Environmental Protection.

(b) Store, possess, or transport on or across state waters any materials reasonably suited for artificial-reef construction and stored in a manner providing ready access for use and placement as an artificial reef, unless a valid cargo manifest issued by the commission or a commission-certified inspector is onboard the transporting vessel. The manifest will serve as authorization to use a valid permitted site or land-based staging area, will validate that the type

of artificial-reef construction material being transported is permissible for use at the permitted site, and will describe and quantify the artificial-reef material being transported. The manifest will also include the latitude and longitude coordinates of the proposed deployment location, the valid permit number, and a copy of the permit conditions for the permitted site. The manifest must be available for inspection by any authorized law enforcement officer or commission employee.

(7)(a) An initial violation of subsection (6) is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A subsequent violation of subsection (6) which is committed within 12 months after a previous violation of that subsection is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If a violation of subsection (6) occurs, a law enforcement officer may terminate a vessel's voyage and order the vessel operator to return immediately to port. Failure or refusal to comply with an order to return to port constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The vessel operator must immediately dispose of the materials on shore according to applicable waste disposal laws.

(c) If, at the time of the violation, the vessel that is involved in the violation:

1. Is moored at a land-based facility, the registered owner of the vessel is responsible for the violation.
2. Is underway or anchored, the captain or operator of the vessel and the registered owner of the vessel are jointly responsible for the violation.

(d) In addition to the penalties imposed in this subsection, the commission shall assess civil penalties of up to \$5,000 against any person convicted of violating subsection (6) and may seek the suspension or revocation of the vessel registration, existing reef-construction permits, or other state marine licenses held by the violator. For the purposes of this section, conviction includes any judicial disposition other than acquittal or dismissal.

(8) The Legislature finds that a statewide matching grant program to secure and place United States Maritime Administration (MARAD) and United States Navy decommissioned vessels in state or federal waters seaward of the state as artificial reefs would be of great benefit to Floridians in promoting ecotourism associated with recreational diving and fishing in Florida. Therefore, the Legislature authorizes the planning and development of a statewide matching grant program as described in this subsection to be administered by the commission. The program will be implemented subject to appropriations. The objectives in establishing the program are to:

(a) Assist in reducing the pressures on natural coral reefs in state or federal waters seaward of the state and increase the opportunities for recreational diving and fishing.

(b) Provide a mechanism through which counties and municipalities that are permitted to place vessels in state or federal waters seaward of the state as artificial reefs can apply for and receive state matching grants for the placement of decommissioned MARAD and United States Navy vessels. Funds may be used for cleaning, preparing, towing, and sinking of such decommissioned vessels.

(c) Provide state funds that would be matched with local funds, federal funds, and funds from local businesses.

(d) Establish criteria to determine eligibility for such state matching funds.

(e) Assist counties and municipalities with the donation and transfer application for United States Navy and MARAD decommissioned vessels available for use as artificial reefs in accordance with MARAD application evaluation criteria.

(f) Develop a master plan for the purposes of maximizing the number and type of vessels to be placed in state or federal waters seaward of the state that provides for the location of vessels in the most geographically effective and beneficial manner.

(g) Establish and promote standards for the placement of MARAD and United States Navy decommissioned vessels in state or federal waters seaward of the state, consistent with current environmental standards and the mandate of s. 3516 of the National Defense Authorization Act for Fiscal Year 2004 and the 2006 publication, "National Guidance: Best Management Practices for Preparing Vessels Intended to Create Artificial Reefs," published jointly by the United States Environmental Protection Agency and the United States Maritime Administration, which emphasized minimization of the release of harmful substances into the environment while decommissioned vessels are at anchorage and are undergoing disposal processes.

(h) Provide for and receive interagency comments from the agencies responsible for the permitting of artificial reefs and the Florida Department of Environmental Protection, allowing for a review period consistent with MARAD and United States Navy application deadlines.

(i) Establish a United States military vessel component as a seventh theme for Florida's Maritime Heritage Trail to promote Florida's nature-based tourism and heritage tourism.

(j) Provide for title of decommissioned vessels to be transferred to the state.

**History.**—s. 1, ch. 81-267; s. 10, ch. 90-310; s. 241, ch. 94-356; s. 1, ch. 97-172; s. 9, ch. 98-227; s. 45, ch. 2000-364; s. 5, ch. 2001-272; s. 6, ch. 2002-46; s. 1, ch. 2008-100; s. 81, ch. 2008-247.

**Note.**—Former s. 370.25.

**379.2495 Florida Ships-2-Reefs Program; matching grant requirements.**—

(1) The commission is authorized to establish the Florida Ships-2-Reefs Program, a matching grant program, for the securing and placement of United States Maritime Administration (MARAD) and United States Navy decommissioned vessels in state or federal waters seaward of the state to serve as artificial reefs and, pursuant thereto, to make expenditures and enter into contracts with local governments and nonprofit corporations for the purpose of securing and placing MARAD and United States Navy decommissioned vessels as artificial reefs in state or federal waters seaward of the state pursuant to s. 379.249(8) and performing the environmental preparation and cleaning requisite to the placement of a vessel as an artificial reef, which preparation and cleaning must meet the standards established in the 2006 publication, "National Guidance: Best Management Practices for Preparing Vessels Intended to Create Artificial Reefs," published jointly by the United States Environmental Protection Agency and the United States Maritime Administration. The commission shall have final approval of grants awarded through the program.

(2) Each grant awarded under the program shall be matched by nonstate funds. The limit for a state matching grant shall be 33 percent of the total cost for securing and placing the decommissioned vessel and performing the requisite environmental preparation and cleaning which meets the standards cited in subsection (1) prior to placement of the vessel.

(3) The commission may:

(a) Receive submissions of requests for matching funds and documentation relating to those requests;

(b) Approve requests for matching funds; and

(c) Allocate matching funds to local governments or nonprofit corporations.

(4) To demonstrate that a local government or nonprofit corporation meets the required criteria, the local government or nonprofit corporation must submit formal agreements, written pledges, memoranda of understanding, financing arrangements, or other documents demonstrating that nonstate matching funds are available for securing and placing the vessel prior to submission of an application. Matching grant funds shall be released only upon documentation that meets all the criteria established in rules adopted by the commission.

(5) No later than January 1 of each year, the commission shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing the expenditure of the funds appropriated to it for the purposes of carrying out the provisions of this section.

**History.**—s. 2, ch. 2008-100; s. 40, ch. 2009-21; s. 2, ch. 2014-21; s. 34, ch. 2015-2; s. 42, ch. 2018-110.

**379.25 Sale of unlawfully landed product; jurisdiction.**— It is unlawful for any person to bring to port, sell, or offer to sell any saltwater life landed in violation of the provisions of this chapter. Any person committing such a violation and docking his or her vessel at any port in the state, whether or not such product was landed in the territorial waters of the state, shall be deemed to have submitted himself or herself to the jurisdiction of the courts of this state for the purpose of the enforcement of the provisions of this chapter.

**History.**—s. 2, ch. 75-82; s. 566, ch. 95-148; s. 82, ch. 2008-247.

**Note.**—Former s. 370.23.

**379.2511 Lease of state-owned water bottoms for growing oysters and clams.**— Effective July 1, 1988, persons wishing to lease state-owned water bottoms for the purpose of growing oysters and clams shall no longer be required to apply under the provisions of s. 379.2525; such leases shall be issued pursuant to the provisions of ss. 253.67-253.75.

**History.**—s. 3, ch. 88-207; s. 83, ch. 2008-247.

**Note.**— Former s. 370.1601.

**379.2512 Oyster bottom land grants made pursuant to ch. 3293.—**

(1) All grants previously issued by the several boards of county commissioners under the authority of chapter 3293, 1881, Laws of Florida, shall be subject to provisions of s. 597.010, relating to the marking of such lands, the payment of rents, the cultivation of such lands and the forfeiture provisions.

(2) Any grantee of lands referred to in subsection (1) shall mark such lands and begin cultivation thereof as set forth in s. 597.010, within 90 days after the effective date of this act. The rentals prescribed by s. 597.010, shall be payable immediately upon the effective date of this act and in accordance with the provisions of said section.

(3) If any grantee shall fail to comply with the provisions of this act his or her grant shall become null and void and the lands shall return to the ownership and jurisdiction of the state.

**History.**—ss. 1, 2, 3, ch. 61-502; s. 563, ch. 95-148; s. 13, ch. 2000-364; s. 84, ch. 2008-247.

**Note.**— Former s. 370.161.

**379.2521 Rulemaking authority with respect to marine life.—** Marine aquaculture producers shall be regulated by the Department of Agriculture and Consumer Services. The Fish and Wildlife Conservation Commission shall adopt rules, by March 1, 2000, to regulate the sale of farmed red drum and spotted sea trout. These rules shall specifically provide for the protection of the wild resource, without restricting a certified aquaculture producer pursuant to s. 597.004 from being able to sell farmed fish. To that extent, these rules must only require that farmed fish be kept separate from wild fish and be fed commercial feed; that farmed fish be placed in sealed containers; that these sealed containers must have the name, address, telephone number and aquaculture certificate number, issued pursuant to s. 597.004, of the farmer clearly and indelibly placed on the container; and that this information must accompany the fish to the ultimate point of sale. Marine aquaculture products produced by a marine aquaculture producer, certified pursuant to s. 597.004, are exempt from Fish and Wildlife Conservation Commission resource management rules, with the exception of such rules governing any fish of the genus *Centropomus* (snook). By July 1, 2000, the Fish and Wildlife Conservation Commission shall develop procedures to allow persons possessing a valid aquaculture certificate of registration to sell and transport live snook produced in private ponds or private hatcheries as brood stock, to stock private ponds, or for aquarium display consistent with the provisions of rules adopted by the Department of Agriculture and Consumer Services.

**History.**—ss. 2, 5, ch. 83-134; s. 1, ch. 86-219; s. 2, ch. 86-240; ss. 16, 17, 18, ch. 93-213; ss. 1, 2, 3, ch. 94-247; s. 201, ch. 94-356; s. 11, ch. 96-247; s. 8, ch. 98-203; s. 9, ch. 98-333; s. 40, ch. 99-245; s. 1, ch. 99-390; s. 85, ch. 2008-247.

<sup>1</sup>**Note.**— Section 11, ch. 89-98, provides that “[a]ny language contained within chapter 370, Florida Statutes, which is subject to being replaced by rules adopted by the Marine Fisheries Commission under section 370.027, Florida Statutes, shall remain in force until the Governor and Cabinet have adopted appropriate rules pursuant to section 370.027, Florida Statutes.” The Marine Fisheries Commission was transferred to the Fish and Wildlife Conservation Commission by s. 3, ch. 99-245. Material formerly in chapter 370 was transferred to chapter 379 by ch. 2008-247, and s. 370.027 was redesignated as s. 379.2521.

**Note.**— Former s. 370.027.

**379.2522 Oysters produced in and outside state; labeling; tracing; rules.—**

(1) No wholesale or retail dealer, as defined in s. 379.362(1), shall sell any oysters produced outside this state unless they are labeled as such, or unless it is otherwise reasonably made known to the purchaser that the oysters were not produced in this state.

(2) The Department of Agriculture and Consumer Services shall promulgate rules whereby oysters produced in Florida waters can be traced to the location from which they were harvested. A wholesale or retail dealer may not sell any oysters produced in this state unless they are labeled so that they may be traced to the point of harvesting.

**History.**—s. 7, ch. 86-219; s. 21, ch. 86-240; s. 47, ch. 91-221; s. 235, ch. 94-356; s. 250, ch. 99-245; s. 86, ch. 2008-247.

**Note.**— Former s. 370.1603.

**379.2523 Aquaculture definitions; marine aquaculture products, producers, and facilities.—**

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

(a) "Marine aquaculture facility" means a facility built and operated for the purpose of producing marine aquaculture products. Marine aquaculture facilities contain culture systems such as, but not limited to, ponds, tanks, raceways, cages, and bags used for commercial production, propagation, growout, or product enhancement of marine products. Marine aquaculture facilities specifically do not include:

1. Facilities that maintain marine aquatic organisms exclusively for the purpose of shipping, distribution, marketing, or wholesale and retail sales;
2. Facilities that maintain marine aquatic organisms for noncommercial, education, exhibition, or scientific purposes;
3. Facilities in which the activity does not require an aquaculture certification pursuant to s. 597.004; or
4. Facilities used by marine aquarium hobbyists.

(b) "Marine aquaculture producer" means a person holding an aquaculture certificate pursuant to s. 597.004 to produce marine aquaculture products.

(c) "Marine aquaculture product" means any product derived from marine aquatic organisms that are owned and propagated, grown, or produced under controlled conditions by a person holding an aquaculture certificate pursuant to s. 597.004. Such product does not include organisms harvested from the wild for depuration, wet storage, or relayed for the purpose of controlled purification. Marine aquaculture products are considered saltwater products for the purposes of this chapter, except the holder of an aquaculture certificate is not required to purchase and possess a saltwater products license in order to possess, transport, or sell marine aquaculture products pursuant to s. 379.361. To renew an existing restricted species endorsement, marine aquaculture producers possessing a valid saltwater products license with a restricted species endorsement may apply income from the sales of marine aquaculture products to licensed wholesale dealers. Income from the sales of marine aquaculture products shall not be eligible for the purpose of acquiring a new restricted species endorsement. The holder of an aquaculture certificate must purchase and possess a saltwater products license in order to possess, transport, or sell saltwater products not specifically provided for in s. 597.004.

(2) The Department of Environmental Protection shall encourage the development of aquaculture and the production of aquaculture products. The department shall develop a process consistent with this section that would consolidate permits, general permits, and other regulatory requirements to streamline the permitting process and result in effective regulation of aquaculture activities. This process shall provide for a single application and application fee for marine aquaculture activities which are regulated by the department. Procedures to consolidate permitting actions under this section do not constitute rules within the meaning of s. 120.52.

(3) Until aquaculture general permits under s. 403.814 can be expanded and developed, the department shall establish criteria to temporarily permit aquaculture activities that may be presumed not to result in adverse environmental impacts. The criteria developed pursuant to this subsection do not constitute rules within the meaning of s. 120.52. Permit application fees under this subsection shall be no more than that established for a general permit. The department may delegate to the water management districts the regulatory authority for aquaculture facilities subject to the temporary general permitting criteria of this subsection. During the period prior to development of a general permit under s. 403.814, the department shall establish a compliance plan based on monitoring results that will assist in the development of the general permit.

(4) The department shall request that the Aquaculture Review Council identify a working group of industry representatives who can provide technical assistance in developing aquaculture general permits. The industry representatives shall come from the segment of the industry to be affected by the specific general permit to be developed. The working group shall be included in all phases of developing the aquaculture general permits.

(5) The department shall:

(a) Coordinate with the Aquaculture Review Council and the Department of Agriculture and Consumer Services when developing criteria for aquaculture general permits.

(b) Permit experimental technologies to collect and evaluate data necessary to reduce or mitigate environmental concerns.

(c) Provide technical expertise and promote the transfer of information that would be beneficial to the development of aquaculture.

(6) The Fish and Wildlife Conservation Commission shall encourage the development of aquaculture in the state through the following:

(a) Providing assistance in developing technologies applicable to aquaculture activities, evaluating practicable production alternatives, and providing management agreements to develop innovative culture practices.

(b) Facilitating aquaculture research on life histories, stock enhancement, and alternative species, and providing research results that would assist in the evaluation, development, and commercial production of candidate species for aquaculture, including:

1. Providing eggs, larvae, fry, and fingerlings to aquaculturists when excess cultured stocks are available from the commission's facilities and the culture activities are consistent with the commission's stock enhancement projects.

Such stocks may be obtained by reimbursing the commission for the cost of production on a per-unit basis. Revenues resulting from the sale of stocks shall be deposited into the trust fund used to support the production of such stocks.

2. Conducting research programs to evaluate candidate species when funding and staff are available.

3. Encouraging the private production of marine fish and shellfish stocks for the purpose of providing such stocks for statewide stock enhancement programs. When such stocks become available, the commission shall reduce or eliminate duplicative production practices that would result in direct competition with private commercial producers.

4. Developing a working group, in cooperation with the Department of Agriculture and Consumer Services and the Aquaculture Review Council, to plan and facilitate the development of private marine fish and nonfish hatcheries and to encourage private/public partnerships to promote the production of marine aquaculture products.

(c) Coordinating with public and private research institutions within the state to advance the aquaculture production and sale of sturgeon as a food fish.

(7) The Fish and Wildlife Conservation Commission shall coordinate with the Aquaculture Review Council and the Department of Agriculture and Consumer Services to establish and implement grant programs to provide funding for projects and programs that are identified in the state's aquaculture plan, pending legislative appropriations. The commission and the Department of Agriculture and Consumer Services shall establish and implement a grant program to make grants available to qualified nonprofit, educational, and research entities or local governments to fund infrastructure, planning, practical and applied research, development projects, production economic analysis, and training and stock enhancement projects, and to make grants available to counties, municipalities, and other state and local entities for applied aquaculture projects that are directed to economic development, pending legislative appropriations.

**History.**—s. 14, ch. 96-247; s. 14, ch. 98-333; s. 46, ch. 99-245; s. 5, ch. 99-390; s. 26, ch. 2000-364; s. 87, ch. 2008-247; s. 89, ch. 2010-102; s. 3, ch. 2012-190.

**Note.**—Former s. 370.26.

### **379.2524 Commercial production of sturgeon.—**

(1) **INTENT.**—The Legislature finds and declares that there is a need to encourage the continuation and advancement of work being done on aquaculture sturgeon production in keeping with the state's legislative public policy regarding aquaculture provided in chapter 597. It also finds that it is in the state's economic interest to promote the commercial production and stock enhancement of sturgeon. It is therefore the intent of the Legislature to hereby create a Sturgeon Production Working Group.

(2) **CREATION.**—The Sturgeon Production Working Group is created within the Department of Agriculture and Consumer Services and shall be composed of seven members as follows:

(a) The head of the sturgeon research program or designee from the University of Florida, Institute of Food and Agricultural Sciences. Such member shall be appointed by the University of Florida's Vice President for Agricultural Affairs.

(b) One representative from the Department of Environmental Protection to be appointed by the Secretary of Environmental Protection.

(c) One representative from the Fish and Wildlife Conservation Commission to be appointed by the executive director of the Fish and Wildlife Conservation Commission.

(d) One representative from the Department of Agriculture and Consumer Services to be appointed by the Commissioner of Agriculture.

(e) Two representatives from the aquaculture industry to be appointed by the Aquaculture Review Council.

(f) One representative from a private nonprofit organization involved in sturgeon production work, to be appointed by the Commissioner of Agriculture.

(3) MEETINGS; PROCEDURES; RECORDS.—The working group shall meet at least twice a year and elect, by a quorum, a chair and vice chair.

(a) The chair of the working group shall preside at all meetings and shall call a meeting as often as necessary to carry out the provisions of this section.

(b) The Department of Agriculture and Consumer Services shall keep a complete record of the proceedings of each meeting, which includes the names of the members present at each meeting and the actions taken. The records shall be public records pursuant to chapter 119.

(c) A quorum shall consist of a majority of the group members.

(4) PURPOSE AND RESPONSIBILITIES.—The purpose of the Sturgeon Production Working Group is to coordinate the implementation of a state sturgeon production management plan to promote the commercial production and stock enhancement of sturgeon in Florida. In carrying out this purpose, the working group shall:

(a) Establish a state sturgeon production management plan to inform public or private interested parties of how to aquaculturally produce sturgeon for commercial purposes and for stock enhancement. The sturgeon production management plan shall:

1. Provide the regulatory policies for the commercial production of sturgeon meat and roe, including a strategy for obtaining the required permits, licenses, authorizations, or certificates.

2. Provide the management practices for culturing sturgeon and ensure that aquacultural development does not impede the recovery and conservation of wild sturgeon populations.

3. Establish priorities for research needed to support the commercial production of sturgeon and the recovery of native stocks in the state.

(b) Support management strategies to permit the commercial production of native and nonnative sturgeon, including the distribution of captive-bred Gulf sturgeon to approved certified aquaculture facilities.

(c) Support the development of a cooperative sturgeon conservation program to coordinate conservation, habitat, and resource management programs for native sturgeon, including an evaluation of how stock enhancement can facilitate the conservation and recovery of native sturgeon populations.

(d) Seek federal cooperation to implement the sturgeon production management plan, including federal designation of captive-bred sturgeon as distinct population segments to distinguish cultivated stocks from wild native populations.

(e) Develop enforcement guidelines to ensure continued protection of wild native sturgeon populations.

(f) In furtherance of the purposes and responsibilities of the Sturgeon Production Working Group, the state shall:

1. Establish a program to coordinate conservation and aquaculture activities for native sturgeon.

2. Develop a conservation plan for native sturgeon.

3. Initiate the process to petition for delisting captive-bred shortnose sturgeon.

4. Initiate the process to petition for delisting captive-bred Gulf sturgeon.

(g) Establish a sturgeon broodstock committee composed of fishery scientists, fish farmers, and agency representatives to manage the taking of wild sturgeon for brood fish and spawning.

(h) Establish the Cooperative Broodstock Development and Husbandry Board composed of fishery scientists, fish farmers, and agency representatives to establish standards and criteria for the management and maintenance of captive-reared sturgeon, to collect biological data, and to administer the Cooperative Broodstock Development and Husbandry Program.

**History.**—s. 1, ch. 96-313; s. 6, ch. 99-390; s. 12, ch. 2002-295; s. 88, ch. 2008-247; s. 4, ch. 2012-190.

**Note.**—Former s. 370.31.

**1379.2525 Noncultured shellfish harvesting.—**

**(1) PROTECTION OF SHELLFISH AQUACULTURE PRODUCTS.—**

(a) The Fish and Wildlife Conservation Commission shall assist in protecting shellfish aquaculture products produced on leased or granted reefs in the hands of lessees or grantees from the state. Harvesting shellfish is prohibited within a distance of 25 feet outside lawfully marked lease boundaries or within setback and access corridors within specifically designated high-density aquaculture lease areas and aquaculture use zones.

(b) The department, in cooperation with the commission, shall provide the Legislature with recommendations as needed for the development and the proper protection of the rights of the state and private holders therein with respect to the oyster and clam business.

**(2) REMOVING OYSTERS, CLAMS, OR MUSSELS FROM NATURAL REEFS; LICENSES, ETC., PENALTY.—**

(a) It is unlawful to use a dredge or any means or implement other than hand tongs in removing oysters from the natural or artificial state reefs. This restriction shall apply to all areas of Apalachicola Bay for all shellfish harvesting, excluding private grounds leased or granted by the state prior to July 1, 1989, if the lease or grant specifically authorizes the use of implements other than hand tongs for harvesting. Except in Apalachicola Bay, upon the payment of \$25 annually, for each vessel or boat using a dredge or machinery in the gathering of clams or mussels, a special activity license may be issued by the Fish and Wildlife Conservation Commission pursuant to s. 379.361 for such use to such person.

(b) The use of any mechanical harvesting device other than ordinary hand tongs for taking shellfish for any purpose from public shellfish beds in Apalachicola Bay shall be unlawful.

(c) The possession of any mechanical harvesting device on the waters of Apalachicola Bay from 5 p.m. until sunrise shall be unlawful.

(d) Each vessel used for the transport or deployment of a dredge or scrape shall prominently display the lease or grant number or numbers, in numerals which are at least 12 inches high and 6 inches wide, in such a manner that the lease or grant number or numbers are readily identifiable from both the air and the water.

(e) Oysters may be harvested from natural or public grounds by common hand tongs or by hand, by scuba diving, free diving, leaning from vessels, or wading. In the Apalachicola Bay, this provision shall apply to all shellfish.

The commission shall apply other statutes, rules, or conditions necessary to protect the environment and natural resources from improper transport, deployment, and operation of a dredge or scrape. Any violation of this subsection or of any other statutes, rules, or conditions referenced in the special activity license shall be considered a violation of the license and shall result in revocation of the license and forfeiture of the bond submitted to the commission as a prerequisite to the issuance of this license.

**(3) FALSE RETURNS AS TO OYSTERS OR CLAMS HANDLED.—**Each packer, canner, corporation, firm, commission person, or dealer in fish shall, on the first day of each month, make a return under oath to the Fish and Wildlife Conservation Commission, as to the number of oysters, clams, and shellfish purchased, caught, or handled during the preceding month. Whoever is found guilty of making any false affidavit to any such report is guilty of perjury and punished as provided by law, and any person who fails to make such report shall be punished by a fine not exceeding \$500 or by imprisonment in the county jail not exceeding 6 months.

**(4) SEIZURE OF VESSELS AND CARGOES VIOLATING OYSTER AND CLAM LAWS, ETC.—**Vessels, with their cargoes, violating the provisions of the laws relating to oysters and clams may be seized by anyone duly and lawfully authorized to make arrests under this section or by any sheriff or the sheriff's deputies, and taken into custody, and when not arrested by the sheriff or the sheriff's deputies, delivered to the sheriff of the county in which the seizure is made, and shall be liable to forfeiture, on appropriate proceedings being instituted by the Fish and Wildlife Conservation Commission, before the courts of that county. In such case the cargo shall at once be disposed of by the sheriff, for account of whom it may concern. Should the master or any of the crew of said vessel be found guilty of using dredges or other instruments in fishing oysters on natural reefs contrary to law, or fishing on the natural oyster or clam reefs out of season, or unlawfully taking oysters or clams belonging to a lessee, such vessel shall be declared forfeited by the court, and ordered sold and the proceeds of the sale shall be deposited with the Chief Financial Officer

to the credit of the General Revenue Fund; any person guilty of such violations shall not be permitted to have any license provided for in this chapter within a period of 1 year from the date of conviction. Pending proceedings such vessel may be released upon the owner furnishing bond, with good and solvent security in double the value of the vessel, conditioned upon its being returned in good condition to the sheriff to abide the judgment of the court.

(5) DREDGING OF DEAD SHELLS PROHIBITED.—The dredging of dead shell deposits is prohibited in the state.

(6) REQUIREMENTS FOR OYSTER VESSELS.—All vessels used for the harvesting, gathering, or transporting of noncultured oysters for commercial use shall be constructed and maintained to prevent contamination or deterioration of oysters. To this end, all such vessels shall be provided with false bottoms and bulkheads fore and aft to prevent oysters from coming in contact with any bilge water. No dogs or other animals shall be allowed at any time on vessels used to harvest or transport oysters. A violation of any provision of this subsection shall result in at least the revocation of the violator's license.

**History.**—s. 2, ch. 28145, 1953; s. 1, ch. 57-256; s. 1, ch. 57-163; s. 1, ch. 59-346; s. 1, ch. 59-490; s. 1, ch. 61-99; s. 2, ch. 61-58; s. 3, ch. 61-22; s. 2, ch. 61-119; s. 1, ch. 61-100; s. 19, ch. 63-512; ss. 1, 2, ch. 63-120; s. 1, ch. 63-396; s. 3, ch. 65-140; s. 1, ch. 65-436; s. 1, ch. 67-234; ss. 19, 25, 35, ch. 69-106; s. 298, ch. 71-136; s. 1, ch. 71-244; s. 1, ch. 71-245; s. 1, ch. 71-246; s. 129, ch. 71-377; s. 1, ch. 72-204; s. 1, ch. 72-236; s. 102, ch. 73-333; s. 1, ch. 75-120; s. 1, ch. 76-106; s. 1, ch. 77-92; s. 111, ch. 77-104; s. 52, ch. 77-147; s. 1, ch. 77-197; s. 1, ch. 77-206; s. 23, ch. 78-95; s. 1, ch. 78-96; s. 33, ch. 79-65; s. 1, ch. 79-111; ss. 1, 2, ch. 80-52; s. 1, ch. 82-46; s. 1, ch. 82-408; s. 6, ch. 83-134; s. 27, ch. 83-216; s. 2, ch. 83-265; s. 2, ch. 84-121; s. 15, ch. 84-254; ss. 14, 17, ch. 85-234; s. 5, ch. 86-219; ss. 16, 19, ch. 86-240; ss. 7, 12, ch. 89-98; s. 3, ch. 89-116; ss. 19, 26, 42, ch. 89-175; s. 16, ch. 91-78; ss. 4, 5, ch. 91-187; ss. 5, 6, ch. 91-254; s. 5, ch. 91-286; s. 234, ch. 94-356; s. 92, ch. 95-143; s. 997, ch. 95-148; s. 37, ch. 96-321; s. 13, ch. 98-333; s. 64, ch. 99-8; s. 60, ch. 99-245; s. 12, ch. 2000-364; s. 381, ch. 2003-261; s. 13, ch. 2004-264; s. 89, ch. 2008-247.

<sup>1</sup>**Note.**—Section 6, ch. 83-134, as amended by s. 2, ch. 84-121; by s. 5, ch. 86-219; and by s. 19, ch. 86-240, repealed then-existing subsections (14)-(16) and (38), effective July 1, 1984, and further provided that if the Governor and Cabinet had not adopted appropriate rules by July 1, 1984, they would remain in force until such rules were effective. Section 9, ch. 83-134, provided that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 6, the Marine Fisheries Commission would hold a public hearing thereon, and no such amendment, re adoption, or repeal would be acted upon until it had been determined, based upon appropriate findings of fact, that such action would not adversely affect the resource. The Marine Fisheries Commission was transferred to the Fish and Wildlife Conservation Commission by s. 3, ch. 99-245.

**Note.**—Former s. 370.16.

### **379.26 Illegal importation or possession of nonindigenous marine plants and animals; rules and regulations.—**

(1) It is unlawful to import or possess any marine plant or marine animal, not native to the state, which, due to the stimulating effect of the waters of the state on procreation, may endanger or infect the marine resources of the state or pose a human health hazard, except as provided in this section.

(2) Marine animals not to be imported shall include, but are not limited to, all species of the following:

- (a) Sea snakes (Family Hydrophiidae), except as provided in subsection (4);
- (b) Weeverfishes (Family Trachinidae); and
- (c) Stonefishes (Genus *Synanceja*).

(3) The Fish and Wildlife Conservation Commission is authorized to adopt, pursuant to chapter 120, rules and regulations to include any additional marine plant or marine animal which may endanger or infect the marine resources of the state or pose a human health hazard.

(4) A zoological park and aquarium may import sea snakes of the family Hydrophiidae for exhibition purposes only under the following conditions:

- (a) Only male sea snakes may be possessed.
- (b) A zoological park and aquarium possessing sea snakes shall not be located in a coastal county and shall have no contiguous connection with any waters of the state.
- (c) Each zoological park and aquarium possessing sea snakes shall provide quarterly reports to the department regarding the number of each species of sea snakes on the premises and any changes in inventory resulting from death or additions by importation.
- (d) Sea snakes shall not be released into the waters of the state.

(e) Each zoological park and aquarium possessing sea snakes shall post with the commission a \$1 million letter of credit. The letter of credit shall be in favor of the State of Florida, Fish and Wildlife Conservation Commission, for use by the commission to remove any sea snake accidentally or intentionally introduced into waters of the state. The letter of credit shall be written in the form determined by the commission. The letter of credit shall provide that the zoological park and aquarium is responsible for the sea snakes within that facility and shall be in effect at all times that the zoological park and aquarium possesses sea snakes.

(f) A zoological park and aquarium shall not barter, sell, or trade sea snakes within this state.

(g) A zoological park and aquarium that imports sea snakes may bring the sea snakes into this state only by airplane that may only land at an airport located in a noncoastal county within this state.

(h) A zoological park and aquarium possessing sea snakes shall abide by all statutory and regulatory requirements of the Fish and Wildlife Conservation Commission with respect to venomous reptiles.

(5) It is unlawful to release into the waters of the state any nonnative saltwater species whether or not included in subsection (2) or prohibited by rules and regulations adopted pursuant to subsection (3) or authorized by subsection (4).

(6) Any person who violates this section commits a Level Three violation under s. 379.401.

**History.**—s. 1, ch. 71-68; s. 1, ch. 77-65; s. 1, ch. 92-60; s. 220, ch. 94-356; s. 11, ch. 98-333; s. 102, ch. 99-245; s. 7, ch. 2006-304; s. 90, ch. 2008-247; s. 10, ch. 2010-185.

**Note.**—Former s. 370.081.

### **PART III**

#### **FRESHWATER AQUATIC LIFE**

379.28 Imported fish.

379.29 Contaminating fresh waters.

379.295 Use of explosives and other substances or force prohibited.

#### **379.28 Imported fish.—**

(1) No person shall import into the state or place in any of the fresh waters of the state any freshwater fish of any species without having first obtained a permit from the Fish and Wildlife Conservation Commission. The commission is authorized to issue or deny such a permit upon the completion of studies of the species made by it to determine any detrimental effect the species might have on the ecology of the state.

(2) A person who violates this section commits a Level Three violation under s. 379.401.

**History.**—s. 37, ch. 13644, 1929; CGL 1936 Supp. 1977(37); s. 1, ch. 71-294; s. 1, ch. 80-129; s. 52, ch. 91-224; s. 130, ch. 99-245; s. 22, ch. 2006-304; s. 92, ch. 2008-247.

**Note.**—Former s. 372.26.

#### **379.29 Contaminating fresh waters.—**

(1) It shall be unlawful for any person or persons, firm or corporation to cause any dyestuff, coal tar, oil, sawdust, poison, or deleterious substances to be thrown, run, or drained into any of the fresh running waters of this state in quantities sufficient to injure, stupefy, or kill fish which may inhabit the same at or below the point where any such substances are discharged, or caused to flow or be thrown into such waters; provided, that it shall not be a violation of this section for any person, firm, or corporation engaged in any mining industry to cause any water handled or used in any branch of such industry to be discharged on the surface of land where such industry or branch thereof is being carried on under such precautionary measures as shall be approved by the Fish and Wildlife Conservation Commission.

(2) A person, firm, or corporation that violates this section commits a Level Two violation under s. 379.401.

**History.**—ss. 1, 2, ch. 22009, 1943; s. 317, ch. 71-136; s. 164, ch. 99-245; s. 61, ch. 2008-247; s. 5, ch. 2016-107.

**Note.**—Former s. 372.85.