

1 A bill to be entitled
2 An act relating to wildlife, freshwater fish and marine
3 resources; amending s. 253.04, F.S.; providing that
4 careless operation of a vessel outside a marked channel
5 that causes seagrass scarring within certain aquatic
6 preserves is a civil infraction; defining the terms
7 "seagrass scarring" and "seagrasses"; providing that
8 refusal to post bond or sign a boating citation is a
9 misdemeanor of the second degree; requiring that civil
10 penalties collected for seagrass scarring be deposited into
11 the Internal Improvement Trust Fund and used for specified
12 purposes; amending s. 327.73, F.S.; providing civil
13 penalties for seagrass scarring; amending s. 372.73, F.S.;
14 providing forfeiture of unlawfully obtained wildlife,
15 freshwater fish or saltwater fish to investigating law
16 enforcement agency; providing that law enforcement agency
17 to dispose of forfeited wildlife, freshwater fish or
18 saltwater fish in specified manner; providing unlawfully
19 possessed wildlife, freshwater fish or saltwater fish be
20 documented as evidence and returned to native habitat;
21 providing that non-native species may be released only as
22 allowed by rules of the commission; creates s. 372.731,
23 F.S.; .providing photographs of illegally taken wildlife,
24 freshwater fish or saltwater fish may be deemed competent
25 evidence to the same extent as the wildlife, freshwater
26 fish or saltwater fish; providing photographs shall bear
27 specified written description; providing the written
28 description to be made under oath; providing photograph to

29 | be signed by photographer; repealing s. 372.107, F.S.;
 30 | abolishing the Federal Law Enforcement Trust Fund within
 31 | Florida Fish and Wildlife Conservation Commission;
 32 | providing an effective date.

33 |
 34 | Be It Enacted by the Legislature of the State of Florida:

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 36 | Section 1. Subsection (4) of section 253.04, Florida
 37 | Statutes, is amended to read:

38 | 253.04 Duty of board to protect, etc., state lands; state
 39 | may join in any action brought.--

40 | (4) Whenever any person or the agent of any person
 41 | knowingly refuses to comply with or willfully violates any of
 42 | the provisions of this chapter so that such person causes damage
 43 | to the lands of the state or products thereof, including removal
 44 | of those products, such violator is liable for such damage.
 45 | Whenever two or more persons or their agents cause damage, and
 46 | if such damage is indivisible, each violator is jointly and
 47 | severally liable for such damage; however, if such damage is
 48 | divisible and may be attributed to a particular violator or
 49 | violators, each violator is liable only for that damage and
 50 | subject to the fine attributable to his or her violation.

51 | (a) Any person operating a vessel outside a lawfully marked
 52 | channel in a careless manner that causes seagrass scarring
 53 | within an aquatic preserve established in ss.258.39 (except for
 54 | the Lake Jackson, Wekiva River and Rainbow Springs aquatic
 55 | preserves), 258.391, 258.392, 258.3925, 258.393, 258.394,
 56 | 258.395, 258.396 and 258.397 commits a civil infraction,

57 punishable as provided in s. 327.73, ~~except as provided in~~
 58 ~~paragraph (b)~~. Each violation shall be a separate offense. For
 59 purposes of this subsection:

60 1. "Seagrass scarring" means destruction of seagrass roots,
 61 shoots or stems that results in tracks on the substrate, caused
 62 by the operation of a motorized vessel in waters supporting
 63 seagrasses, commonly referred to as prop-scars or propeller
 64 scars;

65 2. "Seagrasses" means Cuban shoal grass (Halodule
 66 wrightii), turtle grass (Thalassia testudinum), manatee grass
 67 (Syringodium filiforme), star grass (Halophila engelmannii),
 68 paddle grass (Halophila decipiens), Johnsons seagrass (Halophila
 69 johnsonii) or widgeon grass (Ruppia maritima).

70 (b) Any violation of this subsection is a violation of the
 71 boating laws of this state and shall be charged on a uniform
 72 boating citation as provided in s. 327.74. Any person who
 73 refuses to post a bond or accept and sign a uniform boating
 74 citation shall, as provided in s. 327.73(3), be guilty of a
 75 misdemeanor of the second degree, punishable as provided in s.
 76 775.082 or s. 775.083.

77 (c) All civil penalties imposed and collected pursuant to
 78 this subsection shall be deposited into the Internal Improvement
 79 Trust Fund and used solely: to implement, administer, and
 80 enforce this subsection; to provide for seagrass restoration; to
 81 conduct a program to educate vessel operators about the need to
 82 protect seagrasses from damage caused by the operation of
 83 vessels; or to fund marking of seagrass.

84 Section 2. Paragraph (x) is added to subsection (1) of
 85 section 327.73 Florida Statutes, and subsection (8) of said
 86 section is amended to read:

87 327.73 Noncriminal infractions.--

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

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

92 1. \$50 upon conviction for a first offense;

93 2. \$250 upon conviction for a second offense occurring
 94 within 12 months of a prior conviction;

95 3. \$500 upon conviction for a third offense occurring
 96 within 36 months of a prior conviction;

97 4. \$1,000 upon conviction for a fourth or subsequent
 98 offense.

99
 100 Any person cited for a violation of any such provision shall be
 101 deemed to be charged with a noncriminal infraction, shall be
 102 cited for such an infraction, and shall be cited to appear
 103 before the county court. The civil penalty for any such
 104 infraction is \$50, except as otherwise provided in this section.
 105 Any person who fails to appear or otherwise properly respond to
 106 a uniform boating citation shall, in addition to the charge
 107 relating to the violation of the boating laws of this state, be
 108 charged with the offense of failing to respond to such citation
 109 and, upon conviction, be guilty of a misdemeanor of the second
 110 degree, punishable as provided in s. 775.082 or s. 775.083. A

111 written warning to this effect shall be provided at the time
 112 such uniform boating citation is issued.

113 (8) Except as otherwise provided, all ~~All~~-fees and civil
 114 penalties assessed and collected pursuant to this section shall
 115 be remitted by the clerk of the court to the Department of
 116 Revenue to be deposited into the Marine Resources Conservation
 117 Trust Fund for boating safety education purposes.

118 Section 3. Section 372.73, Florida Statutes, is amended to
 119 read:

120 372.73 Confiscation and disposition of illegally taken
 121 ~~game~~ wildlife, freshwater fish and saltwater fish.--

122 (1) All ~~game~~ wildlife, and freshwater fish, and saltwater
 123 fish seized under the authority of this chapter, any other
 124 chapter, or rules of the commission shall, upon conviction of
 125 the offender or sooner in accordance with a court order ~~if the~~
 126 ~~court so orders~~, be forfeited to the investigating law
 127 enforcement agency. The law enforcement agency may elect to:
 128 retain the wildlife, freshwater fish or saltwater fish for the
 129 agency's official use; transfer it to another unit of state or
 130 local government for official use; donate it to a charitable
 131 organization; sell it at public sale, pursuant to the provisions
 132 of s. 705.103; or destroy the wildlife, freshwater fish or
 133 saltwater fish if none of the other options are practicable or
 134 if the wildlife, freshwater fish, or saltwater fish is
 135 unwholesome or otherwise not of appreciable value. All live
 136 wildlife, freshwater fish, and saltwater fish, the possession of
 137 which is unlawful, shall be properly documented as evidence as
 138 provided in s. 372.731, and returned to the habitat unharmed,

139 except that non-native species may be released only as allowed
 140 by rules of the commission. Any unclaimed wildlife, freshwater
 141 fish or saltwater fish shall be retained by the investigating
 142 law enforcement agency and disposed of in accordance with the
 143 above provisions. ~~and given to some hospital or charitable~~
 144 ~~institution and receipt therefore sent to the Fish and Wildlife~~
 145 ~~Conservation Commission.~~

146 (2) All furs or hides or fur-bearing animals seized under
 147 the authority of this chapter shall, upon conviction of the
 148 offender, be forfeited and sent to the commission, which shall
 149 sell the same ~~and deposit the proceeds of such sale to the~~
 150 ~~credit of the State Game Trust Fund or into the commission's~~
 151 ~~Federal Law Enforcement Trust Fund as provided in s. 372.107, as~~
 152 ~~applicable.~~ If any such hides or furs are seized and the
 153 offender is unknown, the court shall order such hides or furs
 154 sent to the Fish and Wildlife Conservation Commission, which
 155 shall sell such hides and furs.

156 (3) Except as otherwise provided, the ~~and deposit the~~
 157 proceeds of any such sale pursuant to this section shall be
 158 remitted to the Department of Revenue to be deposited to the
 159 credit of the State Game Trust Fund or the Marine Resources
 160 Conservation Trust Fund, ~~or into the commission's Federal Law~~
 161 ~~Enforcement Trust Fund as provided in s. 372.107, as applicable.~~

162 (4) Any state, municipal or county law enforcement agency
 163 that enforces or assists the commission in enforcing the
 164 provisions of this chapter, which results in a forfeiture of
 165 property as provided in this section, shall be entitled to
 166 receive all or a share of any property based upon its

167 participation in such enforcement.

168 Section 4. Section 372.731, Florida Statutes, is created
 169 to read:

170 372.731 Photographs of illegally taken wildlife,
 171 freshwater fish, and saltwater fish.--

172 In any prosecution for a violation of Chapter 370, Chapter
 173 372 or rules of the commission, a photograph of the illegally
 174 taken wildlife, freshwater fish or saltwater fish may be deemed
 175 competent evidence of such property and may be admissible in the
 176 prosecution to the same extent as if such wildlife, freshwater
 177 or saltwater fish were introduced as evidence. Such photograph
 178 shall bear a written description of the wildlife, freshwater
 179 fish or saltwater fish alleged to have been illegally taken, the
 180 name of the violator, the location where the alleged wrongful
 181 taking occurred, the name of the investigating law enforcement
 182 officer, the date the photograph was taken, and the name of the
 183 photographer. Such writing shall be made under oath by the
 184 investigating law enforcement officer, and the photograph shall
 185 be identified by the signature of the photographer.

186 Section 5. Section 372.107, Florida Statutes is repealed.

187 ~~**372.107 Federal Law Enforcement Trust Fund.**~~

188 ~~(1) The Federal Law Enforcement Trust Fund is created~~
 189 ~~within the Fish and Wildlife Conservation Commission. The~~
 190 ~~commission may deposit into the trust fund receipts and revenues~~
 191 ~~received as a result of federal criminal, administrative, or~~
 192 ~~civil forfeiture proceedings and receipts and revenues received~~
 193 ~~from federal asset sharing programs. The trust fund is exempt~~
 194 ~~from the service charges imposed by s. 215.20.~~

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195 ~~(2) Notwithstanding the provisions of s. 216.301 and~~
196 ~~pursuant to s. 216.351, any balance in the trust fund at the end~~
197 ~~of any fiscal year shall remain in the trust fund at the end of~~
198 ~~the year and shall be available for carrying out the purposes of~~
199 ~~the trust fund.~~

200 Section 6. This act shall take effect October 1, 2008.