

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Environmental Preservation Committee

BILL: SB 1866

SPONSOR: Senator Smith

SUBJECT: Fish and Wildlife Conservation Commission

DATE: March 28, 2005

REVISED: 3/29/05

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kiger</u>	<u>Kiger</u>	<u>EP</u>	<b>Fav/ 3 amendments</b>
2.	<u>                    </u>	<u>                    </u>	<u>JU</u>	<u>                    </u>
3.	<u>                    </u>	<u>                    </u>	<u>GE</u>	<u>                    </u>
4.	<u>                    </u>	<u>                    </u>	<u>GA</u>	<u>                    </u>
5.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
6.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

**Please see last section for Summary of Amendments**

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

**I. Summary:**

The bill contains a series of issues concerning the Fish and Wildlife Conservation Commission (FWCC). Included in the bill are:

- An increase in the age requirement for those having to pass the boating safety education course.
- Revisions to membership criteria for the Boating Advisory Council.
- Reductions for stone crab trap certificate transfer fees.
- Creation of new individual/vessel saltwater products license.
- Increases in penalties for those who violate dog hunting laws.
- Repeal of the FWCC's environmental education grant program.
- Expansion of the requirement for wearing hunter orange to include private lands.

This bill substantially amends: 327.395, 327.803, 370.06, 370.13, 372.83, 372.988, 372.672, Florida Statutes; creates: 372.831, Florida Statutes; repeals: 372.674, Florida Statutes; and reenacts: 372.83, Florida Statutes.

**II. Present Situation:**

Boating Safety

Pursuant to s. 327.395, F.S., anyone 21 years of age or younger must pass a boating safety education course and obtain a Florida Boating Safety Education identification card. Boating safety education for those older than 21 years of age is voluntary.

According to statistics provided by the FWCC, Florida has seen a 7.6% reduction in accidents of boat operators within the affected age group (21 and under) since 1996.

#### Boating Advisory Council

The Boating Advisory Council (BAC) was created by the Florida Legislature in 1994 and consisted of 16 members. It has since expanded to 17 members selected from the following groups:

- Manatee protection
- Water-related environmental groups
- Marine manufacturers
- Commercial vessel owners or operators
- Sport boat racing
- Scuba diving industry with experience in recreational boating
- Boating public
- State Representative
- State Senator
- Department of Environmental Protection
- U.S Coast Guard Auxiliary
- U.S. Power Squadron
- Inland Navigation Districts
- FWCC, who serves as chair

The Governor appoints the ten citizen members from nominations submitted by the FWCC.

Terms are for 2 years. According to the FWCC, just as members fully acclimate to the issues their term expires. This turnover has begun to hamper the effectiveness of the BAC. In recent years, the BAC has suffered from a lack of participation from some members. Current law does not address non-participating members.

The BAC considers issues relating to boating and diving safety education, boating related facilities, including marinas and boat testing facilities, and boat usage. The BAC is charged with making recommendations to the FWCC and to the Department of Community Affairs.

#### Saltwater Products License

Currently, anyone harvesting commercial quantities of saltwater products must be licensed by the state, s. 370.06(2), F.S.. An individual saltwater products license (SPL) authorizes only that person to fish commercially, from shore or any vessel. The individual SPL is issued in the

individual's name, must be with the individual when they are fishing, and costs \$50 for a resident, \$200 for a non-resident, and \$300 for anyone not a citizen of the United States.

A vessel SPL allows anyone on board that specific vessel to harvest fish without having to obtain an individual SPL. A vessel SPL is issued in the vessel registration number, must be on board the vessel, does not require the license holder to be on board when fishing, and costs \$100 for a resident, \$400 for a non-resident, and \$600 for anyone not a citizen of the United States.

#### Stone Crab Certificate Transfer Fee Reduction

The stone crab trap reduction program (s. 370.13, F.S.) is based on a passive system – when certificates are transferred/sold, the seller can transfer a percentage of the total. The percentage is established by Commission rule. Currently, 77.5% of the holder's inventory can be transferred; the remaining 22.5% are taken out of the fishery, resulting in a corresponding reduction of traps in the water. Percentage of reduction is based on the total volume of certificates in the fishery – the smaller the total volume, the smaller the reduction percentage. The goal is to reduce the volume to 600,000. At the beginning of FY 2004-05, 1,458,708 certificates were issued.

The fee to transfer stone crab trap certificates is established in statute as \$2 per certificate transferred. There are two exceptions to this rate: 1) the transfer fee for crew members who can document their participation in the stone crab fishery pursuant to the requirements of FWCC rule (68B-13(3)(j), F.A.C.) is \$1 per certificate; and 2) there is no transfer fee assessed when the transfer is to an immediate family member because of the death or disability of the certificate holder. A one-time surcharge of \$2 per certificate of 25%, whichever is greater, is also assessed the first time the certificates are transferred; but the surcharge is not assessed for any transfer within an individual's immediate family.

#### Penalties for Violating Specified Hunting Laws

At their July 2004 meeting, the FWCC passed a rule that created a system for registering properties used for deer hunting with dogs. The purpose of the rule is to lessen problems associated with deer hunting dogs going onto adjacent property owners' land without the landowners' permission. Coupled with the registration system, the FWCC, with support of adjacent landowners and many dog hunting groups, expressed strong interest in finding a way to stop those who continually violate deer/dog hunting laws. It is felt that strengthening the penalties associated with dog hunting violations could provide a deterrent for repeat offenders. After the July 2004 meeting, FWCC staff worked with stakeholders to develop a legislative proposal for the 2005 Session to increase penalties for those who habitually violate these laws.

Three stakeholder meetings were held with representatives from adjacent landowners and from dog hunting organizations (October 12, 2004 - 23 attendees; November 8, 2004 - 11 attendees; January 5, 2005 – 14 attendees).

It should be noted that a majority of those who attended the meetings agreed that instead of increasing penalties only for deer/dog hunting, a review should be conducted of all of Florida's wildlife, freshwater fishing, and saltwater fishing violations and their penalties in order to

develop a proposal to provide consistency among penalties for similar violations, including increasing penalties for those who continually violate the law. Because of the complexity of the review and the widespread interest in the issue, the group understood that a proposal would not be drafted before the 2006 Legislative Session. The members of the commission supported a review of FWCC's hunting and fishing violations and charged staff to work with stakeholders to develop a proposal for the 2006 Session. As part of the commitment made at their July 2004 meeting, the Commission voted to request that the 2005 Legislature consider legislation increasing the penalties for those who continually violate deer/dog hunting laws and for those who hunt with a suspended or revoked license.

Current Penalties for Violating Deer/Dog Hunting Laws

1<sup>st</sup> conviction - 2<sup>nd</sup> degree misdemeanor (up to a \$500 fine and up to 60 days in jail)  
2nd conviction – 1<sup>st</sup> degree misdemeanor (up to a \$1000 fine and up to 1 year in jail)

Current Penalty for Hunting with a Suspended or Revoked Hunting License

\$50 fine, plus the cost of a hunting license and court costs

Required Clothing for Persons Hunting

Section 372.988, F.S., requires any person, to hunt deer, or for any other person who may accompany the hunter to wear a total of at least 500 square inches of daylight fluorescent orange material as an outer garment. These requirements are currently only applied to hunting on public land.

Environmental Education

FWCC is currently authorized to develop an environmental education grant program, which assists the public, through school teachers, state administrators including the Department of Education, and others, in understanding Florida's environment and the problems and issues facing Florida's ecosystems. The Advisory Council on Environmental Education (ACEE) serves to recommend to the FWCC an annual list of projects to be funded through the grant program that would implement the environmental education mission. Declining revenues in the two funding sources for the program – the Save the Manatee Trust Fund and the Florida Panther Research and Management Trust Fund – ultimately resulted in the elimination of funding of the program and its staff, effective July 1, 2003.

**III. Effect of Proposed Changes:**

**Section 1:** Would amend s. 327.395, F.S., to require anyone born after September 30, 1983, to pass the boating safety education course in order to legally operate a boat on Florida waterways. The practical effect of this change would be an increase in the age requirement, for those having to take the test, by one year.

**Section 2:** Would amend s. 327.803, F.S., to revise the BAC membership criteria in the following manner:

Changes ten citizen membership appointments from the Governor to the FWCC.

Provides for the removal of a member for cause.

Increases membership terms from 2 to 3 years and specifies that appointments are limited to two terms, except if filling an unexpired term.

Updates the list of interest groups from which citizen members may be appointed. "Sport boat racing" is dropped as a category and replaced with a representative from "marine special events."

Adds "boating access and working waterfronts" to the mission of the BAC.

**Section 3:** Would amend, s. 370.06, F.S., to create a new SPL, and individual/vessel SPL, that is a combination of the current two licenses. The individual/vessel SPL would be obtained by an individual, would allow the license holder to harvest fish from different vessels, as well as cover the crew fishing with them, and must be with the license holder whenever they are fishing. The new license would allow the commercial fisher who may have several vessels, but who only fishes one vessel at a time, the opportunity to purchase only one license. The propose price represents a combination of the prices for the individual SPL and the vessel SPL, \$150 for a resident, \$600 for a non-resident, and \$900 for anyone not a citizen of the United States.

**Section 4:** Would amend s. 370.13, F.S., to reduce stone crab transfer fees in half for the 2005-06 season. For the 2006-07 season and subsequently, it would allow the Commission to set the fees by rule "up to" the level currently authorized in statute, i.e. up to \$2 per certificate for transfer outside of immediate family; up to \$1 per certificate for transfer to an eligible crew member; up to \$2 per certificate or up to 25%, whichever is greater, for the transfer surcharge.

**Sections 5 and 6:** The bill would apply the following penalties to provisions (1) and (2) of Commission Rule 68A-12.007, F.A.C. Provision (1) requires identification (collar or tag with owner name and address) of any dog used for taking or attempting to take wildlife. Provision (2) requires written landowner permission for use of dogs to take or attempt to take wildlife.

- 1<sup>st</sup> conviction – 2<sup>nd</sup> degree misdemeanor (current penalty);
- 2<sup>nd</sup> conviction within a 3-year period – 1<sup>st</sup> degree misdemeanor with minimum mandatory fine of \$250;
- 3<sup>rd</sup> conviction within a 4-year period – 1<sup>st</sup> degree misdemeanor with a minimum mandatory fine of \$500 and mandatory suspension of hunting license for 1 year;
- 4<sup>th</sup> or subsequent conviction within a 5-year period – 1<sup>st</sup> degree misdemeanor with a mandatory fine of \$1000 and mandatory suspension of hunting license for 3 years.

A new penalty is also proposed for the "Deliberate Casting of Deer Hunting Dogs." The new violation for the deliberate casting of dogs for the purpose of taking deer without landowner permission would be a 1<sup>st</sup> degree misdemeanor with a mandatory \$1,000 fine and mandatory suspension of hunting license for 1 year.

**Section 7:** Amends s. 372.988, F.S., to expand the requirements for wearing hunter orange to include hunting on private lands.

**Section 8:** Section 372.83(1), F.S. (Noncriminal infractions; criminal penalties; suspension and revocation of license and permits) is re-enacted in order to incorporate the changes made to s. 372.988, F.S.

**Section 9:** Repeals s. 372.674, F.S., to eliminate the FWCC’s environmental education grant program.

**Section 10:** Deletes a provision in s. 372.672, F.S., to conform the authorized uses of Florida Panther Research and Management Trust Fund to the repeal of the environmental education grant program.

**Section 11:** Provides that unless otherwise specified the bill will take effect on July 1, 2005.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

**Stone Crab Certificate Transfer Fee Reduction Proposal**

Current Fees for Certificate Transfers

Transfer (outside of immediate family) -	\$2 per certificate
Transfer to eligible crew member -	\$1 per certificate
Transfer surcharge (outside of immediate family - first time transferred only)	\$2 per certificate or 25%, whichever is greater

Proposed Fees for Certificate Transfers for 2005-2006

Transfer (outside of immediate family) -	\$1 per certificate
Transfer to eligible crew member -	\$.50 per certificate
Transfer surcharge (outside of immediate family - first time transferred only)	\$1 per certificate or 25%, whichever is greater

Proposed Fees for Certificate Transfers for 2006-2007 and After

Transfer (outside of immediate family) -	Up to \$2 per certificate
Transfer to eligible crew member -	Up to \$1 per certificate
Transfer surcharge (outside of immediate family - first time transferred only)	Up to \$2 per certificate or 25% whichever is greater

**B. Private Sector Impact:**

The boating safety changes would require anyone born after September 30, 1983, to take a boating safety course. Some course operators charge up to \$25 for this course. However, alternatives exist that are available free of charge.

The FWCC projects that the creation of the new individual/vessel SPL would provide for a savings to saltwater commercial fishers who have more than one SPL and who currently affix various endorsements. The new license would allow the fisher who personally fishes on more than one vessel, during the year, to only have to purchase one SPL and, thus, one endorsement.

The FWCC anticipates that the reduction in the stone crab trap transfer fees will help to stimulate sales, which would assist those in the industry who wish to sell their inventory of stone crab traps and would facilitate the reduction in the number of excess stone crab traps in the water.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.





## VIII. Summary of Amendments:

### **Barcode 935572 by Environmental Preservation**

Removes Section 1 of the bill which would have required anyone born after September 30, 1983, to pass a boating safety education course in order to legally operate a boat on Florida waterways.

### **Barcode 264002 by Environmental Preservation**

Removes Sections 5 and 6 of the bill. These provisions created penalties for those individuals who violated rules of the FWCC with regard to the use of dogs for hunting purposes.

### **Barcode 520782 by Environmental Preservation**

The amendment changes the bill's provisions as they relate to requirements for hunters to wear hunter orange while deer hunting on private land. The bill would apply this requirement to all hunters; the amendment changes this to apply only to minors under 16.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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