

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Judiciary Committee

BILL: CS/CS/SB 2536

INTRODUCER: Judiciary Committee, Environmental Preservation and Conservation Committee, and Senator Constantine

SUBJECT: Fish and Wildlife Conservation Commission

DATE: April 8, 2009 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiggins</u>	<u>Kiger</u>	<u>EP</u>	<u>Fav/CS</u>
2.	<u>Sumner</u>	<u>Maclure</u>	<u>JU</u>	<u>Fav/CS</u>
3.	_____	_____	<u>GA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This bill is the comprehensive agency package for the Florida Fish and Wildlife Conservation Commission (FWC). It does the following:

- Clarifies FWC’s statutory responsibilities related to the Florida Aquatic Weed Control Act;
- Specifies penalties associated with violations related to aquatic weed and plant control and specifies that related fines will be deposited in the Invasive Plant Control Trust Fund;
- Helps to complete the 2008 Legislature’s transfer of the Bureau of Invasive Plant Management (Bureau) from the Department of Environmental Protection (DEP) to the FWC;
- Gives FWC greater flexibility in disposition and handling of evidence associated with wildlife, fish, or game violations;
- Revises certain age limitations for the operation of a vessel;
- Revises provisions for placement of navigation, safety, and information markers of waterways;
- Provides for exemptions for uniform waterway markers and certain permit requirements;

- Provides for counties to establish boating-restricted areas;
- Revises provisions prohibiting mooring to or damaging markers or buoys;
- Limits regulation by a county or municipality of the operation, equipment, and other matters relating to vessels operated upon the waters of this state;
- Repeals the general shoreline exemption, authorized for Florida residents to fish from the saltwater shoreline or a structure fixed to the land, and provides specific exemptions;
- Reduces the time period from three to two years when commercial lobster trap certificates will be considered abandoned and will revert to FWC;
- Increases the voluntary fee for obtaining a Florida manatee license plate from \$20 to \$25;
- Increases the voluntary fee for obtaining a Conserve Wildlife license plate from \$15 to \$25;
- Increases the fee for registering a previously out-of-state registered vehicle from \$4 to \$10 and deposits the additional revenue into the Nongame Wildlife Trust Fund;
- Provides that the state has a duty to preserve and regenerate seagrass beds;
- Revises penalties for boating under the influence of alcohol and the blood-alcohol level or breath-alcohol level at which certain penalties apply;
- Prohibits the possession or operation of a vessel equipped with unapproved fuel containers and the transportation of fuel in a vessel except when in compliance with federal regulations;
- Provides for confiscation and disposition of illegally taken game, wildlife, freshwater fish, and saltwater fish; and provides for photographs of game, wildlife, freshwater fish, or saltwater fish to be used as evidence in a prosecution in lieu of the actual game, wildlife, freshwater fish, or saltwater fish;
- Amends penalties for violations related to the exhibition or sale of wildlife; and
- Provides for a pilot program to encourage the establishment of additional public mooring fields and to develop and test policies and regulatory regimes.

This bill amends the following sections of the Florida Statutes: 206.606, 253.002, 253.04, 319.32, 320.08056, 327.02, 327.35, 327.36, 327.395, 327.40, 327.41, 327.42, 327.46, 327.60, 327.70, 327.73, 328.03, 328.07, 328.46, 328.48, 328.56, 328.58, 328.60, 328.65, 328.66, 328.72, 369.20, 369.22, 369.25, 379.304, 379.338, 379.353, 379.3671, 379.3751, 379.3761, 379.3762, 379.401, 379.4015, and 403.088.

The bill creates the following sections of the Florida Statutes: 327.66, 379.3381, 379.501, 379.502, 379.503, and 379.504.

The bill reenacts paragraph (2)(a) of s. 379.209 and subsection (7) of s. 379.3581, Florida Statutes.

The bill repeals the following sections of the Florida Statutes: 327.22 and 379.366(7).

II. Present Situation:

Aquatic and Invasive Plant Control

During the 2008 Regular Session, the Legislature transferred the Invasive Plant Management Program from the Department of Environmental Protection (DEP) to the Florida Fish and Wildlife Conservation Commission (FWC). Prior to that transfer, violations of the statutes and rules related to aquatic plant management were resolved by DEP using the judicial or administrative remedies in ss. 403.121, 403.131, 403.141, and 403.161, F.S. Amendments were not made to existing law during the 2008 legislative session that would allow FWC to pursue resolution to violations of the aquatic plant management statutes and rules by judicial or administrative means. Currently, the only means FWC has to resolve these violations is to use the commission's overall criminal penalty provisions. According to FWC, the criminal penalties are not appropriate for violations of the aquatic plant management statutes and rules.

Many of the aquatic plant management activities occur on sovereign submerged lands and require approval from the Board of Trustees of the Internal Improvement Trust Fund (BOT) or their representative prior to activities being implemented. When the Invasive Plant Management program resided in DEP, it was administered by the Bureau of Invasive Plant Management (bureau) within the Division of State Lands. The Division of State Lands is the BOT representative. Therefore, when the bureau authorized activities on sovereign submerged lands, no further action was required by the BOT.

During the 2008 Florida legislative session, SB 1294 authorized the BOT to delegate to FWC the authority to allow activities pursuant to s. 369.20, F.S., but inadvertently left out the authorization to delegate the authority for activities pursuant to s. 369.22, F.S. The Legislature tried to correct this oversight and added the full authorization to HB 7059, but the bill was vetoed by the Governor for an unrelated issue.¹

Section 403.088, F.S., states that a water pollution operation permit is not required from DEP for the application of approved herbicides to control aquatic weeds or algae, provided the application is performed pursuant to a program approved by DEP. When the bureau was in DEP, the requirements of this statute were being met. However, now that the invasive plant control program has been moved to FWC, the reference to a program approved by the "department" needs to be changed to a program approved by the "Fish and Wildlife Conservation Commission."

Seagrasses

Seagrass systems are highly productive communities that provide base resources for important fisheries, marine wildlife, and ecological processes. Seagrasses provide submerged habitat that supports many economically important saltwater fish, shellfish, and wildlife species. Seagrass meadows are responsible for generating up to approximately \$20,000 in fishery-related economic benefits per acre each year. Seagrass is an important food source for manatees and sea turtles.

¹ Veto Message for HB 7059 (June 30, 2008), http://www.flgov.com/2008_legislative_actions.

Seagrass protection is essential for the maintenance of saltwater fisheries, wildlife, high-quality marine environments, and recreational opportunities in the State of Florida.

Florida currently has over one million registered boats.² Propeller scarring in seagrass is a recognized problem in areas of high boating use around the state. A 1995 report generated by the Fish and Wildlife Research Institute (formerly Florida Marine Research Institute) determined that more than 173,000 acres of seagrass in shallow near-shore waters were scarred by watercraft.³ Subsequent analysis of seagrass systems has shown increases in both the number of propeller scars and the severity of scarring. A Charlotte Harbor assessment found a 71-percent increase in severely scarred seagrass habitat when aerial images taken in 2003 were compared with the aerial images used in the 1995 report.⁴ During this same period, vessel registrations grew from 16,896 to 22,252 boats in Charlotte County, an increase of 32 percent.⁵ These findings are consistent with observed high-density growth and development in coastal areas, which will continue to bring growing vessel traffic in the shallow vegetated estuary waters of the state. Shallow water operated vessels, commonly referred to as “flats boats,” are one of the fastest growing segments of the watercraft industry. Sales of such vessels reflect the desire on the part of the boating public to operate vessels in shallow waters where seagrass can be damaged by propellers or other motorized watercraft.

The growing problem with seagrass damaged by boat propellers has compelled further management action. An active outreach campaign to instill marine resource stewardship has produced brochures, boater’s guides, public service announcements, and boat ramp information kiosks. Non-regulatory management efforts include signs that mark shallow seagrass beds. Many of these efforts involve partnerships with stakeholders.

An interagency Seagrass Working Group consisting of Fish and Wildlife Conservation Commission (commission) and Department of Environmental (department) staff was assembled in 2004 to address the seagrass damage issue. At the initial stakeholder meeting in February 2005, representatives from the boating, commercial and recreational fishing, environmental, and regulatory community assessed the extent of the problem and recommended resource management options. Many stakeholders agreed to partner with the Seagrass Working Group to provide guidance for implementation of agreed upon actions. One of the priorities was for the agencies to acquire the necessary legislative authority to address seagrass damage caused by vessel operation, and another was to explore the use of existing legislative authority to do so, if it existed. The Seagrass Working Group began to develop a refined operational guidance procedure to more effectively implement seagrass protection regulations available to regulatory agencies. This regulatory ability is based upon the department’s statutory authority to pursue civil penalties for natural resource damage on state lands and the commission’s statutory responsibility to enforce state marine law.⁶

² *2005 Boating Accident Statistical Analysis*, Lt. Kent Harvey, Assistant Boating Safety Coordinator, Florida Fish and Wildlife Conservation Commission, at <http://myfwc.com/law/council/presentations/2005BoatingAccidentAnalys.pdf>.

³ F.J. Sargent, T.J. Leary, D.W. Crewz & C.R. Krueger, *Scarring of Florida’s Seagrasses: Assessment and Management Options*, FMRI Tech. Rep. TR-1. Executive Summary, Florida Marine Research Institute, St. Petersburg, Florida (1995).

⁴ Florida Fish and Wildlife Conservation Comm’n, *2008 Session Legislative Proposal, Establishing Penalties for Seagrass Damage* (on file with the Senate Committee on Judiciary).

⁵ *Id.*

⁶ Sections 403.121 and 20.331, F.S.

The working group developed a pilot project protocol associated with implementing the operational guidance procedure and presented it to the stakeholders in August 2006. A consensus was reached to support legislation implementing a noncriminal infraction system where vessel operators causing propeller scarring could be fined for damaging seagrasses in aquatic preserves. A penalty system similar to the one being proposed by this legislation exists in some state parks and in Pinellas County. A more comprehensive federal penalty system exists in the Florida Keys National Marine Sanctuary.⁷

During the 2008 Session, HB 7059 and SB 660 were filed that created penalties for seagrass scarring in aquatic preserves. HB 7059 passed the Legislature, but was vetoed for issues not related to the seagrass scarring issue.⁸

Registering A Previously Out-of-State Registered Vehicle Fee Increase

Currently, the Department of Highway Safety and Motor Vehicles (DHSMV) charges \$28 for each original title issued for vehicles previously registered outside of Florida. Four dollars of this fee is directed to the FWC Non-Game Wildlife Trust Fund (NGWTF).⁹

The NGWTF supports wildlife management, conservation, and research. The FWC focuses these funds on species such as birds, reptiles, amphibians, and land mammals and their habitats. The trust fund supports FWC's efforts to conserve and manage non-game (not hunted or fished) species with an emphasis on imperiled species. Staff functions include: serving as Florida's experts for a broad range of species, implementing species management plans, issuing permits that authorize disturbance or take of wildlife, initiating conservation activities, commenting on regulated land use and many other wildlife management needs.

Growing shortfalls in the trust fund (from title fees and speeding fines) have forced FWC to cut-back species conservation efforts that stem the further decline of Florida's important wildlife species. The revenue generated from the \$4 add-on fee to title a vehicle in the State of Florida for 2007-2008 was approximately \$2.2 million.¹⁰ This revenue will comprise about 39 percent of the NGWTF projected annual revenue from all sources in FY 2008-09. If no action were taken by FWC on the spending side, operational costs would exceed revenue by about \$1.7 million in FY 2008-09 and about \$1.9 million in FY 2009-10. Thus, FWC has taken action to revert funds – \$930,000 in FY 2007-08 – to balance expenditures against projected revenues. This has led to program reductions.

Appropriations from the NGWTF currently support 10 studies to acquire information necessary for the management and conservation of non-game wildlife. The studies include work on bears, shore birds, beach mice, and several threatened and declining bird species. However, staff has identified over 375 studies that should be conducted to support conservation and management of Florida's most vulnerable species. Current funding is substantially less than the amount needed to address these species.

⁷ See note 3.

⁸ See note 1.

⁹ Section 319.32, F.S.

¹⁰ According to the FWC, 07-08 revenue from the \$4 add-on fee to title a vehicle in Florida was \$2,233,325.

The NGWTF has supported a grants program that funds projects to meet the above-described efforts. Historically, FWC has awarded approximately \$400,000 per year in grants to state agencies, universities, private individuals, companies, and organizations through this program. The funded projects have been instrumental in meeting information needs for management and conservation of non-game wildlife in the state. The FWC has suspended the grant program because of declining revenue.

Manatee License Plate Fee Increase

In 2008, there were 53,452 *Save the Manatee* specialty license plates renewed and 12,608 new plates issued, for a total of 66,060 plates. In January 2009, the manatee plate was the sixth most popular specialty plate in Florida. Sale of these plates generated \$1,232,564 in FY 07-08, which was used by the FWC for manatee research, protection, and conservation activities.

Over the past six years, revenues from the license plate contribution have declined on average about 7.7 percent per year:

FY 02/03	\$1,840,524
FY 03/04	\$1,656,707
FY 04/05	\$1,542,458
FY 05/06	\$1,392,730
FY 06/07	\$1,289,421
FY 07/08	\$1,232,564

This revenue decline has constrained available funding to support manatee conservation as program costs rise with inflation. Due to inflation, the price would have to be \$26.29 today to have the same buying power that \$20 had in 1999, when the price was last adjusted. Overall, program costs are currently about \$250,000 higher than the recurring revenues coming into the trust fund. This condition is expected to worsen if the trend in declining revenues continues.

Conserve Wildlife License Plate Increase

Since 2000, proceeds from sales of the *Conserve Wildlife* specialty vehicle tag have benefitted the FWC. The funds are directed to the Wildlife Foundation of Florida, Inc. (Foundation), which is a citizen support organization for FWC created under s. 379.223, F.S. The Foundation, in turn, makes these funds available as grants to the FWC for projects to benefit non-game wildlife programs. Since 2000, Conserve Wildlife Tag (CWT) grants have provided approximately \$2.945 million for 83 projects. Projects have benefitted species such as the Florida black bear, burrowing owl, and red-cockaded woodpecker. Nearly all divisions of the FWC have received assistance from CWT grants.

The Foundation holds a small percentage of funds aside every year for emergency needs, such as unanticipated events that require immediate action. For example, fish kills, bird kills, or disease outbreaks. These funds are released only when FWC funds or other grant sources are not available. For example, FWC accessed these funds in FY 2005-06 for an emergency disease survey of Florida’s deer population. The FWC biologists tested deer for presence of Chronic

Wasting Disease (CWD), a fatal virus that threatened wild deer populations in northern and mid-western states. FWC found no evidence of CWD in Florida.

Since its inception, the Conserve Wildlife specialty license plate has been one of the better selling specialty tags. However, it has declined in rank from 12th to 16th in sales when compared to all specialty tags. Sales figures for the five years between 2003 and 2007 show revenues declined about 16 percent.

<i>Fiscal Year</i>	<i>Revenue</i>	<i>Grants Awarded</i>
2007-08	\$394,840	\$354,807
2006-07	N/A	N/A
2005-06	\$444,483	\$343,145
2004-05	\$483,884	\$368,867
2003-04	\$469,050	\$455,319

Boating Under the Influence

Section 327.35, F.S., prohibits the offense of boating under the influence (BUI) and has the same elements (other than the substitution of the word “vessel” for “vehicle”) as the offense of driving under the influence. The fine and imprisonment provisions in the BUI statute are identical to those in the DUI statute; however, BUI penalties do not include suspension of a driver’s license. In the past, as DUI sections of law were changed during a legislative session, BUI provisions were also amended to ensure that the sections of law remained consistent. Changes were made to DUI statutes during the 2008 legislative session, some of which create disparity between BUI and DUI statutes. The specific changes include:

- Section 316.193, F.S., lowered the Blood Alcohol Level (BAL) for purposes of triggering DUI enhanced penalties from 0.20 or more to 0.15 or more. According to the Department of Transportation (DOT), this change was needed to facilitate continued receipt of federal safety grant funds (approximately \$5 million received last year) under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). This section was also changed to delete an obsolete provision and allow the court to require the use of an approved ignition interlock device for a period of not less than six continuous months for a first DUI offense and for not less than two continuous years for a second offense.
- Section 316.656(2)(a), F.S., modified the threshold for enhanced penalties for DUI from 0.20 percent or more to 0.15 percent or more. Specifically, this section provides that a trial judge may not accept a guilty plea to a lesser offense from a person who has been given a breath or blood test to determine levels of alcohol content, the results of which show a blood or breath alcohol content by weight of 0.15 percent or more. According to the DOT, this change was needed to facilitate continued receipt of federal safety grant

funds under SAFETEA-LU.¹¹

Uniform Waterway Markers

There is much confusion for local government entities when applying for permits to post uniform waterway markers. Local governments do not know what can and cannot be marked as boating restricted areas and for what reasons under current law (s. 327.40, F.S.); what locations can be marked as boating restricted areas; who has the authority to mark restricted areas and from whom do they get a permit; and how boating restricted areas may be marked under the law.

According to FWC, current law inadvertently requires signs that were never considered waterway markers to conform to the U.S. Aids to Navigation System and FWC rules. Examples include “no swimming” signs, public health notices, trash receptacles, “end of boat ramp” signs, emergency notices, and similar signs. Section 327.41(2), F.S., directs local governments to apply to the commission for permission to place uniform waterway markers within a boating restricted area. Section 327.42, F.S., only allows someone to moor or fasten a vessel to a lawfully placed government marker for emergency reasons but not for repairs. Furthermore, it is illegal to willfully damage, alter, or move a lawfully placed marker.

Boating Restricted Areas

Section 327.46, F.S., grants the commission authority to establish boating-restricted areas by rule. It also requires the commission to develop these areas in consultation with the applicable local government governing body, the U.S. Coast Guard, and the U.S. Army Corps of Engineers. It does not provide any guidance to local governments on this issue nor does it incorporate recent District Court of Appeal (DCA) direction to the commission that local governments creating boating-restricted area ordinances need to be approved by the commission.¹²

Local Regulation and Limitations Related to Boating Activities

Section 327.60, F.S., provides that local governmental authorities are not prohibited from the enactment or enforcement of regulations that prohibit or restrict the mooring or anchoring of floating structures or live-aboard vessels within their jurisdictions. However, local governmental authorities are prohibited from regulating the anchoring outside of such mooring fields of non-live-aboard vessels in navigation.

Enforcement

Section 327.70, F.S., gives the Division of Law Enforcement of the FWC and its officers, the sheriffs of the various counties and their deputies, and any other authorized law enforcement officers, authority to remove vessels deemed to be an interference or a hazard to public safety, and order any inspections of vessels for purposes of vessel safety or title, lien, or registration information.

¹¹ The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) was enacted August 10, 2005, as Public Law 109-59. TEA-21 authorizes the Federal surface transportation programs for highways, highway safety, and transit for the five-year period 2005-2009.

¹² *Collier County Bd. Of County Comm'rs v. Fish and Wildlife Conservation Comm'n*, 993 So. 2d 69 (Fla. 2d DCA 2008).

Transportation of Fuel in Unapproved Containers

Over the last year, the FWC and its federal, county, and local marine law enforcement partners have observed a dramatic increase in vessels leaving ramps and marinas with significant amounts of fuel on board in unsafe containers. The Department of Transportation approves certain fuel containers that are safe for transporting fuel. In addition to the transport of large amounts of fuel in unsafe containers, many are also traveling with an abundant amount of fuel containers stored in unventilated compartments, and this represents a significant threat to the public. In essence, the vessel becomes a floating bomb that could be ignited from a ruptured container or the collection of fumes in a non-ventilated space.

Currently, s. 316.80, F.S., and s 330.40, F.S., provide for the unlawful conveyance of fuel in vehicles and airplanes respectfully. The statutes outline the limitations and penalties associated with carrying large amounts of fuels in vehicles and airplanes. There is no statute applicable to boats/vessels in state waters.

Specifically, 316.80, F.S., states that it is unlawful for any person to maintain or possess any conveyance or vehicle that is equipped with fuel tanks, bladders, drums, or other containers that do not conform to federal regulations, or have not been approved by the United States Department of Transportation for the purpose of hauling, transporting, or conveying motor or diesel fuel over any public highway. Any person who violates any provision of this law commits a felony of the third degree. In addition, such persons are subject to the revocation of driver license privileges as provided in s 322.26, F.S.

Further, s. 330.40, F.S., provides that in the interests of the public welfare, it is unlawful for any person, firm, corporation, or association to install, maintain, or possess any aircraft that has been equipped with, or had installed in its wings or fuselage, fuel tanks, bladders, drums, or other containers which will hold fuel if such fuel tanks, bladders, drums, or other containers do not conform to federal aviation regulations or have not been approved by the Federal Aviation Administration by inspection or special permit. This provision also includes any pipes, hoses, or auxiliary pumps that when present in the aircraft could be used to introduce fuel into the primary fuel system of the aircraft from such tanks, bladders, drums, or containers. Any person who violates any provision of this section is guilty of a felony of the third degree.

Expired Vessel Registration

Section 328. 70, F.S., provides in part that it is the intent of the Legislature that all vessels in the state be subject to a uniform registration fee based on the length of the vessel. The vessels must also be classified as either “commercial” or “recreational. Operating vessels with an expired registration is a noncriminal violation under s. 328.72, F.S.

Confiscation and Disposition of Evidence

A process for handling the forfeiture of confiscated commercially harvested saltwater products is outlined in s. 379.337, F.S., but no such provision exists for recreationally harvested saltwater fish that are deemed to be in violation of statute or rule. Additionally, s. 379.338, F.S., allows

game and freshwater fish to “be forfeited and given to some hospital or charitable institution,” but Florida law does not have such a provision for recreationally caught saltwater fish.

The forfeiture process for commercially harvested saltwater products requires conviction as a condition precedent to the disposal of any perishable seafood product or proceeds of the sale. Section 372.73, F.S., provides for disposal of game and freshwater fish “upon conviction of the offender or sooner if the court so orders.” In most counties statewide, there is a standing administrative order with the courts authorizing the pre-conviction disposal of freshwater fish and game. This provision is not available for saltwater fish.

In the majority of cases, illegally harvested fish and wildlife that are seized are seldom presented as evidence at trial and become severely freezer burned and unwholesome after being stored in the evidence freezers for an extensive amount of time. After the case is closed, the items retained as evidence are no longer useful to the court, charity, or the defendant and are disposed of at a landfill.

Currently, fish and wildlife are being seized and stored at a faster rate than they are being removed from evidence by court order. A large number of local police and sheriff departments that seize fish and wildlife do not have freezers to accommodate such evidence and use FWC freezers for storage. This adds to the volume and places an additional administrative burden on FWC staff to process additional evidence. These situations have required FWC to purchase and create space for more freezers. All evidence facilities must be in compliance with accreditation standards and expanding evidence facilities often requires the installation of fencing and other security measures, further increasing the cost to store evidence.

To complete the evidence process, an officer may be required to spend several hours away from patrol. Currently, the process begins from the initial seizure and ends when the officer returns from the evidence storage facility. Officers are usually patrolling in remote areas and may drive in excess of 50 miles one way to a storage facility.¹³

Certificate of Title

Currently there is no uniformity in statutes relating to certificate of title, registration, numbering and the requirements that apply for vessels. Current statutes refer to vessels that may be “used on the waters of this state,” “using the waters of this state,” “operating on the waters of the state,” “stored in the water,” or “on the waters of this state.” Currently, statutes do not address the ability to cite an operator for no registration unless the person is operating the vessel. The registration number is a key tool for enforcement to determine ownership.

Repeal of Fishing from Shoreline License Exemption

Florida resident anglers fishing from the saltwater shoreline or from a structure fixed to the land have been exempt from purchasing a saltwater license since its inception in 1989. Survey data indicates that about 71 percent of resident shoreline anglers do not possess a license. The price

¹³ Florida Fish and Wildlife Conservation Commission 2008 Session Legislative Proposal, *Confiscation and disposition of illegally taken wildlife, freshwater fish and saltwater fish* (on file with the Senate Committee on Judiciary).

for a resident saltwater fishing license is \$15.50.

The FWC estimates that between 210,000 and 338,000 resident anglers would be required to buy a license if the shoreline exemption were removed. It should be noted that non-residents do not qualify for the shoreline exemption, only Florida residents. A percentage of shoreline anglers would not have to buy a license because they already have one, or they are exempt from the license requirement because of other exemptions such as being 65 years of age or older, younger than 16, or disabled. It is also likely that a percentage of resident anglers who would be required to buy a license may nonetheless choose not to purchase one.

The 2006 Congressional reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (MSA)¹⁴ created a registry program for recreational fishermen fishing in federal waters and also those fishing for anadromous species (spawn in freshwater, live in saltwater). This program is mandated to assist in data collection with statistical surveys and evaluating the effects of proposed conservation and management measures. Congress directed the Department of Commerce to complete the registry program and implement an improved statistical survey no later than January 1, 2009, and authorized a fee to be charged beginning January 1, 2011. The legislation allows for an exemption to federal licensing in a state with an approved licensing system. Although implementation of the federal registration is still under development, officials of the National Marine Fisheries Service (NMFS), an agency within the Department of Commerce, indicate that Florida's shoreline exemption would prohibit its license system from being approved, thus requiring the federal registration for Florida anglers. A modification of the final federal rule provides an additional year, until January 1, 2010, to provide time for states to consider implementing license systems that would exempt state anglers from the federal registration requirement.¹⁵ This issue was submitted to the 2007 and 2008 Legislatures but was not acted upon.

Reversion of Commercial Lobster Trap Certificates

According to the FWC, in 1992, the Legislature created the Lobster Trap Certificate Program in response to concerns about the rapid growth of the lobster trap fishery, which had resulted in increased congestion and conflict on the water, excessive mortality of undersized lobsters, a declining yield per trap, and public concern over petroleum and debris polluting existing traps. The goal of this program was to solve these and related problems by reducing the number of traps while stabilizing the fishery.

The Lobster Trap Certificate Program controls the number of traps in the lobster fishery using trap certificates that are issued to individual lobster fishers by FWC. Fishers may fish one lobster trap for each certificate they own. A tag comes with every certificate and is required to be attached to the respective trap. There is an annual \$1 fee per certificate. Fishery-wide, the average number of certificates held by lobster trappers is approximately 700. A recently conducted socio-economic analysis of the spiny lobster trap fishery revealed that most full-time lobster trappers typically own approximately 1,000 certificates or more.

¹⁴ 16 U.S.C. ss. 1801-1883.

¹⁵ Three states have a shoreline exemption (South Carolina) or a variation (Virginia and Maryland).

In 2005, the FWC Division of Marine Fisheries Management staff assembled an *ad hoc* Spiny Lobster Advisory Board (board). The board was composed of stakeholders in the spiny lobster fishery, including recreational and commercial lobster harvesters, a wholesale seafood dealer, an FWC representative, a member of a non-governmental organization, and a staff member from the Florida Keys National Marine Sanctuary. The board was assembled to assist FWC staff with its comprehensive evaluation of Florida's spiny lobster fishery management strategy. The board met nine times at publicly noticed meetings in the Florida Keys from July 2005 through May 2007. At the May 2007 meeting, the board finalized several recommendations to the FWC on ways to improve the management of the spiny lobster fishery. One such recommendation was to reduce the legislatively defined time that unpaid lobster trap certificates are considered to be abandoned and revert to the FWC. They recommended that this time period be reduced from three to two years.

Alligator Trapping and Farming Agents

Section 379.3751, F.S., was enacted in 1987 as part of a suite of alligator management statutes to address the then Game and Freshwater Fish Commission's new alligator harvest program. The licensing statute was enacted to ensure there would be no long-term negative impacts on the alligator resource and to prohibit persons who had been illegally exploiting the resource from participating in the industry. The statute provides the framework for the current FWC to charge for alligator farming, alligator farming agent, alligator trapping, alligator trapping agent, and alligator processing licenses. It also details the types of activities authorized for each of these licenses relative to taking alligators and alligator eggs, provides prohibitions on who cannot be issued these licenses, provides the framework for the commission to charge for alligator egg collection permits, and requires a portion of these fees to be transferred to the Department of Agriculture and Consumer Services for alligator marketing and education activities.

Currently, there are approximately 50 licensed alligator farmers. The alligator farming license costs \$250, regardless of residency. The license is required for raising and propagating alligators in captivity for the sale of the alligators' hides and meat. On average, 25,000 alligators are slaughtered each year for this purpose. Persons assisting alligator farmers must be in possession of an alligator farming agent license, which costs \$50 regardless of residency. Alligator trappers desiring to engage in the harvesting of alligators must purchase an alligator trapping license at a cost of \$250 for residents or \$1,000 for non-residents. This license is a prerequisite for participating in any one of three harvest programs established by the Commission:

- Statewide Alligator Harvests - these harvests are recreational in nature and provide more than 4,800 hunting opportunities to the general public.
- Private Lands Alligator Harvests - these harvests are commercial in nature and are designed to return some of the economic value of the alligator resource back to the landowner as an incentive for the landowner to maintain wetland habitats.
- Nuisance Alligator Harvests - these harvests are for public safety, but compensate the trappers for expenses incurred.

Persons assisting alligator trappers must be in possession of an alligator trapping agent license, which costs \$50 regardless of residency. Under the current statute, alligator trapping and farming agents are bound to an individual trapper or farmer; so individuals wishing to be an agent for

multiple trappers or farmers must purchase multiple agent licenses. The original intent was to ensure that every agent could be traced back to a permitted trapper or farmer. This trace-ability is no longer necessary. The agent's license provides adequate identification information.

The current statute does not provide for trapping and farming agents to possess, process, and sell hides and meat, which is a normal, common business practice. These privileges are authorized for alligator trappers and farmers, although the statutory language for alligator farmers is confusing. These privileges were originally excluded for agents to ensure that all business transactions were tied only to a permitted trapper or farmer to allow for greater oversight. Given the changes in the alligator industry since 1987, there is no longer a need to restrict these business opportunities to this degree.¹⁶

Anchoring of Vessels

Currently, local governments are prohibited from regulating the anchoring of vessels (other than live-aboard vessels) outside of legally permitted mooring fields. The unregulated anchoring and mooring leads to various problems including:

- The accumulation of anchored vessels in inappropriate locations;
- Unattended vessels;
- Vessels with no anchor watch (dragging anchor, no lights, bilge);
- Vessels that are not properly maintained;
- Vessels ignored by owners that tend to become derelict; and
- Confusion with the interpretation of statutes that provide jurisdictional guidance for local governments.

The FWC staff met with interested stakeholders over a two-year period to try to find solutions to the unregulated anchoring. The FWC Commissioners came up with two recommendations:

- Develop a model anchoring/mooring ordinance that local governments can adopt; and
- Clarify state and local authority to regulate vessels.¹⁷

III. Effect of Proposed Changes:

Aquatic and Invasive Plant Control

The bill allows the FWC to utilize judicial and administrative remedies, instead of criminal penalties, to resolve aquatic plant management permitting violations. It authorizes the BOT to delegate to FWC all necessary authority to take final action on sovereign submerged lands and properly implement the aquatic plant management program. Finally, the bill requires DEP and FWC to enter into an interagency agreement to establish the procedures for use in the program.

¹⁶ Florida Fish and Wildlife Conservation Commission 2009 Session Legislative Proposal, *Alligator Trapping and Farming Agents* (on file with the Senate Committee on Judiciary).

¹⁷ Florida Fish and Wildlife Conservation Commission 2009 Session Legislative Proposal, *Vessel Management* (on file with the Senate Committee on Judiciary).

Seagrasses

The bill amends the duties of the Board of Trustees of the Internal Improvement Trust Fund. The bill directs the board to conserve and improve state-owned lands, including the preservation and regeneration of seagrass. The bill provides definitions of “seagrass scarring” and “seagrass” and provides penalties for careless operation of a vessel that results in seagrass scarring.

The bill amends the penalty provisions for vessels scarring seagrass. The penalties will be as follows:

Persons damaging seagrasses in an aquatic preserve, due to the careless operation of a boat, could be charged with a non-criminal infraction. A non-criminal infraction results in a \$50 fine. Repeat offenders within specified timeframes would be subject to higher fines as follows:

- \$250 upon conviction for a second offense occurring within 12 months after a prior conviction.
- \$500 upon conviction for a third offense occurring within 36 months after a prior conviction.
- \$1,000 upon conviction for a fourth or subsequent offense.

The public would be notified by FWC education campaigns including, but not limited to, personal contact by law enforcement officers, press releases, and boater education courses.

Fines received will be deposited in the Marine Resources Conservation Trust Fund.

Registering a Previously Out-of-State Registered Vehicle Fee Increase

The bill amends s. 319.32, F.S., to increase the out-of-state vehicle title fee from \$4 to \$10 and deposit the revenue into the Nongame Wildlife Trust Fund (NWTF).

Specialty License Plates

The bill amends s. 320.08056, F.S., to increase the Conserve Wildlife license plate fee from \$15 to \$20 and the Save the Manatee license plate from \$20 to \$25. The additional revenue from each plate will go toward funding high priority wildlife conservation and research projects as well as maintaining and implementing manatee programs.

Definition – Live-aboard Vessel

The bill amends the definitions of “live-aboard vessel” in s. 327.02, F.S., to clarify that the vessel is not used for navigation. It includes in its meaning any vessel for which a declaration of domicile has been filed.

Boating Under the Influence

The bill amends s. 327.35, F.S., and s. 327.36, F.S., concerning Boating Under the Influence (BUI), making the threshold for BUI the same as DUI. In order to accomplish this, the bill

lowers the threshold for enhanced penalties when charged with a BUI, from a blood alcohol level (BAL) of 0.20 or more to 0.15 or more. Additionally, the BAL of 0.20 or more is lowered to 0.15 or more, making it more stringent for the purposes of mandatory adjudication.

Boating Safety Identification Cards

The bill amends s. 327.395, F.S., to require that any person born on or after January 1, 1988, may not operate a vessel powered by a motor of 10 horsepower or greater unless he or she has been issued a valid boating safety identification card or unless they are exempted by commission rule or statute. The boat operator must have the identification card in his or her position aboard the vessel.

Uniform Waterway Markers

The bill amends ss. 327.40, 327.41, and 327.42, F.S., to assist permit applicants (local governments) with the issues regarding uniform waterway markers.

The bill eliminates permitting requirements for non-regulatory signs never intended to be permitted because they are not considered uniform waterway markers.

The bill conforms language to use the term “uniform waterway marker” and expands the prohibition against tying to a marker from governmentally placed markers to all lawfully permitted and placed markers. Tying to markers will remain lawful in emergency situations. The bill also allows a person to tie a vessel to a marker with the written consent of the marker’s owner.

Boat Restricted Areas

The bill amends s. 327.46, F.S., clarifying the criteria needed to establish boating-restricted areas for both the commission and local governments. The bill incorporates a recent court ruling providing that ordinances created by local governments cannot take effect until approved by the commission.¹⁸ It also requires the commission to establish, by rule, the criteria for such approval. However, FWC will establish certain allowances for municipalities to designate boating-restricted areas, under limited conditions, to protect human life and insure vessel traffic safety. Any specific ordinance will not take effect until the commission has reviewed the ordinance and determined that the ordinance is valid and necessary. Restrictions in a boating-restricted area, pursuant to this section, will not apply in the case of an emergency.

The bill provides that noncriminal violations committed within legally established boating-restricted areas that are properly marked may be enforced by a uniform boating citation mailed to the registered owner of the vessel.

Citations issued to livery vessels shall be the responsibility of the lessee of the vessel if the livery has included a warning of this responsibility as a part of the rental agreement and has provided to

¹⁸ *Collier County Board of County Commissioners v. Fish and Wildlife Conservation Commission*, 993 So. 2d 69 (Fla. 2d DCA 2008).

the agency issuing the citation the name, address, and date of birth of the lessee when requested by that agency. The livery is not responsible for the payment of citations if the livery provides the required warning and lessee information. This provision does not prohibit a law enforcement officer from issuing a citation for a violation of this section in accordance with normal boating enforcement techniques.

The bill provides that any of the ordinances adopted by a municipality or county for boating restricted areas shall not take effect until the commission has reviewed the ordinance and determined by substantial competent evidence that the ordinance is necessary to protect public safety. The bill provides that any application for approval of an ordinance shall be reviewed and acted upon within 90 days after receipt of a completed application. It provides that within 30 days of a municipality or county submitting an application for approval, the commission shall advise the municipality or county what information, if any, is needed to deem the application properly completed.

Local Regulations and Limitation Related to Boating Activities

The bill provides that nothing in chapter 328, F.S., shall be construed to prevent the adoption of any ordinance or local regulation relating to the operation of vessels (but not equipment as in current law), except that no county or municipality shall enact, continue in effect, or enforce any ordinance or local regulation:

- Imposing manufacturing safety or performance standards or regulating the carrying or use of marine safety articles;
- Regulating the design, manufacture, installation, or use of any marine sanitation device on any vessel;
- Regulating any vessel upon the Florida Intracoastal Waterway;
- Discriminating against personal watercraft;
- Discriminating against airboats, for ordinances adopted after July 1, 2006, unless adopted by a two-thirds vote of the governing body enacting such ordinance;
- Regulating the anchoring of non-live-aboard vessels outside of the marked boundaries of mooring fields permitted as provided in s. 327.40, F.S.;
- Regulating engine or exhaust noise, except as provided in s. 327.65, F.S.; and
- That is in conflict with this chapter or any amendments thereto or rules thereunder.

The bill also corrects cross-references.

Enforcement

The bill amends s. 327.70, F.S., to provide that noncriminal violations related to certain enumerated boating activities may be enforced by a uniform boating citation mailed to the registered owner of an unattended vessel anchored, aground, or moored on the water of this state.

The bill provides that citations issued to livery vessels are the responsibility of the lessee of the vessel if the livery has included a warning of this responsibility as a part of the rental agreement and has provided to the agency issuing the citation the name, address, and date of birth of the

lessee when requested by that agency. It provides that the livery is not responsible for the payment of citations if the livery provides the required warning and lessee information.

Transportation of Fuel in Unapproved Containers

The bill amends ss. 327.66 and 327.73, F.S., which deal with the transportation of fuel in unapproved containers. The possession or operation of a vessel equipped with unapproved fuel containers or related equipment will be prohibited by the provisions of this bill. Fuel containers must conform to federal regulations and must be located in an area that is ventilated in strict compliance with United States Coast Guard regulations. Persons found in violation of these provisions are guilty of a third degree felony, punishable as provided in ss. 775.082, 775.083, and 775.084, F.S.

Fuel transported in violation of these provisions and all containers holding such fuel are declared to be a public nuisance. Law enforcement agencies discovering fuel possessed or transported in violation of these provisions shall abate the nuisance by removing such fuel and containers from the vessel and from the waters of the state. Provisions are made for the disposal of such fuel and containers. All conveyances, vessels, vehicles, and equipment used in to transport fuel in violation of these provisions are declared to be contraband and are subject to seizure and forfeiture. Costs incurred by law enforcement agencies involved in the removal of fuel, containers, other equipment, or vessels are recoverable against the owner. Persons who do not pay such costs will not be issued a certificate of registration of any vessel or motor vehicle until the costs are paid.

Technical Changes Sections 18-26

The bill amends applicable ss. 328.03, 328.07, 328.46, 328.48, 328.56, 328.58, 328.60, 328.65, 328.66, 328.72, F.S., to include the phrase “operate, use, or store” when referring to the certificate of title for a vessel and provides exemptions. Including this phrase consistently in statute provides law enforcement the ability to better track owners of vessels that are operated or stored on the waters of the state.

Vessel Registration

The bill also amends s. 328.72, F.S., to clarify that a boat stored at a dock or marina does not need its vessel registration renewed.

Confiscation and Disposition of Evidence

The bill amends ss. 379.304 and 379.338, F.S., and creates section 379.3381, F.S., providing for the disposition and photographing of evidence.

This bill allows recreationally harvested saltwater fish to be disposed of in the same manner as freshwater fish and game. It would allow the officer to photograph the evidence and keep the seized fish or wildlife on ice and dispose of it when convenient to their patrol activities. The bill specifies how evidence is to be photographed in order for the photograph to be introduced as

evidence. The photograph is to have a written description of the fish or wildlife, the name of the violator, the location where the incident occurred, the name of the investigating officer, the date the photograph was taken, and the name of the photographer. This writing must be made under oath by the investigating officer, and the photograph must be identified by the signature of the photographer.

The officer would have the option to offer the evidence to a nearby charitable institution, DNA lab or research facility or retain the illegal product and use it for training purposes. Additionally, the law enforcement agency could sell the evidence, if appropriate, or destroy the evidence if it were deemed unwholesome. The FWC would identify the local hospitals and charitable institutions that are interested in receiving fish and wildlife donations and develop a rotation process so that donations are divided equally. All live fish and wildlife is to be documented and returned to the wild unharmed, or if an exotic, it is to be disposed of according to commission rule. This would allow officers to work more efficiently in the field and focus their efforts on patrolling the woods and water, rather than processing evidence.

Repeal of Fishing License From Shoreline Exemption

The bill repeals the shoreline fishing exemption and would require all Florida residents to possess a saltwater fishing license if they fish from a saltwater shoreline or from a structure fixed to the land. An exemption would be authorized for residents who are eligible for food stamps, temporary cash assistance, or Medicaid programs and have proof of identification. In addition, resident shoreline anglers would not be required to have a license if they are otherwise exempted.

Reversion of Commercial Lobster Trap Certificates

The bill amends s. 379.3671, F.S., provisions for the spiny lobster trap certificate program.

The bill provides that prior to the 2010-2011 license year, any certificates for which the annual certificate fee is not paid for a period of three years shall be considered abandoned and shall revert to the commission. Beginning with the 2010-2011 license year, any certificate for which the annual certificate fee is not paid for a period of two consecutive years shall be considered abandoned and shall revert to the commission.

This bill will assist FWC's fisheries biologists and managers to more accurately assess the status of the lobster fishery. The FWC uses the number of available trap certificates as an estimate of the number of lobster traps used in the commercial lobster fishery and the potential level of fishing effort. The proposal would benefit the lobster trap fishery by increasing the rate at which unused lobster trap certificates are removed from the fishery. Such removals will result in enhanced management strategies that ensure the health of the spiny lobster population and the fishery it supports.

Alligator Farming and Trapping

The bill eliminates the requirement that all farming and trapping agent licenses be issued under a specific alligator farming or alligator trapping license holder. It allows alligator farming and alligator trapping agents to possess, process, and sell alligator hides and meat. However, it

prohibits the unlawful killing, injuring, possessing, or capturing of alligators or other crocodilia or their eggs.

It eliminates the prohibition on issuing alligator farming, alligator farming agent, alligator trapping, alligator trapping agent, and alligator processor licenses to persons who have been convicted of any violation of s. 379.3015, F.S., or s. 379.409, F.S., or Commission rules related to the illegal taking of crocodilian species. It includes clarifying language that allows alligator farmers to possess and process alligator hides and meat for sale.

FWC Pilot Program

The bill directs the FWC, in consultation with the DEP, to establish a pilot program to explore potential option for regulating the anchoring or mooring of nonlive-aboard vessels outside the marked boundaries of public mooring fields. The goals of the programs are to encourage the establishment of additional public mooring fields and to develop test policies and regulatory regimes that:

- Promote the establishment and use of public mooring fields;
- Promote public access to the waters of this state;
- Enhance navigational safety;
- Protect the marine infrastructure;
- Protect the marine environment; and
- Deter improperly stored, abandoned, or derelict vessels.

Each location selected for the pilot program must be associated with a properly permitted mooring field. Two locations shall be off the east coast of Florida, two locations shall be off the west coast of Florida, and one location shall be within Monroe County. The selections must be geographically diverse and take into consideration the various users and means of using the waters of this state.

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

The commission shall:

- Provide consultation and technical assistance to each municipality or county selected for participation in the pilot program to facilitate accomplishment of the pilot program's goals;
- Coordinate the review of any proposed ordinance with the DEP, the Coast Guard, the Florida Inland Navigation District or the West Coast Inland Navigation District, as appropriate, and associations or other organizations representing vessel owners or operators; and

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

The commission must submit a report of its findings and recommendations to the Governor and the Legislature by January 1, 2014. The pilot program will expire on July 1, 2014, unless reenacted by the Legislature. All ordinances enacted under this section shall expire concurrently with the expiration of the pilot program and shall be inoperative and unenforceable thereafter.

The pilot program does not affect any mooring field currently authorized under the Florida Statutes nor any local ordinances regulating the anchoring within those mooring fields.

Transfer of Authority

The bill transfers the statutory powers related to ss. 369.20, 369.22, and 369.252, F.S., of the Bureau of Invasive Plant Management in the Department of Environmental Protection to the Fish and Wildlife Conservation Commission. The bill specifies a Type Two transfer of the Bureau of Invasive Plant Management and the Invasive Plant Control Trust Fund from DEP to FWC.

Conforming and Technical Changes Sections 49 and 50

The bill amends ss. 379.209 and 379.3581, F.S., to provide necessary conforming and technical changes.

Regulation of Vessels by Municipalities and Blue Crab Regulation

The bill repeals s. 327.22, F.S., relating to regulation of vessels by municipalities and counties. Furthermore, effective July 1, 2009, subsection (7) of s. 379.366, F.S., which sunsets several provisions in statute relating to blue crab regulation, is repealed.

Effective Date

The bill provides an effective date of July 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:**Recreational Licenses and Permits**

Florida residents who recreationally saltwater fish from the shoreline or from a fixed structure will be required to purchase a saltwater fishing license, which costs \$15.50, unless they qualify for an exemption. Exemptions include those over 65, under 16, or eligible for Medicaid, or cash assistance, and food stamps.

Further, if Florida eliminates the shoreline exemption and its anglers are consequently exempted from the impending federal registration, Florida anglers fishing in federal waters off of Florida, and those anglers fishing in Florida for an anadromous species, such as striped bass or shad, would not be required to obtain the federal registration that is required under the Magnuson-Stevens Fishery Conservation and Management Act. According to the FWC, it would also create parity among saltwater anglers and would distribute the cost of marine fishing conservation to a broader cross-section of the angling public.

Alligator Trapping and Farming Agents

According to the FWC, approximately 110 fewer agent licenses are expected to be sold, which could negatively impact online and walk-up license merchants. The fiscal impact, however, would be negligible. As a cost savings, certain individuals acting as agents will not be required to buy multiple licenses.

Lobster Trap Certificate Program

According to the FWC, the bill increases the number of lobster trap certificate owners who will have their certificates considered abandoned and revert back to FWC. Since 2002, on average 1,100 certificates annually (2 percent of total available certificates) were forfeited due to non-payment. A large majority of the certificate owners affected by the proposal are likely not actively participating in the spiny lobster trap fishery, and are most likely not full-time commercial spiny lobster fishers. Therefore, the FWC anticipates a negligible decrease in revenue.

Seagrass

Boaters who operate their vessels in a manner as to cause propeller scars in seagrass may be assessed fines. The actual fiscal impact is unknown.

Boating Under the Influence

Persons found in violation of BUI statutes would be subject to the enhanced penalties/fines provided by such statutes. The anticipated fiscal impact is unknown.

Transportation of Fuel in Unapproved Containers

Persons found in violation of the statutes related to the transportation of fuel in unapproved containers would be subject to the enhanced penalties/fines of a felony in the third degree. The anticipated fiscal impact is unknown.

Confiscation and Disposition of Evidence

Currently, there is a standing administrative court order that allows for the donation of freshwater fish and game in most counties; however, this is not available for saltwater fish. If the proposal were approved, charities and non-profit organizations would be able to receive donated saltwater fish to further their cause and mission and possibly help defer food costs.

C. Government Sector Impact:

Confiscation and Disposition of Evidence

According to the FWC, this proposal would save time and costs associated with officer's transporting, securing, and managing evidence. For example, in a three-month period, from August 1, 2006 to October 31, 2006, there were 98 evidence numbers issued for the seizure of saltwater products. Three fourths of those numbers (73) were for recreational cases. The transportation costs average \$44.00 per case involving seizure. The average officer's time involved in transporting and checking in the evidence is approximately two and one-half hours at an average hourly officer rate of \$33.93 per hour. The total positive fiscal impact for FWC could exceed \$40,000 annually.

Specialty License plates

The Department of Highway Safety and Motor Vehicles will experience an unknown administrative cost to implement the fee increase of specialty license plates. The fee structure of the license plates will need to be adjusted.

Registering a Previously Out-of-State Registered Vehicle Fee Increase

The bill's proposed increase to the vehicle title fee will increase revenues to the Nongame Wildlife Trust Fund. The FWC anticipates a \$2.5-3.2 million annual increase. This will eliminate the need for the agency to make permanent, significant reductions in services to the citizens of Florida. The agency will be able to continue species conservation activities including bear management, environmental commenting, development and implementation of non-regulatory incentive-based programs for landowners and developers, providing regulatory consistency through a streamlined permitting program, and providing technical assistance relating to wildlife to the inquiring public, landowners,

non-governmental organizations, the regulated community, conducting research, and awarding research grants.

Alligator Trapping and Farming Agents

Approximately 110 fewer agent licenses are expected to be sold, which would negatively impact some county tax collector’s offices. According to the FWC, the fiscal impact is expected to be negligible.

Lobster Trap Certificate Program

A large majority of the certificate owners affected by the proposal are likely not actively participating in the spiny lobster trap fishery since they are not paying their annual certificate fees and may or may not pay them in the future. Therefore, the FWC anticipates a negligible decrease in revenue.

Recreational Licenses and Permits

According to the FWC, if the shoreline exemption were removed, it is estimated that between 210,000 and 338,000 resident anglers would be required to buy a license. This estimate is based on a 25 percent protest loss (those “protesting” the change and choosing not to fish), and a 27 percent simple noncompliance rate. Multiplying the low and high estimates by the \$15.50 price of the license shows that FWC can expect \$1.7 million to \$2.5 million in increased annual revenues to MRCTF. This does not include projections of decreased protest loss and increased compliance in subsequent years. These calculations are all based on the 2006 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, the Federal Marine Recreational Fishing Statistics Survey, and an independent angler survey conducted for FWC in 2005.

The Revenue Estimating Conference met on March 19, 2009, to review the proposed fiscal impact of the repeal of the shoreline exemption. The conference estimated that the annual revenue for the FWC for 2009-2010 would range from \$1.7 million to \$2.8 million.

Summary of the fiscal impact to the FWC:

Revenue Decreases

Alligator Trapping License Sales (SGTF ¹⁹)	\$ 5,500
Lobster Trap Certificate Reversion (MRCTF ²⁰)	3,500

¹⁹ State Games Trust Fund

²⁰ Marine Resources Conservation Trust Fund

Revenue Increases

From Conserve Wildlife License Plate Increase	\$106,422
Manatee License Plate Increase (STMTF ²¹)	303,000
Shoreline Exemption Repeal (MRCTF)	1.7M-2.5M
Vehicle Title Increase for Non-game Program (NWTF ²²)	2.5M -3.2M
Disposition of Evidence (MRCTF)	<u>40,000</u>

Total Estimated Increases: \$4,440,442 to \$6,140,000 annually

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. **Committee Substitute – Statement of Substantial Changes:**
 (Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Judiciary on April 6, 2009:

This committee substitute:

- Clarifies the definition of “live-aboard” vessel;
- Corrects a statutory reference, further clarifies local governments’ authority to enact boating restricted areas, and specifies the Florida Fish and Wildlife Conservation Commission’s timeframe in approving the boating restricted areas;
- Clarifies when a boating citation is issued to either the owner or operator of a vessel;
- Clarifies that a boat stored at a dock or marina does not need its registration renewed;
- Makes a technical amendment clarifying into which trust funds proceeds from the sale of evidence will be deposited;
- Specifies that the pilot program locations will be at two sites off of Florida’s east coast, two sites off of the west coast, and one site in Monroe County; and
- Clarifies that the pilot program does not affect currently permitted mooring fields or local ordinances regulating the anchoring within those mooring fields.

CS by Environmental Preservation and Conservation on March 24, 2009:

This committee substitute combined the provisions of SB 2536 and SB 2618. Changes made to the two original bills by the delete-all amendment were:

- Technical/conforming;
- Removed the age requirement for personal flotation devices;
- Removed the provision designating the State Bird; and

²¹ Save the Manatee Trust Fund

²² Nongame Wildlife Trust Fund

- Adopted a proposed pilot program for mooring fields that will be conducted by the FWC.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
