

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 333 Fish and Wildlife Conservation Commission

SPONSOR(S): State Affairs Committee; Veteran & Military Affairs Subcommittee; Agriculture & Natural Resources Subcommittee; Steube & others

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 448

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	12 Y, 0 N, As CS	Renner	Blalock
2) Veteran & Military Affairs Subcommittee	12 Y, 0 N, As CS	Thompson	De La Paz
3) Agriculture & Natural Resources Appropriations Subcommittee	11 Y, 0 N	Massengale	Massengale
4) State Affairs Committee	15 Y, 0 N, As CS	Renner	Camechis

SUMMARY ANALYSIS

CS/CS/HB 333 amends various statutes relating to certain programs under the authority of the Florida Fish and Wildlife Conservation Commission (FWC). The bill:

- Amends the definition of “navigation rules” in statute by removing an outdated reference to the U.S. Code and replacing it with the updated reference to the Code of Federal Regulations. This will ensure that the FWC will be able to adequately enforce navigation rules.
- Adjusts recreational hunting and fishing license residency requirements by eliminating the 6-month residency requirement to obtain a resident recreational hunting or fishing license. The bill also adjusts the saltwater commercial fishing license residency regulation by eliminating the 6-month county residency requirement. Commercial fishermen must still reside in Florida for 1 year before applying for a saltwater commercial fishing license. In addition, the bill specifies that a “resident of Florida,” for the purposes of obtaining a recreational hunting or fishing license, is any person who has declared Florida as his or her only state of residence, as evidenced by a valid Florida driver license or identification card with both a Florida address and residency verified by the Department of Highway Safety and Motor Vehicles (DHSMV), or in the absence of such Florida driver license or ID card, by one of four specified documents. The bill also amends the definition of a “resident alien” by eliminating the requirement that they continuously reside in a county for 6 months. To be a “resident alien” a person must still continuously reside in the state for 1 year.
- Authorizes the FWC to issue a permit exempting certain persons from the requirement to possess a hunting or fishing license for an outdoor recreational event that is primarily for the purpose of rehabilitation or enjoyment of veterans certified to have a service-connected disability rating of zero percent or higher, active or reserve duty service members of any branch of the Armed Forces, Coast Guard, military reserves, Florida National Guard or Coast Guard Reserve. A permit issued under the bill exempts such veterans, service members, their immediate family members and one additional person designated to assist each veteran certified to be a disabled veteran, from having to possess a hunting, freshwater fishing, or saltwater fishing license for the duration of the permitted event.
- Authorizes the FWC to increase the total number of license-free recreational saltwater and freshwater fishing days from two to four annually.
- Provides assistance to certain veterans who wish to become commercial fishers by waiving the restricted species endorsement income requirement for 1 year.
- Deletes the requirement that in 2013 and every 5 years thereafter, vessel registration and recreational hunting and fishing license fees must be adjusted by the percentage change in the Consumer Price Index for All Urban Consumers since the fees were last adjusted, unless otherwise provided by general law.

The March 16, 2013 Revenue Estimating Impact Conference adopted a negative insignificant impact resulting from disabled veterans' and military recreational hunting and fishing license exemptions and additional free fishing days, and a positive insignificant impact resulting from veterans' exemption from commercial fishing license requirements. The bill appears to have a significant negative fiscal impact on FWC due to the loss of revenue for not increasing vessel registration fees and recreational hunting and fishing license fees (See Fiscal Comments). The bill does not appear to have a fiscal impact on local governments, but will have a positive fiscal impact on the private sector.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0333h.SAC

DATE: 3/29/2013

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Section 1. Amends s. 327.02, F.S., Revising References to Federal Boating Laws

Present Situation

The International Navigation Rules were formalized in the Convention on the International Regulations for Preventing Collisions at Sea (COLREGS) and became effective on July 15, 1977.¹ These rules apply to all vessels upon the high seas and in all connected waters navigable by seagoing vessels.² The U.S. Inland Navigation Rules became effective in 1981.³ These rules apply to all vessels upon the inland waters of the U.S., and to vessels of the U.S. on the Canadian waters of the Great Lakes to the extent that there is no conflict with Canadian law.⁴ With a few exceptions, the International and Inland Rules are very similar in content and format.⁵ Both cover vessel conduct when operating on federal waters and also cover lights, shapes, and the sound and light signals on vessels. The International Navigation Rules are applicable on waters outside of established lines of demarcation.⁶ The demarcation lines delineate those waters upon which mariners must comply with the Inland and International rules.⁷ The U.S. Coast Guard establishes the demarcation lines and they can be found on most navigational charts and are published in the Navigation Rules.⁸

These demarcation lines should not be confused with state coastal zones and federal waters. Florida's seaward boundary is 3 marine leagues off of the Gulf of Mexico coastline and 3 geographic miles off of the Atlantic coastline.⁹ For example, a vessel on the seaward side of a demarcation line must adhere to International Navigation Rules; however, that vessel could still be in Florida waters if it is within 3 nautical miles of the Atlantic coastline or 9 nautical miles of the Gulf of Mexico coastline.

The Inland Navigation Rules were located in 33 U.S.C. 151 until May 17, 2010, when they were relocated to the Code of Federal Regulations (C.F.R.), specifically 33 C.F.R. Part 80. Florida adopted the Federal Navigation Rules in s. 327.02, F.S. in 1988 and applied them to state waters as well as waters extending out 3 geographic miles from the Atlantic coastline and 3 marine leagues from the Gulf of Mexico coastline. The Fish and Wildlife Conservation Commission (FWC) enforces both the Inland and International Navigation Rules and currently cites the outdated U.S. code provision when giving citations to boaters.

Effect of Proposed Changes

The bill amends the definition of "navigation rules" in s. 327.02, F.S., by removing the outdated reference to the U.S. code and replacing it with the proper reference to the Code of Federal regulations. This will ensure that the FWC will be able to adequately enforce the navigation rules.

¹ U.S. Coast Guard "Navigation Rules, International-Inland", revised October 19, 2009.pg 5. On file with staff.

² Id. at pg. 3.

³ Id. at v.

⁴ Id. at 3

⁵ Id. at v.

⁶ Id.at iv.

⁷ Id.

⁸ FWC 2013 analysis. On file with staff.

⁹ Article II, Section 1(a) of the Florida Constitution. Three marine leagues equal 10.35 statute miles.

- **Section 2. Amends s. 328.72, F.S., deleting provisions for periodic adjustments of vessel registration fees based on changes in the Consumer Price Index.**

Present Situation

In 2008, s. 328.72(1)(b), F.S., authorized fee increases on vessel registration license fees to occur on July 1 every fifth year, beginning July 1 of this year. The provisions require that, by February 1 of each year in which an adjustment is scheduled to occur, the FWC submit a report to the President of the Senate and the Speaker of the House of Representatives that details how the increase in fees will be used within the agency.

Based on input from the Legislature's Office of Economic and Demographic Research (EDR), the FWC estimated that the following fees would increase effective on July 1, 2013, unless otherwise provided by general law.

Vessel Registration Fees	Current	Last Adjusted	New Fee
Class A-1: Less than 12 ft. in length, and all canoes to which propulsion motors have been attached	\$5.50	7/1/2008	\$6.11
Class A-2: 12 ft. or more and less than 16 ft. in length	\$16.25	7/1/2008	\$18.04
Class 1: 16 ft. or more and less than 26 ft. in length	\$28.75	7/1/2008	\$31.92
Class 2: 26 ft. or more and less than 40 ft. in length	\$78.25	7/1/2008	\$86.88
Class 3: 40 ft. or more and less than 65 ft. in length	\$127.75	7/1/2008	\$141.85
Class 4: 65 ft. or more and less than 110 ft. in length	\$152.75	7/1/2008	\$169.61
Class 5: 110 ft. or more in length	\$189.75	7/1/2008	\$210.69
Dealer registration certificate	\$25.50	7/1/2008	\$28.31

Effect of Proposed Changes

The bill amends s. 328.72, F.S., to delete the requirement that in 2013 and every 5 years thereafter, vessel registration fees must be adjusted by the percentage change in the Consumer Price Index for All Urban Consumers since the fees were last adjusted, unless otherwise provided by general law.

Section 3. Amends s. 379.101, F.S., Defining Residency Requirements for Hunting/Fishing Licenses

Present Situation

The State of Florida requires residents and nonresidents to obtain licenses for both recreational fishing and hunting¹⁰ and commercial fishing.¹¹ Section 379.101(30)(a), F.S., defines a resident, for the purpose of purchasing a saltwater commercial fishing license, as a citizen of the United States who has continuously resided in Florida for 1 year and has resided in a county for 6 months. Section 379.101(30)(b), F.S., defines a resident, for the purpose of purchasing a recreational hunting and fishing license, as any person who has continually resided in the state for 6 months or any member of the United States Armed Forces who is stationed in the state.

Section 379.101(30)(b), F.S., also applies this definition of a resident to certain non-recreational and commercial licenses and activities that require only a 6-month state residency instead of the 1-year state residency requirement. The specific statutes that fall under this definition of a resident are:

- Section 379.363, F.S. - Freshwater fish dealer's license
- Section 379.3635, F.S. - Haul Seine and Trawl Permits
- Section 379.364, F.S. - License Required for Fur and Hide Dealers
- Section 379.3711, F.S. - License Fee for Private Game Preserves and Farms
- Section 379.3712, F.S. - Private Hunting Preserve License Fees; exception;
- Section 379.372, F.S. - Capturing, keeping, possessing, transporting, or exhibiting venomous reptiles, reptiles of concern, conditional reptiles, or prohibited reptiles; license required
- Section 379.373, F.S. - License fee; renewal, revocation
- Section 379.374, F.S. - Bond required; amount
- Section 379.3751, F.S. - Taking and possession of alligators; trapping licenses; fees
- Section 379.3752, F.S. - Required tagging of alligators and hides; fees; revenues
- Section 379.3761, F.S. - Exhibition or sale of wildlife; fees; classifications
- Section 379.3762, F.S. - Personal Possession of Wildlife
- Section 379.377, F.S. - Tag fees for sale of Lake Okeechobee game fish

Federal Real ID Act

On January 1, 2010, the Florida Department of Highway Safety and Motor Vehicles (DHSMV) implemented the federal Real ID Act of 2005, which is a nationwide effort to improve the integrity and security of state-issued driver licenses and identification cards.¹² A current Florida license or ID card will continue to be valid as identification for federal purposes until December 1, 2014 for individuals born after December 1, 1964 or until December 1, 2017 for everyone else.¹³ After these dates, federal agencies will no longer accept a driver license or ID card unless it is Real ID compliant.¹⁴ To receive a Real ID license or ID card, a U.S. citizen must provide the DHSMV with one of the following:¹⁵

- A valid, unexpired U.S. passport
- An original or certified copy of a birth certificate
- A consular report of birth abroad
- A certificate of naturalization
- A certificate of citizenship

¹⁰ Section 379.352, F.S.

¹¹ Section 379.361, F.S.

¹² The Florida Department of Highway Safety & Motor Vehicles Real ID Act website, <http://www.flhsmv.gov/RealID.htm>

¹³ Id.

¹⁴ Id.

¹⁵ Id.

- A court or marriage/divorce document that provides proof of a change in name that differs from the primary identity document

Non-citizens must provide one of the following:¹⁶

- A valid, unexpired permanent resident card-I-551 for lawful permanent residents
- A valid passport for non-immigrants except for asylum applicants and refugees
- Other government-issued documents showing the person's full name
- Department of Homeland Security documents showing proof of lawful presence
- Evidence that a name change has been applied for from the Department of Homeland Security in the case of marriage/divorce

Both citizens and non-citizens must also provide:¹⁷

- A Social Security card or evidence that a person is not eligible for one
- Other document with a Social Security Number on it
- Two documents that show principal residence¹⁸

Effect of Proposed Changes

The bill amends the definition of “resident” and “resident of Florida” in s. 379.101, F.S., to eliminate the 6-month residency requirement to obtain a resident recreational hunting or fishing license, and moves the non-recreational and commercial licensing statutes described above into the paragraph that pertains to other commercial licenses so that they maintain their 6-month state residency requirement. The bill provides that a “resident of Florida” for the purposes of obtaining a recreational hunting or fishing license is any person who has declared Florida as his or her only state of residence as evidenced by a valid Florida driver license or identification card with both a Florida address and residency verified by the DHSMV, or in the absence of such Florida driver license or ID card, one of the following:

- A current Florida Voter Information Card;
- A sworn statement manifesting and evidencing domicile in Florida in accordance with s. 222.17, F.S.;
- Proof of a current Florida homestead exemption; or
- For children under the age of 18, a student ID card from a Florida school or, when the child is accompanied by their parent at the time of purchase, their parent's proof of residency.

The bill also eliminates the requirement for a resident saltwater commercial fisherman to prove 6 months of residency in a Florida county to obtain a resident saltwater products license. The commercial fisherman must still prove 1-year residency in the state to obtain the resident license.

In addition, the bill also amends the definition of a “resident alien” by eliminating the requirement that they continuously reside in a county for 6 months. To be a “resident alien” a person must still continuously reside in the state for 1 year.

Lastly, the bill moves the list of statutory references relating to certain non-recreational and commercial licenses and activities that only require a 6-month state residency requirement, described above, to the part of the “resident of Florida” definition that pertains to commercial fishing licenses in general. This is a technical revision that that cleans up the section of statute.

¹⁶ Id.

¹⁷ Id.

¹⁸ Acceptable forms of proof of residency can be found on the DHSMV website, <http://www.flhsmv.gov/RealID.htm>

Section 4. Amends s. 379.353, F.S. Exempting Recreational Hunting/Fishing Licenses for Specified Veteran Events

Present Situation

Florida residents and nonresidents must purchase a recreational hunting or fishing license to take wild animal life, freshwater aquatic life, and marine life.¹⁹ Section 379.353, F.S., provides exemptions from the requirement to buy a recreational hunting or fishing license for the following people:

- Any child under 16 years of age, except as otherwise provided in this part.
- Any person hunting or freshwater fishing on her or his homestead property, or on the homestead property of the person's spouse or minor child; or any minor child hunting or freshwater fishing on the homestead property of her or his parent.
- Any resident who is a member of the United States Armed Forces and not stationed in this state, when home on leave for 30 days or less, upon submission of orders.
- Any resident fishing for recreational purposes only, within her or his county of residence with live or natural bait, using poles or lines not equipped with a fishing line retrieval mechanism. This exemption does not apply to residents fishing in a legally established fish management area.
- Any person freshwater fishing in a fish pond of 20 acres or less that is located entirely within the private property of the fish pond owner.
- Any person freshwater fishing in a fish pond that is licensed in accordance with s. 379.356, F.S.
- Any person fishing who has been accepted as a client for developmental disabilities services by the Department of Children and Family Services, provided the department furnishes proof thereof.
- Any resident saltwater fishing from land or from a structure fixed to the land that has been determined eligible by the Department of Children and Family Services for the food assistance program, temporary cash assistance, or the Medicaid programs. A benefit issuance or program identification card issued by the Department of Children and Family Services or the Florida Medicaid program of the Agency for Health Care Administration shall serve as proof of program eligibility. The client must have in his or her possession the ID card and positive proof of identification when fishing.
- Any person saltwater fishing from a vessel licensed pursuant to s. 379.354(7), F.S.
- Any person saltwater fishing from a vessel the operator of which is licensed pursuant to s. 379.354(7), F.S.
- Any person saltwater fishing who holds a valid saltwater products license issued under s. 379.361(2), F.S.
- Any person saltwater fishing for recreational purposes from a pier licensed under s. 379.354, F.S.
- Any resident fishing for mullet in fresh water that has a valid Florida freshwater fishing license.
- Any resident 65 years of age or older who has in her or his possession proof of age and residency. A no-cost license under this paragraph may be obtained from any tax collector's office upon proof of age and residency and must be in the possession of the resident during hunting, freshwater fishing, and saltwater fishing activities.
- Any employee of the commission who takes freshwater fish, saltwater fish, or game as part of employment with the commission, or any other person authorized by commission permit to take freshwater fish, saltwater fish, or game for scientific or educational purposes.
- Any resident recreationally freshwater fishing who holds a valid commercial fishing license issued under s. 379.363(1)(a), F.S.

As of June 30, 2012, there were roughly 59,000 active duty military personnel and 39,000 military reservists living in Florida.²⁰ The FWC routinely receives requests from various veteran organizations to waive the requirement that their participants purchase a recreational hunting or fishing license when

¹⁹ Section 379.352, F.S. Current license fees for recreational hunting and fishing licenses can be found on FWC's website at <http://myfwc.com/license/recreational>.

²⁰ FWC 2013 analysis. On file with staff.

those participants are recreating or rehabilitating military or disabled veterans. Currently, the FWC does not have the authority to waive the licensing requirement.

Effect of Proposed Changes

The bill amends s. 379.353, F.S., to specify that a recreational hunting, freshwater fishing, or saltwater fishing license or permit is not required for those persons exempted by an FWC permit issued under this section. Specifically, the bill authorizes the FWC to issue a permit for an outdoor recreational event for which the primary purpose is the rehabilitation or enjoyment of veterans certified by the United States Department of Veterans Affairs or its predecessor or by any branch of the United States Armed Forces to have any service-connected disability percentage rating of zero percent or higher, active duty or reserve duty service members of any branch of the United States Armed Forces, the United States Coast Guard, military reserves, the Florida National Guard, or the United States Coast Guard Reserve.

The bill specifies that a permit issued under this section exempts such veterans, service members, their immediate family members and one additional person designated to assist each veteran certified to be a disabled veteran, from having to possess a hunting, freshwater fishing, or saltwater fishing license for the duration of the event. For purposes of this exemption, immediate family members mean parents, spouses, and children.

The bill authorizes the FWC to adopt rules to implement this section. Factors for the FWC to consider in determining to issue such permits include, but are not limited to, hunting and fishing seasons, time frame or duration of the event, species concerns, and the number of such permits granted to the organizer of the event during the calendar year the permit is requested.

- **Section 5 Amends s. 379.354, F.S., Increasing Free Saltwater/Freshwater Fishing Days and deleting provisions for periodic adjustments of recreational hunting and fishing license fees based on changes in the Consumer Price Index.**

Free Saltwater/Freshwater Fishing Days

Present Situation

Currently, the FWC may designate, by rule, two consecutive or nonconsecutive days per year as free freshwater fishing days and two consecutive or nonconsecutive days per year as free saltwater fishing days, during which a recreational fishing license requirement is waived. All other laws, rules, and regulations governing the holders of a fishing license remain in effect. The free fishing days are for residents and nonresidents.

The prices for recreational fishing licenses are as follows:²¹

- A Florida resident annual freshwater or saltwater license is \$17.
- A nonresident freshwater annual license is \$47, a 3-day license is \$17, and a 7-day license is \$30.
- A nonresident saltwater annual license is \$47, a 3-day license is \$17, and a 7-day license is \$30.

Effect of Proposed Changes

The bill amends s. 379.354(15), F.S., to allow the FWC to increase the total number of license-free recreational saltwater fishing days from two to four and the total number of license-free recreational freshwater fishing days from two to four.

Deleting provisions for periodic adjustments of recreational hunting and fishing license fees based on changes in the Consumer Price Index.

²¹ *Id.*

Present Situation

In 2008, s. 379.354(1) F.S., authorized fee increases on vessel registration license fees to occur on July 1 every fifth year, beginning this year. The provisions require that, by February 1 of each year in which an adjustment is scheduled to occur, the FWC submit a report to the President of the Senate and the Speaker of the House of Representatives that details how the increase in fees will be used within the agency.

Based on input from the Legislature's Office of Economic and Demographic Research (EDR), the FWC estimated that the following fees would increase effective on July 1, 2013, unless otherwise provided by general law.

Resident Hunting & Fishing Licenses	Current	Last Adjusted	New Fee
Annual freshwater fishing license	\$15.50	10/1/2007	\$17.70
Annual saltwater fishing license	\$15.50	10/1/2007	\$17.70
Annual hunting license to take game	\$15.50	10/1/2007	\$17.70
Annual combination hunting and freshwater fishing license	\$31.00	10/1/2007	\$35.40
Annual combination freshwater and saltwater fishing license	\$31.00	10/1/2007	\$35.40
Annual combination hunting, freshwater fishing, and saltwater fishing license	\$46.50	10/1/2007	\$53.10
Annual sportsman's license	\$79.00	10/1/2007	\$90.22
Annual sportsman's license for a resident 64 years of age or older	\$12.00	7/1/1998	\$17.21
Annual gold sportsman's license	\$98.50	10/1/2007	\$112.48
Annual military gold sportsman's license	\$18.50	5/24/2005	\$22.55
Annual license to take fur-bearing animals (also non-resident)	\$25.00	7/1/1966	\$182.72

Nonresident Hunting and Fishing Licenses	Current	Last Adjusted	New Fee
Freshwater fishing license to take freshwater fish for 3 consecutive days	\$15.50	10/1/2007	\$17.70
Freshwater fishing license to take freshwater fish for 7 consecutive days	\$28.50	10/1/2007	\$32.55
Saltwater fishing license to take saltwater fish for 3 consecutive days	\$15.50	10/1/2007	\$17.70

Saltwater fishing license to take saltwater fish for 7 consecutive days	\$28.50	10/1/2007	\$32.55
Annual freshwater fishing license	\$45.50	10/1/2007	\$51.96
Annual saltwater fishing license	\$45.50	10/1/2007	\$51.96
Hunting license to take game for 10 consecutive days	\$45.00	10/1/2007	\$51.39
Annual hunting license to take game	\$150.00	7/1/1989	\$291.91

Effect of Proposed Changes

The bill amends s. 328.354, F.S., to delete the requirement that in 2013 and every 5 years thereafter, recreational hunting and fishing license fees must be adjusted by the percentage change in the Consumer Price Index for All Urban Consumers since the fees were last adjusted, unless otherwise provided by general law.

Section 6. Amends s. 379.361, F.S., Waiving Income Requirements for Commercial Fishing Licenses for Veterans

Present Situation

Section 379.361, F.S., specifies that any person, firm, or corporation that sells, offers for sale, barter, or exchanges for merchandise any saltwater products, or that harvests saltwater products with certain gear or equipment as specified by law, must have a valid saltwater products license (a commercial fishing license). A saltwater product is defined as any species of saltwater fish, marine plant, or echinoderm, except shells, and salted, cured, canned, or smoked seafood.²² Commercial harvest is defined as 'harvest over the recreational bag limit, use of certain gear as authorized by law, or possession of more than 100 lbs. per person per day of species with no established bag limit. Possession of two or fewer fish with no established bag limit is not considered commercial harvest even if over 100 pounds."²³

There are three types of saltwater products licenses (SPLs) in Florida:

- Individual SPL – This license authorizes one person to engage in commercial fishing activities from the shore or a vessel, is issued in the individual's name, and is not tied to any one vessel.²⁴
- Crew SPL – This license is the same as an individual SPL, but also authorizes each person who is fishing with the named individual aboard a vessel to engage in such activities. This allows the license holder to take a crew on any vessel and that crew is covered under the person's SPL.²⁵
- Vessel SPL – This license is issued to a valid commercial vessel registration number and authorizes each person aboard that registered vessel to engage in commercial saltwater fishing activities. This is issued to a vessel, not a named individual.²⁶

The various costs for SPLs are as follows:

Saltwater Products Licenses	Cost
Individual resident	\$50

²² Section 379.101, F.S.

²³ FWC 2013 analysis. On file with staff

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

Individual nonresident	\$200
Individual alien	\$300
Crew resident	\$150
Crew nonresident	\$600
Crew alien	\$900
Vessel resident	\$100
Vessel nonresident	\$400
Vessel alien	\$600

A restricted species (RS) endorsement is required for those who possess an SPL and commercially harvest or sell the following species: Spanish Mackerel, King Mackerel, Black Drum, Spotted Sea Trout, Grouper, Snapper, Red Porgy, Gray Triggerfish, Banded Rudderfish, Almaco Jack, Golden Tilefish, Amberjack, Sea Bass/Tropical/Ornamental "Marine Life," Black Mullet, Silver Mullet, Bluefish, Hogfish, Blue Crab, Stone Crab, Crawfish/Spiny Lobster, African Pompano, Florida Pompano, Permit, Sheepshead, Tripletail, Clams (Brevard County only), Shrimp, Flounder, Cobia, Wahoo, and Dolphin.²⁷

An RS endorsement is free; however, licensed commercial fishermen must qualify or show proof of landings reported under their SPL providing that a specified amount or percentage of their total annual income (\$5,000 or 25 percent) during one of the past three years is attributable to reported landings and sales of saltwater products to a Florida wholesale dealer.²⁸ Exemptions from income requirements include the following:

- A permanent restricted species endorsement shall be available to those persons age 62 and older who have qualified for such endorsement for at least 3 of the last 5 years.
- Active military duty time shall be excluded from consideration of the time necessary to qualify and shall not be counted against the applicant for purposes of qualifying.
- Upon the sale of a used commercial fishing vessel owned by a person, firm, or corporation that possesses or is eligible for a restricted species endorsement, the purchaser of such vessel shall be exempted from the qualifying income requirement for the purpose of obtaining a restricted species endorsement for a period of 1 year after purchase of the vessel.
- Upon the death or permanent disablement of a person possessing a restricted species endorsement, an immediate family member wishing to carry on the fishing operation shall be exempted from the qualifying income requirement for the purpose of obtaining a restricted species endorsement for a period of 1 year after the death or disablement.
- A restricted species endorsement may be issued on an individual saltwater products license to a person age 62 or older who documents that at least \$2,500 of his or her income is attributable to the sale of saltwater products.
- A permanent restricted species endorsement may also be issued on an individual saltwater products license to a person age 70 or older who has held a saltwater products license for at least 3 of the last 5 license years.
- Any resident who is certified to be totally and permanently disabled by the Railroad Retirement Board, by the United States Department of Veterans Affairs or its predecessor, or by any branch of the United States Armed Forces, or who holds a valid identification card issued by the Department of Veterans' Affairs pursuant to s. 295.17, F.S., upon proof of the same, or any resident certified to be disabled by the United States Social Security Administration or a licensed physician, upon proof of the same, shall be exempted from the income requirements if he or she also has held a saltwater products license for at least 3 of the last 5 license years prior to the date of the disability. A restricted species endorsement issued under this paragraph may be issued only on an individual saltwater products license.

During the 2011-2012 fiscal year, of the 12,752 SPLs issued in the state, 9,191 of them had an RS endorsement.

Small service-disabled veteran business enterprises

²⁷ Rule 68B, F.A.C.

²⁸ Section 379.361(b), F.S. FWC 2013 analysis. On file with staff

In 2008, HB 687 was approved by the Governor.²⁹ The bill created the Service Disabled Veterans-Owned Business Enterprise Opportunity Act. The Act created a certification program in the Department of Management Services (DMS) for small service-disabled veteran business enterprises (SDVBE). To qualify, a veteran must be a permanent resident of Florida who has a service-related disability of 10 percent or greater as determined by the U.S. Department of Veterans Affairs or the U.S. Department of Defense. To be certified as a SDVBE, the business enterprise must be independently owned and operated business that meets all of the following criteria:

- Employs 200 or fewer permanent full-time employees.
- Together with its affiliates has a net worth of \$5 million or less including both personal and business investments.
- Is organized to engage in commercial transactions.
- Is domiciled in Florida.
- Is at least 51 percent owned by one or more service-disabled veterans.
- Is managed and controlled by one or more service-disabled veterans or, for a service-disabled veteran with a permanent and total disability, by the spouse or permanent caregiver of the veteran.³⁰

The program requires state agencies receiving two or more bids, proposals, or replies for the procurement of commodities or contractual services, at least one of which is from a SDVBE, that are equal with respect to all relevant considerations including price, quality, and service, to award the contract to the SDVBE.³¹

Since the bill was approved in 2008, there are approximately 240 disabled veteran-owned businesses certified with DMS as SDVBEs. Of the 249,000 disabled Florida-resident veterans, approximately one-tenth of 1 percent has taken advantage of this Act.

Rule 68B-2.006, F.A.C.

On November 11, 2012, the FWC promulgated Rule 68B-2.006, F.A.C. The rule provides assistance to certain military veterans who wish to become commercial fishers and obtain the RS endorsement issued on an SPL by waiving the income requirement for one year.

The FWC was created by passage of Revision #5 to the Florida Constitution during the November 1998 General Election,³² as implemented by the 1999 General Session of the Legislature. This was accomplished by merging the former Game & Fresh Water Fish Commission, the former Marine Fisheries Commission, and most of the former divisions of the marine Resources and Law Enforcement within the Department of Environmental Protection (DEP). As a constitutionally created agency, the FWC is free to exercise its constitutional responsibilities, and the Legislature may only enact laws in aid of the FWC that are not inconsistent with those constitutional responsibilities. The FWC is also exempt from chapter 120, F.S. (the Administrative Procedure Act) in the exercise of those responsibilities.

Prior to the adoption of the 1998 amendment, regulation of Florida's wild animal life, freshwater aquatic life, and marine life was performed primarily by three separate agencies: the Game and Fresh Water Fish Commission, the Marine Fisheries Commission, and DEP. The amendment abolished the Game and Fresh Water Fish Commission and the Marine Fisheries Commission. The amendment consolidated the functions performed by the Marine Fisheries Commission and the Game and Fresh Water Fish Commission into the FWC, and granted the FWC with the executive and regulatory powers of the state over wild animal life and freshwater aquatic life, and executive and regulatory powers over

²⁹ 2008 HB 687 staff analysis.

³⁰ FWC 2013 analysis. On file with staff.

³¹ *Id.*

³² See Section 9 of Article IV of the Florida Constitution

marine species. The amendment specifically granted the Legislature with the power to: (1) establish fees and penalties, (2) adopt laws in aid of the FWC, and (3) appropriate funds.³³

Since the adoption of this constitutional amendment, there has been some uncertainty and debate over how far the FWC's constitutional authority reaches as it pertains to marine species. The Florida Supreme Court has provided some clarity, but it is unclear whether the FWC has the authority under the Florida Constitution to adopt a rule exempting the income requirement for certain veterans, or if the FWC needs the Legislature to grant it the authority in statute for the rule to be effective.

Effect of Proposed Changes

The bill amends s. 379.361, F.S., to specifically grant the FWC with the statutory authority to waive the \$5,000 or 25 percent of annual income RS endorsement income requirement for certain veterans for one year. Specifically, the bill specifies that:

- An honorably discharged resident military veteran³⁴ certified to have a service-connected permanent disability rating of 10 percent or higher, upon providing proof of such disability rating, is not required to provide documentation for the income requirement with his or her initial application for an RS endorsement. Documentation for the income requirement is required beginning with the renewal of the RS endorsement after such veteran has possessed a valid RS endorsement for a complete license year. This exemption applies only to issuance of the endorsement on an individual SPL and is a one-time exemption. In order to renew the RS endorsement on an individual SPL, the veteran must document that at least \$2,500 of his or her income is attributable to the sale of saltwater products.
- Beginning July 1, 2014, a resident military veteran who applies to the FWC within 48 months after receiving an honorable discharge from any branch of the U.S. Armed Forces, the U.S. Coast Guard, the military reserves, the Florida National Guard, or a member of the U.S. Coast Guard reserves is not required to provide documentation for the income requirement with his or her initial application for a RS endorsement. Documentation for the income requirement is required beginning with the renewal of the RS endorsement after such veteran has possessed a valid RS endorsement for a complete license year. This exemption applies only to issuance of the endorsement on an individual SPL and may only be applied one time per military enlistment.
- Until June 30, 2014, a resident military veteran who applies to the FWC and who received an honorable discharge from any branch of the U.S. Armed Forces, the United States Coast Guard, the military reserves, the Florida National Guard, or a member of the U.S. Coast Guard reserves between September 11, 2001, and June 30, 2014, is not required to provide documentation for the income requirement with his or her initial application for a RS endorsement. Documentation for the income requirement is required beginning with the renewal of the RS endorsement after such veteran has possessed a valid RS endorsement for a complete license year. This exemption applies only to issuance of the endorsement on an individual SPL.

The bill specifies that the term 'one year' means one complete license year as it pertains to the RS endorsement income requirement.

Section 7. Provides an Effective Date.

B. SECTION DIRECTORY:

Section 1. Amends s. 327.02, F.S., correcting a statutory reference to federal boating laws.

Section 2. Amends s. 328.72, F.S., deleting provisions for periodic adjustments of vessel registration fees based on changes in the Consumer Price Index.

Section 3. Amends s. 379.101, F.S., defining residency requirements for hunting/fishing licenses.

³³ Section 379.1025, F.S. acknowledges the FWC's constitutional authority, as well as its statutory authority.

³⁴ This includes any branch of the U.S. Armed Forces, the Reserves, the Florida National Guard, or the U.S. Coast Guard.

Section 4. Amends s. 379.353, F.S., exempting recreational hunting/fishing licenses for specified veteran events.

Section 5. Amends s. 379.354, F.S., increasing free saltwater/freshwater fishing days and deleting provisions for periodic adjustments of recreational hunting and fishing license fees based on changes in the Consumer Price Index.

Section 6. Amends s. 379.361, F.S., waiving income requirements for commercial fishing licenses for veterans.

Section 7. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Section 3: According to the FWC's analysis, those wishing to purchase a resident recreational fishing or hunting license, but who are not eligible because they have not established their Florida residency for six months or more, will see a positive fiscal impact of the difference between the cost of a resident license and a nonresident license.

Section 4: According to the FWC's analysis, active duty military personnel, reservists, Florida National Guard, U.S. Coast Guard, and disabled veterans participating in FWC-permitted hunting and fishing events that promote outdoor recreation, together with all individuals assisting the disabled veterans in the event, will be exempted from having to purchase a license for that specified event.

Section 5: According to the FWC's analysis, both residents and non-residents can enjoy additional free saltwater and freshwater fishing days without having to purchase a license.

Section 6: According to the FWC's analysis, there could be a positive fiscal impact, in the form of income, on veterans who enter the commercial fishing industry; however, there is a potential for a negative fiscal impact to income on current commercial fishermen holding a restricted species endorsement as a result of increased competition this section may create.

D. FISCAL COMMENTS:

Section 2 and 5: According to FWC, the amount of new revenue FWC would not receive for the increase in vessel registration fees and recreational hunting and fishing license fees in fiscal year 2013-14 is estimated to be \$6,551,331.

Section 3: According to the FWC's analysis, there could be a potentially negative fiscal impact on the FWC depending on how many people cannot currently purchase a resident hunting or fishing license due to residency requirements. If those people currently prohibited from purchasing a resident license would still purchase a nonresident license, the lost revenue would be equivalent to the difference between the cost of the resident license and the nonresident license, multiplied by the number of people who take advantage of the new residency requirements. The FWC has no data on how many people fit within the affected population annually or as to which license type persons are likely to buy. The March 16, 2013 Revenue Estimating Impact Conference adopted a negative insignificant impact.

Section 4: According to the FWC's analysis, there could be a potentially negative fiscal impact on the FWC due to a small loss of license sales revenue; however, there could be a potentially positive fiscal impact on the FWC in increased purchases of hunting and fishing licenses by individuals participating in the license-exempted event who have not previously purchased a license. There is no data on how many events would be permitted, how many individuals would take advantage of the new exemption, or what license type from which they would be exempted. The March 16, 2013 Revenue Estimating Impact Conference adopted a negative insignificant impact.

Section 5: According to the FWC's analysis, the immediate fiscal impact to the FWC is unknown. There may be a positive long-term fiscal impact as a result of an increase in the number of anglers introduced to fishing who would later purchase a license. There is no data on how many individuals currently take advantage of free fishing days or how many more may take advantage of them if the number of days are increased. The March 16, 2013 Revenue Estimating Impact Conference adopted a negative insignificant impact.

Section 6: According to the FWC's analysis, there would be a small positive fiscal impact to the Marine Resources Conservation Trust Fund from the increased sale of saltwater product licenses to veterans who enter the fishery under the waiver. Using data from the November 11, 2012 through March 14, 2013 advance implementation of the waiver, the March 16, 2013 Revenue Estimating Impact Conference adopted a positive insignificant impact of \$6,300 for the first year of implementation. This expected to increase annually: \$7,800 in Fiscal Year 2014-15; \$8,750 in Fiscal Year 2015-16; \$10,100 in Fiscal Year 2016-17; and \$11.450 in Fiscal Year 2017-18.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides rulemaking authority for the FWC to issue a permit that would exempt certain persons from having to possess recreational hunting and fishing licenses.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 12, 2013, the Agriculture & Natural Resources Subcommittee adopted three amendments that made the following changes:

- Modifies the change to the residency requirement for recreational hunting and fishing license by making a Florida driver license or identification card the primary method of proof of residency; however, alternative methods of proof will be permitted if an applicant does not possess a Florida driver license or identification card.
- Specifies that the United States Coast Guard is part of the military groups exempted from purchasing a hunting or fishing license when participating in a recreational event designed for enjoyment or rehabilitation.
- Corrects drafting errors related to waiving income requirements for commercial fishing licenses for veterans.

On March 5, 2013, the Veteran & Military Affairs Subcommittee adopted one amendment and an amendment to the amendment that made the following changes:

- Narrows the types of persons who are exempted from having to possess recreational hunting and fishing licenses to include only veterans certified to have a service-connected disability, active duty service members of any branch of the United States Armed Forces, the Coast Guard, military reserves, the Florida National Guard, the Coast Guard Reserves, and their immediate family members and a person designated to assist a disabled veteran. Provides rule authority for the FWC to implement the provisions of the bill and provides guidelines in the granting of permits.
- Revises the type of service members who are exempted from having to possess recreational hunting and fishing licenses to also include reserve duty service members, as well as active duty service members.

On March 28, 2013, the State Affairs Committee amended and reported CS/CS/HB 333 favorably as a committee substitute (CS). The CS deletes provisions for periodic adjustments of vessel registrations and recreational hunting and fishing license fees, based on the Consumer Price Index, that were automatically set to take effect July, 2013.