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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/07/2014	.	
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The Committee on Environmental Preservation and Conservation (Abruzzo) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsections (5), (6), (7), and (8) of section 379.407, Florida Statutes, are renumbered (6), (7), (8), and (9) respectively, and a new subsection (5) is created to read:

379.407 Administration; rules, publications, records; penalties; injunctions.—

(5) PENALTIES FOR POSSESSION OF SEPARATED SHARK FINS ON THE



895026

11 WATER.-

12 (a) It shall be unlawful for any commercial harvester to
13 possess separated shark fins while on Florida waters. It is a
14 major violation under this section for any commercial harvester
15 to be in possession of shark fins on state waters that are not
16 attached to a shark carcass.

17 (b) Any commercial harvester who violates this subsection
18 shall be punished as follows:

19 1. A first violation is a misdemeanor of the second degree,
20 punishable as provided in s. 775.082 or s. 775.083, and such
21 person is subject to a suspension of all license privileges
22 under this chapter for a period of 30 days.

23 2. A second violation is a misdemeanor of the first degree,
24 punishable as provided in s. 775.082 or s. 775.083, and such
25 person is subject to a suspension of all license privileges
26 under this chapter for a period of 90 days.

27 3. A third violation is a misdemeanor of the first degree,
28 punishable as provided in s. 775.082 or s. 775.083, with a
29 mandatory minimum term of imprisonment of 6 months, and such
30 person may also be assessed a civil penalty of up to \$2,500, and
31 is subject to a suspension of all license privileges under this
32 chapter for a period of 6 months.

33 4. A third violation within 1 year after a second violation
34 is a felony of the third degree, punishable as provided in s.
35 775.082 or s. 775.083, with a mandatory minimum term of
36 imprisonment of 1 year, and such person shall be assessed a
37 civil penalty of \$5,000, and all license privileges under this
38 chapter shall be permanently revoked.

39 5. A fourth or subsequent violation is a felony of the



895026

40 third degree, punishable as provided in s. 775.082 or s.
41 775.083, with a mandatory minimum term of imprisonment of 1
42 year, and such person shall be assessed a civil penalty of
43 \$5,000 and all license privileges under this chapter shall be
44 permanently revoked.

45 (6)~~(5)~~ SALTWATER PRODUCTS; UNLICENSED SELLERS; ILLEGALLY
46 HARVESTED PRODUCTS.—In addition to other penalties authorized in
47 this chapter, any violation of s. 379.361 or s. 379.362, or
48 rules of the commission implementing s. 379.361 or s. 379.362,
49 involving the purchase of saltwater products by a commercial
50 wholesale dealer, retail dealer, or restaurant facility for
51 public consumption from an unlicensed person, firm, or
52 corporation, or the purchase or sale of any saltwater product
53 known to be taken in violation of s. 16, Art. X of the State
54 Constitution, or rule or statute implementing the provisions
55 thereof, by a commercial wholesale dealer, retail dealer, or
56 restaurant facility, for public consumption, is a major
57 violation, and the commission may assess the following
58 penalties:

59 (a) For a first violation, the commission may assess a
60 civil penalty of up to \$2,500 and may suspend the wholesale or
61 retail dealer's license privileges for up to 90 calendar days.

62 (b) For a second violation occurring within 12 months of a
63 prior violation, the commission may assess a civil penalty of up
64 to \$5,000 and may suspend the wholesale or retail dealer's
65 license privileges for up to 180 calendar days.

66 (c) For a third or subsequent violation occurring within a
67 24-month period, the commission shall assess a civil penalty of
68 \$5,000 and shall suspend the wholesale or retail dealer's



895026

69 license privileges for up to 24 months.

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71 Any proceeds from the civil penalties assessed pursuant to this
72 subsection shall be deposited into the Marine Resources
73 Conservation Trust Fund and shall be used as follows: 40 percent
74 for administration and processing purposes and 60 percent for
75 law enforcement purposes.

76 (7)~~(6)~~ PENALTIES FOR UNLICENSED SALE, PURCHASE, OR
77 HARVEST.—It is a major violation and punishable as provided in
78 this subsection for any unlicensed person, firm, or corporation
79 who is required to be licensed under this chapter as a
80 commercial harvester or a wholesale or retail dealer to sell or
81 purchase any saltwater product or to harvest or attempt to
82 harvest any saltwater product with intent to sell the saltwater
83 product.

84 (a) Any person, firm, or corporation who sells or purchases
85 any saltwater product without having purchased the licenses
86 required by this chapter for such sale is subject to penalties
87 as follows:

88 1. A first violation is a misdemeanor of the second degree,
89 punishable as provided in s. 775.082 or s. 775.083.

90 2. A second violation is a misdemeanor of the first degree,
91 punishable as provided in s. 775.082 or s. 775.083, and such
92 person may also be assessed a civil penalty of up to \$2,500 and
93 is subject to a suspension of all license privileges under this
94 chapter for a period not exceeding 90 days.

95 3. A third violation is a misdemeanor of the first degree,
96 punishable as provided in s. 775.082 or s. 775.083, with a
97 mandatory minimum term of imprisonment of 6 months, and such



895026

98 person may also be assessed a civil penalty of up to \$5,000 and
99 is subject to a suspension of all license privileges under this
100 chapter for a period not exceeding 6 months.

101 4. A third violation within 1 year after a second violation
102 is a felony of the third degree, punishable as provided in s.
103 775.082 or s. 775.083, with a mandatory minimum term of
104 imprisonment of 1 year, and such person shall be assessed a
105 civil penalty of \$5,000 and all license privileges under this
106 chapter shall be permanently revoked.

107 5. A fourth or subsequent violation is a felony of the
108 third degree, punishable as provided in s. 775.082 or s.
109 775.083, with a mandatory minimum term of imprisonment of 1
110 year, and such person shall be assessed a civil penalty of
111 \$5,000 and all license privileges under this chapter shall be
112 permanently revoked.

113 (b) Any person whose license privileges under this chapter
114 have been permanently revoked and who thereafter sells or
115 purchases or who attempts to sell or purchase any saltwater
116 product commits a felony of the third degree, punishable as
117 provided in s. 775.082 or s. 775.083, with a mandatory minimum
118 term of imprisonment of 1 year, and such person shall also be
119 assessed a civil penalty of \$5,000. All property involved in
120 such offense shall be forfeited pursuant to s. 379.337.

121 (c) Any commercial harvester or wholesale or retail dealer
122 whose license privileges under this chapter are under suspension
123 and who during such period of suspension sells or purchases or
124 attempts to sell or purchase any saltwater product shall be
125 assessed the following penalties:

126 1. A first violation, or a second violation occurring more



895026

127 than 12 months after a first violation, is a first degree
128 misdemeanor, punishable as provided in ss. 775.082 and 775.083,
129 and such commercial harvester or wholesale or retail dealer may
130 be assessed a civil penalty of up to \$2,500 and an additional
131 suspension of all license privileges under this chapter for a
132 period not exceeding 90 days.

133 2. A second violation occurring within 12 months of a first
134 violation is a third degree felony, punishable as provided in
135 ss. 775.082 and 775.083, with a mandatory minimum term of
136 imprisonment of 1 year, and such commercial harvester or
137 wholesale or retail dealer may be assessed a civil penalty of up
138 to \$5,000 and an additional suspension of all license privileges
139 under this chapter for a period not exceeding 180 days. All
140 property involved in such offense shall be forfeited pursuant to
141 s. 379.337.

142 3. A third violation within 24 months of the second
143 violation or subsequent violation is a third degree felony,
144 punishable as provided in ss. 775.082 and 775.083, with a
145 mandatory minimum term of imprisonment of 1 year, and such
146 commercial harvester or wholesale or retail dealer shall be
147 assessed a mandatory civil penalty of up to \$5,000 and an
148 additional suspension of all license privileges under this
149 chapter for a period not exceeding 24 months. All property
150 involved in such offense shall be forfeited pursuant to s.
151 379.337.

152 (d) Any commercial harvester who harvests or attempts to
153 harvest any saltwater product with intent to sell the saltwater
154 product without having purchased a saltwater products license
155 with the requisite endorsements is subject to penalties as



895026

156 follows:

157 1. A first violation is a misdemeanor of the second degree,
158 punishable as provided in s. 775.082 or s. 775.083.

159 2. A second violation is a misdemeanor of the first degree,
160 punishable as provided in s. 775.082 or s. 775.083, and such
161 commercial harvester may also be assessed a civil penalty of up
162 to \$2,500 and is subject to a suspension of all license
163 privileges under this chapter for a period not exceeding 90
164 days.

165 3. A third violation is a misdemeanor of the first degree,
166 punishable as provided in s. 775.082 or s. 775.083, with a
167 mandatory minimum term of imprisonment of 6 months, and such
168 commercial harvester may also be assessed a civil penalty of up
169 to \$5,000 and is subject to a suspension of all license
170 privileges under this chapter for a period not exceeding 6
171 months.

172 4. A third violation within 1 year after a second violation
173 is a felony of the third degree, punishable as provided in s.
174 775.082 or s. 775.083, with a mandatory minimum term of
175 imprisonment of 1 year, and such commercial harvester shall also
176 be assessed a civil penalty of \$5,000 and all license privileges
177 under this chapter shall be permanently revoked.

178 5. A fourth or subsequent violation is a felony of the
179 third degree, punishable as provided in s. 775.082 or s.
180 775.083, with a mandatory minimum term of imprisonment of 1
181 year, and such commercial harvester shall also be assessed a
182 mandatory civil penalty of \$5,000 and all license privileges
183 under this chapter shall be permanently revoked.

184



895026

185 For purposes of this subsection, a violation means any judicial
186 disposition other than acquittal or dismissal.

187 (8)~~(7)~~ REVOCATION OF LICENSES.—Any person licensed under
188 this chapter who has been convicted of taking aquaculture
189 species raised at a certified facility shall have his or her
190 license revoked for 5 years by the commission pursuant to the
191 provisions and procedures of s. 120.60.

192 (9)~~(8)~~ LICENSES AND ENTITIES SUBJECT TO PENALTIES.—For
193 purposes of imposing license or permit suspensions or
194 revocations authorized by this chapter, the license or permit
195 under which the violation was committed is subject to suspension
196 or revocation by the commission. For purposes of assessing
197 monetary civil or administrative penalties authorized by this
198 chapter, the commercial harvester cited and subsequently
199 receiving a judicial disposition of other than dismissal or
200 acquittal in a court of law is subject to the monetary penalty
201 assessment by the commission. However, if the licensee or
202 permitholder of record is not the commercial harvester receiving
203 the citation and judicial disposition, the license or permit may
204 be suspended or revoked only after the licensee or permitholder
205 has been notified by the commission that the license or permit
206 has been cited in a major violation and is now subject to
207 suspension or revocation should the license or permit be cited
208 for subsequent major violations.

209 Section 2. This act shall take effect July 1, 2014.

210
211 ===== T I T L E A M E N D M E N T =====

212 And the title is amended as follows:

213 Delete everything before the enacting clause



895026

214 and insert:

215 A bill to be entitled
216 An act relating to sharks; amending s. 379.407, F.S.; providing
217 penalties for possession of separated shark fins on state
218 waters; providing an effective date.

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