

# WEEK 5 REPORT

// 2020 LEGISLATIVE SESSION

**+ MARINE INDUSTRIES ASSOCIATION OF FLORIDA**

FEBRUARY 10-14, 2020

**Timmins**  
CONSULTING, LLC

# // WEEK 5 REPORT

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We are officially past the halfway mark of the 2020 Legislative Session. It is hard to believe we have completed five weeks of Session to date and have four more to go until Sine Die.

MIAF has been very busy the last five weeks on numerous issues in Tallahassee. We successfully hosted a "MIAF Day in Tallahassee" this year for member associations. We also have been working on and watching proposed legislation on anchoring limitations in Jacksonville and Citrus County, marina evacuation bills, transportation bills (as the House bill contains marina evacuation language), proposed language on public construction, numerous bill negotiations on the City of St. Petersburg Vessel bill, and a vessel pumpout amendment to a water bill to name a few things we have been engaged in the Session. I expect the list to grow as we enter the final weeks of Session.

Senate Bill 826 regarding Marina Evacuations is up in committee this week. The bill has a negotiated amendment filed for this committee. The companion, House Bill 395 regarding Transportation, passed in the House this week with two amendments. This is the bill to watch to become a vehicle for all things boating. We anticipate the City of St. Petersburg to try and amend their vessel language to these vehicles as well.

House Bill 1199 relating to Environmental Protection is a bill we are watching this Session. This bill prohibits local governments from granting legal rights to natural environments. HB 1199 passed the House Judiciary committee 13-2. The bill is now waiting to be placed on the Special Order calendar. The Senate companion, CS/SB 1382 has passed one committee and is waiting to be heard in the Senate Subcommittee on Agriculture, Environment and General Government. The Senate bill is comparable to the House bill.

SB 606 regarding Anchoring Limitation Areas did not make the Senate Community Affairs agenda this week. The House companion, HB 417 has not been heard in its first committee of reference as of the writing of this report.

As reported last week, SB 1378 regarding Vessels by Senator Rouson passed in the Senate Environment and Natural Resources meeting with a strike everything

amendment. We anticipate more changes to the amendment as it moves through the process. The House companion has yet to be heard in the first committee of reference as of the writing of this report. However, the bill will be available to be amended on another package in the Senate if it passes its first committee of reference. We believe this language will be shopped to be amended to the House Transportation bill that contains marina evacuation language. At some point, we believe they will shop the language to the Senate Transportation bill as well.

Finally, the Senate and House debated their proposed budgets on the floor this week. Several amendments were adopted to the Senate budgets and none were offered to the House budget. None of the marine/boating line items were amended.

We now enter the part of Session where leadership has to agree on allocations before we can start the budget conference process. Once allocations are agreed upon, the negotiations will begin to reach consensus on a balanced budget for Fiscal Year 2020-2021.

As a reminder, below are just a few of the items we are watching for MIAF.

A handwritten signature in dark blue ink, reading "Margaret Timmins" with a stylized flourish at the end.

Margaret "Missy" Timmins  
President  
Timmins Consulting, LLC



## // ANCHORING LIMITATION AREAS

**Senate Bill 606 // Sen. Aaron Bean // Referred to: Environment and Natural Resources; Community Affairs; Rules**

**House Bill 417 // Rep. Wyman Duggan // Referred to: Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee**

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

**CS/Senate Bill 606:** SB 606 adds the Ortega and Cedar rivers to the list of designated anchoring limitation areas, which restricts the anchoring of a vessel in such areas at night with certain exceptions.

**Most Recent Action:** Favorable with CS by Environment and Natural Resources; 3 Yeas, 2 Nays

**House Bill 417:** HB 417 adds the Ortega and Cedar rivers to the list of designated anchoring limitation areas, which restricts the anchoring of a vessel in such areas at night with certain exceptions.

**Most Recent Action:** Referred to Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

## // MARINA EVACUATIONS

**Senate Bill 826 // Sen. Debbie Mayfield // Referred to: Environment and Natural Resources; Infrastructure and Security; Rules**

**House Bill 1329 // Rep. Rene Plasencia // Referred to: Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee**

**House Bill 395 // Rep. Alex Andrade // Referred to: Transportation & Infrastructure Subcommittee; Transportation & Tourism Appropriations Subcommittee; State Affairs Committee**

826/1329 RELATIONSHIP: *IDENTICAL*

826/395 RELATIONSHIP: *COMPARE*

**Senate Bill 826:** CS/SB 826 prohibits, upon the issuance of a hurricane watch that affects the waters of marinas located in a deepwater seaport, vessels under 500 gross tons from remaining in the waters of such marinas that have been deemed not suitable for refuge during a hurricane. The bill requires that vessel owners promptly remove their vessels from the waterways upon issuance of an evacuation order by the deepwater seaport.

If the Coast Guard Captain of the Port sets the port condition to “Yankee” and a vessel owner has failed to remove his or her vessel from the waterway, a marina owner, operator, employee, or agent, is required to remove the vessel, if reasonable, from its slip. The marina owner may charge the vessel owner a reasonable fee for the service of removing the vessel.

The bill provides that a marina owner, operator, employee, or agent may not be held liable for any damage incurred to the vessel from a hurricane and is held harmless from removing the vessel from the waterways. However, the bill does not provide immunity to the marina owner, operator, employee, or agent for any damage caused by intentional acts or negligence when removing a vessel.

The bill provides that after a watch has been issued, if an owner or operator has not removed the vessel pursuant to an order from the seaport, the owner or operator may be subject to existing civil penalties.

**Most Recent Action:** On Committee agenda - Infrastructure and Security, 02/17/20, 4:00 pm

**House Bill 1329:** Prohibits vessels under specified weight from remaining in certain marinas that have been deemed not suitable for refuge during hurricane after issuance of hurricane watch or warning for waters of marina; provides for civil penalties.

**Most Recent Action:** Referred to Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

**CS/House Bill 395:** The bill amends various statutory provisions relating to transportation. In summary, the bill:

- Revises the statutory definition of autocycle to incorporate a reference to federal safety standards;
- Increases the allowable weight of personal delivery devices;
- Authorizes portable radar speed display units to display flashing red and blue lights under certain circumstances;
- Allows the use of flashing lights on vehicles during periods of extreme low visibility on specified roads;
- Authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) to waive commercial driver license skill test requirements for qualifying veterans;

- Revises requirements governing the use of tarpaulins and other covers on vehicles hauling agricultural products;
- Authorizes for-hire vehicles to be insured by certain non-admitted carriers and reduces the number of for-hire vehicles required before an owner or lessee may self-insure;
- Requires certain vessels to be removed from marinas located in deepwater seaports during hurricanes, clarifies the amount of the fine that can be assessed in the event certain vessels are not removed, and authorizes the deepwater seaport issuing the evacuation order to impose and collect assessed fines;
- Revises qualification requirements for contractors desiring to bid on certain Department of Transportation (DOT) contracts, including the submission of specified financial statements; and
- Revises the definition of the term “for-hire vehicle” to exclude a certain vehicle.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2020.

**Most Recent Action:** Favorable with CS by Transportation & Tourism Appropriations Subcommittee; 11 Yeas, 0 Nays;

*Attached documents: CS/SB 826 + staff analysis + 1 amendment; CS/CS/HB 395 + staff analysis*

## // ENVIRONMENTAL ENFORCEMENT

**Senate Bill 1450 // Sen. Joe Gruters // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Criminal and Civil Justice; Appropriations**

**House Bill 1091 // Rep. Randy Fine // Referred to: Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee**

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

**CS/Senate Bill 1450:** CS/SB 1450 makes numerous changes to the penalties for violating Florida’s environmental laws. The bill increases required or maximum environmental penalties in various sections of the Florida Statutes. Most of the changes increase a penalty by 50 percent. Additionally, the bill changes the duration that certain penalties may run, so that, until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.

**Most Recent Action:** On Committee agenda - Appropriations Subcommittee on Criminal and Civil Justice, 02/18/20, 1:30 pm

**House Bill 1091:** The Department of Environmental Protection (DEP) is Florida's lead agency for environmental management and stewardship, implementing many programs to protect the state's air, water, and land. In accordance with the state's numerous environmental laws, DEP's responsibilities include compliance and enforcement. Violations of Florida's environmental laws can result in damages and administrative, civil, and/or criminal penalties. Several types of violations impose a penalty for each offense, with each day during which a violation occurs constituting a separate offense.

The bill increases various statutory penalties for violations of environmental laws. For violations that currently impose a penalty for each day during which a violation occurs, the bill specifies that each day the violation occurs or is not remediated constitutes a separate offense until the violation is resolved by order or judgment.

The bill may have an indeterminate fiscal impact on state and local governments.

**Most Recent Action:** Favorable by Agriculture & Natural Resources Appropriations Subcommittee; 9 Yeas, 0 Nays

*Attached documents: CS/SB 1450 + staff analysis; CS/HB 1091 + staff analysis*

## // VESSELS

**Senate Bill 1378 // Sen. Darryl Rouson // Referred to: Environment and Natural Resources; Judiciary; Rules**

**House Bill 1407 // Rep. Jennifer Webb // Referred to: Local, Federal & Veterans Affairs Subcommittee; Business & Professions Subcommittee; State Affairs Committee**

HOUSE/SENATE BILL RELATIONSHIP: COMPARE

**Senate Bill 1378:** CS/SB 1378:

- Prohibits a vessel operating at slow speed, minimum wake from proceeding at a speed faster than is reasonable and prudent to avoid the creation of an excessive wake or other hazardous condition under the existing circumstances.
- Prohibits vessel operators from operating a vessel faster than slow speed, minimum wake upon approaching certain hazardous conditions, including approaching an emergency or construction vessel.
- Provides requirements for an orange flag displayed by a construction vessel or barge to indicate that it is actively engaged in construction operations.
- Prohibits an owner or responsible party of a vessel at risk of becoming derelict, who has been issued a citation for a second violation for the same vessel, from anchoring or mooring a vessel to, or within 20 feet of, a mangrove or upland vegetation on public lands. The bill authorizes the Fish and Wildlife Conservation Commission (FWC) and other officers to relocate or cause to be relocated at-risk vessels that violate this

provision.

- Increases the civil penalties for a vessel deemed at risk of becoming derelict and increases the maximum civil penalties for anchoring or mooring in a prohibited area.
- Creates civil penalties for vessels creating special hazards as specified in the bill.
- Adds to the list of violations resulting in a noncriminal infraction the display of an orange flag when the vessel or barge is not actively engaged in construction operations, and vessels at risk of becoming derelict that are found to be anchored within 20 feet of a mangrove or upland vegetation on public lands.
- Provides specific procedures, including notice and hearing requirements, for lost or abandoned property that is a derelict vessel, a vessel at risk of becoming derelict, or a vessel anchored or moored in a prohibited area.

**Most Recent Action:** Favorable with CS by Environment and Natural Resources; 5 Yeas, 0 Nays

**House Bill 1407:** Prohibits operation of vessels at speeds faster than slow speed, minimum wake in hazardous situations; provides requirements for flags displayed from vessels & barges actively engaged in construction operations; prohibits anchoring or mooring of vessel to mangroves & vegetation on public lands; revises civil penalties.

**Most Recent Action:** Filed

*Attached documents: CS/SB 1378 + staff analysis*

## // FLORIDA ENDANGERED AND THREATENED SPECIES ACT

**Senate Bill 1360 // Sen. Jose Javier Rodriguez // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations**

**House Bill 1067 // Rep. Adam Hattersley // Referred to: Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee**

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

**Senate Bill 1360:** SB 1360 revises the definitions of “endangered species” and “threatened species” in the Florida Endangered and Threatened Species Act to include the impact of climate change as a factor that may jeopardize the survival of certain species of fish and wildlife. The bill requires the Fish and Wildlife Conservation Commission (FWC) to continue to protect endangered or threatened fish and wildlife species as FWC determines, regardless of whether



such species are declassified under the federal Endangered Species Act of 1973. The bill prohibits FWC and the Department of Environmental Protection (DEP) from considering the economic cost of protecting a fish or wildlife species as a factor in designating it as endangered or threatened.

The bill requires the Department of Agriculture and Consumer Services (DACS) to consider the impacts of climate change on plant species as part of its 4-year review of the Regulated Plant Index. The bill requires DACS to continue to protect endangered or threatened plant species as DACS determines, regardless of whether such species are declassified under the federal Endangered Species Act of 1973. The bill prohibits DACS from considering the economic cost of protecting a plant species as a factor in designating it as endangered or threatened.

**Most Recent Action:** On Committee agenda - Appropriations Subcommittee on Agriculture, Environment and General Government, 02/18/20, 1:30 pm

**House Bill 1067:** Florida Endangered and Threatened Species Act: Directs FWCC & DACS to protect certain declassified species; revises criteria for placement of species on Regulated Plant Index by DACS; prohibits FWCC & DACS from considering certain costs when designating species as endangered or threatened.

**Most Recent Action:** Referred to Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

*Attached documents: CS/SB 1360 (as filed) + staff analysis*

## // FISH AND WILDLIFE ACTIVITIES

**Senate Bill 1414 // Sen. Debbie Mayfield // Referred to: Environment and Natural Resources; Agriculture; Rules**

**House Bill 777 // Rep. Tommy Gregory // Referred to: Agriculture & Natural Resources Subcommittee; Ways & Means Committee; State Affairs Committee**

HOUSE/SENATE BILL RELATIONSHIP: *COMPARE*

**CS/CS/Senate Bill 1414:** CS/SB 1414 broadens the prohibition on the harassment of hunters, trappers, or fishers to include harassment on any public lands, public waters, or publicly or privately owned wildlife management and fish management areas.

The bill expands the number of free fishing days from 4 to 6.

The bill adds tegus and iguanas to the conditional nonnative snakes and lizards list and tightens the restrictions on the list from applying to possession of these species for sale or personal use to prohibiting any use except for educational, research, or eradication or control purposes.

**Most Recent Action:** Favorable with CS by Agriculture; 4 Yeas, 0 Nays

**House Bill 777:** Prohibits certain harassment of hunters, trappers, & fishers in or on specified lands, areas, & waters; authorizes FWCC to designate additional free fishing days; prohibits certain possession of specified reptiles; provides exemption from sales & use tax for retail sale of certain hunting, fishing, & camping supplies during specified period; authorizes certain dealers to opt out of exemption; authorizes DOR to adopt emergency rules; provides appropriation.

**Most Recent Action:** Referred to Agriculture & Natural Resources Subcommittee; Ways & Means Committee; State Affairs Committee

*Attached documents: CS/CS/SB 1414 + staff analysis*

## // VESSEL SAFETY

**Senate Bill 1786 // Sen. Linda Stewart // Referred to: Environment and Natural Resources; Criminal Justice; Rules**

**Senate Bill 1786:** Prohibiting a vessel operator from endangering the life, limb, or property of another person by allowing passengers to ride on the bow of the vessel; providing that careless operation includes causing wake to law enforcement vessels under certain circumstances, etc.

**Most Recent Action:** Referred to Environment and Natural Resources; Criminal Justice; Rules

*Attached documents: None*

## // BOATING-RESTRICTED AREAS

**Senate Bill 1788 // Sen. Linda Stewart // Referred to: Community Affairs; Environment and Natural Resources; Rules**

**Senate Bill 1788:** Authorizing municipalities and counties to establish certain boating-restricted areas by ordinance for areas within a specified distance of any shoreline, etc.

**Most Recent Action:** Referred to Community Affairs; Environment and Natural Resources; Rules

*Attached documents: None*

## // ENVIRONMENTAL PROTECTION

**Senate Bill 1878 // Sen. Rob Bradley // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations**

**CS/Senate Bill 1878:** SB 1878 creates a new section of law that includes an annual appropriation, beginning in fiscal year 2020-2021, of a minimum of \$625 million for the purposes of Everglades restoration and the protection of water resources in the state. The appropriation would be repealed on June 30, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill states that the annual appropriation to the Department of Environmental Protection must provide for the following distributions:

- A minimum of \$236 million for Everglades projects in accordance with the Land Acquisition Trust Fund (LATF).
- \$64 million for the Everglades Agricultural Area reservoir project in accordance with LATF.
- \$50 million for springs restoration in accordance with LATF.
- A minimum of \$40 million for alternative water supplies or water conservation.
- A minimum of \$25 million for projects within the watersheds of the St. Johns, Suwannee, and Apalachicola rivers.
- A minimum of \$10 million for the Florida Resilient Coastline Initiative.
- A minimum of \$50 million to the South Florida Water Management District for the design, engineering, and construction of aquifer storage and recovery wells.
- A minimum of \$4 million as delineated in the 2020-2021 GAA for red tide research.

After the above distributions, any remaining balance must be allocated to fund:

- Targeted water quality improvements.
- Alternative water supplies or water conservation.
- Water quality enhancements and accountability, innovative technologies, and harmful algal bloom prevention and mitigation.

- Land acquisition or easement acquisition, including, but not limited to, lands or easements purchased pursuant to the Florida Forever or Rural and Family Lands Protection programs.
- Coral reef protection and restoration.
- Projects within the watersheds of the Indian River Lagoon.

The bill revises the distribution of funds for Everglades projects under the Land Acquisition Trust Fund to allocate \$236 million for those projects. The bill provides that this revision expires on June 30, 2023, when the statutory text reverts to the current language.

**Most Recent Action:** Favorable with CS by Environment and Natural Resources; 5 Yeas, 0 Nays;

*Attached documents: None*

## // WATER QUALITY IMPROVEMENTS

**Senate Bill 712 // Sen. Debbie Mayfield // Referred to: Community Affairs; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations**

**CS/Senate Bill 712:** PCS/CS/SB 712 includes recommendations from the Blue-Green Algae Task Force. The major topics in this bill include onsite sewage treatment and disposal systems (OSTDSs, commonly referred to as septic systems), wastewater, stormwater, agriculture, and biosolids. The bill directs the Department of Environmental Protection (DEP) to make rules relating to most of these topics. Note that rules that cost at least \$1 million over the first five years of implementation require legislative ratification.<sup>1</sup> Therefore, several of these provisions may not be fully effectuated without additional legislation.

The DEP will incur indeterminate additional costs in developing multiple new regulatory programs, updating basin management action plans (BMAPs), promulgating rules, and developing, submitting, and reviewing new reports. The DEP can absorb these costs within existing resources. The implementation of the real-time water quality monitoring and wastewater grant programs will have a negative fiscal impact on the DEP, but these provisions are subject to appropriations. See Section V.

Regarding OSTDSs, the bill:

- Transfers the regulation of OSTDSs from the Department of Health (DOH) to the DEP.
- Directs the DEP to adopt rules to locate OSTDSs by July 1, 2022:
  - These rules will take into consideration conventional and advanced OSTDS designs, impaired water bodies, wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, OSTDS

remediation plans, nutrient pollution, and the recommendations of an OSTDS technical advisory committee;

- Once those rules are adopted, they will supersede the existing statutory requirements for setbacks.
- Deletes the DOH OSTDS technical advisory committee and creates a DEP OSTDS technical advisory committee that will expire on August 15, 2022, after making recommendations to the Governor and the Legislature regarding the regulation of OSTDSs.
- Requires local governments to develop OSTDS remediation plans within BMAPs if the DEP determines that OSTDSs contribute at least 20 percent of the nutrient pollution or if the DEP determines remediation is necessary to achieve the total maximum daily load. Such plans must be adopted as part of the BMAPs no later than July 1, 2025.

Regarding wastewater, the bill:

- Creates a wastewater grant program, subject to appropriation, within the DEP that requires a 50 percent local match of funds. Eligible projects include:
  - Projects to upgrade OSTDSs.
  - Projects to construct, upgrade, or expand facilities to provide advanced waste treatment.
  - Projects to connect OSTDSs to central sewer facilities.
- Requires the DEP to submit an annual report to the Governor and the Legislature on the projects funded by the wastewater grant program.
- Provides incentives for wastewater projects that promote efficiency by coordinating wastewater infrastructure expansions with other infrastructure improvements.
- Gives priority in the state revolving loan fund for eligible wastewater projects that meet the additional requirements of the bill to prevent leakage, overflows, infiltration, and inflow.
- Requires the DEP to adopt rules to reasonably limit, reduce, and eliminate leaks, seepages, or inputs into the underground pipes of wastewater collection systems.
- Authorizes the DEP to require public utilities seeking a wastewater discharge permit to file reports and other data regarding utility costs:
  - Such reports may include data related to expenditures on pollution mitigation and prevention, including the prevention of sanitary sewer overflows, collection and transmission system pipe leakages, and inflow and infiltration.
  - The DEP is required to adopt rules related to these requirements.
- Requires local governments to develop wastewater treatment plans within BMAPs if the DEP determines that domestic wastewater facilities contribute at least 20 percent of the nutrient pollution or if the DEP determines remediation is necessary to achieve the total maximum daily load. Such plans must be adopted as part of the BMAPs no later than July



1,2025.

- Adds to the DEP's penalty schedule a penalty of \$4,000 for failure to survey an adequate portion of a wastewater collection system and take steps to reduce sanitary sewer overflows, pipe leaks, and inflow and infiltration. Substantial compliance with certain bill requirements is evidence in mitigation for penalty assessment.
- Increases the cap on the DEP's administrative penalties from \$10,000 to \$50,000.
- Doubles the wastewater administrative penalties.
- Prohibits facilities for sanitary sewage disposal from disposing of waste into the Indian River Lagoon and its tributaries without providing advanced waste treatment.
- Requires facilities for sanitary sewage disposal to provide for a power outage contingency plan for collection systems and pump stations.
- Requires facilities for sanitary sewage to prevent sanitary sewer overflows or underground pipe leaks and ensure that collected wastewater reaches the facility for appropriate treatment.
  - The bill requires studies, plans, and reports related to this requirement (the action plan).
  - The DEP must adopt rules regarding the implementation of inflow and infiltration studies and leakage surveys.
- Authorizes certain facilities for sanitary sewage to receive 10-year permits if they are meeting the goals in their action plan for inflow, infiltration, and leakage prevention.
- Makes the following changes relating to water pollution operation permits:
  - The permit must require the investigation or surveying of the wastewater collection system to determine pipe integrity.
  - The permit must require an annual report to the DEP, which details facility revenues and expenditures in a manner prescribed by the DEP rule, including any deviation from annual expenditures related to their action plan.
- Requires the DEP to submit an annual report to the Governor and the Legislature that identifies all wastewater utilities that experienced a sanitary sewer overflow in the preceding calendar year. The DEP must include with this report certain utility-specific information for each utility that experienced an overflow.

Regarding stormwater, the bill:

- Requires the DEP and the Water Management Districts (WMDs), by January 1, 2021, to initiate rulemaking to update their stormwater rules.
- Requires the DEP, by January 1, 2021, to evaluate inspection data relating to entities that self-certify their stormwater permits and provide the Legislature with recommendations for improvements to the self-certification program.
- Directs the DEP and the Department of Economic Opportunity to include in their model

stormwater management program ordinances that target nutrient reduction practices and use green infrastructure.

Regarding agriculture, the bill:

- Requires the Department of Agriculture and Consumer Services (DACS) to collect and provide to the DEP fertilization and nutrient records from each agriculture producer enrolled in best management practices.
- Requires the DACS to perform onsite inspections of each agricultural producer that enrolls in a best management practice every two years.
- Authorizes the DACS and institutions of higher education with agricultural research programs to develop research plans and legislative budget requests relating to the evaluation and improvement of agricultural best management practices and agricultural nutrient reduction projects.

Regarding biosolids, the bill:

- Requires the DEP to adopt rules for biosolids management.
- Exempts the biosolids rules from legislative ratification if they are adopted prior to the 2021 legislative session.
- Clarifies that local governments with biosolids ordinances may retain those ordinances until repealed.

The bill also creates a real-time water quality monitoring program, subject to appropriation, within the DEP.

The effective date of the bill is July 1, 2021.

**Most Recent Action:** Meeting Cancelled - Appropriations, 02/06/20, 9:00 am;  
Temporarily Postponed by Appropriations

*Attached documents: None*

## // ENVIRONMENTAL RESOURCE MANAGEMENT

**Senate Bill 1382 // Sen. Ben Albritton // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations**

**House Bill 1199 // Rep. Blaise Ingoglia // Referred to: Civil Justice Subcommittee; Agriculture & Natural Resources Subcommittee; Judiciary Committee**

HOUSE/SENATE BILL RELATIONSHIP: *COMPARE*

**CS/Senate Bill 1382:** CS/SB 1382 authorizes basin management action plans (plans that address water quality on a basin-wide level, BMAPs) to include cooperative agricultural regional water quality improvements (agricultural element) and cooperative urban, suburban, commercial, or regional water quality improvements (nonagricultural element), in addition to existing strategies such as best management practices and interim measures. These agricultural and nonagricultural elements shall be implemented through a cost-sharing program and may be included in a BMAP during the 5-year update.

The bill requires adoption of nonpoint source best management practices (BMPs), interim measures, or other measures adopted by rule within 5 years of adoption of the BMAP or BMAP amendment.

The bill directs the Department of Environmental Protection (DEP), the Department of Agriculture and Consumer Services (DACS), and the Institute of Food and Agricultural Sciences (IFAS) of the University of Florida to address certain issues related to enhancing BMPs and the agricultural element.

The bill creates a nutrient reduction cost-share program and requires DEP to prioritize certain projects. DEP must submit an annual report to the Governor and Legislature regarding the projects funded by this program.

The bill creates a definition of “rural homesteads,” which would be parcels of 50 acres or less that act as noncommercial homesites. These parcels would not be subject to the nonpoint source requirements in the BMAP unless they were classified as bona fide agricultural lands.

The bill prohibits local governments from providing legal rights to any plant, animal, body of water, or other part of the natural environment unless otherwise specifically authorized by state law or the State Constitution.

**Most Recent Action:** Favorable with CS by Environment and Natural Resources; 4 Yeas, 0 Nays

**House Bill 1199:** Florida authorizes a citizen to assert standing to stop an activity that will affect his or her use or enjoyment of air, water, or natural resources. However, court rulings and legislation in the U.S. and worldwide have suggested that specific legal rights of nature may exist, authorizing a person to assert standing on behalf of natural resources.

While U.S. Supreme Court precedent clearly limits standing for environmental claims to only an action causing injury to a human, dissenting opinions suggesting otherwise have recently garnered the attention of environmental activists attempting to assert standing on behalf of the environment, often resulting in lengthy, yet unsuccessful, litigation.

The bill amends the Florida Environmental Protection Act to prohibit, unless otherwise authorized by law or specifically granted in the State Constitution, a local government regulation, ordinance, code, rule, comprehensive plan, charter, or any other provision of law:

- From recognizing or granting any legal right to a plant, animal, body of water, or any other part of the natural environment that is not a person or political subdivision; or
- From granting a person or political subdivision any specific rights relating to the natural environment.

The bill provides that the prohibition on granting rights to nonpersons may not be interpreted to limit:

- The power of an adversely affected party to challenge the consistency of a development order with a comprehensive plan, or to file an action for injunctive relief to enforce the terms of a development agreement or to challenge compliance of the agreement with the Florida Local Government Development Agreement Act; or
- The standing of the Department of Legal Affairs, a political subdivision or municipality of the state, or a citizen of the state to maintain an action for injunctive relief as otherwise provided by the EPA.

The bill may prevent costly litigation related to granting rights to natural resources, when current legal precedent suggests such rights may not be granted at the state or local level.

The bill is effective upon becoming law.

**Most Recent Action:** Favorable by Judiciary Committee; 13 Yeas, 2 Nays

*Attached documents: HB 1199 (as filed) + staff analysis*

## // BOATING-RELATED APPROPRIATIONS

Finally, the Senate and House released their proposed budgets. Below are just a few of the items we are watching for the association:

### **Senate Budget - SB 2500**

1641C GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
GRANTS AND AIDS - CORAL REEF PROTECTION AND RESTORATION

FROM GENERAL REVENUE FUND . . . . . 10,000,000

1676 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
BEACH PROJECTS - STATEWIDE

FROM LAND ACQUISITION TRUST FUND . . . . . 50,000,000

From the funds in Specific Appropriation 1676, any remaining unencumbered surplus funds shall be available for beach and inlet management projects in continued priority order, based on readiness to proceed.

1737 SPECIAL CATEGORIES FLORIDA RESILIENT COASTLINE INITIATIVE

FROM GENERAL REVENUE FUND . . . . . 10,000,000

From the funds in Specific Appropriation 1737, \$10,000,000 in recurring funds from the General Revenue Fund are provided for the Florida Resilient Coastline Initiative to assist local governments with storm resiliency, sea level rise planning, coastal resilience projects, and coral reef health.

The department shall perform an analysis for each assessment and planning grant provided to local communities during the 2020-2021 fiscal year. The analysis shall include for each grant; an accounting of grant expenditures, descriptions of goals and objectives, and project recommendations and estimated costs of those projects. The analysis shall be submitted to the chair of the Senate Appropriations Committee, the chair of the House of Representatives Appropriations Committee, and the Executive Office of the Governor's Office of Policy and Budget by October 1, 2020.

1748 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
CLEAN MARINA

FROM FEDERAL GRANTS TRUST FUND . . . 1,000,000

1809 SPECIAL CATEGORIES BOATING SAFETY EDUCATION PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . .  
625,650

1810 FIXED CAPITAL OUTLAY BOATING INFRASTRUCTURE

FROM FEDERAL GRANTS TRUST FUND . . . 3,900,000

1811 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
DERELICT VESSEL REMOVAL PROGRAM

FROM GENERAL REVENUE FUND . . . . . 1,000,000

FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . 3,727,800



1813 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
FLORIDA BOATING IMPROVEMENT PROGRAM

|   |           |
|---|-----------|
| FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . | 1,756,175 |
| FROM STATE GAME TRUST FUND . . . . .                    | 1,250,000 |

1882 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM

|   |         |
|---|---------|
| FROM FEDERAL GRANTS TRUST FUND . . .                    | 300,000 |
| FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . | 300,000 |

1883 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
GRANTS AND AIDS - INNOVATIVE TECHNOLOGY DEVELOPMENT - LIONFISH

|                                     |         |
|-------------------------------------|---------|
| FROM GENERAL REVENUE FUND . . . . . | 400,000 |
|-------------------------------------|---------|

1641C GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
GRANTS AND AIDS - CORAL REEF PROTECTION AND RESTORATION

|                                     |            |
|-------------------------------------|------------|
| FROM GENERAL REVENUE FUND . . . . . | 10,000,000 |
|-------------------------------------|------------|

1737 SPECIAL CATEGORIES FLORIDA RESILIENT COASTLINE INITIATIVE

|                                     |            |
|-------------------------------------|------------|
| FROM GENERAL REVENUE FUND . . . . . | 10,000,000 |
|-------------------------------------|------------|

From the funds in Specific Appropriation 1737, \$10,000,000 in recurring funds from the General Revenue Fund are provided for the Florida Resilient Coastline Initiative to assist local governments with storm resiliency, sea level rise planning, coastal resilience projects, and coral reef health.

The department shall perform an analysis for each assessment and planning grant provided to local communities during the 2020-2021 fiscal year. The analysis shall include for each grant; an accounting of grant expenditures, descriptions of goals and objectives, and project recommendations and estimated costs of those projects. The analysis shall be submitted to the chair of the Senate Appropriations Committee, the chair of the House of Representatives Appropriations Committee, and the Executive Office of the Governor's Office of Policy and Budget by October 1, 2020.

1748 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
CLEAN MARINA

|                                      |           |
|--------------------------------------|-----------|
| FROM FEDERAL GRANTS TRUST FUND . . . | 1,000,000 |
|--------------------------------------|-----------|

## 1809 SPECIAL CATEGORIES BOATING SAFETY EDUCATION PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . .  
625,650

## 1810 FIXED CAPITAL OUTLAY BOATING INFRASTRUCTURE

FROM FEDERAL GRANTS TRUST FUND . . . . . 3,900,000

1811 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
DERELICT VESSEL REMOVAL PROGRAM

FROM GENERAL REVENUE FUND . . . . . 1,000,000

FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . 3,727,800

1813 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
FLORIDA BOATING IMPROVEMENT PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . 1,756,175

FROM STATE GAME TRUST FUND . . . . . 1,250,000

1882 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM

FROM FEDERAL GRANTS TRUST FUND . . . . . 300,000

FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . 300,000

1883 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
GRANTS AND AIDS - INNOVATIVE TECHNOLOGY DEVELOPMENT - LIONFISH

FROM GENERAL REVENUE FUND . . . . . 400,000

**House Budget - APC 1**1641 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
GRANTS AND AIDS - WATER QUALITY IMPROVEMENTS

FROM GENERAL REVENUE FUND . . . . . 122,000,000

The nonrecurring funds in Specific Appropriation 1641 are provided for a grant program to provide up to a 50 percent matching grant to local governmental agencies as defined in section 403.1835, Florida Statutes, for wastewater and stormwater improvements,

including septic conversion and remediation. The program supports the efforts of the Blue-Green Algae Task Force consensus findings to address nutrient loads to impaired waterbodies affected by blue-green algae. The Department of Environmental Protection may contract with local governmental agencies to administer the program.

From the nonrecurring funds in Specific Appropriation 1641, \$15,000,000 is provided for projects in the St. Johns River, Suwannee River, and Apalachicola River watersheds, and \$10,000,000 is provided for coral reef ecosystem protection and restoration.

#### 1737 SPECIAL CATEGORIES FLORIDA RESILIENT COASTLINE INITIATIVE

|                                     |           |
|-------------------------------------|-----------|
| FROM GENERAL REVENUE FUND . . . . . | 5,500,353 |
|-------------------------------------|-----------|

Funds in Specific Appropriation 1737 are provided for the purpose of assisting local governments with sea level rise planning and coastal resilience projects. Funds may also be used for storm resiliency, including the placement of sand to mitigate erosion and ensure public safety, or for the protection of coral reef health, including restoration and monitoring.

#### 1748 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY CLEAN MARINA

|                                      |           |
|--------------------------------------|-----------|
| FROM FEDERAL GRANTS TRUST FUND . . . | 1,000,000 |
|--------------------------------------|-----------|

#### 1809 SPECIAL CATEGORIES BOATING SAFETY EDUCATION PROGRAM

|   |         |
|---|---------|
| FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . | 625,650 |
|---|---------|

#### 1810 FIXED CAPITAL OUTLAY BOATING INFRASTRUCTURE

|                                      |           |
|--------------------------------------|-----------|
| FROM FEDERAL GRANTS TRUST FUND . . . | 3,900,000 |
|--------------------------------------|-----------|

#### 1811 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY DERELICT VESSEL REMOVAL PROGRAM

|   |           |
|---|-----------|
| FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . | 3,496,800 |
|---|-----------|

#### 1813 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY FLORIDA BOATING IMPROVEMENT PROGRAM

|   |           |
|---|-----------|
| FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . | 756,175   |
| FROM STATE GAME TRUST FUND . . . . .                    | 1,250,000 |

1882 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM

|   |         |
|---|---------|
| FROM FEDERAL GRANTS TRUST FUND . . . . .                | 300,000 |
| FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . | 300,000 |

1883 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
GRANTS AND AIDS - INNOVATIVE TECHNOLOGY DEVELOPMENT - LIONFISH

|                                     |         |
|-------------------------------------|---------|
| FROM GENERAL REVENUE FUND . . . . . | 400,000 |
|-------------------------------------|---------|

1906A GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL  
OUTLAY GRANTS AND AIDS - FLORIDA AQUARIUM EXPANSION OF THREATENED CORAL ARCHIVE  
AND REPRODUCTION

|                                     |         |
|-------------------------------------|---------|
| FROM GENERAL REVENUE FUND . . . . . | 250,000 |
|-------------------------------------|---------|

From the funds provided in Specific Appropriation 1906A, \$250,000 in nonrecurring funds from the General Revenue Fund is provided for the Florida Aquarium Coral Research Laboratory and Visitors Center (HB 3115).

### **2020-2021 Governor's Proposed Budget**

1641 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND  
NONSTATE ENTITIES - FIXED CAPITAL OUTLAY

GRANTS AND AIDS - WATER QUALITY IMPROVEMENTS

|                                     |             |
|-------------------------------------|-------------|
| FROM GENERAL REVENUE FUND . . . . . | 150,000,000 |
|-------------------------------------|-------------|

Funds in Specific Appropriation 1641 are provided for a grant program to provide up to a 50 percent matching grant to local governmental agencies as defined in section 403.1835, Florida Statutes, for wastewater and stormwater improvements, including septic conversion and remediation. This program supports the efforts of the Blue-Green Algae Task Force consensus findings to address nutrient loads to impaired waterbodies affected by blue-green algae. The Department of Environmental Protection may contract with local governmental agencies to administer the program.

From the funds in Specific Appropriation 1641, \$15,000,000 is provided for projects in the St. Johns River, Suwannee River, and Apalachicola River watersheds, and

\$10,000,000 is provided for coral reef ecosystem protection and restoration.

1737 SPECIAL CATEGORIES

FLORIDA RESILIENT COASTLINE INITIATIVE

FROM GENERAL REVENUE FUND . . . . . 5,500,353

Funds in Specific Appropriation 1737 are provided for the purpose of assisting local governments with sea level rise planning and coastal resilience projects. Funds may also be used for storm resiliency, including the placement of sand to mitigate erosion and ensure public safety, or for the protection of coral reef health, including restoration and monitoring.

1748 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND

NONSTATE ENTITIES - FIXED CAPITAL OUTLAY CLEAN MARINA

FROM FEDERAL GRANTS TRUST FUND . . . 1,000,000

1800 SPECIAL CATEGORIES

BOAT RAMP MAINTENANCE CATEGORY

FROM FEDERAL GRANTS TRUST FUND . . . 359,466

FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . 67,048

FROM STATE GAME TRUST FUND . . . . . 143,750

1804 SPECIAL CATEGORIES

BOATING AND WATERWAYS ACTIVITIES

FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . 2,192,

1809 SPECIAL CATEGORIES

BOATING SAFETY EDUCATION PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . 625,650

1810 FIXED CAPITAL OUTLAY

BOATING INFRASTRUCTURE

FROM FEDERAL GRANTS TRUST FUND . . . 3,900,000



|      |  |                        |
|------|--|------------------------|
| 1811 | GRANTS AND AIDS TO LOCAL GOVERNMENTS AND<br>NONSTATE ENTITIES - FIXED CAPITAL OUTLAY<br>DERELICT VESSEL REMOVAL PROGRAM<br>FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . .   | 2,135,136              |
| 1813 | GRANTS AND AIDS TO LOCAL GOVERNMENTS AND<br>NONSTATE ENTITIES - FIXED CAPITAL OUTLAY<br>FLORIDA BOATING IMPROVEMENT PROGRAM<br>FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . .<br>FROM STATE GAME TRUST FUND . . . . .           | 1,756,175<br>1,250,000 |
| 1882 | GRANTS AND AIDS TO LOCAL GOVERNMENTS AND<br>NONSTATE ENTITIES - FIXED CAPITAL OUTLAY ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM<br>FROM FEDERAL GRANTS TRUST FUND . . . . .<br>FROM MARINE RESOURCES CONSERVATION TRUST FUND . . . . . | 300,000<br>300,000     |

That is just a brief summary for your review. We have highlighted several other bills you might be interested in the report. We have also attached a list of all the bills we are tracking for your information. Many of those bills are tagged so we can review potential filed amendments.

We appreciate the opportunity to be your voice in Tallahassee!

# APPENDIX

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## // ANCHORING LIMITATION AREAS

No attachments

## // MARINA EVACUATION

CS/SB 826 + Staff Analysis + 1 Amendment  
CS/CS/HB 395 + Staff Analysis

## // ENVIRONMENTAL ENFORCEMENT

CS/SB 1450 + Staff Analysis  
CS/HB 1091 + Staff Analysis

## // VESSELS

CS/SB 1378 + Staff Analysis

## // FLORIDA ENDANGERED & THREATENED SPECIES ACT

CS/SB 1360 + Staff Analysis

## // FISH AND WILDLIFE ACTIVITIES

CS/CS/SB 1414 + Staff Analysis

## // VESSEL SAFETY

No attachments

## // BOATING-RESTRICTED AREAS

No attachments

## // ENVIRONMENTAL PROTECTION

No attachments

## // WATER QUALITY IMPROVEMENTS

No attachments

## // ENVIRONMENTAL RESOURCE MANAGEMENT

HB 1199 + Staff Analysis

## // CURRENT BILL TRACKING LIST

By the Committee on Environment and Natural Resources; and  
Senator Mayfield

592-03060-20

2020826c1

A bill to be entitled

An act relating to marina evacuations; amending s.  
327.59, F.S.; prohibiting vessels under a specified  
weight from remaining in certain marinas that have  
been deemed unsuitable for refuge during a hurricane  
after the issuance of a hurricane watch; requiring a  
marina owner, operator, employee, or agent to remove  
specified vessels under certain circumstances;  
providing that such owner, operator, employee, or  
agent may charge the vessel owner a reasonable fee for  
such removal and may not be held liable for any  
damages as a result of such removal; providing  
construction; authorizing certain penalty fees;  
providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 327.59, Florida  
Statutes, is amended, and subsection (5) is added to that  
section, to read:

327.59 Marina evacuations.—

(1) Except as provided in this section ~~After June 1, 1994,~~  
marinas may not adopt, maintain, or enforce policies pertaining  
to evacuation of vessels which require vessels to be removed  
from marinas following the issuance of a hurricane watch or  
warning, in order to ensure that protecting the lives and safety  
of vessel owners is placed before interests of protecting  
property.

(5) Upon the issuance of a hurricane watch affecting the

592-03060-20

2020826c1

30 waters of marinas located in a deepwater seaport, vessels under  
31 500 gross tons may not remain in the waters of such marinas that  
32 have been deemed not suitable for refuge during a hurricane.  
33 Vessel owners shall promptly remove their vessels from the  
34 waterways upon issuance of an evacuation order by the deepwater  
35 seaport. If the United States Coast Guard captain of the port  
36 sets the port condition to "Yankee" and a vessel owner has  
37 failed to remove a vessel from the waterway, the marina owner,  
38 operator, employee, or agent, regardless of any existing  
39 contractual provisions between the marina owner and the vessel  
40 owner, shall remove the vessel, or cause the vessel to be  
41 removed, if reasonable, from its slip and may charge the vessel  
42 owner a reasonable fee for any such services rendered. A marina  
43 owner, operator, employee, or agent may not be held liable for  
44 any damage incurred to a vessel from a hurricane and is held  
45 harmless as a result of such actions to remove the vessel from  
46 the waterways. Nothing in this section may be construed to  
47 provide immunity to a marina owner, operator, employee, or agent  
48 for any damage caused by intentional acts or negligence when  
49 removing a vessel pursuant to this section. After the hurricane  
50 watch has been issued, the owner or operator of any vessel that  
51 has not been removed from the waterway of the marina, pursuant  
52 to an order from the deepwater seaport, may be subject to the  
53 penalties under s. 313.22(3).

54 Section 2. This act shall take effect July 1, 2020.



377578

LEGISLATIVE ACTION

Senate

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.  
.  
.  
.  
.

House

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The Committee on Infrastructure and Security (Mayfield)  
recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 52 - 53

and insert:

to an order from the deepwater seaport, may be subject to a  
fine, which must be imposed and collected by the deepwater  
seaport that issued the evacuation order if assessed, in an  
amount not exceeding three times the cost associated with  
removing the vessel from the waterway.





377578

11 ===== T I T L E A M E N D M E N T =====

12 And the title is amended as follows:

13 Delete line 13

14 and insert:

15 construction; providing that the owners or operators  
16 of certain vessels may be subject to a fine that the  
17 deepwater seaport issuing an evacuation order is  
18 required to impose and collect;

**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.)

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Prepared By: The Professional Staff of the Committee on Infrastructure and Security

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BILL: CS/SB 826

INTRODUCER: Environment and Natural Resources Committee and Senator Mayfield

SUBJECT: Marina Evacuations

DATE: February 13, 2020

REVISED: \_\_\_\_\_

|    | ANALYST                     | STAFF DIRECTOR              | REFERENCE | ACTION                      |
|----|-----------------------------|-----------------------------|-----------|-----------------------------|
| 1. | <u>Anderson</u>             | <u>Rogers</u>               | <u>EN</u> | <u>Fav/CS</u>               |
| 2. | <u>Proctor</u>              | <u>Miller</u>               | <u>IS</u> | <u>Pre-meeting</u>          |
| 3. | <u>                    </u> | <u>                    </u> | <u>RC</u> | <u>                    </u> |

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 826 prohibits, upon the issuance of a hurricane watch that affects the waters of marinas located in a deepwater seaport, vessels under 500 gross tons from remaining in the waters of such marinas that have been deemed not suitable for refuge during a hurricane. The CS requires that vessel owners promptly remove their vessels from the waterways upon issuance of an evacuation order by the deepwater seaport.

If the Coast Guard Captain of the Port sets the port condition to “Yankee”<sup>1</sup> and a vessel owner has failed to remove his or her vessel from the waterway, a marina owner, operator, employee, or agent, is required to remove the vessel, if reasonable, from its slip. The marina owner may charge the vessel owner a reasonable fee for the service of removing the vessel.

The CS provides that a marina owner, operator, employee, or agent may not be held liable for any damage incurred to the vessel from a hurricane and is held harmless from removing the vessel from the waterways. However, the CS does not provide immunity to the marina owner, operator, employee, or agent for any damage caused by intentional acts or negligence when removing a vessel.

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<sup>1</sup> Gale force winds are predicted to arrive within 24 hours, and the port is closed to inbound traffic and vessel traffic control measures are in effect on vessel movements within the port.

The CS provides that after a watch has been issued, if an owner or operator has not removed the vessel pursuant to an order from the seaport, the owner or operator may be subject to existing civil penalties.

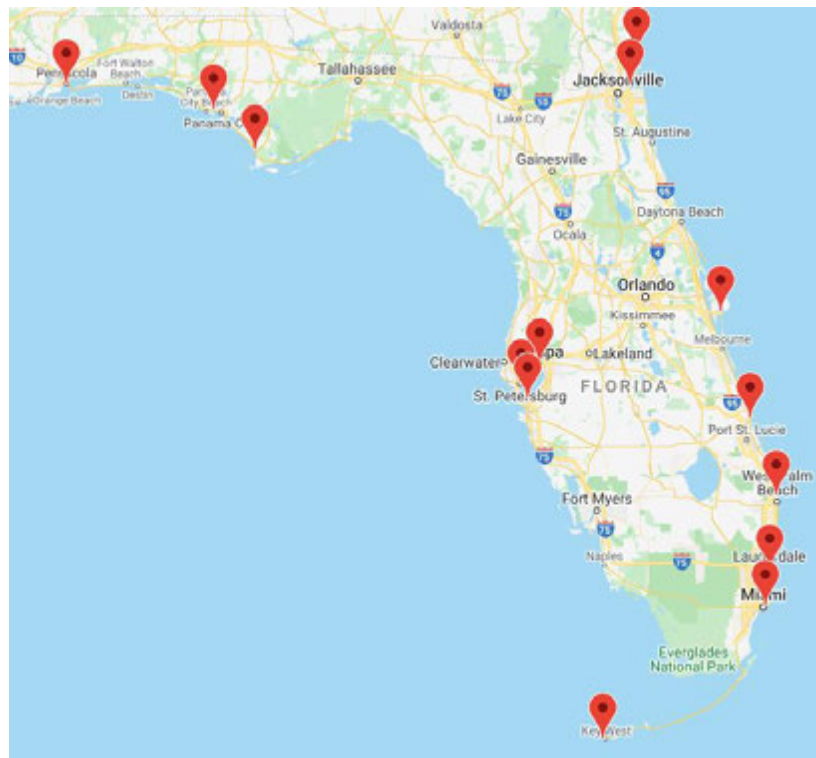
The CS has an effective date of July 1, 2020.

## II. Present Situation:

### Deepwater Ports in Florida

Under Florida law, a “port” means a port authority or district.<sup>2</sup> Ports are created by and given authority under general or special law. Each port, in agreement with the United States Coast Guard (Coast Guard), state pilots, and other ports in its operating port area, is required to adopt guidelines for minimum bottom clearance for each berth and channel, for the movement of vessels, and for radio communications of vessel traffic for all commercial vessels entering and leaving its harbor channels.<sup>3</sup>

There are 14 deepwater seaports in Florida, indicated in the map below:<sup>4</sup>



<sup>2</sup> Section 313.21, F.S.; *see also* s. 315.02, F.S. “Port authority” means a port authority in Florida created by or pursuant to the provisions of any general or special law or any district or board of county commissioners acting as a port authority under or pursuant to the provisions of any general or special law. “Port district” means any district created by or pursuant to the provisions of any general or special law and authorized to own or operate any port facilities.

<sup>3</sup> Section 313.23, F.S.

<sup>4</sup> Florida Ports Council, *Seaports*, <https://flaports.org/seaports/> (last visited February 12, 2020).

## Port Canaveral

One example of a deepwater seaport impacted by the CS is Port Canaveral, which was dedicated on November 4, 1953.<sup>5</sup> It is a gateway for Central Florida and the world's second busiest cruise port.<sup>6</sup> Annually, Port Canaveral moves nearly 4 million tons of cargo and sees 4 million cruise passengers.<sup>7</sup> It also houses United States Army, Navy, and Air Force facilities.<sup>8</sup> Port Canaveral is a key part of Florida's gasoline supply system. Gasoline and other petroleum products are primarily delivered by marine tankers and barges to the state's ports, including Port Canaveral, where the products are offloaded and later stored and distributed around the state.<sup>9</sup> Additionally, 200 small businesses ranging from marinas, restaurants, retail, and charter boats currently lease and operate at Port Canaveral.<sup>10</sup>

In fiscal year 2018, Port Canaveral reported \$103.8 million in revenues, the highest in its history.<sup>11</sup>

### *Canaveral Port Authority*

The Canaveral Port District (Port District) was created by the Legislature by special act in 1953, as amended in 2014.<sup>12</sup> It is an independent special taxing district and political subdivision of the state.<sup>13</sup> The Canaveral Port Authority (Port Authority) has the power to make rules and regulations for the promotion and conduct of navigation, commerce, and industry in the Port District.<sup>14</sup> The Port Authority also has the power to make rules and regulations governing the docking, storing, mooring, and anchoring of vessels within the Port District and to remove all obstacles to navigation, commerce, and industry in the waters of the port.<sup>15</sup>

The Port Canaveral Tariff No. 16 provides the current rates, rules, and regulations governing its marine and port services.<sup>16</sup> Anyone who uses the waterways and facilities under the jurisdiction of the Port Authority consents to the terms and conditions of the tariff.<sup>17</sup> According to the tariff, Port Canaveral is not a suitable refuge during hurricanes or tropical storms. All Port Canaveral

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<sup>5</sup> Port Canaveral, *History*, <https://www.portcanaveral.com/About/History> (last visited February 12, 2020).

<sup>6</sup> Port Canaveral, *Port and Cruise Facts*, <https://www.portcanaveral.com/Cruise/Port-Cruise-Facts> (last visited February 12, 2020).

<sup>7</sup> *Supra*, note 5.

<sup>8</sup> Port Canaveral, *About Us*, <https://www.portcanaveral.com/About/> (last visited February 12, 2020).

<sup>9</sup> Office of Program Policy Analysis and Government Accountability, Florida Legislature, *Feasibility Analysis for Petroleum Distribution Centers*, 11 (Nov. 29, 2018), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/18-PETRO.pdf>.

<sup>10</sup> *Supra*, note 8.

<sup>11</sup> Florida Ports Council, *Port Canaveral*, <https://flaports.org/ports/port-canaveral/> (last visited February 12, 2020).

<sup>12</sup> Ch. 2014-241, Laws of Fla. Each special district in existence at the time was required to submit to the Legislature a draft codified charter so that its special acts could be codified into a single act for reenactment by the Legislature.

<sup>13</sup> Section 189.403(1), F.S., defines a "special district" as a confined local government unit established for a special purpose. The public policy intent of special districts is to provide private and public sectors an alternative governing method to "manage, own, operate, construct and finance basic capital infrastructure, facilities and services."

<sup>14</sup> Art. IV, s. 9 of the Canaveral Port Authority Charter, as amended by Ch. 2014-241, Laws of Fla.

<sup>15</sup> Art. IV, s. 10 of the Canaveral Port Authority Charter, as amended by Ch. 2014-241, Laws of Fla.

<sup>16</sup> Canaveral Port Authority, *Tariff No. 16 – Governing Rates, Rules, & Regulations of the Marine and Port Services*, Rule 520 (Oct. 1, 2019), available at [https://www.portcanaveral.com/getattachment/Tariffs/CPA-Tariff-16-FY20-\(2\).pdf.aspx?lang=en-US](https://www.portcanaveral.com/getattachment/Tariffs/CPA-Tariff-16-FY20-(2).pdf.aspx?lang=en-US).

<sup>17</sup> *Id.*, Rule 100.

waterway tenants and users must comply with evacuation orders and storm preparation directives given by the Port Authority, the Coast Guard, the Brevard County Sheriff's Office, and Canaveral Fire Rescue.<sup>18</sup>

The tariff specifically states that recreational and commercial vessels under 500 gross tons are not eligible to remain in Port and must be removed from the waters of the Port, at the expense of the vessel owner or operator, before hurricane condition Zulu is set by the Coast Guard (see discussion below of Hurricane Season Port Conditions and Categories).<sup>19</sup> The Port Authority is authorized to issue penalties to vessel owners or operators in accordance with statutory provisions (see discussion below of Vessel Movements and Penalties for Delay).<sup>20</sup>

### **Vessel Movements and Penalties for Delay**

Pursuant to Florida law, each port may regulate vessel movements within its jurisdiction, whether involving public or private facilities or areas, by:

- Scheduling vessels for use of berths, anchorages, or other facilities at the port.
- Ordering and enforcing a vessel, at its own expense and risk, to vacate or change position at a berth, anchorage, or facility, whether public or private, in order to facilitate navigation, commerce, protection of other vessels or property, or dredging of channels or berths.
- Designating port facilities for the loading or discharging of vessels.
- Assigning berths at wharves for arriving vessels.<sup>21</sup>

Ports are authorized to establish fees and compensation for the services regulating vessel movements provided by the port.<sup>22</sup>

A port may impose and collect a penalty from a vessel that unnecessarily delays in moving under an order to vacate or change position. This penalty may not exceed \$1,000 per hour or fraction thereof, plus 150 percent of the demurrage costs incurred by a waiting vessel, until the order is complied with.<sup>23</sup>

### **Marinas**

A marina is a licensed commercial facility that provides secured public moorings or dry storage for vessels on a leased basis.<sup>24</sup> There are five marinas within Port Canaveral, with approximately 260 wet slips hosted on Port property for recreational vessels under 500 gross tons.<sup>25</sup> This

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<sup>18</sup> *Id.*, Rule 520.

<sup>19</sup> *Id.*

<sup>20</sup> Section 313.22(3), F.S.

<sup>21</sup> Section 313.22(1), F.S.

<sup>22</sup> Section 313.22(2), F.S.

<sup>23</sup> *Supra*, note 20.

<sup>24</sup> Section 327.02(25), F.S.

<sup>25</sup> Email from Caitlin Lewis, Government Relations Manager, Canaveral Port Authority, to Senate Environment and Natural Resources Committee (Jan. 22, 2020), available at [http://www.flsenate.gov/Committees/Show/EN/MeetingPacket/4857/8671\\_MeetingPacket\\_4857.03.20.pdf](http://www.flsenate.gov/Committees/Show/EN/MeetingPacket/4857/8671_MeetingPacket_4857.03.20.pdf) on page 218-219 (last visited February 12, 2020).

number does not include boats in marina storage within Port property. The map below shows Port Canaveral, including its marina district.<sup>26</sup>



## Marina Evacuations

### *Storm Condition Effects on Vessels and Marinas*

Hurricanes and storm conditions can include high winds, storm surges, wave action, and heavy rainfall.<sup>27</sup> These conditions can cause catastrophic damage to marinas and vessels. Vessels that are left in a marina during hurricane and storm conditions can lead to problems in the port, including the inability to secure docks, causing potential damage to infrastructure such as piers, and other harm to persons or property. Weather during a storm event can force a vessel into an obstruction, propel objects into the vessel, or sink or damage a boat.<sup>28</sup> A moored vessel can repeatedly collide with a stationary dock, leading to damage to both the vessel and dock. Storm surges can even lift entire floating docks above their pilings or knock boats off their cradles.<sup>29</sup>

Vessels left in the harbor can also pose navigational issues and cause problems and delays in clearing channels. However, boater preparedness education and preparation can reduce the loss of property for both the vessel owner and others.<sup>30</sup> To this end, marinas and ports have an interest in requiring vessel owners to secure their vessels during a storm to prevent damage to persons or property.

### *Safe Haven*

Some marina docking contracts contain “safe haven” or “hurricane” clauses. These clauses provide that, when a hurricane watch is issued, boat owners shall immediately remove their vessels and all personal property from the marina and seek safe haven somewhere else. Failure to

<sup>26</sup> *Supra*, note 6.

<sup>27</sup> UF/IFAS, *Hurricane Manual for Marine Interest*, available at [https://sfyl.ifas.ufl.edu/media/sfylifasufledu/miami-dade/documents/disaster-preparation/hurricane-and-disaster/HurricaneManual1-\(2\).pdf](https://sfyl.ifas.ufl.edu/media/sfylifasufledu/miami-dade/documents/disaster-preparation/hurricane-and-disaster/HurricaneManual1-(2).pdf) (last visited February 12, 2020).

<sup>28</sup> *Id.*; Florida Keys National Marine Sanctuary, *Protect your Boat in a Hurricane: Making a Plan (Part I)*, <https://floridakeys.noaa.gov/whatsnew/around/2015/boathurricane1.html> (last visited February 12, 2020).

<sup>29</sup> *Id.*

<sup>30</sup> *Supra*, note 27.

comply with this requirement, according to the clauses, will result in the boat owner being liable for all damage to docks, piers, other vessels, or any other property damage directly caused by the owner's vessel or resulting from its presence in the marina.<sup>31</sup>

### ***Marina Evacuation Statute***

Florida enacted a law designed to prevent marinas from using safe haven clauses as a basis for recovering their property damage from vessel owners after a hurricane.<sup>32</sup> Florida law emphasizes the protection of life over property by prohibiting marinas from requiring vessel owners to remove their vessels from a marina following the issuance of a hurricane watch or warning.<sup>33</sup>

However, after a tropical storm or hurricane watch has been issued, a marina owner or operator, or their employee or agent, may take reasonable actions to further secure a vessel within the marina to minimize damage to the vessel and to protect marina property, private property, and the environment.<sup>34</sup> The owner or operator may charge a reasonable fee for such services.<sup>35</sup> A marina owner may include this in a contractual agreement with a vessel owner.<sup>36</sup> Marina owners are not able to be held liable for damage to a vessel from a storm or hurricane, but may be liable for damage due to intentional acts or negligence when removing or securing a vessel.<sup>37</sup>

*Burklow & Associates, Inc. v. Belcher* is the only Florida state court decision that specifically mentions Florida's marina evacuation statute.<sup>38</sup> A marina owner sued owners of 16 stored vessels for damages allegedly caused by the vessel owners' failure to move their vessels after a hurricane warning was issued as was required by their marina contracts.<sup>39</sup> The court upheld the state statute and found that the vessel owners had no duty, contractually or otherwise, to move their vessels following the issuance of a hurricane watch or warning.<sup>40</sup> The court's analysis pointed to the clear legislative policy "to ensure that protecting lives and safety of vessel owners is placed before interests of protecting property" when a hurricane approaches.<sup>41</sup>

### **Hurricane Season Port Conditions and Categories**

Port conditions are set by the Coast Guard Captain of the Port of a sector, or regulated area. Port conditions are explained in the table below.<sup>42</sup> "Gale force winds" mean winds of 34 knots or 39 miles per hour.

<sup>31</sup> Mercante, James, *Hurricanes and Act of God: When the Best Defense is a Good Offense*, 18 U.S.F. MAR. L.J. (2006).

<sup>32</sup> Ch. 93-211, s. 22, Laws of Fla. (creating s. 327.59, F.S.).

<sup>33</sup> Section 327.59(1), F.S.

<sup>34</sup> Ch. 2006-309, s. 2, Laws of Fla. (creating s. 327.59(2), F.S., effective Jul. 1, 2006).

<sup>35</sup> *Id.*

<sup>36</sup> Ch. 2006-309, s. 2, Laws of Fla. (creating s. 327.59(3), F.S., effective Jul. 1, 2006).

<sup>37</sup> Ch. 2006-309, s. 2, Laws of Fla. (creating s. 327.59(4), F.S., effective Jul. 1, 2006).

<sup>38</sup> 719 So.2d 31 (Fla. Dist. Ct. App. 1998).

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> 33 C.F.R. s. 165.720; 33 C.F.R. 165.781; see also Brazos Pilots Association, *Hurricane Season Port Conditions and Categories*, available at <http://www.brazospilots.com/Hurricane-Season.pdf> (last visited February 12, 2020).



| <b>Port Condition</b> | <b>Storm Status</b>   | <b>Port Status</b>  |
|-----------------------|---|---|
| Whiskey               | Gale force winds are predicted to arrive within 72 hours  | Open to all commercial and recreational traffic   |
| X-Ray                 | Gale force winds are predicted to arrive within 48 hours  | Open to all commercial and recreational traffic   |
| Yankee                | Gale force winds are predicted to arrive within 24 hours  | Closed to inbound traffic and vessel traffic control measures in effect on vessel movements within the port                                     |
| Zulu                  | Gale force winds are predicted to arrive within 12 hours  | Closed to all inbound and outbound traffic  |
| Recovery              | The storm is no longer a threat to the area, but response and recovery operations may be in progress to address damage. | Reopened to outbound traffic at completion of port survey; vessel traffic control measures remain in effect on vessel movements within the port |

### **III. Effect of Proposed Changes:**

The CS amends s. 327.59, F.S., to prohibit, upon the issuance of a hurricane watch that affects the waters of marinas located in a deepwater seaport, vessels under 500 gross tons from remaining in the waters of such marinas that have been deemed not suitable for refuge during a hurricane.

The CS requires that vessel owners promptly remove their vessels from the waterways upon issuance of an evacuation order by the deepwater seaport. If the Coast Guard Captain of the Port sets the port condition to “Yankee” and a vessel owner has failed to remove his or her vessel from the waterway, a marina owner, operator, employee, or agent, regardless of any existing contractual provisions between the marina owner and vessel owner, is required to remove the vessel, or cause the vessel to be removed, if reasonable, from its slip. The marina owner may charge the vessel owner a reasonable fee for the service of removing the vessel.

The CS provides that a marina owner, operator, employee, or agent may not be held liable for any damage incurred to the vessel from a hurricane and is held harmless from removing the vessel from the waterways. However, the CS does not provide immunity to the marina owner, operator, employee, or agent for any damage caused by intentional acts or negligence when removing a vessel.

The CS provides that after a hurricane watch has been issued, if an owner or operator of a vessel has not removed the vessel pursuant to an order from the seaport, the owner or operator may be subject to existing penalties under s. 313.22, F.S.

The existing penalties provide that until an order is complied with, a vessel that unnecessarily delays in moving under an order to vacate a vessel or change its position may be penalized as follows:

- In an amount not exceeding \$1,000 per hour or fraction thereof; and
- 150 percent of the demurrage costs incurred by a waiting vessel for exceeding the time allotted to the vessel to be in a specific area.

The penalty is imposed and collected by the port issuing the movement order.

The CS provides the bill will take effect July 1, 2020.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Vessel owners may incur increased costs from moving their vessel pursuant to a movement order, from fees charged by a marina owner for the service of moving a vessel, or due to penalties incurred from noncompliance with a movement order.

**C. Government Sector Impact:**

Ports may see a positive fiscal impact due to increased collection of penalties from vessel owners that do not comply with a movement order and cost savings associated with prevention of damage to port facilities and infrastructure.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This CS substantially amends the following section of the Florida Statutes: 327.59

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Environment and Natural Resources Committee on February 3, 2020:**

- Requires that owners of vessels under 500 gross tons remove their vessels from the waterways upon issuance of an evacuation order by the deepwater seaport;
- Requires a marina owner, operator, employee, or agent to remove a vessel from its slip if the Coast Guard Captain of the Port sets the port condition to “Yankee” and the vessel owner has not removed the vessel from the waterway as required;
- Authorizes the marina owner, operator, employee, or agent to charge the vessel owner a reasonable fee for the service of moving the vessel; and
- Clarifies that a marina owner, operator, employee, or agent may not be held liable for any damage incurred to the vessel from a hurricane or from removing the vessel as required under this section; however, the amendment does not provide immunity to the marina owner, operator, employee, or agent for any damage caused by intentional acts or negligence.

**B. Amendments:**

None.

1                   A bill to be entitled  
2     An act relating to transportation; amending s.  
3     316.003, F.S.; revising definitions; amending s.  
4     316.2397, F.S.; authorizing certain vehicles to show  
5     or display certain lights under certain circumstances;  
6     amending s. 316.520, F.S.; revising application of  
7     agricultural load securing requirements; amending s.  
8     320.01, F.S.; excluding a certain vehicle from the  
9     definition of the term "for-hire vehicle"; amending s.  
10    322.12, F.S.; authorizing the Department of Highway  
11    Safety and Motor Vehicles to waive certain commercial  
12    motor vehicle testing requirements for specified  
13    persons under certain circumstances; amending ss.  
14    324.031 and 324.032, F.S.; revising the manner of  
15    providing financial responsibility for owners,  
16    operators, or lessees of certain for-hire passenger  
17    transportation vehicles; amending s. 327.59, F.S.;  
18    prohibiting certain vessels from remaining in certain  
19    marinas that have been deemed unsuitable for refuge  
20    during a hurricane; authorizing removal of such  
21    vessels under certain circumstances; limiting  
22    liability for certain damages; providing construction;  
23    providing for penalties; amending s. 337.14, F.S.;  
24    requiring certain contractors to be certified by the  
25    Department of Transportation as qualified; revising

26        the financial statements required to accompany an  
27        application for certification; prohibiting the  
28        department from considering certain financial  
29        information; requiring the contractor to submit  
30        interim financial statements under certain  
31        circumstances; providing requirements for such  
32        statements; providing an effective date.

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

35  
36        Section 1. Subsection (2) and paragraph (b) of subsection  
37        (55) of section 316.003, Florida Statutes, are amended to read:

38        316.003 Definitions.—The following words and phrases, when  
39        used in this chapter, shall have the meanings respectively  
40        ascribed to them in this section, except where the context  
41        otherwise requires:

42        (2) AUTOCYCLE.—A three-wheeled motorcycle that has two  
43        wheels in the front and one wheel in the back; is equipped with  
44        a roll cage or roll hoops, a seat belt for each occupant,  
45        ~~antilock~~ brakes meeting Federal Motor Vehicle Safety Standard  
46        No. 122, a steering mechanism ~~wheel~~, and seating that does not  
47        require the operator to straddle or sit astride it; and is  
48        manufactured in accordance with the applicable federal  
49        motorcycle safety standards in 49 C.F.R. part 571 by a  
50        manufacturer registered with the National Highway Traffic Safety

Administration.

(55) PERSONAL DELIVERY DEVICE.—An electrically powered device that:

(b) Weighs less than 150 ~~80~~ pounds, excluding cargo;

A personal delivery device is not considered a vehicle unless expressly defined by law as a vehicle. A mobile carrier is not considered a personal delivery device.

Section 2. Subsections (2) and (7) of section 316.2397, Florida Statutes, are amended to read:

316.2397 Certain lights prohibited; exceptions.—

(2) It is expressly prohibited for any vehicle or equipment, ~~except police vehicles,~~ to show or display blue lights, except that:

(a) Police vehicles may show or display blue lights.

(b) ~~However,~~ Vehicles owned, operated, or leased by the Department of Corrections or any county correctional agency may show or display blue lights when responding to emergencies.

(c) Portable radar speed display units in advance of a work zone area on roadways with a posted speed limit of 55 miles per hour or more may show or display flashing red and blue lights when workers are present.

(7) Flashing lights are prohibited on vehicles except:

(a) As a means of indicating a right or left turn, to change lanes, or to indicate that the vehicle is lawfully

76 stopped or disabled upon the highway;

77 (b) When a motorist intermittently flashes his or her  
78 vehicle's headlamps at an oncoming vehicle notwithstanding the  
79 motorist's intent for doing so;

80 (c) During periods of extreme low visibility on roadways  
81 with a posted speed limit of 55 miles per hour or more; and

82 (d)~~(e)~~ For the lamps authorized under subsections ~~(1)~~,  
83 (2), (3), (4), (5), and (9), s. 316.2065, or s. 316.235(6) which  
84 may flash.

85 Section 3. Subsection (4) of section 316.520, Florida  
86 Statutes, is amended to read:

87 316.520 Loads on vehicles.—

88 (4) The provision of subsection (2) requiring covering and  
89 securing the load with a close-fitting tarpaulin or other  
90 appropriate cover does not apply to vehicles carrying  
91 agricultural products locally from a harvest site or to or from  
92 a farm on roads where the posted speed limit is 65 miles per  
93 hour or less ~~and the distance driven on public roads is less~~  
94 ~~than 20 miles.~~

95 Section 4. Paragraph (b) of subsection (15) of section  
96 320.01, Florida Statutes, is amended to read:

97 320.01 Definitions, general.—As used in the Florida  
98 Statutes, except as otherwise provided, the term:

99 (15)

100 (b) The following are not included in the term "for-hire



101 vehicle": a motor vehicle used for transporting school children  
102 to and from school under contract with school officials; a  
103 hearse or ambulance when operated by a licensed embalmer or  
104 mortician or his or her agent or employee in this state; a motor  
105 vehicle used in the transportation of agricultural or  
106 horticultural products or in transporting agricultural or  
107 horticultural supplies direct to growers or the consumers of  
108 such supplies or to associations of such growers or consumers; a  
109 motor vehicle temporarily used by a farmer for the  
110 transportation of agricultural or horticultural products from  
111 any farm or grove to a packinghouse or to a point of shipment by  
112 a transportation company; ~~or~~ a motor vehicle not exceeding 1 1/2  
113 tons under contract with the Government of the United States to  
114 carry United States mail, provided such vehicle is not used for  
115 commercial purposes; or a motor vehicle that is compliant with  
116 the Americans with Disabilities Act and that is owned and used  
117 by a company that uses a digital network to facilitate  
118 prearranged rides for persons with disabilities for  
119 compensation.

120       Section 5. Paragraph (c) is added to subsection (4) of  
121 section 322.12, Florida Statutes, to read:

122       322.12 Examination of applicants.—

123       (4) The examination for an applicant for a commercial  
124 driver license shall include a test of the applicant's eyesight  
125 given by a driver license examiner designated by the department

126 or by a licensed ophthalmologist, optometrist, or physician and  
127 a test of the applicant's hearing given by a driver license  
128 examiner or a licensed physician. The examination shall also  
129 include a test of the applicant's ability to read and understand  
130 highway signs regulating, warning, and directing traffic; his or  
131 her knowledge of the traffic laws of this state pertaining to  
132 the class of motor vehicle which he or she is applying to be  
133 licensed to operate, including laws regulating driving under the  
134 influence of alcohol or controlled substances, driving with an  
135 unlawful blood-alcohol level, and driving while intoxicated; his  
136 or her knowledge of the effects of alcohol and controlled  
137 substances and the dangers of driving a motor vehicle after  
138 having consumed alcohol or controlled substances; and his or her  
139 knowledge of any special skills, requirements, or precautions  
140 necessary for the safe operation of the class of vehicle which  
141 he or she is applying to be licensed to operate. In addition,  
142 the examination shall include an actual demonstration of the  
143 applicant's ability to exercise ordinary and reasonable control  
144 in the safe operation of a motor vehicle or combination of  
145 vehicles of the type covered by the license classification which  
146 the applicant is seeking, including an examination of the  
147 applicant's ability to perform an inspection of his or her  
148 vehicle.

149 (c) Notwithstanding any provision of law to the contrary,  
150 the department may waive the skill test requirements provided in

151 this subsection for a commercial driver license for a person  
152 with military commercial motor vehicle experience who qualifies  
153 under 49 C.F.R. s. 383.77 if the person is on active duty or has  
154 been honorably discharged from military service for 1 year or  
155 less.

156 Section 6. Section 324.031, Florida Statutes, is amended  
157 to read:

158 324.031 Manner of proving financial responsibility.—The  
159 owner or operator of a taxicab, limousine, jitney, or any other  
160 for-hire passenger transportation vehicle may prove financial  
161 responsibility by providing satisfactory evidence of holding a  
162 motor vehicle liability policy as defined in s. 324.021(8) or s.  
163 324.151, which policy is provided by an insurer authorized to do  
164 business in this state ~~issued by an insurance carrier~~ which is a  
165 member of the Florida Insurance Guaranty Association or an  
166 eligible nonadmitted insurer that has a superior, excellent,  
167 exceptional, or equivalent financial strength rating by a rating  
168 agency acceptable to the Office of Insurance Regulation of the  
169 Financial Services Commission. The operator or owner of any  
170 other vehicle may prove his or her financial responsibility by:

171 (1) Furnishing satisfactory evidence of holding a motor  
172 vehicle liability policy as defined in ss. 324.021(8) and  
173 324.151;

174 (2) Furnishing a certificate of self-insurance showing a  
175 deposit of cash in accordance with s. 324.161; or

176 (3) Furnishing a certificate of self-insurance issued by  
177 the department in accordance with s. 324.171.

178  
179 Any person, including any firm, partnership, association,  
180 corporation, or other person, other than a natural person,  
181 electing to use the method of proof specified in subsection (2)  
182 shall furnish a certificate of deposit equal to the number of  
183 vehicles owned times \$30,000, to a maximum of \$120,000; in  
184 addition, any such person, other than a natural person, shall  
185 maintain insurance providing coverage in excess of limits of  
186 \$10,000/20,000/10,000 or \$30,000 combined single limits, and  
187 such excess insurance shall provide minimum limits of  
188 \$125,000/250,000/50,000 or \$300,000 combined single limits.  
189 These increased limits shall not affect the requirements for  
190 proving financial responsibility under s. 324.032(1).

191 Section 7. Subsection (2) of section 324.032, Florida  
192 Statutes, is amended to read:

193 324.032 Manner of proving financial responsibility; for-  
194 hire passenger transportation vehicles.—Notwithstanding the  
195 provisions of s. 324.031:

196 (2) An owner or a lessee who is required to maintain  
197 insurance under s. 324.021(9)(b) and who operates at least 150  
198 ~~300~~ taxicabs, limousines, jitneys, or any other for-hire  
199 passenger transportation vehicles may provide financial  
200 responsibility by complying with ~~the provisions of~~ s. 324.171,

201    such compliance to be demonstrated by maintaining at its  
202    principal place of business an audited financial statement,  
203    prepared in accordance with generally accepted accounting  
204    principles, and providing to the department a certification  
205    issued by a certified public accountant that the applicant's net  
206    worth is at least equal to the requirements of s. 324.171 as  
207    determined by the Office of Insurance Regulation of the  
208    Financial Services Commission, including claims liabilities in  
209    an amount certified as adequate by a Fellow of the Casualty  
210    Actuarial Society.

211  
212    Upon request by the department, the applicant must provide the  
213    department at the applicant's principal place of business in  
214    this state access to the applicant's underlying financial  
215    information and financial statements that provide the basis of  
216    the certified public accountant's certification. The applicant  
217    shall reimburse the requesting department for all reasonable  
218    costs incurred by it in reviewing the supporting information.  
219    The maximum amount of self-insurance permissible under this  
220    subsection is \$300,000 and must be stated on a per-occurrence  
221    basis, and the applicant shall maintain adequate excess  
222    insurance issued by an authorized or eligible insurer licensed  
223    or approved by the Office of Insurance Regulation. All risks  
224    self-insured shall remain with the owner or lessee providing it,  
225    and the risks are not transferable to any other person, unless a

226 policy complying with subsection (1) is obtained.

227 Section 8. Subsections (1) and (2) of section 327.59,  
228 Florida Statutes, are amended, and subsection (5) is added to  
229 that section, to read:

230 327.59 Marina evacuations.—

231 (1) Except as provided in this section ~~After June 1, 1994,~~  
232 marinas may not adopt, maintain, or enforce policies pertaining  
233 to evacuation of vessels which require vessels to be removed  
234 from marinas following the issuance of a hurricane watch or  
235 warning, in order to ensure that protecting the lives and safety  
236 of vessel owners is placed before interests of protecting  
237 property.

238 (2) Nothing in this section may be construed to restrict  
239 the ability of an owner of a vessel or the owner's authorized  
240 representative to remove a vessel voluntarily from a marina at  
241 any time or to restrict a marina owner from dictating the kind  
242 of cleats, ropes, fenders, and other measures that must be used  
243 on vessels as a condition of use of a marina. Except as provided  
244 in subsection (5), after a tropical storm or hurricane watch has  
245 been issued, a marina owner or operator, or an employee or agent  
246 of such owner or operator, may take reasonable actions to  
247 further secure any vessel within the marina to minimize damage  
248 to a vessel and to protect marina property, private property,  
249 and the environment and may charge a reasonable fee for such  
250 services.

251        (5) Upon the issuance of a hurricane watch affecting the  
252        waters of a marina located in a deepwater seaport, a vessel that  
253        weighs less than 500 gross tons may not remain in the waters of  
254        such a marina that has been deemed not suitable for refuge  
255        during a hurricane. The owner of such a vessel shall promptly  
256        remove the vessel from the waterway upon issuance of an  
257        evacuation order by the deepwater seaport. If the United States  
258        Coast Guard Captain of the Port sets the deepwater seaport  
259        condition to Yankee and a vessel owner has failed to remove a  
260        vessel from the waterway, the marina owner or operator, or an  
261        employee or agent thereof, regardless of existing contractual  
262        provisions between the marina owner and vessel owner, shall  
263        remove the vessel, or cause it to be removed, if reasonable,  
264        from its slip and may charge the vessel owner a reasonable fee  
265        for such removal. A marina owner, operator, employee, or agent  
266        is not liable for any damage incurred by a vessel as the result  
267        of a hurricane and is held harmless as a result of such actions  
268        to remove the vessel from the waterway. This section does not  
269        provide immunity to a marina owner, operator, employee, or agent  
270        for any damage caused by intentional acts or negligence when  
271        removing a vessel under this subsection. After a hurricane watch  
272        has been issued, the owner or operator of a vessel that has not  
273        been removed from the waterway of the marina pursuant to an  
274        evacuation order by the deepwater seaport may be subject to a  
275        fine not exceeding three times the cost associated with removing

276 the vessel from the waterway. Such fine, if assessed, shall be  
277 imposed and collected by the deepwater seaport issuing the  
278 evacuation order.

279 Section 9. Subsection (1) of section 337.14, Florida  
280 Statutes, is amended to read:

281 337.14 Application for qualification; certificate of  
282 qualification; restrictions; request for hearing.—

283 (1) Any contractor desiring to bid for the performance of  
284 any construction contract in excess of \$250,000 which the  
285 department proposes to let must first be certified by the  
286 department as qualified pursuant to this section and rules of  
287 the department. The rules of the department must address the  
288 qualification of contractors to bid on construction contracts in  
289 excess of \$250,000 and must include requirements with respect to  
290 the equipment, past record, experience, financial resources, and  
291 organizational personnel of the applying contractor which are  
292 necessary to perform the specific class of work for which the  
293 contractor seeks certification. Any contractor who desires to  
294 bid on contracts in excess of \$50 million and is not qualified  
295 and in good standing with the department as of January 1, 2019,  
296 must first be certified by the department as qualified and  
297 ~~desires to bid on contracts in excess of \$50 million~~ must have  
298 satisfactorily completed two projects, each in excess of \$15  
299 million, for the department or for any other state department of  
300 transportation. The department may limit the dollar amount of



any contract upon which a contractor is qualified to bid or the aggregate total dollar volume of contracts such contractor is allowed to have under contract at any one time. Each applying contractor seeking qualification to bid on construction contracts in excess of \$250,000 shall furnish the department a statement under oath, on such forms as the department may prescribe, setting forth detailed information as required on the application. Each application for certification must be accompanied by audited financial statements prepared in accordance with United States generally accepted accounting principles and United States generally accepted auditing standards by a certified public accountant licensed by this state or another state ~~the latest annual financial statement of the applying contractor completed within the last 12 months. The~~ audited financial statements must be for the applying contractor specifically and must have been prepared within the immediately preceding 12 months. The department may not consider any financial information relating to the parent entity of the applying contractor, if any. The department shall not certify as qualified any applying contractor that fails to submit the audited financial statements required by this subsection. If the application or the annual financial statement shows the financial condition of the applying contractor more than 4 months before ~~prior to~~ the date on which the application is received by the department, the applying contractor must also

326 submit interim audited financial statements prepared in  
327 accordance with United States generally accepted accounting  
328 principles and United States generally accepted auditing  
329 standards by a certified public accountant licensed by this  
330 state or another state ~~an interim financial statement and an~~  
331 ~~updated application must be submitted.~~ The interim financial  
332 statements ~~statement~~ must cover the period from the end date of  
333 the annual statement and must show the financial condition of  
334 the applying contractor no more than 4 months before ~~prior to~~  
335 the date that the interim financial statements are ~~statement is~~  
336 received by the department. However, upon the request of the  
337 applying contractor, an application and accompanying annual or  
338 interim financial statements ~~statement~~ received by the  
339 department within 15 days after either 4-month period under this  
340 subsection shall be considered timely. ~~Each required annual or~~  
341 ~~interim financial statement must be audited and accompanied by~~  
342 ~~the opinion of a certified public accountant.~~ An applying  
343 contractor desiring to bid exclusively for the performance of  
344 construction contracts with proposed budget estimates of less  
345 than \$1 million may submit reviewed annual or reviewed interim  
346 financial statements prepared by a certified public accountant.  
347 The information required by this subsection is confidential and  
348 exempt from s. 119.07(1). The department shall act upon the  
349 application for qualification within 30 days after the  
350 department determines that the application is complete. The

department may waive the requirements of this subsection for projects having a contract price of \$500,000 or less if the department determines that the project is of a noncritical nature and the waiver will not endanger public health, safety, or property.

Section 10. This act shall take effect July 1, 2020.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 395 Transportation

**SPONSOR(S):** Transportation & Tourism Appropriations Subcommittee, Transportation & Infrastructure Subcommittee, Andrade

**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE  | ACTION              | ANALYST | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|--|---------------------|---------|--|
| 1) Transportation & Infrastructure Subcommittee            | 13 Y, 0 N, As<br>CS | Johnson | Vickers                                  |
| 2) Transportation & Tourism Appropriations<br>Subcommittee | 11 Y, 0 N, As<br>CS | Hicks   | Davis                                    |
| 3) State Affairs Committee                                 |                     |         |  |

### SUMMARY ANALYSIS

The bill amends various statutory provisions relating to transportation. In summary, the bill:

- Revises the statutory definition of autocycle to incorporate a reference to federal safety standards;
- Increases the allowable weight of personal delivery devices;
- Authorizes portable radar speed display units to display flashing red and blue lights under certain circumstances;
- Allows the use of flashing lights on vehicles during periods of extreme low visibility on specified roads;
- Authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) to waive commercial driver license skill test requirements for qualifying veterans;
- Revises requirements governing the use of tarpaulins and other covers on vehicles hauling agricultural products;
- Authorizes for-hire vehicles to be insured by certain non-admitted carriers and reduces the number of for-hire vehicles required before an owner or lessee may self-insure;
- Requires certain vessels to be removed from marinas located in deepwater seaports during hurricanes, clarifies the amount of the fine that can be assessed in the event certain vessels are not removed, and authorizes the deepwater seaport issuing the evacuation order to impose and collect assessed fines;
- Revises qualification requirements for contractors desiring to bid on certain Department of Transportation (DOT) contracts, including the submission of specified financial statements; and
- Revises the definition of the term "for-hire vehicle" to exclude a certain vehicle.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2020.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Autocycles**

###### Current Situation

Florida law defines the term “autocycle” as a three-wheeled motorcycle that is equipped with a roll cage or roll hoops, a seat belt for each occupant, antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it. The autocycle must be manufactured in accordance with the applicable federal motorcycle safety standards by a manufacturer registered with the National Highway Traffic Safety Administration.<sup>1</sup> Autocycle drivers are not required to hold a motorcycle endorsement on his or her driver license.<sup>2</sup>

Federal Motor Vehicle Safety Standard No. 122,<sup>3</sup> provides standards for all motorcycle braking systems.

###### Effect of the Bill

The bill amends the definition of the term “autocycle” to provide that it must have a “steering mechanism” rather than a “steering wheel”. The bill also removes the requirement that an autocycle have antilock, replacing it with a requirement to have brakes meeting federal safety standards for motorcycle brakes.

##### **Personal Delivery Devices**

###### Present Situation

A personal delivery device (PDD) is electrically powered device that: is operated on sidewalks and crosswalks and intended primarily for transporting property; weighs less than 80 pounds, excluding cargo; has a maximum speed of 10 miles per hour; and is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person.<sup>4</sup>

A PDD may operate on sidewalks and crosswalks where it has all the rights and duties applicable to a pedestrian, except that a PDD may not unreasonably interfere with pedestrians or traffic and must yield the right-of-way to pedestrians on the sidewalk or crosswalk.<sup>5</sup>

A PDD must obey all official traffic and pedestrian control signals and devices, include identifying information on the PDD, and be equipped with a braking system.<sup>6</sup> However, PDDs may not operate on a public highway except to the extent necessary to cross a crosswalk, operate on a sidewalk or crosswalk unless the PDD operator is actively controlling or monitoring its navigation and operation, or transport hazardous materials.<sup>7</sup>

###### Effect of the Bill

The bill increases the statutory weight limit of a personal delivery device from 80 pounds to 150 pounds.

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<sup>1</sup> Section 316.003(2), F.S.

<sup>2</sup> Sections 322.03(4) and 322.12, F.S.

<sup>3</sup> 49 C.F.R. 571.122

<sup>4</sup> Section 316.003(55), F.S.

<sup>5</sup> Section 316.2071(1), F.S.

<sup>6</sup> Section 316.0271(2), F.S.

<sup>7</sup> Section 316.2071(3), F.S.

## Flashing Red and Blue Lights

### Present Situation

Florida law prohibits blue lights on any vehicle or equipment, except police vehicles, and vehicles of the Department of Corrections (DOC) or any county correctional agency when responding to emergencies.<sup>8</sup>

Road or street maintenance equipment, road or street maintenance vehicles, road service vehicles, refuse collection vehicles, petroleum tankers, and mail carrier vehicles are authorized to display amber lights when in operation or a hazard exists.<sup>9</sup> Additionally, road maintenance and construction equipment and vehicles may display flashing white lights or flashing white strobe lights when in operation and where a hazard exists.<sup>10</sup>

### Effect of the Bill

The bill authorizes portable radar speed display units in advance of a work zone area on roadways with a posted speed limit of 55 miles per hour or more to show or display flashing red or blue lights when workers are present.

## Flashing Lights on Vehicles

### Present Situation

Florida law prohibits flashing lights on vehicles except:

- As a means of indicating a right or left turn, to change lanes, or to indicate that the vehicle is lawfully stopped or disabled upon the highway;
- When a motorist intermittently flashes his or her vehicle's headlamps at an oncoming vehicle notwithstanding the motorist's intent for doing so; and
- For certain lamps authorized in statute, which may flash, including various types of emergency vehicles.<sup>11</sup>

With the exception of funeral processions,<sup>12</sup> Florida law does not expressly authorize the use of hazard lights on moving vehicles. The Florida Driver Handbook indicates you **should not** use your emergency flashers in instances of low visibility or rain, and may only be used when a vehicle is disabled or stopped on the side of the road.<sup>13</sup>

### Effect of the Bill

The bill authorizes the use of flashing lights during periods of extreme low visibility on roadways with a posted speed limit of 55 hours or more, effectively authorizing the use of hazard lights on moving vehicles under specified circumstances.

## Agricultural Loads on Vehicle

### Present Situation

Federal rules require that each commercial motor vehicle, when transporting cargo on public roads to have its cargo secured to prevent the cargo from leaking, spilling, blowing or falling from the motor vehicle.<sup>14</sup>

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<sup>8</sup> Section 316.2397(2), F.S.

<sup>9</sup> Section 316.2397(4), F.S.

<sup>10</sup> Section 316.2397(5), F.S.

<sup>11</sup> Section 316.2397(7), F.S.

<sup>12</sup> Section 316.1974(3)(c), F.S.

<sup>13</sup> Department of Highway Safety and Motor Vehicles, *2018 Florida Driver Handbook*, available at: <https://www3.flhsmv.gov/handbooks/englishdriverhandbook.pdf> (last visited Oct. 30, 2019).

<sup>14</sup> 49 C.F.R. 393.100

Under Florida law, a vehicle may not be driven or moved on any highway unless the vehicle is constructed or loaded as to prevent any of its load from dropping, shifting, leaking, blowing, or otherwise escaping from the vehicle.<sup>15</sup>

Every vehicle owner and driver has the duty to prevent items from escaping from his or her vehicle. Covering and securing the load with a close-fitting tarpaulin or other appropriate cover or a load securing device meeting federal requirements or a device designed to reasonably ensure that cargo will not shift upon or fall from the vehicle is required and constitutes compliance.<sup>16</sup>

However, Florida's load covering and securing provisions do not apply to vehicles carrying agricultural products locally from a harvest site or to or from a farm on roads where the posted speed limit is 65 miles per hour or less and the distance driven on public roads is less than 20 miles.<sup>17</sup>

#### Effect of the Bill

The bill removes the 20-mile maximum distance that vehicles carrying agricultural products may travel without covering the load. This will allow vehicles hauling agricultural products to travel an unlimited distance across the state without covering the load.

### **Commercial Driver License Testing Exemption for Veterans**

#### Present Situation

Florida law requires every applicant for an original driver license to pass an examination. However, the Department of Highway Safety and Motor Vehicles (DHSMV) may waive the knowledge, endorsement, and skills tests requirements for an applicant who is otherwise qualified and who surrenders a valid driver license issued by another state, a Canadian province, or the United States Armed Forces, if the driver applies for a Florida license of an equal or lesser classification.<sup>18</sup>

Under Florida law, the examination for a commercial driver license (CDL) must include various tests including an actual demonstration of the applicant's ability to operate a motor vehicle or combination of vehicles of the type covered by the license classification which the applicant is seeking, including his or her ability to perform a vehicle inspection.<sup>19</sup>

Under Federal Motor Carrier Safety Administration rules, states may waive knowledge and skill test requirements for CDLs for military veterans for current and former military service members who have experience driving a commercial motor vehicle in the military for an equivalent state license. The application must be made within one year of discharge of military service and certain conditions must be met.<sup>20</sup>

Under DHSMV's rules, applicants seeking a waiver of CDL skill testing due to military experience must pass all written knowledge exams for the CDL class and any applicable endorsements, and apply for a waiver while on active duty or within 90 days of separation from military service. Additionally, he or she must certify that he or she for at least two years immediately preceding the application operated a motor vehicle in the appropriate class, and present a Certificate for Waiver of Skill Test for Military Personnel form signed by his or her commanding officer.<sup>21</sup>

#### Effect of the Bill

The bill authorizes DHSMV to waive the skill test requirements for a CDL for persons with military commercial motor vehicle experience while on active military service or within one year of honorable discharge, which is consistent with federal rules regarding CDL license waivers for veterans.

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<sup>15</sup> Section 316.520(1), F.S.

<sup>16</sup> Section 316.520(2), F.S.

<sup>17</sup> Section 316.520(4), F.S.

<sup>18</sup> Section 322.12(1), F.S.

<sup>19</sup> Section 322.12(4), F.S.

<sup>20</sup> 49 C.F.R. 383.77

<sup>21</sup> Rule 15A-7.018, F.A.C.

## **For-hire Passenger Vehicle Insurance**

### Current Situation

Section 324.031, F.S., provides that the owner or operator of a taxicab, limousine, jitney, or any other for-hire passenger transportation vehicle may prove financial responsibility by providing satisfactory evidence of holding a motor vehicle liability policy issued by an insurance carrier that is a member of the Florida Insurance Guaranty Association (FIGA).<sup>22</sup> However, a motor vehicle owner or lessee required to maintain insurance, including lessors of motor vehicles and owners who loan their motor vehicles, and who operates at least 300 for-hire passenger vehicles may prove financial responsibility through self-insurance.<sup>23</sup>

### Proposed Changes

The bill provides that a for-hire passenger vehicle's motor vehicle liability policy must be provided by an insurer authorized to do business in this state, and who is a member of FIGA, or by an eligible nonadmitted insurer that has a superior, excellent, exceptional, or equivalent financial strength rating by a rating agency acceptable to the Office of Insurance Regulation. The bill reduces the minimum number of for-hire passenger vehicles an owner or lessee must operate to be eligible to self-insure, from 300 vehicles to 150 vehicles.

## **Evacuation of Marinas**

### Present Situation

In order to ensure that protecting the lives and safety of vessel owners is placed before interests of protecting property, s. 327.59(1), F.S., prohibits marinas from adopting, maintaining, or enforcing policies requiring vessels to be removed from marinas following the issuance of a hurricane watch or warning.

After a tropical storm or hurricane watch has been issued, a marina owner or operator may take reasonable actions to further secure any vessel within the marina to minimize damage to a vessel and to protect marina property, private property, and the environment and may charge a reasonable fee for such services.<sup>24</sup>

A marina owner may provide by contract that in the event a vessel owner fails to promptly remove a vessel from a marina after a tropical storm or hurricane watch has been issued, the marina owner may remove the vessel, if reasonable, from its slip or take whatever reasonable actions are deemed necessary to properly secure a vessel to minimize damage to a vessel and to protect marina property, private property, and the environment. The marina owner may charge the vessel owner a reasonable fee for any such services rendered. In order to add such a provision to a contract, the marina owner must provide notice to the vessel owner in any such contract.<sup>25</sup>

A marina owner is not liable for any damage incurred to a vessel from storms or hurricanes and is held harmless as a result of such actions. Nothing in s. 327.59, F.S., may be construed to provide immunity to a marina owner for any damage caused by intentional acts or negligence when removing or securing a vessel as permitted under s. 327.59, F.S.<sup>26</sup>

Several of the state's deepwater seaports have recreational marinas located within the seaport, and have encountered problems associated with marina tenants not removing their boats during hurricanes. Seaport managers have expressed concerns that if a boat leaves its slip or bulkhead, it may cause damage to port infrastructure or sink, which may adversely impact other port activities such as cruise traffic and fuel delivery.

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<sup>22</sup> The Florida Insurance Guaranty Association is created in s. 631.55, F.S.

<sup>23</sup> Section 324.032(2), F.S. The maximum amount of self-insurance permissible under this section is \$300,000 on a per occurrence basis, and the self-insurer must maintain adequate excess insurance issued by an authorized or eligible insurer licensed or approved by the Office of Insurance Regulation.

<sup>24</sup> Section 327.59(2), F.S.

<sup>25</sup> Section 327.59(3), F.S.

<sup>26</sup> Section 327.59(4), F.S.



### Effect of the Bill

The bill provides upon the issuance of a hurricane watch affecting the waters of a marina located in a deepwater seaport, vessels weighing under 500 gross tons may not remain in the waters of such marinas that have been deemed not suitable for refuge during a hurricane.

Vessel owners must promptly remove their vessels upon issuance of an evacuation order by the deepwater seaport. If the U.S. Coast Guard Captain of the Port sets the deepwater seaport condition to Yankee<sup>27</sup> and a vessel owner has failed to remove a vessel, the marina owner, operator, employee or agent, regardless of existing contractual provisions between the marina owner and vessel owner, must remove the vessel, or cause it to be removed, if reasonable, from its slip and may charge the vessel owner a reasonable fee for any such services.

A marina owner, operator, employee or agent is not liable for any damage incurred to a vessel from hurricanes and is held harmless as a result of such actions to remove the vessel from the waterways. Section 327.59, F.S., does not provide immunity to a marina owner, operator, employee or agent for any damage caused by intentional acts or negligence when removing a vessel. After the hurricane watch has been issued, the owner or operator of any vessel that has not been removed from the waterway of the marina, pursuant to an evacuation order from the deepwater seaport, may be subject to a fine not exceeding three times the cost associated with removing the vessel from the waterway. The deepwater seaport issuing the evacuation order is authorized to impose and collect assessed fines.

### **DOT Application for Qualification**

#### Present Situation

Any contractor desiring to bid for the performance of any construction contract in excess of \$250,000 which DOT proposes to let must first be certified by DOT as qualified pursuant to s. 337.14, F.S., and DOT's rules.<sup>28, 29</sup>

Any contractor who is not qualified and in good standing with DOT as of January 1, 2019, and desires to bid on contracts in excess of \$50 million must have satisfactorily completed two projects, each in excess of \$15 million, for DOT or for any other state department of transportation.<sup>30</sup>

Each application for certification must be accompanied by the applying contractor's latest annual financial statement, which must have been completed within the last 12 months. If the application or the annual financial statement shows the applying contractor's financial condition more than four months prior to the date on which DOT receives the application, the applying contractor must also submit an interim financial statement and an updated application. Each required annual or interim financial statement must be audited and accompanied by the opinion of a certified public accountant.<sup>31</sup>

### Effect of the Bill

The bill clarifies that any contractor who desires to bid on contracts in excess of \$50 million, in addition to have successfully completed two projects, each in excess of \$15 million for DOT or another state transportation department, must also first be certified by DOT as qualified.

The bill requires each application for certification to be accompanied by audited financial statements prepared in accordance with United States generally accepted accounting principles and United States generally accepted auditing standards by a certified public accountant licensed in this state or another state. The applying contractor's audited financial statements must be specifically for the applying

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<sup>27</sup> Hurricane Port Condition Yankee means condition set when weather advisories indicate that sustained gale force winds (39-54 mph/34-47 knots) from a tropical or hurricane force storm are predicted to make landfall at the port within 24 hours. 33 C.F.R. s. 165.781

<sup>28</sup> DOT's rules regarding qualifications to bid are contained in Ch. 14-22, F.A.C.

<sup>29</sup> Section 337.14(1), F.S.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

contractor and must have been prepared within the immediately preceding 12 months. DOT may not consider any financial information relating to the applying contractor's parent entity. DOT may not certify as qualified any applying contractor that fails to submit the required audited financial statements.

If the application or the annual financial statement shows the applying contractor's financial condition more than four months before the date on which DOT receives the application, the applying contractor must also submit interim audited financial statements.

## **Disability-Accessible Transportation Network Companies**

### Present Situation

#### *Transportation Network Companies (TNCs)*

In 2017, the Legislature established a regulatory framework for transportation network companies (TNCs). The law defines a "TNC" as an entity operating in this state that uses a digital network to connect a rider<sup>32</sup> to a TNC driver, who provides prearranged rides. A TNC is not deemed to own, control, operate, direct, or manage the TNC vehicles or TNC drivers that connect to its digital network, except where agreed to by written contract, and is not a taxicab association or for-hire vehicle owner. The term does not include entities arranging nonemergency medical transportation for individuals who qualify for Medicaid or Medicare pursuant to a contract with the state or a managed care organization.<sup>33</sup>

A "TNC vehicle" is defined as a vehicle that is used by a TNC driver to offer or provide a prearranged ride and that is owned, leased, or otherwise authorized to be used by the TNC driver. A vehicle that is let or rented to another for consideration may be used as a TNC vehicle. The law specifies that a taxicab, jitney, limousine, or for-hire vehicle is not a TNC vehicle.<sup>34</sup>

A "prearranged ride" is defined as the provision of transportation by a TNC driver to a rider, beginning when a TNC driver accepts a ride requested by a rider through a digital network<sup>35</sup> controlled by a TNC, continuing while the TNC driver transports the requesting rider, and ending when the last requesting rider departs from the TNC vehicle. The term does not include a taxicab, for-hire vehicle, or street hail<sup>36</sup> service and does not include ridesharing,<sup>37</sup> carpool,<sup>38</sup> or any other type of service in which the driver receives a fee that does not exceed the driver's cost to provide the ride.<sup>39</sup>

#### *For-Hire Vehicles*

With certain exceptions, offering for lease or rent any motor vehicle qualifies the vehicle as a "for-hire vehicle." A "for-hire vehicle" is a motor vehicle used for transporting persons or goods for compensation. When goods or passengers are transported for compensation in a motor vehicle outside a municipal corporation of this state, or when goods are transported in a motor vehicle not owned by the person owning the goods, such transportation is considered "for-hire". The carriage of goods and other personal property in a motor vehicle by a corporation or association for its stockholders, shareholders, and members, cooperative or otherwise, is transportation "for-hire".<sup>40</sup>

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<sup>32</sup> Section 627.748(1)(c), F.S., defines the term "Rider" as an individual who uses a digital network to connect with a TNC driver in order to obtain a prearranged ride in the TNC driver's TNC vehicle between points chosen by the rider.

<sup>33</sup> Section 627.748(1)(e), F.S.

<sup>34</sup> Section 627.748(1)(g), F.S.

<sup>35</sup> Section 627.748(1)(a), F.S., defines the term "digital network" as any online-enabled technology application service, website, or system offered or used by a TNC that enables the prearrangement of riders with TNC drivers.

<sup>36</sup> The term "street hail" means an immediate arrangement on a street with a driver by a person using any method other than a digital network to seek immediate transportation.

<sup>37</sup> Section 341.031(9)(a), F.S., defines the term "ridesharing" as an arrangement between persons with a common destination, or destinations, within the same proximity, to share the use of a motor vehicle on a recurring basis for round-trip transportation to and from their place of employment or other common destination.

<sup>38</sup> Section 450.28(3), F.S., defines the term "carpool" as an arrangement made by the workers using one worker's own vehicle for transportation to and from work and for which the driver or owner of the vehicle is not paid by any third person other than the members of the carpool.

<sup>39</sup> Section 627.748(1)(b), F.S.

<sup>40</sup> Section 320.01(15)(a), F.S.

For counties, to the extent not inconsistent with general or special law, the legislative and governing body of a county has the power to carry on county government, including, but not restricted to, the power to license and regulate taxis, jitneys, and limousines for-hire, rental cars, and other passenger vehicles for-hire that operate in the unincorporated areas of the county.<sup>41</sup>

#### *Americans with Disabilities Act*

The Americans with Disabilities Act (ADA) is a civil rights law prohibiting discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public. The purpose of the law is to make sure that people with disabilities have the same rights and opportunities as everyone else and guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation government services, and telecommunications.<sup>42</sup>

Private entities providing transportation services to the public are required to be accessible to individuals with disabilities.<sup>43</sup> Federal regulations provide ADA specifications for various transportation vehicles including disability-accessible buses and vans.<sup>44</sup>

#### Effect of the Bill

The bill amends the definition of the term “for-hire vehicle” to exclude a motor vehicle that is compliant with the ADA and that is owned and used by a company that uses a digital network to facilitate prearranged rides for persons with disabilities for compensation.

#### B. SECTION DIRECTORY:

**Section 1:** Amends s. 316.003, F.S., defining terms.

**Section 2:** Amends s. 316.2397, F.S., providing that certain lights are prohibited.

**Section 3:** Amends s. 316.520, F.S., relating to loads on vehicles.

**Section 4:** Amends s. 320.01, F.S., defining terms.

**Section 5:** Amends s. 322.12, F.S., relating to the examination of applicants.

**Section 6:** Amends s. 324.031, F.S., relating to proving financial responsibility.

**Section 7:** Amends s. 324.032, F.S., relating to proving financial responsibility; for-hire passenger transportation vehicles.

**Section 8:** Amends s. 327.59, F.S., relating to marina evacuations.

**Section 9:** Amends s. 337.14, F.S., providing for applications for qualification and certificates of qualification.

**Section 10:** Provides an effective date of July 1, 2020.

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<sup>41</sup> Section 125.01(1)(n), F.S.

<sup>42</sup> ADA National Network Website, *What is the Americans with Disabilities Act*, Available at: <https://adata.org/learn-about-ada> (Last visited Jan. 29, 2020).

<sup>43</sup> ADA National Network Website, *The ADA & Accessible Ground Transportation*, Available at: <https://adata.org/factsheet/ADA-accessible-transportation> (Last visited Jan 29, 2020).

<sup>44</sup> 59 C.F.R. part 38

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Owners of vessels at marinas located in deepwater seaports may incur some expenditures associated with removing their vessels prior to hurricanes.

The CDL skill test is administered by third party vendors. According to DHSMV, a waiver of the skill test requirements could result in either the vendor absorbing the cost to waive the skill test for veterans who qualify or possibly increasing the cost of the skill test for non-military candidates.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill reduces the ability of a county or municipality to raise revenue; however, an exception may apply since the bill is expected to have an insignificant fiscal impact.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

DOT may need to amend Rule 14-22, F.A.C., regarding qualifications to bid on construction projects to incorporate changes made in the bill.

DHSMV may need to amend rule 15A-7.018, F.A.C., to authorize additional time for veterans to be exempt from CDL testing requirements.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 28, 2020, the Transportation & Infrastructure Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Removed provisions authorizing the use of blue lights on construction vehicles;
- Amended the definition of the term “autocycle” to clarify equipment requirements;
- Removed provisions establishing the Secretary of Transportation’s salary;
- Increased the allowed weight of a personal delivery device to from 80 to 150 pounds;
- Authorized an exemption for commercial driver license skill test requirements for certain veterans;
- Authorized certain vehicles to transport agricultural products without covering the load;
- Removed the expansion of a public records exemption for certain DOT bid documents;
- Removed provisions revising DOT contractor liability;
- Authorized for-hire vehicles to be insured by certain non-admitted carriers and reduced the number of for-hire vehicles required before an owner or lessee may self-insure;
- Required certain vessels to be removed from marinas located in deepwater seaports during hurricanes;
- Authorized disability-accessible TNCs and preempted their regulation to the state; and
- Removed provisions relating to the reinstatement of tolls after an emergency evacuation.

This analysis is drafted to the committee substitute as approve by the Transportation & Infrastructure Subcommittee.

On February 10, 2020, the Transportation & Tourism Appropriations Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Clarified fines that can be assessed by ports when vessels are not removed in certain situations; and
- Removed the framework governing the operation of disability-accessible transportation network companies and revised the definition of the term “for-hire vehicle”.

This analysis is drafted to the committee substitute as approved by the Transportation & Tourism Appropriations Subcommittee.

**By** the Committee on Environment and Natural Resources; and  
Senator Gruters

592-02656A-20

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A bill to be entitled

An act relating to environmental enforcement; amending s. 161.054, F.S.; revising administrative penalties for violations of certain provisions relating to beach and shore construction and activities; providing that each day that certain violations occur or are not remediated constitutes a separate offense until such violations are resolved by order or judgment; making technical changes; amending ss. 258.397, 258.46, 373.129, 376.16, 376.25, 377.37, 378.211, and 403.141, F.S.; revising civil penalties for violations of certain provisions relating to the Biscayne Bay Aquatic Preserve, aquatic preserves, water resources, the Pollutant Discharge Prevention and Control Act, the Clean Ocean Act, regulation of oil and gas resources, the Phosphate Land Reclamation Act, and other provisions relating to pollution and the environment, respectively; providing that each day that certain violations occur or are not remediated constitutes a separate offense until such violations are resolved by order or judgment; making technical changes; amending ss. 373.209, 376.065, 376.071, 403.086, 403.413, 403.7234, and 403.93345, F.S.; revising civil penalties for violations of certain provisions relating to artesian wells, terminal facilities, discharge contingency plans for vessels, sewage disposal facilities, dumping litter, small quantity generators, and coral reef protection, respectively; making technical changes; amending ss.

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373.430 and 403.161, F.S.; revising criminal penalties for violations of certain provisions relating to pollution and the environment; providing that each day that certain violations occur or are not remediated constitutes a separate offense until such violations are resolved by order or judgment; making technical changes; amending s. 403.121, F.S.; revising civil and administrative penalties for violations of certain provisions relating to pollution and the environment; providing that each day that certain violations occur or are not remediated constitutes a separate offense until such violations are resolved by order or judgment; increasing the amount of penalties that can be assessed administratively; making technical changes; amending ss. 403.726 and 403.727, F.S.; revising civil penalties for violations of certain provisions relating to hazardous waste for each day that certain violations occur and are not resolved by order or judgment; making technical changes; reenacting s. 823.11(5), F.S., to incorporate the amendment made to s. 376.16, F.S., in a reference thereto; reenacting ss. 403.077(5), 403.131(2), 403.4154(3)(d), and 403.860(5), F.S., to incorporate the amendment made to s. 403.121, F.S., in a reference thereto; reenacting ss. 403.708(10), 403.7191(7), and 403.811, F.S., to incorporate the amendment made to s. 403.141, F.S., in a reference thereto; reenacting s. 403.7255(2), F.S., to incorporate the amendment made to s. 403.161, F.S., in a reference thereto;

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reenacting s. 403.7186(8), F.S., to incorporate the amendment made to ss. 403.141 and 403.161, F.S., in references thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 161.054, Florida Statutes, is amended to read:

161.054 Administrative fines; liability for damage; liens.—

(1) In addition to the penalties provided for in ss. 161.052, 161.053, and 161.121, any person, firm, corporation, or governmental agency, or agent thereof, refusing to comply with or willfully violating ~~any of the provisions of~~ s. 161.041, s. 161.052, or s. 161.053, or any rule or order prescribed by the department thereunder, shall incur a fine for each offense in an amount up to \$15,000 ~~\$10,000~~ to be fixed, imposed, and collected by the department. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense.

Section 2. Subsection (7) of section 258.397, Florida Statutes, is amended to read:

258.397 Biscayne Bay Aquatic Preserve.—

(7) ENFORCEMENT. ~~The provisions of~~ This section may be enforced in accordance with ~~the provisions of~~ s. 403.412. In addition, the Department of Legal Affairs may ~~is authorized to~~ bring an action for civil penalties of \$7,500 ~~\$5,000~~ per day against any person, natural or corporate, who violates ~~the provisions of~~ this section or any rule or regulation issued hereunder. Until a violation is resolved by order or judgment,



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each day during any portion of which such violation occurs or is not remediated constitutes a separate offense. Enforcement of applicable state regulations shall be supplemented by the Miami-Dade County Department of Environmental Resources Management through the creation of a full-time enforcement presence along the Miami River.

Section 3. Section 258.46, Florida Statutes, is amended to read:

258.46 Enforcement; violations; penalty. ~~The provisions of~~ This act may be enforced by the Board of Trustees of the Internal Improvement Trust Fund or in accordance with ~~the provisions of~~ s. 403.412. However, any violation by any person, natural or corporate, of ~~the provisions of~~ this act or any rule or regulation issued hereunder ~~is shall be~~ further punishable by a civil penalty of not less than \$750 ~~\$500~~ per day or more than \$7,500 ~~\$5,000~~ per day of such violation. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense.

Section 4. Subsections (5) and (7) of section 373.129, Florida Statutes, are amended to read:

373.129 Maintenance of actions.—The department, the governing board of any water management district, any local board, or a local government to which authority has been delegated pursuant to s. 373.103(8), is authorized to commence and maintain proper and necessary actions and proceedings in any court of competent jurisdiction for any of the following purposes:

(5) To recover a civil penalty for each offense in an

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amount not to exceed \$15,000 ~~\$10,000~~ per offense. Until a violation is resolved by order or judgment, each date during any portion of which such violation occurs or is not remediated constitutes a separate offense.

(a) A civil penalty recovered by a water management district pursuant to this subsection shall be retained and used exclusively by the water management district that collected the money. A civil penalty recovered by the department pursuant to this subsection must be deposited into the Water Quality Assurance Trust Fund established under s. 376.307.

(b) A local government that is delegated authority pursuant to s. 373.103(8) may deposit a civil penalty recovered pursuant to this subsection into a local water pollution control program trust fund, notwithstanding ~~the provisions of~~ paragraph (a). However, civil penalties that are deposited in a local water pollution control program trust fund and that are recovered for violations of state water quality standards may be used only to restore water quality in the area that was the subject of the action, and civil penalties that are deposited in a local water pollution control program trust fund and that are recovered for violation of requirements relating to water quantity may be used only to purchase lands and make capital improvements associated with surface water management, or other purposes consistent with the requirements of this chapter for the management and storage of surface water.

(7) ~~To enforce the provisions of~~ part IV of this chapter in the same manner and to the same extent as provided in ss. 373.430, 403.121(1) and (2), 403.131, 403.141, and 403.161.

Section 5. Subsection (3) of section 373.209, Florida

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Statutes, is amended to read:

373.209 Artesian wells; penalties for violation.—

(3) Any person who violates ~~any provision of~~ this section is ~~shall be~~ subject to either:

(a) The remedial measures provided for in s. 373.436; or

(b) A civil penalty of \$150 ~~\$100~~ a day for each and every day of such violation and for each and every act of violation. The civil penalty may be recovered by the water management board of the water management district in which the well is located or by the department in a suit in a court of competent jurisdiction in the county where the defendant resides, in the county of residence of any defendant if there is more than one defendant, or in the county where the violation took place. The place of suit shall be selected by the board or department, and the suit, by direction of the board or department, shall be instituted and conducted in the name of the board or department by appropriate counsel. The payment of any such damages does not impair or abridge any cause of action which any person may have against the person violating ~~any provision of~~ this section.

Section 6. Subsections (2) through (5) of section 373.430, Florida Statutes, are amended to read:

373.430 Prohibitions, violation, penalty, intent.—

(2) A person who ~~Whoever~~ commits a violation specified in subsection (1) is liable for any damage caused and for civil penalties as provided in s. 373.129.

(3) A ~~Any~~ person who willfully commits a violation specified in paragraph (1)(a) commits ~~is guilty of~~ a felony of the third degree, punishable as provided in ss. 775.082(3)(e) and 775.083(1)(g), by a fine of not more than \$50,000 or by

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175 imprisonment for 5 years, or by both, for each offense. Until a  
176 violation is resolved by order or judgment, each day during any  
177 portion of which such violation occurs or is not remediated  
178 constitutes a separate offense.

179 (4) A ~~Any~~ person who commits a violation specified in  
180 paragraph (1)(a) or paragraph (1)(b) due to reckless  
181 indifference or gross careless disregard commits ~~is guilty of~~ a  
182 misdemeanor of the second degree, punishable as provided in ss.  
183 775.082(4)(b) and 775.083(1)(g), by a fine of not more than  
184 \$10,000 ~~\$5,000~~ or 60 days in jail, or by both, for each offense.

185 (5) A ~~Any~~ person who willfully commits a violation  
186 specified in paragraph (1)(b) or who commits a violation  
187 specified in paragraph (1)(c) commits ~~is guilty of~~ a misdemeanor  
188 of the first degree, punishable as provided in ss. 775.082(4)(a)  
189 and 775.083(1)(g), by a fine of not more than \$10,000 or by 6  
190 months in jail, or by both, for each offense.

191 Section 7. Paragraphs (a) and (e) of subsection (5) of  
192 section 376.065, Florida Statutes, are amended to read:

193 376.065 Operation of terminal facility without discharge  
194 prevention and response certificate prohibited; penalty.—

195 (5)(a) A person who violates this section or the terms and  
196 requirements of such certification commits a noncriminal  
197 infraction. The civil penalty for any such infraction shall be  
198 \$750 ~~\$500~~, except as otherwise provided in this section.

199 (e) A person who elects to appear before the county court  
200 or who is required to so appear waives the limitations of the  
201 civil penalty specified in paragraph (a). The court, after a  
202 hearing, shall make a determination as to whether an infraction  
203 has been committed. If the commission of the infraction is

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proved, the court shall impose a civil penalty of \$750 ~~\$500~~.

Section 8. Paragraphs (a) and (e) of subsection (2) of section 376.071, Florida Statutes, are amended to read:

376.071 Discharge contingency plan for vessels.—

(2)(a) A master of a vessel that violates subsection (1) commits a noncriminal infraction and shall be cited for such infraction. The civil penalty for such an infraction shall be \$7,500 ~~\$5,000~~, except as otherwise provided in this subsection.

(e) A person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalty specified in paragraph (a). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of the infraction is proved, the court shall impose a civil penalty of \$7,500 ~~\$5,000~~.

Section 9. Section 376.16, Florida Statutes, is amended to read:

376.16 Enforcement and penalties.—

(1) It is unlawful for any person to violate ~~any provision of~~ ss. 376.011-376.21 or any rule or order of the department made pursuant to this act. A violation is ~~shall be~~ punishable by a civil penalty of up to \$75,000 ~~\$50,000~~ per violation per day to be assessed by the department. Until a violation is resolved by order or judgment, each day during any portion of which the violation occurs or is not remediated constitutes a separate offense. The penalty provisions of this subsection do ~~shall~~ not apply to any discharge promptly reported and removed by a person responsible, in accordance with the rules and orders of the department, or to any discharge of pollutants equal to or less than 5 gallons.

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(2) In addition to the penalty provisions which may apply under subsection (1), a person responsible for two or more discharges of any pollutant reported pursuant to s. 376.12 within a 12-month period at the same facility commits a noncriminal infraction and shall be cited by the department for such infraction.

(a) For discharges of gasoline or diesel over 5 gallons, the civil penalty for the second discharge shall be \$750 ~~\$500~~ and the civil penalty for each subsequent discharge within a 12-month period shall be \$1,500 ~~\$1,000~~, except as otherwise provided in this section.

(b) For discharges of any pollutant other than gasoline or diesel, the civil penalty for a second discharge shall be \$3,750 ~~\$2,500~~ and the civil penalty for each subsequent discharge within a 12-month period shall be \$7,500 ~~\$5,000~~, except as otherwise provided in this section.

(3) A person responsible for two or more discharges of any pollutant reported pursuant to s. 376.12 within a 12-month period at the same facility commits a noncriminal infraction and shall be cited by the department for such infraction.

(a) For discharges of gasoline or diesel equal to or less than 5 gallons, the civil penalty shall be \$75 ~~\$50~~ for each discharge subsequent to the first.

(b) For discharges of pollutants other than gasoline or diesel equal to or less than 5 gallons, the civil penalty shall be \$150 ~~\$100~~ for each discharge subsequent to the first.

(4) A person charged with a noncriminal infraction pursuant to subsection (2) or subsection (3) may:

(a) Pay the civil penalty;

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(b) Post a bond equal to the amount of the applicable civil penalty; or

(c) Sign and accept a citation indicating a promise to appear before the county court.

The department employee authorized to issue these citations may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.

(5) Any person who willfully refuses to post bond or accept and sign a citation commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(6) After compliance with paragraph (4)(b) or paragraph (4)(c), any person charged with a noncriminal infraction under subsection (2) or subsection (3) may:

(a) Pay the civil penalty, either by mail or in person, within 30 days after the date of receiving the citation; or

(b) If the person has posted bond, forfeit the bond by not appearing at the designated time and location.

A person cited for an infraction under this section who pays the civil penalty or forfeits the bond has admitted the infraction and waives the right to a hearing on the issue of commission of the infraction. Such admission may not be used as evidence in any other proceeding.

(7) Any person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalties specified in subsection (2). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction is

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proved, the court may impose a civil penalty up to, but not exceeding, \$750 ~~\$500~~ for the second discharge of gasoline or diesel and a civil penalty up to, but not exceeding, \$1,500 ~~\$1,000~~ for each subsequent discharge of gasoline or diesel within a 12-month period.

(8) Any person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalties specified in subsection (2) or subsection (3). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction is proved, the court may impose a civil penalty up to, but not exceeding, \$7,500 ~~\$5,000~~ for the second discharge of pollutants other than gasoline or diesel and a civil penalty up to, but not exceeding, \$15,000 ~~\$10,000~~ for each subsequent discharge of pollutants other than gasoline or diesel within a 12-month period.

(9) At a hearing under this section, the commission of a charged offense must be proved by the greater weight of the evidence.

(10) A person who is found by a hearing official to have committed an infraction may appeal that finding to the circuit court.

(11) Any person who has not posted bond and who neither pays the applicable civil penalty, as specified in subsection (2) or subsection (3) within 30 days of receipt of the citation nor appears before the court commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(12) Any person who makes or causes to be made a false statement that ~~which~~ the person does not believe to be true in



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response to requirements of ~~the provisions of~~ ss. 376.011-376.21  
commits a felony of the second degree, punishable as provided in  
s. 775.082, s. 775.083, or s. 775.084.

Section 10. Paragraph (a) of subsection (6) of section  
376.25, Florida Statutes, is amended to read:

376.25 Gambling vessels; registration; required and  
prohibited releases.—

(6) PENALTIES.—

(a) A person who violates this section is subject to a  
civil penalty of not more than \$75,000 ~~\$50,000~~ for each  
violation. Until a violation is resolved by order or judgment,  
each day during any portion of which such violation occurs or is  
not remediated constitutes a separate offense.

Section 11. Paragraph (a) of subsection (1) of section  
377.37, Florida Statutes, is amended to read:

377.37 Penalties.—

(1) (a) Any person who violates ~~any provision of~~ this law or  
any rule, regulation, or order of the division made under this  
chapter or who violates the terms of any permit to drill for or  
produce oil, gas, or other petroleum products referred to in s.  
377.242(1) or to store gas in a natural gas storage facility, or  
any lessee, permitholder, or operator of equipment or facilities  
used in the exploration for, drilling for, or production of oil,  
gas, or other petroleum products, or storage of gas in a natural  
gas storage facility, who refuses inspection by the division as  
provided in this chapter, is liable to the state for any damage  
caused to the air, waters, or property, including animal, plant,  
or aquatic life, of the state and for reasonable costs and  
expenses of the state in tracing the source of the discharge, in

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controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state. Furthermore, such person, lessee, permitholder, or operator is subject to the judicial imposition of a civil penalty in an amount of not more than \$15,000 ~~\$10,000~~ for each offense. However, the court may receive evidence in mitigation. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense. This section does not ~~Nothing herein shall~~ give the department the right to bring an action on behalf of any private person.

Section 12. Subsection (2) of section 378.211, Florida Statutes, is amended to read:

378.211 Violations; damages; penalties.—

(2) The department may institute a civil action in a court of competent jurisdiction to impose and recover a civil penalty for violation of this part or of any rule adopted or order issued pursuant to this part. The penalty may ~~shall~~ not exceed the following amounts, and the court shall consider evidence in mitigation:

(a) For violations of a minor or technical nature, \$150 ~~\$100~~ per violation.

(b) For major violations by an operator on which a penalty has not been imposed under this paragraph during the previous 5 years, \$1,500 ~~\$1,000~~ per violation.

(c) For major violations not covered by paragraph (b), \$7,500 ~~\$5,000~~ per violation.

Subject to ~~the provisions of~~ subsection (4), until a violation

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is resolved by order or judgment, each day or any portion thereof in which the violation continues or is not remediated shall constitute a separate violation.

Section 13. Subsection (2) of section 403.086, Florida Statutes, is amended to read:

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(2) Any facilities for sanitary sewage disposal shall provide for secondary waste treatment and, in addition thereto, advanced waste treatment as deemed necessary and ordered by the Department of Environmental Protection. Failure to conform shall be punishable by a civil penalty of \$750 ~~\$500~~ for each 24-hour day or fraction thereof that such failure is allowed to continue thereafter.

Section 14. Section 403.121, Florida Statutes, is amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1).

(1) Judicial remedies:

(a) The department may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.

(b) The department may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than \$15,000

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407 ~~\$10,000~~ per offense. However, the court may receive evidence in  
408 mitigation. Until a violation is resolved by order or judgment,  
409 each day during any portion of which such violation occurs or is  
410 not remediated constitutes a separate offense.

411 (c) Except as provided in paragraph (2)(c), it is ~~shall~~ not  
412 ~~be~~ a defense to, or ground for dismissal of, these judicial  
413 remedies for damages and civil penalties that the department has  
414 failed to exhaust its administrative remedies, has failed to  
415 serve a notice of violation, or has failed to hold an  
416 administrative hearing prior to the institution of a civil  
417 action.

418 (2) Administrative remedies:

419 (a) The department may institute an administrative  
420 proceeding to establish liability and to recover damages for any  
421 injury to the air, waters, or property, including animal, plant,  
422 or aquatic life, of the state caused by any violation. The  
423 department may order that the violator pay a specified sum as  
424 damages to the state. Judgment for the amount of damages  
425 determined by the department may be entered in any court having  
426 jurisdiction thereof and may be enforced as any other judgment.

427 (b) If the department has reason to believe a violation has  
428 occurred, it may institute an administrative proceeding to order  
429 the prevention, abatement, or control of the conditions creating  
430 the violation or other appropriate corrective action. Except for  
431 violations involving hazardous wastes, asbestos, or underground  
432 injection, the department shall proceed administratively in all  
433 cases in which the department seeks administrative penalties  
434 that do not exceed \$50,000 ~~\$10,000~~ per assessment as calculated  
435 in accordance with subsections (3), (4), (5), (6), and (7).

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Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty assessed pursuant to subsection (3), subsection (4), or subsection (5) against a public water system serving a population of more than 10,000 shall be not less than \$1,000 per day per violation. The department may ~~shall~~ not impose administrative penalties in excess of \$50,000 ~~\$10,000~~ in a notice of violation. The department may ~~shall~~ not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.

(c) An administrative proceeding shall be instituted by the department's serving of a written notice of violation upon the alleged violator by certified mail. If the department is unable to effect service by certified mail, the notice of violation may be hand delivered or personally served in accordance with chapter 48. The notice shall specify the ~~provision of the law~~, rule, regulation, permit, certification, or order of the department alleged to be violated and the facts alleged to constitute a violation thereof. An order for corrective action, penalty assessment, or damages may be included with the notice. When the department is seeking to impose an administrative penalty for any violation by issuing a notice of violation, any corrective action needed to correct the violation or damages caused by the violation must be pursued in the notice of violation or they are waived. However, an ~~no~~ order is not ~~shall~~ ~~become~~ effective until after service and an administrative hearing, if requested within 20 days after service. Failure to

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request an administrative hearing within this time period  
constitutes ~~shall constitute~~ a waiver thereof, unless the  
respondent files a written notice with the department within  
this time period opting out of the administrative process  
initiated by the department to impose administrative penalties.  
Any respondent choosing to opt out of the administrative process  
initiated by the department in an action that seeks the  
imposition of administrative penalties must file a written  
notice with the department within 20 days after service of the  
notice of violation opting out of the administrative process. A  
respondent's decision to opt out of the administrative process  
does not preclude the department from initiating a state court  
action seeking injunctive relief, damages, and the judicial  
imposition of civil penalties.

(d) If a person timely files a petition challenging a  
notice of violation, that person will thereafter be referred to  
as the respondent. The hearing requested by the respondent shall  
be held within 180 days after the department has referred the  
initial petition to the Division of Administrative Hearings  
unless the parties agree to a later date. The department has the  
burden of proving with the preponderance of the evidence that  
the respondent is responsible for the violation. ~~No~~  
Administrative penalties should not be imposed unless the  
department satisfies that burden. Following the close of the  
hearing, the administrative law judge shall issue a final order  
on all matters, including the imposition of an administrative  
penalty. When the department seeks to enforce that portion of a  
final order imposing administrative penalties pursuant to s.  
120.69, the respondent may ~~shall~~ not assert as a defense the

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inappropriateness of the administrative remedy. The department retains its final-order authority in all administrative actions that do not request the imposition of administrative penalties.

(e) After filing a petition requesting a formal hearing in response to a notice of violation in which the department imposes an administrative penalty, a respondent may request that a private mediator be appointed to mediate the dispute by contacting the Florida Conflict Resolution Consortium within 10 days after receipt of the initial order from the administrative law judge. The Florida Conflict Resolution Consortium shall pay all of the costs of the mediator and for up to 8 hours of the mediator's time per case at \$150 per hour. Upon notice from the respondent, the Florida Conflict Resolution Consortium shall provide to the respondent a panel of possible mediators from the area in which the hearing on the petition would be heard. The respondent shall select the mediator and notify the Florida Conflict Resolution Consortium of the selection within 15 days of receipt of the proposed panel of mediators. The Florida Conflict Resolution Consortium shall provide all of the administrative support for the mediation process. The mediation must be completed at least 15 days before the final hearing date set by the administrative law judge.

(f) In any administrative proceeding brought by the department, the prevailing party shall recover all costs as provided in ss. 57.041 and 57.071. The costs must be included in the final order. The respondent is the prevailing party when an order is entered awarding no penalties to the department and such order has not been reversed on appeal or the time for seeking judicial review has expired. The respondent is ~~shall be~~

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entitled to an award of attorney's fees if the administrative law judge determines that the notice of violation issued by the department seeking the imposition of administrative penalties was not substantially justified as defined in s. 57.111(3)(e). An ~~no~~ award of attorney's fees as provided by this subsection may not ~~shall~~ exceed \$15,000.

(g) Nothing herein shall be construed as preventing any other legal or administrative action in accordance with law. Nothing in this subsection shall limit the department's authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief. When the department exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory maximum sought by the department must be pursued as part of the state court action and not by initiating a separate administrative proceeding. The department retains the authority to judicially pursue penalties in excess of \$50,000 ~~\$10,000~~ for violations not specifically included in the administrative penalty schedule, or for multiple or multiday violations alleged to exceed a total of \$50,000 ~~\$10,000~~. The department also retains the authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued. The department has the authority to enter into a settlement, either before or after initiating a notice of violation, and the settlement may include a penalty amount different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of \$50,000 ~~\$10,000~~ in penalties may be settled in the court action for less than



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552 \$50,000 ~~\$10,000~~.

553 (h) Chapter 120 applies ~~shall apply~~ to any administrative  
554 action taken by the department or any delegated program pursuing  
555 administrative penalties in accordance with this section.

556 (3) Except for violations involving hazardous wastes,  
557 asbestos, or underground injection, administrative penalties  
558 must be calculated according to the following schedule:

559 (a) For a drinking water contamination violation, the  
560 department shall assess a penalty of \$3,000 ~~\$2,000~~ for a Maximum  
561 Containment Level (MCL) violation; plus \$1,500 ~~\$1,000~~ if the  
562 violation is for a primary inorganic, organic, or radiological  
563 Maximum Contaminant Level or it is a fecal coliform bacteria  
564 violation; plus \$1,500 ~~\$1,000~~ if the violation occurs at a  
565 community water system; and plus \$1,500 ~~\$1,000~~ if any Maximum  
566 Contaminant Level is exceeded by more than 100 percent. For  
567 failure to obtain a clearance letter prior to placing a drinking  
568 water system into service when the system would not have been  
569 eligible for clearance, the department shall assess a penalty of  
570 \$4,500 ~~\$3,000~~.

571 (b) For failure to obtain a required wastewater permit,  
572 other than a permit required for surface water discharge, the  
573 department shall assess a penalty of \$1,500 ~~\$1,000~~. For a  
574 domestic or industrial wastewater violation not involving a  
575 surface water or groundwater quality violation, the department  
576 shall assess a penalty of \$3,000 ~~\$2,000~~ for an unpermitted or  
577 unauthorized discharge or effluent-limitation exceedance. For an  
578 unpermitted or unauthorized discharge or effluent-limitation  
579 exceedance that resulted in a surface water or groundwater  
580 quality violation, the department shall assess a penalty of

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581 \$7,500 ~~\$5,000~~.

582 (c) For a dredge and fill or stormwater violation, the  
583 department shall assess a penalty of \$1,500 ~~\$1,000~~ for  
584 unpermitted or unauthorized dredging or filling or unauthorized  
585 construction of a stormwater management system against the  
586 person or persons responsible for the illegal dredging or  
587 filling, or unauthorized construction of a stormwater management  
588 system plus \$3,000 ~~\$2,000~~ if the dredging or filling occurs in  
589 an aquatic preserve, an Outstanding Florida Water, a  
590 conservation easement, or a Class I or Class II surface water,  
591 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than  
592 one-quarter acre but less than or equal to one-half acre, and  
593 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than  
594 one-half acre but less than or equal to one acre. The  
595 administrative penalty schedule does ~~shall~~ not apply to a dredge  
596 and fill violation if the area dredged or filled exceeds one  
597 acre. The department retains the authority to seek the judicial  
598 imposition of civil penalties for all dredge and fill violations  
599 involving more than one acre. The department shall assess a  
600 penalty of \$4,500 ~~\$3,000~~ for the failure to complete required  
601 mitigation, failure to record a required conservation easement,  
602 or for a water quality violation resulting from dredging or  
603 filling activities, stormwater construction activities or  
604 failure of a stormwater treatment facility. For stormwater  
605 management systems serving less than 5 acres, the department  
606 shall assess a penalty of \$3,000 ~~\$2,000~~ for the failure to  
607 properly or timely construct a stormwater management system. In  
608 addition to the penalties authorized in this subsection, the  
609 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation

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610 against the contractor or agent of the owner or tenant that  
611 conducts unpermitted or unauthorized dredging or filling. For  
612 purposes of this paragraph, the preparation or signing of a  
613 permit application by a person currently licensed under chapter  
614 471 to practice as a professional engineer does ~~shall~~ not make  
615 that person an agent of the owner or tenant.

616 (d) For mangrove trimming or alteration violations, the  
617 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation  
618 against the contractor or agent of the owner or tenant that  
619 conducts mangrove trimming or alteration without a permit as  
620 required by s. 403.9328. For purposes of this paragraph, the  
621 preparation or signing of a permit application by a person  
622 currently licensed under chapter 471 to practice as a  
623 professional engineer does ~~shall~~ not make that person an agent  
624 of the owner or tenant.

625 (e) For solid waste violations, the department shall assess  
626 a penalty of \$3,000 ~~\$2,000~~ for the unpermitted or unauthorized  
627 disposal or storage of solid waste; plus \$1,000 if the solid  
628 waste is Class I or Class III (excluding yard trash) or if the  
629 solid waste is construction and demolition debris in excess of  
630 20 cubic yards, plus \$1,500 ~~\$1,000~~ if the waste is disposed of  
631 or stored in any natural or artificial body of water or within  
632 500 feet of a potable water well, plus \$1,500 ~~\$1,000~~ if the  
633 waste contains PCB at a concentration of 50 parts per million or  
634 greater; untreated biomedical waste; friable asbestos greater  
635 than 1 cubic meter which is not wetted, bagged, and covered;  
636 used oil greater than 25 gallons; or 10 or more lead acid  
637 batteries. The department shall assess a penalty of \$4,500  
638 ~~\$3,000~~ for failure to properly maintain leachate control;

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639 unauthorized burning; failure to have a trained spotter on duty  
640 at the working face when accepting waste; or failure to provide  
641 access control for three consecutive inspections. The department  
642 shall assess a penalty of \$3,000 ~~\$2,000~~ for failure to construct  
643 or maintain a required stormwater management system.

644 (f) For an air emission violation, the department shall  
645 assess a penalty of \$1,500 ~~\$1,000~~ for an unpermitted or  
646 unauthorized air emission or an air-emission-permit exceedance,  
647 ~~plus \$1,000 if the emission results in an air quality violation,~~  
648 plus \$4,500 ~~\$3,000~~ if the emission was from a major source and  
649 the source was major for the pollutant in violation; plus \$1,500  
650 ~~\$1,000~~ if the emission was more than 150 percent of the  
651 allowable level.

652 (g) For storage tank system and petroleum contamination  
653 violations, the department shall assess a penalty of \$7,500  
654 ~~\$5,000~~ for failure to empty a damaged storage system as  
655 necessary to ensure that a release does not occur until repairs  
656 to the storage system are completed; when a release has occurred  
657 from that storage tank system; for failure to timely recover  
658 free product; or for failure to conduct remediation or  
659 monitoring activities until a no-further-action or site-  
660 rehabilitation completion order has been issued. The department  
661 shall assess a penalty of \$4,500 ~~\$3,000~~ for failure to timely  
662 upgrade a storage tank system. The department shall assess a  
663 penalty of \$3,000 ~~\$2,000~~ for failure to conduct or maintain  
664 required release detection; failure to timely investigate a  
665 suspected release from a storage system; depositing motor fuel  
666 into an unregistered storage tank system; failure to timely  
667 assess or remediate petroleum contamination; or failure to

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properly install a storage tank system. The department shall assess a penalty of \$1,500 ~~\$1,000~~ for failure to properly operate, maintain, or close a storage tank system.

(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the department shall assess administrative penalties according to the following schedule:

(a) For failure to satisfy financial responsibility requirements or for violation of s. 377.371(1), \$7,500 ~~\$5,000~~.

(b) For failure to install, maintain, or use a required pollution control system or device, \$6,000 ~~\$4,000~~.

(c) For failure to obtain a required permit before construction or modification, \$4,500 ~~\$3,000~~.

(d) For failure to conduct required monitoring or testing; failure to conduct required release detection; or failure to construct in compliance with a permit, \$3,000 ~~\$2,000~~.

(e) For failure to maintain required staff to respond to emergencies; failure to conduct required training; failure to prepare, maintain, or update required contingency plans; failure to adequately respond to emergencies to bring an emergency situation under control; or failure to submit required notification to the department, \$1,500 ~~\$1,000~~.

(f) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to prepare, submit, maintain, or use required reports or other required documentation, \$750 ~~\$500~~.

(5) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to comply with any other departmental regulatory

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statute or rule requirement not otherwise identified in this section, the department may assess a penalty of \$1,000 ~~\$500~~.

(6) For each additional day during which a violation occurs, the administrative penalties in subsections ~~subsection~~ (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be assessed per day per violation.

(7) The history of noncompliance of the violator for any previous violation resulting in an executed consent order, but not including a consent order entered into without a finding of violation, or resulting in a final order or judgment after the effective date of this law involving the imposition of \$3,000 ~~\$2,000~~ or more in penalties shall be taken into consideration in the following manner:

(a) One previous such violation within 5 years prior to the filing of the notice of violation will result in a 25-percent per day increase in the scheduled administrative penalty.

(b) Two previous such violations within 5 years prior to the filing of the notice of violation will result in a 50-percent per day increase in the scheduled administrative penalty.

(c) Three or more previous such violations within 5 years prior to the filing of the notice of violation will result in a 100-percent per day increase in the scheduled administrative penalty.

(8) The direct economic benefit gained by the violator from the violation, where consideration of economic benefit is provided by Florida law or required by federal law as part of a federally delegated or approved program, shall be added to the scheduled administrative penalty. The total administrative

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penalty, including any economic benefit added to the scheduled administrative penalty, may ~~shall~~ not exceed \$15,000 ~~\$10,000~~.

(9) The administrative penalties assessed for any particular violation may ~~shall~~ not exceed \$7,500 ~~\$5,000~~ against any one violator, unless the violator has a history of noncompliance, the economic benefit of the violation as described in subsection (8) exceeds \$7,500 ~~\$5,000~~, or there are multiday violations. The total administrative penalties may ~~shall~~ not exceed \$50,000 ~~\$10,000~~ per assessment for all violations attributable to a specific person in the notice of violation.

(10) The administrative law judge may receive evidence in mitigation. The penalties identified in subsections ~~subsection~~ (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be reduced up to 50 percent by the administrative law judge for mitigating circumstances, including good faith efforts to comply prior to or after discovery of the violations by the department. Upon an affirmative finding that the violation was caused by circumstances beyond the reasonable control of the respondent and could not have been prevented by respondent's due diligence, the administrative law judge may further reduce the penalty.

(11) Penalties collected pursuant to this section shall be deposited into the Water Quality Assurance Trust Fund or other trust fund designated by statute and shall be used to fund the restoration of ecosystems, or polluted areas of the state, as defined by the department, to their condition before pollution occurred. The Florida Conflict Resolution Consortium may use a portion of the fund to administer the mediation process provided in paragraph (2) (e) and to contract with private mediators for

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administrative penalty cases.

(12) The purpose of the administrative penalty schedule and process is to provide a more predictable and efficient manner for individuals and businesses to resolve relatively minor environmental disputes. Subsections (3)-(7) may ~~Subsection (3), subsection (4), subsection (5), subsection (6), or subsection (7)~~ shall not be construed as limiting a state court in the assessment of damages. The administrative penalty schedule does not apply to the judicial imposition of civil penalties in state court as provided in this section.

Section 15. Subsection (1) of section 403.141, Florida Statutes, is amended to read:

403.141 Civil liability; joint and several liability.—

(1) A person who ~~Whoever~~ commits a violation specified in s. 403.161(1) is liable to the state for any damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state and for reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state to their former condition, and furthermore is subject to the judicial imposition of a civil penalty for each offense in an amount of not more than \$15,000 ~~\$10,000~~ per offense. However, the court may receive evidence in mitigation. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense. Nothing herein gives ~~shall give~~ the department the right to bring an action on behalf of any private person.



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784 Section 16. Subsections (2) through (5) of section 403.161,  
785 Florida Statutes, are amended to read:

786 403.161 Prohibitions, violation, penalty, intent.—

787 (2) A person who ~~Whoever~~ commits a violation specified in  
788 subsection (1) is liable to the state for any damage caused and  
789 for civil penalties as provided in s. 403.141.

790 (3) A ~~Any~~ person who willfully commits a violation  
791 specified in paragraph (1)(a) commits ~~is guilty of~~ a felony of  
792 the third degree, punishable as provided in ss. 775.082(3)(e)  
793 and 775.083(1)(g) by a fine of not more than \$50,000 or by  
794 imprisonment for 5 years, or by both, for each offense. Until a  
795 violation is resolved by order or judgment, each day during any  
796 portion of which such violation occurs or is not remediated  
797 constitutes a separate offense.

798 (4) A ~~Any~~ person who commits a violation specified in  
799 paragraph (1)(a) or paragraph (1)(b) due to reckless  
800 indifference or gross careless disregard commits ~~is guilty of~~ a  
801 misdemeanor of the second degree, punishable as provided in ss.  
802 775.082(4)(b) and 775.083(1)(g) by a fine of not more than  
803 \$10,000 ~~\$5,000~~ or by 60 days in jail, or by both, for each  
804 offense.

805 (5) A ~~Any~~ person who willfully commits a violation  
806 specified in paragraph (1)(b) or who commits a violation  
807 specified in paragraph (1)(c) commits ~~is guilty of~~ a misdemeanor  
808 of the first degree punishable as provided in ss. 775.082(4)(a)  
809 and 775.083(1)(g) by a fine of not more than \$10,000 or by 6  
810 months in jail, or by both for each offense.

811 Section 17. Paragraph (a) of subsection (6) of section  
812 403.413, Florida Statutes, is amended to read:

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403.413 Florida Litter Law.—

(6) PENALTIES; ENFORCEMENT.—

(a) Any person who dumps litter in violation of subsection (4) in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes commits ~~is guilty~~ of a noncriminal infraction, punishable by a civil penalty of \$150 ~~\$100~~, from which \$50 shall be deposited into the Solid Waste Management Trust Fund to be used for the solid waste management grant program pursuant to s. 403.7095. In addition, the court may require the violator to pick up litter or perform other labor commensurate with the offense committed.

Section 18. Subsection (5) of section 403.7234, Florida Statutes, is amended to read:

403.7234 Small quantity generator notification and verification program.—

(5) Any small quantity generator who does not comply with the requirements of subsection (4) and who has received a notification and survey in person or through one certified letter from the county is subject to a fine of between \$75 ~~\$50~~ and \$150 ~~\$100~~ per day for a maximum of 100 days. The county may collect such fines and deposit them in its general revenue fund. Fines collected by the county shall be used to carry out the notification and verification procedure established in this section. If there are excess funds after the notification and verification procedures have been completed, such funds shall be used for hazardous and solid waste management purposes only.

Section 19. Subsection (3) of section 403.726, Florida Statutes, is amended to read:

403.726 Abatement of imminent hazard caused by hazardous

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substance.—

(3) An imminent hazard exists if any hazardous substance creates an immediate and substantial danger to human health, safety, or welfare or to the environment. The department may institute action in its own name, using the procedures and remedies of s. 403.121 or s. 403.131, to abate an imminent hazard. However, the department is authorized to recover a civil penalty of not more than \$37,500 ~~\$25,000~~ for each day until a ~~of~~ ~~continued~~ violation is resolved by order or judgment. Whenever serious harm to human health, safety, and welfare; the environment; or private or public property may occur prior to completion of an administrative hearing or other formal proceeding that which might be initiated to abate the risk of serious harm, the department may obtain, ex parte, an injunction without paying filing and service fees prior to the filing and service of process.

Section 20. Paragraph (a) of subsection (3) of section 403.727, Florida Statutes, is amended to read:

403.727 Violations; defenses, penalties, and remedies.—

(3) Violations of the provisions of this act are punishable as follows:

(a) Any person who violates ~~the provisions of~~ this act, the rules or orders of the department, or the conditions of a permit is liable to the state for any damages specified in s. 403.141 and for a civil penalty of not more than \$75,000 ~~\$50,000~~ for each day of continued violation or until a violation is resolved by order or judgment, except as otherwise provided herein. The department may revoke any permit issued to the violator. In any action by the department against a small hazardous waste

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generator for the improper disposal of hazardous wastes, a rebuttable presumption of improper disposal shall be created if the generator was notified pursuant to s. 403.7234; the generator shall then have the burden of proving that the disposal was proper. If the generator was not so notified, the burden of proving improper disposal shall be placed upon the department.

Section 21. Subsection (8) of section 403.93345, Florida Statutes, is amended to read:

403.93345 Coral reef protection.—

(8) In addition to the compensation described in subsection (5), the department may assess, per occurrence, civil penalties according to the following schedule:

(a) For any anchoring of a vessel on a coral reef or for any other damage to a coral reef totaling less than or equal to an area of 1 square meter, \$225 ~~\$150~~, provided that a responsible party who has anchored a recreational vessel as defined in s. 327.02 which is lawfully registered or exempt from registration pursuant to chapter 328 is issued, at least once, a warning letter in lieu of penalty; with aggravating circumstances, an additional \$225 ~~\$150~~; occurring within a state park or aquatic preserve, an additional \$225 ~~\$150~~.

(b) For damage totaling more than an area of 1 square meter but less than or equal to an area of 10 square meters, \$450 ~~\$300~~ per square meter; with aggravating circumstances, an additional \$450 ~~\$300~~ per square meter; occurring within a state park or aquatic preserve, an additional \$450 ~~\$300~~ per square meter.

(c) For damage exceeding an area of 10 square meters, \$1,500 ~~\$1,000~~ per square meter; with aggravating circumstances,

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an additional \$1,500 ~~\$1,000~~ per square meter; occurring within a state park or aquatic preserve, an additional \$1,500 ~~\$1,000~~ per square meter.

(d) For a second violation, the total penalty may be doubled.

(e) For a third violation, the total penalty may be tripled.

(f) For any violation after a third violation, the total penalty may be quadrupled.

(g) The total of penalties levied may not exceed \$375,000 ~~\$250,000~~ per occurrence.

Section 22. Subsection (5) of s. 823.11, Florida Statutes, is reenacted for the purpose of incorporating the amendment made by this act to s. 376.16, Florida Statutes, in a reference thereto.

Section 23. Subsection (5) of s. 403.077, subsection (2) of s. 403.131, paragraph (d) of subsection (3) of s. 403.4154, and subsection (5) of s. 403.860, Florida Statutes, are reenacted for the purpose of incorporating the amendment made by this act to s. 403.121, Florida Statutes, in references thereto.

Section 24. Subsection (10) of s. 403.708, subsection (7) of s. 403.7191, and s. 403.811, Florida Statutes, are reenacted for the purpose of incorporating the amendment made by this act to s. 403.141, Florida Statutes, in references thereto.

Section 25. Subsection (2) of s. 403.7255, Florida Statutes, is reenacted for the purpose of incorporating the amendment made by this act to s. 403.161, Florida Statutes, in a reference thereto.

Section 26. Subsection (8) of s. 403.7186, Florida

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929 Statutes, is reenacted for the purpose of incorporating the  
930 amendments made by this act to ss. 403.141 and 403.161, Florida  
931 Statutes, in references thereto.

932 Section 27. This act shall take effect July 1, 2020.

**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.)

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Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

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BILL: CS/SB 1450

INTRODUCER: Environment and Natural Resources Committee and Senator Gruters

SUBJECT: Environmental Enforcement

DATE: January 27, 2020

REVISED: \_\_\_\_\_

|    | ANALYST   | STAFF DIRECTOR | REFERENCE | ACTION        |
|----|-----------|----------------|-----------|---------------|
| 1. | Schreiber | Rogers         | EN        | <b>Fav/CS</b> |
| 2. |           |                | AEG       |               |
| 3. |           |                | AP        |               |

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1450 makes numerous changes to the penalties for violating Florida's environmental laws. The bill increases required or maximum environmental penalties in various sections of the Florida Statutes. Most of the changes increase a penalty by 50 percent. Additionally, the bill changes the duration that certain penalties may run, so that, until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.

**II. Present Situation:**

**Environmental Violations**

The Department of Environmental Protection (DEP) is Florida's lead agency for environmental management and stewardship, implementing many programs to protect the state's air, water, and land.<sup>1</sup> In accordance with the state's numerous environmental laws, DEP's responsibilities include the compliance and enforcement process.<sup>2</sup> Violations of Florida's environmental laws can result in damages and administrative, civil, and/or criminal penalties.

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<sup>1</sup> DEP, *About DEP*, <https://floridadep.gov/about-dep> (last visited Jan. 21, 2020); s. 20.255, F.S.

<sup>2</sup> See DEP, *Enforcement Manual, Chapter One: DEP Regulatory Enforcement Organization* (2017), available at <https://floridadep.gov/sites/default/files/Chapter%201%20October%202017.pdf>.

### ***Damages***

In environmental enforcement, damages should compensate the state for the value of the loss to natural resources caused by the violation.<sup>3</sup> DEP may institute a civil action in court or an administrative proceeding in the Division of Administrative Hearings (DOAH) to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.<sup>4</sup> Damages can cover the cost of remediating the damage done to the environment, and/or costs incurred by the state in responding to the damage, such as tracing the source, controlling and abating the source, and restoring the environmental resources to their former condition.<sup>5</sup>

### ***Penalties***

In addition to damages, a violator can be liable for penalties. Penalties differ from damages in that they are designed to punish the wrongdoer rather than to address the harm caused by the violation.<sup>6</sup> In environmental enforcement, penalties should create incentives to bring immediate compliance and curb future violations.<sup>7</sup>

Administrative penalties can be levied directly by the agency or in a proceeding in DOAH.<sup>8</sup> The formal administrative enforcement process is typically initiated by serving a notice of violation, and is finalized through entry of a consent order or final order.<sup>9</sup> In most administrative proceedings, DEP has the final decision.<sup>10</sup> An administrative law judge has the final decision for administrative proceedings involving the Environmental Litigation Reform Act, codified in s. 403.121, F.S., which is the primary statute addressing DEP's administrative penalties.<sup>11</sup> Compared to the judicial process, the administrative process is generally considered less expensive, faster and less time consuming, and more conducive to negotiated settlement.<sup>12</sup> However, if DEP is seeking immediate injunctive relief, which compels a party to act or stop acting, an order must be obtained from a court.<sup>13</sup>

DEP must proceed administratively in cases in which DEP seeks administrative penalties that do not exceed \$10,000 per assessment.<sup>14</sup> DEP is prohibited from imposing administrative penalties in excess of \$10,000 in a notice of violation.<sup>15</sup> DEP may not have more than one notice of

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<sup>3</sup> DEP, *Enforcement Manual, Chapter 6: Judicial Process and Remedies, Collections, and Bankruptcies*, 89 (2014), available at <https://floridadep.gov/sites/default/files/chapter6.pdf>.

<sup>4</sup> See s. 403.121, F.S.

<sup>5</sup> See ss. 403.121 and 403.141, F.S.

<sup>6</sup> See BLACK'S LAW DICTIONARY 1247 (9th ed. 2009).

<sup>7</sup> DEP, *Enforcement Manual, Chapter 6: Judicial Process and Remedies, Collections, and Bankruptcies*, 89 (2014), available at <https://floridadep.gov/sites/default/files/chapter6.pdf>.

<sup>8</sup> See ch. 120, F.S. The administrative process is formalized in the Administrative Procedure Act.

<sup>9</sup> DEP, *Enforcement Manual, Chapter Five: The Administrative Process and Remedies*, 58 (2014), available at [https://floridadep.gov/sites/default/files/chapter5\\_0.pdf](https://floridadep.gov/sites/default/files/chapter5_0.pdf).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 58-59, 66-70; Ch. 2001-258, Laws of Fla.

<sup>12</sup> DEP, *Enforcement Manual, Chapter Five: The Administrative Process and Remedies*, 59 (2014).

<sup>13</sup> *Id.* at 59-60.

<sup>14</sup> Section 403.121(2)(b), F.S.; DEP, *Enforcement Manual, Chapter Five: The Administrative Process and Remedies*, 66-67 (2014). This requirement does not apply to underground injection, hazardous waste, or asbestos programs.

<sup>15</sup> Section 403.121(2)(b), F.S.



violation pending against a party unless the violations occurred at a different site or the violations were discovered by DEP subsequent to the filing of a previous notice of violation.<sup>16</sup>

Civil penalties are noncriminal fines that are generally levied by a court, and which agencies may be authorized to impose.<sup>17</sup> DEP may pursue two forms of action in state court: a petition to enforce an order previously entered through the administrative process, or a complaint for violations of statutes or rules.<sup>18</sup> Under both forms, DEP may seek injunctive relief, civil penalties, damages, and costs and expenses.<sup>19</sup> For judicially imposed civil penalties, DEP is authorized to recover up to \$10,000 per offense, with each day during any portion of which a violation occurs constituting a separate offense.<sup>20</sup>

A court or an administrative law judge may receive evidence in mitigation, which may result in the decrease or elimination of penalties.<sup>21</sup>

Criminal penalties can include jail/prison time, a criminal fine, or both. Florida law imposes criminal penalties for certain violations of environmental law.<sup>22</sup> Punishments for such violations may vary based on standards of intent, such as willful, reckless indifference, or gross careless disregard.<sup>23</sup>

This present situation describes DEP's general authority to levy penalties, largely pursuant to ch. 403, F.S. DEP derives enforcement authority from several different chapters of Florida law based on subject matter, so DEP has additional enforcement authority for programs not covered in ch. 403, F.S. Additionally, the Department of Legal Affairs, any political subdivision or municipality of the state, or a citizen of the state may maintain an action for injunctive relief against the government entity charged with enforcing environmental laws or the violator of the laws.<sup>24</sup>

### **Dredge and Fill Permitting Program**

In 2018, the Legislature authorized DEP to assume responsibility for the federal dredge and fill permitting program under the Clean Water Act, to regulate the discharge of dredged or fill material into Florida's navigable waters.<sup>25</sup> Currently, in Florida, the program is jointly implemented by the United States Environmental Protection Agency (EPA) and the United States Army Corps of Engineers (USACE).<sup>26</sup> Assumption of the dredge and fill permitting program requires EPA approval. DEP may adopt any federal requirements, criteria, or

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<sup>16</sup> *Id.*

<sup>17</sup> The Environmental Litigation Reform Act allows DEP to seek civil penalties of up to \$10,000 through the administrative process for most environmental violations. The Act may not be used if penalties exceed \$10,000.

<sup>18</sup> DEP, *Enforcement Manual, Chapter Six: Judicial Process and Remedies, Collections, and Bankruptcies*, 86 (2014), available at <https://floridadep.gov/sites/default/files/chapter6.pdf>.

<sup>19</sup> *Id.*

<sup>20</sup> Section 403.121(1)(b), F.S.

<sup>21</sup> Section 403.121, F.S.

<sup>22</sup> Section 403.161, F.S.

<sup>23</sup> *Id.*

<sup>24</sup> Section 403.412, F.S.

<sup>25</sup> Chapter 2018-88, Laws of Fla.; s. 373.4146, F.S.; 33 U.S.C. s. 1344(g).

<sup>26</sup> 33 U.S.C. s. 1344(a) and (b).

regulations necessary to obtain assumption.<sup>27</sup> Prior to assuming the program, DEP must submit various materials to the EPA, including a complete program description, a memorandum of understanding between the state and EPA, a memorandum of understanding between the state and USACE, copies of all applicable statutes and regulations, and more.<sup>28</sup> DEP is still in the process of developing the elements of the program for submission to the EPA.

Regarding enforcement authority, federal regulations require the state to have authority to carry out certain enforcement actions. For example, to assume the program, DEP must have authority to seek criminal fines of at least \$5,000 per violation against any person who:

- Knowingly makes false statements or representation in any document required under the Clean Water Act, federal regulations, or the state program; or
- Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under a permit.<sup>29</sup>

The approved maximum criminal fine must be assessable for each violation and, if the violation is continuous, must be assessable in that maximum amount for each day of violation.<sup>30</sup> The burden of proof and degree of knowledge or intent required under state law for establishing violations may not be greater than the burden of proof or degree of knowledge or intent EPA must bear when it brings an action under the Clean Water Act.<sup>31</sup>

Florida law provides that it is a violation of part IV of ch. 373, F.S., and ch. 403, F.S., to:

- Knowingly make any false statement or representation in documents required by state law; or
- Falsify, tamper with, or knowingly render inaccurate any monitoring device or method required by state law, rule, or permit.<sup>32</sup>

The criminal penalties for these violations are fines of up to \$10,000, 6 months in jail, or both.<sup>33</sup> However, the penalty provisions in Florida law apply to “[a]ny person who willfully” commits the violations.<sup>34</sup> This application of the “willfully” standard of intent in the state penalties is inconsistent with the requirements in the federal regulations, which do not contain such a standard.

### III. Effect of Proposed Changes:

**Sections 1-21** amend sections of the Florida Statutes containing various penalties for violations of environmental laws. In general, the bill increases the required or maximum penalties in the provisions listed below. In most cases, the penalties are increased by 50 percent.

Several places in existing law impose a penalty for each offense, with each day during which a violation occurs constituting a separate offense. The bill changes that standard to: each day

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<sup>27</sup> Section 373.4146(2) and (5), F.S.

<sup>28</sup> 40 C.F.R. ss. 233.10-233.16.

<sup>29</sup> 40 C.F.R. s. 233.41(a)(3)(iii).

<sup>30</sup> 40 C.F.R. s. 233.41(b)(1).

<sup>31</sup> 40 C.F.R. s. 233.41(b)(2).

<sup>32</sup> Sections 373.430(1)(c) and (5) and 403.161(1)(c) and (5), F.S.

<sup>33</sup> Sections 373.403(5) and 403.161(5), F.S.

<sup>34</sup> *Id.*

during which a violation occurs or is not remediated,<sup>35</sup> until a violation is resolved by order or judgment. This standard is changed in several sections and created in others.

The table below summarizes existing penalties and the penalties as revised by the bill. All penalties are levied by the Department of Environmental Protection (DEP) unless otherwise specified.

| Florida Statutes  | Violations   | Existing Penalties  | Changes in SB 1450  |
|-------------------|--|---|---|
| 161.054 (1), F.S. | Violating statutes, rules or orders regarding coastal construction   | An administrative fine for each offense of up to \$10,000.<br><br>Each day during any portion of which a violation occurs constitutes a separate offense. | An administrative fine for each offense of up to \$15,000.<br><br>Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.  |
| 258.397 (7), F.S. | Violating a statute or rules regarding Biscayne Bay Aquatic Preserve | Authorizes the Department of Legal Affairs to bring an action for civil penalties of \$5,000 per day.   | Authorizes the Department of Legal Affairs to bring an action for civil penalties of \$7,500 per day.<br><br>Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense. |
| 258.46, F.S.      | Violating the Florida Aquatic Preserve Act or related rules          | A civil penalty of not less than \$500 per day and not more than \$5,000 per day of a violation.  | A civil penalty of not less than \$750 per day and not more than \$7,500 per day of a violation.<br><br>Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.      |
| 373.129 (5), F.S. | Violating ch. 373, F.S., relating to water resources                 | Authorizes DEP, any water management district, any local board, or certain local  | Authorizes DEP, any water management district, any local board, or certain local governments to recover a civil   |

<sup>35</sup> The word “remediation” can refer to a large range of activities and timescales. In environmental law, remediation is generally described as restoring land, water, or air to its former state following some harm or pollution; *see* BLACK’S LAW DICTIONARY 1407 (9th ed. 2009).

| Florida Statutes          | Violations  | Existing Penalties  | Changes in SB 1450  |
|---------------------------|---|---|---|
|                           |   | governments <sup>36</sup> to recover a civil penalty for each offense, in an amount not to exceed \$10,000 per offense.<br><br>Each date during which a violation occurs constitutes a separate offense.  | penalty for each offense, in an amount not to exceed \$15,000 per offense.<br><br>Until a violation is resolved by order or judgment, each date during any portion of which a violation occurs or is not remediated constitutes a separate offense.   |
| 373.209 (3)(b), F.S.      | Violating a statute regarding artesian wells  | A civil penalty of \$100 per day for each day of a violation and each act of a violation.   | A civil penalty of \$150 per day for each day of a violation and each act of a violation.   |
| 373.430 (3), F.S.         | Violating statutes regarding surface waters by willfully causing pollution  | A fine of not more than \$50,000 or imprisonment for 5 years, or both, for each offense.<br><br>Each day during any portion of which a violation occurs constitutes a separate offense.   | A fine of not more than \$50,000 or imprisonment for 5 years, or both, for each offense.<br><br>Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.  |
| 373.430 (4) and (5), F.S. | Violating statutes regarding surface waters by causing pollution due to reckless indifference or gross careless disregard | A fine of not more than \$5,000 or 60 days in jail, or both, for each offense: causing certain pollution.<br><br>A fine of not more than \$10,000, 6 months in jail, or both for willfully committing the following violation: knowingly falsifying required documentation or falsifying, tampering with, or rendering inaccurate required monitoring devices or methods. | A fine of not more than \$10,000 or 60 days in jail, or both, for each offense: causing certain pollution; failing to obtain any permit; or violating or failing to comply with any rule, regulation, order, or permit.<br><br>A fine of not more than \$10,000, 6 months in jail, or both for committing the following violation: knowingly falsifying required documentation or falsifying, tampering with, or rendering inaccurate required monitoring devices or methods. |

<sup>36</sup> Section 373.103(8), F.S. Under certain circumstances, DEP may authorize a water management district to delegate to a local government by rule or agreement the power and duty to administer and enforce any of the statutes, rules, or regulations relating to stormwater permitting or surface water management which the district is authorized or required to administer.

| Florida Statutes                    | Violations  | Existing Penalties   | Changes in SB 1450   |
|-------------------------------------|---|--|--|
| 376.065 (5)(a) and (e), F.S.        | Violating a statute regarding terminal facility certifications                      | <p>A civil penalty of \$500 for any violation of the section or a certification.</p> <p>A civil penalty of \$500 imposed by a county court if commission of the infraction is proved.</p>  | <p>A civil penalty of \$750 for any violation of the section or a certification.</p> <p>A civil penalty of \$750 imposed by a county court if commission of the infraction is proved.</p>  |
| 376.071 (2)(a) and (e), F.S.        | Violations regarding discharge contingency plans for vessels                        | <p>A civil penalty of \$5,000 for each infraction.</p> <p>A civil penalty of \$5,000 imposed by a county court if commission of the infraction is proved.</p>  | <p>A civil penalty of \$7,500 for each infraction.</p> <p>A civil penalty of \$7,500 imposed by a county court if commission of the infraction is proved.</p>  |
| 376.16 (1), F.S.                    | Violating the Pollutant Discharge Prevention and Control Act or DEP rules or orders | <p>A civil penalty of up to \$50,000 per violation per day.</p> <p>Each day during any portion of which a violation occurs constitutes a separate offense.</p>   | <p>A civil penalty of up to \$75,000 per violation per day.</p> <p>Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.</p>  |
| 376.16 (2), (3), (7), and (8), F.S. | Violating the Pollutant Discharge Prevention and Control Act or DEP rules or orders | <p>In addition to the penalty in subsection (1), for persons responsible for two or more discharges within a 12-month period at the same facility, the statute provides the following penalties:</p> <ul style="list-style-type: none"> <li>Gasoline/diesel over 5 gallons - a civil penalty of \$500 for the second discharge and \$1,000 for each subsequent discharge within a 12-month period.</li> <li>Other pollutants - a civil penalty of \$2,500 for the second discharge and \$5,000 for each subsequent discharge within a 12-month period.</li> </ul> <p>For persons responsible for two or more discharges within a 12-month period at the same facility,</p> | <p>In addition to the penalty in subsection (1), for persons responsible for two or more discharges within a 12-month period at the same facility, the statute provides the following penalties:</p> <ul style="list-style-type: none"> <li>Gasoline/diesel over 5 gallons - a civil penalty of \$750 for the second discharge and \$1,500 for each subsequent discharge within a 12-month period.</li> <li>Other pollutants - a civil penalty of \$3,750 for the second discharge and \$7,500 for each subsequent discharge within a 12-month period.</li> </ul> <p>For persons responsible for two or more discharges within a 12-month period at the same facility,</p> |

| Florida Statutes    | Violations   | Existing Penalties  | Changes in SB 1450  |
|---------------------|--|---|---|
|                     |  | <p>the statute provides the following penalties:</p> <ul style="list-style-type: none"> <li>• Gasoline/diesel equal to or less than 5 gallons - a civil penalty of \$50 for each discharge subsequent to the first.</li> <li>• Other pollutants equal to or less than 5 gallons - a civil penalty of \$100 for each discharge subsequent to the first.</li> </ul> <p>Authorizes the county court to impose the following civil penalties if the commission of an infraction is proved: up to \$500 for the second discharge of gasoline/diesel and up to \$1,000 for each subsequent discharge of gasoline/diesel within a 12-month period; up to \$5,000 for the second discharge of other pollutants and up to \$10,000 for each subsequent discharge within a 12-month period.</p> | <p>the statute provides the following penalties:</p> <ul style="list-style-type: none"> <li>• Gasoline/diesel equal to or less than 5 gallons - a civil penalty of \$75 for each discharge subsequent to the first;</li> <li>• Other pollutants equal to or less than 5 gallons - a civil penalty of \$150 for each discharge subsequent to the first.</li> </ul> <p>Authorizes the county court to impose the following civil penalties if the commission of an infraction is proved: up to \$750 for the second discharge of gasoline/diesel and up to \$1,500 for each subsequent discharge of gasoline/diesel within a 12-month period; up to \$7,500 for the second discharge of other pollutants and up to \$15,000 for each subsequent discharge within a 12-month period.</p> |
| 376.25 (6)(a), F.S. | Violating a statute regarding gambling vessels   | A civil penalty of not more than \$50,000 for each violation.   | <p>A civil penalty of not more than \$75,000 for each violation.</p> <p>Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.</p>  |
| 377.37 (1)(a), F.S. | Violating statutory provisions, rules, orders or permits regarding oil and gas resources | <p>A civil penalty of not more than \$10,000 for each offense.</p> <p>Each day during any portion of which a violation occurs constitutes a separate offense.</p>   | <p>A civil penalty of not more than \$15,000 for each offense.</p> <p>Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.</p>  |

| Florida Statutes            | Violations  | Existing Penalties  | Changes in SB 1450  |
|-----------------------------|---|---|---|
| 378.211 (2), F.S.           | Violating statutes, rules, or orders regarding land reclamation | <p>A civil penalty of \$100 per violation of a minor or technical nature; \$1,000 per major violation by an operator on which a penalty has not been imposed during the 5 previous years; and \$5,000 per major violation not otherwise covered.</p> <p>Each day or any portion thereof in which a violation continues constitutes a separate violation.<sup>37</sup></p> | <p>A civil penalty of \$150 per violation of a minor or technical nature; \$1,500 per major violation by an operator on which a penalty has not been imposed during the 5 previous years; and \$7,500 per major violation not otherwise covered.</p> <p>Until a violation is resolved by order or judgment, each day or any portion thereof in which a violation continues or is not remediated constitutes a separate violation.</p> |
| 403.086 (2), F.S.           | Violating orders regarding sanitary sewage disposal             | A civil penalty of \$500 for each 24-hour day or fraction thereof that the failure is allowed to continue.  | A civil penalty of \$750 for each 24-hour day or fraction thereof that the failure is allowed to continue.  |
| 403.121 (1)(b), F.S.        | Violating ch. 403, F.S., regarding environmental control        | <p>For judicial remedies - authorizes DEP to judicially pursue and recover a civil penalty of not more than \$10,000 per offense.</p> <p>Each day during any portion of which a violation occurs constitutes a separate offense.</p>  | <p>For judicial remedies - authorizes DEP to judicially pursue and recover a civil penalty of not more than \$15,000 per offense.</p> <p>Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.</p>   |
| 403.121 (2)(b) and (g) F.S. | Violating ch. 403, F.S., regarding environmental control        | For administrative remedies - (except for violations involving hazardous wastes, asbestos, or underground injection) DEP must proceed administratively when seeking administrative penalties not exceeding \$10,000 per assessment.   | For administrative remedies - (except for violations involving hazardous wastes, asbestos, or underground injection) DEP must proceed administratively when seeking administrative penalties not exceeding \$50,000 per assessment.   |

<sup>37</sup> Section 378.211(4), F.S. These civil penalties do not begin to accrue until the expiration of a specified time for initiating corrective action, set forth in a written notice of violation issued by DEP.

| Florida Statutes                   | Violations   | Existing Penalties  | Changes in SB 1450  |
|------------------------------------|--|---|---|
|                                    |  | <p>DEP may not impose penalties in excess of \$10,000 in a notice of violation.</p> <p>DEP retains the authority to judicially pursue penalties in excess of \$10,000 for violations not included in the penalty schedule, or for multiple or multiday violations alleged to exceed a total of \$10,000.</p> <p>Any case filed in state court because it is alleged to exceed a total of \$10,000 in penalties may be settled in the court action for less than \$10,000.</p> | <p>DEP may not impose penalties in excess of \$50,000 in a notice of violation.</p> <p>DEP retains the authority to judicially pursue penalties in excess of \$50,000 for violations not included in the penalty schedule, or for multiple or multiday violations alleged to exceed a total of \$50,000.</p> <p>Any case filed in state court because it is alleged to exceed a total of \$50,000 in penalties may be settled in the court action for less than \$50,000.</p> |
| 403.121 (3)(a), F.S. <sup>38</sup> | Administrative penalty schedule: violations regarding drinking water contamination | <p>\$2,000 for a Maximum Containment Level violation; plus \$1,000 for a primary, inorganic, organic, or radiological Maximum Contaminant Level or fecal coliform bacteria violation; plus \$1,000 if the violation occurs at a community water system; plus \$1,000 if any Maximum Contaminant Level is exceeded by more than 100 percent.</p> <p>\$3,000 for failure to obtain a clearance letter before placing an ineligible drinking water system into service.</p>      | <p>\$3,000 for a Maximum Containment Level violation; plus \$1,500 for a primary, inorganic, organic, or radiological Maximum Contaminant Level or fecal coliform bacteria violation; plus \$1,500 if the violation occurs at a community water system; plus \$1,500 if any Maximum Contaminant Level is exceeded by more than 100 percent.</p> <p>\$4,500 for failure to obtain a clearance letter before placing an ineligible drinking water system into service.</p>      |
| 403.121 (3)(b), F.S.               | Administrative penalty schedule: violations regarding wastewater                   | <p>\$1,000 for failure to obtain a required wastewater permit (other than a permit for surface water discharge).</p> <p>\$2,000 for an unlawful discharge or exceedance resulting in a domestic or industrial wastewater violation (not involving a surface</p>   | <p>\$1,500 for failure to obtain a required wastewater permit (other than a permit for surface water discharge).</p> <p>\$3,000 for an unlawful discharge or exceedance resulting in a domestic or industrial wastewater violation (not involving a surface</p>   |

<sup>38</sup> Section 403.121(3), F.S. The administrative penalties in this subsection do not apply to hazardous waste, asbestos, or underground injection.



| Florida Statutes     | Violations  | Existing Penalties  | Changes in SB 1450  |
|----------------------|---|---|---|
|                      |   | <p>water or groundwater quality violation).</p> <p>\$5,000 for an unlawful discharge or exceedance resulting in a surface water or groundwater quality violation.</p>   | <p>water or groundwater quality violation).</p> <p>\$7,500 for an unlawful discharge or exceedance resulting in a surface water or groundwater quality violation.</p>   |
| 403.121 (3)(c), F.S. | Administrative penalty schedule: violations regarding dredge and fill or stormwater | <p>\$1,000 for an unlawful dredging, filling, or construction of a stormwater management system; plus \$2,000 if the dredging or filling occurs in an aquatic preserve, an Outstanding Florida water, a conservation easement, or a Class I or Class II surface water; plus \$1,000 if the area dredged or filled is greater than .25 acres but less than or equal to .5 acres; plus \$1,000 if the area dredged or filled is greater than .5 acres but less than or equal to 1 acre.</p> <p>\$3,000 for failure to complete required mitigation, record a required conservation easement, or for a water quality violation resulting from dredging and filling activities, stormwater construction activities or failure of a stormwater treatment facility.</p> <p>\$2,000 (stormwater systems serving less than 5 acres) for failure to properly or timely construct a stormwater treatment system.</p> <p>\$5,000 per violation, in addition to the above penalties, for conducting unlawful dredging or filling.</p> | <p>\$1,500 for an unlawful dredging, filling, or construction of a stormwater management system; plus \$3,000 if the dredging or filling occurs in an aquatic preserve, an Outstanding Florida water, a conservation easement, or a Class I or Class II surface water; plus \$1,500 if the area dredged or filled is greater than .25 acres but less than or equal to .5 acres; plus \$1,500 if the area dredged or filled is greater than .5 acres but less than or equal to 1 acre.</p> <p>\$4,500 for failure to complete required mitigation, record a required conservation easement, or for a water quality violation resulting from dredging and filling activities, stormwater construction activities or failure of a stormwater treatment facility.</p> <p>\$3,000 (stormwater systems serving less than 5 acres) for failure to properly or timely construct a stormwater treatment system.</p> <p>\$7,500 per violation, in addition to the above penalties, for conducting unlawful dredging or filling.</p> |
| 403.121 (3)(d), F.S. | Administrative penalty schedule:  | \$5,000 per violation for conducting mangrove trimming or alterations without a permit.   | \$7,500 per violation for conducting mangrove trimming or alterations without a permit.   |

| Florida Statutes     | Violations  | Existing Penalties   | Changes in SB 1450   |
|----------------------|---|--|--|
|                      | violations regarding mangrove trimming  |  |  |
| 403.121 (3)(e), F.S. | Administrative penalty schedule: violations regarding solid waste                                     | <p>\$2,000 for unlawful disposal or storage of solid waste; plus \$1,000 for Class I or III or construction and demolition debris in excess of 20 cubic yards; plus \$1,000 if the waste is disposed of or stored in a waterbody or within 500 feet of a potable water well; plus \$1,000 if the waste contains certain amounts of PCB, untreated biomedical waste, friable asbestos, used oil, or lead acid batteries.</p> <p>\$3,000 for failure to maintain leachate control, unauthorized burning, failure to have a trained spotter on duty, or failure to provide access control for three consecutive inspections.</p> <p>\$2,000 for failure to construct or maintain a required stormwater management system.</p> | <p>\$3,000 for unlawful disposal or storage of solid waste; plus \$1,000 for Class I or III or construction and demolition debris in excess of 20 cubic yards; plus \$1,500 if the waste is disposed of or stored in a waterbody or within 500 feet of a potable water well; plus \$1,500 if the waste contains certain amounts of PCB, untreated biomedical waste, friable asbestos, used oil, or lead acid batteries.</p> <p>\$4,500 for failure to maintain leachate control, unauthorized burning, failure to have a trained spotter on duty, or failure to provide access control for three consecutive inspections.</p> <p>\$3,000 for failure to construct or maintain a required stormwater management system.</p> |
| 403.121 (3)(f), F.S. | Administrative penalty schedule: violations regarding air emissions                                   | \$1,000 for an unlawful air emission or exceedance; plus \$3,000 for emissions from the major source of the violating pollutant; plus \$1,000 if over 150% of the allowable level.   | \$1,500 for an unlawful air emission or exceedance; plus \$4,500 for emissions from the major source of the violating pollutant; plus \$1,500 if over 150% of the allowable level.   |
| 403.121 (3)(g), F.S. | Administrative penalty schedule: violations regarding storage tank system and petroleum contamination | \$5,000 for failure to empty a damaged storage system as necessary to ensure a release does not occur until repairs are completed, when a release has occurred, failure to timely recover free product, or failure to conduct remediation or monitoring activities until a no-further-action   | \$7,500 for failure to empty a damaged storage system as necessary to ensure a release does not occur until repairs are completed, when a release has occurred, failure to timely recover free product, or failure to conduct remediation or monitoring activities until a no-further-action   |

| Florida Statutes  | Violations   | Existing Penalties   | Changes in SB 1450   |
|-------------------|--|--|--|
|                   |  | <p>or site-rehabilitation completion order has been issued.</p> <p>\$3,000 for failure to timely upgrade a storage tank system.</p> <p>\$2,000 for failure to conduct or maintain required release detection, failure to timely investigate a suspected release, depositing motor fuel into an unregistered storage tank system, failure to timely assess or remediate petroleum contamination, or failure to properly install a storage tank system.</p> <p>\$1,000 for failure to properly operate, maintain, or close a storage tank system.</p>  | <p>or site-rehabilitation completion order has been issued.</p> <p>\$4,500 for failure to timely upgrade a storage tank system.</p> <p>\$3,000 for failure to conduct or maintain required release detection, failure to timely investigate a suspected release, depositing motor fuel into an unregistered storage tank system, failure to timely assess or remediate petroleum contamination, or failure to properly install a storage tank system.</p> <p>\$1,500 for failure to properly operate, maintain, or close a storage tank system.</p>  |
| 403.121 (4), F.S. | Violating ch. 403, F.S., regarding environmental control | <p>In administrative proceedings, in addition to penalties assessed under subsection (3):</p> <ul style="list-style-type: none"> <li>• \$5,000 for failure to satisfy financial responsibility requirements or for oil and gas pollution violations.</li> <li>• \$4,000 for failure to install, maintain, or use a required pollution control system or device.</li> <li>• \$3,000 for failure to obtain a required permit before construction or modification.</li> <li>• \$2,000 for failure to conduct required monitoring or testing, conduct required release detection, or construct in compliance with a permit.</li> <li>• \$1,000 for failure to maintain required staff to respond to emergencies, failure to conduct required training, failure to</li> </ul> | <p>In administrative proceedings, in addition to penalties assessed under subsection (3):</p> <ul style="list-style-type: none"> <li>• \$7,500 for failure to satisfy financial responsibility requirements or for oil and gas pollution violations.</li> <li>• \$6,000 for failure to install, maintain, or use a required pollution control system or device.</li> <li>• \$4,500 for failure to obtain a required permit before construction or modification.</li> <li>• \$3,000 for failure to conduct required monitoring or testing, conduct required release detection, or construct in compliance with a permit.</li> <li>• \$1,500 for failure to maintain required staff to respond to emergencies, failure to conduct required training, failure to</li> </ul> |

| Florida Statutes                     | Violations   | Existing Penalties  | Changes in SB 1450  |
|--------------------------------------|--|---|---|
|                                      |  | <p>prepare, maintain, or update required contingency plans, failure to adequately respond to emergencies to bring an emergency situation under control, or failure to submit required notification to DEP.</p> <ul style="list-style-type: none"> <li>• \$500 for failure to prepare, submit, maintain, or use required reports or documentation.</li> </ul>  | <p>prepare, maintain, or update required contingency plans, failure to adequately respond to emergencies to bring an emergency situation under control, or failure to submit required notification to DEP.</p> <ul style="list-style-type: none"> <li>• \$750 for failure to prepare, submit, maintain, or use required reports or documentation.</li> </ul>  |
| 403.121 (5), (7), (8), and (9), F.S. | Violating ch. 403, F.S., regarding environmental control | <p>A penalty of \$500 for failure to comply with any other department regulatory statute or rule.</p> <p>A violator's history of noncompliance for any previous violation found in an executed consent order finding violation, or resulting in a final order or judgment involving the imposition of \$2,000 must be taken into consideration in a manner specified in statute.</p> <p>The total administrative penalty, including direct economic benefit gained by the violator that is added to the scheduled administrative penalty, may not exceed \$10,000.</p> <p>The administrative penalties for a particular violation that are assessed against any one violator may not exceed \$5,000, unless there is a history of noncompliance, the economic benefit exceeds \$5,000, or there are multiday violations. Total administrative penalties may not exceed \$10,000 per assessment for all violations attributable to a</p> | <p>A penalty of \$1,000 for failure to comply with any other department regulatory statute or rule.</p> <p>A violator's history of noncompliance for any previous violation found in an executed consent order finding violation, or resulting in a final order or judgment involving the imposition of \$3,000 must be taken into consideration in a manner specified in statute.</p> <p>The total administrative penalty, including direct economic benefit gained by the violator that is added to the scheduled administrative penalty, may not exceed \$15,000.</p> <p>The administrative penalties for a particular violation that are assessed against any one violator may not exceed \$7,500, unless there is a history of noncompliance, the economic benefit exceeds \$7,500, or there are multiday violations. Total administrative penalties may not exceed \$50,000 per assessment for all violations attributable to a</p> |

| Florida Statutes          | Violations   | Existing Penalties  | Changes in SB 1450   |
|---------------------------|--|---|--|
|                           |  | specific person in a notice of violation.   | specific person in a notice of violation.  |
| 403.141 (1), F.S.         | Violating ch. 403, F.S., regarding environmental control, by committing prohibited acts                          | <p>A civil penalty for each offense in an amount not to exceed \$10,000.</p> <p>Each day during any portion of which a violation occurs constitutes a separate offense.</p>   | <p>A civil penalty for each offense in an amount not to exceed \$15,000.</p> <p>Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.</p>   |
| 403.161 (3) and (5), F.S. | Violating ch. 403, F.S., regarding environmental control, by willfully causing pollution                         | <p>A fine of not more than \$50,000 or imprisonment for five years, or both, for each offense.</p> <p>Each day during any portion of which a violation occurs constitutes a separate offense.</p> <p>A fine of not more than \$10,000, 6 months in jail, or both for willfully committing the following violation: knowingly falsifying required documentation or falsifying, tampering with, or rendering inaccurate required monitoring devices or methods.</p> | <p>A fine of not more than \$50,000 or imprisonment for five years, or both, for each offense.</p> <p>Until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.</p> <p>A fine of not more than \$10,000, 6 months in jail, or both for committing the following violation: knowingly falsifying required documentation or falsifying, tampering with, or rendering inaccurate required monitoring devices or methods.</p> |
| 403.161 (4), F.S.         | Violating ch. 403, F.S., regarding environmental control, by committing prohibited acts specified in the statute | A violation causing pollution due to reckless indifference or gross careless disregard is punishable by a fine of not more than \$5,000 or 60 days in jail, or both, for each offense.  | A violation causing pollution; failure to obtain a permit required under Ch. 403, F.S., or rules; or violating any rule, order, permit or certification adopted or issued by DEP due to reckless indifference or gross careless disregard is punishable by a fine of not more than \$10,000 or 60 days in jail, or both, for each offense.   |
| 403.413 (6)(a), F.S.      | Dumping litter   | A civil penalty of \$100 for dumping litter (not for commercial purposes) not exceeding 15 pounds or 27 cubic feet.   | A civil penalty of \$150 for dumping litter (not for commercial purposes) not exceeding 15 pounds or 27 cubic feet.  |

| Florida Statutes                   | Violations  | Existing Penalties   | Changes in SB 1450   |
|------------------------------------|---|--|--|
| 403.7234 (5), F.S.                 | Violations involving small quantity generators                          | A fine of between \$50 and \$100 per day for a maximum of 100 days for a noncompliant small quantity generator.  | A fine of between \$75 and \$150 per day for a maximum of 100 days for a noncompliant small quantity generator.  |
| 403.726 (3), F.S.                  | Violations regarding hazardous waste creating an imminent hazard        | Authorizes DEP to institute action to abate an imminent hazard and may recover a civil penalty of not more than \$25,000 for each day of continued violation.  | Authorizes DEP to institute action to abate an imminent hazard and may recover a civil penalty of not more than \$37,000 for each day until a violation is resolved by order or judgment.  |
| 403.727 (3)(a), F.S.               | Violations regarding hazardous waste                                    | A civil penalty of not more than \$50,000 for each day of continued violation.   | A civil penalty of not more than \$75,000 for each day of continued violation or until a violation is resolved by order or judgment.   |
| 403.93345 (8)(a)-(c) and (g), F.S. | Civil penalty schedule: violating the Florida Coral Reef Protection Act | <p>Damage to a coral reef less than or equal to 1 square meter: \$150; additional \$150 with aggravating circumstances; additional \$150 if occurring within a state park or aquatic preserve.</p> <p>Damage to a coral reef of more than 1 square meter but less than or equal to 10 square meters: \$300 per square meter; additional \$300 per square meter with aggravating circumstances; additional \$300 per square meter if occurring within a state park or aquatic preserve.</p> <p>Damage exceeding an area of 10 square meters: \$1,000 per square meter; additional \$1,000 per square meter with aggravating circumstances; additional \$1,000 per square meter if occurring within a state park or aquatic preserve.</p> <p>The total penalties levied may not exceed \$250,000 per occurrence.</p> | <p>Damage to a coral reef less than or equal to 1 square meter: \$225; additional \$225 with aggravating circumstances; additional \$225 if occurring within a state park or aquatic preserve.</p> <p>Damage to a coral reef of more than 1 square meter but less than or equal to 10 square meters: \$450 per square meter; additional \$450 per square meter with aggravating circumstances; additional \$450 per square meter if occurring within a state park or aquatic preserve.</p> <p>Damage exceeding an area of 10 square meters: \$1,500 per square meter; additional \$1,500 per square meter with aggravating circumstances; additional \$1,500 per square meter if occurring within a state park or aquatic preserve.</p> <p>The total penalties levied may not exceed \$375,000 per occurrence.</p> |

**Sections 22-26** reenact ss. 823.11(5); 403.077(5); 403.131(2); 403.4154(3)(d); 403.860(5); 403.708(10); 403.7191(7); 403.811; 403.7255(2); and 403.7186(8), F.S. This reenactment is done for the purpose of incorporating certain amendments made by the bill, as the reenacted provisions reference sections of law that are amended by the bill.

**Section 27** states that the bill takes effect July 1, 2020.

#### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

The vagueness doctrine was developed to ensure compliance with the Due Process Clause in the Fifth Amendment of the United States Constitution, and Florida's Constitution includes a similar due process guarantee.<sup>39</sup> The vagueness doctrine provides that a statute must give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, and it must provide explicit standards for those who apply them to avoid arbitrary and discriminatory enforcement.<sup>40</sup> A statute is void for vagueness when, because of its imprecision, it fails to give an adequate notice of what conduct is prohibited.<sup>41</sup> Thus, it invites arbitrary and discriminatory enforcement.<sup>42</sup> A statute is not void for vagueness if the language conveys a sufficiently definite warning as to the proscribed conduct when measured by common understanding and practices.<sup>43</sup> However, the Supreme Court has indicated that a statute giving fair notice of the prohibited conduct can still be void for vagueness if it lends itself to arbitrary enforcement.<sup>44</sup> The need for definiteness is even greater when a law imposes criminal penalties on individual behavior or implicates constitutionally protected rights.<sup>45</sup>

<sup>39</sup> *Simmons v. State*, 944 So.2d 317, 324 (Fla. 2006).

<sup>40</sup> *Florida Ass'n of Professional Lobbyists, Inc. v. Div. of Legislative Info. Services of the Florida Office of Legislative Services*, 525 F.3d 1073, 1078 (11th Cir. 2008) (quoting *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972)).

<sup>41</sup> *Sult v. State*, 906 So.2d 1013, 1020 (Fla. 2005).

<sup>42</sup> *Id.*

<sup>43</sup> *Simmons*, 944 at 324.

<sup>44</sup> *Id.*; see *Kolender v. Lawson*, 461 U.S. 352, 358 (1983).

<sup>45</sup> *Simmons*, 944 at 324.

In several places in the bill, a penalty standard is revised or added such that “until a violation is resolved by order or judgment, each day during any portion of which a violation occurs or is not remediated constitutes a separate offense.” In such instances, the meaning of the word “remediated” is crucial for determining the number of separate offenses. This term is undefined in the statutes amended by the bill. This condition is applied to criminal penalties in addition to administrative and civil penalties.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill increases numerous penalties for violations of environmental laws. In some instances, the bill also expands the potential time period when each passing day may constitute a separate offense. Overall, the bill increases the penalties that the private sector must pay for violations of environmental laws.

**C. Government Sector Impact:**

The bill increases the amounts of numerous penalties. If imposed, the funds from such penalties would increase revenue to the state. Therefore, the bill may have a positive, indeterminate impact on the government sector.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

In sections of the bill containing “[u]ntil a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense,” or similar language, a definition for the word “remediated” is recommended.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 161.054, 258.397, 258.46, 373.129, 373.209, 373.430, 376.065, 376.071, 376.16, 376.25, 377.37, 378.211, 403.086, 403.121, 403.141, 403.161, 403.413, 403.7234, 403.726, 403.727, 403.93345.

This bill reenacts parts or all of the following sections of the Florida Statutes: 823.11, 403.077, 403.131, 403.4154, 403.860, 403.708, 403.7191, 403.811, 403.7255, 403.7186.



**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Environment and Natural Resources Committee on January 27, 2020:**

- Removes the “willfully” standard of intent from applying to criminal penalties in two sections of Florida’s environmental statutes. The penalties apply to violations of knowingly falsifying documents or tampering with required monitoring. DEP’s authority to seek criminal fines for such falsification or tampering is required by the federal regulations for state assumption of the 404 dredge and fill program. Applying a “willfully” standard to the penalties is not consistent with the federal regulations, so the bill removes the standard.
- Revises the title of the bill to more accurately describe the contents of the bill.

**B. Amendments:**

None.

1                   A bill to be entitled  
2       An act relating to environmental enforcement; amending  
3       s. 161.054, F.S.; revising administrative penalties  
4       for violations of certain provisions relating to beach  
5       and shore construction and activities; providing that  
6       each day that certain violations occur or are not  
7       remediated constitutes a separate offense until such  
8       violations are resolved by order or judgment; making  
9       technical changes; amending ss. 258.397, 258.46,  
10      373.129, 376.16, 376.25, 377.37, 378.211, and 403.141,  
11      F.S.; revising civil penalties for violations of  
12      certain provisions relating to the Biscayne Bay  
13      Aquatic Preserve, aquatic preserves, water resources,  
14      the Pollutant Discharge Prevention and Control Act,  
15      the Clean Ocean Act, regulation of oil and gas  
16      resources, the Phosphate Land Reclamation Act, and  
17      other provisions relating to pollution and the  
18      environment, respectively; providing that each day  
19      that certain violations occur or are not remediated  
20      constitutes a separate offense until such violations  
21      are resolved by order or judgment; making technical  
22      changes; amending ss. 373.209, 376.065, 376.071,  
23      403.086, 403.413, 403.7234, and 403.93345, F.S.;  
24      revising civil penalties for violations of certain  
25      provisions relating to artesian wells, terminal

26 facilities, discharge contingency plans for vessels,  
27 sewage disposal facilities, dumping litter, small  
28 quantity generators, and coral reef protection,  
29 respectively; making technical changes; amending ss.  
30 373.430 and 403.161, F.S.; revising criminal penalties  
31 for violations of certain provisions relating to  
32 pollution and the environment; making technical  
33 changes; amending s. 403.121, F.S.; revising civil and  
34 administrative penalties for violations of certain  
35 provisions relating to pollution and the environment;  
36 providing that each day that certain violations occur  
37 or are not remediated constitutes a separate offense  
38 until such violations are resolved by order or  
39 judgment; increasing the amount of penalties that can  
40 be assessed administratively; making technical  
41 changes; amending ss. 403.726 and 403.727, F.S.;  
42 revising civil penalties for violations of certain  
43 provisions relating to hazardous waste for each day  
44 that certain violations occur and are not resolved by  
45 order or judgment; making technical changes;  
46 reenacting s. 823.11(5), F.S., to incorporate the  
47 amendment made to s. 376.16, F.S., in a reference  
48 thereto; reenacting ss. 403.077(5), 403.131(2),  
49 403.4154(3)(d), and 403.860(5), F.S., to incorporate  
50 the amendment made to s. 403.121, F.S., in a reference

thereto; reenacting ss. 403.708(10), 403.7191(7), and 403.811, F.S., to incorporate the amendment made to s. 403.141, F.S., in a reference thereto; reenacting s. 403.7255(2), F.S., to incorporate the amendment made to s. 403.161, F.S., in a reference thereto; reenacting s. 403.7186(8), F.S., to incorporate the amendment made to ss. 403.141 and 403.161, F.S., in references thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 161.054, Florida Statutes, is amended to read:

161.054 Administrative fines; liability for damage; liens.—

(1) In addition to the penalties provided for in ss. 161.052, 161.053, and 161.121, any person, firm, corporation, or governmental agency, or agent thereof, refusing to comply with or willfully violating ~~any of the provisions of~~ s. 161.041, s. 161.052, or s. 161.053, or any rule or order prescribed by the department thereunder, shall incur a fine for each offense in an amount up to \$15,000 ~~\$10,000~~ to be fixed, imposed, and collected by the department. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense.

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76           Section 2. Subsection (7) of section 258.397, Florida  
77 Statutes, is amended to read:

78           258.397 Biscayne Bay Aquatic Preserve.—

79           (7) ENFORCEMENT.—~~The provisions of~~ This section may be  
80 enforced in accordance with ~~the provisions of~~ s. 403.412. In  
81 addition, the Department of Legal Affairs may ~~is authorized to~~  
82 bring an action for civil penalties of \$7,500 ~~\$5,000~~ per day  
83 against any person, natural or corporate, who violates ~~the~~  
84 ~~provisions of~~ this section or any rule or regulation issued  
85 hereunder. Until a violation is resolved by order or judgment,  
86 each day during any portion of which such violation occurs or is  
87 not remediated constitutes a separate offense. Enforcement of  
88 applicable state regulations shall be supplemented by the Miami-  
89 Dade County Department of Environmental Resources Management  
90 through the creation of a full-time enforcement presence along  
91 the Miami River.

92           Section 3. Section 258.46, Florida Statutes, is amended to  
93 read:

94           258.46 Enforcement; violations; penalty.—~~The provisions of~~  
95 This act may be enforced by the Board of Trustees of the  
96 Internal Improvement Trust Fund or in accordance with ~~the~~  
97 ~~provisions of~~ s. 403.412. However, any violation by any person,  
98 natural or corporate, of ~~the provisions of~~ this act or any rule  
99 or regulation issued hereunder is ~~shall be~~ further punishable by  
100 a civil penalty of not less than \$750 ~~\$500~~ per day or more than

101    \$7,500 ~~\$5,000~~ per day of such violation. Until a violation is  
102    resolved by order or judgment, each day during any portion of  
103    which such violation occurs or is not remediated constitutes a  
104    separate offense.

105            Section 4. Subsections (5) and (7) of section 373.129,  
106    Florida Statutes, are amended to read:

107            373.129 Maintenance of actions.—The department, the  
108    governing board of any water management district, any local  
109    board, or a local government to which authority has been  
110    delegated pursuant to s. 373.103(8), is authorized to commence  
111    and maintain proper and necessary actions and proceedings in any  
112    court of competent jurisdiction for any of the following  
113    purposes:

114            (5) To recover a civil penalty for each offense in an  
115    amount not to exceed \$15,000 ~~\$10,000~~ per offense. Until a  
116    violation is resolved by order or judgment, each date during any  
117    portion of which such violation occurs or is not remediated  
118    constitutes a separate offense.

119            (a) A civil penalty recovered by a water management  
120    district pursuant to this subsection shall be retained and used  
121    exclusively by the water management district that collected the  
122    money. A civil penalty recovered by the department pursuant to  
123    this subsection must be deposited into the Water Quality  
124    Assurance Trust Fund established under s. 376.307.

125            (b) A local government that is delegated authority

126 pursuant to s. 373.103(8) may deposit a civil penalty recovered  
127 pursuant to this subsection into a local water pollution control  
128 program trust fund, notwithstanding ~~the provisions of~~ paragraph  
129 (a). However, civil penalties that are deposited in a local  
130 water pollution control program trust fund and that are  
131 recovered for violations of state water quality standards may be  
132 used only to restore water quality in the area that was the  
133 subject of the action, and civil penalties that are deposited in  
134 a local water pollution control program trust fund and that are  
135 recovered for violation of requirements relating to water  
136 quantity may be used only to purchase lands and make capital  
137 improvements associated with surface water management, or other  
138 purposes consistent with the requirements of this chapter for  
139 the management and storage of surface water.

140 (7) To enforce ~~the provisions of~~ part IV of this chapter  
141 in the same manner and to the same extent as provided in ss.  
142 373.430, 403.121(1) and (2), 403.131, 403.141, and 403.161.

143 Section 5. Subsection (3) of section 373.209, Florida  
144 Statutes, is amended to read:

145 373.209 Artesian wells; penalties for violation.—

146 (3) Any person who violates ~~any provision of~~ this section  
147 is ~~shall be~~ subject to either:

148 (a) The remedial measures provided for in s. 373.436; or

149 (b) A civil penalty of \$150 ~~\$100~~ a day for each and every  
150 day of such violation and for each and every act of violation.

151 The civil penalty may be recovered by the water management board  
152 of the water management district in which the well is located or  
153 by the department in a suit in a court of competent jurisdiction  
154 in the county where the defendant resides, in the county of  
155 residence of any defendant if there is more than one defendant,  
156 or in the county where the violation took place. The place of  
157 suit shall be selected by the board or department, and the suit,  
158 by direction of the board or department, shall be instituted and  
159 conducted in the name of the board or department by appropriate  
160 counsel. The payment of any such damages does not impair or  
161 abridge any cause of action which any person may have against  
162 the person violating ~~any provision of~~ this section.

163 Section 6. Subsections (2) through (5) of section 373.430,  
164 Florida Statutes, are amended to read:

165 373.430 Prohibitions, violation, penalty, intent.—

166 (2) A person who ~~Whoever~~ commits a violation specified in  
167 subsection (1) is liable for any damage caused and for civil  
168 penalties as provided in s. 373.129.

169 (3) A ~~Any~~ person who willfully commits a violation  
170 specified in paragraph (1)(a) commits ~~is guilty of~~ a felony of  
171 the third degree, punishable as provided in ss. 775.082(3)(e)  
172 and 775.083(1)(g), by a fine of not more than \$50,000 or by  
173 imprisonment for 5 years, or by both, for each offense. Each day  
174 during any portion of which such violation occurs constitutes a  
175 separate offense.



176 (4) A ~~Any~~ person who commits a violation specified in  
177 paragraph (1)(a) or paragraph (1)(b) due to reckless  
178 indifference or gross careless disregard commits ~~is guilty of~~ a  
179 misdemeanor of the second degree, punishable as provided in ss.  
180 775.082(4)(b) and 775.083(1)(g), by a fine of not more than  
181 \$10,000 ~~\$5,000~~ or 60 days in jail, or by both, for each offense.

182 (5) A ~~Any~~ person who willfully commits a violation  
183 specified in paragraph (1)(b) or who commits a violation  
184 specified in paragraph (1)(c) commits ~~is guilty of~~ a misdemeanor  
185 of the first degree, punishable as provided in ss. 775.082(4)(a)  
186 and 775.083(1)(g), by a fine of not more than \$10,000 or by 6  
187 months in jail, or by both, for each offense.

188 Section 7. Paragraphs (a) and (e) of subsection (5) of  
189 section 376.065, Florida Statutes, are amended to read:

190 376.065 Operation of terminal facility without discharge  
191 prevention and response certificate prohibited; penalty.—

192 (5)(a) A person who violates this section or the terms and  
193 requirements of such certification commits a noncriminal  
194 infraction. The civil penalty for any such infraction shall be  
195 \$750 ~~\$500~~, except as otherwise provided in this section.

196 (e) A person who elects to appear before the county court  
197 or who is required to so appear waives the limitations of the  
198 civil penalty specified in paragraph (a). The court, after a  
199 hearing, shall make a determination as to whether an infraction  
200 has been committed. If the commission of the infraction is

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proved, the court shall impose a civil penalty of \$750 ~~\$500~~.

Section 8. Paragraphs (a) and (e) of subsection (2) of section 376.071, Florida Statutes, are amended to read:

376.071 Discharge contingency plan for vessels.—

(2)(a) A master of a vessel that violates subsection (1) commits a noncriminal infraction and shall be cited for such infraction. The civil penalty for such an infraction shall be \$7,500 ~~\$5,000~~, except as otherwise provided in this subsection.

(e) A person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalty specified in paragraph (a). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of the infraction is proved, the court shall impose a civil penalty of \$7,500 ~~\$5,000~~.

Section 9. Section 376.16, Florida Statutes, is amended to read:

376.16 Enforcement and penalties.—

(1) It is unlawful for any person to violate ~~any provision of~~ ss. 376.011-376.21 or any rule or order of the department made pursuant to this act. A violation is ~~shall be~~ punishable by a civil penalty of up to \$75,000 ~~\$50,000~~ per violation per day to be assessed by the department. Until a violation is resolved by order or judgment, each day during any portion of which the violation occurs or is not remediated constitutes a separate offense. The penalty provisions of this subsection do ~~shall~~ not

226 apply to any discharge promptly reported and removed by a person  
227 responsible, in accordance with the rules and orders of the  
228 department, or to any discharge of pollutants equal to or less  
229 than 5 gallons.

230 (2) In addition to the penalty provisions which may apply  
231 under subsection (1), a person responsible for two or more  
232 discharges of any pollutant reported pursuant to s. 376.12  
233 within a 12-month period at the same facility commits a  
234 noncriminal infraction and shall be cited by the department for  
235 such infraction.

236 (a) For discharges of gasoline or diesel over 5 gallons,  
237 the civil penalty for the second discharge shall be \$750 ~~\$500~~  
238 and the civil penalty for each subsequent discharge within a 12-  
239 month period shall be \$1,500 ~~\$1,000~~, except as otherwise  
240 provided in this section.

241 (b) For discharges of any pollutant other than gasoline or  
242 diesel, the civil penalty for a second discharge shall be \$3,750  
243 ~~\$2,500~~ and the civil penalty for each subsequent discharge  
244 within a 12-month period shall be \$7,500 ~~\$5,000~~, except as  
245 otherwise provided in this section.

246 (3) A person responsible for two or more discharges of any  
247 pollutant reported pursuant to s. 376.12 within a 12-month  
248 period at the same facility commits a noncriminal infraction and  
249 shall be cited by the department for such infraction.

250 (a) For discharges of gasoline or diesel equal to or less

than 5 gallons, the civil penalty shall be \$75 ~~\$50~~ for each discharge subsequent to the first.

(b) For discharges of pollutants other than gasoline or diesel equal to or less than 5 gallons, the civil penalty shall be \$150 ~~\$100~~ for each discharge subsequent to the first.

(4) A person charged with a noncriminal infraction pursuant to subsection (2) or subsection (3) may:

(a) Pay the civil penalty;

(b) Post a bond equal to the amount of the applicable civil penalty; or

(c) Sign and accept a citation indicating a promise to appear before the county court.

The department employee authorized to issue these citations may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.

(5) Any person who willfully refuses to post bond or accept and sign a citation commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(6) After compliance with paragraph (4) (b) or paragraph (4) (c), any person charged with a noncriminal infraction under subsection (2) or subsection (3) may:

(a) Pay the civil penalty, either by mail or in person, within 30 days after the date of receiving the citation; or

(b) If the person has posted bond, forfeit the bond by not

276 appearing at the designated time and location.

277  
278 A person cited for an infraction under this section who pays the  
279 civil penalty or forfeits the bond has admitted the infraction  
280 and waives the right to a hearing on the issue of commission of  
281 the infraction. Such admission may not be used as evidence in  
282 any other proceeding.

283 (7) Any person who elects to appear before the county  
284 court or who is required to appear waives the limitations of the  
285 civil penalties specified in subsection (2). The court, after a  
286 hearing, shall make a determination as to whether an infraction  
287 has been committed. If the commission of an infraction is  
288 proved, the court may impose a civil penalty up to, but not  
289 exceeding, \$750 ~~\$500~~ for the second discharge of gasoline or  
290 diesel and a civil penalty up to, but not exceeding, \$1,500  
291 ~~\$1,000~~ for each subsequent discharge of gasoline or diesel  
292 within a 12-month period.

293 (8) Any person who elects to appear before the county  
294 court or who is required to appear waives the limitations of the  
295 civil penalties specified in subsection (2) or subsection (3).  
296 The court, after a hearing, shall make a determination as to  
297 whether an infraction has been committed. If the commission of  
298 an infraction is proved, the court may impose a civil penalty up  
299 to, but not exceeding, \$7,500 ~~\$5,000~~ for the second discharge of  
300 pollutants other than gasoline or diesel and a civil penalty up

to, but not exceeding, \$15,000 ~~\$10,000~~ for each subsequent discharge of pollutants other than gasoline or diesel within a 12-month period.

(9) At a hearing under this section, the commission of a charged offense must be proved by the greater weight of the evidence.

(10) A person who is found by a hearing official to have committed an infraction may appeal that finding to the circuit court.

(11) Any person who has not posted bond and who neither pays the applicable civil penalty, as specified in subsection (2) or subsection (3) within 30 days of receipt of the citation nor appears before the court commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(12) Any person who makes or causes to be made a false statement that ~~which~~ the person does not believe to be true in response to requirements of ~~the provisions of~~ ss. 376.011-376.21 commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 10. Paragraph (a) of subsection (6) of section 376.25, Florida Statutes, is amended to read:

376.25 Gambling vessels; registration; required and prohibited releases.—

(6) PENALTIES.—

(a) A person who violates this section is subject to a

326 civil penalty of not more than \$75,000 ~~\$50,000~~ for each  
327 violation. Until a violation is resolved by order or judgment,  
328 each day during any portion of which such violation occurs or is  
329 not remediated constitutes a separate offense.

330 Section 11. Paragraph (a) of subsection (1) of section  
331 377.37, Florida Statutes, is amended to read:

332 377.37 Penalties.—

333 (1)(a) Any person who violates ~~any provision of~~ this law  
334 or any rule, regulation, or order of the division made under  
335 this chapter or who violates the terms of any permit to drill  
336 for or produce oil, gas, or other petroleum products referred to  
337 in s. 377.242(1) or to store gas in a natural gas storage  
338 facility, or any lessee, permitholder, or operator of equipment  
339 or facilities used in the exploration for, drilling for, or  
340 production of oil, gas, or other petroleum products, or storage  
341 of gas in a natural gas storage facility, who refuses inspection  
342 by the division as provided in this chapter, is liable to the  
343 state for any damage caused to the air, waters, or property,  
344 including animal, plant, or aquatic life, of the state and for  
345 reasonable costs and expenses of the state in tracing the source  
346 of the discharge, in controlling and abating the source and the  
347 pollutants, and in restoring the air, waters, and property,  
348 including animal, plant, and aquatic life, of the state.  
349 Furthermore, such person, lessee, permitholder, or operator is  
350 subject to the judicial imposition of a civil penalty in an

amount of not more than \$15,000 ~~\$10,000~~ for each offense.  
However, the court may receive evidence in mitigation. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense. This section does not ~~Nothing herein shall~~ give the department the right to bring an action on behalf of any private person.

Section 12. Subsection (2) of section 378.211, Florida Statutes, is amended to read:

378.211 Violations; damages; penalties.—

(2) The department may institute a civil action in a court of competent jurisdiction to impose and recover a civil penalty for violation of this part or of any rule adopted or order issued pursuant to this part. The penalty may ~~shall~~ not exceed the following amounts, and the court shall consider evidence in mitigation:

(a) For violations of a minor or technical nature, \$150 ~~\$100~~ per violation.

(b) For major violations by an operator on which a penalty has not been imposed under this paragraph during the previous 5 years, \$1,500 ~~\$1,000~~ per violation.

(c) For major violations not covered by paragraph (b), \$7,500 ~~\$5,000~~ per violation.

Subject to ~~the provisions of~~ subsection (4), until a violation



376 is resolved by order or judgment, each day or any portion  
377 thereof in which the violation continues or is not remediated  
378 shall constitute a separate violation.

379 Section 13. Subsection (2) of section 403.086, Florida  
380 Statutes, is amended to read:

381 403.086 Sewage disposal facilities; advanced and secondary  
382 waste treatment.—

383 (2) Any facilities for sanitary sewage disposal shall  
384 provide for secondary waste treatment and, in addition thereto,  
385 advanced waste treatment as deemed necessary and ordered by the  
386 Department of Environmental Protection. Failure to conform shall  
387 be punishable by a civil penalty of \$750 ~~\$500~~ for each 24-hour  
388 day or fraction thereof that such failure is allowed to continue  
389 thereafter.

390 Section 14. Section 403.121, Florida Statutes, is amended  
391 to read:

392 403.121 Enforcement; procedure; remedies.—The department  
393 shall have the following judicial and administrative remedies  
394 available to it for violations of this chapter, as specified in  
395 s. 403.161(1).

396 (1) Judicial remedies:

397 (a) The department may institute a civil action in a court  
398 of competent jurisdiction to establish liability and to recover  
399 damages for any injury to the air, waters, or property,  
400 including animal, plant, and aquatic life, of the state caused

401 by any violation.

402 (b) The department may institute a civil action in a court  
403 of competent jurisdiction to impose and to recover a civil  
404 penalty for each violation in an amount of not more than \$15,000  
405 ~~\$10,000~~ per offense. However, the court may receive evidence in  
406 mitigation. Until a violation is resolved by order or judgment,  
407 each day during any portion of which such violation occurs or is  
408 not remediated constitutes a separate offense.

409 (c) Except as provided in paragraph (2)(c), it is ~~shall~~  
410 not be a defense to, or ground for dismissal of, these judicial  
411 remedies for damages and civil penalties that the department has  
412 failed to exhaust its administrative remedies, has failed to  
413 serve a notice of violation, or has failed to hold an  
414 administrative hearing prior to the institution of a civil  
415 action.

416 (2) Administrative remedies:

417 (a) The department may institute an administrative  
418 proceeding to establish liability and to recover damages for any  
419 injury to the air, waters, or property, including animal, plant,  
420 or aquatic life, of the state caused by any violation. The  
421 department may order that the violator pay a specified sum as  
422 damages to the state. Judgment for the amount of damages  
423 determined by the department may be entered in any court having  
424 jurisdiction thereof and may be enforced as any other judgment.

425 (b) If the department has reason to believe a violation

has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties that do not exceed \$50,000 ~~\$10,000~~ per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty assessed pursuant to subsection (3), subsection (4), or subsection (5) against a public water system serving a population of more than 10,000 shall be not less than \$1,000 per day per violation. The department may ~~shall~~ not impose administrative penalties in excess of \$50,000 ~~\$10,000~~ in a notice of violation. The department may ~~shall~~ not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.

(c) An administrative proceeding shall be instituted by the department's serving of a written notice of violation upon the alleged violator by certified mail. If the department is unable to effect service by certified mail, the notice of violation may be hand delivered or personally served in

451 accordance with chapter 48. The notice shall specify the  
452 ~~provision of the~~ law, rule, regulation, permit, certification,  
453 or order of the department alleged to be violated and the facts  
454 alleged to constitute a violation thereof. An order for  
455 corrective action, penalty assessment, or damages may be  
456 included with the notice. When the department is seeking to  
457 impose an administrative penalty for any violation by issuing a  
458 notice of violation, any corrective action needed to correct the  
459 violation or damages caused by the violation must be pursued in  
460 the notice of violation or they are waived. However, an ~~no~~ order  
461 is not ~~shall become~~ effective until after service and an  
462 administrative hearing, if requested within 20 days after  
463 service. Failure to request an administrative hearing within  
464 this time period constitutes ~~shall constitute~~ a waiver thereof,  
465 unless the respondent files a written notice with the department  
466 within this time period opting out of the administrative process  
467 initiated by the department to impose administrative penalties.  
468 Any respondent choosing to opt out of the administrative process  
469 initiated by the department in an action that seeks the  
470 imposition of administrative penalties must file a written  
471 notice with the department within 20 days after service of the  
472 notice of violation opting out of the administrative process. A  
473 respondent's decision to opt out of the administrative process  
474 does not preclude the department from initiating a state court  
475 action seeking injunctive relief, damages, and the judicial

476 imposition of civil penalties.

477 (d) If a person timely files a petition challenging a  
478 notice of violation, that person will thereafter be referred to  
479 as the respondent. The hearing requested by the respondent shall  
480 be held within 180 days after the department has referred the  
481 initial petition to the Division of Administrative Hearings  
482 unless the parties agree to a later date. The department has the  
483 burden of proving with the preponderance of the evidence that  
484 the respondent is responsible for the violation. ~~No~~  
485 Administrative penalties should not be imposed unless the  
486 department satisfies that burden. Following the close of the  
487 hearing, the administrative law judge shall issue a final order  
488 on all matters, including the imposition of an administrative  
489 penalty. When the department seeks to enforce that portion of a  
490 final order imposing administrative penalties pursuant to s.  
491 120.69, the respondent may ~~shall~~ not assert as a defense the  
492 inappropriateness of the administrative remedy. The department  
493 retains its final-order authority in all administrative actions  
494 that do not request the imposition of administrative penalties.

495 (e) After filing a petition requesting a formal hearing in  
496 response to a notice of violation in which the department  
497 imposes an administrative penalty, a respondent may request that  
498 a private mediator be appointed to mediate the dispute by  
499 contacting the Florida Conflict Resolution Consortium within 10  
500 days after receipt of the initial order from the administrative

501 law judge. The Florida Conflict Resolution Consortium shall pay  
502 all of the costs of the mediator and for up to 8 hours of the  
503 mediator's time per case at \$150 per hour. Upon notice from the  
504 respondent, the Florida Conflict Resolution Consortium shall  
505 provide to the respondent a panel of possible mediators from the  
506 area in which the hearing on the petition would be heard. The  
507 respondent shall select the mediator and notify the Florida  
508 Conflict Resolution Consortium of the selection within 15 days  
509 of receipt of the proposed panel of mediators. The Florida  
510 Conflict Resolution Consortium shall provide all of the  
511 administrative support for the mediation process. The mediation  
512 must be completed at least 15 days before the final hearing date  
513 set by the administrative law judge.

514 (f) In any administrative proceeding brought by the  
515 department, the prevailing party shall recover all costs as  
516 provided in ss. 57.041 and 57.071. The costs must be included in  
517 the final order. The respondent is the prevailing party when an  
518 order is entered awarding no penalties to the department and  
519 such order has not been reversed on appeal or the time for  
520 seeking judicial review has expired. The respondent is ~~shall be~~  
521 entitled to an award of attorney's fees if the administrative  
522 law judge determines that the notice of violation issued by the  
523 department seeking the imposition of administrative penalties  
524 was not substantially justified as defined in s. 57.111(3)(e).  
525 An ~~No~~ award of attorney's fees as provided by this subsection

526 may not ~~shall~~ exceed \$15,000.

527 (g) Nothing herein shall be construed as preventing any  
528 other legal or administrative action in accordance with law.  
529 Nothing in this subsection shall limit the department's  
530 authority provided in ss. 403.131, 403.141, and this section to  
531 judicially pursue injunctive relief. When the department  
532 exercises its authority to judicially pursue injunctive relief,  
533 penalties in any amount up to the statutory maximum sought by  
534 the department must be pursued as part of the state court action  
535 and not by initiating a separate administrative proceeding. The  
536 department retains the authority to judicially pursue penalties  
537 in excess of \$50,000 ~~\$10,000~~ for violations not specifically  
538 included in the administrative penalty schedule, or for multiple  
539 or multiday violations alleged to exceed a total of \$50,000  
540 ~~\$10,000~~. The department also retains the authority provided in  
541 ss. 403.131, 403.141, and this section to judicially pursue  
542 injunctive relief and damages, if a notice of violation seeking  
543 the imposition of administrative penalties has not been issued.  
544 The department has the authority to enter into a settlement,  
545 either before or after initiating a notice of violation, and the  
546 settlement may include a penalty amount different from the  
547 administrative penalty schedule. Any case filed in state court  
548 because it is alleged to exceed a total of \$50,000 ~~\$10,000~~ in  
549 penalties may be settled in the court action for less than  
550 \$50,000 ~~\$10,000~~.

551           (h) Chapter 120 applies ~~shall apply~~ to any administrative  
552 action taken by the department or any delegated program pursuing  
553 administrative penalties in accordance with this section.

554           (3) Except for violations involving hazardous wastes,  
555 asbestos, or underground injection, administrative penalties  
556 must be calculated according to the following schedule:

557           (a) For a drinking water contamination violation, the  
558 department shall assess a penalty of \$3,000 ~~\$2,000~~ for a Maximum  
559 Containment Level (MCL) violation; plus \$1,500 ~~\$1,000~~ if the  
560 violation is for a primary inorganic, organic, or radiological  
561 Maximum Contaminant Level or it is a fecal coliform bacteria  
562 violation; plus \$1,500 ~~\$1,000~~ if the violation occurs at a  
563 community water system; and plus \$1,500 ~~\$1,000~~ if any Maximum  
564 Contaminant Level is exceeded by more than 100 percent. For  
565 failure to obtain a clearance letter prior to placing a drinking  
566 water system into service when the system would not have been  
567 eligible for clearance, the department shall assess a penalty of  
568 \$4,500 ~~\$3,000~~.

569           (b) For failure to obtain a required wastewater permit,  
570 other than a permit required for surface water discharge, the  
571 department shall assess a penalty of \$1,500 ~~\$1,000~~. For a  
572 domestic or industrial wastewater violation not involving a  
573 surface water or groundwater quality violation, the department  
574 shall assess a penalty of \$3,000 ~~\$2,000~~ for an unpermitted or  
575 unauthorized discharge or effluent-limitation exceedance. For an



unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation, the department shall assess a penalty of \$7,500 ~~\$5,000~~.

(c) For a dredge and fill or stormwater violation, the department shall assess a penalty of \$1,500 ~~\$1,000~~ for unpermitted or unauthorized dredging or filling or unauthorized construction of a stormwater management system against the person or persons responsible for the illegal dredging or filling, or unauthorized construction of a stormwater management system plus \$3,000 ~~\$2,000~~ if the dredging or filling occurs in an aquatic preserve, an Outstanding Florida Water, a conservation easement, or a Class I or Class II surface water, plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than one-quarter acre but less than or equal to one-half acre, and plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than one-half acre but less than or equal to one acre. The administrative penalty schedule does ~~shall~~ not apply to a dredge and fill violation if the area dredged or filled exceeds one acre. The department retains the authority to seek the judicial imposition of civil penalties for all dredge and fill violations involving more than one acre. The department shall assess a penalty of \$4,500 ~~\$3,000~~ for the failure to complete required mitigation, failure to record a required conservation easement, or for a water quality violation resulting from dredging or

601    filling activities, stormwater construction activities or  
602    failure of a stormwater treatment facility. For stormwater  
603    management systems serving less than 5 acres, the department  
604    shall assess a penalty of \$3,000 ~~\$2,000~~ for the failure to  
605    properly or timely construct a stormwater management system. In  
606    addition to the penalties authorized in this subsection, the  
607    department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation  
608    against the contractor or agent of the owner or tenant that  
609    conducts unpermitted or unauthorized dredging or filling. For  
610    purposes of this paragraph, the preparation or signing of a  
611    permit application by a person currently licensed under chapter  
612    471 to practice as a professional engineer does ~~shall~~ not make  
613    that person an agent of the owner or tenant.

614        (d)    For mangrove trimming or alteration violations, the  
615    department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation  
616    against the contractor or agent of the owner or tenant that  
617    conducts mangrove trimming or alteration without a permit as  
618    required by s. 403.9328. For purposes of this paragraph, the  
619    preparation or signing of a permit application by a person  
620    currently licensed under chapter 471 to practice as a  
621    professional engineer does ~~shall~~ not make that person an agent  
622    of the owner or tenant.

623        (e)    For solid waste violations, the department shall  
624    assess a penalty of \$3,000 ~~\$2,000~~ for the unpermitted or  
625    unauthorized disposal or storage of solid waste; plus \$1,000 if

the solid waste is Class I or Class III (excluding yard trash) or if the solid waste is construction and demolition debris in excess of 20 cubic yards, plus \$1,500 ~~\$1,000~~ if the waste is disposed of or stored in any natural or artificial body of water or within 500 feet of a potable water well, plus \$1,500 ~~\$1,000~~ if the waste contains PCB at a concentration of 50 parts per million or greater; untreated biomedical waste; friable asbestos greater than 1 cubic meter which is not wetted, bagged, and covered; used oil greater than 25 gallons; or 10 or more lead acid batteries. The department shall assess a penalty of \$4,500 ~~\$3,000~~ for failure to properly maintain leachate control; unauthorized burning; failure to have a trained spotter on duty at the working face when accepting waste; or failure to provide access control for three consecutive inspections. The department shall assess a penalty of \$3,000 ~~\$2,000~~ for failure to construct or maintain a required stormwater management system.

(f) For an air emission violation, the department shall assess a penalty of \$1,500 ~~\$1,000~~ for an unpermitted or unauthorized air emission or an air-emission-permit exceedance, ~~plus \$1,000 if the emission results in an air quality violation,~~ plus \$4,500 ~~\$3,000~~ if the emission was from a major source and the source was major for the pollutant in violation; plus \$1,500 ~~\$1,000~~ if the emission was more than 150 percent of the allowable level.

(g) For storage tank system and petroleum contamination

violations, the department shall assess a penalty of \$7,500  
~~\$5,000~~ for failure to empty a damaged storage system as  
necessary to ensure that a release does not occur until repairs  
to the storage system are completed; when a release has occurred  
from that storage tank system; for failure to timely recover  
free product; or for failure to conduct remediation or  
monitoring activities until a no-further-action or site-  
rehabilitation completion order has been issued. The department  
shall assess a penalty of \$4,500 ~~\$3,000~~ for failure to timely  
upgrade a storage tank system. The department shall assess a  
penalty of \$3,000 ~~\$2,000~~ for failure to conduct or maintain  
required release detection; failure to timely investigate a  
suspected release from a storage system; depositing motor fuel  
into an unregistered storage tank system; failure to timely  
assess or remediate petroleum contamination; or failure to  
properly install a storage tank system. The department shall  
assess a penalty of \$1,500 ~~\$1,000~~ for failure to properly  
operate, maintain, or close a storage tank system.

(4) In an administrative proceeding, in addition to the  
penalties that may be assessed under subsection (3), the  
department shall assess administrative penalties according to  
the following schedule:

(a) For failure to satisfy financial responsibility  
requirements or for violation of s. 377.371(1), \$7,500 ~~\$5,000~~.

(b) For failure to install, maintain, or use a required

pollution control system or device, \$6,000 ~~\$4,000~~.

(c) For failure to obtain a required permit before construction or modification, \$4,500 ~~\$3,000~~.

(d) For failure to conduct required monitoring or testing; failure to conduct required release detection; or failure to construct in compliance with a permit, \$3,000 ~~\$2,000~~.

(e) For failure to maintain required staff to respond to emergencies; failure to conduct required training; failure to prepare, maintain, or update required contingency plans; failure to adequately respond to emergencies to bring an emergency situation under control; or failure to submit required notification to the department, \$1,500 ~~\$1,000~~.

(f) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to prepare, submit, maintain, or use required reports or other required documentation, \$750 ~~\$500~~.

(5) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to comply with any other departmental regulatory statute or rule requirement not otherwise identified in this section, the department may assess a penalty of \$1,000 ~~\$500~~.

(6) For each additional day during which a violation occurs, the administrative penalties in subsections ~~subsection~~ (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be assessed per day per violation.

701           (7) The history of noncompliance of the violator for any  
702 previous violation resulting in an executed consent order, but  
703 not including a consent order entered into without a finding of  
704 violation, or resulting in a final order or judgment after the  
705 effective date of this law involving the imposition of \$3,000  
706 ~~\$2,000~~ or more in penalties shall be taken into consideration in  
707 the following manner:

708           (a) One previous such violation within 5 years prior to  
709 the filing of the notice of violation will result in a 25-  
710 percent per day increase in the scheduled administrative  
711 penalty.

712           (b) Two previous such violations within 5 years prior to  
713 the filing of the notice of violation will result in a 50-  
714 percent per day increase in the scheduled administrative  
715 penalty.

716           (c) Three or more previous such violations within 5 years  
717 prior to the filing of the notice of violation will result in a  
718 100-percent per day increase in the scheduled administrative  
719 penalty.

720           (8) The direct economic benefit gained by the violator  
721 from the violation, where consideration of economic benefit is  
722 provided by Florida law or required by federal law as part of a  
723 federally delegated or approved program, shall be added to the  
724 scheduled administrative penalty. The total administrative  
725 penalty, including any economic benefit added to the scheduled

administrative penalty, may ~~shall~~ not exceed \$15,000 ~~\$10,000~~.

(9) The administrative penalties assessed for any particular violation may ~~shall~~ not exceed \$7,500 ~~\$5,000~~ against any one violator, unless the violator has a history of noncompliance, the economic benefit of the violation as described in subsection (8) exceeds \$7,500 ~~\$5,000~~, or there are multiday violations. The total administrative penalties may ~~shall~~ not exceed \$50,000 ~~\$10,000~~ per assessment for all violations attributable to a specific person in the notice of violation.

(10) The administrative law judge may receive evidence in mitigation. The penalties identified in subsections ~~subsection~~ (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be reduced up to 50 percent by the administrative law judge for mitigating circumstances, including good faith efforts to comply prior to or after discovery of the violations by the department. Upon an affirmative finding that the violation was caused by circumstances beyond the reasonable control of the respondent and could not have been prevented by respondent's due diligence, the administrative law judge may further reduce the penalty.

(11) Penalties collected pursuant to this section shall be deposited into the Water Quality Assurance Trust Fund or other trust fund designated by statute and shall be used to fund the restoration of ecosystems, or polluted areas of the state, as defined by the department, to their condition before pollution

751 occurred. The Florida Conflict Resolution Consortium may use a  
752 portion of the fund to administer the mediation process provided  
753 in paragraph (2)(e) and to contract with private mediators for  
754 administrative penalty cases.

755 (12) The purpose of the administrative penalty schedule  
756 and process is to provide a more predictable and efficient  
757 manner for individuals and businesses to resolve relatively  
758 minor environmental disputes. Subsections (3)-(7) may ~~Subsection~~  
759 ~~(3), subsection (4), subsection (5), subsection (6), or~~  
760 ~~subsection (7) shall~~ not be construed as limiting a state court  
761 in the assessment of damages. The administrative penalty  
762 schedule does not apply to the judicial imposition of civil  
763 penalties in state court as provided in this section.

764 Section 15. Subsection (1) of section 403.141, Florida  
765 Statutes, is amended to read:

766 403.141 Civil liability; joint and several liability.—

767 (1) A person who ~~Whoever~~ commits a violation specified in  
768 s. 403.161(1) is liable to the state for any damage caused to  
769 the air, waters, or property, including animal, plant, or  
770 aquatic life, of the state and for reasonable costs and expenses  
771 of the state in tracing the source of the discharge, in  
772 controlling and abating the source and the pollutants, and in  
773 restoring the air, waters, and property, including animal,  
774 plant, and aquatic life, of the state to their former condition,  
775 and furthermore is subject to the judicial imposition of a civil



776 penalty for each offense in an amount of not more than \$15,000  
777 ~~\$10,000~~ per offense. However, the court may receive evidence in  
778 mitigation. Until a violation is resolved by order or judgment,  
779 each day during any portion of which such violation occurs or is  
780 not remediated constitutes a separate offense. Nothing herein  
781 gives ~~shall give~~ the department the right to bring an action on  
782 behalf of any private person.

783 Section 16. Subsections (2) through (5) of section  
784 403.161, Florida Statutes, are amended to read:

785 403.161 Prohibitions, violation, penalty, intent.—

786 (2) A person who ~~Whoever~~ commits a violation specified in  
787 subsection (1) is liable to the state for any damage caused and  
788 for civil penalties as provided in s. 403.141.

789 (3) A ~~Any~~ person who willfully commits a violation  
790 specified in paragraph (1)(a) commits ~~is guilty of~~ a felony of  
791 the third degree, punishable as provided in ss. 775.082(3)(e)  
792 and 775.083(1)(g) by a fine of not more than \$50,000 or by  
793 imprisonment for 5 years, or by both, for each offense. Each day  
794 during any portion of which such violation occurs constitutes a  
795 separate offense.

796 (4) A ~~Any~~ person who commits a violation specified in  
797 paragraph (1)(a) or paragraph (1)(b) due to reckless  
798 indifference or gross careless disregard commits ~~is guilty of~~ a  
799 misdemeanor of the second degree, punishable as provided in ss.  
800 775.082(4)(b) and 775.083(1)(g) by a fine of not more than

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801 \$10,000 ~~\$5,000~~ or by 60 days in jail, or by both, for each  
802 offense.

803 (5) A ~~Any~~ person who willfully commits a violation  
804 specified in paragraph (1)(b) or who commits a violation  
805 specified in paragraph (1)(c) commits ~~is guilty of~~ a misdemeanor  
806 of the first degree punishable as provided in ss. 775.082(4)(a)  
807 and 775.083(1)(g) by a fine of not more than \$10,000 or by 6  
808 months in jail, or by both for each offense.

809 Section 17. Paragraph (a) of subsection (6) of section  
810 403.413, Florida Statutes, is amended to read:

811 403.413 Florida Litter Law.—

812 (6) PENALTIES; ENFORCEMENT.—

813 (a) Any person who dumps litter in violation of subsection  
814 (4) in an amount not exceeding 15 pounds in weight or 27 cubic  
815 feet in volume and not for commercial purposes commits ~~is guilty~~  
816 ~~of~~ a noncriminal infraction, punishable by a civil penalty of  
817 \$150 ~~\$100~~, from which \$50 shall be deposited into the Solid  
818 Waste Management Trust Fund to be used for the solid waste  
819 management grant program pursuant to s. 403.7095. In addition,  
820 the court may require the violator to pick up litter or perform  
821 other labor commensurate with the offense committed.

822 Section 18. Subsection (5) of section 403.7234, Florida  
823 Statutes, is amended to read:

824 403.7234 Small quantity generator notification and  
825 verification program.—

(5) Any small quantity generator who does not comply with the requirements of subsection (4) and who has received a notification and survey in person or through one certified letter from the county is subject to a fine of between \$75 ~~\$50~~ and \$150 ~~\$100~~ per day for a maximum of 100 days. The county may collect such fines and deposit them in its general revenue fund. Fines collected by the county shall be used to carry out the notification and verification procedure established in this section. If there are excess funds after the notification and verification procedures have been completed, such funds shall be used for hazardous and solid waste management purposes only.

Section 19. Subsection (3) of section 403.726, Florida Statutes, is amended to read:

403.726 Abatement of imminent hazard caused by hazardous substance.—

(3) An imminent hazard exists if any hazardous substance creates an immediate and substantial danger to human health, safety, or welfare or to the environment. The department may institute action in its own name, using the procedures and remedies of s. 403.121 or s. 403.131, to abate an imminent hazard. However, the department is authorized to recover a civil penalty of not more than \$37,500 ~~\$25,000~~ for each day until a ~~of~~ ~~continued~~ violation is resolved by order or judgment. Whenever serious harm to human health, safety, and welfare; the environment; or private or public property may occur prior to

completion of an administrative hearing or other formal proceeding that which might be initiated to abate the risk of serious harm, the department may obtain, ex parte, an injunction without paying filing and service fees prior to the filing and service of process.

Section 20. Paragraph (a) of subsection (3) of section 403.727, Florida Statutes, is amended to read:

403.727 Violations; defenses, penalties, and remedies.—

(3) Violations of the provisions of this act are punishable as follows:

(a) Any person who violates ~~the provisions of~~ this act, the rules or orders of the department, or the conditions of a permit is liable to the state for any damages specified in s. 403.141 and for a civil penalty of not more than \$75,000 ~~\$50,000~~ for each day of continued violation or until a violation is resolved by order or judgment, except as otherwise provided herein. The department may revoke any permit issued to the violator. In any action by the department against a small hazardous waste generator for the improper disposal of hazardous wastes, a rebuttable presumption of improper disposal shall be created if the generator was notified pursuant to s. 403.7234; the generator shall then have the burden of proving that the disposal was proper. If the generator was not so notified, the burden of proving improper disposal shall be placed upon the department.

876 Section 21. Subsection (8) of section 403.93345, Florida  
877 Statutes, is amended to read:

878 403.93345 Coral reef protection.—

879 (8) In addition to the compensation described in  
880 subsection (5), the department may assess, per occurrence, civil  
881 penalties according to the following schedule:

882 (a) For any anchoring of a vessel on a coral reef or for  
883 any other damage to a coral reef totaling less than or equal to  
884 an area of 1 square meter, \$225 ~~\$150~~, provided that a  
885 responsible party who has anchored a recreational vessel as  
886 defined in s. 327.02 which is lawfully registered or exempt from  
887 registration pursuant to chapter 328 is issued, at least once, a  
888 warning letter in lieu of penalty; with aggravating  
889 circumstances, an additional \$225 ~~\$150~~; occurring within a state  
890 park or aquatic preserve, an additional \$225 ~~\$150~~.

891 (b) For damage totaling more than an area of 1 square  
892 meter but less than or equal to an area of 10 square meters,  
893 \$450 ~~\$300~~ per square meter; with aggravating circumstances, an  
894 additional \$450 ~~\$300~~ per square meter; occurring within a state  
895 park or aquatic preserve, an additional \$450 ~~\$300~~ per square  
896 meter.

897 (c) For damage exceeding an area of 10 square meters,  
898 \$1,500 ~~\$1,000~~ per square meter; with aggravating circumstances,  
899 an additional \$1,500 ~~\$1,000~~ per square meter; occurring within a  
900 state park or aquatic preserve, an additional \$1,500 ~~\$1,000~~ per

901 square meter.

902 (d) For a second violation, the total penalty may be  
903 doubled.

904 (e) For a third violation, the total penalty may be  
905 tripled.

906 (f) For any violation after a third violation, the total  
907 penalty may be quadrupled.

908 (g) The total of penalties levied may not exceed \$375,000  
909 ~~\$250,000~~ per occurrence.

910 Section 22. For the purpose of incorporating the amendment  
911 made by this act to s. 376.16, Florida Statutes, in a reference  
912 thereto, subsection (5) of s. 823.11, Florida Statutes, is  
913 reenacted to read:

914 823.11 Derelict vessels; relocation or removal; penalty.—

915 (5) A person, firm, or corporation violating this section  
916 commits a misdemeanor of the first degree and shall be punished  
917 as provided by law. A conviction under this section does not bar  
918 the assessment and collection of the civil penalty provided in  
919 s. 376.16 for violation of s. 376.15. The court having  
920 jurisdiction over the criminal offense, notwithstanding any  
921 jurisdictional limitations on the amount in controversy, may  
922 order the imposition of such civil penalty in addition to any  
923 sentence imposed for the first criminal offense.

924 Section 23. For the purpose of incorporating the amendment  
925 made by this act to section 403.121, Florida Statutes, in a

reference thereto, subsection (5) of section 403.077, Florida Statutes, is reenacted to read:

403.077 Public notification of pollution.—

(5) VIOLATIONS.—Failure to provide the notification required by subsection (2) shall subject the owner or operator to the civil penalties specified in s. 403.121.

Section 24. For the purpose of incorporating the amendment made by this act to section 403.121, Florida Statutes, in a reference thereto, subsection (2) of section 403.131, Florida Statutes, is reenacted to read:

403.131 Injunctive relief, remedies.—

(2) All the judicial and administrative remedies to recover damages and penalties in this section and s. 403.121 are alternative and mutually exclusive.

Section 25. For the purpose of incorporating the amendment made by this act to section 403.121, Florida Statutes, in a reference thereto, paragraph (d) of subsection (3) of section 403.4154, Florida Statutes, is reenacted to read:

403.4154 Phosphogypsum management program.—

(3) ABATEMENT OF IMMINENT HAZARD.—

(d) If the department determines that the failure of an owner or operator to comply with department rules requiring demonstration of financial responsibility or that the physical condition, maintenance, operation, or closure of a phosphogypsum stack system poses an imminent hazard, the department shall

request access to the property on which such stack system is located from the owner or operator of the stack system for the purposes of taking action to abate or substantially reduce the imminent hazard. If the department, after reasonable effort, is unable to timely obtain the necessary access to abate or substantially reduce the imminent hazard, the department may institute action in its own name, using the procedures and remedies of s. 403.121 or s. 403.131, to abate or substantially reduce an imminent hazard. Whenever serious harm to human health, safety, or welfare, to the environment, or to private or public property may occur prior to completion of an administrative hearing or other formal proceeding that might be initiated to abate the risk of serious harm, the department may obtain from the court, ex parte, an injunction without paying filing and service fees prior to the filing and service of process.

Section 26. For the purpose of incorporating the amendment made by this act to section 403.121, Florida Statutes, in a reference thereto, subsection (5) of section 403.860, Florida Statutes, is reenacted to read:

403.860 Penalties and remedies.—

(5) In addition to any judicial or administrative remedy authorized by this part, the department or a county health department that has received approval by the department pursuant to s. 403.862(1)(c) shall assess administrative penalties for



violations of this section in accordance with s. 403.121.

Section 27. For the purpose of incorporating the amendment made by this act to section 403.141, Florida Statutes, in a reference thereto, subsection (10) of section 403.708, Florida Statutes, is reenacted to read:

403.708 Prohibition; penalty.—

(10) Violations of this part or rules, regulations, permits, or orders issued thereunder by the department and violations of approved local programs of counties or municipalities or rules, regulations, or orders issued thereunder are punishable by a civil penalty as provided in s. 403.141.

Section 28. For the purpose of incorporating the amendment made by this act to section 403.141, Florida Statutes, in a reference thereto, subsection (7) of section 403.7191, Florida Statutes, is reenacted to read:

403.7191 Toxics in packaging.—

(7) ENFORCEMENT.—It is unlawful for any person to:

(a) Violate any provision of this section or any rule adopted or order issued thereunder by the department.

(b) Tender for sale to a purchaser any package, packaging component, or packaged product in violation of this section or any rule adopted or order issued thereunder.

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999           (c)   Furnish a certificate of compliance with respect to  
1000 any package or packaging component which does not comply with  
1001 the provisions of subsection (3).

1002           (d)   Provide a certificate of compliance that contains  
1003 false information.

1004  
1005 Violations shall be punishable by a civil penalty as provided in  
1006 s. 403.141.

1007           Section 29. For the purpose of incorporating the amendment  
1008 made by this act to section 403.141, Florida Statutes, in a  
1009 reference thereto, section 403.811, Florida Statutes, is  
1010 reenacted to read:

1011           403.811 Dredge and fill permits issued pursuant to this  
1012 chapter and s. 373.414.—Permits or other orders addressing  
1013 dredging and filling in, on, or over waters of the state issued  
1014 pursuant to this chapter or s. 373.414(9) before the effective  
1015 date of rules adopted under s. 373.414(9) and permits or other  
1016 orders issued in accordance with s. 373.414(13), (14), (15), or  
1017 (16) shall remain valid through the duration specified in the  
1018 permit or order, unless revoked by the agency issuing the  
1019 permit. The agency issuing the permit or other order may seek to  
1020 enjoin the violation of, or to enforce compliance with, the  
1021 permit or other order as provided in ss. 403.121, 403.131,  
1022 403.141, and 403.161. A violation of a permit or other order  
1023 addressing dredging or filling issued pursuant to this chapter

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is punishable by a civil penalty as provided in s. 403.141 or a criminal penalty as provided in s. 403.161.

Section 30. For the purpose of incorporating the amendments made by this act to sections 403.141 and 403.161, Florida Statutes, in references thereto, subsection (8) of section 403.7186, Florida Statutes, is reenacted to read:

403.7186 Environmentally sound management of mercury-containing devices and lamps.—

(8) CIVIL PENALTY.—A person who engages in any act or practice declared in this section to be prohibited or unlawful, or who violates any of the rules of the department promulgated under this section, is liable to the state for any damage caused and for civil penalties in accordance with s. 403.141. The provisions of s. 403.161 are not applicable to this section. The penalty may be waived if the person previously has taken appropriate corrective action to remedy the actual damages, if any, caused by the unlawful act or practice or rule violation. A civil penalty so collected shall accrue to the state and shall be deposited as received into the Solid Waste Management Trust Fund for the purposes specified in paragraph (5)(a).

Section 31. For the purpose of incorporating the amendment made by this act to section 403.161, Florida Statutes, in a reference thereto, subsection (2) of section 403.7255, Florida Statutes, is reenacted to read:

403.7255 Placement of signs.—

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1049           (2) Violations of this act are punishable as provided in  
1050 s. 403.161(4).  
1051           Section 32. This act shall take effect July 1, 2020.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1091 Environmental Enforcement  
**SPONSOR(S):** Agriculture & Natural Resources Subcommittee, Fine  
**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 1450

| REFERENCE  | ACTION           | ANALYST | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|--|------------------|---------|--|
| 1) Agriculture & Natural Resources Subcommittee                | 11 Y, 0 N, As CS | Melkun  | Moore                                    |
| 2) Agriculture & Natural Resources Appropriations Subcommittee | 9 Y, 0 N         | White   | Pigott                                   |
| 3) State Affairs Committee                                     |                  |         |  |

### SUMMARY ANALYSIS

The Department of Environmental Protection (DEP) is Florida's lead agency for environmental management and stewardship, implementing many programs to protect the state's air, water, and land. In accordance with the state's numerous environmental laws, DEP's responsibilities include compliance and enforcement. Violations of Florida's environmental laws can result in damages and administrative, civil, and/or criminal penalties. Several types of violations impose a penalty for each offense, with each day during which a violation occurs constituting a separate offense.

The bill increases various statutory penalties for violations of environmental laws. For violations that currently impose a penalty for each day during which a violation occurs, the bill specifies that each day the violation occurs or is not remediated constitutes a separate offense until the violation is resolved by order or judgment.

The bill may have a positive fiscal impact on state and local governments from increases in various statutory penalties for violations of environmental law.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Environmental Violations

The Department of Environmental Protection (DEP) is Florida's lead agency for environmental management and stewardship, implementing many programs to protect the state's air, water, and land.<sup>1</sup> In accordance with the state's numerous environmental laws, DEP's responsibilities include compliance and enforcement.<sup>2</sup> Violations of Florida's environmental laws can result in damages and administrative, civil, and/or criminal penalties.

##### *Damages*

In environmental enforcement, damages should compensate the state for the value of the loss to natural resources caused by the violation.<sup>3</sup> DEP may institute a civil action in court or an administrative proceeding in the Division of Administrative Hearings (DOAH) to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.<sup>4</sup> Damages can cover the cost of remediating the damage done to the environment, and/or costs incurred by the state in responding to the damage, such as tracing the source, controlling and abating the source, and restoring the environmental resources to their former condition.<sup>5</sup>

##### *Penalties*

In addition to damages, a violator can be liable for penalties. Penalties differ from damages in that they are designed to punish the wrongdoer rather than to address the harm caused by the violation.<sup>6</sup> In environmental enforcement, penalties should create incentives to bring immediate compliance and curb future violations.<sup>7</sup> In current law, several types of violations impose a penalty for each offense, with each day during which a violation occurs constituting a separate offense.

Administrative penalties can be levied directly by the agency or in a proceeding in DOAH.<sup>8</sup> The formal administrative enforcement process is typically initiated by serving a notice of violation, and is finalized through entry of a consent order or final order.<sup>9</sup> In most administrative proceedings, DEP has the final decision.<sup>10</sup> An administrative law judge has the final decision for administrative proceedings involving the Environmental Litigation Reform Act (Reform Act), codified in s. 403.121, F.S., which is the primary statute addressing DEP's administrative penalties.<sup>11</sup> Compared to the judicial process, the administrative process is generally considered less expensive, faster, and more conducive to negotiated settlement.<sup>12</sup> However, if DEP is seeking immediate injunctive relief, which compels a party to act or stop acting, an order must be obtained from a court.<sup>13</sup>

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<sup>1</sup> DEP, *About DEP*, available at <https://floridadep.gov/about-dep> (last visited Jan. 27, 2020); s. 20.255, F.S.

<sup>2</sup> DEP, *Enforcement Manual: DEP Regulatory Enforcement Organization* (2017), available at <https://floridadep.gov/sites/default/files/Chapter%201%20October%202017.pdf> (last visited Jan. 27, 2020).

<sup>3</sup> DEP, *Enforcement Manual: Judicial Process and Remedies, Collections, and Bankruptcies* (2014), 89, available at <https://floridadep.gov/sites/default/files/chapter6.pdf> (last visited Jan. 27, 2020).

<sup>4</sup> See s. 403.121, F.S.

<sup>5</sup> See ss. 403.121 and 403.141, F.S.

<sup>6</sup> See BLACK'S LAW DICTIONARY 1247 (9th ed. 2009).

<sup>7</sup> DEP, *Enforcement Manual: Judicial Process and Remedies, Collections, and Bankruptcies* (2014), 89, available at <https://floridadep.gov/sites/default/files/chapter6.pdf> (last visited Jan. 27, 2020).

<sup>8</sup> See ch. 120, F.S. The administrative process is formalized in the Administrative Procedure Act.

<sup>9</sup> DEP, *Enforcement Manual: The Administrative Process and Remedies* (2014), 58, available at [https://floridadep.gov/sites/default/files/chapter5\\_0.pdf](https://floridadep.gov/sites/default/files/chapter5_0.pdf) (last visited Jan. 27, 2020).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 58-59, 66-70; ch. 2001-258, Laws of Fla.

<sup>12</sup> DEP, *Enforcement Manual: The Administrative Process and Remedies* (2014), 59, available at [https://floridadep.gov/sites/default/files/chapter5\\_0.pdf](https://floridadep.gov/sites/default/files/chapter5_0.pdf) (last visited Jan. 27, 2020).

<sup>13</sup> *Id.* at 59-60.

DEP must proceed administratively when it seeks administrative penalties that do not exceed \$10,000 per assessment, and DEP is prohibited from imposing administrative penalties in excess of \$10,000 in a single notice of violation.<sup>14</sup> DEP also may not have more than one notice of violation pending against a party unless the additional violation occurred at a different site or was discovered subsequent to the filing of a previous notice of violation.<sup>15</sup>

Civil penalties are noncriminal fines that are generally levied by a court, but certain agencies are authorized to impose them under certain circumstances. The Reform Act allows DEP to seek civil penalties of up to \$10,000 through the administrative process for most environmental violations.<sup>16</sup>

In state court, DEP may pursue two forms of action: a petition to enforce an order previously entered through the administrative process, or a complaint for violations of statutes or rules.<sup>17</sup> Under both actions, DEP may seek injunctive relief, civil penalties, damages, and costs and expenses.<sup>18</sup> For judicially imposed civil penalties, DEP is authorized to recover up to \$10,000 per offense, with each day during any portion of which a violation occurs constituting a separate offense.<sup>19</sup>

A court or an administrative law judge may receive evidence in mitigation, which may result in the decrease or elimination of penalties.<sup>20</sup>

Criminal penalties can include jail/prison time, a criminal fine, or both. Florida law imposes criminal penalties for certain violations of environmental law.<sup>21</sup> Punishments for such violations may vary based on standards of intent, such as willful, reckless indifference, or gross careless disregard.<sup>22</sup>

In addition to DEP, the Department of Legal Affairs, any political subdivision or municipality of the state, and any citizen of the state also have the authority to bring an action for injunctive relief against violators of environmental laws.<sup>23</sup>

## Effect of the Bill

The bill increases various statutory penalties for violations of environmental laws.

The table below outlines the increased penalties for certain environmental violations proposed by the bill. For violations that currently impose a penalty for each day during which a violation occurs, the bill specifies that each day the violation occurs or is not remediated constitutes a separate offense until the violation is resolved by order or judgment.

| SECTION OF LAW | DESCRIPTION OF VIOLATION | CURRENT FINE/PENALTY | PROPOSED FINE/PENALTY |
|----------------|--------------------------|----------------------|-----------------------|
|----------------|--------------------------|----------------------|-----------------------|

<sup>14</sup> Section 403.121(2)(b), F.S.; DEP, *Enforcement Manual: The Administrative Process and Remedies* (2014), 66-67, available at [https://floridadep.gov/sites/default/files/chapter5\\_0.pdf](https://floridadep.gov/sites/default/files/chapter5_0.pdf) (last visited Jan. 27, 2020). This requirement does not apply to underground injection, hazardous waste, or asbestos programs.

<sup>15</sup> *Id.*

<sup>16</sup> Section 403.121, F.S.

<sup>17</sup> DEP, *Enforcement Manual: Judicial Process and Remedies, Collections, and Bankruptcies* (2014), 86, available at <https://floridadep.gov/sites/default/files/chapter6.pdf> (last visited Jan. 27, 2020).

<sup>18</sup> *Id.*

<sup>19</sup> Section 403.121(1)(b), F.S.

<sup>20</sup> Section 403.121, F.S.

<sup>21</sup> Section 403.161, F.S.

<sup>22</sup> *Id.*

<sup>23</sup> Section 403.412, F.S.

| SECTION OF LAW | DESCRIPTION OF VIOLATION   | CURRENT FINE/PENALTY   | PROPOSED FINE/PENALTY  |
|----------------|--|--|--|
| 161.054        | DEP is required to assess a civil penalty for refusing to comply with the requirements of a coastal construction; a reconstruction or change of existing structures; a construction or physical activity undertaken specifically for shore protection purposes; or certain other structures and physical activities.   | Up to \$10,000 per day   | Up to \$15,000 per day   |
| 258.397        | The Department of Legal Affairs is authorized to bring a civil action for a violation of the requirements of the Biscayne Bay Aquatic Preserve.  | \$5,000 per day  | \$7,500 per day  |
| 258.46         | The Board of Trustees of the Internal Improvement Trust Fund is required to charge a civil penalty for violations of regulations for all aquatic preserves.  | Between \$500 and \$5,000 per day                                    | Between \$750 and \$7,500 per day                                    |
| 373.129        | DEP and the water management districts are authorized to bring actions and proceedings to enforce rules, regulations, and adopted or issued orders; enjoin or abate violations of law, rules, regulations, and adopted orders; protect and preserve the water resources of the state; defend all actions and proceedings involving their powers and duties pertaining to the water resources of the state; and recover a civil penalty for each offense. | \$10,000 per offense   | \$15,000 per offense   |
| 373.209        | DEP is required to assess a civil penalty for violations of regulations for artesian wells.  | \$100 per day for each offense                                       | \$150 per day for each offense                                       |
| 373.430        | A person who causes pollution or fails to obtain a required permit commits a second degree misdemeanor.  | \$5,000  | \$10,000   |
| 376.065        | DEP is required to assess a civil penalty for the operation of a terminal facility without a discharge prevention and response certificate.  | \$500  | \$750  |
| 376.071        | DEP is required to assess a civil penalty for any vessel with a pollutant capacity of 10,000 gallons or more that fails to maintain a discharge prevention and control contingency plan.   | \$5,000  | \$7,500  |
| 376.16         | DEP is required to assess a civil penalty for violations of the Pollutant Discharge Prevention and Control Act.  | Up to \$50,000 per day for each offense                              | Up to \$75,000 per day for per offense                               |
|                | DEP is required to assess a civil penalty for a second or subsequent discharge of more than 5 gallons of gasoline or diesel within 12 months of the first discharge.   | 2 <sup>nd</sup> discharge: \$500<br>Subsequent discharges: \$1,000   | 2 <sup>nd</sup> discharge: \$750<br>Subsequent discharges: \$1,500   |
|                | DEP is required to assess a civil penalty for a second or subsequent discharge of any pollutant other than gasoline or diesel within 12 months of the first discharge.   | 2 <sup>nd</sup> discharge: \$2,500<br>Subsequent discharges: \$5,000 | 2 <sup>nd</sup> discharge: \$3,750<br>Subsequent discharges: \$7,500 |
|                | DEP is required to assess a civil penalty for a subsequent discharge of gasoline or diesel equal to or less than 5 gallons within 12 months of the first discharge.  | \$50   | \$75   |
|                | DEP is required to assess a civil penalty for a subsequent discharge of a pollutant other than gasoline or diesel equal to or less than 5 gallons within 12 months of the first discharge.   | \$100  | \$150  |



| SECTION OF LAW | DESCRIPTION OF VIOLATION  | CURRENT FINE/PENALTY   | PROPOSED FINE/PENALTY  |
|----------------|---|--|--|
|                | A county court is authorized to impose a civil penalty if a violator elects to appear before the court and the court determines that an infraction has been committed for the discharge of gasoline or diesel.                        | 2 <sup>nd</sup> discharge:<br>Up to \$500<br><br>Subsequent discharges: Up to \$1,000    | 2 <sup>nd</sup> discharge:<br>Up to \$750<br><br>Subsequent discharges: Up to \$1,500    |
|                | A county court is authorized to impose a civil penalty if a violator elects to appear before the court and the court determines that an infraction has been committed for the discharge of a pollutant other than gasoline or diesel. | 2 <sup>nd</sup> discharge:<br>Up to \$5,000<br><br>Subsequent discharges: Up to \$10,000 | 2 <sup>nd</sup> discharge:<br>Up to \$7,500<br><br>Subsequent discharges: Up to \$15,000 |
| <b>376.25</b>  | DEP is required to assess a civil penalty for violations of regulations for gambling vessels.   | Up to \$50,000 for each violation  | Up to \$75,000 for each violation  |
| <b>377.37</b>  | DEP is required to assess a civil penalty for violations of the regulations of oil and gas resources.   | Up to \$10,000 for each violation  | Up to \$15,000 for each violation  |
| <b>378.211</b> | DEP is authorized to impose a civil penalty for violations of a minor or technical nature of phosphate land reclamation regulations.  | \$100 each day for each violation  | \$150 each day for each violation  |
|                | DEP is authorized to impose a civil penalty for a major violation by an operator of phosphate land reclamation regulations of which a penalty has not been imposed within the last 5 years.   | \$1,000 each day for each violation  | \$1,500 each day for each violation  |
|                | DEP is authorized to impose a civil penalty for major violations not covered by the violations above for phosphate land reclamation regulations.  | \$5,000 each day for each violation  | \$7,500 each day for each violation  |
| <b>403.086</b> | DEP is required to assess a civil penalty for failing to conform with regulations for sewage disposal facilities using advanced and secondary waste treatment.  | \$500 per day  | \$750 per day  |
| <b>403.121</b> | DEP is authorized to impose a civil penalty for violations of pollution control regulations.  | Up to \$10,000 per offense   | Up to \$15,000 per offense   |
|                | DEP is authorized to seek administrative penalties to provide appropriate corrective action with respect to various environmental violations. The law specifies the maximum civil penalty DEP may seek.                               | Up to \$10,000 per assessment  | Up to \$50,000 per assessment  |
|                | DEP is required to assess administrative penalties for a drinking water contamination violation related to maximum contaminant levels, with additional penalties under certain conditions.  | \$2,000 plus \$1,000 per condition   | \$3,000 plus \$1,500 per condition   |
|                | DEP is required to assess an administrative penalty for failing to obtain a clearance letter prior to placing a drinking water system into service when the system would not have been eligible for clearance.                        | \$3,000  | \$4,500  |
|                | DEP is required to assess an administrative penalty for failing to obtain a wastewater permit other than a surface water discharge permit.  | \$1,000  | \$1,500  |
|                | DEP is required to assess an administrative penalty for an unpermitted or unauthorized wastewater discharge that did not result in a water quality violation.   | \$2,000  | \$3,000  |
|                | DEP is required to assess an administrative penalty for the unpermitted or unauthorized discharge that resulted in a water quality violation.   | \$5,000  | \$7,500  |

| SECTION OF LAW | DESCRIPTION OF VIOLATION   | CURRENT FINE/PENALTY               | PROPOSED FINE/PENALTY              |
|----------------|--|------------------------------------|------------------------------------|
|                | DEP is required to assess an administrative penalty for a dredge and fill or stormwater violation with additional penalties under the following conditions:  | \$1,000                            | \$1,500                            |
|                | • If the violation occurs in a certain waterbody   | plus \$2,000                       | plus \$3,000                       |
|                | • If the violation occurs in an area of a certain size   | plus \$1,000                       | plus \$1,500                       |
|                | DEP is required to assess an administrative penalty for failing to complete required mitigation, record a conservation easement, or a water quality violation resulting from certain activities.                           | \$3,000                            | \$4,500                            |
|                | DEP is required to assess an administrative penalty for failing to properly or timely construct a stormwater management system for systems serving less than 5 acres.  | \$2,000                            | \$3,000                            |
|                | DEP is required to assess an administrative penalty against a contractor that conducts unpermitted or unauthorized dredging or filling.  | \$5,000                            | \$7,500                            |
|                | DEP is required to assess an administrative penalty against a contractor for mangrove trimming or alteration violations.   | \$5,000                            | \$7,500                            |
|                | DEP is required to assess an administrative penalty for the unpermitted or unauthorized disposal of solid waste, with additional penalties for certain conditions.   | \$2,000 plus \$1,000 per condition | \$3,000 plus \$1,500 per condition |
|                | DEP is required to assess an administrative penalty for failure to properly maintain leachate control.   | \$3,000                            | \$4,500                            |
|                | DEP is required to assess an administrative penalty for failing to construct or maintain a required stormwater management system.  | \$2,000                            | \$3,000                            |
|                | DEP is required to assess an administrative penalty for an unpermitted or unauthorized air emission or air-emission-permit exceedance, with additional penalties if:   | \$1,000                            | \$1,500                            |
|                | • The emission was from a major source and the source was major for the pollutant in violation   | \$3,000                            | \$4,500                            |
|                | • The emission was more than 150% of the allowable level   | \$1,000                            | \$1,500                            |
|                | DEP is required to assess an administrative penalty for storage tank system and petroleum contamination violations.  | \$5,000                            | \$7,500                            |
|                | DEP is required to assess an administrative penalty for failing to timely upgrade a storage tank system.   | \$3,000                            | \$4,500                            |
|                | DEP is required to assess an administrative penalty for release violations of storage tank systems.  | \$2,000                            | \$3,000                            |
|                | DEP is required to assess an administrative penalty for failing to properly operate, maintain, or close a storage tank system.   | \$1,000                            | \$1,500                            |
|                | DEP is required to assess an administrative penalty for failure to satisfy financial responsibility requirements or pollution of land, water, wildlife, or property by drilling for oil, gas, or other petroleum products. | \$5,000                            | \$7,500                            |

| SECTION OF LAW  | DESCRIPTION OF VIOLATION  | CURRENT FINE/PENALTY   | PROPOSED FINE/PENALTY  |
|-----------------|---|--|--|
|                 | DEP is required to assess an administrative penalty for failing to install, maintain, or use a required pollution control system or device.   | \$4,000  | \$6,000  |
|                 | DEP is required to assess an administrative penalty for failing to obtain a required permit before construction or modification.  | \$3,000  | \$4,500  |
|                 | DEP is required to assess an administrative penalty for failing to conduct regular monitoring or testing, to conduct required release detection, or to construct in compliance with a permit.   | \$2,000  | \$3,000  |
|                 | DEP is required to assess an administrative penalty for failing to maintain and train staff; prepare and maintain contingency plans; adequately respond to emergencies; or submit required notification to DEP.   | \$1,000  | \$1,500  |
|                 | DEP is required to assess an administrative penalty for failing to prepare, submit, maintain, or use required reports or other documentation.   | \$500  | \$750  |
|                 | DEP is required to assess an administrative penalty for failing to comply with any departmental regulatory statute or rule not described above.   | \$500  | \$1,000  |
|                 | When considering the economic benefit gained by a violator from a violation, the law specifies that the total administrative penalty may not exceed a certain amount.   | \$10,000   | \$15,000   |
|                 | The law specifies that the administrative penalties assessed for any violation may not exceed a certain amount against any one violator unless the violator has a history of noncompliance or the economic benefit exceeds a certain amount.  | \$5,000 per violator unless economic benefit exceeds \$5,000 | \$7,500 per violator unless economic benefit exceeds \$7,500 |
|                 | The law specifies that the total administrative penalties per assessment for all violations attributable to a specific person may not exceed a certain amount.  | \$10,000 per assessment                                      | \$50,000 per assessment                                      |
|                 |   |  |  |
| <b>403.141</b>  | Any person who causes pollution, fails to obtain a permit, knowingly makes false statements, or fails to provide required notice is liable to the state for any damage to airs, waters, or properties (including wildlife) of the state and is subject to a civil penalty for each offense. | Up to \$10,000 per offense                                   | Up to \$15,000 per offense                                   |
| <b>403.161</b>  | Any person who fails to obtain a permit due to reckless indifference commits a 2 <sup>nd</sup> degree misdemeanor punishable by 60 days in jail, a fine, or both for each offense.  | Up to \$5,000 per offense                                    | Up to \$10,000 per offense                                   |
| <b>403.413</b>  | A law enforcement officer is required to assess a civil penalty for dumping litter.   | \$100  | \$150  |
| <b>403.7234</b> | DEP is required to assess a civil penalty for any small quantity generator who does not comply with the small quantity generator notification and verification program  | Between \$50 and \$100 per day for up to 100 days            | Between \$75 and \$150 for up to 100 days                    |
| <b>403.726</b>  | DEP is authorized impose a civil penalty for a violation of hazardous substance regulations.  | Up to \$25,000 per day                                       | Up to \$37,500 per day                                       |
| <b>403.727</b>  | DEP is required to assess a civil penalty for a violation of hazardous waste regulations.   | Up to \$50,000 per day                                       | Up to \$75,000 per day                                       |

| SECTION OF LAW   | DESCRIPTION OF VIOLATION  | CURRENT FINE/PENALTY               | PROPOSED FINE/PENALTY              |
|------------------|---|------------------------------------|------------------------------------|
| <b>403.93345</b> | DEP is authorized to impose a civil penalty for any anchoring of a vessel on a coral reef or any other damage to a coral reef totaling less than 1 square meter, if the responsible party has been previously issued at least 1 warning letter, with additional penalties for violations that occur under certain conditions. | \$150 plus \$150 per condition     | \$225 plus \$225 per condition     |
|                  | DEP is authorized to impose a civil penalty for damage totaling more than 1 square meter but less than or equal to 10 sq. meters of a coral reef, with additional penalties for damage occurring under certain conditions.  | \$300 plus \$300 per condition     | \$450 plus \$450 per condition     |
|                  | DEP is authorized to impose a civil penalty for damage totaling more than 10 square meters of a coral reef, with additional penalties for damage occurring under certain conditions.  | \$1,000 plus \$1,000 per condition | \$1,500 plus \$1,500 per condition |
|                  | The law specifies that the total penalties DEP may impose for damage totaling more than 10 square meters of a coral reef may not exceed a certain amount per occurrence.  | \$250,000                          | \$375,000                          |

**B. SECTION DIRECTORY:**

Section 1. Amends s. 161.054, F.S., to increase penalties.

Section 2. Amends s. 258.397, F.S., to increase penalties.

Section 3. Amends s. 258.46, F.S., to increase penalties.

Section 4. Amends s. 373.129, F.S., to increase penalties.

Section 5. Amends s. 373.209, F.S., to increase penalties.

Section 6. Amends s. 373.430, F.S., to increase penalties.

Section 7. Amends s. 376.065, F.S., to increase penalties.

Section 8. Amends s. 376.071, F.S., to increase penalties.

Section 9. Amends s. 376.16, F.S., to increase penalties.

Section 10. Amends s. 376.25, F.S., to increase penalties.

Section 11. Amends s. 377.37, F.S., to increase penalties.

Section 12. Amends s. 378.211, F.S., to increase penalties.

Section 13. Amends s. 403.086, F.S., to increase penalties.

Section 14. Amends s. 403.121, F.S., to increase penalties.

Section 15. Amends s. 403.141, F.S., to increase penalties.

Section 16. Amends s. 403.161, F.S., to increase penalties.

Section 17. Amends s. 403.413, F.S., to increase penalties.

Section 18. Amends s. 403.7234, F.S., to increase penalties.

- Section 19. Amends s. 403.726, F.S., to increase penalties.
- Section 20. Amends s. 403.727, F.S., to increase penalties.
- Section 21. Amends s. 403.93345, F.S., to increase penalties.
- Section 22. Reenacts s. 823.11, F.S., to incorporate amendments made by the bill.
- Section 23. Reenacts s. 403.077, F.S., to incorporate amendments made by the bill.
- Section 24. Reenacts s. 403.131, F.S., to incorporate amendments made by the bill.
- Section 25. Reenacts s. 403.4154, F.S., to incorporate amendments made by the bill.
- Section 26. Reenacts s. 403.860, F.S., to incorporate amendments made by the bill.
- Section 27. Reenacts s. 403.708, F.S., to incorporate amendments made by the bill.
- Section 28. Reenacts s. 403.7191, F.S., to incorporate amendments made by the bill.
- Section 29. Reenacts s. 403.811, F.S., to incorporate amendments made by the bill.
- Section 30. Reenacts s. 403.7186, F.S., to incorporate amendments made by the bill.
- Section 31. Reenacts s. 403.7255, F.S., to incorporate amendments made by the bill.
- Section 32. Provides an effective date of July 1, 2020.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

The bill may have an indeterminate positive fiscal impact on state government revenues because the bill increases various penalties associated with the violation of environmental laws.

#### **2. Expenditures:**

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

The bill may have an indeterminate positive fiscal impact on the revenues of local governments with the delegated authority to assess penalties because the bill increases a number of penalties associated with the violation of environmental laws.

#### **2. Expenditures:**

The bill may have an indeterminate negative fiscal impact on local governments that own and operate wastewater treatment facilities because the bill increases a number of penalties associated with the violation of environmental laws, including permit violations for wastewater treatment facilities.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill may have an indeterminate negative fiscal impact on the private sector because it increases a number of penalties associated with the violation of environmental laws and, in some instances, may increase the time period during which each day constitutes a separate offense.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 4, 2020, the Agriculture & Natural Resources Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment revised provisions related to determining the time period during which a violation is subject to separate penalties for certain criminal violations.

This analysis is drafted to the committee substitute as approved by the Agriculture & Natural Resources Subcommittee.

**By** the Committee on Environment and Natural Resources; and  
Senator Rouson

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A bill to be entitled

An act relating to vessels; creating s. 327.332, F.S.; specifying the conditions under which a vessel is and is not considered to be operating at slow speed, minimum wake; prohibiting the operation of vessels at speeds faster than slow speed, minimum wake in certain emergency and hazardous situations; providing requirements for flags displayed from vessels and barges actively engaged in construction operations; providing civil penalties; providing applicability; amending s. 327.4107, F.S.; prohibiting certain parties within certain waterbodies from anchoring or mooring a vessel within a specified distance of a mangrove or to upland vegetation upon public lands; providing civil penalties; authorizing certain individuals to relocate or cause to be relocated certain vessels; providing liability protection for the individuals under certain circumstances; providing that penalties are assessed in addition to other available penalties; amending s. 327.73, F.S.; revising civil penalties relating to certain at-risk vessels and prohibited anchoring or mooring; requiring a vessel to be declared a public nuisance and subject to certain provisions after a specified number of violations within a specified timeframe; providing civil penalties relating to vessels that fail to reduce speed for special hazards and the display of specified flags by construction vessels or barges not actively engaged in construction operations; providing

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civil penalties relating to vessels at risk of becoming derelict and anchored within a specified distance of a mangrove or to vegetation upon public grounds; amending s. 705.103, F.S.; providing procedures for abandoned or lost property relating to certain vessels; providing notice and hearing requirements; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 327.332, Florida Statutes, is created to read:

327.332 Special hazards.—

(1) For purposes of this section, a vessel:

(a) Is operating at slow speed, minimum wake only if it is:

1. Fully off plane and completely settled into the water;

and

2. Proceeding without wake or with minimum wake.

A vessel that is operating at slow speed, minimum wake may not proceed at a speed greater than a speed that is reasonable and prudent to avoid the creation of an excessive wake or other hazardous condition under the existing circumstances.

(b) Is not proceeding at slow speed, minimum wake if it is:

1. Operating on plane;

2. In the process of coming off plane and settling into the water or getting on plane; or

3. Operating at a speed that creates a wake which unreasonably or unnecessarily endangers other vessels.



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59       (2) A person may not operate a vessel faster than slow  
60 speed, minimum wake upon approaching within 300 feet of any  
61 emergency vessel, including, but not limited to, a law  
62 enforcement vessel, United States Coast Guard vessel, or  
63 firefighting vessel, when such emergency vessel has its  
64 emergency lights activated.

65       (3) (a) A person may not operate a vessel faster than slow  
66 speed, minimum wake upon approaching within 300 feet of any  
67 construction vessel or barge when the vessel or barge is  
68 displaying an orange flag from a pole extending:

69       1. At least 10 feet above the tallest portion of the vessel  
70 or barge, indicating that the vessel or barge is actively  
71 engaged in construction operations; or

72       2. At least 5 feet above any superstructure permanently  
73 installed upon the vessel or barge, indicating that the vessel  
74 or barge is actively engaged in construction operations.

75       (b) A flag displayed on a vessel or barge pursuant to this  
76 subsection must:

77       1. Be at least 2 feet by 3 feet in size;  
78       2. Have a wire or other stiffener or be otherwise  
79 constructed to ensure that the flag remains fully unfurled and  
80 extended in the absence of a wind or breeze; and

81       3. Be displayed so that the visibility of the flag is not  
82 obscured in any direction.

83       (c) In periods of low visibility, including any time  
84 between the hours from 30 minutes after sunset and 30 minutes  
85 before sunrise, a person may not be cited for a violation of  
86 this subsection unless the orange flag is illuminated and  
87 visible from a distance of at least 2 nautical miles.

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88       (4) (a) A person operating a vessel in violation of this  
89 section commits a noncriminal infraction, punishable as provided  
90 in s. 327.73.

91       (b) The owner of, or party who is responsible for, a  
92 construction vessel or barge who displays an orange flag on the  
93 vessel or barge when it is not actively engaged in construction  
94 operations commits a noncriminal infraction, punishable as  
95 provided in s. 327.73.

96       (5) The speed and penalty provisions of this section do not  
97 apply to a law enforcement, firefighting, or rescue vessel that  
98 is owned or operated by a governmental entity.

99       Section 2. Present subsections (4) and (5) of section  
100 327.4107, Florida Statutes, are redesignated as subsections (5)  
101 and (6), respectively, a new subsection (4) is added to that  
102 section, and present subsection (4) is amended, to read:

103       327.4107 Vessels at risk of becoming derelict on waters of  
104 this state.—

105       (4) (a) Any owner or responsible party who has been issued a  
106 citation for a second violation of this section for the same  
107 vessel may not anchor or moor such vessel or allow the vessel to  
108 remain anchored or moored within 20 feet of a mangrove or to  
109 upland vegetation upon public lands. This distance shall be  
110 measured in a straight line from the point of the vessel closest  
111 to the outermost branches of the mangrove or vegetation. An  
112 owner or responsible party who violates this subsection commits  
113 a noncriminal infraction, punishable as provided in s. 327.73.

114       (b) The commission, officers of the commission, and any law  
115 enforcement agency or officer specified in s. 327.70 are  
116 authorized and empowered to relocate or cause to be relocated an

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at-risk vessel found to be in violation of this subsection to a distance greater than 20 feet from any mangrove or upland vegetation. The commission, officers of the commission, or any other law enforcement agency or officer acting under this subsection to relocate or cause to be relocated an at-risk vessel, upon state waters, away from mangroves or upland vegetation shall be held harmless for all damages to the at-risk vessel resulting from such relocation unless the damage results from gross negligence or willful misconduct.

~~(5)-(4)~~ The penalties ~~penalty~~ under this section are ~~is~~ in addition to other penalties provided by law.

Section 3. Paragraphs (aa) and (bb) of subsection (1) of section 327.73, Florida Statutes, are amended, and paragraphs (cc), (dd), and (ee) are added to that subsection, to read:

327.73 Noncriminal infractions.—

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

(aa) Section 327.4107, relating to vessels at risk of becoming derelict on waters of this state, for which the civil penalty is:

1. For a first offense, \$100 ~~\$50~~.

2. For a second offense occurring 30 days or more after a first offense, \$250 ~~\$100~~.

3. For a third or subsequent offense occurring 30 days or more after a previous offense, \$500 ~~\$250~~. A vessel that is the subject of three or more violations issued pursuant to the same paragraph of s. 327.4107(2) within a 12-month period which resulted in dispositions other than acquittal or dismissal shall be declared to be a public nuisance and subject to the abandoned

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property provisions specific to derelict vessels in s. 705.103 and the derelict vessel removal and relocation provisions in s. 823.11.

(bb) Section 327.4109, relating to anchoring or mooring in a prohibited area, for which the penalty is:

1. For a first offense, up to a maximum of \$100 ~~\$50~~.
2. For a second offense, up to a maximum of \$250 ~~\$100~~.
3. For a third or subsequent offense, up to a maximum of \$500 ~~\$250~~. A vessel that is the subject of three or more violations of the same subparagraph of s. 327.4109(1)(a) within a 12-month timeframe which resulted in dispositions other than acquittal or dismissal shall be declared to be a public nuisance and subject to the abandoned property provisions specific to derelict vessels in s. 705.103 and the derelict vessel removal and relocation provisions in s. 823.11.

(cc) Section 327.332, relating to vessels creating special hazards, for which the penalty is:

1. For a first offense, \$50.
2. For a second offense occurring within 12 months after a prior offense, \$250.
3. For a third offense occurring within 36 months after a prior offense, \$500.

(dd) Section 327.332, relating to the display of an orange flag on a vessel or barge when the vessel or barge is not actively engaged in construction operations.

(ee) Section 327.4107(4), relating to vessels at risk of becoming derelict found to be anchored within 20 feet of a mangrove or upland vegetation upon public lands, for which the civil penalty is \$250.

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Any person cited for a violation of any provision of this subsection shall be deemed to be charged with a noncriminal infraction, shall be cited for such an infraction, and shall be cited to appear before the county court. The civil penalty for any such infraction is \$50, except as otherwise provided in this section. Any person who fails to appear or otherwise properly respond to a uniform boating citation shall, in addition to the charge relating to the violation of the boating laws of this state, be charged with the offense of failing to respond to such citation and, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A written warning to this effect shall be provided at the time such uniform boating citation is issued.

Section 4. Subsections (2) and (4) of section 705.103, Florida Statutes, are amended to read:

705.103 Procedure for abandoned or lost property.—

(2) (a) 1. Whenever a law enforcement officer ascertains that:

a. An article of lost or abandoned property other than a derelict vessel or vessel declared a public nuisance pursuant to s. 327.73(1)(aa)3. or s. 327.73(1)(bb)3. is present on public property and is of such nature that it cannot be easily removed, the officer shall cause a notice to be placed upon such article in substantially the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY. This property, to wit: ...(setting forth brief description)... is unlawfully upon public property known as

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...(setting forth brief description of location)... and must be removed within 5 days; otherwise, it will be removed and disposed of pursuant to chapter 705, Florida Statutes. The owner will be liable for the costs of removal, storage, and publication of notice. Dated this: ...(setting forth the date of posting of notice)..., signed: ...(setting forth name, title, address, and telephone number of law enforcement officer)....

b. A derelict vessel or a vessel designated in ss. 327.73(1)(aa)3. and (bb)3. is present on the waters of the state, the officer shall cause a notice to be placed upon the vessel in substantially the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED VESSEL. This vessel, to wit: ...(setting forth brief description)... is unlawfully upon waters of the state ...(setting forth brief description of location)... and must be removed within 21 days; otherwise, it will be removed and disposed of pursuant to chapter 705, Florida Statutes. The owner and other interested parties may have the right to a hearing to challenge the determination that this vessel is derelict or otherwise in violation of the law. Please contact ... (contact information for person who can arrange for a hearing in accordance with this section) .... The owner will be liable for the costs of removal, storage, and publication of notice if this vessel is not removed by the owner. Dated this: ... (setting forth the date of posting of notice) ..., signed: ... (setting forth name, title, address, and telephone number of law enforcement officer) ....

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233        2. The notices required under subparagraph 1. may ~~Such~~  
234 ~~notice shall be not~~ be less than 8 inches by 10 inches and must  
235 ~~shall~~ be sufficiently weatherproof to withstand normal exposure  
236 to the elements. In addition to posting, the law enforcement  
237 officer shall make a reasonable effort to ascertain the name and  
238 address of the owner. If such is reasonably available to the  
239 officer, she or he shall mail a copy of such notice to the owner  
240 on or before the date of posting. If the property is a motor  
241 vehicle as defined in s. 320.01(1) or a vessel as defined in s.  
242 327.02, the law enforcement agency shall contact the Department  
243 of Highway Safety and Motor Vehicles in order to determine the  
244 name and address of the owner and any person who has filed a  
245 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)  
246 or s. 328.15(1). On receipt of this information, the law  
247 enforcement agency shall mail a copy of the notice by certified  
248 mail, return receipt requested, to the owner and to the  
249 lienholder, if any, except that a law enforcement officer who  
250 has issued a citation for a violation of s. 823.11 to the owner  
251 of a derelict vessel is not required to mail a copy of the  
252 notice by certified mail, return receipt requested, to the  
253 owner. For a derelict vessel or a vessel designated in ss.  
254 327.73(1)(aa)3. and (bb)3., the mailed notice shall inform the  
255 owner or responsible party that he or she has a right to a  
256 hearing to dispute the determination that the vessel is derelict  
257 or otherwise in violation of the law. If a request for a hearing  
258 is made, a state agency shall follow the processes set forth in  
259 s. 120.569. Local government entities shall follow the processes  
260 set forth in s. 120.569, with the exception that a local judge,  
261 magistrate, or code enforcement officer may be designated to

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conduct such hearings. If, at the end of 5 days, or 21 days for a derelict vessel or a vessel designated in ss. 327.73(1)(aa)3. and (bb)3., after posting the notice and mailing such notice, if required, the owner or any person interested in the lost or abandoned article or articles described has not removed the article or articles from public property or shown reasonable cause for failure to do so, and, in the case of a derelict vessel or a vessel designated in ss. 327.73(1)(aa)3. and (bb)3., has not requested a hearing in accordance with this section, the following shall apply:

a.~~(a)~~ For abandoned property other than a derelict vessel or a vessel designated in ss. 327.73(1)(aa)3. and (bb)3., the law enforcement agency may retain any or all of the property for its own use or for use by the state or unit of local government, trade such property to another unit of local government or state agency, donate the property to a charitable organization, sell the property, or notify the appropriate refuse removal service.

b. For a derelict vessel or a vessel designated in ss. 327.73(1)(aa)3. and (bb)3., the law enforcement agency or its designee shall remove the vessel from the waters of the state and destroy and dispose of the vessel or authorize another governmental entity or its designee to do so. A law enforcement agency or its designee shall remove a vessel from the waters of the state and destroy and dispose of the vessel or authorize another governmental entity or its designee to do so if, following a hearing pursuant to this section, the judge, magistrate, administrative law judge, or hearing officer has determined the vessel to be derelict as provided in s. 823.11 or otherwise in violation of the law in accordance with s.



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291 327.73(1)(aa)3. or s. 327.73(1)(bb)3.

292 (b) For lost property, the officer shall take custody and  
293 the agency shall retain custody of the property for 90 days. The  
294 agency shall publish notice of the intended disposition of the  
295 property, as provided in this section, during the first 45 days  
296 of this time period.

297 1. If the agency elects to retain the property for use by  
298 the unit of government, donate the property to a charitable  
299 organization, surrender such property to the finder, sell the  
300 property, or trade the property to another unit of local  
301 government or state agency, notice of such election shall be  
302 given by an advertisement published once a week for 2  
303 consecutive weeks in a newspaper of general circulation in the  
304 county where the property was found if the value of the property  
305 is more than \$100. If the value of the property is \$100 or less,  
306 notice shall be given by posting a description of the property  
307 at the law enforcement agency where the property was turned in.  
308 The notice must be posted for not less than 2 consecutive weeks  
309 in a public place designated by the law enforcement agency. The  
310 notice must describe the property in a manner reasonably  
311 adequate to permit the rightful owner of the property to claim  
312 it.

313 2. If the agency elects to sell the property, it must do so  
314 at public sale by competitive bidding. Notice of the time and  
315 place of the sale shall be given by an advertisement of the sale  
316 published once a week for 2 consecutive weeks in a newspaper of  
317 general circulation in the county where the sale is to be held.  
318 The notice shall include a statement that the sale shall be  
319 subject to any and all liens. The sale must be held at the

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320 nearest suitable place to that where the lost or abandoned  
321 property is held or stored. The advertisement must include a  
322 description of the goods and the time and place of the sale. The  
323 sale may take place no earlier than 10 days after the final  
324 publication. If there is no newspaper of general circulation in  
325 the county where the sale is to be held, the advertisement shall  
326 be posted at the door of the courthouse and at three other  
327 public places in the county at least 10 days prior to sale.  
328 Notice of the agency's intended disposition shall describe the  
329 property in a manner reasonably adequate to permit the rightful  
330 owner of the property to identify it.

331 (4) The owner of any abandoned or lost property who, after  
332 notice as provided in this section, does not remove such  
333 property within the specified period shall be liable to the law  
334 enforcement agency, other governmental entity, or their designee  
335 for all costs of removal, storage, and destruction of such  
336 property, less any salvage value obtained by disposal of the  
337 property. Upon final disposition of the property, the law  
338 enforcement officer or representative of the law enforcement  
339 agency or other governmental entity shall notify the owner, if  
340 known, of the amount owed. In the case of an abandoned vessel or  
341 motor vehicle, any person who neglects or refuses to pay such  
342 amount is not entitled to be issued a certificate of  
343 registration for such vessel or motor vehicle, or any other  
344 vessel or motor vehicle, until such costs have been paid. The  
345 law enforcement officer shall supply the Department of Highway  
346 Safety and Motor Vehicles with a list of persons whose vessel  
347 registration privileges or whose motor vehicle privileges have  
348 been revoked under this subsection. Neither the department nor

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349 any other person acting as agent thereof shall issue a  
350 certificate of registration to a person whose vessel or motor  
351 vehicle registration privileges have been revoked, as provided  
352 by this subsection, until such costs have been paid.

353 Section 5. This act shall take effect July 1, 2020.

**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.)

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Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

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BILL: CS/SB 1378

INTRODUCER: Environment and Natural Resources Committee and Senator Rouson

SUBJECT: Vessels

DATE: February 10, 2020

REVISED: \_\_\_\_\_

|    | ANALYST  | STAFF DIRECTOR | REFERENCE | ACTION        |
|----|----------|----------------|-----------|---------------|
| 1. | Anderson | Rogers         | EN        | <b>Fav/CS</b> |
| 2. |          |                | JU        |               |
| 3. |          |                | RC        |               |

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1378:

- Prohibits a vessel operating at slow speed, minimum wake from proceeding at a speed faster than is reasonable and prudent to avoid the creation of an excessive wake or other hazardous condition under the existing circumstances.
- Prohibits vessel operators from operating a vessel faster than slow speed, minimum wake upon approaching certain hazardous conditions, including approaching an emergency or construction vessel.
- Provides requirements for an orange flag displayed by a construction vessel or barge to indicate that it is actively engaged in construction operations.
- Prohibits an owner or responsible party of a vessel at risk of becoming derelict, who has been issued a citation for a second violation for the same vessel, from anchoring or mooring a vessel to, or within 20 feet of, a mangrove or upland vegetation on public lands. The bill authorizes the Fish and Wildlife Conservation Commission (FWC) and other officers to relocate or cause to be relocated at-risk vessels that violate this provision.
- Increases the civil penalties for a vessel deemed at risk of becoming derelict and increases the maximum civil penalties for anchoring or mooring in a prohibited area.
- Creates civil penalties for vessels creating special hazards as specified in the bill.
- Adds to the list of violations resulting in a noncriminal infraction the display of an orange flag when the vessel or barge is not actively engaged in construction operations, and vessels at risk of becoming derelict that are found to be anchored within 20 feet of a mangrove or upland vegetation on public lands.

- Provides specific procedures, including notice and hearing requirements, for lost or abandoned property that is a derelict vessel, a vessel at risk of becoming derelict, or a vessel anchored or moored in a prohibited area.

## **II. Present Situation:**

### **Boating Speed Safety Regulations**

An operator of a vessel in Florida must operate the vessel in a reasonable and prudent manner, having regard for other waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of another person outside the vessel or due to vessel overloading or excessive speed.<sup>1</sup> A person operating a vessel in excess of a posted speed limit is guilty of a civil infraction.<sup>2</sup>

### **Anchoring or Mooring**

Anchoring or mooring refers to a boater's practice of seeking and using a safe harbor on the public waterway system for an undefined duration. Anchoring is accomplished using an anchor carried on the vessel.<sup>3</sup> Mooring is accomplished through the use of moorings permanently affixed to the bottom of the water body. Anchorages are areas that boaters regularly use for anchoring or mooring, whether designated or managed for that purpose or not. Mooring fields are areas designated and used for a system of properly spaced moorings.<sup>4</sup>

The anchoring of vessels has created conflicts in some areas of the state related to the use and enjoyment of the waters for many years. These issues include, but are not limited to:

- The locations where anchored vessels accumulate;
- Unattended vessels;
- Anchored vessels that are dragging anchor or not showing proper lighting;
- Vessels that are not maintained properly;
- Vessels that become derelict;
- Interpretation of state laws leading to inconsistent regulation of anchoring on state waters and confusion among the boating community; and
- Questions about local governmental authority to regulate anchoring.<sup>5</sup>

### **State Regulation of the Anchoring or Mooring of Vessels**

The Board of Trustees of the Internal Improvement Trust Fund (BOT) is authorized to adopt rules governing all uses of sovereignty submerged lands including rules for anchoring, mooring,

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<sup>1</sup> Section 327.33, F.S.

<sup>2</sup> Section 327.73(h), F.S.

<sup>3</sup> Section 327.02, F.S., defines the term "vessel" to include every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

<sup>4</sup> Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, 2 (Rev. May 2012), available at <https://www.law.ufl.edu/pdf/academics/centers-clinics/clinics/conservation/resources/anchaway.pdf>.

<sup>5</sup> Fish and Wildlife Conservation Commission (FWC), *Anchoring and Mooring Pilot Program Report of Findings and Recommendations*, 6 (Dec. 31, 2016), available at <http://www.boatus.com/gov/assets/pdf/fwc-2016-anchoring-and-mooring-report.pdf>.

or otherwise attaching to the bottom, the establishment of anchorages, the discharge of sewage, pump-out requirements, and facilities associated with anchorages.<sup>6</sup> Such rules must control the use of sovereignty submerged lands as a place of business or residence but are prohibited from interfering with commerce or the transitory operation of vessels through navigable water.<sup>7</sup>

State law prohibits a person from anchoring a vessel, except in case of emergency, in a manner which unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel.<sup>8</sup> Anchoring under bridges or in or adjacent to heavily traveled channels constitutes interference, if unreasonable under the prevailing circumstances.<sup>9</sup> Interference with navigation is a noncriminal infraction and punishable by a fine of \$50.<sup>10</sup>

The owner or operator of a vessel or floating structure may not anchor or moor such that the nearest approach of the anchored or moored vessel or floating structure is:

- Within 150 feet of any marina, boat ramp, boatyard, or vessel launching or loading facility;
- Within 300 feet of a superyacht repair facility (a facility that services or repairs a yacht with a water line of 120 feet or more in length); or
- Within 100 feet outward from the marked boundary of a public mooring field or a lesser distance if approved by the local government within which the mooring field is located.<sup>11</sup>

Exceptions from these restrictions apply for:

- A vessel owned or operated by a governmental entity;
- A construction or dredging vessel on an active job site;
- A commercial fishing vessel actively engaged in commercial fishing; and
- A vessel actively engaged in recreational fishing if the persons onboard are actively tending hook and line fishing gear or nets.<sup>12</sup>

An owner or operator of a vessel may anchor or moor within 150 feet of any marina, boat ramp, boatyard, or other vessel launching or loading facility; within 300 feet of a superyacht repair facility; or within 100 feet outward from the marked boundary of a public mooring field if:

- The vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor for 5 business days or until the vessel is repaired, whichever occurs first; or
- Imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor until weather conditions no longer pose such risk.<sup>13</sup>

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<sup>6</sup> Section 253.03(7), F.S.

<sup>7</sup> *Id.*; see Fla. Admin. Code ch. 18-21.

<sup>8</sup> Section 327.44, F.S.

<sup>9</sup> Section 327.44(2), F.S.

<sup>10</sup> Section 327.73, F.S.

<sup>11</sup> Section 327.4109(1)(a), F.S.

<sup>12</sup> Section 327.4109(1)(b), F.S.

<sup>13</sup> Section 327.4109(2), F.S.

The owner or operator of a vessel or floating structure may not anchor or moor within the marked boundary of a public mooring field unless the owner or operator has a lawful right to do so by contractual agreement or other business arrangement.<sup>14</sup>

A vessel or floating structure may not be anchored, moored, or affixed to an unpermitted, unauthorized, or otherwise unlawful object that is on or affixed to the bottom of the waters of this state. This does not apply to a private mooring owned by the owner of privately owned submerged lands.<sup>15</sup>

### **Derelict Vessels and Vessels at Risk of Becoming Derelict**

A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the owner of the property.<sup>16</sup>

In 2016, the Legislature prohibited neglected vessels or those in deteriorating conditions from anchoring, mooring, or occupying the waters of the state.<sup>17</sup> Section 327.4107(2), F.S., provides that a vessel is at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater;
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
- The vessel has broken loose or is in danger of breaking loose from its anchor;
- The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, or is listing due to water intrusion, or is sunk or partially sunk; or
- The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives telephonic or written notice stating such from an officer, and the vessel owner or operator is unable to provide a receipt, proof of purchase, or other documentation of having ordered necessary parts for vessel repair.<sup>18</sup>

### ***Penalties for Prohibited Acts Relating to Derelict Vessels and Anchoring and Mooring***

It is a first degree misdemeanor to store, leave, or abandon a derelict vessel in Florida.<sup>19</sup> Further, such violation is punishable by a civil penalty of up to \$50,000 per violation per day.<sup>20</sup> Each day during any portion of which the violation occurs constitutes a separate offense.<sup>21</sup>

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<sup>14</sup> Section 327.4109(3), F.S.

<sup>15</sup> Section 327.4019(4), F.S.

<sup>16</sup> Section 823.11(1)(b), F.S.

<sup>17</sup> Ch. 2016-108, s. 1, Laws of Fla. (creating s. 327.4107, F.S., effective Jul. 1, 2016).

<sup>18</sup> Section 327.4107, F.S., does not apply to a vessel that is moored to a private dock or wet slip with the consent of the owner for the purpose of receiving repairs. Section 327.4107(5), F.S.

<sup>19</sup> Sections 376.15(2) and 823.11(2) and (5), F.S. A first degree misdemeanor is punishable by up to one year in county jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

<sup>20</sup> Sections 376.15(2) and 376.16(1), F.S.

<sup>21</sup> Section 376.16(1), F.S.

Section 327.4107(3), F.S., provides that a person who anchors or moors a vessel at risk of becoming derelict on the waters of this state or allows such a vessel to occupy such waters commits a noncriminal infraction,<sup>22</sup> punishable as provided in s. 327.73, F.S.<sup>23</sup>

Section 327.73(1)(aa), F.S., provides that an owner or operator of a vessel at risk of becoming derelict on waters of the state in violation of s. 327.4107, F.S., is subject to a uniform boating citation and civil penalty. The civil penalty provided is:

- \$50 for a first offense;
- \$100 for a second offense occurring 30 days or more after a first offense; and
- \$250 for a third offense occurring 30 days or more after a previous offense.

Section 327.73(1)(bb), F.S., provides that an owner or operator who anchors or moors in a prohibited area in violation of s. 327.4109, F.S., is subject to a uniform boating citation and civil penalty. The civil penalty provided is up to a maximum of:

- \$50 for a first offense;
- \$100 for a second offense; and
- \$250 for a third offense.<sup>24</sup>

Finally, s. 327.73(1) F.S., provides that any person who fails to appear or otherwise properly respond to a uniform boating citation must, in addition to the charge relating to the violation of the boating laws of this state, be charged with a second degree misdemeanor.<sup>25</sup>

### ***Abandoned Vessels***

“Abandoned property” means all tangible personal property that does not have an identifiable owner and that has been disposed on public property in a wrecked, inoperative, or partially dismantled condition or has no apparent intrinsic value to the rightful owner. The term includes derelict vessels, as defined in s. 823.11, F.S.<sup>26</sup>

When an article of lost or abandoned property is present on public property and is not easily removable, the law enforcement officer must place a notice of removal on the property. The law enforcement agency must then contact the Department of Highway Safety and Motor Vehicles to determine the name and address of the owner, and must mail a copy of the notice to the owner.<sup>27</sup>

If, after 5 days of posting the notice and mailing such notice, the owner has not removed the items from public property, the law enforcement agency may retain the property for its own use, donate the property, sell the property, or remove the property.<sup>28</sup>

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<sup>22</sup> Section 775.082(5), F.S., provides that any person who has been convicted of a noncriminal violation may not be sentenced to a term of imprisonment nor to any other punishment more severe than a fine, forfeiture, or other civil penalty, except as provided in ch. 316, F.S., or by ordinance of any city or county.

<sup>23</sup> The penalty under s. 327.4107, F.S., is in addition to any other penalties provided by law. Section 327.4107(4), F.S.

<sup>24</sup> Section 327.73(1)(bb), F.S.

<sup>25</sup> A second degree misdemeanor is punishable by up to 60 days in county jail and a fine of up to \$500. Sections 775.082 and 775.083, F.S.

<sup>26</sup> Section 705.101(3), F.S.

<sup>27</sup> Section 705.103(2), F.S.

<sup>28</sup> *Id.*



### ***Removal of Derelict Vessels***

The Division of Law Enforcement of the Fish and Wildlife Conservation Commission (FWC) and its officers, and the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officers, have the responsibility and authority to enforce vessel safety and vessel title certificates, liens, and registration.<sup>29</sup>

Both state and local law enforcement are authorized and empowered to relocate or remove a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons.<sup>30</sup> The costs incurred for relocating or removing a derelict vessel are recoverable against the vessel owner.<sup>31</sup> A vessel owner who neglects or refuses to pay the costs of removal, storage, and destruction of the vessel, less any salvage value obtained by disposal of the vessel, is not entitled to be issued a certificate of registration for such vessel, or any other vessel or motor vehicle, until the costs are paid.<sup>32</sup>

### **Mangroves**

Mangroves are tropical plants that are adapted to loose, wet soils, salt water, and periodic submersion by tides.<sup>33</sup> There are more than 50 species of mangroves found throughout the world. Florida law defines a mangrove as a specimen of the species *Laguncularia racemosa* (white mangrove), *Rhizophora mangle* (red mangrove), or *Avicennia germinans* (black mangrove).<sup>34</sup>

There are over 555,000 acres of mangroves now existing in the coastal areas of Central and South Florida. Of this total, over 80 percent are expressly set aside for preservation or conservation purposes.<sup>35</sup> Mangroves provide protected nursery areas for fishes, crustaceans, and shellfish. They also provide food for a multitude of marine species. Many animals find shelter either in the roots or branches of mangroves. Mangrove branches are rookeries, or nesting areas, for coastal birds such as brown pelicans and roseate spoonbills.<sup>36</sup> Mangroves also stabilize the shoreline and help prevent storm surge and erosion damage to coastal property.<sup>37</sup> They help maintain water quality and clarity by trapping sediments, absorbing nutrients, and removing pollutants from land that would otherwise harm the coastal ocean.<sup>38</sup>

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<sup>29</sup> Section 327.70 F.S.; see section 943.10(1), F.S., which defines “law enforcement officer” as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition also includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

<sup>30</sup> Section 327.44(3), F.S.; section 823.11(3), F.S.

<sup>31</sup> Section 327.44(5), F.S.; section 823.11(3)(b), F.S.

<sup>32</sup> Section 705.103(4), F.S.

<sup>33</sup> Department of Environmental Protection (DEP), *What is a mangrove?*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/what-mangrove> (last visited Jan. 31, 2020).

<sup>34</sup> *Id.*

<sup>35</sup> Section 403.9322, F.S.

<sup>36</sup> DEP, *Florida’s Mangroves*, <https://floridadep.gov/rcp/rcp/content/floridas-mangroves> (last visited Jan. 31, 2020).

<sup>37</sup> FWC, *Mangrove Forests*, <https://myfwc.com/research/habitat/coastal-wetlands/information/mangroves/> (last visited Jan. 31, 2020).

<sup>38</sup> *Id.*

Mangroves can be damaged and destroyed by natural causes, but human activities such as coastal development are responsible for destroying more mangrove forests worldwide than any other type of coastal habitat.<sup>39</sup> The loss of mangrove habitat has been severe in Florida's three largest estuaries since the 1900s. Tampa Bay has lost nearly 50 percent of its mangrove forests and Charlotte Harbor estuary has lost nearly 60 percent. On Florida's East coast, the construction of mosquito ditches and impoundments has caused nearly 85 percent of the mangroves in the Indian River Lagoon to be inaccessible and unusable as nursery habitat for local fisheries.<sup>40</sup>

Currently, there are not any state regulations for anchoring or mooring near mangroves, although the trimming of mangroves is regulated under the Mangrove Trimming and Preservation Act.<sup>41</sup> Through the Mangrove Trimming and Preservation Act, the Legislature intends to protect and preserve mangrove resources valuable to our environment and economy from unregulated removal, defoliation, and destruction.<sup>42</sup>

### III. Effect of Proposed Changes:

**Section 1** of the bill creates s. 327.332, F.S., relating to special hazards requiring slow speeds by vessel operators. The bill specifies conditions under which a vessel is and is not considered to be operating at slow speed, minimum wake.

A vessel is considered to be operating at slow speed, minimum wake only if it is:

- Fully off plane and completely settled into the water; and
- Proceeding without wake or with minimum wake.

A vessel is not considered to be operating at slow speed, minimum wake if it is:

- Operating on plane;
- In the process of coming off plane and settling into the water or getting on plane; or
- Operating at a speed that creates a wake which unreasonably or unnecessarily endangers other vessels.

The bill prohibits a vessel operating at slow speed, minimum wake from proceeding at a speed greater than is reasonable and prudent to avoid the creation of an excessive wake or other hazardous condition under the existing circumstances.

The bill prohibits vessel operators from operating a vessel faster than slow speed, minimum wake upon approaching certain hazardous conditions and provides that a vessel operator found in violation of this requirement is guilty of a noncriminal infraction. The hazardous conditions are:

- Approaching within 300 feet of any emergency vessel, including but not limited to, a law enforcement vessel, a United States Coast Guard vessel, or firefighting vessel, when such emergency vessel has its emergency lights activated; and

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<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> Section 403.9321-403.9333, F.S.

<sup>42</sup> Section 403.9323, F.S.

- Approaching within 300 feet of any construction vessel or barge displaying an orange flag indicating that the vessel or barge is actively engaged in construction operations.
  - The flag must be displayed from a pole that extends at least 10 feet above the tallest portion of the vessel or barge, or at least 5 feet above any superstructure permanently installed upon the vessel or barge.
  - The flag must meet certain requirements, including:
    - Be a size of at least 2 feet by 3 feet;
    - Include a wire or other stiffener or be otherwise constructed to ensure that the flag remains fully unfurled and extended in the absence of a wind or breeze; and
    - Be displayed so the visibility of the flag is not obscured in any direction.

The bill specifies that a person may not be cited for a violation during periods of low visibility, including any time between the hours from 30 minutes after sunset and 30 minutes before sunrise, unless the orange flag is illuminated and visible from a distance of at least 2 nautical miles.

The bill also provides that an owner of or responsible party for a construction vessel or barge that displays an orange flag when it is not actively engaged in construction operations is guilty of a noncriminal infraction.

The bill specifies that the speed and penalty provisions of this section do not apply to law enforcement, firefighting, or rescue vessels that are owned or operated by a governmental entity.

**Section 2** of the bill amends s. 327.4107, F.S., relating to vessels at risk of becoming derelict on waters of this state. The bill prohibits an owner or responsible party of a vessel at risk of becoming derelict, who has been issued a citation for a second violation for the same vessel, from anchoring or mooring the vessel to, or within 20 feet of, a mangrove or upland vegetation on public lands. The 20 foot distance is to be measured in a straight line from the point of the vessel closest to the outermost branches of the mangrove or vegetation. The bill provides that a violation is a noncriminal infraction.

The bill authorizes the Fish and Wildlife Conservation Commission (FWC) and its officers, and county sheriffs and deputies, municipal police officers, and other municipal officers to relocate or cause to be relocated at-risk vessels in violation to a distance of greater than 20 feet from any mangrove or upland vegetation. FWC or any law enforcement officer that relocates an at-risk vessel upon state waters is held harmless for any damages to the vessel resulting from relocation, unless the damage is the result of gross negligence or willful misconduct.

**Section 3** of the bill amends s. 327.73, F.S., relating to civil penalties for violations of specified vessel laws. The bill increases civil penalties for a violation of s. 327.4107, F.S., relating to vessels at risk of becoming derelict on waters of the state, from:

- \$50 to \$100 for a first offense;
- \$100 to \$250 for a second offense occurring 30 days or more after a previous offense; and
- \$250 to \$500 for a third or subsequent offense occurring 30 days or more after a previous offense.

The bill increases the maximum civil penalty for a violation of s. 327.4109, F.S., relating to anchoring or mooring in a prohibited area, from:

- \$50 to \$100 for a first offense;
- \$100 to \$250 for a second offense; and
- \$250 to \$500 for a third or subsequent offense.

The bill provides that a vessel which is the subject of three or more violations within 12 months for being at risk of becoming derelict on waters of the state or anchoring or mooring in a prohibited area, and which resulted in dispositions other than acquittal or dismissal, is declared to be a public nuisance and is subject to abandoned property provisions specific to derelict vessels in s. 705.103, F.S., and derelict vessel relocation and removal provisions in s. 823.11, F.S.

The bill creates civil penalties for a violation of s. 327.332, F.S., the new section relating to vessels creating special hazards:

- \$50 for a first offense;
- \$250 for a second offense occurring within 12 months after a prior offense; and
- \$500 for a third offense occurring within 36 months after a prior offense.

The bill adds to the list of violations resulting in a noncriminal infraction:

- The display of an orange flag when the vessel or barge is not actively engaged in construction operations, which would result in a civil penalty of \$50 pursuant to existing law; and
- Vessels at risk of becoming derelict that are found to be anchored within 20 feet of a mangrove or upland vegetation on public lands, which would result in a civil penalty of \$250.

**Section 4** of the bill amends s. 705.103, F.S., relating to procedures for abandoned or lost property. The bill provides specific procedures for lost or abandoned property present on the waters of the state that is a derelict vessel, a vessel at risk of becoming derelict, or a vessel anchored or moored in a prohibited area. When a law enforcement officer ascertains that such a vessel exists, the officer must cause a notice to be placed on the vessel in substantially the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED VESSEL. This vessel, to wit: ...(setting forth brief description)... is unlawfully upon waters of the state ...(setting forth brief description of location)... and must be removed within 21 days; otherwise, it will be removed and disposed of pursuant to chapter 705, Florida Statutes. The owner and other interested parties may have the right to a hearing to challenge the determination that this vessel is derelict or otherwise in violation of the law. Please contact ... (contact information for person who can arrange for a hearing in accordance with this section) .... The owner will be liable for the costs of removal, storage, and publication of notice if this vessel is not removed by the owner. Dated this: ... (setting forth the date of posting of notice) ..., signed: ... (setting forth name, title, address, and telephone number of law enforcement officer) ....

Additionally, pursuant to existing law, the law enforcement agency must also mail a copy of the notice by certified mail, return receipt requested, to the owner. The mailed notice must inform the owner or responsible party that he or she has a right to a hearing to dispute the determination that the vessel is derelict or otherwise in violation of the law. If the owner requests a hearing, the Administrative Procedure Act must be followed. If, at the end of 21 days after the notice is posted and mailed, the owner or any person interested in the lost or abandoned vessel has not removed it or shown reasonable cause for failure to do so or if the vessel has been determined to have violated the law following a hearing, the law enforcement agency or its designee must remove the vessel from the waters of the state and destroy and dispose of the vessel or authorize another governmental entity or its designee to do so.

**Section 5** of the bill provides that the bill is effective on July 1, 2020.

#### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

#### **V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

There may be a positive fiscal impact to FWC due to the new and increased civil penalties provided under the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 327.332 of the Florida Statutes.

This bill substantially amends the following sections of the Florida Statutes: 327.4107, 327.73, and 705.103.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Environment and Natural Resources Committee on February 10, 2020:**

- Specifies conditions under which a vessel is and is not considered to be operating at slow speed, minimum wake.
- Exempts law enforcement, firefighting, or rescue vehicles that are owned and operated by a governmental entity from the provisions in the bill restricting speed around emergency and construction vessels.
- Prohibits an owner or responsible party for a vessel at risk of becoming derelict, who has received a citation for a second violation for the same vessel, from anchoring or mooring within 20 feet of a mangrove or to upland vegetation on public lands. Provides that a violation is a noncriminal infraction.
- Authorizes FWC and other law enforcement officers to relocate a vessel at risk of becoming derelict that is anchored or moored within 20 feet of a mangrove or to upland vegetation on public lands.
- Provides procedures, including notice and hearing requirements, for abandoned or lost derelict vessels, vessels at risk of becoming derelict, or vessels that are anchored or moored in a prohibited area.
- Deletes the appropriation to FWC to conduct a study of the impacts of long-term stored vessels.

**B. Amendments:**

None.

**By** the Committee on Environment and Natural Resources; and  
Senator Rodriguez

592-03420-20

20201360c1

A bill to be entitled  
An act relating to endangered and threatened species;  
amending s. 379.2291, F.S.; revising legislative  
intent of the Florida Endangered and Threatened  
Species Act; revising definitions; directing the Fish  
and Wildlife Conservation Commission to protect  
certain declassified species; prohibiting the  
commission from considering certain costs when  
designating a species as endangered or threatened;  
amending s. 581.185, F.S.; revising criteria for  
placement of species on the Regulated Plant Index by  
the Department of Agriculture and Consumer Services;  
directing the department, in consultation with the  
Endangered Plant Advisory Council, to protect certain  
declassified species; prohibiting the department from  
considering certain costs when designating a species  
as endangered or threatened; providing an effective  
date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (2), (3), and (4) of section  
379.2291, Florida Statutes, are amended to read:

379.2291 Endangered and Threatened Species Act.—

(2) DECLARATION OF POLICY.—The Legislature recognizes that  
the State of Florida harbors a wide diversity of fish and  
wildlife and that it is the policy of this state to conserve and  
wisely manage these resources, with particular attention to  
those species designated ~~defined~~ by the Fish and Wildlife

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30 Conservation Commission, the Department of Environmental  
31 Protection, or the United States Department of Interior, or  
32 successor agencies, as being endangered or threatened. As  
33 Florida has more endangered and threatened species than any  
34 other continental state, it is the intent of the Legislature to  
35 provide for research and management to conserve and protect  
36 these species as a natural resource.

37 (3) DEFINITIONS.—As used in this section:

38 (a) "Fish and wildlife" means any member of the animal  
39 kingdom, including, but not limited to, any mammal, fish, bird,  
40 amphibian, reptile, mollusk, crustacean, arthropod, or other  
41 invertebrate.

42 (b) "Endangered species" means any species of fish and  
43 wildlife naturally occurring in Florida, whose prospects of  
44 survival are in jeopardy due to modification or loss of habitat;  
45 overuse ~~overutilization~~ for commercial, sporting, scientific, or  
46 educational purposes; disease; predation; inadequacy of  
47 regulatory mechanisms; or other natural or manmade factors  
48 affecting its continued existence, including climate change.

49 (c) "Threatened species" means any species of fish and  
50 wildlife naturally occurring in Florida which may not be in  
51 immediate danger of extinction, but which exists in such small  
52 populations as to become endangered if it is subjected to  
53 increased stress as a result of further modification of its  
54 environment, including climate change.

55 (4) INTERAGENCY COORDINATION.—

56 (a) The commission shall be responsible for research and  
57 management of freshwater and upland species and for research and  
58 management of marine species.



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(b) Recognizing that citizen awareness is a key element in the success of this plan, the commission and the Department of Education are encouraged to work together to develop a public education program with emphasis on, but not limited to, both public and private schools.

(c) The commission, in consultation with the Department of Agriculture and Consumer Services, the Department of Economic Opportunity, or the Department of Transportation, may establish reduced speed zones along roads, streets, and highways to protect endangered and threatened species ~~or threatened species~~.

(d) Notwithstanding declassification under the federal Endangered Species Act of 1973, the commission shall continue to protect species that meet the definition of endangered or threatened under subsection (3), as determined by the commission.

(e) The commission may not consider the economic cost of protecting a species as a factor in designating the species as endangered or threatened.

Section 2. Subsection (5) of section 581.185, Florida Statutes, is amended to read:

581.185 Preservation of native flora of Florida.—

(5) REVIEW.—

(a) Beginning in 1984, and every 4 years thereafter, the department and the Endangered Plant Advisory Council shall conduct a comprehensive review of this section and of the Regulated Plant Index, as provided in rules of the department, ~~shall be made by the department and the Endangered Plant Advisory Council at 4-year intervals.~~

(b) The department shall consider any species of plant that

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should be placed on the Regulated Plant Index which is in danger of disappearing from its native habitat within the foreseeable future throughout all or a significant portion of the range of the species because of:

1. Present or threatened destruction, modification, or curtailment of the range of the species.

2. Overuse ~~Overutilization~~ of the species for commercial, scientific, or educational purposes.

3. Disease or predation.

4. Any other natural or manmade factor affecting the continued existence of the species, including climate change.

(c) In carrying out reviews and arriving at recommendations under paragraphs (a) and (b), the department and the advisory council shall use the best scientific and commercial data available and shall consult with interested persons and organizations.

(d) Notwithstanding declassification under the federal Endangered Species Act of 1973, the department shall continue to protect species that meet the definition of endangered or threatened under subsection (2), as determined by the department in consultation with the advisory council.

(e) The department may not consider the economic cost of protecting a species as a factor in designating the species as endangered or threatened.

Section 3. This act shall take effect July 1, 2020.

**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.)

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Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

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BILL: CS/SB 1360

INTRODUCER: Environment and Natural Resources Committee and Senator Rodriguez

SUBJECT: Endangered and Threatened Species

DATE: February 10, 2020

REVISED: \_\_\_\_\_

|    | ANALYST  | STAFF DIRECTOR | REFERENCE | ACTION        |
|----|----------|----------------|-----------|---------------|
| 1. | Anderson | Rogers         | EN        | <b>Fav/CS</b> |
| 2. |          |                | AEG       |               |
| 3. |          |                | AP        |               |

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1360 revises the definitions of “endangered species” and “threatened species” in the Florida Endangered and Threatened Species Act to include the impact of climate change as a factor that may jeopardize the survival of certain species of fish and wildlife. The bill requires the Fish and Wildlife Conservation Commission (FWC) to continue to protect endangered or threatened fish and wildlife species as FWC determines, regardless of whether such species are declassified under the federal Endangered Species Act of 1973. The bill prohibits FWC from considering the economic cost of protecting a fish or wildlife species as a factor in designating it as endangered or threatened.

The bill requires the Department of Agriculture and Consumer Services (DACS) to consider the impacts of climate change on plant species as part of its 4-year review of the Regulated Plant Index. The bill requires DACS to continue to protect endangered or threatened plant species as DACS determines, regardless of whether such species are declassified under the federal Endangered Species Act of 1973. The bill prohibits DACS from considering the economic cost of protecting a plant species as a factor in designating it as endangered or threatened.

## II. Present Situation:

### **Endangered Species Act of 1973 (Federal)**<sup>1</sup>

The Endangered Species Act (ESA), enacted in 1973 and amended in 1996, designates that species of fish, (including marine mammals), wildlife, and plants, which are so depleted they are in danger of or threatened with extinction, must be conserved.<sup>2</sup> The ESA is overseen by the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS). The ESA provides for the conservation of threatened and endangered species of fish, wildlife, and plants by federal action and by encouraging state conservation programs.<sup>3</sup> The objective of ESA is to enable listed species not merely to survive, but to recover from their endangered or threatened status.<sup>4</sup> The act authorizes the determination and listing of endangered and threatened species and their habitats.

### ***Delisting/Declassification***

When a species is able to survive on its own in the wild, the species is considered to be recovered, and protection of the ESA is no longer necessary. At least once every five years, USFWS conducts a review of all listed species to determine whether any species should be removed from the list, changed in status from endangered to threatened, or changed in status from threatened to endangered.<sup>5</sup> When USFWS removes a species from the federal list of Endangered and Threatened Wildlife and Plants, the species is “delisted.” To delist a species, USFWS must determine that threats have been eliminated or controlled, based on several factors including population size and trends and the stability of habitat quality and quantity.<sup>6</sup>

USFWS reviews five factors in its determination of whether a species still needs protection under the ESA:

- Is there a present or threatened destruction, modification, or curtailment of the species’ habitat or range?
- Is the species subject to over-utilization for commercial, recreational, scientific, or educational purposes?
- Is disease or predation a factor?
- Are there adequate existing regulatory mechanisms in place, taking into account the initiatives by states and other organizations, to protect the species or habitat?
- Are other natural or manmade factors affecting the species’ continued existence?<sup>7</sup>

During this process, USFWS works with species experts; federal, state, and local agencies; tribes; nongovernmental organizations; the academic community; and other stakeholders to achieve success in population assessments, recovery, and eliminating or reducing threats. Species are generally delisted for the following reasons: recovery, extinction, or evidence of additional

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<sup>1</sup> 16 U.S.C. s. 1531-1544.

<sup>2</sup> 16 U.S.C. s. 1531.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*; *Sierra Club v. U.S. Fish and Wildlife Service*, 245 F. 3d 434 (2001).

<sup>5</sup> 16 U.S.C. s. 1533.

<sup>6</sup> USFWS, *Delisting a Species, Section 4 of the Endangered Species Act*, available at <https://www.fws.gov/endangered/esa-library/pdf/delisting.pdf>.

<sup>7</sup> *Id.*

populations. After a species is delisted, it is still monitored for at least five years according to a post-delisting monitoring plan.<sup>8</sup>

### ***Economic Costs***

Historically, economics has not been a factor in the decision of whether or not to list a species under the ESA. However, economic costs are considered in the designation of critical habitat,<sup>9</sup> even when the impacts are attributable to other causes, including listing.<sup>10</sup>

The ESA states that listing decisions are to be made “solely on the basis of the best scientific and commercial data available.”<sup>11</sup> The 1978 regulations expanded on this prohibition by adding “without reference to possible economic or other impacts of such determination.”<sup>12</sup> The revised regulations, effective September 26, 2019 removed this language<sup>13</sup> to clarify that it is not prohibited for USFWS to compile economic information that is not used to influence a listing decision.<sup>14</sup> When first proposing the rule, the USFWS and NMFS indicated that there may be circumstances where referencing economic or other impacts may be informative to the public.<sup>15</sup>

### ***State Programs***

Section 6 of the ESA provides funding for the development of state programs for the management of threatened and endangered species by state wildlife agencies.<sup>16</sup> Additionally, each state has state endangered species lists containing species that are endangered in the state but are not a federally-listed species. The Secretary of the Interior must enter into a cooperative agreement with a state which establishes and maintains an adequate and active program for the conservation of endangered and threatened species if the program meets certain standards under the ESA.<sup>17</sup> If a cooperative agreement exists, a state may receive federal funds under the ESA to implement the program, though normally states are expected to contribute a minimum matching amount.<sup>18</sup>

### **Fish and Wildlife Conservation Commission**

Pursuant to s. 9, Art. IV of the State Constitution, the Florida Fish and Wildlife Conservation Commission (FWC) exercises the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.<sup>19</sup> While the USFWS has primary responsibility for Florida species that are federally endangered or threatened, FWC works in

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<sup>8</sup> 16 U.S.C. s. 1533.

<sup>9</sup> 50 C.F.R. s. 424.12.

<sup>10</sup> *New Mexico Cattle Growers Ass'n v. United States Fish & Wildlife Serv.*, 248 F.3d 1277, 1285 (10th Cir. 2001).

<sup>11</sup> 50 C.F.R. s. 424.11(b) (2019).

<sup>12</sup> 50 C.F.R. s. 424.11(b) (1984).

<sup>13</sup> 50 C.F.R. s. 424.11(b) (2019).

<sup>14</sup> Endangered and Threatened Wildlife and Plants, Revision of the Regulations for Listing Species and Designating Critical Habitat, 84 Fed. Reg. 45020, 45024 (Aug. 27, 2019) (to be codified at 50 C.F.R. s. 424.11).

<sup>15</sup> Endangered and Threatened Wildlife and Plants, Revision of the Regulations for Listing Species and Designating Critical Habitat, 84 Fed. Reg. 35194-35195 (Jul. 25, 2018) (to be codified at 50 C.F.R. s. 424.11).

<sup>16</sup> 16 U.S.C. § 1535.

<sup>17</sup> 16 U.S.C. § 1535(c).

<sup>18</sup> 16 U.S.C. § 1535(d)(2).

<sup>19</sup> Fla. Const. Art. IV, s. 9.

partnership with USFWS to help conserve these species and maintains a list of state endangered and threatened species.

***Florida Endangered and Threatened Species Act***<sup>20</sup>

The Florida Endangered and Threatened Species Act of 1977 provides for research and management to conserve and protect threatened and endangered species as a natural resource.<sup>21</sup> Responsibility for the research and management of upland, freshwater, and marine species is given to FWC.<sup>22</sup> The act also encourages FWC to develop a public education program dealing with endangered and threatened species. Annually, the FWC director submits a revised plan for management and conservation of endangered and threatened species to the Governor, Cabinet, and Legislature.<sup>23</sup>

Endangered and threatened species can be listed as state-designated or federally-designated endangered or threatened species. State-designated threatened species are species that are native to Florida and are classified as threatened as determined by:

- A reduction in population size;
- Decline in geographic range;
- A population size estimated to be under 10,000 mature individuals with a continuing decline;
- A population size estimated to be under 1,000 mature individuals or with a very restricted area of occupancy; or
- A quantitative analysis showing the probability of extinction in the wild is at least 10% within 100 years.<sup>24</sup>

Federally-designated endangered and threatened species are species of fish or wild animal life that are native to Florida and are classified as endangered or threatened by their federal designation as endangered or threatened under the ESA.<sup>25</sup>

Pursuant to FWC rule, if a species native to Florida is reclassified under the ESA and is a species within FWC's constitutional authority, the species must also be reclassified under the Florida Endangered and Threatened Species list.<sup>26</sup> However, if a species is removed from ESA protection, or delisted, the species must receive a biological status review to determine if it warrants listing as a state-listed species.<sup>27</sup> FWC must consider the biological status report, independent scientific reviews received, and public comments regarding biological status when making a final determination regarding a change in listing status.<sup>28</sup>

Before any species is removed from the state-endangered and threatened species lists, FWC must develop a management plan that is intended to maintain or enhance the conservation of that

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<sup>20</sup> Ch. 77-375, ss. 1-6, Laws of Fla. (creating s. 379.2291).

<sup>21</sup> Section 379.2291(2), F.S.

<sup>22</sup> Section 379.2291(4), F.S.

<sup>23</sup> Section 379.2291(5), F.S.; see FWC, *Endangered and Threatened Species Management and Conservation Plan, Progress Report, Fiscal Year 2018-2019* (Nov. 19, 2019), available at <https://myfwc.com/media/22264/2018-19-legislative-report.pdf>.

<sup>24</sup> Fla. Admin. Code R. 68A-27.001(3).

<sup>25</sup> Fla. Admin. Code R. 68A-27.001(2).

<sup>26</sup> Fla. Admin. Code R. 68A-27.0012(1).

<sup>27</sup> *Id.*

<sup>28</sup> Fla. Admin. Code R. 68A-27.0012(c)2.e.

species.<sup>29</sup> FWC also developed the Imperiled Species Management Plan to address the needs of state-listed species that did not already have a management plan or specific program in place.<sup>30</sup>

### ***Climate Change Effects on Fish and Wildlife***

FWC is Florida's lead agency on addressing the impacts of climate change on fish and wildlife, including adaptation strategies for Florida's coastal ecosystems.<sup>31</sup> Projections indicate that few other states will be impacted by climate change as severely as Florida.<sup>32</sup> Some of the climatic changes that may affect Florida include: sea-level rise and changes in precipitation, air temperature, extreme events, and carbon dioxide.<sup>33</sup>

Many species of fish and wildlife in Florida could be threatened by climatic shifts. Species with narrow tolerance ranges, those occupying habitats in areas where migration or relocation is challenging due to physical barriers or unsuitable habitat, those with limited ability to disperse, or those with specialized habitat requirements, small populations, or low genetic diversity are expected to be most at risk.<sup>34</sup>

### **Regulated Plant Index**

The Division of Plant Industry within the Department of Agriculture and Consumer Services (DACS) protects plant species native to the state that are endangered, threatened, or commercially exploited.<sup>35</sup> The policy of the state is to provide recognition of these plant species; protect them from unlawful harvesting on both public and privately owned lands; and provide an orderly and controlled procedure for restricted harvesting from the wild.<sup>36</sup> The state also encourages the propagation of endangered species and provides information necessary to legally collect these species for propagation.<sup>37</sup>

Florida's native plant species in need of conservation efforts are listed in the Regulated Plant Index and are classified as endangered, threatened, or commercially exploited.<sup>38</sup> The list includes 448 endangered, 118 threatened, and nine commercially exploited species. Fifty-four of these species are on the federal list of endangered plant species and 14 are on the federal list of threatened species.<sup>39</sup>

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<sup>29</sup> Fla. Admin. Code R. 68A-27.0012(1).

<sup>30</sup> FWC, *Imperiled Species Management Plan*, available at <https://myfwc.com/media/2030/imperiled-species-management-plan.pdf>.

<sup>31</sup> FWC, *What FWC is Doing*, <https://myfwc.com/conservation/special-initiatives/climate-change/fwc/> (last visited Feb. 4, 2020); FWC, *A Guide to Climate Change Adaptation for Conservation*, 6-81–6-108, 9-35–9-51 (2016), available at <https://myfwc.com/media/5864/adaptation-guide.pdf>.

<sup>32</sup> *Id.* at 4-1.

<sup>33</sup> *Id.* at 4-2.

<sup>34</sup> *Id.* at 5-1.

<sup>35</sup> Section 581.185(3), F.S.

<sup>36</sup> Section 581.185(1), F.S.

<sup>37</sup> *Id.*

<sup>38</sup> Fla. Admin. Code R. 5B-40.0055.

<sup>39</sup> DACS, *Florida's Endangered Plants*, <https://www.fdacs.gov/Divisions-Offices/Plant-Industry/Bureaus-and-Services/Entomology-Nematology-Plant-Pathology/Botany/Florida-s-Endangered-Plants> (last visited Feb. 4, 2020).

DACS has adopted rules relating to the listing, delisting, and changing the listing of plants on the Regulated Plant Index.<sup>40</sup> Every 4 years, DACS and the Endangered Plant Advisory Council review the Regulated Plant Index and consider any species of plant which is in danger of disappearing from its native habitat within the foreseeable future throughout all or a significant portion of the range of the species because of:

- Present or threatened destruction, modification, or curtailment of the range of the species.
- Overutilization of the species for commercial, scientific, or educational purposes.
- Disease or predation.
- Any other natural or manmade factor affecting the continued existence of the species.<sup>41</sup>

Any changes to the Regulated Plant Index must consider the recommendation of the Endangered Plant Advisory Council and the best environmental and commercial data available.<sup>42</sup> DACS must also consider the recommendations of the general public.<sup>43</sup> The Endangered Plant Advisory Council meets at least once a year.<sup>44</sup>

### **III. Effect of Proposed Changes:**

#### **Section 1 (Fish and Wildlife)**

The bill revises the legislative policy of the Florida Endangered or Threatened Species Act to conserve and manage resources, with particular attention to species “designated,” rather than “defined” by the Fish and Wildlife Conservation Commission (FWC), the Department of Environmental Protection (DEP), or the United States Department of the Interior or its successor agencies, as being endangered or threatened.

The bill revises the definitions of “endangered species” and “threatened species” to include the impact of climate change as a factor that may jeopardize the survival of certain species of fish and wildlife.

The bill revises the requirement that FWC, in consultation with several agencies, establish reduced speed zones along roads, streets, and highways to protect endangered and threatened species, rather than endangered or threatened species.

The bill requires FWC to continue to protect endangered or threatened fish and wildlife species as FWC determines, regardless of whether such species are declassified under the federal Endangered Species Act of 1973. The bill prohibits FWC from considering the economic cost of protecting a fish or wildlife species as a factor in designating it as endangered or threatened.

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<sup>40</sup> Fla. Admin. Code Ch. 5B-40.

<sup>41</sup> Section 581.185(5), F.S.

<sup>42</sup> Section 581.185(4), F.S.

<sup>43</sup> *Id.*, Fla. Admin. Code R. 5B-40.0056(1).

<sup>44</sup> Fla. Admin. Code R. 5B-40.0056(2).



**Section 2 (Plants)**

The bill requires the Department of Agriculture and Consumer Services (DACS) and the Endangered Plant Advisory Council to consider the impacts of climate change on plant species as part of its 4-year review of the Regulated Plant Index.

The bill requires DACS to continue to protect endangered or threatened plant species as DACS determines, regardless of whether such species are declassified under the federal Endangered Species Act of 1973. The bill prohibits DACS from considering the economic cost of protecting a plant species as a factor in designating it as endangered or threatened.

**Section 3**

The bill takes effect on July 1, 2020.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 379.2291 and 581.185 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Environment and Natural Resources Committee on February 10, 2020:**

- Revises title of bill to “An act relating to endangered and threatened species” to include the section relating to endangered and threatened plant species which are not covered under the Florida Endangered and Threatened Species Act.
- Deletes incorrect reference to DEP.

B. Amendments:

None.

By the Committees on Agriculture; and Environment and Natural Resources; and Senator Mayfield

575-03476-20

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A bill to be entitled

An act relating to fish and wildlife activities; amending s. 379.105, F.S.; prohibiting certain harassment of hunters, trappers, and fishers within or on public lands or publicly or privately owned wildlife and fish management areas, or in or on public waters; amending s. 379.354, F.S.; authorizing the Fish and Wildlife Conservation Commission to designate additional annual free freshwater and saltwater fishing days; amending s. 379.372, F.S.; prohibiting the keeping, possessing, importing, selling, bartering, trading, or breeding of certain species except for educational, research, or eradication or control purposes; including green iguanas and species of the genera *Salvator* and *Tupinambis* in such prohibition; reenacting s. 379.2311(1), F.S., relating to the definition of the term "priority invasive species," to incorporate the amendment made to s. 379.372, F.S., in a reference thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 379.105, Florida Statutes, is amended to read:

379.105 Harassment of hunters, trappers, or fishers.—

(1) A person may not intentionally, within or on any public lands or a publicly or privately owned wildlife management and ~~or~~ fish management areas, area or in or on any public waters

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30 ~~state-owned water body:~~

31 (a) Interfere with or attempt to prevent the lawful taking  
32 of fish, game, or nongame animals by another within or on such  
33 lands or areas, or in or on such waters.

34 (b) Attempt to disturb fish, game, or nongame animals or  
35 attempt to affect their behavior with the intent to prevent  
36 their lawful taking by another within or on such lands or areas,  
37 or in or on such waters.

38 Section 2. Subsection (15) of section 379.354, Florida  
39 Statutes, is amended to read:

40 379.354 Recreational licenses, permits, and authorization  
41 numbers; fees established.—

42 (15) FREE FISHING DAYS.—The commission may designate by  
43 rule no more than 6 4 consecutive or nonconsecutive days in each  
44 year as free freshwater fishing days and no more than 6 4  
45 consecutive or nonconsecutive days in each year as free  
46 saltwater fishing days. Notwithstanding any other provision of  
47 this chapter, a ~~any~~ person may take freshwater fish for  
48 noncommercial purposes on a free freshwater fishing day and may  
49 take saltwater fish for noncommercial purposes on a free  
50 saltwater fishing day, without obtaining or possessing a license  
51 or permit or paying a license or permit fee as set forth  
52 ~~prescribed~~ in this section. A person who takes freshwater or  
53 saltwater fish on a free fishing day must comply with all laws,  
54 rules, and regulations governing the holders of a fishing  
55 license or permit and all other conditions and limitations  
56 regulating the taking of freshwater or saltwater fish as are  
57 imposed by law or rule.

58 Section 3. Paragraph (a) of subsection (2) of section

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379.372, Florida Statutes, is amended to read:

379.372 Capturing, keeping, possessing, transporting, or exhibiting venomous reptiles, reptiles of concern, conditional reptiles, or prohibited reptiles; license required.—

(2)(a) A ~~No~~ person, party, firm, association, or corporation may not ~~shall~~ keep, possess, import into the state, sell, barter, trade, or breed the following species except for educational, research, or eradication or control purposes ~~personal use or for sale for personal use~~:

1. Burmese or Indian python (*Python molurus*).
2. Reticulated python (*Python reticulatus*).
3. Northern African python (*Python sebae*).
4. Southern African python (*Python natalensis*).
5. Amethystine or scrub python (*Morelia amethystinus*).
6. Green Anaconda (*Eunectes murinus*).
7. Nile monitor (*Varanus niloticus*).
8. Green iguana (*Iguana iguana*).
9. Tegu lizard (any species of the genera *Salvator* or *Tupinambis*).

10. Any other reptile designated as a conditional or prohibited species by the commission.

Section 4. For the purpose of incorporating the amendment made by this act to section 379.372, Florida Statutes, in a reference thereto, subsection (1) of section 379.2311, Florida Statutes, is reenacted to read:

379.2311 Nonnative animal management.—

(1) As used in this section, the term "priority invasive species" means the following:

- (a) Lizards of the genus *Tupinambis*, also known as tegu

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lizards;

(b) Species identified in s. 379.372(2)(a);

(c) *Pterois volitans*, also known as red lionfish; and

(d) *Pterois miles*, also known as the common lionfish or  
devil firefish.

Section 5. This act shall take effect July 1, 2020.

**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.)

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Prepared By: The Professional Staff of the Committee on Agriculture

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BILL: CS/CS/SB 1414

INTRODUCER: Agriculture Committee, Environment and Natural Resources Committee, and Senator Mayfield

SUBJECT: Fish and Wildlife Activities

DATE: February 12, 2020

REVISED: \_\_\_\_\_

|    | ANALYST  | STAFF DIRECTOR | REFERENCE | ACTION        |
|----|----------|----------------|-----------|---------------|
| 1. | Rogers   | Rogers         | EN        | <b>Fav/CS</b> |
| 2. | Akhavein | Becker         | AG        | <b>Fav/CS</b> |
| 3. |          |                | RC        |               |

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/CS/SB 1414 broadens the prohibition on the harassment of hunters, trappers, or fishers to include harassment on any public lands, public waters, or publicly or privately owned wildlife management and fish management areas.

The bill expands the number of free fishing days from 4 to 6.

The bill adds tegus and iguanas to the conditional nonnative snakes and lizards list and tightens the restrictions on the list from applying to possession of these species for sale or personal use to prohibiting any use except for educational, research, or eradication or control purposes.

**II. Present Situation:**

**Penalties for Violations Pertaining to Fish and Wildlife**

Under Art. IV, s. 9 of the Florida Constitution, the Fish and Wildlife Conservation Commission (FWC) is granted the authority to exercise the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life. The Legislature may enact laws that aid FWC in its exercise of regulatory functions and executive powers in the areas of planning, budgeting, personnel management, and purchasing.<sup>1</sup>

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<sup>1</sup> FLA. CONST. art. IV, s. 9.

Section 379.401, F.S., details FWC's four-tier system for penalties and violations, civil penalties for noncriminal infractions, criminal penalties, and suspension and forfeiture of licenses and permits. Level One violations are considered the least serious while Level Four violations the most serious.

The penalties for Level Two violations are as follows:

| <b>Level Two Violation</b>  | <b>Type of Infraction</b>                       | <b>Civil Penalty or Jail Time</b>           | <b>License Restrictions</b>           |
|---|---|---|---------------------------------------|
| First offense   | 2 <sup>nd</sup> Degree Misdemeanor <sup>2</sup> | Max: \$500 or<br>Max: 60 days               | None                                  |
| Second offense within three years of previous Level Two violation (or higher)     | 1 <sup>st</sup> Degree Misdemeanor <sup>3</sup> | Min: \$250; Max: \$1,000<br>Max: one year   | None                                  |
| Third offense within five years of two previous Level Two violations (or higher)  | 1 <sup>st</sup> Degree Misdemeanor <sup>4</sup> | Min: \$500; Max: \$1,000<br>Max: one year   | Suspension of license for one year    |
| Fourth offense within 10 years of three previous Level Two violations (or higher) | 1 <sup>st</sup> Degree Misdemeanor <sup>5</sup> | Min: \$750; Max \$1,000<br>or Max: one year | Suspension of license for three years |

### **Right to Hunt or Fish**

The Legislature recognizes that hunting, fishing, and the taking of game are a valued part of the cultural heritage of Florida and should be forever preserved for Floridians.<sup>6</sup> The Legislature further recognizes that these activities play an important part in the state's economy and in the conservation, preservation, and management of the state's natural areas and resources. Therefore, the Legislature intends that the citizens of Florida have a right to hunt, fish, and take game, subject to the regulations and restrictions prescribed by general law and by the FWC.<sup>7</sup>

### ***Fees for Freshwater or Saltwater Fishing Licenses***

The law and FWC rules prohibit the taking of game, freshwater or saltwater fish, or fur-bearing animals within this state without having first obtained a license, permit, or authorization number and paid the associated fees.<sup>8</sup> The following lists are freshwater and saltwater fees for fishing licenses set out in statute, though there can be additional fees for specialized permits.

For residents:

- An annual freshwater or saltwater fishing license costs \$15.50.<sup>9</sup>
- A 5-year freshwater or saltwater fishing license costs \$77.50.<sup>10</sup>

<sup>2</sup> Section 379.401(2)(b)1., F.S.

<sup>3</sup> Section 379.401(2)(b)2., F.S.

<sup>4</sup> Section 379.401(2)(b)3., F.S.

<sup>5</sup> Section 379.401(2)(b)4., F.S.

<sup>6</sup> Section 379.104, F.S.

<sup>7</sup> *Id.*

<sup>8</sup> Section 379.354(1), F.S.

<sup>9</sup> Section 379.354(4), F.S.

<sup>10</sup> Section 379.354(9), F.S.



- A lifetime freshwater or saltwater fishing license costs:<sup>11</sup>
  - \$125 for persons 4 years of age or younger.
  - \$225 for persons 5 years of age or older but under 13 years of age.
  - \$300 for persons 13 years of age or older.

For nonresidents:

- A freshwater or saltwater fishing license for 3 consecutive days costs \$15.50.
- A freshwater or saltwater fishing license for 7 consecutive days costs \$28.50.
- An annual freshwater or saltwater fishing license costs \$45.50.<sup>12</sup>

FWC also charges \$1.50 for the cost of issuing the permit.<sup>13</sup> Exemptions from the fishing license requirement exist for those under the age of 16 or over the age of 65.<sup>14</sup>

### ***Free Fishing Days***

Florida law expressly authorizes FWC to designate by rule no more than 4 days a year as free freshwater fishing days and no more than 4 days year as free saltwater fishing days.<sup>15</sup> This means people can fish without a license or permit on those days. A person who takes freshwater or saltwater fish on a free fishing day must comply with all laws, rules, and regulations governing the holders of a fishing license or permit and all other conditions and limitations regulating the taking of freshwater or saltwater fish as are imposed by law or rule.<sup>16</sup>

### ***Harassment of Hunters, Trappers, or Fishers***

Under s. 79.105, F.S., a person may not intentionally, within a publicly or privately owned wildlife management or fish management area or on any state-owned water body:

- Interfere with or attempt to prevent the lawful taking of fish, game, or nongame animals by another.
- Attempt to disturb fish, game, or nongame animals or attempt to affect their behavior with the intent to prevent their lawful taking by another.

Anyone in violation of this provision is guilty of a Level Two violation (see above).

### ***Nonnative Species***

FWC is responsible for the control and management of nonnative species.<sup>17</sup> Nonnative species are animals living outside captivity and which are not historically present in the state.<sup>18</sup> More than 500 fish and wildlife nonnative species have been documented in Florida.<sup>19</sup> Not all

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<sup>11</sup> Section 379.354(11), F.S.

<sup>12</sup> Section 379.354(5), F.S.

<sup>13</sup> Section 379.352(5), F.S.

<sup>14</sup> Section 379.353, F.S.

<sup>15</sup> Section 379.354(15), F.S.; Fla. Admin. Code R. 68A-5.006 sets out “Free-Freshwater Fishing Day-Spring” as the first weekend in April, and “Free-Freshwater Fishing Day-Summer” as the second weekend in June, or such other period as may be specified by order of FWC; Fla. Admin. Code R. 68A-5.006 sets out “License-Free Saltwater Fishing Days” as the first weekend in June, the first Saturday in September, and the Saturday following Thanksgiving.

<sup>16</sup> Section 379.354(15), F.S.

<sup>17</sup> Fla. Admin. Code Ch. 68-5.

<sup>18</sup> Fish and Wildlife Conservation Commission (FWC), *What is a nonnative species?*

<https://myfwc.com/wildlifehabitats/nonnatives/exotic-information/> (last visited February 6, 2020).

<sup>19</sup> FWC, *Florida’s Exotic Fish and Wildlife*, <http://myfwc.com/wildlifehabitats/nonnatives/> (last visited on February 6, 020).

nonnative species pose a threat to Florida's ecology, but some nonnative species become invasive species by causing harm to native species, posing a threat to human health and safety, or causing economic damage.<sup>20</sup> To manage and minimize the impacts of nonnative species, it is unlawful to import for sale or use, or to release within the state, any species not native to Florida unless authorized by the FWC.<sup>21</sup>

### ***Prohibited or Conditional Nonnative Snakes and Lizards***

Prohibited species are nonnative species that pose a very high risk to native fish and wildlife, to the ecology of native wildlife communities, or to human safety. Possession of these species requires a permit from FWC and is generally limited to public exhibition and research.<sup>22</sup>

Conditional species<sup>23</sup> are nonnative species that pose a risk to native fish and wildlife or to the ecology of native wildlife communities. Conditional nonnative snakes and lizards are not authorized to be acquired for personal possession.<sup>24</sup> Specifically, the following nonnative snakes and lizards are prohibited from being kept, possessed, or imported into the state, sold, bartered, traded, or bred for personal use or for sale for personal use:

- Burmese or Indian python;
- Reticulated python;
- Northern African python;
- Southern African python;
- Amethystine or scrub python;
- Green Anaconda;
- Nile Monitor; and
- Any other reptile designated as a conditional or prohibited species by FWC.<sup>25</sup>

A reptile dealer, researcher, or public exhibitor providing educational exhibits may apply for a permit to import or possess conditional nonnative snakes and lizards.<sup>26</sup> Conditional nonnative snakes and lizards must be kept indoors or in outdoor enclosures with a fixed roof and must be permanently identified with a passive integrated transponder (PIT) tag, also known as a microchip.<sup>27</sup> Owners of such species must submit a Captive Wildlife Disaster and Critical Incident Plan to FWC and must maintain records of their inventory.<sup>28</sup>

In 2018, the Legislature created s. 379.2311, F.S., which directed FWC to create a pilot program to mitigate the impact of priority invasive species on the public lands or waters of the state. The

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<sup>20</sup> *Id.*

<sup>21</sup> Section 379.231, F.S.

<sup>22</sup> Section 379.372, F.S.; see Fla. Admin. Code R. 68-5.003 for a complete list of prohibited species.

<sup>23</sup> Statute uses the phrase "reptiles of concern," but FWC lists such species in its conditional species list. See FWC, *Reptiles of Concern*, <https://myfwc.com/license/captive-wildlife/reptiles-of-concern/> (last visited February 6, 2020); s. 379.372(b), F.S.

<sup>24</sup> FWC, *Conditional Snakes and Lizards*, <http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/> (last visited February 6, 2020).

<sup>25</sup> Section 379.372(2)(a), F.S.

<sup>26</sup> Fla. Admin. Code R. 68-5.005(1); see FWC, *Conditional Snakes and Lizards*, <http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/> (last visited February 6, 2020).

<sup>27</sup> Fla. Admin. Code R. 68-5.005(5).

<sup>28</sup> *Id.*

goal of the pilot program is to examine the benefits of using strategically deployed, trained private contractors to slow the advance of priority invasive species, contain their populations, and eradicate them from this state. As part of the program, FWC is authorized to enter into contracts to capture or destroy animals belonging to priority invasive species found on public lands, in the waters of this state, or on private lands or waters with the consent of the owner. All captures and disposals of animals that are priority invasive species must be documented and photographed and the geographic location of the take must be recorded for research purposes. FWC is required to submit a report of findings and recommendations regarding its implementation of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2021.

Priority invasive species are:

- Lizards of the genus *Tupinambis*, also known as tegu lizards;
- The conditional lizard and snake species listed above;
- *Pterois volitans*, also known as red lionfish; and
- *Pterois miles*, also known as the common lionfish or devil firefish.<sup>29</sup>

### ***Tegus***

The Argentine Black and White Tegu (*Tupinambis merianae*), commonly referred to as a tegu, is a large species of lizard that can grow up to four feet in length and is native to South America.<sup>30</sup> Tegus are not innately aggressive but have sharp teeth, strong jaws, and sharp claws, which they will use to defend themselves if threatened.<sup>31</sup> Tegus are an invasive species and have known breeding populations in Miami-Dade and Hillsborough counties<sup>32</sup> and an emerging population in Charlotte County.<sup>33</sup> The tegu causes harm to native species by disturbing alligator nests and consuming their eggs, and utilizing gopher tortoise burrows and consuming juvenile gopher tortoises.<sup>34</sup>

The tegu is not designated as a conditional or prohibited species.<sup>35</sup> However, a person must possess a license from FWC to sell a tegu or for public exhibition.<sup>36</sup> A November 2019 survey of all Class III license holders allowing for the sale of reptiles found 106 license holders listed that may sell tegus with more than 1,245 in inventory.<sup>37</sup> FWC developed a trapping removal program and works with other agencies and organizations to assess the tegu's threat and develop management strategies.<sup>38</sup> The goal of the program is to minimize the impact of tegus on native

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<sup>29</sup> Section 379.2311, F.S.

<sup>30</sup> FWC, *Argentine black and white tegu*, <https://myfwc.com/wildlifehabitats/nonnatives/reptiles/whiptails-and-wall-lizards/tegu/> (last visited February 6, 2020).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> FWC, *Senate Bill 1414 Agency Bill Analysis*, 2 (Dec. 19, 2019) (on file with the Senate Agriculture Committee).

<sup>34</sup> FWC, *Argentine black and white tegu*, <https://myfwc.com/wildlifehabitats/nonnatives/reptiles/whiptails-and-wall-lizards/tegu/> (last visited February 6, 2020).

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*; see s. 379.3761, F.S.

<sup>37</sup> FWC, *Senate Bill 1414 Agency Bill Analysis*, 2 (Dec. 19, 2019) (on file with the Senate Agriculture Committee).

<sup>38</sup> *Id.* (under Frequently Asked Questions).

wildlife and natural areas.<sup>39</sup> A limited number of commercial wildlife operators trap and remove tegus for homeowners or on other private lands.<sup>40</sup>

Members of the public may also remove and kill tegus from 22 FWC managed public lands without a license or permit.<sup>41</sup> Through these efforts, over 7,800 tegus have been reported to the Commission as removed from the wild or found dead in Florida by FWC staff, partners, and the public since 2012, primarily in Miami-Dade County.<sup>42</sup>

### ***Green Iguanas***

Green iguanas (*Iguana iguana*) are large, typically green lizards, though they can sometimes be brown or almost black in color.<sup>43</sup> Some adults can take on an orange or pink coloration during certain times of the year. Male green iguanas can grow to over five feet in length and weigh up to 17 pounds. Females can also reach five feet in length but usually do not exceed seven pounds. Females typically reach reproductive maturity at two to four years of age. Green iguanas can live up to 10 years in the wild and 19 years in captivity. Green iguanas thrive in southern Florida and are not cold hardy.<sup>44</sup>

Green iguanas are a nonnative, invasive species in Florida.<sup>45</sup> Green iguanas can live on the ground, in shrubs, or in trees in a variety of habitats including suburban developments, urban areas, small towns, and agricultural areas. They are excellent swimmers, tolerating both salt and freshwater and can submerge themselves for up to four hours at a time.<sup>46</sup>

Green iguanas cause damage to residential and commercial landscape vegetation and are often considered a nuisance by property owners. Iguanas are attracted to trees with foliage or flowers, most fruits (except citrus) and almost any vegetable. Some green iguanas cause damage to infrastructure by digging burrows that erode and collapse sidewalks, foundations, seawalls, berms, and canal banks. Green iguanas may also leave droppings on docks, moored boats, seawalls, porches, decks, pool platforms, and inside swimming pools.

Green iguanas are not designated as conditional or prohibited species.<sup>47</sup> However, a person must possess a license from the FWC to sell a green iguana or for public exhibition.<sup>48</sup> A November 2019 survey of all Class III license holders allowing for the sale of reptiles found 382 license holders listed that may sell iguanas with more than 5,307 in inventory.<sup>49</sup>

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<sup>39</sup> *Id.*

<sup>40</sup> FWC, *Senate Bill 230 Agency Bill Analysis*, 2 (Feb. 17, 2017) (on file with the Senate Agriculture Committee).

<sup>41</sup> FWC, EO 17-11 (Mar. 31, 2017), available at <https://myfwc.com/media/3682/eo-17-11.pdf> (last visited February 6, 2020).

<sup>42</sup> FWC, *Senate Bill 1414 Agency Bill Analysis*, 2 (Dec. 19, 2019) (on file with the Senate Agriculture Committee).

<sup>43</sup> FWC, *Invasive Green Iguana*, <https://myfwc.com/wildlifehabitats/profiles/reptiles/green-iguana/> (last visited February 6, 2020).

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*; see s. 379.3761, F.S.

<sup>49</sup> FWC, *Senate Bill 1414 Agency Bill Analysis*, 3 (Dec. 19, 2019) (on file with the Senate Agriculture Committee).

The FWC encourages removal of green iguanas from private properties by landowners. Members of the public may also remove and kill iguanas from 22 FWC managed public lands without a license or permit.<sup>50</sup> The FWC hosts Iguana Technical Assistance Public Workshops to help empower homeowners to manage this nonnative species on their own property with legal trapping and removal options.<sup>51</sup> In 2018, FWC initiated removal efforts on public conservation lands, resulting in nearly 5,000 iguanas being removed.<sup>52</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 379.105, F.S., relating to harassment of hunters, trappers, or fishers. The bill revises existing language to protect hunters, trappers, or fishers from harassment within or on any public lands, publicly or privately owned wildlife management areas or fish management areas, or public waters. The bill increases areas upon which hunters, trappers, or fishers are protected from harassment by expanding the protection to all public lands and all public waters (from wildlife management or fish management areas or a state-owned water body).

**Section 2** amends s. 379.354, F.S., to increase the free saltwater and freshwater fishing days from 4 to 6.

**Section 3** amends s. 379.372, F.S., to state that no person, party, firm, association, or corporation may keep, possess, import into the state, sell, barter, trade, or breed the following species except for educational, research, or eradication or control purposes:

- Burmese or Indian python (*Python molurus*).
- Reticulated python (*Python reticulatus*).
- Northern African python (*Python sebae*).
- Southern African python (*Python natalensis*).
- Amethystine or scrub python (*Morelia amethystinus*).
- Green Anaconda (*Eunectes murinus*).
- Nile monitor (*Varanus niloticus*).
- Green iguana (*Iguana iguana*).
- Tegu Lizard (any species of the genera *Salvator* or *Tupinambis*).
- Any other reptile designated as a conditional or prohibited species by FWC.

This adds the green iguana and the tegu lizard to the list of species that cannot be kept or sold for personal use. It also makes the prohibition stricter by changing it from prohibiting these species for being “kept or sold for personal use” to prohibiting anyone from possessing them “except for educational or research purposes.”

**Section 4** provides an effective date of July 1, 2020.

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<sup>50</sup> FWC, EO 17-11 (Mar. 31, 2017), available at <https://myfwc.com/media/3682/EO-17-11.pdf> (last visited February 6, 2020).

<sup>51</sup> FWC, *Nonnative Species Public Workshops*, <https://myfwc.com/wildlifehabitats/nonnatives/public-workshops/> (last visited February 6, 2020).

<sup>52</sup> FWC, *Senate Bill 1414 Agency Bill Analysis*, 2 (Dec. 19, 2019) (on file with the Senate Agriculture Committee).

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

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

None.

**B. Private Sector Impact:**

There may be a negative fiscal impact to commercial owners of tegus and iguana who are no longer able to sell the species under the bill.

**C. Government Sector Impact:**

There may be a negative fiscal impact to the state for additional free fishing days, but it is likely negligible.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This committee substitute substantially amends the following sections of the Florida Statutes: 379.105, 379.354, and 379.372.

This committee substitute reenacts s. 379.2311(1) of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Environment and Natural Resources on February 3, 2020:**

The prohibition on tegus is expanded to include any species of the genera *Salvator* or *Tupinambis*.

**CS by Agriculture Committee on February 11, 2020:**

The exceptions to keeping, possessing, importing into the state, selling, bartering, trading, or breeding specified nonnative snakes and lizards has been expanded to include eradication or control purposes, as well as for educational and research.

- B. **Amendments:**

None.

HB 1199

2020

1                   A bill to be entitled  
2       An act relating to the Environmental Protection Act;  
3       amending s. 403.412, F.S.; prohibiting local  
4       governments from recognizing or granting certain legal  
5       rights to the natural environment or granting such  
6       rights relating to the natural environment to a person  
7       or political subdivision; providing construction;  
8       providing an effective date.  
9

10   Be It Enacted by the Legislature of the State of Florida:  
11

12       Section 1. Subsection (9) is added to section 403.412,  
13   Florida Statutes, to read:

14       403.412 Environmental Protection Act.—

15       (9) (a) A local government regulation, ordinance, code,  
16 rule, comprehensive plan, charter, or any other provision of law  
17 may not recognize or grant any legal rights to a plant, an  
18 animal, a body of water, or any other part of the natural  
19 environment that is not a person or political subdivision as  
20 defined in s. 1.01 or grant such person or political subdivision  
21 any specific rights relating to the natural environment not  
22 otherwise authorized in general law or specifically granted in  
23 the State Constitution.

24       (b) This subsection does not limit the power of an  
25 adversely affected party to challenge the consistency of a



26   development order with a comprehensive plan as provided in s.  
27   163.3215 or to file an action for injunctive relief to enforce  
28   the terms of a development agreement or challenge compliance of  
29   the agreement as provided in s. 163.3243.

30       (c) This subsection does not limit the standing of the  
31   Department of Legal Affairs, a political subdivision or  
32   municipality of the state, or a citizen of the state to maintain  
33   an action for injunctive relief as provided in this section.

34       Section 2. This act shall take effect upon becoming a law.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1199 Environmental Protection Act

**SPONSOR(S):** Ingoglia and others

**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE                                       | ACTION    | ANALYST | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|---|-----------|---------|--|
| 1) Civil Justice Subcommittee                   | 14 Y, 1 N | Frost   | Luczynski                                |
| 2) Agriculture & Natural Resources Subcommittee | 12 Y, 0 N | Melkun  | Moore                                    |
| 3) Judiciary Committee                          | 13 Y, 2 N | Frost   | Luczynski                                |

### SUMMARY ANALYSIS

Florida authorizes a citizen to assert standing to stop an activity that will affect his or her use or enjoyment of air, water, or natural resources. However, court rulings and legislation in the U.S. and worldwide have suggested that specific legal rights of nature may exist, authorizing a person to assert standing on behalf of natural resources.

While U.S. Supreme Court precedent clearly limits standing for environmental claims to only an action causing injury to a human, dissenting opinions suggesting otherwise have recently garnered the attention of environmental activists attempting to assert standing on behalf of the environment, often resulting in lengthy, yet unsuccessful, litigation.

HB 1199 amends the Florida Environmental Protection Act to prohibit, unless otherwise authorized by law or specifically granted in the Florida Constitution, a local government regulation, ordinance, code, rule, comprehensive plan, charter, or any other provision of law:

- From recognizing or granting any legal right to a plant, animal, body of water, or any other part of the natural environment that is not a person or political subdivision; or
- From granting a person or political subdivision any specific rights relating to the natural environment.

The bill provides that the prohibition on granting rights to nonpersons may not be interpreted to limit the:

- Power of an adversely affected party to challenge the consistency of a development order with a comprehensive plan, or to file an action for injunctive relief to enforce the terms of a development agreement or to challenge compliance of the agreement with the Florida Local Government Development Agreement Act; or
- Standing of the Department of Legal Affairs, a political subdivision or municipality of the state, or a citizen of the state to maintain an action for injunctive relief as otherwise provided by the EPA.

The bill may prevent costly litigation related to granting rights to natural resources, when current legal precedent suggests such rights may not be granted at the state or local level.

The bill is effective upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

Florida's Environmental Protection Act (EPA) authorizes the Department of Legal Affairs, any political subdivision or municipality of the state, or a citizen of the state to take legal action seeking to:<sup>1</sup>

- Compel a governmental agency or authority to enforce laws, rules, and regulations protecting Florida's air, water, and other natural resources; or
- Prevent any person or governmental agency or authority from violating any laws, rules, or regulations protecting Florida's air, water, and other natural resources.

In an administrative, licensing, or other legal proceeding to protect Florida's air, water, or other natural resources from pollution, impairment, or destruction, the Department of Legal Affairs, a political subdivision or municipality of the state, or a citizen of the state is authorized to intervene<sup>2</sup> as a party to the legal action. To intervene, the party must file a verified pleading asserting that the particular activity, conduct, or product will impair, pollute, or otherwise injure the air, water, or other natural resources of the state.<sup>3</sup> A citizen may not institute, initiate, petition for, or request such a proceeding unless he or she will suffer a sufficiently immediate injury which is of the type and nature intended to be protected by law. However, a citizen is not required to demonstrate that his or her injury is different than that which the general public is required to show. A citizen's substantial interest injury is sufficient if the proposed activity, conduct, or product will affect his or her use or enjoyment of air, water, or natural resources protected by law.<sup>4</sup>

The Florida Supreme Court has held that the EPA is not an impermissible intrusion by the Legislature into the court's power over practice and procedure in state courts, but instead creates a new cause of action setting out substantive rights not previously possessed by enabling a Florida citizen to take legal action to protect the environment without a showing of special injury.<sup>5</sup>

##### Rights of Nature

While Florida authorizes a citizen to assert standing to enjoin an activity that will affect his or her use or enjoyment of air, water, or natural resources, some court rulings and legislation in the U.S. and worldwide<sup>6</sup> have authorized specific legal rights of nature authorizing a person to assert standing on behalf of natural resources.<sup>7</sup>

##### *Federal Level*

The U.S. Supreme Court's ruling in *Sierra Club v. Morton* is the closest the U.S. federal government has come to granting personhood to natural resources. In *Sierra Club*, a conservation group took legal action to prevent the U.S. Forest Service from approving a ski development proposed by Walt Disney

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<sup>1</sup> S. 403.412(2), F.S.

<sup>2</sup> "Intervene" means to join an ongoing ss. 120.569 or 120.57, F.S., proceeding, and does not authorize a citizen to institute, initiate, petition for, or request a proceeding under ss. 120.569 or 120.57, F.S. Nothing herein limits or prohibits a citizen whose substantial interests will be determined or affected by a proposed agency action from initiating a formal administrative proceeding under the administrative procedures act. S. 403.412(5), F.S.

<sup>3</sup> S. 403.412(5), F.S.

<sup>4</sup> *Id.*

<sup>5</sup> *Florida Wildlife Federation v. State Dept. of Environmental Regulation*, 390 So. 2d 64 (Fla. 1980).

<sup>6</sup> In 2008, Ecuador granted legal rights to all of nature, and in 2017, four rivers were granted legal rights: the Whanganui River in New Zealand, the Ganges and Yamuna rivers in India, and the Rio Atrato in Colombia. Dr. Julia Talbot-Jones, *Flowing from Fiction to Fact: The Challenges of Implementing Legal Rights for Rivers*, Global Water Forum, <https://globalwaterforum.org/2018/05/14/flowing-from-fiction-to-fact-the-challenges-of-implementing-legal-rights-for-rivers/> (last visited Feb. 12, 2020).

<sup>7</sup> Lidia Cano Pecharroman, *Rights of Nature: Rivers That Can Stand in Court* (Feb 14, 2018) <https://www.mdpi.com/2079-9276/7/1/13/html> (last visited Feb. 12, 2020).

Productions near the Sequoia National Forest.<sup>8</sup> The Sierra Club (Club) argued that the ski development would adversely affect the forest, but did not allege any personal injury to any specific member of the Club.<sup>9</sup> The court held that because there was no injury in fact to any member of the Club, the Club had no standing to sue on behalf of the forest.<sup>10</sup> The court determined that because the Club did not “have a direct stake in the outcome...authoriz[ing] judicial review at the behest of organizations or individuals who seek to do no more than vindicate their own value preferences through the judicial process” would undermine the goal of the Administrative Procedure Act.<sup>11</sup>

Despite the court’s ruling Justice Douglas’s dissenting opinion suggests that “contemporary public concern for protecting nature’s ecological equilibrium should lead to the conferral of standing upon environmental objects to sue for their own preservation.”<sup>12</sup> In a separate dissent, Justice Blackmun expressed similar concern and urged the court to consider the dangers of limiting judicial review solely to human injuries.<sup>13</sup>

### *State Level*

While the *Sierra Club* opinion clearly limits standing in environmental actions to action causing injury to a human, the dissenting opinions by Justice Douglas and Justice Blackmun have recently garnered the attention of environmental activists attempting to assert standing on behalf of the environment. For example, in September 2017, the environmental group Deep Green Resistance (DGR) relied on Justice Douglas’s dissent when petitioning the federal District Court of Colorado to recognize legal personhood for the Colorado River System.<sup>14</sup> Joined by citizens of Colorado and Utah, DGR asked the U.S. District Court in Denver to declare the Colorado River ecosystem a “person,” such that the river system’s interest could be represented in court.<sup>15</sup> DGR claimed that the Colorado River System has “the right to exist, flourish, regenerate, and naturally evolve,” and that current laws did not protect the natural environment on which persons depend for survival and livelihood.<sup>16</sup> Following lengthy litigation, DGR voluntarily dismissed its case after the Colorado Attorney General set forth numerous reasons the court did not have jurisdiction and opined that the determination of whether the rights of nature exist should be reserved to Congress.<sup>17</sup>

### *Local Level*

Similar attempts to assert the rights of nature have been made on the local level. For example, in New Mexico in 2013, the Mora County Board of Commissioners passed an ordinance protecting the rights of human communities, nature, and natural water.<sup>18</sup> However, an energy exploration firm challenged the ordinance, and the U.S. district court struck down the ordinance, holding the ordinance violated the Supremacy Clause and was impermissibly overbroad, in violation of the First Amendment.<sup>19</sup>

In 2013, Lafayette, Colorado voters attempted to impose a similar measure targeting oil extraction by hydraulic fracturing (“fracking”) and proposed “certain rights for city residents and ecosystems as part of the city charter such as clean water, air and freedom from certain chemicals and oil and gas industry byproducts.”<sup>20</sup> When challenged by the Colorado Oil and Gas Association, the Boulder District Court

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<sup>8</sup> *Sierra Club v. Morton*, 405 U.S. 727 (1972).

<sup>9</sup> *Id.* at 734.

<sup>10</sup> *Id.* at 735.

<sup>11</sup> *Id.* at 740.

<sup>12</sup> *Id.* at 741-42.

<sup>13</sup> *Id.* at 755-56.

<sup>14</sup> Complaint for Declaratory Relief, *Colorado River Ecosystem et al. v. State of Colorado*, No. 1:17-cv-02316-RPM (D. Colo. Sept. 25, 2017), at 12-13.

<sup>15</sup> *Id.* at 12.

<sup>16</sup> *Id.* at 2.

<sup>17</sup> Motion to Dismiss, No. 1:17-cv-02316-NYW (D. Colo. Oct. 17, 2017).

<sup>18</sup> *Swepi, LP v. Mora Cty.*, 81 F. Supp. 3d 1075, 1090 (D.N.M. 2015).

<sup>19</sup> *Swepi*, 81 F. Supp. 3d at 1088.

<sup>20</sup> *City of Lafayette “Community Rights Act” Fracking Ban Amendment, Question*

300 (November 2013), BALLOTOPEDIA (Nov. 2013),

[https://ballotpedia.org/City\\_of\\_Lafayette\\_%22Community\\_Rights\\_Act%22\\_Fracking\\_Ban\\_Amendment,\\_Question\\_300\\_\(November\\_2013\)](https://ballotpedia.org/City_of_Lafayette_%22Community_Rights_Act%22_Fracking_Ban_Amendment,_Question_300_(November_2013)) (last visited Feb. 12, 2020).

held that Lafayette did not have the authority to prohibit practices authorized and permitted by the state.<sup>21</sup>

More recently, the Orange County, Florida Charter Review Commission approved a request to establish a committee to assess adding rights for the Wekiva River and Econlockhatchee River to the county charter.<sup>22</sup>

### Effect of Proposed Changes

HB 1199 amends the EPA to prohibit, unless otherwise authorized by law or specifically granted in the State Constitution, a local government regulation, ordinance, code, rule, comprehensive plan, charter, or any other provision of law:

- From recognizing or granting any legal right to a plant, animal, body of water, or any other part of the natural environment that is not a person<sup>23</sup> or political subdivision;<sup>24</sup> or
- From granting a person or political subdivision any specific rights relating to the natural environment.

The bill provides that the prohibition on granting rights to nonpersons may not be interpreted to limit:

- The power of an adversely affected party to challenge the consistency of a development order with a comprehensive plan, or to file an action for injunctive relief to enforce the terms of a development agreement or to challenge compliance of the agreement with the Florida Local Government Development Agreement Act; or
- The standing of the Department of Legal Affairs, a political subdivision or municipality of the state, or a citizen of the state to maintain an action for injunctive relief as otherwise provided by the EPA.

The bill is effective upon becoming law.

#### B. SECTION DIRECTORY:

**Section 1:** Amends s. 403.412, F.S., relating to the Environmental Protection Act.

**Section 2:** Provides the bill takes effect upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

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<sup>21</sup> *Id.*

<sup>22</sup> Orange County Comptroller, *2020-01-22 Rights of the Wekiva River and Econlockhatchee River Committee*, <https://www.occompt.com/meetings/meeting/2020-01-22-rights-of-the-wekiva-river-and-econlockhatchee-river-committee/> (last visited Feb. 12, 2020).

<sup>23</sup> Person means an: individual; child; firm; association; joint adventure; partnership; estate; trust; business trust; syndicates; fiduciary; corporation; and all other groups or combinations. S. 1.01(3), F.S.

<sup>24</sup> Political subdivision means a: county; city; town; village; special tax school district; special road and bridge district; bridge district; and all other districts in Florida. S. 1.01(8), F.S.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

The bill may prevent costly litigation related to granting rights to natural resources, when current legal precedent suggests such rights may not be granted at the state or local level.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

Not applicable.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

Lines 20-23: The prohibition on granting a person or political subdivision any specific rights relating to nature may be more precisely stated by making it a separate sentence.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

# MIAF Bill Tracking

Ordered by Bill Number

|   |   |
|---|---|
| <b>SB 0034</b>  | <b>Prohibited Discrimination</b> by Rouson                        |
| Prohibited Discrimination; Citing this act as the "Florida Competitive Workforce Act"; adding sexual orientation and gender identity as impermissible grounds for discrimination in public lodging establishments and public food service establishments; providing an exception for constitutionally protected free exercise of religion, etc. Effective Date: 7/1/2020  |   |
| <b>Actions</b>  |   |
| 09/03/2019 SENATE Withdrawn prior to introduction   |   |
| <b>HB 0073</b>  | <b>Environmental Regulation</b> by Overdorf                       |
| Environmental Regulation: Specifies requirements for contracts between residential recycling collectors or recovered materials processing facilities & counties or municipalities for collecting, transporting, & processing residential recycling material & contaminated recyclable material; prohibits local governments from requiring further verification from DEP for certain projects; revises types of dock & pier replacements & repairs that are exempt from such verification & certain permitting requirements. Effective Date: July 1, 2020   |   |
| <b>Actions</b>  |   |
| 02/05/2020 SENATE Received; Referred to Environment and Natural Resources; Community Affairs; Rules   |   |
| <b>SB 0090</b>  | <b>Discrimination in Labor and Employment</b> by Stewart          |
| Discrimination in Labor and Employment; Creating the "Senator Helen Gordon Davis Fair Pay Protection Act"; prohibiting an employer from providing less favorable employment opportunities to employees based on their sex; prohibiting an employer from taking certain employment actions against employees; prohibiting an employer from engaging in certain activities relating to wages and benefits, etc. Effective Date: 7/1/2020  |   |
| <b>Actions</b>  |   |
| 02/13/2020 SENATE On Committee agenda - Commerce and Tourism, 02/18/20, 10:00 am, 110 S   |   |
| <b>SB 0112</b>  | <b>Capital Relocation Study</b> by Rader                          |
| Capital Relocation Study; Requiring the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study regarding the relocation of the state capital; prescribing requirements for the study; requiring OPPAGA to submit a report to the Legislature by a specified date, etc. Effective Date: 7/1/2020  |   |
| <b>Actions</b>  |   |
| 08/16/2019 SENATE Referred to Governmental Oversight and Accountability; Community Affairs; Rules   |   |
| <b>HB 0133</b>  | <b>Towing and Immobilizing Vehicles and Vessels</b> by McClain    |
| Towing and Immobilizing Vehicles and Vessels: Authorizes local governments to enact rates to tow vessels on private property & remove & store vessels; prohibits counties or municipalities from enacting ordinances that impose costs or penalties on owners, persons in control, or lienholders of vehicles or vessels or that require wrecker operators or towing businesses to accept specified form of payment; authorizes persons to place liens on vehicles or vessels to recover fees or charges; revises requirement regarding notices & signs concerning towing or removal of vehicles & vessels. Effective Date: October 1, 2020 |   |
| <b>Actions</b>  |   |
| 02/13/2020 HOUSE Placed on Special Order Calendar, 02/19/20   |   |
| <b>SB 0142</b>  | <b>Abolishing the Constitution Revision Commission</b> by Brandes |
| Abolishing the Constitution Revision Commission; Proposing amendments to the State Constitution to  |   |

abolish the Constitution Revision Commission, etc.

#### **Actions**

02/12/2020 SENATE Retained on Calendar

#### **HB 0147 Water Resources** by Jacobs

Water Resources: Requires DEP to conduct specified comprehensive & quantitative needs-based overview of state's water resources & submit report to Governor & Legislature. Effective Date: July 1, 2020

#### **Actions**

09/23/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee

#### **HB 0153 Indian River Lagoon State Matching Grant Program** by Fine

Indian River Lagoon State Matching Grant Program: Provides that certain projects identified in Indian River Lagoon Comprehensive Conservation & Management Plan are eligible for state funding consideration; directs DEP to coordinate with water management districts to identify projects & grant recipients. Effective Date: July 1, 2020

#### **Actions**

11/13/2019 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee

#### **SB 0178 Public Financing of Construction Projects** by Rodriguez (J)

Public Financing of Construction Projects; Prohibiting state-financed constructors from commencing construction of certain structures in coastal areas after a specified date without first taking certain steps regarding a sea level impact projection study; requiring the Department of Environmental Protection to develop by rule a standard for such studies; requiring the department to enforce certain requirements and to adopt rules, etc. Effective Date: On the same date that SB 7016 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law

#### **Actions**

02/13/2020 SENATE Subcommittee Recommendation: Favorable with CS by Appropriations Subcommittee on Agriculture, Environment and General Government; 9 Yeas, 1 Nay

#### **SB 0182 Preemption of Recyclable and Polystyrene Materials** by Stewart

Preemption of Recyclable and Polystyrene Materials; Deleting preemptions of local law relating to the regulation of auxiliary containers, wrappings, or disposable plastic bags; repealing the preemption of local laws regarding the use or sale of polystyrene products to the Department of Agriculture and Consumer Services, etc. Effective Date: 7/1/2020

#### **Actions**

09/19/2019 SENATE Referred to Community Affairs; Environment and Natural Resources; Rules

#### **SB 0200 Advanced Well Stimulation Treatment** by Montford

Advanced Well Stimulation Treatment; Defining the terms "high-pressure well stimulation" and "matrix acidization"; prohibiting the performance of high-pressure well stimulation or matrix acidization; providing that permits for drilling or for operating a well do not authorize the performance of high-pressure well stimulation or matrix acidization, etc. Effective Date: Upon becoming a law

#### **Actions**

11/05/2019 SENATE Now in Innovation, Industry, and Technology

#### **SB 0218 Licensure Requirements for Osteopathic Physicians** by Harrell

Licensure Requirements for Osteopathic Physicians; Revising licensure requirements for persons seeking licensure or certification as an osteopathic physician, etc. Effective Date: Upon becoming a law

#### **Actions**

10/24/2019 SENATE Now in Appropriations



|   |  |
|---|--|
| <b>HB 0221</b>  | <b>Osteopathic Physicians Certification and Licensure</b> by Roach |
| Osteopathic Physicians Certification and Licensure: Requires successful completion of internship or residency in specified accredited program to be licensed or certified as osteopathic physician. Effective Date: upon becoming a law   |  |
| <b>Actions</b>  |  |
| 01/30/2020 HOUSE Placed on Calendar, on 2nd reading   |  |
| <b>SB 0226</b>  | <b>Athletic Trainers</b> by Harrell                                |
| Athletic Trainers; Revising the definition of the term “athletic trainer”; revising athletic trainer licensure requirements; revising continuing education requirements for the renewal of an athletic trainer license; requiring that the supervision of an athletic training student meet certain requirements, etc. Effective Date: 7/1/2020   |  |
| <b>Actions</b>  |  |
| 02/13/2020 SENATE Read Second Time; Placed on Third Reading, 02/19/20   |  |
| <b>SB 0230</b>  | <b>Department of Health</b> by Harrell                             |
| Department of Health; Revising the purpose of patient care networks from serving patients with acquired immune deficiency syndrome to serving those with human immunodeficiency virus; requiring the Department of Health to develop strategies to maximize federal-state partnerships that provide incentives for physicians to practice in medically underserved or rural areas; extending through 2025 the Florida Center for Nursing’s responsibility to study and issue an annual report on the implementation of nursing education programs; requiring dentists and certified registered dental hygienists to report in writing certain adverse incidents to the department within a specified timeframe, etc. Effective Date: 7/1/2020 |  |
| <b>Actions</b>  |  |
| 02/10/2020 SENATE Now in Rules  |  |
| <b>SB 0250</b>  | <b>Development Orders</b> by Berman                                |
| Development Orders; Deleting an entitlement for a prevailing party to recover reasonable attorney fees and costs incurred in challenging or defending a certain development order, etc. Effective Date: 7/1/2020  |  |
| <b>Actions</b>  |  |
| 09/19/2019 SENATE Referred to Community Affairs; Judiciary; Rules   |  |
| <b>HB 0255</b>  | <b>Florida Commission on Human Relations</b> by Antone             |
| Florida Commission on Human Relations: Provides quorum requirements for Commission on Human Relations & its panels; revises number of persons commission may recommend for Florida Civil Rights Hall of Fame; provides limitation on time civil action may be filed after alleged violation of Florida Civil Rights Act; revises length of time commission or AG has to resolve complaint of discrimination in club membership; revises timeline relating to complaints alleging prohibited personnel action. Effective Date: July 1, 2020  |  |
| <b>Actions</b>  |  |
| 02/12/2020 HOUSE Placed on Calendar, on 2nd reading   |  |
| <b>SB 0278</b>  | <b>Climate Health Planning</b> by Rodriguez (J)                    |
| Climate Health Planning; Requiring the Department of Health to prepare an annual climate health planning report that contains specified information and recommendations; requiring the report to be published on the department’s website and submitted to the Governor and the Legislature by a specified date, etc. Effective Date: 7/1/2020  |  |
| <b>Actions</b>  |  |
| 10/15/2019 SENATE Referred to Health Policy; Infrastructure and Security; Appropriations  |  |
| <b>HB 0279</b>  | <b>Local Government Public Construction Works</b> by Smith (D)     |

Local Government Public Construction Works: Revises amount at which specified entities must competitively award certain projects; requires local governing board to consider estimated costs of certain projects when making specified determination; requires local government that performs project using its own services, employees, & equipment to disclose costs of project after completion to Auditor General; requires Auditor General to review such disclosures as part of routine audits of local governments. Effective Date: July 1, 2020

#### **Actions**

02/04/2020 HOUSE Now in State Affairs Committee

#### **SB 0280 Climate Fiscal Responsibility** by Rodriguez (J)

Climate Fiscal Responsibility; Requiring the Economic Estimating Conference to annually prepare a climate fiscal responsibility report and provide a copy of the report to the Governor and the Legislature; requiring the Office of Economic and Demographic Research to publish the report on its website; requiring the conference to coordinate with and obtain data from certain entities in preparing the report, etc. Effective Date: 7/1/2020

#### **Actions**

10/15/2019 SENATE Referred to Infrastructure and Security; Finance and Tax; Appropriations

#### **HB 0305 Preemption of Conditions of Employment** by Rommel

Preemption of Conditions of Employment: Preempts to state right to regulate conditions of employment by an employer; voids certain ordinances, regulations, or policies that are preempted by act. Effective Date: upon becoming a law

#### **Actions**

01/28/2020 HOUSE Now in Commerce Committee

#### **SB 0318 Sale of Sunscreen** by Stewart

Sale of Sunscreen; Prohibiting the sale, offer for sale, or distribution of certain sunscreen products to a consumer who does not have a prescription for such product, etc. Effective Date: 7/1/2020

#### **Actions**

10/15/2019 SENATE Referred to Environment and Natural Resources; Commerce and Tourism; Rules

#### **SB 0326 Environmental Regulation** by Perry

Environmental Regulation; Specifying requirements for contracts between residential recycling collectors or recovered materials processing facilities and counties or municipalities for the collection or processing of residential recycling material; providing that a residential recycling collector or recovered materials processing facility is not required to collect, transport, or process contaminated recyclable material except pursuant to specified contractual requirements after a contract is executed; prohibiting local governments from requiring further verification from the Department of Environmental Protection for certain projects, etc. Effective Date: 7/1/2020

#### **Actions**

02/05/2020 SENATE Placed on Calendar, on 2nd reading

#### **SB 0332 Land Acquisition Trust Fund** by Stewart

Land Acquisition Trust Fund; Requiring a specified annual appropriation to the Florida Forever Trust Fund; prohibiting moneys from the Land Acquisition Trust Fund from being used for specified costs, etc. Effective Date: 7/1/2020

#### **Actions**

11/05/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

#### **HB 0343 Recreational Vehicles** by Fetterhoff

Recreational Vehicles: Requires DACS to adopt rules specifying requirements for agents to administer

certain competency examinations & establishing competency test for license to engage in activities solely related to service & repair of recreational vehicles; authorizes certain qualifiers & master qualifiers to engage in such activities; requires certain LP gas experience or certification by LP gas manufacturer to apply for master qualifier certification. Effective Date: July 1, 2020

#### **Actions**

02/13/2020 HOUSE Favorable with CS by Commerce Committee; 23 Yeas, 0 Nays

#### **HB 0365 Property Assessed Clean Energy Program** by Watson (B)

Property Assessed Clean Energy Program: Revises definition of "qualifying improvements" to include sewage treatment and seawall improvements. Effective Date: July 1, 2020

#### **Actions**

10/23/2019 HOUSE Now in Energy & Utilities Subcommittee

#### **SB 0378 Motor Vehicle Insurance** by Lee

Motor Vehicle Insurance; Repealing provisions which comprise the Florida Motor Vehicle No-Fault Law; revising the motor vehicle insurance coverages that an applicant must show to register certain vehicles with the Department of Highway Safety and Motor Vehicles; revising garage liability insurance requirements for motor vehicle dealer applicants; revising minimum liability coverage requirements for motor vehicle owners or operators, etc. CLAIM: \$83,651 Effective Date: Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect January 1, 2021

#### **Actions**

02/11/2020 SENATE Not Considered by Banking and Insurance

#### **SB 0390 Massage Therapy** by Hooper

Massage Therapy; Revising requirements for licensure as a massage therapist; providing applicability for persons who were issued a license as a massage apprentice before a specified date, etc. Effective Date: 7/1/2020

#### **Actions**

10/15/2019 SENATE Referred to Health Policy; Appropriations; Rules

#### **HB 0395 Transportation** by Andrade

Transportation: Authorizes certain vehicles to display certain lights; revises application of load securing requirements; excludes certain vehicle from definition of "for-hire vehicle"; authorizes DHSMV to waive certain commercial motor vehicle testing requirements; revises manner of providing financial responsibility for owners of for-hire vehicles; prohibits vessels from remaining in marinas deemed unsuitable for refuge during hurricane; authorizes removal of such vessels; requires certain contractors to be certified by DOT as qualified; revises requirements for application for certification. Effective Date: July 1, 2020

#### **Actions**

02/13/2020 HOUSE Now in State Affairs Committee

#### **HB 0401 Shark Fins** by Jacobs

Shark Fins: Prohibits import, export, & sale of shark fins. Effective Date: October 1, 2020

#### **Actions**

02/14/2020 HOUSE Committee Substitute Text (C1) Filed

#### **HB 0405 Stormwater Management Systems** by Good

Stormwater Management Systems: Directs water management districts, with DEP oversight, to adopt rules for standards relating to new development & redevelopment projects; directs DEP to incorporate such rules for district use; directs DEP & districts to amend such rules into applicant's handbook; provides

rebuttable presumption relating to water quality standards for certain systems; revises requirements for construction of certain systems; requires specified staff training; directs DEP & districts to initiate rulemaking. Effective Date: July 1, 2020

#### **Actions**

10/30/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee

#### **HB 0417 Anchoring Limitation Areas** by Duggan

Anchoring Limitation Areas: Designates specified waterways as anchoring limitation areas. Effective Date: July 1, 2020

#### **Actions**

10/30/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee

#### **SB 0422 Recreational Vehicles** by Perry

Recreational Vehicles; Defining the term "recreational vehicle"; requiring the Department of Agriculture and Consumer Services to adopt rules specifying requirements for agents to administer certain competency examinations and establishing a written competency examination for a license to engage in activities solely related to the service and repair of recreational vehicles; authorizing certain qualifiers and master qualifiers to engage in activities solely related to the service and repair of recreational vehicles, etc. Effective Date: 7/1/2020

#### **Actions**

02/12/2020 SENATE On Committee agenda - Innovation, Industry, and Technology, 02/17/20, 1:30 pm, 110 S

#### **SB 0438 Land Acquisition Trust Fund** by Harrell

Land Acquisition Trust Fund; Providing an appropriation for certain projects related to the Indian River Lagoon Comprehensive Conservation and Management Plan; authorizing the Department of Environmental Protection to make grants for such projects; providing for a specified local match for such grants, etc. Effective Date: 7/1/2020

#### **Actions**

10/15/2019 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

#### **SB 0444 Customer Service Standards for State Agencies** by Rader

Customer Service Standards for State Agencies; Requiring departments within the executive branch of state government to implement certain measures with respect to telephone calls placed by customers, etc. Effective Date: 10/1/2020

#### **Actions**

12/09/2019 SENATE Now in Innovation, Industry, and Technology

#### **SB 0450 Whistleblower's Act** by Brandes

Whistleblower's Act; Revising the actions that an agency or independent contractor is prohibited from taking against an employee who participates in protected activity or discloses certain information; specifying that whistleblower remedies and protections do not apply to certain persons; revising applicability of provisions relating to investigative procedures upon receipt of whistleblower information; revising investigative procedures in response to retaliatory actions, etc. Effective Date: 7/1/2020

#### **Actions**

10/15/2019 SENATE Referred to Governmental Oversight and Accountability; Judiciary; Rules

#### **SB 0456 Minimum Wage** by Rodriguez (J)

Minimum Wage; Revising the formula for the adjusted state minimum wage, etc. Effective Date: 7/1/2020

#### **Actions**

**HB 0465 High-Speed Passenger Rail Safety** by Sirois

High-Speed Passenger Rail Safety: Provides for regulation of railroad companies; requires training for local emergency services under certain circumstances; provides requirements for railroad company reporting & DOT website publication; provides minimum safety standards for high-speed passenger rail; designates responsibility for maintenance of certain safety improvements; provides safety inspection requirements; requires certain fencing; provides liability for failure to construct or maintain fencing; provides for enforcement. Effective Date: July 1, 2020

**Actions**

11/07/2019 HOUSE Now in Transportation & Infrastructure Subcommittee

**HB 0485 Athletic Trainers** by Antone

Athletic Trainers: Revises definition of term "athletic trainer"; revises athletic trainer licensure requirements; requires certain licensees to maintain certification in good standing without lapse as condition of renewal of their athletic trainer licenses; requires that athletic trainer work within specified scope of practice; requires direct supervision of athletic training student to be in accordance with rules adopted by Board of Athletic Training. Effective Date: July 1, 2020

**Actions**

01/30/2020 HOUSE Placed on Calendar, on 2nd reading

**HB 0489 Land Acquisition Trust Fund** by Plasencia

Land Acquisition Trust Fund: Provides appropriation for certain projects related to Indian River Lagoon Comprehensive Conservation & Management Plan; authorizes DEP to make grants for such projects; provides for specified local match for such grants; requires department to submit annual report to Governor & Legislature. Effective Date: July 1, 2020

**Actions**

11/07/2019 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee

**SB 0504 Local Government Public Construction Works** by Perry

Local Government Public Construction Works; Revising disclosure requirements for bidding documents and other requests for proposals issued for bids by a local governmental entity and public contracts entered into between local governmental entities and contractors; requiring the governing board of a local government to consider estimated costs of certain projects using generally accepted cost-accounting principles that account for specified costs when the board is making a specified determination, etc. Effective Date: 7/1/2020

**Actions**

01/16/2020 SENATE Now in Rules

**HB 0513 Heat Illness Prevention** by Smith (C)

Heat Illness Prevention: Requires certain employers to provide drinking water, shade, & annual training to employees & supervisors; requires DACS & DOH to adopt specified rules. Effective Date: October 1, 2020

**Actions**

11/15/2019 HOUSE Now in Workforce Development & Tourism Subcommittee

**HB 0549 Pub. Rec./Site-specific Location Information of Endangered and Threatened Species** by Overdorf

Pub. Rec./Site-specific Location Information of Endangered and Threatened Species: Provides exemption from public records requirements for site-specific location information of endangered & threatened species; provides for future legislative review & repeal of exemption; provides statement of public necessity. Effective Date: July 1, 2020

**Actions**

**HB 0571 Vehicle and Vessel Registration Data and Functionality** by Fernandez-Barquin

Vehicle and Vessel Registration Data and Functionality: Requires DHSMV to provide tax collectors & their approved agents & vendors with real-time access to certain vehicle & vessel registration data & functionality in same manner as provided to other third parties. Effective Date: July 1, 2020

**Actions**

02/03/2020 HOUSE Now in State Affairs Committee

**HB 0579 Public Financing of Construction Projects** by Aloupis

Public Financing of Construction Projects: Requires sea level impact projection study of state-financed coastal structures before construction begins; requires DEP to develop study standards, publish studies on its website, enforce requirements, & adopt rules. Effective Date: July 1, 2020

**Actions**

02/14/2020 HOUSE On Committee agenda - Appropriations Committee, 02/18/20, 11:30 am, 212 K

**HB 0595 Medical Marijuana Employee Protection** by Polsky

Medical Marijuana Employee Protection: Prohibits employers from taking adverse personnel action against employees or applicants who are qualified patients using medical marijuana; requires employers to provide certain written notice to employees or applicants who test positive for marijuana; provides procedures for if employee or applicant tests positive for marijuana; provides cause of action & damages. Effective Date: upon becoming a law

**Actions**

11/25/2019 HOUSE Now in Oversight, Transparency & Public Management Subcommittee

**SB 0606 Anchoring Limitation Areas** by Bean

Anchoring Limitation Areas; Designating specified waterways as anchoring limitation areas, etc. Effective Date: 7/1/2020

**Actions**

01/16/2020 SENATE Now in Community Affairs

**SB 0638 Apalachicola Environmental Stewardship Act** by Montford

Apalachicola Environmental Stewardship Act; Providing that this act may be referred to as "The Apalachicola Environmental Stewardship Act", appropriating a sum annually for a specified timeframe from the Florida Forever Fund to the Apalachicola Area of Critical State Concern for specified purposes; renaming the Apalachicola Bay Area of Critical State Concern as the Apalachicola Area of Critical State Concern; providing additional principles for guiding development within the Apalachicola Area of Critical State Concern to include projects that protect and improve water quality, etc. Effective Date: 7/1/2020

**Actions**

12/10/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

**SB 0640 Indian River Lagoon State Matching Grant Program** by Harrell

Indian River Lagoon State Matching Grant Program; Providing that certain projects identified in a specified Indian River Lagoon Comprehensive Conservation and Management Plan are eligible for state funding consideration; directing the Department of Environmental Protection to coordinate with the South Florida Water Management District and the St. Johns River Water Management District to identify projects and grant recipients and to submit an annual report to the Governor, the Legislature, and specified persons, etc. Effective Date: 7/1/2020

**Actions**

12/10/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government



**SB 0648****Sargassum Seaweed Matching Grant Program** by Berman

Sargassum Seaweed Matching Grant Program; Requiring the Department of Environmental Protection to establish a Sargassum Seaweed Matching Grant Program for a specified purpose; requiring the department to submit an annual report to the Governor and the Legislature by a specified date, etc. Effective Date: 7/1/2020

**Actions**

12/10/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

**SB 0664****Verification of Employment Eligibility** by Lee

Verification of Employment Eligibility; Requiring public employers and certain contractors and subcontractors to register with and use an employment verification system by a specified date; requiring employers who meet specified criteria to register with and use an employment verification system to verify the employment eligibility of new employees; authorizing the imposition of fines for violations of the act; creating a rebuttable presumption for certain employers that the employer did not knowingly employ an unauthorized alien, etc. Effective Date: 7/1/2020

**Actions**

02/13/2020 SENATE On Committee agenda - Commerce and Tourism, 02/18/20, 10:00 am, 110 S

**SB 0676****High-speed Passenger Rail Safety** by Mayfield

High-speed Passenger Rail Safety; Designating the "Florida High-Speed Passenger Rail Safety Act"; requiring the Department of Transportation to regulate railroad companies when that authority is not federally preempted; providing that certain railroad companies are responsible for ensuring that impacted roadbeds meet specified transition requirements under certain circumstances; requiring the department's railroad inspectors, in accordance with a specified program, to meet certain certification requirements and to coordinate their activities with those of federal inspectors in this state in compliance with certain federal regulations, etc. Effective Date: 7/1/2020

**Actions**

01/23/2020 SENATE Now in Appropriations Subcommittee on Transportation, Tourism, and Economic Development

**HB 0677****Chiropractic Medicine** by Smith (D)

Chiropractic Medicine: Authorizes chiropractic physicians who have completed specified training to administer articles of natural origin; authorizes licensed pharmacists to fill such chiropractors' orders for articles of natural origin; authorizes specified number of certain chiropractic continuing education hours to be completed online; provides requirements for such online chiropractic continuing education courses. Effective Date: July 1, 2020

**Actions**

12/03/2019 HOUSE Now in Health Quality Subcommittee

**SB 0680****Shark Fins** by Hutson

Shark Fins; Prohibiting the import, export, and sale of shark fins, etc. Effective Date: 10/1/2020

**Actions**

02/13/2020 SENATE On Committee agenda - Commerce and Tourism, 02/18/20, 10:00 am, 110 S

**SB 0686****Stormwater Management Systems** by Gruters

Stormwater Management Systems; Directing the water management districts, with Department of Environmental Protection oversight, to adopt rules for specified design and performance standards relating to new development and redevelopment projects; providing a rebuttable presumption that certain stormwater management systems do not cause or contribute to violations of applicable state water quality standards; requiring certain inspection training for department, water management district, and local pollution control program staff, etc. Effective Date: 7/1/2020

## Actions

11/06/2019 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

### **SB 0690**   **Water Resources** by Albritton

Water Resources; Requiring the Department of Environmental Protection to conduct a comprehensive and quantitative needs-based overview of this state's water resources; specifying requirements for the overview; requiring the department to submit a report every 5 years to the Governor and the Legislature by a specified date, etc. Effective Date: 7/1/2020

## Actions

11/06/2019 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

### **HB 0691**   **Minimum Wage** by Jacquet

Minimum Wage: Revises formula for adjusted state minimum wage. Effective Date: July 1, 2020

## Actions

12/03/2019 HOUSE Now in Workforce Development & Tourism Subcommittee

### **HB 0707**   **Legislative Review of Occupational Regulations** by Renner

Legislative Review of Occupational Regulations: Authorizes schedule for systematic review of occupational regulatory programs; authorizes Legislature to take certain actions before scheduled repeal of occupational regulatory program; provides regulation of occupation to state if such occupation's regulatory program has been repealed through this act; provides schedule of repeal for occupational regulatory programs. Effective Date: upon becoming a law

## Actions

02/10/2020 HOUSE Placed on Calendar, on 2nd reading

### **SB 0712**   **Water Quality Improvements** by Mayfield

Water Quality Improvements; Citing this act as the "Clean Waterways Act"; requiring the Department Health to provide a specified report to the Governor and the Legislature by a specified date; transferring the Onsite Sewage Program within the Department of Health to the Department of Environmental Protection by a type two transfer by a specified date; creating an onsite sewage treatment and disposal systems technical advisory committee within the department; requiring the department to adopt rules relating to the underground pipes of wastewater collection systems; requiring basin management action plans for nutrient total maximum daily loads to include wastewater treatment and onsite sewage treatment and disposal system remediation plans that meet certain requirements, etc. Effective Date: Except as otherwise expressly provided in this act this act shall take effect July 1, 2020

## Actions

02/05/2020 SENATE Temporarily Postponed by Appropriations

### **HB 0713**   **Department of Health** by Rodriguez (AM)

Department of Health: Specifies direct reporting requirements for certain positions within Children's Medical Services Program; revises provisions relating to Florida Consortium of National Cancer Institute Centers Program; revises duties & responsibilities of DOH; revises licensure requirements for certain professions under authority of DOH; provides requirements relating to radiation machines; provides adverse incident reporting requirements for dental professionals. Effective Date: July 1, 2020

## Actions

02/14/2020 HOUSE Committee Substitute Text (C3) Filed

### **SB 0722**   **Land Acquisition Trust Fund** by Montford

Land Acquisition Trust Fund; Requiring that certain funds distributed into the Land Acquisition Trust Fund be used for conservation and management projects in certain counties; providing the types of projects for



which the Department of Environmental Protection may use such funds, etc. Effective Date: 7/1/2020

#### **Actions**

11/18/2019 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

#### **SB 0770 Property Assessed Clean Energy Program** by Rodriguez (J)

Property Assessed Clean Energy Program; Amending the definition of "qualifying improvement" to include sewage treatment, seawall improvements, and certain improvements to underground infrastructure, etc. Effective Date: 7/1/2020

#### **Actions**

11/21/2019 SENATE Referred to Community Affairs; Innovation, Industry, and Technology; Rules

#### **HB 0771 Motor Vehicle Insurance** by Grall

Motor Vehicle Insurance: Repeals provisions relating Florida Motor Vehicle No-Fault Law; revises garage liability insurance requirements; revises minimum coverage requirements for proof of financial responsibility for motor vehicles; revises amount of certificate of deposit required to elect certain method of proof of financial responsibility; revises excess liability coverage requirements; revises financial responsibility requirements for owners or lessees of for-hire passenger transportation vehicles; revises coverages of motor vehicle policy which are subject to stacking prohibition; revises insurance requirements for transportation network company drivers. Effective Date: January 1, 2021

#### **Actions**

02/11/2020 HOUSE Now in Commerce Committee

#### **HB 0775 Everglades Protection Area** by Avila

Everglades Protection Area: Requires comprehensive plans & plan amendments that apply to certain lands within or near Everglades Protection Area to follow state coordinated review process; requires DEP to make determinations, consult, & coordinate with specified entities regarding such plans & amendments; provides additional limitation for compliance determination of such plans & plan amendments; prohibits & provides requirements for adoption of certain development amendments within Everglades Protection Area. Effective Date: July 1, 2020

#### **Actions**

02/02/2020 HOUSE Now in State Affairs Committee

#### **HB 0777 Fish and Wildlife Activities** by Gregory

Fish and Wildlife Activities: Prohibits certain harassment of hunters, trappers, & fishers in or on specified lands, areas, & waters; authorizes FWCC to designate additional free fishing days; prohibits certain possession of specified reptiles; provides exemption from sales & use tax for retail sale of certain hunting, fishing, & camping supplies during specified period; authorizes certain dealers to opt out of exemption; authorizes DOR to adopt emergency rules; provides appropriation. Effective Date: July 1, 2020

#### **Actions**

01/16/2020 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 01/17/20, 09:00 am, 117 K (No Votes Will Be Taken)

#### **HB 0791 Florida National Estuary Program Act** by Fitzenhagen

Florida National Estuary Program Act: Requires DEP to give funding consideration to estuaries identified under National Estuary Program; requires funds to be used for specified projects; requires programs receiving funding to submit report to Governor, Legislature, DEP, & water management districts. Effective Date: July 1, 2020

#### **Actions**

12/16/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee

#### **SB 0812 Public Records/Endangered and Threatened Species** by Hutson

Public Records/Endangered and Threatened Species; Providing an exemption from public records requirements for the site-specific location information of certain endangered and threatened species; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. Effective Date: 7/1/2020

#### **Actions**

02/06/2020 SENATE Now in Rules

#### **SB 0826 Marina Evacuations** by Mayfield

Marina Evacuations; Prohibiting vessels under a specified weight from remaining in certain marinas that have been deemed unsuitable for refuge during a hurricane after the issuance of a hurricane watch; requiring a marina owner, operator, employee, or agent to remove specified vessels under certain circumstances; providing that such owner, operator, employee, or agent may charge the vessel owner a reasonable fee for such removal and may not be held liable for any damages as a result of such removal, etc. Effective Date: 7/1/2020

#### **Actions**

02/12/2020 SENATE On Committee agenda - Infrastructure and Security, 02/17/20, 4:00 pm, 110 S

#### **HB 0889 Employment Practices** by Davis

Employment Practices: Creates "Florida Family Leave Act"; requires employer to allow certain employees to take paid family leave to bond with minor child upon child's birth, adoption, or foster care placement; provides requirements, limitations, & duties; provides for civil action & penalties & criminal penalty; prohibits specified employment practices on basis of pregnancy, childbirth, or medical condition related to pregnancy or childbirth; provides for leave, maintenance of health coverage, reasonable accommodation & transfer, & return rights for employee who is disabled from pregnancy, childbirth, or medical condition related to pregnancy or childbirth. Effective Date: July 1, 2020

#### **Actions**

12/19/2019 HOUSE Now in Business & Professions Subcommittee

#### **HB 0913 Florida Climate and Resiliency Research Program** by Diamond

Florida Climate and Resiliency Research Program: Establishes program within DEP; provides for program purpose & participants; requires program to submit Florida Resiliency Plan to Governor & Legislature at specified intervals; provides plan requirements; directs DEP to coordinate & oversee program & provide staff support. Effective Date: July 1, 2020

#### **Actions**

12/19/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee

#### **SB 0962 Medical Marijuana Employee Protection** by Berman

Medical Marijuana Employee Protection; Prohibiting an employer from taking adverse personnel action against an employee or job applicant who is a qualified patient using medical marijuana; requiring an employer to provide written notice to an employee or job applicant who tests positive for marijuana of his or her right to explain the positive test result; providing procedures when an employee or job applicant tests positive for marijuana; providing a cause of action and damages, etc. Effective Date: Upon becoming a law

#### **Actions**

12/13/2019 SENATE Referred to Governmental Oversight and Accountability; Judiciary; Rules

#### **SB 0998 Housing** by Hutson

Housing; Authorizing a board of county commissioners to approve development of affordable housing on any parcel zoned for residential, commercial, or industrial use; requiring counties, municipalities, and special districts to include certain data relating to impact fees in their annual financial reports; providing the percentage of the sales price of certain mobile homes which is subject to sales tax; revising an exemption from regulation for certain water service resellers, etc. Effective Date: 7/1/2020

#### **Actions**

**HB 1023 Train Crew Requirements** by Valdes

Train Crew Requirements: Provides minimum crew requirements for freight or passenger train; provides exceptions; provides minimum crew requirements for train that is transporting certain hazardous materials; provides penalties. Effective Date: July 1, 2020

**Actions**

01/08/2020 HOUSE Now in Transportation & Infrastructure Subcommittee

**SB 1030 Public Records/Vessel Title or Registration/Department of Highway Safety and Motor Vehicles** by Stargel

Public Records/Vessel Title or Registration/Department of Highway Safety and Motor Vehicles; Creating public records exemptions for certain information contained in any record that pertains to a vessel title or vessel registration issued by the Department of Highway Safety and Motor Vehicles; providing exemptions from public records requirements for electronic mail addresses and cellular telephone numbers collected by the department; providing for future legislative review and repeal of the exemptions; providing statements of public necessity, etc. Effective Date: 7/1/2020

**Actions**

02/10/2020 SENATE Temporarily Postponed by Governmental Oversight and Accountability

**HB 1039 Transportation Network Companies** by Rommel

Transportation Network Companies: Removes for-hire vehicles from list of vehicles that are not considered TNC carriers or are not exempt from certain registration; revises automobile insurance coverage requirements for TNCs & TNC drivers; authorizes TNC drivers to contract for installment of TNC digital advertising devices; provides that TNC drivers & owners & operators of TNC digital advertising devices are immune from specified liabilities; authorizes entities to be regulated as luxury ground TNCs; provides that luxury ground TNCs, luxury ground TNC drivers, & luxury ground TNC vehicles are governed by state law. Effective Date: upon becoming a law

**Actions**

02/04/2020 HOUSE Now in State Affairs Committee

**SB 1042 Aquatic Preserves** by Albritton

Aquatic Preserves; Creating the Nature Coast Aquatic Preserve; designating the preserve for inclusion in the aquatic preserve system; outlining the authority of the Board of Trustees of the Internal Improvement Trust Fund in respect to the preserve; prohibiting the establishment and management of the preserve from infringing upon the riparian rights of upland property owners adjacent to or within the preserve, etc. Effective Date: 7/1/2020

**Actions**

02/03/2020 SENATE Now in Rules

**HB 1061 Aquatic Preserves** by Massullo, Jr.

Aquatic Preserves: Creates Nature Coast Aquatic Preserve; designates preserve for inclusion in aquatic preserve system & as Outstanding Florida Water; describes boundaries of preserve. Effective Date: July 1, 2020

**Actions**

02/13/2020 HOUSE Now in State Affairs Committee

**HB 1067 Florida Endangered and Threatened Species Act** by Hattersley

Florida Endangered and Threatened Species Act: Directs FWCC & DACS to protect certain declassified species; revises criteria for placement of species on Regulated Plant Index by DACS; prohibits FWCC & DACS from considering certain costs when designating species as endangered or threatened. Effective Date: July 1, 2020

## Actions

01/13/2020 HOUSE Now in Agriculture & Natural Resources Subcommittee

### **HB 1073**      **Statewide Office of Resiliency** by Stevenson

Statewide Office of Resiliency: Establishes office within EOG; provides for appointment of Chief Resilience Officer by Governor; creates Statewide Sea-Level Rise Task Force within office; requires DEP to serve as task force's contract administrator; requires Environmental Regulation Commission to take certain action on task force's recommendations; provides for task force repeal; provides appropriation. Effective Date: July 1, 2020

## Actions

01/29/2020 HOUSE Now in State Affairs Committee

### **SB 1086**      **Vehicle and Vessel Registration Data and Functionality** by Diaz

Vehicle and Vessel Registration Data and Functionality; Requiring the Department of Highway Safety and Motor Vehicles to provide tax collectors and their approved agents and vendors with real-time access to certain vehicle and vessel registration data and functionality in the same manner as provided to other third parties, etc. Effective Date: 7/1/2020

## Actions

01/23/2020 SENATE Now in Appropriations Subcommittee on Transportation, Tourism, and Economic Development

### **HB 1091**      **Environmental Enforcement** by Fine

Environmental Enforcement: Increases civil penalties for violations of certain provisions relating to beach & shore construction, Biscayne Bay Aquatic Preserve, aquatic preserves, state water resource plan, artesian wells, pollution, operating terminal facility without discharge prevention & response certificates, discharge contingency plans for vessels, Pollutant Discharge Prevention & Control Act, Clean Ocean Act, pollution of surface & ground waters, regulation of oil & gas resources, Phosphate Land Reclamation Act, sewage disposal facilities, pollution control, reasonable costs & expenses for pollution releases, necessary permits, dumping litter, small quantity generators, abatement of imminent hazards caused by hazardous substances, hazardous waste generators, transporters, or facilities, & coral reef protection; provides that certain conditions constitute separate offenses. Effective Date: July 1, 2020

## Actions

02/11/2020 HOUSE Now in State Affairs Committee

### **SB 1126**      **Employment Conditions** by Gruters

Employment Conditions; Prohibiting a political subdivision from establishing, mandating, or otherwise requiring an employer to offer conditions of employment which are not otherwise required by state or federal law; specifying that the regulation of conditions of employment is expressly preempted to the state, etc. Effective Date: Upon becoming a law

## Actions

12/13/2019 SENATE Referred to Governmental Oversight and Accountability; Community Affairs; Rules

### **SB 1172**      **Transportation** by Albritton

Transportation; Revising requirements for determining the salaries of the secretary of the Department of Transportation and assistant secretaries; requiring certain contractors to be certified by the department as qualified; specifying conditions under which the limitation on liability of the department applies for personal injury, property damage, or death; authorizing the Governor to suspend payment of tolls when necessary to assist emergency evacuation, etc. Effective Date: 7/1/2020

## Actions

12/18/2019 SENATE Referred to Infrastructure and Security; Judiciary; Appropriations

### **SB 1176**      **Captive-bred Animal Culture** by Perry

Captive-bred Animal Culture; Creating the "Florida Animal Policy Act"; providing duties of the Department of Agriculture and Consumer Services; requiring the department to submit a list of specified research and development projects with its annual legislative budget request to the Governor and the Legislature; requiring a captive-bred producer to apply to the department for a certificate of registration; creating the Captive-bred Animal Culture Advisory Council adjunct to the department, etc. Effective Date: 7/1/2020

#### **Actions**

12/18/2019 SENATE Referred to Agriculture; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

#### **HB 1177 Personal Watercraft** by Thompson

Personal Watercraft: Provides requirements for persons operating, riding on, & being towed behind watercraft; increases age requirement for operation of watercraft; prohibits owner of, or person having charge of or control over, watercraft from authorizing or knowingly permitting operation by certain persons; provides specified liability insurance coverage, instruction, & information requirements for companies that provide watercraft; provides conditions prohibiting operation of certain watercraft; requires persons operating watercraft to have specified documentation on board. Effective Date: July 1, 2020

#### **Actions**

01/13/2020 HOUSE Now in Agriculture & Natural Resources Subcommittee

#### **SB 1194 Employment Practices** by Cruz

Employment Practices; Creating the "Florida Family Leave Act"; requiring an employer to allow certain employees to take paid family leave to bond with a new child upon the child's birth, adoption, or foster care placement; requiring that family leave be taken concurrently with any leave taken pursuant to federal family and medical leave provisions; requiring the Department of Economic Opportunity to create a poster and a model notice that specify family leave rights, etc. Effective Date: 7/1/2020

#### **Actions**

12/18/2019 SENATE Referred to Commerce and Tourism; Governmental Oversight and Accountability; Appropriations

#### **HB 1199 Environmental Protection Act** by Ingoglia

Environmental Protection Act: Prohibits local governments from recognizing or granting certain legal rights to natural environment or granting such rights relating to natural environment to person or political subdivision. Effective Date: upon becoming a law

#### **Actions**

02/12/2020 HOUSE Placed on Calendar, on 2nd reading

#### **HB 1219 Electric Vehicles** by Toledo

Electric Vehicles: Requires DOT to establish Electric Vehicle Infrastructure Grant Program; provides for distribution of grants to certain entities to install electric vehicle charging infrastructure; provides grant requirements; provides requirements for equipment installed; requires DOT to review emerging research, policies, & standards; authorizes DOT to develop model plan for local governments; requires DOT to develop master plan for charging stations; provides appropriation. Effective Date: July 1, 2020

#### **Actions**

01/17/2020 HOUSE Now in Transportation & Infrastructure Subcommittee

#### **SB 1230 Electric Vehicles** by Brandes

Electric Vehicles; Authorizing the Department of Transportation to adopt rules; requiring that certain funds be used for specified purposes relating to the Electric Vehicle Infrastructure Grant Program, beginning in specified years; requiring the department to establish the Electric Vehicle Infrastructure Grant Program; providing for the distribution of grants to certain entities to install electric vehicle charging infrastructure; providing grant requirements, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2020

#### **Actions**

01/08/2020 SENATE Referred to Infrastructure and Security; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

**SB 1232 Florida Climate and Resiliency Research Program** by Rouson

Florida Climate and Resiliency Research Program; Establishing the program within the Department of Environmental Protection; providing for program purpose and participants; requiring the program to submit the Florida Resiliency Plan to the Governor and Legislature at specified intervals; providing plan requirements; directing the department to coordinate and oversee the program and provide staff support, etc. Effective Date: 7/1/2020

**Actions**

01/08/2020 SENATE Referred to Infrastructure and Security; Environment and Natural Resources; Appropriations

**HB 1265 Verification of Employment Eligibility** by Byrd

Verification of Employment Eligibility: Requires public employers, contractors, & subcontractors to use E-Verify system for specified purposes; prohibits such entities from entering into contract unless each party to contract uses E-Verify system; authorizes termination of contract; requires private employers to verify employment eligibility of newly hired employees; provides acceptable methods for verification; provides specified immunity; creates rebuttable presumption for private employers. Effective Date: July 1, 2020

**Actions**

01/17/2020 HOUSE Now in Commerce Committee

**SB 1310 Hunting and Fishing Sales Tax Holiday** by Mayfield

Hunting and Fishing Sales Tax Holiday; Providing an exemption from the sales and use tax for the retail sale of firearms, firearm ammunition, camping tents, and fishing supplies during a specified timeframe; defining the terms "firearms" and "fishing supplies"; specifying locations where the exemptions do not apply, etc. APPROPRIATION: \$237,000 Effective Date: Upon becoming a law

**Actions**

01/21/2020 SENATE Not Considered by Commerce and Tourism

**HB 1315 Transportation** by Fetterhoff

Transportation: Revises DOT organization & responsibilities; revises provisions relating to distribution of certain moneys; removes scheduled repeal of certain provisions; requires vehicle operator to take certain actions when road & bridge maintenance or construction vehicle is on roadside; requires airport protection zoning regulations to require certain permit applicants to submit final valid determination from FAA; revises date by which M.P.O. must submit list of project priorities to DOT district. Effective Date: upon becoming a law

**Actions**

02/06/2020 HOUSE Now in Transportation & Tourism Appropriations Subcommittee

**HB 1329 Marina Evacuations** by Plasencia

Marina Evacuations: Prohibits vessels under specified weight from remaining in certain marinas that have been deemed not suitable for refuge during hurricane after issuance of hurricane watch or warning for waters of marina; provides for civil penalties. Effective Date: July 1, 2020

**Actions**

01/17/2020 HOUSE Now in Agriculture & Natural Resources Subcommittee

**SB 1332 Towing and Immobilizing Vehicles and Vessels** by Hooper

Towing and Immobilizing Vehicles and Vessels; Authorizing local governments to enact rates to tow or immobilize vessels on private property and to remove and store vessels under specified circumstances; prohibiting counties from enacting certain ordinances or rules that impose fees or charges on authorized wrecker operators or towing businesses; authorizing certain persons to place liens on vehicles or vessels



to recover specified fees or charges; deleting requirements regarding notices and signs concerning the towing or removal of vehicles or vessels, etc. Effective Date: 7/1/2020

#### **Actions**

02/14/2020 SENATE On Committee agenda - Rules, 02/19/20, 10:00 am, 110 S

#### **HB 1343 Water Quality Improvements by Payne**

Water Quality Improvements: Requires DOH & DEP to submit reports & recommendations relating to transfer of Onsite Sewage Program in DOH to DEP; transfers Onsite Sewage Program from DOH to DEP; requires WMDs to submit consolidated annual reports to OEDR; removes provisions relating to DOH technical review & advisory panel & research & review advisory committee; directs DEP to determine that hardship exists for certain OSTDS onsite variance requests; creates OSTDS technical advisory committee; requires county health departments to coordinate with DEP to administer evaluation programs; requires basin management action plans to include treatment & remediation plans; requires DEP to submit cost estimates to OEDR; provides for management of biosolids & water quality monitoring; establishes clean water grant program. Effective Date: July 1, 2021

#### **Actions**

02/12/2020 HOUSE Now in State Affairs Committee

#### **SB 1352 Transportation Companies by Brandes**

Transportation Companies; Revising the definition of the term "for-hire vehicle" to exclude transportation network company (TNC) vehicles and certain motor vehicles used for prearranged rides for persons with disabilities for compensation; deleting for-hire vehicles from the list of vehicles that are not considered TNC carriers or are not exempt from certain registration; authorizing TNC drivers or their designees to contract with companies to install TNC digital advertising devices on TNC vehicles, etc. Effective Date: Upon becoming a law

#### **Actions**

02/12/2020 SENATE Now in Rules

#### **SB 1360 Florida Endangered and Threatened Species Act by Rodriguez (J)**

Florida Endangered and Threatened Species Act; Directing the Fish and Wildlife Conservation Commission to protect certain declassified species; prohibiting the commission from considering certain costs when designating a species as endangered or threatened; revising criteria for placement of species on the Regulated Plant Index by the Department of Agriculture and Consumer Services; directing the department, in consultation with the Endangered Plant Advisory Council, to protect certain declassified species, etc. Effective Date: 7/1/2020

#### **Actions**

02/13/2020 SENATE On Committee agenda - Appropriations Subcommittee on Agriculture, Environment and General Government, 02/18/20, 1:30 pm, 110 S

#### **HB 1363 Basin Management Action Plans by Overdorf**

Basin Management Action Plans: Provides additional management strategies for such plans; requires certain plans to include specified elements; provides requirements for DEP, DACS, DOH, UF/IFAS, local governments, water management districts, & owners of agricultural operations; requires specified data collection & research; establishes nutrient reduction cost-share program within DEP; exempts rural homesteads from certain best management practices under certain conditions; requires DEP & DACS to include specified information in annual progress reports for such plans. Effective Date: July 1, 2020

#### **Actions**

02/03/2020 HOUSE Now in State Affairs Committee

#### **SB 1378 Vessels by Rouson**

Vessels; Specifying the conditions under which a vessel is and is not considered to be operating at slow speed, minimum wake; prohibiting certain parties within certain waterbodies from anchoring or mooring a vessel within a specified distance of a mangrove or to upland vegetation upon public lands; revising civil

penalties relating to certain at-risk vessels and prohibited anchoring or mooring; providing procedures for abandoned or lost property relating to certain vessels, etc. Effective Date: 7/1/2020

#### **Actions**

02/12/2020 SENATE Now in Judiciary

#### **SB 1382 Environmental Resource Management** by Albritton

Environmental Resource Management; Providing additional management strategies for basin management action plans; requiring the Department of Agriculture and Consumer Services to work with the Department of Environmental Protection to improve the accuracy of data used to estimate certain agricultural land uses and to work with producers to identify certain agricultural technologies; prohibiting local governments from recognizing, granting, conveying, or extending legal rights or legal standing to animals or certain parts of the natural environment under certain circumstances, etc. Effective Date: 7/1/2020

#### **Actions**

01/30/2020 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

#### **SB 1390 Everglades Protection Area** by Simmons

Everglades Protection Area; Requiring comprehensive plans and plan amendments adopted by the governing bodies of local governments whose boundaries include any portion of the Everglades Protection Area to follow the state coordinated review process; requiring the Department of Environmental Protection to make certain determinations for such plans and amendments, to provide written notice of its determination to the local governments within a specified timeframe, and to coordinate with the local governments on certain mitigation measures, etc. Effective Date: 7/1/2020

#### **Actions**

01/27/2020 SENATE Now in Community Affairs

#### **HB 1407 Vessels** by Webb

Vessels: Prohibits operation of vessels at speeds faster than slow speed, minimum wake in hazardous situations; provides requirements for flags displayed from vessels & barges actively engaged in construction operations; prohibits anchoring or mooring of vessel to mangroves & vegetation on public lands; revises civil penalties. Effective Date: July 1, 2020

#### **Actions**

01/17/2020 HOUSE Now in Agriculture & Natural Resources Subcommittee

#### **SB 1414 Fish and Wildlife Activities** by Mayfield

Fish and Wildlife Activities; Prohibiting certain harassment of hunters, trappers, and fishers within or on public lands or publicly or privately owned wildlife and fish management areas, or in or on public waters; authorizing the Fish and Wildlife Conservation Commission to designate additional annual free freshwater and saltwater fishing days; prohibiting the keeping, possessing, importing, selling, bartering, trading, or breeding of certain species except for educational, research, or eradication or control purposes; including green iguanas and species of the genera Salvator and Tupinambis in such prohibition, etc. Effective Date: 7/1/2020

#### **Actions**

02/12/2020 SENATE Now in Rules

#### **SB 1450 Environmental Enforcement** by Gruters

Environmental Enforcement; Revising administrative penalties for violations of certain provisions relating to beach and shore construction and activities; revising civil penalties for violations of certain provisions relating to the Biscayne Bay Aquatic Preserve, aquatic preserves, water resources, the Pollutant Discharge Prevention and Control Act, the Clean Ocean Act, regulation of oil and gas resources, the



Phosphate Land Reclamation Act, and other provisions relating to pollution and the environment, respectively; revising criminal penalties for violations of certain provisions relating to pollution and the environment, etc. Effective Date: 7/1/2020

#### **Actions**

02/13/2020 SENATE On Committee agenda - Appropriations Subcommittee on Criminal and Civil Justice, 02/18/20, 1:30 pm, 37 S

#### **SB 1468**

##### **Trains** by Taddeo

Trains; Requiring, as a condition of operation in this state, that trains used in connection with the movement of freight and passengers have a crew that consists of at least two individuals; providing exceptions; authorizing the Secretary of Transportation to exempt certain railroad carriers from specified provisions of law under certain conditions; authorizing the Department of Transportation to assess civil penalties against a person or an entity for a specified violation, subject to certain requirements, etc. Effective Date: 7/1/2020

#### **Actions**

01/13/2020 SENATE Referred to Infrastructure and Security; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

#### **SB 1744**

##### **Personal Watercraft** by Torres, Jr.

Personal Watercraft; Providing requirements for persons operating, riding on, and being towed behind personal watercraft; increasing the age requirement for operation of a personal watercraft; prohibiting the owner of, or a person having charge of or control over, any leased, hired, or rented personal watercraft from authorizing or knowingly allowing the watercraft to be operated by certain persons; requiring companies that provide personal watercraft for lease, hire, or rent to maintain specified liability insurance coverage, etc. Effective Date: 7/1/2020

#### **Actions**

01/17/2020 SENATE Referred to Environment and Natural Resources; Banking and Insurance; Rules

#### **SB 1786**

##### **Vessel Safety** by Stewart

Vessel Safety; Prohibiting a vessel operator from endangering the life, limb, or property of another person by allowing passengers to ride on the bow of the vessel; providing that careless operation includes causing wake to law enforcement vessels under certain circumstances, etc. Effective Date: 7/1/2020

#### **Actions**

01/17/2020 SENATE Referred to Environment and Natural Resources; Criminal Justice; Rules

#### **SB 1788**

##### **Boating-restricted Areas** by Stewart

Boating-restricted Areas; Authorizing municipalities and counties to establish certain boating-restricted areas by ordinance for areas within a specified distance of any shoreline, etc. Effective Date: 7/1/2020

#### **Actions**

01/17/2020 SENATE Referred to Community Affairs; Environment and Natural Resources; Rules

#### **SB 1822**

##### **Verification of Employment Eligibility** by Gruters

Verification of Employment Eligibility; Requiring public employers, contractors, and subcontractors to register with and use the E-Verify system; prohibiting such entities from entering into a contract unless each party to the contract registers with and uses the E-Verify system; requiring private employers to verify the employment eligibility of newly hired employees, beginning on a specified date; providing acceptable methods for verifying employment eligibility, etc. Effective Date: 7/1/2020

#### **Actions**

01/17/2020 SENATE Referred to Judiciary; Commerce and Tourism; Rules

#### **SB 1878**

##### **Environmental Protection** by Bradley

Environmental Protection; Requiring a minimum annual appropriation for Everglades restoration and the

protection of water resources in this state beginning in a specified fiscal year; specifying requirements for the allocation of such funding; providing for future repeal of the appropriation unless reviewed and saved from repeal through reenactment by the Legislature; revising the minimum annual appropriation for certain appropriations from the Land Acquisition Trust Fund, etc. APPROPRIATION: Indeterminate Effective Date: 7/1/2020

#### **Actions**

02/06/2020 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

#### **HB 6019 Development Orders by Casello**

Development Orders: Removes provision allowing prevailing party in certain development order challenges to recover specified fees & costs. Effective Date: July 1, 2020

#### **Actions**

09/23/2019 HOUSE Now in Commerce Committee

#### **HB 7001 OGSR/E-mail Addresses/Department of Highway Safety and Motor Vehicles by Oversight, Transparency & Public Management Subcommittee**

OGSR/E-mail Addresses/Department of Highway Safety and Motor Vehicles: Removes scheduled repeal of public records exemption for certain e-mail addresses collected by DHSMV. Effective Date: October 1, 2020

#### **Actions**

02/06/2020 SENATE Received; Referred to Infrastructure and Security; Governmental Oversight and Accountability; Rules

#### **SB 7016 Statewide Office of Resiliency by Infrastructure and Security**

Statewide Office of Resiliency; Establishing the office within the Executive Office of the Governor; creating the Statewide Sea-Level Rise Task Force within the office; authorizing the Department of Environmental Protection to contract for specified services, upon request of the task force; requiring the Environmental Regulation Commission to take certain action on the task force's recommendations, etc. APPROPRIATION: \$500,000 Effective Date: 7/1/2020

#### **Actions**

02/06/2020 SENATE Placed on Calendar, on 2nd reading

#### **SB 7054 Transportation by Infrastructure and Security**

Transportation; Revising the organization of the Department of Transportation; revising uses for distributions made under the State Transportation Trust Fund in specified fiscal years; deleting the scheduled expiration of funding for the Intermodal Logistics Center Infrastructure Support Program; requiring airport protection zoning regulations to require certain permit applicants to submit a final valid determination from the Federal Aviation Administration, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2020

#### **Actions**

02/12/2020 SENATE Referred to Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

#### **HB 9027 UF/IFAS Algal Bloom Research & Mitigation by Eagle**

UF/IFAS Algal Bloom Research & Mitigation: Provides an appropriation for the UF/IFAS Algal Bloom Research & Mitigation. Effective Date: July 1, 2020

#### **Actions**

01/15/2020 HOUSE Now in Appropriations Committee