

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 47 Crustaceans

SPONSOR(S): Raschein and others

TIED BILLS: None **IDEN./SIM. BILLS:** SB 194

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Renner	Blalock
2) Criminal Justice Subcommittee			
3) Agriculture & Natural Resources Appropriations Subcommittee			
4) State Affairs Committee			

SUMMARY ANALYSIS

The spiny lobster and stone crab fisheries have brought in a dockside value of \$243.9 million over the past five years.¹ One hundred percent of spiny lobsters commercially harvested in the U.S. come from Florida, with approximately 90 percent harvested in the Florida Keys. The Florida commercial stone crab fishery provides 99 percent of all stone crab landings in the U.S.

Most of the fishing effort for spiny lobster and stone crab occurs in state waters and is managed by the Florida Fish and Wildlife Conservation Commission (FWC). Chapter 379, F.S., imposes regulations to ensure the long-term sustainability of the spiny lobster and stone crab, including minimum size limits, closed seasons and areas, gear restrictions, trap specifications, and a lobster trap certificate program.

In order to take spiny lobsters and stone crabs commercially, a fisherman must possess a valid Saltwater Products License and a valid Restricted Species endorsement, as well as a stone crab endorsement and either a spiny lobster endorsement or a lobster dive endorsement. Spiny lobsters and stone crabs may be harvested recreationally by anyone who has a valid recreational saltwater fishing license.

Currently, any person, firm, or corporation who violates any provision of chapter 379, F.S., or any rule of the FWC relating to the conservation of marine resources, is punished:

- Upon a first conviction, by imprisonment for not more than 60 days or by a fine of not less than \$100 or more than \$500, or by both such fine and imprisonment.
- On a second or subsequent conviction within 12 months, by imprisonment for not more than 6 months or by a fine of not less than \$250 or more than \$1,000, or by both such fine and imprisonment.

A person can also be assessed additional penalties against any commercial harvester convicted of major violations. For a violation involving more than 100 illegal blue crabs, spiny lobsters, or stone crabs, an additional penalty of \$10 for each illegal blue crab, spiny lobster, stone crab, or part thereof is imposed. In addition, the FWC has the discretion to constitute the illegal taking of spiny lobsters or stone crabs as a separate and distinct violation or as one violation no matter how many spiny lobsters or stone crabs have been taken.

The bill provides that each spiny lobster or stone crab taken in violation of chapter 379, F.S., or rules of FWC, constitutes a separate and distinct violation.

The bill appears to have a positive fiscal impact on the FWC due to an initial increase in fines assessed as a result of the change in the definition of what constitutes a violation. The bill does not appear to have a fiscal impact on local government. The bill has a potentially significant negative impact on commercial and recreational violators as each lobster or stone crab illegally taken will constitute a separate and distinct violation.

FULL ANALYSIS

¹ FWC analysis on file with staff.

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background

The spiny lobster and stone crab fisheries have brought in a dockside value of \$243.9 million over the past five years. One hundred percent of spiny lobsters commercially harvested in the U.S. comes from Florida, with approximately 90 percent harvested in the Florida Keys. The Florida commercial stone crab fishery provides 99 percent of all stone crab landings in the U.S.

Most of the fishing effort for spiny lobster and stone crab occurs in state waters and is managed by the Florida Fish and Wildlife Conservation Commission (FWC). Chapter 379, F.S., imposes regulations to ensure the long-term sustainability of the spiny lobster and stone crab, including minimum size limits, closed seasons/areas, gear restrictions, trap specifications, and a lobster trap certificate program.

Spiny Lobster

Saltwater Products License (SPL)

The spiny lobster can be harvested both recreationally and commercially in Florida. Spiny lobsters may be harvested recreationally by anyone who has a valid recreational saltwater fishing license. The current recreational bag limit (the number of a species a person may legally harvest) for spiny lobster is six per person, per day during the regular recreational season, which runs from August 6 to March 31. The special spiny lobster sport season occurs annually on the last consecutive Wednesday and Thursday of July. Recreational fishermen may still only harvest six spiny lobsters per day in Monroe County or Biscayne National Park, but may harvest 12 spiny lobsters per day elsewhere. Recreational spiny lobster fishermen are not permitted to use traps to harvest spiny lobsters.² Recreational spiny lobster fishermen must possess a recreational saltwater fishing license and a spiny lobster permit. The license and permit fees are annual, unless otherwise specified. The fees (including a \$1.50 tax collector fee authorized by s. 379.352, F.S.) are as follows:³

Resident Saltwater Fishing Licenses	
Type of License	Fee
Annual Saltwater Fishing License	\$17.00
Youth Saltwater Fishing License (Optional for children under the age of 16 and valid until 17th birthday - a fishing license is not required until age 16)	\$17.00
5-Year Saltwater Fishing License	\$79.00
Saltwater/Freshwater Fishing License Combo	\$32.50
Saltwater/Freshwater Fishing/Hunting License Combo	\$48.00
Saltwater Shoreline License (Not valid from a vessel, from a shore reached by vessel, or if swimming or diving, and not required if you have any other valid resident saltwater fishing license listed here)	Free
Gold Sportsman's License (Includes saltwater fishing, hunting, and freshwater fishing licenses; and snook, lobster, wildlife management area, archery, muzzleloading gun, crossbow, deer, turkey, and Florida waterfowl permits)	\$100.00
Youth Gold Sportsman's License (Optional for children under the age of 16)	\$100.00

² FWC 2014 analysis. On file with staff.

³ Section 379.354, F.S. A person who purchases any of these licenses from a general sales agent of the commission will also pay \$0.50 to the agent. Those purchasing online or by telephone pay a convenience fee of \$2.25 plus 2 ½ percent of the total purchase for online license purchases, and a fee of \$3.25 plus 2 ½ percent of the total purchase for telephone license purchases.

and valid until 17th birthday - a fishing license is not required until age 16; hunter safety certificate required; includes same licenses and permits as Gold Sportsman's License)	
5-Year Gold Sportsman's License (Includes saltwater fishing, hunting, and freshwater fishing licenses; and snook, lobster, wildlife management area, archery, muzzleloading gun, crossbow, deer, turkey, and Florida waterfowl permits)	\$494.00
Military Gold Sportsman's License (includes saltwater fishing, hunting, and freshwater fishing licenses; and snook, lobster, wildlife management area, archery, muzzleloading gun, crossbow, deer, turkey, and Florida waterfowl permits; sold only at tax collector's office; not available as 5-year; only available to resident retired and resident active duty military)	\$20.00
Nonresident Saltwater Fishing Licenses	
Type of License	Fee
Annual License	\$47.00
3-Day License	\$17.00
7-Day License	\$30.00
Lobster Permit	
Type of Permit	Fee
Annual Permit (Available for residents and nonresidents)	\$5.00
5-Year Permit (Available for residents only)	\$25.00

The commercial spiny lobster fishing season runs from August 6 to March 31; however, there is no daily bag limit for commercial spiny lobster fishermen using traps.⁴ Commercial spiny lobster fishermen must possess a valid Saltwater Products License (SPL).⁵ A saltwater product is defined as any species of saltwater fish, marine plant, or echinoderm, except shells, and salted, cured, canned, or smoked seafood.⁶

There are three types of SPLs in Florida:

- Individual SPL – This license authorizes one person to engage in commercial fishing activities from the shore or a vessel, is issued in the individual's name, and is not tied to any one vessel.⁷
- Crew SPL – This license is the same as an individual SPL, but also authorizes each person who is fishing with the named individual aboard a vessel to engage in such activities. This allows the license holder to take a crew on any vessel and that crew is covered under the person's SPL.⁸
- Vessel SPL – This license is issued to a valid commercial vessel registration number and authorizes each person aboard that registered vessel to engage in commercial saltwater fishing activities. This is issued to a vessel, not a named individual.⁹

The annual fee for each type of SPL is dependent on whether the SPL is issued to a resident, a nonresident, or an alien. The fees are as follows:

Saltwater Products Licenses	Fee
Individual Resident	\$50

⁴ For those in the dive fishing industry using bully nets, the commercial daily bag limit is 250.

⁵ Section 379.361, F.S.

⁶ Section 379.101, F.S.

⁷ *Supra* at 3.

⁸ *Id.*

⁹ *Id.*

Individual Nonresident	\$200
Individual Alien	\$300
Crew Resident	\$150
Crew Nonresident	\$600
Crew Alien	\$900
Vessel Resident	\$100
Vessel Nonresident	\$400
Vessel Alien	\$600

A restricted species (RS) endorsement is required for those who possess an SPL and commercially harvest or sell the following species: Spanish mackerel, king mackerel, black drum, spotted sea trout, grouper, snapper, red porgy, gray triggerfish, banded rudderfish, almaco jack, golden tilefish, amberjack, sea bass/tropical/ornamental "marine life," black mullet, silver mullet, bluefish, hogfish, blue crab, stone crab, crawfish/spiny lobster, African pompano, Florida pompano, permit, sheepshead, tripletail, clams (Brevard County only), shrimp, flounder, cobia, wahoo, and dolphin.¹⁰

An RS endorsement is free; however, licensed commercial fishermen, firms, or corporations must qualify or show proof of landings reported under their SPL providing that a specified amount or percentage of their total annual income (\$5,000 or 25 percent) during one of the past three years is attributable to reported landings and sales of saltwater products to a Florida wholesale dealer.^{11,12}

A commercial spiny lobster fisherman must also possess one of the following endorsements to harvest lobster commercially:

- **Spiny lobster endorsement** – This endorsement allows fishermen to harvest lobsters with traps or bully nets. The use of traps requires trap certificates, which may be purchased or transferred from another harvester, and the purchase of current year trap tags from FWC. A current year trap tag must be permanently affixed to each trap that is used on or in state waters. There is no daily bag limit for lobsters harvested commercially with traps under this endorsement. A daily vessel limit of 250 spiny lobsters applies when lobsters are harvested using bully nets under this endorsement.¹³
- **Lobster dive endorsement** – This endorsement is required to harvest lobster in commercial quantities by diving, and can only be issued on a single vessel SPL. There is a 250 lobster per day vessel limit that is applied in Broward, Dade, Monroe, Collier, and Lee counties and adjoining federal waters when lobsters are harvested by diving under this endorsement. Trap certificates may not be held by a person with this endorsement. These endorsements are only issued to those who held a dive endorsement in 2004-2005.¹⁴

The cost of a spiny lobster endorsement for applicants who hold trap certificates is \$125. The cost is \$100 for applicants who do not hold trap certificates, which are those applicants harvesting lobsters with only a bully net or by diving pursuant to the lobster dive endorsement.

¹⁰ Rule 68B, F.A.C.

¹¹ Section 379.361, F.S. FWC 2014 analysis. On file with staff.

¹² Section 379.361(2)(b), F.S., provides certain exceptions from the income requirements.

¹³ FWC 2014 analysis. On file with staff.

¹⁴ *Id.*

Spiny Lobster Trap Certificate Program

In 1992, the Legislature created the Lobster Trap Certificate Program¹⁵ in response to concerns about the rapid growth of the lobster trap fishery, which had resulted in increased congestion and conflict on the water, excessive mortality of undersized lobsters, a declining yield per trap, and public concern over petroleum and debris pollution from existing traps. The goal of this program was to solve these and related problems by reducing the number of traps while stabilizing the fishery.

The Lobster Trap Certificate Program controls the number of traps in the lobster fishery using trap certificates that are issued to individual lobster fishermen by the FWC. Fishermen may use one lobster trap for each certificate they own. A tag comes with every certificate and must be attached to the respective trap. There is an annual \$1 fee per certificate.

The FWC is authorized to implement a trap retrieval program for the retrieval of spiny lobster and stone crab traps remaining in the water during the closed season for each species.¹⁶ Trap owners are charged a retrieval fee of \$10 per trap. Traps recovered under this program become the property of the FWC or its contract agent and must be destroyed or resold to the original owner. The revenue from retrieval fees is deposited into the Marine Resources Conservation Trust Fund and is used solely for operation of the trap retrieval program.

Payment of all assessed retrieval fees must be received by the FWC prior to renewal of the trap owner's SPL and stone crab or crawfish endorsements. Retrieval fees assessed under this program stand in lieu of other penalties imposed for such trap violations.

Stone Crabs

In the stone crab fishery, only the stone crab's claws are taken. The claws can be removed if they are both at least the legal size (2 $\frac{3}{4}$ inches).¹⁷ The stone crab will regenerate new claws within 18 months. Stone crabs must be returned to the water once the claws are removed.¹⁸ Taking whole stone crabs is prohibited under Florida law.¹⁹ Female crabs with eggs also may not be harvested.²⁰

Stone crab claws can be harvested commercially and recreationally during the open season, which begins on October 15 and ends on May 15 of the following year. In order to take stone crabs commercially, a fisherman must possess a valid SPL and a valid RS, discussed above. Commercial stone crab fishermen must also possess a stone crab endorsement, which costs \$125.

Like spiny lobsters, stone crabs are captured with traps and thus require trap certificates and the purchase of current year trap tags from FWC, as discussed above.

To harvest stone crab claws recreationally, a person must possess a recreational saltwater fishing license. There is no additional permit required. Recreational harvesters may use up to five stone crab traps to harvest stone crabs with the recreational fishing license.

¹⁵ See s. 379.3671, F.S.

¹⁶ Section 379.368, F.S.

¹⁷ Rule 68B-13.007(1), F.A.C.

¹⁸ Rule 68B-13.007(2), F.A.C.

¹⁹ *Id.*

²⁰ Rule 68B-13.007(4), F.A.C.

Penalties

Currently,²¹ any person, firm, or corporation who violates any provision of chapter 379, F.S., or any rule of the FWC relating to the conservation of marine resources is punished:

- Upon a first conviction, by imprisonment for not more than 60 days or by a fine of not less than \$100 or more than \$500, or by both such fine and imprisonment.
- Upon a second or subsequent conviction within 12 months, by imprisonment for not more than 6 months or by a fine of not less than \$250 or more than \$1,000, or by both such fine and imprisonment.

A person can also be assessed additional penalties against any commercial harvester convicted of major violations. For a violation involving more than 100 illegal blue crabs, spiny lobsters, or stone crabs, an additional penalty of \$10 for each illegal blue crab, spiny lobster, stone crab, or part thereof is imposed. In addition, the FWC has the discretion to constitute the illegal taking of spiny lobsters or stone crabs as a separate and distinct violation or as one violation no matter how many spiny lobsters or stone crabs have been taken.

Effect of Proposed Changes

The bill provides that each spiny lobster or stone crab taken in violation of chapter 379, F.S., or rules of FWC, constitutes a separate and distinct violation. This is true whether the violation is of a commercial or recreational law, and regardless of who commits the offense.

The bill may impact the following FWC rules, which generally relate to size limits, trap limits, or trap tags:

- Rule 68B-6.003, F.A.C. – Florida Keys National Marine Sanctuary: Prohibited Activities in Specified State Waters
- Rule 68B-4.019, F.A.C. – Prohibition of Trap Pullers on Recreational and Certain Commercial Vessels
- Rule 68B-4.020, F.A.C. – Saltwater Fish Traps
- Rule 68B.5.002, F.A.C. – John Pennekamp Coral Reef State Park: Prohibition on Harvest of Certain Species, Size Limit
- Rule 68B-11.003, F.A.C. – Molesting, Taking or Trapping Spiny Lobster in Sanctuary Prohibited Without Special Permit; Penalties for Violation
- Rule 68B-11.004, F.A.C. – Violation of Sanctuary Rules; Passage Through and Temporary Safe Refuge in Sanctuary with Spiny Lobster Aboard Allowed Under Certain Conditions
- Rule 68B-13.005, F.A.C. – Designation as Restricted Species; Season; Repeal of Special Act
- Rule 68B-13.006, F.A.C. – Licenses, Endorsements, and Permits
- Rule 68B-13.007, F.A.C. – Restrictions on Size and on Transport and Possession of Stone Crabs and Stone Crab Claws
- Rule 68B-13.008, F.A.C. – Gear, Trap Construction, Commercial Trap Marking Requirements, Trap Working Regulations, Trap Transfer
- Rule 68B-13.009, F.A.C. – Recreational Stone Crab Harvesting: Bag Limit, Trap Limit, Trap Marking Requirements, Trap Pulling
- Rule 68B-13.010, F.A.C. – Stone Crab Trap Limitation Program
- Rule 68B-13.011, F.A.C. – Prohibitions
- Rule 68E-18.004, F.A.C. – Spiny Lobster Trap Tags
- Rule 68B-24.003, F.A.C. – Minimum Size Limits
- Rule 68B-24.0035, F.A.C. – Special Recreational Crawfish (Spiny Lobster) License
- Rule 68B-24.004, F.A.C. – Bag Limit

²¹ Section 379.407, F.S.
STORAGE NAME: h0047.ANRS
DATE: 1/9/2014

- Rule 68B-24.0045, F.A.C. – Importation of Spiny Lobster; Documentation and Other Requirements
- Rule 68B-24.005, F.A.C. – Seasons
- Rule 68B-24.0055, F.A.C. – Commercial Requirements; Appeals
- Rule 68B-24.006, F.A.C. – Gear: Trap, Buoys, Identification Requirements, Prohibited Devices
- Rule 68B-24.0065, F.A.C. – Special Provisions for John Pennekamp Coral Reef State Park in Monroe County: Closure During two-day Sport Season; Closure of Coral Formation Protection Zones
- Rule 68B-24.007, F.A.C. – Other Prohibitions
- Rule 68B-38.001, F.A.C. – Citrus-Hernando Shrimping and Trapping Closed Areas and Seasons

B. SECTION DIRECTORY:

Section 1. Amends s. 379.407, F.S., relating to spiny lobster and stone crab violations.

Section 2. Amends s. 379.2431, F.S., conforming a cross-reference.

Section 3. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to the FWC, the bill could create a positive fiscal impact due to an initial increase in fines assessed as a result of the change in the definition of what constitutes a violation.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has a potentially significant negative impact on commercial and recreational violators as each lobster or stone crab illegally taken will constitute a separate and distinct violation.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create a need for rulemaking or require additional rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Stone crabs are harvested for their claws only, and then released back into the water. The bill language does not specifically cover the harvest/take of stone crab claws.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.