

SB 1470 – Crustaceans (Identical HB 1227)

This bill amends s. 379.365, F.S., adding criminal penalties to the current administrative penalties associated with a person using “an expired tag or a stone crab trap tag not issued by the commission or” possessing or using “a stone crab trap in or on state waters or adjacent federal waters without having a trap tag.” Several misdemeanors are added of varying degrees depending on continuing violations. Also, “for violations involving fewer than 100 stone crab traps, each untagged trap may be charged as a separate misdemeanor count,” but “the total misdemeanor penalty for any one scheme or course of conduct may not exceed 4 years’ imprisonment.” Additionally, “any violation involving 100 or more untagged stone crab traps” is now a **level 5, 3rd degree felony**. This bill also increases violations for “possession or removal of the contents of another harvester’s stone crab trap” and “violation of rules relating to molestation of stone crab traps, lines, or buoys; or rules relating to stone crab trap tags,” moving both of these violations from unranked, 3rd degree felonies to **level 5, 3rd degree felonies**.

This bill also amends s. 379.3671, F.S., adding criminal penalties to the current administrative penalties associated with a person possessing or using “a spiny lobster trap in or on state waters or adjacent federal waters without having affixed thereto the trap tag required,” possessing or using “any other gear or device designed to attract and enclose or otherwise aid in the taking of spiny lobster by trapping that is not a trap as defined by commission rule,” possessing or using “spiny lobster trap tags without having the necessary number of certificates on record as required,” and willfully molesting, taking possession of, or removing “the contents of another harvester’s spiny lobster trap without the express written consent of the trap owner available for immediate inspection.” Several misdemeanors are added of varying degrees depending on continuing violations. Also, “for violations involving fewer than 100 spiny lobster traps, each untagged trap may be charged as a separate misdemeanor count,” but “the total misdemeanor penalty for any one scheme or course of conduct may not exceed 4 years’ imprisonment.” This rule applies to all violations except the willful molestation, taking possession of, or removal of the contents of another harvester’s spiny lobster trap. Additionally, “any violation that involves 100 or more untagged spiny lobster traps or unlawful trap tags” is now a **level 5, 3rd degree felony**.

This bill also amends s. 379.407, F.S., adding criminal penalties for “a recreational or commercial harvester to be in possession of an undersized spiny lobster, unless authorized to do so by commission rule.” Two misdemeanors are added of varying degrees depending on continuing violations. Also, “for violations of this paragraph involving fewer than 100 lobsters, each undersized spiny lobster may be charged as a separate misdemeanor count,” but “the total misdemeanor penalty for any one scheme or course of conduct may not exceed 4 years’ imprisonment.” Additionally, “if a violation involves more than 100 spiny lobsters,” it is now a **level 5, 3rd degree felony**.

Per Florida Fish & Wildlife Conservation Commission, in FY 14-15, there were a total of 219 stone crab and spiny lobster violations, with 55 of these cases involving stone

crabs. It is unknown how many crustaceans were involved in each case and how many would be affected by the current bill.

Although there are several 3rd degree felonies currently in statute pertaining to stone crab and spiny lobster violations, only one person was sentenced in FY 14-15, per DOC, and that person did not receive a prison sentence.

In FY 14-15, the incarceration rate for a level 5, 3rd degree felony was 23.3%.

While current sentencing and incarceration practices are low for the existing 3rd degree felonies, it is unknown how many crustaceans were involved among the violations affected by these changes to statute. Furthermore, it is not known how courts will treat misdemeanor violations that surpass a one year jail sentence, as the current language seems to allow, which could have a positive impact on prison beds in addition to the felonies.

CONFERENCE ADOPTED ESTIMATE: Positive Indeterminate

Requested by: House