

Florida Fish and Wildlife Conservation Commission

Legislative Affairs Office

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2013 Session Legislative Proposal

Title: Restricted Species Fishing Endorsement Veteran Exemption

Submitted by: Division of Marine Fisheries Management

I. Summary of the Proposal

This proposal provides assistance to veterans who wish to become commercial fishers by waiving certain income requirements for one year. The proposal:

- through June 30, 2014, waives the income requirement to acquire a Restricted Species endorsement (RS) issued on a Saltwater Products License (commercial fishing license) for all resident military veterans who have been honorably discharged from any branch of the U.S. Armed Forces, the Reserves, the Florida National Guard, or the U.S. Coast Guard between September 11, 2001 and June 30, 2014; the waiver would be allowed on an individual Saltwater Products License, not on a crew or vessel Saltwater Products License.
- beginning July 1, 2014, waives the income requirement to acquire an RS for one year for a resident military veteran who applies within 4 years after an honorable discharge from any branch of the United States Armed Forces, the Reserves, the Florida National Guard, or the U.S. Coast Guard; the waiver would be allowed one time per military enlistment, and would be issued on an individual Saltwater Products License, not on a crew or vessel Saltwater Products License.
- waives and reduces the income requirement to acquire an RS for one year for any honorably discharged resident military veteran who is certified to have at least a 10% service-connected disability by the U.S. Department of Veterans Affairs or any branch of the U.S. Armed Forces.

II. Present Situation

In Florida, a Saltwater Products License (SPL) is required to commercially harvest or sell all saltwater products. An SPL is Florida's commercial fishing license. Florida offers three types of SPLs depending on the needs of the fisherman. An "Individual SPL" authorizes one individual person to engage in commercial fishing activities from the shore or a vessel. This SPL is not tied to any one vessel and is issued in the individual's name. A "Crew SPL" is also issued in an individual's name and it authorizes the named individual to engage in commercial fishing activities from the shore or a vessel. It also authorizes each person who is fishing with the named individual aboard a vessel to engage in such activities. This means the license holder can

take a crew out on any vessel to harvest saltwater fish and the SPL covers the crew, as well. The final type of SPL is a “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 license differs from the two previous SPLs because it is not issued in an individual’s name, but is rather tied to a specific vessel.

Below is a table showing the costs to purchase the various SPLs:

Saltwater Products Licenses	Cost
Saltwater Products License Individual Resident	\$50.00
Saltwater Products License Individual Nonresident	\$200.00
Saltwater Products License Individual Alien	\$300.00
Saltwater Products License Crew Resident	\$150.00
Saltwater Products License Crew Nonresident	\$600.00
Saltwater Products License Crew Alien	\$900.00
Saltwater Products License Vessel Resident	\$100.00
Saltwater Products License Vessel Nonresident	\$400.00
Saltwater Products License Vessel Alien	\$600.00

A saltwater product is any marine fish, marine invertebrate or marine plant, except non-living shells and salted, cured, canned, or smoked seafood. Commercial harvest is defined as harvest over the recreational bag limit, use of certain gear as authorized by law, or possession of more than 100 lbs. per person per day of species with no established bag limit. Possession of two or fewer fish with no established bag limit is not considered commercial harvest even if over 100 pounds.

In addition to an SPL, an RS is required to commercially harvest and 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. Additional species may be designated as restricted by the Florida Fish and Wildlife Conservation Commission (Commission) at any time.

There is no cost to acquire an RS. In order to acquire an RS, however, licensed commercial fishermen must qualify, or show proof of landings (actual saltwater products harvested and brought to shore) 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. There are

currently some exemptions from these income requirements including:

- A person age 62 or older must provide acceptable proof of \$2,500 in sales of saltwater products to a licensed Wholesale Dealer during any 12 consecutive months in the previous 36 months.
- A person age 70 or older will be granted permanent exemption to the income requirements if the applicant's license records show that the SPL was held 3 out of the previous 5 years.
- A disabled resident must provide acceptable proof of disability from the Railroad Retirement Board, U.S. Dept. of Veterans Affairs, U.S. Armed Forces, Social Security Administration or a licensed physician and must have held his or her SPL for 3 of the previous 5 years prior to the date of disability.
- A military veteran must provide acceptable proof of income. However, active duty military time may be excluded when calculating the previous 36 months and will not be counted for purposes of determining qualifying time.

During Fiscal Year 2011-2012, 12,752 SPLs were issued in the State. Of those, 9,191 had an RS.

According to the Florida Department of Veterans Affairs (FDVA), there are approximately 1,651,000 veterans in Florida. There are approximately 249,000 veterans from all eras with any percentage of disability rating from service-connected disabilities in Florida. There are approximately 223,000 Florida veterans of Operation Iraqi Freedom and Operation Enduring Freedom (post 9/11 missions) who list Florida as their home of record. These veterans began returning home after being discharged in significant numbers in 2005. Approximately 47% of Florida's veterans are over age 65.

[http://www.floridavets.org/information/FlaVetStats/stats/Florida_Veterans -- Fast Facts.pdf](http://www.floridavets.org/information/FlaVetStats/stats/Florida_Veterans_-_Fast_Facts.pdf)

In 2008, the Florida Legislature passed HB 687 (Chapter 2008-155, Laws of Florida), creating the Service Disabled Veterans-Owned Business Enterprise Opportunity Act. This program created a certification program in the Department of Management Services (DMS) for small service-disabled veteran business enterprises (SDVBE). In order to qualify, a veteran must be a permanent resident of Florida who has a service-related disability of 10% or greater as determined by the U.S. Department of Veterans Affairs or the U.S. Department of Defense. In order to be certified as a SDVBE, a business enterprise must be an independently owned and operated business that:

- Employs 200 or fewer permanent full-time employees;
- Together with its affiliates has a net worth of \$5 million or less or, if a sole proprietorship, has a net worth of \$5 million or less including both personal and business investments;
- Is organized to engage in commercial transactions;
- Is domiciled in this state;
- Is at least 51 percent owned by one or more service-disabled veterans; and

- Is managed and controlled by one or more service-disabled veterans or, for a service-disabled veteran with a permanent and total disability, by the spouse or permanent caregiver of the veteran.

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

Since the passage of the Service Disabled Veterans-Owned Business Enterprise Opportunity Act in 2008, there are approximately 240 disabled veteran-owned businesses certified with DMS as SDVBEs. Of the 249,000 disabled Florida-resident veterans, approximately 1/10 of 1% has taken advantage of this benefit.

III. Effect of Proposed Changes

Until June 30, 2014, this proposal would provide a one year waiver of the income requirement for all resident military veterans honorably discharged from any branch of the U.S. Armed Forces, the Reserves, the Florida National Guard, or the U.S. Coast Guard between September 11, 2001 and June 30, 2014, and who apply for an SPL and RS. The waiver would only be allowed on an individual SPL, not on a crew or vessel SPL.

Beginning July 1, 2014, the proposal also would waive the income requirements to attain an RS for one year for a resident military veteran who applies for an SPL and RS within 4 years after an honorable discharge from any branch of the United States Armed Forces, the Reserves, the Florida National Guard, or the U.S. Coast Guard. This waiver would be allowed only one time per military enlistment, and would be issued on an individual SPL only, not on a crew or vessel SPL.

Under this proposal, the income requirement to acquire an RS would also be waived for one year for any honorably discharged resident military veteran that is certified to have at least a 10% service-connected disability by the U.S. Department of Veterans Affairs or any branch of the U.S. Armed Forces. In addition, the disabled veteran would only be required to provide proof of \$2,500 in income from saltwater products instead of the current requirement of \$5,000. Furthermore, disabled veterans would be eligible for the one-time waiver of the income requirement in any year following their honorable discharge.

Estimated Impact

The first year following the implementation of the proposal would likely result in a higher number of veterans taking advantage of the opportunity, since the proposal provides the opportunity to all veterans discharged after 9/11/01 until June 30, 2014. There are approximately 223,000 post-9/11 veterans who consider Florida their home of residence. Using the percentage of eligible veterans who have taken advantage of another jobs opportunity – the Service Disabled Veterans-Owned Business Enterprise Opportunity Act – as a basis of comparison, it is estimated that 1/10 of 1% of the 223,000 post 9/11 veterans may take advantage of the opportunity

afforded under this proposal, for a total of approximately 223 veterans.

In subsequent years, assuming 50% of the 223,000 post-9/11 veterans were discharged in the years from 2005-2008 and 50% were discharged in the years from 2009-2012, then the estimated universe of veterans eligible to qualify for the waiver of the income requirements to attain the RS in the first year following its passage would be approximately 111,500 (the estimated number of veterans discharged in the previous 48 months). Again, using the percentage of eligible veterans who have taken advantage of the Service Disabled Veterans-Owned Business Enterprise Opportunity Act, it is estimated that approximately 1/10 of 1% of those 111,500 eligible veterans may take advantage of this proposal. Using these estimates, approximately 112 veterans may take advantage of the proposal within 48 months of an honorable discharge. The number of veterans eligible for this waiver of income requirements for an RS would fluctuate over time, depending on the number of veterans honorably discharged who make Florida their home.

There are approximately 249,000 resident disabled veterans in Florida. Using the percentage of veterans who have taken advantage of the Service Disabled Veterans-Owned Business Enterprise Opportunity Act, it is estimated that approximately 249 disabled veterans may take advantage of this component of the proposal following its implementation (1/10th of 1% of 249,000).

IV. Impact on All Pertinent Statutes/Rules/Constitution

FWC proposes the following amendment to section 379.361(2)(b), F.S. – Saltwater Products License –

379.361 Licenses.

(2) SALTWATER PRODUCTS LICENSE.—

(b)1. A restricted species endorsement on the saltwater products license is required to sell to a licensed wholesale dealer those species which the state, by law or rule, has designated as “restricted species.” This endorsement may be issued only to a person who is at least 16 years of age, or to a firm certifying that over 25 percent of its income or \$5,000 of its income, whichever is less, is attributable to the sale of saltwater products pursuant to a saltwater products license issued under this paragraph or a similar license from another state. This endorsement may also be issued to a for-profit corporation if it certifies that at least \$5,000 of its income is attributable to the sale of saltwater products pursuant to a saltwater products license issued under this paragraph or a similar license from another state. However, if at least 50 percent of the annual income of a

person, firm, or for-profit corporation is derived from charter fishing, the person, firm, or for-profit corporation must certify that at least \$2,500 of the income of the person, firm, or corporation is attributable to the sale of saltwater products pursuant to a saltwater products license issued under this paragraph or a similar license from another state, in order to be issued the endorsement. Such income attribution must apply to at least 1 of the last 3 years. For the purpose of this section, “income” means that income that is attributable to work, employment, entrepreneurship, pensions, retirement benefits, and social security benefits.

2. To renew an existing restricted species endorsement, a marine aquaculture producer possessing a valid saltwater products license with a restricted species endorsement may apply income from the sale of marine aquaculture products to licensed wholesale dealers.

3. The commission is authorized to require verification of such income for all restricted species endorsements issued pursuant to this paragraph. Acceptable proof of income earned from the sale of saltwater products shall be:

a. Copies of trip ticket records generated pursuant to this subsection (marine fisheries information system), documenting qualifying sale of saltwater products;

b. Copies of sales records from locales other than Florida documenting qualifying sale of saltwater products;

c. A copy of the applicable federal income tax return, including Form 1099 attachments, verifying income earned from the sale of saltwater products;

d. Crew share statements verifying income earned from the sale of saltwater products; or

e. A certified public accountant’s notarized statement attesting to qualifying source and amount of income.

Notwithstanding any other provision of law, any person who owns a retail seafood market or restaurant at a fixed location for at least 3 years, who has had an occupational license for 3 years prior to January 1, 1990, who harvests saltwater products to supply his or her retail store, and who has had a saltwater products license for 1 of the past 3 license years prior to January 1, 1990, may provide proof of his or her verification of income and sales value at the person's retail seafood market or restaurant and in his or her saltwater products enterprise by affidavit and shall thereupon be issued a restricted species endorsement.

4. Exceptions from income requirements shall be as follows:

a. A permanent restricted species endorsement shall be available to those persons age 62 and older who have qualified for such endorsement for at least 3 of the last 5 years.

b. Active military duty time shall be excluded from consideration of time necessary to qualify and shall not be counted against the applicant for purposes of qualifying.

c. Upon the sale of a used commercial fishing vessel owned by a person, firm, or corporation possessing or eligible for a restricted species endorsement, the purchaser of such vessel shall be exempted from the qualifying income requirement for the purpose of obtaining a restricted species endorsement for a period of 1 year after purchase of the vessel.

d. Upon the death or permanent disablement of a person possessing a restricted species endorsement, an immediate family member wishing to carry on the fishing operation shall be exempted from the qualifying income requirement for the purpose of obtaining a restricted species endorsement for a period of 1 year after the death or disablement.

e. A restricted species endorsement may be issued on an individual saltwater products license to a person age 62 or older who documents that at least \$2,500 of such person's income is attributable to the sale of saltwater products.

f. A permanent restricted species endorsement may also be issued on an individual saltwater products license to a person age 70 or older who has held a saltwater products license for at least 3 of the last 5 license years.

g. Any resident who is certified to be totally and permanently disabled by the Railroad Retirement Board, by the United States Department of Veterans Affairs or its predecessor, or by any branch of the United States Armed Forces, or who holds a valid identification card issued by the Department of Veterans' Affairs pursuant to s. 295.17, upon proof of the same, or any resident certified to be disabled by the United States Social Security Administration or a licensed physician, upon proof of the same, shall be exempted from the income requirements if he or she also has held a saltwater products license for at least 3 of the last 5 license years prior to the date of the disability. A restricted species endorsement issued under this paragraph may be issued only on an individual saltwater products license.

h. An honorably discharged resident military veteran certified by the United States Department of Veterans Affairs or its predecessor or by any branch of the United States Armed Forces to be at least 10% permanently service-connected disabled, upon proof of the same, shall not be required to provide documentation of the income requirement with the initial application for a restricted species endorsement. Documentation of the income requirement shall be required beginning with the renewal of the restricted species endorsement after such veteran has possessed a valid restricted species endorsement for a complete license year. This exemption may only be issued on an individual saltwater products license and is a one-time exemption. A restricted species endorsement may be issued on an individual saltwater products license thereafter where such disabled resident veteran documents that at least \$2500 of such person's income is attributable to the sale of saltwater products.

i. Beginning July 1, 2014, a resident military veteran who applies to the Commission within 48 months after an honorable discharge from any branch of the United States Armed Forces, the Reserves, the Florida National Guard, or the U.S. Coast Guard shall not be required to provide documentation of the income requirement with the initial application for a restricted species endorsement. Documentation of the income requirement shall be required beginning with the renewal of the restricted species endorsement after such veteran has possessed a valid restricted species endorsement for a complete license year. This exemption may only be issued on an individual saltwater products license and is a one-time exemption per military enlistment.

j. Until June 30, 2014, a resident military veteran who applies to the Commission and who received an honorable discharge from any branch of the United States Armed Forces, the Reserves, the Florida National Guard, or the U.S. Coast Guard between September 11, 2001, and June 30, 2014, shall not be required to provide documentation of the income requirement with the initial application for a restricted species endorsement. Documentation of the income requirement shall be required beginning with the renewal of the restricted species endorsement after such veteran has possessed a valid restricted species endorsement for a complete license year. This exemption may only be issued on an individual saltwater products license.

A. Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations?

No

B. Does the proposed legislation raise significant constitutional concerns under the United States or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, and impairment of contracts)?

No

C. Is the proposed legislation likely to generate litigation and, if so, from what interest

groups or parties?

No

V. Affected Agencies and Groups

This proposal will aid Florida's veterans by providing an opportunity for them to more easily become commercial fishermen. The Florida Department of Veterans Affairs and the Florida Department of Military Affairs support this proposal.

Depending on the number of veterans who might enter the commercial fishing industry following the implementation of this proposal, there could be an impact on current RS holders because there could be additional competition for and pressure on restricted saltwater products. The Organized Fishermen of Florida support this proposal.

VI. Fiscal Impact

A. On FWC

There may be a minimal workload impact that can be absorbed within existing resources.

B. On Other State Agencies

None

C. On Private Sector

There could be a positive fiscal impact, in the form of income, on veterans who enter the commercial fishing industry under this proposal.

There is potential for a negative fiscal impact (to income) on current commercial fishermen holding an RS endorsement due to increased competition this proposal may create.

D. On Local Governments

None

E. Tax/Fee Issues

None