



Florida Fish and Wildlife Conservation Commission

Legislative Affairs Office

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2014 Session Legislative Proposal

Title: Fee Repeals

Submitted by: Office of the Executive Director

I. Summary of the Proposal

This proposal would repeal the fees and some licenses for several licenses issued by the Fish and Wildlife Conservation Commission (Commission), including:

- 1) the \$2 (under 18) and \$5 (18 and older) fees for hunting on areas subject to cooperative agreements between the Commission and the United States Forest Service;
- 2) the \$50 fee and license associated with noncommercial shrimp trawling for personal food use in the St. Johns River;
- 3) the \$50 fee associated with the statewide freshwater trawl seine gear license;
- 4) the \$100 fee associated with the statewide haul seine gear license;
- 5) the \$50 Lake Okeechobee resident trawl seine gear permit fee;
- 6) the \$100 Lake Okeechobee resident haul seine gear permit fee; and
- 7) the \$500 Lake Okeechobee nonresident trawl or haul seine gear permit fee.

II. Present Situation

Fees to Hunt on Areas Subject to Cooperative Agreements between the Commission and the U.S. Forest Service

For over 35 years, the Commission and its predecessor agency, the Game and Freshwater Fish Commission, have been authorized by the Florida Legislature to enter into cooperative agreements with the U.S. Forest Service to manage species on designated national forests, and, in cooperation with the United States Forest Service, to make rules and regulations, consistent with the law, to further better hunting on these lands [see section 379.2257, F.S., previously section 372.74, F.S.]. This law also provides that, in addition to the hunting license fees already required by law, the Commission may charge up to an additional \$5 for every person 18 years of age or older using the lands covered by these cooperative agreements, and up to an additional \$2 for every person under the age of 18 using the lands covered by these cooperative agreements [see section 379.2257(3), F.S.]. Neither the Game and Freshwater Fish Commission nor the Commission has charged these fees since at least 1978.

In 1972, the Florida Legislature passed Senate Bill 962 (Chapter 72-337, Laws of Florida), which created section 372.57(4)(b), F.S., and allowed for the issuance and fee

for a Commission management area permit. A management area permit may be required for a resident or nonresident to hunt on lands owned, leased, or managed by the Commission [see section 379.354(8)(g), F.S., previously section 372.57(4)(b), F.S.]. Revenue from the sales of management area permits is used for the lease, management, and protection of lands for public hunting and other outdoor recreation [see section 379.2213, F.S.]. A management area permit is required to hunt on the lands covered by cooperative agreements between the U.S. Forest Service and the Commission that have been established as wildlife management areas. The permissible fees for hunting on areas covered by cooperative agreements between the U.S. Forest Service and the Commission are, therefore, duplicative and obsolete.

Noncommercial Shrimp Trawling for Food for Use in the St. Johns River Permit and Fee

In 1977, the Florida Legislature passed Senate Bill 843 (Chapter 77-186, Laws of Florida), which created section 370.153(5), F.S. This law created a fishing permit that allows shrimp trawling for personal food use only in the St. Johns River. In 2000, the Legislature amended the law, making the permit available only if noncommercial trawling is authorized by the Commission [see Senate Bill 806 (2000); Chapter 2000-364, Laws of Florida]. In 2008, this statute was renumbered as section 379.247(5), F.S. [see House Bill 7091 (2008); Chapter 2008-247, Laws of Florida]. The fee for the license has been \$50 since the creation of the permit in 1977. The law prohibits anyone holding the permit from selling or offering to sell the shrimp harvested under the permit.

In January 1996, the Marine Fisheries Commission (predecessor agency to the Commission) prohibited the use of trawls in the recreational shrimp fishery. That prohibition continues under Commission Rule, Chapter 68B-31.007, Florida Administrative Code. Trawls are allowed for commercial harvest of shrimp, but not for recreational harvest. Consequently, the permit has not been issued since the activity was prohibited by the Marine Fisheries Commission in 1996.

Statewide Freshwater Trawl Seine and Haul Seine Annual Gear License Fees

In 1978, the Florida Legislature passed House Bill 220 (Chapter 78-189, Laws of Florida), amending section 372.65(10), F.S., that included a provision requiring all commercial fishing operators permitted to fish in Florida's fresh waters with trawl seines (bag-like nets that are pulled behind a boat to harvest fish) to pay a \$50 annual gear license fee. This law also included a provision requiring that all commercial fishing operators permitted to fish in Florida's fresh waters with haul seines (long nets pulled by boats to harvest fish) must pay a \$100 annual gear license fee. In 2008, section 372.65, F.S., was renumbered to section 379.363, F.S. The statewide freshwater trawl seine annual gear license fee of \$50 was then listed in 379.363(1)(h), F.S., and the haul seine annual gear license fee of \$100 was moved to section 379.363(1)(i), F.S. Both fees have remained unchanged since 1978.

The Commission currently issues five (5) statewide freshwater haul seine annual gear licenses each year. These freshwater haul seine gear licenses are currently limited to use

in Polk and Hillsborough Counties. Both the number of statewide freshwater haul seines that can be issued and the locations where they can be issued are limited by Commission rule. The Commission has not issued a statewide trawl seine license in over 25 years.

In addition to these gear license fees, commercial freshwater fishing operators in the State wishing to use either trawl seines or haul seines must also purchase:

- (1) a fresh water commercial fishing license, required under sections 379.363(1)(a), F.S., for residents, or 379.363(1)(c), F.S., for nonresidents, and;
- (2) a fish dealers license, required under sections 379.363(1)(b), F.S. (for a resident freshwater fish dealer's license – both retail and wholesale), or 379.363(1)(d), F.S. (for a nonresident retail fish dealer's license), or 379.363(1)(e), F.S. (for a nonresident wholesale fish dealer's license).

The fees for these licenses are below:

- resident freshwater commercial fishing license - \$25
- nonresident freshwater commercial fishing license - \$100
- resident freshwater fish dealer's license (both retail and wholesale) - \$40
- nonresident freshwater retail fish dealer's license - \$100
- nonresident freshwater wholesale fish dealer's license - \$500

During Fiscal Year 2012-2013, the Commission issued the following number of these licenses:

- resident freshwater commercial fishing licenses – 1,581
- nonresident freshwater commercial fishing license - 31
- resident freshwater fish dealer's license (both retail and wholesale) – 3,057
- nonresident freshwater retail fish dealer's license - 469
- nonresident freshwater wholesale fish dealer's license - 17

Okeechobee Haul Seine and Trawl Seine Permit Fees

In 1976, the Florida Legislature passed Senate Bill 1122 (Chapter 76-182, Laws of Florida), which created section 372.651, F.S. This law provided that the Game and Freshwater Fish Commission (predecessor agency to the Commission) was authorized to issue permits for the commercial use of haul seines or trawl seines on any freshwater lakes in the State that had an area greater than 500 square miles. Only Lake Okeechobee has an area greater than 500 square miles in Florida. The Legislature set the fees for these licenses as follows:

- Resident Trawl Seine permit - \$50
- Resident Haul Seine Permit - \$100
- Nonresident Trawl or Haul Seine Permit- \$500

In 2008, section 372.651, F.S., was renumbered as section 379.3635, F.S. [see House Bill

7091 (2008); Chapter 2008-247, Laws of Florida], and the statute was clarified to provide that the Commission could only require the commercial haul and trawl seine permits for commercial activities on Lake Okeechobee. The fees for all three permits have remained unchanged since 1976.

The Commission currently issues six (6) resident haul seine permits for commercial activity on Lake Okeechobee. Permits for resident trawl seines for commercial activity on Lake Okeechobee have not been issued in over 30 years. The Commission, nor its predecessor agency, has ever issued a nonresident trawl or haul seine permit under this section.

For commercial fishers on Lake Okeechobee, these haul seine and trawl seine permit fees are required in addition to purchasing a fresh water commercial fishing license, required under sections 379.363(1)(a), F.S., (for residents) and 379.363(1)(c), F.S. (for nonresidents), as well as a fish dealer's license, required under sections 379.363(1)(b), F.S. (for a resident freshwater fish dealer's license), 379.363(1)(d), F.S. (for a nonresident retail fish dealer's license), or 379.363(1)(e), F.S. (for a nonresident wholesale fish dealer's license). The license fees and numbers issued are listed previously.

III. Effect of Proposed Changes

This proposal would repeal the \$2 and \$5 fees that the Commission is authorized to charge hunters over and above hunting license fees for hunting on areas subject to cooperative agreements between the Commission and the United States Forest Service, which has not been charged since at least 1978.

It would repeal the fee and license associated with noncommercial shrimp trawling for personal food use in the St. Johns River, which is no longer being issued.

It would repeal the fees associated with the statewide freshwater trawl seine gear license, which has not been issued in over 25 years, and the statewide haul seine annual gear license, of which 5 are issued annually.

It would repeal the fees associated with the Lake Okeechobee resident trawl seine permit, which has not been issued in over 30 years, the Lake Okeechobee resident haul seine permit, of which 6 are issued annually, and the Lake Okeechobee nonresident trawl or haul seine permit, which has never been issued.

IV. Impact on All Pertinent Statutes/Rules/Constitution

Sections 379.2257, F.S., and 379.247, F.S., would be amended, paragraphs (h) and (i) of subsection (1) of section 379.363, F.S., would be repealed, and section 379.3635, F.S., would be amended, as follows:

379.2257 Cooperative agreements with U. S. Forest Service; penalty.—The Fish and

Wildlife Conservation Commission is authorized and empowered:

(1) To enter into cooperative agreements with the United States Forest Service for the development of game, bird, fish, reptile, or fur-bearing animal management and demonstration projects on and in the Osceola National Forest in Columbia and Baker Counties, and in the Ocala National Forest in Marion, Lake, and Putnam Counties and in the Apalachicola National Forest in Liberty County. Provided, however, that no such cooperative agreements shall become effective in any county concerned until confirmed by the board of county commissioners of such county expressed through appropriate resolution.

(2) In cooperation with the United States Forest Service, to make, adopt, promulgate, amend, and repeal rules and regulations, consistent with law, for the further or better control of hunting, fishing, and control of wildlife in the above National Forests or parts thereof; to shorten seasons and reduce bag limits, or shorten or close seasons on any species of game, bird, fish, reptile, or fur-bearing animal within the limits prescribed by the Florida law, in the above enumerated National Forests or parts thereof, when it shall find after investigation that such action is necessary to assure the maintenance of an adequate supply of wildlife.

~~(3) To fix a charge not to exceed \$5, for persons 18 years of age and over, and not to exceed \$2 for persons under the age of 18 years, over and above the license fee for hunting now required by law. This additional fee is to apply only on areas covered by above cooperative agreements. The proceeds from this additional license fee shall be used in the development, propagation of wildlife, and protection of the areas covered by the cooperative agreements as the commission and the United States Forest Service may deem proper. Nothing in this section shall be construed as authorizing the commission to change any penalty prescribed by law or to change the amount of general license fees or the general authority conferred by licenses prescribed by law.~~

(Subsequent paragraphs are renumbered.)

379.247 - Regulation of shrimp fishing; Clay, Duval, Nassau, Putnam, Flagler, and St. Johns Counties.—

~~(5) NONCOMMERCIAL TRAWLING.— If noncommercial trawling is authorized by the Fish and Wildlife Conservation Commission, any person may trawl for shrimp in the St. Johns River for his or her own use as food under the following conditions:~~

~~(a) Each person who desires to trawl for shrimp for use as food shall obtain a noncommercial trawling permit from the local office of the Fish and Wildlife Conservation Commission upon filling out an application on a form prescribed by the commission and upon paying a fee for the permit, which shall cost \$50.~~

~~(b) All trawling shall be restricted to the confines of the St. Johns River proper in the area north of the Acosta Bridge in Jacksonville and at least 100 yards from the nearest shoreline.~~

~~(c) No shrimp caught by a person licensed under the provisions of this subsection may be sold or offered for sale.~~

(Subsequent paragraphs are renumbered.)

379.363 Freshwater fish dealer's license.—

(1) No person shall engage in the business of taking for sale or selling any frogs or freshwater fish, including live bait, of any species or size, or importing any exotic or nonnative fish, until such person has obtained a license and paid the fee therefor as set forth herein. The license issued shall be in the possession of the person to whom issued while such person is engaging in the business of taking for sale or selling freshwater fish or frogs, is not transferable, shall bear on its face in indelible ink the name of the person to whom it is issued, and shall be affixed to a license identification card issued by the commission. Such license is not valid unless it bears the name of the person to whom it is issued and is so affixed. The failure of such person to exhibit such license to the commission or any of its wildlife officers when such person is found engaging in such business is a violation of law. The license fees and activities permitted under particular licenses are as follows:

(a) The fee for a resident commercial fishing license, which permits a resident to take freshwater fish or frogs by any lawful method prescribed by the commission and to sell such fish or frogs, shall be \$25. The license provided for in this paragraph shall also allow noncommercial fishing as provided by law and commission rules, and the license in s. 379.354(4)(a) shall not be required.

(b) The fee for a resident freshwater fish dealer's license, which permits a resident to import, export, or sell freshwater fish or frogs, including live bait, shall be \$40.

(c) The fee for a nonresident commercial fishing license, which permits a nonresident to take freshwater fish or frogs as provided in paragraph (a), shall be \$100.

(d) The fee for a nonresident retail fish dealer's license, which permits a nonresident to sell freshwater fish or frogs to a consumer, shall be \$100.

(e) The fee for a nonresident wholesale fish dealer's license, which permits a nonresident to sell freshwater fish or frogs within the state, and to buy freshwater fish or frogs for resale, shall be \$500.

(f) The fee for a nonresident wholesale fish buyer's license, which permits a nonresident who does not sell freshwater fish or frogs in Florida to buy freshwater fish or frogs from resident fish dealers for resale outside the state, shall be \$50.

(g) Any individual or business issued an aquaculture certificate, pursuant to s. 597.004, shall be exempt from the requirements of this part with respect to aquaculture products authorized under such certificate.

~~(h) There is levied, in addition to any other license fee thereon, an annual gear license fee of \$50 upon each person fishing with trawl seines used in the fresh waters of the state.~~

~~(i) There is levied, in addition to any other license fee thereon, an annual gear license fee of \$100 upon each person fishing with haul seines used in the fresh waters of the state.~~

379.3635 Haul seine and trawl permits; Lake Okeechobee; fees.—

~~(1) The Fish and Wildlife Conservation Commission is authorized to issue permits for each haul seine or trawl used in Lake Okeechobee.~~

~~(2) The commission may charge an annual fee for the issuance of such permits which shall not exceed:~~

~~(a) For a resident trawl permit, \$50.~~

~~(b) For a resident haul seine permit, \$100.~~

~~(c) For a nonresident or alien trawl or haul seine permit, \$500.~~

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

Fees to Hunt on Areas Subject to Cooperative Agreements between the Commission and the U.S. Forest Service

Nobody is affected by this fee repeal. Neither the Commission nor its predecessor agency has charged these fees in over 35 years.

Noncommercial Shrimp Trawling for Food for Use in the St. Johns River Permit and Fee

Nobody is affected by this permit and fee repeal. The permit has not been issued since 1996, when the activity authorized by the permit was prohibited by the Marine Fisheries Commission, and subsequently, by Commission rule.

Statewide Freshwater Trawl Seine and Haul Seine Annual Gear License Fees

Commercial freshwater fishing operators; the Commission

Okeechobee Haul Seine and Trawl Seine Permit Fees

Commercial freshwater fishing operators operating on Lake Okeechobee; the Commission

VI. Fiscal Impact

A. On the Commission

Fees to Hunt on Areas Subject to Cooperative Agreements between the Commission and

the U.S. Forest Service

None. This fee has not been charged in at least 35 years.

Noncommercial Shrimp Trawling for Food for Use in the St. Johns River Permit and Fee

None. The permit has not been issued since 1996, when the activity authorized by the permit was prohibited by the Marine Fisheries Commission, and subsequently, by Commission rule. The Commission has never received revenue from issuing this permit. Therefore, no fiscal impact is expected.

Statewide Freshwater Trawl Seine and Haul Seine Annual Gear License Fees

The Commission currently collects \$500 total for the 5 statewide freshwater haul seine annual gear licenses issued each year. Elimination of this fee and making the statewide freshwater haul seine annual gear license free would result in a \$500 annual loss of revenue to the Commission.

Since the Commission has not issued statewide freshwater trawl seine licenses in over 25 years, there is no fiscal impact to the Commission from eliminating the fees for statewide freshwater trawl seine licenses.

Okeechobee Haul Seine and Trawl Seine Permit Fees

The Commission currently collects \$600 total for the 6 resident Lake Okeechobee haul seine permits issued annually, \$0 for resident trawl permit fees each year (none are issued), and \$0 for nonresident haul or trawl seine permit fees (none are issued). Elimination of each of these fees and making the Okeechobee haul seine and trawl permits free would result in a \$600 annual loss of revenue to the Commission.

B. On Other State Agencies

None

C. On Private Sector

Fees to Hunt on Areas Subject to Cooperative Agreements between the Commission and the U.S. Forest Service

None. This fee has not been charged in at least 35 years.

Noncommercial Shrimp Trawling for Food for Use in the St. Johns River Permit and Fee

None. The permit has not been issued since 1996, when the activity authorized by the permit was prohibited by the Marine Fisheries Commission, and subsequently, by Commission rule.

Statewide Freshwater Trawl Seine and Haul Seine Annual Gear License Fees

The elimination of the statewide freshwater haul seine annual gear license fee would reduce costs to commercial freshwater fishing operators by \$100 per year (and a total reduction of costs of \$500 since 5 of these licenses are issued annually).

Since the Commission has not issued statewide freshwater trawl seine licenses in over 25 years, there will be no fiscal impact on the private sector from eliminating the fees for statewide freshwater trawl seine licenses.

Okeechobee Haul Seine and Trawl Seine Permit Fees

The elimination of the Lake Okeechobee haul seine and trawl seine permit fees would reduce costs to commercial fishing operators who use haul seines in Lake Okeechobee by \$100 per year (and a total reduction of costs of \$600 since 6 of these licenses are issued annually).

D. On Local Governments

None

E. Tax/Fee Issues

Fees to Hunt on Areas Subject to Cooperative Agreements between the Commission and the U.S. Forest Service

This proposal would repeal the following authorized fees for those who use lands under cooperative agreements between the U.S. Forest Service and the Commission:

- \$5 to every person 18 years of age or older; and
- \$2 to every person under the age of 18

Noncommercial Shrimp Trawling for Food for Use in the St. Johns River Permit and Fee

This proposal would repeal an authorized \$50 fee to acquire a permit for noncommercial shrimp trawling for personal food use in the St. Johns River.

Statewide Freshwater Trawl Seine and Haul Seine Annual Gear License Fees

This proposal would repeal the:

- \$50 statewide freshwater trawl seine annual gear license fee; and
- \$100 statewide freshwater haul seine annual gear license fee.

Okeechobee Haul Seine and Trawl Seine Permit Fees

This proposal would repeal the:

- \$50 Lake Okeechobee resident trawl seine annual gear permit fee;
- \$100 Lake Okeechobee resident haul seine annual gear permit fee; and
- \$500 Lake Okeechobee nonresident trawl or haul seine annual gear permit fee.