



# Florida Fish and Wildlife Conservation Commission

Legislative Affairs Office

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## 2014 Session Legislative Proposal

Agenda Item 9B (2)

September 6, 2013

Attachment 2

**Title: Repeal of the Special Recreational Spiny Lobster (Master Blaster) License**

**Submitted by: Division of Marine Fisheries Management**

### I. Summary of the Proposal

This proposal would repeal sections 379.355 and 379.401(1)(a)5, Florida Statutes, eliminating all statutory references to the Special Recreational Spiny Lobster License, which is no longer being issued by the Fish and Wildlife Conservation Commission (Commission).

### II. Present Situation

The Caribbean spiny lobster (*Panulirus argus*) is commonly known in Florida as the spiny lobster or crawfish. Florida fishermen harvest spiny lobster both commercially and recreationally.

The current recreational bag limit (the number of a species a person may legally harvest) for spiny lobster during the regular recreational season is six per person, per day. The regular season runs from August 6 through March 31, with a special “spiny lobster sport season” occurring on the last consecutive Wednesday and Thursday of July, annually. During the special sport season, recreational fishermen may still only harvest six spiny lobster per day in Monroe County or Biscayne National Park, but may harvest twelve spiny lobster per day elsewhere. Recreational spiny lobster fishermen must possess a recreational saltwater fishing license and a lobster permit. The fees for the licenses and permit (including a \$1.50 tax collector fee authorized by section 379.352, F.S.) are listed below:

Resident Saltwater Fishing Licenses	
Annual Saltwater Fishing	\$17.00
Youth saltwater Fishing (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	\$79.00
Saltwater/Freshwater Fishing Combo	\$32.50

Saltwater/Freshwater Fishing/Hunting Combo	\$48.00
Saltwater Shoreline License (not valid from a vessel, 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 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 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)	\$100.00
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
<b>Nonresident Saltwater Fishing Licenses</b>	
Nonresident Annual Saltwater Fishing	\$47.00
Nonresident 3-Day Saltwater Fishing	\$17.00
Nonresident 7-Day Saltwater Fishing	\$30.00
<b>Lobster Permit</b>	
<b>Annual</b> (Available for residents and nonresidents)	
Lobster Permit	\$5.00
<b>5-Year</b> (Available for residents only)	
Lobster Permit	\$25.00

In addition to the license fees listed above, persons who purchase any of these licenses from a general sales agent of the Commission (such as Walmart, or bait and tackle stores) will also pay a \$0.50 fee to the agent. Those purchasing online or by telephone pay, in addition to the license fees listed above, 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.

The commercial spiny lobster fishing season runs from August 6 through March 31. There is no daily bag limit for commercial spiny lobster fishermen using traps; for those in the dive fishery or those using bully nets, the commercial daily bag limit is 250. Commercial spiny lobster fishermen must possess (1) a saltwater products license (SPL), which is Florida’s commercial fishing license; (2) a restricted species endorsement (RS), which is necessary to harvest and sell commercial quantities of species designated as restricted species; and (3) a crawfish endorsement on their SPL.

Florida offers three types of SPLs depending on the needs of the fisherman. An “Individual SPL” authorizes the named individual 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 will cover 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:

<b>Saltwater Products Licenses</b>	<b>Cost</b>
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

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 reflecting that a

specified amount or percentage of their total annual income (\$5,000 or 25 percent, with exceptions) during one of the previous three years was attributable to reported landings and sales of saltwater products to a Florida wholesale dealer. (See section 379.361(2)(b), F.S.).

The spiny lobster was designated a restricted species in 1994 (see Chapter 68B-24.001(4), Florida Administrative Code); prior to that time, a person only needed an SPL and a crawfish endorsement to commercially harvest spiny lobster.

In 1994, the Florida Legislature created section 370.063, F.S. (since relocated to section 379.355, F.S.), creating the “special recreational crawfish license.” That license has been renamed in statute, and is currently called the “special recreational spiny lobster license” (SRL). The SRL costs \$100, and was created to allow individuals who possessed an SPL and a crawfish endorsement on their SPL (and who were, thus legally able to harvest and sell lobster commercially) to exceed the recreational bag limit for personal use. In order to be eligible for the SRL, a person must have held both an SPL and crawfish endorsement during the 1993-94 license year. Only those initially qualified to purchase the SRL were allowed to receive the license.

A violation of any provisions of the Special Recreational Spiny Lobster License is a noncriminal infraction, punishable by a \$50 civil fine, or a \$100 civil fine for a subsequent infraction within three years, pursuant to section 379.401(1)(a)5, F.S.

Following the Legislature’s creation of the SRL, the Marine Fisheries Commission, predecessor agency to the Commission, implemented the new license by rule (Rule 68B-24.0035, F.A.C, and portions of Rule 68B-24.004, F.A.C.), and established a daily bag limit beginning with 50 during the 2003-04 season. In order to eventually phase out the license, each subsequent year’s daily bag limit was reduced by five. Thus, by the 2012-13 license year, the daily bag limit would have been only five, which would have been less than the daily *recreational* bag limit. (See Figure 1). Therefore, beginning with the 2012-13 season, and for all seasons thereafter, *all* non-commercial harvesters of spiny lobster are subject to the recreational daily bag limit (currently six). No special recreational crawfish licenses have been issued or renewed by the Commission since the 2012-13 license year (Rule 68B-24.0035(2)(g), F.A.C).

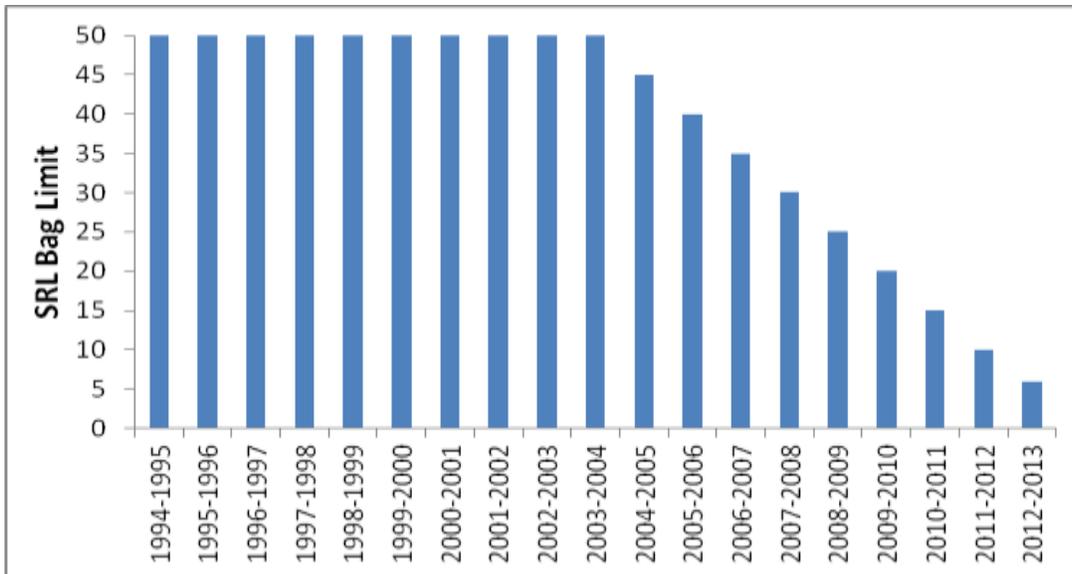


Figure 1. Bag limit schedule for Special Recreational Spiny Lobster License holders.

The first year after the SRL was created (license year 1994-95), there were 522 SRLs issued. Each year, fewer people renewed the SRL, and in 2011-12 there were 46 SRLs issued. No SRLs were issued for the 2012-13 season. (See Figure 2).

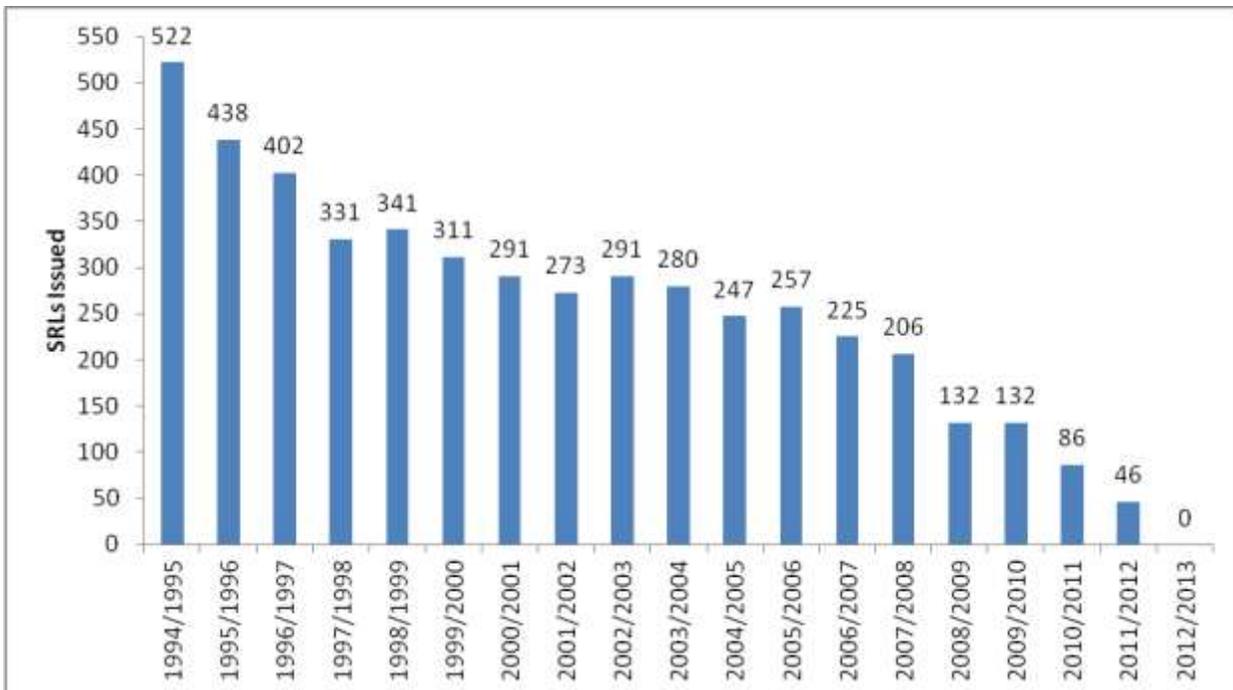


Figure 2. Number of Special Recreational Spiny Lobster Licenses issued by year.

### III. Effect of Proposed Changes

This proposal would repeal sections 379.355 and 379.401(1)(a)5, Florida Statutes, eliminating all statutory references to the SRL, which is no longer being issued by the Commission.

This repeal will eliminate the possibility for the public's confusion over the ability of a person to purchase the license. The change will have no effect on the current or future management of the Florida spiny lobster.

Rule 68B-24.0035, Florida Administrative Code, and the portions of Rule 68B-24.004, Florida Administrative Code, referring to the SRL, will be repealed following the repeal of these statutes.

#### IV. Impact on All Pertinent Statutes/Rules/Constitution

Section 379.355, F.S. would be repealed and section 379.401(1)(a), F.S., would be amended, as follows:

~~**379.355—Special recreational spiny lobster license.**—There is created a special recreational spiny lobster license, to be issued to qualified persons as provided by this section for the recreational harvest of spiny lobster beginning August 5, 1994.~~

~~(1)—The special recreational spiny lobster license shall be available to any individual spiny lobster trap number holder who also possesses a saltwater products license during the 1993-1994 license year. A person issued a special recreational spiny lobster license may not also possess a trap number.~~

~~(2)—The special recreational spiny lobster license is required in order to harvest spiny lobster from state territorial waters in quantities in excess of the regular recreational bag limit but not in excess of a special bag limit as established by the <sup>1</sup>Marine Fisheries Commission for these harvesters before the 1994-1995 license year. Such special bag limit does not apply during the 2-day sport season established by the Fish and Wildlife Conservation Commission.~~

~~(3)—The holder of a special recreational spiny lobster license must also possess the recreational spiny lobster permit required by s. 379.354(8)(d).~~

~~(4)—The Fish and Wildlife Conservation Commission shall issue special recreational spiny lobster licenses. The fee for each such license is \$100 per year. Each license issued in any license year must be renewed by June 30 of each subsequent year by the initial individual holder thereof. The number of such licenses outstanding in any one license year may not exceed the number issued for the 1994-1995 license year. A license is not transferable by any method. Licenses that are not renewed expire and may be reissued by the commission in the subsequent license year to new applicants otherwise qualified under this section.~~

~~(5)—The proceeds of the fees collected under this section must be deposited in the Marine Resources Conservation Trust Fund and used as follows:~~

~~(a)—Thirty five percent for research and the development of reliable recreational catch statistics for the spiny lobster fishery.~~

~~(b)—Twenty percent for administration of this section.~~

~~(c)—Forty five percent to be used for enforcement of this section.~~

~~(6) Any person who violates this section commits a Level One violation under s. 379.401.~~

379.401 Penalties and violations; civil penalties for noncriminal infractions; criminal penalties; suspension and forfeiture of licenses and permits.—

(1)(a) LEVEL ONE VIOLATIONS.—A person commits a Level One violation if he or she violates any of the following provisions:

1. Rules or orders of the commission relating to the filing of reports or other documents required to be filed by persons who hold recreational licenses and permits issued by the commission.
2. Rules or orders of the commission relating to quota hunt permits, daily use permits, hunting zone assignments, camping, alcoholic beverages, vehicles, and check stations within wildlife management areas or other areas managed by the commission.
3. Rules or orders of the commission relating to daily use permits, alcoholic beverages, swimming, possession of firearms, operation of vehicles, and watercraft speed within fish management areas managed by the commission.
4. Rules or orders of the commission relating to vessel size or specifying motor restrictions on specified water bodies.
- ~~5. Section 379.355, providing for special recreational spiny lobster licenses.~~
- ~~65. Section 379.354(1)-(15), providing for recreational licenses to hunt, fish, and trap.~~
- ~~76. Section 379.3581, providing hunter safety course requirements.~~
- ~~87. Section 379.3003, prohibiting deer hunting unless required clothing is worn.~~

**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**

There will be no impact on any groups by this proposal. No SRLs have been issued since July 2011 (for the 2011-12 license year).

**VI. Fiscal Impact**

**A. On the Commission**

None

**B. On Other State Agencies**

None

**C. On Private Sector**

None

**D. On Local Governments**

None

**E. Tax/Fee Issues**

This proposal would repeal the Special Recreational Spiny Lobster license and its fee of \$100.00.