



Florida Fish and Wildlife Conservation Commission

Legislative Affairs

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Legislative Proposal Form 2007 Session

Title: Creating Penalties for Seagrass Scarring
Submitted by the Division of Habitat and Species Conservation

I. Summary of Proposal

This issue would create a penalty system for damaging seagrasses due to propeller scarring and vessel grounding. Stakeholders from the boating, fishing (commercial and recreational), environmental, and regulatory communities have been involved in the development of the issue. Although legislation has been drafted by staff from the Fish and Wildlife Conservation Commission (Commission) and the Department of Environmental Protection (DEP), a stakeholder meeting to review the draft bill will be held November 15, 2006, in Tallahassee. The final proposal will be presented to the Commission at their December 2006 meeting.

II. Substantive Analysis

A. Present Situation

Seagrass systems are highly productive communities, which form the basis for important fisheries and aquatic ecological processes. Seagrass meadows are responsible for generating up to approximately \$20,000 in fishery-related economic benefits per acre each year. Propeller scarring in seagrass is recognized as a problem in areas of high boating use around the State, which currently has over 1 million registered boats. A 1995 report generated by the Fish and Wildlife Research Institute (formerly Florida Marine Research Institute) determined that 22,000 acres of seagrass in shallow nearshore waters were moderately to severely scarred. Subsequent analysis of seagrass systems, such as those found in Charlotte Harbor in 2003, have shown increases in both the number of propeller scars and the severity of scarring since the 1995 report findings. The Charlotte Harbor assessment found a 71% increase in severely scarred seagrass habitat when aerial images taken in 2003 were compared with those in the same area used in the assessments for the 1995 state-wide report. During this same period, vessel registrations grew from 16,896 to 22,252 boats in Charlotte County, an increase of 32%. Such findings are consistent with observed high-density growth and development of coastal areas, which will continue to bring with it growing vessel traffic in shallow vegetated estuary waters

of the State. Shallow water operated vessels, commonly referred to as “flats boats”, are one of the fastest growing segments of the watercraft industry. Sales of such vessels reflect the desire on the part of the boating public to operate vessels in shallow waters where seagrass can be damaged by propellers. This problem will continue into the foreseeable future without further management action. Outreach (brochures, boater’s guides, public service announcements, boat ramp information kiosks, etc.) and non-regulatory management (signs marking shallow seagrass beds) efforts, many in partnership with stakeholders, have been and are being employed throughout the State in an active campaign to instill stewardship of these marine resources in the boating community.

An interagency Seagrass Working Group consisting of Commission and DEP staff was assembled in 2004 to address the issue. An initial stakeholder meeting, consisting of representatives from the boating, fishing (commercial and recreational), environmental and regulatory community, was held in February 2005, to determine the extent of the problem, develop recommended management options to address the problem, and partner with the interagency Seagrass Working Group to provide oversight for implementation. This facilitated meeting resulted in development of a refined problem statement and numerous prioritized recommendations from the stakeholders. One of the priorities was for the agencies to acquire the necessary legislative authority to address seagrass damage caused by vessel operation, and another was to explore the use of existing legislative authority to do so, if it existed. Based on the recommendations, the interagency Seagrass Working Group began working on a refined operational guidance procedure to more effectively implement seagrass protection regulations already available to regulatory agencies. This regulatory authority is based upon DEP’s statutory authority to pursue civil penalties for natural resource damage on state lands and the Commission’s responsibility to enforce state marine law. The interagency Seagrass Working Group developed a pilot project protocol associated with the implementation of this operational guidance, and presented it to the stakeholder group at a meeting in August 2006. At this meeting, the stakeholders reached a consensus supporting the development of draft legislation by agency staff to implement a non-criminal infraction system, where propeller scarring vessel operators could be fined for damaging seagrass. This resulted from the stakeholder understanding that the proposed operational guidance was far too complex and costly to the regulated boating public to be a tenable deterrent. The interagency Seagrass Working Group has since developed draft legislation, and will present the draft to the stakeholder group at a facilitated meeting to be held November 15, 2006, in Tallahassee. Agency staff will take comments and recommendations to address stakeholder concerns.

A penalty system similar to the draft proposal currently exists at some State Parks and in Pinellas County. A much more comprehensive penalty system exists in the Florida Keys National Marine Sanctuary.

What part of the state does the proposal affect?

The proposed legislation would affect estuarine and marine waters on a state-wide basis, except where superseded by federal regulations, e.g. Florida Keys National Marine Sanctuary.

Is this a Commission Area of Emphasis?

No.

B. Effect of Proposed Changes

The draft legislation would create a penalty system, which would provide a disincentive for boaters to operate their vessels in such a way as to cause propeller scarring of seagrasses.

Assessed penalties would be non-criminal in nature for carelessly causing propeller scarring on seagrasses and would increase for repeat offenders:

- \$50 for a first conviction
- \$250 for a second conviction occurring within 12 months of a prior conviction
- \$500 for a third conviction occurring within 36 months of a prior conviction
- \$1000 upon conviction for a fourth or subsequent conviction
- All fines would double for damage to seagrasses located within the boundaries of state parks or aquatic preserves.

For refusing to accept and sign the citation or for refusing to post a bond, the penalty would be a 2nd degree misdemeanor (up to \$500 fine and/or 60 days in jail).

For willful or wanton operation of a vessel that results in damage to seagrasses, the penalty would be a 1st degree misdemeanor (up to \$1000 fine and/or up to one year in jail).

All fine revenues would be earmarked for seagrass restoration, enforcement, and education. The new penalties would become effective July 1, 2007.

It is anticipated that these penalties would result in fewer boaters operating their vessels so as to create propeller scars in seagrass, and the magnitude of the problem, loss of seagrass ecological functions, would decrease. Seagrass communities would become more robust (greater primary productivity), perform aquatic ecological functions on the scale of the existing resource more completely, improve the ecological health of associated seagrass communities, and as a result, provide better and more abundant marine fisheries.

The final proposal will be determined at the November 15, 2006, stakeholder meeting to be held in Tallahassee.

Impact on All Pertinent Statutes/Rules/Constitution

The legislation would amend s. 253.04, F.S., to provide for the protection of seagrasses from propeller scarring due to careless vessel operation, and would amend s. 327.73, F.S., to establish penalties for violation of the new law.

III. Affected Agencies and Groups

Boating, fishing and other water dependent interests who damage seagrasses would be affected by this legislation. The public would be notified by state agency education campaigns including, but not limited to personal contact by Commission officers, press releases, and boater education courses.

Have all other DOI's affected signed off on the proposal?

All DOI's affected by the proposal have been represented on the Seagrass Working Group with oversight of senior leadership.

IV. Fiscal Impact

A. On FWC

No additional staff or funding streams will be required.

B. On Private Sector

Boaters who operate their vessels in a manner so as to cause propeller scars in seagrass may be assessed fines and may be charged with a misdemeanor that allows for a fine to be assessed. The actual fiscal impact is unknown.

C. On Other Governmental Agencies

None.

D. Tax/Fee Issues

None.

IV. Proposed Language

NOTE: this draft language will be reviewed by the stakeholder group, November 15, 2006; a finalized draft will be presented to the Commission at their December 2006 meeting.

Section 1. Subsection (4) of section 253.04, Florida Statutes is created, and the remaining subsections are renumbered, to read:

253.04 Duty of board to protect, etc., state lands; state may join in any action brought.-

(4) (a) Any person operating a vessel in a careless manner so as to cause propeller scarring commits a civil infraction, punishable as provided in s. 327.73, except as provided in paragraph (b). For purposes of this section, "propeller scarring" means damage, caused by the operation of watercraft in waters supporting seagrasses, resulting in the destruction of roots, shoots or stems of seagrass plants, and causing denuding of vegetation in tracks of sediment commonly referred to as prop-scars or propeller scars. Each violation shall be a separate offense. The owner and operator of any vessel shall be jointly and severally liable for the civil penalty imposed pursuant to this section.

(b) Any person who willfully or wantonly operates a vessel in a manner so as to damage seagrasses commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Any violation of this section is a violation of the boating laws of this state and shall be charged on a uniform boating citation as provided in s. 327.74. Any person who refuses to post a bond or accept and sign a uniform boating citation shall, as provided in s. 327.73(3), be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(d) All civil penalties imposed and collected pursuant to this section shall be deposited in the Marine Resources Conservation Trust Fund and shall be transferred into the Internal Improvement Trust Fund and used solely: to implement, administer, and enforce this section; to provide for seagrass restoration; and to conduct a program to educate vessel operators about the need to protect seagrasses from damage caused by the

operation of vessels.

Section 2. Paragraph (v) is created within subsection (1) of section 327.73, Florida Statutes, and subsection (8) of section 327.73 is amended to read:

327.73 Noncriminal infractions.-

(1) Violations of the following provisions of the vessel laws of this state are noncriminal infractions:

(v) Section 253.03(4)(a), relating to carelessly causing propeller scaring, for which the civil penalty is:

1. \$50 upon conviction for a first offense;

2. \$250 upon conviction for a second offense occurring within 12 months of a prior conviction;

3. \$500 upon conviction for a third offense occurring within 36 months of a prior conviction;

4. \$1,000 upon conviction for a fourth or subsequent offense.

Penalties assessed according to this paragraph shall be doubled for damage to seagrasses located within the boundaries of state parks or aquatic preserves.

(8) Except as otherwise provided, all ~~All~~ fees and civil penalties assessed and collected pursuant to this section shall be remitted by the clerk of the court to the Department of Revenue to be deposited into the Marine Resources Conservation Trust Fund for boating safety education purposes.

Section 3. This act shall take effect October 1, 2007.