



Florida Fish and Wildlife Conservation Commission

Legislative Affairs Office

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2017 Legislative Proposal

Agenda Item 17

November 17, 2016

Title: Technical Correction to Sea Turtle Penalty

Submitted by: Legislative Affairs Office

1. EXECUTIVE SUMMARY

This proposal will correct a technical deficiency created during the 2016 Session, when legislation was passed to clarify that possession of sea turtles is prohibited unless authorized by the Fish and Wildlife Conservation Commission. The proposal adds a statutory reference to the Offense Severity Ranking Chart in the Criminal Punishment Code that was inadvertently not codified during the 2016 Session.

2. SUBSTANTIVE BILL ANALYSIS

PRESENT SITUATION:

During the 2016 Session, HB 7013, the FWC agency package, was amended to clarify that the knowing possession of sea turtle species or hatchlings, including any parts thereof, is illegal and a 3rd degree felony, under the Marine Turtle Protection Act, s. 379.2431(1), F.S. Previous to this clarification, the possession of sea turtle species, hatchlings, or their parts *was implied* to be illegal along with other prohibitions in s. 379.2431(1)(d), F.S, including knowingly taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing any sea turtles or their eggs or nests. The penalty for all such prohibitions was a 3rd degree felony. The clarification in HB 7013 to include “possession” did not change the penalty.

Because at least one court case was adjudicated “not guilty” because “possession” of sea turtles was not specifically prohibited in law (see Case # 2013 CF00101AM), Rep. Holly Raschein and the Palm Beach County State Attorney’s Office requested that “possession” of sea turtles be added to the prohibition. During the 2016 Session, HB 7013 was amended to include the prohibition.

The language providing for the clarification required adding a new sub-paragraph 6. to s. 379.2431(1)(d), F.S. to implement the clarification. As a result, the existing subparagraph 6., which makes the solicitation or conspiracy to commit a violation of the Marine Turtle Protection Act a 3rd degree felony, became subparagraph 7. While the cross reference to subparagraph 6. was already listed in Level 3 of the Offense Severity Ranking Chart in s. 921.0022(3)(c), F.S., unfortunately, it was not realized until too late in the 2016 Session that the reference to the new subparagraph 7. had not been added to Level 3 of the Offense Severity Ranking Chart.

The Offense Severity Ranking Chart in the Criminal Punishment Code, s. 921.0022, F.S., determines the sentence score for all felony convictions. There are 10 offense levels, ranked from least severe (Level 1 offenses) to most severe (Level 10 offenses). Each felony offense is assigned a level depending on the

severity of the offense.

1. EFFECT OF THE BILL:

The proposal will correct the cross reference inadvertently left out during the 2016 Session by adding subparagraph 7. of s. 379.2431(1)(d), F.S. to Level 3 of the Offense Severity Ranking Chart in the Criminal Punishment Code in s. 921.0022(3)(c).

2. IMPACT ON ALL PERTINENT STATUTES/RULES/CONSTITUTION:

3. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	Proponent - Rep. Holly Raschein; Palm Beach County State's Attorney's Office
Provide a summary of the proponents' and opponents' positions:	They support passage of the technical correction.

1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT?

Revenues:	None
Expenditures:	None
Does the legislation increase local taxes or fees?	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	None
Expenditures:	None
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	

3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR?

Revenues:	None
Expenditures:	None
Other:	None

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Does the bill increase taxes, fees or fines?	No
Does the bill decrease taxes, fees or fines?	No
What is the impact of the increase or decrease?	
Bill Section Number:	

3. LANGUAGE

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(1) The offense severity ranking chart must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998.

(2) The offense severity ranking chart has 10 offense levels, ranked from least severe, which are level 1 offenses, to most severe, which are level 10 offenses, and each felony offense is assigned to a level according to the severity of the offense. For purposes of determining which felony offenses are specifically listed in the offense severity ranking chart and which severity level has been assigned to each of these offenses, the numerical statutory references in the left column of the chart and the felony degree designations in the middle column of the chart are controlling; the language in the right column of the chart is provided solely for descriptive purposes. Reclassification of the degree of the felony through the application of s. [775.0845](#), s. [775.085](#), s. [775.0861](#), s. [775.0862](#), s. [775.0863](#), s. [775.087](#), s. [775.0875](#), s. [794.023](#), or any other law that provides an enhanced penalty for a felony offense, to any offense listed in the offense severity ranking chart in this section shall not cause the offense to become unlisted and is not subject to the provisions of s. [921.0023](#).

(3) OFFENSE SEVERITY RANKING CHART

(c) LEVEL 3

Florida Statute	Felony Degree	Description
379.2431(1)(e)6.	3 rd	<u>Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.</u>
379.2431(1)(e)7.	3 rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act