Summary of Proposed Changes to Recreational Fish and Wildlife Penalties
2016 Session

Note – most violations resulting in non-criminal infractions, 2nd degree misdemeanors, and 1st degree misdemeanors have increased penalties for repeat offenders; unless otherwise noted, those respective penalties listed below should be understood to include increased penalties for repeat offenders.

1. Current law assigns an additional fine of $250 to violators who illegally kill, take, possess, or sell game or fur-bearing animals while committing trespass or burglary. The proposal increases the fine to $500 per violation and would add all fish and wildlife to the list of species affected. In addition, the section would be moved in its entirety for higher visibility.

2. Current law assigns a non-criminal infraction for failure to possess a required recreational hunting/fishing license or permit. For a first offense, an individual is fined $50 plus the price of the required license/permit (note: the individual is not issued the license/permit, just pays the price of it as part of the fine).

   The proposal would provide another option for the violator – to pay the base fine, plus purchase the required license/permit.

3. The proposal increases the base fine for repeat offenders for any recreational hunting/fishing non-criminal violation within 3 years - from $100 to $250
   - Note – currently, all revenues from these fines go to the Clerk of the Court; the option allowing the individual to purchase the license/permit would result in the license/permit fee going to FWC

Proposed Decreases in Penalties

4. Violations of reporting requirements by alligator trapping licensees would be reduced to a non-criminal infraction from a 2nd degree misdemeanor.

5. Violations of rules/orders of the Commission requiring the return of unused CITES tags by recreational alligator hunters and contracted nuisance alligator trappers would be reduced to a non-criminal infraction from the current 2nd degree misdemeanor; the penalty would remain a 2nd degree misdemeanor for commercial participants.

Changes for Consistency

6. Currently, all violations of Wildlife Management Areas (WMAs) on U.S. Forest Service lands are 2nd degree misdemeanors. On all other WMAs, some of the same violations
are non-criminal infractions. The proposal, approved by the U.S. Forest Service, changes the penalties for U.S. Forest Service WMAs to be consistent with those of all other WMAs.

7. The penalty in statute for the sale, barter, or trade of tarpon would be increased from a 2nd degree misdemeanor to a 1st degree misdemeanor. This would make it consistent with the penalty for rules that prohibit the sale of other saltwater fish (such as bonefish).

8. Move “changing” or “altering” a hunting/fishing license from the law prohibiting transferring a license to the law prohibiting the counterfeiting or forgery of a hunting/fishing license, a consistent activity; the effect increases the penalty to a 3rd degree felony from a 2nd degree misdemeanor for changing or altering a hunting/fishing license.

9. The proposal would provide consistency in penalties by assigning increased penalties for repeat offenders of 2nd degree misdemeanor violations.

Changes for clarification, cleaning up outdated language, or providing cross references

The proposal would:

10. Repeal from the recreational penalty statute, penalties associated with the illegal sale, purchase, harvest, or attempted harvest of any saltwater product with intent to sell, as this activity is strictly commercial in nature. The penalties in the commercial saltwater fishing penalty statute would apply (2nd degree misdemeanor with increased penalties for repeat offenders).

11. Repeal from the recreational penalty statute, penalties relating to stone crab and spiny lobster trap tags, since trap tags are strictly commercial in nature. The penalties in the commercial saltwater fishing penalty statute would apply (2nd degree misdemeanor with increased penalties for repeat offenders).

12. Clarify that when spearfishing (such as lionfish) is allowed, there is no violation of law.

13. Clarify that unlawful use of any fish or wildlife traps (not including commercial saltwater fisheries traps, or unless otherwise provided), would be a 2nd degree misdemeanor.

14. Repeal outdated language pertaining to penalties for the possession of firearms on fish management areas; to be consistent with the law that prohibits agencies from regulating firearm possession.

15. Repeal outdated language stating that penalties of Commission rules would fall only under the recreational penalty statute or the commercial saltwater fishing statute – to acknowledge other penalty provisions in law (such as captive wildlife penalties).

16. Provide cross references in 9 additional sections of law.