

# Florida Fish and Wildlife Conservation Commission

Legislative Affairs Office

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## 2013 Session Legislative Proposal

**Title: Wildlife Alert Discretionary Fine**

**Submitted by: Division of Law Enforcement**

### I. Summary of the Proposal

This proposal would grant trial judges the discretion to assess fines for violations of fish and wildlife laws, over and above those fines already statutorily authorized, to be paid to the Wildlife Alert Reward Association (Wildlife Alert).

### II. Present Situation

Wildlife Alert operates a non-profit, reward-based program created 30 years ago to encourage citizens to report fish and wildlife violations and to get involved conserving and protecting Florida's fish and wildlife resources. Wildlife Alert offers citizens rewards in exchange for information that leads to the arrest of poachers or others who violate Florida's fish and wildlife laws, and boaters operating vessels under the influence of drugs or alcohol. Many times these citizen contacts are the only way law enforcement officers find out about illegal activity.

Wildlife Alert works as follows: when someone knows of, or suspects a violation, they report it to the Florida Fish and Wildlife Conservation Commission (FWC) by calling or texting the toll-free Wildlife Alert Hotline at 888-404-3922 or reporting the violation online at [MyFWC.com/law/Alert](http://MyFWC.com/law/Alert).

Dispatchers ask for information such as the physical descriptions of violators and vehicles, license tag numbers, locations, etc. Callers and online reporters may remain anonymous. They do not have to provide their names or email addresses, and they will not be required to testify in court.

If someone's information leads to an arrest, he or she is eligible to receive a cash reward from Wildlife Alert. The amount is based on the type of violation, as listed below:

**Minimal Category  
Violations  
\$25.00 Reward**

- Hunting/Fishing without license (sport)
- No quota permit
- Fishing without recreational license
- No Retail Saltwater Products license

**Category I Violations**  
**\$100.00 Reward**

- Taking protected wildlife species
- Over bag limit of small game or fish
- Taking small game or fish during closed season or in closed areas
- Trapping (leg hold)
- Unlawful possession of gun in a wildlife management area or refuge
- Taking over the bag limit of saltwater finfish, shellfish, or crustaceans
- Taking any saltwater finfish, shellfish, or crustaceans during closed season, by illegal method, or from closed areas (i.e. using a cast net to take game fish)
- Taking “protected” wildlife species (i.e. gulls, other migratory birds, etc.

**Category II Violations**  
**\$150.00 Reward**

- Unlawful taking, attempting to take, or possession of alligators
- Unlawful taking of a quantity of saltwater species (more than 3 over recreational bag limit of trout, snook, or redfish) or taking with prohibited gear (other than Article X, Section 16 net violations).
- Buying/selling saltwater species without proper **wholesale** license; no pier license, or passenger for hire vessel license.

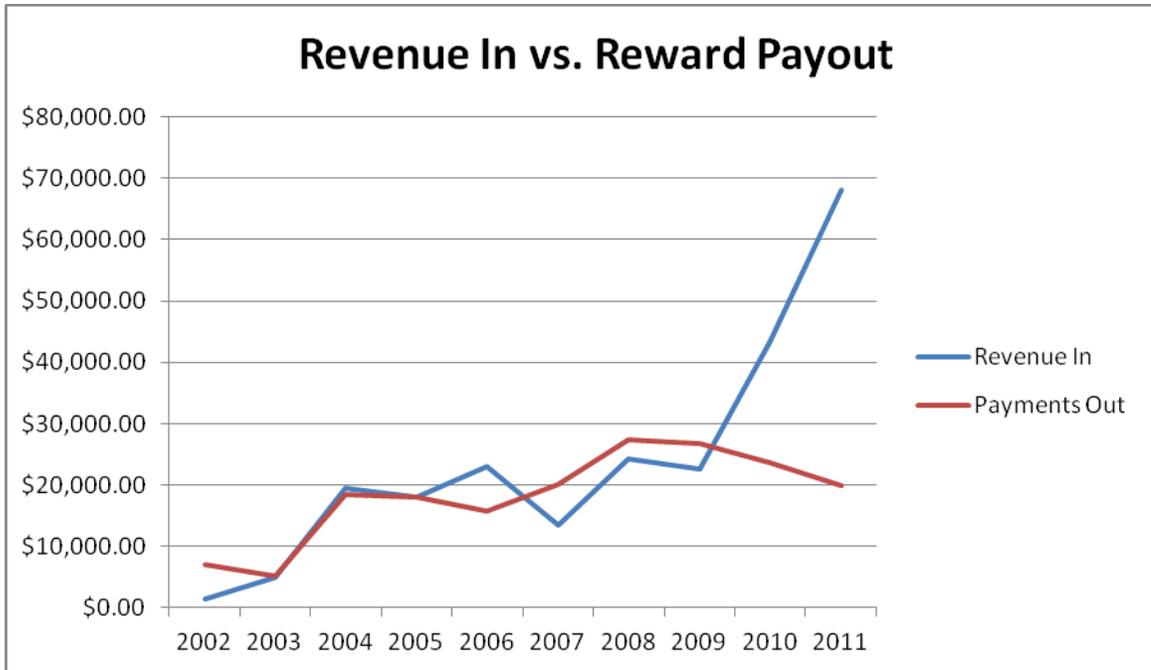
**Category III Violations  
\$250.00 Reward**

- Unlawful taking, attempting to take or possession of big game
- Unlawful sale or possession of game fish (commercial quantities)
- Molesting endangered/threatened species
- Vandalism to a FWC Gun Range
- Article X, Section 16 (Limited net use) violations (commonly referred to by the public as “Net Ban”).
- Taking, possession, selling, or buying **commercial quantities** of saltwater species without salt-water products license (SPL) (i.e. serious violations that also involve illegal sale).
- Molesting Endangered/Threatened Species
- Trap Robbing (lobster, stone crab, etc.)
- Boating Under the Influence (BUI)

**Category IV Violations  
Up to \$1,000.00 Reward**

- Commercial trafficking of wildlife (except panfish)
- Organized black-market taking and sale of protected species
- Taking/Killing any Endangered/Threatened Species (Key deer, panthers, bears, sea turtles/eggs, manatee, etc.)

Wildlife Alert has traditionally been funded by private charitable donations, as well as fines assessed by judges against wildlife law violators, ordered to be paid to Wildlife Alert directly. The problem is that there is no clear statutory authority for judges to assess these fines. Wildlife Alert has often paid out more money than it has collected, and without adequate funding, it could become insolvent quickly. The graph below demonstrates the uncertainty of Wildlife Alert revenue collections and expenses.



Even though the graph shows a recent increase in revenue, this trend is inconsistent, and in several recent years, payments to those reporting violations exceeded revenues collected by Wildlife Alert.

In fiscal year 2011–2012, the FWC issued 5,052 misdemeanor and felony fish and wildlife citations pursuant to Chapter 379, Florida Statutes, and Florida Administrative Code 68A and 68B. Below is a graph showing the rewards paid to people reporting fish and wildlife law violations through Wildlife Alert for the same time period:

Award Amount (\$)	Number of Awards Paid
0-100	43
101-200	40
201-300	31
301-400	3
401-500	1
>501	2

Between 2006 and 2011 the Wildlife Alert Program received over 5,000 tips that resulted in the payment of over \$130,000 in rewards.

### III. Effect of Proposed Changes

This proposal would grant trial judges the discretion to assess fines for violations of fish

and wildlife laws, over and above those fines already statutorily authorized, to be paid to Wildlife Alert. The amount of the fine the judge could order to be paid to Wildlife Alert (and whether to assess this additional fine at all) will be left to the discretion of the judge, with a cap on the upper limit of the fine. The cap for this additional fine would be the maximum fine already authorized in law for the violation. This fine will not impact funds currently received by the clerks of court, the judiciary, or other state agencies.

Providing judges with statutory authority to assess a fine against violators of fish and wildlife laws – to be paid to Wildlife Alert - will make available a revenue source that will strengthen continued funding of Wildlife Alert. Through this proposal, violators will play a larger role in funding the program that promotes and rewards the apprehension of violators.

The process for collection of the fines and distribution to Wildlife Alert would work as follows:

1. When an offender is convicted and the presiding judge orders him or her to pay a fine, the offender would pay the fine to the Clerk of Court (Clerk).
2. The Clerk would then enter each statutory violation into the system together with the amount of the Wildlife Alert fine assessed by the judge for that violation.
3. The Clerk's information would be sent to the Department of Revenue (DOR).
4. DOR would not deposit the fines collected by the Clerk into a DOR account. Instead DOR would verify that the total amount sent by the Clerk's office is correct and directly deposit the fines into the Florida Fish and Wildlife Conservation Commission's (Commission) FLAIR departmental system.
5. The Commission would then receive the funds in the State Game Trust Fund together with a breakdown of the fines from DOR.
6. The Commission would transfer all fine payments received to Wildlife Alert through a warrant which will be issued once a month. (A warrant is a written order to pay that instructs the State Treasurer to pay the warrant holder.)

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

This proposal would require a new section in Chapter 379 (Fish and Wildlife Conservation) to allow for new fines for fish and wildlife law violations. FWC proposes the following language:

##### 379.410 – Penalties; Wildlife Alert Reward Association

In addition to any other penalty provided by law, the court may order a person who receives any judicial disposition other than acquittal or dismissal for a violation of this chapter, or rules or orders of the commission relating to freshwater fish, wildlife or marine fish, to pay a fine to the Wildlife Alert Reward Association. The Wildlife Alert

Reward Association shall use these fine revenues to pay rewards to persons who provide tips relating to violations of this chapter, or rules or orders of the commission relating to freshwater fish, wildlife or marine fish, when those tips lead to any judicial disposition other than acquittal or dismissal. The amount of this additional fine shall not exceed the maximum fine authorized by law for the violation. The clerk of the court shall forward the moneys collected to the Department of Revenue for deposit into the State Game Trust Fund. These moneys shall then be distributed to the Wildlife Alert Reward Association by the commission.

**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**

- a. The Wildlife Alert Reward Association will likely receive increased revenue from judges assessing fines to be paid to Wildlife Alert for fish and wildlife law violations.
- b. Florida trial judges will receive statutory authorization to assess new fines, payable to Wildlife Alert, against fish and wildlife law violators.
- c. Florida Clerks of Court will have an additional statutory fine to collect and report.
- d. The Department of Revenue will have an additional statutory fine to distribute.
- e. Violators of specified state statutes, rules and orders of the Commission will be

- potentially subjected to increased fine amounts.
- f. Citizens who report fish and wildlife law violations will potentially be affected because a larger pool of funds will be available to Wildlife Alert from which payment of rewards can be made.
  - g. The Commission will have additional revenues to post and an additional monthly warrant to issue. The Commission may also experience increased compliance with fish and wildlife laws resulting from increased fines against violators.

## **VI. Fiscal Impact**

### **A. On FWC**

There will be a minimal workload impact that can be absorbed within existing resources.

### **B. On Other State Agencies**

DOR – All changes to account for the receipt of these funds will be done as a system enhancement by DOR in conjunction with staff from the Florida Association of Court Clerks. According to DOR, any potential impact on workload can be absorbed within existing resources.

### **C. On Private Sector**

Wildlife Alert – the statutory authorization for trial judges to assess additional fines to be paid to Wildlife Alert will likely increase Wildlife Alert's revenues

### **D. On Local Governments**

Florida Clerks – Staff from the Florida Association of Court Clerks have indicated that any workload changes required to implement collection of the new fines and submission of those fines to DOR can be absorbed within existing resources.

### **E. Tax/Fee Issues**

None