



# Florida Fish and Wildlife Conservation Commission

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## 2014 Session Legislative Proposal

Agenda Item 9B (2)

September 6, 2013

Attachment 5 – *Version 2*

Version 2: The “present situation” section has been edited to clarify the way the current statute is interpreted and additional language was added to help explain and clarify the need for this legislative action. Version 1 was made available to the public on the agency web page.

**Title: Authorizing the Commission to Require Hunting Licenses to Take Wildlife on Public Lands**

**Submitted by: Division of Hunting and Game Management**

### I. Summary of the Proposal

This proposal would give the Fish and Wildlife Conservation Commission (Commission) clear authority to require a person to get a hunting license to take wildlife, not just statutorily defined game species, on Florida’s public lands. No species would be added to the current hunting license and hunter safety education requirements without Commission rulemaking or order of the Executive Director.

### II. Present Situation

Section 379.354(1)(a), F.S., requires a person to obtain a hunting license (unless specifically exempted by statute) to take “game” animals in Florida. Game is defined in section 379.101(20), F.S., to include “deer, bear, squirrel, rabbits, and, where designated by [Fish and Wildlife Conservation] commission rules, wild hogs, ducks, geese, rails, coots, gallinules, snipe, woodcock, wild turkeys, grouse, pheasants, quail, and doves.” Therefore, unless the Commission designates wild hogs as game, a hunting license is not required by statute to take them.

Section 379.3581, F.S., provides that no person born after June 1, 1975 (unless specifically exempted by statute), may be issued a license to take wild animal life with the use of a firearm, gun, bow, or crossbow in Florida without having first successfully completed the hunter safety course described in that section, or unless with a special authorization to hunt under supervision (mentor option). The course includes both classroom and shooting range instruction in the competent and safe handling of firearms, conservation, and hunting ethics. Persons who are not required to have a hunting license do not have to complete the hunter safety course.

Wild hogs (*Sus scrofa*), also called wild pigs, wild boars, or feral pigs, are the second most popularly hunted animal in Florida, second only to white-tailed deer. They are not

considered native to Florida, but they occur in all of Florida's 67 counties within a wide variety of habitats.

The Commission rules do not designate wild hogs as game, and therefore a hunting license is not required to take wild hogs. In 2012, however, the Commission became aware that most of the public (including many of those hunters who hunt wild hogs), already assumed that a hunting license was required for wild hog hunting *on public lands*; most of the hunters hunting on public lands already possessed a hunting license, and if required, had completed the hunter safety education course. This discrepancy was such a common misunderstanding that Commission law enforcement had acted in some areas (in terms of communication and enforcement) under the assumption that a hunting license was required for wild hog hunting on Wildlife Management Areas and other public lands they patrol.

Law enforcement officers could encounter situations where hunters assert they are only hunting wild hogs when, in truth, they are hunting additional species - making misrepresentations to officers in order to avoid the hunting license and hunter safety education requirements of which they are in violation.

The issue of hunters not being required to be licensed or educated on hunter safety requirements to hunt wild hogs on public lands could also occur with other hunted wildlife species that are not designated as game.

Specifically on public lands, Commission and other law enforcement are charged with protecting the public. The public and cooperating land management agencies expect hunters on public lands to have completed the hunter safety requirements. The hunter safety education course or the mentor option is critical to maintaining public support for hunting and to ensuring that hunters using public lands are safe and act responsibly.

The Commission desires consistency and fairness in licensing and hunter safety education requirements.

Commission staff began moving forward with a proposal that Commissioners designate wild hogs as a game species in rule in 2012 (thus requiring hunters of wild hogs to be licensed under section 379.354(1)(a), F.S., and to complete the hunter safety education requirements of section 379.3581, F.S.). This proposal was met with opposition by hunting stakeholders. They expressed concerns that defining hogs as game would begin a new regulation scheme eventually leading to increasing restrictions on harvest (for example, managing hogs to ensure sustainable populations by limiting the number of wild hogs a hunter can harvest, regulating seasons, or regulating the methods by which wild hogs could be hunted) or less access to the take of wild hogs on public lands.

The stakeholders opposed to the designation of wild hogs as game expressed no objections to being required to be licensed or to complete hunter safety education course requirements to hunt hogs on public lands. The Commission and staff, understanding the concerns of these stakeholders began to develop an alternative solution.

The fees for hunting licenses (including a \$1.50 tax collector fee authorized by section 379.352, F.S.) are listed below:

| <b>Resident Hunting Licenses</b>                                                                                                                                                                                                                                                                                                                                                        |          |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| Annual Hunting                                                                                                                                                                                                                                                                                                                                                                          | \$17.00  |
| Youth Hunting ( <b>Optional</b> for ages 8 to 15 and valid until 17 <sup>th</sup> birthday - <b>a hunting license is not required until age 16</b> - hunter safety certificate required)                                                                                                                                                                                                | \$17.00  |
| 5-Year Hunting                                                                                                                                                                                                                                                                                                                                                                          | \$79.00  |
| Hunting/Freshwater Fishing Combination                                                                                                                                                                                                                                                                                                                                                  | \$32.50  |
| Hunting/Freshwater/Saltwater Fishing Combination                                                                                                                                                                                                                                                                                                                                        | \$48.00  |
| <b>Resident 64 Sportsman's License</b> (includes Hunting and Freshwater Fishing licenses; and Wildlife Management Area, Archery, Muzzleloading Gun, Crossbow, Deer, Turkey, and Florida Waterfowl permits) (does not include Saltwater Fishing License, Snook or Lobster permits)                                                                                                       | \$13.50  |
| <b>Sportsman's License</b> (includes Hunting and Freshwater Fishing licenses; and Wildlife Management Area, Archery, Muzzleloading Gun, Crossbow, Deer, Turkey, and Florida Waterfowl permits) (does not include Saltwater Fishing License, Snook or Lobster permits)                                                                                                                   | \$80.50  |
| <b>Gold Sportsman's License</b> (includes Hunting, Saltwater Fishing and Freshwater Fishing licenses; and Wildlife Management Area, Archery, Muzzleloading Gun, Crossbow, Deer, Turkey, Florida Waterfowl, Snook and Lobster permits)                                                                                                                                                   | \$100.00 |
| <b>Youth Gold Sportsman's License (Optional</b> for ages 8 to 15 and valid until 17 <sup>th</sup> birthday - <b>a hunting license is not required until age 16</b> - hunter safety certificate required - includes same licenses and permits as Gold Sportsman's License)                                                                                                               | \$100.00 |
| <b>5-Year Gold Sportsman's License</b> (includes Hunting, Saltwater Fishing and Freshwater Fishing licenses; and Wildlife Management Area, Archery, Muzzleloading Gun, Crossbow, Deer, Turkey, Florida Waterfowl, Snook and Lobster permits)                                                                                                                                            | \$494.00 |
| <b>Military Gold Sportsman's License</b> (includes Hunting, Saltwater Fishing and Freshwater Fishing licenses; and Wildlife Management Area, Archery, Muzzleloading Gun, Crossbow, Deer, Turkey, Florida Waterfowl, Snook and Lobster 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 Hunting Licenses</b> |          |
|-------------------------------------|----------|
| Nonresident Annual Hunting          | \$151.50 |
| Nonresident 10-Day Hunting          | \$46.50  |

| <b><u>Lifetime Licenses</u></b><br><b><u>(for Florida residents only)</u></b>                                                                                                                                                             |                   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| <b>Lifetime Sportsman's License</b> (includes Hunting, Freshwater Fishing and Saltwater Fishing licenses; and Deer, Wildlife Management Area, Archery, Muzzleloading Gun, Crossbow, Turkey, Florida Waterfowl, Snook and Lobster permits) |                   |
| <b>4 years or younger</b>                                                                                                                                                                                                                 | <b>\$401.50</b>   |
| <b>5-12 years</b>                                                                                                                                                                                                                         | <b>\$701.50</b>   |
| <b>13 years and older</b>                                                                                                                                                                                                                 | <b>\$1,001.50</b> |
| <b>Lifetime Hunting License</b> (includes Hunting License; and Deer, Wildlife Management Area, Archery, Muzzleloading Gun, Crossbow, Turkey and Florida Waterfowl permits)                                                                |                   |
| <b>4 years or younger</b>                                                                                                                                                                                                                 | <b>\$201.50</b>   |
| <b>5-12 years</b>                                                                                                                                                                                                                         | <b>\$351.50</b>   |
| <b>13 years or older</b>                                                                                                                                                                                                                  | <b>\$501.50</b>   |

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.

Wildlife is defined in Chapter 68A-1.004(89), F.A.C, as “all wild or non-domestic birds, mammals, fur-bearing animals, reptiles and amphibians.” This includes game animals.

### **III. Effect of Proposed Changes**

This proposal would give the Commission the authority to require a person to obtain a hunting license to take wildlife, not just statutorily defined game species, on Florida’s public lands. No species would be added to the current hunting license and hunter safety education requirements without the Commission going through the rulemaking process or by order of the Executive Director. Commission staff does intend, if this proposal is made law, to move forward with a rule proposal requiring a hunting license and hunter safety education for the take of wild hogs on public lands. This action may also be taken for additional species for which the Commission believes it is appropriate.

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

Sections 379.101, 379.353, 379.354, 379.3581, and 379.401, F.S., would be amended, as follows:

##### **379.101. Definitions**

(3) "Closed season" shall be that portion of the year wherein the laws or rules of Florida forbid the taking of particular species of wildlife game or varieties of fish.

(20) "Game" means deer, bear, squirrel, rabbits, ~~and, where designated by commission rules, wild hogs,~~ ducks, geese, rails, coots, gallinules, snipe, woodcock, wild turkeys, grouse, pheasants, quail, and doves.

(27) "Open season" shall be that portion of the year wherein the laws of Florida for the preservation of fish and game permit the taking of particular species of wildlife game or varieties of fish.

(29) "Public lands" means lands within the state that are available for public use and that are owned, operated, or managed by a federal, state, county, or municipal governmental entity.

(30) (29) "Reef bunch oysters" are oysters found growing on the bars or reefs in the open bay and exposed to the air between high and low tide.

(31) (30) "Resident" or "resident of Florida" means:

(a) For purposes of part VII of this chapter, with the exception of ss. 379.363, 379.3635, 379.364, 379.3711, 379.3712, 379.372, 379.373, 379.374, 379.3751, 379.3752, 379.3761, 379.3762, and 379.377, and for purposes of s. 379.355, citizens of the United States who have continuously resided in this state, next preceding the making of their application for hunting, fishing, or other license, for the following period of time, to wit: For 1 year in the state and 6 months in the county when applied to all fish and game laws not related to freshwater fish and game.

(b) For purposes of part VI of this chapter, with the exception of s. 379.355, and for purposes of ss. 379.363, 379.3635, 379.364, 379.3711, 379.3712, 379.372, 379.373, 379.374, 379.3751, 379.3752, 379.3761, 379.3762, and 379.377, any person who has continually resided in the state for 6 months or any member of the United States Armed Forces who is stationed in the state.

(32) (31) "Resident alien" shall mean those persons who have continuously resided in this state for at least 1 year and 6 months in the county and can provide documentation from the Bureau of Citizenship and Immigration Services evidencing permanent residency status in the United States. For the purposes of this chapter, a "resident alien" shall be considered a "resident."

(33) (32) "Restricted species" means any species of saltwater products which the state by law, or the Fish and Wildlife Conservation Commission by rule, has found it necessary to so designate. The term includes a species of saltwater products designated by the commission as restricted within a geographical area or during a particular time period of each year. Designation as a restricted species does not confer the authority to sell a species pursuant to s. 379.361 if the law or rule prohibits the sale of the species.

(34) (33) "Salt water," except where otherwise provided by law, shall be all of the territorial waters of Florida excluding all lakes, rivers, canals, and other waterways of

Florida from such point or points where the fresh and salt waters commingle to such an extent as to become unpalatable because of the saline content, or from such point or points as may be fixed for conservation purposes by the Department of Environmental Protection and the Fish and Wildlife Conservation Commission, with the consent and advice of the board of county commissioners of the county or counties to be affected.

~~(35)~~ ~~(34)~~ “Saltwater fish” means:

(a) Any saltwater species of finfish of the classes Agnatha, Chondrichthyes, or Osteichthyes and marine invertebrates of the classes Gastropoda, Bivalvia, or Crustacea, or of the phylum Echinodermata, but does not include nonliving shells or echinoderms; and

(b) All classes of pisces, shellfish, sponges, and crustacea native to salt water.

~~(36)~~ ~~(35)~~ “Saltwater license privileges,” except where otherwise provided by law, means any license, endorsement, certificate, or permit issued pursuant to this chapter.

~~(37)~~ ~~(36)~~ “Saltwater products” means any species of saltwater fish, marine plant, or echinoderm, except shells, and salted, cured, canned, or smoked seafood.

~~(38)~~ ~~(37)~~ “Shellfish” shall include oysters, clams, and whelks.

~~(39)~~ ~~(38)~~ “Take” means taking, attempting to take, pursuing, hunting, molesting, capturing, or killing any wildlife or freshwater or saltwater fish, or their nests or eggs, by any means, whether or not such actions result in obtaining possession of such wildlife or freshwater or saltwater fish or their nests or eggs.

~~(40)~~ ~~(39)~~ “Transport” shall include shipping, transporting, carrying, importing, exporting, receiving or delivering for shipment, transportation or carriage or export.

### **379.353. Recreational licenses and permits; exemptions from fees and requirements**

(2) A hunting, freshwater fishing, or saltwater fishing license or permit is not required for:

(o) Any employee of the commission who takes freshwater fish, saltwater fish, or wildlife game as part of employment with the commission, or any other person authorized by commission permit to take freshwater fish, saltwater fish, or wildlife game for scientific or educational purposes.

### **379.354 Recreational licenses, permits, and authorization numbers; fees established.—**

(1) LICENSE, PERMIT, OR AUTHORIZATION NUMBER REQUIRED.—

(a) Except as provided in s. 379.353, no person shall take game, freshwater or saltwater fish, or fur-bearing animals within this state without having first obtained a license, permit, or authorization number and paid the fees set forth in this chapter. Further, a license, permit, or authorization number may be required by commission rule or order for the take of other wildlife on public lands, when determined by the commission to be necessary for proper management of natural resources, public safety, or public access. Such license, permit, or authorization number shall authorize the person to whom it is issued to take wildlife, or game, freshwater or saltwater fish, or fur-bearing animals, and participate in outdoor recreational activities in accordance with the laws of the state and rules of the commission.

(3) PERSONAL POSSESSION REQUIRED.—Each license, permit, or authorization number must be in the personal possession of the person to whom it is issued while such

person is taking, attempting to take, or possessing ~~game~~, freshwater or saltwater fish, or ~~wildlife fur-bearing animals~~ when such a license is required pursuant to this section or section 379.353. Any such person taking, attempting to take, or possessing ~~game~~, freshwater or saltwater fish, or ~~wildlife fur-bearing animals~~ who fails to produce a license, permit, or authorization number at the request of a commission law enforcement officer commits a violation of the law.

(4) RESIDENT HUNTING AND FISHING LICENSES.—The licenses and fees for residents participating in hunting and fishing activities in this state are as follows:

(c) Annual hunting license to take wildlife game, \$15.50.

(g) Annual license to take fur-bearing animals, \$25. Notwithstanding any license issued under this section or an exemption under section 379.353, a license is required under this paragraph to take fur-bearing animals except for ~~However~~, a resident with a valid hunting license or a no-cost license who is taking fur-bearing animals for noncommercial purposes using guns or dogs only, and not traps or other devices, is not required to purchase this license. Also, a resident 65 years of age or older is not required to purchase this license.

(h) Annual sportsman's license, \$79, except that an annual sportsman's license for a resident 64 years of age or older is \$12. A sportsman's license authorizes the person to whom it is issued to take wildlife game and freshwater fish, subject to the state and federal laws, rules, and regulations, including rules of the commission, in effect at the time of the taking. Other authorized activities include activities authorized by a management area permit, a muzzle-loading gun season permit, a crossbow season permit, a turkey permit, a Florida waterfowl permit, a deer permit, and an archery season permit.

(i) Annual gold sportsman's license, \$98.50. The gold sportsman's license authorizes the person to whom it is issued to take freshwater fish, saltwater fish, and wildlife game, subject to the state and federal laws, rules, and regulations, including rules of the commission, in effect at the time of taking. Other authorized activities include activities authorized by a management area permit, a muzzle-loading gun season permit, a crossbow season permit, a turkey permit, a Florida waterfowl permit, a deer permit, an archery season permit, a snook permit, and a spiny lobster permit.

(j) Annual military gold sportsman's license, \$18.50. The gold sportsman's license authorizes the person to whom it is issued to take freshwater fish, saltwater fish, and wildlife game, subject to the state and federal laws, rules, and regulations, including rules of the commission, in effect at the time of taking. Other authorized activities include activities authorized by a management area permit, a muzzle-loading gun season permit, a crossbow season permit, a turkey permit, a Florida waterfowl permit, a deer permit, an archery season permit, a snook permit, and a spiny lobster permit. Any resident who is an active or retired member of the United States Armed Forces, the United States Armed Forces Reserve, the National Guard, the United States Coast Guard, or the United States Coast Guard Reserve is eligible to purchase the military gold sportsman's license upon submission of a current military identification card.

(5) Nonresident hunting and fishing licenses.--The licenses and fees for nonresidents participating in hunting and fishing activities in the state are as follows:

(g) Hunting license to take wildlife game for 10 consecutive days, \$45.

(h) Annual hunting license to take wildlife game, \$150.

(i) Annual license to take fur-bearing animals, \$25. Notwithstanding any license issued

under this section or an exemption under section 379.353, a license is required under this paragraph to take fur-bearing animals except for ~~However~~, a nonresident with a valid Florida hunting license who is taking fur-bearing animals for noncommercial purposes using guns or dogs only, and not traps or other devices, is not required to purchase this license.

(9) Resident 5-year hunting and fishing licenses.--

(a) Five-year licenses are available for residents only, as follows:

1. A 5-year freshwater fishing or saltwater fishing license is \$77.50 for each type of license and authorizes the person to whom the license is issued to take or attempt to take or possess freshwater fish or saltwater fish consistent with the state and federal laws and regulations and rules of the commission in effect at the time of taking.

2. A 5-year hunting license is \$77.50 and authorizes the person to whom it is issued to take or attempt to take or possess wildlife ~~game~~ consistent with the state and federal laws and regulations and rules of the commission in effect at the time of taking.

(11) Resident lifetime hunting licenses.--

(b) The following activities are authorized by the purchase of a lifetime hunting license:

1. Taking, or attempting to take or possess, wildlife ~~game~~ consistent with the state and federal laws and regulations and rules of the commission in effect at the time of the taking.

(12) Resident lifetime sportsman's licenses.--

(b) The following activities are authorized by the purchase of a lifetime sportsman's license:

1. Taking, or attempting to take or possess, freshwater and saltwater fish, and wildlife ~~game~~, consistent with the state and federal laws and regulations and rules of the commission in effect at the time of taking.

(17) Suspended or revoked licenses.--A person may not take ~~game~~, freshwater fish, saltwater fish, or wildlife ~~fur-bearing animals~~ within this state if a license issued to such person as required under this section or a privilege granted to such person under s. 379.353 is suspended or revoked. A person who violates this subsection commits a Level Three violation under s. 379.401.

### **379.3581. Hunter safety course; requirements; penalty**

(1) This section may be cited as the Senator Joe Carlucci Hunter Safety Act.

(2)(a) Except as provided in paragraph (b), a person born on or after June 1, 1975, may not be issued a license to take wild animal life with the use of a firearm, gun, bow, or crossbow in this state without having first successfully completed a hunter safety course as provided in this section, and without having in his or her personal possession a hunter safety certification card, as provided in this section.

(b) A person born on or after June 1, 1975, who has not successfully completed a hunter safety course may apply to the commission for a special authorization to hunt under supervision. The special authorization for supervised hunting shall be designated on any license or permit required under this chapter for a person to take wildlife ~~game or fur-bearing animals~~. A person issued a license with a special authorization to hunt under supervision must hunt under the supervision of, and in the presence of, a person 21 years of age or older who is licensed to hunt pursuant to s. 379.354 or who is exempt from licensing requirements or eligible for a free license pursuant to s. 379.353.

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

(3)(a) Level Three violations.--A person commits a Level Three violation if he or she violates any of the following provisions:

6. Section 379.354(17), prohibiting the taking of wildlife game, freshwater fish, or saltwater fish while a required license is suspended or revoked.

**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**

Hunters on public lands, other users of public lands, and the Commission

**VI. Fiscal Impact**

The Commission's immediate intent is to clarify the situation concerning hunting wild hogs on land in Commission-managed areas (Wildlife Management Areas, Wildlife and Environmental Areas, Miscellaneous Areas, and public small game hunting areas), and for these areas, this change is essentially for clarification. The number of people who would buy or be required to obtain a hunting license to hunt wild hogs as a result of this clarification is unknown, but believed to be minimal. This is because most people who hunt wild hogs on public lands likely also hunt game species and already have a license (unless specifically exempted by statute) or they believe that a license requirement already is in place.

**A. On the Commission**

This proposal may result in a small positive fiscal impact on the Commission in the form of hunting license revenues paid by hunters wishing to hunt wild hogs or other species on public lands for which a license is not currently required, if the Commission is authorized to require such in the future. Most hunters are already under the impression that in order

to hunt wild hogs on public lands, they must possess a hunting license. There is no data on the number of hunters who only hunt wild hogs on public lands who do not possess a hunting license, so the exact fiscal impact is unknown.

**B. On Other State Agencies**

None

**C. On Private Sector**

This proposal may result in a small negative fiscal impact on some hunters who would have to purchase a hunting license in order to hunt wild hogs or other species on public lands for which a license is not currently required, if the Commission is authorized to require such in the future. Most hunters are already under the impression that in order to hunt wild hogs on public lands, they must possess a hunting license. There is no data on the number of hunters who only hunt wild hogs on public lands who do not possess a hunting license, so the exact fiscal impact is unknown.

**D. On Local Governments**

None

**E. Tax/Fee Issues**

No new tax/fee is proposed. This proposal, however, would give the Commission the ability to require a subset of hunters, not currently required to purchase a hunting license, to possess a hunting license to hunt for designated species on public lands. The license fee an individual hunter would have to pay would depend on the type of hunting license purchased.