

By Senator Geller

31-213-03

1                                   A bill to be entitled  
2           An act relating to the protection of marine  
3           turtles; amending s. 370.021, F.S.; providing a  
4           penalty for taking, harvesting, or possessing  
5           an egg of certain marine turtle species;  
6           providing an additional penalty for each egg  
7           involved in such a violation; amending s.  
8           370.12, F.S.; providing penalties for violating  
9           the Marine Turtle Protection Act; providing  
10          that it is a third-degree felony to take, kill,  
11          possess, disturb, mutilate, destroy, cause to  
12          be destroyed, sell, offer for sale, transfer,  
13          molest, or harass a marine turtle or its nest,  
14          hatchlings, eggs, or parts thereof; providing  
15          that it is a third-degree felony to commit any  
16          such act that involves a specified number or  
17          more of marine turtle eggs; providing that it  
18          is a third-degree felony to solicit or conspire  
19          to violate the Marine Turtle Protection Act;  
20          amending s. 777.04, F.S., relating to the  
21          offense of criminal attempt, criminal  
22          solicitation, or criminal conspiracy; providing  
23          that a violation of the Marine Turtle  
24          Protection Act is exempt from certain  
25          sentencing requirements for an offense of  
26          solicitation or conspiracy; amending s.  
27          921.0022, F.S., relating to the offense  
28          severity ranking chart of the Criminal  
29          Punishment Code; conforming provisions to  
30          changes made by the act.  
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1 Be It Enacted by the Legislature of the State of Florida:

2

3 Section 1. Paragraph (e) of subsection (2) of section  
4 370.021, Florida Statutes, is amended to read:

5 370.021 Administration; rules, publications, records;  
6 penalties; injunctions.--

7 (2) MAJOR VIOLATIONS.--In addition to the penalties  
8 provided in paragraphs (1)(a) and (b), the court shall assess  
9 additional penalties against any person, firm, or corporation  
10 convicted of major violations as follows:

11 (e) For a violation involving the taking, harvesting,  
12 or possession of any of the following species, which are  
13 endangered, threatened, or of special concern, or involving  
14 the taking, harvesting, or possession of any egg of a species  
15 described in subparagraphs 4.-8.:

16 1. Shortnose sturgeon (*Acipenser brevirostrum*);

17 2. Atlantic sturgeon (*Acipenser oxyrinchus*);

18 3. Common snook (*Centropomus undecimalis*);

19 4. Atlantic loggerhead turtle (*Caretta caretta*

20 *caretta*);

21 5. Atlantic green turtle (*Chelonia mydas mydas*);

22 6. Leatherback turtle (*Dermochelys coriacea*);

23 7. Atlantic hawksbill turtle (*Eretmochelys imbricata*  
24 *imbricata*);

25 8. Atlantic ridley turtle (*Lepidochelys kemp*); or

26 9. West Indian manatee (*Trichechus manatus*

27 *latirostris*),

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29 an additional penalty of \$100 for each unit of marine life or  
30 part thereof, or an additional penalty of \$100 for each egg of  
31 a species described in subparagraphs 4.-8.

1  
2 Notwithstanding the provisions of s. 948.01, no court may  
3 suspend, defer, or withhold adjudication of guilt or  
4 imposition of sentence for any major violation prescribed in  
5 this subsection. The proceeds from the penalties assessed  
6 pursuant to this subsection shall be deposited into the Marine  
7 Resources Conservation Trust Fund to be used for marine  
8 fisheries research or into the commission's Federal Law  
9 Enforcement Trust Fund as provided in s. 372.107, as  
10 applicable.

11 Section 2. Paragraphs (b) and (c) of subsection (1) of  
12 section 370.12, Florida Statutes, are amended to read:

13 370.12 Marine animals; regulation.--

14 (1) PROTECTION OF MARINE TURTLES.--

15 (b) The Legislature intends, pursuant to the  
16 provisions of this subsection, to ensure that the Fish and  
17 Wildlife Conservation Commission has the appropriate authority  
18 and resources to administer ~~implement~~ its responsibilities  
19 under the recovery plans of the United States Fish and  
20 Wildlife Service for the following species of marine turtle:

21 1. Atlantic loggerhead turtle (*Caretta caretta*  
22 *caretta*).

23 2. Atlantic green turtle (*Chelonis mydas mydas*).

24 3. Leatherback turtle (*Dermochelys coriacea*).

25 4. Atlantic hawksbill turtle (*Eretmochelys imbricata*  
26 *imbricata*).

27 5. Atlantic ridley turtle (*Lepidochelys kemp*).

28 (c)1.a. Unless otherwise provided by the federal  
29 Endangered Species Act or its implementing regulations, ~~a~~ no  
30 person may not take, possess, disturb, mutilate, destroy,  
31 cause to be destroyed, sell, offer for sale, transfer, molest,

1 or harass any marine turtle or its nest or eggs at any time.  
2 For purposes of this subsection, the word "take" means an act  
3 that ~~which~~ actually kills or injures marine turtles, and  
4 includes significant habitat modification or degradation that  
5 kills or injures marine turtles by significantly impairing  
6 essential behavioral patterns, such as breeding, feeding, or  
7 sheltering.

8 b.2. ~~Unless otherwise provided by the federal~~  
9 ~~Endangered Species Act or its implementing regulations, a~~ ~~no~~  
10 ~~person, firm, or corporation may~~ not take, kill, disturb,  
11 mutilate, molest, harass, or destroy any marine turtle.

12 c.3. ~~A~~ ~~No~~ person, firm, or corporation may not possess  
13 any marine turtle, their nests, eggs, hatchlings, or parts  
14 thereof unless it is in possession of a special permit or loan  
15 agreement from the commission enabling the holder to possess a  
16 marine turtle or parts thereof for scientific, educational, or  
17 exhibitional purposes, or for conservation activities such as  
18 relocating nests, eggs, or animals away from construction  
19 sites. Notwithstanding any other provisions of general or  
20 special law to the contrary, the commission may issue such  
21 authorization to any properly accredited person for the  
22 purpose of marine turtle conservation upon such terms,  
23 conditions, and restrictions as it may prescribe by rule  
24 adopted pursuant to chapter 120. The commission shall have the  
25 authority to adopt rules pursuant to chapter 120 to permit the  
26 possession of marine turtles pursuant to this paragraph. For  
27 the purposes of this subsection, a "properly accredited  
28 person" is defined as:

29 (I)~~a.~~ Students of colleges or universities whose  
30 studies with saltwater animals are under the direction of  
31 their teacher or professor;

1           ~~(II)b.~~ Scientific or technical faculty of public or  
2 private colleges or universities;

3           ~~(III)c.~~ Scientific or technical employees of private  
4 research institutions and consulting firms;

5           ~~(IV)d.~~ Scientific or technical employees of city,  
6 county, state, or federal research or regulatory agencies;

7           ~~(V)e.~~ Members in good standing or recognized and  
8 properly chartered conservation organizations, the Audubon  
9 Society, or the Sierra Club;

10           ~~(VI)f.~~ Persons affiliated with aquarium facilities or  
11 museums, or contracted as an agent therefor, which are open to  
12 the public with or without an admission fee; or

13           ~~(VII)g.~~ Persons without specific affiliations listed  
14 above, but who are recognized by the commission for their  
15 contributions to marine conservation such as scientific or  
16 technical publications, or through a history of cooperation  
17 with the commission in conservation programs such as turtle  
18 nesting surveys, or through advanced educational programs such  
19 as high school marine science centers.

20           2. Any person, firm, or corporation who intentionally  
21 commits an act prohibited by subparagraph 1. commits a felony  
22 of the third degree, punishable as provided in s. 775.082, s.  
23 775.083, or s. 775.084.

24           3. Any person, firm, or corporation who intentionally  
25 commits an act prohibited by subparagraph 1. which involves 12  
26 or more eggs of any species specified in paragraph (b) commits  
27 a felony of the third degree, punishable as provided in s.  
28 775.082, s. 775.083, or s. 775.084.

29           4. Notwithstanding s. 777.04, any person, firm, or  
30 corporation who solicits or conspires with another person,  
31 firm, or corporation to commit an act prohibited by

1 subparagraph 1. commits a felony of the third degree,  
2 punishable as provided in s. 775.082, s. 775.083, or s.  
3 775.084.

4 Section 3. Paragraphs (a), (d), and (e) of subsection  
5 (4) of section 777.04, Florida Statutes, are amended to read:

6 777.04 Attempts, solicitation, and conspiracy.--

7 (4)(a) Except as otherwise provided in ss. 104.091(2),  
8 370.12(1), 828.125(2), 849.25(4), 893.135(5), and 921.0022,  
9 the offense of criminal attempt, criminal solicitation, or  
10 criminal conspiracy is ranked for purposes of sentencing under  
11 chapter 921 and determining incentive gain-time eligibility  
12 under chapter 944 one level below the ranking under s.  
13 921.0022 or s. 921.0023 of the offense attempted, solicited,  
14 or conspired to. If the criminal attempt, criminal  
15 solicitation, or criminal conspiracy is of an offense ranked  
16 in level 1 or level 2 under s. 921.0022 or s. 921.0023, such  
17 offense is a misdemeanor of the first degree, punishable as  
18 provided in s. 775.082 or s. 775.083.

19 (d) Except as otherwise provided in s. 104.091(2), s.  
20 370.12(1), s. 828.125(2), or s. 849.25(4), if the offense  
21 attempted, solicited, or conspired to is a:

- 22 1. Felony of the second degree;
- 23 2. Burglary that is a felony of the third degree; or
- 24 3. Felony of the third degree ranked in level 3, 4, 5,  
25 6, 7, 8, 9, or 10 under s. 921.0022 or s. 921.0023,

26  
27 the offense of criminal attempt, criminal solicitation, or  
28 criminal conspiracy is a felony of the third degree,  
29 punishable as provided in s. 775.082, s. 775.083, or s.  
30 775.084.

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1 (e) Except as otherwise provided in s. 104.091(2), s.  
2 370.12(1), s. 849.25(4), or paragraph (d), if the offense  
3 attempted, solicited, or conspired to is a felony of the third  
4 degree, the offense of criminal attempt, criminal  
5 solicitation, or criminal conspiracy is a misdemeanor of the  
6 first degree, punishable as provided in s. 775.082 or s.  
7 775.083.

8 Section 4. Paragraphs (b) and (c) of subsection (3) of  
9 section 921.0022, Florida Statutes, are amended to read:

10 921.0022 Criminal Punishment Code; offense severity  
11 ranking chart.--

12 (3) OFFENSE SEVERITY RANKING CHART

14 Florida Statute	Felony Degree	Description
		(b) LEVEL 2
19 <u>370.12(1)(c)2.</u>	<u>3rd</u>	<u>Intentional act in violation of</u> 20 <u>the Marine Turtle Protection Act.</u>
21 403.413(5)(c)	3rd	Dumps waste litter exceeding 500 22 lbs. in weight or 100 cubic feet 23 in volume or any quantity for 24 commercial purposes, or hazardous 25 waste.
26 517.07	3rd	Registration of securities and 27 furnishing of prospectus 28 required.
29 590.28(1)	3rd	Willful, malicious, or 30 intentional burning.

1	784.05(3)	3rd	Storing or leaving a loaded
2			firearm within reach of minor who
3			uses it to inflict injury or
4			death.
5	787.04(1)	3rd	In violation of court order,
6			take, entice, etc., minor beyond
7			state limits.
8	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000
9			or more to public communication
10			or any other public service.
11	810.09(2)(e)	3rd	Trespassing on posted commercial
12			horticulture property.
13	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or
14			more but less than \$5,000.
15	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or
16			more but less than \$300, taken
17			from unenclosed curtilage of
18			dwelling.
19	812.015(7)	3rd	Possession, use, or attempted use
20			of an antishoplifting or
21			inventory control device
22			countermeasure.
23	817.234(1)(a)2.	3rd	False statement in support of
24			insurance claim.
25	817.481(3)(a)	3rd	Obtain credit or purchase with
26			false, expired, counterfeit,
27			etc., credit card, value over
28			\$300.
29	817.52(3)	3rd	Failure to redeliver hired
30			vehicle.
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1	817.54	3rd	With intent to defraud, obtain
2			mortgage note, etc., by false
3			representation.
4	817.60(5)	3rd	Dealing in credit cards of
5			another.
6	817.60(6)(a)	3rd	Forgery; purchase goods, services
7			with false card.
8	817.61	3rd	Fraudulent use of credit cards
9			over \$100 or more within 6
10			months.
11	826.04	3rd	Knowingly marries or has sexual
12			intercourse with person to whom
13			related.
14	831.01	3rd	Forgery.
15	831.02	3rd	Uttering forged instrument;
16			utters or publishes alteration
17			with intent to defraud.
18	831.07	3rd	Forging bank bills, checks,
19			drafts, or promissory notes.
20	831.08	3rd	Possessing 10 or more forged
21			notes, bills, checks, or drafts.
22	831.09	3rd	Uttering forged notes, bills,
23			checks, drafts, or promissory
24			notes.
25	831.11	3rd	Bringing into the state forged
26			bank bills, checks, drafts, or
27			notes.
28	832.05(3)(a)	3rd	Cashing or depositing item with
29			intent to defraud.
30	843.08	3rd	Falsely impersonating an officer.
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1	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c),
2			(2)(c)1., (2)(c)2., (2)(c)3.,
3			(2)(c)5., (2)(c)6., (2)(c)7.,
4			(2)(c)8., (2)(c)9., (3), or (4)
5			drugs other than cannabis.
6	893.147(2)	3rd	Manufacture or delivery of drug
7			paraphernalia.
8			(c) LEVEL 3
9	316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
10	316.1935(2)	3rd	Fleeing or attempting to elude
11			law enforcement officer in marked
12			patrol vehicle with siren and
13			lights activated.
14	319.30(4)	3rd	Possession by junkyard of motor
15			vehicle with identification
16			number plate removed.
17	319.33(1)(a)	3rd	Alter or forge any certificate of
18			title to a motor vehicle or
19			mobile home.
20	319.33(1)(c)	3rd	Procure or pass title on stolen
21			vehicle.
22	319.33(4)	3rd	With intent to defraud, possess,
23			sell, etc., a blank, forged, or
24			unlawfully obtained title or
25			registration.
26	327.35(2)(b)	3rd	Felony BUI.
27	328.05(2)	3rd	Possess, sell, or counterfeit
28			fictitious, stolen, or fraudulent
29			titles or bills of sale of
30			vessels.
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1	328.07(4)	3rd	Manufacture, exchange, or possess
2			vessel with counterfeit or wrong
3			ID number.
4	<u>370.12(1)(c)3.</u>	<u>3rd</u>	<u>Intentional act in violation of</u>
5			<u>the Marine Turtle Protection Act</u>
6			<u>which involves 12 or more eggs of</u>
7			<u>specified species.</u>
8	376.302(5)	3rd	Fraud related to reimbursement
9			for cleanup expenses under the
10			Inland Protection Trust Fund.
11	501.001(2)(b)	2nd	Tampers with a consumer product
12			or the container using materially
13			false/misleading information.
14	697.08	3rd	Equity skimming.
15	790.15(3)	3rd	Person directs another to
16			discharge firearm from a vehicle.
17	796.05(1)	3rd	Live on earnings of a prostitute.
18	806.10(1)	3rd	Maliciously injure, destroy, or
19			interfere with vehicles or
20			equipment used in firefighting.
21	806.10(2)	3rd	Interferes with or assaults
22			firefighter in performance of
23			duty.
24	810.09(2)(c)	3rd	Trespass on property other than
25			structure or conveyance armed
26			with firearm or dangerous weapon.
27	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
28			less than \$10,000.
29	812.0145(2)(c)	3rd	Theft from person 65 years of age
30			or older; \$300 or more but less
31			than \$10,000.

1	815.04(4)(b)	2nd	Computer offense devised to
2			defraud or obtain property.
3	817.034(4)(a)3.	3rd	Engages in scheme to defraud
4			(Florida Communications Fraud
5			Act), property valued at less
6			than \$20,000.
7	817.233	3rd	Burning to defraud insurer.
8	817.234(8)&(9)	3rd	Unlawful solicitation of persons
9			involved in motor vehicle
10			accidents.
11	817.234(11)(a)	3rd	Insurance fraud; property value
12			less than \$20,000.
13	817.505(4)	3rd	Patient brokering.
14	828.12(2)	3rd	Tortures any animal with intent
15			to inflict intense pain, serious
16			physical injury, or death.
17	831.28(2)(a)	3rd	Counterfeiting a payment
18			instrument with intent to defraud
19			or possessing a counterfeit
20			payment instrument.
21	831.29	2nd	Possession of instruments for
22			counterfeiting drivers' licenses
23			or identification cards.
24	838.021(3)(b)	3rd	Threatens unlawful harm to public
25			servant.
26	843.19	3rd	Injure, disable, or kill police
27			dog or horse.
28	870.01(2)	3rd	Riot; inciting or encouraging.
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1	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
2			cannabis (or other s.
3			893.03(1)(c), (2)(c)1., (2)(c)2.,
4			(2)(c)3., (2)(c)5., (2)(c)6.,
5			(2)(c)7., (2)(c)8., (2)(c)9.,
6			(3), or (4) drugs).
7	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
8			893.03(1)(c), (2)(c)1., (2)(c)2.,
9			(2)(c)3., (2)(c)5., (2)(c)6.,
10			(2)(c)7., (2)(c)8., (2)(c)9.,
11			(3), or (4) drugs within 200 feet
12			of university or public park.
13	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
14			893.03(1)(c), (2)(c)1., (2)(c)2.,
15			(2)(c)3., (2)(c)5., (2)(c)6.,
16			(2)(c)7., (2)(c)8., (2)(c)9.,
17			(3), or (4) drugs within 200 feet
18			of public housing facility.
19	893.13(6)(a)	3rd	Possession of any controlled
20			substance other than felony
21			possession of cannabis.
22	893.13(7)(a)8.	3rd	Withhold information from
23			practitioner regarding previous
24			receipt of or prescription for a
25			controlled substance.
26	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
27			controlled substance by fraud,
28			forgery, misrepresentation, etc.
29	893.13(7)(a)10.	3rd	Affix false or forged label to
30			package of controlled substance.
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1	893.13(7)(a)11.	3rd	Furnish false or fraudulent
2			material information on any
3			document or record required by
4			chapter 893.
5	893.13(8)(a)1.	3rd	Knowingly assist a patient, other
6			person, or owner of an animal in
7			obtaining a controlled substance
8			through deceptive, untrue, or
9			fraudulent representations in or
10			related to the practitioner's
11			practice.
12	893.13(8)(a)2.	3rd	Employ a trick or scheme in the
13			practitioner's practice to assist
14			a patient, other person, or owner
15			of an animal in obtaining a
16			controlled substance.
17	893.13(8)(a)3.	3rd	Knowingly write a prescription
18			for a controlled substance for a
19			fictitious person.
20	893.13(8)(a)4.	3rd	Write a prescription for a
21			controlled substance for a
22			patient, other person, or an
23			animal if the sole purpose of
24			writing the prescription is a
25			monetary benefit for the
26			practitioner.
27	918.13(1)(a)	3rd	Alter, destroy, or conceal
28			investigation evidence.
29	944.47		
30	(1)(a)1.-2.	3rd	Introduce contraband to
31			correctional facility.

1 944.47(1)(c) 2nd Possess contraband while upon the  
2 grounds of a correctional  
3 institution.  
4 985.3141 3rd Escapes from a juvenile facility  
5 (secure detention or residential  
6 commitment facility).

7 Section 5. This act shall take effect July 1, 2003.

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10 SENATE SUMMARY

11 Requires that an additional penalty of \$100 be imposed  
12 against any person who takes, harvests, or possesses the  
13 eggs of certain marine turtle species. Provides for the  
14 additional penalty to be assessed for each egg involved  
15 in the violation. Revises provisions of the Marine Turtle  
16 Protection Act to provide that it is a third-degree  
17 felony to take, kill, possess, disturb, mutilate,  
18 destroy, cause to be destroyed, sell, offer for sale,  
19 transfer, molest, or harass a marine turtle or its nest,  
20 hatchlings, eggs, or parts thereof or to commit any such  
21 act that involves 12 or more marine turtle eggs. Provides  
22 that it is a third-degree felony to solicit or conspire  
23 to violate the Marine Turtle Protection Act. (See bill  
24 for details.)  
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