

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Ryan offered the following:

**Amendment (with directory and title amendments)**

Remove everything after the enacting clause, and insert:

Section 1. Subsection (1) of section 370.12, Florida Statutes, is amended to read:

370.12 Marine animals; regulation.--

(1) PROTECTION OF MARINE TURTLES.--

(a) This subsection may be cited as the "Marine Turtle Protection Act."

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

- 1. Atlantic loggerhead turtle (*Caretta caretta* ~~caretta~~).

Amendment No. (for drafter's use only)

28 2. Atlantic green turtle (Chelonia mydas) (~~Chelonis mydas~~  
29 ~~mydas~~).

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

31 4. Atlantic hawksbill turtle (*Eretmochelys imbricata*  
32 ~~imbricata~~).

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

34 (c) As used in this subsection, the following phrases have  
35 the following meanings:

36 1. A "properly accredited person" is:

37 a. Students of colleges or universities whose studies with  
38 saltwater animals are under the direction of their teacher or  
39 professor; or

40 b. Scientific or technical faculty of public or private  
41 colleges or universities; or

42 c. Scientific or technical employees of private research  
43 institutions and consulting firms; or

44 d. Scientific or technical employees of city, county,  
45 state, or federal research or regulatory agencies; or

46 e. Members in good standing or recognized and properly  
47 chartered conservation organizations, the Audubon Society, or  
48 the Sierra Club; or

49 f. Persons affiliated with aquarium facilities or museums,  
50 or contracted as an agent therefor, which are open to the public  
51 with or without an admission fee; or

52 g. Persons without specific affiliations listed above, but  
53 who are recognized by the commission for their contributions to  
54 marine conservation such as scientific or technical  
55 publications, or through a history of cooperation with the  
56 commission in conservation programs such as turtle nesting

095125

Amendment No. (for drafter's use only)

57 surveys, or through advanced educational programs such as high  
58 school marine science centers.

59 2. "Take" means an act that actually kills or injures  
60 marine turtles, and includes significant habitat modification or  
61 degradation that kills or injures marine turtles by  
62 significantly impairing essential behavioral patterns, such as  
63 breeding, feeding, or sheltering.

64 (d) Except as authorized in this paragraph, or unless  
65 otherwise provided by the Federal Endangered Species Act or its  
66 implementing regulations, a person, firm, or corporation may  
67 not:

68 1. Knowingly possess the eggs of any marine turtle species  
69 described in this subsection.

70 2. Knowingly take, disturb, mutilate, destroy, cause to be  
71 destroyed, transfer, sell, offer to sell, molest, or harass any  
72 marine turtles or the eggs or nest of any marine turtles  
73 described in this subsection.

74 3. The commission may issue a special permit or loan  
75 agreement to any person, firm, or corporation, to enable the  
76 holder to possess a marine turtle or parts thereof, including  
77 nests, eggs, or hatchlings, for scientific, education, or  
78 exhibition purposes, or for conservation activities such as the  
79 relocation of nests, eggs, or marine turtles away from  
80 construction sites. Notwithstanding other provisions of law, the  
81 commission may issue such special permit or loan agreement to  
82 any properly accredited person as defined in paragraph (c) for  
83 the purposes of marine turtle conservation.

84 4. The commission shall have the authority to adopt rules  
85 pursuant to chapter 120 to prescribe terms, conditions, and

095125

Amendment No. (for drafter's use only)

86 restrictions for marine turtle conservation, and to permit the  
87 possession of marine turtles or parts thereof.

88 (e)1. Any person, firm, or corporation that commits any  
89 act prohibited in paragraph (d) involving any egg of any marine  
90 turtle species described in this subsection shall pay a penalty  
91 of \$100 per egg in addition to other penalties provided in this  
92 paragraph.

93 2. Any person, firm, or corporation that illegally  
94 possesses 11 or fewer of any eggs of any marine turtle species  
95 described in this subsection commits a first degree misdemeanor,  
96 punishable as provided in s. 775.082 and s. 775.083.

97 3. For a second or subsequent violation of sub-paragraph  
98 2, any person, firm, or corporation that illegally possesses 11  
99 or fewer of any eggs of any marine turtle species described in  
100 this subsection commits a third degree felony, punishable as  
101 provided in s. 775.082, s. 775.083, or s. 775.084.

102 4. Any person, firm, or corporation that illegally  
103 possesses more than 11 of any eggs of any marine turtle species  
104 described in this subsection commits a third degree felony,  
105 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

106 5. Any person, firm, or corporation who illegally takes,  
107 disturbs, mutilates, destroys, causes to be destroyed,  
108 transfers, sells, offers to sell, molests, or harasses any  
109 marine turtle species, or the eggs or nest of any marine turtle  
110 species as described in this subsection, commits a third degree  
111 felony, punishable as provided in s. 775.082, s. 775.083, or s.  
112 775.084.

113 6. Notwithstanding s. 777.04, any person, firm, or  
114 corporation who solicits or conspires with another person, firm,

095125

Amendment No. (for drafter's use only)

115 or corporation, to commit an act prohibited by this subsection  
116 commits a felony of the third degree, punishable as provided in  
117 s. 775.082, s. 775.083, or s. 775.084.

118 7. The proceeds from the penalties assessed pursuant to  
119 this paragraph shall be deposited into the Marine Resources  
120 Conservation Trust Fund.

121 ~~(c)1. Unless otherwise provided by the federal Endangered~~  
122 ~~Species Act or its implementing regulations, no person may take,~~  
123 ~~possess, disturb, mutilate, destroy, cause to be destroyed,~~  
124 ~~sell, offer for sale, transfer, molest, or harass any marine~~  
125 ~~turtle or its nest or eggs at any time. For purposes of this~~  
126 ~~subsection, "take" means an act which actually kills or injures~~  
127 ~~marine turtles, and includes significant habitat modification or~~  
128 ~~degradation that kills or injures marine turtles by~~  
129 ~~significantly impairing essential behavioral patterns, such as~~  
130 ~~breeding, feeding, or sheltering.~~

131 ~~2. Unless otherwise provided by the federal Endangered~~  
132 ~~Species Act or its implementing regulations, no person, firm, or~~  
133 ~~corporation may take, kill, disturb, mutilate, molest, harass,~~  
134 ~~or destroy any marine turtle.~~

135 ~~3. No person, firm, or corporation may possess any marine~~  
136 ~~turtle, their nests, eggs, hatchlings, or parts thereof unless~~  
137 ~~it is in possession of a special permit or loan agreement from~~  
138 ~~the commission enabling the holder to possess a marine turtle or~~  
139 ~~parts thereof for scientific, educational, or exhibitional~~  
140 ~~purposes, or for conservation activities such as relocating~~  
141 ~~nests, eggs, or animals away from construction sites.~~

142 ~~Notwithstanding any other provisions of general or special law~~  
143 ~~to the contrary, the commission may issue such authorization to~~

095125

Amendment No. (for drafter's use only)

144 ~~any properly accredited person for the purpose of marine turtle~~  
145 ~~conservation upon such terms, conditions, and restrictions as it~~  
146 ~~may prescribe by rule adopted pursuant to chapter 120. The~~  
147 ~~commission shall have the authority to adopt rules pursuant to~~  
148 ~~chapter 120 to permit the possession of marine turtles pursuant~~  
149 ~~to this paragraph. For the purposes of this subsection, a~~  
150 ~~"properly accredited person" is defined as:~~

151 ~~a. Students of colleges or universities whose studies with~~  
152 ~~saltwater animals are under the direction of their teacher or~~  
153 ~~professor;~~

154 ~~b. Scientific or technical faculty of public or private~~  
155 ~~colleges or universities;~~

156 ~~c. Scientific or technical employees of private research~~  
157 ~~institutions and consulting firms;~~

158 ~~d. Scientific or technical employees of city, county,~~  
159 ~~state, or federal research or regulatory agencies;~~

160 ~~e. Members in good standing or recognized and properly~~  
161 ~~chartered conservation organizations, the Audubon Society, or~~  
162 ~~the Sierra Club;~~

163 ~~f. Persons affiliated with aquarium facilities or museums,~~  
164 ~~or contracted as an agent therefor, which are open to the public~~  
165 ~~with or without an admission fee; or~~

166 ~~g. Persons without specific affiliations listed above, but~~  
167 ~~who are recognized by the commission for their contributions to~~  
168 ~~marine conservation such as scientific or technical~~  
169 ~~publications, or through a history of cooperation with the~~  
170 ~~commission in conservation programs such as turtle nesting~~  
171 ~~surveys, or through advanced educational programs such as high~~  
172 ~~school marine science centers.~~

095125

Amendment No. (for drafter's use only)

173        ~~(f)(d)~~ Any application for a Department of Environmental  
174 Protection permit or other type of approval for an activity that  
175 affects marine turtles or their nests or habitat shall be  
176 subject to conditions and requirements for marine turtle  
177 protection as part of the permitting or approval process.

178        ~~(g)(e)~~ The Department of Environmental Protection may  
179 condition the nature, timing, and sequence of construction of  
180 permitted activities to provide protection to nesting marine  
181 turtles and hatchlings and their habitat pursuant to the  
182 provisions of s. 161.053(5). When the department is considering  
183 a permit for a beach restoration, beach renourishment, or inlet  
184 sand transfer project and the applicant has had an active marine  
185 turtle nest relocation program or the applicant has agreed to  
186 and has the ability to administer a program, the department must  
187 not restrict the timing of the project. Where appropriate, the  
188 department, in accordance with the applicable rules of the Fish  
189 and Wildlife Conservation Commission, shall require as a  
190 condition of the permit that the applicant relocate and monitor  
191 all turtle nests that would be affected by the beach  
192 restoration, beach renourishment, or sand transfer activities.  
193 Such relocation and monitoring activities shall be conducted in  
194 a manner that ensures successful hatching. This limitation on  
195 the department's authority applies only on the Atlantic coast of  
196 Florida.

197        ~~(h)(f)~~ The department shall recommend denial of a permit  
198 application if the activity would result in a "take" as defined  
199 in this subsection, unless, as provided for in the federal  
200 Endangered Species Act and its implementing regulations, such

Amendment No. (for drafter's use only)

201 taking is incidental to, and not the purpose of, the carrying  
202 out of an otherwise lawful activity.

203 ~~(i)(g)~~ The department shall give special consideration to  
204 beach preservation and beach nourishment projects that restore  
205 habitat of endangered marine turtle species. Nest relocation  
206 shall be considered for all such projects in urbanized areas.  
207 When an applicant for a beach restoration, beach renourishment,  
208 or inlet sand transfer project has had an active marine turtle  
209 nest relocation program or the applicant has agreed to have and  
210 has the ability to administer a program, the department in  
211 issuing a permit for a project must not restrict the timing of  
212 the project. Where appropriate, the department, in accordance  
213 with the applicable rules of the Fish and Wildlife Conservation  
214 Commission, shall require as a condition of the permit that the  
215 applicant relocate and monitor all turtle nests that would be  
216 affected by the beach restoration, beach renourishment, or sand  
217 transfer activities. Such relocation and monitoring activities  
218 shall be conducted in a manner that ensures successful hatching.  
219 This limitation on the department's authority applies only on  
220 the Atlantic coast of Florida.

221 ~~(j)(h)~~ The Fish and Wildlife Conservation Commission shall  
222 provide grants to coastal local governments, educational  
223 institutions, and Florida-based nonprofit organizations to  
224 conduct marine turtle research, conservation, and education  
225 activities within the state. The commission shall adopt by rule  
226 pursuant to chapter 120 procedures for submitting grant  
227 applications and criteria for allocating available funds. The  
228 criteria must include the scope of the proposed activity, the  
229 relevance of the proposed activity to the recovery plans for

095125



Amendment No. (for drafter's use only)

230 marine turtles, the demand and public support for the proposed  
231 activity, the duration of the proposed activity, the  
232 availability of alternative funding, and the estimated cost of  
233 the activity. The executive director of the commission shall  
234 appoint a committee of at least five members, including at least  
235 two nongovernmental representatives, to consider and choose  
236 grant recipients from proposals submitted by eligible entities.  
237 Committee members shall not receive any compensation from the  
238 commission.

239 Section 2. Paragraphs (a), (d), and (e) of subsection (4)  
240 of section 777.04, Florida Statutes, are amended to read:

241 777.04 Attempts, solicitation, and conspiracy.--

242 (4)(a) Except as otherwise provided in ss. 104.091(2),  
243 370.12(1), 828.125(2), 849.25(4), 893.135(5), and 921.0022, the  
244 offense of criminal attempt, criminal solicitation, or criminal  
245 conspiracy is ranked for purposes of sentencing under chapter  
246 921 and determining incentive gain-time eligibility under  
247 chapter 944 one level below the ranking under s. 921.0022 or s.  
248 921.0023 of the offense attempted, solicited, or conspired to.  
249 If the criminal attempt, criminal solicitation, or criminal  
250 conspiracy is of an offense ranked in level 1 or level 2 under  
251 s. 921.0022 or s. 921.0023, such offense is a misdemeanor of the  
252 first degree, punishable as provided in s. 775.082 or s.  
253 775.083.

254 (d) Except as otherwise provided in s. 104.091(2), s.  
255 370.12(1), s. 828.125(2), or s. 849.25(4), if the offense  
256 attempted, solicited, or conspired to is a:

- 257 1. Felony of the second degree;  
258 2. Burglary that is a felony of the third degree; or

095125

Amendment No. (for drafter's use only)

259 3. Felony of the third degree ranked in level 3, 4, 5, 6,  
260 7, 8, 9, or 10 under s. 921.0022 or s. 921.0023,

261  
262 the offense of criminal attempt, criminal solicitation, or  
263 criminal conspiracy is a felony of the third degree, punishable  
264 as provided in s. 775.082, s. 775.083, or s. 775.084.

265 (e) Except as otherwise provided in s. 104.091(2), s.  
266 370.12(1), s. 849.25(4), or paragraph (d), if the offense  
267 attempted, solicited, or conspired to is a felony of the third  
268 degree, the offense of criminal attempt, criminal solicitation,  
269 or criminal conspiracy is a misdemeanor of the first degree,  
270 punishable as provided in s. 775.082 or s. 775.083.

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

273 921.0022 Criminal Punishment Code; offense severity  
274 ranking chart.--

275 (3) OFFENSE SEVERITY RANKING CHART

276

Florida	Felony	
Statute	Degree	Description
<u>370.12(1)(e)3.</u>	(b) LEVEL 2 <u>3rd</u>	<u>Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.</u>

277

Amendment No. (for drafter's use only)

<u>370.12(1)(e)4.</u>	<u>3rd</u>	<u>Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.</u>
403.413(5)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07	3rd	Registration of securities and furnishing of prospectus required.
590.28(1)	3rd	Willful, malicious, or intentional burning.
784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor

HOUSE AMENDMENT

Bill No.HB 399 CS

Amendment No. (for drafter's use only)

806.13(1)(b)3.	3rd	beyond state limits. Criminal mischief; damage \$1,000 or more to public communication or any other public service.
810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or more but less than \$5,000.
812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.
812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
817.234(1)(a)2.	3rd	False statement in support of insurance

095125

HOUSE AMENDMENT

Bill No.HB 399 CS

Amendment No. (for drafter's use only)

817.481(3)(a)	3rd	claim. Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
817.52(3)	3rd	Failure to redeliver hired vehicle.
817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
817.60(5)	3rd	Dealing in credit cards of another.
817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
831.01	3rd	Forgery.

095125

HOUSE AMENDMENT

Bill No.HB 399 CS

Amendment No. (for drafter's use only)

831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
843.08	3rd	Falsely impersonating an officer.
893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2.,

095125

HOUSE AMENDMENT

Bill No.HB 399 CS

Amendment No. (for drafter's use only)

		(2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or(4) drugs other than cannabis.
893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.
	(c) LEVEL 3	
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in marked patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass

095125

Amendment No. (for drafter's use only)

		title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
327.35(2)(b)	3rd	Felony BUI.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
<u>370.12(1)(e)5.</u>	<u>3rd</u>	<u>Taking, disturbing,</u> <u>mutilating,</u> <u>destroying, causing</u> <u>to be destroyed,</u> <u>transferring,</u> <u>selling, offering to</u> <u>sell, molesting, or</u> <u>harassing marine</u>



Amendment No. (for drafter's use only)

<u>370.12(1)(e)6.</u>	<u>3rd</u>	<u>turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act. Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.</u>
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
796.05(1)	3rd	Live on earnings of

095125

HOUSE AMENDMENT

Bill No.HB 399 CS

Amendment No. (for drafter's use only)

806.10(1)	3rd	a prostitute. Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida

095125

HOUSE AMENDMENT

Bill No.HB 399 CS

Amendment No. (for drafter's use only)

		Communications Fraud Act), property valued at less than \$20,000.
817.233	3rd	Burning to defraud insurer.
817.234(8)&(9)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
817.234(11)(a)	3rd	Insurance fraud; property value less than \$20,000.
817.505(4)	3rd	Patient brokering.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
831.29	2nd	Possession of

095125

Amendment No. (for drafter's use only)

		instruments for counterfeiting drivers' licenses or identification cards.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
843.19	3rd	Injure, disable, or kill police dog or horse.
870.01(2)	3rd	Riot; inciting or encouraging.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7.,(2)(c)8., (2)(c)9., (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1 . , (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7.,

Amendment No. (for drafter's use only)

		(2)(c)8.,(2)(c)9., (3), or (4) drugs within 200 feet of university or public park.
893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c),(2)(c)1 . , (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8.,(2)(c)9., (3), or (4) drugs within 200 feet of public housing facility.
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
893.13(7)(a)9.	3rd	Obtain or attempt to

Amendment No. (for drafter's use only)

		obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.

Amendment No. (for drafter's use only)

893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.

Amendment No. (for drafter's use only)

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

278

279 Section 4. This act shall take effect July 1, 2003.

280 ===== T I T L E A M E N D M E N T =====

281 Remove the entire title, and insert:

282 A bill to be entitled

283 An act relating to the protection of marine turtles;  
284 amending s. 370.12, F.S.; providing penalties for  
285 violating the Marine Turtle Protection Act; providing  
286 first degree misdemeanor and third degree felony penalties  
287 for knowingly possessing a specified number or more of  
288 marine turtle eggs; providing an additional penalty for  
289 each egg involved in such a violation; providing that it  
290 is a third degree felony to knowingly take, disturb,  
291 mutilate, destroy, cause to be destroyed, transfer, sell,  
292 offer to sell, molest, or harass a marine turtle or its



Amendment No. (for drafter's use only)

293 nest, hatchlings, eggs, or parts thereof; providing that  
294 it is a third degree felony to solicit or conspire to  
295 violate the Marine Turtle Protection Act; amending s.  
296 777.04, F.S., relating to the offense of criminal attempt,  
297 criminal solicitation, or criminal conspiracy; providing  
298 that a violation of the Marine Turtle Protection Act is  
299 exempt from certain sentencing requirements for an offense  
300 of solicitation or conspiracy; amending s. 921.0022, F.S.,  
301 relating to the offense severity ranking chart of the  
302 Criminal Punishment Code; conforming provisions of the act  
303 to the code; providing an effective date.  
304