

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain: Provides for additional criminal and monetary penalties for marine sea turtle egg poaching.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Six species of sea turtles are federally protected under the Federal Endangered Species Act of 1973 (ESA): the Atlantic green, Atlantic hawksbill, Kemp's ridley, leatherback, Atlantic loggerhead, and olive ridley sea turtles. The Florida Endangered and Threatened Species Act of 1977 (FETSA) s. 372.012, F.S., established Florida's policy to conserve and wisely manage its resources, especially endangered and threatened species. With this authority, Fish and Wildlife Conservation Commission (FWCC) listed the Atlantic green, leatherback, Atlantic hawksbill, and Kemp's ridley sea turtles as endangered. The Atlantic loggerhead sea turtle was listed as threatened.¹

In 1995, the Florida Legislature passed the Marine Turtle Protection Act (MTPA) s. 370.12, F.S., giving FWCC the authority to enforce regulations protecting the green, leatherback, hawksbill, Kemp's ridley, and loggerhead sea turtles. FWCC was instructed to implement its responsibilities under the United States Fish and Wildlife Service (USFWS) recovery plans for the five species of sea turtles. The MTPA states that no person may take, possess, disturb, mutilate, destroy, cause to be destroyed, sell, offer for sale, transfer, molest, or harass any marine turtle or its nest or eggs at any time. "Take" is defined as an act which kills or injures sea turtles, including significant habitat modification or degradation that kills or injures marine turtles by significantly impairing essential behavioral patterns, such as breeding, feeding, or sheltering.¹

Issue- Marine Sea Turtle Poaching

Present Situation

According to the Fish and Wildlife Conservation Commission sea turtle egg poaching in the State of Florida has been a serious concern. Section 372.0725, F.S., provides for a 3rd degree felony for those who **intentionally destroy** eggs or nests of endangered or threatened species except as provided by rules of the Commission. However, those who are found to **possess** an endangered or threatened marine turtle eggs are subject to only (misdemeanor) penalties, as outlined in s. 370.021, F.S., as described below:

- 1st conviction for violation of any provision of ch. 370, F.S.: imprisonment not more than 60 days, fine of not less than \$100 nor more than \$500, or both fine and imprisonment.
- 2nd or subsequent conviction for violation of ch. 370, F.S., within 12 months: imprisonment of not more than 6 months, fine of not less than \$250 nor more than \$1,000, or both fine and imprisonment.
- Taking harvesting, or possession of Atlantic loggerhead turtle, [Atlantic green turtle, leatherback turtle, Atlantic hawksbill turtle, Atlantic ridley turtle (marine turtle eggs)]: additional penalty of \$100 for "each unit of marine life or part thereof."

Effects of Proposed Changes

HB 399 amends section 370.021, F.S., and does the following:

- Provides that an additional penalty of \$100 be imposed against any person who takes, harvests, or possesses the eggs of certain marine turtle species.
- Provides for the additional penalty \$100 to be assessed for each egg involved in the violation.
- Provides that it is a third degree felony to solicit or conspire to violate the Marine Turtle Protection Act.
- Provides a 1st. degree misdemeanor for any person who possesses 11 or fewer eggs for a first offense.
- Provides a 3 rd. degree felony for any person who possesses 11 or fewer eggs for a second offense.
- Provides a 3 rd. degree felony for any person who possesses 11 or fewer eggs with intent to sell.

C. SECTION DIRECTORY:

Section 1. Amends s. 370.12, F.S., to provide for additional monetary and criminal penalties.

Section 2. Amends s. 777.04, F.S., to provide for criminal penalties.

Section 3. Amends s. 921.0022, F.S., to update the criminal punishment code.

Section 4. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Insignificant.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

There will be an insignificant fiscal impact to the Marine Resources Conservation Trust Fund from the collection of penalties for poached sea turtle eggs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not affect municipal or county government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The bill was favorably reported by the Natural Resources Committee with a committee substitute on March 19, 2003, providing for the following penalty changes:

- A 1st. degree misdemeanor for any person who possesses 11 or fewer eggs for a first offense;
- A 3 rd. degree felony for any person who possesses 11 or fewer eggs for a second offense; and
- A 3 rd. degree felony for any person who possesses 11 or fewer eggs with intent to sell.