



HB 0399

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

25
 26 Be It Enacted by the Legislature of the State of Florida:

27
 28 Section 1. Paragraph (e) of subsection (2) of section
 29 370.021, Florida Statutes, is amended to read:



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30 370.021 Administration; rules, publications, records;
 31 penalties; injunctions.--

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

36 (e) For a violation involving the taking, harvesting, or
 37 possession of any of the following species, which are
 38 endangered, threatened, or of special concern, or involving the
 39 taking, harvesting, or possession of any egg of a species
 40 described in subparagraphs 4.-8.:

- 41 1. Shortnose sturgeon (*Acipenser brevirostrum*);
- 42 2. Atlantic sturgeon (*Acipenser oxyrinchus*);
- 43 3. Common snook (*Centropomus undecimalis*);
- 44 4. Atlantic loggerhead turtle (*Caretta caretta caretta*);
- 45 5. Atlantic green turtle (*Chelonia mydas mydas*);
- 46 6. Leatherback turtle (*Dermochelys coriacea*);
- 47 7. Atlantic hawksbill turtle (*Eretmochelys imbricata*
 48 *imbricata*);
- 49 8. Atlantic ridley turtle (*Lepidochelys kemp*); or
- 50 9. West Indian manatee (*Trichechus manatus latirostris*),

51
 52 an additional penalty of \$100 for each unit of marine life or
 53 part thereof, or an additional penalty of \$100 for each egg of a
 54 species described in subparagraphs 4.-8.

55
 56 Notwithstanding the provisions of s. 948.01, no court may
 57 suspend, defer, or withhold adjudication of guilt or imposition
 58 of sentence for any major violation prescribed in this
 59 subsection. The proceeds from the penalties assessed pursuant to



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60 this subsection shall be deposited into the Marine Resources
 61 Conservation Trust Fund to be used for marine fisheries research
 62 or into the commission's Federal Law Enforcement Trust Fund as
 63 provided in s. 372.107, as applicable.

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

66 370.12 Marine animals; regulation.--

67 (1) PROTECTION OF MARINE TURTLES.--

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

- 74 1. Atlantic loggerhead turtle (*Caretta caretta caretta*).
- 75 2. Atlantic green turtle (*Chelonis mydas mydas*).
- 76 3. Leatherback turtle (*Dermochelys coriacea*).
- 77 4. Atlantic hawksbill turtle (*Eretmochelys imbricata*
 78 *imbricata*).
- 79 5. Atlantic ridley turtle (*Lepidochelys kemp*).

80 (c)1.a. Unless otherwise provided by the federal
 81 Endangered Species Act or its implementing regulations, a ~~ne~~
 82 person may not take, possess, disturb, mutilate, destroy, cause
 83 to be destroyed, sell, offer for sale, transfer, molest, or
 84 harass any marine turtle or its nest or eggs at any time. For
 85 purposes of this subsection, the word "take" means an act that
 86 ~~which~~ actually kills or injures marine turtles, and includes
 87 significant habitat modification or degradation that kills or
 88 injures marine turtles by significantly impairing essential
 89 behavioral patterns, such as breeding, feeding, or sheltering.



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90 ~~b.2.~~ Unless otherwise provided by the federal Endangered
 91 Species Act or its implementing regulations, ~~a ne~~ a person, firm,
 92 or corporation may not take, kill, disturb, mutilate, molest,
 93 harass, or destroy any marine turtle.

94 ~~c.3.~~ A ~~Ne~~ person, firm, or corporation may not possess any
 95 marine turtle, their nests, eggs, hatchlings, or parts thereof
 96 unless it is in possession of a special permit or loan agreement
 97 from the commission enabling the holder to possess a marine
 98 turtle or parts thereof for scientific, educational, or
 99 exhibitional purposes, or for conservation activities such as
 100 relocating nests, eggs, or animals away from construction sites.
 101 Notwithstanding any other provisions of general or special law
 102 to the contrary, the commission may issue such authorization to
 103 any properly accredited person for the purpose of marine turtle
 104 conservation upon such terms, conditions, and restrictions as it
 105 may prescribe by rule adopted pursuant to chapter 120. The
 106 commission shall have the authority to adopt rules pursuant to
 107 chapter 120 to permit the possession of marine turtles pursuant
 108 to this paragraph. For the purposes of this subsection, a
 109 "properly accredited person" is defined as:

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

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

115 ~~(III)e.~~ (III) Scientific or technical employees of private
 116 research institutions and consulting firms;

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



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

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

125 (VII)~~g~~. Persons without specific affiliations listed
 126 above, but who are recognized by the commission for their
 127 contributions to marine conservation such as scientific or
 128 technical publications, or through a history of cooperation with
 129 the commission in conservation programs such as turtle nesting
 130 surveys, or through advanced educational programs such as high
 131 school marine science centers.

132 2. Any person, firm, or corporation who intentionally
 133 commits an act prohibited by subparagraph 1. commits a felony of
 134 the third degree, punishable as provided in s. 775.082, s.
 135 775.083, or s. 775.084.

136 3. Any person, firm, or corporation who intentionally
 137 commits an act prohibited by subparagraph 1. which involves 12
 138 or more eggs of any species specified in paragraph (b) commits a
 139 felony of the third degree, punishable as provided in s.
 140 775.082, s. 775.083, or s. 775.084.

141 4. Notwithstanding s. 777.04, any person, firm, or
 142 corporation who solicits or conspires with another person, firm,
 143 or corporation to commit an act prohibited by subparagraph 1.
 144 commits a felony of the third degree, punishable as provided in
 145 s. 775.082, s. 775.083, or s. 775.084.

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

148 777.04 Attempts, solicitation, and conspiracy.--



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149 (4) (a) Except as otherwise provided in ss. 104.091(2),
150 370.12(1), 828.125(2), 849.25(4), 893.135(5), and 921.0022, the
151 offense of criminal attempt, criminal solicitation, or criminal
152 conspiracy is ranked for purposes of sentencing under chapter
153 921 and determining incentive gain-time eligibility under
154 chapter 944 one level below the ranking under s. 921.0022 or s.
155 921.0023 of the offense attempted, solicited, or conspired to.
156 If the criminal attempt, criminal solicitation, or criminal
157 conspiracy is of an offense ranked in level 1 or level 2 under
158 s. 921.0022 or s. 921.0023, such offense is a misdemeanor of the
159 first degree, punishable as provided in s. 775.082 or s.
160 775.083.

161 (d) Except as otherwise provided in s. 104.091(2), s.
162 370.12(1), s. 828.125(2), or s. 849.25(4), if the offense
163 attempted, solicited, or conspired to is a:

- 164 1. Felony of the second degree;
- 165 2. Burglary that is a felony of the third degree; or
- 166 3. Felony of the third degree ranked in level 3, 4, 5, 6,
167 7, 8, 9, or 10 under s. 921.0022 or s. 921.0023,

168
169 the offense of criminal attempt, criminal solicitation, or
170 criminal conspiracy is a felony of the third degree, punishable
171 as provided in s. 775.082, s. 775.083, or s. 775.084.

172 (e) Except as otherwise provided in s. 104.091(2), s.
173 370.12(1), s. 849.25(4), or paragraph (d), if the offense
174 attempted, solicited, or conspired to is a felony of the third
175 degree, the offense of criminal attempt, criminal solicitation,
176 or criminal conspiracy is a misdemeanor of the first degree,
177 punishable as provided in s. 775.082 or s. 775.083.



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178 Section 4. Paragraphs (b) and (c) of subsection (3) of
 179 section 921.0022, Florida Statutes, are amended to read:
 180 921.0022 Criminal Punishment Code; offense severity
 181 ranking chart.--

182 (3) OFFENSE SEVERITY RANKING CHART

183

Florida Felony

184

Statute Degree Description

185

186

(b) LEVEL 2

187

370.12 (1) (c) 2. 3rd Intentional act in violation of
the Marine Turtle Protection
Act.

188

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.

189

517.07 3rd Registration of securities and
 furnishing of prospectus
 required.

190

590.28 (1) 3rd Willful, malicious, or
 intentional burning.

191

784.05 (3) 3rd Storing or leaving a loaded
 firearm within reach of minor
 who uses it to inflict injury or



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192	787.04 (1)	3rd	death. In violation of court order, take, entice, etc., minor beyond state limits.
193	806.13 (1) (b) 3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.
194	810.09 (2) (e)	3rd	Trespassing on posted commercial horticulture property.
195	812.014 (2) (c) 1.	3rd	Grand theft, 3rd degree; \$300 or more but less than \$5,000.
196	812.014 (2) (d)	3rd	Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.
197	812.015 (7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
198	817.234 (1) (a) 2.	3rd	False statement in support of insurance claim.
199	817.481 (3) (a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
200			



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201	817.52 (3)	3rd	Failure to redeliver hired vehicle.
202	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
203	817.60 (5)	3rd	Dealing in credit cards of another.
204	817.60 (6) (a)	3rd	Forgery; purchase goods, services with false card.
205	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
206	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
207	831.01	3rd	Forgery.
208	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
209	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
210	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory



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			notes.
211	831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
212	832.05 (3) (a)	3rd	Cashing or depositing item with intent to defraud.
213	843.08	3rd	Falsely impersonating an officer.
214	893.13 (2) (a) 2.	3rd	Purchase of any 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 other than cannabis.
215	893.147 (2)	3rd	Manufacture or delivery of drug paraphernalia.
216			(c) LEVEL 3
217	316.193 (2) (b)	3rd	Felony DUI, 3rd conviction.
218	316.1935 (2)	3rd	Fleeing or attempting to elude law enforcement officer in marked patrol vehicle with siren and lights activated.
219	319.30 (4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
220	319.33 (1) (a)	3rd	Alter or forge any certificate



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			of title to a motor vehicle or mobile home.
221	319.33 (1) (c)	3rd	Procure or pass title on stolen vehicle.
222	319.33 (4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
223	327.35 (2) (b)	3rd	Felony BUI.
224	328.05 (2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
225	328.07 (4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
226	<u>370.12 (1) (c) 3.</u>	<u>3rd</u>	<u>Intentional act in violation of the Marine Turtle Protection Act which involves 12 or more eggs of specified species.</u>
227	376.302 (5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
228	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading



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			information.
229	697.08	3rd	Equity skimming.
230	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
231	796.05 (1)	3rd	Live on earnings of a prostitute.
232	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
233	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
234	810.09 (2) (c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
235	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
236	812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
237	815.04 (4) (b)	2nd	Computer offense devised to defraud or obtain property.
238	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud



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(Florida Communications Fraud Act), property valued at less than \$20,000.

239	817.233	3rd	Burning to defraud insurer.
240	817.234 (8) & (9)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
241	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
242	817.505 (4)	3rd	Patient brokering.
243	828.12 (2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
244	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
245	831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
246	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
247	843.19	3rd	Injure, disable, or kill police dog or horse.
248	870.01 (2)	3rd	Riot; inciting or encouraging.



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249	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).
250	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., (2) (c) 8., (2) (c) 9., (3), or (4) drugs within 200 feet of university or public park.
251	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.
252	893.13 (6) (a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
253	893.13 (7) (a) 8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
254	893.13 (7) (a) 9.	3rd	Obtain or attempt to obtain



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			controlled substance by fraud, forgery, misrepresentation, etc.
255	893.13 (7) (a) 10.	3rd	Affix false or forged label to package of controlled substance.
256	893.13 (7) (a) 11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
257	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.
258	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.
259	893.13 (8) (a) 3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
260	893.13 (8) (a) 4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an



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animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.

261

918.13 (1) (a) 3rd

Alter, destroy, or conceal investigation evidence.

262

944.47 (1) (a) 1.-2. 3rd

Introduce contraband to correctional facility.

263

944.47 (1) (c) 2nd

Possess contraband while upon the grounds of a correctional institution.

264

985.3141 3rd

Escapes from a juvenile facility (secure detention or residential commitment facility).

265

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