



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

This bill advances the principal of providing limited government by exempting all members of the United States Armed Forces, Reserves, and Florida National Guard, both active and retired, from license and permit requirements related to recreational hunting, freshwater and saltwater fishing.

#### B. EFFECT OF PROPOSED CHANGES:

##### **PRESENT SITUATION**

###### **State Law and Rules**

The Legislature has intended that the citizens of Florida have a right to hunt, fish, and take game, subject to the regulations and restrictions prescribed by general law.<sup>1</sup> Florida law forbids the taking of game, freshwater or saltwater fish, or fur-bearing animals for recreational purposes without a license, permit, or other authorization number.<sup>2</sup> The Florida Fish and Wildlife Conservation Commission (Commission) is directed to issue licenses and permits to any applicant providing proof that they are entitled to hold a license or permit.<sup>3</sup> The law also grants rulemaking authority to the Commission to implement statutory provisions.<sup>4</sup>

According to the Commission, a *license* allows the bearer to hunt or fish, subject to the terms and conditions of the particular license.<sup>5</sup> A *permit* expands the authority of a license to include authorization to hunt or fish a particular species, or engage in recreational activities in certain areas.<sup>6</sup> Residents wishing to purchase licenses and permits for recreational activities may do so at the Commission, any local tax collector, or any approved subagent.<sup>7</sup> Fees for licenses and permits are set by Florida law.<sup>8</sup> Additional processing fees are also authorized, portions of which are retained by the local tax collectors.<sup>9</sup>

Licenses and permits must be in the personal possession of any person who is taking or attempting to take any game, freshwater or saltwater fish, or fur-bearing animal. Failure to present proper licensure to a Commission law enforcement officer is a violation of the law.<sup>10</sup>

Current Florida law allows for various exemptions to recreational licensing and permitting requirements.<sup>11</sup> A hunting, freshwater fishing, or saltwater fishing license or permit is not required for any resident who is a member of the United States Armed Forces and not stationed in this state, when home on leave for 30 days or less, upon submission of orders.<sup>12</sup> A "resident" is defined as any person who has continually resided in this state for six (6) months or any member of the United States Armed Forces who is stationed in this state.<sup>13</sup> This also includes the spouses and dependent children residing in the household.<sup>14</sup>

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<sup>1</sup> s. 372.002, F.S.

<sup>2</sup> s. 372.57 (1), F.S.

<sup>3</sup> s. 372.561 (3), F.S.

<sup>4</sup> s. 372.561 (8), F.S.

<sup>5</sup> <http://myfwc.com/license/>

<sup>6</sup> <http://myfwc.com/license/>

<sup>7</sup> s. 372.561 (4), F.S.

<sup>8</sup> s. 372.57 (4), F.S.

<sup>9</sup> s. 372.561 (5) and (6), F.S.

<sup>10</sup> s. 372.57 (3), F.S.

<sup>11</sup> s. 372.562, F.S.

<sup>12</sup> s. 372.562 (2) (c), F.S.

<sup>13</sup> s. 372.001 (15) (a) (b), F.S.

<sup>14</sup> <http://myfwc.com/license/>

Under the Senator Joe Carlucci Hunter Safety Act, persons wishing to obtain a hunting license and who are born on or after June 1, 1975, must also complete a hunter safety course and have within their personal possession a hunter's safety certification card in addition to any license and permit.<sup>15</sup> However, the hunter safety requirements do not apply to persons who are exempt from the license requirements (s. 372.5717 (7), F.S.).

### **Federal Law and Regulations**

According to federal law, a "military identification card" is a card or other form of identification used for purposes of demonstrating eligibility for any benefit from the Department of Defense.<sup>16</sup> Identification cards for active military personnel and reserve personnel as well as spouses and dependents include the member's name, social security number, and expiration date. Identification cards for current members have an indefinite expiration date. Cards for spouses and dependents generally carry a 4-year or less expiration, depending on the status of the member. Recent legislation allows spouses and dependents over age 72 to have an indefinite expiration date.<sup>17</sup> Identification cards do not include the member, spouse, or dependent's address of residency.

The Florida National Guard notes that any retiree drawing benefits receives a retiree identification card; however, those retirees not drawing benefits retain their original identification.<sup>18</sup> For all Reserve branches, retired members receiving benefits are issued "retired" identification cards.<sup>19</sup>

### **EFFECT OF PROPOSED CHANGES**

The bill exempts any resident who is a member of the United States Armed Forces, the United States Reserve Forces, the Florida National Guard, the United States Coast Guard, or the United States Coast Guard Reserve, either active or retired, from the requirement for licenses and permits for recreational hunting, freshwater or saltwater fishing. Residents claiming this exemption must submit a current military identification card for proof of eligibility.

#### **C. SECTION DIRECTORY:**

Section 1. Amends s. 372.562 (c), F.S., exempting active and retired resident members of the United States Reserve Forces, the Florida National Guard, the United States Coast Guard, or the United States Coast Guard Reserve requirement for licenses and permits for recreational hunting, freshwater and saltwater fishing.

Section 2. Reenacts s. 372.57 (1), F.S. for the purpose of incorporating the amendment to s. 372.562, F.S.

Section 3. Reenacts s. 372.5717 (7), F.S. for the purpose of incorporating the amendment to s. 372.562, F.S.

Section 4. Provides an effective date.

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<sup>15</sup> s. 372.5717 (2), F.S.

<sup>16</sup> 10 USC 1060b

<sup>17</sup> FWC, Legislative Bill Analysis, HB 395 (2005)

<sup>18</sup> Personal communication, Lt. Col. Ron Tittle, Public Affairs, Fla. National Guard

<sup>19</sup> Personal communication, Lt. Col. Matt Beretz, Army Reserve Congressional Liaison Officer

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The Commission reports that the fiscal impact of the bill is "unknown." However, the Commission estimates a potential annual revenue loss totaling \$990,000 - \$1.73 million. The Commission estimates approximately 308,639 active and retired residents would be eligible under the bill. Assuming trends reporting 17% of Florida residents that fish and 2% of Florida residents that hunt, the potential net loss of revenue is estimated at \$1,327,417<sup>20</sup>. The additional total figure is derived from the potential loss of Federal matching funds, currently \$6.88 for every fishing license sold and \$6.92 for every hunting license sold.

The Commission also notes that all residents over the age of 65 are also exempt from freshwater and saltwater fishing licenses and hunting licenses. The total number of eligible retirees that are also military retirees is unknown.

#### 2. Expenditures:           None

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

Florida law authorizes an additional \$1.50 processing fee to be placed on all hunting, freshwater and saltwater licenses and permits. The law also allows local tax collectors selling licenses and permits to retain portions of this fee, as well as portions collected from authorized subagents selling licenses and permits within that county. Though the specific cost to counties is unknown, counties would lose the collection of this additional fee for all license and permit exemptions.

#### 2. Expenditures:           None

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:           None

### D. FISCAL COMMENTS:   None

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

#### 2. Other:                   None

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<sup>20</sup> National Survey of Fishing and Hunting Associated Recreation, 2001  
STORAGE NAME: h0395.WNR.doc  
DATE: 2/14/2005

**B. RULE-MAKING AUTHORITY:**

This bill does not impact the rulemaking authority of any state agency.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The bill is unclear as to the meaning of the term “upon submission” of a current military identification card. The Commission interprets “upon submission” to be the presentation of a military identification card upon request of a Commission law enforcement officer.<sup>21</sup>

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

None

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<sup>21</sup> Personal communication, Col. Julie Jones, FWC