

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 471 CS

Fish and Wildlife

SPONSOR(S): Troutman

TIED BILLS:

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Water & Natural Resources Committee</u>	<u>7 Y, 0 N, w/CS</u>	<u>Winker</u>	<u>Lotspeich</u>
2) <u>Criminal Justice Committee</u>	<u>6 Y, 0 N, w/CS</u>	<u>Ferguson</u>	<u>Kramer</u>
3) <u>Agriculture & Environment Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>State Resources Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill addresses several issues relating to penalties for violations of statutes and rules of the Fish and Wildlife Conservation Commission (FWCC) and several issues relating to hunting licenses. Specifically the bill:

- Amends s. 370.021, F.S., to provide that the penalties provided therein are limited to violations related to the *commercial* harvesting of marine fish.
- Creates a framework for penalties for violations of *recreational* fish and wildlife statutes and FWCC rules. The bill provides four levels of classifying violations based upon the seriousness of the violation along with commensurate penalties for each violation. Within each violation level, enhanced penalties are provided for repeat violations.
- Creates a framework for penalties for violations of statutes and FWCC rules relating to captive wildlife for personal use and exhibition.
- Creates the Wildlife Violators Compact which allows Florida to join 21 other compact member states in recognizing fish and wildlife violations by persons from member states and sharing such information among each member state.
- Authorizes FWCC to establish a "hunter mentoring" program by allowing an individual to defer the hunter safety course requirement for a hunting license for 1 year when the person is hunting under the direct supervision and in the physical presence of an adult who has successfully completed or is exempt from the requirement of a hunter safety course.
- Removes the current requirement that the FWCC's hunter safety course consists of no less than 12 hours of instruction, while maintaining the current requirement that the course consists of no more than 16 hours of instruction.
- Acknowledges the creation of a crossbow season permit (during the archery and muzzleloading seasons) and imposes a \$5 annual fee for such permit.
- Increases the fee for an annual sportsman's license from \$66 to \$71 and for an annual gold sportsman's license from \$82 to \$87.

The bill has an unknown, but minimal, fiscal impact since no data exists on the expected number of persons who might take advantage of the hunter safety certification deferral provisions of the bill.

The bill takes effect on January 1, 2007.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0471c.CRJU.doc

DATE: 4/4/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes - The bill increases the fee for an annual sportsman's license from \$66 to \$71 and an annual gold sportsman's license from \$82 to \$87 and imposes a \$5 fee for an annual crossbow season permit.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

The Fish and Wildlife Conservation Commission (FWCC) is a constitutionally created agency.¹ As such, it has exclusive regulatory powers with respect to wildlife, freshwater aquatic life, and marine life. The Legislature is limited by the Constitution to enacting laws establishing license fees and penalties for violating FWCC regulations, and enacting laws in aid of the FWCC.

Penalties

Currently, penalties for violations of laws and regulations relating to fish and wildlife are found in Chapter 370, F.S., (marine resources) and Chapter 372, F.S., (freshwater fish and wildlife).

Marine Resources

Subsections 370.021(1) and (2), F.S., provide for penalties for violations of statutes and rules of the FWCC relating to the conservation of marine resources. Persons convicted of such violations may be punished for a first conviction by incarceration up to 60 days or by a fine of not less than \$100 nor more than \$500 or both incarceration and a fine. For a second or subsequent conviction within a 12 month period, incarceration may be up to 6 months and a fine of between \$250 and \$1,000 may be imposed. Additional penalties may be assessed for major violations of statutes and FWCC rules. Section 370.021, F.S., also provides penalties for violations relating to the use of illegal nets (s. 370.021(3), F.S.), illegal possession of certain finfish in excess of a commercial bag limit (s. 370.021(4), F.S.), and illegally harvesting products by unlicensed sellers and purchasers (ss. 370.021(5) and (6), F.S.).

Freshwater Fish and Wildlife

Currently, s. 372.83, F.S., provides for certain penalties for violations of statutes and FWCC rules relating to freshwater fish and wildlife. Subsection 372.83(1), F.S., provides for the imposition of non-criminal penalties pursuant to s. 372.711, F.S., which provides for civil penalties. Subsection 372.83(2), F.S., provides that certain regulations are punishable as a second degree misdemeanor pursuant to s. 775.082, F.S. Subsection 372.83(3), F.S., provides that the forgery of a hunting license or possession thereof is punishable as a third degree felony as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

Captive Wildlife

Sections 372.86 and 372.87, F.S., require that persons wanting to keep, possess, or exhibit any poisonous or venomous reptile must obtain a permit or license from the FWCC and pay an annual fee. Section 372.88, F.S., requires exhibitors of poisonous or venomous reptiles to post a bond conditioned that the exhibitor will indemnify and save harmless all persons from injury or damage, and that the exhibitor shall comply with all laws and rules for handling, housing, and exhibiting such animals. The

¹ Section 9, Article IV, Florida Constitution.

provisions of Sections 372.89-92, F.S., also relate to poisonous or venomous reptiles and provide requirements for housing, transportation, inspection, rewards, and organized hunts for poisonous or venomous reptiles.

Sections 372.921 and 372.922, F.S., regulate the exhibition, sale and personal possession of wildlife.

Wildlife Violator Compact

The concept of a wildlife violator compact was first discussed in the early 1980s by several states in the Western Association of Fish and Wildlife Agencies. The compact was modeled after a Drivers License Compact which provided for reciprocity between compact member states to recognize each state's driver's licenses and to share with each state driver's violations and information on suspended and revoked driving licenses. In 1989, three states (Colorado, Nevada, and Oregon) were the first states to become member states of the wildlife violator compact.

The wildlife violator compact is a multi-state approach to the enforcement of hunting and fishing violations. Any suspension of fish and game license privileges resulting from a person's failure to comply with a citation or summons and complaint in a compact member's state will also be enforced by all other states participating in the compact. If a resident of a state that is participating in the compact is convicted of a fish and game violation in one of the member states, each compact state is notified and is required to treat the conviction as if it had occurred in that state for purposes of determining any applicable license restrictions or suspensions.

Currently, there are 21 states participating in the compact: Arizona, California, Colorado, Georgia, Idaho, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Montana, Nevada, New Mexico, New York, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

The compact is overseen by a board of administrators, consisting of one representative from the fish and wildlife agency or department of each participating state.

Hunting Licenses

Section 372.561, F.S., requires the FWCC to issue a license to take wild animal life when an applicant provides proof that he or she is eligible for the license. Hunting licenses may be sold by the FWCC or any tax collector in the state or by any subagent (for example, hunting supply stores) authorized by s. 372.574, F.S.

FWCC reported that in FY 2000-2001, there were 178,069 hunting licenses purchased in Florida. The number of Florida hunting licenses purchased since then has declined to 157,299 in FY 2004-2005. The number of hunting licenses purchased in Florida does not represent the number of persons (residents and non-residents) who are actually hunting, since Florida law exempts a number of persons from the hunting licenses requirement. In 2001, the U.S. Fish and Wildlife Service conducted a national survey of hunting, fishing and wildlife-associated recreation activities and estimated that Florida had 226,000 hunters.

Section 372.57, F.S., provides that an annual sportsman's license costs \$66, except for persons age 64 and older the fee is \$12. This license allows a person to take game and freshwater fish. An annual gold sportsman's license costs \$82 and allows a person to take freshwater fish, saltwater fish, and game.

Exemptions from Requiring Hunting Licenses

Section 372.562, F.S., provides certain residents of Florida an exemption from paying a fee for a hunting license. Any resident who is certified or determined to be totally or permanently disabled for purposes of workers' compensation under chapter 440, F.S., under the provisions of the Railroad Retirement Board, by the U.S. Department of Veterans Affairs, or under the provisions of the U.S.

Social Security Administration, is eligible for a hunting license at no cost. A hunting license obtained under this fee exemption after January 1, 1997, expires after 5 years and must be reissued, upon request, every 5 years. A person qualifying for this exemption under the Social Security Administration must renew the license every 2 years.

Section 372.562(2), F.S., provides that the following persons are exempt from having a hunting license:

- Any child under age 16;
- Any person hunting on his or her homestead property or the homestead property of the person's spouse or minor child;
- Any resident who is a member of the United State Armed Forces and not stationed in this state, when home on leave for 30 days or less; or
- Any resident age 65 or older.

Hunting licenses are non-transferable and must be in the personal possession of the person while taking or attempting to take wild animal life.

Hunter Safety Course

Section 372.5717, F.S., addresses the requirement for a hunter safety course as a condition for obtaining a hunting license and provides that:

- Persons born after June 1, 1975, may not be issued a hunting license without first successfully completing a hunter safety course and having in their possession a hunter safety certification card.
- The FWCC institute and coordinate a statewide hunter safety course to be offered in every county. The course must consist of no less than 12 hours and no more than 16 hours of instruction, including, but not limited to, instruction in the competent and safe handling of firearms, conservation, and hunting ethics.
- The FWCC issue a permanent hunter safety certification card to each person who successfully completes the hunter safety course. FWCC must also maintain records of each person issued a certification card and provide procedures for persons to seek a replacement card.
- A hunter safety certification card issued by any other state or Canadian province which shows that the person has successfully completed a hunter safety course approved by the FWCC, shall be an acceptable substitute for the hunter safety certification card issued by the FWCC.
- Persons not exempt from having a hunting license, have in their personal possession while hunting or purchasing a hunting license, proof of compliance with the hunter safety course requirements, including possessing the hunter safety certification card.
- A non-criminal penalty may be imposed on persons who violate the provisions and requirements of the hunter safety course requirements.
- The FWCC develop a voluntary hunter safety course statewide for youth 5 to 15 years of age. This course is not a substitute for the required hunter safety course described above.

The FWCC offers the state's hunter safety course through two general methods. One method is an in-class 12-hour course with the successful completion of a test, and a 3-hour experience at a firing range. The second option is either a CD or internet course for persons who wish to take advantage of this option. Persons can register on-line to take the hunter safety course, take on-line quizzes, and then are required to take a 4-hour classroom test and a 3-hour firing range experience.

International Hunter Education Association

The International Hunter Education Association (IHEA) is a national organization which is affiliated with the International Association of Fish and Wildlife Agencies and which represents the interests of 69

states, provincial, and federal hunter education coordinators, and 70, 000 hunter education instructors who teach hunter safety, ethics, and conservation courses to hunters.

The goals of the IHEA are to:

- Serve as the primary resource for information on hunter education;
- Promote hunter education by providing opportunities for the exchange of experiences;
- Promote hunter education by fostering cooperative efforts between government, organized groups, and industry;
- Uphold the image of hunting as a legitimate tool of wildlife management;
- Promote programs which prevent hunting accidents;
- Cultivate honesty, self-discipline, self-reliance, and responsible behavior among hunters; and
- Strive for constant improvement in hunter education programs.

According to the IHEA, state fish and game agencies began offering hunter safety programs in 1949.

All states, including Florida, are currently members of the IHEA. The IHEA does not regulate, nor does it have an accreditation program for any state's hunter safety course program.

The IHEA does have standards and a model hunter safety course program which states are free to adopt. Each state sets its own hunter safety education program regulations and regulates the program within its own jurisdiction. Each state (including the FWCC) has a coordinator/administrator responsible for the hunter safety program and ensures that the program adheres to IHEA standards which allow for reciprocity.

Reciprocity means that a hunter safety course taken in one state will be honored in all other states. Should a state's hunter safety program not meet IHEA standards, the certification for the hunter safety course may not be accepted by other states. Currently, according to IHEA staff, all states meet standards.

The IHEA model hunter safety program can be viewed and taken on-line at http://homestudy.ihea.com/contents_checklist.htm . The website lists the content areas for the hunter safety course. Besides general content on hunting, the IHEA hunter safety course has content on: firearms; ammunition; firearm safety; shooting skills; hunting safety and skills; hunter responsibility and ethics; and wildlife.

Hunter Mentoring Programs

Florida does not currently have a hunter mentoring program. However, there is current authorization for persons under the age of 16 to participate in hunting activities without needing a hunting license when they hunt in the presence of a parent or guardian (s. 372.562, F.S.)

Several other states have established hunter mentoring programs. For example, Wisconsin recently established a hunter mentoring program which allows persons above the age of eight who have not taken a hunter safety course to hunt with an adult mentor under highly controlled and safe circumstances.

The Wisconsin hunter mentoring program requires that the mentor must have the person within "arm's reach" at all times while hunting. No person may serve as a hunter mentor unless they are at least 18 years of age, and all mentors born after 1973 must have successfully completed the state's hunter safety program. The mentor must be the parent or guardian of the person for whom he or she is serving as a mentor, or be authorized by the parent or guardian to serve as a mentor. This requirement does not apply to a person serving as a mentor for a person who is 18 years of age or older. A person who is authorized to hunt with a mentor and the mentor with whom the person hunts may jointly have only one firearm or one bow in their possession or control while hunting. A mentor may take only one

person at a time for which he or she is serving as a mentor. Finally, the program requires the development of an information pamphlet containing hunter safety information to be given to persons hunting with a mentor.

The Department of Texas Parks and Wildlife has had a hunter mentoring program since 2004. The program allows a person 17 or older, who has not taken and successfully completed a hunter education course, to defer the completion of the course and purchase a special deferral hunting license for a \$10 fee in addition to the regular hunting license fee. The deferral hunting license can only be purchased on a one-time basis and is effective until August 31 of the same year the deferral hunting license was purchased.

Under the Texas hunter education deferral program, a hunter with a deferral hunting license must be accompanied (within range of normal voice communication) by another licensed hunter 17-years-of-age or older who has completed and passed the hunter education program or is otherwise exempt from the hunter education program. Proof of hunter safety certification or the deferral must be on the person while hunting. A person who has been convicted of or has received a deferred adjudication for a violation of the mandatory hunter education requirement is prohibited from purchasing a deferral.

Texas also has a hunter mentoring program for persons who have qualified as certified hunter safety instructors, but for whatever reasons have been reluctant to use their acquired knowledge and skills in hunting safety to teach courses for other hunters. The mentoring program is targeting new hunter education instructors and provides an opportunity for these instructors to team up with a seasoned more experienced hunting safety instructor who will help organize classes and provide support for the new hunter education instructor.

Crossbow Hunting

The use of crossbows for hunting is not currently allowed in Florida. In September 2004, the FWCC reviewed the issue of allowing the use of crossbows during the muzzleloading hunting season. FWCC staff were directed to determine what Florida hunters' opinions were on this issue. FWCC contracted with the Florida State University Government Performance Survey Research Center to conduct the survey. Findings from a random sample of Florida hunters indicated that 7% owned a crossbow and 2% said they had used a crossbow to hunt deer in the previous 3 years. About 45% of those surveyed favored a change to allow the use of crossbows on *wildlife management areas and public lands* during the archery season and 44% favored a change to allow the use of crossbows during the muzzleloading season. Approximately 51% favored a change to allow the use of crossbows on *private lands* during the archery season and 52% favored use during the muzzleloading season.

According to FWCC staff, the use of crossbows during archery and/or muzzleloading gun seasons is allowed in several states including Georgia, Alabama, Arkansas, Wyoming, and Ohio.

Based upon the results of the survey, FWCC staff recommended that rule changes be made that permitted the use of crossbows during archery and muzzleloading hunting seasons.

In February 2006, the FWCC approved the adoption of proposed rules (68A-13.004, 68A-12.002, and 68A-1.004) that establish new crossbow seasons during archery and muzzleloading hunting seasons.

EFFECT OF PROPOSED CHANGES

Penalties

Marine Resources

The bill amends s. 370.021, F.S., to provide that the penalties provided therein are limited to violations related to the *commercial* harvesting of marine fish. The bill provides a definition of "commercial

harvest.” Penalties for violations of laws and regulations relating to the *recreational* taking of marine fish are provided in the newly created s. 372.83, F.S. The bill does not make any changes in the penalties.

Freshwater Fish and Wildlife

The bill amends s. 372.83, F.S., which establishes a framework for penalties that are applied to violations of *recreational* fish (freshwater and saltwater) and wildlife statutes and rules of the FWCC. The bill provides four levels of classifying violations based upon the seriousness of the violation along with commensurate penalties for each violation.

A Level 1 violation constitutes noncriminal infractions punishable by the imposition of a civil penalty of \$50 for the first conviction and \$250 for each subsequent conviction. Citations shall be issued for these violations and the citation shall include a requirement for appearance before the county court. A person who willfully refuses the citation or who willfully fails to pay the civil penalty commits a misdemeanor of the second degree. Included in the list of Level 1 violations are violations of:

- FWCC rules or orders relating to quota hunting permits, and daily use permits
- Statutory provisions relating to hunting, fishing and trapping licenses
- Statutory provisions relating to hunter safety certification
- Statutory provisions relating to required clothing for persons hunting deer

A Level 2 violation constitutes a first degree misdemeanor. A first conviction is punishable under s. 775.082, F.S. (relating to sentencing), or s. 775.083, F.S. (relating to fines). Persons convicted of subsequent Level 2 violations are subject to increasing amounts of fines and license suspensions. Included in the list of Level 2 violations are violations of:

- FWCC rules or orders relating to the season, bag limits and size limits for saltwater fish, freshwater game fish, and wildlife
- FWCC rules or orders relating to access to wildlife management areas
- FWCC rules or orders relating to landing requirements for saltwater fish and freshwater game fish
- FWCC rules or orders relating to the use of dogs for hunting
- Statutory provisions relating to bonefish and crawfish
- Statutory provisions relating to feeding of alligators and crocodiles

A Level 3 violation also constitutes a first degree misdemeanor punishable under s. 775.082 or s. 775.083, F.S. As with Level 2 violations, persons convicted of subsequent Level 3 violations are subject to increasing amounts of fines and license suspensions. Included in the list of Level 3 violations are violations of:

- FWCC rules or orders relating to the sale of saltwater fish
- Statutory provisions relating to “major violations”
- Statutory provisions relating to the taking of saltwater fish with nets
- Statutory provisions relating to hunting and fishing while a license is suspended or revoked
- Statutory provisions relating to the illegal sale or possession of alligators, and the illegal taking and possession of deer and wild turkey

A Level 4 violation constitutes a felony of the third degree punishable under s. 775.082 or s. 775.083, F.S. Level 4 violations include violations of:

- Statutory provisions relating to the molestation of stone crab, blue crab, and crawfish gear
- Statutory provisions relating to forgery of a license or possession of a forged license
- Statutory provisions relating to the sale of deer or turkey that is illegally taken

Captive Wildlife

The bill creates s. 372.935, F.S., relating to captive wildlife penalties. This section establishes a framework which provides four levels of classifying violations based upon the seriousness of the violation along with commensurate penalties for each violation.

A Level 1 violation constitutes noncriminal infraction punishable by the imposition of a civil penalty of \$50 for the first conviction and \$250 for each subsequent conviction; an additional civil penalty, in the amount of the license fee required, shall be assessed for failing to have a required permit or license.

Any person who willfully refuses to post bond or accept and sign a citation is guilty of a second degree misdemeanor. Any person who fails to pay the civil penalty within 30 days or fails to appear is guilty of a second degree misdemeanor.

Any person electing to appear before the county court or who is required to appear shall be deemed to have waived the limitations on the civil penalty. The court, after a hearing, shall determine whether an infraction has been committed. The court may impose a civil penalty (not less than \$50 for first conviction or \$250 for a subsequent conviction) or more than \$500 if the commission of the infraction as been proven beyond a reasonable doubt. A person found to have committed an infraction may appeal that finding to circuit court.

Included in the list of Level 1 violations are violations of:

- FWCC rules or orders of the requiring free permits or other authorizations to possess captive wildlife.
- FWCC rules or orders of the relating to the filing of reports or other documents required of persons who are licensed to possess captive wildlife.
- FWCC rules or orders of the requiring permits to possess captive wildlife that a fee is charged for, when the person being charged was issued the permit and the permit has expired less than 1 year prior to the violation.

A Level 2 violation constitutes a second degree misdemeanor. A first conviction is punishable under s. 775.082, F.S. (relating to sentencing), or s. 775.083, F.S. (relating to fines). Persons convicted of subsequent Level 2 violations are subject to increasing amounts of fines and license suspensions.

Included in the list of Level 2 violations are violations of:

- FWCC rules or orders that require a person to pay a fee to obtain a permit to possess captive wildlife or that require the maintenance of records relating to captive wildlife unless stated in subsection (1).
- FWCC rules or orders relating to captive wildlife not specified in subsection (1) or (3).
- FWCC rules or orders which require housing of wildlife in a safe manner when a violation results in an escape of wildlife other than Class I wildlife.
- S. 372.86, F.S., relating to possessing or exhibiting reptiles.
- S. 372.87, F.S., relating to licensing or reptiles.
- S. 372.88, F.S., relating to bonding requirements for exhibits.
- S. 372.89, F.S., relating to housing requirements.
- S. 372.90, F.S., relating to transportation.
- S. 372.901, F.S., relating to inspection.
- S. 372.91, F.S., relating to limitation of access to reptiles.
- S. 372.921, F.S., relating to exhibition or sale of wildlife.
- S. 372.922, F.S., relating to personal possession of wildlife.

A Level 3 violation constitutes a first degree misdemeanor punishable under s. 775.082 or s. 775.083, F.S. if they have not been previously convicted within the past 10 years. A level 3 violation within the

past 10 years is a first degree misdemeanor with a minimum mandatory fine of \$750 and a suspension of all licenses issued under this chapter relating to captive wildlife for 3 years.

Included in the list of Level 3 violations are violations of:

- FWCC rules or orders which require housing of wildlife in a safe manner when a violation results in an escape of wildlife other than Class I wildlife.
- FWCC rules or orders related to captive wildlife when the violation results in serious bodily injury to another person.
- FWCC rules or orders relating to the use of gasoline, other chemicals, or gaseous substances on wildlife.
- FWCC rules or orders prohibiting the release of wildlife for which only conditional possession is allowed.
- FWCC rules or orders prohibiting knowingly entering false information on an application for a license or permit to possess captive wildlife.
- S. 372.265, F.S., relating to illegal importation or introduction of foreign wildlife.

A Level 4 violation constitutes a felony of the third degree punishable under s. 775.082 or s. 775.083, F.S., with a permanent revocation of all licenses or permits to possess captive wildlife under this chapter.

Level 4 violations include violations of:

- S. 370.081, F.S., relating to the illegal importation and possession of nonindigenous marine plants and animals.
- S. 370.92, F.S., relating to release of reptiles of concern.
- FWCC rules or orders relating to the importation, possession, or release of fish and wildlife for which possession is prohibited.

Wildlife Violators Compact

The bill creates the Wildlife Violators Compact which allows Florida to join 21 other compact member states in recognizing fish and wildlife violations by persons from member states and sharing such information among each member state. The Compact specifically provides for:

- Findings relating to the management of wildlife resources
- Definitions
- Procedures for the state issuing a citation
- Procedures for the licensing authority of the home state of the violator
- Reciprocal recognition of a license suspension
- Procedures for the entry into and withdrawal from the Compact

Hunting Licenses

Hunter Mentoring Program

The bill amends s. 372.5717, F.S., to authorize the FWCC to defer the hunter safety course requirement for one year and issue a restricted hunting license to persons wanting to try out hunting. Such persons may receive only one deferment and a person with a restricted hunting license can only hunt under the direct supervision and in the physical presence of an adult who has successfully completed or is exempt from completing the required hunter safety course.

For those persons hunting under the deferral provisions of the bill, the bill provides an exemption from the current requirement that a hunter safety course certification must be in the person's possession while hunting or when purchasing a hunting license.

Hunter Safety Course

The bill also amends s. 372.5717, F.S., to remove the current requirement that the FWCC's hunter safety course consist of no less than 12 hours of instruction, while maintaining the current requirement that the course consist of no more than 16 hours of instruction.

Crossbow Hunting Seasons

The bill amends s. 372.57, F.S., to acknowledge the creation of a crossbow season permit (during the archery and muzzleloading seasons) and to impose of a \$5 annual fee for such permit.

Hunting Licenses Fee Increases

The bill increases the fee for an annual sportsman's license from \$66 to \$71 and an annual gold sportsman's license from \$82 to \$87.

C. SECTION DIRECTORY:

Section 1: Amends s. 370.01, F.S., to define "commercial harvest" to mean the taking, harvesting, or attempting to harvest saltwater products for sale or with intent to sell.

Section 2: Amends s. 370.021, F.S., to provide base penalties and to clarify that this section applies exclusively to commercial harvesting.

Section 3: Amends s. 370.028, F.S. to conform penalty provisions.

Section 4: Amends s. 370.061, F.S., to correct a cross reference.

Section 5: Amends s. 370.063, F.S., to conform penalty provisions for commercial harvesters.

Section 6: Amends s. 370.08, F.S., to conform penalty provisions for commercial harvesters.

Section 7: Amends s. 370.081, F.S., to conform penalty provisions for commercial harvesters.

Section 8: Amends s. 370.1105, F.S., to conform penalty provisions for commercial harvesters.

Section 9: Amends s. 370.1121, F.S., to conform penalty provisions for commercial harvesters.

Section 10: Amends s. 370.13, F.S., to conform penalty provisions for commercial harvesters.

Section 11: Amends s. 370.135, F.S., to conform penalty provisions for commercial harvesters.

Section 12: Amends s. 370.14, F.S., to conform penalty provisions for commercial harvesters.

Section 13: Amends s. 370.142, F.S., to conform penalty provisions for commercial harvesters.

Section 14: Amends s. 372.57, F.S., to provide for a crossbow season permit and increase certain license fees.

Section 15: Amends s. 372.5704, F.S., to conform penalty provisions.

Section 16: Amends s. 372.571, F.S., to correct cross references.

Section 17: Amends s. 372.5717, F.S., to authorize the FWCC to waive the hunter safety education course for 1 year and issue a one-time restricted hunting license to persons wanting to hunt.

Section 18: Amends s. 372.573, F.S., to correct cross references.

Section 19: Amends s. 372.83, F.S., to create four levels of violations with commensurate penalties of higher severity.

Section 20: Creates s. 372.935, F.S., to provide penalties relating to captive wildlife.

Section 21: Amends s. 372.26, F.S., to conform penalty provisions.

Section 22: Amends s. 372.265, F.S., to conform penalty provisions.

Section 23: Amends s. 372.661, F.S., to conform penalty provisions.

Section 24: Amends s. 372.662, F.S., to conform penalty provisions.

Section 25: Amends s. 372.667, F.S., to conform penalty provisions.

Section 26: Amends s. 372.705, F.S., to conform penalty provisions.

Section 27: Amends s. 372.988, F.S., to conform penalty provisions.

Section 28: Amends s. 372.99022, F.S., to conform penalty provisions.

Section 29: Amends s. 372.99, F.S., to conform penalty provisions.

Section 30: Amends s. 372.9903, F.S., to conform penalty provisions.

Section 31: Creates s. 372.831, F.S., to adopt in statute the Wildlife Violator Compact.

Section 32: Creates s. 372.8311, F.S., to provide that FWCC is the licensing authority for the state to enforce the provisions of the Wildlife Violator Compact.

Section 33: Repeals ss. 372.711, F.S., (relating to noncriminal infractions) and 372.912, F.S., (relating to organized poisonous reptile hunts).

Section 34: Provides and effective date of October 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments below.

2. Expenditures:

See Fiscal Comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill would have a positive impact on the private sector depending on the number of persons participating in and using the hunter safety education deferral provisions of the bill, purchasing a hunting license at the increased rate (annual sportsman's license increased from \$66 to \$71 and an annual gold sportsman's license increased from \$82 to \$87), and in turn, purchasing hunting equipment and supplies.

D. FISCAL COMMENTS:

FWCC has determined that there will be minimal, if any, additional costs associated with the proposed penalties section of the bill. However, it is possible that there could be an increase in the amount of revenue received from the enhanced penalties for certain repeat offenders.

FWCC has determined that no additional funds will be needed to implement the Wildlife Violator Compact. Currently, the Wildlife Violator's Compact database is hosted by the Utah Department of Public Safety (Criminal Investigation Bureau). The database was developed to answer the needs of participating member states, to exchange basic identification information, and conviction information about revokees subject to reciprocal revocation.

FWCC has determined that the revenue impacts from the hunter safety education deferral provisions of the bill and the purchase of hunting licenses are unknown since FWCC has no estimates of the number of persons who may participate in this program. Unlike the Texas hunter mentoring program, the bill does not provide for a fee in addition to the normal hunting license fee. FWCC views the revenue impact of the bill as less important than using the mentoring and deferral provisions of the bill to "...remove obstacles and increase efforts to engage new hunters..." in order to reverse the trend of declining hunters in Florida.

FWCC estimates that there would be minimal costs associated with programming its Total Licensing System (TLS), which produces the state's hunting licenses, in issuing and identifying a one-year-option deferral hunting license. A person seeking the special deferral hunting license would purchase a regular hunting license at the regular cost and declare that they do not have the required hunter safety education certificate. The TLS and the actual hunting license would identify that the person is using the deferral option. Since the deferral option is only valid for one-year, the TLS would be programmed to deny the purchase of a subsequent hunting license if the person has not successfully completed the hunter safety course and produced the certification documentation at the time of the purchase.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require cities or counties to spend funds or take actions 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:

Pursuant to Article IV, Section 9 of the Florida Constitution, the FWCC has the authority to "exercise the regulatory and executive powers of the state with respect to" fresh water aquatic life, marine life, and wild animal life. The Legislature may only "enact laws in aid of" the FWCC not inconsistent with the Constitutional provision. The bill appears to be "in aid of" the FWCC and does not appear to be inconsistent with the Constitution.

B. RULE-MAKING AUTHORITY:

The bill does not require the promulgation of rules nor alter the rulemaking authority of any state agency.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Although the effective date for the bill is January 1, 2007, this effective date may not provide for sufficient time for the FWCC law enforcement and court systems to make the necessary changes related to the new penalty structure. Also, sufficient notice of the new penalty structure needs to be given to the persons who are purchasing hunting and fishing licenses.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On February 22, 2006, the Water and Natural Resources Committee adopted a strike-all amendment to HB 471. The strike-all amendment makes the following changes to the bill:

- Limits the penalties in s. 370.021, F.S., to commercial harvesting of saltwater fish.
- Creates a framework for and enhances penalties for violations of recreational fish and wildlife statutes and FWCC rules.
- Creates penalties for violations of statutes and rules related to the possession and exhibition of captive wildlife.
- Creates the Wildlife Violators Compact in statute allowing Florida to join 21 other states in recognizing fish and wildlife violations.
- Amends s. 372.57, F.S., to acknowledge the creation of a crossbow season permit (during the archery and muzzleloading seasons) and to impose of a \$5 annual fee for such permit.
- Increases the fees for certain hunting and fishing licenses.

On April 4th, 2006, the Criminal Justice Committee adopted a strike-all amendment to HB 471 which made technical changes and an amendment to the strike-all amendment.

The amendment to the strike-all amendment creates s. 372.935, F.S., relating to captive wildlife penalties which establishes a framework (similar to the framework for violations of recreational fish and wildlife statutes and FWCC rules) that provides four levels of classifying violations based upon the seriousness of the violation along with commensurate penalties for each violation.

A Level 1 violation constitutes noncriminal infraction punishable by the imposition of a civil penalty of \$50 for the first conviction and \$250 for each subsequent conviction; an additional civil penalty, in the amount of the license fee required, shall be assessed for failing to have a required permit or license.

Any person who willfully refuses to post bond or accept and sign a citation is guilty of a second degree misdemeanor. Any person who fails to pay the civil penalty within 30 days or fails to appear is guilty of a second degree misdemeanor.

Any person electing to appear before the county court or who is required to appear shall be deemed to have waived the limitations on the civil penalty. The court, after a hearing, shall determine whether an infraction has been committed. The court may impose a civil penalty (not less than \$50 for first conviction or \$250 for a subsequent conviction) or more than \$500 if the commission of the infraction as been proven beyond a reasonable doubt. A person found to have committed an infraction may appeal that finding to circuit court.

Included in the list of Level 1 violations are violations of:

- FWCC rules or orders of the requiring free permits or other authorizations to possess captive wildlife.
- FWCC rules or orders of the relating to the filing of reports or other documents required of persons who are licensed to possess captive wildlife.
- FWCC rules or orders of the requiring permits to possess captive wildlife that a fee is charged for, when the person being charged was issued the permit and the permit has expired less than 1 year prior to the violation.

A Level 2 violation constitutes a second degree misdemeanor. A first conviction is punishable under s. 775.082, F.S. (relating to sentencing), or s. 775.083, F.S. (relating to fines). Persons convicted of subsequent Level 2 violations are subject to increasing amounts of fines and license suspensions. Included in the list of Level 2 violations are violations of:

- FWCC rules or orders that require a person to pay a fee to obtain a permit to possess captive wildlife or that require the maintenance of records relating to captive wildlife unless stated in subsection (1).
- FWCC rules or orders relating to captive wildlife not specified in subsection (1) or (3).
- FWCC rules or orders which require housing of wildlife in a safe manner when a violation results in an escape of wildlife other than Class I wildlife.
- S. 372.86, F.S., relating to possessing or exhibiting reptiles.
- S. 372.87, F.S., relating to licensing or reptiles.
- S. 372.88, F.S., relating to bonding requirements for exhibits.
- S. 372.89, F.S., relating to housing requirements.
- S. 372.90, F.S., relating to transportation.
- S. 372.901, F.S., relating to inspection.
- S. 372.91, F.S., relating to limitation of access to reptiles.
- S. 372.921, F.S., relating to exhibition or sale of wildlife.
- S. 372.922, F.S., relating to personal possession of wildlife.

A Level 3 violation constitutes a first degree misdemeanor punishable under s. 775.082 or s. 775.083, F.S. if they have not been previously convicted within the past 10 years. A level 3 violation within the past 10 years is a first degree misdemeanor with a minimum mandatory fine of \$750 and a suspension of all licenses issued under this chapter relating to captive wildlife for 3 years.

Included in the list of Level 3 violations are violations of:

- FWCC rules or orders which require housing of wildlife in a safe manner when a violation results in an escape of wildlife other than Class I wildlife.
- FWCC rules or orders related to captive wildlife when the violation results in serious bodily injury to another person.
- FWCC rules or orders relating to the use of gasoline, other chemicals, or gaseous substances on wildlife.
- FWCC rules or orders prohibiting the release of wildlife for which only conditional possession is allowed.
- FWCC rules or orders prohibiting knowingly entering false information on an application for a license or permit to possess captive wildlife.
- S. 372.265, F.S., relating to illegal importation or introduction of foreign wildlife.

A Level 4 violation constitutes a felony of the third degree punishable under s. 775.082 or s. 775.083, F.S., with a permanent revocation of all licenses or permits to possess captive wildlife under this chapter.

Level 4 violations include violations of:

- S. 370.081, F.S., relating to the illegal importation and possession of nonindigenous marine plants and animals.
- S. 370.92, F.S., relating to release of reptiles of concern.
- FWCC rules or orders relating to the importation, possession, or release of fish and wildlife for which possession is prohibited.

This analysis has been revised to reflect the strike-all amendment and the amendment to the strike-all amendment.