

By Senator Pizzo

38-02071-19

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1                                   A bill to be entitled  
 2       An act relating to wildlife protection; creating s.  
 3       379.311, F.S.; defining terms; prohibiting the import,  
 4       sale, purchase, and distribution of ivory articles and  
 5       rhinoceros horns; providing exceptions and penalties;  
 6       directing the Fish and Wildlife Conservation  
 7       Commission to adopt rules, to post information on its  
 8       website, and to submit a report to the Legislature;  
 9       creating s. 379.4117, F.S.; providing that it is  
 10      unlawful to take, possess, injure, shoot, collect, or  
 11      sell Florida black bears; defining the term "take";  
 12      providing that such actions constitute a Level Four  
 13      violation; amending s. 379.401, F.S.; providing that  
 14      the illegal taking, possession, injuring, shooting,  
 15      collecting, or selling of Florida black bears is a  
 16      Level Four violation, which is subject to criminal and  
 17      civil penalties; amending s. 379.4015, F.S.;  
 18      specifying applicability of penalty provisions  
 19      relating to the illegal import, illegal sale, illegal  
 20      purchase, and illegal distribution of ivory articles  
 21      and rhinoceros horns; providing an effective date.

22  
 23 Be It Enacted by the Legislature of the State of Florida:

24  
 25       Section 1. Section 379.311, Florida Statutes, is created to  
 26 read:

27       379.311 Import, sale, purchase, and distribution of ivory  
 28 articles and rhinoceros horns prohibited; penalties.-

29       (1) As used in this section, the term:

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30       (a) "Distribute" means a transfer or change in possession  
31 with an accompanying change in legal ownership.

32       (b) "Ivory article" means any item containing worked or raw  
33 ivory from any species of elephant.

34       (c) "Raw ivory" means any elephant tusk, or any piece  
35 thereof, the surface of which, polished or unpolished, is  
36 unaltered or minimally carved.

37       (d) "Worked ivory" means any elephant tusk, or any piece  
38 thereof, which is not raw ivory.

39       (2) Except as otherwise provided in this section, a person  
40 may not knowingly and willingly import, sell, purchase, or  
41 distribute an ivory article or a rhinoceros horn.

42       (3) Unless such activity is prohibited by federal law,  
43 rule, or regulation, the commission may issue a license or  
44 permit for the import, sale, purchase, or distribution of ivory  
45 articles or rhinoceros horns if:

46       (a) The ivory article or rhinoceros horn is part of a bona  
47 fide antique and is less than 20 percent by volume of the  
48 antique, and the owner or seller provides historical  
49 documentation that demonstrates provenance of the item and that  
50 the item is at least 100 years old;

51       (b) The distribution of the ivory article or rhinoceros  
52 horn is for bona fide educational or scientific purposes or for  
53 display in a State University System museum or gallery;

54       (c) The distribution of the ivory article or rhinoceros  
55 horn is to a legal beneficiary of a trust or to an heir or  
56 distributee of an estate; or

57       (d) The ivory article or rhinoceros horn is part of a  
58 musical instrument, including, but not limited to, a string or

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59 wind instrument or piano, and the owner or seller provides  
60 historical documentation that demonstrates provenance of the  
61 item and that the item was manufactured not later than 1975.

62 (4) A violation of this section is punishable as provided  
63 in s. 379.4015.

64 (5) (a) The commission shall adopt rules to implement this  
65 section.

66 (b) By August 1, 2019, the commission shall post on its  
67 website information regarding the prohibition on the illegal  
68 import, illegal sale, illegal purchase, and illegal distribution  
69 of ivory articles and rhinoceros horns.

70 (c) By January 1, 2023, the commission shall submit a  
71 report to the Legislature outlining enforcement activities  
72 pursuant to this section and any recommendations for necessary  
73 changes.

74 Section 2. Section 379.4117, Florida Statutes, is created  
75 to read:

76 379.4117 Florida black bear; killing prohibited; penalty.-

77 (1) Pursuant to commission rule, it is unlawful for a  
78 person to take, possess, injure, shoot, collect, or sell Florida  
79 black bears or their parts or to attempt to engage in such  
80 conduct. As used in this section, the term "take" means to  
81 pursue, hunt, molest, capture, or kill or to attempt to pursue,  
82 hunt, molest, capture, or kill.

83 (2) A person who violates this section commits a Level Four  
84 violation under s. 379.401.

85 Section 3. Subsection (4) of section 379.401, Florida  
86 Statutes, is amended to read:

87 379.401 Penalties and violations; civil penalties for

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88 noncriminal infractions; criminal penalties; suspension and  
89 forfeiture of licenses and permits.—

90 (4) LEVEL FOUR VIOLATIONS.—

91 (a) A person commits a Level Four violation if he or she  
92 violates any of the following provisions:

93 1. Section 379.354(16), prohibiting the making, forging,  
94 counterfeiting, or reproduction of a recreational license or the  
95 possession of same without authorization from the commission.

96 2. Section 379.365(2)(c), prohibiting criminal activities  
97 relating to the taking of stone crabs.

98 3. Section 379.366(4)(c), prohibiting criminal activities  
99 relating to the taking and harvesting of blue crabs.

100 4. Section 379.367(4), prohibiting the willful molestation  
101 of spiny lobster gear.

102 5. Section 379.3671(2)(c)5., prohibiting the unlawful  
103 reproduction, possession, sale, trade, or barter of spiny  
104 lobster trap tags or certificates.

105 6. Section 379.404(5), prohibiting the sale of illegally-  
106 taken deer or wild turkey.

107 7. Section 379.405, prohibiting the molestation or theft of  
108 freshwater fishing gear.

109 8. Section 379.409, prohibiting the unlawful killing,  
110 injuring, possessing, or capturing of alligators or other  
111 crocodilia or their eggs.

112 9. Section 379.411, prohibiting the intentional killing or  
113 wounding of any species designated as endangered, threatened, or  
114 of special concern.

115 10. Section 379.4115, prohibiting the killing of any  
116 Florida or wild panther.

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117 11. Section 379.4117, prohibiting the taking of a Florida  
118 black bear.

119 (b) A person who commits a Level Four violation commits a  
120 felony of the third degree, punishable as provided in s.  
121 775.082, s. 775.083, or s. 775.084.

122 Section 4. Paragraph (a) of subsection (1), paragraph (a)  
123 of subsection (4), and paragraph (a) of subsection (6) of  
124 section 379.4015, Florida Statutes, are amended to read:

125 379.4015 Nonnative and captive wildlife penalties.—

126 (1) LEVEL ONE.—Unless otherwise provided by law, the  
127 following classifications and penalties apply:

128 (a) A person commits a Level One violation if he or she  
129 violates any of the following provisions:

130 1. Rules or orders of the commission requiring free permits  
131 or other authorizations to possess captive wildlife.

132 2. Rules or orders of the commission relating to the filing  
133 of reports or other documents required of persons who are  
134 licensed to possess captive wildlife.

135 3. Rules or orders of the commission requiring permits to  
136 possess captive wildlife for which a fee is charged, when the  
137 person being charged was issued the permit and the permit has  
138 expired less than 1 year prior to the violation.

139 4. Rules or orders of the commission requiring a license or  
140 permit to import, sell, purchase, or distribute ivory articles  
141 or rhinoceros horns.

142 (4) LEVEL FOUR.—Unless otherwise provided by law, the  
143 following classifications and penalties apply:

144 (a) A person commits a Level Four violation if he or she  
145 violates:

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146       1. Any Level Three provision after the permanent revocation  
147 of a license or permit.

148       2. Any rules or orders of the commission relating to the  
149 import, sale, purchase, or distribution of ivory articles or  
150 rhinoceros horns if the value of the ivory articles or  
151 rhinoceros horns exceeds \$25,000.

152       (6) CIVIL PENALTY.—

153       (a) In addition to other applicable penalties, the  
154 commission may impose against any person, party, firm,  
155 association, or corporation convicted of a criminal violation of  
156 any provision of s. 379.231, s. 379.311, s. 379.372, s.  
157 379.3761, or s. 379.3762 a civil penalty of not more than \$5,000  
158 for each animal, ivory article, or rhinoceros horn, unless  
159 otherwise authorized pursuant to subparagraphs 1.-6.  
160 ~~subparagraphs 1.-5.~~ For all related violations attributable to a  
161 specific violator, the total civil penalty may not exceed  
162 \$10,000 for each assessment for each animal, ivory article, or  
163 rhinoceros horn.

164       1. The history of noncompliance of the violator for any  
165 previous violation of this chapter or rules or orders of the  
166 commission shall be considered in determining the amount of the  
167 civil penalty.

168       2. The direct economic benefit gained by the violator from  
169 the violation may be added to the scheduled civil penalty.

170       3. The costs incurred by the commission related to the  
171 escape, recovery, and care of the wildlife for which the  
172 violation was issued shall be added to the civil penalty.

173       4. The civil penalty assessed for a violation may not  
174 exceed \$5,000 for each animal unless:

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- 175 a. The violator has a history of noncompliance;  
176 b. The economic benefit of the violation exceeds \$5,000; or  
177 c. The costs incurred by the commission related to the  
178 escape, recovery, and care of the wildlife for which the  
179 violation was issued exceeds \$5,000.

180 5. If the violation was an act prohibited by s. 379.311,  
181 the civil penalty may not exceed \$3,000 or two times the value  
182 of the article involved, whichever is greater. If the violation  
183 is a second or subsequent violation of s. 379.311, the civil  
184 penalty may not exceed \$6,000 or three times the value of the  
185 article involved, whichever is greater.

186 ~~6.5.~~ The civil penalty assessed pursuant to this subsection  
187 may be reduced by the commission for mitigating circumstances,  
188 including good faith efforts to comply before or after discovery  
189 of the violations by the commission.

190 Section 5. This act shall take effect July 1, 2019.