

By Senator Martin

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1 A bill to be entitled
2 An act relating to photographic evidence of illegally
3 taken wildlife, freshwater fish, and saltwater fish;
4 amending s. 379.3381, F.S.; providing that digital
5 copies of photographs of illegally taken wildlife,
6 freshwater fish, or saltwater fish may be admissible
7 as competent evidence in the prosecution of a
8 violation of ch. 379, F.S., under certain
9 circumstances; requiring that digital copies used as
10 evidence be included in an investigating officer's
11 written report; providing requirements for the written
12 report; providing that a digital copy may be
13 admissible as evidence without the oath of the
14 investigating officer under certain circumstances;
15 requiring that the original photograph be presented
16 upon request to a defendant or the court in either
17 digital or printed form; reenacting s. 379.338(1),
18 F.S., relating to the confiscation and disposition of
19 illegally taken wildlife, freshwater fish, and
20 saltwater fish, to incorporate the amendment made to
21 s. 379.3381, F.S., in a reference thereto; providing
22 an effective date.

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

25
26 Section 1. Section 379.3381, Florida Statutes, is amended
27 to read:

28 379.3381 Photographic evidence of illegally taken wildlife,
29 freshwater fish, and saltwater fish.-

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30 (1) In any prosecution for a violation of this chapter, any
31 other chapter, or rules of the commission, a photograph or a
32 digital copy of a photograph of illegally taken wildlife,
33 freshwater fish, or saltwater fish may be deemed competent
34 evidence of such property and may be admissible in the
35 prosecution to the same extent as if such wildlife, freshwater
36 fish, or saltwater fish were introduced as evidence, provided
37 the photograph or digital copy of a photograph is marked or
38 identified pursuant to subsection (2) or subsection (3).

39 (2) A photograph used as evidence of illegally taken
40 wildlife, freshwater fish, or saltwater fish must ~~Such~~
41 ~~photograph shall~~ bear a written description of the wildlife,
42 freshwater fish, or saltwater fish alleged to have been
43 illegally taken, the name of the violator, the location where
44 the alleged illegal taking occurred, the name of the
45 investigating law enforcement officer, the date the photograph
46 was taken, and the name of the photographer. Such writing must
47 ~~shall~~ be made under oath by the investigating law enforcement
48 officer, and the photograph must ~~shall~~ be identified by the
49 signature of the photographer.

50 (3) A digital copy of a photograph used as evidence of
51 illegally taken wildlife, freshwater fish, or saltwater fish
52 must be included in the written report of the investigating law
53 enforcement officer. The written report must include a written
54 description of the wildlife, freshwater fish, or saltwater fish
55 alleged to have been illegally taken, the name of the violator,
56 the location where the alleged illegal taking occurred, the name
57 of the investigating law enforcement officer, the date the
58 photograph was taken, and the name of the photographer. If the

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59 written report does not contain an oath of the investigating
60 officer, the digital copy of the photograph contained in the
61 report is admissible as evidence to the same extent as the
62 wildlife, freshwater fish, or saltwater fish pictured therein if
63 the digital copy of the photograph is authenticated in court.
64 The original photograph must be presented if requested by a
65 defendant or the court, but the original photograph does not
66 need to be marked in accordance with subsection (2) to be
67 admissible as evidence of the illegally taken wildlife,
68 freshwater fish, or saltwater fish. The original photograph may
69 be presented in either digital or printed form.

70 Section 2. For the purpose of incorporating the amendment
71 made by this act to section 379.3381, Florida Statutes, in a
72 reference thereto, subsection (1) of section 379.338, Florida
73 Statutes, is reenacted to read:

74 379.338 Confiscation and disposition of illegally taken
75 wildlife, freshwater fish, and saltwater fish.—

76 (1) All wildlife, freshwater fish, and saltwater fish
77 seized under the authority of this chapter, any other chapter,
78 or rules of the commission shall, upon conviction of the
79 offender or sooner in accordance with a court order if the court
80 so orders, be forfeited to the investigating law enforcement
81 agency. The law enforcement agency may elect to retain the
82 wildlife, freshwater fish, or saltwater fish for the agency's
83 official use; transfer it to another unit of state or local
84 government for official use; donate it to a charitable
85 organization; sell it at a public sale pursuant to s. 705.103;
86 or destroy the wildlife, freshwater fish, or saltwater fish if
87 none of the other options is practicable or if the wildlife,

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88 freshwater fish, or saltwater fish is unwholesome or otherwise
89 not of appreciable value. All illegally possessed live wildlife,
90 freshwater fish, and saltwater fish that are properly documented
91 as evidence as provided in s. 379.3381 may be returned to the
92 habitat unharmed. Any unclaimed wildlife, freshwater fish, or
93 saltwater fish shall be retained by the investigating law
94 enforcement agency and disposed of in accordance with this
95 subsection.

96 Section 3. This act shall take effect July 1, 2023.