

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on General Government

BILL: CS/SB 680

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Dean

SUBJECT: Fish and Wildlife Conservation Commission

DATE: April 1, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hinton</u>	<u>Uchino</u>	<u>EP</u>	Fav/CS
2.	<u>Betta</u>	<u>DeLoach</u>	<u>AGG</u>	Pre-meeting
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 680 amends provisions relating to the Fish and Wildlife Conservation Commission (FWC). Specifically, the bill:

- Removes specific labeling requirements for personal floatation devices (PFDs) and allows the use of PFDs labeled in accordance with the U.S. Coast Guard (Coast Guard) rules concerning an upcoming new labeling system;
- Revises the effective dates for tarpon tags from July 1 through June 30 to the calendar year;
- Removes a requirement for tax collectors to submit forms relating to the number of unissued Convention on the International Trade of Endangered Species (CITES) tags every year;
- Removes reporting requirements for tarpon landings;
- Corrects the scientific name for tarpon from *megalops atlantica* to the correct name, *Megalops atlanticus*;
- Removes statutory qualifying requirements to receive a Restricted Species Endorsement on a Saltwater Products License;
- Removes rulemaking authority to implement an alligator management and trapping program;
- Ensures all uncured alligator hides are identified as originally intended;
- Removes reporting and shipping details for dealers and buyers of alligator hides;
- Clarifies that a person may not take or possess an alligator or alligator eggs without an alligator license, rather than a “trapping license”;
- Rephrases “Alligator Management and Trapping Program” to “Alligator Management Program”;

- Removes statutory rulemaking authority to limit the number of participants engaged in the taking of alligators or their eggs from the wild;
- Provides exemptions to fee requirements related to hunting alligators;
- Removes statutory requirements to provide the Department of Agriculture and Consumer Services with funds from certain activities related to alligators and makes the transfer of such funds dependent on an annual appropriation;
- Removes rulemaking authority to establish appropriate qualifications for permitting alligator collectors;
- Removes a requirement to use certain funds for alligator husbandry research;
- Removes a requirement to attach CITES tags to the hide of any alligator taken from the wild;
- Removes a requirement to limit the number of CITES tags to the estimated safe yield of alligators in the state;
- Changes penalties for feeding wildlife and freshwater fish;
- Removes definitions of “alligator,” “process or processing,” and “alligator hatchling”;
- Removes a provision relating to alligator study requirements;
- Removes provisions relating to penalties for unlawfully selling certain alligator products;
- Removes a provision relating to penalties for using the words “alligator” and “gator” in certain situations; and
- Reenacts certain sections of statute to incorporate changes made in the bill.

The bill has an estimated negative fiscal impact of \$27,500 relating to the changes in alligator trapping and trapping agent licenses.

The bill is effective upon becoming law.

II. Present Situation:

Personal Floatation Devices (PFD)

The Coast Guard labels personal floatation devices (PFDs) five different ways based on their intended use:

- Type I PFDs are off-shore life jackets that are good for all waters, including rough seas and remote water, where rescue might be slow to arrive;
- Type II PFDs are near-shore buoyant vests for general boating. They are good for calm, inland waters, or where there is a good chance of a quick rescue;
- Type III PFDs are for general boating or some specialized activity that is marked on the PFD for activities such as water skiing, hunting, fishing, canoeing, kayaking, etc. They are designed to complement the activity they are used for;
- Type IV PFDs include throwable devices such as ring buoys and boat cushions; and
- Type V PFDs are only for special uses or conditions.¹

Florida law requires PFDs to be either on hand or worn depending on the situation. Each situation has different requirements:

¹ U. S. Coast Guard, *PFD Selection, Use, Wear & Care*, <http://www.uscg.mil/hq/cg5/cg5214/PFDselection.asp#recreational> (last visited Mar. 16, 2015).

- All vessels are required to have wearable Coast Guard-approved PFDs for each person onboard. They must be the appropriate size for the people on the vessel, be in serviceable condition, and within easy access;
- Vessels 16 feet in length or longer must also have at least one Coast Guard-approved throwable Type IV PFD that is immediately available in case someone falls overboard;
- Children under the age of six must wear a Coast Guard-approved Type I, II, or III Coast Guard approved PFD while onboard vessels less than 26 feet in length while the vessel is underway; and
- Anyone who is water skiing; parasailing; aquaplaning; operating, riding on, or being towed behind a personal watercraft; or some similar activity, must wear a non-inflatable Coast Guard-approved Type I, II, III, or V PFD.²

Currently, the Coast Guard is working to revise the classification and labeling of PFDs. When the process is completed, the intent is to have labels for PFDs that are easier to understand.

According to the final regulation promulgated by the Coast Guard, removing the type code system from regulations “will facilitate future incorporation by reference of new industry consensus standards for PFD labeling that more effectively convey safety information and is a step toward harmonization of our regulations with PFD requirements in Canada and other countries.”³

The Coast Guard has indicated that there will be a transition period until the end of 2016 to allow manufacturers time to come into compliance with the new standards and to allow states the time to modify their laws.⁴

Tarpon Tags

In June 2013, the FWC approved a series of changes to the state’s tarpon tag rules. In particular, the FWC voted to manage tarpon as a catch-and-release only species.⁵ However, the FWC does allow the use of tarpon tags to harvest tarpon while in pursuit of an International Game Fish Association record. In conjunction with designating tarpon as a catch-and-release only species, the former recreational bag limit of two was eliminated and harvest and unnecessary destruction of the fish was prohibited.⁶

In addition to these changes, Rule 68B-32.004, F.A.C., now provides that “a person may temporarily possess a tarpon within or without Florida waters only for the purposes of photography, measuring length and girth, and taking a scientific sample.” The rule provides that tarpon of a certain length may not be removed from the water.⁷ Additional changes to rule that need to be addressed in Florida Statutes include eliminating the reporting requirements for the

² FWC, *Boating Regulations*, <http://myfwc.com/boating/regulations/#nogo> (last visited Mar. 16, 2015).

³ Personal Flotation Devices Labeling and Standards, 79 Fed. Reg. 56491 (Oct. 22, 2014).

⁴ FWC, *Senate Bill 680 Agency Analysis*, 7, (Feb. 2, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁵ Rule 68B-32.001, F.A.C.

⁶ *Supra* note 4, at 17.

⁷ Rule 68B-32.004(3), F.A.C.

tarpon tag,⁸ and modifying the dates tags are issued from July 1 to June 30 to the calendar year to coincide with the height of the tarpon fishing season.⁹

Tax collectors are required to return all unused tarpon tags to the FWC by August 15 each year. Since tarpon tags have the effective date printed on them, they cannot be used outside of the tag year. The FWC reports that there is no need recover any unused tags.

Lastly, s. 379.357, F.S., refers to the tarpon scientifically as the *megalops atlantica*. The correct scientific name of the tarpon is *Megalops atlanticus*.

Commercial Fishing Licensing

In Florida, a Saltwater Products License (SPL) is required to commercially harvest or sell all saltwater products, harvest over the recreational bag limit, harvest over 100 pounds or two saltwater fish per person per day (whichever is greater) for species that do not have an established bag limit, or use certain gear or equipment as specified by law. Saltwater products harvested under an SPL may only be sold to a licensed Florida wholesale dealer.¹⁰

Florida offers three types of SPLs:¹¹

- An individual SPL authorizes one person to engage in commercial fishing activities from the shore or a vessel. The individual SPL is not tied to any one vessel and is issued in the individual's name;
- A crew SPL is also issued in an individual's name and authorizes the named individual to engage in commercial fishing activities from shore or a vessel. It also authorizes each person who is fishing with the named individual aboard a vessel to engage in such activities. This means the license holder can take a crew out on any vessel to harvest saltwater fish and the SPL covers the crew as well; and
- A vessel SPL is issued to a valid commercial vessel registration number and authorizes each person aboard that registered vessel to engage in commercial saltwater fishing activities. Unlike the first two SPLs, the vessel SPL is tied to a vessel rather than a person.¹²

The cost for each license is:¹³

SPL Type	Florida Resident	Non-resident	Alien
Individual	\$50	\$200	\$300
Crew	\$150	\$600	\$900
Vessel	\$100	\$400	\$600

⁸ *Supra* note 4, at 17.

⁹ *Supra* note 4, at 17.

¹⁰ FWC, *Commercial Saltwater Product Licenses – Introduction*, <http://www.myfwc.com/license/saltwater/commercial-fishing/new-applicants/#spl> (last visited Mar. 15, 2015).

¹¹ Section 379.361(2)(e)1.-3., F.S.

¹² Section 379.361(2)(e), F.S.

¹³ FWC, *Commercial Saltwater products License Fees*, <http://myfwc.com/license/saltwater/commercial-fishing/csl-fees/> (last visited Mar. 15, 2015).

Requirements for other commercial licenses vary depending on what species are being harvested. In particular, the Restricted Species Endorsement (RS) is required to commercially harvest and sell species designated as “restricted” by the FWC.¹⁴

The RS was created by the Legislature in 1987 when marine fisheries management was under the legislatively created Marine Fisheries Commission, a predecessor agency to the FWC. The primary purpose of the RS is to help ensure the sustainability of Florida’s most important commercially harvested species. Prior to the creation of the RS, some of the state’s recreational fishermen were purchasing commercial licenses to enable them to harvest commercial quantities of their favorite species and then keep them for their own personal use, thus circumventing the recreational bag limits.¹⁵

The species currently designated as restricted species are: several species of amberjack, bluefish, cobia, dolphin, drum (black), several species of flounder, several species of grouper, hogfish, almaco jack, Spanish and king mackerel, several species of mullet, permit, Florida and African pompano, red porgy, banded rudderfish, several species of sea bass, spotted seatrout, sheepshead, several species of snapper, tripletail, golden tilefish, wahoo, blue crab, stone crab, spiny lobster, and several species of shrimp.¹⁶

To qualify for an RS on an SPL, a person must:

- Be 16 years of age or older; and either
- Have over 25 percent or \$5,000 of income attributable to the sale of saltwater products under an SPL; or
- Be a charter boat operator with at least 50 percent of income attributable to charter fishing, at least \$2,500 must be attributable to the sale of saltwater products under an SPL.

The income requirements must apply to at least one of the previous three years, and marine aquaculture producers with an SPL can apply income from the sale of marine aquaculture products.¹⁷

Exceptions to these requirements are:

- A permanent RS is available to those who are 62 or older who have qualified for an RS for at least three of the last five years;
- The income requirement for those who are 62 or older is reduced to \$2,500;
- Active military duty time will not be counted against the time required to qualify;
- The purchaser of a commercial vessel associated with an RS will have a complete license year after the purchase to qualify for an RS;
- An immediate family member wishing to carry on the fishing operation of an individual who has died or become permanently disabled will have one complete license year to qualify for an RS;

¹⁴ FWC, *Qualifying for the Restricted Species Endorsement*, <http://www.myfwc.com/license/saltwater/commercial-fishing/qualifying-for-rs/> (last visited Mar. 14, 2015).

¹⁵ *Supra* note 4, at 18.

¹⁶ FWC, *Restricted Species List*, <http://www.myfwc.com/license/saltwater/commercial-fishing/restricted-species/> (last visited Mar. 14, 2015).

¹⁷ *Supra* note 14.

- The income requirement is waived for residents holding an SPL for three of the previous five years before a disability, if the individual is certified totally and permanently disabled by the U.S. Department of Veterans Affairs, any branch of the U.S. Armed Services, or the Railroad Board, or an individual who is certified disabled by the Social Security Administration or a licensed physician;
- An honorably discharged resident military veteran who is certified to be permanently disabled with a rating of at least 10 percent has one full license year to qualify for an RS, in addition to an income requirement of \$2,500; and
- An honorably discharged resident military veteran who applies for an RS within 48 months after discharge has one full license year to qualify for an RS.¹⁸

The creation of the RS was supported by Florida's commercial fishing industry, which coordinated with the legislatively created Marine Fisheries Commission, a predecessor agency to the FWC, in developing the endorsement. It is meant to ensure that fish harvested under Florida's commercial licenses, with the higher bag limits typically associated with the commercial fishery, are being harvested for commercial purposes and ultimately ending up in the seafood market.¹⁹

Qualifying requirements for the RS are currently in statute, but, since all aspects of the RS program fall under the FWC's constitutional authority, the requirements have been incorporated into FWC rule, allowing it to respond to stakeholder needs or requests for changes. According to the FWC, some of the existing statutory requirements are confusing and out of date.²⁰

Alligators

The American alligator may be found in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, and Texas.²¹ They prefer freshwater lakes and slow-moving rivers and their associated wetlands, but they also can be found in brackish water habitats as well. There are approximately 1.3 million alligators throughout Florida.²²

Due to concerns over declining populations, legal alligator harvesting was halted in 1962. The American alligator was included on the first list of endangered species under the law that preceded the Endangered Species Act in 1967.²³ By the mid-1970s, indications were that the Florida population was recovering rapidly. In 1977, Florida's alligator population was reclassified from endangered to threatened by the U.S. Fish and Wildlife Service. This allowed

¹⁸ *Supra* note 14.

¹⁹ *Supra* note 4, at 18.

²⁰ *Supra* note 4, at 18.

²¹ U.S. Fish and Wildlife Service, *Environmental Conservation Online System, American alligator (Alligator mississippiensis)*, <http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=C000#recovery> (last visited Mar. 3, 2015).

²² FWC, *Statewide Nuisance Alligator Program*, <http://myfwc.com/wildlifehabitats/managed/alligator/nuisance/> (last visited Mar. 3, 2015).

²³ U.S. Fish and Wildlife Service, *American Alligator: Alligator mississippiensis* (Feb. 2008), available at <http://www.fws.gov/endangered/esa-library/pdf/alligator.pdf> (last visited Mar. 3, 2015).

for management of the growing nuisance alligator problem through harvest, which continues today under the Statewide Nuisance Alligator Program.²⁴

Despite its recovery, the Florida alligator is still federally listed. However, since 1979, its status has been “Similarity of Appearance (Threatened).”²⁵ This provides safeguards to other imperiled crocodilians, such as the American crocodile, which may be found in south Florida, and the black caiman, which occurs in South America. The listing allows for state-approved management and control programs.²⁶

Currently, the FWC implements three programs that provide for harvesting non-hatchling alligators from the wild. They are the:

- Statewide Alligator Harvest Program;
- Private Lands Alligator Management Program; and
- Statewide Nuisance Alligator Program.

Statewide Alligator Harvest Program

Each year, the FWC establishes alligator management units based on surveys to establish appropriate harvest quotas to provide recreational opportunities for the public to harvest alligators. Anyone may participate, but the number of harvest permits awarded are typically much fewer than the number of people applying for them. According to the FWC, in 2014, 18,000 applications were received for 6,000 permits.²⁷

Through a three-phase program, harvest permits are made available to individuals through a random selection process. Awarded permits that are not purchased in Phase I by the appointed deadline will be made available in Phase II. The second phase of the program is only open to people who were not issued a harvest permit during Phase I. All permits that are not purchased in Phase II by the appointed deadline are sold on a first-come, first-served basis during Phase III. Phase III is open to anyone, including those who already have a harvest permit from either of the two preceding phases. Those who are selected to receive a permit must purchase an Alligator Trapping License. Each permit authorizes taking two alligators, specifies where the alligators may be taken, and comes with two hide validation tags, referred to as CITES tags.²⁸

Another option for participating in the Alligator Harvest Program is to purchase an Alligator Trapping Agent License, which allows those individuals to assist someone who was selected for a harvest permit and has an Alligator Trapping License.

²⁴ *Supra* note 6. (FWC ANALYSIS – REMOVE IN FINAL) POINT TO PAGE 7 agency analysis

²⁵ U.S. Fish and Wildlife Service, *Environmental Conservation Online System, American alligator (Alligator mississippiensis)*, <http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=C000#recovery> (last visited Mar. 3, 2015).

²⁶ *Supra* note 4, at 8.

²⁷ *Supra* note 4, at 9.

²⁸ FWC, *Statewide Alligator Hunt Permit: General Information*, <http://myfwc.com/license/limited-entry-hunts/general-info/alligator-hunt-permit/> (last visited Mar. 17, 2015).

Private Lands Alligator Management Program

The Private Lands Alligator Management Program was established as a mechanism for landowners to sustainably harvest alligators on their properties. To participate in the program, applicants must own or lease a parcel that contains an alligator habitat. Public lands, other than sovereignty submerged lands, for which a governmental entity can demonstrate an ownership or leasehold interest and with approval of the governmental entity that owns the property are also eligible for inclusion in the program.²⁹

Once the FWC evaluates the property for the sustainable yield of alligators, it issues the required permits and CITES tags up to the sustainable yield. Unlike the Statewide Alligator Harvest Program, participants in this program may take alligators year round, rather than during designated seasons.³⁰ The person permitted to harvest on private lands may be absent when someone with either an Alligator Trapping License or an Alligator Trapping Agent License harvests alligators on the parcel.³¹

Statewide Nuisance Alligator Program

Generally, an alligator may be deemed a nuisance if it is at least four feet long and the person reporting the alligator believes it poses a threat to people, pets, or property. The state does not allow for the relocation of nuisance alligators.³² According to the FWC, they tend to return to where they were initially captured. Smaller alligators, however, are usually relocated to nearby wetland habitats.³³

The FWC contracts with nuisance alligator trappers to remove problem alligators.³⁴ Nuisance alligator trappers must purchase an Alligator Trapping License.³⁵ When a nuisance alligator is reported, the FWC issues a permit to the trapper authorizing the removal of the specific alligator. The public may not hire or provide authorization to a nuisance alligator trapper to remove a nuisance alligator. They may only be handled by FWC-contracted nuisance alligator trappers. Trappers are issued CITES tags at the beginning of each year which are attached to each trapped alligator. Nuisance alligator trappers receive \$30 per captured alligator, until all funds are expended. According to the FWC, there is a recurring annual allocation in the FWC's budget of \$210,000 to pay trappers for capturing nuisance alligators.³⁶

Contract trappers are allowed to use designated agents who can operate independently of them, but the agent must be in possession of the harvest permit and tags issued to the nuisance alligator trapper under contract. Trappers are ultimately responsible for their agents, and the trappers' agents must possess either an Alligator Trapping or Alligator Trapping Agent License.³⁷

²⁹ FWC, *Private Lands Alligator Program*, <http://myfwc.com/wildlifehabitats/managed/alligator/private-lands/> (last visited Mar. 3, 2015).

³⁰ *Supra* note 4, at 11.

³¹ *Supra* note 4, at 11.

³² *Supra* note 22.

³³ *Supra* note 4, at 12.

³⁴ FWC, *How to be a Nuisance Alligator Trapper*, <http://myfwc.com/wildlifehabitats/managed/alligator/nuisance/trapper/> (last visited Mar. 3, 2015).

³⁵ *Supra* note 4, at 13.

³⁶ *Supra* note 4, at 13.

³⁷ *Supra* note 4, at 13.

Alligator Trapping Guides

Alligator trapping guides sell packaged hunts to people who would like to hunt an alligator. They must be properly licensed and permitted under one of the FWC's three programs. The guides solicit clients and provide assistance and equipment to any unskilled participants they are accompanying who have been issued their own harvest permits. The guide may operate with an Alligator Trapping Agent License when guiding a person with an Alligator Trapping License or may operate with the Alligator Trapping License with clients who have either type of license.³⁸

Public Waters Alligator Egg Collection Program

The Public Waters Alligator Egg Collection Program permits the collection of alligator eggs from public waters by up to 30 licensed and permitted alligator farmers in order to provide a consistent source of rearing stock. The number of farms is restricted due to the limited availability of eggs in the wild.³⁹

Areas are established annually by the Alligator Management Program staff. Staff members assess the area and set a quota of 25 to 100 percent of non-depredated, non-flooded nests. Collections are conducted under the direct supervision of FWC biologists. Those eggs are then transferred to the 30 farmers who incubate and hatch the eggs or transfer them to other persons permitted to receive alligator eggs from the wild. The FWC issues an alligator egg collection permit before eggs can be collected under the program. The fee for the permit is limited to \$5 per egg.⁴⁰

Alligator Farming

Alligator farming has been performed in Florida since the 1970s. Despite fluctuations in the market for alligator hides in the last decade, the number of alligator farms has remained fairly constant since 2002 with about 60 farms. Inventories have stayed above 80,000 animals with almost 20,000 alligators harvested annually for their hides and meat. Alligator farmers must obtain an Alligator Farming License. They may employ assistants who must obtain an Alligator Farming Agent's License.⁴¹

Hide and Fur Dealers

Alligator hide dealers solicit, broker, or otherwise buy unpreserved lawfully acquired and tagged alligator hides for the purpose of selling the hides to commercial tanneries or manufacturers of alligator hide products. Under the required Fur and Hide Dealer's License, they do not harvest any part of the alligator. They instead play a role in the final disposition of alligator hides. They must abide by record keeping requirements set by the FWC.⁴²

³⁸ *Supra* note 4, at 14.

³⁹ Rule 68A-25.004, F.A.C. See also *supra* note 6. POINTS TO PAGE 14 agency analysis

⁴⁰ *Supra* note 4, at 14.

⁴¹ *Supra* note 4, at 14.

⁴² Rule 68A-25.004, F.A.C.

Alligator Meat Processors

Alligator meat processors are issued a no-cost Alligator Meat Processing Facility Permit by the FWC after being inspected and approved by the Department of Agriculture and Consumer Services (DACS). They must also purchase an Alligator Processor's License, if the processor is not already in possession of an Alligator Farming License or an Alligator Trapping License.⁴³ The processors buy carcasses from other alligator meat processors, alligator farmers, and program participants permitted to take alligators from the wild. In addition, they import lawfully acquired alligator meat from out of state for reprocessing and repackaging for wholesale and retail sale.⁴⁴

Alligator Marketing and Education – The Department of Agriculture and Consumer Services

Under a contract executed in 1993, \$5 for every CITES tag attached to an alligator taken from the wild through the private lands and nuisance alligator harvest programs is transferred to the DACS.⁴⁵ Also, \$1 for every alligator egg taken from public waters is transferred to the DACS. The transfers are in support of alligator marketing and education activities overseen by the Division of Marketing, Bureau of Seafood and Aquaculture, within the DACS.

Alligator Related Licenses and Fees for the 2014 Season⁴⁶

License	Fee
Resident Alligator Trapping License	\$250
Non-Resident Alligator Trapping License	\$1,000
Alligator Trapping Agent's License (resident and non-resident)	\$50
Alligator Hide Validation (CITES) Tag	Up to \$30 per tag
Resident Fur and Hide Dealer's License	\$100
Non-Resident Fur and Hide Dealer's License	\$500
Egg Permit	Up to \$5 per egg
Alligator Farming License (resident and non-resident)	\$250
Alligator Farming Agent's License (resident and non-resident)	\$50
Alligator Processor's License (resident and non-resident)	\$250

Violations of alligator management strategies include:

- The unlawful sale, possession, or transporting of alligators or alligator skins;⁴⁷
- Prima facie evidence of intent to violate laws protecting alligators (use of firearms and light at night where alligators might be known to be present);⁴⁸
- Unlawfully selling alligator products;⁴⁹
- Using the words "alligator" or "gator" in certain sales;⁵⁰

⁴³ *Supra* note 4, at 15.

⁴⁴ *Supra* note 4, at 15.

⁴⁵ *Supra* note 4, at 15.

⁴⁶ See generally Part VII of ch. 379, F.S., for alligator licenses and fees.

⁴⁷ Section 379.3014, F.S.

⁴⁸ Section 379.3015, F.S.

⁴⁹ Section 379.3016, F.S.

⁵⁰ Section 379.3017, F.S.

- Not possessing a Fur and Hide Dealer's License, when necessary;⁵¹
- Taking and possessing alligators without a trapping license;⁵²
- Not tagging alligators and hides when required;⁵³
- Violating rules or orders of the FWC;⁵⁴ and
- Illegally killing, possessing, or capturing alligators, other crocodilian, or eggs.⁵⁵

Additionally, the Wildlife Violator Compact Act authorizes reciprocal license suspensions in participating states.⁵⁶

Wildlife Feeding Rules

The FWC has adopted rules that prohibit feeding certain species of wildlife. Those rules, along with types of feeding that are common for the species for which feeding is prohibited, are:

Species	Rule	Common Types of Feeding
Bear, Fox, and Raccoon	Intentionally placing food or garbage, allowing the placement of food or garbage, or offering food or garbage in such a manner that it attracts black bears, foxes, or raccoons and in a manner that is likely to create or creates a public nuisance is prohibited. ⁵⁷	Garbage, pet or livestock food, birdseed, or other foods left unsecured outside or placed out intentionally for these wildlife
Pelican	The intentional feeding or the placement of food that attracts pelicans and modifies the natural behavior of the pelican so as to be detrimental to the survival or health of a local population is prohibited. ⁵⁸	Fish and food scraps handed out or dumped in ways that allow the animals to feed on that material
Sandhill Crane	The intentional feeding of sandhill cranes is prohibited. ⁵⁹	Bird feeders or bread or corn that people leave out, whether for cranes or for other wildlife
Bald Eagle	No person shall take, feed, disturb, possess, sell, purchase or barter, or attempt to engage in any such conduct, any bald eagle or parts thereof, or their nests or eggs, except when authorized	Food scraps handed out or dumped in ways that allow the animals to feed on that material

⁵¹ Section 379.364, F.S.

⁵² Section 379.3751, F.S.

⁵³ Section 379.3752, F.S.

⁵⁴ Section 379.401, F.S.

⁵⁵ Section 379.409, F.S.

⁵⁶ Section 379.2255, F.S.

⁵⁷ Rule 68A-4.001(3), F.A.C.

⁵⁸ Rule 68A-4.001(4), F.A.C.

⁵⁹ Rule 68A-4.001(5), F.A.C.

	by permit or consistent with FWC Eagle Management Guidelines. ⁶⁰	
Alligator and Crocodile	No person shall intentionally feed, or entice with feed, any crocodilian unless held in captivity under a permit issued by the FWC or otherwise provided. ⁶¹	Food scraps handed out or dumped in ways that allow the animals to feed on that material

The purpose of the rules is to protect both the species and the public. All wild animals have a natural fear of people, but when wild animals are fed by people, animals' natural fear is diminished. This results in wildlife having more frequent and closer contact with people. Feeding wildlife also results in nuisance and aggressive behavior by the animals, which can pose a risk to public safety, danger to pets and small livestock, and property damage. Wildlife fed by humans also spend more time in developed areas, which exposes them to increased risks of being hit by vehicles, sickness from disrupted natural diets and behaviors, killing by the public, and euthanization by the FWC in order to protect public safety.⁶²

Bear Related Incidences from 2007 to 2013⁶³

Year	2007	2008	2009	2010	2011	2012	2013
Reports from public listing "Bear in Garbage"	848	916	1,347	1,626	1,329	2,064	2,363
Percent of total public reports listing "Bear in Garbage"	30%	33%	40%	39%	33%	33%	33%
Bears euthanized due to conflicts	15	14	19	14	13	22	25
Number of euthanizations that were food related (from intentional or unintentional feeding)	10	11	11	9	10	21	23
Percent of euthanizations that were food related	67%	79%	58%	64%	77%	95%	92%
Feeding rule warnings issued	6	7	10	25	29	22	28
Feeding rule citations issued	7	1	6	4	8	6	4

A first violation of the feeding prohibition rules listed above is a Level II offense, which is a second-degree misdemeanor resulting in punishment of up to 60 days in jail and/or up to a \$500 fine.

⁶⁰ Rule 68A-16.002, F.A.C.

⁶¹ Rule 68A-25.001, F.A.C.

⁶² In Dec. 2014, a woman in Lake Mary was attacked by a bear in her driveway. The event was widely reported and the attack resulted in the euthanization of several bears in the area. The attack and the events that followed resulted in significant exposure to the problem of bears in residential communities and the harm they can cause.

⁶³ *Supra* note 4, at 21.

A person convicted of a Level II violation within three years after a previous conviction of a Level II or higher violation commits a first-degree misdemeanor, punishable by imprisonment of up to a year and/or a fine of up to \$1,000, with a mandatory minimum fine of \$250.

A person convicted of a Level II violation within five years of two previous Level II or higher violation commits a first-degree misdemeanor, punishable by imprisonment of up to a year and/or a fine of up to \$1,000, with a mandatory minimum fine of \$500 and suspension of all recreational licenses for a year.

A person convicted of a Level II violation within 10 years of three previous convictions of a Level II or higher violation commits a first-degree misdemeanor, punishable by imprisonment of up to a year and/or a fine of up to \$1,000, with a minimum mandatory fine of \$750 and suspension of all recreational licenses for three years.⁶⁴

According to the FWC, when FWC officers issue citations for violations of feeding rules, assistant state attorneys reject 28 percent of them and 25 percent of those charged have their adjudications withheld (meaning that there is no criminal misdemeanor, however, fines are assessed).

FWC officers' experiences, as well as adjudication results of citations issued for feeding prohibition rules, reveal that there are varying degrees of severity and willfulness in feeding violations despite the single criminal penalty of a second-degree misdemeanor. Discussions with assistant state attorneys have revealed that some believe a second-degree misdemeanor is too severe a penalty for some initial violations of animal feeding rules, and this may be the reason for the reluctance to prosecute some violations. On the other hand, some citations are prosecuted and violators have been issued significant sentences.

Since 2007, the FWC has recorded the highest levels of human-wildlife conflict in 2012 and 2013. Incidents of human injuries caused by bears and alligators have also been more prevalent. In 2013 and 2014, the FWC documented the most serious human injuries caused by bears since records have been kept, which began in 1976. Many of these human-wildlife interactions result from violations of the animal feeding rules. Since many violations of these rules are not prosecuted, the penalty may have little deterrent effect.

III. Effect of Proposed Changes:

Sections 1 through 3 amend ss. 327.37, 327.39, and 327.50, F.S., respectively, to remove current Personal Flotation Device (PFD) type codes and provide that when water skiing, parasailing, aquaplaning, operating a personal watercraft, and for every person under six years of age on board a vessel less than 26 feet, all of which require wearing a PFD, the PFD must be approved by the Coast Guard and used in accordance with the Coast Guard approval label.

Section 4 amends s. 379.357, F.S., to correct the scientific name of tarpon in the statute from the incorrect *megalops atlantica* to the correct name, which is *Megalops atlanticus*.

⁶⁴ Section 379.401(2)(b)1.-4., F.S.

The bill changes the dates tarpon tags are valid from July 1 through June 30 to January 1 through December 31. Currently tarpon tags may have to be purchased twice during the height of the tarpon fishing season if they have not been used by July 1.

The bill repeals a requirement for tax collectors to submit any unissued tags for the previous fiscal year along with a written audit report as to the numbers of unissued tags.

The bill also repeals reporting requirements for tarpon landings.

Section 5 amends s. 379.361, F.S., to repeal all statutory references to the qualifying requirements for acquiring a Restricted Species Endorsement (RS). Current requirements are found in Rule 68B-2.006, F.A.C.

Section 6 amends s. 379.3012, F.S., to rephrase “Alligator Management and Trapping Program” to “Alligator Management Program”, which is the only place the phrase “Alligator Management and Trapping Program” is used in statute or rule.

The bill removes statutory rulemaking authority to implement an alligator management and trapping program. The Fish and Wildlife Conservation Commission (FWC) reports that provisions are no longer needed and removing them will not impact program participants, stakeholders, resource protection, or program implementation. Rule 68A-25.032, F.A.C., governs regulations concerning the establishment of alligator programs. Rule 68A-25.042, F.A.C., governs regulations concerning statewide alligator trapping, permitting, taking, and sale.

The bill also clarifies the word “hereunder” by replacing it with the phrase “alligator management program,” in reference to the existing provision that precludes the FWC’s alligator management program from superseding the regulatory authority or responsibilities of the Department of Agriculture and Consumer Services (DACS), the Department of Health, or any local governmental entity regarding the processing or handling of food products.

Section 7 amends s. 379.364, F.S., to clarify that it is unlawful for a person to engage in the business of dealing or buying green or dried alligator hides, as opposed to alligator skins, to ensure all uncured alligator hides are identified as originally intended, according to the FWC.

The bill also removes reporting and shipping requirements for dealers and buyers for fur and hide dealers because they are found in Rule 68A-24.004, F.A.C.

Section 8 amends s. 379.3751, F.S., to clarify that a person may not take or possess an alligator or alligator eggs without an “alligator license” rather than a “trapping license”

The bill removes statutory rulemaking authority to limit the number of participants engaged in the taking of alligators or alligator eggs because the provision is already incorporated in Rule 68A-25.002, F.A.C.

It deletes a mandatory requirement to transfer \$1 to the DACS for any alligator egg collected and retained, whether or not a fee is assessed for the egg. It makes the transfer of \$1 per egg contingent on an annual appropriation for alligator marketing and education activities.

It removes redundant rulemaking authority to establish appropriate qualifications for permitting alligator collectors.

It requires a person who assists a contracted nuisance alligator trapper to possess an alligator trapping agent's license.

The bill also provides the following exemptions:

- Contracted nuisance alligator trappers are not required to obtain an alligator trapping license;
- Children under 16 years of age taking an alligator under an alligator harvest program implemented by FWC rule are not required to obtain an alligator trapping agent license;
- People taking an alligator pursuant to an event permit issued under s. 379.353(2)(q), F.S., which contains exemptions for certain veterans, are not required to obtain an alligator trapping or trapping agent license;
- People who meet the disability requirements under s. 379.353(1), F.S., are not required to pay any fee for an alligator trapping or trapping agent license; and
- People engaged in taking an alligator under an FWC permit are not required to pay for an additional wildlife management area permit when hunting alligators under an FWC permit in such an area.

Section 9 amends s. 379.3752, F.S., to reenact the section and remove a requirement for the FWC to use one-third of the revenue from issuing the alligator hatchling tag for alligator husbandry research. The FWC reports that the policy is obsolete and no longer needed to aid in the regulation or management of alligators.

The bill also removes a permissive requirement that CITES tags be attached to the hide of any alligator taken from the wild and that the hide must be possessed, purchased, sold, offered for sale, or transported in accordance with FWC rule. The FWC reports that it is redundant with Rule 68A-25.042, F.A.C.

The bill removes a mandatory transfer of \$5 for any validated hide to the General Inspection Trust Fund, to be used by DACS for the purpose of marketing and education services with respect to alligator products produced in the state. The bill makes the transfer contingent upon an annual appropriation for alligator marketing and education activities.

The bill removes a requirement to limit the number of CITES tags to what the FWC deems to be the safe yield of alligators in the state. The FWC reports that it is redundant with Rule 68A-25.032, F.A.C.

Section 10 amends s. 379.401, F.S., to remove violations involving rules or orders of the FWC relating to the feeding of wildlife, freshwater fish, or feeding or enticement of alligators or crocodiles from the list of Level II violations. These violations are addressed in s. 379.412, which is created in section 11 of the bill.

Section 11 creates s. 379.412, F.S., to provide penalties for feeding wildlife and freshwater fish.

The penalties apply to:

- Feeding wildlife or freshwater fish with food or garbage;
- Attracting or enticing wildlife or freshwater fish with food or garbage; or
- Allowing the placement of food or garbage in a manner that attracts or entices wildlife or freshwater fish.

The penalties do not apply to rules or orders of the FWC that:

- Relate to animals that are held in captivity;
- Restrict the taking or hunting of species over bait or other intentionally placed or deposited food; or
- Restrict the taking or hunting of species in proximity to feeding stations.

A first violation is a noncriminal infraction, punishable by a civil penalty of \$100 and anyone cited for a first violation is subject to the following requirements:

- A person cited for a violation must sign and accept a citation to appear before the county court. The issuing officer may indicate on the citation the time and location of the scheduled hearing and must indicate the applicable civil penalty;
- If a person chooses to pay the civil penalty within 30 days, the person is deemed to have admitted to committing the violation and to have waived his or her right to a hearing before the county court. The admission may not be used as evidence in any other proceedings except to determine the appropriate fine for any subsequent violations;
- If a person refuses to accept the citation, fails to pay the civil penalty, or fails to appear before the county court commits a second-degree misdemeanor; and
- If a person chooses or is required to appear before the county court, that person is deemed to have waived the \$100 civil penalty limitation. If the county court determines a violation has occurred, the court may impose a civil penalty of at least \$100. If a person has been found guilty of committing a violation, he or she may appeal to the circuit court. The bill provides that the commission of a violation must be proved by the legal standard of beyond a reasonable doubt.

A second or any subsequent violations, if all violations are related to freshwater fish or wildlife other than bears, alligators, or other crocodilians, is a second-degree misdemeanor.

Further violations, if all violations involve bears, alligators, or other crocodilians, are classified as second-degree misdemeanors for second violations, first-degree misdemeanors for third violations, and third-degree felonies for any fourth or subsequent violations

The bill defines “violations” as any judicial disposition other than acquittal or dismissal.

Section 12 repeals s. 379.3011, F.S., which relates to alligator trapping program definitions. The FWC reports that the definitions of “alligator” and “process or processing” are unnecessary in aiding the regulation and management of alligator resources. The definition of “alligator hatchling” is in Rule 68A-1.004, F.A.C.

Section 13 repeals s. 379.3013, F.S., which relates to alligator study requirements. It is incorporated in Rule 68A-25.042, F.A.C.

Section 14 repeals s. 379.3016, F.S., which relates to penalties for unlawfully selling alligator products. The prohibition on selling any alligator product manufactured in the form of a stuffed baby alligator or other baby crocodilia, and the prohibition on selling any alligator product manufactured from an endangered species are now found in Rule 68A-25.002, F.A.C. Section 379.3016(3), F.S., provides that a violation of those two provisions is a first-degree misdemeanor. This will make those violations Level II violations, which reduces these violations to second-degree misdemeanors.

Section 15 repeals s. 379.3017, F.S., which relates to a prohibition on the use of the word “alligator” or “gator” when used in connection with the sale of products made from some other crocodilian. This provision has been incorporated in Rule 68A-25.002, F.A.C.

Sections 16 through 18 reenact sections of the Florida Statutes for the purpose of incorporating amendments made in the bill.

Section 19 provides that the act will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under CS/SB 680, children under the age of 16 who wish to hunt alligators will save \$50 per year under the exemption for an Alligator Trapping Agent License.

Current members of the military and “wounded warriors” taking alligators as part of a FWC sanctioned event will save either the \$250 or \$50 normally required for an Alligator Trapping License or an Alligator Trapping Agent License, respectively. In addition, permanently disabled participants who wish to hunt alligators will experience similar savings.

Contracted nuisance alligator trappers will save \$250 annually because they no longer have to pay \$250 for the Alligator Trapping License when trapping nuisance alligators under contract with the FWC. This will not apply if a nuisance alligator trapper is hunting alligators recreationally or on private lands.

Modified penalties for violations of wildlife feeding rules may have a fiscal impact but it is indeterminate whether it will be negative or positive since initial violations will incur a lower fine but further violations will incur higher fines. Also, state attorneys may be more willing to prosecute violations leading to additional fines.

C. Government Sector Impact:

Fines assessed for convictions of violations of wildlife feeding rules are deposited in the Clerk of the Circuit Court Fine and Forfeiture Fund. The bill lowers the maximum fine from \$500 to \$100. The fiscal impact is indeterminate, and given the number of citations issued in Fiscal Year 2013-2014 (12 for a total of \$1,623), it is likely to be minimal.

Fines imposed when adjudication is withheld for violations of wildlife feeding rules are remitted to the Department of Revenue for deposit in the General Revenue Fund. For the 2013-2014 fiscal year, \$270 was deposited. The fiscal impact is indeterminate and likely to be minimal.

The FWC estimates that it will experience a negative fiscal impact related to the exemptions on alligator trapping and trapping agent licenses of approximately \$27,500.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 327.37, 327.39, 327.50, 379.357, 379.361, 379.3012, 379.364, 379.3751, 379.3752, and 379.401.

This bill creates section 379.412 of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 379.3011, 379.3013, 379.3016, and 379.3017.

This bill reenacts the following sections of the Florida Statutes: 327.73, 327.375, and 327.54.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environmental Preservation and Conservation on March 19, 2015:

The CS makes a technical change.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
