

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.