

## Senate Bill No. 174

An act relating to the protection of marine turtles; amending s. 370.12, F.S.; providing penalties for violating the Marine Turtle Protection Act; providing first-degree misdemeanor and third-degree felony penalties for knowingly possessing a specified number or more of marine turtle eggs; providing an additional penalty for each egg involved in such a violation; providing that it is a third-degree felony to knowingly take, disturb, mutilate, destroy, cause to be destroyed, transfer, sell, offer to sell, molest, or harass a marine turtle or its nest, hatchings, eggs, or parts thereof; providing that it is a third-degree felony to solicit or conspire to violate the Marine Turtle Protection Act; amending s. 777.04, F.S.; relating to the offense of criminal attempt, criminal solicitation, or criminal conspiracy; providing that a violation of the Marine Turtle Protection Act is exempt from certain sentencing requirements for an offense of solicitation or conspiracy; amending s. 921.0022, F.S.; relating to the offense severity ranking chart of the Criminal Punishment Code; conforming provisions of the Act to the Code; providing an effective date.

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

Section 1. Subsection (1) of section 370.12, Florida Statutes, is amended to read:

370.12 Marine animals; regulation.—

(1) PROTECTION OF MARINE TURTLES.—

(a) This subsection may be cited as the “Marine Turtle Protection Act.”

(b) The Legislature intends, pursuant to the provisions of this subsection, to ensure that the Fish and Wildlife Conservation Commission has the appropriate authority and resources to implement its responsibilities under the recovery plans of the United States Fish and Wildlife Service for the following species of marine turtle:

1. Atlantic loggerhead turtle (*Caretta caretta* ~~caeretta~~).
2. Atlantic green turtle (*Chelonia mydas*) (~~*Chelonis mydas mydas*~~).
3. Leatherback turtle (*Dermochelys coriacea*).
4. Atlantic hawksbill turtle (*Eretmochelys imbricata* ~~imbricata~~).
5. Atlantic ridley turtle (*Lepidochelys kempi*).

(c) As used in this subsection, the following phrases have the following meanings:

1. A “properly accredited person” is:

a. Students of colleges or universities whose studies with saltwater animals are under the direction of their teacher or professor; or

b. Scientific or technical faculty of public or private colleges or universities; or

c. Scientific or technical employees of private research institutions and consulting firms; or

d. Scientific or technical employees of city, county, state, or federal research or regulatory agencies; or

e. Members in good standing or recognized and properly chartered conservation organizations, the Audubon Society, or the Sierra Club; or

f. Persons affiliated with aquarium facilities or museums, or contracted as an agent therefor, which are open to the public with or without an admission fee; or

g. Persons without specific affiliations listed above, but who are recognized by the commission for their contributions to marine conservation such as scientific or technical publications, or through a history of cooperation with the commission in conservation programs such as turtle nesting surveys, or through advanced educational programs such as high school marine science centers.

2. "Take" means an act that actually kills or injures marine turtles, and includes significant habitat modification or degradation that kills or injures marine turtles by significantly impairing essential behavioral patterns, such as breeding, feeding, or sheltering.

(d) Except as authorized in this paragraph, or unless otherwise provided by the Federal Endangered Species Act or its implementing regulations, a person, firm, or corporation may not:

1. Knowingly possess the eggs of any marine turtle species described in this subsection.

2. Knowingly take, disturb, mutilate, destroy, cause to be destroyed, transfer, sell, offer to sell, molest, or harass any marine turtles or the eggs or nest of any marine turtles described in this subsection.

3. The commission may issue a special permit or loan agreement to any person, firm, or corporation, to enable the holder to possess a marine turtle or parts thereof, including nests, eggs, or hatchlings, for scientific, education, or exhibition purposes, or for conservation activities such as the relocation of nests, eggs, or marine turtles away from construction sites. Notwithstanding other provisions of law, the commission may issue such special permit or loan agreement to any properly accredited person as defined in paragraph (c) for the purposes of marine turtle conservation.

4. The commission shall have the authority to adopt rules pursuant to chapter 120 to prescribe terms, conditions, and restrictions for marine turtle conservation, and to permit the possession of marine turtles or parts thereof.

(e)1. Any person, firm, or corporation that commits any act prohibited in paragraph (d) involving any egg of any marine turtle species described in this subsection shall pay a penalty of \$100 per egg in addition to other penalties provided in this paragraph.

2. Any person, firm, or corporation that illegally possesses 11 or fewer of any eggs of any marine turtle species described in this subsection commits a first degree misdemeanor, punishable as provided in s. 775.082 and s. 775.083.

3. For a second or subsequent violation of sub-paragraph 2, any person, firm, or corporation that illegally possesses 11 or fewer of any eggs of any marine turtle species described in this subsection commits a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. Any person, firm, or corporation that illegally possesses more than 11 of any eggs of any marine turtle species described in this subsection commits a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

5. Any person, firm, or corporation who illegally takes, disturbs, mutilates, destroys, causes to be destroyed, transfers, sells, offers to sell, molests, or harasses any marine turtle species, or the eggs or nest of any marine turtle species as described in this subsection, commits a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

6. Notwithstanding s. 777.04, any person, firm, or corporation who solicits or conspires with another person, firm, or corporation, to commit an act prohibited by this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

7. The proceeds from the penalties assessed pursuant to this paragraph shall be deposited into the Marine Resources Conservation Trust Fund.

~~(e)1.— Unless otherwise provided by the federal Endangered Species Act or its implementing regulations, no person may take, possess, disturb, mutilate, destroy, cause to be destroyed, sell, offer for sale, transfer, molest, or harass any marine turtle or its nest or eggs at any time. For purposes of this subsection, “take” means an act which actually kills or injures marine turtles, and includes significant habitat modification or degradation that kills or injures marine turtles by significantly impairing essential behavioral patterns, such as breeding, feeding, or sheltering.~~

~~2.— Unless otherwise provided by the federal Endangered Species Act or its implementing regulations, no person, firm, or corporation may take, kill, disturb, mutilate, molest, harass, or destroy any marine turtle.~~

~~3.— No person, firm, or corporation may possess any marine turtle, their nests, eggs, hatchlings, or parts thereof unless it is in possession of a special permit or loan agreement from the commission enabling the holder to possess a marine turtle or parts thereof for scientific, educational, or exhibitional purposes, or for conservation activities such as relocating nests, eggs, or animals away from construction sites. Notwithstanding any other provisions of general or special law to the contrary, the commission may issue~~

~~such authorization to any properly accredited person for the purpose of marine turtle conservation upon such terms, conditions, and restrictions as it may prescribe by rule adopted pursuant to chapter 120. The commission shall have the authority to adopt rules pursuant to chapter 120 to permit the possession of marine turtles pursuant to this paragraph. For the purposes of this subsection, a "properly accredited person" is defined as:~~

~~a.—Students of colleges or universities whose studies with saltwater animals are under the direction of their teacher or professor;~~

~~b.—Scientific or technical faculty of public or private colleges or universities;~~

~~c.—Scientific or technical employees of private research institutions and consulting firms;~~

~~d.—Scientific or technical employees of city, county, state, or federal research or regulatory agencies;~~

~~e.—Members in good standing or recognized and properly chartered conservation organizations, the Audubon Society, or the Sierra Club;~~

~~f.—Persons affiliated with aquarium facilities or museums, or contracted as an agent therefor, which are open to the public with or without an admission fee; or~~

~~g.—Persons without specific affiliations listed above, but who are recognized by the commission for their contributions to marine conservation such as scientific or technical publications, or through a history of cooperation with the commission in conservation programs such as turtle nesting surveys, or through advanced educational programs such as high school marine science centers.~~

~~(f)(d) Any application for a Department of Environmental Protection permit or other type of approval for an activity that affects marine turtles or their nests or habitat shall be subject to conditions and requirements for marine turtle protection as part of the permitting or approval process.~~

~~(g)(e) The Department of Environmental Protection may condition the nature, timing, and sequence of construction of permitted activities to provide protection to nesting marine turtles and hatchlings and their habitat pursuant to the provisions of s. 161.053(5). When the department is considering a permit for a beach restoration, beach renourishment, or inlet sand transfer project and the applicant has had an active marine turtle nest relocation program or the applicant has agreed to and has the ability to administer a program, the department must not restrict the timing of the project. Where appropriate, the department, in accordance with the applicable rules of the Fish and Wildlife Conservation Commission, shall require as a condition of the permit that the applicant relocate and monitor all turtle nests that would be affected by the beach restoration, beach renourishment, or sand transfer activities. Such relocation and monitoring activities shall be conducted in a manner that ensures successful hatching. This limitation on the department's authority applies only on the Atlantic coast of Florida.~~

(h)(f) The department shall recommend denial of a permit application if the activity would result in a “take” as defined in this subsection, unless, as provided for in the federal Endangered Species Act and its implementing regulations, such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

(i)(g) The department shall give special consideration to beach preservation and beach nourishment projects that restore habitat of endangered marine turtle species. Nest relocation shall be considered for all such projects in urbanized areas. When an applicant for a beach restoration, beach renourishment, or inlet sand transfer project has had an active marine turtle nest relocation program or the applicant has agreed to have and has the ability to administer a program, the department in issuing a permit for a project must not restrict the timing of the project. Where appropriate, the department, in accordance with the applicable rules of the Fish and Wildlife Conservation Commission, shall require as a condition of the permit that the applicant relocate and monitor all turtle nests that would be affected by the beach restoration, beach renourishment, or sand transfer activities. Such relocation and monitoring activities shall be conducted in a manner that ensures successful hatching. This limitation on the department’s authority applies only on the Atlantic coast of Florida.

(j)(h) The Fish and Wildlife Conservation Commission shall provide grants to coastal local governments, educational institutions, and Florida-based nonprofit organizations to conduct marine turtle research, conservation, and education activities within the state. The commission shall adopt by rule pursuant to chapter 120 procedures for submitting grant applications and criteria for allocating available funds. The criteria must include the scope of the proposed activity, the relevance of the proposed activity to the recovery plans for marine turtles, the demand and public support for the proposed activity, the duration of the proposed activity, the availability of alternative funding, and the estimated cost of the activity. The executive director of the commission shall appoint a committee of at least five members, including at least two nongovernmental representatives, to consider and choose grant recipients from proposals submitted by eligible entities. Committee members shall not receive any compensation from the commission.

Section 2. Paragraphs (a), (d), and (e) of subsection (4) of section 777.04, Florida Statutes, are amended to read:

777.04 Attempts, solicitation, and conspiracy.—

(4)(a) Except as otherwise provided in ss. 104.091(2), 370.12(1), 828.125(2), 849.25(4), 893.135(5), and 921.0022, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is ranked for purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944 one level below the ranking under s. 921.0022 or s. 921.0023 of the offense attempted, solicited, or conspired to. If the criminal attempt, criminal solicitation, or criminal conspiracy is of an offense ranked in level 1 or level 2 under s. 921.0022 or s. 921.0023, such offense is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(d) Except as otherwise provided in s. 104.091(2), s. 370.12(1), s. 828.125(2), or s. 849.25(4), if the offense attempted, solicited, or conspired to is a:

1. Felony of the second degree;
2. Burglary that is a felony of the third degree; or
3. Felony of the third degree ranked in level 3, 4, 5, 6, 7, 8, 9, or 10 under s. 921.0022 or s. 921.0023,

the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) Except as otherwise provided in s. 104.091(2), s. 370.12(1), s. 849.25(4), or paragraph (d), if the offense attempted, solicited, or conspired to is a felony of the third degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 3. Paragraphs (b) and (c) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

| Florida Statute       | Felony Degree | Description  |
|-----------------------|---------------|--|
| (b) LEVEL 2           |               |  |
| <u>370.12(1)(e)3.</u> | <u>3rd</u>    | <u>Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.</u>                                    |
| <u>370.12(1)(e)4.</u> | <u>3rd</u>    | <u>Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.</u>                                   |
| 403.413(5)(c)         | 3rd           | Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste. |
| 517.07                | 3rd           | Registration of securities and furnishing of prospectus required.  |
| 590.28(1)             | 3rd           | Willful, malicious, or intentional burning.  |
| 784.05(3)             | 3rd           | Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.  |
| 787.04(1)             | 3rd           | In violation of court order, take, entice, etc., minor beyond state limits.  |

| Florida Statute | Felony Degree | Description  |
|-----------------|---------------|--|
| 806.13(1)(b)3.  | 3rd           | Criminal mischief; damage \$1,000 or more to public communication or any other public service.           |
| 810.09(2)(e)    | 3rd           | Trespassing on posted commercial horticulture property.  |
| 812.014(2)(c)1. | 3rd           | Grand theft, 3rd degree; \$300 or more but less than \$5,000.  |
| 812.014(2)(d)   | 3rd           | Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling. |
| 812.015(7)      | 3rd           | Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.      |
| 817.234(1)(a)2. | 3rd           | False statement in support of insurance claim.   |
| 817.481(3)(a)   | 3rd           | Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.         |
| 817.52(3)       | 3rd           | Failure to redeliver hired vehicle.  |
| 817.54          | 3rd           | With intent to defraud, obtain mortgage note, etc., by false representation.                             |
| 817.60(5)       | 3rd           | Dealing in credit cards of another.  |
| 817.60(6)(a)    | 3rd           | Forgery; purchase goods, services with false card.   |
| 817.61          | 3rd           | Fraudulent use of credit cards over \$100 or more within 6 months.                                       |
| 826.04          | 3rd           | Knowingly marries or has sexual intercourse with person to whom related.                                 |
| 831.01          | 3rd           | Forgery.   |
| 831.02          | 3rd           | Uttering forged instrument; utters or publishes alteration with intent to defraud.                       |
| 831.07          | 3rd           | Forging bank bills, checks, drafts, or promissory notes.   |
| 831.08          | 3rd           | Possessing 10 or more forged notes, bills, checks, or drafts.  |
| 831.09          | 3rd           | Uttering forged notes, bills, checks, drafts, or promissory notes.                                       |
| 831.11          | 3rd           | Bringing into the state forged bank bills, checks, drafts, or notes.                                     |
| 832.05(3)(a)    | 3rd           | Cashing or depositing item with intent to defraud.   |

| Florida Statute       | Felony Degree | Description   |
|-----------------------|---------------|---|
| 843.08                | 3rd           | Falsely impersonating an officer.   |
| 893.13(2)(a)2.        | 3rd           | Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs other than cannabis.   |
| 893.147(2)            | 3rd           | Manufacture or delivery of drug paraphernalia.<br><br>(c) LEVEL 3   |
| 316.193(2)(b)         | 3rd           | Felony DUI, 3rd conviction.   |
| 316.1935(2)           | 3rd           | Fleeing or attempting to elude law enforcement officer in marked patrol vehicle with siren and lights activated.  |
| 319.30(4)             | 3rd           | Possession by junkyard of motor vehicle with identification number plate removed.   |
| 319.33(1)(a)          | 3rd           | Alter or forge any certificate of title to a motor vehicle or mobile home.  |
| 319.33(1)(c)          | 3rd           | Procure or pass title on stolen vehicle.  |
| 319.33(4)             | 3rd           | With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.   |
| 327.35(2)(b)          | 3rd           | Felony BUI.   |
| 328.05(2)             | 3rd           | Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.   |
| 328.07(4)             | 3rd           | Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.   |
| <u>370.12(1)(e)5.</u> | <u>3rd</u>    | <u>Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.</u> |
| <u>370.12(1)(e)6.</u> | <u>3rd</u>    | <u>Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.</u>  |
| 376.302(5)            | 3rd           | Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.   |
| 501.001(2)(b)         | 2nd           | Tampers with a consumer product or the container using materially false/misleading information.   |



| Florida Statute | Felony Degree | Description  |
|-----------------|---------------|--|
| 697.08          | 3rd           | Equity skimming.   |
| 790.15(3)       | 3rd           | Person directs another to discharge firearm from a vehicle.  |
| 796.05(1)       | 3rd           | Live on earnings of a prostitute.  |
| 806.10(1)       | 3rd           | Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.                 |
| 806.10(2)       | 3rd           | Interferes with or assaults firefighter in performance of duty.  |
| 810.09(2)(c)    | 3rd           | Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.            |
| 812.014(2)(c)2. | 3rd           | Grand theft; \$5,000 or more but less than \$10,000.   |
| 812.0145(2)(c)  | 3rd           | Theft from person 65 years of age or older; \$300 or more but less than \$10,000.                          |
| 815.04(4)(b)    | 2nd           | Computer offense devised to defraud or obtain property.  |
| 817.034(4)(a)3. | 3rd           | Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.    |
| 817.233         | 3rd           | Burning to defraud insurer.  |
| 817.234(8)&(9)  | 3rd           | Unlawful solicitation of persons involved in motor vehicle accidents.                                      |
| 817.234(11)(a)  | 3rd           | Insurance fraud; property value less than \$20,000.  |
| 817.505(4)      | 3rd           | Patient brokering.   |
| 828.12(2)       | 3rd           | Tortures any animal with intent to inflict intense pain, serious physical injury, or death.                |
| 831.28(2)(a)    | 3rd           | Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument. |
| 831.29          | 2nd           | Possession of instruments for counterfeiting drivers' licenses or identification cards.                    |
| 838.021(3)(b)   | 3rd           | Threatens unlawful harm to public servant.   |
| 843.19          | 3rd           | Injure, disable, or kill police dog or horse.  |
| 870.01(2)       | 3rd           | Riot; inciting or encouraging.   |

| Florida Statute | Felony Degree | Description  |
|-----------------|---------------|--|
| 893.13(1)(a)2.  | 3rd           | Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).                                      |
| 893.13(1)(d)2.  | 2nd           | Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 200 feet of university or public park.             |
| 893.13(1)(f)2.  | 2nd           | Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 200 feet of public housing facility.               |
| 893.13(6)(a)    | 3rd           | Possession of any controlled substance other than felony possession of cannabis.   |
| 893.13(7)(a)8.  | 3rd           | Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.   |
| 893.13(7)(a)9.  | 3rd           | Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.  |
| 893.13(7)(a)10. | 3rd           | Affix false or forged label to package of controlled substance.  |
| 893.13(7)(a)11. | 3rd           | Furnish false or fraudulent material information on any document or record required by chapter 893.  |
| 893.13(8)(a)1.  | 3rd           | Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice. |
| 893.13(8)(a)2.  | 3rd           | Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.  |
| 893.13(8)(a)3.  | 3rd           | Knowingly write a prescription for a controlled substance for a fictitious person.   |
| 893.13(8)(a)4.  | 3rd           | Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.                      |
| 918.13(1)(a)    | 3rd           | Alter, destroy, or conceal investigation evidence.   |

| Florida Statute       | Felony Degree | Description   |
|-----------------------|---------------|---|
| 944.47<br>(1)(a)1.-2. | 3rd           | Introduce contraband to correctional facility.  |
| 944.47(1)(c)          | 2nd           | Possess contraband while upon the grounds of a correctional institution.                |
| 985.3141              | 3rd           | Escapes from a juvenile facility (secure detention or residential commitment facility). |

Section 4. This act shall take effect July 1, 2003.

Approved by the Governor June 2, 2003.

Filed in Office Secretary of State June 2, 2003.