

# Florida Fish and Wildlife Conservation Commission

## Proposed Penalty Framework for Fish and Wildlife Recreational Violations

January 27, 2006

This document provides a proposed framework for penalties applied to violations of statutes and Commission rules relative to recreational use of fish and wildlife resources under Chapters 370 or 372, F.S. It will: 1) Provide consistency among similar freshwater fish, saltwater fish, and hunting/wildlife violations and create an increased penalty structure for repeat convictions within specified periods of time; 2) create a criminal penalty for hunting or fishing with a suspended or revoked license; and 3) add the Wildlife Violators Compact to Florida law. The effective date is proposed for January 1, 2007, in order to give FWC time to provide public education on the new laws. The document includes suggestions that were proposed at the stakeholder meeting, January 17, 2006.

### **Consistency and Repeat Violations**

This proposal creates four levels for classifying recreational violations associated with a particular penalty and includes, within each level, increased penalties for repeat violations. Penalties increase in severity with each level.

For the purpose of applying penalties under this proposal, the definition of conviction is any disposition other than acquittal or dismissal.

**Level 1:** This level consists of violations of recreational fish and wildlife laws that are non-criminal in nature and do not directly impact resources. Examples include, but are not limited to, hunting or fishing without a license; failing to submit reports required by a license/permit; hunting without an orange vest; violations of wildlife area management rules such as possessing alcoholic beverages, not possessing a quota hunter permit or daily use permit, etc. For a more thorough list of violations, please refer to the attached excel spreadsheet.

**1<sup>st</sup> conviction:** Non-criminal infraction (\$50, plus court costs; in the case of a “no-license” violation, the individual also will have to pay for the cost of the license, as per s. 372.711, F.S.).

**2<sup>nd</sup> and subsequent convictions for the same offense:** The proposed penalty would be a noncriminal infraction (\$50, plus court costs; in the case of a “no-license” violation, the individual also will have to pay for the cost of the license, as per s. 372.711, F.S.) with a minimum mandatory fine of \$250.

**Level 2:** This level consists of violations of recreational fish and wildlife laws that are criminal in nature and directly impact resources, but are less serious than those in higher levels. Examples include, but are not limited to, exceeding bag limits; violating size/slot limits; fishing or hunting during closed seasons; violating artificial reef requirements such as illegal storage or placement of materials; using prohibited gear/equipment; and prohibited feeding of wildlife. The majority of Florida’s fish and wildlife violations would fall under this level. For a more thorough list of violations, please refer to the attached excel spreadsheet.

**1<sup>st</sup> conviction:** 2<sup>nd</sup> degree misdemeanor (up to a \$500 fine and/or up to 60 days in jail, as per s. 775.082 and 775.083, F.S.)

*(Note: In current marine law (s. 370.021, F.S.), for a first conviction, the penalty is a \$100 minimum fine up to \$500, and/or up to 60 days in jail, which is equivalent to a 2<sup>nd</sup> degree misdemeanor. This proposal conforms the penalty to the standard penalty for a 2<sup>nd</sup> degree misdemeanor, as cited above)*

**2<sup>nd</sup> conviction (Level 2 or higher) within 3\* years:** 1<sup>st</sup> degree misdemeanor (up to \$1000 fine and/or up to 1 year in jail, as per s. 775.082 and 775.083, F.S.) with a minimum mandatory fine of \$250.

*(Note: For a 2<sup>nd</sup> conviction more than 3 years after the 1<sup>st</sup> conviction, the penalty would be the same as a 1<sup>st</sup> conviction.)*

**3<sup>rd</sup> conviction (Level 2 or higher) within 5\* years:** 1<sup>st</sup> degree misdemeanor (up to \$1000 fine and/or up to 1 year in jail, as per s. 775.082 and 775.083, F.S.) with a minimum mandatory fine of \$500 and a mandatory 1 year suspension of all FWC recreational licenses and permits issued under Chapter 372, F.S.

**4<sup>th</sup> and subsequent convictions (Level 2 or higher) within 10\* years:** 1<sup>st</sup> degree misdemeanor (up to \$1000 fine and/or up to 1 year in jail, as per s. 775.082 and 775.083, F.S.) with a minimum mandatory fine of \$750 and a mandatory 3-year suspension of all FWC recreational licenses and permits issued under Chapter 372, F.S.

**Level 3:** This level of penalty consists of violations of recreational fish and wildlife laws that are criminal in nature, directly impact resources, and are considered more serious violations than Level 2. Examples include, but are not limited to, possession of commercial quantities of freshwater gamefish; illegal importation of exotic game fish and wildlife; take of deer or turkey during a closed season; use of gun and light, at night, to take deer or turkey; illegal take of doe, antlerless deer, or fawn; possession of three fish in excess of the daily bag limit of trout, snook, or redfish; take of +1000 lbs of illegal finfish; take of shrimp from an illegal area; and take of +100 lobsters, stone crabs, or blue crabs. For a more thorough list of violations, please refer to the attached excel spreadsheet.

**1<sup>st</sup> conviction:** 1<sup>st</sup> degree misdemeanor (up to a \$1000 fine and/or up to 1 year in jail, as per s. 775.082 and 775.083, F.S.).

*(Note: Currently, the penalty for a 1st conviction of taking deer/turkey during closed seasons, use of gun and light at night to take deer, or illegally taking doe deer or fawn deer, is a 1<sup>st</sup> degree misdemeanor along with the additional penalties of a 3-year license suspension and possible seizure of equipment. Under this proposal, these additional penalties are eliminated for a 1<sup>st</sup> conviction)*

**2<sup>nd</sup> and subsequent convictions (Level 3 or higher) within 10\* years:** 1<sup>st</sup> degree misdemeanor (up to a \$1000 fine and/or up to 1 year in jail, as per s. 775.082 and 775.083, F.S.) with a \$750 minimum mandatory fine and mandatory 3 year suspension of all FWC recreational licenses and permits issued under Chapter 372, F.S.

**Level 4:** This level consists of the most serious criminal fish and wildlife violations that directly impact resources. Examples include possessing a counterfeit license; molestation/theft of freshwater fishing gear or lobster/stone crab/blue crab traps, lines, or buoys; illegal sale of deer/turkey or marine fish that are illegally harvested.

**1st and subsequent convictions:** 3rd degree felony (up to a \$5000 fine and/or up to 5 years in jail, as per s. 775.082 and 775.083, F.S.)

### **Hunting or Fishing with a Suspended or Revoked License**

Currently, if someone hunts or fishes with a suspended or revoked license, the penalty is a non-criminal infraction (\$50 fine, plus the cost of the license, and court costs).

This proposal changes the penalty for hunting or fishing with a suspended or revoked license to a 1<sup>st</sup> degree misdemeanor (up to a \$1000 fine and/or up to 1 year in jail, as per s. 775.082 and 775.083, F.S.) with a mandatory fine of \$1000 and a 5-year suspension of all FWC recreational licenses issued under Ch. 372, F.S.

### **Wildlife Violators Compact**

The Wildlife Violators Compact (WVC) is a national effort to encourage compliance with fish and wildlife laws throughout the Nation. The mobility of many fish and wildlife violators necessitates interstate cooperation and communication in order to protect and manage Florida's fish and wildlife resources for the benefit of residents and visitors. Twenty-two states (see below) have adopted the WVC and it has served as an effective tool.

The WVC has two components:

- 1) Reciprocal recognition of license suspension by member states, if the basis of the license suspension would dictate a suspension of the license pursuant to the state's law;
- 2) For certain violations, sportsmen who receive a citation in a member state receive the same treatment as the state's residents, e.g. they are issued a citation and are allowed to mail in the fine; non-residents are detained until a bond is posted.

Member states choose which suspensions will be honored.

There is no fiscal impact. The issue can be implemented within existing FWC/Division of Law Enforcement budget resources.

The proposal addresses the same issues and parallels the processes related to drivers' license suspensions (s. 322.43 – 322.48, F.S.)

WVC member states – Arizona, California, Colorado, Georgia, Idaho, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Montana, Nevada, New Mexico, New York, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming

\*Stakeholder recommendation

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