

1989

## Session Law 89-059

Florida Senate & House of Representatives

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**H 975 GENERAL BILL/CS by Natural Resources; Rudd (Similar CS/S 804)**

**Hunting & Fishing Licenses/Penalty:** provides for noncriminal fines & penalties for violations re taking of wildlife or freshwater fish without a license. Amends 372.71; creates 372.711. Effective Date: 10/01/89.

03/17/89 HOUSE Prefiled  
03/23/89 HOUSE Referred to Natural Resources; Appropriations  
04/04/89 HOUSE Introduced, referred to Natural Resources; Appropriations -HJ 92  
04/11/89 HOUSE On Committee agenda—Natural Resources, 04/13/89, 3:30 pm, 413-C—For ratification of referral to subcommittee  
04/20/89 HOUSE On subcommittee agenda—Natural Resources, 04/24/89, 3:45 pm, 317-HOB  
04/24/89 HOUSE Subcommittee Recommendation: Unfavorable - on reconsideration  
05/02/89 HOUSE Subcommittee Recommendation: Favorable with 3 amendments; On Committee agenda—Natural Resources, 05/02/89, 2:30 pm, 413-C; Preliminary Committee Action by Natural Resources: Favorable as a CS  
05/09/89 HOUSE Comm. Report: CS by Natural Resources -HJ 443; CS read first time -HJ 439; Now in Appropriations -HJ 443  
05/23/89 HOUSE Withdrawn from Appropriations -HJ 582; Placed on Calendar  
05/26/89 HOUSE Placed on Consent Calendar; Read second time; Read third time; CS passed; YEAS 110 NAYS 0 -HJ 672  
05/26/89 SENATE In Messages  
05/29/89 SENATE Received -SJ 496; Substituted for CS/SB 804; CS passed; YEAS 36 NAYS 0 -SJ 509  
05/29/89 Ordered enrolled  
06/13/89 Signed by Officers and presented to Governor  
06/16/89 Approved by Governor; Chapter No. 89-59

**NOTES:** Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

STORAGE NAME: h0975s-f.nr  
DATE: June 19, 1989

HOUSE OF REPRESENTATIVES  
NATURAL RESOURCES COMMITTEE  
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 975

RELATING TO: Fishing Licenses Violations

SPONSOR(S): Representative Rudd

EFFECTIVE DATE: 10/01/89

DATE BECAME LAW: June 16, 1989

CHAPTER #: 89-59, Laws of Florida

COMPANION BILL(S):

OTHER COMMITTEES OF REFERENCE: (1) Appropriations  
(2)

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I. SUMMARY:

A. PRESENT SITUATION:

At the present time, persons cited for hunting, fishing, and trapping without a license or stamp are penalized as follows. The first offense is a second degree misdemeanor and the second or subsequent offense is a first degree misdemeanor.

These penalties carry with them fines ranging from \$500 to \$1000 or incarceration periods of 0 days to 1 year, or both.

B. EFFECT OF PROPOSED CHANGES:

This bill applies noncriminal fines and penalties for violations associated with hunting, fishing, and trapping activities without a license or stamp.

The bill would make the penalty for hunting, fishing, or trapping without a license a noncriminal infraction and require the violator to appear before county court. The fine for such an infraction would be \$35 plus the cost of the amount of the license or stamp fee involved in the infraction.

Persons cited for an infraction under this act may post a bond equal in amount to the applicable civil penalty or sign and accept a citation indicating a promise to appear before the county court. If such person refuses to post bond or sign a summons, they will be guilty of a misdemeanor of the second degree.

Persons charged with a noncriminal infraction under this act may pay the civil penalty, either by mail or in person, within ten days of the date of receiving the citation or if he has posted bond, forfeit bond by not appearing before the county court at the designated time.

Any person electing to appear before the county court or who is required to appear shall be deemed to have waived the limitations on the civil penalty provided for in the bill. The court, after a hearing, shall determine if an infraction has been committed. If an infraction has been committed, then the court may impose a civil penalty not to exceed \$500.

C. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides for noncriminal infraction.

Section 2. Provides for civil penalties and procedure for handling cases involving infractions.

Section 3. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Persons who violate state law regarding hunting, fishing, and trapping licenses and stamps would be subjected to a lesser penalty if this bill is enacted into law.

3. Effects on Competition, Private Enterprise, and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

III. LONG RANGE CONSEQUENCES:

None.

IV. COMMENTS:

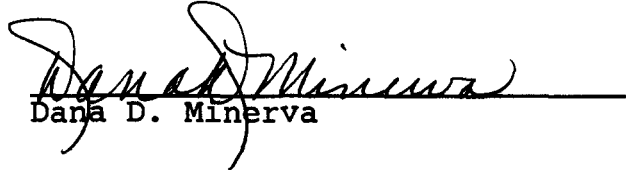
None.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE  
Prepared by:

  
Edward Bishop

Staff Director:

  
Dana D. Minerva

SECOND COMMITTEE OF REFERENCE:  
Prepared by:

Staff Director:

APPROPRIATIONS:  
Prepared by:

Staff Director:

REVISED: \_\_\_\_\_

BILL NO. CS/SB 804

DATE: April 21, 1989

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Gee</u> <i>GF</i>	<u>Voigt</u>	1. <u>NRC</u>	<u>CS</u>
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Fishing

BILL NO. AND SPONSOR:

CS/SB 804 by  
Senator Walker

I. SUMMARY:

A. Present Situation:

Pursuant to s. 372.57, F.S., the Game and Fresh Water Fish Commission (commission) issues licenses for the taking of game and freshwater fish. The penalty for violating any of the provisions of ch. 372, F.S., is set out in s. 372.71, F.S., which recites that, unless otherwise provided, conviction of a first offense is a misdemeanor of the second degree; a second or subsequent offense is a misdemeanor of the first degree. A second degree misdemeanor is punishable by imprisonment not exceeding 60 days, a fine not exceeding \$500, or both. A first degree misdemeanor is punishable by imprisonment not exceeding 1 year, a fine not exceeding \$1,000, or both.

It appears that criminal penalties for fishing, hunting, or trapping without a license are considered by some courts as excessively severe, and that some judges are reluctant to assess substantial fines or jail the routine offender. There may also be a reluctance to subject offenders to the stigma of a criminal record.

The commission feels that, if fishing, hunting, or trapping without a license were a noncriminal infraction, enforcement of the license requirements would be more aggressive and effective. A person convicted of a noncriminal infraction may be sentenced to pay a civil penalty not exceeding \$500, but may not be imprisoned.

B. Effect of Proposed Changes:

Section 1.

The bill amends s. 372.71, F.S., to specify that the offense of taking freshwater fish, hunting, or trapping without a license or stamp is a noncriminal infraction and that one cited for the infraction is subject to the procedures and penalties set forth in s. 372.711, F.S.

Section 2.

The bill creates s. 372.711, F.S., which establishes procedures for processing noncriminal infractions and establishes penalties for such infractions. These procedures require that any person cited for an infraction be cited to appear before the county court. The civil penalty for the infraction is \$35, in addition to the license fee involved, unless otherwise provided. The procedures permit a cited person to elect either to post a bond in the same amount as the civil penalty or to sign a citation indicating a promise to appear. Any person willfully refusing to post a bond or accept and sign a summons is guilty of a second degree misdemeanor. If a cited person elects to admit the infraction and waive his right to a

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hearing, he may either pay the civil penalty within 10 days of receiving the citation or forfeit his posted bond. Such an admission may not be used as evidence in any other proceedings.

If a cited person elects to appear before the county court, or is required to so appear, he is deemed to have waived the \$35 limitation on the civil penalty. The court, after hearing, shall make a determination as to whether an infraction was committed; if an infraction has been proven, a civil penalty not exceeding \$500 may be imposed. At such a hearing, the commission of the charged infraction must be proved beyond a reasonable doubt, and if proved, is appealable to the circuit court.

Section 3.

The bill takes effect October 1, 1989.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Although court costs and fines imposed vary among counties, the commission reports that total costs to violators often exceed \$100. The bill establishes a standard \$35 civil penalty in addition to the license fee involved, for those admitting the infraction.

B. Government:

While the bill likely will affect revenues to counties from fines, it is not possible to estimate the amount at this time.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.