

(1) Permits issued pursuant to s. 379.3761 and places where wildlife is kept or held in captivity shall be subject to inspection by officers of the commission at all times. The commission shall have the power to release or confiscate any specimens of any wildlife, specifically birds, mammals, amphibians, or reptiles, whether native to the state or not, when it is found that conditions under which they are being confined are unsanitary, or unsafe to the public in any manner, or that the species of wildlife are being maltreated, mistreated, or neglected or kept in any manner contrary to the provisions of chapter 828, any such permit to the contrary notwithstanding. Before any such wildlife is confiscated or released under the authority of this section, the owner thereof shall have been advised in writing of the existence of such unsatisfactory conditions; the owner shall have been given 30 days in which to correct such conditions; the owner shall have failed to correct such conditions; the owner shall have had an opportunity for a proceeding pursuant to chapter 120; and the commission shall have ordered such confiscation or release after careful consideration of all evidence in the particular case in question. The final order of the commission shall constitute final agency action.

(2) In instances where wildlife is seized or taken into custody by the commission, said owner or possessor of such wildlife shall be responsible for payment of all expenses relative to the capture, transport, boarding, veterinary care, or other costs associated with or incurred due to seizure or custody of wildlife. Such expenses shall be paid by said owner or possessor upon any conviction or finding of guilt of a criminal or noncriminal violation, regardless of adjudication or plea entered, of any provision of chapter 828 or this chapter, or rule of the commission or if such violation is disposed of under s. 921.187. Failure to pay such expense may be grounds for revocation or denial of permits to such individual to possess wildlife.

(3) Any animal on exhibit of a type capable of contracting or transmitting rabies shall be immunized against rabies.

(4) The commission is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

(5) A violation of this section is punishable as provided by s. 379.4015.

History.—s. 1, ch. 67-290; s. 16, ch. 78-95; s. 32, ch. 83-218; s. 8, ch. 91-134; s. 5, ch. 98-333; s. 173, ch. 99-245; s. 33, ch. 2002-46; s. 9, ch. 2003-151; s. 107, ch. 2008-247; s. 33, ch. 2009-86; s. 11, ch. 2010-185.

Note.—Former s. 372.921(4)-(6), (9), (10).

379.305 Rules and regulations; penalties.—

(1) The Fish and Wildlife Conservation Commission may prescribe such other rules and regulations as it may deem necessary to prevent the escape of venomous reptiles or reptiles of concern, either in connection of construction of such cages or otherwise to carry out the intent of ss. 379.372-379.374.

(2) A person who knowingly releases a nonnative venomous reptile or reptile of concern to the wild or who through gross negligence allows a nonnative venomous reptile or reptile of concern to escape commits a Level Three violation, punishable as provided in s. 379.4015.

History.—s. 6, ch. 28263, 1953; s. 172, ch. 99-245; s. 6, ch. 2007-239; s. 108, ch. 2008-247.

Note.—Former s. 372.92.

PART V

LAW ENFORCEMENT

379.33 Enforcement of commission rules.

379.3311 Police powers of commission and its agents.

379.3312 Powers of arrest by agents of commission.

379.3313 Powers of commission law enforcement officers.

379.332 Prosecutions; state attorney to represent state.

379.333 Arrest by officers of the commission; recognizance; cash bond; citation.

379.334 Search and seizure authorized and limited.

379.335 Issuance of warrant for search of private dwelling.

379.336 Venue for proceedings against citizens and residents charged with violations outside state boundaries.

379.337 Confiscation, seizure, and forfeiture of property and products.

- 379.338 Confiscation and disposition of illegally taken wildlife, freshwater fish, and saltwater fish.
- 379.3381 Photographic evidence of illegally taken wildlife, freshwater fish, and saltwater fish.
- 379.339 Seizure of illegal hunting devices; disposition; notice; forfeiture.
- 379.3395 Seizure of illegal transportation devices; disposition; appraisal; forfeiture.
- 379.341 Disposition of illegal fishing devices; exercise of police power.
- 379.342 Applicability of ss. 379.339, 379.3395, 379.404, and 379.406.
- 379.343 Rewards.

379.33 Enforcement of commission rules.— Rules of the commission shall be enforced by any law enforcement officer certified pursuant to s. 943.13.

History.— ss. 2, 5, ch. 83-134; ss. 3, 17, ch. 85-234; ss. 16, 17, 18, ch. 93-213; ss. 1, 2, 3, ch. 94-247; s. 8, ch. 98-203; s. 96, ch. 99-245; s. 3, ch. 2006-304; s. 113, ch. 2008-247; s. 7, ch. 2016-107.

Note.— Former s. 370.028.

379.3311 Police powers of commission and its agents.—

(1) The commission, the executive director and the executive director's assistants designated by her or him, and each commission officer are constituted peace officers with the power to make arrests for violations of the laws of this state when committed in the presence of the officer or when committed on lands under the supervision and management of the commission, the department, the Board of Trustees of the Internal Improvement Trust Fund, or the Department of Agriculture and Consumer Services, including state parks, coastal and aquatic managed areas, and greenways and trails. The general laws applicable to arrests by peace officers of this state shall also be applicable to such director, assistants, and commission officers. Such persons may enter upon any land or waters of the state for performance of their lawful duties and may take with them any necessary equipment, and such entry does not constitute a trespass.

(2) Such officers may enforce throughout the state all laws relating to game, nongame birds, fish, and fur-bearing animals and all rules and regulations of the commission relating to wild animal life, marine life, and freshwater aquatic life, and in connection with such laws, rules, and regulations, in the enforcement thereof and in the performance of their duties thereunder, to:

- (a) Go upon all premises, posted or otherwise;
- (b) Execute warrants and search warrants for the violation of such laws;
- (c) Serve subpoenas issued for the examination, investigation, and trial of all offenses against such laws;
- (d) Carry firearms or other weapons, concealed or otherwise, in the performance of their duties;
- (e) Arrest upon probable cause without warrant any person found in the act of violating any such laws or, in pursuit immediately following such violations, to examine any person, boat, conveyance, vehicle, game bag, game coat, or other receptacle for wild animal life, marine life, or freshwater aquatic life, or any camp, tent, cabin, or roster, in the presence of any person stopping at or belonging to such camp, tent, cabin, or roster, when such officer has reason to believe, and has exhibited her or his authority and stated to the suspected person in charge the officer's reason for believing, that any of the aforesaid laws have been violated at such camp;
- (f) Secure and execute search warrants and in pursuance thereof to enter any building, enclosure, or car and to break open, when found necessary, any apartment, chest, locker, box, trunk, crate, basket, bag, package, or container and examine the contents thereof;
- (g) Seize and take possession of all wild animal life, marine life, or freshwater aquatic life taken or in possession or under control of, or shipped or about to be shipped by, any person at any time in any manner contrary to such laws.

(3) It is unlawful for any person to resist an arrest authorized by this section or in any manner to interfere, either by abetting, assisting such resistance, or otherwise interfering with such executive director, assistants, or commission officers while engaged in the performance of the duties imposed upon them by law or regulation of the commission, the department, the Board of Trustees of the Internal Improvement Trust Fund, or the Department of Agriculture and Consumer Services.

(4) Upon final disposition of any alleged offense for which a citation for any violation of this chapter or the rules of the commission has been issued, the court shall, within 10 days after the final disposition of the action, certify the disposition to the commission.

History.—s. 3, ch. 13644, 1929; s. 1, ch. 17016, 1935; CGL 1936 Supp. 1977(3); s. 7, ch. 22858, 1945; s. 1, ch. 70-404; s. 571, ch. 95-148; s. 122, ch. 99-245; s. 19, ch. 2000-197; s. 3, ch. 2003-151; s. 114, ch. 2008-247; s. 20, ch. 2012-88.

Note.— Former s. 372.07.

379.3312 Powers of arrest by agents of commission.— Any certified law enforcement officer of the commission, upon receiving information, relayed to her or him from any law enforcement officer stationed on the ground, on the water, or in the air, that a driver, operator, or occupant of any vehicle, boat, or airboat has violated any section of chapter 327, chapter 328, or this chapter, or s. 597.010 or s. 597.020, may arrest the driver, operator, or occupant for violation of such laws when reasonable and proper identification of the vehicle, boat, or airboat and reasonable and probable grounds to believe that the driver, operator, or occupant has committed or is committing any such offense have been communicated to the arresting officer by the other officer stationed on the ground, on the water, or in the air.

History.—s. 1, ch. 70-396; s. 1, ch. 79-217; s. 242, ch. 94-356; s. 1000, ch. 95-148; s. 123, ch. 99-245; s. 14, ch. 2000-364; s. 115, ch. 2008-247; s. 21, ch. 2012-88.

Note.— Former s. 372.071.

379.3313 Powers of commission law enforcement officers.—

(1) Law enforcement officers of the commission are constituted law enforcement officers of this state with full power to investigate and arrest for any violation of the laws of this state and the rules of the commission, the department, the Board of Trustees of the Internal Improvement Trust Fund, and the Department of Agriculture and Consumer Services under their jurisdiction. The general laws applicable to arrests by peace officers of this state shall also be applicable to law enforcement officers of the commission. Such law enforcement officers may enter upon any land or waters of the state for performance of their lawful duties and may take with them any necessary equipment, and such entry will not constitute a trespass. It is lawful for any boat, motor vehicle, or aircraft owned or chartered by the commission or its agents or employees to land on and depart from any of the beaches or waters of the state. Such law enforcement officers have the authority, without warrant, to board, inspect, and search any boat, fishing appliance, storage or processing plant, fishhouse, spongehouse, oysterhouse, or other warehouse, building, or vehicle engaged in transporting or storing any fish or fishery products. Such authority to search and inspect without a search warrant is limited to those cases in which such law enforcement officers have reason to believe that fish or any saltwater products are taken or kept for sale, barter, transportation, or other purposes in violation of laws or rules adopted under this law. Such law enforcement officers may at any time seize or take possession of any saltwater products or contraband which have been unlawfully caught, taken, or processed or which are unlawfully possessed or transported in violation of any of the laws of this state or any rule of the commission. Such law enforcement officers may arrest any person in the act of violating this law, the rules of the commission, or any of the laws of this state. It is unlawful for a person to resist such arrest or in any manner interfere, either by abetting or assisting such resistance or otherwise interfering, with any such law enforcement officer while engaged in the performance of the duties imposed upon him or her by law or rule of the commission.

(2) The Legislature finds that the checking and inspection of saltwater products aboard vessels is critical to good fishery management and conservation and that, because almost all saltwater products are either iced or cooled in closed areas or containers, the enforcement of seasons, size limits, and bag limits can only be effective when inspection of saltwater products so stored is immediate and routine. Therefore, in addition to the authority granted in subsection (1), a law enforcement officer of the commission who has probable cause to believe that the vessel has been used for fishing prior to the inspection shall have full authority to open and inspect all containers or areas where saltwater products are normally kept aboard vessels while such vessels are on the water, such as refrigerated or iced locations, coolers, fish boxes, and bait wells, but specifically excluding such containers that are located in sleeping or living areas of the vessel.

History.—s. 2, ch. 61-231; s. 1, ch. 70-378; s. 1, ch. 75-180; s. 31, ch. 79-65; s. 30, ch. 84-258; s. 1, ch. 86-132; s. 86, ch. 91-221; s. 197, ch. 94-356; s. 980, ch. 95-148; s. 2, ch. 98-227; s. 95, ch. 99-245; s. 1, ch. 2002-264; s. 116, ch. 2008-247; s. 22, ch. 2012-88.

Note.—Former s. 370.021(8).

379.332 Prosecutions; state attorney to represent state.—

(1) The prosecuting officers of the several courts of criminal jurisdiction of this state shall investigate and prosecute all violations of the laws relating to game, freshwater fish, nongame birds, and fur-bearing animals which may be brought to their attention by the commission or its conservation officers, or which may otherwise come to their knowledge.

(2) The state attorney shall represent the state in any forfeiture proceeding under this chapter. The Department of Legal Affairs shall represent the state in all appeals from judgments of forfeiture to the Supreme Court. The state may appeal any judgment denying forfeiture in whole or in part that may be otherwise adverse to the state.

History.—s. 11, ch. 13644, 1929; CGL 1936 Supp. 1977(11); s. 152, ch. 99-245; s. 8, ch. 2002-264; s. 117, ch. 2008-247.

Note.—Former s. 372.70.

379.333 Arrest by officers of the commission; recognizance; cash bond; citation.—

(1) In all cases of arrest by officers of the commission, the person arrested shall be delivered forthwith by such officer to the sheriff of the county, or the officer shall obtain from such person arrested a recognizance or, if deemed necessary, a cash bond or other sufficient security conditioned for her or his appearance before the proper tribunal of such county to answer the charge for which the person has been arrested.

(2) All officers of the commission shall deliver all bonds accepted and approved by them to the sheriff of the county in which the offense is alleged to have been committed.

(3) Any person so arrested and released on her or his own recognizance by an officer and who shall fail to appear or respond to the proper citation to appear, shall, in addition to the charge relating to wildlife or freshwater fish, be charged with that offense of failing to respond to such citation and, upon conviction, be punished as for a misdemeanor. A written warning to this effect shall be given at the time of arrest of such person.

History.—s. 1, ch. 65-229; ss. 25, 35, ch. 69-106; s. 246, ch. 94-356; s. 1003, ch. 95-148; s. 153, ch. 99-245; s. 118, ch. 2008-247; s. 23, ch. 2012-88; s. 81, ch. 2014-17.

Note.—Former s. 372.701.

379.334 Search and seizure authorized and limited.—The Fish and Wildlife Conservation Commission and its conservation officers shall have authority when they have reasonable and probable cause to believe that the provisions of this chapter have been violated, to board any vessel, boat, or vehicle or to enter any fishhouse or warehouse or other building, exclusive of residence, in which game, hides, fur-bearing animals, fish, or fish nets are kept and to search for and seize any such game, hides, fur-bearing animals, fish, or fish nets had or held therein in violation of law. Provided, however, that no search without warrant shall be made under any of the provisions of this chapter, unless the officer making such search has such information from a reliable source as would lead a prudent and cautious person to believe that some provision of this chapter is being violated.

History.—s. 30, ch. 13644, 1929; CGL 1936 Supp. 1977(30); s. 584, ch. 95-148; s. 159, ch. 99-245; s. 119, ch. 2008-247.

Note.—Former s. 372.76.

379.335 Issuance of warrant for search of private dwelling.—

(1) A search warrant may be issued on application by a commissioned officer of the Fish and Wildlife Conservation Commission to search any private dwelling occupied as such when it is being used for the unlawful sale or purchase of wildlife or freshwater fish being unlawfully kept therein. The term “private dwelling” shall be construed to include the room or rooms used and occupied, not transiently but solely as a residence, in an apartment house, hotel, boardinghouse, or lodginghouse. No warrant for the search of any private dwelling shall be issued except upon probable cause supported by sworn affidavit of some creditable witness that she or he has reason to believe that the said conditions exist, which affidavit shall set forth the facts on which such reason for belief is based.

(2) This section shall not be construed as being in conflict with, but is supplemental to, chapter 933.

History.—s. 1, ch. 70-383; s. 585, ch. 95-148; s. 160, ch. 99-245; s. 120, ch. 2008-247.

Note.—Former s. 372.761.

379.336 Venue for proceedings against citizens and residents charged with violations outside state boundaries.

(1) In any proceeding against a resident or citizen of the state to enforce the provisions of this chapter with respect to alleged violations occurring beyond the territorial waters of the state, the proper venue shall be the county within the state which is nearest the site of the violation.

(2) For the purpose of this section, any person having embarked from, or having docked his or her vessel in, a port within this state who violates any provision of this chapter with respect to the unlawful landing of saltwater life, whether or not outside the territorial waters of the state, shall be considered a citizen of the state for the purpose of subjecting that person to the police powers of the state.

History.—s. 1, ch. 75-82; s. 565, ch. 95-148; s. 121, ch. 2008-247.

Note.—Former s. 370.22.

379.337 Confiscation, seizure, and forfeiture of property and products.—

(1) SEIZURE, FORFEITURE; PROCEDURE.—Nothing in this subsection affects the commission's authority to confiscate in any case illegal saltwater products, illegally taken saltwater products, or illegal fishing gear in accordance with this section.

(a) Property used in connection with a violation resulting in a conviction for the illegal taking, or attempted taking, sale, possession, or transportation of saltwater products is subject to seizure and forfeiture as part of the commission's efforts to protect the state's marine life. Saltwater products and seines, nets, boats, motors, other fishing devices or equipment, and vehicles or other means of transportation used or attempted to be used in connection with, as an instrumentality of, or in aiding and abetting such illegal taking or attempted taking are hereby declared to be nuisances.

(b) Upon a conviction of a person in whose possession the property was found, the court having jurisdiction over the criminal offense, notwithstanding any jurisdictional limitations on the amount in controversy, may make a finding that the property was used in connection with a saltwater products violation and may order such property forfeited to the commission.

(c) For purposes of this section, a conviction, except with respect to a first time offender under this chapter for whom adjudication is withheld, is any disposition other than acquittal or dismissal.

(2) SEIZURE, FORFEITURE; NOTICE.—The requirement for a conviction before forfeiture of property establishes to the exclusion of any reasonable doubt that the property was used in connection with the violation resulting in conviction. Prior to the issuance of a forfeiture order for any vessel, vehicle, or other property under subsection (1), the commission shall seize the property and notify the registered owner, if any, that the property has been seized by the commission. Except as provided in subsection (6), the procedures of chapter 932 do not apply to any seizure or forfeiture of property under this section.

(a) Notification of property seized under this section must be sent by certified mail to a registered owner within 14 days after seizure. If the commission, after diligent inquiry, cannot ascertain the registered owner, the notice requirement is satisfied.

(b) Upon a first conviction for a violation under this chapter, the property seized under this section shall be returned to the registered owner if the commission fails to prove by a preponderance of the evidence before the court having jurisdiction over the criminal offense that the registered owner aided in, abetted in, participated in, gave consent to, knew of, or had reason to know of the violation.

(c) Upon a second or subsequent conviction for a violation under this chapter, the burden shall be on the registered owner to prove by a preponderance of the evidence before the court having jurisdiction over the criminal offense that the registered owner in no way aided in, abetted in, participated in, knew of, or had reason to know of the second or subsequent violation which resulted in seizure of the lawful property.

(d) Any request for a hearing from a registered owner asserting innocence to recover property seized under these provisions must be sent to the commission's Division of Law Enforcement within 21 days after the registered owner's receipt of the notice of seizure. If a request for a hearing is not timely received, the court shall forfeit to the commission the right to, title to, and interest in the property seized, subject only to the rights and interests of bona fide lienholders.

(e) If a motor vehicle is seized under this section and is subject to any existing liens recorded under s. 319.27, all further proceedings shall be governed by the expressed intent of the Legislature not to divest any innocent person, firm, or corporation holding such a recorded lien of any of its reversionary rights in such motor vehicle or of any of its rights as prescribed in s. 319.27, and upon any default by the violator purchaser, the lienholder may foreclose its lien and take possession of the motor vehicle involved.

(3) COURT ORDER OF FORFEITURE.—When any illegal or illegally used seine, net, trap, or other fishing device or equipment, or illegally taken, possessed, or transported saltwater products, are found and taken into custody, and the owner thereof is not known to the officer finding the item or items, such officer shall immediately procure from the county court judge of the county wherein the item or items were found an order forfeiting the illegally used or illegally taken saltwater products, seines, nets, traps, boats, motors, or other fishing devices to the commission.

(4) DESTRUCTION OR DISPOSITION OF PROPERTY.—All property forfeited under this section may be destroyed, used by the commission, disposed of by gift to charitable or state institutions, or sold, with the proceeds derived from the sale deposited into the Marine Resources Conservation Trust Fund to be used for law enforcement purposes.

(5) CONFISCATION AND SALE OF PERISHABLE SALTWATER PRODUCTS; PROCEDURE.—

(a) When an arrest is made pursuant to the provisions of this chapter and illegal, perishable saltwater products or saltwater products illegally taken or landed are confiscated, the defendant may post bond or cash deposit in an amount determined by the judge to be the fair value of such confiscated products. The defendant shall have 24 hours to transport the products outside the limits of Florida for sale or other disposition. Should no bond or cash deposit be given within the time fixed by the judge, the judge shall order the sale of the confiscated saltwater products at the highest price obtainable. When feasible, at least three bids shall be requested.

(b) Moneys received from the sale of confiscated saltwater products, either by the defendant or by order of the court, shall be received by the judge and shall be remitted to the commission to be deposited into a special escrow account in the State Treasury to be held in trust pending the outcome of the trial of the defendant. If bond is posted by the defendant, it shall also be remitted to the commission to be held in escrow pending the outcome of the trial of the defendant.

(c) In the event of acquittal, the proceeds of a sale or the bond or cash deposit required by this subsection shall be returned to the defendant. In the event of a conviction, the proceeds of a sale or the bond or cash deposit required by this subsection shall be deposited into the Marine Resources Conservation Trust Fund to be used for law enforcement purposes. Such deposit into the Marine Resources Conservation Trust Fund shall constitute confiscation.

(d) For purposes of confiscation under this subsection, the term "saltwater products" has the meaning set out in s. 379.101(36), except that the term does not include saltwater products harvested under the authority of a recreational license unless the amount of such harvested products exceeds three times the applicable recreational bag limit for trout, snook, or redfish.

(6) MUNICIPAL OR COUNTY ENFORCEMENT; SUPPLEMENTAL FUNDING.—

(a) Any municipal or county law enforcement agency that enforces or assists the commission in enforcing the provisions of this chapter, which results in a forfeiture of property as provided in this section, shall be entitled to receive all or a share of any property based upon its participation in such enforcement.

(b) If a municipal or county law enforcement agency has a marine enforcement unit, any property delivered to any municipal or county law enforcement agency as provided in paragraph (a) may be retained or sold by the municipal or county law enforcement agency, and the property or proceeds shall be used to enforce the provisions of this chapter and chapters 327 and 328. If a municipal or county law enforcement agency does not have a marine enforcement unit, such property or proceeds shall be disposed of under the provisions of chapter 932.

(c) Any funds received by a municipal or county law enforcement agency pursuant to this subsection shall be supplemental funds and may not be used as replacement funds by the municipality or county.

History.—s. 3, ch. 61-231; s. 2, ch. 61-119; ss. 25, 35, ch. 69-106; s. 24, ch. 73-334; s. 1, ch. 77-181; s. 1, ch. 85-304; s. 1, ch. 90-286; s. 556, ch. 95-148; s. 27, ch. 96-321; s. 3, ch. 98-390; s. 241, ch. 99-245; s. 3, ch. 2002-264; s. 8, ch. 2003-143; s. 4, ch. 2006-304; s. 122, ch. 2008-247.

Note.—Former s. 370.061.

379.338 Confiscation and disposition of illegally taken wildlife, freshwater fish, and saltwater fish.—

(1) All wildlife, freshwater fish, and saltwater fish seized under the authority of this chapter, any other chapter, or rules of the commission shall, upon conviction of the offender or sooner in accordance with a court order if the court so orders, be forfeited to the investigating law enforcement agency. The law enforcement agency may elect to retain the wildlife, freshwater fish, or saltwater fish for the agency's official use; transfer it to another unit of state or local government for official use; donate it to a charitable organization; sell it at a public sale pursuant to s. 705.103; or destroy the wildlife, freshwater fish, or saltwater fish if none of the other options is practicable or if the wildlife, freshwater fish, or saltwater fish is unwholesome or otherwise not of appreciable value. All illegally possessed live wildlife, freshwater fish, and saltwater fish that are properly documented as evidence as provided in s. 379.3381 may be returned to the habitat unharmed. Any unclaimed wildlife, freshwater fish, or saltwater fish shall be retained by the investigating law enforcement agency and disposed of in accordance with this subsection.

(2) All furs or hides or fur-bearing animals seized under the authority of this chapter shall, upon conviction of the offender, be forfeited and sent to the commission, which shall sell the same. If any such hides or furs are seized and the offender is unknown, the court shall order such hides or furs sent to the commission, which shall sell such hides and furs.

(3) Except as otherwise provided by law, the proceeds of any such sale under this section shall be deposited in the State Game Trust Fund or the Marine Resources Conservation Trust Fund.

(4) Any state, county, or municipal law enforcement agency that enforces or assists the commission in enforcing this chapter, which enforcement results in a forfeiture of property as provided in this section, is entitled to receive all or a share of any property based upon its participation in the enforcement.

History.—s. 66, ch. 13644, 1929; CGL 1936 Supp. 1977(66); s. 2, ch. 61-119; s. 225, ch. 81-259; s. 2, ch. 98-391; s. 157, ch. 99-245; s. 123, ch. 2008-247; s. 34, ch. 2009-86.

Note.—Former s. 372.73.

379.3381 Photographic evidence of illegally taken wildlife, freshwater fish, and saltwater fish.—In any prosecution for a violation of this chapter, any other chapter, or rules of the commission, a photograph of illegally taken wildlife, freshwater fish, or saltwater fish may be deemed competent evidence of such property and may be admissible in the prosecution to the same extent as if such wildlife, freshwater fish, or saltwater fish were introduced as evidence. Such photograph shall bear a written description of the wildlife, freshwater fish, or saltwater fish alleged to have been illegally taken, the name of the violator, the location where the alleged illegal taking occurred, the name of the investigating law enforcement officer, the date the photograph was taken, and the name of the photographer. Such writing shall be made under oath by the investigating law enforcement officer, and the photograph shall be identified by the signature of the photographer.

History.—s. 35, ch. 2009-86.

379.339 Seizure of illegal hunting devices; disposition; notice; forfeiture.—In order to protect the state's wildlife resources, any vehicle, vessel, animal, gun, light, or other hunting device used or attempted to be used in connection with, as an instrumentality of, or in aiding and abetting in the commission of an offense prohibited by s. 379.404 is subject to seizure and forfeiture. The provisions of chapter 932 do not apply to any seizure or forfeiture under this section. For purposes of this section, a conviction is any disposition other than acquittal or dismissal.

(1)(a) Upon a first conviction of the person in whose possession the property was found, the court having jurisdiction over the criminal offense, notwithstanding any jurisdictional limitations on the amount in controversy, may make a finding that the property was used in connection with a violation of s. 379.404. Upon such finding, the court may order the property forfeited to the commission.

(b) Upon a second or subsequent conviction of a person in whose possession the property was found for a violation of s. 379.404, the court shall order the forfeiture to the commission of any property used in connection with

that violation.

(2) The requirement for a conviction before forfeiture establishes, to the exclusion of any reasonable doubt, that the property was used in connection with that violation. Prior to the issuance of a forfeiture order for any vessel, vehicle, or other property under subsection (1), the commission shall seize the property and notify the registered owner, if any, that the property has been seized by the commission.

(3) Notification of property seized under this section must be sent by certified mail to a registered owner within 14 days after seizure. If the commission, after diligent inquiry, cannot ascertain the registered owner, the notice requirement is satisfied.

(4)(a) For a first conviction of an offense under s. 379.404, property seized by the commission shall be returned to the registered owner if the commission fails to prove by a preponderance of the evidence before the court having jurisdiction over the criminal offense that the registered owner aided in, abetted in, participated in, gave consent to, knew of, or had reason to know of the offense.

(b) Upon a second or subsequent conviction for an offense under s. 379.404, the burden shall be on the registered owner to prove by a preponderance of the evidence before the court having jurisdiction over the criminal offense that the registered owner in no way aided in, abetted in, participated in, knew of, or had reason to know of the second offense which resulted in seizure of the lawful property.

(c) Any request for a hearing from a registered owner asserting innocence to recover property seized under these provisions must be sent to the commission's Division of Law Enforcement within 21 days after the registered owner's receipt of the notice of seizure. If a request for a hearing is not timely received, the court shall forfeit to the commission the right to, title to, and interest in the property seized, subject only to the rights and interests of bona fide lienholders.

(5) All amounts received from the sale or other disposition of the property shall be paid into the State Game Trust Fund. If the property is not sold or converted, it shall be delivered to the executive director of the commission.

History.—s. 1, ch. 65-340; s. 3, ch. 98-391; s. 180, ch. 99-245; s. 9, ch. 2002-264; s. 124, ch. 2008-247.

Note.—Former s. 372.0100; s. 372.9901.

379.3395 Seizure of illegal transportation devices; disposition; appraisal; forfeiture.—

(1) Any vehicle, vessel, or other transportation device used in the commission of the offense prohibited by s. 379.406, except a vehicle, vessel, or other transportation device duly registered as a common carrier and operated in lawful transaction of business as such carrier, shall be seized by the arresting officer, who shall promptly make return of the seizure and deliver the property to the director of the Fish and Wildlife Conservation Commission. The return shall describe the property seized and recite in detail the facts and circumstances under which it was seized, together with the reason that the property was subject to seizure. The return shall also contain the names of all persons known to the officer to be interested in the property.

(2) The commission, upon receipt of the property, shall promptly fix its value and make return thereof to the clerk of the circuit court of the county wherein the article was seized; after which, on proper showing of ownership of the property by someone other than the person arrested, the property shall be returned by the court to the said owner.

(3) Upon conviction of the violator, the property, if owned by the person convicted, shall be forfeited to the state under the procedure set forth in ss. 379.337 and 379.362, when not inconsistent with this section. All amounts received from the sale or other disposition of the property shall be paid into the State Game Trust Fund. If the property is not sold or converted, it shall be delivered to the director of the Fish and Wildlife Conservation Commission.

History.—s. 2, ch. 70-380; s. 4, ch. 98-391; s. 182, ch. 99-245; s. 12, ch. 2002-264; s. 125, ch. 2008-247.

Note.—Former s. 372.9904.

379.341 Disposition of illegal fishing devices; exercise of police power.—

(1) In all cases of arrest and conviction for use of illegal nets or traps or fishing devices, as provided in this chapter, such illegal net, trap, or fishing device is declared to be a nuisance and shall be seized and carried before the court having jurisdiction of such offense and such court shall order such illegal trap, net, or fishing device forfeited to the commission immediately after trial and conviction of the person in whose possession they were found. When any illegal net, trap, or fishing device is found in the fresh waters of the state, and its owner is not known to the officer

finding it, such officer shall immediately procure from the county court judge an order forfeiting such illegal net, trap, or fishing device to the commission. The commission may destroy such illegal net, trap, or fishing device, if in its judgment such net, trap, or fishing device is not of value in the work of the commission.

(2) When any nets, traps, or fishing devices are found being used illegally as provided in this chapter, the same shall be seized and forfeited to the commission as provided in this chapter.

(3) This section is necessary for the more efficient and proper enforcement of the statutes and laws of this state prohibiting the illegal use of nets, traps, or fishing devices and is a lawful exercise of the police power of the state for the protection of the public welfare, health, and safety of the people of the state. All the provisions of this section shall be liberally construed for the accomplishment of these purposes.

History.—s. 25, ch. 13644, 1929; CGL 1936 Supp. 1977(25); s. 1, ch. 59-81; s. 103, ch. 73-333; s. 133, ch. 99-245; s. 10, ch. 2002-264; s. 126, ch. 2008-247; s. 24, ch. 2012-88.

Note.—Former s. 372.31; s. 372.99021.

379.342 Applicability of ss. 379.339, 379.3395, 379.404, and 379.406.— The provisions of ss. 379.339, 379.3395, 379.404, and 379.406 relating to seizure and forfeiture of animals or of vehicles, vessels, or other transportation devices do not vitiate any valid lien, retain title contract, or chattel mortgage on such animals or vehicles, vessels, or other transportation devices if such lien, retain title contract, or chattel mortgage is properly of public record at the time of the seizure.

History.—s. 3, ch. 70-380; s. 145, ch. 79-400; s. 13, ch. 2002-264; s. 127, ch. 2008-247.

Note.—Former s. 372.9905.

379.343 Rewards.— The Fish and Wildlife Conservation Commission is authorized to offer rewards in amounts of up to \$500 to any person furnishing information leading to the arrest and conviction of any person who has inflicted or attempted to inflict bodily injury upon any commission officer engaged in the enforcement of the provisions of this chapter or the rules and regulations of the Fish and Wildlife Conservation Commission.

History.—s. 2, ch. 57-415; s. 1, ch. 59-352; s. 318, ch. 71-136; s. 5, ch. 91-134; s. 170, ch. 99-245; s. 5, ch. 2007-239; s. 128, ch. 2008-247; s. 25, ch. 2012-88.

Note.—Former s. 372.911; s. 372.0715.

PART VI

LICENSES FOR RECREATIONAL ACTIVITIES

379.35 Review of fees for licenses and permits; review of exemptions.

379.3501 Expiration of licenses and permits.

379.3502 License and permit not transferable.

379.3503 False statement in application for license or permit.

379.3504 Entering false information on licenses or permits.

379.3511 Appointment of subagents for the sale of hunting, fishing, and trapping licenses and permits.

379.3512 Competitive bidding for certain sale of licenses and permits and the issuance of authorization numbers.

379.352 Recreational licenses, permits, and authorization numbers to take wild animal life, freshwater aquatic life, and marine life; issuance; costs; reporting.

379.353 Recreational licenses and permits; exemptions from fees and requirements.

379.354 Recreational licenses, permits, and authorization numbers; fees established.

379.356 Fish pond license.

379.357 Fish and Wildlife Conservation Commission license program for tarpon; fees; penalties.

379.3581 Hunter safety course; requirements; penalty.

379.3582 Hunter safety course for juveniles.

379.359 License application provision for voluntary contribution to Southeastern Guide Dogs, Inc.