

STORAGE NAME: h0575s1z.wrm
DATE: June 4, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
WATER AND RESOURCE MANAGEMENT
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 575

RELATING TO: Inhumane treatment of exotic animals

SPONSOR(S): Committee on Crime and Punishment, Representative Silver and others

STATUTE(S) AFFECTED: None listed, but most likely would affect section 372.661, Florida Statutes (F.S.)

COMPANION BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CRIME and PUNISHMENT YEAS 5 NAYS 4
- (2) WATER and RESOURCE MANAGEMENT YEAS 1 NAYS 9
- (3) CRIMINAL JUSTICE APPROPRIATIONS
- (4)
- (5)

I. FINAL ACTION STATUS:

On December 3, 1997, CS/HB 575 failed to pass the Water and Resource Management Committee. The vote was 9 nays to 1 yea.

II. SUMMARY:

CS/HB 575 would make it a third-degree felony for anyone on a hunting or game preserve to wound or kill any non-native (or exotic) mammal or non-game bird while that animal is restrained, confined to an area of less than 500 acres, or impaired by a chemical substance. Exceptions for research, food production, and treatment by a veterinarian are included in the bill. Civil penalties also could be levied against violators.

Private hunting preserves currently are regulated by the Game and Fresh Water Fish Commission (GFC). The regulations listed in the Florida Wildlife Code are similar to those in CS/HB 575, except that the minimum acreage may be 100 acres, compared to a minimum of 500 acres as required by this bill. The first violation of these regulations is a second-degree misdemeanor, and a second violation is a first-degree misdemeanor.

This bill likely would require all existing private hunting preserves, which allow the hunting of exotic game, to either increase their size to 500 acres, or stop the hunting of exotic game. Fourteen of the sixteen licensed private hunting preserves in Florida have more than 500 acres, but the land is usually subdivided into smaller lots.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The GFC regulates the possession and taking of wildlife in Florida. Wildlife, as defined by the GFC, includes all wild or non-domestic birds, mammals, fur-bearing animals, reptiles and amphibians. Also regulated by the GFC is the possession of wildlife as pets, requiring permits for various animals and specifying caging requirements.

A hunting preserve is private property where the releasing and taking of captive-raised native and non-native game animals for a fee is permitted. Section 372.001(14), F.S. defines a private hunting preserve as an area designated and licensed by an individual or concern on which artificially propagated game is taken. Additionally, s. 372.661, F.S., establishes license requirements and fees for private hunting preserves.

The GFC's position is that "canned hunts" have not been allowed since 1983 when the agency passed a regulation prohibiting the taking of animals that were tied, staked, or confined in small enclosures. That 1983 rule was replaced by GFC Rule 39-12.010, Florida Wildlife Code, to further tighten restrictions against "canned hunts."

In response to concerns raised by animal rights groups and some members of the Legislature in recent years, the GFC formed a nine-member committee, comprised of representatives from animal rights associations, hunting preserve operators, and GFC staff. In 1995, that committee met several times and recommended changes to Rule 39-12.010. Those recommendations resulted in significant modification of the rule; the amended rule went into effect in October 1996.

The following regulations (listed in Rule 39-12.010) are some of the limitations that have been placed on the way that animals may be hunted on these private hunting preserves:

A hunting preserve must be fenced in, posted, and more than one mile from a wildlife management area or refuge;

Only game birds and game mammals of the following families may be taken on a hunting preserve: Cervidae (elk, deer, etc.), Suidae (hog), Bovidae (buffalo, antelope, goat, and sheep).

Game mammals taken on hunting preserves shall not be boxed or caged.

Cervidae shall be free-roaming on not less than 200 acres, with a minimum of 100 acres covered with woody vegetation. Hunting with dogs is prohibited, provided that a leashed dog shall be allowed for trailing.

Bovidae shall be free-roaming on not less than 300 acres, with a minimum of 200 acres covered with grassy vegetation. Hunting with dogs is prohibited, provided that a leashed dog shall be allowed for trailing.

Suidae shall be free-roaming on not less than 100 acres, with a minimum of 50 acres covered with woody vegetation. For hunting with dogs, the area shall have a minimum of 300 acres, with 200 acres covered with woody vegetation.

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Game mammals may be kept in small enclosures only for veterinary, breeding, transportation or other management purposes, and shall not be hunted on the same day of release.

No operator shall possess for hunting a tame game mammal, defined as one that does not exhibit the flight characteristics (wariness) normal for the species when found in the wild.

Game mammals shall not be taken by non-owners or non-lessees within 50 yards of a supplemental feeding station.

Motorized vehicles shall not be used to drive game mammals, nor shall game mammals be taken from moving motorized vehicles.

The first violation of these regulations is a second-degree misdemeanor, punishable by not more than a term of imprisonment of 60 days and a \$500 fine. A second violation is a first-degree misdemeanor, punishable by not more than a term of imprisonment of one year and a \$1,000 fine.

B. EFFECT OF PROPOSED CHANGES:

CS/HB 575 would make it a third-degree felony (maximum penalty of five years and \$5,000 fine) for anyone on a hunting or game preserve to wound or kill any exotic mammal or nongame bird while that animal is restrained, confined to an area of less than 500 acres, or impaired by a chemical substance. Exceptions for research, food production, and treatment by a veterinarian are included in the bill. This bill would require all existing hunting preserves, which allow the hunting of exotic game, to be at least 500 acres, or stop the hunting of exotic game.

Prosecutors also may seek civil penalties against violators.

The bill would have no effect on the lawful taking of exotic mammals or nongame birds in the wild, or on lawful fishing.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

Not applicable.

2. Lower Taxes:

Not applicable.

3. Personal Responsibility:

Not applicable.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes, private land of less than 500 acres may not be used as a hunting preserve under this bill. This would force at least two existing preserves to increase their acreage, or stop the hunting of exotic mammals.

5. Family Empowerment:

Not applicable.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Makes it a third-degree felony for anyone on a hunting or game preserve to wound or kill any exotic mammal or nongame bird while that animal is restrained, confined to an area of less than 500 acres, or impaired by a chemical substance. Includes exceptions for research, food production, and treatment by a veterinarian.

Section 2: Provides that the act shall take effect October 1, 1997.

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

4. Total Revenues and Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

See Fiscal Comments.

2. Direct Private Sector Benefits:

See Fiscal Comments.

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

See Fiscal Comments.

D. FISCAL COMMENTS:

CS/HB 575 would require all hunting preserves, which allow the hunting of exotic mammals or non-game birds, to increase the size of the land on which such hunting is allowed to 500 acres. Some of these preserves could either go out of business, or stop offering exotic mammals for their hunts.

There also could be a slight reduction in fees collected by the GFC if several private hunting preserves go out of business. The current fee is \$25 for licensure, or \$500 for a commercial hunting preserve license which exempts patrons of licensed preserves from licensure requirements.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

CS/HB 575 relates to criminal prosecutions and is therefore exempt from the mandates provision.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the revenue raising authority of local governments.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the state tax shared with counties and municipalities.

VI. COMMENTS:

While current regulations of private hunting preserves address some of the concerns raised by this bill, it is unclear whether other land may not be used for canned hunts. The GFC's position is that "canned hunts" would be prohibited by existing regulations outside of hunting preserves as well. For example, it is illegal to import for sale or release non-native animals into the wild without a permit pursuant to s. 372.265, F.S. The GFC only allows permits for limited purposes. The possession for sale or the purchase or sale of birds, or of game mammals is unlawful with certain exceptions.

There also is the question of whether CS/HB 575 would be a legal expression of legislative authority, given the GFC's constitutional authority to "exercise the regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life, except that all license fees for taking wild animal life and fresh water aquatic life and penalties for violating regulations of the commission shall be prescribed by specific statute." Section 9, Art. IV, Florida Constitution. GFC's general counsel has said that, in the least, CS/HB 575 would be inconsistent with his agency's current rule regulating private hunting preserves.

The bill also defines "exotic mammal" as "any mammal that is not native to this state or that is not found in significant numbers in the wild." There could be some question as to the meaning of this definition. For example, would it include native species that may be in a population downturn? Who would determine whether "significant numbers" don't exist for targeted species?

Finally, CS/HB 575 needs a technical amendment to change the current proposed effective date of October 1, 1997.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Crime and Punishment adopted amendments on March 20, 1997, that: added the killing or injuring of nongame birds to the category of animals affected by the scope of the bill; reduced the size of the enclosure used to hunt exotic mammals from 3,500

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to 500 acres; and removed the requirement that the killing be for a prize, enjoyment, gain, or sport.

When the 1997 session adjourned, CS/HB 575 was in the Water and Resource Management Committee. Under House Rule 96, the bill has been carried forward to the 1998 session.

The Committee on Water and Resource Management adopted a technical amendment to change the effective date of the bill. However, the bill was subsequently defeated.

VIII. SIGNATURES:

COMMITTEE ON CRIME AND PUNISHMENT:

Prepared by:

Legislative Research Director:

J. Willis Renuart

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AS REVISED BY THE COMMITTEE ON WATER AND RESOURCE MANAGEMENT:

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