

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1459 Regulated Reptiles

SPONSOR(S): Poppell and others

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Water & Natural Resources Committee</u>	<u>10 Y, 0 N</u>	<u>Winker</u>	<u>Lotspeich</u>
2) <u>Agriculture & Environment Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
3) <u>State Resources Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill requires the Fish and Wildlife Conservation Commission (FWCC) to establish a list of venomous, non-native, or other reptiles for which the possession, transportation, or exhibition is regulated. The FWCC is also required to adopt rules to implement the provisions of ss. 372.86 - 372.91, F.S., relating to regulated reptiles.

The bill replaces in ss. 372.86 – 372.92, F.S., the phrase “poisonous or venomous” with the term “regulated reptiles” to expand the category of reptiles for which a permit from FWCC is required to “keep, possess, or exhibit” to include non-poisonous and non-venomous reptiles.

The bill provides for an annual permit at a cost of \$100 per permit for persons who possess a non-poisonous regulated reptile.

The bill provides that the amount of bond required for exhibiting regulated reptiles is \$10,000, and changes the payee of the bond from the Governor to the FWCC.

The bill requires the FWCC to establish a reporting system for regulated reptiles and collect, at minimum, information on:

- The purchase or other acquisition of a regulated reptile;
- The possession of a regulated reptile;
- The sale, gift, or other transfer of a regulated reptile; and
- The death, destruction, or other disposition of a regulated reptile.

The bill subjects all regulated reptiles, including non-poisonous reptiles, to the same housing, transportation, inspection, and organized hunt requirements to which poisonous reptiles are subject under current law. The bill provides that any person who violates any provision of ss. 372.86 - 372.91, F.S., has committed a first degree misdemeanor. The bill also provides that any person who knowingly releases a regulated reptile to the wild or through gross negligence allows a regulated reptile to escape commits a third degree felony.

The FWCC estimates that approximately \$525,000 would be needed annually to process the application for a permit and the inspection of each applicant. The FWCC also estimates that the additional license fees will generate approximately \$300,000 per year.

The bill takes effect on July 1, 2006.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1459a.WNR.doc

DATE: 3/29/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility – The bill provides for additional regulations for persons keeping, possessing, and exhibiting certain reptiles with the intention of minimizing the extent to which persons intentionally or accidentally release certain reptiles into the wild.

Ensure lower taxes – The bill requires persons possessing non-poisonous reptiles to obtain a permit at an annual cost of \$100.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Current Statutes

Section 372.86, F.S., provides that no person, firm, or corporation shall keep, possess, or exhibit any poisonous or venomous reptile without obtaining a special permit or license from the Fish and Wildlife Conservation Commission (FWCC). According to the FWCC, there have been a total of less than 500 permits issued. Currently, FWCC reports that there are over 300 entities licensed to possess poisonous or venomous reptiles.

Section 372.87, F.S., authorizes the FWCC to issue a license or permit for the keeping, possessing, or exhibiting of poisonous or venomous reptiles. The FWCC is authorized to assess an annual fee of \$100 for the permit, which may be renewed on an annual basis upon the payment of the fee. The FWCC may revoke the permit for any violation of provisions in ss. 372.86 – 372.91, F.S. or any rule pertaining to such sections.

Section 372.88, F.S., requires that before a person, party, firm, or corporation can exhibit poisonous or venomous reptiles to the public, a “good and sufficient” bond in writing in the sum of \$1,000 must be provided and payable to the Governor and the Governor’s successors. The bond must be conditioned that the exhibitor will indemnify and save harmless all persons from injury or damage from the poisonous or venomous reptiles. The aggregate liability of the surety shall not exceed the sum of the bond amount.

Section 372.89, F.S., requires that any person, firm, or corporation licensed to keep, possess, or exhibit poisonous or venomous reptiles must provide safe, secure, and proper housing for the reptiles in cases, cages, pits, or enclosures. This section also makes it unlawful to keep, possess, or exhibit a poisonous or venomous reptile in any manner not approved as safe, secure, or proper by the FWCC.

Section 372.90, F.S., requires that poisonous or venomous reptiles may only be transported in a “stout closely woven cloth sack, tied or otherwise secured”, placed in a box made of “solid material in solid sheets” with air holes which must be screened. The boxes used for transportation of poisonous reptiles must be prominently labeled “Danger---Poisonous Snakes” or “Danger---Poisonous Reptiles.”

Section 372.901, F.S., provides that poisonous or venomous reptiles held in captivity must be subject to an inspection by an officer of the FWCC, who shall determine that the reptiles are securely, properly, and safely penned. If not, the FWCC officer must report the situation to the person or firm owning the reptiles. Should the person or firm fail to correct the situation within 30 days after receiving the written notice, the license or permit required to keep, possess, or exhibit the reptiles shall be revoked.

Section 372.91, F.S., provides that no person other than the person issued the license or permit to keep, possess, or exhibit the poisonous or venomous reptiles, or the person's authorized employee, may open any cage, pit, or other container holding the reptiles.

Section 372.912, F.S., provides that any person, firm, or corporation wanting to conduct an organized poisonous reptile hunt must comply with the provisions and requirements of ss. 372.86 - 372.91, F.S., and the event must be registered with the FWCC. If the event is conducted by a nonprofit organization registered with the Department of State, the licensing provisions in ss. 372.86, 372.87, and 372.88, F.S., are not required.

Section 372.265, F.S., provides that it is unlawful for sale or use, or to release within this state, "any species of the animal kingdom not indigenous to Florida without first obtaining a permit to do so" from the FWCC. The FWCC is authorized to issue or deny such a permit "upon the completion of studies of the species made by it (FWCC) to determine any detrimental effect the species might have on the ecology of the state." Persons in violation of this section can be found guilty of a first degree misdemeanor punishable pursuant to s. 775.145 or s. 775.083, F.S.

Captive Wildlife Technical Advisory Group

The Captive Wildlife Technical Advisory Group (CWTAG) was originally formed in 1994 for the purpose of reviewing Florida's exotic animal regulations. After several years of work, this group was abandoned and on July 15, 2005, the CWTAG was re-constituted. The CWTAG is comprised of 11 members and according to the FWCC, "represents all facets of the captive wildlife industry and wildlife rehabilitation." Members of the CWTAG also "represent experience in animal welfare, disease/bioterrorism, emergency response, and local government."

Although the CWTAG has a broad mission, a primary issue discussed at CWTAG meetings (six public meetings since July 2005) focuses on the regulation of venomous and poisonous reptiles. For example, at the October meeting, the CWTAG discussed the permitting of persons owning such reptiles as well as means to identify and track venomous reptiles.

The CWTAG also discussed the need for defining "venomous reptiles" and that the term "venomous" is not currently defined in statute or in FWCC regulations. FWCC staff reported to the CWTAG that a number of issues have arisen in attempting to define "venomous reptiles." For example, what is the threshold where the venomous reptile regulations apply? Should the FWCC consider the toxicity of the venom, the behavior of the reptile/snake, or whether or not the reptile/snake is rear-fanged? What about the issue of "venom-void" reptiles, which are reptiles which have been surgically altered to remove venom glands or alter the reptile's venom delivery system?

At its September meeting, the CWTAG was provided a presentation on the National Reptile Improvement Plan (discussed below) along with a discussion on penalties for violations of the state's requirements for keeping, possessing, and exhibiting venomous reptiles.

At its December meeting, the CWTAG again discussed the need for a definition of "venomous reptiles." The CWTAG also held a discussion on "giant reptiles" (e. g., Burmese/Indian python, Amethystine python, Reticulated python, African Rock python, and the Anaconda). The CWTAG discussed proposed legislation (HB 1459) regarding the regulation of reptiles.

Also at its December meeting, the CWTAG made the following recommendations to the FWCC:

- That a new FWCC rule be adopted requiring a permanent identification marker be attached to each venomous reptile cage.
- As a condition of the issuance of a venomous reptile permit, the applicant must prepare and file a disaster and emergency plan with the FWCC.

- Each venomous reptile permit holder must be required to post on site, a “venomous bite protocol,” listing actions to be taken in the event of a reptile bite.
- In the short term, “venomous reptiles” should be defined by FWCC rule to include all animals in the families Elapidae, Crotalidae, Viperidae, and Hydrophilidae; all animals in the Genus Heloderma; all animals in the following Colubridae Genera – Rhabdophis, Dispholidus, Thelatornis, and Atracapsis, in addition to any reptile species determined to have the potential to cause serious human injury due to toxic effects of its venom or poison.
- In the long term, the term “venomous reptiles” should be changed to “reptiles subject to regulation.”

National Reptile Improvement Plan

Adopted by the Pet Industry Joint Advisory Council (PIJAC) in June 2003, the National Reptile Improvement Plan: Best Management Practices for the Reptile Trade (NRIP), provides standards and best practices designed to improve the practices of persons involved in the importation, sale, or captive breeding of reptilian and amphibian species.

The intent of the NRIP is to establish practices and standards designed to minimize the risk of international and interstate movement of reptiles causing harm to the reptiles, livestock, or the environment. Participation in the NRIP is voluntary, and is a self-regulated program that includes the adoption and implementation of best management practices, a quality assurance program, and independent verification of compliance through periodic inspections.

NRIP best management practices were developed through a consultative process with participation by representatives of the reptile industry, the reptile hobby community, reptile veterinarians, entomologists and the U.S. Department of Agriculture and the Florida Department of Agriculture and Consumer Services.

The NRIP defines “reptile” as any living specimens of the following taxonomic groups belonging to the class Reptilia:

- Snakes;
- Lizards;
- Turtles and Tortoises; and
- Crocodylians.

The NRIP defines the term “venomous animal” to mean any snake of the following type:

- Cobras, mambas, coral snakes, kraits, and relatives;
- Adders and vipers;
- Rattlesnakes, copperheads, and palm pit vipers;
- Mole vipers and burrowing asps;
- Sea snakes;
- Rear-fanged snakes;
- African vine or twig snakes;
- Mangrove and cat snakes; and
- Any lizard of the genus Heloderma.

The NRIP provides numerous and detailed standards and best management practices for the reptile trade. For example, under the section entitled Display and Sale at Public Events, some of the best management practices include:

- No venomous animal, including rear-fanged animal, should be sold to anyone under the age of 18 years of age.

- Sales of venomous animals should be in a separate room or location within the event site.
- All reptiles and amphibians that can cause harm should be kept in a secure container at all times.

As discussed above, the CWTAG has discussed the NRIP and has recommended that the FWCC adopt its standards and best management practices.

Effect of Proposed Changes

The bill requires the Fish and Wildlife Conservation Commission (FWCC) to establish a list of venomous, non-native, or other reptiles for which the possession, transportation, or exhibition is regulated. The FWCC is also required to adopt rules to implement the provisions of ss. 372.86 - 372.91, F.S., related to regulated reptiles.

The bill replaces in ss. 372.86 – 372.92, F.S., the phrase “poisonous or venomous” with the term “regulated” reptiles to expand the category of reptiles for which a permit from the FWCC is required to keep, possess, or exhibit to include non-poisonous and non-venomous reptiles.

The bill provides for an annual permit at a cost of \$100 per permit for persons who possess a non-poisonous regulated reptile.

The bill increases the amount of bond required for exhibiting regulated reptiles from \$1,000 to \$10,000 and changes the payee of the bond from the Governor to the FWCC.

The bill requires the FWCC to establish a reporting system for regulated reptiles, and collect, at minimum, information on:

- The purchase or other acquisition of a regulated reptile;
- The possession of a regulated reptile;
- The sale, gift, or other transfer of a regulated reptile; and
- The death, destruction, or other disposition of a regulated reptile.

The bill subjects all regulated reptiles, including non-poisonous reptiles, to the same housing, transportation, inspection, and organized hunt requirements to which poisonous reptiles are subject under current law (ss. 372.86 - 372.912, F.S.).

The bill provides that any person who violates any provision of ss. 372.86 - 372.91, F.S., has committed a first degree misdemeanor. The bill also provides that any person who knowingly releases a regulated reptile to the wild or through gross negligence allows a regulated reptile to escape commits a third degree felony.

The FWCC estimates that there would be a fiscal impact of approximately \$525,000 to process the application for a permit and the inspection of each applicant. The FWCC also estimates that the additional license fees will generate approximately \$300,000.

The bill takes effect on July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends s. 372.86, F.S., to require the FWCC to establish a list of reptiles for which the possession, transportation, or exhibition is regulated.

Section 2: Amends s. 372.87, F.S., to delete the terms “poisonous” and “venomous” before “reptiles” and replaces these terms with the term “regulated.”

- Section 3: Amends s. 372.88, F.S., to revise the bond amount and payee required for persons exhibiting regulated reptiles.
- Section 4: Amends s. 372.89, F.S., to delete the terms "poisonous" and "venomous" before "reptiles" and replaces these terms with the term "regulated."
- Section 5: Amends s. 372.90, F.S., to require that regulated reptiles be transported in a specified manner.
- Section 6: Amends s. 372.901, F.S., to require the FWCC to establish by rule a reporting system for regulated reptiles.
- Section 7: Amends s. 372.91, F.S., to delete the terms "poisonous" and "venomous" before "reptiles" and replaces these terms with the term "regulated."
- Section 8: Renumbers s. 372.911, F.S., as s. 372.0715, F.S.
- Section 9: Renumbers and amends s. 372.912, F.S., as s. 372.902, F.S., deletes the terms "poisonous" and "venomous" before "reptiles" and replaces these terms with the term "regulated."
- Section 10: Amends s. 372.92, F.S., establishes penalties for violating requirements for regulating reptiles.
- Section 11: The bill takes effect on July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

FWCC estimates that approximately 3,000 additional entities will be required to obtain a permit for possession, keeping, and exhibiting regulated reptiles under the provisions of the bill. At an annual fee of \$100, revenues would increase \$300,000.

2. Expenditures:

FWCC estimates that at a cost of \$50 to process an application for a regulated reptile permit and \$125 per inspection for each permit applicant, there would be an additional expenditure for FWCC of \$525,000 based upon an estimated 3,000 additional reptile permits.

The bill will also have an indeterminate fiscal impact upon the FWCC for the implementation of a regulated reptile reporting system.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Entities exhibiting regulated reptiles will have to secure a bond in the amount of \$10,000. This amounts to an increase of \$9,000 from the \$1,000 for those currently exhibiting poisonous and venomous reptiles under current law. Entities currently exhibiting non-poisonous reptiles currently have no bond requirement. The bill will impose a \$10,000 bond requirement on them. Entities possessing non-poisonous regulated reptiles will now be required to have the same annual permit, at a cost of \$100 per permit, as those entities possessing poisonous or venomous reptiles.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds. Nor does the bill reduce the authority that cities and counties have to raise revenues in the aggregate or reduce the percentage of a state tax shared with cities or counties.

2. Other:

Pursuant to Article IV, Section 9 of the Florida Constitution, the FWCC has the authority to exercise the regulatory and executive powers of the state with respect to fresh water aquatic life, marine life, and wild animal life. However, this Constitutional provision requires that "all license fees for taking wild animal life, fresh water aquatic life and marine life and penalties for violating regulations of the commission shall be prescribed by general law." The fees and penalties provided by the bill appear to be consistent with this constitutional requirement.

B. RULE-MAKING AUTHORITY:

The bill requires the FWCC to amend current rules related to the possession, keeping, and exhibiting of poisonous and venomous reptiles to expand the list of regulated reptiles to include non-poisonous reptiles. The bill also requires FWCC to adopt rules for implementing a regulated reptile reporting system.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill creates penalties for persons who knowingly release a regulated reptile to the "wild" or who through "gross negligence" allow a regulated reptile to escape. The bill does not define the terms "wild" and "gross negligence," which could lead to vague and discretionary interpretations for FWCC enforcement officers.

The following comments were provided by staff at the FWCC.

The bill provides for enhanced regulations for the possessing and exhibiting of certain reptiles as determined by the FWCC. These enhanced regulations are needed for the following reasons:

- The safety and health of the public, native wildlife, and the environment.
- The effort to prevent all introductions of exotic species and developing regulations to address the more problematic species.
- The establishment of several species of non-native reptiles which now threaten native species and their habitats.
- The great size and/or potential environmental harm of such reptiles if released into the wild.

The penalties created by the bill are inconsistent with penalties for similar offenses. A person who violates any provision or FWCC rule of ss. 372.86 – 372.91, F.S., commits a first degree misdemeanor.

These violations are similar to those applying to the exhibition, possession, and safe housing of other types of captive wildlife, which are second degree misdemeanors. A person who knowingly releases a regulated reptile to the wild or who through gross negligence results in a regulated reptile to escape commits a third degree felony. These violations are similar to violations related to the release of any freshwater fish species not indigenous to the state, which are first degree misdemeanors.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A