

Bill No. SB 2766

Barcode 641864

CHAMBER ACTION

Senate

House

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The Committee on General Government Appropriations (Bennett) recommended the following **substitute for amendment** (791842):

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 372.86, Florida Statutes, is amended to read:

372.86 Capturing, keeping, possessing, transporting, or exhibiting ~~poisonous or venomous~~ reptiles or reptiles of concern; license required.--

(1) No person, firm, or corporation shall capture, keep, possess, or exhibit any ~~poisonous or venomous~~ reptile or reptile of concern without first having obtained a special permit or license therefor from the Fish and Wildlife Conservation Commission as ~~herein~~ provided in this section.

(2) The commission shall establish a list of reptiles of concern, including venomous, nonvenomous, native, nonnative, or other reptiles which require additional regulation for capture, possession, transportation, or

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1 exhibition due to their nature, habits, status, or potential
2 to negatively impact the environment, ecology or humans by
3 December 31, 2007.

4 (3) It shall be unlawful for any person, firm, or
5 corporation, whether licensed hereunder or not, to capture,
6 keep, possess, or exhibit any venomous reptile or reptile of
7 concern in any manner not approved as safe, secure, and proper
8 by the commission. Venomous reptiles or reptiles of concern
9 held in captivity are subject to inspection by the commission.
10 The commission shall determine whether the reptiles are
11 securely, safely, and properly penned. In the event that the
12 reptiles are not safely penned, the commission shall report
13 the situation in writing to the person, firm, or corporation
14 owning the reptiles. Failure of the person, firm, or
15 corporation to correct the situation within 30 days after such
16 written notice shall be grounds for revocation of the license
17 or permit of the person, firm, or corporation.

18 (4) Venomous reptiles or reptiles of concern shall be
19 transported in a safe, secure, and proper manner. The
20 commission shall establish by rule the requirements for the
21 transportation of venomous reptiles or reptiles of concern.

22 Section 2. Effective January 1, 2008, section 372.87,
23 Florida Statutes, is amended to read:

24 372.87 License fee; renewal, revocation.--

25 (1)(a) The Fish and Wildlife Conservation Commission
26 is ~~hereby~~ authorized and empowered to issue a license or
27 permit for the capturing, keeping, possessing, or exhibiting
28 of ~~poisonous or~~ venomous reptiles, upon payment of an annual
29 fee of \$100 and upon assurance that all of the provisions of
30 ss. ~~372.86-372.92~~~~372.86-372.91~~ and such other reasonable
31 rules and regulations as the ~~said~~ commission may prescribe

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1 will be fully complied with in all respects.

2 (b) The Fish and Wildlife Conservation Commission is
3 authorized and empowered to issue a license or permit for the
4 capturing, keeping, possessing, or exhibiting of reptiles of
5 concern upon payment of an annual fee not to exceed \$100 and
6 upon assurance that all of the provisions of ss. 372.86-372.92
7 and such other reasonable rules and regulations as the
8 commission may prescribe will be fully complied with in all
9 respects. The annual fee for issuance or renewal of a license
10 or permit under this paragraph for reptiles of concern is
11 initially set at \$100. However, the commission may reduce that
12 annual fee by rule if the commission determines that there is
13 general compliance with ss. 372.86-372.92 and that such
14 compliance allows for a reduction in fees to cover the costs
15 of administering and enforcing the reptiles of concern
16 program. The commission may issue a license or permit to an
17 applicant who has a current and valid license or permit for
18 venomous reptiles under paragraph (a) and meets all
19 requirements for the capturing, keeping, possessing, or
20 exhibiting of reptiles of concern, but shall not require
21 payment of an additional annual fee.

22 (2) Such permits or licenses ~~permit~~ may be revoked by
23 the ~~Fish and Wildlife Conservation~~ commission upon violation
24 of any of the provisions of ss. 372.86-372.92 ~~372.86-372.91~~ or
25 upon violation of any of the rules and regulations prescribed
26 by ~~thesaid~~ commission relating to the capturing, keeping,
27 possessing, and exhibiting of any ~~poisonous and~~ venomous
28 reptiles or reptiles of concern. Such permits or licenses
29 shall be for an annual period to be prescribed by the ~~said~~
30 commission and shall be renewable ~~from year to year~~ upon the
31 payment of said fee and shall be subject to the same

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1 conditions, limitations, and restrictions as ~~herein~~ set forth
 2 in this section. All moneys received pursuant to this section
 3 shall be deposited into the State Game Trust Fund to be used
 4 to implement, administer, enforce, and educate the public
 5 regarding ss. 372.86-372.92.

6 Section 3. Section 372.88, Florida Statutes, is
 7 amended to read:

8 372.88 Bond required, amount.--(a) No person, party,
 9 firm, or corporation shall exhibit to the public either with
 10 or without charge, or admission fee any ~~poisonous or~~ venomous
 11 reptile without having first posted a good and sufficient bond
 12 in writing in the penal sum of \$10,000 ~~\$1,000~~ payable to the
 13 commission ~~Governor of the state, and the Governor's~~
 14 ~~successors in office~~, conditioned that such exhibitor will
 15 indemnify and save harmless all persons from injury or damage
 16 from such ~~poisonous or~~ venomous reptiles so exhibited and
 17 shall fully comply with all laws of the state and all rules
 18 and regulations of the ~~Fish and Wildlife Conservation~~
 19 commission governing the capturing, keeping, possessing, or
 20 exhibiting of ~~poisonous or~~ venomous reptiles; provided,
 21 however, that the aggregate liability of the surety for all
 22 such injuries or damages shall, in no event, exceed the penal
 23 sum of the ~~said~~ bond. The surety for the ~~said~~ bond must be a
 24 surety company authorized to do business under the laws of the
 25 state or in lieu of such a surety, cash in the sum of \$10,000
 26 ~~\$1,000~~ shall ~~may~~ be posted with the ~~said~~ commission to ensure
 27 compliance with the conditions of the ~~said~~ bond.

28 (b) No person, party, firm, or corporation shall
 29 exhibit to the public either with or without charge or
 30 admission fee, any Class I wildlife, as defined in s. 372.922
 31 and ch. 68A-6, Florida Administrative Code, without having

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1 first guaranteed financial responsibility, in the sum of
2 \$10,000, for any liability which may be incurred in the
3 exhibition to the public of Class I wildlife. The commission
4 shall adopt, by rule, the methods of payment that satisfy the
5 financial responsibility; which may include cash, the
6 establishment of a trust fund, an irrevocable letter of
7 credit, casualty insurance, a corporate guarantee, or any
8 combination thereof, in the sum of \$10,000 that shall be
9 posted with the commission. In lieu of the \$10,000 financial
10 responsibility guarantee required in this paragraph, the
11 exhibiter has the option to maintain comprehensive general
12 liability insurance with minimum limits of \$2 million per
13 occurrence and \$2 million annual aggregate, as shall protect
14 the exhibiter from claims for damage for personal injury,
15 including accidental death, as well as claims for property
16 damage which may arise. Proof of such insurance shall be
17 submitted to the commission.

18 Section 4. Sections 372.89, 372.90, 372.901, and
19 372.91, Florida Statutes, are repealed.

20 Section 5. Section 372.911, Florida Statutes, is
21 renumbered as section 372.0715, Florida Statutes.

22 Section 6. Section 372.92, Florida Statutes, is
23 amended to read:

24 372.92 Rules and regulations; penalties.--

25 (1) The Fish and Wildlife Conservation Commission may
26 prescribe such other rules and regulations as it may deem
27 necessary to prevent the escape of ~~poisonous and venomous~~
28 reptiles or reptiles of concern, either in connection of
29 construction of such cages or otherwise to carry out the
30 intent of ss. 372.86-372.88 ~~372.86-372.91~~.

31 (2) A person who knowingly releases a nonnative

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1 venomous reptile or reptile of concern to the wild or who
 2 through gross negligence allows a nonnative venomous reptile
 3 or reptile of concern to escape commits a Level Three
 4 violation, punishable as provided in s. 372.935.

5 Section 7. Section 372.935, Florida Statutes, is
 6 amended to read:

7 (Substantial rewording of section. See
 8 s. 372.935, F.S., for present text.)
 9 372.935 Captive wildlife penalties.--

10 (1) LEVEL ONE.--Unless otherwise provided by law, the
 11 following classifications and penalties apply:

12 (a) A person commits a Level One violation if he or
 13 she violates any of the following provisions:

14 1. Rules or orders of the commission requiring free
 15 permits or other authorizations to possess captive wildlife.

16 2. Rules or orders of the commission relating to the
 17 filing of reports or other documents required of persons who
 18 are licensed to possess captive wildlife.

19 3. Rules or orders of the commission requiring permits
 20 to possess captive wildlife for which a fee is charged, when
 21 the person being charged was issued the permit and the permit
 22 has expired less than 1 year prior to the violation.

23 (b) Any person cited for committing any offense
 24 classified as a Level One violation commits a noncriminal
 25 infraction, punishable as provided in this section.

26 (c) Any person cited for committing a noncriminal
 27 infraction specified in paragraph (a) shall be cited to appear
 28 before the county court. The civil penalty for any noncriminal
 29 infraction is \$50 if the person cited has not previously been
 30 found guilty of a Level One violation and \$250 if the person
 31 cited has previously been found guilty of a Level One

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1 violation, except as otherwise provided in this subsection.

2 Any person cited for failing to have a required permit or
3 license shall pay an additional civil penalty in the amount of
4 the license fee required.

5 (d) Any person cited for an infraction under this
6 subsection may:

7 1. Post a bond, which shall be equal in amount to the
8 applicable civil penalty; or

9 2. Sign and accept a citation indicating a promise to
10 appear before the county court. The officer may indicate on
11 the citation the time and location of the scheduled hearing
12 and shall indicate the applicable civil penalty.

13 (e) Any person charged with a noncriminal infraction
14 under this subsection may:

15 1. Pay the civil penalty, either by mail or in person,
16 within 30 days after the date of receiving the citation; or

17 2. If the person has posted bond, forfeit bond by not
18 appearing at the designated time and location.

19 (f) If the person cited follows either of the
20 procedures in subparagraph (e)1. or subparagraph (e)2., he or
21 she shall be deemed to have admitted the infraction and to
22 have waived his or her right to a hearing on the issue of
23 commission of the infraction. Such admission shall not be used
24 as evidence in any other proceedings except to determine the
25 appropriate fine for any subsequent violations.

26 (g) Any person who willfully refuses to post bond or
27 accept and sign a summons commits a misdemeanor of the second
28 degree, punishable as provided in s. 775.082 or s. 775.083.
29 Any person who fails to pay the civil penalty specified in
30 this subsection within 30 days after being cited for a
31 noncriminal infraction or to appear before the court pursuant

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1 to this subsection commits a misdemeanor of the second degree,
2 punishable as provided in s. 775.082 or s. 775.083.

3 (h) Any person electing to appear before the county
4 court or who is required to appear shall be deemed to have
5 waived the limitations on the civil penalty specified in
6 paragraph (c). The court, after a hearing, shall make a
7 determination as to whether an infraction has been committed.
8 If the commission of an infraction has been proven, the court
9 may impose a civil penalty not less than those amounts in
10 paragraph (c) and not to exceed \$500.

11 (i) At a hearing under this chapter, the commission of
12 a charged infraction must be proved beyond a reasonable doubt.

13 (j) If a person is found by the hearing official to
14 have committed an infraction, she or he may appeal that
15 finding to the circuit court.

16 (2) LEVEL TWO.--Unless otherwise provided by law, the
17 following classifications and penalties apply:

18 (a) A person commits a Level Two violation if he or
19 she violates any of the following provisions:

20 1. Unless otherwise stated in subsection (1), rules or
21 orders of the commission that require a person to pay a fee to
22 obtain a permit to possess captive wildlife or that require
23 the maintenance of records relating to captive wildlife.

24 2. Rules or orders of the commission relating to
25 captive wildlife not specified in subsection (1) or subsection
26 (3).

27 3. Rules or orders of the commission that require
28 housing of wildlife in a safe manner when a violation results
29 in an escape of wildlife other than Class I wildlife.

30 4. Section 372.86, relating to capturing, keeping,
31 possessing, transporting, or exhibiting venomous reptiles or

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1 reptiles of concern.

2 5. Section 372.87, relating to requiring a license or
3 permit for the capturing, keeping, possessing, or exhibiting
4 of venomous reptiles or reptiles of concern.

5 6. Section 372.88, relating to bonding requirements
6 for public exhibits of venomous reptiles.

7 7. Section 372.92, relating to commission rules and
8 regulations to prevent the escape of venomous reptiles or
9 reptiles of concern.

10 8. Section 372.921, relating to exhibition or sale of
11 wildlife.

12 9. Section 372.922, relating to personal possession of
13 wildlife.

14 (b) A person who commits any offense classified as a
15 Level Two violation and who has not been convicted of a Level
16 Two or higher violation within the past 3 years commits a
17 misdemeanor of the second degree, punishable as provided in s.
18 775.082 or s. 775.083.

19 (c) Unless otherwise stated in this subsection, a
20 person who commits any offense classified as a Level Two
21 violation within a 3-year period of any previous conviction of
22 a Level Two or higher violation commits a misdemeanor of the
23 first degree, punishable as provided in s. 775.082 or s.
24 775.083 with a minimum mandatory fine of \$250.

25 (d) Unless otherwise stated in this subsection, a
26 person who commits any offense classified as a Level Two
27 violation within a 5-year period of any two previous
28 convictions of Level Two or higher violations commits a
29 misdemeanor of the first degree, punishable as provided in s.
30 775.082 or s. 775.083, with a minimum mandatory fine of \$500
31 and a suspension of all licenses issued under this chapter

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1 related to captive wildlife for 1 year.

2 (e) A person who commits any offense classified as a
3 Level Two violation within a 10-year period of any three
4 previous convictions of Level Two or higher violations commits
5 a misdemeanor of the first degree, punishable as provided in
6 s. 775.082 or s. 775.083, with a minimum mandatory fine of
7 \$750 and a suspension of all licenses issued under this
8 chapter related to captive wildlife for 3 years.

9 (3) LEVEL THREE.--Unless otherwise provided by law,
10 the following classifications and penalties apply:

11 (a) A person commits a Level Three violation if he or
12 she violates any of the following provisions:

13 1. Rules or orders of the commission that require
14 housing of wildlife in a safe manner when a violation results
15 in an escape of Class I wildlife.

16 2. Rules or orders of the commission related to
17 captive wildlife when the violation results in serious bodily
18 injury to another person by captive wildlife that consists of
19 a physical condition that creates a substantial risk of death,
20 serious personal disfigurement, or protracted loss or
21 impairment of the function of any bodily member or organ.

22 3. Rules or orders of the commission relating to the
23 use of gasoline or other chemical or gaseous substances on
24 wildlife.

25 4. Rules or orders of the commission prohibiting the
26 release of wildlife for which only conditional possession is
27 allowed.

28 5. Rules or orders of the commission prohibiting
29 knowingly entering false information on an application for a
30 license or permit when the license or permit is to possess
31 wildlife in captivity.

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1 6. Section 372.265, relating to illegal importation or
2 introduction of foreign wildlife.

3 7. Section 370.081, relating to the illegal
4 importation and possession of nonindigenous marine plants and
5 animals.

6 8. Section 372.92, relating to release or escape of
7 nonnative venomous reptiles or reptiles of concern.

8 9. Rules or orders of the commission relating to the
9 importation, possession, or release of fish and wildlife for
10 which possession is prohibited.

11 (b)1. A person who commits any offense classified as a
12 Level Three violation and who has not been convicted of a
13 Level Three or higher violation within the past 10 years
14 commits a misdemeanor of the first degree, punishable as
15 provided in s. 775.082 or s. 775.083.

16 2. A person who commits any offense classified as a
17 Level Three violation within a 10-year period of any previous
18 conviction of a Level Three or higher violation commits a
19 misdemeanor of the first degree, punishable as provided in s.
20 775.082 or s. 775.083, with a minimum mandatory fine of \$750
21 and permanent revocation of all licenses or permits to possess
22 captive wildlife issued under this chapter.

23 (4) LEVEL FOUR.--Unless otherwise provided by law, the
24 following classifications and penalties apply:

25 (a) A person commits a Level Four violation if he or
26 she violates any Level Three provision after the permanent
27 revocation of a license or permit.

28 (b) A person who commits any offense classified as a
29 Level Four violation commits a felony of the third degree,
30 punishable as provided in s. 775.082 or s. 775.083.

31 (5) SUSPENSION OR REVOCATION OF LICENSE.--The court

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1 may order the suspension or revocation of any license or
2 permit issued to a person to possess captive wildlife pursuant
3 to this chapter if that person commits a criminal offense or a
4 noncriminal infraction as specified under this section.

5 (6) CONVICTION DEFINED.--For purposes of this section,
6 the term "conviction" means any judicial disposition other
7 than acquittal or dismissal.

8 (7) COMMISSION LIMITATIONS.--Nothing in this section
9 shall limit the commission from suspending or revoking any
10 license to possess wildlife in captivity by administrative
11 action in accordance with chapter 120. For purposes of
12 administrative action, a conviction of a criminal offense
13 shall mean any judicial disposition other than acquittal or
14 dismissal.

15 Section 8. For the 2007-2008 fiscal year, the sum of
16 \$75,000 is appropriated from the State Game Trust Fund to the
17 Fish and Wildlife Conservation Commission for initial costs
18 associated with regulating venomous reptiles and reptiles of
19 concern.

20 Section 9. Except as otherwise expressly provided in
21 this act, this act shall take effect July 1, 2007.

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24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 Delete everything before the enacting clause

27

28 and insert:

29 A bill to be entitled

30 An act relating to wildlife; amending s.

31 372.86, F.S.; requiring the Fish and Wildlife

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1 Conservation Commission to establish a list of
2 reptiles of concern subject to regulation;
3 prohibiting the unlawful capturing, keeping,
4 possessing, transporting, or exhibiting of
5 venomous reptiles or reptiles of concern;
6 authorizing the commission to inspect venomous
7 reptiles or reptiles of concern held in
8 captivity; requiring written reports of
9 violations; authorizing the commission to
10 revoke licenses and permits under certain
11 circumstances; requiring the commission to
12 adopt rules for the transportation of venomous
13 reptiles or reptiles of concern; amending s.
14 372.87, F.S.; requiring licensure for the
15 capturing, keeping, possessing, or exhibiting
16 of venomous reptiles or reptiles of concern;
17 providing for fees; authorizing the commission
18 to reduce fees applicable to reptiles of
19 concern under certain circumstances; requiring
20 fee proceeds to be deposited into the State
21 Game Trust Fund; specifying uses of the
22 proceeds; amending s. 372.88, F.S.; providing
23 for the bond required for the exhibition of
24 venomous reptiles to be payable to the
25 commission; providing for regulation of the
26 capturing of venomous reptiles; providing for
27 certain financial guarantees by Class I
28 wildlife exhibitors; providing rule making
29 authority; repealing s. 372.89, F.S., relating
30 to safe, secure, and proper housing of
31 poisonous or venomous reptiles; repealing s.

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1 372.90, F.S., relating to the transportation of
2 poisonous or venomous reptiles; repealing s.
3 372.901, F.S., relating to the inspection of
4 poisonous or venomous held in captivity;
5 repealing s. 372.91, F.S., relating to who may
6 open cages, pits, or other containers housing
7 poisonous or venomous reptiles; renumbering s.
8 372.911, F.S., relating to rewards, to conform;
9 amending s. 372.92, F.S.; providing criminal
10 penalties for certain activities related to
11 venomous reptiles or reptiles of concern;
12 amending s. 372.935, F.S.; providing violation
13 levels and applicable penalties relating to
14 captive wildlife, including suspension or
15 revocation of license; providing a definition;
16 providing for commission limitations in certain
17 administrative actions; providing an
18 appropriation; providing effective dates.

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