

Bill No. SB 2766

Barcode 791842

CHAMBER ACTION

Senate

House

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The Committee on Environmental Preservation and Conservation
(Jones) recommended the following amendment:

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~~reptile~~; 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.

3 (3) It shall be unlawful for any person, firm, or
4 corporation, whether licensed hereunder or not, to capture,
5 keep, possess, or exhibit any venomous reptile or reptile of
6 concern in any manner not approved as safe, secure, and proper
7 by the commission. Venomous reptiles or reptiles of concern
8 held in captivity are subject to inspection by the commission.

9 The commission shall determine whether the reptiles are
10 securely, safely, and properly penned. In the event that the
11 reptiles are not safely penned, the commission shall report
12 the situation in writing to the person, firm, or corporation
13 owning the reptiles. Failure of the person, firm, or
14 corporation to correct the situation within 30 days after such
15 written notice shall be grounds for revocation of the license
16 or permit of the person, firm, or corporation.

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

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

23 372.87 License fee; renewal, revocation.--

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

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

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

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1 in this section. All moneys received pursuant to this section
2 shall be deposited into the State Game Trust Fund to be used
3 to implement, administer, enforce, and educate the public
4 regarding ss. 372.86-372.92.

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

7 372.88 Bond required, amount.--No person, party, firm,
8 or corporation shall exhibit to the public either with or
9 without charge, or admission fee any ~~poisonous or~~ venomous
10 reptile without having first posted a good and sufficient bond
11 in writing in the penal sum of \$10,000 ~~\$1,000~~ payable to the
12 commission ~~Governor of the state, and the Governor's~~
13 ~~successors in office~~, conditioned that such exhibitor will
14 indemnify and save harmless all persons from injury or damage
15 from such ~~poisonous or~~ venomous reptiles so exhibited and
16 shall fully comply with all laws of the state and all rules
17 and regulations of the ~~Fish and Wildlife Conservation~~
18 commission governing the capturing, keeping, possessing, or
19 exhibiting of ~~poisonous or~~ venomous reptiles; provided,
20 however, that the aggregate liability of the surety for all
21 such injuries or damages shall, in no event, exceed the penal
22 sum of the said bond. The surety for the said bond must be a
23 surety company authorized to do business under the laws of the
24 state or in lieu of such a surety, cash in the sum of \$10,000
25 ~~\$1,000~~ may be posted with the ~~said~~ commission to ensure
26 compliance with the conditions of the said bond. The
27 commission shall provide, by rule, for waiving the bond
28 requirement if it finds that surety bonds for this purpose are
29 generally unavailable within the State of Florida.

30 Section 4. Sections 372.89, 372.90, 372.901, and
31 372.91, Florida Statutes, are repealed.

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1 Section 5. Section 372.911, Florida Statutes, is
2 renumbered as section 372.0715, Florida Statutes.

3 Section 6. Section 372.92, Florida Statutes, is
4 amended to read:

5 372.92 Rules and regulations; penalties.--

6 (1) The Fish and Wildlife Conservation Commission may
7 prescribe such other rules and regulations as it may deem
8 necessary to prevent the escape of ~~poisonous and~~ venomous
9 reptiles ~~or reptiles of concern~~, either in connection of
10 construction of such cages or otherwise to carry out the
11 intent of ss. ~~372.86-372.88~~ ~~372.86-372.91~~.

12 (2) A person who knowingly releases a nonnative
13 venomous reptile or reptile of concern to the wild or who
14 through gross negligence allows a nonnative venomous reptile
15 or reptile of concern to escape commits a Level Three
16 violation, punishable as provided in s. 372.935.

17 Section 7. Section 372.935, Florida Statutes, is
18 amended to read:

19 (Substantial rewording of section. See
20 s. 372.935, F.S., for present text.)

21 372.935 Captive wildlife penalties.--

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

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

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

28 2. Rules or orders of the commission relating to the
29 filing of reports or other documents required of persons who
30 are licensed to possess captive wildlife.

31 3. Rules or orders of the commission requiring permits

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1 to possess captive wildlife for which a fee is charged, when
2 the person being charged was issued the permit and the permit
3 has expired less than 1 year prior to the violation.

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

7 (c) Any person cited for committing a noncriminal
8 infraction specified in paragraph (a) shall be cited to appear
9 before the county court. The civil penalty for any noncriminal
10 infraction is \$50 if the person cited has not previously been
11 found guilty of a Level One violation and \$250 if the person
12 cited has previously been found guilty of a Level One
13 violation, except as otherwise provided in this subsection.

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

17 (d) Any person cited for an infraction under this
18 subsection may:

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

21 2. Sign and accept a citation indicating a promise to
22 appear before the county court. The officer may indicate on
23 the citation the time and location of the scheduled hearing
24 and shall indicate the applicable civil penalty.

25 (e) Any person charged with a noncriminal infraction
26 under this subsection may:

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

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

31 (f) If the person cited follows either of the

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1 procedures in subparagraph (e)1. or subparagraph (e)2., he or
 2 she shall be deemed to have admitted the infraction and to
 3 have waived his or her right to a hearing on the issue of
 4 commission of the infraction. Such admission shall not be used
 5 as evidence in any other proceedings except to determine the
 6 appropriate fine for any subsequent violations.

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

15 (h) Any person electing to appear before the county
 16 court or who is required to appear shall be deemed to have
 17 waived the limitations on the civil penalty specified in
 18 paragraph (c). The court, after a hearing, shall make a
 19 determination as to whether an infraction has been committed.
 20 If the commission of an infraction has been proven, the court
 21 may impose a civil penalty not less than those amounts in
 22 paragraph (c) and not to exceed \$500.

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

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

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

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

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

5 2. Rules or orders of the commission relating to
6 captive wildlife not specified in subsection (1) or subsection
7 (3).

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

11 4. Section 372.86, relating to capturing, keeping,
12 possessing, transporting, or exhibiting venomous reptiles or
13 reptiles of concern.

14 5. Section 372.87, relating to requiring a license or
15 permit for the capturing, keeping, possessing, or exhibiting
16 of venomous reptiles or reptiles of concern.

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

19 7. Section 372.92, relating to commission rules and
20 regulations to prevent the escape of venomous reptiles or
21 reptiles of concern.

22 8. Section 372.921, relating to exhibition or sale of
23 wildlife.

24 9. Section 372.922, relating to personal possession of
25 wildlife.

26 (b) A person who commits any offense classified as a
27 Level Two violation and who has not been convicted of a Level
28 Two or higher violation within the past 3 years commits a
29 misdemeanor of the second degree, punishable as provided in s.
30 775.082 or s. 775.083.

31 (c) Unless otherwise stated in this subsection, a

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1 person who commits any offense classified as a Level Two
 2 violation within a 3-year period of any previous conviction of
 3 a Level Two or higher violation commits a misdemeanor of the
 4 first degree, punishable as provided in s. 775.082 or s.
 5 775.083 with a minimum mandatory fine of \$250.

6 (d) Unless otherwise stated in this subsection, a
 7 person who commits any offense classified as a Level Two
 8 violation within a 5-year period of any two previous
 9 convictions of Level Two or higher violations commits a
 10 misdemeanor of the first degree, punishable as provided in s.
 11 775.082 or s. 775.083, with a minimum mandatory fine of \$500
 12 and a suspension of all licenses issued under this chapter
 13 related to captive wildlife for 1 year.

14 (e) A person who commits any offense classified as a
 15 Level Two violation within a 10-year period of any three
 16 previous convictions of Level Two or higher violations commits
 17 a misdemeanor of the first degree, punishable as provided in
 18 s. 775.082 or s. 775.083, with a minimum mandatory fine of
 19 \$750 and a suspension of all licenses issued under this
 20 chapter related to captive wildlife for 3 years.

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

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

25 1. Rules or orders of the commission that require
 26 housing of wildlife in a safe manner when a violation results
 27 in an escape of Class I wildlife.

28 2. Rules or orders of the commission related to
 29 captive wildlife when the violation results in serious bodily
 30 injury to another person by captive wildlife that consists of
 31 a physical condition that creates a substantial risk of death,

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1 serious personal disfigurement, or protracted loss or
2 impairment of the function of any bodily member or organ.

3 3. Rules or orders of the commission relating to the
4 use of gasoline or other chemical or gaseous substances on
5 wildlife.

6 4. Rules or orders of the commission prohibiting the
7 release of wildlife for which only conditional possession is
8 allowed.

9 5. Rules or orders of the commission prohibiting
10 knowingly entering false information on an application for a
11 license or permit when the license or permit is to possess
12 wildlife in captivity.

13 6. Section 372.265, relating to illegal importation or
14 introduction of foreign wildlife.

15 7. Section 370.081, relating to the illegal
16 importation and possession of nonindigenous marine plants and
17 animals.

18 8. Section 372.92, relating to release or escape of
19 nonnative venomous reptiles or reptiles of concern.

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

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

28 2. A person who commits any offense classified as a
29 Level Three violation within a 10-year period of any previous
30 conviction of a Level Three or higher violation commits a
31 misdemeanor of the first degree, punishable as provided in s.

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1 775.082 or s. 775.083, with a minimum mandatory fine of \$750
2 and permanent revocation of all licenses or permits to possess
3 captive wildlife issued under this chapter.

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

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

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

12 (5) SUSPENSION OR REVOCATION OF LICENSE.--The court
13 may order the suspension or revocation of any license or
14 permit issued to a person to possess captive wildlife pursuant
15 to this chapter if that person commits a criminal offense or a
16 noncriminal infraction as specified under this section.

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

20 (7) COMMISSION LIMITATIONS.--Nothing in this section
21 shall limit the commission from suspending or revoking any
22 license to possess wildlife in captivity by administrative
23 action in accordance with chapter 120. For purposes of
24 administrative action, a conviction of a criminal offense
25 shall mean any judicial disposition other than acquittal or
26 dismissal.

27 Section 8. For the 2007-2008 fiscal year, the sum of
28 \$75,000 is appropriated from the State Game Trust Fund to the
29 Fish and Wildlife Conservation Commission for initial costs
30 associated with regulating venomous reptiles and reptiles of
31 concern.

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

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

6 And the title is amended as follows:

7 Delete everything before the enacting clause

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9 and insert:

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A bill to be entitled

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An act relating to wildlife; amending s.

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

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Conservation Commission to establish a list of

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reptiles of concern subject to regulation;

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prohibiting the unlawful capturing, keeping,

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possessing, transporting, or exhibiting of

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venomous reptiles or reptiles of concern;

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authorizing the commission to inspect venomous

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reptiles or reptiles of concern held in

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captivity; requiring written reports of

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violations; authorizing the commission to

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revoke licenses and permits under certain

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circumstances; requiring the commission to

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adopt rules for the transportation of venomous

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reptiles or reptiles of concern; amending s.

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372.87, F.S.; requiring licensure for the

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capturing, keeping, possessing, or exhibiting

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of venomous reptiles or reptiles of concern;

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providing for fees; authorizing the commission

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to reduce fees applicable to reptiles of

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concern under certain circumstances; requiring

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1 fee proceeds to be deposited into the State
2 Game Trust Fund; specifying uses of the
3 proceeds; amending s. 372.88, F.S.; providing
4 for the bond required for the exhibition of
5 venomous reptiles to be payable to the
6 commission; providing for regulation of the
7 capturing of venomous reptiles; repealing s.
8 372.89, F.S., relating to safe, secure, and
9 proper housing of poisonous or venomous
10 reptiles; repealing s. 372.90, F.S., relating
11 to the transportation of poisonous or venomous
12 reptiles; repealing s. 372.901, F.S., relating
13 to the inspection of poisonous or venomous held
14 in captivity; repealing s. 372.91, F.S.,
15 relating to who may open cages, pits, or other
16 containers housing poisonous or venomous
17 reptiles; renumbering s. 372.911, F.S.,
18 relating to rewards, to conform; amending s.
19 372.92, F.S.; providing criminal penalties for
20 certain activities related to venomous reptiles
21 or reptiles of concern; amending s. 372.935,
22 F.S.; providing violation levels and applicable
23 penalties relating to captive wildlife,
24 including suspension or revocation of license;
25 providing a definition; providing for
26 commission limitations in certain
27 administrative actions; providing an
28 appropriation; providing effective dates.

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