

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Environmental Preservation and Conservation Committee

BILL: SB 2766

INTRODUCER: Senator Posey

SUBJECT: Regulated Reptiles

DATE: April 13, 2007 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bascom	Kiger	EP	Fav/1 amendment
2.			GA	
3.				
4.				
5.				
6.				

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

The bill requires the Florida Fish and Wildlife Conservation Commission (FWC or commission) to establish, by rule, a list of venomous, non-native reptiles as well as a reporting system for the regulated reptiles. It also raises the bond to exhibit regulated reptiles from \$1,000 to \$10,000 which shall be submitted to the commission in writing. Finally, it creates misdemeanor penalties for persons who knowingly, or through gross negligence, release regulated reptiles to the wild.

The bill amends sections 372.86, 372.87, 372.88, 372.89, 372.90, 372.901, 372.91, 372.911, and 372.92, Florida Statutes.

II. Present Situation:

Captive Wildlife¹

Since 1967, the FWC, formerly the Game and Freshwater Fish Commission, has been charged with the responsibility of regulating native and exotic captive wildlife. The Division of Law Enforcement of the FWC strives to develop and maintain the best captive wildlife regulations possible which provide for public safety, animal welfare, and the legitimate use of wildlife for

¹ Information provided by the Florida Fish and Wildlife Conservation Commission.

personal, educational, or exhibition purposes. The captive wildlife trade is a multi-million dollar industry, consisting of over 10,000 entities that possess wildlife for personal/commercial purposes.

Current regulations address the possession and housing of venomous reptiles and the exhibition or sale of wildlife including all reptiles. Non-native, non-venomous reptiles, however, may be possessed for personal use without a permit and with limited regulation. Certain non-native, non-venomous reptiles through accidental or intentional introduction have become an environmental concern in Florida. These include large constrictor snakes and large carnivorous lizards.

The FWC has worked with the reptile industry and other interested parties to explore solutions to address environmental concerns, accountability for possession, and increased regulation. It is estimated that over 3,000 entities possess these non-native, non-venomous reptiles for personal use.

III. Effect of Proposed Changes:

Section 1. Amends s. 372.86, F.S., authorizes the FWC to establish, by rule, a list of venomous, non-native reptiles for which the possession, transportation, or exhibition is regulated.

Section 2. Amends s. 372.87, F.S., to conform to rules that shall be established by the FWC relating to regulated reptiles and expand the current license fee to this new class.

Section 3. Amends s. 372.88, F.S., increasing the bond for exhibition of regulated reptiles from \$1,000 to \$10,000 payable to the commission.

Section 4. Amends s. 372.89, F.S., to conform to rules that shall be established by the FWC relating to regulated reptiles.

Section 5. Amends s. 372.90, F.S., to conform to rules that shall be established by the FWC relating to regulated reptiles.

Section 6. Creates ss. (2) of s. 372.901, F.S., requiring the commission to establish, by rule, a reporting system for regulated reptiles. The report, at a minimum, may include information regarding:

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

Section 7. Amends s. 372.91, F.S., to conform to rules that shall be established by the FWC relating to regulated reptiles.

Section 8. Renumbers s. 372.911, F.S., regarding rewards, as s. 372.0715, F.S., to conform with other police powers of the commission.

Section 9. Creates ss. (2) and ss. (3) of s. 372.92, F.S., providing first degree misdemeanor penalties for persons who knowingly, or through gross negligence, releases a regulated reptile to the wild, or violates any provision established in ss. 372.86 through 372.91, F.S.

Section 10. Provides an effective date of July 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The FWC estimates that if 3,000 additional entities were licensed to keep, exhibit or possess regulated reptiles at a fee of \$100, revenues would initially increase \$300,000 annually with the potential to subsequently recur or decrease. However, it is difficult to predict the growth or decline of this industry.

B. Private Sector Impact:

Entities currently possessing and exhibiting venomous reptiles will experience a \$9,000 increase in the bond amount (from \$1,000 to \$10,000). Entities possessing non-native, non-venomous reptiles designated as regulated reptiles for personal use would be required to purchase a license for a fee of \$100 per year where currently no license fee is required.

C. Government Sector Impact:

The FWC may incur increased costs for licensing reptile possessors, development and implementation of a licensing system, and inspection of newly regulated entities or facilities. Currently there are over 300 entities licensed to possess venomous reptiles.

The FWC estimates that over 3,000 additional entities will be affected by requiring licensing for non-native non-venomous reptiles designated as regulated reptiles that are possessed for personal use, thereby placing a substantial financial impact on the FWC to implement and enforce these regulations. Based on projected costs for processing applications and performing inspections for each new facility, the FWC would be facing an estimated increased financial impact of \$300,000. Once the program is in place, a better evaluation of actual costs can be determined.

The FWC estimates that in order to implement the provisions of this bill, other personnel services (OPS) administrative support as well as information technology (IT) personnel will be needed the first year and beyond to handle the additional program component and issue permits. The commission estimates that it may request full time staff (FTE) to oversee and manage the program beginning in 2008 – 2009 fiscal year.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

A strike-all amendment offers significant changes from the original bill text. Specifically, the strike-all:

- Amends s. 372.86, F.S., defining circumstances to which a license is required for venomous reptiles or reptiles of concern. Those include:
 - Capturing.
 - Keeping.
 - Transporting.
- Requires the commission to establish a list of reptiles of concern that can negatively impact the environment, ecology or humans.
- Establishes that it is unlawful to possess, keep, capture, or exhibit venomous reptiles or reptiles of concern in any manner not approved as safe, secure and proper by the commission. In the event the commission determines that venomous reptiles or reptiles of concern are not securely, safely or properly penned, it shall report the situation in writing to the person, firm or corporation owning the reptiles or reptiles of concern. Failure to respond to the written notification within 30 days shall be grounds for revocation of the license.
- Amends s. 372.87, F.S., establishes an annual fee not to exceed \$100 for the capturing, keeping, possessing or exhibiting of reptiles of concern. It authorizes the commission to reduce the annual fee, by rule, if it determines there is general compliance with s. 372.86 – 372.92, F.S. It also authorizes the commission to revoke licenses or permits for venomous reptiles or reptiles of concern upon violation of any provision in s. 372.86 – 372.92, F.S. Finally it directs any funds collected under this section shall be deposited into the State Game Trust Fund.
- Amends s. 372.88, F.S., increasing the bond requirement for venomous reptiles from \$1,000 to \$10,000. Authorizes the commission to waive, by rule, the bond requirement if it finds that surety bonds are generally not available within the State of Florida.
- Repeals s. 372.89, 372.90, 372.901 and 372.91, F.S., to conform to new provisions created in the bill.
- Creates ss. (2) of s. 372.92, F.S., making it a Level Three violation, as provided in s. 372.935, F.S., for persons to knowingly release a nonnative venomous reptile or reptile of concern to the wild.
- Substantially amends s. 372.935, F.S., establishing captive wildlife penalties as:
 - (1) LEVEL ONE.--Unless otherwise provided by law, the following classifications and penalties apply:
 - (a) A person commits a Level One violation if he or she violates any of the following provisions:
 - 1. Rules or orders of the commission requiring free permits or other authorizations to possess captive wildlife.
 - 2. Rules or orders of the commission relating to the filing of reports or other documents required of persons who are licensed to possess captive wildlife.
 - 3. Rules or orders of the commission requiring permits to possess captive wildlife for which a fee is charged, when the person being

charged was issued the permit and the permit has expired less than 1 year prior to the violation.

- (b) Any person cited for committing any offense classified as a Level One violation commits a noncriminal infraction, punishable as provided in this section.
- (c) Any person cited for committing a noncriminal infraction specified in paragraph (a) shall be cited to appear before the county court. The civil penalty for any noncriminal infraction is \$50 if the person cited has not previously been found guilty of a Level One violation and \$250 if the person cited has previously been found guilty of a Level One violation, except as otherwise provided in this subsection. Any person cited for failing to have a required permit or license shall pay an additional civil penalty in the amount of the license fee required.
- (d) Any person cited for an infraction under this subsection may:
 - 1. Post a bond, which shall be equal in amount to the applicable civil penalty; or
 - 2. Sign and accept a citation indicating a promise to appear before the county court. The officer may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.
- (e) Any person charged with a noncriminal infraction under this subsection may:
 - 1. Pay the civil penalty, either by mail or in person, within 30 days after the date of receiving the citation; or
 - 2. If the person has posted bond, forfeit bond by not appearing at the designated time and location.
- (f) If the person cited follows either of the procedures in subparagraph (e) 1. or subparagraph (e)2., he or she shall be deemed to have admitted the infraction and to have waived his or her right to a hearing on the issue of commission of the infraction. Such admission shall not be used as evidence in any other proceedings except to determine the appropriate fine for any subsequent violations.
- (g) Any person who willfully refuses to post bond or accept and sign a summons commits a misdemeanor of the second degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S. Any person who fails to pay the civil penalty specified in this subsection within 30 days after being cited for a noncriminal infraction or to appear before the court pursuant to this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.
- (h) Any person electing to appear before the county court or who is required to appear shall be deemed to have waived the limitations on the civil penalty specified in paragraph (c). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction has been proven, the court may impose a civil penalty not less than those amounts in paragraph (c) and not to exceed \$500.

- (i) At a hearing under this chapter, the commission of a charged infraction must be proved beyond a reasonable doubt.
- (j) If a person is found by the hearing official to have committed an infraction, she or he may appeal that finding to the circuit court.
- (2) LEVEL TWO.--Unless otherwise provided by law, the following classifications and penalties apply:
 - (a) A person commits a Level Two violation if he or she violates any of the following provisions:
 - 1. Unless otherwise stated in subsection (1), rules or orders of the commission that require a person to pay a fee to obtain a permit to possess captive wildlife or that require the maintenance of records relating to captive wildlife.
 - 2. Rules or orders of the commission relating to captive wildlife not specified in subsection (1) or subsection (3).
 - 3. Rules or orders of the commission that require housing of wildlife in a safe manner when a violation results in an escape of wildlife other than Class I wildlife.
 - 4. Section 372.86, F.S., relating to capturing, keeping, possessing, transporting, or exhibiting venomous reptiles or reptiles of concern.
 - 5. Section 372.87, F.S., relating to requiring a license or permit for the capturing, keeping, possessing, or exhibiting of venomous reptiles or reptiles of concern.
 - 6. Section 372.88, F.S., relating to bonding requirements for public exhibits of venomous reptiles.
 - 7. Section 372.92, F.S., relating to commission rules and regulations to prevent the escape of venomous reptiles or reptiles of concern.
 - 8. Section 372.921, F.S., relating to exhibition or sale of wildlife.
 - 9. Section 372.922, F.S., relating to personal possession of wildlife.
 - (b) A person who commits any offense classified as a Level Two violation and who has not been convicted of a Level Two or higher violation within the past 3 years commits a misdemeanor of the second degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.
 - (c) Unless otherwise stated in this subsection, a person who commits any offense classified as a Level Two violation within a 3-year period of any previous conviction of a Level Two or higher violation commits a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., with a minimum mandatory fine of \$250.
 - (d) Unless otherwise stated in this subsection, a person who commits any offense classified as a Level Two violation within a 5-year period of any two previous convictions of Level Two or higher violations commits a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., with a minimum mandatory fine of \$500 and a

- suspension of all licenses issued under this chapter related to captive wildlife for 1 year.
- (e) A person who commits any offense classified as a Level Two violation within a 10-year period of any three previous convictions of Level Two or higher violations commits a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., with a minimum mandatory fine of \$750 and a suspension of all licenses issued under this chapter related to captive wildlife for 3 years.
- (3) LEVEL THREE.--Unless otherwise provided by law, the following classifications and penalties apply:
- (a) A person commits a Level Three violation if he or she violates any of the following provisions:
 - 1. Rules or orders of the commission that require housing of wildlife in a safe manner when a violation results in an escape of Class I wildlife.
 - 2. Rules or orders of the commission related to captive wildlife when the violation results in serious bodily injury to another person by captive wildlife that consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.
 - 3. Rules or orders of the commission relating to the use of gasoline or other chemical or gaseous substances on wildlife.
 - 4. Rules or orders of the commission prohibiting the release of wildlife for which only conditional possession is allowed.
 - 5. Rules or orders of the commission prohibiting knowingly entering false information on an application for a license or permit when the license or permit is to possess wildlife in captivity.
 - 6. Section 372.265, F.S., relating to illegal importation or introduction of foreign wildlife.
 - 7. Section 370.081, F.S., relating to the illegal importation and possession of nonindigenous marine plants and animals.
 - 8. Section 372.92, F.S., relating to release or escape of nonnative venomous reptiles or reptiles of concern.
 - 9. Rules or orders of the commission relating to the importation, possession, or release of fish and wildlife for which possession is prohibited.
 - (b)1. A person who commits any offense classified as a Level Three violation and who has not been convicted of a Level Three or higher violation within the past 10 years commits a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.
 - 2. A person who commits any offense classified as a Level Three violation within a 10-year period of any previous conviction of a Level Three or higher violation commits a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., with a

- minimum mandatory fine of \$750 and permanent revocation of all licenses or permits to possess captive wildlife issued under this chapter.
- (4) LEVEL FOUR.--Unless otherwise provided by law, the following classifications and penalties apply:
 - (a) A person commits a Level Four violation if he or she violates any Level Three provision after the permanent revocation of a license or permit.
 - (b) A person who commits any offense classified as a Level Four violation commits a felony of the third degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.
 - (5) SUSPENSION OR REVOCATION OF LICENSE.--The court may order the suspension or revocation of any license or permit issued to a person to possess captive wildlife pursuant to this chapter if that person commits a criminal offense or a noncriminal infraction as specified under this section.
 - (6) CONVICTION DEFINED.--For purposes of this section, the term "conviction" means any judicial disposition other than acquittal or dismissal.
 - (7) COMMISSION LIMITATIONS.--Nothing in this section shall limit the commission from suspending or revoking any license to possess wildlife in captivity by administrative action in accordance with chapter 120, F.S. For purposes of administrative action, a conviction of a criminal offense shall mean any judicial disposition other than acquittal or dismissal.
 - For the 2007-2008 fiscal year, \$75,000 is appropriated from the State Game Trust Fund to the commission for costs associated with regulating venomous reptiles and reptiles of concern.

The original strike-all amendment included penalty provisions and bonding requirements for Class I wildlife. The Committee on Environmental Preservation and Conservation introduced a series of amendments that removed references to Class I wildlife.

Section 372.922, F.S., states Class I wildlife, which because of its nature, habits, or status, shall not be possessed as a personal pet. As defined in Chapter 68A-6, F.A.C., Class I wildlife includes:

1. Chimpanzees (genus Pan)
2. Gorillas (genus Gorilla)
3. Gibbons (genus Hylobates)
4. Drills and mandrills (genus Mandrillus)
5. Orangutans (genus Pongo)
6. Baboons (genus Papio)
7. Siamangs (genus Symphalangus)
8. Gelada Baboons (genus Theropithecus)
9. Snow leopards (Panthera uncia)
10. Leopards (Panthera pardus)
11. Jaguars (Panthera onca)
12. Tigers (Panthera tigris)
13. Lions (Panthera leo)
14. Bears (family Ursidae)
15. Rhinoceros (family Rhinocerotidae)

16. Elephants (family Elephantidae)
17. Hippopotamuses (family Hippopotamidae)
18. Cape buffalos (*Syncerus caffer caffer*)
19. Crocodiles (except dwarf and Congo) (family Crocodylidae)
20. Gavials (family Gavialidae)
21. Black caimans (*Melanosuchus niger*)
22. Komodo dragons (*Varanus komodoensis*)

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
