

By the Committee on General Government Appropriations; and
Senator Posey

601-2496-07

1 A bill to be entitled
2 An act relating to wildlife; amending s.
3 372.86, F.S.; requiring the Fish and Wildlife
4 Conservation Commission to establish a list of
5 reptiles of concern subject to regulation;
6 prohibiting the unlawful capturing, keeping,
7 possessing, transporting, or exhibiting of
8 venomous reptiles or reptiles of concern;
9 authorizing the commission to inspect venomous
10 reptiles or reptiles of concern held in
11 captivity; requiring written reports of
12 violations; authorizing the commission to
13 revoke licenses and permits under certain
14 circumstances; requiring the commission to
15 adopt rules for the transportation of venomous
16 reptiles or reptiles of concern; amending s.
17 372.87, F.S.; requiring licensure for the
18 capturing, keeping, possessing, or exhibiting
19 of venomous reptiles or reptiles of concern;
20 providing for fees; authorizing the commission
21 to reduce fees applicable to reptiles of
22 concern under certain circumstances; requiring
23 fee proceeds to be deposited into the State
24 Game Trust Fund; specifying uses of the
25 proceeds; amending s. 372.88, F.S.; providing
26 for the bond required for the exhibition of
27 venomous reptiles to be payable to the
28 commission; providing for regulation of the
29 capturing of venomous reptiles; providing for
30 certain financial guarantees by Class I
31 wildlife exhibitors; providing rulemaking

1 authority; repealing s. 372.89, F.S., relating
2 to the safe, secure, and proper housing of
3 poisonous or venomous reptiles; repealing s.
4 372.90, F.S., relating to the transportation of
5 poisonous or venomous reptiles; repealing s.
6 372.901, F.S., relating to the inspection of
7 poisonous or venomous held in captivity;
8 repealing s. 372.91, F.S., relating to who may
9 open cages, pits, or other containers housing
10 poisonous or venomous reptiles; renumbering s.
11 372.911, F.S., relating to rewards, to conform;
12 amending s. 372.92, F.S.; providing criminal
13 penalties for certain activities related to
14 venomous reptiles or reptiles of concern;
15 amending s. 372.935, F.S.; providing violation
16 levels and applicable penalties relating to
17 captive wildlife, including suspension or
18 revocation of license; providing a definition;
19 providing for commission limitations in certain
20 administrative actions; providing an
21 appropriation; providing effective dates.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 372.86, Florida Statutes, is
26 amended to read:

27 372.86 Capturing, keeping, possessing, transporting,
28 or exhibiting ~~poisonous or venomous reptiles or reptiles of~~
29 concern ~~reptile~~; license required.--

30 (1) No person, firm, or corporation shall capture,
31 keep, possess, or exhibit any poisonous or venomous reptile or

1 reptile of concern without first having obtained a special
2 permit or license therefor from the Fish and Wildlife
3 Conservation Commission as ~~herein~~ provided in this section.

4 (2) By December 31, 2007, the commission shall
5 establish a list of reptiles of concern, including venomous,
6 nonvenomous, native, nonnative, or other reptiles, which
7 require additional regulation for capture, possession,
8 transportation, or exhibition due to their nature, habits,
9 status, or potential to negatively impact the environment,
10 ecology, or humans.

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

25 (4) Venomous reptiles or reptiles of concern shall be
26 transported in a safe, secure, and proper manner. The
27 commission shall establish by rule the requirements for the
28 transportation of venomous reptiles or reptiles of concern.

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

31 372.87 License fee; renewal, revocation.--

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

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

29 (2) Such permits or licenses ~~permit~~ may be revoked by
30 the ~~Fish and Wildlife Conservation~~ commission upon violation
31 of any of the provisions of ss. 372.86-372.92 ~~ss.~~

1 ~~372.86-372.91~~ or upon violation of any of the rules and
2 regulations prescribed by ~~the said~~ commission relating to the
3 capturing, keeping, possessing, and exhibiting of any
4 ~~poisonous and~~ venomous reptiles or reptiles of concern. Such
5 permits or licenses shall be for an annual period to be
6 prescribed by the ~~said~~ commission and shall be renewable ~~from~~
7 ~~year to year~~ upon the payment of said fee and shall be subject
8 to the same conditions, limitations, and restrictions as
9 herein set forth in this section. All moneys received pursuant
10 to this section shall be deposited into the State Game Trust
11 Fund to be used to implement, administer, enforce, and educate
12 the public regarding ss. 372.86-372.92.

13 Section 3. Section 372.88, Florida Statutes, is
14 amended to read:

15 372.88 Bond required, amount.--

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

1 to do business under the laws of the state or in lieu of such
2 a surety, cash in the sum of ~~\$10,000~~~~\$1,000~~ may be posted with
3 the ~~said~~ commission to ensure compliance with the conditions
4 of the said bond.

5 (2) No person, party, firm, or corporation shall
6 exhibit to the public either with or without charge or
7 admission fee, any Class I wildlife, as defined in s. 372.922
8 and ch. 68A-6, Florida Administrative Code, without having
9 first guaranteed financial responsibility, in the sum of
10 \$10,000, for any liability which may be incurred in the
11 exhibition to the public of Class I wildlife. The commission
12 shall adopt, by rule, the methods of payment that satisfy the
13 financial responsibility, which may include cash, the
14 establishment of a trust fund, an irrevocable letter of
15 credit, casualty insurance, a corporate guarantee, or any
16 combination thereof, in the sum of \$10,000 which shall be
17 posted with the commission. In lieu of the \$10,000 financial
18 responsibility guarantee required in this paragraph, the
19 exhibiter has the option to maintain comprehensive general
20 liability insurance, with minimum limits of \$2 million per
21 occurrence and \$2 million annual aggregate, as shall protect
22 the exhibiter from claims for damage for personal injury,
23 including accidental death, as well as claims for property
24 damage which may arise. Proof of such insurance shall be
25 submitted to the commission.

26 Section 4. Sections 372.89, 372.90, 372.901, and
27 372.91, Florida Statutes, are repealed.

28 Section 5. Section 372.911, Florida Statutes, is
29 renumbered as section 372.0715, Florida Statutes.

30 Section 6. Section 372.92, Florida Statutes, is
31 amended to read:

1 372.92 Rules and regulations; penalties.--

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

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

13 Section 7. Section 372.935, Florida Statutes, is
14 amended to read:

15 (Substantial rewording of section. See
16 s. 372.935, F.S., for present text.)
17 372.935 Captive wildlife penalties.--

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

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

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

24 2. Rules or orders of the commission relating to the
25 filing of reports or other documents required of persons who
26 are licensed to possess captive wildlife.

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

31

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

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

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

14 (d) Any person cited for an infraction under this
15 subsection may:

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

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

22 (e) Any person charged with a noncriminal infraction
23 under this subsection may:

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

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

28 (f) If the person cited follows either of the
29 procedures in subparagraph (e)1. or subparagraph (e)2., he or
30 she shall be deemed to have admitted the infraction and to
31 have waived his or her right to a hearing on the issue of

1 commission of the infraction. Such admission shall not be used
2 as evidence in any other proceedings except to determine the
3 appropriate fine for any subsequent violations.

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

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

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

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

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

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

29 1. Unless otherwise stated in subsection (1), rules or
30 orders of the commission that require a person to pay a fee to
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1 obtain a permit to possess captive wildlife or that require
2 the maintenance of records relating to captive wildlife.
3 2. Rules or orders of the commission relating to
4 captive wildlife not specified in subsection (1) or subsection
5 (3).
6 3. Rules or orders of the commission that require
7 housing of wildlife in a safe manner when a violation results
8 in an escape of wildlife other than Class I wildlife.
9 4. Section 372.86, relating to capturing, keeping,
10 possessing, transporting, or exhibiting venomous reptiles or
11 reptiles of concern.
12 5. Section 372.87, relating to requiring a license or
13 permit for the capturing, keeping, possessing, or exhibiting
14 of venomous reptiles or reptiles of concern.
15 6. Section 372.88, relating to bonding requirements
16 for public exhibits of venomous reptiles.
17 7. Section 372.92, relating to commission rules and
18 regulations to prevent the escape of venomous reptiles or
19 reptiles of concern.
20 8. Section 372.921, relating to exhibition or sale of
21 wildlife.
22 9. Section 372.922, relating to personal possession of
23 wildlife.
24 (b) A person who commits any offense classified as a
25 Level Two violation and who has not been convicted of a Level
26 Two or higher violation within the past 3 years commits a
27 misdemeanor of the second degree, punishable as provided in s.
28 775.082 or s. 775.083.
29 (c) Unless otherwise stated in this subsection, a
30 person who commits any offense classified as a Level Two
31 violation within a 3-year period of any previous conviction of

1 a Level Two or higher violation commits a misdemeanor of the
2 first degree, punishable as provided in s. 775.082 or s.
3 775.083 with a minimum mandatory fine of \$250.

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

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

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

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

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

26 2. Rules or orders of the commission related to
27 captive wildlife when the violation results in serious bodily
28 injury to another person by captive wildlife that consists of
29 a physical condition that creates a substantial risk of death,
30 serious personal disfigurement, or protracted loss or
31 impairment of the function of any bodily member or organ.

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

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

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

11 6. Section 372.265, relating to illegal importation or
12 introduction of foreign wildlife.

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

16 8. Section 372.92, relating to release or escape of
17 nonnative venomous reptiles or reptiles of concern.

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

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

26 2. A person who commits any offense classified as a
27 Level Three violation within a 10-year period of any previous
28 conviction of a Level Three or higher violation 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 \$750
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1 and permanent revocation of all licenses or permits to possess
2 captive wildlife issued under this chapter.

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

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

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

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

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

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

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

31

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

3
4 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
5 COMMITTEE SUBSTITUTE FOR
6 SB 2766

7 Requires the Fish and Wildlife Conservation Commission
8 (commission) to establish a list of reptiles of concern that
9 can negatively impact the environment, the ecology, or humans.

10 Defines circumstances to which a license is required for
11 venomous reptiles or reptiles of concern.

12 Establishes that it is unlawful to possess, keep, capture, or
13 exhibit venomous reptiles or reptiles of concern in any manner
14 not approved as safe, secure, and proper by the commission.

15 Establishes an annual fee not to exceed \$100 for the
16 capturing, keeping, possessing, or exhibiting of reptiles of
17 concern, to be deposited into the State Game Trust Fund within
18 the commission.

19 Increases the bond requirement for venomous reptiles from
20 \$1,000 to \$10,000.

21 Requires persons who exhibit Class I wildlife to provide
22 guaranteed financial responsibility to the commission in the
23 amount of \$10,000 or to maintain comprehensive general
24 liability insurance in the amount of \$2 million, for any
25 liability incurred in the exhibition to the public of such
26 wildlife.

27 Makes the knowing release of a non-native venomous reptile or
28 reptile of concern to the wild a Level Three violation.

29 Appropriates \$75,000 for the 2007-2008 fiscal year from the
30 State Game Trust Fund to the commission for costs associated
31 with regulating venomous reptiles and reptiles of concern.