



365250

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2010	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 379.231, Florida Statutes, is amended to
read:

379.231 Regulation of wild ~~foreign~~ animals not native to
the state.—

(1) It is unlawful to import for sale or use, or to release
within this state, any species of ~~the~~ wild animal ~~kingdom~~ not
native indigenous to Florida unless authorized by ~~without having~~
~~obtained a permit to do so from~~ the Fish and Wildlife



365250

13 Conservation Commission.

14 ~~(2) The Fish and Wildlife Conservation Commission is~~
15 ~~authorized to issue or deny such a permit upon the completion of~~
16 ~~studies of the species made by it to determine any detrimental~~
17 ~~effect the species might have on the ecology of the state.~~

18 ~~(2)(3)~~ A person in violation of this section commits a
19 Level Three violation under s. 379.4015 ~~s. 379.401~~.

20 Section 2. Subsections (1) and (4) of section 379.3761,
21 Florida Statutes, are amended to read

22 379.3761 Exhibition or sale of wildlife; fees;
23 classifications.-

24 (1) In order to provide humane treatment and sanitary
25 surroundings for wild animals kept in captivity, no person,
26 firm, corporation, or association shall have, or be in
27 possession of, in captivity for the purpose of public display
28 with or without charge or for public sale any wildlife,
29 specifically birds, mammals, amphibians, and reptiles, whether
30 indigenous to Florida or not, without having first secured a
31 permit from the commission authorizing such person, firm, or
32 corporation to have in its possession in captivity the species
33 and number of wildlife specified within such permit; however,
34 this section does not apply to any wildlife not protected by law
35 and the rules of the commission. No person shall sell any
36 wildlife in the state unless authorized by the commission. A
37 sale where delivery occurs in Florida regardless of origin of
38 the sale or location of the initial transaction is subject to
39 this restriction.

40 (4) The provisions of this section relative to licensing
41 for exhibition do not apply to any municipal, county, state, or



365250

42 other publicly owned wildlife exhibit. The provisions of this
43 section relative to licensing for exhibition do not apply to any
44 traveling zoo, circus, or exhibit licensed as provided by
45 chapter 205.

46 Section 3. Paragraph (a) of subsection (3) of section
47 379.401, Florida Statutes, is amended to read:

48 379.401 Penalties and violations; civil penalties for
49 noncriminal infractions; criminal penalties; suspension and
50 forfeiture of licenses and permits.—

51 (3) (a) LEVEL THREE VIOLATIONS.—A person commits a Level
52 Three violation if he or she violates any of the following
53 provisions:

54 1. Rules or orders of the commission prohibiting the sale
55 of saltwater fish.

56 2. Rules or orders of the commission prohibiting the
57 illegal importation or possession of exotic marine plants or
58 animals.

59 3. Section 379.407(2), establishing major violations.

60 4. Section 379.407(4), prohibiting the possession of
61 certain finfish in excess of recreational daily bag limits.

62 5. Section 379.28, prohibiting the importation of
63 freshwater fish.

64 ~~6. Section 379.231, prohibiting the importation of~~
65 ~~nonindigenous species of the animal kingdom without a permit~~
66 ~~issued by the commission.~~

67 6. ~~7.~~ Section 379.354(17), prohibiting the taking of game,
68 freshwater fish, or saltwater fish while a required license is
69 suspended or revoked.

70 7. ~~8.~~ Section 379.3014, prohibiting the illegal sale or



365250

71 possession of alligators.

72 8. ~~9.~~ Section 379.404(1), (3), and (6), prohibiting the
73 illegal taking and possession of deer and wild turkey.

74 9. ~~10.~~ Section 379.406, prohibiting the possession and
75 transportation of commercial quantities of freshwater game fish.

76 Section 4. Section 379.4015, Florida Statutes, is amended
77 to read:

78 379.4015 Nonnative and captive wildlife penalties.—

79 (1) LEVEL ONE.—Unless otherwise provided by law, the
80 following classifications and penalties apply:

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

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

85 2. Rules or orders of the commission relating to the filing
86 of reports or other documents required of persons who are
87 licensed to possess captive wildlife.

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

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

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



365250

100 cited has previously been found guilty of a Level One violation,
101 except as otherwise provided in this subsection. Any person
102 cited for failing to have a required permit or license shall pay
103 an additional civil penalty in the amount of the license fee
104 required.

105 (d) Any person cited for an infraction under this
106 subsection may:

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

109 2. Sign and accept a citation indicating a promise to
110 appear before the county court. The officer may indicate on the
111 citation the time and location of the scheduled hearing and
112 shall indicate the applicable civil penalty.

113 (e) Any person charged with a noncriminal infraction under
114 this subsection may:

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

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

119 (f) If the person cited follows either of the procedures in
120 subparagraph (e)1. or subparagraph (e)2., he or she shall be
121 deemed to have admitted the infraction and to have waived his or
122 her right to a hearing on the issue of commission of the
123 infraction. Such admission shall not be used as evidence in any
124 other proceedings except to determine the appropriate fine for
125 any subsequent violations.

126 (g) Any person who willfully refuses to post bond or accept
127 and sign a summons commits a misdemeanor of the second degree,
128 punishable as provided in s. 775.082 or s. 775.083. Any person



365250

129 who fails to pay the civil penalty specified in this subsection
130 within 30 days after being cited for a noncriminal infraction or
131 to appear before the court pursuant to this subsection commits a
132 misdemeanor of the second degree, punishable as provided in s.
133 775.082 or s. 775.083.

134 (h) Any person electing to appear before the county court
135 or who is required to appear shall be deemed to have waived the
136 limitations on the civil penalty specified in paragraph (c). The
137 court, after a hearing, shall make a determination as to whether
138 an infraction has been committed. If the commission of an
139 infraction has been proven, the court may impose a civil penalty
140 not less than those amounts in paragraph (c) and not to exceed
141 \$500.

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

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

147 (2) LEVEL TWO.—Unless otherwise provided by law, the
148 following classifications and penalties apply:

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

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

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

157 3. Rules or orders of the commission that require housing



365250

158 of wildlife in a safe manner when a violation results in an
159 escape of wildlife other than Class I wildlife.

160 4. Rules or orders of the commission relating to wild
161 animal life identified by commission rule as either conditional
162 species or prohibited species.

163 5. ~~4.~~ Section 379.372, relating to capturing, keeping,
164 possessing, transporting, or exhibiting venomous reptiles or
165 reptiles of concern.

166 6. ~~5.~~ Section 379.373, relating to requiring a license or
167 permit for the capturing, keeping, possessing, or exhibiting of
168 venomous reptiles or reptiles of concern.

169 7. ~~6.~~ Section 379.374, relating to bonding requirements for
170 public exhibits of venomous reptiles.

171 8. ~~7.~~ Section 379.305, relating to commission rules and
172 regulations to prevent the escape of venomous reptiles or
173 reptiles of concern.

174 9. ~~8.~~ Section 379.304, relating to exhibition or sale of
175 wildlife.

176 10. ~~9.~~ Section 379.3761, relating to exhibition or sale of
177 wildlife.

178 11. ~~10.~~ Section 379.3762, relating to personal possession
179 of wildlife.

180 (b) A person who commits any offense classified as a Level
181 Two violation and who has not been convicted of a Level Two or
182 higher violation within the past 3 years commits a misdemeanor
183 of the second degree, punishable as provided in s. 775.082 or s.
184 775.083.

185 (c) Unless otherwise stated in this subsection, a person
186 who commits any offense classified as a Level Two violation



365250

187 within a 3-year period of any previous conviction of a Level Two
188 or higher violation commits a misdemeanor of the first degree,
189 punishable as provided in s. 775.082 or s. 775.083 with a
190 minimum mandatory fine of \$250.

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

199 (e) A person who commits any offense classified as a Level
200 Two violation within a 10-year period of any three previous
201 convictions of Level Two or higher violations commits a
202 misdemeanor of the first degree, punishable as provided in s.
203 775.082 or s. 775.083, with a minimum mandatory fine of \$750 and
204 a suspension of all licenses issued under this chapter related
205 to captive wildlife for 3 years.

206 (f) A person who commits a Level Two violation that is a
207 violation of s. 379.372 or rules or orders relating to
208 conditional species or prohibited species shall in addition to
209 being subject to the penalties prescribed in paragraphs (b)-(e)
210 receive at least a minimum mandatory fine of \$100 and must
211 immediately surrender the wildlife that is the basis of the
212 violation to the Commission unless a permit for possession is
213 lawfully obtained.

214 (3) Level three.—Unless otherwise provided by law, the
215 following classifications and penalties apply:



365250

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

218 1. Rules or orders of the commission that require housing
219 of wildlife in a safe manner when a violation results in an
220 escape of Class I wildlife.

221 2. Rules or orders of the commission related to captive
222 wildlife when the violation results in serious bodily injury to
223 another person by captive wildlife that consists of a physical
224 condition that creates a substantial risk of death, serious
225 personal disfigurement, or protracted loss or impairment of the
226 function of any bodily member or organ.

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

229 4. Rules or orders of the commission prohibiting the
230 release of wildlife for which only conditional possession is
231 allowed.

232 5. Rules or orders of the commission prohibiting knowingly
233 entering false information on an application for a license or
234 permit when the license or permit is to possess wildlife in
235 captivity.

236 6. Rules or orders of the commission relating to the
237 illegal importation and possession of ~~nonindigenous~~ marine
238 plants and animals not native to the state.

239 7. Rules or orders of the commission relating to the
240 importation, possession, or release of fish and wildlife for
241 which possession is prohibited.

242 8. Section 379.231, relating to illegal importation or
243 release introduction of wild animals not native to the state
244 ~~foreign wildlife~~.



365250

245 9. Section 379.305, relating to release or escape of
246 nonnative venomous reptiles or reptiles of concern.

247 (b) 1. A person who commits any offense classified as a
248 Level Three violation and who has not been convicted of a Level
249 Three or higher violation within the past 10 years commits a
250 misdemeanor of the first degree, punishable as provided in s.
251 775.082 or s. 775.083.

252 2. A person who commits any offense classified as a Level
253 Three violation within a 10-year period of any previous
254 conviction of a Level Three or higher violation commits a
255 misdemeanor of the first degree, punishable as provided in s.
256 775.082 or s. 775.083, with a minimum mandatory fine of \$750 and
257 permanent revocation of all licenses or permits to possess
258 captive wildlife issued under this chapter.

259 (4) Level four.—Unless otherwise provided by law, the
260 following classifications and penalties apply:

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

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

267 (5) Suspension or revocation of license.—The court may
268 order the suspension or revocation of any license or permit
269 issued to a person to possess captive wildlife pursuant to this
270 chapter if that person commits a criminal offense or a
271 noncriminal infraction as specified under this section.

272 (6) In addition to other applicable penalties, the
273 commission may impose against any person, firm, or corporation



365250

274 who is convicted of a criminal violation of any provision of ss.
275 379.231, 379.372, 379.3761 or 379.3762, a civil penalty of not
276 more than \$10,000 per animal and not less than \$1,000 in total
277 unless mitigated as authorized below.

278 (a) The history of noncompliance of the violator for any
279 previous violation of this chapter or rules or orders of the
280 commission shall be considered in determining the amount of the
281 civil penalty.

282 (b) The direct economic benefit gained by the violator from
283 the violation may be added to the scheduled civil penalty.

284 (c) The costs incurred by the commission related to the
285 escape, recovery, and care of the wildlife subject of the
286 violation shall be added to the civil penalty.

287 (d) The civil penalty assessed for any particular violation
288 may not exceed \$5,000 per animal against any one violator unless
289 the violator has a history of noncompliance, the economic
290 benefit of the violation as described in paragraph (b) exceeds
291 \$5,000, or the costs incurred by the commission related to the
292 escape, recovery, and care of the wildlife subject of the
293 violation exceeds \$5,000. The total civil penalty may not exceed
294 \$10,000 per assessment for all related violations attributable
295 to a specific violator per animal.

296 (e) The civil penalty assessed pursuant to this subsection
297 may be reduced by the commission for mitigating circumstances,
298 including good faith efforts to comply prior to or after
299 discovery of the violations by the commission.

300 (f) The proceeds of all civil penalties collected pursuant
301 to this subsection shall be deposited into the State Game Trust
302 Fund.



365250

303 (7) ~~(6)~~ Conviction defined.—For purposes of this section,
304 the term “conviction” means any judicial disposition other than
305 acquittal or dismissal.

306 (8) ~~(7)~~ Commission limitations.—Nothing in this section
307 shall limit the commission from suspending or revoking any
308 license to possess wildlife in captivity by administrative
309 action in accordance with chapter 120. For purposes of
310 administrative action, a conviction of a criminal offense shall
311 mean any judicial disposition other than acquittal or dismissal.

312 Section 5. Section 5. Subsection (2) of section 379.374,
313 Florida Statutes, is amended to read

314 379.374 Bond required, amount.—

315 (2) No person, party, firm, or corporation shall possess or
316 exhibit to the public either with or without charge or admission
317 fee, any Class I wildlife, as defined in s. 379.303 and
318 commission rule, without having first guaranteed financial
319 responsibility, in the sum of \$10,000, for any liability which
320 may be incurred in the exhibition to the public of Class I
321 wildlife. The commission shall adopt, by rule, the methods of
322 payment that satisfy the financial responsibility, which may
323 include cash, the establishment of a trust fund, an irrevocable
324 letter of credit, casualty insurance, a corporate guarantee, or
325 any combination thereof, in the sum of \$10,000 which shall be
326 posted with the commission. In lieu of the \$10,000 financial
327 responsibility guarantee required in this subsection, the
328 exhibiter has the option to maintain comprehensive general
329 liability insurance, with minimum limits of \$2 million per
330 occurrence and \$2 million annual aggregate, as shall protect the
331 exhibiter from claims for damage for personal injury, including



365250

332 accidental death, as well as claims for property damage which
333 may arise. Proof of such insurance shall be submitted to the
334 commission.

335 Section 6. By January 1, 2015, the commission shall
336 evaluate the need for further restricting the possession of
337 reptiles of concern including evaluating the need to ban
338 possession of those species.

339 Section 7. This act shall take effect July 1, 2010.

340

341

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

343 And the title is amended as follows:

344 Delete everything before the enacting clause
345 and insert:

346 A bill to be entitled

347 An act relating to wildlife; amending s. 379.231, F.S.;
348 revising provisions relating to the sale or release of wild
349 animals; amending s. 379.3761, F.S.; revising violations for the
350 sale and exhibition of wildlife in the state unless authorized
351 by the commission; amending s. 379.401, F.S.; revising Level
352 Three violations; amending s. 379.4015, F.S.; revising non-
353 native and captive wildlife penalties; providing provisions for
354 civil penalties; amending s. 379.374, F.S.; providing provisions
355 for bonding requirements for wildlife; providing for provisions
356 relating to a ban of certain species; providing an effective
357 date.

358

359