

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 1266

INTRODUCER: Criminal Justice Committee and Senators Rodriguez and Stewart

SUBJECT: Venomous Reptiles

DATE: April 18, 2023

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|------------------|
| 1. | <u>Carroll</u> | <u>Rogers</u> | <u>EN</u> | Favorable |
| 2. | <u>Cellon</u> | <u>Stokes</u> | <u>CJ</u> | Fav/CS |
| 3. | <u>Carroll</u> | <u>Twogood</u> | <u>RC</u> | Favorable |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1266 amends s. 379.305, F.S., to provide that a person who knowingly releases a nonnative venomous reptile or who through gross negligence allows a nonnative venomous reptile to escape commits a Level Four violation.¹ A person who knowingly releases a nonnative reptile of concern or who through gross negligence allows a nonnative reptile of concern to escape commits a Level Three violation.²

If a person violates s. 379.305(4), F.S., relating to the purchase, sale, attempt to sell, offer for sale, conspiracy to sell, barter, exchange, trade, or import for sale or use of any species of venomous reptile without having first obtained a special permit or license from the Florida Fish and Wildlife Conservation Commission (FWC), he or she commits a Level Four violation.³

The bill amends s. 379.4015, F.S., to make multiple corresponding and substantive changes to enhance certain penalties related to certain reptiles. Specifically, the bill amends:

- Section 379.4015(2)(a)2. and 3., F.S., to specifically exclude venomous reptiles and nonnative venomous reptiles from certain Level Two violations.

¹ Punishable by up to 5 years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

² Punishable by up to 1 year in the county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

³ Punishable by up to 5 years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

- Section 379.4015(3)(a)1., F.S., to provide that it is a Level Three violation for a person to violate any rule or order of the FWC that require housing of wildlife in a safe manner when a violation results in an escape of a venomous reptile.
- Section 379.4015(3)(a)9., F.S., to remove venomous reptiles from certain Level Three violations.
- Section 379.4015(4)(c), F.S., to provide that it is a Level Four violation if a person violates s. 379.305(3), F.S., relating to the release or escape of nonnative venomous reptiles, or s. 379.305(4), F.S., relating to purchase, sale, attempt to sell, offer for sale, conspiracy to sell, barter, exchange, trade, or import for sale or use any species of venomous reptile.

Level Two violations are either second⁴ or first degree⁵ misdemeanor offenses, depending upon the offender's history of FWC offenses. Level Three violations are first degree misdemeanor offenses and Level 4 violations are third degree felony offenses.⁶

There is no reported Fiscal Impact from the bill. See Section V. Fiscal Impact.

The bill becomes effective July 1, 2023.

II. Present Situation:

Fish and Wildlife Conservation Commission

The Florida Fish and Wildlife Conservation Commission (FWC) is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources.⁷ FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Florida Senate.⁸ Under Article IV, Section 9 of the Florida Constitution, FWC has the authority to exercise the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.

Nonnative Reptiles in Florida

Many nonnative species in Florida do not cause problems in the state, however some can become invasive.⁹ Invasive species are nonnative species that cause harm to the economy, environment, or human health.¹⁰ In many cases, invasive species may threaten native species, biodiversity, ecosystem services, recreation, water resources, agricultural and forest production, cultural resources, economies and property values, public safety, and infrastructure.¹¹

⁴ A second degree misdemeanor is punishable by up to 60 days in the county jail and a \$500 fine. Sections 775.082 and 775.083, F.S.

⁵ A first degree misdemeanor is punishable by up to 1 year in the county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

⁶ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

⁷ FLA. CONST. art. IV, s. 9.

⁸ *Id.*; see also s. 379.102(1), F.S.

⁹ FWC, *Florida's Nonnative Fish and Wildlife*, <https://myfwc.com/wildlifehabitats/nonnatives/> (last visited Mar. 31, 2023).

¹⁰ U.S. Forest Service, *Invasive Species*, <https://www.fs.usda.gov/managing-land/invasive-species> (last visited Mar. 31, 2023).

¹¹ *Id.*

Nonnative reptiles in Florida include many species of crocodylians, turtles, snakes, geckos, iguanas and relatives, monitors, skinks and girdled lizards, and whiptails and wall lizards.¹² Scientists estimated in 2015 that there were at least 63 established species of nonnative reptiles and amphibians in Florida, including 48 species of lizards, 4 frogs, 5 turtles, 5 snakes, and 1 crocodylian.¹³

Early invasive reptiles in Florida included small-bodied lizards and frogs that were early-maturing insectivores and were strongly associated with people and disturbed habitats.¹⁴ These were mostly introduced through cargo and included the Cuban tree frog, brown anole, northern curly-tailed lizard, and Mediterranean gecko. Newer invasive reptiles tend to be large-bodied lizards and snakes. They are relatively early-maturing prolific breeders, are predators of vertebrate prey, and they thrive in a wide range of habitats. These newer invasive reptiles were mostly introduced through the pet trade and include the Burmese python, black spiny-tailed iguana, Argentine black and white tegu, and Nile monitor.¹⁵

Native Venomous Reptiles in Florida

There are six venomous reptiles – all snakes – native to Florida.¹⁶ These snakes are the pygmy rattlesnake, eastern diamondback rattlesnake, timber (or canebrake) rattlesnake, cottonmouth, copperhead, and eastern coral snake. Distributions of these snakes in Florida are as follows:

- Cottonmouths and eastern diamondback rattlesnakes are found throughout the state;
- Pygmy rattlesnakes are distributed throughout the state except for the Florida Keys;
- Eastern coral snakes are found throughout the state except for the southern Keys; and
- Timber rattlesnakes and copperheads are only found in parts of the Panhandle.¹⁷

Florida Regulations of Captive Reptiles

Under Florida statute, no person may capture, keep, possess, or exhibit any poisonous or venomous reptile or reptile of concern without first having obtained a special permit or license from FWC.¹⁸ It is unlawful for any person, whether licensed or not, to capture, keep, possess, or exhibit any venomous reptile or reptile of concern in any manner not approved as safe, secure, and proper. FWC may inspect venomous reptiles or reptiles of concern that are held in captivity to determine whether they are safely and properly penned. If they are not safely and properly penned, the situation must be corrected within 30 days or the violator risks license or permit revocation.

¹² FWC, *Nonnative Reptiles*, <https://myfwc.com/wildlifehabitats/nonnatives/reptiles/> (last visited Mar. 31, 2023).

¹³ Frank Mazzotti and Rebecca Harvey, The University of Florida's Institute of Food and Agricultural Sciences (IFAS), *The Invasion of Exotic Reptiles and Amphibians in Florida*, <https://edis.ifas.ufl.edu/publication/UW365> (last visited Mar. 31, 2023).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ University of Florida, Institute of Food and Agricultural Sciences, *Dealing with Snakes*, https://ufwildlife.ifas.ufl.edu/venomous_snake_identification.shtml (last visited Mar. 31, 2023).

¹⁷ *Id.*

¹⁸ Section 379.372(1), F.S.

The Florida Statutes prohibit keeping, possessing, importing into the state, selling, bartering, trading, or breeding the following species except for educational, research, eradication, or control purposes:

- Burmese or Indian python (*Python molurus*),
- Reticulated python (*Python reticulatus*),
- Northern African python (*Python sebae*),
- Southern African python (*Python natalensis*),
- Amethystine or scrub python (*Morelia amethystinus*),
- Green Anaconda (*Eunectes murinus*),
- Nile monitor (*Varanus niloticus*),
- Green iguana (*Iguana iguana*),
- Tegú lizard (any species of the genera *Salvator* or *Tupinambis*), and
- Any other reptile FWC designates as a conditional or prohibited species.¹⁹

A person who holds a permit issued before July 1, 2010, to legally possess one of the species listed above may possess such reptile for the remainder of its life.²⁰ If the reptile outlives the person, the reptile may be legally transferred to another entity holding a permit authorizing possession of the reptile for the remainder of its life.²¹

If FWC designates a species of reptile as a conditional or prohibited species after July 1, 2010, FWC may authorize the personal possession of that newly designated species by those licensed to possess it before the effective date of the species' designation.²²

Currently, FWC does not list reptiles of concern, and former reptiles of concern have been listed as prohibited species since April 29, 2021.²³ The conditional nonnative species list only contains one reptile, the red-eared slider (*Trachemys scripta elegans*).²⁴

Venomous Reptile Permit

The venomous reptile permit issued by FWC authorizes personal possession and exhibition of the venomous reptile family for which the permittee is approved.²⁵ The permit costs \$100. To qualify for a venomous reptile permit, an applicant must meet certain experience requirements, must be at least 18 years old, and must not have been convicted of:

- A violation of captive wildlife regulations;
- A violation involving the illegal commercialization of wildlife;
- A violation involving cruelty to animals; or
- A violation involving importation of animals within three years of the date of application.

¹⁹ Section 379.372(2), F.S.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ FWC, *Reptiles of Concern*, <https://myfwc.com/license/captive-wildlife/reptiles-of-concern/> (last visited Mar. 31, 2023).

²⁴ FWC, *Conditional Nonnative Species List*, <https://myfwc.com/wildlifehabitats/nonnatives/conditional-species-list/> (last visited Mar. 31, 2023).

²⁵ FWC, *Venomous Reptile Fact Sheet*, 1 (2023) (On file with the Senate Committee on Environment and Natural Resources).

Applicants must also demonstrate no less than one year of substantial practical experience in the care, feeding, handling, and husbandry of the species or other species within the same biological family that are similar in characteristics and care to the species for which the permit is sought. Applicants must also provide two references from individuals with firsthand knowledge of their experience. The individuals must be licensed by FWC for venomous reptiles of the same family for which the applicant is seeking authorization or must be a representative of a professional organization or governmental institution which deals directly with venomous reptiles.

Additional permits are required for the importation of nonnative venomous reptiles and the sale of all venomous reptiles.²⁶

Nonnative and Captive Wildlife Penalties

Level One Violations

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

- FWC rules or orders requiring free permits or other authorizations to possess captive wildlife;
- FWC rules or orders relating to the filing of reports or other documents required of persons who are licensed to possess captive wildlife; or
- FWC rules or orders requiring permits to possess captive wildlife for which a fee is charged, when the person being charged was issued the permit and it expired less than 1 year prior to the violation.²⁷

Any person cited for a Level One violation commits a noncriminal infraction and shall be cited to appear before county court. The violator will be fined \$50 if he or she has not previously been found guilty of a Level One violation and \$250 if he or she has previously been found guilty of a Level One violation.²⁸

Level Two Violations

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

- Unless otherwise stated under Level One violations, FWC rules or orders 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;
- FWC rules or orders relating to captive wildlife not specified under Level One or Level Three violations;
- FWC rules or orders that require housing of wildlife in a safe manner when a violation results in an escape of wildlife other than Class I wildlife;²⁹
- FWC rules or orders relating to either conditional species or prohibited species;

²⁶ *Id.*

²⁷ Section 379.4015(1), F.S.

²⁸ *Id.*

²⁹ Class I wildlife is a defined list of species that present a real or potential threat to human safety. Possession of Class I wildlife requires a license and species may not be possessed as a personal pet. There are substantial experience, cage, and proof of commercial activity requirements that must be met before a license to possess Class I wildlife will be issued. FWC, *Class I Wildlife*, <https://myfwc.com/license/captive-wildlife/class-i/> (last visited Mar. 31, 2023).

- Section 379.372, F.S., relating to capturing, keeping, possessing, transporting, or exhibiting venomous reptiles, reptiles of concern, conditional reptiles, or prohibited reptiles;
- Section 379.373, F.S., relating to requiring a license or permit to capture, keep, possess, or exhibit venomous reptiles or reptiles of concern;
- Section 379.374, F.S., relating to bonding requirements for public exhibits of venomous reptiles;
- Section 379.305, F.S., relating to FWC rules and regulations preventing the escape of venomous reptiles or reptiles of concern;
- Sections 379.304 or 379.3761, F.S., relating to the exhibition or sale of wildlife; or
- Section 379.3762, F.S., relating to personal possession of wildlife.³⁰

| Level Two Violation | Degree of Offense | Fine or Incarceration | License Restrictions |
|--|------------------------------------|---|---------------------------------------|
| Has not been convicted of a Level Two (or higher) violation within the past three years | 2 nd Degree Misdemeanor | Max: \$500 or Max: 60 days | None |
| Convicted of a Level Two violation within three years of a previous conviction of a Level Two (or higher) violation | 1 st Degree Misdemeanor | Mandatory Min: \$250; Max: \$1,000 Max: one year | None |
| Convicted of a Level Two (or higher) violation within five years of any two previous convictions of Level Two (or higher) violations | 1 st Degree Misdemeanor | Mandatory Min: \$500; Max: \$1,000 Max: one year | Suspension of license for one year |
| Convicted of a Level Two violation within ten years of any three previous convictions of Level Two (or higher) violations | 1 st Degree Misdemeanor | Mandatory Min: \$750; Max: \$1,000 Max: one year | Suspension of license for three years |

In addition to the above penalties, a person who commits a Level Two violation that is a violation of s. 379.372, F.S., relating to capturing, keeping, possessing, transporting, or exhibiting venomous reptiles, reptiles of concern, conditional reptiles, or prohibited reptiles, or rules or orders relating to wild animals identified as conditional or prohibited shall receive a

³⁰ Section 379.4015(2), F.S. A Level Two violation is punishable as either a second degree misdemeanor or a first degree misdemeanor, depending upon the offender’s history of FWC offenses. A second degree misdemeanor is punishable by up to 60 days in the county jail and a \$500 fine; a first degree misdemeanor is punishable by up to 1 year in the county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

minimum mandatory fine of \$100 and immediately surrender the wildlife for which the violation was issued unless the person lawfully obtains a permit for possession.³¹

Level Three Violations

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

- FWC rules or orders that require housing of wildlife in a safe manner when a violation results in an escape of Class I wildlife;
- FWC rules or orders related to captive wildlife when the violation results in serious bodily injury to another person by captive wildlife consisting of substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ;
- FWC rules or orders relating to the use of gasoline or other chemical or gaseous substances on wildlife;
- FWC rules or orders prohibiting the release of wildlife for which only conditional possession is allowed;
- FWC rules or orders prohibiting knowingly entering false information on an application for a license or permit to possess wildlife in captivity;
- FWC rules or orders relating to the illegal importation and possession of nonnative marine plants and animals;
- FWC rules or orders relating to the importation, possession, or release of fish and wildlife for which possession is prohibited;
- Section 379.231, F.S., relating to illegal importation or release of nonnative wildlife; or
- Section 379.305, F.S., relating to release or escape of nonnative venomous reptiles or reptiles of concern.³²

| Level Three Violation | Degree of Offense | Fine or Incarceration | License Restrictions |
|---|------------------------------------|--|---|
| Has not been convicted of a Level Three (or higher) violation within the past 10 years | 1 st Degree Misdemeanor | Max: \$1,000 Max: one year | None |
| Convicted of a Level Three violation within ten years of a previous conviction of a Level Three (or higher) violation | 1 st Degree Misdemeanor | Mandatory Min: \$750; Max: \$1,000 Max: one year | Permanent revocation of license or permit |

³¹ *Id.*

³² Section 379.4015(3), F.S.

Level Four Violations

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.³³ A Level Four violation is a third degree felony, punishable by a fine of no more than \$5,000 or no more than five years imprisonment.³⁴

Civil Penalties

In addition to other applicable penalties, FWC may impose a civil penalty of not more than \$5,000 for each animal, unless otherwise authorized.³⁵ For all related violations attributable to each specific violator, the total civil penalty may not exceed \$10,000 for each assessment for each animal. In determining the amount of the civil penalty, FWC may consider:

- A violator's history of noncompliance for any previous violation of ch. 379, F.S., relating to FWC, or FWC rules or orders;
- The direct economic benefit gained by the violator from the violation; and
- The costs incurred by FWC related to the escape, recovery, and care of the wildlife for which the violation was issued.

The civil penalty assessed for a violation may not exceed \$5,000 for each animal unless:

- The violator has a history of noncompliance;
- The economic benefit of the violation exceeds \$5,000; or
- The costs incurred by FWC related to the escape, recovery, and care of the wildlife for which the violation was issued exceeds \$5,000.³⁶

III. Effect of Proposed Changes:

The bill amends s. 379.305, F.S., to provide that a person who knowingly releases a nonnative venomous reptile or who through gross negligence allows a nonnative venomous reptile to escape commits a Level Four violation.³⁷ A person who knowingly releases a nonnative reptile of concern or who through gross negligence allows a nonnative reptile of concern to escape commits a Level Three violation.³⁸

If a person violates s. 379.305(4), F.S., relating to the purchase, sale, attempt to sell, offer for sale, conspiracy to sell, barter, exchange, trade, or import for sale or use of any species of venomous reptile without having first obtained a special permit or license from the FWC, he or she commits a Level Four violation.³⁹

The bill amends s. 379.4015, F.S., to make multiple corresponding and substantive changes to enhance certain penalties related to certain reptiles. Specifically, the bill amends:

³³ Section 379.4015(4), F.S.

³⁴ Sections 775.082 and 775.083, F.S.

³⁵ Section 379.4015(6), F.S.

³⁶ *Id.*

³⁷ Punishable by up to 5 years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

³⁸ Punishable by up to 1 year in the county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

³⁹ Punishable by up to 5 years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.; and section 379.4015, F.S.

- Section 379.4015(2)(a)2. and 3., F.S., to specifically exclude venomous reptiles and nonnative venomous reptiles from certain Level Two violations.
- Section 379.4015(3)(a)1., F.S., to provide that it is a Level Three violation for a person to violate any rule or order of the FWC that require housing of wildlife in a safe manner when a violation results in an escape of a venomous reptile.
- Section 379.4015(3)(a)9., F.S., to remove venomous reptiles from certain Level Three violations.
- Section 379.4015(4)(c), F.S., to provide that it is a Level Four violation if a person violates s. 379.305(3), F.S., relating to the release or escape of nonnative venomous reptiles, or s. 379.305(4), F.S., relating to purchase, sale, attempt to sell, offer for sale, conspiracy to sell, barter, exchange, trade, or import for sale or use any species of venomous reptile.

The bill becomes effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None reported by the FWC in the Agency Legislative Bill Analysis provided on March 3, 2023.⁴⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 379.305 and 379.4015.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on April 4, 2023:

The committee substitute:

- Limits the application of the new third degree felony offense created in s. 379.305(3), F.S., to violations relating to the release or escape of a “nonnative” venomous reptile.
- Conforms the language in s. 379.4015(4)(c)1., F.S., to limit the penalty corresponding to s. 379.305(3), F.S., to conduct relating to the release or escape of a “nonnative” venomous reptile.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

⁴⁰ Florida Fish and Wildlife Conservation Commission 2023 Agency Legislative Bill Analysis, March 3, 2023.