

SENATE 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: Criminal Justice Committee

BILL: CS/CS/SB 990

INTRODUCER: Criminal Justice Committee, Agriculture Committee, and Senator Posey

SUBJECT: Regulated Reptiles

DATE: April 25, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Fav/CS</u>
2.	<u>Baum</u>	<u>Kiger</u>	<u>EP</u>	<u>Fav/1 amendment</u>
3.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
4.	_____	_____	<u>GA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill requires the Fish and Wildlife Conservation Commission (FWCC) to establish a list of venomous, non-native, or other reptiles for which the possession, transportation, or exhibition is regulated. The FWCC is also required to adopt rules to implement the provisions of ss. 372.86 - 372.91, F.S., relating to regulated reptiles.

The bill replaces in ss. 372.86 – 372.92, F.S., the phrase “poisonous or venomous” with the term “regulated reptiles” to expand the category of reptiles for which a permit from FWCC is required to “keep, possess, or exhibit” to include non-poisonous and non-venomous reptiles.

The bill provides for an annual permit at a cost of \$100 per permit for persons who possess a non-poisonous regulated reptile.

The bill provides that the amount of bond required for exhibiting regulated reptiles is \$10,000, and changes the payee of the bond from the Governor to the FWCC.

The bill requires the FWCC to establish a reporting system for regulated reptiles and collect, at minimum, information on:

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

The bill subjects all regulated reptiles, including non-poisonous reptiles, to the same housing, transportation, inspection, and organized hunt requirements to which poisonous reptiles are subject under current law. The bill provides that any person who violates any provision of ss. 372.86 - 372.91, F.S., has committed a first degree misdemeanor. The bill also provides that any person who knowingly releases a regulated reptile to the wild or through gross negligence allows a regulated reptile to escape commits a first degree misdemeanor.

This bill amends sections 372.86, 372.87, 372.88, 372.89, 372.90, 372.901, 372.91, 372.912, and 372.92 of the Florida Statutes.

This bill renumbers sections 372.911 and 372.912 of the Florida Statutes.

II. Present Situation:

Since 1967, the Florida Fish and Wildlife Conservation Commission (FWCC) has been charged with the responsibility of regulating native and exotic captive wildlife. The Division of Law Enforcement 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 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.

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

According to the FWCC, its staff 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.¹

Thousands of non-native animal and plant species have invaded Florida in the past decades. The economic toll is enormous, but the ecological toll on places such as the Everglades National Park is equally as expensive. Second only to habitat loss, invasive species are the leading cause of species endangerment and extinction. One predator competing with native animals for food, space, burrows, crevices, and rocks are Burmese pythons.

Native to Southeast Asia, the Burmese python is one of the largest snake species in the world. It is also one of the most popular animals in the multi-billion dollar international pet trade. People pay as low as \$20 per hatchling not realizing how big they grow, and biologists believe that most of the pythons found in the Everglades were discarded by pet owners. There are few options for owners who want to get rid of the snakes because zoos will not take them, and although animal shelters try to find other homes for the snakes, most end up being released into the wild.

¹ Florida Fish and Wildlife Conservation Commission. Senate Bill 990, Legislative Bill Analysis Form, 2006 Session.

In the Everglades National Park where the climate and environment are similar to their native habitat, there are regular and increasing sightings of Burmese pythons and occasional and infrequent sightings of ball pythons, reticulated pythons, and common boas. Since December of 2003, more than 50 Burmese pythons have been captured and removed or found dead on roads in the park.

Captive Wildlife Technical Advisory Group

The Captive Wildlife Technical Advisory Group (CWTAG) was originally formed in 1994 for the purpose of reviewing Florida's exotic animal regulations. After several years of work, this group was abandoned and on July 15, 2005, the CWTAG was re-constituted. The CWTAG is comprised of 11 members and, according to the FWCC, "represents all facets of the captive wildlife industry and wildlife rehabilitation." Members of the CWTAG also "represent experience in animal welfare, disease/bioterrorism, emergency response, and local government."

Although the CWTAG has a broad mission, a primary issue discussed at CWTAG meetings (six public meetings since July 2005) focuses on the regulation of venomous and poisonous reptiles. For example, at the October meeting, the CWTAG discussed the permitting of persons owning such reptiles as well as means to identify and track venomous reptiles.

The CWTAG also discussed the need for defining "venomous reptiles" and noted that that the term "venomous" is not currently defined in statute or in FWCC regulations. FWCC staff reported to the CWTAG that a number of issues have arisen in attempting to define "venomous reptiles." Issues include:

- The threshold for application of the venomous reptile regulations.
- Whether the FWCC should consider the toxicity of the venom.
- The behavior of the reptile/snake.
- Whether or not the reptile/snake is rear-fanged.
- Reptiles which have been surgically altered to remove venom glands or sustained alteration to the reptile's venom delivery system.

At its September meeting, the CWTAG was provided with a presentation on the National Reptile Improvement Plan (discussed below) along with a discussion on penalties for violations of the state's requirements for keeping, possessing, and exhibiting venomous reptiles.

At its December meeting, the CWTAG again discussed the need for a definition of "venomous reptiles." The CWTAG also held a discussion on "giant reptiles" (*e.g.*, Burmese/Indian python, Amethystine python, Reticulated python, African Rock python, and the Anaconda). The CWTAG discussed proposed legislation (HB 1459) regarding the regulation of reptiles.

Also at its December meeting, the CWTAG made the following recommendations to the FWCC:

- That a new FWCC rule be adopted requiring a permanent identification marker be attached to each venomous reptile cage.
- As a condition of the issuance of a venomous reptile permit, the applicant must prepare and file a disaster and emergency plan with the FWCC.

- Each venomous reptile permit holder must be required to post on site a “venomous bite protocol” listing actions to be taken in the event of a reptile bite.
- In the short term, “venomous reptiles” should be defined by FWCC rule to include all animals in the families Elapidae, Crotalidae, Viperidae, and Hydrophilidae; all animals in the Genus Heloderma; all animals in the following Colubridae Genera – Rhabdophis, Dispholidus, Thelatornis, and Atracapsis, in addition to any reptile species determined to have the potential to cause serious human injury due to toxic effects of its venom or poison.
- In the long term, the term “venomous reptiles” should be changed to “reptiles subject to regulation.”

National Reptile Improvement Plan

Adopted by the Pet Industry Joint Advisory Council (PIJAC) in June 2003, the National Reptile Improvement Plan: Best Management Practices for the Reptile Trade (NRIP) provides standards and best practices designed to improve the practices of persons involved in the importation, sale, or captive breeding of reptilian and amphibian species.

The intent of the NRIP is to establish practices and standards designed to minimize the risk of international and interstate movement of reptiles causing harm to the reptiles, livestock, or the environment. Participation in the NRIP is voluntary, and it is a self-regulated program that includes the adoption and implementation of best management practices, a quality assurance program, and independent verification of compliance through periodic inspections.

NRIP best management practices were developed through a consultative process with participation by representatives of the reptile industry, the reptile hobby community, reptile veterinarians, entomologists, and the U.S. Department of Agriculture and the Florida Department of Agriculture and Consumer Services.

The NRIP defines “reptile” as any living specimens of the following taxonomic groups belonging to the class Reptilia:

- Snakes.
- Lizards.
- Turtles and Tortoises.
- Crocodylians.

The NRIP defines the term “venomous animal” to mean any snake of the following type:

- Cobras, mambas, coral snakes, kraits, and relatives.
- Adders and vipers.
- Rattlesnakes, copperheads, and palm pit vipers.
- Mole vipers and burrowing asps.
- Sea snakes.
- Rear-fanged snakes.
- African vine or twig snakes.
- Mangrove and cat snakes.

- Any lizard of the genus Heloderma.

The NRIP provides numerous and detailed standards and best management practices for the reptile trade. For example, under the section entitled Display and Sale at Public Events, some of the best management practices include:

- No venomous animal, including rear-fanged animal, should be sold to anyone under the age of 18 years of age.
- Sales of venomous animals should be in a separate room or location within the event site.
- All reptiles and amphibians that can cause harm should be kept in a secure container at all times.

As discussed above, the CWTAG has discussed the NRIP and has recommended that the FWCC adopt its standards and best management practices.

Current Statutes

Section 372.86, F.S., provides that no person, firm, or corporation shall keep, possess, or exhibit any poisonous or venomous reptile without obtaining a special permit or license from the FWCC. According to the FWCC, there have been a total of less than 500 permits issued. Currently, the FWCC reports that there are over 300 entities licensed to possess poisonous or venomous reptiles.

Section 372.87, F.S., authorizes the FWCC to issue a license or permit for the keeping, possessing, or exhibiting of poisonous or venomous reptiles. The FWCC is authorized to assess an annual fee of \$100 for the permit, which may be renewed on an annual basis upon the payment of the fee. The FWCC may revoke the permit for any violation of provisions in ss. 372.86 – 372.91, F.S., or any rule pertaining to such sections.

Section 372.88, F.S., requires that before a person, party, firm, or corporation can exhibit poisonous or venomous reptiles to the public, a “good and sufficient” bond in writing in the sum of \$1,000 must be provided, payable to the Governor and the Governor’s successors. The bond must be conditioned such that the exhibitor will indemnify and “save harmless” all persons from injury or damage from the poisonous or venomous reptiles. The aggregate liability of the surety shall not exceed the sum of the bond amount.

Section 372.89, F.S., requires that any person, firm, or corporation licensed to keep, possess, or exhibit poisonous or venomous reptiles must provide safe, secure, and proper housing for the reptiles in cases, cages, pits, or enclosures. This section also makes it unlawful to keep, possess, or exhibit a poisonous or venomous reptile in any manner not approved as safe, secure, or proper by the FWCC.

Section 372.90, F.S., provides that poisonous or venomous reptiles may only be transported in a “stout closely woven cloth sack, tied or otherwise secured,” which is placed in a box made of “solid material in solid sheets” with air holes that must be screened. The boxes used for transportation of poisonous reptiles must be prominently labeled “Danger---Poisonous Snakes” or “Danger---Poisonous Reptiles.”

Section 372.901, F.S., provides that poisonous or venomous reptiles held in captivity must be subject to an inspection by an officer of the FWCC, who shall determine that the reptiles are securely, properly, and safely penned. If not, the FWCC officer must report the situation to the person or firm owning the reptiles. Should the person or firm fail to correct the situation within 30 days after receiving the written notice, the license or permit required to keep, possess, or exhibit the reptiles shall be revoked.

Section 372.91, F.S., provides that no person other than the person issued the license or permit to keep, possess, or exhibit the poisonous or venomous reptiles, or the person's authorized employee, may open any cage, pit, or other container holding the reptiles.

Section 372.912, F.S., provides that any person, firm, or corporation wanting to conduct an organized poisonous reptile hunt must comply with the provisions and requirements of ss. 372.86 - 372.91, F.S., and the event must be registered with the FWCC. If the event is conducted by a nonprofit organization registered with the Department of State, the licensing provisions in ss. 372.86, 372.87, and 372.88, F.S., are not required.

Section 372.265, F.S., provides that it is unlawful to import for sale or use, or to release within this state, "any species of the animal kingdom not indigenous to Florida without first obtaining a permit to do so" from the FWCC. The FWCC is authorized to issue or deny such a permit "upon the completion of studies of the species made by it (the FWCC) to determine any detrimental effect the species might have on the ecology of the state." Persons in violation of this section commit a first degree misdemeanor, punishable as provided in s. 775.145 or s. 775.083, F.S.

III. Effect of Proposed Changes:

Section 1. Amends s. 372.86, F.S., to require the Fish and Wildlife Conservation Commission (commission) to establish a list of venomous, nonnative, or other reptiles for which the possession, transportation, or exhibition is regulated. Additional provisions include:

- Authorizing the commission to adopt rules to implement the provisions of ss. 372.86-372.91, F.S.
- Changing references of "poisonous or venomous reptile" to "regulated reptile."

Section 2. Amends s. 372.87, F.S., to change references of "poisonous or venomous reptiles" to "regulated reptiles." Additional provisions include:

- Requiring licensure for the keeping, possessing, or exhibiting of regulated reptiles.
- Requiring people currently possessing regulated non-native, non-venomous reptiles for personal use to purchase a license for \$100 per year.

Section 3. Amends s. 372.88, F.S., to change references of "poisonous or venomous reptiles" to "regulated reptiles." Additional provisions include:

- Increasing the required bond amount for the exhibition of regulated reptiles from \$1,000 to \$10,000.
- Requiring such bonds to be payable to the commission rather than to the Governor.

Section 4. Amends s. 372.89, F.S., to change references of “poisonous or venomous reptiles” to “regulated reptiles.” Additional provisions require safe, secure, and proper housing of regulated reptiles.

Section 5. Amends s. 372.90, F.S., to change references of “poisonous or venomous reptiles” to “regulated reptiles.” Additional provisions include criteria for the transportation of regulated reptiles.

Section 6. Amends s. 372.901, F.S., to change references of “poisonous or venomous reptiles” to “regulated reptiles.” Additional provisions include a provision requiring the commission to establish by rule a reporting system for regulated reptiles. Such reports may include, but are not limited to the following information regarding a regulated reptile: purchase or other acquisition; possession; sale, gift or other transfer; and death, destruction, or other disposition.

Section 7. Amends s. 372.91, F.S., to change references of “poisonous or venomous reptiles” to “regulated reptiles.” Additional provisions prohibit a person, except a licensee or her or his authorized employee from opening a cage, pit, or other container which contains a regulated reptile.

Section 8. Renumbers s. 372.911, F.S., relating to rewards, as s. 372.0715, F.S.

Section 9. Renumbers s. 372.912, F.S., relating to organized regulated reptile hunts, as s. 372.902, F.S. Additional provisions include changing references of “poisonous or venomous reptiles” to “regulated reptiles.”

Section 10. Amends s. 372.92, F.S., to change references of “poisonous or venomous reptiles” to “regulated reptiles.” Additional provisions include providing criminal penalties for certain activities related to regulated reptiles. Penalties include:

- A first degree misdemeanor for any person who violates any provision of ss. 372.86 - 372.91, F.S., which provide for regulated reptile requirements.
- A first degree misdemeanor for any person who knowingly releases a regulated reptile to the wild or through gross negligence allows a regulated reptile to escape.

Section 11. Provides that this act shall take effect July 1, 2006.

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:

None.

B. Private Sector Impact:

People who currently possess regulated non-native, non-venomous reptiles for personal use will have to purchase a license for \$100 per year. People who exhibit regulated non-native, non-venomous reptiles will have to post bond in writing in the sum of \$10,000 instead of \$1,000.

C. Government Sector Impact:

The FWCC estimates that approximately 3,000 additional entities will be required to obtain a permit for possession, keeping, and exhibiting regulated reptiles under the provisions of the bill. At an annual fee of \$100, revenues would increase \$300,000.²

According to the FWCC, it will incur increased costs for licensing reptile possessors, development and implementation of a reporting system, and inspection of newly regulated entities/facilities. Currently there are over 300 entities licensed to possess venomous reptiles. Since the FWCC estimates that over 3,000 additional entities will be affected by requiring licensing for non-native, non-venomous reptiles that are possessed for personal use, there will be a financial impact to implement and enforce these regulations. Based on projected costs for processing applications and performing inspections for each new applicant, the FWCC would be facing an estimated increased financial impact of \$300,000.³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

² *Id.*

³ *Id.*

VIII. Summary of Amendments:

None.

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