

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: General Government Appropriations Committee

BILL: CS/SB 2766

INTRODUCER: General Government Appropriations Committee and Senator Posey

SUBJECT: Regulated Reptiles

DATE: April 17, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bascom</u>	<u>Kiger</u>	<u>EP</u>	<u>Fav/1 amendment</u>
2.	<u>DeLoach</u>	<u>DeLoach</u>	<u>GA</u>	<u>Fav/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill amends the requirement for licensing of venomous reptiles to include those persons that capture, keep, or transport such reptiles.

The bill requires the Florida Fish and Wildlife Conservation Commission (FWC or commission) to establish, by rule, a list of reptiles of concern that may include venomous, non-venomous, native, non-native, or other reptiles that have the potential to negatively impact the environment, the ecology, or human health and adds such reptiles to the licensing requirement.

The bill raises the bond to exhibit venomous reptiles from \$1,000 to \$10,000, which shall be submitted to the commission in writing.

The bill creates a financial responsibility guarantee requirement for persons who exhibit Class I wildlife and authorizes the commission to establish, by rule, provisions for satisfying the financial responsibility. In lieu of such a financial guarantee, the exhibiter has the option to maintain comprehensive liability insurance in the amount of \$2 million dollars for each occurrence.

Finally, the bill substantially rewrites the captive wildlife penalty provisions creating Levels One, Two, Three, and Four violations.

The bill repeals the following sections of the Florida Statutes: 372.89, 372.90, 372.901, and 372.91.

The bill renumbers section 372.911, Florida Statutes, as section 372.0715, Florida Statutes.

The bill amends the following sections of the Florida Statutes: 372.86, 372.87, 372.88, and 372.92.

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 to 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 or 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.

Current regulations require that, for the exhibition or sale of Class I wildlife, persons exhibiting or selling Class I wildlife shall pay the sum of \$150 per annum for not more than 25 Class I specimens or \$250 per annum for more than 25 specimens. Section 372.922, F.S., states that Class I wildlife, 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:

- Chimpanzees (genus Pan)
- Gorillas (genus Gorilla)
- Gibbons (genus Hylobates)
- Drills and mandrills (genus Mandrillus)
- Orangutans (genus Pongo)
- Baboons (genus Papio)
- Siamangs (genus Symphalangus)
- Gelada Baboons (genus Theropithecus)
- Snow leopards (Panthera uncia)
- Leopards (Panthera pardus)

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

- Jaguars (*Panthera onca*)
- Tigers (*Panthera tigris*)
- Lions (*Panthera leo*)
- Bears (family Ursidae)
- Rhinoceros (family Rhinocerotidae)
- Elephants (family Elephantidae)
- Hippopotamuses (family Hippopotamidae)
- Cape buffalos (*Syncerus caffer caffer*)
- Crocodiles (except dwarf and Congo) (family Crocodylidae)
- Gavials (family Gavialidae)
- Black caimans (*Melanosuchus niger*)
- Komodo dragons (*Varanus komodoensis*)

III. Effect of Proposed Changes:

This bill provides for the following:

- Amends s. 372.86, F.S., to define circumstances to which a license is required for venomous reptiles or reptiles of concern. Those include capturing, keeping, and 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., to establish 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 ss. 372.86 through 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 ss. 372.86 through 372.92, F.S. Finally, it directs that any funds collected under this section shall be deposited into the State Game Trust Fund.
- Amends s. 372.88, F.S., to increase the bond requirement for venomous reptiles from \$1,000 to \$10,000.
- Creates s. 372.88(b), F.S., which requires persons who exhibit Class I wildlife to provide financial responsibility to the commission in the amount of \$10,000 for any liability incurred in the exhibition to the public of such wildlife. The commission shall adopt rules for accepting methods of payment that satisfy the financial responsibility guarantee that may include:
 - Cash;
 - The establishment of a trust fund;
 - An irrevocable letter of credit;
 - Casualty insurance;

- A corporate guarantee; or
- Any combination thereof.
In lieu of such a financial guarantee, the exhibiter has the option to maintain comprehensive liability insurance in the amount of \$2 million dollars for each occurrence.
- 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., to make 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., to establish 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.

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.

Entities who exhibit Class I wildlife currently are not required to obtain a financial responsibility guarantee to cover liability. The FWC estimates that 320 or more people may be affected by the new liability guarantee.

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 face 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 320 or more persons may be affected by the requirement of a liability guarantee for Class I wildlife. Each affected person would be required to have liability coverage of \$10,000 posted with the commission. The commission currently has a bonding program in place for venomous reptiles and would be able to implement the liability guarantee under the current program.

The FWC estimates that, in order to implement the provisions of this bill, administrative support and information technology 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 to oversee and manage the program beginning in the 2008-2009 fiscal year.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

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