

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 General Government Appropriations Committee

BILL: CS/SB 318 & 572

INTRODUCER: General Government Appropriations Committee and Senators Sobel and Constantine

SUBJECT: Reptiles/Prohibitions

DATE: April 14, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Kiger	EP	Favorable
2.	DeLoach	DeLoach	GA	Fav/CS
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes
 B. AMENDMENTS..... Technical amendments were recommended
 Amendments were recommended
 Significant amendments were recommended

I. Summary:

This bill prohibits any person from possessing, importing, selling, trading, or breeding certain reptile species, including any reptile species designated as a reptile of concern by the Florida Fish and Wildlife Conservation Commission (commission or FWC). The bill provides that persons licensed to possess a reptile of concern as of July 1, 2010, or by October 1, 2010, for anacondas other than green anacondas, may continue to possess the individual reptile for the remainder of that reptile's life. The bill expands bonding requirements for the possession of Class I animals, and expands civil penalties to entities that are convicted of certain wildlife laws. The commission is required to submit annual reports listing each species in its list of reptiles of concern, conditional species, and prohibited species, and is directed to evaluate adding species, including iguanas, to its reptiles of concern list. Finally, the bill provides consistency in nomenclature related to native and nonnative wildlife.

The bill provides an effective date of July 1, 2010.

The bill amends the following sections of the Florida Statutes: 379.231, 379.372, 379.374, 379.3761, 379.401, 379.4015, 379.101, 379.244, 379.26, 379.304, 379.361, 379.363, and 379.3762.

II. Present Situation:

The captive wildlife trade is a multi-million dollar industry in Florida. The commission is charged with the responsibility of regulating captive wildlife and has done so since 1967. Presently, an authorization is required to import non-native wildlife. There is no fee associated with this authorization. In addition, a license is required to possess wildlife for personal use or commercial purposes. The license fee to possess Class II wildlife for personal use, venomous reptiles, reptiles of concern or any wildlife for commercial purposes varies from \$50 to \$250, depending on the type and number of wildlife possessed. There are currently 3,723 of these licensees.

Individuals who exhibit Class I wildlife are required to guarantee financial responsibility in the sum of \$10,000 or, as an alternative, maintain comprehensive general liability insurance in the amount of \$2,000,000 with \$2,000,000 per occurrence. There are 92 licensees that exhibit Class I wildlife and meet this requirement.

Presently, s. 379.4015, F.S., relating to captive wildlife penalties, includes specific penalties, penalty enhancements, minimum mandatory fines for violations, and mandatory license suspensions or revocations. The penalties range between a non-criminal infraction, second degree misdemeanor, first degree misdemeanor and third degree felony. Most penalties, however, fall into the second degree misdemeanor (Level Two) category.

Reptiles of Concern

Chapter 2007-239, enacted in 2007, amended the venomous reptile statute, s. 372.86, F.S., (now s. 379.372, F.S.) to require a license in order to possess any reptile of concern and directed the commission to develop a list of reptiles by December 31, 2007. Six species were consequently listed by rule, as follows.

- Indian or Burmese python (*Python molurus*).
- Reticulated python (*Python reticulatus*).
- African rock python (*Python sebae*).
- Amethystine or Scrub python (*Morelia amethystinus*).
- Green anacondas (*Eunectes murinus*).
- Nile monitor (*Varanus niloticus*).

According to the commission, the following factors are considered when making changes to reptile of concern regulations.

- Threat to public safety.
- The potential release of reptiles of concern to the environment.
- The ability of a species to establish itself in Florida.
- The species' threat to the environment.
- The potential economic impact on the reptile industry.
- The potential creation of a black market for reptile of concern species.

- Enforcement strategies.
- Other similar concerns.

The list of reptiles of concern and associated regulations¹ address minimum licensee age (18), licensing requirements, strict caging requirements, identification of specimens by micro-chipping, record keeping, and reporting of changes in inventory, reporting of any escape, and the need for a Critical Incident/Disaster plan. Section 379.373, F.S., sets the cost of the license to possess a reptile of concern at \$100. This license revenue, deposited in the State Game Trust Fund within the commission, is used to implement and enforce the reptile of concern program.

For the 2009 calendar year, the commission issued 398 licenses with authorizations to possess, exhibit, or sell a reptile of concern. From August 2008 through December 2009, the commission conducted 480 reptile of concern related inspections, issued 98 citations, 132 warnings, and seized 73 reptile of concern species. In addition, the commission has periodically conducted amnesty day events at sites where unlicensed holders of reptiles of concern can surrender those specimens to qualified licensees. Amnesty days are intended to avert the release of reptiles of concern to the wild. Commission Executive Order 09-21, issued on December 16, 2009, established amnesty on an ongoing basis. The commission is currently in the process of establishing a rule to provide ongoing authorization for amnesty.

Current reptile of concern species are readily sold in the pet trade throughout the U.S. Although industry trends show that this trade has been reduced in Florida due to licensing and regulations that went into effect in January 2008, these species are still easily obtained via the Internet from outside of Florida.

The FWC has established partnerships with stakeholder groups to develop rules and solutions for protecting Florida's public and environment. A Reptiles of Concern Technical Advisory Group (ROCTAG) has been assembled to review the FWC's program and to provide recommendations for future direction, including regulations and management. The advisory group is comprised of eight experts and considers risk assessment, risk management, and regulations for Florida. The group members were selected based on their diverse background and areas of expertise, which include herpetology, scientific research and academia, conservation and land management, disease and bioterrorism, animal welfare, and the reptile industry.

Since 2006, the FWC has been working with the U.S. Fish and Wildlife Service, Everglades National Park, South Florida Water Management District, and other partners on issues concerning Burmese pythons. The FWC continues interagency partnerships for control and eradication of pythons in the wild of south Florida. The FWC is partnering with Everglades National Park, Big Cypress National Park, and the South Florida Water Management District to establish and implement control measures on both state and federal lands.

III. Effect of Proposed Changes:

Section 1 amends s 379.231, F.S., which makes it unlawful to import nonnative wildlife without authorization by the FWC. The bill replaces the terms "nonindigenous" and "foreign," when

¹ Rules 68A-6.007, 68A-6.0071, and 68A-6.0072, F.A.C.

referring to wild animals not native to Florida, with the terms “nonnative” or “not native.” This section also moves violations of 379.231, F.S., from 379.401, F.S. to 379.4015, F.S., designating such violations as Level Three violations.

Section 2 amends s. 379.372, F.S., to add a prohibition on possessing certain reptiles unless authorized by the FWC under certain conditions. It prohibits any person from possessing, importing, selling, trading, or breeding for personal use or sale for personal use, the current species on the commission’s reptiles of concern list. The section prohibits personal possession of any species in the FWC’s conditional or prohibited species categories. Prohibited reptile species include:

- 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*).
- Any other reptile designated conditional or prohibited by the commission.

The section provides a grandfather allowance for a person, party, firm, association, or corporation holding a permit or license issued before July 1, 2010, to legally possess the reptile(s) for the remainder of the animal’s life. If the reptile survives the death or dissolution of the permittee or licensee, possession of the reptile may be transferred to another person, party, firm, association, or corporation holding a permit or license to legally possess the reptile for the remainder of the reptile’s life.

The section also exempts local government, publically owned facilities, travelling circuses, zoos, and exhibitions from the personal possession ban of this provision.

Section 3 expands the bonding and insurance requirements of s. 379.374, F.S., to persons and entities that possess Class I wildlife.

Section 4 amends s. 379.3761, F.S., to provide that no person, party, firm, corporation, or association may sell any wild animal life designated by commission rule as Class I or Class II wildlife, a conditional or prohibited species, a venomous reptile, or a reptile of concern in the state, including a sale with delivery made in this state, regardless of the origin of the sale or the location of the initial transaction, unless authorized by the commission. This includes Internet sales.

Section 5 deletes a technical cross reference provision of s. 379.401, F.S., regarding importation of nonindigenous species.

Section 6 adds “nonnative” to the existing title of s. 379.4015, F.S, which pertains to penalties for captive wildlife violations. This section clarifies an existing penalty for conditional species and prohibited species designated in rule. This section specifies a minimum mandatory \$100 fine

for certain Level Two violations and also requires the surrender of wildlife unless a permit is obtained by the violator. This section creates civil fines of up to \$10,000 per animal in cases of a criminal conviction for violations. Proceeds from fines are to be deposited in the State Game Trust Fund within the commission, to be used for management, administration, auditing, and research purposes.

The FWC is required to prepare a report to the President of the Senate and the Speaker of the House of Representatives, due January 1 of each year, to list the species in its conditional, prohibited, and reptiles of concern categories.

Section 7 requires the FWC to evaluate the addition of species, such as iguanas, to the list of reptiles of concern by December 31, 2010.

Section 8 amends s. 379.101, F.S., to provide consistent nomenclature by introducing the term “native” to replace “indigenous.”

Section 9 amends s. 379.244, F.S., to provide consistent nomenclature by introducing the term “native” to replace “indigenous.”

Section 10 amends s. 379.26, F.S., to provide consistent nomenclature by introducing the term “nonnative” to replace “nonindigenous.” The term “native” also replaces “indigenous.”

Section 11 amends s. 379.304, F.S., to provide consistent nomenclature by introducing the term “native” to replace “indigenous.”

Section 12 amends s. 379.361, F.S., to provide consistent nomenclature by introducing the term “native” to replace “indigenous.”

Section 13 amends s. 379.363, F.S., to provide consistent nomenclature by introducing the term “nonnative” to replace “nonindigenous.”

Section 14 amends s. 379.3762, F.S., to provide consistent nomenclature by introducing the term “native” to replace “indigenous.”

Section 15 provides an effective date of July 1, 2010.

Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

There is a potential conflict with the State Constitution and the powers given to the commission. Article IV, s. 9 of the State Constitution provides the Florida Fish and Wildlife Conservation Commission with the exclusive authority to “exercise the regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life.” There are several qualifications to this exclusive grant: first, the constitutional provision exempts from the commission’s authority the setting of license fees and penalties; second, the constitutional provision allows that the Legislature may “enact laws in aid of the commission, not inconsistent” with the commission’s grant of authority. The language as proposed creates prohibitions on possession and related activities for species that commission rules 68A-6.007-68A-6.0072, F.A.C. regulates. The rules require compliance with several sections of Florida Statutes including s. 379.372, F.S., which is being amended by this bill. Despite this cross reference, the commission rules specifically contemplate personal possession of the species at issue in this bill. The inconsistency between existing commission rules and the bill could make it difficult to consider whether the bill goes beyond aiding the commission.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Reptile dealers will no longer be able to sell these species to individuals and as a result may experience a financial loss. The suppliers that provide related food, caging, and other items may experience a decrease in sales.

A range of fiscal impact on the licensee of Class I wildlife will depend on the financial responsibility guarantee or insurance requirement. These estimates could range depending on the credit rating and assessment of risk of the licensee.

C. Government Sector Impact:

Currently, the cost of a license to possess reptile of concern species is \$100 per year. This revenue, deposited in the State Game Trust Fund within the commission, is used to offset the cost to administer the program and enforce reptile of concern regulations. According to the bill’s provisions, new licenses to possess reptiles of concern will not be issued after July 1, 2010. Consequently, annual revenue to the State Game Trust Fund within the commission will be reduced. During the 2009 calendar year, the commission issued 398 licenses which generated approximately \$39,800.

V. Technical Deficiencies:

None.

VI. Related Issues:

It is unclear whether a reptile of concern owner may participate in an amnesty program to give up the animal after the effective date of the bill. It is unclear if the intent is to allow for commercial activity to continue for the purpose of sales to wholesalers in and out of Florida and retailers out of Florida.

Expanded prohibitions on all trade or possession unless a person has obtained grandfathered license status have the potential to create a black market for species placed on the reptile of concern list. This could increase unlicensed or unregulated possession and may increase the risk for public safety or increase release of reptiles of concern to the wild.

Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by General Government Appropriations on April 14, 2010:

This committee substitute combines two bills related to reptiles of concern and captive wildlife. SB 572 referred to the licensing and penalties of reptiles of concern and other captive wildlife. SB 318 referred to the personal possession of reptiles of concern. The committee substitute makes conforming changes to various statutes, to replace the terms “nonindigenous” and “foreign,” when referring to wild animals not native to Florida, with the terms “nonnative” or “not native.”

- B. **Amendments:**

None.