

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 Environmental Preservation and Conservation Committee

BILL: CS/SB 572

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Constantine

SUBJECT: Wildlife

DATE: February 17, 2010 REVISED: _____

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

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The Committee Substitute (CS) does the following:

- bans internet sales of wildlife;
- adds civil penalties to persons who are convicted of violations related to nonnative and captive wildlife;
- clarifies that bonds are required for the possession of certain wildlife;
- clarifies terms and specific penalty language for captive wildlife; and
- provides a date certain for the evaluation of a potential ban on reptiles of concern.

The CS amends s. 379.231, 379.3761, 370.401, 379.4015, and 379.374, F.S.

The CS will take effect July 1, 2010.

II. Present Situation:

The Florida Fish and Wildlife Conservation Commission (commission) 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 since 2006. During the 2007 Session, the Florida Legislature passed and the Governor approved CS/SB 2766 which amended the venomous reptile statute, s. 372.86, F.S., (now s. 379.372, F.S.) to require a license to possess any Reptile of Concern (ROC) and directed the Commission to develop such a list of reptiles by December 31, 2007. Six species were consequently listed by rule:

- 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*)

The species on the commission's list match the list of species in the proposed legislation with one exception. The proposed legislation includes all anaconda species whereas the commission's ROC list includes only the green anaconda.

The cost of the license to possess a ROC was set at \$100 in s. 379.373, F.S. This license revenue is deposited in the State Game Trust Fund and is used to implement and enforce the ROC program.

Presently, Florida Statutes include penalty enhancements, minimum mandatory fines for violations and mandatory license suspensions/revocations. These are found in s. 379.4015, F.S. Penalties range between a non-criminal infraction, second degree misdemeanor, first degree misdemeanor and third degree felony (depending on the level of severity). Most penalties, however, fall into the second degree misdemeanor (Level Two) category which provides that:

- 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, (describes penalties applicable and sentencing structures for certain reoffenders) or s. 775.083, F.S. (describes mandatory fines for non-capital felonies).
- Unless otherwise stated, 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 or s. 775.083, F.S., with a minimum mandatory fine of \$250.
- Unless otherwise stated, 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 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.
- 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 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.

Other statutory penalties regarding the safekeeping of snakes include s. 379.305, F.S., which provides for a Level three misdemeanor violation to a person who knowingly releases a nonnative venomous reptile or ROC to the wild or allows it to escape. According to s. 379.374, F.S., no person, party, firm, or corporation shall exhibit venomous reptiles to the public without posting a bond in the amount of \$10,000.

The list of ROC species and associated regulations are found in Rules 68A-6.007, 68A-6.0071 and 68A-6.0072, Florida Administrative Code (F.A.C.). They address minimum 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. Current ROC rule implementation and enforcement is supported in part by the ROC license revenues.

As of December 2009, the commission had issued 398 licenses with authorizations to possess, exhibit or sell a ROC. Upon implementation of the regulations, the commission initially focused on education and outreach to obtain compliance. Through December 2009, the commission has conducted 480 ROC related inspections, issued 98 citations, 132 warnings and seized 73 ROC species.

ROCs are still readily sold in the pet trade throughout the U.S. Although industry trends show that the trade in ROCs 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. In an effort to explore ways to stop entities from purchasing ROCs without a license and from out of state vendors the commission has a stakeholder group to develop rules to protect the public and the environment. A Reptiles of Concern Technical Advisory Group (ROCTAG) has been assembled to review the commission's program dealing with ROCs and to provide recommendations for future direction, including regulations and management. The ROCTAG, consisting of eight experts, considers risk assessment and risk management, including regulations for Florida. The group members were selected based on their backgrounds and areas of expertise. The members possess expertise in herpetology, scientific research and academia, conservation and land management, disease/bioterrorism, animal welfare and all facets of the reptile industry. The ROCTAG meets regularly with recent meetings in December 2009, January 2010 and February 2010.

The commission periodically conducts amnesty day events at sites where pet owners can surrender ROCs to qualified adopters. Amnesty days dampen the motivation to release the reptiles to the wild. Commission Executive Order 09-21 allows current ROC licensees to participate in 24/7 amnesty mode and accept or adopt ROC species from unlicensed holders of those specimens. This Executive Order will be presented as a draft rule at the February commission meeting, which if approved, would result in a permanent authorization for 24/7 amnesty and acceptance or adoption of ROCs from unlicensed holders.

The commission has stated that it considers the following when making a change to the current laws specifying ROC regulations:

- threat to public safety,
- the species ability to establish themselves in Florida,

- the species threat to the environment,
- the potential release of ROCs to the environment,
- the potential economic impact on the reptile industry,
- the potential creation of a black market for ROC species,
- enforcement strategies, and
- other similar concerns.

The Florida Fish and Wildlife Conservation Commission's commissioners are scheduled to meet on February 17-18, 2010 and will discuss current ROC regulations. Further, the commission will continue to partner 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

Currently, there are several bills pending in the U.S. Congress to limit or prohibit the importation of the python into the United States. Senate Bill 373 by Senator Nelson and HR 2188 by Congressman Meek identifies certain species and prohibits those species from being imported into the United States and shipped across state borders. Two other bills in Congress: HR 669 by Congressman Bordallo requires risk assessments of nonnative species and HR 3215 by Congressman Rooney allows hunting pythons in Everglades National Park.

Recently, the U.S. Fish and Wildlife Service initiated rulemaking that would add the nine constrictor species in Sen. Nelson's bill to the "injurious wildlife" list. Any species on the "injurious wildlife" list is prohibited from being imported into the United States and is prohibited from interstate commerce.

In addition to the rules for ROCs, the commission has designated classes to categorize certain species so the public is aware of the safety and legal requirements for pet ownership. For example, the Class I wildlife designation are those species that pose a significant danger to people. Examples of Class I wildlife include: chimpanzees, tigers, and lions. These animals require the owner to have substantial experience handling these types of animals and stringent housing and cage requirements must be met. Further, Class I wildlife pet owners have to obtain a bond in the sum of \$10,000, for any liability which may occur in the exhibition of the animal. The Class I owner may opt to maintain comprehensive general liability insurance with minimum limits of \$2 million per occurrence instead of obtaining the bond.

III. Effect of Proposed Changes:

Section 1. Revises s. 379.231, F.S., to consistently, when referring to certain animals, use the term "not native", instead of using the terms "nonindigenous" and "foreign".

Section 2. Revises s. 379.3761, F.S., to prohibit internet sales of animals not authorized by the commission for public sale. Additionally a provision that grants exemptions to certain entities is clarified to provide that the exemption only applies if the license is issued for exhibitions..

Section 3. Amends s. 379.401, F.S., to delete the captive wildlife penalty from the hunting and fishing license penalties section. The effect of this change is that all the captive wildlife penalties are now located in one section.

Section 4. Amends s. 379.4015, F.S., to add civil penalties for persons who are convicted of violations related to the requirements for conditional species or prohibited species ownership. It further specifies that if the violation involves a ROC or other prohibited species that it is considered a first degree misdemeanor, there is a mandatory minimum fine of \$100 and if applicable the animal must be surrendered to the commission. For consistency purposes, when referring to certain marine plants and animals, this section deletes the terms “nonindigenous” and “foreign”.

Section 5. Amends s. 379.374, F.S., to clarify that bonds are required for the possession of Class I wildlife.

Section 6. Provides a date certain for the evaluation by the commission of a potential ban on possession of reptiles of concern.

Section 7. Provides that the CS will take effect July 1, 2010.

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Any person who possesses Class I wildlife will have to obtain a bond in the sum of \$10,000, for any liability which may occur in the exhibition of the animal. The Class I owner may opt to maintain comprehensive general liability insurance with minimum limits of \$2 million per occurrence instead of obtaining the bond. The Class I wildlife owner will have to comply with these provisions if they display their animals to the public, with or without an admission fee. This may affect Class I wildlife owners who do not already have this specified coverage.

C. Government Sector Impact:

None.

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Environmental Preservation and Conservation on February 16, 2010:

The original bill was a shell bill. The CS prohibits internet sales of certain prohibited wildlife, adds civil penalties to persons who are convicted of violations related to the importation of reptiles of concern, clarifies that bonds are required for the possession of certain wildlife, and clarifies terms and specific penalty language for captive wildlife. The CS also provides for a date certain for an evaluation by the commission of a potential ban on reptiles of concern.

B. Amendments:

None.