

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 572

INTRODUCER: Environmental Preservation and Conservation Committee

SUBJECT: Wildlife

DATE: March 31, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Kiger	EP	Fav/CS
2.	DeLoach	DeLoach	GA	Pre-meeting
3.			RC	
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 does the following:

- Bans Internet sales of wildlife.
- Adds civil penalties for 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.
- Provides a date certain for the evaluation of a potential ban on reptiles of concern.

The bill amends the following sections of the Florida Statutes: 370.401, 379.231, 379.3761, 379.4015, and 379.374.

II. Present Situation:

Captive Wildlife Penalties

Presently, s. 379.4015, F.S., relating to captive wildlife penalties, includes penalty enhancements, minimum mandatory fines for violations, and mandatory license suspensions or revocations. Depending on the level of severity, 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 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 three years commits a misdemeanor of the second degree, punishable as provided in s. 775.082, F.S. (describes penalties applicable and sentencing structures for certain repeat offenders) 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 three-year period of any previous conviction of a Level Two or higher violation commits a misdemeanor of the first degree, punishable as provided in ss. 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 five-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 one year.
- A person who commits any offense classified as a Level Two violation within a ten-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 three 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 reptile of concern 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.

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 Fish and Wildlife Conservation Commission (FWC) to develop a list of reptiles of concern 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*).

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 FWC, is used to implement and enforce the reptile of concern program.

For the 2009 calendar year, the FWC issued 398 licenses with authorizations to possess, exhibit, or sell a reptile of concern. From August 2008 through December 2009, the FWC conducted 480 reptile of concern related inspections, issued 98 citations, 132 warnings, and seized 73 reptile of concern species. The FWC periodically conducts 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, provides amnesty on an ongoing basis. In addition, the FWC is currently in the process of establishing a rule to provide ongoing authorization for amnesty.

According to the FWC, 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.

Reptiles of concern are readily sold in the pet trade throughout the U.S. Although industry trends show that the trade in reptiles of concern 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 reptiles of concern without a license and from out of state vendors, the FWC 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 FWC's program dealing with reptiles of concern 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, which include herpetology, scientific

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

research and academia, conservation and land management, disease and bioterrorism, animal welfare, and the reptile industry.

Class I Wildlife

The FWC has designated classes to categorize certain species in order for the public to be aware of the safety and legal requirements for pet ownership. The Class I wildlife designation applies to 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 to meet stringent housing and cage requirements. Further, Class I wildlife pet owners must 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 FWC 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 ownership of conditional species or prohibited species. It further specifies that, if the violation involves a reptile of concern or other prohibited species, there is a mandatory minimum fine of \$100 and, if applicable, the animal must be surrendered to the FWC unless a permit for possession is lawfully obtained. 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 FWC for the potential ban on possessing reptiles of concern.

Section 7 provides that the bill 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 be required 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 a date certain for an evaluation by the FWC for the potential ban on reptiles of concern.

B. Amendments:

None.

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