

## Committee Substitute for Senate Bill No. 2766

An act relating to wildlife; amending s. 372.86, F.S.; requiring the Fish and Wildlife Conservation Commission to establish a list of reptiles of concern subject to regulation; prohibiting the unlawful capturing, keeping, possessing, transporting, or exhibiting of venomous reptiles or reptiles of concern; authorizing the commission to inspect venomous reptiles or reptiles of concern held in captivity; requiring written reports of violations; authorizing the commission to revoke licenses and permits under certain circumstances; requiring the commission to adopt rules for the transportation of venomous reptiles or reptiles of concern; amending s. 372.87, F.S.; requiring licensure for the capturing, keeping, possessing, or exhibiting of venomous reptiles or reptiles of concern; providing for fees; authorizing the commission to reduce fees applicable to reptiles of concern under certain circumstances; requiring fee proceeds to be deposited into the State Game Trust Fund; specifying uses of the proceeds; amending s. 372.88, F.S.; providing for the bond required for the exhibition of venomous reptiles to be payable to the commission; providing for regulation of the capturing of venomous reptiles; providing for certain financial guarantees by Class I wildlife exhibitors; providing rulemaking authority; repealing s. 372.89, F.S., relating to the safe, secure, and proper housing of poisonous or venomous reptiles; repealing s. 372.90, F.S., relating to the transportation of poisonous or venomous reptiles; repealing s. 372.901, F.S., relating to the inspection of poisonous or venomous held in captivity; repealing s. 372.91, F.S., relating to who may open cages, pits, or other containers housing poisonous or venomous reptiles; renumbering s. 372.911, F.S., relating to rewards, to conform; amending s. 372.92, F.S.; providing criminal penalties for certain activities related to venomous reptiles or reptiles of concern; amending s. 372.935, F.S.; providing violation levels and applicable penalties relating to captive wildlife, including suspension or revocation of license; providing a definition; providing for commission limitations in certain administrative actions; providing an appropriation; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 372.86, Florida Statutes, is amended to read:

372.86 Capturing, keeping, possessing, transporting, or exhibiting poisonous or venomous reptiles or reptiles of concern reptile; license required.—

(1) No person, firm, or corporation shall capture, keep, possess, or exhibit any poisonous or venomous reptile or reptile of concern without first having obtained a special permit or license therefor from the Fish and Wildlife Conservation Commission as ~~herein~~ provided in this section.

(2) By December 31, 2007, the commission shall establish a list of reptiles of concern, including venomous, nonvenomous, native, nonnative, or other

reptiles, which require additional regulation for capture, possession, transportation, or exhibition due to their nature, habits, status, or potential to negatively impact the environment, ecology, or humans.

(3) It shall be unlawful for any person, firm, or corporation, whether licensed hereunder or not, to capture, keep, possess, or exhibit any venomous reptile or reptile of concern in any manner not approved as safe, secure, and proper by the commission. Venomous reptiles or reptiles of concern held in captivity are subject to inspection by the commission. The commission shall determine whether the reptiles are securely, safely, and properly penned. In the event that the reptiles are not safely penned, the commission shall report the situation in writing to the person, firm, or corporation owning the reptiles. Failure of the person, firm, or corporation to correct the situation within 30 days after such written notice shall be grounds for revocation of the license or permit of the person, firm, or corporation.

(4) Venomous reptiles or reptiles of concern shall be transported in a safe, secure, and proper manner. The commission shall establish by rule the requirements for the transportation of venomous reptiles or reptiles of concern.

Section 2. Effective January 1, 2008, section 372.87, Florida Statutes, is amended to read:

372.87 License fee; renewal, revocation.—

(1)(a) The Fish and Wildlife Conservation Commission is hereby authorized and empowered to issue a license or permit for the capturing, keeping, possessing, or exhibiting of poisonous or venomous reptiles, upon payment of an annual fee of \$100 and upon assurance that all of the provisions of ss. 372.86-372.92 ss. ~~372.86-372.91~~ and such other reasonable rules and regulations as the said commission may prescribe will be fully complied with in all respects.

(b) The Fish and Wildlife Conservation Commission is authorized and empowered to issue a license or permit for the capturing, keeping, possessing, or exhibiting of reptiles of concern upon payment of an annual fee not to exceed \$100 and upon assurance that all of the provisions of ss. 372.86-372.92 and such other reasonable rules and regulations as the commission may prescribe will be fully complied with in all respects. The annual fee for issuance or renewal of a license or permit under this paragraph for reptiles of concern is initially set at \$100. However, the commission may reduce that annual fee by rule if the commission determines that there is general compliance with ss. 372.86-372.92 and that such compliance allows for a reduction in fees to cover the costs of administering and enforcing the reptiles of concern program. The commission may issue a license or permit to an applicant who holds a current and valid license or permit for venomous reptiles under paragraph (a) and meets all requirements for the capturing, keeping, possessing, or exhibiting of reptiles of concern, but shall not require payment of an additional annual fee.

(2) Such permits or licenses ~~permit~~ may be revoked by the ~~Fish and Wildlife Conservation~~ commission upon violation of any of the provisions of

~~ss. 372.86-372.92 ss. 372.86-372.91~~ or upon violation of any of the rules and regulations prescribed by the said commission relating to the capturing, keeping, possessing, and exhibiting of any ~~poisonous and~~ venomous reptiles ~~or reptiles of concern~~. Such permits or licenses shall be for an annual period to be prescribed by the said commission and shall be renewable ~~from year to year~~ upon the payment of said fee and shall be subject to the same conditions, limitations, and restrictions as ~~herein set forth in this section~~. All moneys received pursuant to this section shall be deposited into the State Game Trust Fund to be used to implement, administer, enforce, and educate the public regarding ss. 372.86-372.92.

Section 3. Section 372.88, Florida Statutes, is amended to read:

372.88 Bond required, amount.—

(1) No person, party, firm, or corporation shall exhibit to the public either with or without charge, or admission fee any ~~poisonous or~~ venomous reptile without having first posted a good and sufficient bond in writing in the penal sum of \$10,000 ~~\$1,000~~ payable to the commission Governor of the state, and the Governor's successors in office, conditioned that such exhibitor will indemnify and save harmless all persons from injury or damage from such ~~poisonous or~~ venomous reptiles so exhibited and shall fully comply with all laws of the state and all rules and regulations of the ~~Fish and Wildlife Conservation~~ commission governing the capturing, keeping, possessing, or exhibiting of ~~poisonous or~~ venomous reptiles; provided, however, that the aggregate liability of the surety for all such injuries or damages shall, in no event, exceed the penal sum of the said bond. The surety for the said bond must be a surety company authorized to do business under the laws of the state or in lieu of such a surety, cash in the sum of \$10,000 ~~\$1,000~~ may be posted with the ~~said~~ commission to ensure compliance with the conditions of the said bond.

(2) No person, party, firm, or corporation shall exhibit to the public either with or without charge or admission fee, any Class I wildlife, as defined in s. 372.922 and ch. 68A-6, Florida Administrative Code, without having first guaranteed financial responsibility, in the sum of \$10,000, for any liability which may be incurred in the exhibition to the public of Class I wildlife. The commission shall adopt, by rule, the methods of payment that satisfy the financial responsibility, which may include cash, the establishment of a trust fund, an irrevocable letter of credit, casualty insurance, a corporate guarantee, or any combination thereof, in the sum of \$10,000 which shall be posted with the commission. In lieu of the \$10,000 financial responsibility guarantee required in this paragraph, the exhibiter has the option to maintain comprehensive general liability insurance, with minimum limits of \$2 million per occurrence and \$2 million annual aggregate, as shall protect the exhibiter from claims for damage for personal injury, including accidental death, as well as claims for property damage which may arise. Proof of such insurance shall be submitted to the commission.

Section 4. Sections 372.89, 372.90, 372.901, and 372.91, Florida Statutes, are repealed.

Section 5. Section 372.911, Florida Statutes, is renumbered as section 372.0715, Florida Statutes.

Section 6. Section 372.92, Florida Statutes, is amended to read:

372.92 Rules and regulations; penalties.—

(1) The Fish and Wildlife Conservation Commission may prescribe such other rules and regulations as it may deem necessary to prevent the escape of ~~poisonous and venomous reptiles or~~ reptiles of concern, either in connection of construction of such cages or otherwise to carry out the intent of ~~ss. 372.86-372.88~~ ss. 372.86-372.91.

(2) A person who knowingly releases a nonnative venomous reptile or reptile of concern to the wild or who through gross negligence allows a nonnative venomous reptile or reptile of concern to escape commits a Level Three violation, punishable as provided in s. 372.935.

Section 7. Section 372.935, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 372.935, F.S., for present text.)

372.935 Captive wildlife penalties.—

(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 or s. 775.083. 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 or s. 775.083.

(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, relating to capturing, keeping, possessing, transporting, or exhibiting venomous reptiles or reptiles of concern.

5. Section 372.87, 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, relating to bonding requirements for public exhibits of venomous reptiles.

7. Section 372.92, relating to commission rules and regulations to prevent the escape of venomous reptiles or reptiles of concern.

8. Section 372.921, relating to exhibition or sale of wildlife.

9. Section 372.922, 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 or s. 775.083.

(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 or s. 775.083 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 or s. 775.083, 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 or s. 775.083, 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, relating to illegal importation or introduction of foreign wildlife.

7. Section 370.081, relating to the illegal importation and possession of nonindigenous marine plants and animals.

8. Section 372.92, 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 or s. 775.083.

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 or s. 775.083, 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 or s. 775.083.

(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. For purposes of administrative action, a conviction of a criminal offense shall mean any judicial disposition other than acquittal or dismissal.

Section 8. For the 2007-2008 fiscal year, the sum of \$75,000 is appropriated from the State Game Trust Fund to the Fish and Wildlife Conservation Commission for initial costs associated with regulating venomous reptiles and reptiles of concern.

Section 9. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2007.

Approved by the Governor June 27, 2007.

Filed in Office Secretary of State June 27, 2007.