

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1161 Venomous Reptiles
SPONSOR(S): Infrastructure Strategies Committee, Abbott
TIED BILLS: IDEN./SIM. **BILLS:** SB 1266

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture, Conservation & Resiliency Subcommittee	17 Y, 0 N	Gawin	Moore
2) Agriculture & Natural Resources Appropriations Subcommittee	14 Y, 0 N	Byrd	Pigott
3) Infrastructure Strategies Committee	22 Y, 0 N, As CS	Gawin	Harrington

SUMMARY ANALYSIS

Article IV, section 9, of the Florida Constitution establishes the Florida Fish and Wildlife Conservation Commission (FWC) and grants FWC the regulatory and executive powers of the state concerning wild animal life, freshwater aquatic life, and marine life. The Constitution specifies that all licensing fees for taking wild animal life, freshwater aquatic life, and marine life as well as the penalties for violating FWC regulations must be prescribed by the Legislature.

FWC defines venomous reptiles as all reptiles in the families Elapidae, Viperidae, and Hydrophiidae (sea snakes); all reptiles in the genus *Heloderma*; and all reptiles in the family Colubridae belonging to the genera *Rhabdophis*, *Boiga*, *Dispholidus*, *Thelatornis*, and *Atractapsis*. No one is authorized to capture, keep, possess, or exhibit any venomous reptile without having first obtained a special permit or license from FWC. All persons licensed to keep, possess, or exhibit venomous reptiles must provide safe, secure, and proper enclosures for the reptiles, and FWC inspects such enclosures to ensure the reptiles are appropriately housed. The illegal sale, purchase, transport, and caging of venomous reptiles can pose a threat to public safety and undermine lawful captive wildlife dealers operating within Florida. Additionally, nonnative venomous reptiles that escape or are released are likely to survive in Florida's subtropical climate, which poses a threat to the long-term wellbeing of state wildlife populations.

Violations of fish and wildlife laws and FWC rules are organized into a four-level system providing penalties based on the level of the offense. The penalties for violating such laws and rules range from a noncriminal civil penalty to a third-degree felony, which is punishable by up to five years in prison and a \$5,000 fine.

The bill specifies that a person who knowingly releases a nonnative venomous reptile or who through gross negligence allows a nonnative venomous reptile to escape commits a Level Four violation, punishable by five years in prison or a fine of \$5,000 or any higher amount equal to double the pecuniary gain derived from the offense by the offender.

The bill also specifies that a person who knowingly purchases, sells, attempts to sell, offers to sell, conspires to sell, barter, exchanges, trades, or imports for sale or use any venomous reptile species without first obtaining a permit or license from FWC commits a Level Four violation.

The bill may have an insignificant positive fiscal impact on the state.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Fish and Wildlife Conservation Commission

Article IV, section 9, of the Florida Constitution establishes the Florida Fish and Wildlife Conservation Commission (FWC) and grants FWC the regulatory and executive powers of the state concerning wild animal life, freshwater aquatic life, and marine life.¹

As a result of FWC's constitutional authority, the Legislature is constitutionally prohibited from adopting statutes in conflict with rules adopted by FWC to execute such authority.² However, the Constitution specifies that all licensing fees for taking wild animal life, freshwater aquatic life, and marine life as well as the penalties for violating FWC regulations must be prescribed by the Legislature.³ In addition, the Legislature must provide for FWC's exercise of executive powers in the area of planning, budgeting, personnel management, and purchasing.⁴ The Legislature may also enact laws to aid FWC that are not inconsistent with its constitutionally-conferred powers, except for special laws or general laws of local application relating to hunting and fishing.⁵

Venomous Reptiles

FWC defines venomous reptiles as all reptiles in the families Elapidae, Viperidae, and Hydrophiidae (sea snakes); all reptiles in the genus *Heloderma*; and all reptiles in the family Colubridae belonging to the genera *Rhabdophis*, *Boiga*, *Dispholidus*, *Thelatornis*, and *Atractapsis*.⁶ There are six venomous reptiles, all snakes, native to Florida.⁷ These snakes are the pygmy rattlesnake, eastern diamondback rattlesnake, timber (or canebrake) rattlesnake, cottonmouth, copperhead, and eastern coral snake.

No one is authorized to capture, keep, possess, or exhibit any poisonous or venomous reptile without having first obtained a special permit or license from FWC.⁸ Possession of sea snakes is limited to public aquaria, public zoological parks, or public exhibitors providing educational exhibits for public exhibition purposes when those entities follow criteria specified by FWC.⁹ All persons licensed to keep, possess, or exhibit venomous reptiles must provide safe, secure, and proper enclosures for said reptiles.¹⁰ FWC inspects such enclosures to ensure venomous reptiles are appropriately housed.

In order to possess a venomous reptile, a person must document 1,000 hours of experience over one year working with the species they would like to possess or other species in the same biological family of wildlife.¹¹ Additionally, the person must obtain two letters of reference regarding their experience related to working with the species they would like to obtain.¹² These letters must be from a Florida license holder for the wildlife being applied for or a representative of a professional organization or governmental institution.¹³

¹ Art. IV, s. 9, Fla. Const.

² Art. IV, s. 9, Fla. Const.

³ Art. IV, s. 9, Fla. Const.

⁴ *Id.*

⁵ *Id.*

⁶ FWC, *Venomous Reptiles*, <https://myfwc.com/license/captive-wildlife/venomous/> (last visited Mar. 7, 2023). Some examples of these reptiles include the inland taipan, gaboon viper, gila monster, cat snakes, boomslangs.

⁷ University of Florida, Institute of Food and Agricultural Sciences, *Dealing with Snakes*, https://ufwildlife.ifas.ufl.edu/dealing_with_snakes.shtml (last visited Mar. 24, 2023).

⁸ Section 379.372(1)(a), F.S.

⁹ Rule 68-5.007(1)(c), F.A.C.

¹⁰ Rule 68A-6.0171(1), F.A.C. For the requirements of each enclosure *see* r. 68A-6.0171(1)(a)-(d), F.A.C.

¹¹ Rule 68A-6.017(2)(e), F.A.C.

¹² Rule 68A-6.017(2)(e)c., F.A.C.

¹³ *Id.*

While there are native venomous snakes to Florida, the illegal sale, purchase, transport, and caging of venomous reptiles can pose a threat to public safety and undermine lawful captive wildlife dealers operating within the state.¹⁴ Additionally, nonnative venomous reptiles that escape or are released are likely to survive in Florida’s subtropical climate, which poses a threat to the long-term wellbeing of state wildlife populations.¹⁵

Violations Related to Venomous Reptiles

The unlawful purchase, sale, and/or importation of venomous reptiles is a Level Two violation,¹⁶ punishable as follows:

Level Two Violation	Type of Infraction	Civil Penalty or Jail Time	License Restrictions
First offense	2 nd Degree Misdemeanor ¹⁷	Max: \$500 or Max: 60 days	None
Second offense within three years of previous Level Two violation (or higher)	1 st Degree Misdemeanor ¹⁸	Min: \$250; Max: \$1,000 or Max: one year	None
Third offense within five years of two previous Level Two violations (or higher)	1 st Degree Misdemeanor ¹⁹	Min: \$500; Max: \$1,000 or Max: one year	Suspension of license for one year
Fourth offense within 10 years of three previous Level Two violations (or higher)	1 st Degree Misdemeanor ²⁰	Min: \$750; Max \$1,000 or Max: one year	Suspension of license for three years

Any person who intentionally releases a nonnative venomous reptile or through gross negligence allows a nonnative venomous reptile to escape commits a Level Three violation,²¹ punishable as follows:

Level Three Violation	Type of Infraction	Civil Penalty or Jail Time	License Restrictions
First offense	1 st Degree Misdemeanor ²²	Max: \$1,000 or Max: one year	None
Second offense within ten years of previous Level Three violation (or higher)	1 st Degree Misdemeanor ²³	Min: \$750; Max: \$1,000 or Max: one year	Permanent revocation of all licenses or permits

A person commits a Level Four violation if they violate any Level Three provision after the permanent revocation of a license or permit.²⁴ This violation is a third-degree felony²⁵ punishable by five years in

¹⁴ FWC, *Multi-year FWC investigation “Operation Viper” leads to numerous charges for venomous and prohibited snake traffickers*, <https://myfwc.com/news/all-news/operation-viper-123/> (last visited Mar. 8, 2023).

¹⁵ *Id.*

¹⁶ Section 379.4015(2)(a)5., F.S.

¹⁷ Section 379.4015(2)(b), F.S.

¹⁸ Section 379.4015(2)(c), F.S.

¹⁹ Section 379.4015(2)(d), F.S.

²⁰ Section 379.4015(2)(a)1., F.S.

²¹ Section 379.305(2), F.S.

²² Section 379.4015(3)(b)1., F.S.

²³ Section 379.4015(2)(c), F.S.

²⁴ Section 379.4015(4)(a), F.S.

²⁵ Section 379.4015(4)(b), F.S.

prison²⁶ or a fine of \$5,000 or any higher amount equal to double the pecuniary gain derived from the offense by the offender.²⁷

Effect of the Bill

The bill specifies that a person who knowingly releases a nonnative venomous reptile or who through gross negligence allows a nonnative venomous reptile to escape commits a Level Four violation.

The bill also specifies that a person who knowingly purchases, sells, attempts to sell, offers to sell, conspires to sell, barter, exchanges, trades, or imports for sale or use any venomous reptile species without first obtaining a permit or license from FWC commits a Level Four violation.

Additionally, the bill specifies that it is a Level Three violation for any person to violate FWC rules or orders that require the housing of wildlife in a safe manner when such violation results in the escape of a venomous reptile.

B. SECTION DIRECTORY:

Section 1. Amends s. 379.305, F.S., related to penalties for the escape and release of certain reptiles.

Section 2. Amends s. 379.4015, F.S., related to nonnative and captive wildlife penalties.

Section 3. Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an insignificant positive fiscal impact on the state associated with higher fines collected as part of the increased penalties specified in the bill.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

²⁶ Section 775.082(3)(e), F.S.

²⁷ Sections 775.083(1)(c), F.S., and 775.083(1)(f), F.S.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 27, 2023, the Infrastructure Strategies Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment revised a provision that subjected a person who intentionally releases or who through gross negligence allows a venomous reptile to escape to a Level Four violation so that the penalty only applies if the venomous reptile is nonnative.

This analysis is drafted to the committee substitute as approved by the Infrastructure Strategies Committee.