

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 777 Fish and Wildlife Activities

SPONSOR(S): Agriculture & Natural Resources Subcommittee, Gregory and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 1414

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	24 Y, 0 N, As CS	Melkun	Moore
2) State Affairs Committee	21 Y, 0 N	Melkun	Williamson

SUMMARY ANALYSIS

Right to Hunt

Under current law, a person may not intentionally, within a publicly or privately owned wildlife management or fish management area or on any state-owned water body: interfere with or attempt to prevent the lawful taking of fish, game, or nongame animals by another; or attempt to disturb fish, game, or nongame animals or attempt to affect their behavior with the intent to prevent their lawful taking by another.

The bill specifies that a person may not intentionally, within or on any public lands or waters, interfere with or attempt to prevent the lawful taking of fish, game, or nongame animals by another; or attempt to disturb fish, game, or nongame animals or attempt to affect their behavior with the intent to prevent their lawful taking by another.

Free Fishing Days

The Fish and Wildlife Conservation Commission (FWC) is authorized to designate up to four days per year as free freshwater fishing days and up to four days per year as free saltwater fishing days. During each free fishing day, any person may fish without a license or permit.

The bill increases the number of free freshwater fishing days that FWC may designate from four days per year to six days per year and the number of free saltwater fishing days that may be designated from four days per year to six days per year.

Conditional Species

Conditional species are nonnative species that pose a risk to native fish and wildlife or to the ecology of native wildlife communities. Species designated as conditional nonnative snakes and lizards are prohibited from being kept, possessed, or imported into the state, sold, bartered, traded, or bred for personal use or for sale for personal use.

The bill adds the green iguana and the tegu lizard to the conditional nonnative snakes and lizards list.

The bill prohibits a person or entity from keeping, possessing, importing, selling, bartering, trading, or breeding a species listed as a conditional nonnative snake or lizard except for educational, research, eradication, or control purposes.

The bill specifies that a person or entity who had a documented inventory of green iguanas or tegus on an application for an exhibition or sale license in 2019 and held such license on January 1, 2020, may continue to exhibit, sell, or breed green iguanas and tegus commercially for as long as the license remains active.

Fiscal Impact

The bill may have an indeterminate negative fiscal impact to the state.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Right to Hunt or Fish

The Legislature recognizes that hunting, fishing, and the taking of game are a valued part of the cultural heritage of Florida and should be forever preserved for Floridians.¹ The Legislature further recognizes that these activities play an important part in the state's economy and in the conservation, preservation, and management of the state's natural areas and resources. Therefore, the Legislature intends that the citizens of Florida have a right to hunt, fish, and take game, subject to the regulations and restrictions prescribed by general law and by the Fish and Wildlife Conservation Commission (FWC).²

Harassment of Hunters, Trappers, or Fishers

A person may not intentionally, within a publicly or privately owned wildlife management or fish management area or on any state-owned water body:

- Interfere with or attempt to prevent the lawful taking of fish, game, or nongame animals by another; or
- Attempt to disturb fish, game, or nongame animals or attempt to affect their behavior with the intent to prevent their lawful taking by another.³

Any person who violates this section commits a Level Two violation,⁴ punishable by the following:

Level Two Violation	Type of Infraction	Civil Penalty or Jail Time	License Restrictions
First offense	2 nd Degree Misdemeanor ⁵	Max: \$500 or Max: 60 days	None
Second offense within three years of previous Level Two violation (or higher)	1 st Degree Misdemeanor ⁶	Min: \$250; Max: \$1,000 Max: one year	None
Third offense within five years of two previous Level Two violations (or higher)	1 st Degree Misdemeanor ⁷	Min: \$500; Max: \$1,000 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 ⁸	Min: \$750; Max: \$1,000 Max: one year	Suspension of license for three years

¹ Section 379.104, F.S.

² *Id.*

³ Section 379.105(1), F.S.

⁴ Section 379.105(2), F.S.

⁵ Section 379.401(2)(b)1., F.S.

⁶ Section 379.401(2)(b)2., F.S.

⁷ Section 379.401(2)(b)3., F.S.

⁸ Section 379.401(2)(b)4., F.S.

Freshwater and Saltwater Fishing Licenses

Current law prohibits the taking of game, freshwater or saltwater fish, or fur-bearing animals within the state without first obtaining a license, permit, or authorization number and paying the associated fees.⁹ Section 379.354, F.S., establishes freshwater and saltwater fishing license fees as follows:

For residents:

- An annual freshwater or saltwater fishing license costs \$15.50.¹⁰
- A five-year freshwater or saltwater fishing license costs \$77.50.¹¹
- A lifetime freshwater or saltwater fishing license costs:
 - \$125 for persons four years of age or younger.
 - \$225 for persons five years of age or older, but under 13 years of age.
 - \$300 for persons 13 years of age or older.¹²

For nonresidents:

- A freshwater or saltwater fishing license for three consecutive days costs \$15.50.¹³
- A freshwater or saltwater fishing license for seven consecutive days costs \$28.50.¹⁴
- An annual freshwater or saltwater fishing license costs \$45.50.¹⁵

FWC also charges \$1.50 for each issued permit to cover the administrative cost of issuing the permit.¹⁶

Free Fishing Days

FWC may designate up to four days per year as free freshwater fishing days and up to four days per year as free saltwater fishing days.¹⁷ During each free fishing day, any person may fish without a license or permit.¹⁸ A person who takes freshwater or saltwater fish on a free fishing day must comply with all laws, rules, and regulations governing the holders of a fishing license or permit and all other conditions and limitations regulating the taking of freshwater or saltwater fish as imposed by law or rule.¹⁹

Nonnative Species

Nonnative²⁰ species are animals or plants living in Florida outside captivity or human cultivation that were not historically present in the state.²¹ More than 500 fish and wildlife nonnative species have been documented in Florida.²² Not all nonnative species pose a threat to Florida's ecology, but some nonnative species become invasive species by causing harm to native species, posing a threat to human health and safety, or causing economic damage.²³ To manage and minimize the impacts of nonnative animal species, individuals may not import, introduce, or possess any nonnative animal species without a permit from FWC.²⁴

⁹ Section 379.354(1), F.S.

¹⁰ Sections 379.354(4)(a)-(b), F.S.

¹¹ Section 379.354(9)(a)1., F.S.

¹² Section 379.354(10)(a), F.S.

¹³ Sections 379.354(5)(a) and (c), F.S.

¹⁴ Sections 379.354(5)(b) and (d), F.S.

¹⁵ Sections 379.354(5)(e)-(f), F.S.

¹⁶ Section 379.352(5), F.S.

¹⁷ Section 379.354(15), F.S. Rule 68A-5.006, F.A.C., designates the first weekend in April as "Free-Freshwater Fishing Day-Spring," and the second weekend in June as "Free-Freshwater Fishing Day-Summer." Rule 68B-2.009, F.A.C., designates the first weekend in June, the first Saturday in September, and the Saturday following Thanksgiving as "License-Free Saltwater Fishing Days."

¹⁸ Section 379.354(15), F.S.

¹⁹ *Id.*

²⁰ The terms "nonnative" and "exotic" have the same meaning and are used interchangeably.

²¹ FWC, *Nonnative Species Information*, available at <https://myfwc.com/wildlifehabitats/nonnatives/exotic-information/> (last visited Jan. 7, 2020).

²² Nicole Dodds, Mary Miller, and Alexa Lamm, University of Florida Institute of Food and Agricultural Sciences, *Floridians' Perceptions of Invasive Species*, Feb. 2014, p. 1, available at <http://edis.ifas.ufl.edu/pdf/FILES/WC/WC18600.pdf> (last visited Feb. 18, 2020).

²³ FWC, *Nonnative Species Information*, available at <https://myfwc.com/wildlifehabitats/nonnatives/exotic-information/> (last visited Feb. 18, 2020).

²⁴ Section 379.231(1), F.S.

Class III Wildlife

Any non-domesticated wildlife species that do not appear on the list of Class I²⁵ or Class II²⁶ wildlife are considered Class III wildlife.²⁷ Therefore, there is no formal list of Class III species. Examples of Class III species include, but are not limited to, parrots, finches, skunks, foxes, geckos, snakes, and frogs.²⁸ A permit is required for personal possession, exhibition, or sale of Class III wildlife; however, a permit is not required to possess certain Class III wildlife as a personal pet.²⁹

Conditional Nonnative Snakes and Lizards

Conditional species are nonnative species that pose a risk to native fish and wildlife or to the ecology of native wildlife communities. Specifically, conditional nonnative snakes and lizards are prohibited from being kept, possessed, or imported into the state, sold, bartered, traded, or bred for personal use or for sale for personal use. Current law identifies the following as conditional nonnative snakes and lizards:

- Burmese or Indian python;
- Reticulated python;
- Northern African python;
- Southern African python;
- Amethystine or scrub python;
- Green Anaconda;
- Nile Monitor; and
- Any other reptile designated as a conditional or prohibited species by FWC.³⁰

Permits to possess a conditional nonnative snake or lizard may only be issued to individuals or institutions engaged in research, commercial import or export businesses, public aquaria, public zoological parks, or public exhibitors providing educational exhibits.³¹ Conditional nonnative snakes and lizards must be kept indoors or in outdoor enclosures with a fixed roof and must be permanently identified with a passive integrated transponder tag, also known as a microchip.³² Owners of such species must also submit a Captive Wildlife Disaster and Critical Incident Plan to FWC and maintain records of their inventory.³³

Priority Invasive Species

In 2018, the Legislature directed FWC to create a pilot program to mitigate the impact of priority invasive species on the public lands or waters of the state.³⁴ The goal of the pilot program is to examine the benefits of using strategically deployed, trained private contractors to slow the advance of priority invasive species, contain their populations, and eradicate them from the state.³⁵

As part of the program, FWC is authorized to enter into contracts to capture or destroy animals belonging to priority invasive species found on public lands, in the waters of this state, or on private lands or waters with the consent of the owner. All captures and disposals of animals that are priority

²⁵ Class I wildlife are those that pose a significant danger to people. Species include bears, cheetahs, baboons, crocodiles, elephants, gorillas, etc. FWC, *Captive Wildlife*, available at <https://myfwc.com/license/captive-wildlife/> (last visited Feb. 19, 2020). See r. 68A-6.002(1)(a), F.A.C., for a list of Class I wildlife.

²⁶ Class II wildlife are those that can pose a danger to people. Species include alligators, badgers, bobcats, monkeys, ostrich, wolves, etc. FWC, *Captive Wildlife*, available at <https://myfwc.com/license/captive-wildlife/> (last visited Feb. 19, 2020). See r. 68A-6.002(1)(b), F.A.C., for a list of Class II wildlife.

²⁷ Rule 68A-6.002(1)(c), F.A.C.; FWC, *Captive Wildlife*, available at <https://myfwc.com/license/captive-wildlife/> (last visited Feb. 19, 2020).

²⁸ FWC, *Captive Wildlife*, available at <https://myfwc.com/license/captive-wildlife/> (last visited Feb. 19, 2020).

²⁹ Rule 68A-6.003, F.A.C.; FWC, *Captive Wildlife*, available at <https://myfwc.com/license/captive-wildlife/> (last visited Feb. 19, 2020).

³⁰ Section 379.372(2)(a), F.S.

³¹ Rule 68-5.005(1), F.A.C.; see FWC, *Conditional Snakes and Lizards*, available at <http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/> (last visited Feb. 18, 2020).

³² Rule 68-5.005(5), F.A.C.

³³ *Id.*

³⁴ Section 379.2311, F.S.

³⁵ Section 379.2311(2), F.S.

invasive species must be documented and photographed and the geographic location of the take must be recorded for research purposes. FWC is required to submit a report of findings and recommendations regarding its implementation of the pilot program to the Governor and the Legislature by January 1, 2021.³⁶

Priority invasive species include lizards of the genus *Tupinambis*, also known as tegu lizards; *Pterois volitans*, also known as red lionfish; *Pterois miles*, also known as the common lionfish or devil firefish; and the conditional nonnative lizard and snake species listed above.³⁷

Tegu Lizards

According to FWC, there are three types of nonnative tegu lizards that have been found in Florida: the Argentine Black and White Tegu (*Salvator merianae*); the Red Tegu (*Salvator rufescens*); and the Gold Tegu (*Tupinambus teguixin*).³⁸ Tegus are an invasive species that have established breeding populations in Miami-Dade and Hillsborough Counties³⁹ and an emerging population in Charlotte County.⁴⁰ The tegu causes harm to native species by disturbing alligator nests and consuming their eggs, utilizing gopher tortoise burrows, and consuming juvenile gopher tortoises.⁴¹

The tegu is listed as a priority invasive species, but is not designated as a conditional or prohibited species.⁴² A permit is not currently required to possess a tegu as a pet; however, a person must possess a license from FWC for any commercial use of a tegu, such as the sale or public exhibition.⁴³ According to a survey conducted by FWC in November 2019, 106 license holders are authorized to sell tegus, and they have more than 1,245 tegus in their combined inventory.⁴⁴

In response to the invasive populations, FWC developed a trapping removal program to minimize the impact of tegus on native wildlife and natural areas and works with other agencies and organizations to assess the tegu's threat as well as develop species management strategies.⁴⁵ Members of the public may also remove and kill tegus from 22 FWC-managed public lands without a license or permit.⁴⁶ Through these efforts, over 7,800 tegus have been reported as removed from the wild or found dead in Florida by FWC staff, partners, and the public since 2012, primarily in Miami-Dade County.⁴⁷

Green Iguanas

Green iguanas (*Iguana iguana*) are large, green lizards that can grow to over five feet in length and weigh up to 17 pounds. Green iguanas typically mate in October through November in their native range, and nesting occurs on riverbanks, beaches, and other sandy areas.⁴⁸ Green iguanas can live up to 10 years in the wild and can live on the ground, in shrubs, or in trees in a variety of habitats including suburban developments, urban areas, small towns, and agricultural areas.⁴⁹ Green iguana populations currently stretch along the Atlantic Coast in Broward, Martin, Miami-Dade, Monroe, and Palm Beach Counties and along the Gulf Coast in Collier and Lee Counties. There have also been reports as far north as Alachua, Highlands, Hillsborough, Indian River, and St. Lucie Counties; however, iguanas

³⁶ *Id.*

³⁷ Section 379.2311, F.S.

³⁸ FWC, *Nonnative Whiptails and Wall Lizards*, available at <https://myfwc.com/wildlifehabitats/nonnatives/reptiles/whiptails-and-wall-lizards/> (last visited Feb. 18, 2020).

³⁹ FWC, *Argentine black and white tegu*, available at <https://myfwc.com/wildlifehabitats/nonnatives/reptiles/whiptails-and-wall-lizards/tegu/> (last visited Feb. 18, 2020).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ Rule 68-5.006, F.A.C.; see s. 379.3761, F.S.

⁴⁴ FWC, Agency Analysis of 2020 House Bill 777, 2 (Jan. 13, 2020) (on file with the Agriculture & Natural Resources Subcommittee).

⁴⁵ FWC, *Argentine black and white tegu*, available at <https://myfwc.com/wildlifehabitats/nonnatives/reptiles/whiptails-and-wall-lizards/tegu/> (last visited Feb. 18, 2020).

⁴⁶ FWC, *Executive Order 17-11* (Mar. 31, 2017), available at <https://myfwc.com/media/3682/eo-17-11.pdf> (last visited Feb. 18, 2020).

⁴⁷ FWC, Agency Analysis of 2020 House Bill 777, 2 (Jan. 13, 2020) (on file with the Agriculture & Natural Resources Subcommittee).

⁴⁸ FWC, *Green Iguana*, available at <https://myfwc.com/wildlifehabitats/profiles/reptiles/green-iguana/> (last visited Feb. 18, 2020).

⁴⁹ *Id.*

observed in more northern counties are likely escaped or released captive animals and are unlikely to establish populations, as iguanas are not cold hardy.⁵⁰

Green iguanas cause damage to residential and commercial landscape vegetation and are often considered a nuisance by property owners. Some green iguanas can cause damage to infrastructure by digging burrows that erode and collapse sidewalks, foundations, seawalls, berms, and canal banks. Green iguanas may also leave droppings on docks, moored boats, seawalls, porches, decks, pool platforms, and inside swimming pools. As is the case with other reptiles, green iguanas can also pose a health risk as they can transmit the infectious bacterium *Salmonella* to humans through contact with water or surfaces contaminated by their feces.⁵¹

Green iguanas are not designated as conditional or prohibited species or in any way protected in Florida except by anti-cruelty laws.⁵² A permit is also not currently required to possess a green iguana as a pet, however, a person must possess a license from FWC for any commercial use of a green iguana, such as the sale or public exhibition.⁵³ According to a survey conducted by FWC in November 2019, 382 license holders are authorized to sell iguanas, and they have more than 5,307 in their combined inventory.⁵⁴

FWC encourages the removal of green iguanas from private properties by landowners and allows members of the public to remove and kill iguanas from 22 FWC-managed public lands without a license or permit.⁵⁵ FWC also hosts Iguana Technical Assistance Public Workshops to help empower homeowners to manage this nonnative species on their own property with legal trapping and removal options.⁵⁶ In 2018, FWC initiated removal efforts on public conservation lands, resulting in nearly 5,000 iguanas being removed.⁵⁷

Effect of the Bill

The bill specifies that a person may not intentionally, within or on any public lands or waters, interfere with or attempt to prevent the lawful taking of fish, game, or nongame animals by another; or attempt to disturb fish, game, or nongame animals or attempt to affect their behavior with the intent to prevent their lawful taking by another.

The bill increases the number of free freshwater fishing days that FWC may designate from four days per year to six days per year and the number of free saltwater fishing days that may be designated from four days per year to six days per year.

The bill adds the green iguana (*Iguana iguana*) and the tegu lizard (any species of the genera *Salvator* or *Tupinambis*) to the conditional nonnative snakes and lizards list.

The bill prohibits a person, party, firm, association, or corporation from keeping, possessing, importing, selling, bartering, trading, or breeding species listed as conditional nonnative snakes and lizards except for educational, research, eradication, or control purposes. The bill prohibits the possession of such snakes and lizards for personal use.

The bill specifies that a person, party, firm, association, or corporation who had a documented inventory of green iguanas or tegus on an application for a Class III captive wildlife exhibition or sale license in

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ Rule 68-5.006, F.A.C.; see s. 379.3761, F.S.

⁵⁴ FWC, Agency Analysis of 2020 House Bill 777, 2 (Jan. 13, 2020) (on file with the Agriculture & Natural Resources Subcommittee).

⁵⁵ FWC, *Executive Order 17-11* (Mar. 31, 2017), available at <https://myfwc.com/media/3682/eo-17-11.pdf> (last visited Feb. 18, 2020).

⁵⁶ FWC, *Nonnative Species Public Workshops*, available at <https://myfwc.com/wildlifehabitats/nonnatives/public-workshops/> (last visited Feb. 18, 2020).

⁵⁷ FWC, Agency Analysis of 2020 House Bill 777, 3 (Jan. 13, 2020) (on file with the Agriculture & Natural Resources Subcommittee).

2019 and held such license on January 1, 2020, may continue to exhibit, sell, or breed green iguanas and tegus commercially for as long as the license remains active.

The bill requires any inventory of green iguanas or tegus to be sold outside of the state and prohibits licensees from importing such species into the state.

The bill requires FWC to adopt rules to establish reporting requirements for the possession, exhibition, and sale of green iguanas and tegus; biosecurity measures to prevent the escape of such species; and any necessary grandfathering provisions for those persons currently in possession of green iguanas or tegu lizards that do not qualify for the grandfathering provisions applicable to commercial sale or exhibition.

B. SECTION DIRECTORY:

- Section 1. Amends s. 379.105, F.S., relating to the harassment of hunters, trappers, or fishers.
- Section 2. Amends s. 379.354, F.S., relating to recreational licenses, permits, and authorization numbers.
- Section 3. Amends s. 379.372, F.S., relating to conditional nonnative snakes and lizards.
- Section 4. Reenacts s. 379.2311, F.S., relating to nonnative animal management.
- Section 5. Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an indeterminate negative fiscal impact on FWC revenue because the bill increases the number of free fishing days available to the public, but such impact is likely insignificant.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate negative fiscal impact on commercial owners and sellers of tegus and green iguanas because they will no longer be permitted to sell the species within the state. The bill may also have an indeterminate negative fiscal impact on commercial owners and sellers of species currently listed as conditional that will no longer be able to possess a prohibited species unless it is used for educational, research, eradication, or control purposes.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires FWC to adopt rules to provide certain requirements for conditional nonnative snakes and lizards. FWC appears to have sufficient rulemaking authority to adopt such rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 25, 2020, the Agriculture & Natural Resources Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS removed provisions relating to a sales tax holiday and an associated appropriation, expanded the authorized purposes of conditional nonnative snakes and lizards, created a grandfathering process for entities currently in possession of green iguanas and tegus, and required FWC to adopt rules to implement the changes made by the PCS.

This analysis is drafted to the committee substitute as approved by the Agriculture & Natural Resources Subcommittee.