

South Carolina General Assembly
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Bill 4831

~~Indicates Matter Stricken~~

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COMMITTEE AMENDMENT ADOPTED

September 15, 2020

H. 4831

Introduced by Reps. Hixon, Ligon, B. Newton, Forrest, R. Williams and Jefferson

S. Printed 9/15/20--S. [SEC 9/16/20 2:16 PM]

Read the first time February 6, 2020.

A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-15-15 SO AS TO PROHIBIT CERTAIN ACTIVITIES RELATED TO THIS STATE'S NATIVE REPTILE AND AMPHIBIAN SPECIES AND TO REQUIRE THE ESTABLISHMENT OF POSSESSION LIMITS; BY ADDING SECTION 50-15-55 SO AS TO PROHIBIT THE RELEASE OF NONNATIVE CAPTIVE WILDLIFE IN THIS STATE; TO AMEND SECTION 50-15-10, RELATING TO DEFINITIONS, SO AS TO DEFINE NEW TERMS AND EXPAND THE TERM "NONGAME SPECIES" TO INCLUDE ANIMAL PARTS, PRODUCTS, EGGS, AND OFFSPRING; TO AMEND SECTION 50-15-30, RELATING TO THE LISTING OF ENDANGERED SPECIES, SO AS TO REQUIRE THE DEPARTMENT OF NATURAL RESOURCES TO CONDUCT THE REVIEW OF THE STATE LIST OF ENDANGERED SPECIES; TO AMEND SECTION 50-15-40, RELATING TO THE ESTABLISHMENT OF WILDLIFE MANAGEMENT PROGRAMS, SO AS TO AUTHORIZE THE DEPARTMENT TO ESTABLISH WILDLIFE MANAGEMENT PROGRAMS; TO AMEND SECTION 50-15-80, RELATING TO PENALTIES FOR VIOLATIONS OF CERTAIN PROVISIONS, SO AS TO GRANT CONCURRENT JURISDICTION OVER THESE VIOLATIONS TO MAGISTRATES COURTS, TO INCREASE MONETARY PENALTIES, AND TO PROVIDE FOR THE REVOCATION OF PERMITS GRANTED TO A PERSON WHO VIOLATES CERTAIN PROVISIONS; AND TO AMEND SECTION 50-15-310, RELATING TO DEFINITIONS APPLICABLE TO THE SOUTH CAROLINA CAPTIVE ALLIGATOR PROPAGATION ACT, SO AS TO ALTER THE DEFINITIONS OF THE TERMS "ALLIGATOR PROPAGATION FACILITY" AND "COMMERCIAL PURPOSES".

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 15, Title 50 of the 1976 Code is amended by adding:

"Section 50-15-15. (A) The department may promulgate regulations for the appropriate management of native reptile and amphibian species, including limitations on, and permitting for, the possession, transfer, sale, barter, trade, shipment, and removal from this State of native reptile and amphibian species.

(B) It is unlawful to possess, transfer, sell, barter, trade, ship, or remove from this State, or attempt to possess, transfer, sell, barter, trade, ship, or remove from this State native reptile and amphibian species, including parts, products, eggs, offspring, and derivatives thereof, in violation of a limit or a permit condition established by the department pursuant to this section."

SECTION 2. Article 1, Chapter 15, Title 50 of the 1976 Code is amended by adding:

"Section 50-15-55. (A) It is unlawful for a person to release wildlife that is not native to this State from captivity in this State.

(B) The department may promulgate regulations to prohibit or otherwise restrict certain species of nonnative wildlife in this State, including species that:

- (1) have the potential to become established in this State in sufficient numbers so as to become a nuisance; and
- (2) pose a demonstrable deleterious and widespread threat to wildlife, agriculture, or human health and safety.

(C) Sanitary and safe disposal of dead wildlife is not a violation of this section.

(D) The provisions of this section do not apply to the release of foxes and coyotes pursuant to the provisions of Chapter 11, Title 50 and to the release of other nonnative species from captivity if authorized by law."

SECTION 3.A. Section 50-15-70 of the 1976 Code is amended to read:

"Section 50-15-70. (A) ~~It is unlawful for a person, or a group of individuals traveling in one vehicle, to remove, or attempt to remove from this State more than ten, either in one species or a combination of species, of the named species of turtles at one time with a maximum of twenty turtles of these species, either individually or in combination in any one year: yellowbelly turtle (Trachemys scripta);~~ Except as otherwise provided in this article, it is unlawful for a person to possess, sell, barter, trade, ship, or remove from this State, or attempt to possess, sell, barter, trade, ship, or remove from this State the following native species of turtles, including parts, products, eggs, offspring, and derivatives thereof:

- (1) Florida cooter (*Pseudemys floridana*);;
- (2) river cooter (*Pseudemys concinna*);;
- (3) chicken turtle (*Deirochelys reticularia*);; ~~eastern box turtle (*Terrapene carolina*);;~~
- (4) eastern painted turtle (*Chrysemys picta*);;
- (5) spiny softshell turtle (*Apalone spinifera*);;
- (6) Florida softshell turtle (*Apalone ferox*);;
- (7) eastern mud turtle (*Kinosternon subrubrum*);;
- (8) striped mud turtle (*Kinosternon baurii*);

- (9) common musk turtle (*Sternotherus odoratus*);
- (10) yellow-bellied slider (*Trachemys scripta*);
- (11) common snapping turtle (*Chelydra serpentina*);
- (12) eastern box turtle (*Terrapene carolina*); and ~~common snapping turtle (*Chelydra serpentina*)~~
- (13) diamondback terrapin (*Malaclemys terrapin*).

~~(B) The provisions of this section do not prohibit the sale, offer for sale, or purchase of the yellowbelly turtle (*Trachemys scripta*) species and the common snapping turtle (*Chelydra serpentina*) species if these turtles were taken from a permitted aquaculture facility or a private pond pursuant to a permit issued by the department at the request of the owner or owner's agent. Any person transporting more than ten yellowbelly turtle (*Trachemys scripta*) species or common snapping turtle (*Chelydra serpentina*) species must be in possession of a permit pursuant to which the turtles were taken or acquired and, upon request, must provide it to authorized agents of the department. A person selling, offering to sell, or purchasing these species must have documentation from the aquaculture facility as to the origin of the turtles. The department may charge twenty-five dollars for a permit. The following personal possession limits, subject to an aggregate limit of ten, are established:~~

- (1) Florida cooter (*Pseudemys floridana*): 5;
- (2) river cooter (*Pseudemys concinna*): 5;
- (3) chicken turtle (*Deirochelys reticularia*): 5;
- (4) eastern painted turtle (*Chrysemys picta*): 5;
- (5) spiny softshell turtle (*Apalone spinifera*): 5;
- (6) Florida softshell turtle (*Apalone ferox*): 5;
- (7) eastern mud turtle (*Kinosternon subrubrum*): 5;
- (8) striped mud turtle (*Kinosternon baurii*): 5;
- (9) common musk turtle (*Sternotherus odoratus*): 5;
- (10) yellow-bellied slider (*Trachemys scripta*): 5;
- (11) common snapping turtle (*Chelydra serpentina*): 5;
- (12) eastern box turtle (*Terrapene carolina*): 2; and
- (13) diamondback terrapin (*Malaclemys terrapin*): 2.

~~(C) The department may permit the possession of native species of turtles in excess of the limits established in subsection (B) for scientific, zoological, conservation, or other special purposes. A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be punished by a fine of up to two hundred dollars or up to thirty days in jail, or both. A violator also must have his permit permanently revoked and may never be issued another one. Each turtle removed or in possession of a person attempting to remove them is a separate violation of this section."~~

B. A person who exceeds a personal possession limit under Section 50-15-70(B), as amended by this act, on the effective date of this act must register the number and species of turtles in the person's possession with the Department of Natural Resources within ninety days of the effective date of this act in order to receive a

temporary exemption to the personal possession limits. The person is prohibited from acquiring another turtle listed in Section 50-15-70, as amended by this act, until such time as the number of turtles in the person's possession is below the established limits. A person who registers with the Department of Natural Resources pursuant to SECTION 3.B. and subsequently acquires a turtle in excess of the established limits is subject to the same penalties provided for violations of Section 50-15-70.

SECTION 4. A. Section 50-15-10 of the 1976 Code is amended by adding appropriately numbered new items to read:

"() 'Captivity' means the condition in which an animal is contained in an enclosed cage, carrier, aquarium, or similar device, yard, or enclosure that prohibits the natural movement of the animal.

() 'Native' means any species or subspecies considered to be indigenous and naturally occurring in this State."

B. Section 50-15-10(4) of the 1976 Code is amended to read:

"(4) 'Nongame species' or 'nongame wildlife' means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other wild animal not otherwise legally classified by statute or regulation of this State as a game species."

SECTION 5. Section 50-15-30(B) of the 1976 Code is amended to read:

"(B) The ~~board~~ department shall conduct a review of the state list of endangered species within not more than two years from its effective date and every two years thereafter and may amend the list by such additions or deletions as are deemed appropriate. The ~~board~~ department shall submit to the Governor a summary report of the data used in support of all amendments to the state list during the preceding biennium."

SECTION 6. Section 50-15-40(A) of the 1976 Code is amended to read:

"Section 50-15-40. (A) The ~~board~~ department shall establish such programs, including acquisition of land or aquatic habitat, as are deemed necessary for management of nongame and endangered wildlife. The ~~board~~ department shall utilize all authority vested in the department to carry out the purposes of this section."

SECTION 7. Section 50-15-80 of the 1976 Code is amended to read:

"Section 50-15-80. (A) A person who violates Section 50-15-15, Section 50-15-20, or 50-15-70, or ~~a person~~ who fails to procure or violates the terms of a permit issued under ~~the regulations~~ a regulation promulgated pursuant to these sections, is guilty of a misdemeanor and, upon conviction, must be fined not more than ~~five hundred~~ one thousand dollars or imprisoned not more than thirty days ~~and ordered to pay restitution, or both~~.

(B) A person who violates Section 50-15-30(C), Section 50-15-55, or ~~regulations~~ a regulation promulgated pursuant to ~~it~~ these sections, or ~~a person~~ who fails to procure or violates the terms of a permit issued pursuant to Section 50-15-40(D) ~~and or~~ (E), is guilty of a misdemeanor and, upon conviction, must be fined ~~one thousand~~ not more than two thousand five hundred dollars or imprisoned not more than one year, or both.

(C)(1) The magistrates court has concurrent jurisdiction over violations of Sections 50-15-15, 50-15-20, 50-15-30, 50-15-40(D) and (E), 50-15-55, 50-15-70, and regulations promulgated pursuant to these sections.

(2) Each individual animal not covered by a legal exemption or authorization by the department is considered a separate violation. The court may order restitution for a violation of Sections 50-15-15, 50-15-20, 50-15-30, 50-15-40(D) and (E), 50-15-55, or 50-15-70.

(3) Upon the conviction of a violator, the department must revoke any permits issued pursuant to this chapter, and the violator is prohibited from applying to obtain another permit from the department directly or indirectly for a period of two years following the conviction.

(D) An enforcement officer employed and authorized by the department or a police officer of the State or a municipality or county within the State may conduct searches as provided by law and execute a warrant to search for and seize equipment, business records, merchandise, or wildlife taken, used, or possessed in connection with a violation of this article. The officer or agency, without a warrant, may arrest a person who the officer or agent has probable cause to believe is violating, in his presence or view, the article or a regulation or permit provided for by it. An officer or agent who has made an arrest of a person in connection with a violation may search the person or business records at the time of arrest and seize wildlife, records, or property taken or used in connection with the violation.

~~D)(E)~~ Equipment, merchandise, wildlife, or records seized under subsection ~~(C)~~(D) must be held by an officer or agent of the department pending disposition of court proceedings and forfeited to the State for destruction or disposition as the ~~board~~ department considers appropriate. Before forfeiture, the ~~board~~ department may direct the transfer of wildlife seized to a qualified zoological, educational, or scientific institution for safekeeping. The costs of ~~the transfer~~ holding the confiscated wildlife and items are assessable to the defendant upon conviction. The department may promulgate regulations to implement this subsection."

SECTION 8. Section 50-15-310(2) and (5) of the 1976 Code is amended to read:

"(2) 'Alligator propagation facility' means an enclosed area not located on public lands or waters, constructed so as to prevent the ingress and egress of alligators from surrounding public or private lands or waters where alligators are bred or raised as captive animals generally for the purpose of the sale, barter, or trade of alligators, alligator parts, alligator meat, or alligator hides.

(5) 'Commercial purposes' means to derive income or other consideration of value or operating with the intent to derive income or other consideration of value."

SECTION 9. This act takes effect upon approval by the Governor.

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