OnlineHobbyist

we don't build websites - we build communities

04/25/2008

Public Comments Processing: Attn: RIN-1018-AV68 Division of Policy and Directives Management U.S. Fish and Wildlife Service Attn: Erin Williams 4401 North Fairfax Drive, Suite 222 Arlington, VA 22203

Dear Ms. Williams...

I am writing in response to the Notice of Inquiry entitled, "Injurious Wildlife Species; Review of Information Concerning Constrictor Snakes From Python, Boa, and Eunectes genera," dated 31 January 2008. I am responding as the representative of OnlineHobbyist,com, Inc., owners and operators of the web sites PetHobbyist.com (see list at bottom) as well as kingsnake.com, recognized as one of the leading internet pet communities for the discussion, keeping and trade of reptiles and amphibians in the world. As such this response represents the opinions of our users, advertisers, volunteers, contractors, employees, directors, and shareholders and contains statements, documents, and data in answer to your request for information. We have included basic demographic user information regarding users in the Untied States that visit our kingsnake.com web site (see Appendix A).

What regulations does your State have pertaining to use, transport, or production of Python, Boa and Eunectes genera?

Our corporation is based in Texas. We have attached the state laws and regulations in Texas pertaining to all animals falling under the aegis of your request as an addendum (see Appendix B). Please be aware that these regulations are brand new, are the first time the state has addressed these animals, and that none of the species in the request are referenced in the State Health and Safety codes as a "Dangerous Wild Animal." (see Appendix C.) In addition we have surveyed all 50 states regarding their laws covering the species listed in the information request. Below are the results of that survey.

No Restrictions - 31 Restricted - 11 Prohibited - 4 Unknown - 4

No Restrictions — States that have no regulations that prohibit or restrict private ownership of some or all species covered by the request

Restricted – States that have enacted regulations that restrict private ownership of some or all species covered by the request through permits or regulation

Prohibited – States that have enacted regulations that prohibit private ownership of some or all species covered by the request

It should be noted that many states that feel that they have issues regarding these species have already taken steps to restrict or prohibit them (see Appendix D). In many instances these laws and regulations were enacted without biological or scientific data to support the regulation. In Texas all scientific data presented was ignored, including data on biology and safety, and regulations were approved and signed into law as part of a rider to an overall budget bill after they were defeated as standalone proposals. Politics instead of science was the determining factor.

It should also be noted that many municipalities that feel that they have issues regarding these species have already taken action to restrict or prohibit them. In many instances these laws and regulations were enacted without biological or scientific data to support the regulation. Of 50 cities and towns in Texas surveyed using the criteria above (see Appendix E) the following data was collected:

No Restrictions – 21 Restricted - 3 Prohibited – 26

No Restrictions — Cities/Towns that have no regulations that prohibit or restrict private ownership of some or all species covered by the request

Restricted – Cities/Towns that have enacted regulations that restrict private ownership of some or all species covered by the request through permits or regulation

 $\label{eq:prohibited-Cities/Towns that have enacted regulations that prohibit private ownership of some or all species covered by the request$

It was noted that in almost half the instances where the municipality has prohibited the animals the prohibition is instituted through a vague "Wild Animal" statute rather than specific naming of species listed in the information request.

How many species in the Python, Boa and Eunectes genera are currently in production for wholesale or retail sale, and in how many and which States? How many businesses sell Python, Boa and Eunectes species? How many businesses breed Python, Boa and Eunectes species? What are the annual sales for Python, Boa and Eunectes species?

Our data is limited to the information on businesses that purchase advertising services from our business, and only represents the data from those sources. It does not represent all the businesses involved in the importation, production or sales of these species and in fact only represents a fraction of the actual total number of individuals and businesses involved.

Our data shows that in general species covered by the information request are kept and bred for commercial or private sale in every state in the United States where it is legal to do so, 46.

A survey of breeder web sites listed on kingsnake.com shows the variety of species currently bred, sold, or imported into the Untied States. Please note that this does NOT represent the total number of businesses selling these animals, nor the number of businesses selling these animals on kingsnake.com's classifieds. These are just businesses that have that have a web site or page hosted by kingsnake.com.

Ball python	104
Asian rock python	19
Reticulated python	24
Blood python	19
Boa constrictor	89
Lesser Sundas python	0
Borneo python	7
Sumatran python	5
African rock python	6
Southern African python	1
Southwestern desert python (Angolan)	9
Madagascar boa	4

Dumeril's boa	18
Madagascar tree boa	3
Green anaconda	5
Yellow anaconda	6
Marajo anaconda	0

Additionally 26 hosted businesses sell food products to feed these animals, 30 businesses sell caging to contain these animals, and 33 carry other dry goods used to maintain these animals. You cannot consider the economic impact of restricting or prohibiting these animals without considering the associated businesses.

Please note that this data does not account for multiple locations or outlets for these businesses and with some companies such as PetSmart and PetCo comprising several thousand retail stores counting as a single listing.

A survey of kingsnake.com's events pages shows that over the next 12 months 207 reptile expos or shows will be held where animals covered by the information request will be available for sale.

A survey of PetHobbyist.com's retail pet store locator shows that of the 2893 U.S. based retail pet stores registered and listed, 2453 (84.7%) of them sell reptiles and/or reptile products, all of which would be impacted in some way by regulation or prohibition of the species listed in the request.

A survey of kingsnake.com's classified advertising data shows that currently there are 1561 active classified accounts, though this number fluctuates day to day. Our classified system is comprised primarily of individuals and businesses involved in the mail order supply of reptiles and supplies at either a retail or wholesale level, represents primarily inter-state and intra-state sales, as opposed to local sales, and represents breeders, importers, exporters, retail stores, wholesalers, and jobbers. Kingsnake.com's classifieds have long been the recognized leader in this online marketplace. Craig's List, focused primarily on local sales, is probably the second largest online classifieds system in the United States for reptile and amphibian classified advertising. We contacted Craig Newmark, founder of Craig's List, to see if they collected data of this nature and he authorized us to state for the record that their systems are not designed to gather such data, that they do not have comparable data available, and that they would not be responding to the information request.

In 2007 there were 422,866 classified ads for reptiles and amphibians posted to kingsnake.com and of that 187,188 (44.26%) of the ads posted were for animal species covered by the information request. In 2006 the percentage was 43.4%; in 2005 the percentage was 41.1%; in 2004 that number was 35.88% (see Appendix F).

Our business estimates that over 40 percent of the advertising revenue from the kingsnake.com web site is derived from advertising placed by individuals and businesses that sell animals, products, or services either directly or indirectly related to the species listed in the information request.

Our business estimates that over 40 percent of our site visitors visit kingsname.com for information relating to species contained in the information request. We currently employ 14 paid employees or contractors to service our kingsnake.com web site on a full or part time basis. Should such action as a ban on import or interstate transport of these species be emplaced at a national level, our business would have to reduce our reptile site staffing by as much as 50 percent, and reduce our spending.

What would it cost to eradicate Python, Boa and Eunectes individuals or populations, or similar species, if found?

There are too many variables to provide any valid cost estimates to eradicate a problem that does not exist.

In the Everglades, where the problem does exist, it will be impossible to eradicate the established populations due to the nature of the habitat, the numbers of animals involved, the amount of time that has passed, and the limited accessibility of the impacted areas. Further complicating matters is that the animals may not be legally removed, collected, killed, or destroyed by members of the general public as the epicenter of the problem is a National Park where the animals are protected by law from collection or removal.

What State-listed species would be impacted by the introduction of Python, Boa and Eunectes species?

What species have been impacted, and how, by Python, Boa and Eunectes species?

In Texas there have been no species impacted by the introduction of Python, Boa, and Eunectes species, as there have been no purposeful or accidental introduction of these species recorded in the state. Despite there having been hundreds of thousands of Python, Boa, and Eunectes species imported, kept, or bred in the state over the last 50 years, there are no known established or reproducing populations reported in Texas and any species impacted by those introduced accidentally by pet owners have been anecdotal at best. This list would include any small mammals or birds that would fall within the range of their introduction, including and primarily raccoons, nutria, feral cats, rats, mice and rabbits.

It is unlikely that, aside from the tropical regions at the southern tip of Texas, any of the species covered by the information request would be able to survive to establish reproducing populations in Texas, or in most of the United States, without specific purposeful attempts to do so.

It is our opinion that the existence of these populations in the Everglades region of Florida has been done through the mass release of numerous animals by an individual, either purposely or accidentally, and that only the unique factors of the Everglades habitat and the low population density have allowed for their introduction. As these factors are unique to this area of the United States and are not duplicated anywhere else, the chance of successful establishment of these animals outside this region is exceptionally low. We feel that the claims that the problem in the Everglades has been caused by individual releases or escapes are unproven, disputed by the genetic evidence so far available, and highly dubious at best. Additionally we feel that the purported range map proposed by U.S.G.S. is highly flawed and has been roundly discredited by people such as Dave Barker and other members of the academic community.

In summary, our community feels that the threat of constrictor snakes from Python, Boa, and Eunectes genera being accidentally introduced and established by pet owners is extremely low based on all available data on the requirements for these animals, that the event involving these animals in the Everglades is an anomaly brought about by a very special set of circumstances which would be impossible to reproduce elsewhere without a purposeful mass introduction. It is our opinion that States and Local authorities have already taken action when they have found a need, and have that ability if a need exists in the future, and there is no reason to take away from these states and their constituents the right of self determination on this issue.

Finally, we feel that banning the import and inter-state transport of these animals will affect millions of existing pet owners in the U.S. by making these pets and the supplies to maintain them unavailable, it will impact zoo and research programs that obtain their specimens from these businesses, as well as eliminating over 40 percent of the trade in reptiles and the manufactured goods used to maintain them in the United States. This represents a loss of millions of dollars and will cost thousands of jobs.

Our company is greatly concerned about the welfare of the animals kept as pets, as well as native wildlife and has devoted a considerable amount of our resources to see that pets of all kinds are not released into the wild. One of our sites, RescueNetwork, is built and staffed to assist individuals place unwanted animals with rescues and then helping rescues place animals with caring individuals equipped to give them a home. Over our 10 years thousands of reptiles, including many listed in the information request, have been given homes using our service and the services of the rescue organizations that have participated.

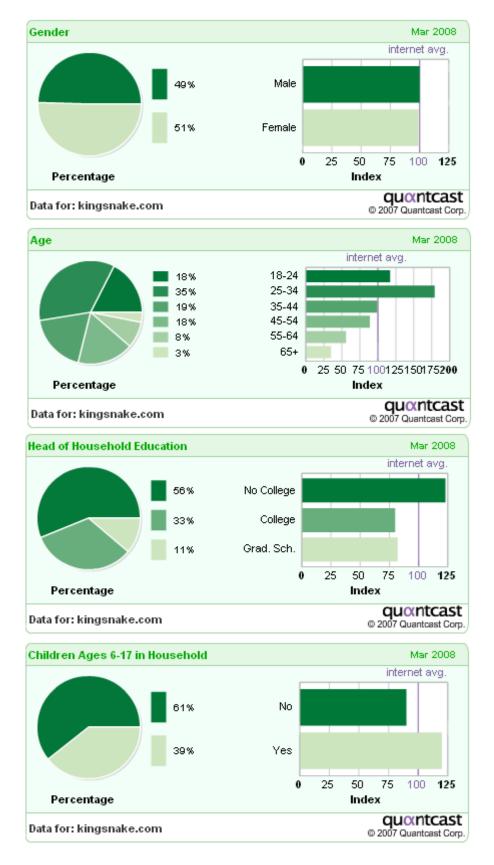
I appreciate the steps that the Fish & Wildlife Service has taken to work with our community to keep us involved in the process, and I hope that the exchange continues. It is our sincere hope that the decision regarding these pets that so many people care so greatly about will be based on science, data, and facts, rather than their mis-portrayal in the media, the political agendas of those that have made the proposal, and the furthering of the goals of the animal rights lobby. If we can further assist your inquiry by providing more detailed data and analysis, our company will happy to do so.

Jeffrey R. Barringer President/CEO OnlineHobbyist.com, Inc. P.O. Box 104 Walburg, Texas 78673 (512)791-6536 mgmt@onlinehobbyist.com

OnlineHobbyist.com, Inc. home of... http://pethobbyist.com http://aquariumhobbyist.com http://birdhobbyist.com http://cathobbyist.com http://doghobbyist.com http://horsehobbyist.com http://insecthobbyist.com http://kingsnake.com http://pondhobbyist.com http://petpress.net http://rescuenetwork.org

Appendix A.

Kingsnake.com U.S. User Demographics



Appendix B.

Texas State Law Regarding Boas & Pythons

Texas Administrative Code

<u>TITLE 31</u>	NATURAL RESOURCES AND CONSERVATION
PART 2	TEXAS PARKS AND WILDLIFE DEPARTMENT
CHAPTER 55	LAW ENFORCEMENT
SUBCHAPTER J	CONTROLLED EXOTIC SNAKES

Rules

<u>§55.651</u>	Definitions
<u>§55.652</u>	Permit Required
<u>§55.653</u>	Permit Issuance and Period of Validity
<u>§55.654</u>	Possession of Commercial Permit
<u>§55.655</u>	Recordkeeping
<u>§55.656</u>	Inspection; Seizure
<u>§55.657</u>	Violations and Penalties
RULE §55.651	Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Commercial possession--The possession of a controlled exotic snake for the purpose of sale.

(2) Controlled exotic snake--Any live snake that is:

(A) a venomous snake not indigenous to Texas;

(B) any of the following:

(i) African rock python (Python sebae);

(ii) Asiatic rock python, (Python molurus);

(iii) green anaconda, (Eunectes murinus);

(iv) reticulated python, (Python reticulatus);

(v) southern African python, (Python natalensis); or

(C) a hybrid of any species listed in this paragraph.

(3) Possession--Actual care, custody, or control.

(4) Recreational possession--The possession or transportation of a controlled exotic snake for any purpose other than sale.

(5) Sale--The transfer of ownership or the right of possession or the offer to transfer ownership or the right of possession of a controlled exotic snake to a person for a monetary consideration.

Source Note: The provisions of this §55.651 adopted to be effective March 23, 2008, 33 TexReg 2543

RULE §55.652

Permit Required

(a) Except as provided by Parks and Wildlife Code, §43.851(c), it is an offense for any person in this state to:

(1) possess a controlled exotic snake for any purpose other than sale unless that person possesses a valid recreational controlled exotic snake permit issued by the department; or

(2) sell or possess for commercial purposes a controlled exotic snake unless that person possesses a valid commercial controlled exotic snake permit issued by the department.

(b) A permit issued under this subchapter does not relieve any person of the responsibility of complying with any federal, state, or local law or ordinance regulating the possession and transportation of controlled exotic snakes.

(c) For controlled exotic snakes imported to Texas by common carrier, a bill of lading shall function as a temporary permit until the controlled exotic snakes are received by the consigner indicated on the manifest.(d) For controlled exotic snakes transported through Texas by common carrier, a bill of lading shall function as a temporary permit during transit.

Source Note: The provisions of this §55.652 adopted to be effective March 23, 2008, 33 TexReg 2543

RULE §55.653

Permit Issuance and Period of Validity

(a) A person may obtain a permit under this subchapter by paying the fee specified in Chapter 53, Subchapter A of this title (relating to Fees).

(b) A permit issued under this subchapter is valid from September 1 of one year until August 31 of the following year.

(c) A person who sells a controlled exotic snake or snakes to another person for purposes of recreational possession shall inform the purchaser at the time of the sale that:

(1) the sales receipt for the transaction is a temporary recreational controlled exotic snake permit valid for 21 days from the date indicated on the receipt; and

(2) after the 21st day following the date indicated on the sales receipt, the possession or transport of the controlled exotic snake or snakes is unlawful unless the person has purchased a recreational controlled exotic snake permit issued by the department.

(d) A person convicted of a violation of this subchapter may not obtain a permit before the fifth anniversary of the date of the conviction.

Source Note: The provisions of this §55.653 adopted to be effective March 23, 2008, 33 TexReg 2543 RULE §55.654 **Possession of Commercial Permit**

(a) A commercial controlled exotic snake permit is required for each permanent place of business where controlled exotic snakes are sold or held in commercial possession.

(b) An employee of a commercial controlled exotic snake permit holder may buy and sell controlled exotic snakes under the authority of that permit only at a permanent place of business operated by the permittee, provided that the employer's permit or a legible photocopy of the permit is maintained at the place of business during all activities governed by this subchapter.

(c) In the event that the holder of a commercial controlled exotic snake permit conducts an activity regulated under this subchapter at a place other than the permittee's permanent place of business, that person shall possess on their person the original or a legible photocopy of a valid commercial controlled exotic snake permit.

Source Note: The provisions of this §55.654 adopted to be effective March 23, 2008, 33 TexReg 2543

RULE §55.655

Recordkeeping

(a) The holder of a commercial controlled exotic snake permit shall maintain a current and legible daily record of all activities involving the acceptance, possession, or transfer of controlled exotic snakes by the permittee, including the name and address of any person:

(1) to whom a controlled exotic snake is sold;

(2) from whom a controlled exotic snake is bought; or

(3) from whom a controlled exotic snake is obtained; and

(4) the person 's controlled exotic snake permit number, if the person is required to possess a controlled exotic snake permit.

(b) The records required by this section shall be:

(1) retained by the permittee for a period of two years; and

(2) be made available for inspection upon the request of any department employee acting within the scope of official duties.

RULE §55.656

Inspection; Seizure

(a) Inspection. An authorized department employee may inspect at any time and without a warrant a permit or any records required by this subchapter.

(b) Seizure.

(1) The department may arrange for the seizure and removal of a snake covered by this subchapter from a person who possesses the snake without the required permit. The person is responsible for any costs incurred by the department in the seizure, removal, and disposition of the snake.

(2) A department employee is not required to handle, remove, or dispose of the snake.

(3) The department may contract with a person who has knowledge of or expertise in the handling of a snake covered by this subchapter to assist the department in the handling, removal, and disposition of the snake.

(4) The department, including an enforcement officer of the department, who acts under this section is not liable in a civil action for the seizure, sale, donation, or other disposition of the snake.

Source Note: The provisions of this §55.656 adopted to be effective March 23, 2008, 33 TexReg 2543

RULE §55.657

Violations and Penalties

(a) A person may not intentionally, knowingly, recklessly, or with criminal negligence release or allow the release from captivity of a snake covered by this subchapter.

(b) A person who violates any provision of the subchapter is subject to the penalties prescribed by Parks and Wildlife Code, §43.856.

(c) The provisions of Parks and Wildlife Code, Chapter 43, Subchapter V and this subchapter may be enforced by any Texas peace officer.

(d) It is a defense to prosecution under §55.652 of this title (relating to Permit Required) that the person charged produces in court an appropriate permit issued to the person and valid when the offense was committed.

Source Note: The provisions of this §55.657 adopted to be effective March 23, 2008, 33 TexReg 2543

Appendix C.

Texas Dangerous Animals Statute

Vernon's Texas Statutes and Codes Annotated Currentness. Health and Safety Code. Title 10. Health and Safety of Animals. Chapter 822. Regulation of Animals. Subchapter E. Dangerous Wild Animals. §

822.101. Definitions

In this subchapter:

(1) "Animal registration agency" means the municipal or county animal control office with authority over the area where a dangerous wild animal is kept or a county sheriff in an area that does not have an animal control office.

(2) "Board" means the Texas Board of Health.

(3) "Commercial activity" means:

(A) an activity involving a dangerous wild animal conducted for profit that is not inherent to the animal's nature;

(B) an activity for which a fee is charged and that is entertainment using or an exhibition of the animal; or

(C) the selling, trading, bartering, or auctioning of a dangerous wild animal or a dangerous wild animal's body parts.

- (4) "Dangerous wild animal" means:
- (A) a lion;
- (B) a tiger;
- (C) an ocelot;
- (D) a cougar;
- (E) a leopard;
- (F) a cheetah;
- (G) a jaguar;
- (H) a bobcat;
- (I) a lynx;
- (J) a serval;
- (K) a caracal;
- (L) a hyena;
- (M) a bear;
- (N) a coyote;
- (O) a jackal;
- (P) a baboon;
- (Q) a chimpanzee;

(R) an orangutan;

(S) a gorilla; or

(T) any hybrid of an animal listed in this subdivision.

(5) "Owner" means any person who owns, harbors, or has custody or control of a dangerous wild animal.

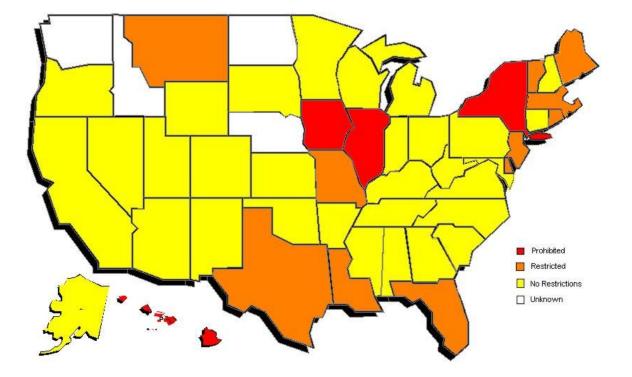
(6) "Person" means an individual, partnership, corporation, trust, estate, joint stock company, foundation, or association of individuals.

(7) "Primary enclosure" means any structure used to immediately restrict an animal to a limited amount of space, including a cage, pen, run, room, compartment, or hutch.

CREDIT(S)

Added by Acts 2001, 77th Leg., ch. 54, § 1, eff. Sept. 1, 2001.

Appendix D. State Laws Regarding Species In Information Request



No Restrictions — States that have no regulations that prohibit or restrict private ownership of some or all species covered by the request

Restricted – States that have enacted regulations that restrict private ownership of some or all species covered by the request through permits or regulation

Prohibited - States that have enacted regulations that prohibit private ownership of some or all species covered by the request

	No Restrictions	Restrictions	Prohibite	d Unknow	n
Alabama	1	l			
Alaska	1	l			
Arizona	1	l			
Arkansas	1	l			
California	1	l			
Colorado	1	l			
Connecticut	1	l			
Delaware			1		
Florida			1		
Georgia	1	l			
Hawaii				1	
Idaho					1
Illinois				1	
Indiana	1	l			
lowa				1	
Kansas	1	l			
Kentucky	1	l			

No Restrictions Restrictions Prohibited Unknown

Kentucky	1			
Louisiana		1		
Maine		1		
Maryland	1			
Massachusetts		1		
Michigan	1			
Minnesota	1			
Mississippi	1			
Missouri		1		
Montana		1		
Nebraska				1
Nevada	1			
New Hampshire	1			
New Jersey		1		
New Mexico	1			
New York			1	
North Carolina	1			
North Dakota				1
Ohio	1			
Oklahoma	1			
Oregon	1			
Pennsylvania	1			
Rhode Island		1		
South Carolina	1			
South Dakota	1			
Tennessee	1			
Texas		1		
Utah	1			
Vermont		1		
Virginia	1			
Washington				1
West Virginia	1			
Wisconsin	1			
Wyoming	1			
	31	11	4	4

Appendix E.

Survey of Local Laws In Texas

No Restrictions — Cities/Towns that have no regulations that prohibit or restrict private ownership of some or all species covered by the request

Restricted – Cities/Towns that have enacted regulations that restrict private ownership of some or all species covered by the request through permits or regulation

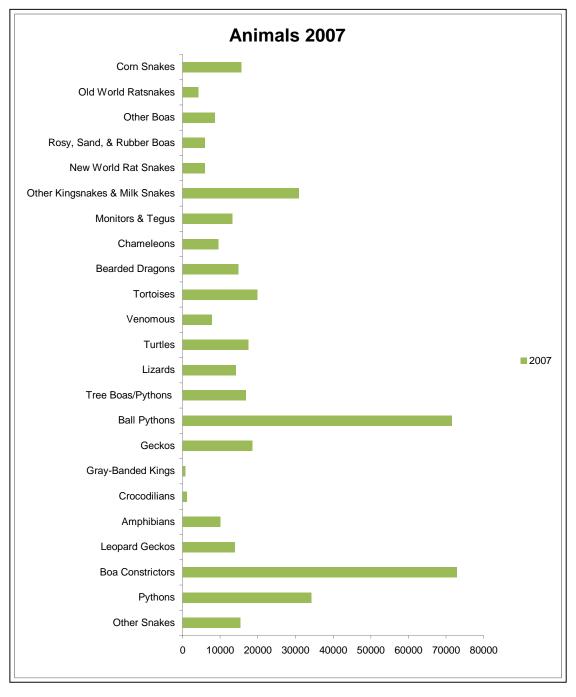
Prohibited – Cities/Towns that have enacted regulations that prohibit private ownership of some or all species covered by the request

	No Restictions Restricted	Prohibited
Abilene	1	
Addison	1	
Alamo Heights		1
Alice	1	
Allen		1
Alvin		1
Amarillo	1	
Angleton		1
Aransas Pass	1	
Balch Springs		1
Baytown		1
Beaumont	1	
Bedford		1
Bellaire		1
Boerne	1	
Bowie		1
Bridge City	1	
Brownwood		1
Bryan		1
Bunker Hill Village	1	
Burleson		1
Burnet		1
Carrolton	1	
Castroville	1	
Cedar Hill		1
Clear Lake Shores	1	
Cleveland	1	
Clute	1	
Colleyville	1	
Commerce	1	
Conroe		1
Coppell		1
Copperas Cove		1
Corpus Christi		1
Corsicana		1
Crowley		1
Decatur		1
Deer Park		1
Del Rio		1
Denison	1	

Denison	1		
Denton			1
Dickinson			1
Eagle Pass			1
Early	1		
Ennis	1		
Euless			1
Farmers Branch			1
Flower Mound			1
Forest Hill	1		
Fort Stockton	1		
	21	3	26

Appendix F.

Kingsnake.com Classified Ad Totals



Total Number of Classified Advertisements Placed					
	2004	2005	2006	2007	
Ball Pythons	27618	47624	68097	71490	
Other Boas	4087	8768	9274	8587	
Pythons	23328	29854	32086	34182	
Boa Constrictors	44098	50403	61367	72929	
Leopard Geckos	14007	11781	14524	13920	
Amphibians	7061	9434	9503	10057	
Crocodilians	1445	1363	1356	1095	
Gray-Banded Kings	1075	1092	1056	722	
Geckos	12044	15968	18030	18523	
Other Snakes	24487	12866	16494	15404	
Tree Boas/Pythons	10987	12377	12270	16799	
Lizards	10777	11438	13423	14104	
Turtles	11570	11767	15521	17393	
Venomous	5829	6500	7134	7738	
Tortoises	11195	13089	18446	19926	
Bearded Dragons	16609	12868	13453	14798	
Chameleons	7322	8971	8747	9451	
Monitors & Tegus	11896	11794	11909	13237	
Other Kingsnakes & Milk Snakes	14513	25788	26993	30914	
New World Rat Snakes	13874	22896	16207	5837	
Rosy, Sand, & Rubber Boas	2405	5075	6579	5875	
Old World Ratsnakes			1195	4199	
Corn Snakes			9659	15686	