

BILL ANALYSIS

C.S.S.B. 1395
By: Estes
Culture, Recreation & Tourism
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law does not allow for an individual or entity to house or care for a dangerous wild animal in counties or municipalities that have not established a process for the registration of dangerous wild animals unless the individual or entity qualifies for an exemption under applicable statutory provisions. An organization's status as an accredited wildlife sanctuary does not currently qualify the organization for such an exemption. C.S.S.B. 1395 seeks to ensure that certain accredited or verified wildlife sanctuaries, as well as certain other accredited organizations, are permitted to house and care for dangerous wild animals in Texas, even in cities or counties that have not established a process for registering the animals.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 1395 amends the Health and Safety Code to include among the dangerous wild animals that are exempt from statutory provisions regulating such animals a sick animal that is being rehabilitated or treated by a licensed veterinarian or a person who holds a wildlife rehabilitation permit issued by the Parks and Wildlife Department, in addition to an injured, infirm, orphaned, or abandoned animal that is being rehabilitated or treated by such a person. The bill adds as a condition of the exemption for such animals the specification that the animal is in the temporary possession of the licensed veterinarian or rehabilitation permit holder and adds the condition that the rehabilitation permit be issued for the animal being rehabilitated or treated. The bill removes an injured, infirm, orphaned, or abandoned animal that is being rehabilitated, treated, or cared for by an incorporated humane society or animal shelter from among the exempted animals. The bill changes references from the American Zoo and Aquarium Association to the Association of Zoos and Aquariums.

C.S.S.B. 1395 exempts an organization that is an accredited member of the Zoological Association of America from statutory provisions regulating dangerous wild animals, except as otherwise provided by the bill provision relating to the duties of certain entities. The bill also exempts from those provisions, with the same exceptions, a wildlife sanctuary, as defined by the bill, that is verified or accredited by the Global Federation of Animal Sanctuaries, the American Sanctuary Association, or a successor nonprofit organization that is similar to those organizations and is designated by the Department of State Health Services (DSHS) if those organizations cease to exist.

C.S.S.B. 1395 requires such an organization or wildlife sanctuary, not later than December 31 of each year, to provide to the appropriate animal registration agency and to DSHS an annual notification, on a form provided by DSHS, that includes the name, address, and telephone number of the organization or sanctuary; a complete identification of each dangerous wild animal in the custody and control of the organization or sanctuary, including species, sex, and

age, if known; and the exact location where each animal is to be kept. The bill also requires the organization or wildlife sanctuary, by the same deadline, to provide to the animal registration agency and to DSHS a written, notarized certification from the organization or sanctuary that the organization or sanctuary holds a current verification or accreditation and is complying with the standards of the verification or accreditation organization for possession and confinement of each dangerous wild animal, for facilities and operations, for animal health and husbandry, and for veterinary care. The bill requires such an organization or sanctuary to provide to the animal registration agency and DSHS an update to the required annual notification not later than the 15th business day after the date on which the organization or sanctuary acquires a dangerous wild animal.

C.S.S.B. 1395 authorizes an animal registration agency to establish and charge a reasonable fee for the annual notification to recover the costs associated with the administration and enforcement of the bill's provisions relating to the duties of such organizations and wildlife sanctuaries. The bill caps the fee at \$50 for each animal listed in the annual notification and caps the total fee at \$500, regardless of the number of animals listed in the annual notification. The bill establishes that an organization or sanctuary that violates the bill's provisions relating to the duty to provide annual notification and certification of certain facts, relating to the duty to update the annual notification as necessary, and relating to the fees charged for the annual notification is subject to specified statutory provisions regarding offenses, civil penalties, and injunctive action as if the organization or sanctuary had violated statutory provisions relating to a requirement that a person hold a certificate of registration as a condition of owning, harboring, or having custody or control of a dangerous wild animal.

C.S.S.B. 1395 specifies that statutory provisions requiring an owner of a dangerous wild animal to maintain liability insurance, requiring an owner of a dangerous wild animal to make certain notifications in the event of an attack of a human or in the event of the animal's escape, and addressing liability with respect to a dangerous wild animal's escape apply to an applicable organization or wildlife sanctuary. The bill subjects an organization or sanctuary that violates those provisions to statutory provisions relating to criminal offenses and injunctive action with respect to the regulation of dangerous wild animals, as applicable.

C.S.S.B. 1395 requires DSHS and each animal registration agency in Texas to establish procedures to comply with the bill's provisions relating to the duties of certain entities regarding dangerous wild animals not later than December 1, 2013. The bill makes an exception to that requirement for an animal registration agency if the municipality or county in which the agency is located prohibits the ownership, possession, or confinement of dangerous wild animals.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 1395 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 822.101, Health and Safety Code, is amended.	SECTION 1. Same as engrossed version.
SECTION 2. Section 822.102, Health and Safety Code, is amended by amending	SECTION 2. Section 822.102, Health and Safety Code, is amended by amending

Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as otherwise provided by Subsection (c), this [This] subchapter does not apply to:

(1) a county, municipality, or agency of the state or an agency of the United States or an agent or official of a county, municipality, or agency acting in an official capacity;

(2) a research facility, as that term is defined by Section 2(e), Animal Welfare Act (7 U.S.C. Section 2132), and its subsequent amendments, that is licensed by the secretary of agriculture of the United States under that Act;

(3) an organization that is an accredited member of the [~~American Zoo and Aquarium~~] Association of Zoos and Aquariums;

(4) an injured, infirm, orphaned, or abandoned dangerous wild animal while being transported for care or treatment;

(5) a sick or ~~an~~ injured, ~~infirm, orphaned, or abandoned~~ dangerous wild animal while being rehabilitated or treated ~~or cared for~~ by and in the temporary possession of a licensed veterinarian ~~an incorporated humane society or animal shelter,~~ or a person who holds a rehabilitation permit issued under Subchapter C, Chapter 43, Parks and Wildlife Code, for the animal being rehabilitated or treated;

(6) a dangerous wild animal owned by and in the custody and control of a transient circus company that is not based in this state if:

(A) the animal is used as an integral part of the circus performances; and

(B) the animal is kept within this state only during the time the circus is performing in this state or for a period not to exceed 30 days while the circus is performing outside the United States;

(7) a dangerous wild animal while in the temporary custody or control of a television or motion picture production company during the filming of a television or motion picture production in this state;

(8) a dangerous wild animal owned by and in the possession, custody, or control of a college or university solely as a mascot for the college or university;

(9) a dangerous wild animal while being transported in interstate commerce through the state in compliance with the Animal

Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as otherwise provided by Subsection (c), this [This] subchapter does not apply to:

(1) a county, municipality, or agency of the state or an agency of the United States or an agent or official of a county, municipality, or agency acting in an official capacity;

(2) a research facility, as that term is defined by Section 2(e), Animal Welfare Act (7 U.S.C. Section 2132), and its subsequent amendments, that is licensed by the secretary of agriculture of the United States under that Act;

(3) an organization that is an accredited member of the [~~American Zoo and Aquarium~~] Association of Zoos and Aquariums;

(4) an injured, infirm, orphaned, or abandoned dangerous wild animal while being transported for care or treatment;

(5) a sick, ~~an~~ injured, ~~infirm, orphaned, or abandoned~~ dangerous wild animal while being rehabilitated or treated ~~or cared for~~ by and in the temporary possession of a licensed veterinarian ~~an incorporated humane society or animal shelter,~~ or a person who holds a rehabilitation permit issued under Subchapter C, Chapter 43, Parks and Wildlife Code, for the animal being rehabilitated or treated;

(6) a dangerous wild animal owned by and in the custody and control of a transient circus company that is not based in this state if:

(A) the animal is used as an integral part of the circus performances; and

(B) the animal is kept within this state only during the time the circus is performing in this state or for a period not to exceed 30 days while the circus is performing outside the United States;

(7) a dangerous wild animal while in the temporary custody or control of a television or motion picture production company during the filming of a television or motion picture production in this state;

(8) a dangerous wild animal owned by and in the possession, custody, or control of a college or university solely as a mascot for the college or university;

(9) a dangerous wild animal while being transported in interstate commerce through the state in compliance with the Animal

Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments and the regulations adopted under that Act;

(10) a nonhuman primate owned by and in the control and custody of a person whose only business is supplying nonhuman primates directly and exclusively to biomedical research facilities and who holds a Class "A" or Class "B" dealer's license issued by the secretary of agriculture of the United States under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments;

(11) a dangerous wild animal that is:

(A) owned by or in the possession, control, or custody of a person who is a participant in a species survival plan of the [~~American Zoo and Aquarium~~] Association of Zoos and Aquariums for that species; and

(B) an integral part of that species survival plan; [~~and~~]

(12) in a county west of the Pecos River that has a population of less than 25,000, a cougar, bobcat, or coyote in the possession, custody, or control of a person that has trapped the cougar, bobcat, or coyote as part of a predator or depredation control activity;

(13) an organization that is an accredited member of the Zoological Association of America; and

(14) a wildlife sanctuary that is verified or accredited by:

(A) the Global Federation of Animal Sanctuaries;

(B) the American Sanctuary Association; or

(C) a successor nonprofit organization that is similar to the Global Federation of Animal Sanctuaries or the American Sanctuary Association and is designated by the Department of State Health Services if the Global Federation of Animal Sanctuaries or the American Sanctuary Association ceases to exist.

(c) Section 822.1025 applies to an organization described by Subsection (a)(13) and a wildlife sanctuary described by Subsection (a)(14).

SECTION 3. Subchapter E, Chapter 822, Health and Safety Code, is amended by adding Section 822.1025 to read as follows:
Sec. 822.1025. DUTIES OF CERTAIN ENTITIES.

Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments and the regulations adopted under that Act;

(10) a nonhuman primate owned by and in the control and custody of a person whose only business is supplying nonhuman primates directly and exclusively to biomedical research facilities and who holds a Class "A" or Class "B" dealer's license issued by the secretary of agriculture of the United States under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments;

(11) a dangerous wild animal that is:

(A) owned by or in the possession, control, or custody of a person who is a participant in a species survival plan of the [~~American Zoo and Aquarium~~] Association of Zoos and Aquariums for that species; and

(B) an integral part of that species survival plan; [~~and~~]

(12) in a county west of the Pecos River that has a population of less than 25,000, a cougar, bobcat, or coyote in the possession, custody, or control of a person that has trapped the cougar, bobcat, or coyote as part of a predator or depredation control activity;

(13) an organization that is an accredited member of the Zoological Association of America; and

(14) a wildlife sanctuary that is verified or accredited by:

(A) the Global Federation of Animal Sanctuaries;

(B) the American Sanctuary Association; or

(C) a successor nonprofit organization that is similar to the Global Federation of Animal Sanctuaries or the American Sanctuary Association and is designated by the Department of State Health Services if the Global Federation of Animal Sanctuaries or the American Sanctuary Association ceases to exist.

(c) Section 822.1025 applies to an organization described by Subsection (a)(13) and a wildlife sanctuary described by Subsection (a)(14).

SECTION 3. Subchapter E, Chapter 822, Health and Safety Code, is amended by adding Section 822.1025 to read as follows:
Sec. 822.1025. DUTIES OF CERTAIN ENTITIES.

(a) Not later than December 31 of each year, an organization described by Section 822.102(a)(13) or a wildlife sanctuary described by Section 822.102(a)(14) shall provide to the animal registration agency and the department an annual notification, on a form provided by the department, that includes:
(1) the name, address, and telephone number of the organization or sanctuary;
(2) a complete identification of each dangerous wild animal in the custody and control of the organization or sanctuary, including species, sex, and age, if known; and
(3) the exact location where each animal is to be kept.

(b) Not later than the 10th day after the date on which an organization described by Section 822.102(a)(13) or a wildlife sanctuary described by Section 822.102(a)(14) acquires a dangerous wild animal, the organization or sanctuary shall provide to the animal registration agency and the department an update to the annual notification described by Subsection (a).

(c) The animal registration agency may establish and charge reasonable fees for the notification under this section in order to recover the costs associated with the administration and enforcement of this section. The fee under this subsection may not exceed \$50 for each animal listed in the notice and may not exceed \$500, regardless of the number of animals listed in the notice.

(d) The department may charge a reasonable fee in an amount sufficient to recover the costs associated with accepting and processing a notification under this section.

(a) In this section, "department" means the Department of State Health Services.

(b) Not later than December 31 of each year, an organization described by Section 822.102(a)(13) or a wildlife sanctuary described by Section 822.102(a)(14) shall provide to the animal registration agency and the department:

(1) an annual notification, on a form provided by the department, that includes:

(A) the name, address, and telephone number of the organization or sanctuary;

(B) a complete identification of each dangerous wild animal in the custody and control of the organization or sanctuary, including species, sex, and age, if known; and

(C) the exact location where each animal is to be kept; and

(2) a written, notarized certification from the organization or sanctuary that the organization or sanctuary holds a current verification or accreditation and is complying with the standards of the verification or accreditation organization for:

(A) possession and confinement of each dangerous wild animal;

(B) facilities and operations;

(C) animal health and husbandry; and

(D) veterinary care.

(c) Not later than the 15th business day after the date on which an organization described by Section 822.102(a)(13) or a wildlife sanctuary described by Section 822.102(a)(14) acquires a dangerous wild animal, the organization or sanctuary shall provide to the animal registration agency and the department an update to the annual notification described by Subsection (b)(1).

(d) The animal registration agency may establish and charge a reasonable fee for the annual notification under this section to recover the costs associated with the administration and enforcement of this section. The fee under this subsection may not exceed \$50 for each animal listed in the annual notification and may not exceed \$500, regardless of the number of animals listed in the annual notification.

(e) Sections 822.107 and 822.110 apply to an organization described by Section 822.102(a)(13) or a wildlife sanctuary described by Section 822.102(a)(14).

(f) An organization described by Section 822.102(a)(13) or a wildlife sanctuary described by Section 822.102(a)(14) that violates Subsections (a)-(d) is subject to Sections 822.113-822.115 as if the organization or sanctuary had violated Section 822.103(a). An organization or sanctuary that violates Subsection (e) is subject to Sections 822.113 and 822.115, as applicable.

SECTION 4. (a) Except as otherwise provided by Subsection (b) of this section, each animal registration agency in this state and the Department of State Health Services shall establish procedures to comply with Section 822.1025, Health and Safety Code, as added by this Act, not later than **January 1, 2014**.

(b) An animal registration agency is not required to establish procedures under Subsection (a) of this section if the municipality or county in which the agency is located prohibits the ownership, possession, or confinement of dangerous wild animals as defined by Section 822.101, Health and Safety Code.

SECTION 5. **This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.**

(e) Sections 822.107 and 822.110 apply to an organization described by Section 822.102(a)(13) or a wildlife sanctuary described by Section 822.102(a)(14).

(f) An organization described by Section 822.102(a)(13) or a wildlife sanctuary described by Section 822.102(a)(14) that:

(1) violates Subsections (b)-(d) is subject to Sections 822.113-822.115 as if the organization or sanctuary had violated Section 822.103(a); or

(2) violates Subsection (e) is subject to Sections 822.113 and 822.115, as applicable.

SECTION 4. (a) Except as otherwise provided by Subsection (b) of this section, each animal registration agency in this state and the Department of State Health Services shall establish procedures to comply with Section 822.1025, Health and Safety Code, as added by this Act, not later than **December 1, 2013**.

(b) An animal registration agency is not required to establish procedures under Subsection (a) of this section if the municipality or county in which the agency is located prohibits the ownership, possession, or confinement of dangerous wild animals as defined by Section 822.101, Health and Safety Code.

SECTION 5. **This Act takes effect September 1, 2013.**