A BILL TO BE ENTITLED

AN ACT

relating to the regulation of big cats and nonhuman primates; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 822.116, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Subsection (b), a county or municipality subject to Subchapter F as provided by Section 822.152 may not adopt an ordinance or order pertaining to big cats or nonhuman primates that is inconsistent with Subchapter F.

SECTION 2. Chapter 822, Health and Safety Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. REGULATION OF BIG CATS AND NONHUMAN PRIMATES IN CERTAIN COUNTIES

Sec. 822.151. DEFINITIONS. In this subchapter:

(1) "Animal control authority" means a municipal or county animal control office with authority over the area in which a big cat or nonhuman primate is kept or the county sheriff in an area that does not have an animal control office.

(2) "Big cat" means:

(A) a cheetah;

(B) a cougar;

(C) a leopard;

(D) a lion;
(E) a jaguar;
(F) a tiger; or
(G) a hybrid of an animal listed in Paragraphs (A)-(F).

(3) "Circus" means an exhibitor holding a Class C license under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.).

(4) "Commercial activity" means:
(A) an activity involving a big cat or nonhuman primate conducted by a person for profit; or
(B) the sale, trade, auction, lease, or loan of a big cat or nonhuman primate or a big cat's or nonhuman primate's body parts.

(5) "Nonhuman primate" includes:
(A) a baboon;
(B) a chimpanzee;
(C) a gorilla;
(D) an orangutan; or
(E) a hybrid of an animal listed in Paragraphs (A)-(D).

(6) "Nonprofit animal welfare organization" means a nonprofit organization that has as its purpose:
(A) the prevention of cruelty to animals; or
(B) the sheltering of, caring for, and providing homes for lost, stray, and abandoned animals.

(7) "Owner" means any person who owns, harbors, or has custody or control of a big cat or nonhuman primate.
(8) "Person" means an individual, partnership, corporation, trust, estate, joint stock company, foundation, or association of individuals.

(9) "Wildlife sanctuary" means a nonprofit organization that operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced animals are provided care for the lifetime of the animal.

Sec. 822.152. APPLICABILITY OF SUBCHAPTER. This subchapter applies to a person possessing a big cat or nonhuman primate in a county that has a population of at least 75,000.

Sec. 822.153. PROHIBITED ACTS. (a) Except as provided by Section 822.154, a person may not possess, sell, transfer, or breed a big cat or nonhuman primate.

(b) A person may not allow a member of the public to come in direct contact with or to be in proximity to, including for a photographic purpose, a big cat or nonhuman primate without ensuring there is sufficient distance between the animal and the public member and protective barriers to separate the animal from the public member.

Sec. 822.154. EXEMPTIONS. (a) Section 822.153(a) does not apply to:

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

(2) an institution accredited by the Association of Zoos and Aquariums;

(3) a related facility certified by the Association of
Zoos and Aquariums that is a participant in a species survival plan program for the breeding of species listed as threatened or endangered pursuant to the Endangered Species Act of 1973 (16 U.S.C. Section 1533);

(4) a research facility, as defined by the Animal Welfare Act (7 U.S.C. Section 2132(e)), that is licensed by the secretary of the United States Department of Agriculture under that Act;

(5) a wildlife sanctuary that:

(A) does not conduct commercial activity involving big cats or nonhuman primates;

(B) does not use big cats or nonhuman primates for entertainment purposes or in a traveling exhibit; and

(C) does not breed big cats or nonhuman primates;

(6) a nonprofit animal welfare organization, including a humane society or shelter, that temporarily houses a big cat or nonhuman primate seized under Section 822.156 or on the written request of an animal control authority or a law enforcement agency acting under the authority of this subchapter;

(7) a licensed veterinarian who is providing treatment to a big cat or nonhuman primate;

(8) a law enforcement officer, including an animal control officer or a county sheriff, who has possession of a big cat or nonhuman primate for law enforcement purposes;

(9) a circus that:

(A) is temporarily in this state for less than 90 days in any year; and
(B) regularly conducts performances featuring live big cats or nonhuman primates and multiple trained human entertainers, including clowns and acrobats;

(10) a big cat or nonhuman primate owned by and in the possession, custody, or control of a college or university solely as a mascot for the college or university;

(11) a person temporarily transporting a legally owned big cat or nonhuman primate in interstate commerce through this state if:

(A) the transit time is not more than 96 hours;

(B) the big cat or nonhuman primate is not exhibited;

(C) the big cat or nonhuman primate is maintained at all times in a species-appropriate cage or other travel container;

(D) the owner of the big cat or nonhuman primate, or a designated carrier or intermediate handler of the animal, complies with all transportation standards that apply to that animal under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.); and

(E) the owner of the big cat or nonhuman primate, or a designated carrier or intermediate handler of the animal, complies with all other applicable state, local, or federal laws, including laws requiring a veterinary certificate or other permit;

or

(12) a person who lawfully possesses a big cat or nonhuman primate before September 1, 2013, provided that:
(A) the person complies with the applicable requirements under Subchapter E; and

(B) the person does not acquire, by any means, including purchase, donation, or breeding, an additional big cat or nonhuman primate after September 1, 2013.

(b) Section 822.153(b) does not prohibit the owner of a big cat or nonhuman primate from allowing an employee of the owner or a licensed veterinarian or other person providing care to the animal to come in direct contact with or to be in proximity to the animal.

Sec. 822.155. OFFENSE; PENALTY. (a) A person commits an offense if the person violates Section 822.153. Each animal with respect to which there is a violation and each day that a violation continues is a separate offense.

(b) An offense under this section is a Class A misdemeanor.

Sec. 822.156. SEIZURE OF BIG CAT OR NONHUMAN PRIMATE. (a) A justice court, county court, or municipal court shall order the animal control authority to seize a big cat or nonhuman primate and shall issue a warrant authorizing the seizure:

(1) on the sworn complaint of any person, including the county attorney, the city attorney, an animal control officer, or a peace officer, that a big cat or nonhuman primate is possessed, sold, transferred, or bred in violation of this subchapter; and

(2) on a showing of probable cause to believe that the big cat or nonhuman primate is possessed, sold, transferred, or bred in violation of this subchapter as stated in the complaint.

(b) The animal control authority shall seize the big cat or nonhuman primate and shall provide for the impoundment of the big
A big cat or nonhuman primate that has been seized and impounded shall be kept in the custody of a zoo or other institution accredited by the Association of Zoos and Aquariums, a wildlife sanctuary, or a nonprofit animal welfare organization described by Section 822.154(6) until a judicial determination regarding the disposition of the big cat or nonhuman primate is made.

Sec. 822.157. PETITION FOR POSTING OF SECURITY. (a) A person having custody of the big cat or nonhuman primate under Section 822.156(c) may file a petition with the court that ordered the seizure and impoundment of the animal requesting that the person from whom the big cat or nonhuman primate was seized or the owner of the big cat or nonhuman primate be ordered to post security.

(b) The petitioner shall serve a copy of the petition on:

(1) the owner of the big cat or nonhuman primate;

(2) the animal control authority or other law enforcement entity that seized the big cat or nonhuman primate; and

(3) any interested person who may have a pecuniary interest in the animal that is the subject of the petition.

(c) A court shall set a hearing on the petition to take place not later than the fifth business day after the date the petition is filed.

(d) The amount of the security shall be determined by the court after taking into consideration:

(1) all of the facts and circumstances of the case,
including the recommendation of the impounding organization having custody of the seized big cat or nonhuman primate; and

(2) the cost of caring for the seized big cat or nonhuman primate.

(e) The amount of the security ordered by a court must be sufficient to secure payment of all reasonable expenses, including the estimated cost for medical care and boarding, expected to be incurred by the impounding organization having custody while caring for the big cat or nonhuman primate pending a final disposition of the animal.

(f) If the court orders the posting of security, the security must be posted with the clerk of the court not later than the fifth business day after the date of the hearing.

(g) If a person fails to post the court-ordered security, the court may consider the big cat or nonhuman primate to be forfeited by operation of law, and the impounding organization having custody of the animal shall have legal custody and control over the animal.

(h) In lieu of posting the court-ordered security, a person may voluntarily forfeit the big cat or nonhuman primate to a zoo or other institution accredited by the Association of Zoos and Aquariums or a wildlife sanctuary.

(i) Voluntary forfeiture under Subsection (h) has no effect on criminal charges brought under this subchapter.

(j) If the court-ordered security is posted in accordance with this section, on application by the impounding organization having custody of the big cat or nonhuman primate, the court shall
order reimbursement of the actual costs incurred by the
organization in caring for the animal, to be paid from the posted
security.

(k) On final judicial determination of the disposition of
the seized big cat or nonhuman primate, the person who posted the
security is entitled to a refund of any amount not ordered to be
paid to the impounding organization having custody of the animal.

Sec. 822.158. FORFEITURE OF BIG CAT OR NONHUMAN PRIMATE. A
big cat or nonhuman primate that is considered forfeited by
judicial determination or is voluntarily forfeited:

(1) shall be placed by the animal control authority in
the custody of a zoo or other institution accredited by the
Association of Zoos and Aquariums or a wildlife sanctuary; or

(2) may be humanely euthanized in compliance with
state and federal law if an animal control authority, after making a
reasonable effort, is unable to find an institution that is willing
and able to take custody of a forfeited big cat or nonhuman primate.

Sec. 822.159. INJUNCTION. A person who is directly harmed
or threatened with harm by a violation of this subchapter or a
failure to enforce this subchapter may sue an owner of a big cat or
nonhuman primate to enjoin a violation of this subchapter or to
enforce this subchapter.

Sec. 822.160. EFFECT OF SUBCHAPTER ON OTHER LAW. (a) This
subchapter does not prevent a county or municipality from adopting
or enforcing an ordinance, order, rule, or other legal requirement
that places additional restrictions on the possession, sale,
transfer, or breeding of big cats or nonhuman primates.
Section 822.153, Health and Safety Code, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. This Act takes effect September 1, 2013.