

By: Guillen

H.B. No. 3952

A BILL TO BE ENTITLED

1 AN ACT
2 relating to registration and regulation of dangerous wild animals;
3 providing penalties, creating and affecting criminal offenses, and
4 authorizing fees.

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

6 SECTION 1. The heading to Subchapter E, Chapter 822, Health
7 and Safety Code, is amended to read as follows:

8 SUBCHAPTER E. REGISTRATION AND REGULATION OF DANGEROUS WILD
9 ANIMALS

10 SECTION 2. Section 822.101, Health and Safety Code, is
11 amended by adding Subdivisions (1-a), (4-a), and (4-b) and amending
12 Subdivisions (4) and (5) to read as follows:

13 (1-a) "Animal control authority" means the county
14 sheriff's office of the county where a dangerous wild animal is
15 kept.

16 (4) "Dangerous wild animal" means:

- 17 (A) a lion;
18 (B) a tiger;
19 (C) ~~[an ocelot,~~
20 ~~[(D)]~~ a cougar;
21 (D) ~~[(E)]~~ a leopard;
22 (E) ~~[(F)]~~ a cheetah;
23 (F) ~~[(G)]~~ a jaguar;
24 (G) ~~[(H) a bobcat,~~

1 [~~(I)~~ a lynx;
2 [~~(J)~~ a serval;
3 [~~(K)~~ a caracal;
4 [~~(L)~~] a hyena;
5 (H) [~~(M)~~] a bear;
6 (I) [~~(N)~~ a coyote;
7 [~~(O)~~ a jackal;
8 [~~(P)~~] a baboon;
9 (J) [~~(Q)~~] a chimpanzee;
10 (K) [~~(R)~~] an orangutan;
11 (L) [~~(S)~~] a gorilla; or
12 (M) [~~(T)~~] any hybrid of an animal listed in this
13 subdivision.

14 (4-a) "Department" means the Department of State
15 Health Services.

16 (4-b) "Executive commissioner" means the executive
17 commissioner of the Health and Human Services Commission.

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

20 SECTION 3. Section [822.102\(a\)](#), Health and Safety Code, is
21 amended to read as follows:

22 (a) This subchapter does not apply to:

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

26 (2) a research facility, as that term is defined by
27 Section 2(e), Animal Welfare Act (7 U.S.C. Section 2132), and its

1 subsequent amendments, that is licensed by the secretary of
2 agriculture of the United States under that Act[+]

3 ~~[(3) an organization that is an accredited member of
4 the American Zoo and Aquarium Association,~~

5 ~~[(4) an injured, infirm, orphaned, or abandoned
6 dangerous wild animal while being transported for care or
7 treatment,~~

8 ~~[(5) an injured, infirm, orphaned, or abandoned
9 dangerous wild animal while being rehabilitated, treated, or cared
10 for by a licensed veterinarian, an incorporated humane society or
11 animal shelter, or a person who holds a rehabilitation permit
12 issued under Subchapter C, Chapter 43, Parks and Wildlife Code,~~

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

16 ~~[(A) the animal is used as an integral part of the
17 circus performances, and~~

18 ~~[(B) the animal is kept within this state only
19 during the time the circus is performing in this state or for a
20 period not to exceed 30 days while the circus is performing outside
21 the United States,~~

22 ~~[(7) a dangerous wild animal while in the temporary
23 custody or control of a television or motion picture production
24 company during the filming of a television or motion picture
25 production in this state,~~

26 ~~[(8) a dangerous wild animal owned by and in the
27 possession, custody, or control of a college or university solely~~

1 ~~as a mascot for the college or university,~~

2 ~~[(9) a dangerous wild animal while being transported~~
3 ~~in interstate commerce through the state in compliance with the~~
4 ~~Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its~~
5 ~~subsequent amendments and the regulations adopted under that Act,~~

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

13 ~~[(11) a dangerous wild animal that is:~~

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

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

19 ~~[(12) in a county west of the Pecos River that has a~~
20 ~~population of less than 25,000, a cougar, bobcat, or coyote in the~~
21 ~~possession, custody, or control of a person that has trapped the~~
22 ~~cougar, bobcat, or coyote as part of a predator or depredation~~
23 ~~control activity].~~

24 SECTION 4. Section 822.103, Health and Safety Code, is
25 amended by amending Subsections (a) and (c) and adding Subsection
26 (d) to read as follows:

27 (a) A person may not own, possess, harbor, or have custody

1 or control of a dangerous wild animal in this state for more than 30
2 days [~~for any purpose~~] unless the person holds a certificate of
3 registration for that animal issued by the department [~~an animal~~
4 ~~registration agency~~].

5 (c) The executive commissioner by rule shall [~~animal~~
6 ~~registration agency may~~] establish and the department may charge
7 reasonable fees for application, issuance, and renewal of a
8 certificate of registration in order to recover the costs
9 associated with the administration [~~and enforcement~~] of this
10 subchapter. [~~The fee charged to an applicant may not exceed \$50 for~~
11 ~~each animal registered and may not exceed \$500 for each person~~
12 ~~registering animals, regardless of the number of animals owned by~~
13 ~~the person. The fees collected under this section may be used only~~
14 ~~to administer and enforce this subchapter.~~]

15 (d) The executive commissioner by rule shall establish and
16 the animal control authority may charge reasonable fees for an
17 inspection, an investigation, or other enforcement action under
18 this subchapter. If department rules require the department to
19 inspect, investigate, and enforce under this chapter, the
20 department may charge fees for those actions.

21 SECTION 5. Sections [822.104](#)(a) and (b), Health and Safety
22 Code, are amended to read as follows:

23 (a) An applicant for an original or renewal certificate of
24 registration for a dangerous wild animal must file an application
25 with the department [~~an animal registration agency~~] on a form
26 provided by the department [~~animal registration agency~~].

27 (b) The application must include:

1 (1) the name, address, and telephone number of the
2 applicant;

3 (2) a complete identification of each animal,
4 including species, sex, age, if known, and any distinguishing marks
5 or coloration that would aid in the identification of the animal;

6 (3) the exact location where each animal is to be kept;

7 (4) a sworn statement that:

8 (A) all information in the application is
9 complete and accurate; and

10 (B) the applicant has read this subchapter and
11 rules adopted under this subchapter and ~~[that all facilities used~~
12 ~~by]~~ the applicant is in full compliance ~~[to confine or enclose the~~
13 ~~animal comply]~~ with the requirements of this subchapter and rules
14 adopted under this subchapter; and

15 (5) any other information the department ~~[animal~~
16 ~~registration agency]~~ may require.

17 SECTION 6. Sections [822.105](#)(b) and (c), Health and Safety
18 Code, are amended to read as follows:

19 (b) If the department ~~[animal registration agency]~~ finds~~[,~~
20 ~~after inspection,~~] that an applicant or a registered owner provided
21 false information in or in connection with the application or has
22 not complied with all requirements of this subchapter and rules
23 adopted under this subchapter, the department ~~[animal registration~~
24 ~~agency]~~ shall deny the applicant a certificate of registration or
25 revoke the certificate of registration and give the applicant or
26 owner and the animal control authority written notice of the denial
27 or revocation and the reasons for the denial or revocation.

1 (c) A person may appeal the denial of an original or renewal
2 certificate of registration or the revocation of a certificate of
3 registration to a county [~~the justice~~] court or county court at law
4 in the county [~~for the precinct~~] in which the animal is located [~~or~~
5 ~~the municipal court in the municipality in which the animal is~~
6 ~~located~~] not later than the 15th day after the date the certificate
7 of registration is denied or revoked. [~~Either party may appeal the~~
8 ~~decision of the justice or municipal court to a county court or~~
9 ~~county court at law in the county in which the justice or municipal~~
10 ~~court is located. The decision of the county court or county court~~
11 ~~at law may not be appealed.~~]

12 SECTION 7. Subchapter E, Chapter 822, Health and Safety
13 Code, is amended by adding Section 822.1055 to read as follows:

14 Sec. 822.1055. DUTIES OF THE DEPARTMENT. (a) Not later
15 than the 10th day after the date the department issues an original
16 or renewal certificate of registration under this subchapter, the
17 department shall provide the applicable animal control authority
18 with a copy of the certificate of registration, the application,
19 and all other documentation submitted by the applicant. The
20 department shall establish a procedure for providing documents to
21 the animal control authority and may charge the applicant a
22 reasonable fee in an amount sufficient to recover the cost
23 associated with providing documents under this subsection.

24 (b) Not later than the 10th day after the date a certificate
25 of registration issued under this subchapter expires or is revoked,
26 the department shall notify the local animal control authority of
27 the expiration or revocation.

1 (c) The department shall create and maintain a public
2 information registry of all registered dangerous wild animals in
3 this state. The registry must include:

4 (1) the name, address, and phone number of each owner
5 of a dangerous wild animal who is issued a certificate of
6 registration, and if the owner is an organization, the name and
7 phone number of a contact individual for the organization;

8 (2) a description of each dangerous wild animal
9 registered in this state and listed by owner name;

10 (3) the identity and contact information for the
11 animal control authority with jurisdiction over the premises on
12 which the dangerous wild animal is kept; and

13 (4) any other information that the department
14 considers appropriate for the public's safety.

15 (d) If the executive commissioner by rule designates the
16 department as the sole enforcement agency under Section 822.111,
17 the department shall perform the applicable animal control
18 authority's enforcement and other duties under this subchapter and
19 the rules adopted under this subchapter.

20 SECTION 8. Section 822.108, Health and Safety Code, is
21 amended to read as follows:

22 Sec. 822.108. INSPECTION; COMPLAINTS. (a) An owner of a
23 dangerous wild animal, at all reasonable times, shall allow the
24 department, the animal control authority [~~registration agency, its~~
25 ~~staff, its agents~~], or a designated licensed veterinarian to enter
26 the premises where the animal is kept and to inspect the animal, the
27 primary enclosure for the animal, and the owner's records relating

1 to the animal to ensure compliance with this subchapter and rules
2 adopted under this subchapter.

3 (b) The animal control authority shall investigate a
4 complaint alleging a violation of this subchapter not later than
5 the 10th day after the date the complaint is received by the animal
6 control authority unless department rules require the department to
7 investigate complaints under this subchapter.

8 SECTION 9. Section 822.109, Health and Safety Code, is
9 amended to read as follows:

10 Sec. 822.109. RELOCATION OR DISPOSITION OF ANIMAL. (a) An
11 owner of a dangerous wild animal may not permanently relocate the
12 animal unless the owner first notifies the department [~~animal~~
13 ~~registration agency~~] in writing of the exact location to which the
14 animal will be relocated and provides the animal control authority
15 in [~~registration agency, with respect to~~] the new location a copy of
16 the owner's certificate of registration [~~, the information required~~
17 ~~by Section 822.104~~]. The department shall notify the initial
18 animal control authority of the relocation.

19 (b) Within 10 days after the death, sale, or other
20 disposition of the animal, the owner of the animal shall notify the
21 department and the animal control authority [~~registration agency~~]
22 in writing of the death, sale, or other disposition.

23 SECTION 10. Sections 822.110(a), (b), and (d), Health and
24 Safety Code, are amended to read as follows:

25 (a) An owner of a dangerous wild animal shall immediately
26 notify the department and the animal control authority
27 [~~registration agency~~] of any attack of a human by the animal [~~within~~

1 ~~48 hours of the attack~~]. An owner satisfies the notification
2 requirement of this subsection if the owner reports the attack to a
3 9-1-1 service.

4 (b) An owner of a dangerous wild animal shall immediately
5 notify the department, the animal control authority, [~~registration~~
6 ~~agency~~] and the local law enforcement agencies [~~agency~~] of any
7 escape of the animal. An owner satisfies the notification
8 requirement of this subsection if the owner reports the escape to a
9 9-1-1 service.

10 (d) The department, an [~~An~~] animal control authority,
11 [~~registration agency~~], a law enforcement agency, or an employee of
12 the department, an animal control authority, [~~registration agency~~]
13 or a law enforcement agency is not liable to an owner of a dangerous
14 wild animal for damages arising in connection with the escape of a
15 dangerous wild animal, including liability for damage, injury, or
16 death caused by the animal during or after the animal's escape, or
17 for injury to or death of the animal as a result of apprehension or
18 confinement of the animal after escape.

19 SECTION 11. Section [822.111](#), Health and Safety Code, is
20 amended to read as follows:

21 Sec. 822.111. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER
22 [~~BOARD~~]; CAGING AND CARE REQUIREMENTS AND STANDARDS. (a) The
23 executive commissioner [~~board~~] by rule shall establish caging and
24 care requirements and standards for the keeping and confinement of
25 a dangerous wild animal to ensure that the animal is kept in a
26 manner and confined in a primary enclosure that:

27 (1) protects and enhances the public's health and

1 safety;

2 (2) prevents escape by the animal; and

3 (3) provides a safe, healthy, and humane environment
4 for the animal.

5 (b) An owner of a dangerous wild animal shall keep, care
6 for, and confine the animal in accordance with the caging and care
7 requirements and standards established by the executive
8 commissioner [~~board~~].

9 (c) The department or an [~~An~~] animal control authority
10 [~~registration agency~~] may approve a deviation from the caging
11 requirements and standards established by the executive
12 commissioner [~~board~~], only if:

13 (1) the department or animal control authority
14 [~~registration agency~~] has good cause for the deviation; and

15 (2) the deviation:

16 (A) does not compromise the public's health and
17 safety;

18 (B) does not reduce the total area of the primary
19 enclosure below that established by the executive commissioner
20 [~~board~~]; and

21 (C) does not otherwise adversely affect the
22 overall health and welfare of the animal involved.

23 (d) Not later than the 10th day after the date on which an
24 animal control authority approves a deviation under Subsection (c)
25 for a dangerous wild animal, the animal's owner shall provide to the
26 department a written statement describing in detail the nature of
27 the deviation.

1 (e) The executive commissioner by rule may designate the
2 department as the sole agency responsible for enforcing this
3 subchapter and the rules adopted under this subchapter.

4 SECTION 12. Subchapter E, Chapter 822, Health and Safety
5 Code, is amended by adding Section 822.1115 to read as follows:

6 Sec. 822.1115. ADVISORY COMMITTEE. (a) The executive
7 commissioner may establish an advisory committee to advise the
8 executive commissioner and make recommendations on:

9 (1) the establishment of caging and care requirements
10 and standards under Section 822.111; and

11 (2) the administration and enforcement of this
12 chapter, including the imposition of fees for registrations,
13 inspections, investigations, and other enforcement actions.

14 (b) The advisory committee consists of nine members
15 appointed by the executive commissioner as follows:

16 (1) two members who represent national organizations
17 that accredit zoological facilities;

18 (2) two members who represent national organizations
19 that accredit wildlife sanctuaries;

20 (3) one member who is a veterinarian with knowledge
21 and experience in veterinary medicine involving dangerous wild
22 animals;

23 (4) two members who are agents or employees of an
24 animal control authority; and

25 (5) two members with animal conservation and rescue
26 experience who are private owners of dangerous wild animals.

27 (c) Members of the advisory committee serve staggered

1 four-year terms. The terms of four or five members expire on
2 February 1 of each odd-numbered year. If a vacancy occurs during a
3 member's term, the executive commissioner shall appoint a
4 replacement member to serve for the remainder of the unexpired term
5 in the manner provided by this section.

6 (d) The executive commissioner shall designate one member
7 of the advisory committee to serve as presiding officer of the
8 advisory committee for a two-year term. A member may serve more
9 than one term as presiding officer.

10 (e) The advisory committee shall meet at the call of the
11 presiding officer of the advisory committee or the executive
12 commissioner.

13 (f) An advisory committee member may not receive
14 compensation for service on the advisory committee. A member may be
15 reimbursed for the actual and necessary expenses incurred while
16 performing advisory committee duties in the manner provided by
17 Section 2110.004, Government Code.

18 (g) A decision of the advisory committee is effective only
19 on a majority vote of the members present.

20 (h) Chapter 2110, Government Code, does not apply to the
21 size, composition, or duration of the advisory committee or to the
22 appointment of the committee's presiding officer.

23 SECTION 13. Sections 822.112(a) and (b), Health and Safety
24 Code, are amended to read as follows:

25 (a) In addition to the rules established under this
26 subchapter [~~For each dangerous wild animal~~], the owner of a
27 dangerous wild animal shall comply with all applicable standards of

1 the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its
2 subsequent amendments and the regulations adopted under that Act
3 relating to:

- 4 (1) facilities and operations;
- 5 (2) animal health and husbandry; and
- 6 (3) veterinary care.

7 (b) An owner of a dangerous wild animal shall maintain a
8 separate written log for each dangerous wild animal documenting the
9 animal's veterinary care and shall make the log available to the
10 department, an animal control authority, [registration agency] or
11 an [its] agent of the department or authority on request. The log
12 must:

- 13 (1) identify the animal treated;
- 14 (2) provide the date of treatment;
- 15 (3) describe the type or nature of treatment; and
- 16 (4) provide the name of the attending veterinarian, if
17 applicable.

18 SECTION 14. Section 822.113, Health and Safety Code, is
19 amended to read as follows:

20 Sec. 822.113. OFFENSE AND PENALTY. (a) A person commits an
21 offense if the person violates Section 822.103(a) [~~Section~~
22 ~~822.106, or Section 822.110(a) or (b). Each animal with respect to~~
23 ~~which there is a violation and each day that a violation continues~~
24 ~~is a separate offense]~~.

25 (b) A person commits an offense if the person knowingly
26 sells or otherwise transfers ownership of a dangerous wild animal
27 to a person in this state who does not have a certificate of

1 registration for that animal as required by this subchapter.

2 (b-1) A person commits an offense if the person for any
3 purpose, including for the purpose of taking a photograph, allows a
4 member of the public to come into direct contact with or without a
5 protective barrier be in close proximity to a dangerous wild
6 animal.

7 (c) A first [~~An~~] offense under this section is a Class B [~~C~~]
8 misdemeanor. A subsequent offense under this section is a Class A
9 misdemeanor.

10 SECTION 15. Sections 822.114(b) and (c), Health and Safety
11 Code, are amended to read as follows:

12 (b) The department or the county or municipality in which
13 the violation occurs may sue to collect a civil penalty. A civil
14 penalty collected under this subsection may be retained by the
15 department, county, or municipality, as applicable.

16 (c) The department or the county or municipality in which
17 the violation occurs may also recover the reasonable costs of
18 investigation, reasonable attorney's fees, and reasonable expert
19 witness fees incurred [~~by the animal registration agency~~] in the
20 civil action. Costs or fees recovered under this subsection shall
21 be credited to the operating account from which payment for the
22 [~~animal registration agency's~~] expenditures was made.

23 SECTION 16. Section 822.115, Health and Safety Code, is
24 amended to read as follows:

25 Sec. 822.115. INJUNCTION. The county or municipality in
26 which a dangerous wild animal is located, the department, or a [~~Any~~]
27 person who resides in the county or municipality in which a

1 dangerous wild animal is located [~~is directly harmed or threatened~~
2 ~~with harm by a violation of this subchapter or a failure to enforce~~
3 ~~this subchapter~~] may sue an owner of a dangerous wild animal to
4 enjoin a violation of this subchapter or to enforce this
5 subchapter.

6 SECTION 17. The following provisions of the Health and
7 Safety Code are repealed:

- 8 (1) Sections [822.101](#)(1), (2), and (3);
- 9 (2) Section [822.102](#)(b);
- 10 (3) Sections [822.104](#)(c) and (d);
- 11 (4) Section [822.105](#)(a);
- 12 (5) Section [822.106](#)(b); and
- 13 (6) Section [822.112](#)(d).

14 SECTION 18. (a) Not later than March 1, 2016, the
15 executive commissioner of the Health and Human Services Commission
16 shall adopt rules, establish the fees, and prescribe the
17 application forms necessary to implement Subchapter E, Chapter 822,
18 Health and Safety Code, as amended by this Act.

19 (b) Notwithstanding Subchapter E, Chapter 822, Health and
20 Safety Code, as amended by this Act, an owner of a dangerous wild
21 animal is not required to comply with Subchapter E, Chapter 822,
22 Health and Safety Code, as amended by this Act, or rules adopted
23 under that subchapter until June 1, 2016.

24 SECTION 19. The changes in law made by this Act in amending
25 Section [822.113](#), Health and Safety Code, apply only to an offense
26 committed on or after the effective date of this Act. An offense
27 committed before the effective date of this Act is governed by the

1 law in effect on the date the offense was committed, and the former
2 law is continued in effect for that purpose. For purposes of this
3 section, an offense was committed before the effective date of this
4 Act if any element of the offense occurred before that date.

5 SECTION 20. (a) Except as provided by Subsection (b) of
6 this section, this Act takes effect January 1, 2016.

7 (b) Subchapter E, Chapter 822, Health and Safety Code, as
8 amended by this Act, takes effect March 1, 2016, except that
9 Subchapter E takes effect September 1, 2015, for the limited
10 purpose of allowing the executive commissioner of the Health and
11 Human Services Commission to adopt rules under that law that may
12 take effect before March 1, 2016.