By: Guillen H.B. No. 2274

## A BILL TO BE ENTITLED

1	AN ACT
2	relating to registration and regulation of dangerous wild animals;
3	providing penalties, creating a criminal offense, and authorizing a
4	fee.
5	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
6	SECTION 1. Chapter 822, Health and Safety Code, is amended
7	by adding Subchapter F to read as follows:
8	SUBCHAPTER F. REGULATION OF DANGEROUS WILD ANIMALS
9	Sec. 822.151. DEFINITIONS. In this subchapter:
10	(1) "Animal control authority" means the sheriff of a
11	county in which a dangerous wild animal is located.
12	(2) "Animal shelter" means a municipal or county
13	animal shelter or an animal shelter operated by a nonprofit
14	charitable organization established primarily to shelter and care
15	for stray and abandoned animals.
16	(3) "Dangerous wild animal" means:
17	(A) a baboon;
18	(B) a bear;
19	(C) a cheetah;
20	(D) a chimpanzee;
21	(E) a clouded leopard;
22	(F) a cougar;
23	(G) a gorilla;
24	(H) a jaguar;

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1	(I) a leopard;
2	(J) a lion;
3	(K) an orangutan;
4	(L) a snow leopard;
5	(M) a tiger; or
6	(N) any hybrid or subspecies of an animal listed
7	in this subdivision.
8	(4) "Department" means the Department of State Health
9	Services.
10	(5) "Owner" means any person who owns, possesses,
11	harbors, or has custody or control of a dangerous wild animal.
12	(6) "Person" means an individual, partnership,
13	corporation, trust, estate, joint stock company, foundation, or
14	association of individuals.
15	(7) "Wildlife sanctuary" means a charitable
16	organization that is exempt from taxation under Section 501(c)(3),
17	Internal Revenue Code of 1986, that is described by Section
18	170(b)(1)(A)(vi), Internal Revenue Code of 1986, and that:
19	(A) operates a place of refuge where an abused,
20	neglected, unwanted, impounded, abandoned, orphaned, or displaced
21	wild animal is provided care for the animal's lifetime; and
22	(B) with respect to a dangerous wild animal owned
23	by or in the custody or control of the organization, does not:
24	(i) conduct a commercial activity,
25	including the sale, trade, auction, lease, or loan of the animal or
26	parts of the animal, or use the animal in any manner in a for-profit
27	business or operation;

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1	(ii) breed the animal;
2	(iii) allow direct contact between the
3	<pre>public and the animal; or</pre>
4	(iv) allow off-site transportation and
5	display of the animal.
6	Sec. 822.152. APPLICABILITY. This subchapter does not
7	apply to:
8	(1) a county, municipality, or agency of this state,
9	an agency of the United States, or an agent or official of a county,
10	municipality, or agency acting in the agent's or official's
11	official capacity;
12	(2) a research facility, as defined by Section 2(e),
13	Animal Welfare Act (7 U.S.C. Section 2132(e)), that is licensed by
14	the secretary of the United States Department of Agriculture under
15	that Act;
16	(3) a person holding a Class "A", Class "B", or Class
17	"C" license issued by the United States secretary of agriculture
18	under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.);
19	(4) a wildlife sanctuary;
20	(5) a veterinary hospital providing treatment to a
21	dangerous wild animal;
22	(6) a person who holds a rehabilitation permit issued
23	under Subchapter C, Chapter 43, Parks and Wildlife Code, while
24	rehabilitating the dangerous wild animal;
25	(7) a college or university that began displaying a
26	dangerous wild animal as a mascot before September 1, 2017, and does
27	not allow direct contact between the public and the mascot;

1	(8) an animal shelter temporarily housing a dangerous
2	wild animal seized under Section 822.155 or the written request of
3	an animal control authority or a law enforcement agency acting
4	under this subchapter; or
5	(9) an owner lawfully in possession of a dangerous
6	wild animal before September 1, 2017, if the owner:
7	(A) has veterinary records, acquisition papers,
8	or other documents or records that establish ownership of the
9	dangerous wild animal before September 1, 2017;
10	(B) has not been convicted of an offense
11	involving cruelty to an animal;
12	(C) has not had a license or permit relating to
13	the care, possession, exhibition, breeding, or sale of a dangerous
14	wild animal revoked or suspended by any local, state, or federal
15	agency;
16	(D) has developed and is prepared to implement ar
17	emergency plan for responding to the escape of or an attack by the
18	dangerous wild animal and has provided the plan to the department
19	and animal control authority at the time the owner registers the
20	animal under Section 822.154;
21	(E) has provided a list of the owner's dangerous
22	wild animals to the department and animal control authority;
23	(F) does not acquire by any means, including
24	through purchase, donation, or breeding, an additional dangerous
25	wild animal on or after September 1, 2017;
26	(G) does not allow direct contact between the

public and the dangerous wild animal; and

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1 (H) registers the dangerous wild animal with the 2 department as required by Section 822.154. Sec. 822.153. DANGEROUS WILD ANIMALS PROHIBITED. Except as 3 provided by Section 822.152, a person may not own, possess, harbor, 4 5 or have custody or control of a dangerous wild animal. 6 Sec. 822.154. REGISTRATION; FEE. (a) An owner described by Section 822.152(9) shall annually register the owner's dangerous 7 8 wild animal with the department on a form provided by the department and pay the registration fee established by the department. 9 (b) The department may establish and charge a reasonable 10 registration fee in an amount sufficient to cover the cost of 11 12 administering this subchapter. Sec. 822.155. SEIZURE OF DANGEROUS WILD ANIMAL; HEARING. 13 14 (a) On a showing of probable cause that a dangerous wild animal is 15 owned, possessed, harbored, held in custody, or controlled in violation of this subchapter, a justice court, county court, or 16 17 county court at law in the county in which the dangerous wild animal is located shall: 18 (1) order an animal control authority or a peace 19 officer located in the county to seize the dangerous wild animal; 20 21 (2) issue a warrant authorizing the animal's seizure; 22 and 23 (3) schedule a hearing to be held on a date not later 24 than the 10th day after the date the warrant is issued to determine: 25 (A) whether a violation of this subchapter 26 occurred; and

(B) the final disposition of the dangerous wild

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- 1 <u>animal</u>.
- 2 (b) The person executing a warrant described by Subsection
- 3 (a)(2) shall serve written notice of the hearing described by
- 4 Subsection (a)(3) to the owner of the dangerous wild animal at the
- 5 time the warrant is executed.
- 6 (c) The animal control authority or peace officer shall
- 7 seize the dangerous wild animal and provide for the impoundment of
- 8 the animal in secure and humane conditions until a court determines
- 9 the disposition of the animal and issues appropriate orders. This
- 10 <u>subsection does not prevent an animal control authority or peace</u>
- 11 officer from impounding an animal on the property in which the
- 12 animal is located at the time of the seizure.
- 13 (d) A court on finding that a violation of this subchapter
- 14 occurred shall assess against the owner of a seized dangerous wild
- 15 <u>animal the reasonable costs of caring for the animal, including</u>
- 16 boarding and veterinary costs.
- 17 (e) A court's decision under this section is final and may
- 18 not be appealed.
- 19 Sec. 822.156. DISPOSITION OF CERTAIN DANGEROUS WILD
- 20 ANIMALS. (a) If a court finds that a person has kept a dangerous
- 21 wild animal in violation of this subchapter, the court shall divest
- 22 the person's ownership of the animal and order ownership of the
- 23 <u>animal to vest in the animal control authority.</u>
- 24 (b) The animal control authority shall make a reasonable
- 25 effort to place the animal in the custody of a wildlife sanctuary or
- 26 other facility that is willing and able to take custody of the
- 27 animal. If the animal control authority is unable to place the

- 1 animal with a wildlife sanctuary or other facility, the animal
- 2 control authority may humanely euthanize the animal in compliance
- 3 with state and federal law.
- 4 Sec. 822.157. CIVIL PENALTY. (a) A person who violates
- 5 this subchapter is liable to the county in which the violation
- 6 occurs for a civil penalty of not less than \$200 and not more than
- 7 \$2,000 for each animal with respect to which there is a violation
- 8 and for each day that the violation continues.
- 9 (b) A county in which the violation occurs may sue to
- 10 collect a civil penalty under this section. A civil penalty
- 11 collected under this subsection may be retained by the county.
- 12 (c) A county that sues under Subsection (b) may also recover
- 13 the reasonable costs of investigation, reasonable attorney's fees,
- 14 and other costs incurred by the county or an animal control
- 15 authority.
- Sec. 822.158. INJUNCTION. A county in which a dangerous
- 17 wild animal is located or a person who is harmed or threatened with
- 18 harm by a violation of this subchapter may sue an owner of a
- 19 dangerous wild animal to enjoin a violation of this subchapter.
- Sec. 822.159. OFFENSE; PENALTY. (a) A person commits an
- 21 offense if the person violates this subchapter. Each animal with
- 22 respect to which there is a violation and each day that a violation
- 23 continues is a separate offense.
- (b) An offense under this section is a Class A misdemeanor.
- 25 SECTION 2. Section 42.01(e), Penal Code, is amended to read
- 26 as follows:
- (e) It is a defense to prosecution for an offense under

- 1 Subsection (a)(7) or (9) that the person who discharged the firearm
- 2 had a reasonable fear of bodily injury to the person or to another
- 3 by a dangerous wild animal as defined by Section 822.151 [822.101],
- 4 Health and Safety Code.
- 5 SECTION 3. Section 42.092(d), Penal Code, is amended to
- 6 read as follows:
- 7 (d) It is a defense to prosecution under this section that:
- 8 (1) the actor had a reasonable fear of bodily injury to
- 9 the actor or to another person by a dangerous wild animal as defined
- 10 by Section 822.151 [822.101], Health and Safety Code; or
- 11 (2) the actor was engaged in bona fide experimentation
- 12 for scientific research.
- SECTION 4. On January 1, 2018, Subchapter E, Chapter 822,
- 14 Health and Safety Code, is repealed.
- SECTION 5. (a) Section 822.113, Health and Safety Code, as
- 16 repealed by this Act, applies only to an offense committed before
- 17 September 1, 2017. An offense committed before that date is
- 18 governed by the law in effect on the date the offense was committed,
- 19 and the former law is continued in effect for that purpose. For
- 20 purposes of this subsection, an offense was committed before that
- 21 date if any element of the offense occurred before that date.
- (b) Section 822.159, Health and Safety Code, as added by
- 23 this Act, applies only to an offense committed on or after the
- 24 effective date of this Act. An offense committed before the
- 25 effective date of this Act is governed by the law in effect on the
- 26 date the offense was committed, and the former law is continued in
- 27 effect for that purpose. For purposes of this section, an offense

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- 1 was committed before the effective date of this Act if any element
- 2 of the offense occurred before that date.
- 3 (c) Not later than November 1, 2017, the executive
- 4 commissioner of the Health and Human Services Commission shall
- 5 adopt rules, establish the fees, and prescribe the application form
- 6 necessary to implement Subchapter F, Chapter 822, Health and Safety
- 7 Code, as added by this Act.
- 8 (d) Notwithstanding Subchapter F, Chapter 822, Health and
- 9 Safety Code, as added by this Act, an owner of a dangerous wild
- 10 animal is not required to comply with Subchapter F, Chapter 822,
- 11 Health and Safety Code, as added by this Act, or rules adopted under
- 12 that subchapter until January 1, 2018.
- SECTION 6. This Act takes effect September 1, 2017.