

By: Lucio III

H.B. No. 1268

A BILL TO BE ENTITLED

AN ACT

relating to dangerous wild animals; providing penalties; creating a criminal offense; authorizing a fee.

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

SECTION 1. Chapter 822, Health and Safety Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. REGULATION OF DANGEROUS WILD ANIMALS

Sec. 822.151. DEFINITIONS. In this subchapter:

(1) "Animal control authority" means the sheriff of a county in which a dangerous wild animal is located.

(2) "Animal shelter" means a municipal or county animal shelter or an animal shelter operated by a nonprofit charitable organization established primarily to shelter and care for stray and abandoned animals.

(3) "Commission" means the Health and Human Services Commission.

(4) "Dangerous wild animal" means:

(A) a baboon;

(B) a bear;

(C) a cheetah;

(D) a chimpanzee;

(E) a clouded leopard;

(F) a cougar;

(G) a gorilla;

1 (H) a hyena;
2 (I) a jaguar;
3 (J) a leopard;
4 (K) a lion;
5 (L) a macaque;
6 (M) an orangutan;
7 (N) a snow leopard;
8 (O) a tiger; or
9 (P) any hybrid or subspecies of an animal listed
10 in this subdivision.

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

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

16 (7) "Wildlife sanctuary" means a charitable
17 organization that is exempt from taxation under Section 501(c)(3),
18 Internal Revenue Code of 1986, that is described by Section
19 170(b)(1)(A)(vi), Internal Revenue Code of 1986, and that:

20 (A) operates a place of refuge where an abused,
21 neglected, unwanted, impounded, abandoned, orphaned, or displaced
22 wild animal is provided care for the animal's lifetime; and

23 (B) with respect to a dangerous wild animal owned
24 by or in the custody or control of the organization, does not:

25 (i) conduct a commercial activity,
26 including the sale, trade, auction, lease, or loan of the animal or
27 parts of the animal, or use the animal in any manner in a for-profit

1 business or operation;

2 (ii) breed the animal;

3 (iii) allow direct contact between the
4 public and the animal; or

5 (iv) allow off-site transportation and
6 display of the animal.

7 Sec. 822.152. DANGEROUS WILD ANIMALS PROHIBITED;
8 EXCEPTIONS. (a) Except as provided by this section, a person may
9 not own, possess, sell, transfer, breed, or have custody or control
10 of a dangerous wild animal.

11 (b) The prohibition under Subsection (a) does not apply to:

12 (1) a county, municipality, or agency of this state,
13 an agency of the United States, or an agent or official of a county,
14 municipality, or agency acting in the agent's or official's
15 official capacity;

16 (2) a research facility, as defined by Section 2(e),
17 Animal Welfare Act (7 U.S.C. Section 2132(e)), that is licensed by
18 the secretary of the United States Department of Agriculture under
19 that Act;

20 (3) a person holding a Class "A", Class "B", or Class
21 "C" license issued by the United States secretary of agriculture
22 under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) if the
23 person complies with Section 822.153;

24 (4) a wildlife sanctuary;

25 (5) a veterinary hospital providing treatment to a
26 dangerous wild animal;

27 (6) a person who holds a rehabilitation permit issued

1 under Subchapter C, Chapter 43, Parks and Wildlife Code, while
2 rehabilitating the dangerous wild animal;

3 (7) a college or university that began displaying a
4 dangerous wild animal as a mascot before September 1, 2019, and does
5 not allow direct contact between the public and the mascot;

6 (8) an animal shelter temporarily housing a dangerous
7 wild animal seized under Section 822.156 or the written request of
8 an animal control authority or a law enforcement agency acting
9 under this subchapter; or

10 (9) an owner lawfully in possession of a dangerous
11 wild animal before September 1, 2019, if the owner complies with
12 Section 822.154.

13 Sec. 822.153. REGULATION OF CERTAIN LICENSE HOLDERS. A
14 person described by Section 822.152(b)(3) may possess a dangerous
15 wild animal if:

16 (1) the person's license described by that section is
17 in good standing;

18 (2) the person has not been convicted of or fined for
19 an offense involving the abuse or neglect of any animal under local,
20 state, or federal law;

21 (3) none of the person's employees with responsibility
22 for the security or care of the dangerous wild animal have been
23 convicted of or fined for an offense described by Subdivision (2);

24 (4) the person has not been cited by the United States
25 Department of Agriculture under the Animal Welfare Act (7 U.S.C.
26 Section 2131 et seq.) within the preceding three years for:

27 (A) failure to allow a facility inspection; or

1 (B) interference with a facility inspection;

2 (5) the person has not been cited in an inspection
3 report by the United States Department of Agriculture under the
4 Animal Welfare Act for any violations during the preceding three
5 years related to a dangerous wild animal's health and safety being
6 jeopardized by:

7 (A) inappropriate veterinary care;

8 (B) inappropriate handling of the animal causing
9 stress or trauma to the animal or a threat to public safety;

10 (C) inappropriate provision of food, water,
11 shelter, or space; or

12 (D) any infraction cited as a direct violation;

13 (6) the person has not received any official notice of
14 warning or entered into stipulations, consent decrees, or
15 settlements with the United States Department of Agriculture during
16 the preceding five years;

17 (7) the person discloses any known pending
18 investigation of the person by the United States Department of
19 Agriculture;

20 (8) the person maintains liability insurance in an
21 amount not less than \$100,000 for each occurrence of property
22 damage, bodily injury, or death caused by a dangerous wild animal
23 possessed by the person;

24 (9) the person has not had a license or permit for the
25 care, possession, exhibition, propagation, or sale of animals
26 revoked or suspended by any local, state, or federal agency; and

27 (10) the person has a written plan, including

1 protocols for training staff on methods of safe recapture, filed
2 with the appropriate animal control authority for the quick and
3 safe recapture or destruction for each of the person's dangerous
4 wild animals if the animal escapes.

5 Sec. 822.154. REGULATION OF CERTAIN OWNERS; REGISTRATION;
6 FEE. (a) An owner described by Section 822.152(b)(9) may possess a
7 dangerous wild animal if the owner:

8 (1) has veterinary records or acquisition papers that
9 establish ownership of the dangerous wild animal before September
10 1, 2019;

11 (2) has not been convicted of an offense involving
12 cruelty to an animal;

13 (3) has not had a license or permit relating to the
14 care, possession, exhibition, breeding, or sale of a dangerous wild
15 animal revoked or suspended by any local, state, or federal agency;

16 (4) has developed and is prepared to implement an
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 commission
19 and animal control authority at the time the owner registers the
20 animal under Subsection (b);

21 (5) has provided a list of the owner's dangerous wild
22 animals to the commission and animal control authority;

23 (6) does not acquire by any means, including through
24 purchase, donation, or breeding, an additional dangerous wild
25 animal on or after September 1, 2019;

26 (7) does not allow direct contact between the public
27 and the dangerous wild animal;

1 (8) registers the dangerous wild animal with the
2 commission as required by Subsection (b);

3 (9) notifies the commission of any attack of a human by
4 the animal not later than 48 hours after the attack; and

5 (10) immediately notifies the commission and local law
6 enforcement of any escape of the animal from the owner's custody.

7 (b) An owner described by Section 822.152(b)(9) shall
8 annually register the owner's dangerous wild animal with the
9 commission on a form provided by the commission and pay the
10 registration fee established by the commission.

11 (c) The commission may establish and charge a reasonable
12 registration fee in an amount sufficient to cover the cost of
13 administering this subchapter.

14 Sec. 822.155. LIABILITY. (a) An owner described by Section
15 822.152(b)(9) is liable for all costs incurred in apprehending and
16 confining a dangerous wild animal that escapes the owner's custody.

17 (b) The commission, a local law enforcement agency, or an
18 employee of the commission or agency is not liable to an owner
19 described by Section 822.152(b)(9) for damages arising from the
20 escape of the owner's dangerous wild animal, including liability
21 for property damage, injury, or death caused by the animal or for
22 injury to or the death of the animal.

23 Sec. 822.156. SEIZURE OF DANGEROUS WILD ANIMAL; HEARING.

24 (a) On a showing of probable cause that a dangerous wild animal is
25 owned, possessed, held in custody, or controlled in violation of
26 this subchapter, a justice court, county court, or county court at
27 law in the county in which the dangerous wild animal is located

1 shall:

2 (1) order an animal control authority or a peace
3 officer located in the county to seize the dangerous wild animal;

4 (2) issue a warrant authorizing the animal's seizure;
5 and

6 (3) schedule a hearing to be held on a date not later
7 than the 10th day after the date the warrant is issued to determine:

8 (A) whether a violation of this subchapter
9 occurred; and

10 (B) the final disposition of the dangerous wild
11 animal.

12 (b) The person executing a warrant described by Subsection
13 (a)(2) shall serve written notice of the hearing described by
14 Subsection (a)(3) to the owner of the dangerous wild animal at the
15 time the warrant is executed.

16 (c) The animal control authority or peace officer shall
17 seize the dangerous wild animal and provide for the impoundment of
18 the animal in secure and humane conditions until a court determines
19 the disposition of the animal and issues appropriate orders. This
20 subsection does not prevent an animal control authority or peace
21 officer from impounding an animal on the property in which the
22 animal is located at the time of the seizure.

23 (d) A court on finding that a violation of this subchapter
24 occurred shall assess against the owner of a seized dangerous wild
25 animal the reasonable costs of caring for the animal, including
26 boarding and veterinary costs.

27 (e) A court's decision under this section is final and may

1 not be appealed.

2 Sec. 822.157. DISPOSITION OF CERTAIN DANGEROUS WILD
3 ANIMALS. (a) If a court finds that a person has kept a dangerous
4 wild animal in violation of this subchapter, the court shall divest
5 the person's ownership of the animal and order ownership of the
6 animal to vest in the animal control authority.

7 (b) The animal control authority shall make a reasonable
8 effort to place the animal in the custody of a wildlife sanctuary.
9 If the animal control authority is unable to place the animal with a
10 wildlife sanctuary, the animal control authority may humanely
11 euthanize the animal in compliance with state and federal law.

12 Sec. 822.158. CIVIL PENALTY. (a) A person who violates
13 this subchapter is liable to the county in which the violation
14 occurs for a civil penalty of not less than \$200 and not more than
15 \$2,000 for each animal with respect to which there is a violation
16 and for each day that the violation continues.

17 (b) A county in which the violation occurs may sue to
18 collect a civil penalty under this section. A civil penalty
19 collected under this subsection may be retained by the county.

20 (c) A county that sues under Subsection (b) may also recover
21 the reasonable costs of investigation, reasonable attorney's fees,
22 and other costs incurred by the county or an animal control
23 authority.

24 Sec. 822.159. INJUNCTION. A county in which a dangerous
25 wild animal is located or in which a person who is harmed or
26 threatened with harm by a violation of this subchapter may sue an
27 owner of a dangerous wild animal to enjoin a violation of this

1 subchapter.

2 Sec. 822.160. OFFENSE; PENALTY. (a) A person commits an
3 offense if the person violates this subchapter. Each animal with
4 respect to which there is a violation and each day that a violation
5 continues is a separate offense.

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

7 SECTION 2. Section 42.01(e), Penal Code, is amended to read
8 as follows:

9 (e) It is a defense to prosecution for an offense under
10 Subsection (a)(7) or (9) that the person who discharged the firearm
11 had a reasonable fear of bodily injury to the person or to another
12 by a dangerous wild animal as defined by Section 822.151 [~~822.101~~],
13 Health and Safety Code.

14 SECTION 3. Section 42.092(d), Penal Code, is amended to
15 read as follows:

16 (d) It is a defense to prosecution under this section that:

17 (1) the actor had a reasonable fear of bodily injury to
18 the actor or to another person by a dangerous wild animal as defined
19 by Section 822.151 [~~822.101~~], Health and Safety Code; or

20 (2) the actor was engaged in bona fide experimentation
21 for scientific research.

22 SECTION 4. On January 1, 2020, Subchapter E, Chapter 822,
23 Health and Safety Code, is repealed.

24 SECTION 5. (a) Section 822.113, Health and Safety Code, as
25 repealed by this Act, applies only to an offense committed before
26 September 1, 2019. An offense committed before that date is
27 governed by the law in effect on the date the offense was committed,

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

4 (b) Section 822.160, Health and Safety Code, as added by
5 this Act, applies only to an offense committed on or after the
6 effective date of this Act. An offense committed before the
7 effective date of this Act is governed by the law in effect on the
8 date the offense was committed, and the former law is continued in
9 effect for that purpose. For purposes of this section, an offense
10 was committed before the effective date of this Act if any element
11 of the offense occurred before that date.

12 (c) Not later than November 1, 2019, the executive
13 commissioner of the Health and Human Services Commission shall
14 adopt rules, establish the fees, and prescribe the application form
15 necessary to implement Subchapter F, Chapter 822, Health and Safety
16 Code, as added by this Act.

17 (d) Notwithstanding Subchapter F, Chapter 822, Health and
18 Safety Code, as added by this Act, an owner of a dangerous wild
19 animal is not required to comply with Subchapter F, Chapter 822,
20 Health and Safety Code, as added by this Act, or rules adopted under
21 that subchapter until January 1, 2020.

22 SECTION 6. This Act takes effect September 1, 2019.