

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 a municipal or county animal control office with authority over the area in which a dangerous wild animal is located or a county sheriff in an area with no animal control office.

(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;

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

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

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

18 (7) "Wildlife sanctuary" means a charitable
19 organization that is exempt from taxation under Section 501(c)(3),
20 Internal Revenue Code of 1986, and that:

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

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

26 (i) conduct a commercial activity,
27 including the sale, trade, auction, lease, or loan of the animal or

1 parts of the animal, or use the animal in any manner in a for-profit
2 business or operation;

3 (ii) breed the animal;

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

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

8 Sec. 822.152. DANGEROUS WILD ANIMALS PROHIBITED;

9 EXCEPTIONS. (a) Except as provided by this section, a person may
10 not own, possess, sell, transfer, breed, or have custody or control
11 of a dangerous wild animal.

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

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

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

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

25 (4) an institution accredited by the Association of
26 Zoos and Aquariums or the Zoological Association of America;

27 (5) a wildlife sanctuary;

1 (6) a veterinary hospital providing treatment to a
2 dangerous wild animal;

3 (7) a person who holds a rehabilitation permit issued
4 under Subchapter C, Chapter 43, Parks and Wildlife Code, while
5 rehabilitating the dangerous wild animal;

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

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

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

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

19 (1) the person's license described by that subdivision
20 is in good standing;

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

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

27 (4) the person has not been cited by the United States

1 Department of Agriculture under the Animal Welfare Act (7 U.S.C.
2 Section 2131 et seq.) within the preceding three years for:

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

4 (B) interference with a facility inspection;

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

10 (A) inappropriate veterinary care;

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

13 (C) inappropriate provision of food, water,
14 shelter, or space; or

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

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

20 (7) the person discloses any known pending
21 investigation of the person by the United States Department of
22 Agriculture;

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

27 (9) the person has not had a license or permit for the

1 care, possession, exhibition, propagation, or sale of animals
2 revoked or suspended by any local, state, or federal agency; and

3 (10) the person has a written plan, including
4 protocols for training staff on methods of safe recapture, filed
5 with the appropriate animal control authority for the quick and
6 safe recapture or destruction for each of the person's dangerous
7 wild animals if the animal escapes.

8 Sec. 822.154. REGULATION OF CERTAIN OWNERS; REGISTRATION;
9 FEE. (a) An owner described by Section 822.152(b)(10) may possess
10 a dangerous wild animal if the owner:

11 (1) has veterinary records or acquisition papers that
12 establish ownership of the dangerous wild animal before September
13 1, 2019;

14 (2) has not been convicted of an offense involving
15 cruelty to an animal;

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

19 (4) has developed and is prepared to implement an
20 emergency plan for responding to the escape of or an attack by the
21 dangerous wild animal and has provided the plan to the commission
22 and animal control authority at the time the owner registers the
23 animal under Subsection (b);

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

26 (6) does not acquire by any means, including through
27 purchase, donation, or breeding, an additional dangerous wild

1 animal on or after September 1, 2019;

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

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

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

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

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

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

17 Sec. 822.155. LIABILITY. (a) An owner described by
18 Section 822.152(b)(10) is liable for all costs incurred in
19 apprehending and confining a dangerous wild animal that escapes the
20 owner's custody.

21 (b) The commission, a local law enforcement agency, or an
22 employee of the commission or agency is not liable to an owner
23 described by Section 822.152(b)(10) for damages arising from the
24 escape of the owner's dangerous wild animal, including liability
25 for property damage, injury, or death caused by the animal or for
26 injury to or the death of the animal.

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

1 (a) On a showing of probable cause that a dangerous wild animal is
2 owned, possessed, held in custody, or controlled in violation of
3 this subchapter, a justice court, county court, or county court at
4 law in the county in which the dangerous wild animal is located
5 shall:

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

8 (2) issue a warrant authorizing the animal's seizure;
9 and

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

12 (A) whether a violation of this subchapter
13 occurred; and

14 (B) the final disposition of the dangerous wild
15 animal.

16 (b) The person executing a warrant described by Subsection
17 (a)(2) shall serve written notice of the hearing described by
18 Subsection (a)(3) to the owner of the dangerous wild animal at the
19 time the warrant is executed.

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

27 (d) A court on finding that a violation of this subchapter

1 occurred shall assess against the owner of a seized dangerous wild
2 animal the reasonable costs of caring for the animal, including
3 boarding and veterinary costs.

4 (e) A court, on finding that a violation of this subchapter
5 occurred, shall determine the estimated costs likely to be incurred
6 by an animal control authority, law enforcement agency, wildlife
7 sanctuary, or zoo accredited by the Association of Zoos and
8 Aquariums or the Zoological Association of America to house and
9 care for a dangerous wild animal during the appeal process.

10 (f) After making the determination under Subsection (e),
11 the court at the time of entering the judgment shall set the amount
12 of bond for an appeal equal to the sum of:

13 (1) the amount of the costs ordered under Subsection
14 (d); and

15 (2) the amount of the estimated costs determined under
16 Subsection (e).

17 (g) A court may not require a person to provide a bond in an
18 amount greater than or in addition to the amount determined by the
19 court under Subsection (f) to perfect an appeal.

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

25 (b) The animal control authority shall make a reasonable
26 effort to place the animal in the custody of a wildlife sanctuary or
27 an accredited zoo. If the animal control authority is unable to

1 place the animal with a wildlife sanctuary or an accredited zoo, the
2 animal control authority may humanely euthanize the animal in
3 compliance with state and federal law.

4 Sec. 822.158. 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.

16 Sec. 822.159. INJUNCTION. A county in which a dangerous
17 wild animal is located or in which a person who is harmed or
18 threatened with harm by a violation of this subchapter may sue an
19 owner of a dangerous wild animal to enjoin a violation of this
20 subchapter.

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

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

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

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

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

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

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

12 (2) the actor was engaged in bona fide experimentation
13 for scientific research.

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

16 SECTION 5. (a) The repeal by this Act of Section 822.113,
17 Health and Safety Code, does not apply to an offense committed under
18 that section before the effective date of the repeal. An offense
19 committed before the effective date of the repeal is governed by the
20 law as it existed on the date the offense was committed, and the
21 former law is continued in effect for that purpose. For purposes of
22 this subsection, an offense was committed before the effective date
23 of the repeal if any element of the offense occurred before that
24 date.

25 (b) Section 822.160, Health and Safety Code, as added by
26 this Act, applies only to an offense committed on or after the
27 effective date of this Act. An offense committed before the

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

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

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

16 SECTION 6. Except as otherwise provided by this Act, this
17 Act takes effect September 1, 2019.