

By: Guillen

H.B. No. 4049

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.

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

(4) "Dangerous wild animal" means:

(A) a baboon;

(B) a bear;

(C) a bobcat;

(D) a caracal;

(E) a cheetah;

(F) a chimpanzee;

(G) a clouded leopard;

(H) a cougar;

(I) a coyote;

1 (J) an elephant;
2 (K) a gorilla;
3 (L) a hyena;
4 (M) a jackal;
5 (N) a jaguar;
6 (O) a leopard;
7 (P) a lion;
8 (Q) a lynx;
9 (R) a macaque;
10 (S) an ocelot;
11 (T) an orangutan;
12 (U) a serval;
13 (V) a snow leopard;
14 (W) a tiger; or
15 (X) any hybrid or subspecies of an animal listed
16 in this subdivision.

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

19 (6) "Person" means an individual, partnership,
20 corporation, trust, estate, joint stock company, foundation, or
21 association of individuals.

22 (7) "Wildlife sanctuary" means a charitable
23 organization exempt from federal taxation under Section 501(c)(3),
24 Internal Revenue Code of 1986, that is described by Section
25 170(b)(1)(A)(vi), Internal Revenue Code of 1986, that:

26 (A) operates a place of refuge where an abused,
27 neglected, unwanted, impounded, abandoned, orphaned, or displaced

wild animal is provided care for the animal's lifetime; and

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

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

(ii) breed the animal;

(iii) allow direct contact between the public and the animal as described by Section 822.152(b); or

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

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

(b) A person may not allow a member of the public to have direct contact with a dangerous wild animal. For purposes of this subsection, direct contact includes allowing a member of the public to access a dangerous wild animal without a permanent physical barrier preventing contact between the member of the public and the animal.

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

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

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

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

9 (4) a wildlife sanctuary;

10 (5) a veterinary hospital providing treatment to a
11 dangerous wild animal;

12 (6) a person who holds a rehabilitation permit issued
13 under Subchapter C, Chapter 43, Parks and Wildlife Code, while
14 rehabilitating the dangerous wild animal;

15 (7) a college or university that began displaying a
16 dangerous wild animal as a mascot before September 1, 2021, and does
17 not allow direct contact between the public and the mascot;

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

22 (9) an owner lawfully in possession of a dangerous
23 wild animal before September 1, 2021, if the owner complies with
24 Section 822.154.

25 Sec. 822.153. REGULATION OF CERTAIN LICENSE HOLDERS. A
26 person described by Section 822.152(c)(3) may possess a dangerous
27 wild animal if:

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

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

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

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

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

13 (B) interference with a facility inspection;

14 (5) the person discloses any known pending
15 investigation of the person by the United States Department of
16 Agriculture;

17 (6) the person maintains liability insurance in an
18 amount not less than \$100,000, with a deductible of not more than
19 \$250, for each occurrence of property damage, bodily injury, or
20 death caused by a dangerous wild animal possessed by the person;

21 (7) the person has not had a license or permit for the
22 care, possession, exhibition, propagation, or sale of animals
23 revoked or suspended by any local, state, or federal agency; and

24 (8) the person has a written plan, including protocols
25 for training staff on methods of safe response and recapture, filed
26 with the appropriate animal control authority for the quick
27 response and safe recapture or destruction for each of the person's

dangerous wild animals if the animal escapes or attacks another person.

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

(1) has veterinary records or acquisition papers that establish ownership of the dangerous wild animal before September 1, 2021;

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

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

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

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

(6) does not acquire by any means, including through purchase, donation, or breeding, an additional dangerous wild animal on or after September 1, 2021;

(7) does not allow direct contact between the public and the dangerous wild animal as described by Section 822.152(b);

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

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

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

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

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

12 Sec. 822.155. ANIMAL ATTACK OR ESCAPE; LIABILITY. (a) An
13 owner described by Section 822.152(c)(9) shall notify the
14 commission and local law enforcement agency of any escape or attack
15 on a human by a dangerous wild animal within 48 hours of the escape
16 or attack.

17 (b) An owner described by Section 822.152(c)(9) is liable
18 for all costs incurred in apprehending and confining a dangerous
19 wild animal that escapes the owner's custody.

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

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

27 (a) On a showing of probable cause that a dangerous wild animal is

owned, possessed, held in custody, or controlled in violation of
this subchapter, a justice court, county court, or county court at
law in the county in which the dangerous wild animal is located
shall:

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

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

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

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

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

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

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

(d) A court on finding that a violation of this subchapter
occurred shall assess against the owner of a seized dangerous wild

1 animal the reasonable costs of caring for the animal, including
2 boarding and veterinary costs.

3 (e) A court's decision under this section is final and may
4 not be appealed.

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

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

15 Sec. 822.158. CIVIL PENALTY. (a) A person who violates
16 this subchapter is liable to the county in which the violation
17 occurs for a civil penalty of not less than \$200 and not more than
18 \$2,000 for each animal with respect to which there is a violation
19 and for each day that the violation continues.

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

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

27 Sec. 822.159. INJUNCTION. A county in which a dangerous

1 wild animal is located or in which a person who is harmed or
2 threatened with harm by a violation of this subchapter may sue an
3 owner of a dangerous wild animal to enjoin a violation of this
4 subchapter.

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

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

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

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

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

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

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

23 (2) the actor was engaged in bona fide experimentation
24 for scientific research.

25 SECTION 4. On January 1, 2022, Subchapter E, Chapter 822,
26 Health and Safety Code, is repealed.

27 SECTION 5. (a) Section 822.113, Health and Safety Code, as

1 repealed by this Act, applies only to an offense committed before
2 September 1, 2021. An offense committed before that date is
3 governed by the law in effect on the date the offense was committed,
4 and the former law is continued in effect for that purpose. For
5 purposes of this subsection, an offense was committed before that
6 date if any element of the offense occurred before that date.

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

15 (c) Not later than November 1, 2021, the executive
16 commissioner of the Health and Human Services Commission shall
17 adopt rules, establish the fees, and prescribe the application form
18 necessary to implement Subchapter F, Chapter 822, Health and Safety
19 Code, as added by this Act.

20 (d) Notwithstanding Subchapter F, Chapter 822, Health and
21 Safety Code, as added by this Act, an owner of a dangerous wild
22 animal is not required to comply with Subchapter F, Chapter 822,
23 Health and Safety Code, as added by this Act, or rules adopted under
24 that subchapter until January 1, 2022.

25 SECTION 6. This Act takes effect September 1, 2021.