

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2850

By: Mitchell

AS INTRODUCED

An Act relating to game and fish; providing definitions for certain terms; establishing certain classes of wildlife; describing the species in each of the classes; authorizing the Wildlife Conservation Commission to add or delete species from each class; prohibiting the possession of live wild animals without a permit; authorizing the Department of Wildlife Conservation to issue permits; directing the Commission to promulgate rules for issuing permits and holding conditions; allowing the Director of Wildlife Conservation to approve the possession of wildlife for research studies; providing conditions for the possession of Class I wildlife; prohibiting direct contact of Class I wildlife with the public; requiring certain permits; establishing the fees and conditions for certain permits; providing for a permit for certain facilities at no charge; prohibiting certain actions without a permit; prohibiting the acquisition of additional animals or species without approval; providing an expiration date for permits; providing for the maintenance of wildlife in captivity; providing penalty for maintaining wildlife in an unsafe manner or allowing escape;

providing for the transportation of Class I animals; providing for the liability of certain persons and the state; requiring proper permits and holding facilities prior to the transfer of Class I wildlife; providing for notification to the Department before a transfer; requiring unpermitted owners to transfer the wildlife; requiring certain type of permit before breeding or selling certain wildlife; requiring certain permits for nonresidence; providing for the propagation of certain wildlife; requiring an import permit before wildlife can be brought into the state; prohibiting the release of wildlife in the state; prohibiting the killing of captive wildlife; prohibiting the selling or transporting of Class I wildlife used in a controlled kill; authorizing the arrest and seizure of wildlife by an officer of the Department for certain violations; providing for the transfer of wildlife to a safe facility; providing penalty for violation of this act; allowing the public sale of forfeited items or wildlife; requiring notification of an escape and injury; providing for cost of administration of act; requiring annual applications and information from certain entities; establishing the testing procedures for Class I permits; providing for the development and review of the tests; requiring four tests based on species groups; providing for reference material; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-102.1 of Title 29, unless there is created a duplication in numbering, reads as follows:

"Breeding" means the possession of a wild animal for the purpose of propagation.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-103.1 of Title 29, unless there is created a duplication in numbering, reads as follows:

"Circus" means a form of public entertainment consisting typically of a variety of performances by acrobats, clowns, and trained animals, but does not include wrestling bears or any type of show in which there is direct contact between the public and a Class I animal as defined in Section 10 of this act, except as otherwise provided for in this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-108.2 of Title 29, unless there is created a duplication in numbering, reads as follows:

"Educational center" means a professionally operated facility, with a full-time staff, whose major responsibility is to conduct approved research or to educate and train clientele in bona fide conservation principles which shall include the protection and enhancement of animal populations through professionally accepted wildlife management techniques and principles.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-109.3 of Title 29, unless there is created a duplication in numbering, reads as follows:

"Exhibition" means any display of a wild animal to members of the general public for any reason.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-121.3 of Title 29, unless there is created a duplication in numbering, reads as follows:

"Nature center" means a facility which operates in order to educate the general public about nature ecosystem interrelationships, in which man's actions are an integral part, and which has as its chief goal the protection and enhancement of all populations of animal life.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-127.1 of Title 29, unless there is created a duplication in numbering, reads as follows:

"Permanent exhibitors" means those persons who have an exhibition that is housed the entire year in facilities located within the state.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-128.1 of Title 29, unless there is created a duplication in numbering, reads as follows:

"Personal use" means the possession of a wild animal for any purpose other than for commercial purposes, breeding, or exhibit.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-142.1 of Title 29, unless there is created a duplication in numbering, reads as follows:

"Temporary exhibitors" means those transient animal acts or displays not permanently located within the boundaries of the state.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-149.2 of Title 29, unless there is created a duplication in numbering, reads as follows:

"Zoo" means a facility where any class of wildlife is exhibited to the public and meets the following:

1. Is accredited by the American Association of Zoological Parks and Aquariums (AAZPA) or is designated as the official zoo of a municipality;

2. Maintains an annual visitation rate of one hundred thousand (100,000) or more visitors annually; and

3. Does not sell or transfer animals housed in the facility to the general public.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-701 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. Live wildlife, kept and maintained for any purpose, shall be classified in one of the following five classes:

1. Class I - Only zoos, circuses, and Class I commercial propagators may possess this class of animal, except as otherwise provided for in this act. Class I species include the following carnivores:

- a. all wolf species, excluding wolf hybrids,
- b. all bear species that will grow to fifty (50) pounds or more, and
- c. all cat species that will grow to fifty (50) pounds or more;

2. Class II - Shall include all species of native wildlife, except fish, amphibians, aquatic reptiles, aquatic invertebrates, and those species listed in other classes;

3. Class III - No permits shall be required for this class of animal, except for those permits required by the Department of Agriculture. Class III animals shall include all species listed in the Department of Wildlife Conservation Rules, OAC 800:25-25-3;

4. Class IV - Only educational centers may possess this class of animal and only under conditions that will prevent the release or escape of the animals into the environment. Class IV animals shall include any species the Wildlife Conservation Commission may designate by rule as injurious to the environment; and

5. Class V - Except as otherwise provided by law, no person may possess this class of animal or any parts thereof. Class V animals

shall include any endangered, threatened, or rare species of wildlife.

B. The Commission, in conjunction with the Department of Agriculture, may by rule add or delete species from any of the classes of wildlife listed in this section.

C. No person shall possess Class I or Class II wildlife without having documentary evidence showing the name and address of the supplier of the animal and the date of acquisition.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-702 of Title 29, unless there is created a duplication in numbering, reads as follows:

It shall be unlawful for any person to hold any live wild animal in this state for the purpose of breeding, exhibition, or personal use unless the person has first obtained a permit from the Department of Wildlife Conservation as provided for in Section 12 of this act.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-703 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. The Department of Wildlife Conservation shall issue permits for the possession of live wildlife as provided for in this act. The Wildlife Conservation Commission shall promulgate rules for issuing permits for the possession of live wildlife and for the conditions under which the wildlife shall be held. The rules establishing the conditions for holding wildlife shall ensure the health, welfare, and safety of animals, the public and where necessary the security of facilities in which the wildlife is kept.

B. The Director of Wildlife Conservation may authorize the possession of any class of wildlife for approved research studies or for the temporary holding of animals in the interest of public safety. Approval shall be based on a written request that outlines

the safety precautions that will be implemented during the specified activity.

C. The Director may issue a permit for Class I wildlife only upon a satisfactory showing of the qualifications of the applicant to possess live wildlife. The applicant shall meet the following conditions:

1. Be at least twenty-one (21) years of age;

2. Have at least two (2) years' experience in the handling or care of the Class I species for which the applicant is applying. In lieu of the experience, the applicant may take and pass a written test as provided for in Section 25 of this act, developed and administered by the Department evidencing the applicant's knowledge of the habits and requirements of the species, proper diet, health care, exercise needs, and housing of the species for which application is made. Any experience gained while handling or caring for a Class I species without a proper permit shall not be considered as qualifying experience;

3. The facilities for holding the species shall be located on the premises on which the permit holder resides or shall have a full-time resident caretaker to supervise the care and security of the facilities. For a commercial propagator facility permit, the facilities may not be on premises of less than one (1) acre and may not be located in a multiunit dwelling or trailer park; and

4. Have a plan for the quick and safe recapture of the wildlife, or if recapture is impossible for the destruction of animal. The applicant must possess and have the legal authority to possess any weapons or other equipment necessary to carry out the recapture plan.

D. Any person with a Class I wildlife permit shall control and maintain the wildlife at all times in a manner as to prevent direct contact between the animal and the public.

E. No person shall hold live wildlife in captivity without first obtaining the appropriate permit as provided for in this act. The annual permits and fees for holding live wildlife shall be as follows:

1. Personal Possession of Class II Wildlife Permit. Ten Dollars (\$10.00) per animal or One Hundred Dollars (\$100.00) per facility. This permit shall allow for the possession of any Class II animal for any purpose other than for commercial purposes, breeding, or exhibit;

2. Transfer of Ownership Permit. Ten Dollars (\$10.00) per animal. This permit is for transferring a Class II animal held under a Personal Possession Permit. No Transfer Permit shall be required if the transfer is ordered by the Department;

3. Class I Commercial Propagator Permit. One Thousand Dollars (\$1,000.00) per facility. This permit is required of any person or entity which may breed, sell, barter, trade, or possess any Class I wildlife, and which meet all other applicable license, permit, zoning and other requirements necessary to conduct business in the city and county where the facility is located;

4. Class II Commercial Propagator Permit. Twenty-five Dollars (\$25.00) per facility for small game birds and waterfowl and One Hundred Dollars (\$100.00) per facility for all other Class II wildlife. This permit is required of any person or entity which may breed, possess, or raise for commercial purposes any Class II wildlife, and which meet all other applicable license, permit, zoning and other requirements necessary to conduct business in the city and county where the facility is located;

5. Temporary Exhibitor Permit. One Hundred Dollars (\$100.00) for each thirty-day period;

6. Permanent Exhibitor Permit. Five Hundred Dollars (\$500.00) per year for each facility. No Class I wildlife shall be allowed under this permit;

7. Wildlife Rehabilitator Permit. Five Dollars (\$5.00) per year; and

8. Commercial Hunting Area Permit. One Hundred Dollars (\$100.00) for areas with upland game only and Two Hundred Dollars (\$200.00) for areas with big game or a combination of upland and big game. No Class I animals shall be allowed under this permit.

E. Permits for Zoos, Nature Centers, Rehabilitation Centers, and Educational Centers certified as nonprofit shall be issued an applicable permit at no charge.

F. Holders of a Permanent Exhibitor Permit shall not engage in the commercial trade of captive wildlife without first obtaining a Commercial Propagator Permit.

G. Other than zoos, a facility shall not gain possession of any Class I and Class II species until that species has been approved by the Director to be added to the permit.

H. A permit holder shall not acquire additional wildlife until another permit is obtained or until the current permit is amended to authorize the possession of the additional animals.

I. The permit requirements established in this section shall not prevent a local governmental authority from regulating the possession of species of wildlife within the jurisdiction of the local government.

J. All permits issued pursuant to this section shall expire on December 31 of each year. Any person wishing to dispose of wildlife authorized under a permit, as provided for in Section 5-601 of Title 29 of the Oklahoma Statutes, shall notify the Department in writing by December 31 of the year the permit expires.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-704 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. Any wildlife housed in dangerously unsafe conditions constituting a threat to human safety shall, at the direction of

Department personnel, be placed in a Department-approved facility at the owner's expense.

B. Any condition which results in wildlife escaping from an enclosure, cage, leash, or other constraint shall be considered maintaining wildlife in an unsafe manner and shall subject the permit holder to the penalties set forth in Section 21 of this act.

C. Every cage used to hold wildlife shall be sufficiently strong to prevent escape and to protect the caged animal from injury.

D. No person shall maintain wildlife in captivity in any unsanitary or unsafe condition or in a manner which results in the maltreatment or neglect of the wildlife. A conviction of violation of Section 1685 of Title 21 of the Oklahoma Statutes shall be prima facie evidence that a violation of this subsection has occurred.

E. No species of wildlife shall be confined in any cage or enclosure which does not meet the cage and housing specifications established by the Commission. All wildlife for which a permit is issued by the Department shall be maintained in a manner which ensures their health and safety.

F. Every person possessing a Class I wildlife permit shall keep each animal contained in the approved facility at all times. Class I wildlife may be transported as follows:

1. To and from a licensed veterinarian; and

2. To and from an advertised auction or to a location for the purpose of breeding. The local game warden shall be notified a minimum of twenty-four (24) hours in advance when transporting the animal for purposes listed in this paragraph. The most direct route to and from the destination shall be used.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-705 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. Any person possessing Class I wildlife shall be liable for any costs incurred by any person, city, county, or state which is a direct result of the escape of the animal from captivity.

B. The State of Oklahoma or any agency, employee or agent of the state shall not be liable for an animal that expires, is injured or is destroyed after escaping. The State of Oklahoma or any agency, employee or agent of the state shall not be liable for any damage or injury caused by live wildlife held under a permit issued pursuant to this act.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-706 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. Prior to the transfer of any Class I wildlife to a new owner, the prospective owner shall provide the seller with proper documentation of an approved holding facility for that species. Proper documentation shall consist of a copy of a current permit for that species and a letter from the Department of Wildlife Conservation stating that the facilities have been inspected and are approved. Any transfer without approved holding facilities is a violation of this act by the seller, who shall provide housing for the animal until the new owner can provide approved facilities for the animal or until final court actions are concluded. If the seller does not provide housing, the seller shall be liable for costs incurred by the agency for providing such housing.

B. Permit holders shall notify the Department on forms provided by the Department of any transfer of Class I wildlife within five (5) days of the transfer.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-707 of Title 29, unless there is created a duplication in numbering, reads as follows:

Owners of wildlife who do not have a permit for the wildlife and who do not qualify for a permit for the wildlife shall dispose of

the wildlife by transferring the animals to an approved recipient within thirty (30) days of notification by the Department. Each day of possession of unpermitted wildlife after the initial thirty-day period constitutes a separate violation.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-708 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. Before any person may engage in the business of breeding, propagating or otherwise obtaining Class I or Class II wildlife for sale, barter or trade, whether indigenous to this state or not, the person shall obtain and possess a permit for each propagating location.

B. Any nonresident who enters the state for the purpose of selling Class I or Class II wildlife species in this state shall also be required to purchase and possess a Commercial Propagator Permit.

C. All persons issued permits pursuant to this section shall comply with all provisions of federal law and regulations relating to exotic animals, their care, propagation, importation and sale.

D. Artificially propagated wildlife may be propagated, sold, possessed, released or exported in accordance with the rules prescribed by the Commission and, in the case of migratory birds, any federal law or regulation.

E. Only Class I Commercial Propagators may qualify for a permit to propagate Class I wildlife and may transfer Class I wildlife only to persons or entities approved to possess Class I wildlife.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-709 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. Any person wishing to possess Classes I and II live wildlife obtained outside the State of Oklahoma shall first acquire an Import Permit issued by the Director before the wildlife can be brought

into the state. The applicable live Wildlife Import Permit and all bills of lading and shipping papers relating to any wildlife which such person may have in their possession shall be open and available for inspection at all reasonable times by authorized Department officers and employees for the purpose of ensuring compliance with the provisions of this section.

B. Animals to be brought into this state under the authority of an importation permit must be reported to the agency at least five (5) days before the date of importation.

C. An importation permit is required for all interstate movement of live wildlife except Class III.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-710 of Title 29, unless there is created a duplication in numbering, reads as follows:

It shall be unlawful to release any class of wildlife onto any land in this state except in accordance with the rules promulgated by the Commission.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-711 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. No person may:

1. Kill or attempt to kill, injure or attempt to injure any Class I animal that is:

a. in captivity in this state, or

b. released from captivity in this state for the purpose of being killed; or

2. Conduct, promote, assist or advertise an activity prohibited by this section.

B. No person may:

1. Sell or offer for sale, transport or consign for transportation in this state, including interstate commerce in this

state, a Class I animal that is to be used for controlled killing prohibited under this section; or

2. Sell or offer for sale a part of a product made from a Class I animal that is used or is to be used in a controlled kill prohibited under this section.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-712 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. Any officer of the Department, upon finding a violation of the provisions of this act, or the terms of the permit or rules promulgated by the Commission pursuant to this act, may take the following action or actions as appropriate:

1. The officer may exercise the arrest authority of the officer or issue a finding of a violation, along with a warning to remedy the violation by a specified date. Each day of violation after such date shall constitute a separate violation;

2. The officer may give three (3) days written notice of seizure to the alleged offender and make application to a court of proper jurisdiction for an order to seize any items or wildlife held, used or transported in violation of the provisions of this act or rules promulgated by the Commission pursuant to this act. If the officer determines that the public health, safety or welfare requires emergency action, the notice requirement shall be suspended and the officer may make immediate application to the court for seizure. If the emergency is such that the wildlife presents a present or imminent life-threatening situation or is likely to do so under the circumstances, then the officer or any member of the Department who may be present and assisting the officer may destroy the dangerous wildlife; and

3. The officer may take any other reasonable and appropriate actions authorized by law. Wildlife housed in dangerously unsafe conditions constituting a threat to human safety shall, at the

direction of Department personnel, be placed in Department-approved facilities at the expense of the owner.

B. Any person convicted of violating any provision of this act, including a violation of a failure to remedy, as provided for in paragraph 1 of subsection A of this section, or who has violated the terms of any permit or rules promulgated by the Commission pursuant to this act shall be punished by a fine of not less than One Hundred Dollars (\$100.00). In addition the permit may be revoked, and the person shall be precluded from applying for or obtaining a permit under this act for a period not to exceed three (3) years.

C. In the event of revocation of a permit, the court shall determine whether or not the items seized pursuant to paragraph 2 of subsection A of this section shall be ordered forfeited to the state.

D. When any item or wildlife is forfeited, the court shall enter an order accordingly and the contraband property shall be sold at a public sale by the Commissioner or as otherwise provided by rules, or donated to a worthy recipient. However, upon request of the Department at the trial of the matter, the court, as part of its order, may direct that specific items or wildlife, which the court has ordered forfeited, be awarded to the Department for use as educational or training purposes.

E. No item or wildlife seized by the Department may be forfeited or disposed of in the discretion of the court, unless the offender has been convicted of the offense charged and all appeals from such conviction have been exhausted. An appeals bond shall be required to cover the cost of holding and maintaining the animals, pending final disposition of the appeal.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-713 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. Persons holding a permit shall immediately notify the Department or local law enforcement officials of any escape of Class I wildlife.

B. Any personal injury inflicted by any species of captive wildlife requiring medical treatment shall be reported to the Department within forty-eight (48) hours of the injury, and a complete report shall be provided regarding the nature and circumstances of the injury.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-714 of Title 29, unless there is created a duplication in numbering, reads as follows:

The cost of administration of this act as it relates to wildlife not indigenous to this state shall be borne by the General Revenue Fund and revenues collected pursuant to this act.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-715 of Title 29, unless there is created a duplication in numbering, reads as follows:

All zoos, nature centers, rehabilitation centers and educational centers which are exempt from the requirement for permits shall complete an annual application and provide the requested information for the Department of Wildlife Conservation. Class II and other authorized classes of wildlife may be utilized at these facilities for educational purposes. Authorization to maintain animals shall be obtained annually from the Director.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-716 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. Testing procedures to qualify for a permit for Class I wildlife as set forth in Section 12 of this act are as follows:

1. Arrangements shall be made with a regional office of the Oklahoma Department of Wildlife Conservation to set the time and place where the test will be given;

2. Payment of the fees for each test shall be made prior to the test being given. The testing fee shall be Ten Dollars (\$10.00) per test;

3. Tests shall be given at Oklahoma Department of Wildlife Conservation regional offices;

4. There shall be a two-hour time limit on each test;

5. There shall be a maximum of one hundred questions in the technical section of the test and each will have equal value. The point value will be announced before the test. A score of seventy percent (70%) correct will be passing;

6. Copies of the test questions shall not be taken from the testing area by the person taking the test;

7. The test shall be scored at a later date and the applicant will be notified of the score by mail;

8. If the applicant fails to pass the test, the applicant may retake the test on a date not less than ten (10) days after notification of the test results; and

9. The test may be taken a maximum of three (3) times per calendar year.

B. The test shall be developed and reviewed by persons with extensive training, knowledge and experience with Class I wildlife. The test shall cover basic knowledge of habits, health care, diseases, diet, exercise needs, housing and handling of the Class I species to be possessed. Four separate tests shall be developed for each of the three major groups of Class I species that have similar handling, habits, health care and housing requirements. Experience with any species within one of these groups shall be regarded as qualifying experience for any other species within the group but not for any other group of species. Other Class I species which have varied handling requirements shall be tested separately. The three major groups of Class I species as pertains to experience and qualification testing shall be:

1. Wolves;
2. Bears; and
3. Felines.

C. Reference materials for the tests shall not be provided by the Department. The applicant shall be responsible for obtaining their own reference materials. A list of suggested reference books shall be provided by the Department upon request.

SECTION 26. This act shall become effective November 1, 1998.

46-2-8497

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