

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. _____ 392

By: Easley of the Senate

and

Rice of the House

An Act relating to agriculture; creating the "Oklahoma Exotic Feline Regulation Act"; providing short title; defining terms; providing for permits for Class I exotic felines; authorizing the State Board of Agriculture to promulgate rules for issuing permits for Class I exotic felines; authorizing certain research studies; specifying conditions for permits; providing compensation to the State Department of Agriculture for implementation of act; setting fees for certain permits; specifying permit requirements; providing for inspections; providing for disposal of certain wildlife authorized by Class I permits; stating Class I Commercial Breeder be issued to certain persons; providing for violations; setting fines; requiring names and addresses of certain suppliers; providing for violations for certain conditions; providing exceptions; authorizing the State Department of Agriculture to promulgate rules for safe and sanitary living conditions for Class I felines; requiring persons who keep Class I felines to be liable for certain costs; exempting certain entities from liability; providing for transfer of Class I felines; requiring certain documents; requiring permits for breeding Class I felines; requiring nonresidents to have applicable permits for selling Class I felines; requiring all permits to comply with the United States Code and the Code of Federal Regulations relating to exotic animals; providing for Class I Commercial Propagators permits; requiring certain importation permits; authorizing the State Department of Agriculture to take certain actions for certain violations; providing for notice; setting certain punishments and fines; providing for forfeiture and seizure; requiring appeals bond to cover court costs; requiring notification of escaped Class I feline; requiring notification of personal injury inflicted by a Class I feline; prohibiting persons from certain acts of violence against Class I felines; setting fine for certain violations; amending Section 19, Chapter 404, O.S.L. 1998 (2 O.S. Supp. 1998, Section 9-212.1), which relates to poultry-laying operations; clarifying language; 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 6-292 of Title 2, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Exotic Feline Regulation Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-292.1 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. For the purposes of this act:

1. "Circus" means a 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 animals which may be dangerous;

2. "Class I Exotic Feline" means any species or type of feline which has been identified by the State Department of Agriculture that can grow to reach a weight of fifty (50) pounds or more and is not indigenous to or found in the wild in the United States.

3. "Class II Exotic Feline" means all felines which are not Class I exotic felines.

4. "Exhibition" includes any display of a Class I feline to members of the general public for whatever reason;

5. "Permanent exhibitors" means those exhibits that are housed the entire year in facilities located within the State of Oklahoma;

6. "Personal use" includes the possession of a Class I feline for any purpose other than for commercial purposes, breeding or exhibiting;

7. "Temporary exhibitors" means those transient exhibits of Class I felines not permanently located within the boundaries of the State of Oklahoma; and

B. "Zoo" shall be defined as a facility where any class of wildlife is exhibited to the public while meeting the following provisions:

1. Zoos must be accredited by the American Association of Zoological Parks and Aquariums (AAZPA) and/or be designated as the official zoo of a municipality;

2. Zoos provided for in this provision must maintain an annual visitation rate of 100,000 visitors annually; and

3. Animals may not be sold or transferred to the general public.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-292.2 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any person to possess any Class I feline in this state for the purpose of breeding, exhibition, or for personal use unless the person has first obtained a permit from the State Department of Agriculture as specified in this section.

B. The Department shall issue permits for possession of a Class I feline as defined in this act:

1. The State Board of Agriculture shall adopt reasonable rules for issuing permits to possess Class I exotic felines and establish the living conditions thereof. The rules shall be designed to insure the health, welfare, and safety of Class I exotic felines and the public and, where necessary, the security of facilities in which the felines are kept; and

2. The State Department of Agriculture may authorize by letter permission to possess for approved research studies or for the temporary holding of Class I exotic felines in the interest of public safety. Approval of an exemption will be based on a written request that outlines safety precautions that must be implemented during the specified activity.

C. 1. The Director shall issue a permit upon a satisfactory showing of qualifications to possess a Class I exotic feline under the following conditions:

- a. the applicant must be at least twenty-one (21) years of age,
- b. the facilities for holding Class I exotic felines must 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. Facilities may not be on premises of less than one (1) acre for a personal possession permit and three (3) acres for a commercial propagator facility permit, and may not be located in a multi-unit dwelling or trailer park, and
- c. the applicant must have a plan for the quick and safe recapture of the Class I exotic feline, or if recapture is impossible, for the destruction of any feline held under the permit. The applicant must have the legal authority to possess weapons or other equipment necessary to carry out the plan and in fact, possess such weapons or other equipment.

2. The permittee shall control and maintain such Class I exotic felines at all times in such a manner as to prevent direct contact between the animal(s) and the public.

D. 1. The Department shall set fees in an amount that shall compensate the Department for its expenses incurred in implementing the provisions of this act, but not in an amount to exceed One Hundred Dollars (\$100.00) for an initial permit and Seventy-five Dollars (\$75.00) for renewal or exhibit;

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

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

4. All persons and facilities applying for permits under this section must meet all other applicable permit, zoning and other requirements necessary to conduct business in the city and county where located before licenses are granted under this section;

5. All permitted facilities, animals, and records shall be available for inspection at all reasonable times by authorized representatives of the Department;

6. Except as otherwise provided by law, all permits issued pursuant to this section shall expire on June 30 of each year. Any person wishing to dispose of their wildlife authorized under a Class I permit shall notify the Department in writing by June 30 of the year the permit expires and may retain their wildlife for a period of up to one hundred-twenty (120) days after their permits expire;

7. Such permits may be issued to any person whom the Director of the State Department of Agriculture believes to be acting in good faith, and believes does not intend to use such permits for the purpose of violating any of the laws of this state, and who proves that the animals he uses will be obtained in a lawful manner. In addition, a Class I Commercial Breeder's Permit may only be issued to any person who proves that the animals he uses were not obtained from the wild;

8. Any person convicted of violating the provisions of this section shall be punished by a fine not to exceed One Thousand Dollars (\$1,000.00). 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;

9. Except as otherwise provided by law, no person shall possess any Class I feline without having documentary evidence showing the

name and address of the supplier of such Class I feline and date of acquisition.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-292.3 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Class I felines housed in dangerously unsafe conditions constituting a threat to human safety shall, at the direction of State Department of Agriculture personnel, be placed in the Department approved facilities at the owner's expense.

B. Any condition which results in a Class I feline escaping from its enclosure, cage, leash or other constraint shall be considered maintaining a Class I feline in an unsafe manner and shall be a violation of this section.

C. No person shall maintain any Class I feline in captivity in any unsanitary and unsafe condition or in a manner which results in the maltreatment or neglect of such Class I feline. A violation of Section 1685 of Title 21 of the Oklahoma Statutes shall be prima facie evidence that this section has been violated.

D. No Class I feline shall be confined in any cage or enclosure which does not meet the cage and housing specifications pursuant to rules promulgated by the State Board of Agriculture.

E. Any person holding a permit to possess a Class I feline must keep such animals contained in their approved facilities as prescribed by the Department at all times. Exceptions are:

1. While being transported to or from or confined at a licensed veterinarian; or

2. While being transported to or from an advertised auction, or to a licensed facility for the purpose of breeding, the State Department of Agriculture must be notified a minimum of twenty-four (24) hours in advance to transport pursuant to paragraph 2 of this subsection. Persons transporting Class I felines must use the most

direct route to and from the destinations listed in paragraphs 1 and 2 of this subsection.

F. The Department shall promulgate rules which shall insure compliance with this section.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-292.4 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Any person who keeps a Class I feline shall be liable for any costs incurred by any person, city, county or state resulting from the escape from captivity of the animal(s).

B. Neither the State of Oklahoma, nor any agency, employee or agent thereof shall be liable for any animal that expires, is injured or is destroyed. Neither the State of Oklahoma, nor any agency, employee or agent thereof shall be liable for any damage or injury caused by a Class I feline under a permit issued pursuant to this act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-292.5 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Prior to the transfer of any Class I feline to a new owner, the prospective owner must 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 or a letter from the State Department of Agriculture stating that the facilities have been inspected and are approved. Any transfer without approved holding facilities shall be a violation of this act by the seller, who shall provide housing for the animal at such seller's cost until the transferee can provide approved facilities or until final court actions are concluded. If the seller does not provide housing, such seller shall be liable for costs incurred by the State Department of Agriculture for providing such housing.

B. Permittees must notify the Department of any transfer of a Class I feline within five (5) days of the transfer on forms provided by the Department.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-292.6 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Before any person may engage in the business of breeding, or propagating, or otherwise obtaining a Class I feline for sale, barter or trade, such person must obtain and possess a permit for each propagating location.

B. Any nonresident who enters this state for the purpose of selling a Class I feline shall be required to purchase and possess an applicable Commercial Propagator's permit.

C. All permits under this section shall comply with all provisions of the United States Code and the Code of Federal Regulations relating to exotic animals, their care, propagation, importation and sale.

D. Artificially propagated Class I felines may be propagated, sold, possessed, released or exported in accordance with the rules prescribed by the State Department of Agriculture.

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

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-292.7 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. All persons wishing to possess a Class I feline obtained outside the State of Oklahoma must acquire an importation permit issued by the Director of Animal Industry Services of the State Department of Agriculture before the feline can be brought into the state. The applicable permit and all bills of lading and shipping papers relating to any Class I feline which such person may have in

such person's 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 Department at least five (5) days before the date of importation.

C. An importation permit is required for all interstate movement of a Class I feline.

D. It is unlawful to release any Class I feline into the wilds of Oklahoma.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-292.8 of Title 2, unless there is created a duplication in numbering, reads as follows:

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

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

2. The agent may give a three-day 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; provided, that if such officer determines that the public health, safety or welfare imperatively requires emergency action, the notice requirement shall be suspended and such officer may make immediate application to the court for seizure; provided further, that if the emergency is such that the feline presents a present or imminent

life-threatening situation or is likely to do so under the circumstances, then such agent or any employee of the Department who may be present and assisting the officer may destroy such feline; and

B. Except as otherwise specifically stated in this act, any person violating any provision of this act, including a failure to remedy, or who violates the terms of any permit or rules promulgated pursuant to this section shall be punished by a fine to be determined by rules not to exceed One Thousand Dollars (\$1,000.00). In addition, the person's permit may be revoked, and such person shall be precluded from applying for or obtaining a permit under this section for a period not to exceed three (3) years.

C. In the event of revocation of a person's permit, the court shall determine whether or not the items seized pursuant to this section shall be ordered forfeited to the state.

D. When any item or Class I feline is forfeited, the court shall enter an order accordingly and the contraband property shall be sold at public sale by the Department 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 a part of its order, may direct that specific items or Class I feline, which the court has ordered forfeited, be awarded to the Department for educational or training purposes.

E. No item or Class I feline seized by the agency 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 such animals held, pending final disposition of the appeal.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-292.9 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Permittees shall immediately notify the State Department of Agriculture and local law enforcement officials of any escaped Class I feline.

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

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-292.10 of Title 2, 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 feline 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 feline 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 feline that is used or is to be used in a controlled kill prohibited under this section.

C. Violation of this section shall be a felony punishable by a fine of Ten Thousand Dollars (\$10,000.00).

SECTION 12. AMENDATORY Section 19, Chapter 404, O.S.L. 1998 (2 O.S. Supp. 1998, Section 9-212.1), is amended to read as follows:

Section 9-212.1 A. Due to the inherently unique nature of poultry-laying operations, and the increased propensity for vector propagation at such facilities, land application of waste by ~~operators of a licensed managed feeding operation which houses poultry~~ poultry-laying operations may be conducted only in a manner as prescribed by the State Department of Agriculture by rule promulgated pursuant to this section and the Oklahoma Concentrated Animal Feeding Operations Act.

B. If three (3) valid complaints are received by the Department against a ~~facility~~ poultry-laying operation within a period of sixty (60) days, the Department, upon inspection and verification of the complaint, shall declare that an emergency exists.

C. Whenever the Department finds that an emergency exists requiring immediate action to protect the public health or welfare or the environment pursuant to this subsection, the Department may without notice or hearing issue an order, effective upon issuance, reciting the existence of such an emergency and requiring that such action be taken as deemed necessary to meet the emergency. Any person to whom such an order is directed shall comply therewith immediately but may request an administrative enforcement hearing thereon within fifteen (15) days after the order is served. Such hearing shall be held by the Department within ten (10) days after receipt of the request. On the basis of the hearing record, the Department shall sustain or modify such order.

D. If, at the hearing, it is determined that the operator is in violation of the provisions of this section and rules promulgated thereto, in addition to other administrative penalties authorized by law, the Department may order that the operator be prohibited from land applying waste for one hundred sixty (160) days after determination that the facility is in violation.

E. Any party aggrieved by a final order may petition the Department for rehearing, reopening or reconsideration within ten

(10) days from the date of the entry of the final order. Any party aggrieved by a final order, including the Attorney General on behalf of the state, may, pursuant to the Administrative Procedures Act, petition for a judicial review thereof.

F. The provisions of this section may be enforced pursuant to the provisions of Section 9-212 of Title 2 of the Oklahoma Statutes.

SECTION 13. This act shall become effective November 1, 1999.

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