

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 776

By: Bass

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5
6 AS INTRODUCED

7 An Act relating to wildlife; amending 29 O.S. 2011,
8 Section 4-107, which relates to commercial wildlife
9 breeder's licenses; deleting provisions prohibiting
10 certain sale of and requiring licensure and permits
11 for keeping or exhibiting of native cats or bears;
12 defining terms; prohibiting possession, sale,
13 transfer or breeding of certain animals; prohibiting
14 allowing public to come in contact with certain
15 animals; providing exceptions; providing for
16 enforcement and seizure; allowing humane destruction
17 of animals under certain circumstances; providing for
18 liability for costs; allowing certain lawsuits;
19 providing penalties; providing for codification;
20 providing an effective date; and declaring an
21 emergency.

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1 purposes without first obtaining a commercial wildlife breeder's
2 license from the Director.

3 ~~B. No person licensed under this section with a commercial
4 wildlife breeder's license may sell native cats or bears specified
5 in subsection E of this section to any person who does not possess a
6 commercial wildlife breeder's license.~~

7 ~~C.~~ A commercial wildlife breeder's license may be issued to any
8 person whom the Director believes to be acting in good faith, and
9 whom the Director believes does not intend to use the license for
10 the purpose of violating any of the laws of the State of Oklahoma,
11 and who proves that the brood stock to be used will be obtained in a
12 lawful manner.

13 ~~D.~~ C. The fee for a commercial wildlife breeder's license
14 issued under this section, and all renewals of the license, shall be
15 Forty-eight Dollars (\$48.00). All commercial wildlife breeder's
16 licenses issued pursuant to this section shall expire on June 30 of
17 each year.

18 ~~E. Any person who keeps or maintains any native bear or native
19 cat that will grow to reach the weight of fifty (50) pounds or more
20 shall be licensed under this section with a commercial wildlife
21 breeder's license. Any person licensed pursuant to this subsection
22 shall at all times keep such wildlife confined to the premises
23 described in the commercial wildlife breeder application, and
24 controlled and restrained in a manner so the life, limb or property~~

1 ~~of any person lawfully entering the premises shall not be~~
2 ~~endangered. Any person licensed to possess native cats or bears~~
3 ~~pursuant to this subsection shall control and restrain the wildlife~~
4 ~~so that there is no direct contact between the public and the~~
5 ~~wildlife, and the public shall not be allowed to enter into any~~
6 ~~enclosures occupied by the wildlife.~~

7 ~~F. 1. Any person who is a nonresident or entity not~~
8 ~~permanently located within the state which exhibits native cats or~~
9 ~~native bears that will grow to reach the weight of fifty (50) pounds~~
10 ~~or more in this state on a temporary basis shall be required to~~
11 ~~obtain from the Director a nonresident cat or bear temporary~~
12 ~~exhibitor's permit. Any person with a permit issued pursuant to~~
13 ~~this paragraph shall be exempt from acquiring a commercial wildlife~~
14 ~~breeder's license issued under this section and shall be exempt from~~
15 ~~the requirements set forth in subsection E of this section. The fee~~
16 ~~for a nonresident cat or bear temporary exhibitor's permit shall be~~
17 ~~One Hundred Dollars (\$100.00) and shall be valid for thirty (30)~~
18 ~~days. To obtain a nonresident cat or bear temporary exhibitor's~~
19 ~~permit, the person shall be required to hold a valid exhibitor's~~
20 ~~license issued by the United States Department of Agriculture.~~

21 ~~2. Any resident of the state who has a commercial wildlife~~
22 ~~breeder's license issued pursuant to this section who wishes to~~
23 ~~exhibit native cats or native bears that will grow to reach the~~
24 ~~weight of fifty (50) pounds or more at the permanent facility~~

1 ~~described in the commercial wildlife breeder's license or at a~~
2 ~~temporary facility shall be required to obtain from the Director a~~
3 ~~resident cat or bear exhibitor's permit. Any person with a permit~~
4 ~~issued pursuant to this paragraph shall be required to also have a~~
5 ~~commercial wildlife breeder's license issued under this section and~~
6 ~~shall comply with the requirements set forth in subsection E of this~~
7 ~~section when not exhibiting the wildlife. The fee for a resident~~
8 ~~cat or bear exhibitor's permit shall be Fifty Dollars (\$50.00) and~~
9 ~~shall be valid for one (1) year. To obtain a resident cat or bear~~
10 ~~exhibitor's permit the person shall be required to hold a valid~~
11 ~~exhibitor's license issued by the United States Department of~~
12 ~~Agriculture.~~

13 3. ~~Any person with a permit to exhibit native cats or bears~~
14 ~~pursuant to paragraph 1 or 2 of this subsection shall at all times~~
15 ~~keep the wildlife controlled and restrained in a manner so the life,~~
16 ~~limb, or property of any person lawfully entering the premises where~~
17 ~~the wildlife is being exhibited shall not be endangered by the~~
18 ~~wildlife. Any person with a permit to exhibit native cats or bears~~
19 ~~pursuant to paragraph 1 or 2 of this subsection shall control and~~
20 ~~handle the wildlife so there is no direct contact between the public~~
21 ~~and the wildlife, and the public shall not be allowed to enter into~~
22 ~~any enclosures occupied by the wildlife. Any native cat or bear and~~
23 ~~any facility covered under a permit issued pursuant to paragraph 1~~
24

1 ~~or 2 of this subsection shall be available for inspection at all~~
2 ~~reasonable times by authorized representatives of the Department.~~

3 ~~G.~~ D. Any person convicted of violating the provisions of this
4 section shall be punished by a fine of not less than Five Hundred
5 Dollars (\$500.00) and, if applicable, shall have the wildlife
6 license of the person revoked. No person whose license has been
7 revoked shall be eligible to obtain a new license until after the
8 date on which the revoked license would have expired.

9 SECTION 2. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 7-802 of Title 29, unless there
11 is created a duplication in numbering, reads as follows:

12 A. As used in this section:

13 1. "Animal control authority" means an entity acting alone or
14 in concert with other local governmental units for enforcement of
15 the animal control laws of the city, county and state and the
16 shelter and welfare of animals;

17 2. "Circus" means an exhibitor holding a valid Class "C"
18 license issued under the Animal Welfare Act, 7 U.S.C. Section 2131
19 et seq., that is not based in this state, does not conduct
20 performances in this state for more than thirty (30) days in any
21 twelve-month period, and that regularly conducts performances
22 featuring live animals and multiple trained human entertainers,
23 including clowns and acrobats;

1 3. "Dangerous wild animal" means any live individual animal of
2 the following scientific classifications:

3 a. class mammalia:

4 (1) order carnivora:

5 (2) family felidae: lions (panthera leo), tigers
6 (panthera tigris), leopards (panthera pardus),
7 clouded leopards (neofelis nebulosa, neofelis
8 diardi), snow leopards (panthera uncia), jaguars
9 (panthera onca), cheetahs (acinonyx jubatus),
10 mountain lions (puma concolor), including hybrids
11 thereof, and

12 b. family ursidae: all species of bears, and

13 c. order primates: all species, excluding humans;

14 4. "Law enforcement officer" means any animal control officer
15 as defined in Section 44 of Title 4 of the Oklahoma Statutes, local
16 enforcement officer, state law enforcement officer or public
17 prosecutor;

18 5. "Person" means any individual, partnership, corporation,
19 organization or any other legal entity, and any officer, member,
20 shareholder, director, employee, agent or representative thereof;
21 and

22 6. "Wildlife Sanctuary" means a nonprofit entity that:

23 a. operates a place of refuge where abused, neglected,
24 unwanted, impounded, abandoned, orphaned or displaced

1 animals are provided care for the lifetime of the
2 animal,

3 b. does not conduct any commercial activity with respect
4 to dangerous wild animals including, but not limited
5 to:

6 (1) sale, trade, auction, lease or loan of dangerous
7 wild animals or their parts, or

8 (2) use of dangerous wild animals in any manner in a
9 for-profit business or operation,

10 c. does not use dangerous wild animals for entertainment
11 purposes or in a traveling exhibit, and

12 d. does not breed any dangerous wild animals.

13 B. Notwithstanding any other provision of law, unless exempt
14 under this section, it shall be unlawful for any person to possess,
15 sell, transfer or breed a dangerous wild animal.

16 C. Notwithstanding any other provision of law, it shall be
17 unlawful for any person to allow any member of the public to come
18 into direct contact with a dangerous wild animal, regardless of the
19 age of the animal.

20 D. The prohibitions in subsection B of this section shall not
21 apply to:

22 1. Institutions accredited or certified by the Association of
23 Zoos and Aquariums (AZA);

1 2. Research facilities, as defined in the Animal Welfare Act, 7
2 U.S.C. Section 2132(e);

3 3. Wildlife sanctuaries;

4 4. Duly incorporated nonprofit animal protection organizations,
5 such as humane societies and shelters, temporarily housing a
6 dangerous wild animal at the written request of law enforcement
7 officers acting under the authority of this section;

8 5. Licensed veterinary hospitals for the purpose of providing
9 treatment to a dangerous wild animal;

10 6. Law enforcement officers for purposes of enforcement;

11 7. Circuses; or

12 8. A person temporarily transporting a legally owned dangerous
13 wild animal through the state if the transit time is not more than
14 twenty-four (24) hours, the dangerous wild animal is not exhibited,
15 and the dangerous wild animal is maintained at all times in a
16 species-appropriate cage or travel container.

17 E. The prohibitions in subsection B of this section shall not
18 apply to persons who lawfully possessed a dangerous wild animal
19 prior to June 1, 2015, provided that:

20 1. Such person must maintain veterinary records, acquisition
21 papers or other documents or records that establish that the person
22 possessed the animal prior to June 1, 2015;

1 2. Such person may not acquire additional dangerous wild
2 animals after June 1, 2015, whether by purchase, donation,
3 relinquishment or breeding;

4 3. Such person shall not have been convicted of an offense
5 involving the abuse or neglect of any animal pursuant to any state,
6 local or federal law;

7 4. Such person shall not have had a license or permit regarding
8 the care, possession, exhibition, breeding or sale of animals
9 revoked or suspended by any state, local or federal agency;

10 5. Such person must develop and be prepared to implement
11 escape, succession, and disaster plans and maintain a current animal
12 inventory, to be made available to law enforcement officers upon
13 request;

14 6. Such person shall have sufficient training to provide
15 species-specific care to the dangerous wild animals possessed;

16 7. Such person must register with, and pay a registration fee
17 to, the local animal control authority by September 1, 2015, and
18 annually thereafter, indicating the number of animals of each
19 dangerous wild animal species in his or her possession, and showing
20 proof of liability insurance in an amount of not less than One
21 Hundred Thousand Dollars (\$100,000.00) with a deductible of not more
22 than Two Hundred Fifty Dollars (\$250.00) for each occurrence of
23 property damage, bodily injury or death caused by any dangerous wild
24 animal possessed by the person; and

1 8. At least seventy-two (72) hours prior to sale or transfer of
2 an existing dangerous wild animal, such person must notify the local
3 animal control authority, identifying the recipient of the animal.
4 At all times, possession, sale, transfer, and transport of the
5 dangerous wild animal must conform with all applicable state, local,
6 and federal laws.

7 F. The provisions of this section shall be enforced by any
8 state law enforcement officer or any other law enforcement officer
9 in whose jurisdiction the violation occurs or any animal control
10 authority for the jurisdiction in which the violation occurs.

11 Nothing in this Section shall be construed to prohibit a
12 municipality or county from adopting or enforcing any rule or law
13 that places further restrictions or additional requirements on the
14 possession, sale, transfer or breeding of dangerous wild animals.

15 G. 1. Law-enforcement officers shall, after obtaining a
16 warrant from any judge or magistrate upon probable cause, seize or
17 impound any dangerous wild animal possessed, sold, transferred,
18 bred, or exhibited in violation of this section. If the dangerous
19 wild animal poses a direct threat to public safety or is suffering
20 from apparent animal neglect or cruelty, such dangerous wild animal
21 shall be immediately placed in the custody and control of an
22 institution accredited by the Association of Zoos and Aquariums, a
23 wildlife sanctuary, or a temporary holding facility as described in
24 paragraph 4 of subsection D of this section. If there is no

1 immediate threat to public safety or animal welfare, law enforcement
2 officers shall impound the dangerous wild animal in place.

3 2. Upon seizing or impounding a dangerous wild animal, a law
4 enforcement officer shall petition the district court in the county
5 where the dangerous wild animal was seized or impounded for a
6 hearing to determine whether the dangerous wild animal was in fact
7 possessed, sold, transferred, bred, or exhibited in violation of
8 this section. The hearing shall be held not more than fourteen (14)
9 days from the date of the seizure or impoundment, and the law
10 enforcement officer shall provide written notice of the hearing at
11 least five (5) days prior to the hearing to the person from whom the
12 dangerous wild animal was seized or impounded.

13 3. Upon judicial determination of a violation of any provision
14 of this section, the seized or impounded dangerous wild animal shall
15 be deemed forfeited, and the court shall order the violator to pay
16 all reasonable expenses incurred in caring and providing for the
17 dangerous wild animal, from the time the dangerous wild animal is
18 seized until the time such dangerous wild animal is forfeited, to
19 the Association of Zoos and Aquariums institution, wildlife
20 sanctuary or temporary holding facility in possession of the
21 dangerous wild animal. The court may also prohibit the possession
22 or ownership of dangerous wild animals or other nonnative wild
23 animals by the person found to have violated this section.
24

1 4. A forfeited dangerous wild animal shall be transferred to an
2 institution accredited by the Association of Zoos and Aquariums
3 (AZA) or a wildlife sanctuary that is willing and able to take
4 custody of the forfeited dangerous wild animal. Nothing in this
5 section shall be construed to prevent law enforcement officers from
6 humanely euthanizing a dangerous wild animal in compliance with
7 state and federal law if, after reasonable efforts, no AZA
8 institution or wildlife sanctuary is willing and able to provide
9 long-term care for the dangerous wild animal.

10 5. Nothing in this section shall be construed to prevent the
11 voluntary, permanent relinquishment of any dangerous wild animal by
12 its owner to a person legally able to possess the dangerous wild
13 animal and willing and able to take possession. Voluntary
14 relinquishment shall have no effect on any criminal charges for
15 violations of this section.

16 H. Any dangerous wild animal found to be not properly confined,
17 whether on the property of the owner or running at large, may be
18 humanely destroyed by law enforcement officers in order to protect
19 public safety. The owner of such dangerous wild animal shall be
20 liable for costs accrued to law enforcement officers in humanely
21 destroying or otherwise securing any such dangerous wild animal.

22 I. Any person who lives in the county in which a dangerous wild
23 animal is kept may sue an owner of a dangerous wild animal to enjoin
24 a violation of this section.

1 J. Any person violating the provisions of this section shall,
2 upon conviction, be guilty of a misdemeanor and punished by
3 confinement in the county jail for not more than one (1) year, by a
4 fine of not more than Five Hundred Dollars (\$500.00) or by both such
5 fine and imprisonment.

6 K. Notwithstanding the penalty set forth in subsection J of
7 this section, any dangerous wild animal owner or custodian whose
8 willful act or omission in the care, control or containment of such
9 dangerous exotic or wild animal is so gross, wanton, and culpable as
10 to show a reckless disregard for human life, and is the proximate
11 cause of such animal attacking and causing serious bodily injury to
12 any person, shall be guilty of a felony.

13 SECTION 3. This act shall become effective June 1, 2015.

14 SECTION 4. It being immediately necessary for the preservation
15 of the public peace, health and safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

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