

1 COMMITTEE SUBSTITUTE

2 FOR

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4 FOR

5 **Senate Bill No. 466**

6 (By Senators Laird, Kessler (Mr. President), Stollings,
7 Fitzsimmons and Williams)

8 _____
9 [Originating in the Committee on Finance;
10 reported March 28, 2013.]

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14 A BILL to amend the Code of West Virginia, 1931, as amended, by
15 adding thereto a new article, designated §19-34-1, §19-34-2,
16 §19-34-3, §19-34-4, §19-34-5, §19-34-6, §19-34-7, §19-34-8,
17 §19-34-9 and §19-34-10, all relating to the regulation of
18 dangerous wild animals; setting forth findings and purpose;
19 defining terms; creating the Dangerous Wild Animal Board;
20 setting forth the duties of the board; requiring the board to
21 create a list of dangerous wild animals by rule; permitting
22 the board to issue a permit for a dangerous wild animal
23 legally possessed prior to the effective date of the rules;
24 prohibiting the possession of a dangerous wild animal

1 thereafter; setting forth permit requirements; providing for
2 confiscation and disposition of animals; permitting the
3 suspension and revocation of permits; providing exemptions;
4 providing rule-making authority; and establishing criminal and
5 civil penalties.

6 *Be it enacted by the Legislature of West Virginia:*

7 That the Code of West Virginia, 1931, as amended, be amended
8 by adding thereto a new article, designated §19-34-1, §19-34-2,
9 §19-34-3, §19-34-4, §19-34-5, §19-34-6, §19-34-7, §19-34-8, §19-34-
10 9 and §19-34-10, all to read as follows:

11 **ARTICLE 34. DANGEROUS WILD ANIMALS ACT.**

12 **§19-34-1. Findings and purpose.**

13 The possession of dangerous wild animals presents serious
14 public health and safety concerns and shall be regulated for the
15 following reasons:

16 (1) To prevent the introduction or spread of disease or
17 parasites harmful to humans, domestic livestock and poultry,
18 wildlife and captive wild animals;

19 (2) To ensure the physical safety of humans;

20 (3) To prevent the escape or release of an animal injurious to
21 or competitive with agricultural, horticultural, forestry, wildlife
22 and other natural resources; and

23 (4) To prevent the mistreatment of permitted dangerous wild
24 animals.

1 **§19-34-2. Definitions.**

2 As used in this article unless otherwise specified:

3 (1) "Board" means the Dangerous Wild Animal Board;

4 (2) "Dangerous wild animal" means a mammal, bird, reptile,
5 amphibian and aquatic animal, including a hybrid, that is dangerous
6 to humans, other animals or the environment due to its inherent
7 nature. "Wildlife", as defined by section two, article one,
8 chapter twenty of this code, "agricultural animals", as defined in
9 section two, article ten-b and section two, article twenty-nine,
10 chapter nineteen of this code, and "domestic animals", as defined
11 in this section, are excluded. The board shall develop a
12 comprehensive list of dangerous wild animals pursuant to the rule-
13 making authority of this article.

14 (3) "Domestic animal" means an animal which, through extremely
15 long association with humans, has been bred to a degree which has
16 resulted in genetic changes affecting the temperament, color,
17 conformation or other attributes of the species to an extent that
18 makes it unique and distinguishable from a wild individual of its
19 species, and includes an animal that has been bred as a companion
20 animal.

21 (4) "Person" means an individual, partnership, corporation,
22 organization, trade or professional association, firm, limited
23 liability company, joint venture, association, trust, estate or
24 other legal entity and an officer, member, shareholder, director,

1 employee, agent or representative thereof.

2 **§19-34-3. Prohibition on the possession of a dangerous wild animal;**
3 **exceptions.**

4 (a) Except as otherwise provided in this article, a person may
5 not possess a dangerous wild animal.

6 (b) Pursuant to the provisions of this article, the board may
7 issue a permit for the possession of a dangerous wild animal if the
8 applicant was in legal possession of the animal prior to the
9 effective date of the rules promulgated under this article.

10 **§19-34-4. Dangerous Wild Animal Board; composition; duties; list of**
11 **prohibited animals.**

12 (a) The Dangerous Wild Animal Board is hereby established with
13 the following members: the Commissioner of the Department of
14 Agriculture, the Secretary of the Department of Health and Human
15 Resources and the Director of the Division of Natural Resources, or
16 their designees.

17 (b) The Commissioner of Agriculture shall serve as the chair,
18 the Secretary of the Department of Health and Human Resources as
19 the vice chair and the Director of the Division of Natural
20 Resources shall serve as the secretary of the board. The Department
21 of Agriculture shall provide necessary staff and support services
22 to the board as needed.

23 (c) The board shall:

24 (1) Create a comprehensive list of dangerous wild animals;

1 (2) Establish minimum caging or enclosure requirements for
2 various dangerous wild animals;

3 (3) Enforce the permit requirements and set the fees for
4 permits;

5 (4) Issue, renew, revoke and maintain records for dangerous
6 wild animal permits;

7 (5) Annually review the list of prohibited dangerous wild
8 animals to determine if animals should be added or subtracted from
9 the list; and

10 (6) Address any other issues required by this article.

11 **§19-34-5. Permit applications, requirements, issuance and**
12 **revocation.**

13 (a) *Application.* - A person applying for a permit to possess
14 a dangerous wild animal shall submit an application that includes
15 the following:

16 (1) A fee established by the board for each dangerous wild
17 animal;

18 (2) The name, address and telephone number of the applicant,
19 and the address where the dangerous wild animal is located;

20 (3) A description of each dangerous wild animal, including the
21 scientific name, common name, permanent and unique identifier, and
22 any information that would aid in the identification of the animal;
23 and

24 (4) A description of the exact location on the property and a

1 description of the enclosure or cage where each dangerous wild
2 animal is kept.

3 (b) *Permit requirements and restrictions.* - The application
4 shall state, and the person shall acknowledge his or her
5 understanding, that:

6 (1) He or she may not breed, receive or replace a dangerous
7 wild animal;

8 (2) He or she shall notify the sheriff or humane officer in
9 his or her county immediately if the dangerous wild animal escapes;

10 (3) He or she may not allow the dangerous wild animal to come
11 into physical contact with a person other than the permittee, the
12 animal's designated handler, an employee of a law-enforcement
13 agency enforcing this article or a veterinarian administering
14 medical treatment or care;

15 (4) He or she has not been convicted for an offense involving
16 the abuse or neglect of any animal;

17 (5) He or she has not had a permit or license concerning the
18 care, possession, exhibition, breeding or sale of a dangerous wild
19 animal revoked or suspended by a governmental agency;

20 (6) He or she shall permanently mark each dangerous wild
21 animal with a unique identifier;

22 (7) He or she shall maintain records for each dangerous wild
23 animal, including veterinary records, acquisition papers, the
24 purchase date and other records that prove ownership of the

1 dangerous wild animal;

2 (8) He or she presents proof of liability insurance in an
3 amount of not less than \$100,000 with a deductible of not more than
4 \$250 for each occurrence of property damage, bodily injury or death
5 caused by a dangerous wild animal possessed by the person;

6 (9) He or she shall notify the board not less than three days
7 before a dangerous wild animal is sold or transferred to another
8 person out of state;

9 (10) He or she may not sell or otherwise transfer dangerous
10 wild animals in the state without the written consent of the board;

11 (11) He or she shall notify the board of any plans to move or
12 change his or her address, and may not move the animal without the
13 written consent of the board. However, in the event of a medical
14 emergency, a dangerous wild animal may be transported to a licensed
15 veterinarian's facility for treatment and care if the animal is at
16 all times confined sufficiently to prevent escape; and

17 (12) He or she shall comply with all rules promulgated by the
18 board pursuant to the provisions of this article.

19 (c) The board may issue a permit to possess a dangerous wild
20 animal if it determines that the applicant has met the requirements
21 of this article.

22 (d) A permit to possess a dangerous wild animal is valid for
23 one calendar year and must be renewed annually.

24 **§19-34-6. Confiscation and disposition of animals; suspension and**

1 **revocation of permits.**

2 (a) A law-enforcement officer, county humane officer or the
3 state veterinarian may immediately confiscate or euthanize any
4 dangerous wild animal if the animal poses an immediate risk to
5 public health or safety regardless of whether or not the owner of
6 the animal has a permit issued under this article.

7 (b) The board may summarily suspend a permit issued under this
8 article if one of the following conditions exists:

9 (1) An animal whose owner has a permit issued under this
10 article is in a position to harm another animal;

11 (2) A permitted animal poses a risk to public health or
12 safety; or

13 (3) The permittee has violated a provision of this article.

14 (c) In the event of the suspension of a permit or confiscation
15 of an animal pursuant to this section, the dangerous wild animal
16 may be transferred to another permittee in compliance with the
17 provisions of this article, if the transfer would abate the
18 imminent harm to the animal or the public as determined by the
19 responding law-enforcement officer, county humane officer or state
20 veterinarian. If the transfer of the dangerous wild animal cannot
21 be accomplished without additional risk to public safety, or if no
22 suitable facility is available for transfer, the responding
23 law-enforcement officer, county humane officer or veterinarian may
24 humanely euthanize the animal.

1 (d) Upon conviction of an offense under this article or any
2 other animal cruelty statute, the board shall revoke that persons
3 permit.

4 (e) The board may, for cause, revoke a permit.

5 (f) A person aggrieved by action of the board may appeal to
6 circuit court.

7 **§19-34-7. Exemptions.**

8 (a) The permitting provisions of this article do not apply to:

9 (1) Institutions accredited by the Association of Zoos and
10 Aquariums (AZA) or an AZA-certified facility;

11 (2) An animal control or law-enforcement agency or officer
12 acting under the authority of this article;

13 (3) Licensed veterinary hospitals or clinics treating
14 dangerous wild animals;

15 (4) A licensed or accredited research medical institution;

16 (5) A research facility as defined in the Animal Welfare Act,
17 7 U. S. C. §2132(e), as amended;

18 (6) A circus that is an incorporated, class c licensee under
19 the Animal Welfare Act, 7 U. S. C. §2132(e), as amended;

20 (7) A person displaying dangerous wild animals at a fair or
21 festival that has been preapproved by the board; and

22 (8) A person temporarily transporting a dangerous wild animal
23 through the state, if the transit time is not more than forty-eight
24 hours and the animal is at all times confined sufficiently to

1 prevent escape.

2 (b) *Qualified exemption.* - The permitting provisions of this
3 article do not apply to exhibitors or dealers licensed under the
4 Animal Welfare Act, 7 U. S. C. §2132(e), as amended, at the time
5 the rules become effective. The board may revoke the permitting
6 exemption for exhibitor or dealer permits that have repeated,
7 uncorrected violations of the Animal Welfare Act, a conviction of
8 an animal cruelty statute or a violation of sections seven or ten
9 of this article.

10 **§19-34-8. Dangerous Wild Animal Fund; creation; purpose.**

11 (a) There is hereby created in the State Treasury a special
12 revenue account to be designated the Dangerous Wild Animal Fund.
13 Expenditures from the fund are for the purposes set forth in this
14 article and are to be made in accordance with appropriation by the
15 Legislature and in accordance with the provisions of article three,
16 chapter twelve of this code and upon the fulfillment of the
17 provisions set forth in article two, chapter eleven-b of this code.

18 (b) All moneys received and collected pursuant to this article
19 shall be deposited into the fund and used for the purposes
20 designated in this article. The fund may receive any
21 appropriations, gifts, grants, contributions or other money from
22 any source that is designated for deposit into the fund.

23 **§19-34-9. Rule-making authority.**

24 The Board shall propose rules for legislative approval to

1 effectuate the provisions of this article in accordance with the
2 provisions of article three, chapter twenty-nine-a of this code.

3 **§19-34-10. Criminal and civil penalties.**

4 (a) A person who violates a provision of this article is
5 guilty of a misdemeanor and, upon conviction thereof, shall be
6 fined not less than \$200 nor more than \$2,000 for each animal with
7 respect to which there is a violation.

8 (b) A person who knowingly and intentionally releases a
9 dangerous wild animal or unlawfully possesses a dangerous wild
10 animal that does not cause injury to an individual is guilty of a
11 misdemeanor and, upon conviction, may be confined in jail for not
12 more than one year or fined not less than \$500 nor more than
13 \$2,500, or both confined and fined.

14 (c) A person who knowingly and intentionally releases a
15 dangerous wild animal or unlawfully possesses a dangerous wild
16 animal that injures an individual is guilty of a felony and, upon
17 conviction thereof, may be imprisoned in a state correctional
18 institution for not less than one year nor more than three years,
19 or fined not less than \$1,000 nor more than \$5,000, or both
20 confined and fined.

21 (d) *Civil penalty.* - A person convicted of an offense under
22 this article is liable for all costs, including personnel costs,
23 expended by the county or state agencies involved with the capture,
24 confinement, transfer or euthanasia of a dangerous wild animal.

1 (e) The civil liability imposed by this section is in addition
2 to any other legal remedies for damages to person or property
3 caused by a dangerous wild animal.