

COMMITTEE SUBSTITUTE

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FOR

Senate Bill No. 466

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

[Originating in the Committee on Finance;
reported March 28, 2013.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-34-1, §19-34-2, §19-34-3, §19-34-4, §19-34-5, §19-34-6, §19-34-7, §19-34-8, §19-34-9 and §19-34-10, all relating to the regulation of dangerous wild animals; setting forth findings and purpose; defining terms; creating the Dangerous Wild Animal Board; setting forth the duties of the board; requiring the board to

create a list of dangerous wild animals by rule; permitting the board to issue a permit for a dangerous wild animal legally possessed prior to the effective date of the rules; prohibiting the possession of a dangerous wild animal thereafter; setting forth permit requirements; providing for confiscation and disposition of animals; permitting the suspension and revocation of permits; providing exemptions; providing rule-making authority; and establishing criminal and civil penalties.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 34. DANGEROUS WILD ANIMALS ACT.

§19-34-1. Findings and purpose.

1 The possession of dangerous wild animals presents
2 serious public health and safety concerns and shall be
3 regulated for the following reasons:

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

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

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

11 (4) To prevent the mistreatment of permitted dangerous
12 wild animals.

§19-34-2. Definitions.

1 As used in this article unless otherwise specified:

2 (1) “Board” means the Dangerous Wild Animal Board;

3 (2) “Dangerous wild animal” means a mammal, bird,
4 reptile, amphibian and aquatic animal, including a hybrid,
5 that is dangerous to humans, other animals or the
6 environment due to its inherent nature. “Wildlife”, as
7 defined by section two, article one, chapter twenty of this
8 code, “agricultural animals”, as defined in section two,

9 article ten-b and section two, article twenty-nine, chapter
10 nineteen of this code, and “domestic animals”, as defined in
11 this section, are excluded. The board shall develop a
12 comprehensive list of dangerous wild animals pursuant to the
13 rule-making authority of this article.

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

21 (4) “Person” means an individual, partnership,
22 corporation, organization, trade or professional association,
23 firm, limited liability company, joint venture, association,
24 trust, estate or other legal entity and an officer, member,
25 shareholder, director, employee, agent or representative
26 thereof.

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

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

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

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

1 (a) The Dangerous Wild Animal Board is hereby
2 established with the following members: the Commissioner
3 of the Department of Agriculture, the Secretary of the
4 Department of Health and Human Resources and the
5 Director of the Division of Natural Resources, or their
6 designees.

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7 (b) The Commissioner of Agriculture shall serve as the
8 chair, the Secretary of the Department of Health and Human
9 Resources as the vice chair and the Director of the Division
10 of Natural Resources shall serve as the secretary of the
11 board. The Department of Agriculture shall provide
12 necessary staff and support services to the board as needed.

13 (c) The board shall:

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

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

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

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

22 (5) Annually review the list of prohibited dangerous wild
23 animals to determine if animals should be added or
24 subtracted from the list; and

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

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

1 (a) *Application.* – A person applying for a permit to
2 possess a dangerous wild animal shall submit an application
3 that includes the following:

4 (1) A fee established by the board for each dangerous
5 wild animal;

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

9 (3) A description of each dangerous wild animal,
10 including the scientific name, common name, permanent and
11 unique identifier, and any information that would aid in the
12 identification of the animal; and

13 (4) A description of the exact location on the property
14 and a description of the enclosure or cage where each
15 dangerous wild animal is kept.

16 (b) *Permit requirements and restrictions.* – The
17 application shall state, and the person shall acknowledge his
18 or her understanding, that:

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

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

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

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

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

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

37 (7) He or she shall maintain records for each dangerous
38 wild animal, including veterinary records, acquisition papers,
39 the purchase date and other records that prove ownership of
40 the dangerous wild animal;

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

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

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

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

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

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

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

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

1 (a) A law-enforcement officer, county humane officer or
2 the state veterinarian may immediately confiscate or

3 euthanize any dangerous wild animal if the animal poses an
4 immediate risk to public health or safety regardless of
5 whether or not the owner of the animal has a permit issued
6 under this article.

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

9 (1) An animal whose owner has a permit issued under
10 this 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
15 confiscation of an animal pursuant to this section, the
16 dangerous wild animal may be transferred to another
17 permittee in compliance with the provisions of this article, if
18 the transfer would abate the imminent harm to the animal or
19 the public as determined by the responding law-enforcement
20 officer, county humane officer or state veterinarian. If the

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21 transfer of the dangerous wild animal cannot be
22 accomplished without additional risk to public safety, or if
23 no suitable facility is available for transfer, the responding
24 law-enforcement officer, county humane officer or
25 veterinarian may humanely euthanize the animal.

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

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

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

§19-34-7. Exemptions.

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

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

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

7 (3) Licensed veterinary hospitals or clinics treating
8 dangerous wild animals;

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

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

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

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

16 (8) A person temporarily transporting a dangerous wild
17 animal through the state, if the transit time is not more than
18 forty-eight hours and the animal is at all times confined
19 sufficiently to prevent escape.

20 (b) *Qualified exemption.* – The permitting provisions of
21 this article do not apply to exhibitors or dealers licensed
22 under the Animal Welfare Act, 7 U. S. C. §2132(e), as
23 amended, at the time the rules become effective. The board
24 may revoke the permitting exemption for exhibitor or dealer

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25 permits that have repeated, uncorrected violations of the
26 Animal Welfare Act, a conviction of an animal cruelty
27 statute or a violation of sections seven or ten of this article.

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

1 (a) There is hereby created in the State Treasury a special
2 revenue account to be designated the Dangerous Wild
3 Animal Fund. Expenditures from the fund are for the
4 purposes set forth in this article and are to be made in
5 accordance with appropriation by the Legislature and in
6 accordance with the provisions of article three, chapter
7 twelve of this code and upon the fulfillment of the provisions
8 set forth in article two, chapter eleven-b of this code.

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

§19-34-9. Rule-making authority.

1 The Board shall propose rules for legislative approval to
2 effectuate the provisions of this article in accordance with the
3 provisions of article three, chapter twenty-nine-a of this code.

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

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

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

11 (c) A person who knowingly and intentionally releases a
12 dangerous wild animal or unlawfully possesses a dangerous
13 wild animal that injures an individual is guilty of a felony

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14 and, upon conviction thereof, may be imprisoned in a state
15 correctional institution for not less than one year nor more
16 than three years, or fined not less than \$1,000 nor more than
17 \$5,000, or both confined and fined.

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

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