

1 establishing criminal and civil penalties.

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

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

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

8 **§19-34-1. Findings and purpose.**

9 The possession of dangerous wild animals presents serious
10 public health and safety concerns and shall be regulated for the
11 following reasons:

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

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

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

19 (4) To prevent the mistreatment of permitted dangerous wild
20 animals.

21 **§19-34-2. Definitions.**

22 As used in this article unless otherwise specified:

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

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

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

18 (4) "Person" means an individual, partnership, corporation,
19 organization, trade or professional association, firm, limited
20 liability company, joint venture, association, trust, estate or
21 other legal entity and an officer, member, shareholder, director,
22 employee, agent or representative thereof.

23 **§19-34-3. Prohibition on the possession of a dangerous wild**

1 **animal; exceptions.**

2 (a) Except as otherwise provided in this article, no person
3 may possess a dangerous wild animal.

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

9 **§19-34-4. Dangerous Wild Animal Board; composition; duties; list**
10 **of prohibited animals.**

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

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

22 (c) The board has the following duties and responsibilities:

23 (1) To create a comprehensive list of dangerous wild animals;

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

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

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

7 (5) To 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) To address any other matters necessitated by the
11 provisions of this article.

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

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

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

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

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

1 and

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

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

8 (1) The person may not breed, receive or replace a dangerous
9 wild animal;

10 (2) The person shall notify the sheriff or humane officer in
11 his or her county immediately if the dangerous wild animal escapes;

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

17 (4) The person has not been convicted for an offense involving
18 the abuse or neglect of any animal;

19 (5) The person has not had a permit or license concerning the
20 care, possession, exhibition, breeding or sale of an animal revoked
21 or suspended by a governmental agency;

22 (6) The person shall permanently mark each dangerous wild
23 animal with a unique identifier;

1 (7) The person shall maintain records for each dangerous wild
2 animal including veterinary records, acquisition papers, purchase
3 date and other records that prove ownership of the dangerous wild
4 animal;

5 (8) The person presents proof of liability insurance in an
6 amount of not less than \$100,000 with a deductible of not more than
7 \$250 for each occurrence of property damage, bodily injury or death
8 caused by a dangerous wild animal possessed by the person;

9 (9) The person must notify the board not less than three days
10 before a dangerous wild animal is sold or transferred to another
11 person out of state;

12 (10) The person may not sell or otherwise transfer dangerous
13 wild animals in the state without the written consent of the board;

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

20 (12) The person shall comply with all rules promulgated by the
21 board pursuant to the provisions of this article.

22 (c) The board may issue a permit to possess a dangerous wild
23 animal if it determines that the applicant has met the requirements

1 of this article.

2 (d) A permit to possess a dangerous wild animal is valid for
3 one calendar year and shall be renewed annually.

4 **§19-34-6. Confiscation and disposition of animals; suspension and**
5 **revocation of permits.**

6 (a) Law-enforcement officers, county humane officer or the
7 state veterinarian may immediately confiscate or euthanize any
8 dangerous wild animal if the animal poses an immediate risk to
9 public health or safety regardless of whether it is permitted.

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

12 (1) A permitted animal is in a position to harm another
13 animal;

14 (2) A permitted animal poses a risk to public health or
15 safety; or

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

17 (c) In the event of the suspension of a permit or confiscation
18 of an animal pursuant to this section, the dangerous wild animal
19 may be transferred to another currently licensed person in
20 compliance with the provisions of this article if the transfer
21 would abate the imminent harm to the animal or the public as
22 determined by the responding law-enforcement officers, county
23 humane officer or state veterinarian. If the transfer of the

1 dangerous wild animal cannot be accomplished without additional
2 risk to public safety, or if no suitable facility is available for
3 transfer, the responding law-enforcement officers, county humane
4 officer or veterinarian may humanely euthanize the animal.

5 (c) Upon conviction of an offense under this article or other
6 animal cruelty statute, the license of a person shall be revoked.

7 (d) The board may, for cause, revoke a license.

8 (e) A person aggrieved by action of the board may appeal to
9 circuit court.

10 **§19-34-7. Exemptions.**

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

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

14 (2) Animal control or law-enforcement agencies or officer
15 acting under the authority of this article;

16 (3) Licensed veterinary hospitals or clinics treating
17 dangerous wild animals;

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

19 (5) A research facility as defined in the Animal Welfare Act,
20 7 U.S.C. §2132(e), as amended;

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

23 (7) A person displaying dangerous wild animals at a fair or

1 festival that has been preapproved by the department; and

2 (8) A person temporarily transporting a dangerous wild animal
3 through the state if the transit time is not more than forty-eight
4 hours and the animal is at all times confined sufficiently to
5 prevent escape.

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

14 **§19-34-8. Dangerous Wild Animal Fund; creation; purpose.**

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

22 (b) All moneys received and collected pursuant to this article
23 shall be deposited into the fund and used for the purposes

1 designated in this article. The fund may receive any
2 appropriations, gifts, grants, contributions or other money from
3 any source that is designated for deposit into the fund.

4 **§19-34-9. Rule-making authority**

5 The board shall propose rules for legislative approval to
6 effectuate the provisions of this article in accordance with the
7 provisions of article three, chapter twenty-nine-a of this code.
8 The board may promulgate emergency rules pursuant to section
9 fifteen, article three, chapter twenty-nine-a of this code.

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

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

15 (b) A person who knowingly and intentionally releases a
16 dangerous wild animal or unlawfully possesses a dangerous wild
17 animal that does not cause injury to a person, is guilty of a
18 misdemeanor and, upon conviction thereof, may be confined in jail
19 for not more than one year or fined not less than \$500 nor more
20 than \$2,500, or both confined and fined.

21 (c) A person who knowingly and intentionally releases a
22 dangerous wild animal or unlawfully possesses a dangerous wild
23 animal that injures a person is guilty of a felony and, upon

1 conviction thereof, may be imprisoned in a state correctional
2 facility for not less than one year nor more than three years, or
3 fined not less than \$1,000 nor more than \$5,000, or both confined
4 and fined.

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

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

NOTE: The purpose of this bill is to regulate the ownership of
dangerous wild animals by creating a regulatory board, providing
rule-making authority, creating offenses and establishing criminal
and civil penalties.

This bill is new; therefore, strike-throughs and underscoring
have been omitted.