

BILL ANALYSIS

Senate Research Center

H.B. 2259
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Intergovernmental Relations
5/14/1999
Engrossed

DIGEST

For many years the Texas Parks and Wildlife Department (TPWD) regulated the ownership of dangerous wild animals such as lions, tigers, other large cats, wolves, coyotes, bears, elephants, great apes, and others. TPWD regulation of the ownership of these animals was governed by Chapter 12G, Parks and Wildlife Code. Under this statute an owner of a dangerous wild animal was required to obtain a permit from TPWD and comply with the statute regarding care and confinement of the animal. In 1995, the 74th Legislature repealed Chapter 12G, effective September 1, 1997, primarily because TPWD did not have the manpower or resources to properly regulate the ownership of the dangerous wild animals. An attempt was made by the 75th Legislature to totally prohibit the ownership of dangerous wild animals. This effort was not successful. Accordingly, there has been no statewide regulation of dangerous wild animals since 1997. H.B. 2259 provides for the regulation of the ownership of dangerous wild animals by counties and municipalities. This bill requires owners to register animals with the local animal control authority, maintain \$100,000 of liability insurance to cover damage, death or injury caused by the animal, and to confine and care for the animal in a safe and proper manner. This bill also gives the counties and municipalities the ability to charge fees to offset the costs of regulating these dangerous wild animals and gives them the right to further regulate the ownership of these animals by ordinance if they deem such regulation is needed in their area.

PURPOSE

As proposed, H.B. 2259 establishes provisions regarding the regulation of wild animals, imposes penalties.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 822, Health and Safety Code, by adding Subchapter E, as follows:

SUBCHAPTER E. DANGEROUS WILD ANIMALS

Sec. 822.101. DEFINITIONS. Defines "animal registration agency," "commercial activity," "dangerous wild animal," "owner," "primary enclosure," and "wildlife sanctuary."

Sec. 822.102. APPLICABILITY OF SUBCHAPTER. Sets forth individuals and organizations to which this subchapter does not apply.

Sec. 822.103. CERTIFICATE OF REGISTRATION. (a) Authorizes municipalities or counties by ordinance to prohibit a person from owning, harboring, or having custody or control of a dangerous wild animal (animal) unless the person holds a current certificate of registration (certificate) for the animal issued by an animal registration agency under this subchapter (agency).

(b) Authorizes the agency to require a separate certificate for each animal.

(c) Provides that a certificate is not transferable and is valid for the duration of ownership or control of the animal unless revoked.

(d) Authorizes each municipality and county to establish and charge a reasonable fee for application and renewal to recover the costs associated with administration and enforcement.

Prohibits the fee from exceeding \$50 for each animal and the total fees from exceeding \$500 for a person, regardless of the number of animals the person owns. Authorizes the fees to be used only to administer and enforce this subchapter.

Sec. 822.104. CERTIFICATE OF REGISTRATION APPLICATION. (a) Requires an applicant for an original or renewal certificate to file an application with the agency on a form provided by the agency.

(b) Sets forth certain required information in the application.

(c) Requires the applicant to include with each application certain documents and information.

(d) Requires certain applicants to include with an application certain additional information.

(e) Requires each application for renewal to also contain a signed statement from a state licensed veterinarian making certain statements.

Sec. 822.105. LIABILITY INSURANCE. Requires the holder of a certificate from the agency to maintain liability insurance coverage in an amount not less than \$100,000 for each occurrence for liability for damages for destruction of or damage to property and death or injury to a person caused by any animal owned by the holder.

Sec. 822.106. DENIAL OR REVOCATION OF CERTIFICATE OF REGISTRATION. (a) Requires the agency, if it finds that an application for a certificate or renewal does not meet the requirements under the required Section 822.104 or, after inspection, that an applicant has not complied with this subchapter, to deny the issuance of an original or renewal certificate and notify the applicant in writing of the denial and the reason for it.

(b) Requires the agency to revoke the certificate and give the owner written notice and reasons for the revocation if it finds, after inspection, that a registered owner provided false information in or in connection with the application or has not complied with this subchapter.

(c) Authorizes a person to appeal the denial or revocation of an original or renewal certificate or the revocation of a certificate to a justice or municipal court no later than the 15th day after the person is notified of such denial or revocation. Provides that either party may appeal the decision of the court to a county court at law. Provides that the decision of a county court at law is not appealable.

(d) Provides that filing an appeal of the denial of a renewal certificate or the revocation of a certificate stays the denial or revocation until the court rules on it.

Sec. 822.107. FILING OF CERTIFICATE OF REGISTRATION. Requires an owner to file a clear and legible copy of a certificate with the zoonosis control division of the Texas Department of Health not later than the 10th day after the owner receives the certificate.

Sec. 822.108. DISPLAY OF CERTIFICATE OF REGISTRATION. Requires the holder of a certificate to prominently display it at the premises where each animal subject to it is kept.

Sec. 822.109. INSPECTION. Requires the owner of an animal to allow the agency, its agents, or a licensed veterinarian designated by it, at all reasonable times, to enter the premises where the animal is kept, to inspect the animal, the primary enclosure of the animal, and records relating to the animal to ensure compliance with this subchapter.

Sec. 822.110. RELOCATION OF ANIMAL. Prohibits an owner from permanently relocating the animal unless the owner first notifies the agency in writing of the exact location to which the animal will be moved and provides the required information about that location.

Sec. 822.111. NOTICE OF SALE OR DEATH OF ANIMAL; NOTICE OF INJURY INFLICTED BY ANIMAL. (a) Requires the owner of an animal to notify the agency in writing of the sale, disposition, or death of an animal no later than 10 days after the date of such occurrence.

(b) Requires the owner of an animal that causes injury to a human requiring medical treatment to notify the agency no later than 48 hours after of such occurrence. Requires the owner to submit a detailed written report to the agency no later than the 10th day after the date of the injury regarding the nature and circumstances of the injury.

Sec. 822.112. ESCAPE OF ANIMAL; LIABILITY. (a) Requires an owner of an animal to immediately notify the agency of any escape of the animal.

(b) Provides that the owner of the animal is liable for all costs incurred in apprehending and confining the animal.

(c) Provides that an animal control office or law enforcement agency or its employees are not liable for damages arising in connection with the escape of an animal, including liability for any damage, injury, or death caused by the animal during or after its escape or injury to or the death of the animal as a result of its apprehension or confinement.

Sec. 822.113. MINIMUM SPACE REQUIREMENTS FOR DANGEROUS WILD ANIMALS; DEVIATIONS. (a) Provides that the primary enclosure in which an animal is kept must meet minimum space requirements applicable to the animal under this subchapter.

(b) Authorizes an owner to deviate from minimum primary enclosure space requirements, on approval of the agency, because of the age of the animal, or the use of unusual enclosure design.

(c) Authorizes the agency to approve deviation from minimum primary enclosure size requirements only if the agency finds that the overall welfare of the animal and the public's health and safety have not been compromised.

Sec. 822.114. MINIMUM SPACE REQUIREMENTS: GORILLAS. Provides that for one or two gorillas or for a pair and their progeny under the age of two years, the primary enclosure must have a floor area of at least 500 square feet and a ceiling height of at least eight feet, and that for each additional gorilla confined there the floor area must increase by 30 percent.

Sec. 822.115. MINIMUM SPACE REQUIREMENTS: ORANGUTANS. Provides that for one or two orangutans or for a pair and their progeny under the age of two years, the primary enclosure must have a floor area of at least 400 square feet and a ceiling height of at least 10 feet, and that for each additional orangutan confined there the floor area must increase by 30 percent.

Sec. 822.116. MINIMUM SPACE REQUIREMENTS: CHIMPANZEES. Provides that for one or two chimpanzees or for a pair and their progeny under the age of two years, the primary enclosure must have a floor area of at least 300 square feet and a ceiling height of at least 10 feet, and that for each additional chimpanzee confined there the floor area must increase by 30 percent.

Sec. 822.117. MINIMUM SPACE REQUIREMENTS: BABOONS. Provides that for one or two baboons or for a pair and their progeny under the age of two years, the primary enclosure must have a floor area of at least 200 square feet and a ceiling height of at least eight feet, and that for each additional baboon confined there the floor area must increase by 30 percent.

Sec. 822.118. MINIMUM SPACE REQUIREMENTS: BEARS. Provides that for one or two bears, the primary enclosure must have a floor area of at least 600 square feet and a ceiling height of at least 10 feet, and that for each additional bear confined there the floor area must increase by 30 percent.

Sec. 822.119. MINIMUM SPACE REQUIREMENTS: HYENAS. Provides that for one or two hyenas, the primary enclosure must have a floor area of at least 300 square feet and a ceiling height of at least six feet, and that for each additional hyena confined there the floor area must increase by 30 percent.

Sec. 822.120. MINIMUM SPACE REQUIREMENTS: LIONS, TIGERS, CHEETAHS, AND SNOW LEOPARDS. Provides that for one or two lions, tigers, cheetahs, snow leopards, or hybrids of these animals, the primary enclosure must have a floor area of at least 450 square feet and a ceiling height of at least eight feet, and that for each additional lion, tiger, cheetah, snow

leopard, or hybrid animal confined there the floor area must increase by 30 percent.

Sec. 822.121. MINIMUM SPACE REQUIREMENTS: COUGARS, LEOPARDS, AND JAGUARS. Provides that for one or two cougars, leopards, jaguars, or hybrids of these animals, the primary enclosure must have a floor area of at least 300 square feet and a ceiling height of at least eight feet, and that for each additional cougar, leopard, jaguar, or hybrid animal confined there the floor area must increase by 30 percent.

Sec. 822.122. MINIMUM SPACE REQUIREMENTS: OCELOTS. Provides that for one or two ocelots or hybrids of ocelots the primary enclosure must have a floor area of at least 80 square feet and a ceiling height of at least eight feet, and that for each additional ocelot or hybrid ocelot confined there the floor area must increase by 30 percent.

Sec. 822.123. CONSTRUCTION REQUIREMENTS FOR PRIMARY ENCLOSURES. (a) Sets forth the construction requirements for the primary enclosure in which an animal is kept.

(b) Requires a primary enclosure constructed of chain link or its strength equivalent to be well braced and securely anchored at ground-level and use metal corners, clamps, ties, and braces of strength equivalent to materials prescribed for that species.

(c) Requires the primary enclosure to be equipped with a lock and locking mechanism to prevent an unauthorized person from opening it.

(d) Requires the primary enclosure to be equipped with safety barriers to prevent physical contact with the animal by an unauthorized person.

(e) Requires that the primary enclosure to be designed and constructed to prevent the animal from escaping it.

Sec. 822.124. CARE, TREATMENT, AND TRANSPORTATION OF ANIMAL. (a) Requires the owner to comply with all applicable standards, for each animal, of the Animal Welfare Act (7 U.S.C. Section 2131, et seq.) and its subsequent amendments and regulations adopted under it relating to facilities and operations, animal health and husbandry, and veterinary care.

(b) Requires the owner to maintain a separate register on each animal documenting veterinary care and make the register available to the agency or its agent on request. Sets forth certain required information for the log.

(c) Requires the owner or a designated carrier or intermediate handler to comply with all transportation standards that apply to that animal under the Animal Welfare Act and its subsequent amendments and regulations adopted under it.

(d) Exempts a person from the requirements of this section that are applicable to an animal for which the person holds a Class A or Class B Dealer's license or a Class C exhibitor's license issued by the secretary of agriculture of the United States under the Animal Welfare Act and its subsequent amendments.

Sec. 822.125. OFFENSE AND PENALTY. Provides that a person commits a Class C misdemeanor if the person violates Section 822.103(a) or 822.112.

Sec. 822.126. CIVIL PENALTY. (a) Provides that a person who violates Section 822.103(a) is liable for a civil penalty of not less than \$200 and not more than \$2,000 for each animal with respect to which there is a violation and for each day the violation continues.

(b) Authorizes the county or municipality where the violation occurs to sue to collect a civil penalty, which may be retained by the county or municipality.

(c) Authorizes the county or municipality where the violation occurs to recover the reasonable costs of investigation, attorney's fees, and expert witness fees incurred by the agency in the civil action. Requires the costs and fees recovered under this subsection to be credited to the operating account from which the expenditures were made.

Sec. 822.127. INJUNCTION. Authorizes any person to sue to enjoin a violation of this subchapter or to enforce this subchapter if the person is directly harmed or threatened with harm by such violation or failure.

Sec. 822.128. EFFECT OF THIS SUBCHAPTER ON OTHER LAW. (a) Provides that this subchapter does not affect the applicability of: (1) Chapter 821B (Disposition of Cruelly Treated Animals), Health and Safety Code; (2) Subchapter C (Permits for Scientific Research, Zoological Collection, Rehabilitation, and Educational Display), Chapter 43, and Chapter 67 (Nongame Species), and Chapter 68 (Endangered Species), Parks and Wildlife Code; (3) Subchapter A (Regulation of Keeping Wild Animals), Chapter 240, Local Government Code, or an order adopted under that subchapter; (4) Section 42.09 (Cruelty to Animals), Penal Code; or (5) any other law, rule, order, ordinance, or other legal requirement of this state or a political subdivision of this state.

(b) Provides that this subchapter does not prevent a municipality or county from prohibiting or regulating by ordinance or order the ownership, possession, confinement, or care of animals.

SECTION 2. Amends the heading of Chapter 240A, Local Government Code, as follows:

SUBCHAPTER A. New heading: REGULATION OF KEEPING OF DANGEROUS WILD ANIMALS.

SECTION 3. Amends Section 240.0025, Local Government Code, to define “dangerous wild animal.” Makes conforming and nonsubstantive changes.

SECTION 4. (a) Effective date: September 1, 1999, except as provided by this section.

(b) Provides that Section 822.125 (Offense and Penalty), Health and Safety Code, takes effect June 1, 2000.

SECTION 5. (a) Provides that a person is not required to obtain a certificate for an animal under Chapter 822E, Health and Safety Code, as added by this Act, before June 1, 2000.

(b) Requires each municipality and county to adopt an ordinance or order necessary to implement Chapter 822E, Health and Safety Code, as added by this Act, including the application for an original and renewal certificate, fees for registration and renewal, and the form and content of the application and the certificate no later than December 1, 1999.

SECTION 6. Emergency clause.