

SUBCHAPTER E. DANGEROUS WILD ANIMALS

Section 822.101. Definitions

In this subchapter:

(1) "Animal registration agency" means the municipal or county animal control office with authority over the area where a dangerous wild animal is kept or a county sheriff in an area that does not have an animal control office.

(2) "Board" means the Texas Board of Health.

(3) "Commercial activity" means:

(A) an activity involving a dangerous wild animal conducted for profit that is not inherent to the animal's nature;

(B) an activity for which a fee is charged and that is entertainment using or an exhibition of the animal; or

(C) the selling, trading, bartering, or auctioning of a dangerous wild animal or a dangerous wild animal's body parts.

(4) "Dangerous wild animal" means:

(A) a lion;

(B) a tiger;

(C) an ocelot;

(D) a cougar;

(E) a leopard;

(F) a cheetah;

(G) a jaguar;

(H) a bobcat;

(I) a lynx;

(J) a serval;

(K) a caracal;

(L) a hyena;

(M) a bear;

(N) a coyote;

(O) a jackal;

(P) a baboon;

(Q) a chimpanzee;

(R) an orangutan;

(S) a gorilla; or

(T) any hybrid of an animal listed in this subdivision.

(5) "Owner" means any person who owns, harbors, or has custody or control of a dangerous wild animal.

(6) "Person" means an individual, partnership, corporation, trust, estate, joint stock company, foundation, or association of individuals.

(7) "Primary enclosure" means any structure used to immediately restrict an animal to a limited amount of space, including a cage, pen, run, room, compartment, or hutch.

Section 822.102. Applicability of Subchapter.

(a) This subchapter does not apply to:

(1) a county, municipality, or agency of the state or an agency of the United States or an agent or official of a county, municipality, or agency acting in an official capacity;

(2) a research facility, as that term is defined by Section 2(e), Animal Welfare Act (7 U.S.C. Section 2132), and its subsequent amendments, that is licensed by the secretary of agriculture of the United States under that Act;

(3) an organization that is an accredited member of the American Zoo and Aquarium Association;

(4) an injured, infirm, orphaned, or abandoned dangerous wild animal while being transported for care or treatment;

(5) an injured, infirm, orphaned, or abandoned dangerous wild animal while being rehabilitated, treated, or cared for by a licensed veterinarian, an incorporated humane society or animal shelter, or a person who holds a rehabilitation permit issued under Subchapter C, Chapter 43, Parks and Wildlife Code;

(6) a dangerous wild animal owned by and in the custody and control of a transient circus company that is not based in this state if:

(A) the animal is used as an integral part of the circus performances; and

(B) the animal is kept within this state only during the time the circus is performing in this state or for a period not to exceed 30 days while the circus is performing outside the United States;

(7) a dangerous wild animal while in the temporary custody or control of a television or motion picture production company during the filming of a television or motion picture production in this state;

(8) a dangerous wild animal owned by and in the possession, custody, or control of a college or university solely as a mascot for the college or university;

(9) a dangerous wild animal while being transported in interstate commerce through the state in compliance with the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments and the regulations adopted under that Act;

(10) a nonhuman primate owned by and in the control and custody of a person whose only business is supplying nonhuman primates directly and exclusively to biomedical research facilities and who holds a Class "A" or Class "B" dealer's license issued by the secretary of agriculture of the United States under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments; and

(11) a dangerous wild animal that is:

(A) owned by or in the possession, control, or custody of a person who is a participant in a species survival plan of the American Zoo and Aquarium Association for that species; and

(B) an integral part of that species survival plan.

(b) This subchapter does not require a municipality that does not have an animal control office to create that office.

Section 822.103. Certificate of Registration; Fees.

(a) A person may not own, harbor, or have custody or control of a dangerous wild animal for any purpose unless the person holds a certificate of registration for that animal issued by an animal registration agency.

(b) A certificate of registration issued under this subchapter is not transferrable and is valid for one year after its date of issuance or renewal unless revoked.

(c) The animal registration agency may establish and charge reasonable fees for application, issuance, and renewal of a certificate of registration in order to recover the costs associated with the administration and enforcement of this subchapter. The fee charged to an applicant may not exceed \$50 for each animal registered and may not exceed \$500 for each person registering animals, regardless of the number of animals

owned by the person. The fees collected under this section may be used only to administer and enforce this subchapter.

Section 822.104. Certificate of Registration Application.

(a) An applicant for an original or renewal certificate of registration for a dangerous wild animal must file an application with an animal registration agency on a form provided by the animal registration agency.

(b) The application must include:

(1) the name, address, and telephone number of the applicant;

(2) a complete identification of each animal, including species, sex, age, if known, and any distinguishing marks or coloration that would aid in the identification of the animal;

(3) the exact location where each animal is to be kept;

(4) a sworn statement that:

(A) all information in the application is complete and accurate; and

(B) the applicant has read this subchapter and that all facilities used by the applicant to confine or enclose the animal comply with the requirements of this subchapter; and

(5) any other information the animal registration agency may require.

(c) An applicant shall include with each application:

(1) the nonrefundable fee;

(2) proof, in a form acceptable by the animal registration agency, that the applicant has liability insurance, as required by Section 822.107;

(3) a color photograph of each animal being registered taken not earlier than the 30th day before the date the application is filed;

(4) a photograph and a statement of the dimensions of the primary enclosure in which each animal is to be kept and a scale diagram of the premises where each animal will be kept, including the location of any perimeter fencing and any residence on the premises; and

(5) if an applicant holds a Class "A" or Class "B" dealer's license or Class "C" exhibitor's license issued by the secretary of agriculture of the United States under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments, a clear and legible photocopy of the license.

(d) In addition to the items required under Subsection (c), an application for renewal must include a statement signed by a veterinarian licensed to practice in this state stating that the veterinarian:

(1) inspected each animal being registered not earlier than the 30th day before the date of the filing of the renewal application; and

(2) finds that the care and treatment of each animal by the owner meets or exceeds the standards prescribed under this subchapter.

Section 822.105. Denial or Revocation of Certificate of Registration; Appeal.

(a) If the animal registration agency finds that an application for an original or renewal certificate of registration under this subchapter does not meet the requirements of Section 822.104 or, after inspection, that an applicant has not complied with this subchapter, the animal registration agency shall deny the applicant a certificate of registration and give the applicant written notice of the denial and the reasons for the denial.

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

(c) A person may appeal the denial of an original or renewal certificate of registration or the revocation of a certificate of registration to the justice court for the precinct in which the animal is located or the municipal court in the municipality in which the animal is located not later than the 15th day after the date the certificate of registration is denied or revoked. Either party may appeal the decision of the justice or municipal court to a county court or county court at law in the county in which the justice or municipal court is located. The decision of the county court or county court at law may not be appealed.

(d) The filing of an appeal of the denial or revocation of a certificate of registration under Subsection (c) stays the denial or revocation until the court rules on the appeal.

Section 822.106. Display of Certificate of Registration.

(a) A holder of a certificate of registration shall prominently display the certificate at the premises where each animal that is the subject of the certificate of registration is kept.

(b) Not later than the 10th day after the date a person receives a certificate of registration, the person shall file a clear and legible copy of the certificate of registration with the Texas Department of Health. The department shall establish a procedure for filing a certificate of registration and shall charge a reasonable fee in an amount sufficient to recover the cost associated with filing a certificate of registration under this subsection.

Section. 822.107. Liability Insurance.

An owner of a dangerous wild animal shall maintain liability insurance coverage in an amount of not less than \$100,000 for each occurrence for liability for damages for destruction of or damage to property and death or bodily injury to a person caused by the dangerous wild animal.

Section. 822.108. Inspection.

An owner of a dangerous wild animal, at all reasonable times, shall allow the animal registration agency, its staff, its agents, or a designated licensed veterinarian to enter the premises where the animal is kept and to inspect the animal, the primary enclosure for the animal, and the owner's records relating to the animal to ensure compliance with this subchapter.

Section 822.109. Relocation or Disposition of Animal.

(a) An owner of a dangerous wild animal may not permanently relocate the animal unless the owner first notifies the animal registration agency in writing of the exact location to which the animal will be relocated and provides the animal registration agency, with respect to the new location, the information required by Section 822.104.

(b) Within 10 days after the death, sale, or other disposition of the animal, the owner of the animal shall notify the animal registration agency in writing of the death, sale, or other disposition.

Section 822.110. Attack by Animal; Escape of Animal; Liability.

(a) An owner of a dangerous wild animal shall notify the animal registration agency of any attack of a human by the animal within 48 hours of the attack.

(b) An owner of a dangerous wild animal shall immediately notify the animal registration agency and the local law enforcement agency of any escape of the animal.

(c) An owner of a dangerous wild animal that escapes is liable for all costs incurred in apprehending and confining the animal.

(d) An animal registration agency, a law enforcement agency, or an employee of an animal registration agency or law enforcement agency is not liable to an owner of a dangerous wild animal for damages arising in connection with the escape of a dangerous wild animal, including liability for damage, injury, or death caused by the animal during or after the animal's escape, or for injury to or death of the animal as a result of apprehension or confinement of the animal after escape.

Section 822.111. Powers and Duties of Board; Caging Requirements and Standards.

(a) The board by rule shall establish caging requirements and standards for the keeping and confinement of a dangerous wild animal to ensure that the animal is kept in a manner and confined in a primary enclosure that:

- (1) protects and enhances the public's health and safety;
- (2) prevents escape by the animal; and
- (3) provides a safe, healthy, and humane environment for the animal.

(b) An owner of a dangerous wild animal shall keep and confine the animal in accordance with the caging requirements and standards established by the board.

(c) An animal registration agency may approve a deviation from the caging requirements and standards established by the board, only if:

- (1) the animal registration agency has good cause for the deviation;
and
- (2) the deviation:
 - (A) does not compromise the public's health and safety;
 - (B) does not reduce the total area of the primary enclosure below that established by the board; and
 - (C) does not otherwise adversely affect the overall welfare of the animal involved.

Section 822.112. Care, Treatment, and Transportation of Animal.

(a) For each dangerous wild animal, the owner shall comply with all applicable standards of the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments and the regulations adopted under that Act relating to:

- (1) facilities and operations;
- (2) animal health and husbandry; and
- (3) veterinary care.

(b) An owner of a dangerous wild animal shall maintain a separate written log for each dangerous wild animal documenting the animal's veterinary care and shall make the log available to the animal registration agency or its agent on request. The log must:

- (1) identify the animal treated;
- (2) provide the date of treatment;
- (3) describe the type or nature of treatment; and
- (4) provide the name of the attending veterinarian, if applicable.

(c) When transporting a dangerous wild animal, the owner of the animal, or a designated carrier or intermediate handler of the animal, shall comply with all transportation standards that apply to that animal under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments or the regulations adopted under that Act.

(d) A person is exempt from the requirements of this section if the person is caring for, treating, or transporting 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 (7 U.S.C. Section 2131 et seq.) and its subsequent amendments.

Section 822.113. Offense and Penalty.

(a) A person commits an offense if the person violates Section 822.103(a), Section 822.106, or Section 822.110(a) or (b). Each animal with respect to which there is a violation and each day that a violation continues is a separate offense.

(b) A person commits an offense if the person knowingly sells or otherwise transfers ownership of a dangerous wild animal to a person who does not have a certificate of registration for that animal as required by this subchapter.

(c) An offense under this section is a Class C misdemeanor.

Section 822.114. Civil Penalty.

(a) 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) The county or municipality in which the violation occurs may sue to collect a civil penalty. A civil penalty collected under this subsection may be retained by the county or municipality.

(c) The county or municipality in which the violation occurs may also recover the reasonable costs of investigation, reasonable attorney's fees, and reasonable expert witness fees incurred by the animal registration agency in the civil action. Costs or fees recovered under this subsection shall be credited to the operating account from which payment for the animal registration agency's expenditures was made.

Section 822.115. Injunction.

Any person who is directly harmed or threatened with harm by a violation of this subchapter or a failure to enforce this subchapter may sue an owner of a dangerous wild animal to enjoin a violation of this subchapter or to enforce this subchapter.

Section 822.116. Effect of Subchapter on Other Law.

(a) This subchapter does not affect the applicability of any other law, rule, order, ordinance, or other legal requirement of this state or a political subdivision of this state.

(b) This subchapter does not prevent a municipality or county from prohibiting or regulating by ordinance or order the ownership, possession, confinement, or care of a dangerous wild animal.

SECTION 2.

Section 240.002 (a).

Local Government Code, is amended to read as follows:

(a) The commissioners court of a county by order may prohibit or regulate the keeping of a wild animal in the county.

SECTION 3.

Section 42.09.

Penal Code, is amended by adding Subsection (g) to read as follows:

(g) It is a defense to prosecution for an offense under this section that the person had a reasonable fear of bodily injury to the person or to another by a dangerous wild animal as defined by Section 822.101, Health and Safety Code.

SECTION 4.

Section 42.01.

Penal Code, is amended by adding Subsection (e) to read as follows:

(e) It is a defense to prosecution for an offense under Subsection (a)(9) or (11) that the person who discharged the firearm had a reasonable fear of bodily injury to the person or to another by a dangerous wild animal as defined by Section 822.101, Health and Safety Code.

SECTION 5.

Section 240.0025.

Local Government Code, is repealed.

SECTION 6.

(a) Except as provided by this section, this Act takes effect September 1, 2001.

(b) A person is not required to obtain a certificate of registration for a dangerous wild animal under Subchapter E, Chapter 822, Health and Safety Code, as added by this Act, before June 1, 2002.

(c) Not later than December 1, 2001, each municipality and county shall adopt any ordinance or order necessary to implement and administer the certificate of registration program created by Subchapter E, Chapter 822, Health and Safety Code, as added by this Act, including ordinances or orders relating to the applications for original and renewal certificates of registration, fees for registration and renewal, and the form and content of the application and the certificate of registration.

(d) Not later than March 1, 2002, the Texas Board of Health shall adopt the rules required under Section 822.111, Health and Safety Code, as added by this Act.