WEST VIRGINIA CODE CHAPTER 19 ARTICLE 34

WV Legislature

§19-34-1. Findings and purpose.

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

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

(2) To ensure the physical safety of humans;

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

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

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§19-34-2. Definitions.

As used in this article unless otherwise specified:

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

(2) "Dangerous wild animal" means a mammal, bird, reptile, amphibian or aquatic animal, including a hybrid, that is dangerous to humans, other animals or the environment due to its inherent nature and capability to do significant harm. "Wildlife", as defined by section two, article one, chapter twenty of this code, "livestock", as defined in section two, article ten-b, chapter nineteen of this code, and "domestic animals", as defined in this section, are excluded.

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

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

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§19-34-3. Rule-making authority.

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

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§19-34-4. Prohibition on the possession of a dangerous wild animal; exceptions.

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

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

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§19-34-5. Dangerous Wild Animal Board; composition; duties.

(a) The Dangerous Wild Animal Board is established with the following members: The Commissioner of the Department of Agriculture, the Secretary of the Department of Health and the Director of the Division of Natural Resources, or their designees. The board shall develop a comprehensive list of dangerous wild animals pursuant to the rule-making authority of this article.

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

(c) The board shall:

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

(2) Create a comprehensive list of dangerous wild animals, excluding wildlife, livestock and domestic animals as defined herein. The list may include, but not be limited to:

(A) Bears;

(B) Big cats;

(C) Canids;

(D) Primates;

(E) Constrictor snakes greater than six feet, and venomous snakes; and

(F) Alligators and caimans;

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

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

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

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

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§19-34-6. Permit applications, requirements, issuance and revocation.

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) He or she presents proof of liability insurance in an amount of not less than $300,000 with a deductible of not more than $250 for each occurrence of property damage, bodily injury or death caused by a dangerous wild animal possessed by the person;

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

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

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

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

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

(d) The board shall take final action upon all completed permit applications within thirty days of receipt if the application is uncontested, or within ninety days if the application is contested.

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

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§19-34-7. Confiscation and disposition of animals; suspension and revocation of permits.

(a) A law-enforcement officer, county humane officer or the state veterinarian may immediately confiscate or euthanize any dangerous wild animal if the animal poses an immediate risk to public health or safety regardless of whether the owner of the animal has a permit issued under this article.

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

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

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

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

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

(d) Upon conviction of an offense under this article or any other animal cruelty statute, the board shall revoke that person's permit.

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

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

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§19-34-8. Exemptions.

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

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

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

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

(4) A licensed or accredited research medical institution;

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

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

(7) A person displaying dangerous wild animals at a fair or festival that is a licensed exhibitor under the Animal Welfare Act, 7 U.S.C. §2132(e), as amended; and

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

(b) Qualified exemption. -– The permitting provisions of this article do not apply to exhibitors or dealers licensed as of January 1, 2014, under the Animal Welfare Act, 7 U. S. C. §2132(e), as amended, and at the time the rules become effective and who continue to have a valid exhibitor or dealer license. The board may revoke this exemption as to exhibitors or dealers that have repeated, uncorrected citations in violation of the Animal Welfare Act, a conviction for violation of an animal cruelty statute or a violation of sections seven or nine of this article.

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§19-34-9. Criminal and civil penalties.

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

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

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

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

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

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