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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2014



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4393

(By Delegates Swartzmiller, Wells, Manypenny,
Ellem, Paxton, Fragale, Craig and Storch)



Passed March 6, 2014

In effect ninety days from passage.

HB 4393

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H. B. 4393

(BY DELEGATES SWARTZMILLER, WELLS, MANYPENNY,
ELLEM, PAXTON, FRAGALE, CRAIG AND STORCH)

[Passed March 6, 2014; in effect ninety days from passage.]

AN ACT 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 and §19-34-9, all relating to the regulation of dangerous wild animals; creating the Dangerous Wild Animals Act; 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 and §19-34-9, 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 serious
2 public health and safety concerns and shall be regulated for the
3 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 injurious
9 to or competitive with agricultural, horticultural, forestry,
10 wildlife and other natural resources; and

11 (4) To prevent the mistreatment of permitted dangerous wild
12 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, reptile,
4 amphibian or aquatic animal, including a hybrid, that is
5 dangerous to humans, other animals or the environment due to

6 its inherent nature and capability to do significant harm.
7 “Wildlife”, as defined by section two, article one, chapter twenty
8 of this code, “livestock”, as defined in section two, article ten-b,
9 chapter nineteen of this code, and “domestic animals”, as defined
10 in this section, are excluded.

11 (3) “Domestic animal” means an animal which, through
12 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
15 species to an extent that makes it unique and distinguishable
16 from a wild individual of its species, and includes an animal that
17 has been 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 other
21 legal entity and an officer, member, shareholder, director,
22 employee, agent or representative thereof.

§19-34-3. 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
4 code. The board may promulgate emergency rules pursuant to
5 section fifteen, article three, chapter twenty-nine-a of this code.

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

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

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

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

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

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

14 (c) The board shall:

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

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

20 (A) Bears;

21 (B) Big Cats;

22 (C) Canids;

23 (D) Primates;

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

26 (F) Alligators and caimans;

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

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

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

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

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

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

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

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

9 (3) A description of each dangerous wild animal, including
10 the scientific name, common name, permanent and unique
11 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 and a
14 description of the enclosure or cage where each dangerous wild
15 animal is kept.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (c) In the event of the suspension of a permit or confiscation
14 of an animal pursuant to this section, the dangerous wild animal

15 may be transferred to another permittee in compliance with the
16 provisions of this article, if the transfer would abate the
17 imminent harm to the animal or the public as determined by the
18 responding law-enforcement officer, county humane officer or
19 state veterinarian. If the transfer of the dangerous wild animal
20 cannot be accomplished without additional risk to public safety,
21 or if no suitable facility is available for transfer, the responding
22 law-enforcement officer, county humane officer or veterinarian
23 may humanely euthanize the animal.

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

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

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

§19-34-8. Exemptions.

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

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

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

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

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

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

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

13 (7) A person displaying dangerous wild animals at a fair or
14 festival that is a licensed exhibitor under the Animal Welfare
15 Act, 7 U.S.C. §2132(e), as amended; 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 this
21 article do not apply to exhibitors or dealers licensed as of
22 January 1, 2014, under the Animal Welfare Act, 7 U.S.C.
23 §2132(e), as amended, and at the time the rules become effective
24 and who continue to have a valid exhibitor or dealer license. The
25 board may revoke this exemption as to exhibitors or dealers that
26 have repeated, uncorrected citations in violation of the Animal
27 Welfare Act, a conviction for violation of an animal cruelty
28 statute or a violation of sections seven or nine of this article.

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

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

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

11 (c) A person who knowingly and intentionally or recklessly
12 releases a dangerous wild animal or unlawfully possesses a
13 dangerous wild animal that injures an individual is guilty of a
14 felony and, upon conviction thereof, may be imprisoned in a
15 state 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 under
19 this article is liable for all costs, including personnel costs,
20 expended by the county or state agencies involved with the
21 capture, confinement, transfer or euthanasia of a dangerous wild
22 animal.

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

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Donny Wells
Chairman, House Committee

Carl F. [unclear]
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Bryan D. Bay
Clerk of the House of Delegates

Joseph M. Minard
Clerk of the Senate

Frank [unclear]
Speaker of the House of Delegates

[unclear]
President of the Senate

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SECRETARY OF STATE

The within *is approved* this the *21st*
day of *March*, 2014.

Earl Ray Tomblin
Governor

PRESENTED TO THE GOVERNOR

MAR 17 2014

Time 3:35 pm