

BILL ANALYSIS

H.B. 2274
By: Guillen
Culture, Recreation & Tourism
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that laws regarding the private ownership of dangerous wild animals are lax and threaten the safety of Texas communities and residents, including first responders who arrive at an emergency situation resulting from an owner's inability to adequately care for the animal. H.B. 2274 seeks to address these concerns by repealing certain statutory provisions regarding the regulation of these animals and providing for a new system for such regulation.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2274 repeals Health and Safety Code provisions relating to the regulation of dangerous wild animals that provide for, among other things, a certificate of registration for a dangerous wild animal, required liability insurance coverage for an owner of a dangerous wild animal, rules of the executive commissioner of the Health and Human Services Commission (HHSC) regarding caging requirements and standards for the keeping and confinement of a dangerous wild animal, and certain related Class C misdemeanor offenses and a civil penalty and amends the Health and Safety Code to effectively replace those provisions. The bill makes the repeal effective January 1, 2018, but specifies that the repealed provisions relating to an offense apply only to an offense committed before September 1, 2017. The bill provides for a new system for the regulation of dangerous wild animals, including a new definition of "dangerous wild animal" and different applicability of such regulation. The bill prohibits a person not otherwise exempted from dangerous wild animal regulation from owning, possessing, harboring, or having custody or control of a dangerous wild animal. The bill requires certain owners lawfully in possession of a dangerous wild animal before September 1, 2017, to register the animal annually with the Department of State Health Services (DSHS) on a form provided by DSHS and pay the registration fee established by DSHS. The bill authorizes DSHS to establish and charge a reasonable registration fee in an amount sufficient to cover the cost of administering the bill's provisions.

H.B. 2274 requires a justice court, county court, or county court at law in the county in which a dangerous wild animal is located, on a showing of probable cause that the animal is owned, possessed, harbored, held in custody, or controlled in violation of the bill's provisions, to order the animal's seizure by an animal control authority or a peace officer located in the county, issue

a warrant authorizing the animal's seizure, and schedule a hearing to be held on a date not later than the 10th day after the date the warrant is issued to determine whether a violation of the bill's provisions occurred and the final disposition of the animal. The bill requires the person executing the warrant to serve written notice of the hearing to the animal's owner at the time the warrant is executed. The bill requires the animal control authority or peace officer to seize the animal and provide for the impoundment of the animal in secure and humane conditions until a court determines the disposition of the animal and issues appropriate orders. This requirement expressly does not prevent an animal control authority or peace officer from impounding an animal on the property in which the animal is located at the time of the seizure. The bill requires a court, on finding that a violation of the bill's provisions occurred, to assess against the owner of a seized dangerous wild animal the reasonable costs of caring for the animal and establishes that a court's decision relating to the seizure of a dangerous wild animal is final and may not be appealed.

H.B. 2274 requires a court that finds that a person has kept a dangerous wild animal in violation of the bill's provisions to divest the person's ownership of the animal and order ownership of the animal to vest in the applicable animal control authority. The bill requires the animal control authority to make a reasonable effort to place the animal in the custody of a wildlife sanctuary or other facility that is willing and able to take custody of the animal but authorizes the animal control authority to humanely euthanize the animal in compliance with state and federal law if the animal control authority is unable to place the animal with a wildlife sanctuary or other facility.

H.B. 2274 makes a person who violates the bill's provisions liable to the county in which the violation occurs for a civil penalty ranging from \$200 to \$2,000 for each animal with respect to which there is a violation and for each day that the violation continues. The bill authorizes a county in which the violation occurs to sue to collect the civil penalty and authorizes the county to retain the penalty and recover the reasonable costs of investigation, reasonable attorney's fees, and other costs incurred by the county or an animal control authority. The bill authorizes a county in which a dangerous wild animal is located or a person who is harmed or threatened with harm by a violation of the bill's provisions to sue an owner of a dangerous wild animal to enjoin such a violation. The bill creates a Class A misdemeanor offense for a person who violates the bill's provisions. The bill establishes that each animal with respect to which there is a violation and each day that a violation continues is a separate offense.

H.B. 2274 requires the executive commissioner of HHSC, not later than November 1, 2017, to adopt rules, establish the fees, and prescribe the application form necessary to implement the bill's provisions. The bill expressly does not require an owner of a dangerous wild animal to comply with the bill's provisions or rules adopted under those provisions until January 1, 2018.

H.B. 2274 amends the Penal Code to make conforming changes.

H.B. 2274 repeals Subchapter E, Chapter 822, Health and Safety Code, on January 1, 2018.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2017.