

SUBJECT: Regulating ownership of dangerous wild animals

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 6 ayes — Ramsay, G. Lewis, Chisum, Farabee, Krusee, Shields

1 nay — B. Brown

2 absent — Hilderbran, Salinas

WITNESSES: For — Pam Burney, City of North Richland Hills, Texas Animal Control Association, and Texas Federation of Human Societies; Cathy Clark, City of Lufkin, Angelina County and Texas Animal Control Association; Bob Dobat, Summit Global Partners; Bobby French, SPCA of Texas; Jef Hale, Humane Society of United States; Tim Holifield, Montgomery Animal Control; Cile Holloway, Texas Human Legislation Network; Lawrence C. Hopkins, Texas Animal Control Association and Texas Federation of Humane Societies; Ken Kaemmerer, Dallas Zoo; Sherrie! Lenderman; Rick Lusk, Texas Veterinary Medical Association; Robert “Skip” Trimble, Texas Human Legislation Network; Richard Villafana; *Registered, but did not testify*: Chris Copeland, Texas Veterinary Medical Association; Brian Crager; Jeanne Daniels; Donald Lee, Texas Conference of Urban Counties; Shari L. Parker

Against — Ellis Gilleland, Texas Animals; Carmen A. Hall; Chris Hamblen; Chris Kirk, Sheriff’s Association of Texas; Doug Terranova

On — Jane Mahlow, Texas Department of Health.

BACKGROUND: Until September 1, 1997, the Texas Parks and Wildlife Department (TPWD) regulated the ownership of dangerous wild animals under the Parks and Wildlife Code, chapter 12G. This statute required an owner of a dangerous animal to obtain a permit from TPWD and to comply with statutes regarding care and confinement of the animal. In 1995, the Legislature enacted HB 239 by Goodman, et. al., repealing chapter 12G, primarily because TPWD did not have the personnel or resources to regulate the ownership of dangerous animals properly.

Municipalities may prohibit or regulate wild animals within city limits, and Chapter 240, Subchapter A of the Local Government Code allows counties to prohibit or regulate wild animals outside of city limits. A commissioners court may prohibit or regulate any nondomestic wild animal that it considers dangerous and in need of control at a residence or within 1,000 feet of a residence or public school. Otherwise, under sec. 240.0025, a county may prohibit or regulate only certain wild animals, including lions, tigers, ocelots, cougars, leopards, cheetahs, jaguars, hyenas, bears, lesser pandas, binturongs, wolves, apes, elephants, and rhinoceroses. This provision does not apply to exhibitors licensed under the federal Animal Welfare Act.

**DIGEST:**

CSHB 1362 would establish regulations for the ownership of dangerous wild animals, including lions, tigers, ocelots, cougars, leopards, cheetahs, jaguars, bobcats, lynxes, servals, caracals, hyenas, bears, coyotes, jackals, baboons, chimpanzees, orangutans, gorillas, or any hybrid of these animals. The bill would prohibit people from owning, harboring, or having custody or control of a dangerous wild animal unless they held a certificate of registration from a municipal or county animal control office and met other requirements. These provisions would not apply to governmental entities, licensed research facilities, accredited zoos and aquariums, wildlife sanctuaries, veterinarians or animal shelters treating injured or abandoned dangerous wild animals, traveling circuses, film productions, and university mascots.

**Animal attack or escape.** CSHB 1362 would require the dangerous wild animal's owner to notify the animal registration agency of any attack on a human by the animal within 48 hours of the attack. The animal registration agency and local law enforcement agency would also have to be notified immediately of any escape by the animal. Additionally, the bill would make the animal's owner liable for all costs for apprehending and confining the escaped animal.

**Certificate of registration.** After June 1, 2002, a person could not own a dangerous wild animal without a current certificate of registration from an animal registration agency, defined as the municipal or county animal control office with authority over the area where a dangerous wild animal was kept, or a county sheriff in an area that did not have an animal control office. The

agency could require a separate certificate for each animal. The certificate would be valid for one year and would not be transferrable. The fee could not exceed \$50 for each animal registered and \$500 for each person registering animals, regardless of the number of animals owned.

Violation of this requirement would be a Class C misdemeanor. Each animal not registered properly and each day each animal was not registered would be a separate offense. A person violating this requirement also would be liable for a civil penalty of between \$200 and \$2,000 for each day that each animal was not registered. A county or municipality where the violation occurred could sue to collect the penalty and the reasonable costs of investigation, reasonable attorney's fees, and reasonable expert witness fees incurred by the animal registration agency in the civil action.

Each municipality and county would have to adopt any ordinance or order necessary to implement and administer the certificate of registration program not later than December 1, 2001. The bill also would not prevent a municipality or county from prohibiting or otherwise regulating the ownership, possession, confinement, or care of a dangerous wild animal.

**Application for certificate.** CSHB 1362 would require each municipality or county, by order or ordinance, to establish and charge reasonable fees, not to exceed \$50 for each animal or \$500 for a person, for issuance or renewal of a certificate to recover administrative and enforcement costs. The application would have to include:

- ! the applicant's name, address, and telephone number;
- ! a complete identification of each animal, including species, sex, age if known, and any identifying marks or coloration;
- ! the exact location where each animal would be kept;
- ! a sworn statement that all information provided was accurate, that the applicant had read the law, and that all facilities used to confine or enclose the animal complied with the requirements; and
- ! any other information required by the municipality or county.

The application also would have to include the nonrefundable fee, proof of the applicant's liability insurance, a current color photograph of each animal being registered, a photograph and statement of the dimensions of the

primary enclosure in which the animal would be kept, and a scale diagram of the premises where each animal would be kept, including the location of any residence on the premises. If the applicant held a valid Class A or Class B dealer's license or a Class C exhibitor's license issued by the U.S. secretary of agriculture under the Animal Welfare Act (7 U.S.C. 2131 et seq.), the applicant would have to include a photocopy of the license with the application.

An application for renewal of a certificate would have to include a statement signed by a veterinarian licensed to practice in Texas that the veterinarian had inspected each animal within the previous 30 days and found that the care and treatment of each animal met or exceeded the required standards.

**Inspection.** At all reasonable times, an owner of a dangerous wild animal would have to allow the animal registration agency, its agents, or any licensed veterinarian designated by the agency to enter the premises where the animal was kept and to inspect the animal, the enclosure, and the owner's records relating to the animal to ensure compliance.

**Care, treatment, and transportation.** An owner of a dangerous wild animal would have to comply with all applicable standards of the federal Animal Welfare Act and regulations relating to facilities and operations, animal health and husbandry, and veterinary care.

An owner of a dangerous wild animal would have to maintain a separate written log for each animal documenting veterinary care and would have to make the log available to the animal registry agency upon request. The log would have to identify the animal treated and the date of treatment, describe the nature of the treatment, and provide the name of the veterinarian.

When transporting a dangerous wild animal, the owner, carrier, or handler of the animal would have to comply with all applicable transportation standards under the Animal Welfare Act.

The holder of a Class A or Class B dealer's license or a Class C exhibitor's license would be exempt from these provisions.

**Liability insurance.** People with dangerous wild animals also would have to maintain at least \$100,000 liability insurance for each occurrence for liability for damages for destruction of or damage to property and for death or bodily injury to a person caused by a dangerous wild animal.

**Caging requirements.** The Board of Health would be responsible for establishing caging requirements and standards for the keeping and confinement of dangerous wild animals. CSHB 1362 would require that the animal's primary enclosure protects the public's health and safety, prevents escape, and provides a safe, healthy, and humane environment for the animal.

**Relocation, sale, or death of the animal.** An owner of a dangerous wild animal could not relocate the animal permanently unless the owner first notified the animal registration agency in writing of the exact location to which the animal would be moved. The owner also would have to provide the agency, with respect to the new location, information required for a certificate application. If a registered animal was sold or died, the owner would have to notify the animal registration agency in writing within 10 days.

**Denial or revocation of certificate.** CSHB 1362 would require the animal registration agency to deny a certificate of registration if the agency found that an application did not meet requirements. If, upon inspection, the applicant had not complied with the law, the agency would have to deny the issuance of an original or renewal certificate. The agency then would have to notify the applicant in writing of the denial and the reasons for the denial. After an inspection, if an agency found that a registered owner had provided false information with the application or had not complied with the law, the agency would have to revoke the certificate. The agency would have to give the owner written notice of the revocation and the reasons for it.

A person could appeal the denial or revocation of a certificate to a justice or municipal court no later than 15 days after the notification. Either party could appeal the decision of the court to a county court or county court-at-law in the county. The decision of the county court or county court-at-law could not be appealed. If the owner filed an appeal of the denial or revocation, the certificate of registration would remain in effect until a judge ruled on the appeal.

**Injunction.** Any person harmed or threatened with harm because of a violation of or a failure to enforce this statute could sue the owner of a dangerous wild animal for an injunction to require compliance.

**County authority to regulate.** Section 240.002(a) of the Local Government Code allows county commissioners courts to prohibit or regulate keeping of wild animals at a residence or within 1,000 feet of a residence or a public school. CSHB 1362 would delete the reference to residences and schools and generally permit counties to prohibit or regulate wild animals throughout the county. The bill also would repeal Local Government Code sec. 240.0025, which generally authorizes counties to prohibit or regulate the keeping of certain wild animals outside of city limits.

This bill would take effect September 1, 2001. Each county and municipality would be required to adopt any ordinance or order necessary to implement the certificate of registration program by December 1, 2001. The Texas Board of Health would be required to adopt rules by March 1, 2002; and a person would be required to obtain a certificate of registration for a dangerous wild animal starting June 1, 2002.

**SUPPORTERS  
SAY:**

Texas is one of only a few states in the country that does not regulate the ownership of dangerous wild animals. Texas has laws protecting citizens from dangerous dogs but not from these dangerous predators. CSHB 1362 is patterned after the existing "dangerous dog" statute and would provide the same type of protection for citizens. In 1999, three Texans were severely mauled by large cats, and a 10-year-old girl was killed by a Siberian tiger being kept as a pet at her home. One other person was mauled last year.

CSHB 1362 would balance the need to protect the public safety while preserving the right to own dangerous wild animals. Owners would not be prohibited from breeding, selling, exhibiting, or conducting any other activities with their animals. Legal safeguards would prevent the arbitrary denial or revocation of a permit. Local governments would be allowed to charge a fee to recover their costs of the registration program or to recover the cost of recapturing an escaped animal from its owner, so the regulation would not be an unfunded mandate.

Because Texas currently has neither regulation nor registration, it is impossible to take an accurate inventory of the number of dangerous wild animals in the state or to know in what kinds of conditions these animals are kept. It is estimated that Texas holds an estimated 2,300 tigers in captivity, a population second only to India. Requiring a certificate of registration would create the means for a more accurate inventory of dangerous wild animals being kept in the state.

The U.S. Department of Agriculture (USDA) has requirements for the ownership of dangerous wild animals, but has only four inspectors to cover the entire state. USDA is required to inspect once a year, but some facilities, particularly those with no previous violations or those located in West Texas, are inspected only once every 18 months. CSHB 1362 would require owners to register these animals with local authorities who could enforce the regulations on a more timely basis.

CSHB 1362 would focus on public safety issues not covered by federal standards — which mostly address matters of animal welfare and not liability insurance requirements, attacks, or escapes by dangerous wild animals. Neighbors should have the right to know if a dangerous wild animal is being kept nearby. The bill would exempt USDA license holders only from the requirements for the care, treatment, and transportation of the animal, which are covered by federal regulations. USDA license holders would have to meet all other state and local requirements. This bill also would cover people who are not required to be licensed or registered with USDA.

The bill is correct not to exempt USDA licensees from all requirements in the bill. Such an exemption would create a loophole from meaningful regulation and would encourage otherwise unqualified persons to apply for a USDA license only to avoid state and local regulation. Owners who keep exotic animals essentially as family pets might try to meet the minimal requirements for “public exhibits” and other USDA requirements in an attempt to qualify for a Class C exhibitors license and circumvent the local requirements if this exemption were permitted.

A wild animal escape usually results in death or injury to the animal or to humans. Current law already requires the sheriff’s department or other law

enforcement agency to respond to an emergency caused by a wild animal escape. CSHB 1362 would require timely notice of the escape and would allow the county to seek compensation from the animal's owner for the cost of recapturing and holding the animal.

Wild animals cannot be tamed. Often, people buy an exotic animal when it is young, at flea markets, through newspaper advertising, or on the Internet. When the animal grows and becomes uncontrollable, the owners often will release the animal, or the animal is confiscated. In either case, these animals generally end up in sanctuaries and zoos. They are more dangerous than animals found in the wild because they have no fear of humans. This situation increases burdens on facilities that take abandoned or confiscated animals. This bill would set strict requirements and increase costs for owning a dangerous wild animal so as to deter irresponsible buyers.

Exotic hooved animals brought into the state as game animals would be exempt because they do not pose the same danger as do large cats and apes.

OPPONENTS  
SAY:

CSHB 1362 is unnecessary because USDA already requires animal dealers, exhibitors, transporters, and research facilities to be registered under the federal Animal Welfare Act, with specific exceptions. Also, many municipalities prohibit people from owning wild animals as pets.

The bill should exempt owners of wild animals who have a current USDA license. Federal animal care standards cover humane handling, housing, space, feeding and watering, sanitation, ventilation, shelter from extremes of weather, adequate veterinary care, separation of incompatible animals, transportation, and handling in transit. USDA inspects wild animals that are kept by license holders at least once a year.

CSHB 1362 would impose an undue burden on responsible USDA exhibitor licensees who already exceed the bill's standards for caging, humane treatment of the animals, and liability insurance. Since the bill would carve out exemptions for zoos, circuses and film production companies, its provisions would not be weakened by adding the estimated 35 other smaller exhibitor licensees in the state.

Under CSHB 1362, county employees would be responsible for making sure that applicants and license holders complied with the law. County employees generally do not have veterinary training. Ambiguous standards in the bill such as “humane treatment” could lead to arbitrary enforcement of the local regulations by untrained inspectors. USDA inspectors have a veterinary background and experience with wild animals.

CSHB 1362 would impose an unnecessary burden on small rural counties in monitoring the new regulations. While the bill would not require a county or a municipality to establish an animal control department, a reasonable interpretation would imply a requirement by some county agency to conduct routine inspections of cages and facilities to confine dangerous wild animals. In rural communities, this would likely be the sheriff’s department. Such inspections would take time away from other more important public safety duties.

Under this bill, the costs associated with owning exotic animals would be prohibitive and unreasonable, especially for wild animal dealers, exhibitors, and breeders. Fees of up to \$50 per animal or \$500 per person for a certificate of registration, in addition to insurance, could cost owners between \$500 and \$3,500, depending on the type of animal. USDA license holders also must pay between \$30 and \$750 for Class A or Class B licenses and between \$30 and \$300 for Class C licenses.

Irresponsible people buying wild animals are not USDA license holders. People who own these animals without a license already are violating the law. This bill would create an undue burden on people who own wild animals and abide by federal regulations.

OTHER  
OPPONENTS  
SAY:

CSHB 1362 still would not provide uniform statewide regulation of dangerous wild animals. Enforcement should be provided by a state agency rather than municipal and county animal control agencies and sheriffs’ departments enforcing a patchwork of regulation. Smaller counties with no animal control agencies could choose to prohibit all dangerous wild animals rather than imposing the regulations.

The list defining dangerous wild animals arbitrarily adds or deletes animals previously regulated by TPWD and contains a different list from ones

proposed in wild animal bills from previous legislative sessions. CSHB 1362 would not regulate elephants, rhinoceroses, or wolves as dangerous wild animals. These exceptions are also dangerous animals that have injured or killed people.

The bill would not allow the animal control agency to seize an animal if violations occurred that could endanger the animal or the public. Agencies should have the authority to remove an animal and to impose heavy fines for gross violations.

NOTES:

During the 76th Legislature, the House approved HB 2259 by Goodman, which was similar to the provisions of CSHB 1362, but the bill died on the Senate Intent Calendar.

The companion bill, SB 235 by Harris, was considered in public hearing by the Senate State Affairs Committee on March 5 and left pending.

The substitute differs from the filed version of HB 1362 by specifying that a municipality currently without an animal control agency would not be required to create one. Also, the animal registration agency, law enforcement agencies or their employees would not be liable to the owner of the dangerous wild animal for damage, injury, or death caused by the animal or injury or death to the animal.