

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1235
By: Moncrief
Natural Resources
4-20-97
Committee Report (Substituted)

DIGEST

During the 74th Legislature, S.B. 97 repealed Chapter 12G, Parks and Wildlife Code, regulating dangerous wild animals, as of September 1, 1997. S.B. 97 repealed Subchapter G primarily because the Department of Parks and Wildlife does not have the manpower or the resources to regulate dangerous wild animals. This bill would give control over the regulation of dangerous wild animals to local animal authorities or to the county sheriff. Additionally, this bill would prohibit a person from owning, possessing, having custody or control of, or harboring a dangerous wild animal for any purpose, with exceptions.

PURPOSE

As proposed, C.S.S.B. 1235 gives control over the regulation of dangerous wild animals to local authorities or to the county sheriff, and prohibits a person from owning, possessing, having custody or control of, or harboring a dangerous wild animal for any purpose, with exceptions.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 882, Health and Safety Code, by adding Subchapter E, as follows:

SUBCHAPTER E. DANGEROUS WILD ANIMALS

Sec. 822.051. DEFINITIONS. Defines "animal control authority," "commercial activity," "dangerous wild animals," "owner," and "wildlife sanctuary."

Sec. 822.052. OWNERSHIP PROHIBITED. (a) Prohibits a person from owning, possessing, having custody or control of, or harboring a dangerous wild animal for any purpose.

(b) Provides that this chapter does not apply to a person possessing or having custody of an injured, infirm, orphaned or abandoned dangerous wild animal solely for the purpose of transporting the animal for care or treatment to a wildlife sanctuary, a licensed veterinarian, incorporated society or animal shelter, an organization which is an accredited member of the American Zoo and Aquarium Association (association), or a state, federal, or local government official with authority or apparent authority to care for or treat the animal; a person who holds a permit issued pursuant to Subchapter C, Chapter 43, Parks and Wildlife Code, authorizing the person to possess the dangerous wild animal for rehabilitation purposes, a licensed veterinarian, an incorporated human society or an animal shelter while rehabilitating, treating or caring for an injured, infirm, orphaned or abandoned dangerous wild animal; a "research facility" within the meaning of Section 2(e) of the federal Animal Welfare Act (7 U.S.C. Section 2132(e)), licensed by the Secretary of Agriculture of the United States pursuant to that act; an animal control authority and any agent or official of the authority acting in his or her official capacity; an agency of the State of Texas or the United States or any agent or official of the agency acting in his or her official capacity; an organization which is an accredited member of the

association; a wildlife sanctuary provided it complies with Sections 822.053(a)(2) through (8); a dangerous wild animal owned by and in the possession, custody and control of a transient circus company and used as an integral part of its circus performances, provided the animal is kept this state only during the time the circus is performing in this state; a dangerous wild animal owned by and in possession, custody and control of a college or university solely as a mascot for the college or university; and a dangerous wild animal which is a member of a "threatened" or "endangered" species within the meaning of Section 3 of the federal Endangered Species Act (16 U.S.C. 1532), owned by or in the possession, control or custody of a person which is a participant in a Species Survival Plan of the association for that species.

Sec. 822.053. EXISTING ANIMALS. Prohibits Section 822.052 from applying to a dangerous wild animal owned at the time this subchapter becomes effective if its owner meets certain requirements. Sets forth those requirements. Requires any person required to obtain a dangerous wild animal permit pursuant to this section to apply for the permit on an application form provided by the animal control authority. Requires the application form to contain a pre-printed animal identification number. Requires the applicant to complete the application with certain information before the application will be considered by the animal control authority. Sets forth the required information. Requires the applicant to file the completed application with the animal control authority along with certain items. Sets forth the required items.

Sec. 822.054. REQUIREMENTS FOR CONFINEMENT FACILITIES. Requires a cage or other confinement facility which confines or encloses a dangerous wild animal to meet certain specifications. Sets forth the specifications based on the type of wild animal involved. Requires any condition which results in the escape of an animal from the cage or confinement facility in which the animal is confined or enclosed or which results in injury to any person to be considered a violation of this section.

Sec. 822.055. PENALTY. Provides that a person who violates Section 822.052 commits a Class C misdemeanor. Provides that there will be a separate offense for each animal involved. Provides that a person who commits an offense under this section is liable for a civil penalty not to exceed \$1,000 for each day of the violation. Authorizes a certain attorney to file suit in court of competent jurisdiction to collect the penalty and any amounts due. Requires penalties collected under this subsection to be retained by the county or municipality. Requires the owner, if requested by the animal control authority, to surrender possession of the animal to the animal control authority pending the resolution of any alleged violation by the owner with respect to the animal and to pay all costs of care and feeding of the animal incurred by the animal control agency if the owner is found to have violated Section 822.052. Requires the court, upon finding a person guilty of an offense under this section, to order the forfeiture of the animal involved in the offense to the animal control authority.

Sec. 822.056. OTHER REQUIREMENTS. Provides that nothing in this chapter relieves a person of the obligations of complying with the requirements of Chapters 43C, 67 and 68, Parks and Wildlife Code, or the regulations promulgated under those laws; Chapter 240A, Local Government Code, or any orders adopted pursuant to that subchapter; and any other law, regulation, rule, order, ordinance or other legal requirement of the State of Texas or any political subdivision of the State of Texas.

SECTION 2. Effective date: September 1, 1997.

SECTION 3. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 822.051, Health and Safety Code, to redefine "dangerous wild animals" to exclude lesser pandas, binturongs, rhinoceroses, and jackals, in Subsection (c). Adds the definition of "wildlife sanctuary" in Subsection (e). Amends Section 822.052, to revise Subsection (b), relating to application of this subchapter. Adds Subsection (b)(7) to provide that this subchapter does not apply to a wildlife sanctuary provided it complies with Sections 822.053(a)(2)-(8). Renumbers subsequent subsections accordingly. Amends Section 822.053, to revise Subsections (a)(4) and (8) in order to provide that Section 822.052 does not apply to a dangerous wild animal owned at the time this subchapter becomes effective if its owner meets the following two requirements, among others: the owner does not sell or transfer ownership of the animal or surrender possession, custody, or control of the animal to any person other than those listed in Sections 822.052(b)(4), (6), or (7); and the owner keeps the animal confined at all times in facilities meeting the requirements of Section 822.054. Amends Section 822.054, to make conforming changes to Subsections (a)(1), (2), and (5), based on the revisions of the definition of "dangerous wild animals" in Section 822.051(c).