A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 2 TO TITLE 47 SO AS TO ENACT THE "DANGEROUS WILD ANIMALS ACT", TO DEFINE CERTAIN TERMS, TO PROHIBIT CERTAIN PERSONS FROM OWNING, POSSESSING, OR COMING INTO CONTACT WITH A DANGEROUS WILD ANIMAL, TO AUTHORIZE INSPECTIONS BY THE ANIMAL CONTROL AUTHORITY, TO AUTHORIZE CONFISCATION OF THESE ANIMALS UNDER CERTAIN CONDITIONS, TO PROVIDE THAT LOCAL GOVERNMENTAL BODIES MAY ADOPT AN ORDINANCE THAT REGULATES THE POSSESSION OF DANGEROUS WILD ANIMALS, TO REGULATE THE TREATMENT OF DANGEROUS WILD ANIMALS, AND TO PROVIDE PENALTIES.

Whereas, it is the intent of the South Carolina General Assembly to protect the public against health and safety risks that dangerous wild animals pose to the community and to protect the welfare of the individual animals held in private possession. By their very nature, these animals are wild and inherently dangerous and, as such, do not adjust well to a captive environment. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 47 of the 1976 Code is amended by adding:

"CHAPTER 2

Dangerous Wild Animal Control and Regulation

Article 1

Regulation of Dangerous Wild Animals

Section 47-2-10. This chapter may be cited as the ‘Dangerous Wild Animals Act’.

Section 47-2-20. As used in this chapter:

(1) ‘Animal Control Agency’ means an animal control agency operated by a political subdivision of this state or any unit of animal control officers in a law enforcement agency operated by a county or municipality.

(2) ‘Dangerous wild animal’ means any live individual animal held in captivity of the following scientific classifications:

(a) Class Mammalia:

(i) Order Carnivora:

(A) Family Canidae: red wolves (Canis rufus) and gray wolves (Canis lupus);

(B) Family Felidae: lions (Panthera leo), tigers (Panthera tigris), leopards (Panthera pardus), clouded leopards (Neofelis nebulosa, Neofelis diardi), snow leopards (Panthera uncia), jaguars (Panthera onca), cheetahs (Acinonyx jubatus), mountain lions (Puma concolor), including hybrids thereof;

(C) Family Hyaenidae: all species of hyena and aardwolf;

(D) Family Ursidae: all species of bears;

(E) Family Procyonidae: all species, excluding raccoons (Procyon lotor);

(ii) Order Primates: all species, excluding humans;

(b) Class Reptilia:

(i) Order Crocodylia: all species of alligators, crocodiles, caimans, gharials;

(ii) Order Squamata:

(A) Family Atractaspidae: all species, such as mole vipers;

(B) Family Boidae: anacondas (Genus Eunectes), boa constrictors (Boa constrictor), Burmese pythons (Python molurus), reticulated pythons (Python reticulatus), amethystine pythons (Morelia amethistinus), scrub pythons (Morelia kinghorni), Northern African pythons (Python sebae), Southern African pythons (Python natalensis);

(C) Family Colubridae: boomslangs (Dispholidus typus), twig snakes (Genus Thelotornis);

(D) Family Elapidae: all species, such as cobras, mambas, and coral snakes;

(E) Family Hydrophiidae: all species, such as sea snakes;

(F) Family Viperidae: all species, such as rattlesnakes, pit vipers, and puff adders; and

(iii) All species listed under the Federal Endangered Species Act (50 C.F.R. 17.11) as threatened or endangered are considered dangerous wild animals.

(3) 'Law enforcement officer' means any state police officer, local enforcement officers (including county sheriffs, city police, and officers of an animal control agency), or any officer acting under the authority of this act.

(4) 'Person' means any individual, partnership, corporation, organization, or any other legal entity, and any officer, member, shareholder, director, employee, agent, or representative of them.

(5) 'Possessor' means a person who owns, harbors, or has custody or control of a dangerous wild animal.

(6) 'Wildlife sanctuary' means a nonprofit organization that:

(a) operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced animals are provided care for the lifetime of the animal;

(b) does not conduct any commercial activity with respect to dangerous wild animals, including, but not limited to:

(i) sale, trade, auction, lease, or loan of dangerous wild animals or parts of such animals; or

(ii) use of dangerous wild animals in any manner in a for-profit business or operation;

(c) does not use dangerous wild animals for entertainment purposes or in a traveling exhibit;

(d) does not breed any dangerous wild animals; and

(e) does not allow members of the public the opportunity to come into direct contact with dangerous wild animals.

Section 47-2-30. (A) Notwithstanding another provision of law and unless exempted herein, it shall be unlawful for any person to import, possess, sell, transfer, or breed a dangerous wild animal.

(B) Notwithstanding another provision of law, it is unlawful for a person to allow a member of the public to come into direct contact with a dangerous wild animal.

Section 47-2-40. The prohibitions in Section 47-2-30(A) shall not apply to:

(1) duly incorporated nonprofit animal protection organizations, such as humane societies and shelters, temporarily housing a dangerous wild animal at the written request of law enforcement acting under authority of this chapter;

(2) federal or state wildlife enforcement officers acting under the scope of their authority;

(3) animal control agencies or law enforcement agencies or officers acting under the authority of this chapter;

(4) veterinary hospitals, clinics, and veterinarians who are actively treating a dangerous wild animal in their professional capacity as a veterinarian or employee of a facility;

(5) a research facility holding a Class R registration under the Animal Welfare Act, 7 U.S.C. Section 2131, et seq., as amended;

(6) institutions accredited by the Association of Zoos and Aquariums (AZA) or certified related facilities that coordinate with an AZA Species Survival Plan for breeding of species listed as threatened or endangered pursuant to 16 U.S.C. Section 1533;

(7) a wildlife sanctuary, as defined in Section 47-2-20(6);

(8) circuses, defined as exhibitors holding a Class C license under the Animal Welfare Act, 7 U.S.C. Section 2131 et seq., as amended, that:

(a) are temporarily in the state for less than ninety days per year;

(b) regularly conduct performances featuring live dangerous wild animals and multiple trained human entertainers, including clowns and acrobats; and

(c) do not allow members of the public to be in proximity to dangerous wild animals without sufficient distance and protective barriers, including, but not limited to, offering photographic opportunities next to dangerous wild animals of any age; or

(9) a person who does not reside in this State and is traveling through this State with a regulated species if the transit time is not more than forty-eight hours and the animal is at all times maintained within a confinement sufficient to prevent the animal from escaping.

Section 47-2-50. The prohibitions in Section 47-2-30(A) shall not apply to a person who lawfully possessed a dangerous wild animal prior to July 1, 2013, provided that:

(1) the person shall maintain veterinary records, acquisition papers, or other documents or records that establish that the person possessed the animal prior to July 1, 2013;

(2) the person shall not acquire additional dangerous wild animals after July 1, 2013, whether by purchase, donation, or breeding;

(3) the person shall not have been convicted of an offense involving the abuse or neglect of any animal pursuant to any state, local, or federal law;

(4) the person shall not have had a license or permit regarding the care, possession, exhibition, breeding, or sale of animals revoked or suspended by any state, local, or federal agency;

(5) the person must maintain liability insurance in an amount of not less than two hundred fifty thousand dollars, with a deductible of not more than two hundred fifty dollars, for each occurrence of property damage, bodily injury, or death caused by any dangerous wild animal possessed by the person; and

(6) at all times, possession, sale, transfer, and transport of the dangerous wild animal complies with all applicable state, local, and federal laws. Nothing in this subsection precludes an owner from transferring a dangerous wild animal lawfully possessed before July 1, 2013 to another owner who is in lawful possession of a dangerous wild animal.

Section 47-2-60. (A) A city or county may adopt an ordinance to implement this chapter upon completion of all applicable hearing and notice requirements, including, but not limited to:

(1) establishing reasonable and necessary fees in amounts sufficient to cover the costs of enforcing this section;

(2) establishing humane care standards; and

(3) expanding the definition of dangerous wild animal.

However, the regulations shall not amend the list of exempted entities contained in Section 47-2-40.

(B) Law enforcement officers may, upon probable cause, seize any or all dangerous wild animals possessed in violation of this chapter. Upon judicial determination that:

(1) the seized animals are dangerous wild animals, as defined in Section 47-2-20(2); and

(2) the owner of the seized animals has violated this chapter with regard to those seized dangerous wild animals, then such dangerous wild animals seized under this section shall be deemed forfeited.

(C) Dangerous wild animals seized and deemed forfeited under this subsection shall be placed in the custody and control of an institution accredited by the Association of Zoos and Aquariums (AZA) or a wildlife sanctuary (as defined in Section 47-2-20(6)).

If law enforcement officers, after a reasonable effort, can not find an accredited zoo or wildlife sanctuary that is willing and able to take custody and control of a seized and forfeited dangerous wild animal, that animal may be humanely euthanized in compliance with state and federal law.

(D) Dangerous wild animals seized, but not deemed forfeited under this chapter, must be kept in the custody of an institution accredited by the Association of Zoos and Aquariums (AZA), a wildlife sanctuary (as defined in Section 47-2-20(6)), or a temporary holding facility identified in Section 47-2-20(1), until disposition of the seized dangerous wild animals. Nothing in this subsection precludes an animal control officer from impounding a dangerous wild animal on the owner's property until an AZA-accredited zoo or wildlife sanctuary is located for placement.

The accredited zoo, wildlife sanctuary, or temporary holding facility having custody of the dangerous wild animal may file a petition with the court requesting that the person from whom the dangerous wild animal was seized, or the owner of the dangerous wild animal, be ordered to post security. The security must be in an amount sufficient to secure payment of all reasonable expenses expected to be incurred by the accredited zoo, wildlife sanctuary, or temporary holding facility in caring for and providing for the dangerous wild animal pending the disposition of the animal. Reasonable expenses include, but are not limited to, estimated medical care and boarding of the dangerous wild animal pending disposition. The amount of the security must be determined by the court after taking into consideration all of the facts and circumstances of the case, including, but not limited to, the recommendation of the impounding organization having custody and care of the seized dangerous wild animal and the cost of caring for the dangerous wild animal. If security has been posted in accordance with this subsection, the accredited zoo, wildlife sanctuary, or temporary holding facility may draw from the security the actual costs incurred in caring for the seized dangerous wild animal.

Upon receipt of a petition, the court must set a hearing on the petition, to be conducted within fifteen business days after the petition is filed. The petitioner shall serve a true copy of the petition upon the owner of the dangerous wild animal and the state or local law enforcement entity that seized the dangerous wild animal. The petitioner also shall serve a true copy of the petition on any interested person. For the purposes of this subsection, 'interested person' means an individual, partnership, firm, joint

stock company, corporation, association, trust, estate, or other legal entity that the court determines may have a pecuniary interest in the animal that is the subject of the petition. The court must set a hearing date to determine any interested parties.

If the court orders the posting of security, the security must be posted with the clerk of the court within five business days after the hearing. If the person ordered to post security does not do so, the dangerous wild animal is deemed forfeited by operation of law and the accredited zoo, wildlife sanctuary, or temporary holding facility having custody of the dangerous wild animal shall have legal custody and control over the dangerous wild animal.

Upon judicial determination on the disposition of the seized dangerous wild animal, the person who posted the security is entitled to a refund of the security for any expenses not incurred by the impounding organization.

(E) Nothing in this chapter shall be construed to prevent the voluntary, permanent relinquishment of any dangerous wild animal to an institution accredited by the Association of Zoos and Aquariums (AZA) or a wildlife sanctuary (as defined in Section 47-2-20(6)) in lieu of posting security. Criminal charges may still be pursued by the appropriate authorities even if the owner voluntarily relinquished the animal.

Section 47-2-70. (A) A dangerous wild animal may not be:

(1) tethered, leashed, or chained outdoors or allowed to run at large; or

(2) mistreated, neglected, abandoned, or deprived of necessary food, water, or sustenance.

(B) A person transporting a dangerous wild animal in a vehicle shall keep the animal securely caged in the vehicle at all times.

(C) The possessor of a dangerous wild animal shall have a plan for the quick and safe recapture of the dangerous wild animal if the dangerous wild animal escapes, and if recapture is impossible, a plan for the destruction of the dangerous wild animal.

(D) If a person realizes that he can no longer care for a dangerous wild animal, a wildlife sanctuary or an Association of Zoos and Aquariums accredited facility must be contacted for possible placement of the animal before euthanization of the dangerous wild animal. At all times euthanization of a dangerous wild animal must comply with state and federal law.

Section 47-2-80. If a dangerous wild animal escapes or is released, either intentionally or unintentionally, the possessor of

the dangerous wild animal immediately shall contact a law enforcement officer of the city or county where the possessor resides to report the escape or release. The possessor is liable for all expenses associated with efforts to recapture the animal.

Section 47-2-90. The possessor of a dangerous wild animal shall allow a law enforcement officer to enter the premises where the animal is kept at all reasonable times to ensure compliance with this chapter.

Section 47-2-100. (A) A person who violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, must be fined two hundred dollars, or imprisoned not more than thirty days. Upon conviction of a second or subsequent offense, he must be fined one thousand dollars, none of which may be suspended or remitted.

(B) A possessor of a dangerous wild animal who violates Section 47-2-70(A) or (B), or Section 47-2-80 that results in the animal attacking and injuring a human being:

(1) for a first offense is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than three years; and

(2) for a second or subsequent offense is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than five years.

Section 47-2-110. A municipality or county may adopt an ordinance that regulates the possession of dangerous wild animals which is more restrictive than the provisions contained in this chapter."

SECTION 2. This act takes effect July 1, 2013.

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