

By: Menéndez

S.B. No. 1879

A BILL TO BE ENTITLED

AN ACT

1
2 relating to registration and regulation of dangerous wild animals;
3 providing penalties, creating a criminal offense, and authorizing a
4 fee.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 822, Health and Safety Code, is amended
7 by adding Subchapter F to read as follows:

8 SUBCHAPTER F. REGULATION OF DANGEROUS WILD ANIMALS

9 Sec. 822.151. DEFINITIONS. In this subchapter:

10 (1) "Animal control authority" means the sheriff of a
11 county in which a dangerous wild animal is located.

12 (2) "Animal shelter" means a municipal or county
13 animal shelter or an animal shelter operated by a nonprofit
14 charitable organization established primarily to shelter and care
15 for stray and abandoned animals.

16 (3) "Dangerous wild animal" means:

17 (A) a baboon;

18 (B) a bear;

19 (C) a cheetah;

20 (D) a chimpanzee;

21 (E) a clouded leopard;

22 (F) a cougar;

23 (G) a gorilla;

24 (H) a jaguar;

- 1 (I) a leopard;
- 2 (J) a lion;
- 3 (K) an orangutan;
- 4 (L) a snow leopard;
- 5 (M) a tiger; or
- 6 (N) any hybrid or subspecies of an animal listed
- 7 in this subdivision.

8 (4) "Department" means the Department of State Health
9 Services.

10 (5) "Owner" means any person who owns, possesses,
11 harbors, or has custody or control of a dangerous wild animal.

12 (6) "Person" means an individual, partnership,
13 corporation, trust, estate, joint stock company, foundation, or
14 association of individuals.

15 (7) "Wildlife sanctuary" means a charitable
16 organization that is exempt from taxation under Section 501(c)(3),
17 Internal Revenue Code of 1986, that is described by Section
18 170(b)(1)(A)(vi), Internal Revenue Code of 1986, and that:

19 (A) operates a place of refuge where an abused,
20 neglected, unwanted, impounded, abandoned, orphaned, or displaced
21 wild animal is provided care for the animal's lifetime; and

22 (B) with respect to a dangerous wild animal owned
23 by or in the custody or control of the organization, does not:

24 (i) conduct a commercial activity,
25 including the sale, trade, auction, lease, or loan of the animal or
26 parts of the animal, or use the animal in any manner in a for-profit
27 business or operation;

1 (ii) breed the animal;

2 (iii) allow direct contact between the
3 public and the animal; or

4 (iv) allow off-site transportation and
5 display of the animal.

6 Sec. 822.152. APPLICABILITY. This subchapter does not
7 apply to:

8 (1) a county, municipality, or agency of this state,
9 an agency of the United States, or an agent or official of a county,
10 municipality, or agency acting in the agent's or official's
11 official capacity;

12 (2) a research facility, as defined by Section 2(e),
13 Animal Welfare Act (7 U.S.C. Section 2132(e)), that is licensed by
14 the secretary of the United States Department of Agriculture under
15 that Act;

16 (3) a person holding a Class "A", Class "B", or Class
17 "C" license issued by the United States secretary of agriculture
18 under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.);

19 (4) a wildlife sanctuary;

20 (5) a veterinary hospital providing treatment to a
21 dangerous wild animal;

22 (6) a person who holds a rehabilitation permit issued
23 under Subchapter C, Chapter 43, Parks and Wildlife Code, while
24 rehabilitating the dangerous wild animal;

25 (7) a college or university that began displaying a
26 dangerous wild animal as a mascot before September 1, 2017, and does
27 not allow direct contact between the public and the mascot;

1 (8) an animal shelter temporarily housing a dangerous
2 wild animal seized under Section 822.155 or the written request of
3 an animal control authority or a law enforcement agency acting
4 under this subchapter; or

5 (9) an owner lawfully in possession of a dangerous
6 wild animal before September 1, 2017, if the owner:

7 (A) has veterinary records, acquisition papers,
8 or other documents or records that establish ownership of the
9 dangerous wild animal before September 1, 2017;

10 (B) has not been convicted of an offense
11 involving cruelty to an animal;

12 (C) has not had a license or permit relating to
13 the care, possession, exhibition, breeding, or sale of a dangerous
14 wild animal revoked or suspended by any local, state, or federal
15 agency;

16 (D) has developed and is prepared to implement an
17 emergency plan for responding to the escape of or an attack by the
18 dangerous wild animal and has provided the plan to the department
19 and animal control authority at the time the owner registers the
20 animal under Section 822.154;

21 (E) has provided a list of the owner's dangerous
22 wild animals to the department and animal control authority;

23 (F) does not acquire by any means, including
24 through purchase, donation, or breeding, an additional dangerous
25 wild animal on or after September 1, 2017;

26 (G) does not allow direct contact between the
27 public and the dangerous wild animal; and

1 (H) registers the dangerous wild animal with the
2 department as required by Section 822.154.

3 Sec. 822.153. DANGEROUS WILD ANIMALS PROHIBITED. Except as
4 provided by Section 822.152, a person may not own, possess, harbor,
5 or have custody or control of a dangerous wild animal.

6 Sec. 822.154. REGISTRATION; FEE. (a) An owner described by
7 Section 822.152(9) shall annually register the owner's dangerous
8 wild animal with the department on a form provided by the department
9 and pay the registration fee established by the department.

10 (b) The department may establish and charge a reasonable
11 registration fee in an amount sufficient to cover the cost of
12 administering this subchapter.

13 Sec. 822.155. SEIZURE OF DANGEROUS WILD ANIMAL; HEARING.
14 (a) On a showing of probable cause that a dangerous wild animal is
15 owned, possessed, harbored, held in custody, or controlled in
16 violation of this subchapter, a justice court, county court, or
17 county court at law in the county in which the dangerous wild animal
18 is located shall:

19 (1) order an animal control authority or a peace
20 officer located in the county to seize the dangerous wild animal;

21 (2) issue a warrant authorizing the animal's seizure;
22 and

23 (3) schedule a hearing to be held on a date not later
24 than the 10th day after the date the warrant is issued to determine:

25 (A) whether a violation of this subchapter
26 occurred; and

27 (B) the final disposition of the dangerous wild

1 animal.

2 (b) The person executing a warrant described by Subsection
3 (a)(2) shall serve written notice of the hearing described by
4 Subsection (a)(3) to the owner of the dangerous wild animal at the
5 time the warrant is executed.

6 (c) The animal control authority or peace officer shall
7 seize the dangerous wild animal and provide for the impoundment of
8 the animal in secure and humane conditions until a court determines
9 the disposition of the animal and issues appropriate orders. This
10 subsection does not prevent an animal control authority or peace
11 officer from impounding an animal on the property in which the
12 animal is located at the time of the seizure.

13 (d) A court on finding that a violation of this subchapter
14 occurred shall assess against the owner of a seized dangerous wild
15 animal the reasonable costs of caring for the animal, including
16 boarding and veterinary costs.

17 (e) A court's decision under this section is final and may
18 not be appealed.

19 Sec. 822.156. DISPOSITION OF CERTAIN DANGEROUS WILD
20 ANIMALS. (a) If a court finds that a person has kept a dangerous
21 wild animal in violation of this subchapter, the court shall divest
22 the person's ownership of the animal and order ownership of the
23 animal to vest in the animal control authority.

24 (b) The animal control authority shall make a reasonable
25 effort to place the animal in the custody of a wildlife sanctuary or
26 other facility that is willing and able to take custody of the
27 animal. If the animal control authority is unable to place the

1 animal with a wildlife sanctuary or other facility, the animal
2 control authority may humanely euthanize the animal in compliance
3 with state and federal law.

4 Sec. 822.157. CIVIL PENALTY. (a) A person who violates
5 this subchapter is liable to the county in which the violation
6 occurs for a civil penalty of not less than \$200 and not more than
7 \$2,000 for each animal with respect to which there is a violation
8 and for each day that the violation continues.

9 (b) A county in which the violation occurs may sue to
10 collect a civil penalty under this section. A civil penalty
11 collected under this subsection may be retained by the county.

12 (c) A county that sues under Subsection (b) may also recover
13 the reasonable costs of investigation, reasonable attorney's fees,
14 and other costs incurred by the county or an animal control
15 authority.

16 Sec. 822.158. INJUNCTION. A county in which a dangerous
17 wild animal is located or a person who is harmed or threatened with
18 harm by a violation of this subchapter may sue an owner of a
19 dangerous wild animal to enjoin a violation of this subchapter.

20 Sec. 822.159. OFFENSE; PENALTY. (a) A person commits an
21 offense if the person violates this subchapter. Each animal with
22 respect to which there is a violation and each day that a violation
23 continues is a separate offense.

24 (b) An offense under this section is a Class A misdemeanor.

25 SECTION 2. Section 42.01(e), Penal Code, is amended to read
26 as follows:

27 (e) It is a defense to prosecution for an offense under

1 Subsection (a)(7) or (9) that the person who discharged the firearm
2 had a reasonable fear of bodily injury to the person or to another
3 by a dangerous wild animal as defined by Section 822.151 [~~822.101~~],
4 Health and Safety Code.

5 SECTION 3. Section 42.092(d), Penal Code, is amended to
6 read as follows:

7 (d) It is a defense to prosecution under this section that:

8 (1) the actor had a reasonable fear of bodily injury to
9 the actor or to another person by a dangerous wild animal as defined
10 by Section 822.151 [~~822.101~~], Health and Safety Code; or

11 (2) the actor was engaged in bona fide experimentation
12 for scientific research.

13 SECTION 4. On January 1, 2018, Subchapter E, Chapter 822,
14 Health and Safety Code, is repealed.

15 SECTION 5. (a) Section 822.113, Health and Safety Code, as
16 repealed by this Act, applies only to an offense committed before
17 September 1, 2017. An offense committed before that date is
18 governed by the law in effect on the date the offense was committed,
19 and the former law is continued in effect for that purpose. For
20 purposes of this subsection, an offense was committed before that
21 date if any element of the offense occurred before that date.

22 (b) Section 822.159, Health and Safety Code, as added by
23 this Act, applies only to an offense committed on or after the
24 effective date of this Act. An offense committed before the
25 effective date of this Act is governed by the law in effect on the
26 date the offense was committed, and the former law is continued in
27 effect for that purpose. For purposes of this section, an offense

1 was committed before the effective date of this Act if any element
2 of the offense occurred before that date.

3 (c) Not later than November 1, 2017, the executive
4 commissioner of the Health and Human Services Commission shall
5 adopt rules, establish the fees, and prescribe the application form
6 necessary to implement Subchapter F, Chapter 822, Health and Safety
7 Code, as added by this Act.

8 (d) Notwithstanding Subchapter F, Chapter 822, Health and
9 Safety Code, as added by this Act, an owner of a dangerous wild
10 animal is not required to comply with Subchapter F, Chapter 822,
11 Health and Safety Code, as added by this Act, or rules adopted under
12 that subchapter until January 1, 2018.

13 SECTION 6. This Act takes effect September 1, 2017.