



WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director

TO: SENATOR VAN H. WANGGAARD

FROM: Michael ^{MQ} Queensland, Staff Attorney

RE: Description of 2015 Senate Bill 241, Relating to the Possession of Certain Wild Animals and Providing a Penalty, and LRBa0786/P2

DATE: October 1, 2015

2015 Senate Bill 241, "the bill," makes changes to the laws relating to the possession of certain wild animals. This memorandum describes the bill and LRBa0786/P2, "the draft amendment."¹

DEPARTMENT OF NATURAL RESOURCES AUTHORITY TO REGULATE CAPTIVE WILDLIFE

Current Law

Under current law, the buying, selling, and possession of **native** wild animals is regulated by the state under the captive wildlife law, ch. 169, Stats. The buying, selling, and possession of **non-native** animals, such as lions, tigers, and elephants is generally not prohibited by state law unless the animal is an endangered or threatened species, or is included in the listing of "harmful wild animals," which currently includes bears, cougars, feral hogs, mute swans, and wolf-dog hybrids. With certain exceptions, a person may not possess, take, propagate², sell, purchase, transfer, exhibit, or rehabilitate a harmful wild animal without specific authorization by the Department of Natural Resources (DNR). In addition, a person may generally not introduce, stock, or release, or import into Wisconsin, any harmful wild animal without specific authorization by the DNR.

¹ A wide variety of federal, state, and local restrictions regulate activities related to wild animals. A discussion of these laws is beyond the scope of this memorandum.

² "Propagate" means "to breed, encourage, or facilitate for the purpose of generating offspring." [s. 169.01 (27), Stats.]

Senate Bill 241

The bill prohibits the DNR from regulating "dangerous exotic animals" as "harmful wild animals" under Wisconsin's captive wildlife law and instead provides that dangerous exotic animals are regulated as described below.³ Under the bill, a "dangerous exotic animal" is a live animal that is any of the following:

- One of the following animals of the family felidae: a lion, tiger, jaguar, leopard, snow leopard, clouded leopard, Sunda clouded leopard, or cheetah, or a hybrid of any of these species.
- One of the following animals of the family ursidae: an Asiatic black bear, brown bear, polar bear, sloth bear, sun bear, giant panda bear, or spectacled bear, or a hybrid of any of these species.
- One of the following animals of the family hominidae: a gorilla, orangutan, chimpanzee, or bonobo.
- One of the following animals of the family hylobatidae: a siamang or gibbon.
- One of the following animals of the order crocodylia: an alligator of any species, crocodile of any species, caiman of any species, or gharial.

PROHIBITION ON THE POSSESSION OR SALE OF DANGEROUS EXOTIC ANIMALS

Senate Bill 241

The bill, with certain exceptions, prohibits the possession, importation into Wisconsin, sale, transfer, or breeding of a dangerous exotic animal (prohibition on the possession or sale of dangerous exotic animals). A person is subject to a forfeiture of up to \$1,000 per animal for violations of this prohibition.

The bill provides that certain persons and entities are exempt from this prohibition, including the following:

- An entity that is an accredited member of the Association of Zoos and Aquariums or that has a contract under a species survival plan of the Association of Zoos and Aquariums for the breeding of species listed as threatened or endangered under 16 U.S.C. s. 1533 (c).
- A zoo that is operated by a municipality or county.
- A circus.⁴

³ The bill also generally eliminates the DNR's authority to regulate non-native bears under Wisconsin's captive wildlife laws that pertain to the exhibition of live wild animals, propagation of wild animals, and captive animal farm licenses.

⁴ Under the bill, "circus" means an entity holding a Class C license as an exhibitor under the federal Animal Welfare Act, 7 U.S.C. s. 2131 to 2159, who conducts scheduled events performed by a traveling company that uses

- Circus World Museum.
- A wildlife sanctuary.⁵
- A person operating a research facility that is registered under the federal Animal Welfare Act, 7 U.S.C. s. 2131 to 2159.
- A veterinarian licensed under ch. 453, Stats., who is providing treatment to a dangerous exotic animal.
- An individual performing his or her duties as a humane officer or law enforcement officer, a political subdivision on whose behalf a humane officer or law enforcement officer takes a dangerous exotic animal into custody, or a person providing services for the care, treatment or disposal of animals under a contract with a political subdivision.
- A person transporting a dangerous exotic animal through Wisconsin if the dangerous exotic animal is in this state for no longer than 72 hours.

LRBa0786/P2

The draft amendment expands the list of persons and entities that are exempt from the prohibition on the possession or sale of dangerous exotic animals to also include the following:

- An entity that is an accredited member of the Zoological Association of America.
- A person who holds a license from the U.S. Department of Agriculture that allows the person to possess, import into Wisconsin, sell, transfer, or breed a dangerous exotic animal.

APPLICATION OF THE PROHIBITION ON THE POSSESSION OR SALE OF DANGEROUS EXOTIC ANIMALS TO CURRENT OWNERS

Under the bill, a person who owns a dangerous exotic animal on the bill's effective date⁶, but does not qualify for an exemption, may continue to possess that animal if the person does the following:

mobile facilities in which entertainment consisting of a variety of performances by acrobats, clowns, and trained animals is the primary attraction or principal business.

⁵ Under the bill, "wildlife sanctuary" means a nonprofit entity to which all of the following apply:

1. The entity operates a place of refuge where abused, neglected, unwanted, abandoned, orphaned, displaced, or impounded dangerous exotic animals are provided with lifelong care.
2. The entity does not conduct any commercial activity involving a dangerous exotic animal, including the sale, trading, or leasing of dangerous exotic animals or the dead bodies or parts of bodies of dangerous exotic animals or the use of dangerous exotic animals in a for-profit operation.
3. The entity does not use dangerous exotic animals for performances or in a traveling exhibit.
4. The entity does not breed dangerous exotic animals.

⁶ "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

- Maintains documentation showing that he or she owned the animal on the bill's effective date.
- Registers the animal with the city, village, or town and pays a registration fee no later than the first day of the seventh month after the bill's effective date.

A person authorized to possess a dangerous exotic animal by this method may transfer the animal to another person who is legally authorized to possess the animal.

LOCAL REGULATION OF DANGEROUS EXOTIC ANIMALS

Current Law

Under current law, a city, village, town, or county may enact and enforce an ordinance that prohibits the possession or selling of live wild animals. [s. 169.43, Stats.]

Senate Bill 241

The bill requires cities, villages, and towns to begin accepting registrations of dangerous exotic animals by the first day of the fourth month after the bill's effective date. Under the bill, a city, village, or town must charge a fee for registering a dangerous exotic animal.

The bill also provides that a city, village, town, or county may enact an ordinance relating to dangerous exotic animals. Such an ordinance must be at least as strict as the requirements provided in the bill that restrict the possession, importation, sale, transfer, or breed of a dangerous exotic animal and the above-mentioned registration requirement.

PROHIBITION ON ALLOWING PUBLIC CONTACT WITH A DANGEROUS EXOTIC ANIMAL

Senate Bill 241

The bill prohibits allowing a member of the public to come into direct contact with a dangerous exotic animal. A person is subject to a forfeiture of up to \$1,000 per animal for violations of this prohibition.

LRBa0786/P2

The draft amendment removes the prohibition against allowing a member of the public to come into direct contact with a dangerous exotic animal.

[s. 991.11, Stats.] The date of publication is the day after the date of enactment. [s. 35.095 (1) (b), Stats.] The bill does not specify an effective date. Therefore, the 2015 Senate Bill 241's effective date is two days after the date of enactment.

ESCAPED DANGEROUS EXOTIC ANIMALS

The bill requires the owner of a dangerous exotic animal to immediately notify local law enforcement if the animal is released or escapes. Under the bill, the owner of a dangerous exotic animal that is released or escapes is liable for the expenses incurred to recapture the animal. The bill also provides that a person is subject to a forfeiture of up to \$1,000 per animal for violations of this prohibition. If the dangerous exotic animal causes property damage or attacks an individual, the person may be required to forfeit up to \$2,000.

TAKING CUSTODY OF DANGEROUS EXOTIC ANIMALS

Current Law

Under current law, a humane officer or law enforcement officer may take custody of an animal if he or she has reasonable grounds to believe that the animal is an abandoned or stray animal, an unwanted animal, a dog that is not tagged, an animal not licensed in compliance with any ordinance, an animal not confined as required by a quarantine order relating to the control of any animal disease, an animal that has caused damage to persons or property, a participant in an animal fight intentionally instigated by any person, an animal mistreated in violation of ch. 951, Stats., or an animal delivered by a veterinarian under certain conditions. [s. 173.13, Stats.]

Senate Bill 241

Under the bill, a humane officer or law enforcement officer may take custody of a dangerous exotic animal that has been possessed, imported into this state, sold, transferred, or bred in violation of the prohibition on the possession or sale of dangerous exotic animals.

HOLDING ANIMALS FOR CAUSE

Current Law

Current law permits a political subdivision to withhold, or direct a person contracting with the political subdivision to withhold, an animal in custody from an owner who makes an otherwise adequate claim for the animal, as described below, on any of the following grounds:

- There are reasonable grounds to believe that the owner has mistreated the animal in violation of ch. 951, Stats.
- There are reasonable grounds to believe that the animal poses a significant threat to public health, safety, or welfare.
- The animal may be used as evidence in a pending prosecution.
- A court has ordered the animal withheld for any reason.

The owner of an animal withheld under this provision is not liable for any costs of custody, care, or treatment except as provided by court order. [s. 173.21, Stats.]

Senate Bill 241

The bill permits a political subdivision to withhold an animal from an owner, who makes an otherwise adequate claim for the animal, if there are reasonable grounds to believe that the animal that has been illegally possessed, imported into this state, sold, transferred, or bred.

REVIEW OF SEIZURE OR WITHHOLDING

Current Law

Under current law, a person claiming that an animal that he or she owns was improperly taken into custody on the grounds that it is a dog that is not tagged, it is not licensed in compliance with any ordinance, it has caused damage to persons or property, or it has been mistreated, or is wrongfully withheld may seek return of the animal by petitioning for an order from the circuit court for the county in which the animal was taken into custody or in which it is held. The court must hold a hearing on the issue of whether the animal was improperly taken into custody or is wrongfully withheld. [s. 173.22, Stats.]

Senate Bill 241

The bill provides that the petition process provided under current law is available to a person claiming that an animal that he or she owns was improperly taken into custody on the grounds that it is a dangerous exotic animal that has been possessed, imported into this state, sold, transferred, or bred in violation of the prohibition on the possession or sale of dangerous exotic animals.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

MQ:jal