

SRC-SEW H.B. 1362 77(R) BILL ANALYSIS

Senate Research Center H.B. 1362
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 State Affairs
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 Engrossed

DIGEST AND PURPOSE

Prior to 1995, the Texas Parks and Wildlife Department (TPWD) regulated the ownership of wild animals. Effective September 1, 1997, the legislature repealed the law that regulated the possession of wild animals, primarily because TPWD did not have the personnel or resources to properly regulate possession of dangerous wild animals. As proposed, H.B. 1362 sets up a new system of regulating dangerous wild animals, giving authority to regulate the possession of dangerous wild animals to municipal and county authorities.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Board of Health in SECTION 1 (Section 822.111, Health and Safety Code).

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 822, Health and Safety Code, by adding Subchapter E, as follows:

SUBCHAPTER E. DANGEROUS WILD ANIMALS

Sec. 822.101. DEFINITIONS. Defines "animal registration agency," "board," "commercial activity," "dangerous wild animal," "owner," "person," "primary enclosure," and "wildlife sanctuary."

Sec. 822.102. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter does not apply in certain cases. Provides that this subchapter does not require a municipality that does not have an animal control office to create that office.

Sec. 822.103. CERTIFICATE OF REGISTRATION; FEES. (a) Prohibits a person from owning, harboring, or having custody or control of a dangerous wild animal for any purpose except under certain conditions.

(b) Provides that a certificate of registration issued under this subchapter is not transferrable and is valid for one year after its date of issuance or renewal unless revoked.

(c) Authorizes the animal registration agency to establish and charge reasonable fees for application, issuance, and renewal of a certificate of registration in order to recover the costs associated with the administration and enforcement of this subchapter. Sets forth requirements regarding fees.

Sec. 822.104. CERTIFICATE OF REGISTRATION APPLICATION. (a) Requires an applicant for an original or renewal certificate of registration for a dangerous wild animal to file an application with an animal registration agency on a form provided by the animal registration agency. Requires the application to include certain information. Requires an applicant to include certain items with each application. Requires an application for renewal, in addition to the items required under Subsection (c), to include a statement signed by a veterinarian licensed to practice in this state stating that the veterinarian inspected each animal being registered not earlier than the 30th day before the date of the filing of the renewal application and finds that the care and treatment of each animal by the owner meets or exceeds the standards prescribed under this subchapter.

Sec. 822.105. DENIAL OR REVOCATION OF CERTIFICATE OF REGISTRATION; APPEAL. (a) Requires the animal registration agency, if certain requirements are not met, to deny the applicant a certificate of registration and give the applicant written notice of the denial and the reasons for the denial.

(b) Requires the animal registration agency, under certain conditions, to revoke the certificate of registration and give the owner written notice of the revocation and the reasons for the revocation.

(c) Authorizes a person to appeal the denial of an original or renewal certificate of registration or the revocation of a certificate of

registration to the justice court for the precinct in which the animal is located or the municipal court in the municipality in which the animal is located by a certain date. Authorizes either party to appeal the decision of the justice or municipal court to a county court or county court at law in the county in which the justice or municipal court is located. Prohibits the decision of the county court or county court at law from being appealed.

(d) Provides that the filing of an appeal of the denial or revocation of a certificate of registration under Subsection (c) stays the denial or revocation until the court rules on the appeal.

Sec. 822.106. DISPLAY OF CERTIFICATE OF REGISTRATION. (a) Requires a holder of a certificate of registration to prominently display the certificate at the premises where each animal that is the subject of the certificate of registration is kept. Requires a person, not later than the 10th day after the date the person receives a certificate of registration, to file a clear and legible copy of the certificate of registration with the Texas Department of Health (department). Requires the department to establish a procedure for filing a certificate of registration and to charge a reasonable fee in an amount sufficient to recover the cost associated with filing a certificate of registration under this subsection.

Sec. 822.107. LIABILITY INSURANCE. Requires an owner of a dangerous wild animal to maintain liability insurance coverage in a certain amount for certain purposes.

Sec. 822.108. INSPECTION. Requires an owner of a dangerous wild animal, at all reasonable times, to allow the animal registration agency, its staff, its agents, or a designated licensed veterinarian to enter the premises where the animal is kept and to inspect the animal, the primary enclosure for the animal, and the owner's records relating to the animal to ensure compliance with this subchapter.

Sec. 822.109. RELOCATION OR DISPOSITION OF ANIMAL. (a) Prohibits an owner of a dangerous wild animal from permanently relocating the animal unless certain requirements are met. Requires the owner, within 10 days after the death, sale, or other disposition of the animal, to notify the animal registration agency in writing of the death, sale, or other disposition.

Sec. 822.110. ATTACK BY ANIMAL; ESCAPE OF ANIMAL; LIABILITY. (a) Requires an owner of a dangerous wild animal to notify the animal registration agency of any attack of a human by the animal within 48 hours of the attack.

(b) Requires an owner of a dangerous wild animal to immediately notify the animal registration agency and the local law enforcement agency of any escape of the animal.

(c) Provides that an owner of a dangerous wild animal that escapes is liable for all costs incurred in apprehending and confining the animal.

(d) Provides that certain parties are not liable to an owner of a dangerous wild animal for certain damages arising in connection with the escape of a dangerous wild animal.

Sec. 822.111. POWERS AND DUTIES OF BOARD; CAGING REQUIREMENTS AND STANDARDS. (a) Requires The Texas Board of Health (board) by rule to establish certain caging requirements and standards for the keeping and confinement of a dangerous wild animal.

(b) Requires an owner of a dangerous wild animal to keep and confine the animal in accordance with the caging requirements and standards established by the board.

(c) Authorizes an animal registration agency to approve a deviation from the caging requirements and standards established by the board under certain conditions.

Sec. 822.112. CARE, TREATMENT, AND TRANSPORTATION OF ANIMAL. (a) Requires the owner, for each dangerous wild animal, to comply with all applicable standards of the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments and the regulations adopted under that Act relating to facilities and operations; animal health and husbandry; and veterinary care.

(b) Requires an owner of a dangerous wild animal to maintain a separate written log for each dangerous wild animal documenting the animal's veterinary care and to make the log available to the animal registration agency or its agent on request. Sets forth guidelines regarding the contents of the log.

(c) Requires the owner of a dangerous wild animal, or a designated carrier or intermediate handler of the animal, when transporting the animal, to comply with all transportation standards that apply to that animal under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments or the regulations adopted under that Act.

(d) Provides that a person is exempt from the requirements of this section under certain conditions.

Sec. 822.113. OFFENSE AND PENALTY. Provides that a person commits an offense if the person violates Section 822.103(a), Section 822.106, or Section 822.110(a) or (b) of this Act. Provides that each animal with respect to which there is a violation and each day that a violation continues is a separate offense. Provides that a person commits an offense if the person knowingly sells or otherwise transfers ownership of a dangerous wild animal to a person who does not have a certificate of registration for that animal as required by this subchapter. Provides that an offense under this section is a Class C misdemeanor.

Sec. 822.114. CIVIL PENALTY. Sets forth guidelines concerning civil penalties.

Authorizes the county or municipality in which the violation occurs to recover the reasonable costs of investigation, reasonable attorney's fees, and reasonable expert witness fees incurred by the animal registration agency in the civil action. Requires costs or fees recovered under this subsection to be credited to the operating account from which payment for the animal registration agency's expenditures was made.

Sec. 822.115. INJUNCTION. Authorizes any person who is directly harmed or threatened with harm by a violation of this subchapter or a failure to enforce this subchapter to sue an owner of a dangerous wild animal to enjoin a violation of this subchapter or to enforce this subchapter.

Sec. 822.116. EFFECT OF SUBCHAPTER ON OTHER LAW. Provides that this subchapter does not affect the applicability of any other law, rule, order, ordinance, or other legal requirement of this state or a political subdivision of this state. Provides that this subchapter does not prevent a municipality or county from prohibiting or regulating by ordinance or order the ownership, possession, confinement, or care of a dangerous wild animal.

SECTION 2. Amends Section 240.002(a), Local Government Code, to authorize the commissioners court of a county by order to prohibit or regulate the keeping of a wild animal in the county. Deletes text regarding the keeping of wild animals at a residence or within 1,000 feet of a residence or public school.

SECTION 3. Amends Section 42.09, Penal Code, by adding Subsection (g), to provide that it is a defense to prosecution for an offense under this section that the person had a reasonable fear of bodily injury to the person or to another by a dangerous wild animal as defined by Section 822.101, Health and Safety Code.

SECTION 4. Amends Section 42.01, Penal Code, by adding Subsection (e) to provide that it is a defense to prosecution for an offense under Subsection (a)(9) or (11) that the person who discharged the firearm had a reasonable fear of bodily injury to the person or to another by a dangerous wild animal as defined by Section 822.101, Health and Safety Code.

SECTION 5. Repealer: Section 240.0025 (Regulation), Local Government Code.

SECTION 6. (a) Effective date: September 1, 2001.

(b) Provides that a person is not required to obtain a certificate of registration for a dangerous wild animal under Chapter 822E, Health and Safety Code, as added by this Act, before June 1, 2002.

(c) Requires each municipality and county, not later than December 1, 2001, to adopt any ordinance or order necessary to implement and administer the certificate of registration program created by Chapter 822E, Health and Safety Code, as added by this Act, including ordinances or orders relating to the applications for original and renewal certificates of registration, fees for registration and renewal, and the form and content of the application and the certificate of registration.

(d) Requires the Texas Board of Health, not later than March 1, 2002, to adopt the rules required under Section 822.111, Health and Safety Code, as added by this Act.

