

SENATE BILL 827

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4lr2099

By: **Senator Pugh**

Introduced and read first time: January 31, 2014

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Possession of Dangerous or Wild Animals**

3 FOR the purpose of altering the list of entities and individuals to which certain
4 provisions relating to dangerous or wild animals, including a prohibition on
5 importing into the State, offering for sale, trading, bartering, possessing,
6 breeding, or exchanging certain animals, do not apply; establishing that certain
7 provisions relating to dangerous animals do not prohibit the holder of a certain
8 federal exhibitor's license from importing into the State, offering for sale,
9 trading, bartering, possessing, breeding, or exchanging certain animals;
10 prohibiting a person from allowing a member of the public to come in direct
11 contact with certain animals; requiring an owner of certain animals to report
12 certain potential exposures to disease to the local animal control authority
13 within a certain period of time; and generally relating to the possession of
14 dangerous or wild animals.

15 BY repealing and reenacting, with amendments,
16 Article – Criminal Law
17 Section 10–621
18 Annotated Code of Maryland
19 (2012 Replacement Volume and 2013 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article – Criminal Law**

23 10–621.

24 (a) (1) [This] **EXCEPT AS PROVIDED IN SUBSECTION (B)(2) OF THIS**
25 **SECTION, THIS** section does not apply to:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) a research facility or federal research facility licensed under
2 the federal Animal Welfare Act;

3 (ii) [an exhibitor licensed under the federal Animal Welfare Act
4 that displays the animals specified in subsection (b) of this section in a public setting
5 as the exhibitor's primary function] **AN INSTITUTION ACCREDITED BY THE
6 ASSOCIATION OF ZOOS AND AQUARIUMS OR A CERTIFIED RELATED FACILITY
7 THAT COORDINATES AN ASSOCIATION OF ZOOS AND AQUARIUMS SPECIES
8 SURVIVAL PLAN FOR THE BREEDING OF SPECIES LISTED AS THREATENED OR
9 ENDANGERED UNDER 16 U.S.C. 1533;**

10 (iii) a person who possesses a valid license or permit issued by
11 the Department of Natural Resources to import, sell, trade, barter, possess, breed, or
12 exchange an animal specified in subsection (b) of this section;

13 (iv) an animal sanctuary that:

14 1. is a nonprofit organization qualified under § 501(c)(3)
15 of the Internal Revenue Code;

16 2. operates a place of refuge for abused, neglected,
17 impounded, abandoned, orphaned, or displaced wildlife;

18 3. does not conduct commercial activity with respect to
19 any animal of which the organization is an owner; [and]

20 4. does not buy, sell, trade, lease, or breed any animal
21 except as an integral part of [the species survival plan of the American Zoo and
22 Aquarium Association] **AN ASSOCIATION OF ZOOS AND AQUARIUMS SPECIES
23 SURVIVAL PLAN; AND**

24 **5. DOES NOT ALLOW MEMBERS OF THE PUBLIC TO
25 BE IN PROXIMITY TO AN ANIMAL SPECIFIED UNDER SUBSECTION (B) OF THIS
26 SECTION, INCLUDING OPPORTUNITIES TO BE PHOTOGRAPHED WITH THE
27 ANIMAL, WITHOUT SUFFICIENT DISTANCE AND PROTECTIVE BARRIERS;**

28 (v) an animal control officer under the jurisdiction of the State
29 or a local governing authority, a law enforcement officer acting under the authority of
30 this subtitle, or a private contractor of a county or municipal corporation that is
31 responsible for animal control operations;

32 (vi) a person who holds a valid license to practice veterinary
33 medicine in the State and treats the animal specified in subsection (b) of this section
34 in accordance with customary and normal veterinary practices; [and]

1 (vii) a person who is not a resident of the State and is in the
2 State for 10 days or less for the purpose of traveling between locations outside of the
3 State; AND

4 (VIII) A CIRCUS HOLDING A CLASS C EXHIBITOR'S LICENSE
5 UNDER THE ANIMAL WELFARE ACT, 7 U.S.C. §§ 2131 ET SEQ., THAT:

6 1. IS IN THE STATE FOR LESS THAN 90 DAYS PER
7 CALENDAR YEAR;

8 2. REGULARLY CONDUCTS PERFORMANCES
9 FEATURING LIVE ANIMALS AND MULTIPLE HUMAN ENTERTAINERS INCLUDING
10 ACROBATS AND CLOWNS; AND

11 3. DOES NOT ALLOW MEMBERS OF THE PUBLIC TO
12 BE IN PROXIMITY TO AN ANIMAL SPECIFIED UNDER SUBSECTION (B) OF THIS
13 SECTION, INCLUDING OPPORTUNITIES TO BE PHOTOGRAPHED WITH THE
14 ANIMAL, WITHOUT SUFFICIENT DISTANCE AND PROTECTIVE BARRIERS.

15 (2) (i) This section does not prohibit a person who had lawful
16 possession of an animal specified in subsection (b) of this section on or before May 31,
17 2006, from continuing to possess that animal if the person provides written
18 notification to the local animal control authority on or before August 1, 2006.

19 (ii) The notification shall include:

- 20 1. the person's name, address, and telephone number;
- 21 2. the number and type of animals being kept; and
- 22 3. a photograph of the animal or a description of a tattoo
23 or microchip identification of the animal.

24 (3) This section does not prohibit a person who has a disability that
25 severely limits mobility from possessing an animal specified in subsection (b) of this
26 section if that animal is:

27 (i) trained to perform tasks for the owner by an organization
28 described in Section 501(c) of the Internal Revenue Code; and

29 (ii) dedicated to improving the quality of life of a person who has
30 a disability that severely limits mobility.

31 (4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,
32 THIS SECTION DOES NOT PROHIBIT THE HOLDER OF A CLASS C EXHIBITOR'S

1 LICENSE UNDER THE ANIMAL WELFARE ACT, 7 U.S.C. §§ 2131 ET SEQ., FROM
 2 IMPORTING INTO THE STATE, OFFERING FOR SALE, TRADING, BARTERING,
 3 POSSESSING, BREEDING, OR EXCHANGING AN ANIMAL SPECIFIED UNDER
 4 SUBSECTION (B) OF THIS SECTION.

5 (II) A LICENSEE DESCRIBED IN SUBPARAGRAPH (I) OF THIS
 6 PARAGRAPH MAY NOT IMPORT INTO THE STATE, OFFER FOR SALE, TRADE,
 7 BARTER, POSSESS, BREED, OR EXCHANGE ANY NONHUMAN PRIMATE, BEAR,
 8 LION, TIGER, LEOPARD, CLOUDED LEOPARD, SNOW LEOPARD, JAGUAR,
 9 CHEETAH, COUGAR, OR A HYBRID OF ONE OF THESE ANIMALS.

10 (b) (1) A person may not import into the State, offer for sale, trade,
 11 barter, possess, breed, or exchange a live:

12 [(1)] (I) fox, skunk, raccoon, or bear;

13 [(2)] (II) caiman, alligator, or crocodile;

14 [(3)] (III) member of the cat family other than the domestic cat;

15 [(4)] (IV) hybrid of a member of the cat family and a domestic
 16 cat if the hybrid weighs over 30 pounds;

17 [(5)] (V) member of the dog family other than the domestic
 18 dog;

19 [(6)] (VI) hybrid of a member of the dog family and a domestic
 20 dog;

21 [(7)] (VII) nonhuman primate, including a lemur, monkey,
 22 chimpanzee, gorilla, orangutan, marmoset, loris, or tamarin; or

23 [(8)] (VIII) poisonous snake in the family groups of Hydrophidae,
 24 Elapidae, Viperidae, or Crotolidae.

25 (2) NOTWITHSTANDING SUBSECTION (A)(1) OF THIS SECTION:

26 (I) A PERSON MAY NOT ALLOW A MEMBER OF THE PUBLIC
 27 TO COME IN DIRECT CONTACT WITH AN ANIMAL SPECIFIED IN SUBSECTION
 28 (B)(1) OF THIS SECTION; AND

29 (II) IF THE ANIMAL POTENTIALLY EXPOSES A HUMAN TO
 30 RABIES OR ANY OTHER ZOOONOTIC DISEASE BY PENETRATION OR ABRASION OF
 31 THE SKIN, AN OWNER OF AN ANIMAL SPECIFIED IN PARAGRAPH (1) OF THIS

1 **SUBSECTION SHALL REPORT THE POTENTIAL EXPOSURE TO THE LOCAL ANIMAL**
2 **CONTROL AUTHORITY WITHIN 24 HOURS AFTER THE EXPOSURE.**

3 (c) (1) A person who violates this section is guilty of a misdemeanor and
4 on conviction is subject to:

5 (i) if an individual, a fine not exceeding \$1,000; or

6 (ii) if not an individual, a fine not exceeding \$10,000.

7 (2) The provisions of this section may be enforced by:

8 (i) any State or local law enforcement officer; or

9 (ii) the local animal control authority for the jurisdiction where
10 the violation occurs.

11 (d) (1) An animal specified in subsection (b) of this section may be
12 immediately seized if:

13 (i) there is probable cause to believe that the possession of the
14 animal is in violation of this section; or

15 (ii) the animal poses a risk to public health or public safety.

16 (2) An animal specified in subsection (b) of this section that is seized
17 may be returned to the person who had possession of the animal at the time the
18 animal was seized only if it is established that:

19 (i) possession of the animal by the person is not a violation of
20 this section; and

21 (ii) the return of the animal does not pose a risk to public health
22 or public safety.

23 (3) (i) Notice that the animal was seized shall be served on the
24 person who had possession of the animal at the time the animal was seized by:

25 1. posting a copy of the notice at the place where the
26 animal was seized;

27 2. regular and certified mail, return receipt requested; or

28 3. delivering the notice to a person residing on the
29 property from which the animal was seized.

30 (ii) The notice shall include:

- 1 1. a description of the animal seized;
 - 2 2. the authority for and the purpose of the seizure;
 - 3 3. the time, place, and circumstances of the seizure;
 - 4 4. a contact person and telephone number;
 - 5 5. a statement that the person from whom the animal
6 was seized may:
 - 7 A. post security to prevent disposition of the animal; and
 - 8 B. request a hearing concerning the seizure;
 - 9 6. a statement that failure to post security or request a
10 hearing within 10 days of the date of the notice will result in the disposition of the
11 animal; and
 - 12 7. a statement that, unless a court finds that the seizure
13 of the animal was not justified, the actual costs of the care, keeping, and disposal of
14 the animal are the responsibility of the person from whom the animal was seized.
- 15 (4) (i) Before a seizure under paragraph (1) of this subsection
16 occurs, the person in possession of the animal to be seized may request that the
17 animal remain in the person's physical custody for 30 days after the date the animal
18 was to be seized.
- 19 (ii) During the 30 days provided in subparagraph (i) of this
20 paragraph, the person shall take all necessary actions to comply with this section.
- 21 (iii) At any reasonable time during the 30-day period, the local
22 animal control authority may inspect the premises where the animal is being kept.
- 23 (5) (i) If a person who retains possession of an animal under
24 paragraph (4) of this subsection is not in compliance with this section after the 30-day
25 period has expired, the local animal control authority shall seize the animal and place
26 it in a holding facility that is appropriate for the species.
- 27 (ii) The authority seizing an animal under this paragraph shall
28 provide notice of the seizure in the same manner as provided in paragraph (3) of this
29 subsection.
- 30 (6) (i) A person from whom an animal was seized may request a
31 hearing in the District Court within 10 days of the seizure.

1 (ii) A hearing shall be held as soon as practicable to determine
2 the validity of the seizure and the disposition of the animal.

3 (7) (i) Unless the court finds that the seizure of the animal was not
4 justified by law, a person from whom the animal specified in subsection (b) of this
5 section is seized is liable for all actual costs of care, keeping, and disposal of the
6 animal.

7 (ii) The costs required under this paragraph shall be paid in full
8 unless a mutually satisfactory agreement is made between the local animal control
9 authority and the person claiming an interest in the animal.

10 (8) (i) If there is no request for a hearing within 10 days of the
11 notice or if the court orders a permanent and final disposition of the animal, the local
12 animal control authority may take steps to find long-term placement of the animal
13 with another appropriate facility that is equipped for the continued care of the
14 particular species of the animal.

15 (ii) If there is no entity that is suitable for the care of the
16 animal, the animal may be euthanized.

17 (e) This section does not limit a county or municipality from enacting laws or
18 adopting regulations that are more restrictive pertaining to any potentially dangerous
19 animals, including those specified in subsection (b) of this section.

20 (f) If the owner of an animal specified in subsection (b) of this section dies
21 without making arrangements for the transfer of custody of the animal to another
22 person, the animal may be turned over to one of the organizations specified in
23 subsection (a)(1) of this section or euthanized if no suitable location can be found in a
24 reasonable amount of time.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2014.