HOUSE BILL 1124

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By: **Delegates Luedtke, Barkley, Barnes, Bobo, Cardin, Carr, DeBoy, Frush, Gilchrist, Gutierrez, Guzzone, Haddaway–Riccio, Healey, Hixson, Hucker, Kach, A. Kelly, Kramer, Malone, McIntosh, McMillan, Mizeur, S. Robinson, Rosenberg, Stein, Tarrant, F. Turner, Waldstreicher, and A. Washington**

Introduced and read first time: February 7, 2014
Assigned to: Environmental Matters

A BILL ENTITLED

AN ACT concerning

Criminal Law – Possession of Dangerous and Wild Animals

FOR the purpose of altering the list of entities and individuals to which certain provisions relating to dangerous and wild animals, including a prohibition on importing into the State, offering for sale, trading, bartering, possessing, breeding, or exchanging certain animals, do not apply; prohibiting the holder of a certain federal exhibitor's license from possessing certain animals not possessed by the holder on a certain date under certain circumstances; authorizing a holder of a certain federal exhibitor's license to replace certain animals that were owned by the holder on a certain date if certain conditions are met; prohibiting a person from allowing a member of the public to come in direct contact with certain animals; requiring an owner of certain animals to report certain potential exposures to disease to the local animal control authority within a certain period of time; and generally relating to the possession of dangerous and wild animals.

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

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

Article – Criminal Law

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

10–621.

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

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

(ii) **[**an exhibitor licensed under the federal Animal Welfare Act**] THE HOLDER OF A CLASS C EXHIBITOR'S LICENSE UNDER THE ANIMAL WELFARE ACT, 7 U.S.C. § 2131 ET SEQ.,** that displays the animals specified in subsection (b) of this section in a public setting as the exhibitor's primary function;

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

(iv) an animal sanctuary that:

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

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

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

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

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

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

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

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

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

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

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

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

(IX) AN INSTITUTION ACCREDITED BY THE ASSOCIATION OF ZOOS AND AQUARIUMS OR A CERTIFIED RELATED FACILITY THAT COORDINATES AN ASSOCIATION OF ZOOS AND AQUARIUMS SPECIES SURVIVAL PLAN FOR THE BREEDING OF SPECIES LISTED AS THREATENED OR ENDANGERED UNDER 16 U.S.C. § 1533.

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

(ii) The notification shall include:

1. the person's name, address, and telephone number;

2. the number and type of animals being kept; and

3. a photograph of the animal or a description of a tattoo or microchip identification of the animal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. AN OWNER OF AN ANIMAL SPECIFIED IN SUBSECTION (B)(1) OF THIS SECTION, IF THE ANIMAL POTENTIALLY EXPOSES A HUMAN TO RABIES OR ANY OTHER ZOONOTIC DISEASE BY PENETRATION OR ABRASION OF THE SKIN, SHALL REPORT THE POTENTIAL EXPOSURE TO THE LOCAL ANIMAL CONTROL AUTHORITY WITHIN 24 HOURS OF THE EXPOSURE;

(II) EXCEPT AS PROVIDED IN ITEM (III) OF THIS PARAGRAPH, THE HOLDER OF A CLASS C EXHIBITOR'S LICENSE UNDER THE ANIMAL WELFARE ACT, 7 U.S.C. § 2131 ET SEQ., MAY NOT POSSESS A NONHUMAN PRIMATE, BEAR, LION, TIGER, LEOPARD, CLOUDED LEOPARD, SNOW LEOPARD, JAGUAR, CHEETAH, OR COUGAR OR A HYBRID OF ONE OF THESE

ANIMALS THAT WAS NOT OWNED BY THE HOLDER OF THE LICENSE ON SEPTEMBER 30, 2014; AND

(III) THE HOLDER OF A CLASS C EXHIBITOR'S LICENSE UNDER THE ANIMAL WELFARE ACT, 7 U.S.C. § 2131 ET SEQ., MAY REPLACE A NONHUMAN PRIMATE, BEAR, LION, TIGER, LEOPARD, CLOUDED LEOPARD, SNOW LEOPARD, JAGUAR, CHEETAH, OR COUGAR OR A HYBRID OF ONE OF THESE ANIMALS THAT WAS OWNED BY THE HOLDER OF THE LICENSE ON SEPTEMBER 30, 2014, ONLY IF DURING THE PRIOR 3 YEARS THE HOLDER OF THE LICENSE:

1. HAS NOT EXPERIENCED AN ESCAPE OF A NONHUMAN PRIMATE, BEAR, LION, TIGER, LEOPARD, CLOUDED LEOPARD, SNOW LEOPARD, JAGUAR, CHEETAH, OR COUGAR OR A HYBRID OF ONE OF THESE ANIMALS;

2. HAS NOT EXPERIENCED AN INCIDENT IN WHICH A NONHUMAN PRIMATE, BEAR, LION, TIGER, LEOPARD, CLOUDED LEOPARD, SNOW LEOPARD, JAGUAR, CHEETAH, OR COUGAR OR A HYBRID OF ONE OF THESE ANIMALS HAS INJURED A PERSON;

3. HAS NO UNITED STATES DEPARTMENT OF AGRICULTURE NONCOMPLIANT ITEMS CATEGORIZED AS DIRECT OR REPEAT;

4. HAS NO UNITED STATES DEPARTMENT OF AGRICULTURE NONCOMPLIANT ITEMS FOR INSUFFICIENT STAFFING LEVELS OR INADEQUATELY TRAINED EMPLOYEES; AND

5. HAS NO UNITED STATES DEPARTMENT OF AGRICULTURE NONCOMPLIANT ITEMS FOR FAILURE TO PROVIDE TO A NONHUMAN PRIMATE, BEAR, LION, TIGER, LEOPARD, CLOUDED LEOPARD, SNOW LEOPARD, JAGUAR, CHEETAH, OR COUGAR OR A HYBRID OF ONE OF THESE ANIMALS:

A. VETERINARY CARE;

B. SEPARATION FROM INCOMPATIBLE ANIMALS;

C. ENVIRONMENTAL ENRICHMENT;

D. PROPER HANDLING; OR

E. MINIMUM SPACE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) The notice shall include:

1. a description of the animal seized;

2. the authority for and the purpose of the seizure;

3. the time, place, and circumstances of the seizure;

4. a contact person and telephone number;

5. a statement that the person from whom the animal was seized may:

A. post security to prevent disposition of the animal; and

B. request a hearing concerning the seizure;

6. a statement that failure to post security or request a hearing within 10 days of the date of the notice will result in the disposition of the animal; and

7. a statement that, unless a court finds that the seizure of the animal was not justified, the actual costs of the care, keeping, and disposal of the animal are the responsibility of the person from whom the animal was seized.

(4) (i) Before a seizure under paragraph (1) of this subsection occurs, the person in possession of the animal to be seized may request that the animal remain in the person's physical custody for 30 days after the date the animal was to be seized.

(ii) During the 30 days provided in subparagraph (i) of this paragraph, the person shall take all necessary actions to comply with this section.

(iii) At any reasonable time during the 30–day period, the local animal control authority may inspect the premises where the animal is being kept.

(5) (i) If a person who retains possession of an animal under paragraph (4) of this subsection is not in compliance with this section after the 30–day period has expired, the local animal control authority shall seize the animal and place it in a holding facility that is appropriate for the species.

(ii) The authority seizing an animal under this paragraph shall provide notice of the seizure in the same manner as provided in paragraph (3) of this subsection.

(6) (i) A person from whom an animal was seized may request a hearing in the District Court within 10 days of the seizure.

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

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

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

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

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

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

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

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