

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

House Bill 704
Judiciary

(Delegate Menes, *et al.*)

Judicial Proceedings

Criminal Law - Prohibition Against Wild Animals

This bill clarifies and broadens the prohibition against keeping specified wild animals as pets. The bill adds possession and breeding to the list of prohibited activities and applies the prohibition to nonhuman primates, and specified dogs and cats, other than domesticated dogs and cats. The bill also broadens the exemptions from the prohibition.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues from applicable monetary penalty provisions. It is expected that the bill's requirements could be met with existing resources.

Local Effect: Enforcement of this bill could be handled with existing resources.

Small Business Effect: Minimal. Handlers of exotic animals would be required to limit their activities under this bill.

Analysis

Bill Summary: In addition to the current law prohibition against sale, trade, barter, or exchange, a person may not possess or breed, a live fox, skunk, raccoon, bear, alligator, crocodile, or caiman. The prohibition is expanded to apply to wild or hybrids of wild and domesticated dogs or cats. In addition to the prohibition against sale, trade, barter, or exchange, the bill also prohibits a person from possessing, or breeding poisonous snakes from specified snake families, or a nonhuman primate, including a lemur, monkey, chimpanzee, gorilla, orangutan, marmoset, loris, or tamarin. The current law maximum

finest of \$1,000 for an individual or \$10,000 for a violator other than an individual apply to violators under the provisions of this bill. The prohibition in this bill does not apply to:

- a research facility or federal research facility licensed under the federal Animal Welfare Act;
- an exhibitor licensed under the federal Animal Welfare Act that displays the animals specified in this bill in a public setting as the exhibitor's primary function;
- 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 this bill;
- a nonprofit animal sanctuary as recognized by the federal tax code that operates a refuge for abused, neglected, impounded, abandoned, or displaced wildlife and does not conduct commercial activity or 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 animal control authority that is a unit of the State, a county, a municipal corporation, or a private contractor of a county or municipal corporation that is responsible for animal control operations;
- a person validly licensed to practice veterinary medicine in Maryland and who treats species in accordance with customary and normal veterinary practices; and
- a person who is not a Maryland resident and is in the State for 10 days or less for the purpose of traveling to locations outside of the State.

The bill does not prohibit a person who had lawful possession of an animal specified in this bill on or before May 31, 2006 from continuing to possess that animal if the person provides written notification to the local animal control authority by August 1, 2006. The notification must include the owner's identifying information, the number and type of animals being kept, and a photograph or description of a tattoo or microchip identification of each animal. Also, the bill does not prohibit a person who has a disability that severely limits mobility from possessing an animal subject to this bill if the animal is trained to perform tasks for the owner by an organization described in the federal tax code and is dedicated to improving the owner's quality of life.

Enforcement may be accomplished by any State or local law enforcement officer or the local animal control authority for the jurisdiction where the violation occurred. An animal specified in the bill may be immediately seized if there is probable cause to believe the animal is illegally possessed or the animal poses a risk to public health or safety. A seized animal may be returned to the owner if it is established that possession of the animal is not illegal and the return of the animal does not pose a risk to public health or safety. The bill specifies notice and hearing requirements relating to the seizure of the specified animals, specifies that the owner is responsible for the cost of upkeep unless the court finds that the seizure was unjustified, and also provides for the long-term placement or disposition of seized animals.

Before the seizure occurs, the animal owner may request that the animal remain with the owner for 30 days after the scheduled seizure date. During the 30-day period, the animal owner must take steps to comply with the bill. At any reasonable time during the 30-day period, a local animal control authority may inspect the premises where the animal is being kept. If the animal owner is not in compliance after 30 days, the animal may be seized, subject to the notice and hearing requirements specified in the bill.

The bill does not limit a county or municipal corporation from enacting laws or adopting regulations that are more stringent concerning any potentially dangerous animals, including those animals specified in the bill. If the owner of a specified animal dies without making arrangements for transfer or custody, the animal may be turned over to an animal research or welfare organization, as specified in the bill, or euthanized if no suitable location can be found in a reasonable amount of time.

Current Law: A person is prohibited from importing into the State, or offering for sale, trade, barter, or exchange as a household pet, a live fox, skunk, raccoon, bear, alligator, or crocodile. Also prohibited is a member of the cat family except for a domestic cat, or a poisonous snake of specified family groups. A person who violates this section is guilty of a misdemeanor. An individual is subject to a maximum fine of \$1,000. If the person is not an individual, the maximum fine is \$10,000.

State law does not apply to a person who offers the specified animals for sale, barter, trade, import, or exchange to a public zoo, park, museum, or educational institution. It does not apply to a person who holds a valid State or federal permit to use the named animal species for educational, medical, scientific, or exhibition purposes. The law does not apply to an animal of a species of wildlife that is not kept as a household pet and is individually exempted from the law's provisions under a permit from the Department of Natural Resources.

Background: According to the Animal Protection Institute, 47 states regulate the private ownership of exotic animals. Iowa, West Virginia, and Wisconsin do not have laws or regulations in this area. Some states regulate ownership through the issuance of permits or certificates and some require the animal owner to obtain a license for private possession. Other states, like Maryland, may allow individual private ownership of exotic animals, but prohibit the sale, importation, barter, or exchange of these species. At least 14 states (Alaska, California, Colorado, Georgia, Hawaii, Massachusetts, New Hampshire, New Jersey, New Mexico, New York, Tennessee, Utah, Vermont, and Wyoming) impose a comprehensive ban on private ownership of exotic animals that covers felines, wolves, bears, reptiles, and nonhuman primates.

According to the Humane Society of the United States, nonhuman primates, tigers, and lions are readily available from breeders and dealers, through the Internet, and mail-order catalogs. Local animal control authorities in Maryland have been called to deal with various kinds of wild animals in recent years. Prince George's County animal control officers reported dealing with a monkey, a coatimundi (a mammal resembling a raccoon, but larger), and two pit vipers. In Howard County, a wallaby escaped and was hit by a car in 1999. Howard County animal control authorities have also dealt with a python, caiman, and capuchin monkey in recent years. In Carroll County, wolves and two lions have had to be removed. In Charles County, animal control authorities have removed grey wolves, a cougar, and a tiger.

State Revenues: General fund revenues could increase minimally from the applicable monetary penalty provisions for those cases heard in the District Court.

Local Expenditures: Montgomery County indicates that the animals under the provisions of this bill are already illegal to own under the Montgomery County Code, so the bill would not have a fiscal impact. Allegany County advises that the bill is unlikely to have a fiscal impact. Wicomico County reported that the fiscal impact of the bill would probably be minimal.

Additional Information

Prior Introductions: A bill with similar provisions, HB 339 of 2005, was heard in the House Judiciary Committee but then withdrawn.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Natural Resources, Department of Public Safety and Correctional Services, Animal Protection Welfare Institute, Humane Society of the United States, Department of Legislative Services

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