

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1124

(Delegate Luedtke, *et al.*)

Environmental Matters

Judicial Proceedings

Criminal Law - Possession of Dangerous or Wild Animals

This bill makes several changes to the State's prohibition on possession of dangerous or wild animals.

The bill (1) authorizes the holder of a Class C Exhibitor's License under the federal Animal Welfare Act to retain ownership of specified animals owned by the license holder before July 1, 2014; (2) requires a license holder to meet specified requirements in order to acquire or breed specified animals on or after July 1, 2014; and (3) makes it mandatory, rather than discretionary, for a local animal control authority to take steps to find long-term placement of a seized animal with another appropriate facility.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues from fines imposed in the District Court if the stricter requirements under the bill result in additional violations. Enforcement can be handled with existing budgeted State resources.

Local Effect: Potential minimal increase in local revenues from fines imposed in circuit court cases if the stricter requirements under the bill result in additional violations. Enforcement can be handled with existing budgeted local resources.

Small Business Effect: Potential meaningful effect on small businesses that have to meet stricter requirements as a result of the bill's provisions, or small businesses subject to existing statutory penalties due to failure to meet the bill's requirements.

Analysis

Bill Summary:

Exempted Entities: The bill clarifies that the State's prohibition on the import, offer for sale, trade, barter, possession, breeding or exchange of dangerous animals does not apply to the holder of a Class C Exhibitor's License under the federal Animal Welfare Act (AWA) that displays the prohibited animals in a public setting as the exhibitor's primary function.

The bill also exempts from the prohibition a circus holding a Class C Exhibitor's License under AWA that is in the State for less than 90 days per calendar year, regularly conducts performances featuring live animals and multiple human entertainers, and does not allow members of the public to be in proximity to a prohibited animal, including opportunities to be photographed with the animal, without sufficient distance and protective barriers.

Prohibited Activities: The holder of a Class C Exhibitor's License under AWA 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 June 30, 2014.

However, the holder of a Class C Exhibitor's License may acquire or breed a nonhuman primate, bear, lion, tiger, leopard, clouded leopard, snow leopard, jaguar, cheetah, or cougar or a hybrid of one of these animals if the holder:

- maintains a liability insurance policy of at least \$1,000,000;
- has a paid full-time director;
- has at least one paid full-time staff member trained in the care of each species that the holder keeps;
- has an animal disposition policy that provides for the placement of animals in appropriate facilities if the holder's facility closes; and
- maintains and implements a training plan regarding zoonotic disease risk and prevention.

Placement of Seized Animals: The bill also requires, rather than authorizes, a local animal control authority to take steps to find long-term placement of a seized prohibited animal with another appropriate facility that is equipped for the continued care of that

particular species, if there is not a timely request for a hearing on the seizure or if the court orders a permanent and final disposition of the animal.

Current Law: A person is prohibited from importing into the State, offering for sale, trading, bartering, possessing, breeding, or exchanging a live fox, skunk, raccoon, bear, caiman, alligator, crocodile, wild or hybrid of a wild or domesticated dog or cat, nonhuman primate (including a lemur, monkey, chimpanzee, gorilla, orangutan, marmoset, loris, or tamarin), or a poisonous snake from specified snake families.

Violators are guilty of a misdemeanor, punishable by a \$1,000 maximum fine for an individual or a \$10,000 maximum fine for a defendant other than an individual. The prohibition does not apply to:

- a research facility or federal research facility licensed under AWA;
- an exhibitor licensed under AWA that displays the prohibited animal 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 the statute;
- 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.

A person who had lawful possession of a prohibited animal on or before May 31, 2006, may continue to possess that animal if the person provided written notification to the local animal control authority by August 1, 2006. The notification must have included

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.

A person who has a disability that severely limits mobility may possess a prohibited animal 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 of the prohibition 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 statute 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 statute 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 statute. 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 statute.

If a person from whom an animal is seized does not request a hearing in the District Court within 10 days after notice of the seizure 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.

The statute 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 statute. 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 statute, or euthanized if no suitable location can be found in a reasonable amount of time.

Background: According to a December 2013 report from the Humane Society of the United States, serious problems persist at Maryland's roadside zoos despite notice of a history of violations, including an insufficient number of adequately trained employees, inadequate public safety barriers around big cats, bears, and primates, animal attacks and

escapes, and failure to provide an animal with minimum space. According to the report, the exemption under State law for “an exhibitor licensed under the federal Animal Welfare Act” provides a loophole, since exhibitor licenses are easily obtained and require minimum standards of care, as opposed to accreditation by the Association of Zoos and Aquariums, which requires higher standards of care. The report focused on three Maryland zoos – Catoctin Zoo, Plumpton Park Zoo, and Tri-State Zoo.

The executive director of the nonprofit organization that operates the Catoctin Wildlife Preserve and Zoo claimed in a published news report that the Humane Society’s report was politically motivated and based on “hasty observations.” A response to the report on the Plumpton Park Zoo’s website highlights revitalization efforts at the zoo made by its current nonprofit owner following the zoo’s decline under previous (private) ownership.

According to the District Court, there were two violations of the State’s prohibition on the import, offer, or transfer of dangerous animals filed in the District Court during calendar 2013.

Local Fiscal Effect: The Animal Services Division of the Montgomery County Police Department does not foresee a fiscal impact from the bill. Frederick County anticipates minimal or no fiscal impact as a result of the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Frederick, Howard, and Montgomery counties; cities of Frederick and Havre de Grace; Maryland Department of Agriculture; Department of Natural Resources; Department of State Police; Judiciary (Administrative Office of the Courts); *Frederick News-Post*; Humane Society of the United States; Plumpton Park Zoo; Department of Legislative Services

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