

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 807
PROPOSED COMMITTEE SUBSTITUTE S807-PCS55425-RIF-20

Short Title: Public Safety Registration.

(Public)

Sponsors:

Referred to:

March 25, 2009

1 A BILL TO BE ENTITLED
2 AN ACT PROVIDING FOR THE PROTECTION OF THE PUBLIC AGAINST THE
3 HEALTH AND SAFETY RISKS THAT CERTAIN CHARACTERISTICALLY WILD
4 ANIMALS POSE TO THE COMMUNITY.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. The General Statutes are amended by adding a new Chapter to read:

7 **"Chapter 19B.**

8 **"Characteristically Wild Animals.**

9 **"§ 19B-1. Definitions.**

10 The following terms as used in this Chapter mean:

- 11 (1) "Animal control authority" means the agency designated by the city or
12 county to administer ordinances regulating, restricting, or prohibiting the
13 possession of characteristically wild animals. The animal control agency
14 may be a municipal or county animal control agency, county sheriff, or other
15 designated agency.
- 16 (2) "Characteristically wild animal" means one of the following types of animals
17 of the order Carnivora, and any hybrids of these animals, unless otherwise
18 specified:
- 19 a. Family Felidae – only lions, tigers, and leopards.
- 20 b. Family Ursidae – all bears that are not native to this State.
- 21 (3) "Person" means any individual, partnership, corporation, organization, trade
22 or professional association, firm, limited liability company, joint venture,
23 association, trust, estate, or any other legal entity, and any employee, agent,
24 or representative of the entity.
- 25 (4) "Possessor" means any person who owns, possesses, keeps, harbors, brings
26 into the State, acts as a custodian of, or has custody or control of, a
27 characteristically wild animal.
- 28 (5) "Wildlife sanctuary" means a nonprofit organization that cares for animals
29 defined as characteristically wild animals and within whose facilities none of
30 the following activities occur:
- 31 a. Activity that is not inherent to the animal's nature, natural conduct, or
32 the animal in its natural habitat is conducted.
- 33 b. Commercial activity involving an animal occurs including, but not
34 limited to, the sale of or trade in animals, animal parts, animal



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1 by-products, or animal offspring, or the sale of photographic
2 opportunities involving an animal, or the use of an animal for any
3 type of entertainment purpose.

4 c. Unescorted public visitations or direct contact occurs between the
5 public and an animal.

6 d. Breeding of animals.

7 **"§ 19B-2. Exemptions.**

8 (a) The provisions of this Chapter do not apply to:

9 (1) Institutions accredited by the American Zoo and Aquarium Association
10 (AZA).

11 (2) Duly incorporated nonprofit animal protection organizations, such as
12 humane societies and shelters, housing a characteristically wild animal at the
13 written request of the animal control authority or acting under the authority
14 of this Chapter.

15 (3) Federal or State wildlife enforcement officers acting under the scope of their
16 authority.

17 (4) Animal control or law enforcement agencies or officers acting under the
18 authority of this act.

19 (5) Veterinary hospitals, clinics, veterinarians, and persons employed at such
20 facilities under the direction of a veterinarian who are actively treating a
21 characteristically wild animal in their professional capacity as a veterinarian
22 or employee of such facility.

23 (6) Any wildlife sanctuary as defined in G.S. 19B-1(5).

24 (7) A university, college, laboratory, or other research facility holding a Class R
25 registration under the Animal Welfare Act, 7 U.S.C. §§ 2131, et seq., as
26 amended.

27 (8) Circuses that are incorporated and hold a Class C license under the Animal
28 Welfare Act, 7 U.S.C. §§ 2131, et seq., as amended, that are temporarily in
29 this State, and that offer performances by live animals, clowns, and acrobats
30 for public entertainment. Circuses do not include persons, whether or not
31 Class C licensees, who present any regulated animal to the public as part of a
32 carnival or for the purpose of (i) exhibition; or (ii) entertainment that
33 includes wrestling, a photography opportunity with a patron, or an activity in
34 which any regulated animal and a patron are in close contact with each other.

35 (9) Any person who possesses a valid United States Department of Agriculture
36 Class A, B, or C license and is in compliance with the United States
37 Department of Agriculture Animal Welfare Act regulations and standards on
38 January 1, 2010, may acquire new characteristically wild animals after that
39 date, and must do all of the following:

40 a. Register with the animal control authority as required by
41 G.S. 19B-3(b)(1) and G.S. 19B-3(c) of this Chapter, as applicable.

42 b. Maintain a liability insurance policy in an amount not less than two
43 hundred fifty thousand dollars (\$250,000) with an insurer authorized
44 or approved to write such insurance in this State that covers claims
45 for injury or damage to persons or property.

46 c. Not allow photo opportunities or direct contact between
47 characteristically wild animals and members of the public or the
48 possessor's family and friends with animals that are over the age of
49 six months. "Direct contact" means any situation in which an
50 individual may potentially touch or otherwise come into physical
51 contact with a characteristically wild animal.

1 If a characteristically wild animal possessed pursuant to this subdivision
2 dies of neglect or cruelty, is confiscated and not returned to the possessor
3 pursuant to G.S. 19B-4, or if the possessor is involved in illegal activities,
4 the possessor shall no longer be permitted to acquire new characteristically
5 wild animals.

6 (10) A person who does not reside in this State and is traveling through this State
7 with a regulated species if the transit time is not more than 72 hours and the
8 animal is at all times maintained within a confinement sufficient to prevent
9 the animal from escaping.

10 (11) Indigenous species already regulated by the North Carolina Wildlife
11 Resources Commission.

12 **§ 19B-3. Keeping of characteristically wild animals; conditions under which**
13 **grandfathered animals may be kept.**

14 (a) Except as otherwise provided in this Chapter, it is unlawful for a person to import
15 into, possess, keep, purchase, have custody or control of, breed, or sell within this State, by any
16 means, a characteristically wild animal, including transactions conducted via the Internet.

17 (b) A person in legal possession of a characteristically wild animal prior to January 1,
18 2010, and who is the legal possessor of the animal, may keep possession of the animal for the
19 remainder of the animal's life, subject to all of the following conditions:

20 (1) On or before January 1, 2010, the possessor of a characteristically wild
21 animal shall register with the animal control authority for the city or county
22 in which the animal is located. The registration shall include the person's
23 name, address, telephone number, a complete inventory of each
24 characteristically wild animal that the person possesses, a photograph or
25 microchip number for each animal, the address for the site at which each
26 animal is located, and the payment to the animal control authority of a
27 one-time fee of one hundred dollars (\$100.00) per site at which a
28 characteristically wild animal is to be located and ten dollars (\$10.00) per
29 characteristically wild animal located at that site to cover the costs of
30 enforcement of this Chapter. A possessor shall have a continuing obligation
31 to promptly notify the animal control authority with jurisdiction of any
32 material changes to the information required for registration.

33 (2) The possessor shall prepare and submit to the animal control authority at the
34 time of payment of the fee required by subdivision (1) of this subsection a
35 contingency plan to protect first responders by providing for the quick and
36 safe recapture of the characteristically wild animal in the event of an escape.

37 (3) The possessor shall maintain veterinary records, acquisition papers for the
38 animal, if available, or other documents or records that establish that the
39 person possessed the animal prior to January 1, 2010.

40 (4) The possessor shall present paperwork described in subdivision (3) of this
41 subsection to an animal control or law enforcement authority upon request.

42 (5) The possessor shall comply with the basic standards for housing exotic
43 animals and protecting the public under the federal Animal Welfare Act, 7
44 U.S.C. §§ 2131, et seq., as amended, and the regulations adopted pursuant to
45 that act, and shall allow the animal control authority access to the animal's
46 housing in order to ensure that the animal is properly cared for.

47 (6) Except as provided in subsection (c) of this section, a legally possessed
48 characteristically wild animal shall not be traded or replaced by a person
49 who does not have an exemption as established in G.S. 19B-2.

50 (7) The possessor shall notify the animal control authority, the local sheriff's
51 department, and police department, if applicable, immediately upon

1 discovery that the characteristically wild animal has escaped. The possessor
2 of the animal shall be liable for any and all costs associated with the escape,
3 capture, and disposition of a registered animal.

4 (8) A possessor of a characteristically wild animal shall notify local law
5 enforcement and local fire departments about the types and numbers of
6 characteristically wild animals the possessor has.

7 (9) The possessor shall comply with any and all applicable federal, State, or
8 local law, rule, regulation, ordinance, permit, or other permission. Failure to
9 comply with any such law, rule, regulation, ordinance, permit, or other
10 permission constitutes a violation of this Chapter.

11 (c) A person in legal possession of a characteristically wild animal prior to January 1,
12 2010, pursuant to this section, and who complies with the provisions of this Chapter during the
13 animal's life, may replace the animal upon its death with an animal of the same species, so long
14 as the animal's death was not the result of neglect or cruelty. A person replacing an animal
15 pursuant to this subsection shall: (i) register the animal in the manner set forth in subdivision
16 (1) of subsection (a) of this section; (ii) maintain veterinary records, acquisition papers for the
17 animal, if available, or other documents or records that establish the person is in legal
18 possession of the animal, and present the paperwork to an animal control or law enforcement
19 authority upon request; and (iii) otherwise comply with the requirements of this section.

20 **"§ 19B-4. Confiscation of characteristically wild animals.**

21 (a) An animal control authority or other person authorized to enforce the provisions of
22 this Chapter may immediately confiscate a characteristically wild animal under any of the
23 following circumstances:

24 (1) The animal control authority or other person designated under this Chapter
25 has probable cause to believe that the animal was acquired or is being held in
26 contravention of this Chapter.

27 (2) The animal poses a public safety or health risk.

28 (3) The animal is in poor health and condition as a result of the action or
29 inaction of the possessor.

30 (b) A characteristically wild animal that is confiscated under this section may be
31 returned to the possessor only if the animal control authority or law enforcement officer
32 establishes that the possessor had legal possession of the animal pursuant to G.S. 19B-2 or
33 G.S. 19B-3, the return does not pose a public safety or health risk, or the animal is determined
34 not to be in poor health and condition as a result of the action or inaction of the possessor.

35 (c) The animal control authority or other persons authorized to enforce this Chapter
36 under G.S. 19B-6 shall serve notice upon the possessor in person or by regular and certified
37 mail, return receipt requested, notifying the possessor of the confiscation, that the possessor is
38 responsible for payment of reasonable costs for caring and providing for the animal during the
39 confiscation and that the possessor must meet the requirements of subsection (b) of this section
40 in order for the animal to be returned to the possessor.

41 (d) If a characteristically wild animal that is confiscated under this section is not
42 returned to the possessor, the animal control authority or other persons designated under this
43 Chapter may release the animal to a facility such as a wildlife sanctuary or a facility exempted
44 pursuant to G.S. 19B-2.

45 (e) If a characteristically wild animal escapes or is released and poses an immediate
46 threat to public safety, the animal control authority or other persons designated under this
47 Chapter may exercise judgment in attempting to recapture the animal or in killing the animal.

48 **"§ 19B-5. City or county ordinances.**

49 A city or county may adopt an ordinance governing characteristically wild animals that is
50 more restrictive than this Chapter. However, nothing in this Chapter requires a city or county to
51 adopt an ordinance to be in compliance with this Chapter.

1 **"§ 19B-6. Enforcement of Chapter.**

2 (a) The animal control authority and its staff and agents, local law enforcement agents,
3 and county sheriffs are authorized and empowered to enforce the provisions of this Chapter.

4 (b) The possessor of a characteristically wild animal shall, at all reasonable times, allow
5 the animal control authority or other persons designated by this Chapter to enter the premises
6 where the animal is being kept to ensure compliance with this Chapter.

7 **"§ 19B-7. Penalties.**

8 A person who violates this Chapter is liable for a civil penalty to be determined by the
9 court.

10 **"§ 19B-8. Severability.**

11 If any part of this Chapter is determined to be unconstitutional or unenforceable, it shall not
12 affect the constitutionality or enforceability of any other part."

13 **SECTION 2.** This act becomes effective January 1, 2010, and applies to acts
14 committed on or after that date.