

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 875

Short Title: Captive Wild Animal Protection.

(Public)

Sponsors: Senator Kerr.

Referred to: Judiciary II/Election Laws

April 27, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO STRENGTHEN ANIMAL WELFARE AND CONTROL LAWS AND
3 PROTECT HUMAN HEALTH AND SAFETY BY REGULATING POSSESSION
4 AND SALE OF EXOTIC AND WILD ANIMALS.

Whereas, wild animals often pose serious threats to human health and safety and can cause severe environmental damage; and

Whereas, wild animals have very specific biological requirements best met in their natural habitat; and

Whereas, when it is necessary to confine them in captivity they should be under the supervision of qualified zoological or otherwise competent professional caretakers; and

Whereas, it is unsuitable and cruel to involve wild animals in any display, act, or exhibit which is neglectful or abusive; and

Whereas, wild animals can cause a local community much expense and inconvenience if they are inadvertently set free, so that their presence in a community should always be made known to government officials; Now, therefore,

5 The General Assembly of North Carolina enacts:

6 Section 1. Chapter 19A of the General Statutes is amended by adding a new
7 Article to read:

8 **"ARTICLE 5.**
9 **"POSSESSION AND SALE OF EXOTIC AND WILD ANIMALS.**

1 **"§ 19A-50. Definitions.**

2 For purposes of this Article:

- 3 (1) 'Director' means the animal control officer, animal control director, or
4 the person possessing similar authority within a local authority whose
5 duties include implementing laws concerning rabies, tags, stray animals,
6 Article 3 of this Chapter, and other laws concerning animals wild and
7 domestic.
- 8 (2) 'Enhance the species' means to add significantly to the overall welfare,
9 health, and well-being of the species in question through a program that
10 includes, at a minimum: controlled breeding in accordance with
11 regulations established by a director; formal public education efforts;
12 membership and participation in such professional organizations as state
13 and national wildlife rehabilitators' associations; the American
14 Association of Zoological Parks and Aquariums, American Association
15 of Zoo Keepers, American Association of Zoo Veterinarians, and the
16 American Federation of Aviculturists; and other such requirements as
17 the director may deem necessary.
- 18 (3) 'Local authority' means a county of this State; if a city has appointed a
19 director who is performing the duties of director to the exclusion of the
20 director of the county or counties in which the city is located, 'local
21 authority' refers to such city to the exclusion of the county with respect
22 to animals within the city.
- 23 (4) 'Minimum care standards' means those standards for animal care
24 promulgated by the Secretary of Agriculture of the United States under
25 the federal Animal Welfare Act, 9 C.F.R. §§ 3.1 et seq.; in addition
26 these standards for animal care shall include any applicable rules
27 adopted by the North Carolina Department of Agriculture pursuant to
28 this Chapter, any ordinance passed by local authorities, which parallel,
29 supplement, or add to the minimum care requirements provided by
30 federal and state statutes and regulations.
- 31 (5) 'Person' means any individual, partnership, firm, joint stock company,
32 corporation, association, trust, estate, or other legal entity.
- 33 (6) 'Pet' means an animal kept for pleasure rather than for utility.
- 34 (7) 'Wild animal' means any living member of the kingdom Animalia,
35 including those born or raised in captivity, except the following:
36 The species Homo sapiens (humans)
37 The species Canis familiaris (domestic dogs, excluding hybrids with
38 wolves, coyotes, or jackals)
39 The species Felis catus (domestic cats, excluding hybrids with ocelots or
40 margays)
41 The species Equus caballus (domestic horses)
42 The species Equus asinus (asses, donkeys)
43 The species Bos taurus (cattle)

1 The species Ovis ammon aries (sheep)
2 The species Capra hircus (goats)
3 The subspecies Sus scrofa domestica (swine)
4 Domesticated races of the species Gallus gallus or Meleagris gallopavo
5 (poultry)
6 Domesticated races of the species Mesocricetus auratus (golden
7 hamsters)
8 Domesticated races of the subspecies Cavia aperea procellus (guinea
9 pigs)
10 Domesticated races of rats or mice (white or albino, trained, laboratory
11 reared)
12 Domesticated races of the species Chinchillas laniger (chinchillas)
13 Domesticated races of the species Oryctolagus cuniculus (rabbits)
14 All captive-bred members of the species of the families Psittacidae
15 (parrots, parakeets),
16 Anatidae (ducks), Fringillidae (finches), and Columbidae (doves and
17 pigeons)
18 All captive-bred members of the species Serinius canaria of the class
19 Aves (canaries)
20 Domesticated races of the species Carassius auratus (goldfish)
21 Captive-bred members of the superorder Teleostei of the class
22 Osteichthyes (common aquarium fish)
23 Captive-bred, nonpoisonous members of the suborder Serpentes
24 (snakes)
25 Captive-bred members of the suborder Cryptodira (turtles)
26 All species of the class Insecta.

- 27 (8) 'Wildlife rehabilitator' means any person who possesses, on July 1,
28 1995, a valid state or federal permit for the capture and possession of
29 injured, infirm, orphaned wild animals for purposes of treatment or
30 sanctuary, whether or not a fee is charged.

31 **"§ 19A-51. Prohibitions.**

32 (a) No resident of this State may own, possess, or have custody of any wild animal
33 in this State, unless that person obtains a permit from the director of the local authority
34 where the animal is located or is exempted from obtaining such a permit under G.S. 19A-
35 53(a).

36 (b) No person in this State may sponsor, promote, or train a wild animal to
37 participate in, contribute to the involvement of a wild animal in, or attend as a spectator
38 an activity or event in which any wild animal is wrestled, fought, mentally or physically
39 harassed, or displayed in such a way that the animal is abused or stressed mentally or
40 physically. This prohibition applies to events and activities taking place in either public
41 or private facilities or property and applies regardless of the purpose of the event or
42 activities and irrespective of whether or not a fee is charged to spectators.

43 **"§ 19A-52. Jurisdiction.**

1 (a) A director of a local authority shall issue permits for the ownership,
2 possession, or custody of wild animals in accordance with G.S. 19A-53.

3 (b) Each director shall make investigations or inspections within the director's
4 jurisdiction to determine whether any permit holder under this Article has violated or is
5 violating any provisions of this Article or any regulation issued under this Article, and for
6 such purposes each director shall, at all reasonable times, have access to all facilities
7 where wild animals are held within the director's jurisdiction pursuant to permits issued
8 under this Article. Each director is specifically authorized and directed to make random
9 and unannounced inspections of such facilities at any reasonable time.

10 (c) The local authorities are authorized to enact permissible minimum care
11 standards and other ordinances necessary and appropriate for the administration and
12 enforcement of this Article.

13 (d) By January 1, 1997, the local authorities shall enact ordinances concerning the
14 humane handling, care, treatment, and transportation of wild animals protected by this
15 Article.

16 (e) The district attorney of the district where a violation occurs shall bring all
17 criminal actions for violations of this Article. Each local authority and district attorney is
18 authorized to seek relief for violation of this Article by injunction. Each director shall
19 enforce this Article in all other aspects.

20 **"§ 19A-53. Permits.**

21 (a) Exemptions; Standards for Issuing Permits. The following persons are exempt
22 from the permit requirement of G.S. 19A-51(a):

23 (1) A person possessing or having custody of a sick or injured wild animal
24 solely for the purpose of transporting the animal to a licensed
25 veterinarian or permitted wildlife rehabilitator for care, to an
26 incorporated humane society or animal shelter, to an organization that is
27 an accredited member of the American Association of Zoological Parks
28 and Aquariums, or to a state, federal, or local governmental official with
29 authority or apparent authority to handle the animal;

30 (2) Licensed veterinarians and incorporated humane societies or animals;

31 (3) Any 'research facility' within the meaning of section 2(e) of the federal
32 Animal Welfare Act, 7 U.S.C. § 2131(e), licensed by the Secretary of
33 Agriculture of the United States pursuant to the Act;

34 (4) The State Department of Agriculture and any agent or official thereof
35 acting in his or her official capacity;

36 (5) Any agency or official of the United States government acting in his or
37 her official capacity;

38 (6) Any person having possession or custody of the offspring of a wild
39 animal for which that person has a valid permit issued under this
40 Article, provided that such person makes separate application for a
41 permit for the offspring within 10 days of the birth of the offspring;

42 (7) The North Carolina School of Veterinary Medicine;

- 1 (8) Any person conducting a spectator event not in violation of G.S. 19A-
2 51(b); and
- 3 (9) Any person having possession of a wild animal for the sole purpose of
4 transporting it through the State.
- 5 (b) Each director shall grant the following persons within their jurisdiction permits
6 as a matter of right provided that they meet all applicable minimum care standards and
7 are not in apparent violation of G.S. 19A-51(b) of this Article:
- 8 (1) A person who owns or possesses a wild animal on April 1, 1995;
9 (2) An organization that is an accredited member of the American
10 Association of Zoological Parks and Aquariums;
11 (3) State and private universities and colleges, and any agencies of the State
12 working with wild animals; and
13 (4) A wildlife rehabilitator.
- 14 (c) All other persons applying for permits shall demonstrate to the director:
- 15 (1) That the proposed ownership, possession, or custody of the wild animal
16 will enhance the species in question within the meaning of G.S.19A-
17 50(6);
18 (2) That the applicant possesses the scientific and animal husbandry
19 credentials and material resources to implement the proposed species-
20 enhancement program;
21 (3) That the applicant will be able to comply with all minimum care
22 standards. The applicant's possession of a license issued under the
23 federal Animal Welfare Act shall not be deemed to establish the
24 applicant's ability to so comply;
25 (4) That the wild animal in question will not be kept as a personal pet;
26 (5) That the applicant will be able to comply with any other applicable
27 State, local, or municipal laws, ordinances or regulations, including
28 those issued by the director under the authority of this Chapter; and
29 (6) That the wild animal in question will not be used, directly or indirectly,
30 in activities or events prohibited by G.S. 19A-51(b).
- 31 (d) Requisite provisions of the permit. Any permit issued shall be consistent with
32 the purpose and other provisions of this Article and shall specify:
- 33 (1) The number, species, and exact identification of the individual animals
34 authorized to be owned, possessed, or held by the permit;
35 (2) The location where each animal will be kept; and
36 (3) The amount of liability insurance per claim required to compensate
37 persons for personal injury and property damage which may result from
38 the keeping of each animal.
- 39 (e) Duration of permit; additional restrictions. The permit shall authorize the
40 applicant to own, possess, or have custody of the animal specified in the permit for a
41 period of two years, or for a shorter period if deemed necessary by the director and
42 specified in the permit. Each local authority may enact ordinances requiring additional

1 conditions or restrictions to be contained in permits consistent with the purpose and
2 provisions of this Article.

3 (f) Application procedures. The local authorities shall establish application
4 procedures. These procedures must, at a minimum:

5 (1) Allow for a 30-day period during which the director or official
6 designated by the local authority may conduct a hearing with respect to
7 any permit application prior to its issuance or denial. Interested parties
8 may submit evidence including written comments regarding the
9 granting of the permit.

10 (2) Require an applicant to be issued or denied a permit no later than 30
11 days after the 30-day period for comments has expired, or, if a hearing
12 is held, no later than 30 days after the hearing.

13 (g) Renewal of permits. The director may renew a permit upon the applicant's
14 showing that the applicant continues to comply with all the requirements of subsections
15 (b) or (c) of this section, as the case may be.

16 (h) Fees. The local authorities shall by ordinance establish and charge reasonable
17 fees for the application, issuance and renewal of permits under this section.

18 (i) Modification or revocation of permit. A director may modify or revoke any
19 permit issued pursuant to this section:

20 (1) In order to make the permit conform to any statute enacted by or rule
21 adopted by the State or federal government or ordinance enacted by the
22 local authority;

23 (2) Where an animal owned or possessed pursuant to a valid permit is found
24 in the custody, care or control of any person other than the permit holder
25 or his agent or other persons specified on the permit; or

26 (3) In any case where a director determines that the permit holder or other
27 person with possession or custody of the animals specified on the permit
28 has not met the minimum care standards or is found to have violated any
29 provision of G.S. 14-360 by a director or a court of law.

30 Before modifying or revoking a permit, a director or other official shall afford the
31 permit holder an opportunity for a hearing, and shall mail notice of the hearing to the
32 permit holder at least 20 days prior to the hearing. The permit shall not be modified or
33 revoked and the permit holder shall retain custody of the wild animal until a decision has
34 been rendered following a hearing and a copy of the decision is mailed to the permit
35 holder, except where the director determines that the health or welfare of the animal may
36 be adversely affected by leaving the animal in the custody of the permit holder, the
37 director may temporarily remove the animal to the custody of an incorporated humane
38 society, licensed veterinarian, or a local or State government agency or official with the
39 authority to care for the animal, or to another permit holder.

40 If the permit is revoked, the animal shall be permanently removed from the custody of
41 the permit holder and forfeited to the director.

42 **"§ 19A-54. Supplemental ordinances.**

1 Notwithstanding any provision of this Article or any other State law or regulation,
2 local authorities may enact ordinances relating to the ownership, possession,
3 transportation, humane treatment, or care of wild animals provided such ordinances are
4 consistent with this Article. Local authorities may also modify the definition of 'wild
5 animal' by excepting:

6 (1) The American raccoon.

7 (2) Opossums.

8 (3) Ferrets.

9 (4) Any North American species which the local authority determines has
10 lived in a state of independence on or under the dominion and control of
11 man and has been kept as tame pets, raised as livestock, or used for
12 commercial breeding purposes. This determination shall be made
13 consistent with the purposes of this Article.

14 **"§ 19A-55. Penalties.**

15 Any person convicted of violating any provision of this Article or any ordinance
16 promulgated thereunder, shall be guilty of a Class 1 misdemeanor. Any wild animal
17 owned, possessed, or in the custody of any person convicted of a violation shall be
18 forfeited to the local authority in which the violation occurred. Every violation of this
19 Article, and any regulations promulgated thereunder, shall be considered a separate
20 offense.

21 **"§ 19A-56. Civil actions.**

22 Any person, on behalf of any wild animal involved, may bring a civil action to obtain
23 injunctive relief against a violation of G.S. 19A-51, or to compel enforcement of any
24 provision of this Article.

25 **"§ 19A-57. Severability.**

26 If any provisions of this Article or the application of this Article to any person or
27 circumstance is for any reason held invalid, that invalidity shall not affect other
28 provisions or applications of this Article which can be given effect without the invalid
29 provision or application, and to this end the provisions of this Chapter are declared to be
30 severable."

31 Sec. 3. This act becomes effective July 1, 1996.