

STATE OF OKLAHOMA

2nd Session of the 52nd Legislature (2010)

SENATE BILL 1798

By: Anderson

AS INTRODUCED

An Act relating to game and fish; defining terms; prohibiting certain transactions and actions involving certain animals; exempting certain persons from prohibitions; giving certain entities enforcement power; providing process for enforcement of prohibitions; requiring persons to provide notification of certain actions; providing penalty; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7-505 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Animal control officer" shall have the same meaning as defined in Section 44 of Title 4 of the Oklahoma Statutes;

2. "Possess" means to own, harbor, or have custody or control of a prohibited animal;

3. "Prohibited animal" means:

- a. any lions, tigers, leopards, cheetahs, jaguars, or cougars or any hybrids of such species,
- b. all species of bears, and
- c. all species of nonhuman primates;

4. "Wildlife sanctuary" means a not-for-profit organization that:

- a. operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced animals are provided care for the lifetime of the animal,
- b. does not conduct any commercial activity with respect to prohibited animals,
- c. does not sell, trade, auction, lease, or loan prohibited animals or parts of prohibited animals,
- d. does not breed any prohibited animals,
- e. does not conduct any activity that is not inherent to the nature of the prohibited animal,

- f. does not use the prohibited animal for entertainment purposes, and
- g. has a 501(c)(3) Internal Revenue Service tax status that was obtained on the basis of a mission to provide refuge for abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced animals.

B. 1. Except as provided for in this section, it is unlawful for a person to import into this state, offer for sale, sell, buy, trade, barter, possess, or breed a prohibited animal.

2. The provisions of paragraph 1 of this subsection shall not apply to:

- a. exhibitors, dealers, and breeders licensed by the United States Department of Agriculture pursuant to the Animal Welfare Act,
- b. research facilities registered by the United States Department of Agriculture pursuant to the Animal Welfare Act,
- c. a licensed veterinary hospital or clinic for the purpose of providing treatment to a prohibited animal,
- d. wildlife sanctuaries,

- e. wildlife rehabilitators licensed by this state,
- f. a law enforcement officer or an animal control authority when acting pursuant to powers specified in this section,
- g. a person who is not resident of this state who is transporting prohibited animals through this state if the transit time is less than ninety-six (96) hours, the person has documentation of legal ownership of the animal, the animal is not exhibited, and the animal is maintained within a confinement sufficient to prevent the animal from escaping and to prevent public contact with the animal, and
- h. legally harvested prohibited animal carcasses or parts thereof.

C. The provisions of this section shall be enforced by any state law enforcement officer or any other law enforcement officer in whose jurisdiction the violation occurs or any local animal control authority for the jurisdiction in which the violation occurs.

D. 1. A law enforcement officer or local animal control authority may immediately confiscate a prohibited animal if:

- a. the law enforcement officer or local animal control authority has probable cause to believe that the prohibited animal was acquired after the effective date of this section,
- b. the law enforcement officer or local animal control authority determines that the prohibited animal is in poor health and condition as a result of the actions of the possessor, or
- c. the prohibited animal is being held in violation of this section.

2. The law enforcement officer or local animal control authority shall notify the possessor of the prohibited animal that the animal was confiscated by the officer or authority. The notification shall be accomplished by:

- a. posting the notice at the place where the prohibited animal was confiscated,
- b. delivering the notice to a person residing on the property where the prohibited animal was confiscated, or

- c. mailing the notice, return receipt requested, to the last known address of the possessor.

3. The notice shall include:

- a. a description of the confiscated prohibited animal,
- b. the authority for and purpose of the confiscation,
- c. the approximate time and place of the confiscation,
- d. the name and telephone number of a person to contact for information concerning the confiscation process, and
- e. a statement that the person from whom the prohibited animal was confiscated is responsible for payment of the reasonable costs of caring for the animal during the confiscation.

E. 1. A prohibited animal confiscated pursuant to this section may be returned to the possessor only if the law enforcement officer or local animal control authority establishes that the possessor had possession of the animal prior to the effective date of this section and that the return does not pose a public safety or health risk.

2. a. If a prohibited animal confiscated pursuant to this section is not returned to the possessor, the law enforcement officer or local animal control authority may release the animal to a facility specified in paragraph 2 of subsection B of this section that is able to provide long-term care for the animal.
- b. A confiscated prohibited animal may be euthanized only if the law enforcement officer or local animal control authority determines that:
 - (1) the health of the animal is severely compromised,
 - (2) the animal poses a threat to public safety, or
 - (3) all known reasonable placement options are unavailable.

F. 1. This section shall not prohibit a person who had lawful possession of a prohibited animal prior to the effective date of this section from continuing to possess the animal if the person provides written notification of possession of the animal to the local animal control

authority within forty-five (45) days of the effective date of this section.

2. The notification to the local animal control authority shall include:

- a. the name, address, and telephone number of the person,
- b. a description of each prohibited animal, including the species, sex, age, color, weight, and any distinguishing marks, tattoos, or coloration that would aid in the identification of the animal,
- c. a photograph of each prohibited animal, and
- d. the microchip manufacturer and microchip identification number, if a microchip has been implanted in the prohibited animal.

3. A person who is subject to this subsection is prohibited from acquiring additional prohibited animals by any means, including by breeding. The person shall not replace a prohibited animal if the animal dies or is relinquished. The person may relinquish a prohibited animal only to a local animal control authority or to a facility specified in paragraph 2 of subsection B of this section that is able to provide long-term care for the

animal or may sell the prohibited animal in a manner that does not violate this act.

4. The person shall notify the animal control authority:

- a. immediately upon the escape of a prohibited animal,
- b. prior to moving a prohibited animal to a new location or changing addresses,
- c. prior to relinquishing a prohibited animal, and
- d. upon the death of a prohibited animal.

5. The person shall not bring a prohibited animal to any public property or to a commercial or retail establishment, except to take the animal to a licensed veterinarian or veterinary clinic.

G. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than Three Hundred Dollars (\$300.00) for a first offense and not less than Five Hundred Dollars (\$500.00) for a second offense or by imprisonment in the county jail for not less than ten (10) days nor more than one (1) year, or by confiscation pursuant to Section 5-402 of Title 29 of the Oklahoma Statutes or by such fine, imprisonment and confiscation.

SECTION 2. This act shall become effective November 1,
2010.

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