

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 4393**

4 (By Delegates Swartzmiller, Wells, Manypenny,  
5 Ellem, Paxton, Fragale, Craig and Storch)

6  
7 (Originating in the Committee on the Judiciary)

8 [February 19, 2014]

9  
10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new article, designated §19-34-1, §19-34-2,  
12 §19-34-3, §19-34-4, §19-34-5, §19-34-6, §19-34-7, §19-34-8 and  
13 §19-34-9, all relating to the regulation of dangerous wild  
14 animals; creating the Dangerous Wild Animals Act; setting  
15 forth findings and purpose; defining terms; creating the  
16 Dangerous Wild Animal Board; setting forth the duties of the  
17 board; requiring the board to create a list of dangerous wild  
18 animals by rule; permitting the board to issue a permit for a  
19 dangerous wild animal legally possessed prior to the effective  
20 date of the rules; prohibiting the possession of a dangerous  
21 wild animal thereafter; setting forth permit requirements;  
22 providing for confiscation and disposition of animals;  
23 permitting the suspension and revocation of permits; providing  
24 exemptions; providing rule-making authority; and establishing  
25 criminal and civil penalties.

1 *Be it enacted by the Legislature of West Virginia:*

2 That the Code of West Virginia, 1931, as amended, be amended  
3 by adding thereto a new article, designated §19-34-1, §19-34-2,  
4 §19-34-3, §19-34-4, §19-34-5, §19-34-6, §19-34-7, §19-34-8 and  
5 §19-34-9, all to read as follows:

6 **ARTICLE 34. DANGEROUS WILD ANIMALS ACT.**

7 **§19-34-1. Findings and purpose.**

8 The possession of dangerous wild animals presents serious  
9 public health and safety concerns and shall be regulated for the  
10 following reasons:

11 (1) To prevent the introduction or spread of disease or  
12 parasites harmful to humans, domestic livestock and poultry,  
13 wildlife and captive wild animals;

14 (2) To ensure the physical safety of humans;

15 (3) To prevent the escape or release of an animal injurious to  
16 or competitive with agricultural, horticultural, forestry, wildlife  
17 and other natural resources; and

18 (4) To prevent the mistreatment of permitted dangerous wild  
19 animals.

20 **§19-34-2. Definitions.**

21 As used in this article unless otherwise specified:

22 (1) "Board" means the Dangerous Wild Animal Board;

23 (2) "Dangerous wild animal" means a mammal, bird, reptile,  
24 amphibian or aquatic animal, including a hybrid, that is dangerous

1 to humans, other animals or the environment due to its inherent  
2 nature. "Wildlife", as defined by section two, article one,  
3 chapter twenty of this code, "livestock", as defined in section  
4 two, article ten-b, chapter nineteen of this code, and "domestic  
5 animals", as defined in this section, are excluded.

6 (3) "Domestic animal" means an animal which, through extremely  
7 long association with humans, has been bred to a degree which has  
8 resulted in genetic changes affecting the temperament, color,  
9 conformation or other attributes of the species to an extent that  
10 makes it unique and distinguishable from a wild individual of its  
11 species, and includes an animal that has been bred as a companion  
12 animal.

13 (4) "Person" means an individual, partnership, corporation,  
14 organization, trade or professional association, firm, limited  
15 liability company, joint venture, association, trust, estate or  
16 other legal entity and an officer, member, shareholder, director,  
17 employee, agent or representative thereof.

18 **§19-34-3. Rule-making authority.**

19 The Board shall propose rules for legislative approval to  
20 effectuate the provisions of this article in accordance with the  
21 provisions of article three, chapter twenty-nine-a of this code.The  
22 board may promulgate emergency rules pursuant to section fifteen,  
23 article three, chapter twenty-nine-a of this code.

24 **§19-34-4. Prohibition on the possession of a dangerous wild**  
25 **animal; exceptions.**

1       (a) Except as otherwise provided in this article, a person may  
2 not possess a dangerous wild animal.

3       (b) Pursuant to the provisions of this article, the board may  
4 issue a permit for the possession of a dangerous wild animal if the  
5 applicant was in legal possession of the animal prior to the  
6 effective date of the rules promulgated under this article.

7 **§19-34-5. Dangerous Wild Animal Board; composition; duties.**

8       (a) The Dangerous Wild Animal Board is hereby established with  
9 the following members: The Commissioner of the Department of  
10 Agriculture, the Secretary of the Department of Health and Human  
11 Resources and the Director of the Division of Natural Resources, or  
12 their designees. The board shall develop a comprehensive list of  
13 dangerous wild animals pursuant to the rule-making authority of  
14 this article.

15       (b) The Commissioner of Agriculture shall serve as the chair,  
16 the Secretary of the Department of Health and Human Resources as  
17 the vice chair and the Director of the Division of Natural  
18 Resources shall serve as the secretary of the board. The Department  
19 of Agriculture shall provide necessary staff and support services  
20 to the board as needed.

21       (c) The board shall:

22       (1) Establish minimum caging or enclosure requirements for  
23 various dangerous wild animals;

24       (A) Create a comprehensive list of dangerous wild animals that  
25 does not include animals native to this state, but may include and

1 is not limited to:

2 (i) Bears (family ursidae);

3 (ii) Large Cats including lions, jaguars, leopards, tigers  
4 (genus panthera), clouded leopard (niofelis nebulosa), cheetah  
5 (acinonyx jubatus), cougar or mountain lion (felis concolor);

6 (iii) Non-human primates;

7 (iv) Constricting snakes including boa constrictor (boa  
8 constrictor), all subspecies, anaconda (eunectes murinus), indian  
9 python (python molurus), reticulate python (python reticulatus),  
10 rock python (python sebae);

11 (v) Alligators (family alligatoridae);

12 (vi) Poisonous snakes including cobras, coral snakes (family  
13 elapidae), sea snakes (family hydrophidae), adders, vipers  
14 (family viperidae), pit vipers (family crotalidae), all venomous  
15 rear-fanged species (family colubridae);

16 (2) Enforce the permit requirements and set the fees for  
17 permits;

18 (3) Issue, renew, revoke and maintain records for dangerous  
19 wild animal permits;

20 (4) Annually review the list of prohibited dangerous wild  
21 animals to determine if animals should be added or subtracted  
22 from the list; and

23 (5) Address any other issues required by this article.

24 **§19-34-6. Permit applications, requirements, issuance and**  
25 **revocation.**

1       (a) Application. -- A person applying for a permit to  
2 possess a dangerous wild animal shall submit an application that  
3 includes the following:

4       (1) A fee established by the board for each dangerous wild  
5 animal;

6       (2) The name, address and telephone number of the applicant,  
7 and the address where the dangerous wild animal is located;

8       (3) A description of each dangerous wild animal, including  
9 the scientific name, common name, permanent and unique  
10 identifier, and any information that would aid in the  
11 identification of the animal; and

12       (4) A description of the exact location on the property and  
13 a description of the enclosure or cage where each dangerous wild  
14 animal is kept.

15       (b) Permit requirements and restrictions. -- The application  
16 shall state, and the person shall acknowledge his or her  
17 understanding, that:

18       (1) He or she may not breed, receive or replace a dangerous  
19 wild animal;

20       (2) He or she shall notify the sheriff or humane officer in  
21 his or her county immediately if the dangerous wild animal  
22 escapes;

23       (3) He or she may not allow the dangerous wild animal to  
24 come into physical contact with a person other than the permittee,  
25 the animal's designated handler, an employee of a law-enforcement

1 agency enforcing this article or a veterinarian administering  
2 medical treatment or care;

3 (4) He or she has not been convicted for an offense  
4 involving the abuse or neglect of any animal;

5 (5) He or she has not had a permit or license concerning the  
6 care, possession, exhibition, breeding or sale of a dangerous  
7 wild animal revoked or suspended by a governmental agency;

8 (6) He or she shall permanently mark each dangerous wild  
9 animal with a unique identifier;

10 (7) He or she shall maintain records for each dangerous wild  
11 animal, including veterinary records, acquisition papers, the  
12 purchase date and other records that prove ownership of the  
13 dangerous wild animal;

14 (8) He or she presents proof of liability insurance in an  
15 amount of not less than \$300,000 with a deductible of not more  
16 than \$250 for each occurrence of property damage, bodily injury  
17 or death caused by a dangerous wild animal possessed by the  
18 person;

19 (9) He or she shall notify the board not less than three  
20 days before a dangerous wild animal is transferred to another  
21 person out of state;

22 (10) He or she may not transfer dangerous wild animals in  
23 the state without the written consent of the board;

24 (11) He or she shall notify the board of any plans to move  
25 or change his or her address, and may not move the animal without

1 the written consent of the board. However, in the event of a  
2 medical emergency, a dangerous wild animal may be transported to  
3 a licensed veterinarian's facility for treatment and care if the  
4 animal is at all times confined sufficiently to prevent escape;  
5 and

6 (12) He or she shall comply with all rules promulgated by  
7 the board pursuant to the provisions of this article.

8 (c) The board may issue a permit to possess a dangerous wild  
9 animal if it determines that the applicant has met the  
10 requirements of this article.

11 (d) A permit to possess a dangerous wild animal is valid for  
12 one calendar year and must be renewed annually.

13 **§19-34-7. Confiscation and disposition of animals; suspension**  
14 **and revocation of permits.**

15 (a) A law-enforcement officer, county humane officer or the  
16 state veterinarian may immediately confiscate or euthanize any  
17 dangerous wild animal if the animal poses an immediate risk to  
18 public health or safety regardless of whether the owner of the  
19 animal has a permit issued under this article.

20 (b) The board may summarily suspend a permit issued under  
21 this article if one of the following conditions exists:

22 (1) An animal whose owner has a permit issued under this  
23 article is in a position to harm another animal;

24 (2) A permitted animal poses a risk to public health or  
25 safety; or



1       (3) The permittee has violated a provision of this article.

2       (c) In the event of the suspension of a permit or  
3 confiscation of an animal pursuant to this section, the dangerous  
4 wild animal may be transferred to another permittee in compliance  
5 with the provisions of this article, if the transfer would abate  
6 the imminent harm to the animal or the public as determined by  
7 the responding law-enforcement officer, county humane officer or  
8 state veterinarian. If the transfer of the dangerous wild animal  
9 cannot be accomplished without additional risk to public safety,  
10 or if no suitable facility is available for transfer, the  
11 responding law-enforcement officer, county humane officer or  
12 veterinarian may humanely euthanize the animal.

13       (d) Upon conviction of an offense under this article or any  
14 other animal cruelty statute, the board shall revoke that  
15 person's permit.

16       (e) The board may, for cause, revoke a permit.

17       (f) A person aggrieved by action of the board may appeal to  
18 circuit court.

19       **§19-34-8. Exemptions.**

20       (a) The permitting provisions of this article do not apply  
21 to:

22       (1) Institutions accredited by the Association of Zoos and  
23 Aquariums (AZA) or an AZA-certified facility;

24       (2) An animal control or law-enforcement agency or officer  
25 acting under the authority of this article;

1           (3) Licensed veterinary hospitals or clinics treating  
2 dangerous wild animals;

3           (4) A licensed or accredited research medical institution;

4           (5) A research facility as defined in the Animal Welfare  
5 Act, 7 U.S.C. §2132(e), as amended;

6           (6) A circus that is an incorporated, Class c licensee under  
7 the Animal Welfare Act, 7 U.S.C. §2132(e), as amended;

8           (7) A person displaying dangerous wild animals at a fair or  
9 festival that has been pre-approved by the board; and

10           (8) A person temporarily transporting a dangerous wild  
11 animal through the state, if the transit time is not more than  
12 forty-eight hours and the animal is at all times confined  
13 sufficiently to prevent escape.

14           (b) *Qualified exemption.* -- The permitting provisions of  
15 this article do not apply to exhibitors or dealers licensed as of  
16 January 1, 2014, under the Animal Welfare Act, 7 U.S.C. §2132(e),  
17 as amended, and at the time the rules become effective and who  
18 continue to have a valid exhibitor or dealer license. The board  
19 may revoke this exemption as to exhibitors or dealers that have  
20 repeated, uncorrected citations in violation of the Animal  
21 Welfare Act, a conviction for violation of an animal cruelty  
22 statute or a violation of sections seven or nine of this article.

23 **§19-34-9. Criminal and civil penalties.**

24           (a) A person who violates a provision of this article is  
25 guilty of a misdemeanor and, upon conviction thereof, shall be

1 fined not less than \$200 nor more than \$2,000 for each animal  
2 with respect to which there is a violation.

3 (b) A person who knowingly and intentionally releases a  
4 dangerous wild animal or unlawfully possesses a dangerous wild  
5 animal that does not cause injury to an individual is guilty of a  
6 misdemeanor and, upon conviction, may be confined in jail for not  
7 more than one year or fined not less than \$500 nor more than  
8 \$2,500, or both confined and fined.

9 (c) A person who knowingly and intentionally releases a  
10 dangerous wild animal or unlawfully possesses a dangerous wild  
11 animal that injures an individual is guilty of a felony and, upon  
12 conviction thereof, may be imprisoned in a state correctional  
13 institution for not less than one year nor more than three years,  
14 or fined not less than \$1,000 nor more than \$5,000, or both  
15 confined and fined.

16 (d) Civil penalty. -- A person convicted of an offense under  
17 this article is liable for all costs, including personnel costs,  
18 expended by the county or state agencies involved with the  
19 capture, confinement, transfer or euthanasia of a dangerous wild  
20 animal.

21 (e) The civil liability imposed by this section is in  
22 addition to any other legal remedies for damages to person or  
23 property caused by a dangerous wild animal.