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COMMITTEE AMENDMENT ADOPTED

May 2, 2017

**H. 3531**

Introduced by Reps. Crawford, Clemmons, Fry, Duckworth, Hixon, Hardee, V.S. Moss, Forrest and Martin

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Read the first time February 7, 2017.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 2 TO TITLE 47 SO AS TO DEFINE CERTAIN TERMS, TO PROHIBIT CERTAIN PERSONS FROM OWNING, POSSESSING, IMPORTING, PURCHASING, OR SELLING A LARGE WILD CAT, NON‑NATIVE BEAR, OR GREAT APE, TO AUTHORIZE CONFISCATION OF THESE ANIMALS UNDER CERTAIN CIRCUMSTANCES, AND TO PROVIDE THAT LOCAL GOVERNMENTAL BODIES MAY ADOPT ORDINANCES THAT REGULATE THE POSSESSION OF THESE ANIMALS, TO REGULATE THE TREATMENT OF THESE ANIMALS, AND TO PROVIDE A PENALTY; AND TO AMEND SECTION 47‑5‑50, RELATING TO THE PROHIBITION OF THE SALE OF WILD CARNIVORES AS PETS AND THE SALE OF DOMESTICATED FERRETS, SO AS TO DELETE THE PROVISION THAT ALLOWS THE PUBLIC DISPLAY, SHOWING, OR EXHIBITION OF CERTAIN WILD CARNIVORES, PRIMATES, OR OTHER ANIMALS.

Whereas, South Carolina is home to one of the nation’s preeminent wildlife preserves which is also a top tourist attraction and an interactive educational experience, attracting thousands of visitors annually and playing a significant role supporting the local economy of Myrtle Beach; and

Whereas, biodiversity has great value to human welfare; and

Whereas, biodiversity has been threatened by habitat loss around the globe and it is necessary to protect endangered and threatened species; and

Whereas, qualified, captive breeding programs play a critical role in the conservation of threatened and endangered species; and

Whereas, animal ambassadors play a vital role in generating millions of dollars to support international conservation efforts of threatened and endangered species; and

Whereas, the human spirit benefits greatly from the ability to interact with and observe wildlife; and

Whereas, it is imperative that the General Assembly protects critical conservation efforts and the welfare of vulnerable, threatened, and endangered species and protects the public against potential safety risks relating to big cats, non‑native bears, and great apes in captivity. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 47 of the 1976 Code is amended by adding:

“CHAPTER 2

Large Wild Cats, Non‑Native Bears and Great Apes

Section 47‑2‑10. As contained in this chapter:

(1) ‘Animal control authority’ means the agency designated by a city or county to administer ordinances regulating, restricting, or prohibiting the possession of large wild cats, non‑native bears, and great apes. The animal control agency may be a municipal or county animal control agency, county sheriff, or other designated agency.

(2) ‘Large wild cat, non‑native bear and great ape’ means one of the following types of animals of the order Carnivora or Primate, and any hybrids of these animals:

(a) Family Felidae, Genus panthera ‑ all lions, tigers, leopards, jaguars, cougars, cheetahs, snow leopards, and clouded leopards;

(b) Family Ursidae ‑ all bears that are not native to South Carolina and not subject to oversight by the South Carolina Department of Natural Resources; and

(c) Family Hominidae ‑ all great apes; to include all species of chimpanzees, gorillas, and orangutans.

(3) ‘Person’ means any individual, partnership, corporation, organization, trade, or professional association, firm, limited liability company, joint venture, association, trust, estate, or any other legal entity, and any employee, agent, or representative of the entity.

(4) ‘Possessor’ means any person who owns, possesses, keeps, harbors, brings into the State, acts as a custodian of, or has custody or control of, a large wild cat, non‑native bear, or great ape.

Section 47‑2‑20. (A) The provisions of this chapter do not apply to:

(1) duly incorporated nonprofit animal protection organizations, such as humane societies and shelters, housing a large wild cat, non‑native bear or great ape temporarily at the written request of the animal control authority or acting under the authority of this chapter;

(2) federal or state wildlife enforcement officers acting under the scope of their authority;

(3) animal control or law enforcement agencies or officers acting under the authority of this chapter;

(4) veterinary hospitals, clinics, veterinarians, and persons employed at such facilities under the direction of a veterinarian who are actively treating a large wild cat, non‑native bear, or great ape in their professional capacity as a veterinarian or employee of such facility;

(5) a university, college, laboratory, or other research facility holding a Class R registration under the Animal Welfare Act, 7 U.S.C. Section 2131, et seq., as amended;

(6) any person who possesses a valid United States Department of Agriculture Class A, B, or C license in good standing and is in compliance with the United States Department of Agriculture Animal Welfare Act regulations and standards as of January 1, 2018. This person may keep and acquire new large wild cats, non‑native bears, or great apes; and

(7) any person who obtains a valid United States Department of Agriculture Class A, B, or C license and is in compliance with the United States Department of Agriculture Animal Welfare Act regulations and standards after January 1, 2018, may keep and acquire large wild cats, non‑native bears, or great apes after that date, and must comply with the applicable provisions of this chapter;

(8) circuses that are incorporated and hold a Class C license under the Animal Welfare Act, 7 U.S.C. Section 2131, et seq., as amended, that are temporarily in this State, and that offer performances by live animals, clowns, and acrobats for public entertainment; and

(9) an intermediate handler, as defined by the Animal Welfare Act, 7 U.S.C. Section 2136, et seq., acting as a registered agent for a USDA license, pursuant to the Captive Wildlife Safety Act, shall be permitted to transport regulated species through this State, provided the animal is at all times maintained within a confinement sufficient to prevent the animal from escaping.

Section 47‑2‑30. (A) Except as otherwise provided in this chapter, it is unlawful for a person to import into, possess, keep, purchase, have custody or control of, breed, or sell within this State, by any means, a large wild cat, non‑native bear, or great ape, including transactions conducted via the Internet.

(B) A person in legal possession of a large wild cat, non‑native bear, or great ape prior to January 1, 2018, and who is the legal possessor of the animal, may keep possession of the animal for the remainder of the animal’s life, subject to the following conditions:

(1) on or before January 1, 2018, the possessor of a large wild cat, non‑native bear, or great ape shall register with the animal control authority for the city or county in which the animal is located. The registration shall include the person’s name, address, telephone number, a complete inventory of each large wild cat, non‑native bear, or great ape that the person possesses, a photograph or microchip number for each animal, the address for the site at which each animal is located, and the payment to the animal control authority of a one time fee of five hundred dollars per site at which a large wild cat, non‑native bear, or great ape is to be located, and an annual fee of one hundred dollars per large wild cat, non‑native bear, or great ape located at that site to cover the costs of enforcement of this chapter. A possessor shall have a continuing obligation to promptly notify the animal control authority with jurisdiction of any material changes to the information required for registration;

(2) the possessor shall prepare and submit to the animal control authority at the time of payment of the fee required by subitem (1) a contingency plan to protect first responders by providing for the quick and safe recapture of the large wild cat, non‑native bear, or great ape in the event of an escape;

(3) the possessor shall maintain veterinary records, acquisition papers for the animal, or other documents or records that establish that the person possessed the animal prior to January 1, 2018;

(4) the possessor shall present paperwork described in subitem (3) to an animal control or law enforcement authority upon request;

(5) the possessor shall comply with the basic standards for housing exotic animals and protecting the public under the federal Animal Welfare Act, 7 U.S.C. Section 2131, et seq., as amended, and the regulations adopted pursuant to that act, and shall allow the animal control authority access to the animal’s housing in order to ensure that the animal is properly cared for and poses no risk of unauthorized contact with the public;

(6) the possessor shall notify the animal control authority, the local sheriff’s department, and police department, if applicable, immediately upon discovery that the large wild cat, non‑native bear, or great ape has escaped. The possessor of the animal shall be liable for any and all costs associated with the escape, capture, and disposition of a registered animal; and

(7) the possessor shall comply with any and all applicable federal, state, or local law, rule, regulation, ordinance, permit, or other permission regarding ownership of large wild cats, non‑native bears, and great apes. Failure to comply with any law, rule, regulation, ordinance, permit, or other permission constitutes a violation of this chapter.

Section 47‑2‑40. (A) An animal control authority or other person authorized to enforce the provisions of this chapter may confiscate a large wild cat, non‑native bear, or great ape when:

(1) the animal control authority or other person designated under this chapter has probable cause to believe that the large wild cat, non‑native bear, or great ape was acquired or is being held in contravention of this chapter;

(2) the large wild cat, non‑native bear, or great ape poses an immediate, imminent danger to the health and safety of the public; or

(3) the large wild cat, non‑native bear, or great ape is in imminent danger of loss of life as a result of the action or inaction of the possessor as determined by a veterinarian.

(B) A large wild cat, non‑native bear, or great ape that is confiscated under this section must be returned to the possessor if the animal control authority or law enforcement officer establishes that the possessor had legal possession of the animal pursuant to this chapter, the return does not pose a public safety or health risk, and the animal is determined not to be in poor health and condition as a result of the action or inaction of the possessor.

(C) The animal control authority or other persons authorized to enforce this chapter shall serve notice upon the possessor in person or by regular and certified mail, return receipt requested, notifying the possessor of the confiscation, that the possessor is responsible for payment of reasonable costs for caring and providing for the animal during the confiscation and that the possessor must meet the requirements of subsection (B) in order for the animal to be returned to the possessor.

(D) If a large wild cat, non‑native bear, or great ape that is confiscated under this section is not returned to the possessor, the animal control authority or other persons designated under this chapter shall release the animal to a facility exempted pursuant to this chapter or an out‑of‑state facility.

(E) If a large wild cat, non‑native bear, or great ape escapes or is released and poses an immediate threat to public safety, the animal control authority or other persons designated under this chapter may exercise judgment in attempting to recapture, contain, or destroy the animal.

Section 47‑2‑50. A city or county may adopt an ordinance governing large wild cat, non‑native bear, or great ape that is more restrictive than this chapter. However, nothing in this chapter requires a city or county to adopt an ordinance to be in compliance with this chapter.

Section 47‑2‑60. (A) The animal control authority and its staff and agents, local law enforcement agents, state law enforcement agents, and county sheriffs are authorized and empowered to enforce the provisions of this chapter.

(B) The possessor of a large wild cat, non‑native bear, or great ape, at all reasonable times, shall allow the animal control authority or other persons designated by this chapter to enter the premises where the animal is being kept to ensure compliance with this chapter.

Section 47‑2‑70. A person who violates this chapter must be fined not more than one thousand dollars or imprisoned for not more than thirty days for a first offense, and must be fined not more than five thousand dollars or imprisoned for not more than ninety days for a second offense.”

SECTION 2. Section 47‑5‑50(D) of the 1976 Code is amended to read:

“(D) This section does not apply to the sale, purchase, donation, or transfer of ownership of carnivores between publicly‑owned zoos or animal dealers located in this State and licensed by the United States Department of Agriculture (USDA) under the Animal Welfare Act on the effective date of this chapter. These exemptions do not allow for the sale, purchase, donation, or transfer of ownership to private individuals in this State. Any public displays, showings, or exhibitions of wild carnivores, primates, or any other animal will default to the Animal Welfare Act-9 CFR 2.131- Handling of Animals ~~animals for which a USDA licensed rabies vaccine does not exist are allowed only when these displays, showings, or exhibitions prevent any possible contact by these animals with the members of the general public~~.”

SECTION 3. If any part of this chapter is determined to be unconstitutional or unenforceable, it shall not affect the constitutionality or enforceability of any other part.

SECTION 4. This act takes effect January 1, 2018, and applies to acts committed on or after that date.

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