

1 HB244
2 197418-2
3 By Representative Ball
4 RFD: Agriculture and Forestry
5 First Read: 20-MAR-19

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8 SYNOPSIS: Under existing law, it is illegal to own,
9 maintain, sell, or trade any canidae or felidae for
10 which there is no USDA licensed rabies vaccine,
11 under certain conditions.

12 This bill would further provide for the
13 possession of certain canidae or felidae for which
14 there is no USDA licensed rabies vaccine.

15 This bill would make it illegal to
16 intentionally or knowingly possess, sell, transfer,
17 or breed any living large felidae, wolf, or bear,
18 with certain exceptions.

19 This bill would allow persons who lawfully
20 possessed a large felidae, wolf, or bear prior to
21 the effective date of this bill to keep the animal
22 under certain conditions.

23 This bill would provide minimum caging
24 requirements for any large felidae, wolf, or bear,
25 under certain conditions.

26 This bill would provide penalties for
27 violations.

1 Amendment 621 of the Constitution of Alabama
2 of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, prohibits a general
5 law whose purpose or effect would be to require a
6 new or increased expenditure of local funds from
7 becoming effective with regard to a local
8 governmental entity without enactment by a 2/3 vote
9 unless: it comes within one of a number of
10 specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

14 The purpose or effect of this bill would be
15 to require a new or increased expenditure of local
16 funds within the meaning of the amendment. However,
17 the bill does not require approval of a local
18 governmental entity or enactment by a 2/3 vote to
19 become effective because it comes within one of the
20 specified exceptions contained in the amendment.

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT

25
26 Relating to animals; to amend Section 3-8-1, Code of
27 Alabama 1975, relating to required rabies vaccines for canidae

1 or felidae; to further provide for the possession of certain
2 canidae or felidae; to add Section 3-8-2 to the Code of
3 Alabama 1975, to make it illegal, with certain exceptions, to
4 intentionally or knowingly possess, sell, transfer, or breed
5 any living large felidae, as defined, wolf, with exceptions,
6 or bear, with exceptions; to allow persons who already
7 lawfully possess a large felidae, wolf, or bear to keep the
8 animal under certain conditions; to provide minimum caging
9 requirements under certain conditions; to provide penalties;
10 and in connection therewith to have as its purpose or effect
11 the requirement of a new or increased expenditure of local
12 funds within the meaning of Amendment 621 of the Constitution
13 of Alabama of 1901, now appearing as Section 111.05 of the
14 Official Recompilation of the Constitution of Alabama of 1901,
15 as amended.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Section 3-8-1, Code of Alabama 1975, is
18 amended to read as follows:

19 "§3-8-1.

20 "Notwithstanding any ~~provision of~~ law to the
21 contrary, it shall be illegal to own, maintain, sell, or trade
22 any canidae or felidae for which there is no USDA licensed
23 rabies vaccine. Anyone currently owning or maintaining such an
24 animal may keep the animal for the length of the animal's life
25 ~~providing the animal is spayed or neutered and is registered~~
26 ~~with the Department of Agriculture and Industries.~~ This
27 section does not apply to any zoological parks, circuses,

1 colleges, and universities, animal refuges approved by the
2 Department of Agriculture and Industries, county or municipal
3 humane shelters, the Department of Conservation and Natural
4 Resources, or veterinary clinics."

5 Section 2. Section 3-8-2 is added to the Code of
6 Alabama 1975, to read as follows:

7 §3-8-2.

8 (a) For the purposes of this section, the following
9 terms shall have the following meanings:

10 (1) BEAR. All species of bears, including hybrids
11 thereof, except American black bears (*Ursus americanus*), that
12 were not bred in captivity.

13 (2) LARGE FELIDAE. A tiger, lion, leopard, snow
14 leopard, clouded leopard, jaguar, cheetah, or cougar. The term
15 includes a hybrid large felidae.

16 (3) WOLF. The term does not include a hybrid wolf.

17 (b) Notwithstanding Section 3-8-1, or any other law
18 to the contrary, unless exempted by subsection (c) or (d), it
19 is unlawful to intentionally or knowingly possess, sell,
20 transfer, or breed any living large felidae, wolf, or bear.

21 (c) Subsection (b) does not apply to any of the
22 following:

23 (1) A Class C exhibitor licensed by the United
24 States Department of Agriculture (USDA), including, but not
25 limited to, zoological parks and circuses, provided that the
26 licensed exhibitor meets all of the following criteria:

1 a. Not have been, nor employ any person who has
2 been, convicted of or fined for an offense involving the abuse
3 or neglect of any animal pursuant to any state, local, or
4 federal law.

5 b. Not have had a license or permit regarding the
6 care, possession, exhibition, propagation, or sale of animals
7 revoked or suspended by any state, local, or federal agency,
8 not have received any official notices of warnings, or entered
9 into any stipulations, consent decrees, or settlements with
10 the USDA within the last five years, and must disclose any
11 known pending investigations that are being conducted by the
12 USDA.

13 c. Not have been cited in an inspection report by
14 the USDA within the past three years for either of the
15 following:

16 1. A no-access violation.

17 2. A violation for interfering with an inspection.

18 d. Maintains liability insurance for each occurrence
19 of property damage, bodily injury, or death caused by any
20 large felidae, wolf, or bear owned or possessed by the person.

21 e. Maintains a current animal inventory, has a
22 written plan for the quick and safe recapture or destruction
23 of animals in the event of an escape, including, but not
24 limited to, written protocols for training staff on methods of
25 safe recapture of the escaped animal, has a disaster plan, and
26 makes all of this information available to law enforcement
27 upon request.

1 (2) A research facility, as defined in the Animal
2 Welfare Act, 7 U.S.C. Section 2132(e).

3 (3) A nonprofit wildlife sanctuary that meets all of
4 the following criteria:

5 a. Operates a place of refuge where abused,
6 neglected, unwanted, impounded, abandoned, orphaned, or
7 displaced animals are provided care for the lifetime of the
8 animal.

9 b. Does not conduct any commercial activity with
10 respect to large felidaes, wolves, or bears including, but not
11 limited to, the sale, trade, auction, lease, or loan of large
12 felidaes, wolves, or bears or parts of large felidaes, wolves,
13 or bears, or uses large felidaes, wolves, or bears in any
14 manner in a for-profit business or operation.

15 c. Does not allow direct contact between the public
16 and large felidaes, wolves, or bears.

17 d. Does not use large felidaes, wolves, or bears for
18 entertainment purposes or in a traveling exhibit.

19 e. Does not breed, accidentally or otherwise, large
20 felidaes, wolves, or bears.

21 (4) A duly incorporated nonprofit animal protection
22 organization, such as a humane society or shelter, temporarily
23 housing a large felidae, wolf, or bear at the written request
24 of law enforcement, including any county sheriff, police
25 officer, animal control agent appointed pursuant to Section
26 3-1-13 or 13A-11-242, or any warden deputized pursuant to
27 Section 9-11-5, acting under the authority of this section.

1 (5) A licensed veterinary hospital, for the purpose
2 of providing treatment to a large felidae, wolf, or bear.

3 (6) A law enforcement officer, as described in
4 subdivision (4) of subsection (c), for purposes of
5 enforcement.

6 (d) Subsection (b) does not apply to a person who
7 lawfully possesses a large felidae, wolf, or bear prior to the
8 effective date of the act adding this section, if the person
9 meets all of the following criteria:

10 (1) Maintains veterinary records, acquisition
11 papers, or other documents or records that the person or
12 entity possessed the animal prior to the effective date of the
13 act adding this section.

14 (2) Has not acquired additional large felidae,
15 wolves, or bears after the effective date of the act adding
16 this section, whether by purchase, donation, or breeding.

17 (3) Has not been convicted of an offense involving
18 the abuse or neglect of any animal pursuant to local, state,
19 or federal law.

20 (4) Has not had a license or permit regarding the
21 care, possession, exhibition, breeding, or sale of animals
22 revoked or suspended by any local, state, or federal agency.

23 (5) Has developed and is prepared to implement an
24 escape and disaster plan, maintains a current animal inventory
25 list, and makes the plans and list available to law
26 enforcement, upon request.

1 (6) Has shown to his or her local law enforcement
2 agency proof of liability insurance for each occurrence of
3 property damage, bodily injury, or death caused by any
4 dangerous wild animal possessed by the person. For the
5 purposes of this subdivision, the term local law enforcement
6 agency means the municipal police department, if a
7 municipality has a police department, or the county sheriff's
8 office in all other cases.

9 (7) At least 72 hours prior to the sale or
10 relocation of an existing large felidae, wolf, or bear, the
11 person has notified local law enforcement, identifying the
12 recipient of the animal. At all times, possession, sale,
13 transfer, and transport of a large felidae, wolf, or bear
14 shall conform with all applicable local, state, and federal
15 laws.

16 (8) The person owning an existing large felidae,
17 wolf, or bear complies with the following minimum caging
18 standards within one year of the effective date of the act
19 adding this section:

20 a. For all large felidae, wolves, and bears, all of
21 the following shall be required:

22 1. The caging facility shall have a buffer zone of
23 not less than 35 feet between the caging and the person's
24 property line.

25 2. The caging shall be bounded by a perimeter fence
26 of not less than eight feet in height, constructed of not less
27 than 11 and one-half gauge chain link or equivalent strength

1 material, and a minimum of three feet from cages holding
2 animals, or other fencing, buildings, or other protection of
3 the enclosure where the animal is kept, sufficiently to deter
4 entry by the public, and also to prevent the escape from the
5 property of any animal that may escape the primary caging. All
6 gates to the perimeter fence shall be locked.

7 3. All cages and enclosures shall be locked. Animals
8 may not be kept in uncovered enclosures that are less than
9 1,000 square feet, except as specified by this section.

10 4. All cages shall be constructed with a den, nest
11 box, or other connected housing unit that can be closed off
12 and locked with the animal inside for the safe servicing and
13 cleaning of the open area. In lieu of a nest box, a divided
14 cage with a divided door between the two compartments may be
15 used. No entry into cages containing large felidae, wolves, or
16 bears shall be allowed without first locking the animal into
17 the den, nest box, or other housing.

18 5. All cages shall be constructed of chain link or
19 equivalent materials and shall be well braced and securely
20 anchored at or below ground level to prevent the escape of the
21 animal by digging or erosion. Cages shall be constructed using
22 steel clamps, steel ties, or steel braces of equivalent
23 strength as the material required for cage construction.

24 b. For large felidae, all of the following shall be
25 required:

1 1. For one to two large felidae, the cage shall be
2 not less than 480 square feet and not less than eight feet
3 high.

4 2. Uncovered outdoor cages for lions and tigers
5 shall be more than 1,000 square feet, shall have vertical jump
6 walls of at least 10 feet high, with a two feet, 45 degree,
7 inward angle overhang, or jump walls of at least 12 feet high
8 without an overhang. Vertical walls shall be constructed with
9 a minimum of nine gauge chain link or equivalent strength
10 material. The inward angle fencing shall be constructed with a
11 minimum 11 and one-half gauge chain link or equivalent
12 strength material.

13 3. Leopards, cougars, and jaguars may not be kept in
14 uncovered enclosures. Cages containing leopards and jaguars
15 shall be constructed with a minimum of nine gauge chain link
16 or equivalent strength material. Cages containing cougars
17 shall be constructed with a minimum of 11 and one-half gauge
18 chain link or equivalent strength material.

19 4. Tigers shall have a four feet by six feet pool,
20 two feet deep, or a 100 gallon tub or larger for each tiger in
21 the enclosure.

22 c. For bears, all of the following shall be
23 required:

24 1. Uncovered outdoor cages for bears shall be more
25 than 1,000 square feet, shall have vertical jump walls of at
26 least 10 feet high with a four feet, 45 degree inward angle
27 overhang. Vertical walls shall be constructed with a minimum

1 of nine gauge chain link or equivalent strength material.
2 Inward angle overhang shall be constructed of 11 and one-half
3 gauge chain link or equivalent strength material.

4 2. All cages for bears shall be furnished with den
5 boxes, elevated platforms that will accommodate all bears
6 simultaneously, devices to provide stimulation or manipulation
7 compatible with the species, including, but not limited to,
8 boxes, balls, barrels, drums, and foraging items, and several
9 logs for clawing or climbing.

10 3. Bears shall have a four feet by six feet pool,
11 two feet deep, or a 100 gallon tub or larger for each bear in
12 the enclosure.

13 d. For wolves, all of the following shall be
14 required:

15 1. For one to two wolves, the cage shall be not less
16 than 288 square feet and not less than eight feet high with
17 concrete flooring or buried wire mesh to prevent escaping by
18 digging.

19 2. Uncovered outdoor cages for wolves shall be over
20 1,000 square feet, shall have vertical jump walls of at least
21 eight feet high with a 45 degree inward angle overhang that is
22 two feet wide, or jump walls of at least 10 feet high without
23 an overhang. Vertical walls shall be constructed with a
24 minimum of 11 and one-half gauge chain link or equivalent
25 strength material.

26 3. All cages for wolves shall contain den boxes and
27 elevated platforms that will accommodate all of the wolves in

1 the enclosure simultaneously, several logs, protected shelf
2 areas at no more than one foot above ground level, gnawing
3 items, including, but not limited to, tree branches, boxes,
4 balls, bones, barrels, drums, and rawhide, and pools.

5 (e) This section is in addition to, and not in lieu
6 of, any other laws protecting animal welfare. This section is
7 not intended, and may not be construed, to limit any other
8 state law or rule protecting the welfare of animals. Nothing
9 in this section shall be construed to prohibit a local
10 governing body from adopting or enforcing any rule or law that
11 places further restrictions or additional requirements on the
12 possession, sale, transfer, or breeding of large felidae,
13 wolves, or bears.

14 (f) Any law enforcement officer, as described in
15 subdivision (4) of subsection (c), with or without a warrant,
16 may arrest any person who violates this section in his or her
17 presence or view and may execute any warrant or other process
18 issued by any officer or court of competent jurisdiction, and
19 with a search warrant or as incident to a lawful arrest, may
20 search for and seize any large felidae, wolf, or bear
21 possessed in violation of this section or any rules issued
22 pursuant to this section.

23 (g) A violation of subsection (b) is a Class A
24 misdemeanor.

25 Section 3. Although this bill would have as its
26 purpose or effect the requirement of a new or increased
27 expenditure of local funds, the bill is excluded from further

1 requirements and application under Amendment 621, now
2 appearing as Section 111.05 of the Official ReCompilation of
3 the Constitution of Alabama of 1901, as amended, because the
4 bill defines a new crime or amends the definition of an
5 existing crime.

6 Section 4. This act shall become effective on the
7 first day of the third month following its passage and
8 approval by the Governor, or its otherwise becoming law.