



# MODEL LEGISLATION



Bill No. \_\_\_\_\_

## AN ACT Relating to the Private Possession of Wild and Exotic Animals

### NEW SECTION. Sec. 1 Intent

It is the intent of the state of \_\_\_\_\_ to protect the public against health and safety risks that wild and exotic animals pose to the community and to protect the welfare of the individual animals held in private possession. By their very nature, these animals are wild and exotic and, as such, do not adjust well to a captive environment.

### NEW SECTION. Sec. 2 Definitions

- A. "Department" means the Department of Fish and Game (or the Department empowered to regulate wild and exotic animals, usually the state's Department of Fish and Game or Agriculture. Please note that local animal control agencies can regulate the prohibition on possessing wild and exotic animals instead of the Department.)
- B. "Wild and exotic animal" means any member of the following families, including hybrids thereof, which, due to their inherent nature, may be considered dangerous to humans, and further defined as follows:
1. Class Mammalia
    - (a) Order Artiodactyla (hippopotamuses, giraffes, camels, deer, not cattle or swine or sheep or goats)
    - (b) Order Carnivora
      - (i) Family Felidae (lions, tigers, cougars, leopards, ocelots, servals, not domestic cats)
      - (ii) Family Canidae (wolves, coyotes, foxes, jackals, not domestic dogs)
      - (iii) Family Ursidae (all bears)
      - (iv) Family Mustelidae (weasels, skunks, martins, minks, not ferrets)
      - (v) Family Procyonidae (raccoons, coatis)
      - (vi) Family Hyaenidae (hyenas)
      - (vii) Family Viverridae (civets, genets, mongooses, binturongs)
    - (c) Order Edentalia (anteaters, armadillos, sloths)
    - (d) Order Marsupialia (opossums, kangaroos, wallabies, not sugar gliders)
    - (e) Order Perissodactyla (rhinoceroses, tapirs, not horses or donkeys or mules)
    - (f) Order Primates (lemurs, monkeys, chimpanzees, gorillas)
    - (g) Order Proboscidae (elephants)
    - (h) Order Rodentia (squirrels, beavers, porcupines, prairie dogs, not guinea pigs, or rats, or mice, or gerbils, or hamsters)
  2. Class Reptilia
    - (a) Order Squamata
      - (i) Family Varanidae (only water monitors and crocodile monitors)
      - (ii) Family Iguanidae (only green iguanas and rock iguanas)
      - (iii) Family Boidae (all species whose adult length has the potential to exceed eight (8) feet in length)
      - (iv) Family Colubridae (only boomslangs and African twig snakes)
      - (v) Family Elapidae (such as coral snakes, cobras, mambas, etc.) — All species
      - (vi) Family Nactricidae (only keelback snakes)
      - (vii) Family Viperidae (such as copperheads, cottonmouths, rattlesnakes, etc.) — All species

(b) Order Crocodilia (such as crocodiles, alligators, caimans, gavials, etc.) — All species

**NOTE: This list of animals can be modified to fit the needs of your community.**

3. The Department may declare species not listed as a wild and exotic animal if the confinement of the animal within the state can be shown to constitute a threat to public health and safety.
- C. "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 officer, member, shareholder, director, employee, agent or representative thereof.
- D. "Possessor" means any person who owns, possesses, keeps, harbors, brings into the state, has in one's possession, acts as a custodian, or has custody or control of a wild and exotic animal.
- E. "Wildlife sanctuary" means a non-profit organization as described in Section 170(b) (1) (A) (vi), Internal Revenue Code 1986, and its subsequent amendments, that operates a facility that is a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced animals are provided care for their lifetime or released back to their natural habitat, and is a facility with the following characteristics:
  - (a) No activity that is not inherent to the animal's nature, natural conduct, or the animal in its natural habitat is conducted except as needed for routine animal husbandry;
  - (b) No commercial activity involving an animal(s) occurs including, but not limited to, the sale of or trade in animals, animal parts, animal by-products or animal offspring, or the sale of photographic opportunities involving an animal(s), or the use of an animal(s) for any type of entertainment purpose;
  - (c) No unescorted public visitations or direct contact between the public and an animal(s); or
  - (d) No breeding of an animal(s) occurs in the facility.

#### NEW SECTION. Sec. 3 Keeping of Wild and Exotic Animals Prohibited

- A. It shall be unlawful for any person to own, possess, keep, harbor, bring into the state, have in one's possession, act as a custodian, or have custody or control of a wild and exotic animal, except in compliance with this act.
- B. It shall be unlawful for a person to breed a wild and exotic animal.

#### NEW SECTION. Sec. 4 Exemptions

- A. The provisions of this act shall not apply to:
  1. Institutions accredited by the American Zoo and Aquarium Association (AZA) or under mentorship through the AZA.
  2. Duly incorporated non-profit animal protection organizations housing a wild and exotic animal at the written request of the Department.
  3. Animal control or law enforcement agencies or officers acting under the authority of this act.
  4. A person who is licensed by the Department (Fish and Wildlife) to rehabilitate native wildlife. Persons are only exempt for the native wildlife they are in possession of.
  5. Licensed veterinary hospitals or clinics treating wild and exotic animals.
  6. Any wildlife sanctuary as defined under this act.
  7. Any licensed or accredited research or medical institution.
  8. Any licensed or accredited educational institution.
  9. Any lawfully operated circus or rodeo.

10. A person temporarily transporting a wild and exotic animal through the State if the transit time is not more than 96 hours and the animal is at all times maintained within a confinement sufficient to prevent the wild and exotic animal from escaping.

NEW SECTION. Sec. 5 Personal Possession Permit Required for Possessor

- A. A person may not own, possess, keep, harbor, bring into the state, have in one's possession, act as a custodian, or have custody or control of a wild and exotic animal unless that person holds a personal possession permit for that animal issued by the Department. A person may obtain a personal possession permit for a wild and exotic animal only if the following are met:
  1. The person was in legal possession of the wild and exotic animal prior to the effective date of this act and is the legal possessor of the wild and exotic animal.
  2. The person applies for and is granted a personal possession permit for each wild and exotic animal in the person's possession by \_\_\_\_\_ as set forth in Section 17.
- B. Persons who meet the requirements set forth in subsection A of this section shall annually obtain a personal possession permit. From and after the effective date of this act, no new wild and exotic animal shall be brought into possession under authority of a personal possession permit.
- C. An applicant shall file an application to receive a personal possession permit with the Department on forms provided by the Department. The application shall include the following:
  1. A written statement which sets forth the following information:
    - (a) The name, address, telephone number, and date of birth of the applicant.
    - (b) A description of each wild and exotic animal applicant possesses, including the scientific name, name, sex, age, color, weight, and any distinguishing marks or coloration that would aid in the identification of the animal.
    - (c) A photograph of the wild and exotic animal.
    - (d) The exact location where the wild and exotic animal is to be kept.
    - (e) The names, addresses, and telephone number of the person from whom the applicant obtained the wild and exotic animal, if known.
    - (f) The microchip number of the wild and exotic animal, excluding wild and exotic animals exempted under Section 6.
    - (g) The name, address, and phone number of the veterinarian providing veterinary care to the wild and exotic animal and a certificate of good health from the possessor's veterinarian.
  2. The requirement that the possessor certifies in writing and notarized by a notary public that:
    - (a) The applicant is eighteen (18) years of age or older.
    - (b) The applicant has not been convicted of or found responsible for violating a local or state law prohibiting cruelty, neglect, or mistreatment of an animal or has not within the past ten (10) years been convicted of a felony or been convicted for possession, sale, or use of illegal narcotics.
    - (c) All of the requirements set forth in Section 5A, Section 6, and Section 9A and 9B are met.
    - (d) The facility and the conditions in which the wild and exotic animal will be kept are in compliance with this act.
    - (e) The applicant has regularly provided veterinary care to the wild and exotic animal when needed and will provide such care in the future.
    - (f) Proof that a licensed veterinarian pursuant to Section 7 has spayed or neutered the wild and exotic animal.
  3. At the time of filing of the application, an applicant must submit his/her plan for the quick and safe recapture of the wild and exotic animal if the wild and exotic animal escapes.
  4. An applicant must submit a copy of the policy for liability insurance at the time of filing of the application.
  5. Any additional information the Department may deem necessary to carry out the provisions of this act.
  6. The Department may establish and charge reasonable fees for application, issuance, and renewal of a personal possession permit in order to recover the costs associated with the administration and enforcement of this act. The fee charged to an applicant may not exceed \$\_\_\_\_\_ for each animal and may not exceed \$\_\_\_\_\_ for each person obtaining a permit, regardless of the number of animals

owned by the person. The fees collected under this section may be used only to administer and enforce this act.

- D. A permit shall not be granted unless the Department finds that all of the requirements in Section 5C have been met.
- E. The personal possession permit shall set forth all of the following information:
  - 1. The name, address, phone number, and date of birth of the permit holder.
  - 2. The address, if different than above, where the wild and exotic animal(s) will be kept.
  - 3. The name, number, sex, species, age of the wild and exotic animal(s), and any distinguishing marks or coloration that would aid in the identification of the animal.
  - 4. The identification number as required under Section 6, if applicable.
  - 5. The name, address, and phone number of the veterinarian who provides veterinary care to the wild and exotic animal(s) named on the permit.
  - 6. Any other relevant information the Department may deem necessary.
- F. If a person can no longer care for his/her wild and exotic animal, that person may only transfer his/her wild and exotic animal to another person currently holding a valid personal possession permit.
- G. The Department shall keep records of who is carrying a valid permit. A permit holder shall notify the Department of any changes of the stated information on the permit, which changes shall include the death of the wild and exotic animal.

#### NEW SECTION. Sec. 6 Identification Number

Every wild and exotic animal must be implanted with a microchip, at the expense of the possessor, by or under the supervision of a veterinarian. This provision does not apply to a wild and exotic animal if a veterinarian determines that the implant of a microchip would endanger the well-being of the wild and exotic animal.

#### NEW SECTION. Sec. 7 Spaying or Neutering

Every wild and exotic animal must be spayed or neutered, at the expense of the possessor, by or under the supervision of a veterinarian. This provision does not apply to a wild and exotic animal if a veterinarian determines that the spay or neuter procedure would endanger the well-being of the wild and exotic animal.

#### NEW SECTION. Sec. 8 Caging Requirements and Standards for Wild and Exotic Animals

For each wild and exotic animal, the possessor shall comply with AZA's Minimum Husbandry Guidelines for animal care and maintenance of that animal.

#### NEW SECTION. Sec. 9 Care and Treatment of Wild and Exotic Animals Held under a Personal Possession Permit

- A. A wild and exotic animal shall not be tethered, leashed, chained outdoors, or allowed to run at large.
- B. A wild and exotic animal shall not be mistreated, neglected, abandoned, deprived of necessary food, water, and sustenance.
- C. A person transporting a wild and exotic animal in a vehicle shall keep the animal securely caged in the vehicle at all times.
- D. Each person shall have a plan for the quick and safe recapture of the wild and exotic animal if the wild and exotic animal escapes; if recapture is impossible, then a plan for the destruction of the wild and exotic animal held under a personal possession permit.

- E. The possessor shall contact the Department, or a wildlife sanctuary as defined under this act, or an AZA-accredited facility if the possessor can no longer care for the wild and exotic animal prior to euthanasia of the wild and exotic animal.

NEW SECTION. Sec. 10 Insurance; Signs; and Notification

- A. A possessor of a wild and exotic animal shall maintain liability insurance coverage in an amount of not less than two hundred and fifty thousand dollars (\$250,000.00) for each occurrence for liability damages for destruction of or damage to property and death or bodily injury to a person caused by the wild and exotic animal. The possessor of a wild and exotic animal shall provide a copy of the policy for liability insurance to the Department on an annual basis.
- B. The possessor of a wild and exotic animal shall have continuously posted and displayed at each possible entrance onto the premises where a wild and exotic animal is kept a conspicuous sign, clearly legible, and easily readable by the public warning that a wild and exotic animal is on the premises. In addition, the possessor shall conspicuously display a sign with a warning symbol that informs children of the presence of a wild and exotic animal. The Department shall prescribe the exact content and size of the sign.
- C. If any wild and exotic animal escapes, either intentionally or unintentionally, the possessor of the wild and exotic animal shall immediately contact a law enforcement officer of the city or county where the possessor resides to report the escape or release. The possessor is liable for all expenses associated with efforts to recapture the animal.
- D. No person may intentionally release a wild and exotic animal. If a wild and exotic animal is intentionally released the possessor is liable for all expenses associated with efforts to recapture the animal.

NEW SECTION. Sec. 11 Public Contact

The permittee shall not bring a wild and exotic animal to any public property, or a commercial or retail establishment, unless the permittee is bringing the animal to a licensed veterinarian or a veterinarian clinic.

NEW SECTION. Sec. 12 Enforcement of Article

The Department, its staff, its agents, local law enforcement agents, or county sheriffs are authorized and empowered to enforce the provisions of this Article.

NEW SECTION. Sec. 13 Inspection

The possessor of a wild and exotic animal, at all reasonable times, shall allow the Department, its staff, and its agents to enter the premises where the animal is kept to ensure compliance with this act.

NEW SECTION. Sec. 14 Denial of Personal Possession Permit; Appeal

- A. If the Department finds that an applicant for an original or renewal of a personal possession permit does not meet the requirements set forth in Section 5, the Department shall deny the applicant a personal possession permit and give the applicant written notice of the denial and the reasons for the denial.
- B. If the Department finds that a person has not complied with this act the Department may suspend or revoke the personal possession permit and give the possessor written notice of the suspension or revocation and the reasons for the suspension or revocation.
- C. A person who is denied a personal possession permit, denied a renewal of a personal possession permit, or who has had a permit suspended or revoked may appeal the decision to a Superior Court for the

precinct in which the animal is located or the municipal court in the municipality in which the animal is located no later than the fifteen (15) days after the permit was denied, suspended, or revoked. The decision of the court may not be appealed.

NEW SECTION. Sec. 15      Confiscation and Disposition of Wild and Exotic Animals

- A. The Department may immediately confiscate any wild and exotic animal if the animal is kept in contravention of this act. The possessor is liable for the costs of placement and care for the wild and exotic animal from the time of confiscation until the time of return to the possessor or until the time the animal has been relocated to an approved facility, such as a wildlife sanctuary as defined under this act or an institution accredited by the AZA.
- B. If a wild and exotic animal is confiscated due to the animal being kept in contravention of this act, the possessor must post a security bond or cash with the Department in an amount sufficient to guarantee payment of all reasonable expenses expected to be incurred in caring and providing for the animal, including but not limited to the estimated cost of feeding, medical care, and housing for at least thirty (30) days. The security bond or cash shall not prevent the Department from disposing of the animal at the end of the thirty (30) days unless the person claiming the animal posts an additional security bond or cash with the Department to secure payment of all reasonable expenses expected to be incurred in caring and providing for the animal for an additional thirty (30) days, and does so prior to the expiration of the first thirty (30) day period. The amount of the security bond or cash shall be determined by the Department and based on the current rate to feed, provide medical care, and house the animal.
- C. If a confiscated animal possessor cannot be located or if a confiscated animal remains unclaimed, in the discretion of the Department, the Department may contact an approved facility, such as a wildlife sanctuary as defined under this act or an institution accredited by the AZA, allow the animal to be adopted by a person who currently possesses a personal possession permit, or may euthanize the animal.
- D. If the wild and exotic animal cannot be taken up or recaptured safely by the Department or if proper and safe housing cannot be found the Department may immediately euthanize the animal.
- E. A wild and exotic animal may be returned to the possessor only if, to the satisfaction of the Department, the possessor has a personal possession permit, has corrected the conditions resulting in the confiscation, and has paid the cost of placement and care of the animal while under the care and control of the Department.

NEW SECTION. Sec. 16      Penalties

- A. Whoever violates Sections 5A, 5B, or 5F, Section 6, Section 7, Section 8, Section 10B, Section 10C, and Section 13 shall be guilty of a misdemeanor punishable by a fine of not more than \$ \_\_\_\_\_ or a jail sentence of not more than \_\_\_ months.
- B. Whoever violates Section 3A and B, Section 9, Section 10A, Section 10D, Section 11, and Section 15B shall be guilty of a minor misdemeanor punishable by a fine of not more than \$ \_\_\_\_\_ or a jail sentence of not more than \_\_\_ months.

NEW SECTION. Sec. 17      Effective Date

- A. Except as provided by this section, this act takes effect on the date the Governor signs this act into law.
- B. Not later than \_\_\_\_\_ (generally 6 months from bill being signed into law), the Department shall implement and administer the prohibitions of the keeping of wild and exotic animals under this act. This includes, but is not limited to, the creation of the personal possession permit program established by Section 5 of this act, orders relating to the applications for personal possession permit and renewals, fees for the permit, and the form and content of the application.

- C. A person is not required to obtain a personal possession permit under Section 5 before \_\_\_\_\_ (generally 6 months after date from Section 17 B), but must obtain a personal possession permit by \_\_\_\_\_ (generally allow possessors 6 months to obtain permit).
- D. A city or county may adopt an ordinance governing wild and exotic animals that is more restrictive than this act. This may include prohibiting additional animals to the definition of “wild and exotic animals,” additional caging standards, and stricter care and treatment provisions. If a city or county already has an equal or greater ordinance already in existence that city or county will be in compliance with this act.

NEW SECTION. Sec. 18 Severability

If any part of this act is found to be unconstitutional or unenforceable it shall not affect the constitutionality or enforceability of any other part.