Jill Rowland *Legislative Service Commission*

H.B. 643

126th General Assembly
(As Introduced)

Reps. Distel, Hartnett, Foley, DeGeeter, Chandler, Fende, Williams, Perry, Koziura, Ujvagi, Otterman

BILL SUMMARY

- Defines "dangerous wild animal" and "exotic animal," and prohibits, with certain exceptions, a person from possessing such an animal without a personal possession permit issued by the Chief of the Division of Wildlife in the Department of Natural Resources.

- Establishes requirements governing applications and fees for a personal possession permit, the issuance or denial of such a permit, an appeal from the issuance or denial of such a permit, the revision of such a permit, and the renewal of such a permit.

- Requires the Chief to confiscate a dangerous wild animal or exotic animal if the person who possesses it does not have a personal possession permit, and establishes requirements related to the confiscation.

- Requires a person applying for or holding a personal possession permit to obtain and maintain a liability insurance policy in an amount of at least $250,000 that covers claims for injury or damage to persons or property caused by the person's dangerous wild animal or exotic animal.

- Establishes other requirements with which permit holders must comply.

- Establishes requirements, procedures, and related provisions for the transfer of a dangerous wild animal or an exotic animal to another permit holder.

- Requires the Chief to adopt rules, including rules governing enclosures and fences within which dangerous wild animals or exotic animals are confined.

- Requires the Chief to conduct inspections of a permit holder's premises at least annually.
- Establishes prohibitions governing the keeping of a dangerous wild animal or exotic animal.
- Authorizes the Chief to suspend or revoke a personal possession permit after a hearing for any violation of the bill or rules adopted under it.
- Authorizes an action for civil penalties to be brought for a violation of the bill, rules adopted under it, or the terms or conditions of a personal possession permit, and establishes other penalties for violating the bill.
- Creates the Dangerous Wild and Exotic Animals Fund for purposes of the bill and rules adopted under it.

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CONTENT AND OPERATION

Prohibition against possession of dangerous wild animal or exotic animal

The bill prohibits any person from possessing a dangerous wild animal or an exotic animal except as otherwise provided in the bill (see "***Personal possession permit***," below) (sec. 1534.02(A)). Under the bill, "possess" means to own, keep, harbor, or have in a person's custody (sec. 1534.01(E)). The bill defines "dangerous wild animal" as a coyote, black bear, mountain lion, wolf, bobcat, or wild board[1] or a hybrid of such animals (sec. 1534.01(A)). Under the bill, "exotic animal" means any of the following animals, including hybrids of them, that due to their inherent nature may be considered dangerous to humans: a lion, a tiger, a cougar, a leopard, a serval, an ocelot, a nonhuman primate, except a nonhuman primate that provides support or assistance for a mobility impaired person, a jackal, a hyena, a martin, a coati, a civet, a genet, a mongoose, a binturong, an anteater, an armadillo, a sloth, a kangaroo, a wallaby, a rhinoceros, a tapir, an elephant, a prairie dog, a hippopotamus, a giraffe, a camel, a crocodile monitor, a water monitor, a green iguana, a rock iguana, a species within the family Elapidae, a species within the family Boidae that has the potential to exceed eight feet in length, or a boomslang or African twig snake of the family Colubridae (sec. 1534.01(B)).

Exemptions

The bill specifies that its provisions do not apply to any of the following: the Division of Wildlife in the Department of Natural Resources; a facility that is an accredited member of the American Zoo and Aquarium Association or that is under mentorship of the Association; a humane society; a veterinary hospital or clinic; a wildlife sanctuary; a research facility as defined in the federal Animal Welfare Act; a vocational school, college, university, or other educational institution; a traveling public show or circus that uses dangerous wild animals or exotic animals as an integral part of the show or circus performance and that keeps the animals in this state only during the time period when the traveling public show or circus is performing in Ohio; or an individual who does not reside in Ohio and is traveling through it with a dangerous wild animal or an exotic animal, who has the animal confined in a cage at all times, and who is in this state not more than 96 hours (sec. 1534.02(B)). The bill defines "humane society" as an organization that is organized under the Humane Societies Law (sec. 1534.01(C)). Under the bill, "wildlife sanctuary" means a nonprofit organization as described in the federal Internal Revenue Code that operates a place of refuge where abused,

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[1] *Presumably, "wild boar" is intended.*

neglected, unwanted, impounded, abandoned, orphaned, or displaced exotic animals are provided care for their lifetime or released back to their natural habitat and, with respect to an animal possessed by the organization, that does not do any of the following: (1) use the animal for any type of entertainment, (2) sell, trade, or barter the animal or the animal's body parts, or (3) breed the animal (sec. 1534.01(H)).

Personal possession permit

The bill prohibits any person from possessing a dangerous wild animal or an exotic animal on or after the bill's effective date without a personal possession permit issued by the Chief of the Division of Wildlife under the bill (sec. 1534.03(A)). Under the bill, a person who possesses a dangerous wild animal or an exotic animal on the bill's effective date must apply for a personal possession permit not later than 90 days after that date. If such a person subsequently is issued a personal possession permit, the person cannot be found guilty of violating the prohibition during the period of time beginning on the bill's effective date until the issuance of the permit. (Sec. 1534.03(B).)

Application requirements

The bill requires an applicant for a personal possession permit to file an application for a permit with the Chief on a form provided by the Chief. An applicant need apply for only one permit regardless of the number of dangerous wild animals or exotic animals that are possessed by the applicant. The application must include all of the following:

(1) The name, date of birth, address, and telephone number of the applicant;

(2) If different from the information provided under item (1), above, the name, address, and telephone number of the location where each dangerous wild animal or exotic animal will be confined;

(3) A description of each dangerous wild animal or exotic animal, including the scientific name, the name that the applicant has given the animal, the animal's sex, age, color, and weight, and any distinguishing marks or coloration that would aid in the identification of the animal; and

(4) Any additional information that the Chief determines is necessary to administer and enforce the bill. (Sec. 1534.04(A).)

The bill requires the applicant to submit with the application a permit fee in an amount established by the Chief in rules adopted under the bill (see "***Rulemaking***," below). If a permit is not issued, the permit fee must be retained

by the Chief as payment for the reasonable expense of processing the application. The fee must be deposited in the state treasury to the credit of the Dangerous Wild and Exotic Animals Fund created in the bill (see "***Dangerous Wild and Exotic Animals Fund***," below). (Sec. 1534.04(B).)

Issuance of permit

Under the bill, not later than 90 days after receipt of an application, the Chief must issue or deny a personal possession permit. The Chief must issue a permit to an applicant only if all of the following apply:

(1) The applicant is 18 years of age or older;

(2) The applicant has submitted the permit fee required under the bill;

(3) The applicant has submitted a complete application that meets the bill's requirements;

(4) The facility and the conditions in which each dangerous wild animal or exotic animal will be kept are in compliance with the bill and rules adopted under it; and

(5) The applicant has complied with the liability insurance requirements established in the bill (see "***Liability insurance requirement***," below). (Sec. 1534.05(A).)

Information contained in permit

The bill specifies that a personal possession permit must contain all of the following:

(1) The name, date of birth, address, and telephone number of the permit holder;

(2) If different from the information provided under item (1), above, the name, address, and telephone number of the location where each of the permit holder's dangerous wild animals or exotic animals will be confined;

(3) The number of dangerous wild animals and exotic animals that are possessed by the permit holder at the time that the permit is issued;

(4) The species of, age of, sex of, and name that the permit holder has given to each dangerous wild animal or exotic animal that is possessed by the permit holder at the time that the permit is issued together with any distinguishing marks or coloration that would aid in the identification of each animal;

(5) The name, address, and telephone number of the veterinarian who provides veterinary care for each dangerous wild animal or exotic animal that is identified on the permit; and

(6) Any additional terms, conditions, or information that the Chief determines is necessary (sec. 1534.05(B)(1)).

The bill defines "veterinarian" as an individual who is licensed under current law to practice veterinary medicine (sec. 1534.01(G)).

Revised permit

The bill specifies that if the information contained in the permit changes, the permit holder promptly must notify the Chief who must issue a revised permit containing the new information (sec. 1534.05(B)(2)).

Renewal of permit

The bill requires a permit holder, not later than December 1 of each year, to apply to the Chief, on a form provided by the Chief, for a renewal of the permit if the holder intends to retain possession of the animal or animals that are identified in the permit. Not later than 30 days after receipt of an application for renewal, the Chief must renew or deny the renewal of the permit. The bill requires the Chief to renew the permit if the permit holder meets the requirements established by the bill and pays a renewal fee in an amount established by the Chief in rules adopted under the bill. If a renewal permit is denied, the renewal fee must be retained by the Chief as payment for the reasonable expense of processing the application. The fee must be deposited in the State Treasury to the credit of the Dangerous Wild and Exotic Animals Fund created in the bill. (Sec. 1534.05(C).)

Denial of permit

The bill specifies that if the Chief denies an application for a permit or a renewal of a permit, the Chief must notify the person of the denial, the grounds for the denial, and the person's right to a hearing under the Administrative Procedure Act. Notwithstanding that Act, the bill states that the decision of the court is final and nonappealable. (Sec. 1534.05(D).)

Under the bill, if a person does not appeal the determination of the Chief or if the court affirms the determination of the Chief, the person must do one of the following regarding the dangerous wild animals or exotic animals that are possessed by the person: (1) transfer the dangerous wild animals or exotic animals to a humane society, wildlife sanctuary, or facility that is an accredited member of the American Zoo and Aquarium Association, or (2) have a veterinarian euthanize the dangerous wild animals or exotic animals. The person is responsible for all

costs associated with the transfer or euthanization of the animals. (Sec. 1534.05(E).)

Record keeping

The bill requires the Chief to maintain records for each holder of a personal possession permit that the Chief issues (sec. 1534.05(F)).

Confiscation of animal

The bill specifies that on and after 90 days after its effective date, the Chief must confiscate a dangerous wild animal or an exotic animal if the person that possesses the animal does not have a personal possession permit or has not submitted an application for such a permit. The Chief immediately must send written notice by certified mail, return receipt requested, to the person stating that the person has five business days after the receipt of the notice to deposit money with the Chief in an amount determined by the Chief in rules adopted under the bill (see "***Rulemaking***," below) to pay all reasonable expenses expected to be incurred in caring and providing for the dangerous wild animal or exotic animal for 90 days. (Sec. 1534.06(A).) After so depositing the money, the person must submit an application for a personal possession permit (sec. 1534.06(B)).

Under the bill, if the Chief denies an application for a permit and the person files an appeal that extends beyond the time for which money is required to be deposited, the person must deposit additional money in an amount determined by the Chief in rules adopted under the bill to pay all reasonable expenses expected to be incurred in caring and providing for the dangerous wild animal or exotic animal for 30 days (sec. 1534.06(C)). The bill specifies that if the Chief approves an application for a permit, the Chief must release the confiscated dangerous wild animal or exotic animal to the person. The person immediately must comply with certain requirements specified in the bill with regard to providing the name, address, and telephone number of the applicant and of the location at which the animal is confined. (Sec. 1534.06(D).)

The bill provides that if the person that possesses a dangerous wild animal or an exotic animal that is confiscated does not submit an application for a personal possession permit, if the person that possesses a dangerous wild animal or an exotic animal that is confiscated under the above provisions cannot be located by the Chief, or if a confiscated animal remains unclaimed for more than 15 days after its confiscation, the Chief must do one of the following regarding the dangerous wild animal or exotic animal: (1) transfer the dangerous wild animal or exotic animal to a humane society, wildlife sanctuary, or facility that is an accredited member of the American Zoo and Aquarium Association, (2) transfer the dangerous wild animal or exotic animal to a person who has been issued a

personal possession permit, or (3) have a veterinarian euthanize the dangerous wild animal or exotic animal (sec. 1534.06(E)).

Liability insurance requirement

The bill prohibits any person applying for or holding a personal possession permit from possessing a dangerous wild animal or an exotic animal in Ohio unless the person has obtained and maintains a liability insurance policy with an insurer authorized or approved to write such insurance in this state that covers claims for injury or damage to persons or property caused by such an animal. The policy must be in an amount of not less than $250,000. (Sec. 1534.07(A).)

The bill prohibits the insurance policy from being canceled by the permit holder or the insurer except upon notice to the Chief by certified mail, return receipt requested. The cancellation cannot be effective prior to 30 days after the Chief receives the notice. (Sec. 1534.07(B).)

Requirements applicable to permit holders

The bill requires the holder of a personal possession permit to do all of the following:

(1) For each dangerous wild animal or exotic animal, comply with the American Zoo and Aquarium Association's husbandry guidelines for animal care and maintenance for that animal;

(2) Comply with rules adopted under the bill (see "***Rulemaking***," above);

(3) Post and display at intervals of ten feet along the boundary of the property where each dangerous wild animal or exotic animal is confined signs warning the public that a dangerous wild animal or an exotic animal is on the property. The signs must comply with standards established in rules adopted under the bill;

(4) Have a plan for the safe recapture of a dangerous wild animal or an exotic animal if the animal escapes from the permit holder's control. The permit holder also must have a plan for the destruction of an escaped dangerous wild animal or exotic animal if the recapture of the animal would endanger the life of the person who is trying to capture the escaped animal;

(5) If a dangerous wild animal or an exotic animal escapes from the permit holder's control, immediately inform the nearest wildlife officer employed by the Department of Natural Resources. The permit holder is responsible for all costs associated with the recapture or destruction, if applicable, of the dangerous wild animal or exotic animal;

(6) Keep a log of all dangerous wild animals or exotic animals possessed by the permit holder in accordance with rules adopted under the bill;

(7) Notify in writing each law enforcement agency and fire department with jurisdiction over the property where the permit holder keeps dangerous wild animals or exotic animals of the species of dangerous wild animals or exotic animals possessed by the permit holder and the number of each species possessed by the permit holder; and

(8) Not later than 30 days after receipt of the permit, publish notice of the receipt of the permit in a newspaper of general circulation in the county where the permit holder keeps dangerous wild animals or exotic animals. The notice must include information concerning the species of dangerous wild animals or exotic animals possessed by the permit holder and the number of each species possessed by the permit holder. (Sec. 1534.08(A).)

The bill defines "law enforcement agency" as any organization or unit that is comprised of law enforcement officers (sec. 1534.01(D)).

The bill prohibits any person from complying with the above requirements (sec. 1534.08(B)).

Transfer of animal

The bill specifies that if the holder of a personal possession permit no longer can care for a dangerous wild animal or an exotic animal identified in the holder's permit, the permit holder must notify the Chief of the permit holder's desire to transfer the animal. The permit holder may submit the name or names of persons who hold a valid personal possession permit and who are determined by the transferring permit holder to have the necessary facilities to care for the animal. The Chief must investigate those persons to verify that they have the necessary facilities to care for the animal and that they are in good standing with the Division of Wildlife. The bill requires the Chief to approve or deny the transfer.

If the Chief denies the transfer of a dangerous wild animal or an exotic animal to another permit holder, or if the transferring permit holder does not request such a transfer, the bill requires the permit holder to transfer possession of the animal to a humane society, wildlife sanctuary, or facility that is an accredited member of the American Zoo and Aquarium Association. If that transfer cannot occur, a veterinarian must euthanize the animal. The permit holder is responsible for all costs associated with the transfer or euthanization of the animal. (Sec. 1534.09.)

Rulemaking

The bill requires the Chief to adopt rules in accordance with the Administrative Procedure Act that do all of the following:

(1) Establish the amount of the fee that must be submitted with an application for a personal possession permit. The fee cannot be more than $100 for each dangerous wild animal or exotic animal identified in an application, but cannot exceed $1,000 for each person applying for a permit regardless of the number of dangerous wild animals or exotic animals possessed by the person;

(2) Establish the amount of the renewal fee for a personal possession permit;

(3) Establish the amount of money that is required to be deposited upon confiscation of an animal under the bill, which must be based on the cost of feeding and providing medical care and housing for a dangerous wild animal or an exotic animal for each of the time periods specified in the bill's provisions governing such confiscation (see above). The Chief must review the costs on an annual basis;

(4) Establish the content and size of the signs that are required to be posted along the boundary of property where a dangerous wild animal or an exotic animal is confined;

(5) Establish requirements regarding perimeter fencing around the primary enclosure facilities that are used to house dangerous wild animals or exotic animals. The rules must require that perimeter fences be at least eight feet in height for all dangerous wild animals and for those exotic animals that are determined by the Chief to be dangerous. For all other exotic animals, the rules must require perimeter fences to be not less than six feet in height. The rules must require perimeter fencing to be constructed in a manner that prevents an animal from going through, under, or over the fence in order to function as a secondary containment system should animals escape from the primary enclosure facilities that are used for housing. The rules must require a perimeter fence to be constructed at least three feet in distance from those primary enclosure facilities. Finally, the rules must authorize the Chief to issue written exemptions from the requirement to install perimeter fencing in any of the following situations with respect to a dangerous wild animal or exotic animal: (a) if the outside walls of the primary enclosure facility that is used to house the animal are made of sturdy, durable material, such as concrete, wood, metal, or glass and are high enough to and constructed in a manner that restricts ingress and egress by animals and unauthorized persons, (b) where the primary enclosure facility that is used to house the animal is protected by an effective natural barrier that restricts ingress

and egress by animals and unauthorized persons, (c) if appropriate alternative security measures are employed, or (d) if the animal that is being housed in the primary enclosure facility does not constitute such a threat to people or other animals that perimeter fencing is necessary;

(6) Establish a requirement that the primary enclosure facility that is used to house a dangerous wild animal or exotic animal be not less than 500 feet from the property line of the property on which the enclosure facility is located;

(7) Establish the form of and procedures for keeping the log that the bill requires a permit holder to keep regarding all of the dangerous wild animals or exotic animals that the permit holder possesses; and

(8) Establish any other provisions that are necessary to administer and enforce the bill. (Sec. 1534.10.)

Inspections

The bill specifies that at least annually, the Chief or the Chief's designee must inspect each premises concerning which a personal possession permit has been issued in order to determine whether all dangerous wild animals and exotic animals at the premises are being cared for according to the standards and requirements that are specified in or established under the bill and rules adopted under it. In addition, the Chief or the Chief's designee may enter any premises where dangerous wild animals or exotic animals are confined in order to determine if the animals are being cared for according to those standards and requirements. If refused entry, the Chief or the Chief's designee may apply for and the court of common pleas having jurisdiction may issue an appropriate warrant. (Sec. 1534.11(A).)

Prohibitions

The bill prohibits any person from doing any of the following:

(1) Allowing another person that does not have a personal possession permit to possess a dangerous wild animal or an exotic animal on the person's property;

(2) Tethering, leashing, or chaining a dangerous wild animal or an exotic animal outside a cage or allowing a dangerous wild animal or an exotic animal to roam;

(3) Mistreating, neglecting, or abandoning a dangerous wild animal or an exotic animal or depriving a dangerous wild animal or an exotic animal of necessary food, water, shelter, or veterinary care;

(4) Except for visits to a veterinarian or veterinary clinic, bringing a dangerous wild animal or an exotic animal to a commercial or retail establishment or onto real property owned by, or under the supervision of, a state agency or political subdivision;

(5) Transporting a dangerous wild animal or an exotic animal in a motor vehicle without keeping the animal in a secured cage or enclosure in the vehicle during the period of transport;

(6) Releasing a dangerous wild animal or an exotic animal into the wild;

(7) Keeping a dangerous wild animal or an exotic animal in an unsecured environment at any time;

(8) Failing to notify in writing the Chief, a wildlife sanctuary, or a facility that is an accredited member of the American Zoo and Aquarium Association prior to euthanizing a dangerous wild animal or an exotic animal (sec. 1534.12).

Enforcement

Revocation or suspension of permit

The bill authorizes the Chief to suspend or revoke a personal possession permit after a hearing in accordance with the Administrative Procedure Act for any violation of the bill or any rule adopted under it. If the Chief revokes a permit, the dangerous wild animals or exotic animals that are possessed by the permit holder must be confiscated and transferred to a humane society, wildlife sanctuary, or facility that is an accredited member of the American Zoo and Aquarium Association. If a humane society, wildlife sanctuary, or facility that is an accredited member of the American Zoo and Aquarium Association refuses to accept a dangerous wild animal or an exotic animal, a veterinarian must euthanize the animal. The permit holder is responsible for all costs associated with the transfer or euthanization of the animal. (Sec. 1534.11(B).)

Civil penalties

The bill specifies that if the Chief determines that any person has violated or is violating the bill, a rule adopted under it, or a term or condition of a permit issued under it, the Chief may request in writing that the Attorney General, the prosecuting attorney of the county, or the city director of law where the violation has occurred or is occurring bring an action for civil penalties in a court of competent jurisdiction. The court may impose on the person a civil penalty of not less than $200 and not more than $2,000 with respect to each animal concerning which there is a violation of the bill and for each day of each violation of the bill, a rule adopted under it, or a term or condition of a permit issued under it. Money

resulting from civil penalties imposed by such an action must be credited to the Dangerous Wild and Exotic Animals Fund created in the bill (see "***Dangerous Wild and Exotic Animals Fund,***" below). (Sec. 1534.13.)

Other penalties

The bill provides that whoever violates its provisions is guilty of a misdemeanor of the first degree. However, if the violation results in serious physical harm to a person, the violator is guilty of a felony of the fourth degree. (Sec. 1534.99(A).) The bill defines "serious physical harm to a person" as any of the following: (1) any physical harm that carries a substantial risk of death, (2) any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity, (3) any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement, or (4) any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain (sec. 1534.01(F)).

Under the bill, if a person is convicted of or pleads guilty to a violation of its provisions, the court may order the dangerous wild animal or exotic animal that is the subject of the violation to be euthanized by a veterinarian or an appropriate animal control authority (sec. 1534.99(B)). Furthermore, the bill specifies that a violation of its provisions constitutes a nuisance (sec. 1534.99(C)).

Dangerous Wild and Exotic Animals Fund

The bill creates the Dangerous Wild and Exotic Animals Fund in the State Treasury. The Fund consists of fees collected under the bill and all money resulting from civil penalties imposed pursuant to it. All money in the Fund must be used to carry out the purposes of the bill and rules adopted under it. (Sec. 1534.14.)

HISTORY

ACTION	DATE
Introduced	08-10-06

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