

PROPOSED COMMITTEE SUBSTITUTE S1477-CSRF-61 [v.9]

1 A BILL TO BE ENTITLED
2 AN ACT PROVIDING FOR THE PROTECTION OF THE PUBLIC AGAINST THE
3 HEALTH AND SAFETY RISKS POSED BY INHERENTLY DANGEROUS
4 WILD ANIMALS, TO PROTECT THE WELFARE OF INHERENTLY
5 DANGEROUS WILD ANIMALS, AND TO AUTHORIZE A FEE FOR
6 REGISTERING INHERENTLY DANGEROUS WILD ANIMALS.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Article 6 of Chapter 153A of the General Statutes is amended
9 by adding a new section to read:

10 **§ 153A-131.1 Possession or harboring of inherently dangerous wild animals.**

11 (a) Definitions – The following definitions apply in this section:

12 (1) "Animal control authority" means the agency designated by the county
13 to administer ordinances regulating, restricting, or prohibiting the
14 possession of inherently dangerous wild animals. The animal control
15 agency may be a municipal or county animal control agency, county
16 sheriff, or other agency designated by the county.

17 (2) "Direct contact" means any situation in which an individual may touch
18 or come into physical contact with an inherently dangerous wild
19 animal or its housing.

20 (3) Inherently dangerous wild animal means any of the members of the
21 Order Carnivora listed below, and any hybrids of these animals unless
22 otherwise specified:

23 a. Family Canidae – only wolves, not including wolf
24 hybrids.

25 b. Family Felidae – only lions, tigers, cheetahs, jaguars,
26 cougars, leopards, snow leopards, and clouded leopards.

27 c. Family Hyaenidae – all hyena species.

28 d. Family Ursidae – all bear species.

- 1 (4) "Person" means any individual, partnership, corporation, organization,
2 trade or professional association, firm, limited liability company, joint
3 venture, association, trust, estate, or any other legal entity, and any
4 employee, agent, or representative of the entity.
- 5 (5) "Possessor" means any person who owns, possesses, keeps, harbors,
6 brings into the State, acts as a custodian of, or has custody or control
7 of an inherently dangerous wild animal.
- 8 (6) "Qualified United States Department of Agriculture (USDA) Class C
9 license holder" means a person who, as of January 1, 2009, holds a
10 USDA Class C license and meets the following conditions:
- 11 a. The license holder's Class C license remains in good standing
12 with the USDA.
- 13 b. The license holder's facility that houses an inherently dangerous
14 wild animal(s) is open to the public or the license holder
15 provides programs featuring an inherently dangerous wild
16 animal(s) to the public off site.
- 17 c. The license holder has on hand appropriate drugs for chemical
18 immobilization and has a member of staff who has firearms
19 training and proficiency in order to recapture an escaped
20 inherently dangerous wild animal.
- 21 d. The license holder does not allow direct contact between
22 inherently dangerous wild animals and any person, which
23 includes but not limited to, members of the public and the
24 owner's family and friends, other than the person possessing the
25 animal, the registered designated handler(s), or a veterinarian
26 administering medical examination, treatment or care; provided
27 that a license holder may allow direct contact between members
28 of the public and animals that are at least 8 weeks old and less
29 than 16 weeks old, in accordance with USDA regulations.
- 30 e. The license holder provides the county with a copy of the
31 annual license renewal and, within 5 days of receipt, a copy of
32 any inspection report, notice of violation, fine, or other
33 disciplinary action by the USDA against the license holder.
- 34 (7) "Wildlife sanctuary" means a facility that cares for inherently
35 dangerous wild animals and:
- 36 a. Was incorporated and qualified as a corporation that is exempt
37 from taxation under section 501(a) of the Internal Revenue
38 Code of 1986 and described in sections 501(c)(3) and
39 170(b)(1)(A)(vi) of the Code on or before January 1, 2009;
- 40 b. Does not commercially trade in animals listed as inherently
41 dangerous wild animals, including the offspring, parts, and
42 by-products of such animals;
- 43 c. Does not propagate inherently dangerous wild animals; and

1 d. Does not allow direct contact between the public and inherently
2 dangerous wild animals.

3 (b) Ordinances. – A county shall by ordinance regulate, restrict, or prohibit the
4 possession or harboring of inherently dangerous wild animals provided that a county
5 may not prohibit the possession of inherently dangerous wild animals by a qualified
6 USDA Class C license holder or by a wildlife sanctuary. Ordinances adopted shall be
7 effective no later than June 30, 2009. Ordinances regulating or restricting the possession
8 or harboring of inherently dangerous wild animals shall include provisions requiring the
9 person possessing an inherently dangerous wild animal to:

10 (1) Register with the local animal control authority within 30 days of the
11 effective date of the ordinance or within 30 days of acquiring an
12 inherently dangerous wild animal. Registration shall include the
13 possessor's name, address, telephone number, and a list of each
14 inherently dangerous wild animal in the person's possession. Persons
15 acquiring additional animals after the date of the original registration
16 shall register those animals within 10 days of the acquisition.
17 Registrations shall be updated annually and subject to fees as provided
18 in subsection (h) of this section.

19 (2) Provide an inventory of each inherently dangerous wild animal held
20 including (i) the species of each regulated animal; (ii) photographs of
21 the animal, including photographs of any marks or distinctive
22 characteristics of the animal, for example the whisker spots on the
23 nose of a lion, a unique coat pattern such as the stripes on a tiger,
24 scarring or other identifying feature; (iii) the exact location where each
25 animal is kept; and (iv) the age, sex, color, weight, and any other
26 distinguishing marks of each regulated animal.

27 (3) Obtain and maintain a liability insurance policy with an insurer
28 authorized or approved to write such insurance in this State that covers
29 claims for injury or damage to persons or property in an amount of not
30 less than two hundred fifty thousand dollars (\$250,000). In the
31 alternative, a possessor may obtain a bond from a solvent surety in the
32 amount of two hundred fifty thousand dollars (\$250,000). The
33 possessor shall present proof of possession and maintenance of
34 liability insurance or bond upon request to the animal control or law
35 enforcement authority within 24 hours of the request.

36 (4) Develop, and maintain, at the location where the inherently dangerous
37 wild animal is kept, a written plan for the quick and safe recapture or
38 destruction of the animal in the event the animal escapes. This plan
39 shall also be filed with the animal control authority, local sheriff's
40 department, and police department, if applicable.

41 (5) Notify the animal control authority, the local sheriff's department, and
42 police department, if applicable, immediately upon discovery that an
43 inherently dangerous wild animal has escaped. The possessor of the

1 animal shall be liable for any and all costs associated with the escape,
2 capture, and disposition of a permitted animal.

3 (6) Notify the animal control authority of a transfer of ownership,
4 possession, or location of an inherently dangerous wild animal, or the
5 death of such an animal.

6 (c) Compliance with other laws. – In addition to meeting the county ordinance
7 requirements, a person possessing an inherently dangerous wild animal shall comply
8 with any and all applicable federal, State, or local laws, rules, regulations, or
9 ordinances. Failure to comply with any applicable law, rule, regulation, or ordinance
10 constitutes a violation of this section.

11 (d) Enforcement. – The animal control authority and its staff and agents, local
12 law enforcement agents, county sheriffs, and federal or State wildlife enforcement
13 officers may enforce the provisions of the county ordinance.

14 (e) Inspection. – The possessor of an inherently dangerous wild animal shall
15 allow, at all reasonable times, the animal control authority or other persons designated
16 under subsection (d) of this section, to enter the premises where the animal is kept to
17 ensure compliance with the county ordinance.

18 (f) Confiscation and disposition. –

19 (1) The animal control authority or other persons designated under
20 subsection (d) of this section may confiscate an inherently dangerous
21 wild animal under the following conditions: (i) the animal poses a
22 public safety or health risk; (ii) the animal is in poor health and
23 condition as a result of the owner's actions or inaction; or (iii) the
24 animal is being held in violation of the provisions of the ordinance.

25 (2) An inherently dangerous wild animal confiscated under this section
26 may be returned to the possessor only if the animal control authority or
27 other persons designated under subsection (d) of this section
28 establishes that the return does not pose a public safety or health risk
29 and the possessor is in compliance with the ordinance.

30 (3) The animal control authority or other persons designated under
31 subsection (d) of this section shall serve notice upon the possessor in
32 person or by regular and certified mail, return receipt requested, of the
33 confiscation, that the possessor is responsible for payment of
34 reasonable costs for caring and providing for the animal during the
35 confiscation, and that the possessor must meet the requirements of the
36 county ordinance in order for the animal to be returned to the
37 possessor.

38 (4) If an inherently dangerous wild animal confiscated under this section
39 is not returned to the possessor, the animal control authority or other
40 persons designated under subsection (d) of this section may release the
41 animal to a facility such as a wildlife sanctuary or a facility exempted
42 pursuant to subsection (i) of this section. If the animal control
43 authority or other person designated under subsection (d) of this

1 section is unable to relocate the animal within a reasonable period of
2 time, it may euthanize the animal.

3 (5) If an inherently dangerous wild animal escapes or is released and poses
4 an immediate threat to public safety, the animal control authority or
5 other persons designated under subsection (d) of this section may
6 exercise discretion in attempting to recapture the animal or in killing
7 the animal.

8 (g) Penalties, strict civil liability. –

9 (1) A person who violates any provision of an ordinance adopted under
10 this section shall be guilty, on the first offense, of a Class 3
11 misdemeanor, punishable by a fine of up to \$500. A second offense
12 shall be a Class 2 misdemeanor punishable by a fine of up to \$2,500.
13 Subsequent offenses shall be Class 1 misdemeanors.

14 (2) Deliberate release of an inherently dangerous wild animal shall be a
15 Class 1 misdemeanor. Deliberate release of an inherently dangerous
16 wild animal resulting in serious injury or death shall be a Class H
17 felony.

18 (3) The possessor of an inherently dangerous wild animal shall be strictly
19 liable in civil damages for injuries or property damage that the animal
20 inflicts upon a person, their property, or another animal.

21 (h) Fees. – A county may charge a reasonable annual fee for the registration of an
22 inherently dangerous wild animal. The fee shall not exceed \$50 per animal held by the
23 possessor in the county, nor a total of more than \$250.

24 (i) Exemptions. – The provisions of this Article do not apply to:

25 (1) Institutions accredited by the American Zoo and Aquarium
26 Association (AZA).

27 (2) Duly incorporated nonprofit animal protection organizations
28 temporarily housing an inherently dangerous wild animal at the written
29 request of the animal control authority.

30 (3) Federal or State wildlife enforcement officers acting under the scope
31 of their authority.

32 (4) Animal control authorities or law enforcement agencies or officers
33 acting under the authority of this section.

34 (5) Licensed veterinary hospitals or clinics.

35 (6) A university, college, laboratory, or other research facility that holds a
36 Class R registration pursuant to 9 Code of Federal Regulations
37 (January 1 2007 Edition), provided that each facility shall provide
38 written notice, updated annually, to the county in which they are
39 located, listing the number and species of animals held at the facility.

40 (7) Circuses that are incorporated and hold a Class C license pursuant to 9
41 Code of Federal Regulations Part 2 (January 1 2007 Edition) that are
42 temporarily in this State, and that offer performances by live animals,
43 clowns, and acrobats for public entertainment. Circuses do not include
44 persons, whether or not Class C licensees, who present any listed

1 animal to the public as entertainment that includes wrestling, a
2 photography opportunity with a patron, or an activity in which any
3 listed animal and a patron are in direct contact with each other.

4 (8) A person who does not reside in this State and is traveling through this
5 State with an inherently dangerous wild animal if the transit time is not
6 more than 72 hours and the animal is at all times maintained within a
7 confinement sufficient to prevent the animal from escaping.

8 (9) Indigenous species already regulated by the North Carolina Wildlife
9 Resources Commission.

10 (10) A "production company," as defined in G.S. 105-164.3, that uses an
11 inherently dangerous wild animal in the production of original motion
12 pictures or television images for theatrical, commercial, advertising, or
13 educational purposes.

14 (j) Nothing in this section shall be construed as limiting, repealing, or preventing
15 the enactment of any county ordinance adopted pursuant to G.S. 153A-131 or other
16 valid authority.

17 **SECTION 2.** Article 8 of Chapter 160A of the General Statutes is amended
18 by adding a new section to read:

19 "**§ 160A-187.1. Possession or harboring of inherently dangerous wild animals.**

20 A municipality shall by ordinance regulate, restrict, or prohibit the possession or
21 harboring of inherently dangerous wild animals in accordance with the provisions of
22 G.S. 153A-131.1. Pursuant to G.S. 153A-122, a municipality may, by resolution, elect
23 to have the county ordinance applicable within the city and to allow enforcement of the
24 county ordinance within the city. Nothing in this section shall be construed as limiting,
25 repealing, or preventing the enactment of any municipal ordinance adopted pursuant to
26 G.S. 160A-187 or other valid authority."

27 **SECTION 3.** There is appropriated to the North Carolina Department of
28 Environment and Natural Resources for allocation to the North Carolina Zoological
29 Park, the sum of five hundred thousand dollars (\$500,000) for fiscal year 2008-2009 for
30 the Department, in consultation with the North Carolina State University College of
31 Veterinary Medicine, to develop and provide training for local government officials
32 charged with implementing the provisions of this act.

33 **SECTION 4.** Section 3 of this act becomes effective July 1, 2008. The
34 remainder of this act becomes effective January 1, 2009, and applies to inherently
35 dangerous wild animals existing in this State on or after that date.