



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 554: Protect Public from Dangerous Wild Animals

2015-2016 General Assembly

Committee:	House Judiciary II	Date:	April 29, 2015
Introduced by:	Reps. McGrady, Hurley, Hardister, Saine	Prepared by:	Brad Krehely
Analysis of:	PCS to First Edition H554-CSR-26		Committee Counsel

SUMMARY: House Bill 554 creates a new Article making it unlawful to possess, sell, transfer, or breed a dangerous wild animal. The Proposed Committee Substitute (PCS) (1) removes red wolves from the definition of dangerous wild animals, (2) provides that employees are not "members of the public" in the provision prohibiting members of the public from coming into contact dangerous wild animals, (3) adds subdivisions (9)-(11) in the exemptions section, and (4) removes a provision from the liability insurance requirement which would have required a deductible of not more than \$250.

BILL ANALYSIS:

Section 1 creates a new Article 7 in Chapter 19A of the General Statutes that addresses the following:

- **Definitions-** G.S. 19A-71 creates definitions, including a definition for "dangerous wild animal."
- **Prohibited Activities-** G.S. 19A-72(a) provides that it is unlawful for any person to possess, sell, transfer or breed a dangerous wild animal. G.S. 19-72(b) makes it unlawful for any person to allow a member of the public to come into direct physical contact with a dangerous wild animal, regardless of the age of the animal. Members of the public do not include full-time employees or supervised interns or volunteers.
- **Exemptions-** G.S. 19A-73 provides that the prohibitions on possessing, selling, transferring, or breeding a dangerous wild animal do not apply to:
 1. Institutions accredited or certified by the Association of Zoos and Aquariums
 2. Research facilities defined in the federal Animal Welfare Act and federal regulations.
 3. Wildlife sanctuaries.
 4. Nonprofit animal protection organizations, such as humane societies and shelters, temporarily housing a dangerous wild animal at the written request of law enforcement officers.
 5. Veterinary hospitals, veterinary clinics, veterinary practices, and veterinarians, who provide veterinary care to the dangerous wild animal.
 6. Law enforcement officers for purposes of enforcement.
 7. Circuses.
 8. A person temporarily transporting a legally owned dangerous wild animal through the State if the transit time is not more than 24 hours, the dangerous wild animal is not exhibited, and the dangerous wild animal is in a species appropriate cage or travel container at all times.

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9. Institutions accredited by the Association for Assessment and Accreditation of Laboratory Animal Care International.
 10. Institutions accredited or certified by the Zoological Association of America.
 11. Institutions holding a valid license issued by the U.S. Department of Agriculture (USDA) pursuant to the federal Animal Welfare Act.
- **Prior Possession-** The prohibitions on possessing, selling, transferring, or breeding a dangerous wild animal do not apply to a person who possessed the animal prior to June 1, 2015, but the person:
 1. Must maintain documents or records that establish that the person lawfully possessed the animal prior to June 1, 2015.
 2. May not acquire additional dangerous wild animals after June 1, 2015. This does not prohibit a person from possessing the offspring of a lawfully possessed dangerous wild animal if written medical records show that the animal was pregnant on June 1, 2015.
 3. Must not have been convicted of an offense related to abuse or neglect of any animal.
 4. Must not have had a license or permit regarding the care, possession, exhibition, breeding, or sale of animals revoked or suspended.
 5. Must develop and be prepared to implement escape, succession, and disaster plans and maintain a current animal inventory, to be made available to law enforcement officers upon request.
 6. Must allow a law enforcement officer to enter the premises where the dangerous wild animal is kept at any reasonable time to ensure compliance.
 7. Must register with, and pay a registration fee to, the local animal control authority by September 1, 2015, and annually thereafter, indicating the number of animals of each dangerous wild animal species in his or her possession, and showing proof of liability insurance of not less than \$250,000 for each occurrence of property damage, bodily injury, or death caused by any dangerous wild animal possessed by the person.
 8. Must provide written notification to the animal control authority in the city or county where the person resides of the death of a dangerous wild animal.
 9. At least 72 hours before the sale or transfer of an existing dangerous wild animal, must notify the local animal control authority of identity of the recipient of the animal.
 10. Must have continuously posted and displayed at each possible entrance onto the premises where a dangerous wild animal is housed a conspicuous sign, that is easily readable by the public, warning that a dangerous wild animal is on the premises.
 - **Transport and Containment-** A person transporting a dangerous wild animal must keep the animal at all times in a species appropriate cage or travel container and must comply with federal transport requirements. Any person possessing a dangerous wild animal must keep the animal in a permanent enclosure that is designed to be escape proof and has an operable lock. The following are unlawful:
 1. To allow members of the public within 15 feet of a dangerous wild animal unless there is a permanent barrier in place that prevents the risk of direct physical contact between a member of the public and the animal.

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2. For a person to knowingly release a dangerous wild animal into the wild.

- **Enforcement-** These provisions are enforced by State law enforcement officers or by any animal control authority with jurisdiction. This Article does not prohibit counties and cities from adopting ordinances that places further restrictions.

Animals may be seized as follows:

1. Law enforcement officers must, after getting a warrant from any judge or magistrate upon probable cause, seize or impound any dangerous wild animal when there is a violation of this Article. If the dangerous wild animal poses a direct threat to public safety or is suffering from apparent animal neglect or cruelty, that animal shall be immediately placed in the custody and control of an institution accredited by the Association of Zoos and Aquariums, a wildlife sanctuary, or a temporary holding facility. If there is no immediate threat to public safety or animal welfare, law enforcement officers must impound the dangerous wild animal in place.

2. Upon seizing or impounding a dangerous wild animal, a law enforcement officer must petition the district court for the district for a hearing to determine whether the dangerous wild animal was in fact possessed, sold, transferred, bred, or exhibited in violation of this Article. The hearing must be held not more than 14 days from the date of the seizure or impoundment and the law enforcement officer must provide written notice of the hearing at least five days prior to the hearing to the person from whom the dangerous wild animal was seized or impounded.

3. A seized or impounded dangerous wild animal shall be deemed forfeited and the court shall order the violator to pay all reasonable expenses incurred in caring and providing for the dangerous wild animal, from the time the dangerous wild animal is seized until the time that dangerous wild animal is forfeited. The court may also prohibit the possession or ownership of dangerous wild animals by the violator.

4. A forfeited dangerous wild animal must be transferred to an institution accredited by the Association of Zoos and Aquariums or to a wildlife sanctuary that is willing and able to take custody of the forfeited dangerous wild animal. Nothing in this Article prevents law enforcement officers from humanely euthanizing a dangerous wild animal if, no AZA institution or wildlife sanctuary is willing and able to care for the dangerous wild animal.

5. The Article does not prevent the voluntary, permanent relinquishment of any dangerous wild animal by its owner to a person legally able to possess the dangerous wild animal and willing and able to take possession.

Any dangerous wild animal found to be not properly confined may be humanely destroyed by law enforcement officers in order to protect public safety. The owner of a dangerous wild animal will be liable for costs to law enforcement officers in humanely destroying or otherwise securing that animal.

- **Penalties-**

1. Each violation of the Article is a Class 2 misdemeanor. A person who violates this Article is liable for a civil penalty of not more than \$5,000. Each animal possessed, sold, transferred, or bred in violation of this Article constitutes a separate offense.

2. Any dangerous wild animal owner or custodian whose act or omission in the care, control, or containment of that animal that results in the animal running loose or causing

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property damage shall constitute a Class A1 misdemeanor. If that act or omission resulting in a dangerous wild animal running loose results in serious bodily injury to any person, the owner of the animal shall be strictly liable and the offense is punishable as a Class I felony.

3. Any person who lives in the county in which a dangerous wild animal is kept may bring a civil action against an owner or custodian of the dangerous wild animal to enjoin a violation.

Section 2 provides that if any part of the Article is found to be unconstitutional or unenforceable, this does not affect the constitutionality of any other part of the Article.

EFFECTIVE DATE: The act becomes effective December 1, 2015, and applies to offenses committed on or after that date.