EXOTIC WILDLIFE IN PENNSYLVANIA
A REPORT WITH RECOMMENDATIONS

JANUARY 2005

STAFF REPORT

General Assembly of the Commonwealth of Pennsylvania
JOINT STATE GOVERNMENT COMMISSION
108 Finance Building
Harrisburg, PA 17120

The release of this report should not be interpreted as an endorsement by the members of the Executive Committee of the Joint State Government Commission of all the findings, recommendations and conclusions contained in this report.

Joint State Government Commission
Room 108 Finance Building
Harrisburg, PA 17120-0018

TELEPHONE: 717-787-4397
FAX: 717-787-7020

E-mail: jntst02@legis.state.pa.us
Website: http://jsg.legis.state.pa.us

The Joint State Government Commission was created by the act of July 1, 1937 (P.L.2460, No.459) as amended, as a continuing agency for the development of facts and recommendations on all phases of government for the use of the General Assembly.

JOINT STATE GOVERNMENT COMMISSION, JANUARY 2005

Senator Roger A. Madigan, Chair

EXECUTIVE COMMITTEE

Senate Members	House Members
Robert C. Jubelirer President Pro Tempore	John M. Perzel Speaker
David J. Brightbill Majority Leader	Samuel H. Smith Majority Leader
Robert J. Mellow Minority Leader	H. William DeWeese Minority Leader
Jeffrey E. Piccola Majority Whip	David G. Argall Majority Whip
Michael A. O'Pake Minority Whip	Michael R. Veon Minority Whip
Noah W. Wenger Chair, Majority Caucus	Elinor Z. Taylor Chair, Majority Caucus
Jay Costa, Jr. Chair, Minority Caucus	Mark B. Cohen Chair, Minority Caucus

MEMBER EX-OFFICIO

Senator Roger A. Madigan, Commission Chair

David L. Hostetter, Executive Director

GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA
JOINT STATE GOVERNMENT COMMISSION
ROOM 108 - FINANCE BUILDING
HARRISBURG 17120

717-787-4397
FAX 717-787-7020

January 2005

TO THE MEMBERS OF THE GENERAL ASSEMBLY:

The Joint State Government Commission is pleased to present this staff report on the regulation of maintaining exotic wildlife in captivity, culminating a study undertaken pursuant to 2004 House Resolution 797.

The Commission recognizes with gratitude the assistance of the Pennsylvania Game Commission, the Department of Agriculture and the Governor's Special Advisor on Hunting, Fishing and Conservation.

Respectfully submitted,

Roger A. Madigan
Chair

TABLE OF CONTENTS

INTRODUCTION

House Resolution No. 797, Pr.'s No. 4217, of 2004 was adopted on June 30, 2004.[1] The resolution directed the Joint State Government Commission to study "the efficacy of the existing statute and regulations as well as the feasibility and suitability of transferring the regulatory authority of exotic wildlife maintained in captivity from the Pennsylvania Game Commission to the Department of Agriculture." The resolution required the Commission to address the following:[2]

- Protection of the public from dangerous animals and disease transmission from exotic wildlife;
- Protection of domestic animals and indigenous wildlife from unwanted predators, genetic interaction and disease transmission from exotic wildlife;
- The care and keeping of exotic wildlife maintained in captivity;
- Categories of exotic wildlife which should be regulated and whether any species should be prohibited from being maintained in captivity;
- The ways the budgets of the Pennsylvania Game Commission and the Department of Agriculture and the General Fund would be affected by any change in the regulatory authority;
- How the existing workforce would be utilized, whether new personnel would be necessary and what training would be available at what cost under any change in the regulatory authority;
- Recommendations for clarifying the relevant definitions; and
- Recommendations for local government involvement.

The first chapter of this report provides an overview of the current law regarding exotic wildlife maintained in captivity in the Commonwealth. It also summarizes the legislative history of Act 60 of 1982, the first edition of Pennsylvania's exotic wildlife law. Comments made in the House of Representatives during the final deliberations before passage of the act are included. The chapter ends with a section describing the overlap in authority over wildlife in the Commonwealth. The second chapter presents current Pennsylvania Game Commission budget information regarding exotic wildlife and projects the

[1] A copy of the resolution is provided as Appendix A, p. 83.

[2] House Resolution 797 also directed that the scope of this study not include "game animals" as defined in Title 34 of the Pennsylvania Consolidated Statutes. "'Game animals.' Unless otherwise modified by regulation of the commission, the term includes the elk, the whitetail deer, the bear, the cottontail rabbit, the snowshoe hare, the red, gray and fox squirrel and the groundhog or woodchuck." 34 Pa.C.S. §102.

budgetary impacts a transfer of oversight authority to the Department of Agriculture might entail. The next chapter presents issues regarding exotic wildlife in captivity and includes comments and suggestions from numerous individuals and organizations and statutory responses made in other states, which leads to the final chapter containing staff conclusions and recommendations.

The Joint State Government Commission thanks the Pennsylvania Game Commission and the Department of Agriculture for the excellent cooperation afforded the staff of the Joint State Government Commission. The Commission would also like to thank the following, who generously guided Commission staff on tours of their premises and offered invaluable comments and recommendations regarding the keeping of exotic wildlife:

Terry Mattive and Jennifer Mattive, T&D's Cats of the World (a menagerie permitted by the Pennsylvania Game Commission), Penn's Creek;

Chad Peeling, Clyde Peeling's Reptiland (an AZA[3]-accredited specialized zoo), Allenwood;

Ern Tobias and Dee (Tobias) Hoffman, Lake Tobias Wildlife Park (a menagerie permitted by the Pennsylvania Game Commission), Halifax; and

Richard Ulmer, Straight Pine Elk and Deer (a cervid farm permitted by both the Pennsylvania Game Commission and the Department of Agriculture), Middleburg; and cervid farmers Denis Beachel, Paul Mebley, Rich Hillegass and Mary Martin.

[3] AZA is the official acronym for the American Zoo and Aquarium Association. Private zoological parks and gardens which are open to the public and accredited by the American Association of Zoological Parks and Aquariums (now the AZA) are excluded from the requirements to obtain exotic wildlife possession, exotic wildlife dealer and menagerie permits. 34 Pa.C.S. § 2965(a)(2).

> "Exotic wildlife." The phrase includes, but is not limited to, all bears, coyotes, lions, tigers, leopards, jaguars, cheetahs, cougars, wolves and any crossbreed of these animals which have similar characteristics in appearance or features. The definition is applicable whether or not the birds or animals were bred or reared in captivity or imported from another state or nation.[4]

CONFUSION

As House Resolution 797 recognizes, Pennsylvania's statutory definition of "exotic wildlife" is confusing. The confusion begins with the use of the word "exotic," which is generally defined to mean "from another part of the world; foreign."[5] Because black bears are native to Pennsylvania, it is counter-intuitive to categorize all bears as being exotic wildlife. Another problem with the definition is that birds are mentioned in the second sentence of the definition, but not in the first. Reading the definition together with that for "exotic wildlife dealer"[6] suggests that birds should be included in the first sentence, rather than excluded from the second. If this is correct, the definition should explain or provide examples of which birds are considered exotic wildlife in Pennsylvania.[7]

Various other definitions and provisions in Pennsylvania's statutes add to the uncertainty confronting a person[8] who wants to know what the Commonwealth requires to possess exotic wildlife. Consider a person who wants to own a lion, for example, and searches the Commonwealth's statutory provisions to determine what the requirements for possession are. He finds

---

[4] 34 Pa.C.S. § 2961. In addition to the statutory definition, the Pennsylvania Game Commission provides the following definition in its regulations. "'Exotic wildlife'–Members of the family Felidae except those species commonly called house cats and members of the family Canidae except those licensed by the Department of Agriculture." 58 Pa. Code § 147.2.

[5] *The American Heritage Dictionary of the English Language, Fourth Edition.* Houghton Mifflin Company (2000).

[6] "'Exotic wildlife dealer.' Any person who imports into this Commonwealth, possesses, buys, sells, locates or finds for a fee, barters, donates, gives away or otherwise disposes of more than one bird or one animal classified as exotic wildlife by this subchapter." 34 Pa.C.S. § 2961.

[7] The definition of "exotic wildlife" also seems inadequate in simply listing nine animals and crossbreeds thereof.

[8] "'Person.' An individual, partnership, association, corporation, political subdivision, municipal authority, the Commonwealth or any other legal entity as the context requires." 34 Pa.C.S. § 102.

provisions which could be applicable to his situation in three separate titles of the Pennsylvania Consolidated Statutes: Title 1 General Provisions, Title 3 Agriculture and Title 34 Game. One of the first provisions found is the following definition of "wild animals" in Title 34: "All mammals other than domestic animals as defined in 1 Pa.C.S. § 1991 (relating to definitions)."[9] The person then looks for the definition of "domestic animal" in Title 1 and finds that it means "[a]ny equine animal, bovine animal, sheep, goat and pig."[10] However, he also finds the term "domestic animal" in Title 3, where it is defined to mean "[a]n animal maintained in captivity."[11] At that point, the person reasonably concludes that his desired lion is not a domestic animal as defined in Title 1 of the statutes, but rather a domestic animal under Title 3. Having reached that conclusion, he calls the Department of Agriculture to find out if there are any requirements he must follow to keep a lion as a domestic animal. He is told that the Department of Agriculture does not consider a lion to be a domestic animal and is referred to the Game Commission. This could be confusing, as he does not want his future lion to be hunted, but he follows the advice received and calls the Game Commission.

Speaking with an individual at the Game Commission, he hears the term "exotic wildlife" for the first time. He is transferred to the Bureau of Law Enforcement where a person gives him the information he seeks: to possess a lion he must be a Pennsylvania resident who is at least 18 years old,[12] apply for an "exotic wildlife possession" permit and – if the permit is issued – pay a permit fee of $50 per animal per year.[13] He asks what he needs to do if he wants to possess a lion, a tiger and a bear and display them for the enjoyment of the public. He is told he must be a resident of the United States who is at least 18 years old[14] and apply for a wildlife menagerie[15] permit, which costs $100 annually.[16] If he wants

---

[9] *Id.* A similar term, "wildlife," is defined in the same section as "[w]ild birds, wild mammals and facsimiles thereof, regardless of classification, whether protected or unprotected, including any part, product, egg or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included." *Id.*

[10] 1 Pa.C.S. § 1991. The Crimes Code adds dogs and cats to an otherwise similar definition of "domestic animal": "[a]ny dog, cat, equine animal, bovine animal, sheep, goat or porcine animal." 18 Pa.C.S. § 5511(q). The Vehicle Code uses the Agriculture Code's Domestic Animal Law definition of "domestic animal." 75 Pa.C.S. § 4976.1(b).

[11] 3 Pa.C.S. § 2303. The definition concludes, "The term also includes the germ plasm, embryos and fertile ova of such animals." *Id.*

[12] While there are exceptions, permits are generally issued only to residents of the Commonwealth who are 18 or older. 34 Pa.C.S. § 2901(a).

[13] *Id.* § 2904(a)(15).

[14] Wildlife menagerie permits and "special use" permits may be issued to residents of the United States who are 18 or older. *Id.* § 2901(a). Note that this is the only occurrence of the term "special use" in Title 34.

[15] "'Menagerie.' Any place where one or more wild birds or wild animals, or one or more birds or animals which have similar characteristics and appearance to birds or animals wild by nature, are kept in captivity for the evident purpose of exhibition with or without charge." *Id.* § 2961. Note that animals in a menagerie need not be exotic. However, it is unlawful for the operator of a menagerie to fail to exercise due care in safeguarding the public from attack by *exotic* wildlife and to recklessly engage in conduct which does or might place another person in danger of attack by *exotic* wildlife. *Id.* § 2964(c)(3) and (4).

to buy and sell lions and tigers and bears, he needs to apply for an "exotic wildlife dealer" permit, which costs $200 annually.[17] An additional fee is required "to cover the costs of any examination required for the issuance of any permit."[18] If his facility fails to meet the required standards, a fee will be charged for a subsequent inspection.[19] As a permit holder, he must keep accurate records[20] and may be required to submit reports at certain times – generally, annually or when the commission needs information.[21] Except for endangered or threatened species, a violation of the provisions which apply to all permits (e.g., exercising the privileges of a permit without first obtaining the permit; failing to submit a required report or to keep accurate records), is a summary offense of the fifth degree,[22] punishable by a fine of $75 to $200.[23] In a few days, the person receives a packet from the Game Commission including a permit application and a copy of various statutory and regulatory provisions that apply to each permit.[24]

Pennsylvania provides for three distinct permits applicable to exotic wildlife: exotic wildlife dealer, exotic wildlife possession and menagerie.[25] In addition to the statutory provisions applicable to permits, the Game Commission has exercised its authority "as deemed necessary to properly manage the game or wildlife resources" to "promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued."[26] The statutory and regulatory provisions for each type of permit address the following:

- Authorized activities.
- Shelter and care of the exotic wildlife.
- Protection of the public.
- Unlawful acts.
- Penalties.
- Exclusions.

The following section summarizes the provisions for each type of permit.

---

[16] *Id.* § 2904(a)(14).
[17] *Id.* § 2904(a)(13).
[18] *Id.* § 2905(a).
[19] *Id.* § 2905(b).
[20] *Id.* § 2906.
[21] *Id.* § 2907.
[22] *Id.* § 2908(b).
[23] *Id.* § 925(b)(8).
[24] The permit package is included as Appendix B, p.89.
[25] The Game Commission's regulations also provide for an importation permit. A menagerie must obtain an importation permit prior to importing wildlife. However, the regulations seem to imply that a person with an exotic wildlife dealer or exotic wildlife possession permit may import wildlife without a permit. *See* 58 Pa. Code §§ 137.1(c) and (d).
[26] 34 Pa.C.S. § 2901(b). The Commission is also authorized to cooperate with "any other Federal or State governmental agency in the issuance of permits." *Id.* § 2901(c).

PERMIT REQUIREMENTS

EXOTIC WILDLIFE DEALER PERMIT

Authorized activities. A person holding an exotic wildlife dealer permit is authorized to "import into this Commonwealth, possess, buy, sell, locate or find for a fee, barter, donate, give away or otherwise dispose of exotic wildlife."[27]

Shelter and care of exotic wildlife. The Pennsylvania Game Commission may not issue an exotic wildlife dealer permit unless it is satisfied that the applicant has properly and adequately addressed the housing and care needs of the exotic wildlife "in accordance with the standards which may be established . . . by the commission."[28]

Housing. Cage construction must be strong enough to contain exotic wildlife and protect them from injury from other wildlife held.[29] For animals "held more than 10 days," minimum cage sizes and accessories (e.g., claw logs for lions and tigers and a 6'x10'x4' pool for a polar bear) are mandated and listed in the following categories: bears; lions and tigers; leopards, jaguars and cougars; cheetahs; lesser cats (bobcats, lynx, serval, caracal, ocelots and the like); Geoffroy's cats (leopard cats, margay and other wild cats up to 10 pounds adult weight); foxes, jackals and the like; coyotes, cape hunting dogs, dingos and the like; and wolves and hyenas.[30] Exotic wildlife may not be "removed from cages or directly exposed to the public."[31] Bedding must be provided "for the animal's comfort and to protect them from inclement weather."[32] Outdoor enclosures must have shields to protect the animals from the hot rays of the sun.[33] If the wildlife is native to an area with a climate that differs from that of the dealer's facility, holding conditions must be adjusted "to natural habitat."[34] Cages and pens must be designed with adequate drainage, as standing water is not allowed except for species "requiring water for wading, submersing or swimming."[35] "Pools provided for exotic wildlife shall be cleaned as often as needed to ensure good water quality."[36] Temporary housing requirements for animals held 10 or fewer days are mandated in terms of body size and ensuring proper ventilation.[37]

---

[27] *Id.* § 2962(a).
[28] *Id.* § 2962(b).
[29] 58 Pa. Code § 147.242(a).
[30] *Id.* § 147.244(b).
[31] *Id.* § 147.242(c).
[32] *Id.* § 147.244(a)(2).
[33] *Id.*
[34] *Id.*
[35] *Id.* § 147.243(e).
[36] *Id.*
[37] *Id.* § 147.244(c).

Care. A new applicant must "provide documentation of at least 2 years experience of hands-on work with the designated species, including care, feeding, handling, training and husbandry."[38] The experience must be obtained from a "recognized/approved facility and the owner, manager or licensee of this facility shall provide a letter of reference."[39] Exotic wildlife must be provided with clean fresh water daily, and water containers must be cleaned and disinfected daily.[40] Food must be kept in a "manner to prevent spoilage or contamination."[41] Fecal and food waste must be removed from cages and dens daily, hard floors must be "scrubbed and disinfected" at least once a week and the dirt floors of large pens must be "raked every 3 days, and the waste removed."[42] Exotic wildlife must be kept free from parasites, sickness and disease.[43] Sick or diseased exotic wildlife must be given professional medical attention immediately "or destroyed in a humane manner."[44]

Protection of the public. The Game Commission may not issue an exotic wildlife dealer permit unless it is satisfied that the applicant has properly and adequately addressed the protection of the public "in accordance with the standards which may be established . . . by the commission."[45] Cage construction must be strong enough to contain exotic wildlife and protect them from injury from other wildlife held.[46] A cage or enclosure must be covered to prevent escape.[47] Exotic wildlife "may not be removed from cages or directly exposed to the public."[48]

Unlawful acts. It is unlawful for a person to do any of the following:

- "Import into this Commonwealth, possess, buy, sell, locate or find for a fee, barter, donate, give away or otherwise dispose of more than one bird or one animal classified as exotic wildlife in any calendar year" without an exotic wildlife dealer permit.
- "Release exotic wildlife into the wild."
- "Fail to exercise due care in safeguarding the public from attack by exotic wildlife."
- "Recklessly engage in conduct which places or may place another person in danger of attack by exotic wildlife."[49]

---

[38] *Id.* § 147.241(g).
[39] *Id.*
[40] *Id.* § 147.243(b).
[41] *Id.* § 147.243(c).
[42] *Id.* § 147.243(d).
[43] *Id.* § 147.246.
[44] *Id.*
[45] 34 Pa.C.S. § 2962(b).
[46] 58 Pa. Code § 147.242(a).
[47] *Id.* § 147.244(a)(1).
[48] *Id.* § 147.242(c).
[49] 34 Pa.C.S. § 2962(c).

Penalties. A violation relating to an exotic wildlife dealer permit is a summary offense of the first degree,[50] and any other violation regarding an exotic wildlife dealer is a summary offense of the sixth degree.[51] Each day of violation is a separate offense, but the accumulated penalty "for purposes of a field receipt" may not exceed $500.[52] In addition to these penalties, the director of the Game Commission may revoke or suspend the permit and "order the disposal of any exotic wildlife held."[53]

Exclusions. The following do not need to obtain an exotic wildlife dealer permit:

- A "[p]ublic zoological garden which receives government grants or appropriations."
- A "[p]rivate zoological park or garden which is open to the public and is accredited by the American Association of Zoological Parks and Aquariums" – now the American Zoo and Aquarium Association (AZA).
- A "[n]ationally recognized circus."
- The holder of a menagerie permit, if the "purchase or sale of exotic wildlife or other authorized transaction is conducted for the sole purpose of maintaining stock for the menagerie."[54]

EXOTIC WILDLIFE POSSESSION PERMIT

Authorized activities. A person holding an exotic wildlife possession permit is authorized "to purchase, receive or possess exotic wildlife from any lawful source from within or without this Commonwealth."[55]

Shelter and care of exotic wildlife. The Game Commission may not issue an exotic wildlife possession permit unless it is satisfied that the applicant has properly and adequately addressed the housing and care needs of the exotic wildlife "in accordance with the standards established by the commission."[56] Exotic wildlife may not be kept in an unsanitary or unsafe condition or "in a manner which results in maltreatment, mistreatment or neglect."[57] An animal "may not be chained or tethered, or otherwise impeded from moving freely within a cage or enclosure unless otherwise indicated on the permit."[58] A new applicant must "provide documentation of at least 2 years experience of hands-on work

[50] *Id.* § 2962(d)(1).
[51] *Id.* § 2962(d)(2).
[52] *Id.* § 2962(d)(3). The accumulated penalty a court may assess is unlimited. *Id.*
[53] *Id.* § 2962(e).
[54] *Id.* § 2965.
[55] *Id.* § 2963(a).
[56] *Id.* § 2963(b).
[57] 58 Pa. Code § 147.261(b).
[58] *Id.*

with the designated species, including care, feeding, handling, training and husbandry."[59] The experience must be obtained "from a recognized/approved facility and the owner, manager or licensee of this facility shall provide a letter of reference."[60] In addition to this experience requirement, the other requirements listed previously under Housing and Care for an exotic wildlife dealer permit are applicable to exotic wildlife possession permits.[61]

Protection of the public. The Game Commission may not issue an exotic wildlife possession permit unless it is satisfied that the applicant has properly and adequately addressed the protection of the public "in accordance with the standards established by the commission."[62] The requirements listed previously under "Protection of the public" for an exotic wildlife dealer permit are applicable to exotic wildlife possession permits.[63]

Unlawful acts. It is unlawful for a person to do any of the following

- "Possess, purchase or receive exotic wildlife" without an exotic wildlife possession permit.
- "Release exotic wildlife into the wild."
- "Fail to exercise due care in safeguarding the public from attack by exotic wildlife."
- "Recklessly engage in conduct which places or may place another person in danger of attack by exotic wildlife."[64]

Penalties. A violation relating to an exotic wildlife possession permit is a summary offense of the third degree,[65] and any other violation regarding exotic wildlife possession is a summary offense of the fifth degree.[66] Each day of violation is a separate offense, but the accumulated penalty "for purposes of a field receipt" may not exceed $300.[67] In addition to these penalties, the director of the Game Commission may revoke or suspend the permit and "order the disposal of any exotic wildlife held."[68]

Exclusions. The following need not obtain an exotic wildlife possession permit:

- A "[p]ublic zoological garden which receives government grants or appropriations."

---

[59] *Id.* § 147.261(f).
[60] *Id.*
[61] *Id.* § 147.262.
[62] 34 Pa.C.S. § 2963(b).
[63] 58 Pa. Code § 147.262.
[64] 34 Pa.C.S. § 2963(c).
[65] *Id.* § 2963(d)(1).
[66] *Id.* § 2963(d)(2).
[67] *Id.* § 2963(d)(3). The accumulated penalty a court may assess is unlimited. *Id.*
[68] *Id.* § 2963(e).

- A "[p]rivate zoological park or garden which is open to the public and is accredited by the American Association of Zoological Parks and Aquariums" – now the American Zoo and Aquarium Association (AZA).
- A "[n]ationally recognized circus."[69]

MENAGERIE PERMIT[70]

Authorized activities. A person holding a menagerie permit is authorized to establish and operate a menagerie.[71]

Shelter and care of wildlife. The Game Commission was required to "adopt regulations for the housing, care, treatment, feeding, sanitation, purchase and disposal of wild birds and wild animals kept in menageries" before issuing any menagerie permits.[72] After issuing a menagerie permit, the commission must enforce its regulations.[73]

Housing. Cage construction must be strong enough to contain the wildlife and protect them from injury from other wildlife held.[74] Minimum cage sizes and accessories (e.g., for monkeys, perching areas and parallel bars for swinging) are mandated and listed in the following categories: new world monkeys; old world monkeys; apes; carnivores and certain omnivores with similar requirements (cats, bears and other animals are in this category); marsupials and others; odd- and even-toed animals, ostriches and other large running birds; and birds.[75] Temporary housing requirements for animals held 10 or fewer days are mandated in terms of cage size (some related to the animal's size), accessories and ensuring proper ventilation.[76] Bedding must be provided for the animals' comfort and to protect them from inclement weather.[77] Outdoor enclosures must have shields to protect the animals from the hot rays of the sun.[78] If the wildlife is native to an area with a climate that differs from that of the menagerie, holding conditions must be adjusted to "natural habitat."[79] Cages, pens and paddocks must be designed with adequate drainage, as standing water is not allowed except for "animals requiring water for wading, submersing or

[69] *Id.* § 2965(a).
[70] A menagerie permit is required for all menageries, not only those holding exotic wildlife. 58 Pa. Code § 147.281(a).
[71] 34 Pa.C.S. § 2964(a).
[72] *Id.* § 2964(b).
[73] *Id.*
[74] 58 Pa. Code § 147.282(a).
[75] *Id.* § 147.285.
[76] *Id.* § 147.285(9).
[77] *Id* § 147.284(b).
[78] *Id.*
[79] *Id.*

swimming. Pools provided for wildlife shall be cleaned as often as needed to ensure good water quality."[80]

Care. A new applicant must "provide documentation of at least 2 years experience of hands-on work with the designated species, including care, feeding, handling, training and husbandry."[81] The experience must be obtained "from a recognized/approved facility and the owner, manager or licensee of this facility shall provide a letter of reference."[82]

Wildlife may not be kept in an unsanitary or unsafe condition or "in a manner which results in maltreatment, mistreatment or neglect."[83] An animal "may not be chained or tethered, or otherwise impeded from moving freely within a cage or enclosure unless otherwise indicated on the permit."[84] Exotic wildlife must be provided with clean fresh water daily, and water containers must be cleaned and disinfected daily.[85] Food must be "kept in a manner to prevent spoilage or contamination."[86] Fecal and food waste must be removed from cages and dens daily, hard floors must be "scrubbed and disinfected" at least once a week and the dirt floors of large pens and paddocks must be "raked every 3 days and the waste removed."[87] Exotic wildlife must be "kept free from parasites, sickness and disease."[88] Sick or diseased exotic wildlife must be removed from public display and either given professional medical attention immediately or "destroyed in a humane manner."[89]

Signs must be posted on cages and enclosures prohibiting the public from annoying the animals or feeding them food not obtained from the permittee.[90]

Protection of the public. The Game Commission was required to "adopt regulations for the . . . protection of the public" from the wild birds and wild animals kept in menageries before issuing any menagerie permits.[91] After issuing a menagerie permit, the commission must enforce its regulations.[92] Safety barriers must be used "to adequately prevent wildlife from touching, grasping or biting visitors."[93] Barriers must also be used "to prevent the public from approaching the cages, pens, enclosures or areas near enough to contact the wildlife."[94]

---

[80] *Id.* § 147.283(e).
[81] *Id.* § 147.281(g).
[82] *Id.*
[83] *Id.* § 147.281(b).
[84] *Id.*
[85] *Id.* § 147.283(b).
[86] *Id.* § 147.283(c).
[87] *Id.* § 147.283(d).
[88] *Id.* § 147.287.
[89] *Id.*
[90] *Id.* § 147.284(c).
[91] 34 Pa.C.S. § 2964(b).
[92] *Id.*
[93] 58 Pa. Code § 147.282(b).
[94] *Id.*

Unlawful acts. It is unlawful for a person to do any of the following:

- "Keep any wild bird or wild animal in captivity for public exhibition, or to have any wild bird or wild animal in custody or control for such purpose, without first securing a permit issued by the commission."
- Violate any of the statutory provisions regarding menagerie permits or release any bird or animal into the wild.
- "Fail to exercise due care in safeguarding the public from attack by exotic wildlife."
- "Recklessly engage in conduct which places or may place another person in danger of attack by exotic wildlife."[95]

Penalties. A violation relating to a menagerie permit is a summary offense of the second degree,[96] and any other violation regarding a menagerie is a summary offense of the seventh degree.[97] Each day of violation is a separate offense, but the accumulated penalty "for purposes of a field receipt" may not exceed $300.[98] In addition to these penalties, the director of the Game Commission may revoke or suspend the permit and "order the disposal of any wildlife held in the menagerie."[99]

Exclusions. The following do not need to obtain a menagerie permit:

- A "[p]ublic zoological garden which receives government grants or appropriations."
- A "[p]rivate zoological park or garden which is open to the public and is accredited by the American Association of Zoological Parks and Aquariums" – now the American Zoo and Aquarium Association (AZA).
- A "[n]ationally recognized circus."[100]

ACT 60 OF 1982
(House Bill 1776 of 1981, Pr.'s No. 2900)

Act 60 was signed into law on March 13, 1982. Prior to Act 60, the Game Commission was authorized to issue certain permits and to adopt rules and regulations to control the activities that could be performed under the permits. Act 60 amended the Game Law by adding "wildlife dealer" and "wildlife possession" to the Game Commission's permit list and setting the annual fee for a

[95] 34 Pa.C.S. § 2964(c).
[96] *Id.* § 2964(d)(1).
[97] *Id.* § 2964(d)(2).
[98] *Id.* § 2964(d)(3). The accumulated penalty a court may assess is unlimited. *Id.*
[99] *Id.* § 2964(e).
[100] *Id.* § 2965(a).

wildlife dealer permit at $500 and for a wildlife possession permit at $200 per animal. Menagerie permits were already in the law; however, Act 60 raised the fee for a menagerie permit from $15 to $300.[101]

The remarks recorded in the House Legislative Journal on March 3, 1982, show that some of the same issues being discussed now, including public safety, the welfare of the animals and what policy is portrayed by charging a permit fee for private possession of wildlife, were discussed then. The following remarks from a number of House Members with various opinions are taken from that Legislative Journal:

The bill says that "we are concerned about these animals, but if you are willing to pay $300 for a permit, you can continue to keep them. Again I suggest that this is . . . becoming a State . . . where those who are affluent can do anything and those who have just a desire and a compassion but cannot afford the permit or the license are not able to do anything." p. 507.

"Since this bill was passed in the House originally . . . we have had several unfortunate incidents in this State dealing with wildlife. One of those, with which those of us from the western part of the State are very familiar, occurred when a cougar mauled a young boy at the Civic Arena in Pittsburgh. In addition, in my county there was a problem with a lion running loose which had to be killed." p. 507.

"[T]his bill would require a wildlife possession permit of $200, and there is substantial question . . . in some people's minds as to whether certain people ought to be able to have particular kinds of wildlife at all, and in other people's minds as to whether or not there should . . . be some differentiation, depending upon where those wildlife are kept and the conditions under which they are kept." pp. 507 – 508.

"I have not contacted all the menagerie owners or all the zoos in the State . . . but I have had calls from a good many of them, and the ones who run a legitimate roadside menagerie or a zoo are highly in favor of this legislation. What they are trying to stop are those places that have a bear in a cage, a lion or a tiger or something to attract business. This is the thing that they are trying to get rid of." p. 508.

[101] Section 1 of the act of November 23, 1983 (P.L.222, No.64) reduced the permit fees as follows: menagerie permit from $300 to $100; wildlife dealer from $500 to $200; and wildlife possession from $200 to $50. Section 5 of the act made the permit fee changes retroactive to the 1981-1982 permit year, and section 4 refunded the amounts paid in excess of the newly-established fees for the 1981-1982, 1982-1983 and 1983-1984 permit years. When the Game and Wildlife Code was codified by the act of July 8, 1986 (P.L.442, No.93), these fee amounts were retained and have not changed since then. The effect of these acts is that the menagerie permit fee has not changed since the 1981-1982 permit year and the dealer and possession permit fees have not changed since they were first instituted by Act 60 of 1982.

"[M]any times I have witnessed where . . . a fawn had been lost from its parent, and a little youngster would take that fawn into the . . . home, bottle-feed it, raise it, and was completely responsible for the fact that that wild animal in some ways became partly domesticated, and kept it thriving and gave it continued life. As soon as the game warden found out . . . he would come and tell you that what you were doing . . . was illegal and you had to give it up. Now we come along with a bill that says if you come from a family . . . [that] can afford $300, you can keep that animal." p. 507.

"I think if we had the records to prove it, there would be many more instances where this is done and the animal dies because it is taken away from its mother. It is only good sense that if you find something like that out in the wild, the best thing to do is to leave it alone, because many times that mother will be … near . . . . Once they leave, that mother takes that animal back. . . . [T]his bill is designed not to make money or to put any burden on any citizen of the State of Pennsylvania but to protect some of the wild animals that are now being kept and not being kept correctly." p. 507.

"The only animals that this includes . . . are: bears, coyotes, lions, tigers, leopards, jaguars, cheetahs, cougars, and wolves. It does not pertain to deer and it does not pertain to raccoons or squirrels or rabbits, the normal animal that someone would bring in . . . ." p. 508.

"[T]here is one thing that has me concerned about this bill. I realize the need for it for a lot of the animals that are being kept in Pennsylvania. [But what] about the person who has taken a bear, when the mother was hit, and raised that bear . . . like 4 or 5 years, and now this man is going to be forced to pay [$200] for keeping that bear? . . . I know personally of about 50 animals like this that are kept and kept well, but people are going to want to get rid of them because they cannot afford that extra money." p. 508.

"There are too many menageries starting up all over the State because people have decided to take wild animals as pets, and they are a threat to those who live around them. They do not keep the animals properly." p. 509.

OVERLAPPING AUTHORITY

In recognition of the Game Commission's current regulation of exotic wildlife and the Department of Agriculture's regulation of captive animals and the resultant confusion, House Resolution 797 of 2004 directed the Joint State Government Commission to study "the feasibility and suitability of transferring the regulatory authority of" captive exotic wildlife from the Game Commission to the Department of Agriculture.

The Game Commission is statutorily authorized to administer and enforce the Game and Wildlife Code (Title 34 of the Pennsylvania Consolidated Statutes) and all Commonwealth laws relating to wildlife conservation, protection, propagation, distribution and control.[102] The commission is specifically required to "[p]rohibit the possession, importation, exportation or release of any species of birds or animals which may be considered dangerous or injurious to the general public or to the wildlife of this Commonwealth."[103] The Animal Health and Diagnostic Commission in the Department of Agriculture is statutorily authorized to regulate and coordinate animal health, primarily to protect animal and human health in the animal industry.[104] Similarly, the Domestic Animal Law authorizes the Department of Agriculture "to regulate the keeping and handling of domestic animals to exclude or contain dangerous transmissible diseases and hazardous substances and to protect the environment."[105] The department is also authorized to regulate domestic animal dealers, agents and haulers,[106] as well as animal exhibitions.[107] The department may also "establish identification and minimum health standards for the importation or the intrastate movement of domestic animals."[108] "[T]he department may at any time enter premises or stop and detain any vehicle" to enforce the Domestic Animal Law and seek a warrant when refused.[109] The department may order quarantines and seize and destroy animals to prevent the spread of disease and contamination.[110]

Unless escaped, released or otherwise introduced into the wild, exotic wildlife in the Commonwealth would be captive, apparently placing the primary regulatory responsibility of protecting the public from transmission of disease in the Department of Agriculture under the Domestic Animal Law.

This potentially overlapping authority can confuse both regulators and the regulated, and confusion often results in less effectiveness. Overlapping authority may be desirous and unavoidable, given the statutory and logical administrative and regulatory functions of both the Department of Agriculture and the Game

---

[102] 34 Pa.C.S. § 2101. The commission has similar authority relating to game. *Id.* Wildlife is defined as wild birds and wild mammals, among other things. *Id.* § 102.

[103] *Id.* § 322(c)(9).

[104] Act of Dec. 14, 1988 (P.L.1198, No.148); Pa. Stat. Ann. tit. 3, §§ 430.1-430.7 (West 1995).

[105] 3 Pa.C.S. § 2305. Domestic animals are defined as captively maintained animals. *Id.* § 2303.

[106] *Id.* § 2341.

[107] *Id.* § 2503.

[108] *Id.* § 2323.

[109] *Id.* § 2328.

[110] *Id.* §§ 2329, 2330. The department also has "the power to establish general quarantines relating to diseases of animals or plants and their products" under section 1708 of the act of April 9, 1929 (P.L.177, No.175), known as the Administrative Code of 1929; Pa. Stat. Ann. tit. 71, § 448 (West 1990).

Commission, but more care should be given to reducing confusion among these regulators and the regulated to increase the effectiveness of both.[111]

[111] Related overlapping authority issues that do not fall within the purview of this study involve cervid (deer and elk) farming in the Commonwealth. Richard Ulmer, Denis Beachel, Paul Mebley, Rich Hillegass and Mary Martin, cervid farmers, provided the following comments, which also raise issues unrelated to overlapping authority. Cervid farming is an important industry in Pennsylvania and generates millions of dollars for the economy. Currently, cervid farmers must deal with the Department of Agriculture and the Game Commission for permitting, tagging and testing of their animals, and there is a lot of duplication. For example, although 3 Pa.C.S. § 2380.9 provides that the Cervidae livestock operation provisions of the Agriculture Code supersede "any contrary provision" in the Game and Wildlife Code, if a cervid farmer has a Cervidae livestock operation license from the Department of Agriculture, the farmer is still required to have a propagators permit from the Game Commission. Also, a farmer needs one of each permit for each location of his operation. Cervids are required to have multiple tags, and the animals must be tranquilized to put the tags on and also to read the tags. They must also be tranquilized to test for chronic wasting disease (CWD) and tuberculosis (TB). Tranquilizing can adversely affect the animals' health. No inspection is required if an animal is harvested and sold whole, but inspection is required if the animal is butchered.

COMMONWEALTH

House Resolution 797 of 2004 asked the Joint State Government Commission to examine the "[w]ays the budgets of the Pennsylvania Game Commission, the Department of Agriculture and the General Fund would be affected by any change in the regulatory authority for exotic wildlife maintained in captivity" and determine "[w]hat new costs would be associated with a transfer of authority to the Department of Agriculture[.]"

CURRENT COSTS TO THE GAME COMMISSION

Revenue. According to information provided by the Game Commission, it collects approximately $21,150 annually in exotic wildlife dealer permit fees, wildlife menagerie permit fees and exotic wildlife possession permit fees. The detail of this revenue is shown in Table 1. In addition to these permit fees, the Game Commission also collects a negligible amount of fines resulting from various exotic wildlife permitting violations.[112]

[112] The fines and penalties collected as a result of violations of 34 Pa.C.S. §2962 (exotic wildlife dealer permits), §2963 (exotic wildlife possession permits) and §2964 (menagerie permits) are negligible, because only a handful of citations are written every year (about one to four in recent years). E-mail dated November 2, 2004 from Joseph Neville, policy analyst, Game Commission. On file at the Joint State Government Commission.

TABLE 1

ESTIMATED CURRENT ANNUAL REVENUE RECEIVED BY THE PENNSYLVANIA GAME COMMISSION FROM EXOTIC WILDLIFE DEALER PERMIT FEES, WILDLIFE MENAGERIE PERMIT FEES AND EXOTIC WILDLIFE POSSESSION PERMIT FEES

	Annual permit fee	Number of current permits	Total annual revenue
Exotic wildlife dealer permit	$200	24	$4,800
Wildlife menagerie permit	$100	132[a]	$13,200
Exotic wildlife possession permit	$50	63	$3,150
Total revenue			$21,150

a. 75 of these currently house exotic animals.

SOURCE: E-mail dated November 2, 2004 from Joseph Neville, policy analyst, Game Commission. On file at the Joint State Government Commission.

Expenses. Unfortunately, the Game Commission's current accounting practices do not allow it to easily determine what expenses are incurred for the regulation of only exotic wildlife maintained in captivity. However, the Game Commission was able to provide some rough cost data on how much it costs for law enforcement relating to special permits and the inspection of special permits' premises. "Special permits" include not only exotic wildlife permits, but also wildlife menagerie permits for menageries without exotic animals and wildlife propagation permits, among others. Table 2 details how much the Game Commission estimates it spent on law enforcement of special permit management and the inspection of special permits' premises during a one-year period from July 1, 2003 through June 30, 2004.

TABLE 2

GROSS PAY, BENEFITS AND EQUIPMENT COST OF LAW ENFORCEMENT OF SPECIAL PERMIT MANAGEMENT AND INSPECTION OF SPECIAL PERMITS' PREMISES FROM JULY 1, 2003 THROUGH JUNE 30, 2004

	Hours Worked[1]	Gross Pay Cost	Benefit Cost[2]	Equipment Cost	Total Cost
Law Enforcement of Special Permits					
Bureau of Law Enforcement	18.0	$300	$206	$0	$506
Enforcement Division	269.0	7,494	1,917	0	9,411
Technical Services Division	53.0	1,695	424	0	2,118
Administration Division	899.5	14,547	6,004	0	20,551
Support Services	76.0	986	585	0	1,572
Special Operations Division	18.5	247	123	0	370
Appl Dev and Spec Software Section	28.0	750	230	0	980
Wildlife Conservation Officers	1,002.5	20,603	7,533	4,208	32,344
Land Management Groups 1-4	3.5	74	42	39	155
Law Enforcement Supervisor	12.0	254	80	30	364
Subtotal	2,380.0	46,949	17,144	4,278	68,372
Inspection of Special Permits' Premises					
Administration Division	612.5	17,252	4,426	0	21,678
Law Enforcement Supervisor	29.0	737	178	184	1,098
Wildlife Conservation Officers	1,269.0	27,144	9,486	6,547	43,177
Subtotal	1,910.5	45,133	14,090	6,731	65,953
Total	4,290.5	92,082	31,234	11,009	134,325

1. The estimate of the total hours worked is based on employee log sheets.
2. Includes health, hospitalization, annuitance, life insurance, social security tax, State Workmen's Insurance Fund (SWIF) and retirement benefits.

NOTE: Due to rounding, detail may not sum to total.

SOURCE: Hours/Benefits Report dated August 25, 2004 from Bureau of Management Information Systems, Game Commission. On file at the Joint State Government Commission.

It should be noted that some expenses the Game Commission incurs related to exotic wildlife maintained in captivity are not included in Table 2. One of the most notable expenses absent from the table is legal expenses. In some years, the commission's legal expenses are minimal, and in other years they may be quite high.

Training costs are also excluded from Table 2. The Game Commission estimates that the more than 200 full-time wildlife conservation officers spend approximately four to six hours of their 50 weeks of training being educated on the laws dealing with exotic wildlife.[113] Game Commission staff stated that four to six hours is inadequate to properly train officers to deal with exotic wildlife.[114] However, they also pointed out that regulation of exotic wildlife in captivity is not a part of the commission's core mission and that they are trying to balance what is statutorily required of them and their core mission, given their current resources.[115]

The Game Commission's closest estimate of its costs related to exotic wildlife is about $134,325 annually (detailed in Table 2) plus legal and training costs. The revenue gained from the regulation of exotic wildlife in captivity is roughly $21,150 annually (detailed in Table 1). It should be emphasized that these figures are very rough estimates. Despite the imprecision of these figures, it is clear that the Game Commission spends considerably more on the regulation of exotic wildlife than it brings in through this regulation. Furthermore, commission staff stated that the commission is almost entirely financially supported by hunters and trappers and that they believe that these hunters and trappers should not be the only individuals (other than exotic wildlife permittees) paying for the Commonwealth's regulation of exotic wildlife in captivity.[116]

BUDGETARY EFFECTS ON THE GAME COMMISSION

If the regulatory authority for exotic wildlife in captivity were transferred to the Department of Agriculture, the Game Commission would be able to redirect the funds currently spent on regulating exotic wildlife in captivity (approximately $134,325 annually plus legal and training costs) to responsibilities more directly related to its core mission. The Game Commission would also see a reduction in revenue of roughly $21,150 annually due to the loss of permit fees related to exotic wildlife. Additionally, Game Commission staff do not expect that there would be any staff reductions if the regulatory authority were transferred, because commission employees' time now spent on regulating exotic

[113] E-mail dated November 2, 2004 from Joseph Neville, policy analyst, Game Commission. On file at the Joint State Government Commission.

[114] A meeting was held at the offices of the Joint State Government Commission on November 12, 2004. Attending for the Game Commission were Joseph Neville, policy analyst; Gregory Houghton, assistant director, Bureau of Law Enforcement; Timothy Grenoble, assistant director, Training; and Jason Raup, assistant counsel, Bureau of Law Enforcement. Attending for the Department of Agriculture were Michael Pechart, executive assistant to the Secretary and Paul Knepley, D.V.M., quality assurance program manager, Bureau of Animal Health and Diagnostic Services. Robert B. Miller Jr. attended in his capacity as the director of the Governor's Advisory Council for Hunting, Fishing and Conservation.

[115] *Id.*

[116] *Id.*

wildlife maintained in captivity would be used in other ways more directly related to the commission's core mission.[117]

BUDGETARY EFFECTS ON THE DEPARTMENT OF AGRICULTURE

If the regulatory authority (in its current state) for exotic wildlife in captivity were transferred from the Game Commission to the Department of Agriculture, the Department of Agriculture would see an increase in revenue of approximately $21,150 annually from the collection of exotic wildlife dealer permit fees, wildlife menagerie permit fees and exotic wildlife possession permit fees. If the expenses to regulate exotic wildlife maintained in captivity were identical to the Game Commission's current expenses, the Department of Agriculture would also see an increase in expenses of an estimated $134,325 plus legal and training costs. Department of Agriculture staff were unable to estimate how much it would cost the department initially or annually to take over the regulation of exotic wildlife in captivity.[118] Additionally, staff noted that the department's 23 field technicians are not trained to deal with exotic wildlife in captivity and that properly training them would be very costly and time consuming.[119]

BUDGETARY EFFECTS ON THE GENERAL FUND

The Game Commission currently receives no funding from the Pennsylvania General Fund, while the Department of Agriculture was budgeted $81,427,000 from Pennsylvania's General Fund for fiscal year 2004-05.[120] Presumably, if the regulatory authority for exotic wildlife in captivity were transferred from the Game Commission to the Department of Agriculture in its current state, the department would need an increase in its annual General Fund appropriations of roughly $113,175 ($134,325 - $21,150) plus an amount to cover legal and training costs to regulate exotic wildlife in captivity. This figure assumes that it would cost the Department of Agriculture the same as it currently costs the Game Commission to regulate exotic wildlife maintained in captivity. If any changes were made to the current statutes regulating exotic wildlife maintained in captivity, this figure could be substantially higher (or lower). Department of Agriculture staff were unable to estimate how much the initial start-up costs would be if regulatory control were transferred;[121] however, it is likely that start-up costs would also come from the Pennsylvania General Fund.

---

[117] *Id.*
[118] *Id.*
[119] *Id.*
[120] Act No. 7A of July 4, 2004 (General Appropriation Act of 2004), § 208.
[121] *Supra* note 114.

OTHER STATES
EXOTIC WILDLIFE PERMITTING DATA

To provide a snapshot of the "exotic wildlife programs" in other states, data was gathered from various wildlife offices across the nation regarding permits/licenses, inspections and law enforcement for certain wildlife that is maintained in captivity. While Pennsylvania uses the phrase "exotic wildlife," other states may not use that term; therefore, information was requested regarding wild/dangerous animals that the state regulates and that are not ordinarily domesticated. Actual or estimated data for a one year period was requested. The following five questions were asked of each state.

> Revenue: How much revenue does your office receive for exotic wildlife maintained in captivity (permits/licenses, penalties/fines, general appropriation, etc.)?
>
> Expenditures: How much does it cost your office to regulate, administer, and enforce the items associated with exotic wildlife maintained in captivity (salary, benefits, equipment costs, etc.)?
>
> Private permits: How many permits/licenses are issued for private possession (individual hobbyists) of exotic wildlife maintained in captivity?
>
> Professional permits: How many permits/licenses are issued for dealers, pet shops, exhibitors, etc., of exotic wildlife maintained in captivity?
>
> Inspections: How many safety inspections are done on an annual basis?

The level of detail provided by the states varied; some states were able to estimate specific numbers while others provided textual explanations. The responses received are summarized below.

ALASKA[122]

Revenue: $0, the department does not charge for any permit-related activity.

Expenditures: Approximately $118,000 for salary and benefits of general permitting staff. Additional staff time may be required if an animal is moved or seized or the department investigates an exotic pet complaint.

Private permits: Alaska does not authorize a "hobbyist" to possess exotic wildlife.

Professional permits: Currently there are two permits authorizing the possession of exotic wildlife. Both are required to provide educational programs with the animals.

[122] E-mail dated November 12, 2004 from Ryan Scott, Alaska Department of Fish and Game. On file at the Joint State Government Commission.

Inspections: Safety inspections are done only on those facilities authorized by scientific/education permits to possess wildlife. Inspections are done randomly, when a complaint is made or when staff is at the permitted location for other business.

ARIZONA[123]

Revenue: $14,715 in license revenue for field trial, field trial training, minnow dealers, wildlife hobby, shooting preserve, zoo, falconry, private game farm, white amur stocking, aquatic wildlife stocking, wildlife holding, scientific collecting, wildlife service and wildlife rehabilitation.

Expenditures: The department does not specifically track these costs; the costs are generally covered under the Game and Fish enforcement budget. Between all work units, it is estimated that at least one man-year is spent on administering the rules and at least another man-year is likely spent on enforcement.

Private permits: In general, the department does not issue any license as a "pet" license or allowance**.**

Professional permits: 1056 licenses for the 14 types listed previously under revenue.

Inspections: Mandatory inspections are done on facilities for initial licensure of game farms (only for fox or mink), falconry and aquatic stocking.

ARKANSAS[124]

Revenue: $125 in permit revenue for breeding and/or selling dangerous wild animals.

Expenditures: $500 directly related to the dangerous wildlife facilities.

Private permits: One permitted black bear and four permitted mountain lion facilities.

Professional permits: The same permit is required whether the permittee is a commercial venture or not. Some of the facilities listed in private permits may sell or exhibit animals.

Inspections: Inspections are performed prior to issuance of a permit. Annual inspections are not required, but a facility will be re-inspected if required reports are not filed or if illegal activities are known to be taking place.

[123] E-mail dated November 12, 2004 from Leonard L. Ordway, chief, Law Enforcement Branch, Arizona Game and Fish Department. On file at the Joint State Government Commission.

[124] E-mail dated December 1, 2004 from Blake Sasse, nongame mammal program coordinator, Arkansas Game and Fish Commission. On file at the Joint State Government Commission.

CALIFORNIA[125]

Revenue: $4618 in permit revenue for restricted species - animal care, detrimental and welfare. $109,472 in permit revenue for restricted species - breeding, dealer, exhibitor, etc.

Expenditures: $40,320 license and revenue staff costs associated with restricted species. Enforcement costs associated with restricted species could not be identified.

Private permits: 38 restricted species permits - animal care, detrimental and welfare.

Professional permits: 667 breeding, dealer, exhibitor, etc., permits.

Inspections: Two inspections (caging and animals) are required each permit year.

The permittee can choose to have the department inspect for a fee or the permittee can have its veterinarian conduct the inspection and certify that the caging and animal care requirements have been met.

COLORADO[126]

Revenue: $22,000 in license revenue.

Expenditures: No response.

Private permits: No response.

Professional permits: 217 licensed parks. 138 are game birds only (pay-to-hunt) and the remaining 79 are mammal parks where the primary focus is public exhibition, rescue (grandfathered parks, as Colorado no longer allows rescue operations) and a limited number of mammal pay-to-hunt parks.

Inspections: No response.

CONNECTICUT[127]

Revenue: No fee is required for permits. Revenue comes from the department's general budget.

Expenditures: Two Full Time Equivalent (FTE) staff with approximately three to four months of work dedicated to wildlife permitting.

Private permits: No response.

Professional permits: No response.

Inspections: Inspections are done by the United States Department of Agriculture (USDA).

---

[125] E-mail dated November 16, 2004 from Lori Heier, analyst, License and Revenue Branch, California Department of Fish and Game. On file at the Joint State Government Commission.

[126] E-mail dated November 12, 2004 from Kathy Konishi, manager, Special Licensing Unit, Colorado Division of Wildlife. On file at the Joint State Government Commission.

[127] Telephone call of November 18, 2004 from Elaine Hinsch, Connecticut Department of Environmental Protection.

IDAHO[128]

Revenue: $29,516 in license revenue for cervidae.

Expenditures: A 0.5 FTE secretary maintains inventory, licenses and fees. Considerable travel cost is incurred for inspection and enforcement.

Private permits: 5248 animals and 83 farms.

Professional permits: No response.

Inspections: Five state inspectors and three veterinarians carry out the inspections and enforcement activities.

INDIANA[129]

Revenue: $10,500 annually for game breeder licenses and wild animal possession permits (pet permits).

Expenditures: An estimated cost of administering wild animal permits/licenses $25,000. This includes neither enforcement nor staff time spent regulating the licensing process for wild animals.

Private permits: 146 permits were issued for wild animals kept as pets.

Professional permits: 609 game breeder licenses were issued for native wild animals.

Inspections: Annual inspections by Department of Natural Resources (DNR) conservation officers are required for both the wild animal possession permit and game breeder license – approximately 755 per year. This number only includes the one required inspection per year per permit/license and does not include time spent on any enforcement actions or follow-up inspections that may be needed. For individuals that possess a cervid such as white-tailed deer, another inspection may be done by a veterinarian with the Indiana Board of Animal Health.

MICHIGAN[130]

Revenue: $47,407 in permit revenue for privately owned cervidae (POC). $9855 in permit revenue for wildlife in captivity.

Expenditures: A mandated audit of facilities was conducted by DNR at the direction of the Governor due to chronic wasting disease (CWD) concerns. The inspections were conducted by a team consisting of a conservation officer and wildlife biologist. The team required approximately 8.01 hours per facility (16.02 employee hours per facility) and 65.13 miles of driving time per facility.

---

[128] E-mail dated November 22, 2004 from Debra Lawrence, D.V.M., Idaho State Department of Agriculture. On file at the Joint State Government Commission.

[129] Letter dated November 22, 2004 from Linnea Petercheff, operations staff specialist, Indiana Division of Fish and Wildlife. On file at the Joint State Government Commission.

[130] E-mail dated November 16, 2004 from Lt. David A. Purol, Law Enforcement Division, Michigan Department of Natural Resources. On file at the Joint State Government Commission.

These estimates are only for the POC facilities and do not include POC registration administration, which is estimated to be approximately 1.0 FTE.

The wildlife in captivity permitting system requires 0.25 FTE for administration. Inspections are done on an as-needed basis and average 1314 hours per year.

Private permits: Pet permits were dissolved about 12 years ago.

Professional permits: 749 permits for POC and 657 permits for wildlife in captivity.

Inspections: Currently, all POC facilities must be inspected for CWD. Captive wildlife facilities are inspected based upon complaints and at the discretion of field staff and district work plans. Inspection work plans are developed considering the species in captivity, the numbers of animals involved, past complaints and the amount of time passed since the last inspection. Inspection frequency is a field decision, made in light of funding and competing priorities and enforcement obligations.

MONTANA[131]

Revenue: $575 in license revenue for zoos and menageries. $35,000 appropriated from the general license fund for the entire commercial licensing program which also includes game farms, fur farms, bird farms, shooting preserves, etc.

Expenditures: No response.

Private permits: Currently, the only private possession allowed may be within the 11 wild animal menagerie permits. An individual is allowed to possess up to 10 bears or large cats as pets.

Professional permits: 23 zoos and menageries (includes the 11 wild animal menageries).

Inspections: Each of the 23 facilities is inspected annually and more frequently if there is any type of problem. In addition, each licensee annually reports on its inventory and transactions.

NEW HAMPSHIRE[132]

Revenue: $2000 in exhibit permit fees.

Expenditures: About $5200 in salary costs are related to permits. In addition, the few enforcement issues are handled by field officers.

Private permits: Private possession is prohibited.

Professional permits: 36 permits.

---

[131] E-mail dated November 11, 2004 from Tim Feldner, manager, Commercial Wildlife Permitting, Montana Department of Fish, Wildlife and Parks. On file at the Joint State Government Commission.

[132] E-mail dated November 12, 2004 from Sgt. Bruce Bonenfant, administrative sergeant, New Hampshire Fish and Game. On file at the Joint State Government Commission.

Inspections: Inspections are done by USDA Animal and Plant Health Inspection Service (APHIS) personnel, who conduct a minimum of one unannounced inspection per year and more if there are compliance issues.

NEW MEXICO[133]

Revenue: $13,026 in permit revenue for game parks.

Expenditures: 1.0 FTE employee that oversees multiple permitting of live wildlife including call pens, shooting preserves, importation, zoos, rehabilitators and game parks. It costs an estimated $30,000 annually to administer game parks.

Private permits: 26 permitted game parks in the state with another three pending. This number steadily increased since 1998 when there were only 16.

Professional permits: No response.

Inspections: Each park must have an annual inspection to examine its fencing and animal inventory. The annual permit fee is $500 and includes this inspection.

OREGON[134]

Revenue: $1000 in permit fees.

Expenditures: The amount varies, but the fees were recently changed to more accurately reflect the cost of administration.

Private permits: 37 permits.

Professional permits: USDA issues permits and licenses for this type of wildlife use.

Inspections: Every two years, the facility is inspected before a renewal permit is issued. Inspections are also done when there are complaints.

RHODE ISLAND[135]

Revenue: Permits are good indefinitely so revenue is limited to a few new permits each year for an average of $200.

Expenditures: $4000 a year for administrative costs.

Private permits: About two applications a year. In addition, 25 to 30 farmed red deer offspring are registered annually.

---

[133] E-mail dated November 22, 2004 from Dan Brooks, New Mexico Department of Game and Fish. On file at the Joint State Government Commission.

[134] E-mail dated November 17, 2004 from Rodger Huffman, administrator, Animal Health and Identification, Oregon Department of Agriculture. On file at the Joint State Government Commission.

[135] E-mail dated November 17, 2004 from Christopher Hannafin, State Veterinarian, Division of Agriculture, Rhode Island Department of Environmental Management. On file at the Joint State Government Commission.

Professional permits: Professional permits may be some of the applications explained previously under private permits.

Inspections: All licensed animals or facilities are inspected annually. Rhode Island also investigates one or two illegal imports each year.

TENNESSEE[136]

Revenue: $39,000 in permit revenue for non-indigenous wildlife.

Expenditures: $113,000 with non-indigenous activity being approximately 40 percent.

Private permits: 190 pet permits. Most are for raccoons, but several are for large cats which were owned before private possession of large cats was prohibited.

Professional permits: 270 commercial, 140 wildlife preserve, 50 importation, 70 educational and 77 rehabilitation permits.

Inspections: 23 inspections were performed at standing facilities and 54 at circuses.

TEXAS[137]

Revenue: $14,820 in permit revenue for non-game dealers. $1250 in permit revenue for zoological permits. $2000 in permit revenue for educational display permits.

Expenditures: No response.

Private permits: No response.

Professional permits: 166 non-game dealers, 25 zoological permits and 120 educational display permits.

Inspections: No response.

WEST VIRGINIA[138]

Revenue: License revenue for cervid pens, which include a few fallow deer and red deer in captivity, is negligible.

Expenditures: $35,000 annually for cervid pen inspections.

Private permits: No response.

Professional permits: No response.

Inspections: All pens are inspected at least once annually.

---

[136] Telephone call of November 23, 2004 from Walter Cook, captive wildlife officer, Tennessee Wildlife Resources Agency.

[137] E-mail dated November 17, 2004 from M. Jeannie Muñoz, wildlife permits coordinator, Texas Parks and Wildlife Department. On file at the Joint State Government Commission.

[138] E-mail dated November 30, 2004 from Jim Evans, West Virginia Division of Natural Resources. On file at the Joint State Government Commission.

WISCONSIN[139]

Revenue: $1100 in permit revenue for class A captive wild animal farms. $11,900 in permit revenue for class B captive wild animal farms.

Expenditures: No response.

Private permits: 11 class A captive wild animal farms. 476 class B captive wild animal farms.

Professional permits: USDA issues permits and licenses for this type of wildlife use.

Inspections: About 100 total inspections are performed each year. Inspections may occur prior to license approval, in response to complaints or on a random basis.

[139] E-mail dated November 19, 2004 from Shirley J. Zwolanek, Wisconsin Department of Natural Resources. On file at the Joint State Government Commission.

ISSUES, COMMENTS AND STATUTORY RESPONSES

This chapter presents various issues related to maintaining exotic wildlife in captivity that are listed in House Resolution 797 of 2004. After each issue is identified, relevant comments made by interested organizations are provided, as are the comments and suggestions provided by individuals who spoke with Joint State Government Commission staff.[140] Following the comments, statutory responses made by other states to the issue are highlighted.

PROTECTION FROM EXOTIC WILDLIFE

HUMANS - ATTACK AND ZOONOTIC DISEASES

According to various organizations and individuals interested in exotic wildlife maintained in captivity, an attack on a human is an ever-present possibility. Inadvertent physical harm to a human is also possible because of the strength and size of wildlife.

The human health issues involving exotic wildlife center on zoonotic diseases, which are diseases of animals that are communicable to humans. Among the most serious and widely spread diseases are herpes B-virus and monkey pox, from monkeys, and salmonellosis, from reptiles. Monkeys have also been known to transmit the Ebola virus and other illnesses. The Centers for Disease Control and Prevention (CDC) of the U.S. Department of Health and Human Services expressed concerns about the possibility of an emerging infectious disease threat in the U.S. as a result of the increase in macaque monkeys in the pet trade and about the salmonellosis associated with exotic "pets," mostly reptiles.[141]

---

[140] Note that comments were not offered for every issue.

[141] *See, e.g.,* 1) Kristin Jensen, et al. "B Virus and Free-Ranging Macaques, Puerto Rico." *Emerging Infectious Diseases.* 10.3 (March 2004): 12 pars. http://www.cdc.gov/ncidod/EID/vol10no3/03-0257.htm. Accessed July 27, 2004. 2) Stephanie R. Ostrowski, et al. "B-virus from Pet Macaque Monkeys: An Emerging Threat in the United States?" *Emerging Infectious Diseases.* 4.1 (January – March 1998): 19 pars. http://www.cdc.gov/ncidod/eid/vol4no1/ostrowsk.htm. Accessed July 27, 2004. 3) Jonathan Mermin, et al. "Reptiles, Amphibians, and Human *Salmonella* Infection: A Population-Based, Case-Control Study." *Clinical Infectious Diseases.* 38.Supp 3 (2004): S253 – 61. http://www.cdc.gov/foodnet/pub/CID/merminj.pdf. Accessed July 27, 2004. 4) U.S. Department of Health and Human Services. "Reptile-Associated Salmonellosis — Selected States, 1996–1998." *Morbidity and Mortality Weekly Report.* 48.44 (November 12, 1999): 1009 – 1013.

The following section provides details of recent attacks on humans and information on various zoonotic disease threats, followed by comments of various individuals and organizations and relevant statutory provisions from other states.

Attack. Several organizations track human injuries and fatalities resulting from attacks by captive wild animals, and some attacks are reported by national news media. Probably the most widely publicized recent attack is that of Roy Horn, who was dragged by the neck offstage by a tiger during a Siegfried and Roy magic act in Las Vegas in 2003. The tigers used in the act – including the one that attacked Mr. Horn – lived as pets with Siegfried and Roy, who raised and nurtured them.[142] The Animal Protection Institute (API) notes that if a person with Roy Horn's years of experience with large cats can suffer such an attack, it can certainly happen to individuals with far less experience.[143] In December 2003, a 10-year-old boy was killed by a tiger while shoveling snow near the tiger's cage on his aunt and uncle's property in North Carolina.[144] About six weeks after the boy's death, a 14-year-old girl was mauled by a 200-pound tiger owned by her father, also in North Carolina.[145] While the girl recovered from her injuries, the four tigers her father kept were killed.[146] A 44-year-old woman who kept venomous snakes along with rabbits, birds, non-poisonous snakes, lizards and alligators in her suburban Cincinnati home died in December 2004, five days after being bitten by a urutu pit viper she kept in her home.[147] Earlier in 2004, an 8-year-old girl was injured when a rock thrown by a gorilla at the Cincinnati Zoo hit her in the face.[148]

Ebola virus. Ebola virus is an infection that causes Ebola hemorrhagic fever (Ebola HF).[149] Ebola HF is a severe and often fatal disease in humans and nonhuman primates (monkeys, gorillas and chimpanzees). Ebola-Reston, an

---

Centers for Disease Control and Prevention. www.cdc.gov/mmwr/PDF/wk/mm4844.pdf. Accessed October 29, 2004.

[142] Animal Protection Institute. "Tiger Incidents Highlight Problem with Dangerous Exotic Animal Ownership." October 6, 2003. http://www.api4animals.org/1603.htm. Accessed December 28, 2004.

[143] *Id.*

[144] Animal Protection Institute. "Tiger Kills Boy, Highlights Problem with Dangerous Exotic Animal Ownership." December 16, 2003. http://www.api4animals.org/17.htm. Accessed December 28, 2004.

[145] Animal Protection Institute. "Another Tiger Mauls Youth, Highlights Problem with Dangerous Exotic Animal Ownership." January 26, 2004. http://www.api4animals.org/37.htm. Accessed December 28, 2004.

[146] *Id.*

[147] 1) Associated Press. "Ohio Exotic-Pet Owner Dies of Snake Bite." New York Times website. September 12, 2004. No longer available online. 2) Captive Wild Animal Protection Coalition. "Captive Wild Animal Report: September 2004." http://cwapc.org/news/IncidentReportSept2004.pdf. Accessed October 29, 2004.

[148] Captive Wild Animal Protection Coalition. "Captive Wild Animal Report: May 2004." Accessed July 27, 2004; no longer available online.

[149] U.S. Department of Health and Human Services. "Ebola Hemorrhagic Fever." Centers for Disease Control and Prevention, National Center for Infectious Diseases. http://www.cdc.gov/ncidod/dvrd/spb/mnpages/dispages/ebola.htm. Accessed October 29, 2004.

Ebola subtype, was found in the United States as recently as 1996, but no human cases have ever been identified. In 1990, four humans developed antibodies for Ebola-Reston but did not get sick.

E. coli. In the United States, an estimated 73,500 cases of illness, 2000 hospitalizations and 60 deaths occur each year as the result of Escherichia coli O157 (E. coli) infection.[150] Many E. coli illnesses are associated with ingesting contaminated food or drink.[151] However, during 1996 and 1997, visiting a farm with cows was identified as an important risk factor for E. coli, as 8% of children age 6 and under who were diagnosed with E. coli had reported visiting a farm with cows during the preceding seven days.[152]

In October 2000, 3-year-old Erin Jacobs was infected with E. coli at a farm's petting zoo in Montgomery County. Within two days, she was very sick and began hallucinating. Within another two months she had a colonectomy and eventually experienced kidney shut-down (necessitating dialysis three times per week for a year), colitis, peritonitis, pancreatitis, encephalopathy, pneumonia, anemia, hypertension and end stage renal disease. In addition to the dialysis, Erin required blood transfusions and various drug and physical therapies. Fortunately, Erin's father had a kidney that matched; both of Erin's kidneys were removed, and she received her father's kidney. She still suffers from hypertension and renal dysfunction and is a significant candidate for diabetes.[153] As a result of Erin's ordeal, Act 211 of 2002 added Chapter 25 to the Agriculture Code to require, among other things, the operator of an animal exhibition to post notices regarding the risk of contracting a zoonotic disease and encouraging hand-cleansing "after touching animals, using the restroom and before eating," and to provide a conveniently located hand-cleansing facility on the animal exhibition grounds.[154]

Herpes B. Transmitted by macaque monkeys, herpes B is not as widespread as salmonellosis, but is very dangerous. It is highly prevalent in adult macaques (80-90%) and may cause a potentially fatal meningoencephalitis in humans.[155] While human cases are extremely rare, they involve a mortality rate of about 80%.[156] Of the 24 clearly documented cases of human infection by the

---

[150] U.S. Department of Health and Human Services. "Outbreaks of *Escherichia coli* O157:H7 Infections Among Children Associated With Farm Visits: Pennsylvania and Washington, 2000." Centers for Disease Control and Prevention. http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5015a5.htm. Accessed October 29, 2004.

[151] *Id.*

[152] *Id.*

[153] "Deadly E-Coli Bacteria Spread by Philadelphia Area Petting Zoo." *The Advocate: The Quarterly Newsletter of Bartimus, Frickleton, Robertson, & Obetz, PC.* Fall 2003, pp. 1 – 2.

[154] 3 Pa.C.S. § 2502.

[155] Stephanie R. Ostrowski, et al. "B-virus from Pet Macaque Monkeys: An Emerging Threat in the United States?" *Emerging Infectious Diseases.* 4.1 (January – March 1998): 19 pars. http://www.cdc.gov/ncidod/eid/vol4no1/ostrowsk.htm. Accessed July 27, 2004.

[156] U.S. Department of Health and Human Services. "B Virus (*Cercopithecine herpesvirus 1*) Infection." Centers for Disease Control and Prevention. http://www.cdc.gov/ncidod/diseases/bvirus.htm. Accessed October 29, 2004.

virus since 1992, 19 of those affected died.[157] Monkeys are known to shed the virus when ill, under stress or during breeding season. A person runs the risk of contracting the virus if bitten, scratched, sneezed or spat upon by a monkey currently shedding it. Children are the ones who get bitten by monkeys most often. Medical experts advise that "the virus must be assumed to be a potential health hazard in macaque bite wounds; this risk makes macaques unsuitable as pets."[158]

Leptospirosis. Leptospirosis is a bacterial disease that affects humans and animals. In humans it causes a wide range of symptoms, including high fever, severe headache, chills, muscle aches and vomiting, and sometimes a rash, jaundice, red eyes, abdominal pain and diarrhea. Some infected humans experience no symptoms at all. If left untreated, leptospirosis may result in kidney damage, meningitis (inflammation of the membrane around the brain and spinal cord), liver failure, respiratory distress and, rarely, death.[159]

Leptospirosis is spread through the urine of infected animals, which can get into water or soil. Humans and animals can become infected through contact with this contaminated urine. Although it has not happened often, common household pets can get leptospirosis.[160]

Monkeypox. Monkeypox is a rare viral disease that occurs mostly in central and western Africa and kills from 1% to 10% of the people infected.[161] In June 2003, the first outbreak of monkeypox was reported among several people throughout the United States, including in Pennsylvania. Most of these people became sick after having contact with pet prairie dogs that were infected with monkeypox.

Mycobacterium tuberculosis. Although evidence for human-to-animal transmission of Mycobacterium tuberculosis has been described, little documentation of zoonotic transmission to humans exists.[162]

---

[157] Animal Protection Institute. "The Dangers of Keeping Exotic 'Pets.'" http://www.api4animals.org/308print.htm. Accessed July 27, 2004.

[158] Ostrowski, et al., *supra* note 155.

[159] U.S. Department of Health and Human Services. "Leptospirosis." Centers for Disease Control and Prevention. http://www.cdc.gov/ncidod/dbmd/diseaseinfo/leptospirosis_g.htm. Accessed October 29, 2004.

[160] U.S. Department of Health and Human Services. "Leptospirosis and Your Pet." Centers for Disease Control and Prevention. http://www.cdc.gov/ncidod/dbmd/diseaseinfo/leptospirosis_g_pet.htm#whatpets. Accessed October 29, 2004.

[161] U.S. Department of Health and Human Services. "What You Should Know About Monkeypox." Centers for Disease Control and Prevention. http://www.cdc.gov/ncidod/monkeypox/factsheet2.htm. Accessed October 29, 2004.

[162] Peter Oh, et al. "Human Exposure Following *Mycobacterium tuberculosis* Infection of Multiple Animal Species in a Metropolitan Zoo." *Emerging Infectious Diseases*. 8.11 (November 2002): 18 pars. U.S. Department of Health and Human Services, Centers for Disease

Psittacosis and Bird Flu. Pet birds, including parrots, parakeets and canaries, can be a source of such dangerous diseases as psittacosis and bird flu. The birds carrying the bacteria that cause psittacosis may shed the organisms for weeks or months. Humans can become infected by breathing the organism when the secretions of an infected bird are aerosolized or by handling the plumage, beak or tissues of an infected bird. A bite of such a bird is another possible source of psittacosis. In humans, the disease primarily affects the lungs though it can also cause the inflammation of the liver and other organs. The symptoms include fever, chills, cough, weakness, headache, muscle and chest pain, nausea, diarrhea and abnormal intolerance to light. The course of the disease is variable; in rare cases, psittacosis can result in death.

Since 1996, fewer than 50 confirmed cases of psittacosis were reported in the United States each year, but more cases may occur that are not correctly diagnosed or reported.[163] Pet birds (parrots, parakeets, macaws and cockatiels) and poultry (mainly turkeys and ducks) are most frequently involved in transmission to humans.

A growing concern is bird flu. An increasing number of bird flu cases are jumping to other animals, as happened recently in Thailand when 23 Bengal tigers at the Sriracha Tiger Zoo perished from the virus in less than a week.[164] It is believed that the tigers got sick after being fed raw carcasses of infected chickens. The World Health Organizations (WHO) is concerned because the virus has already jumped the species barrier and infected humans.[165] The virus has killed 12 people in Thailand and 20 in Vietnam and has infected individuals in Japan.[166] WHO warns that the virus could mutate into a form which would spread more easily from person to person, possibly causing a flu pandemic.[167]

Rabies. Pennsylvania experienced no human cases of rabies from 2000 through 2002. During the same time period there were only eight human cases in the United States. However, the risk to humans remains as long as animals are infected. On average, there were about 7000 cases of rabies annually in nonhuman animals in the United States during the same time period. In 2001,

---

Control and Prevention, National Center for Infectious Diseases. http://www.cdc.gov/ncidod/EID/vol8no11/02-0302.htm. Accessed October 29, 2004.

[163] U.S. Department of Health and Human Services. "Psittacosis." December 2003. Centers for Disease Control and Prevention. http://www.cdc.gov/ncidod/dbmd/diseaseinfo/psittacosis_t.htm. Accessed October 29, 2004.

[164] BBC. "Bird Flu Kills Tigers in Thailand." http://newsvote.bbc.co.uk/mpapps/pagetools/print/news.bbc.co.uk/2/hi/asia-pacific/3755908.stm. Accessed December 28, 2004.

[165] World Health Organization. "Avian Influenza Frequently Asked Questions." http://www.who.int/csr/disease/avian_influenza/avian_faqs/en/. Accessed December 30, 2004.

[166] Kozo Mizoguchi. "Japan has First Case of Bird Flu in Human." December 22, 2004. http://story.news.yahoo.com/news?tmpl=story&cid=534&ncid=534&e=5&u=/ap/20041222/ap_on_he_me/japan_bird_flu. Accessed December 22, 2004.

[167] World Health Organization, *supra* note 165.

6.7% of the infected animals were domestic species, and Pennsylvania reported the largest number of rabid domestic animals with 46.[168]

Ringworm. Ringworm is a ring-shaped rash that is reddish and may be itchy. Many different kinds of animals can transmit ringworm to people through direct contact with an infected animal's skin or hair.[169]

Salmonellosis. According to the Animal Protection Institute, "salmonellosis associated with exotic pets has been described as one of the most important public health diseases affecting more people and animals than any other single disease."[170] About 90% of reptiles carry and shed salmonella in their feces. Salmonella infection in humans can result from either direct or indirect contact with infected reptiles, e.g., handling a reptile or a contaminated object. In people, salmonella bacteria can cause severe diarrhea (sometimes with blood), headache, nausea, vomiting, fever, abdominal cramps and, occasionally, death – particularly, in young children, the elderly and those with immune-compromised systems. Occasional complications of salmonella infection include sepsis and meningitis as well as septicemia, which can also cause death.

The CDC estimates that, because of unreported mild cases, actual salmonellosis cases are at least thirty times higher than reported numbers indicate.[171] The CDC also estimates that about 7% of all cases are due to pet reptile or amphibian contact.[172] Applying these estimates to Pennsylvania for 2003, 3843 salmonellosis cases would be attributed to pet reptile or amphibian contact.

Pennsylvania's law regarding importing live turtles into the Commonwealth[173] was amended effective immediately upon the signing of Act 107 of 2004 on November 19, 2004. The amendments remove references to

---

[168] John W. Krebs, et al. "Rabies Surveillance in the United States During 2001." *Journal of the American Veterinary Medical Association.* 221.12 (2002): 1690-1701. http://www.cdc.gov/ncidod/dvrd/rabies/Professional/publications/Surveillance/Surveillance01/text01.htm. Accessed October 29, 2004.

[169] U.S. Department of Health and Human Services. "Ringworm and Animals." Centers for Disease Control and Prevention. http://www.cdc.gov/healthypets/diseases/ringworm.htm. Accessed October 29, 2004.

[170] Animal Protection Institute, *supra* note 157.

[171] U.S. Department of Health and Human Services. "Salmonellosis: Frequently Asked Questions." Centers for Disease Control and Prevention. http://www.cdc.gov/ncidod/dbmd/diseaseinfo/salmonellosis_g.htm. Accessed October 29, 2004.

[172] U.S. Department of Health and Human Services. "Reptile-Associated Salmonellosis — Selected States, 1996–1998." *Morbidity and Mortality Weekly Report.* 48.44 (November 12, 1999): 1009 – 1013. Centers for Disease Control and Prevention. www.cdc.gov/mmwr/PDF/wk/mm4844.pdf. Accessed October 29, 2004.

[173] The act of March 3, 1972 (P.L.102, No.37), entitled "An act regulating the importation and sale of live turtles and providing for permits to be issued by the Department of Health." In addition to repealing the act's references to importing live turtles, Act 107 of 2004 also eliminated the requirement that the Department of Health issue a permit for the importation of live turtles if bacteriological proof showed them to be free of salmonellae.

importing and, instead, make it illegal to sell, hold for sale or offer for distribution any live turtle if prohibited by federal statute or regulation. The amendments also require "information from the Centers for Disease Control and Prevention on human salmonellosis infection associated with reptiles" to be distributed to the purchaser at the time of each retail sale of a turtle.

Tularemia. Tularemia is a potentially serious illness that is caused by the bacterium Francisella tularensis found in animals (especially rodents, rabbits and hares).[174] From 2000 through 2002, no cases were reported in Pennsylvania.

COMMENTS

Doug Hill, County Commissioners Association of Pennsylvania. More specifics would need to be discussed if a specific proposal to change the oversight of exotic wildlife is made. The counties want to ensure that animals allowed to be possessed are safe and that the public is protected.

Terry Mattive and Jennifer Mattive, T&D's Cats of the World. The welfare of the animals and protection of the public are the most important issues to be considered. One should never count on being safe with a wild animal. Wild animals are what they are and may unintentionally hurt a person. They also see people as competition at times. For example, a man who bottle-fed a male deer from birth must stay away from the deer when it is in rut.

The fact that certain diseases may affect both humans and animals (domestic as well as indigenous wild) underscores the necessity of a wide range of protective measures. Among such diseases are rabies (a special kind of it was transmitted by Florida raccoons) and tuberculosis (carried by New Zealand hedgehogs). It is important to realize that protection from the diseases transmitted by exotic wild animals involves numerous and expensive activities. Inappropriate carcass disposal, for example, can cause uncontrollable spread of monkey pox or rabies, potentially leading to an epidemic.

STATUTES

A simple way to protect the public from dangerous animals and disease transmission from exotic wildlife is to statutorily and regulatorily prohibit the possession of certain wildlife. Presumptively, Maryland forbids the importation and exchange as household pets of live foxes, skunks, raccoons, bears, alligators, crocodiles, cats (other than domestic ones) and poisonous snakes in specified groups partly to protect the public from danger and diseases. Violations are

[174] U.S. Department of Health and Human Services. "Key Facts About Tularemia." Centers for Disease Control and Prevention. http://www.bt.cdc.gov/agent/tularemia/facts.asp. Accessed October 29, 2004.

misdemeanors subject to fines up to $1,000 for individuals and up to $10,000 for others.[175] Moreover, Maryland's Secretary of Health and Mental Hygiene may prohibit the importation, sale, exchange, breeding and possession of animals dangerous to human health and safety.[176] Counties and cities may impose stricter requirements for possession and banning certain animals.[177] Another jurisdiction that statutorily requires its state Department of Health Services to protect against known diseases is California, whose department must regulatorily list and regulate the importation of wild animals.[178]

Some jurisdictions statutorily or regulatorily address specific animals. Louisiana's Wildlife and Fisheries Commission is required to regulate and control the importation and private possession of lengthy nonindigenous constrictors, venomous snakes and nonhuman primates.[179]

It is evident by the specified animals or characterization of those animals in statutory provisions that protection of the public is a goal. E.g., at-large and dangerous animals in the District of Columbia may be impounded.[180] In Florida, both possession and exhibition of venomous reptiles require a special permit or license for an annual fee of $100 and assurance of compliance with law and regulations.[181] Florida also requires a bond in the penal sum of $1000 and indemnification from damage to publicly exhibit venomous reptiles.[182] Venomous reptiles must be safely enclosed in a manner approved by and subject to inspection of Fish and Wildlife Commission.[183] Only licensees are authorized to open containers of venomous reptiles.[184]

In Michigan, persons are forbidden to possess, breed and transfer large carnivores.[185] For large carnivores possessed at the effective date of this statutory prohibition, annual permits are required and cost the greater of $25 or the actual

---

[175] Md. Code Ann., Crim. Law § 10-621 (Michie 2002). This section does not apply to sales to public zoos, educational institutes, etc., state and federal permittees for educational, exhibition purposes, etc., and species of wildlife unkept as a household pet individually exempt by permission of Maryland's Department of Natural Resources.

[176] *Id.* at Health-Gen. I, § 18-219 (Michie Supp. 2003). This section does not apply to domestic cats, dogs and ferrets, animals used for science, education, agriculture and public exhibition and turtles as permitted by the Natural Resources Article. Animals are defined as naturally wild nonhuman living creatures with sensation and voluntary motion. *Id.* § 18-218 (Michie 2000). Violations are misdemeanors subject to fines up to $500, imprisonment up to one year or both and seizure of contraband animals by law enforcement. *Id.* Article § 18-222.

[177] *Id.* § 18-220.

[178] Cal. Health and Safety Code §§ 121790, 121795 (West 1996). Wild animals are birds and mammals that are neither normally domesticated nor native to California. *Id.* § 121775.

[179] La. Rev. Stat. Ann. § 56:6(30) (West Supp. 2004).

[180] D.C. Code Ann. § 8-1805 (2001).

[181] Fla. Stat. Ann. §§ 372.86, 372.87 (West 2000 & West Supp. 2004).

[182] *Id.* § 372.88 (West 2000).

[183] *Id.* §§ 372.89, 372.901.

[184] *Id.* § 372.91.

[185] Mich. Comp. Laws Serv. § 287.1103 (LexisNexis 2002). Large carnivores are listed cats of Felidae family and bears. *Id.* § 287.1102.

cost for local government to enforce the act's requirements.[186] This leaves Michigan with a prospectively simple prophylaxis and a retrospectively detailed statutory prophylaxis to safeguard the public. Michigan's level of statutory detail is more commonly found in regulations, but is set forth here at length to show some requirements necessary to protect the public. The requirement for subcutaneous microchips seems to be particularly innovative.

Permittees must be at least 21 years old, have neither mistreated nor neglected an animal in the past and have no felony convictions within the last 10 years. They must also have facilities compliant with the act and know the large carnivore's disposition and care requirements.[187] Clearly, a number of the act's very specific requirements are aimed at protecting the public from these dangerous animals that remain possessed by persons who possessed them before the prospective and current prohibition was enacted. Large carnivores must have subcutaneous microchips.[188] Large carnivores may not be tethered outside or allowed to run at large; they must be locked in sufficiently secure enclosures with secondary fences at least three feet away to keep humans out of reach and have a floor area compliant with 7 U.S.C. §§ 2131-47, 2149, 2151-59.[189] Large carnivores must be on leashes when being moved from a dwelling to a facility or a vehicle or a veterinarian.[190] Owners of large carnivores must show their permits upon request to law enforcement personnel, post warnings on their property in letters at least ½ inch high and ensure normal temperature, humidity, ventilation, drainage, sanitation, diet and exercise for the animal.[191] Large carnivores must be watered twice daily and have unspoiled, sufficient nutrition; waste must be removed daily and dirt must be raked daily or the floor scrubbed weekly.[192] Necessary medical care must be given and veterinary records retained; deaths must be certified to Michigan's Department of Agriculture by a veterinarian within 20 days.[193]

Legally possessed large carnivores may be transported in vehicles in compliance with standards of the International Air Transportation Association's Live Animal Regulations.[194] Unless a female is weaning offspring, the animals must be individually caged with adequate ventilation at a suitable temperature and waste removal daily.[195] The cages must be big enough in which to stand up, turn around and lie down and can not be stacked if waste can fall below; the animals must be watered twice daily and fed once daily.[196] Exports are allowed if

[186] *Id.* § 287.1104.
[187] *Id.*
[188] *Id.* § 287.1105.
[189] *Id.* § 287.1106.
[190] *Id.*
[191] *Id.*
[192] *Id.*
[193] *Id.*
[194] *Id.* § 287.1107.
[195] *Id.*
[196] *Id.*

possession and ownership of large carnivores is legal at the destination and the new owner is regulatorily approved.[197]

Bites and scratches potentially exposing another to rabies must be reported to local health departments within 24 hours.[198] A person is legally immunized for killing a large carnivore attacking or chasing a human, livestock, poultry or mammalian pet; owners of large carnivores trespassing in fields or enclosures with livestock and poultry are liable for damages.[199] Owners of large carnivores are civilly liable for damages caused by them; releases and escapes must be immediately reported to law enforcement with the owner liable for costs of recapture but he can recover damages and expenses from the one responsible for the escape or release.[200] Facilities with large carnivores are subject to inspection by law enforcement at reasonable hours.[201] Most violations of the act are misdemeanors subject to fines of $250 to $1000, cost of prosecution, imprisonment up to 93 days, community service up to 500 hours and prohibition to own or possess an animal; the fine is $500 to $2000 for failure to obtain a requisite permit.[202] Violations subject large carnivores to forfeiture.[203] Local governments may more restrictively govern large carnivores.[204] Permits, microchip and confinement requirements do not apply to animal protection shelters, licensees of Michigan's Department of Natural Resources or the U.S. Fish and Wildlife Service, accredited zoos, persons approved by sanctuary associations and veterinarians with temporary possession; some sections do not apply to nonresident interstate transporters.[205] Michigan's Department of Agriculture is required to inform pet shops and animal protection shelters of this act's requirements.[206]

DOMESTIC ANIMALS – DISEASE, GENETIC INTERACTION AND PREDATION

Brucellosis. Brucellosis is an infectious bacterial disease, primarily passed among animals, which affect many different vertebrates. Various Brucella species affect sheep, goats, cattle, deer, elk, pigs, dogs and several other animals. Humans become infected by contact with animals or animal products contaminated with these bacteria. In humans, brucellosis can cause a range of symptoms that are similar to the flu and may include fever, sweats, headaches, back pains and physical weakness. Severe infections of the central nervous

[197] *Id.* § 287.1108.
[198] *Id.* § 287.1109.
[199] *Id.* § 287.1111.
[200] *Id.* § 287.1112.
[201] *Id.* § 287.1113.
[202] *Id.* § 287.1115.
[203] *Id.* § 287.1116.
[204] *Id.* § 287.1121.
[205] *Id.* § 287.1122.
[206] *Id.* § 287.1123.

system or lining of the heart may occur. Brucellosis can also cause long-lasting or chronic symptoms that include recurrent fevers, joint pain and fatigue.[207]

Exotic Newcastle Disease. Exotic Newcastle Disease (END) is a contagious and fatal viral disease affecting all species of birds. A death rate of almost 100% can occur in unvaccinated poultry flocks. END can infect and cause death even in vaccinated poultry. Smuggled pet birds, especially Amazon parrots from Latin America, pose a great risk of introducing END into U.S. poultry flocks. Amazon parrots that are carriers of the disease but do not show symptoms are capable of shedding END virus for more than 400 days. END is spread primarily through direct contact between healthy birds and the bodily discharges of infected birds.[208]

STATUTES

Currently in Pennsylvania, protection of the domestic animal population from predation, genetic interaction and transmission of disease appears to be primarily the responsibility of Department of Agriculture and its Animal Health and Diagnostic Commission. Under the Game and Wildlife Code, protection of the indigenous wildlife population from predation, genetic interaction and transmission of disease is primarily the responsibility of the Game Commission. Just as there is overlap of authority among the Pennsylvania Game Commission, Department of Agriculture and potentially some other agencies, this overlap also occurs in other states and may be unavoidable; however, some jurisdictions statutorily address an overlap of authority. E.g., in cooperation with California's Department of Food and Agriculture, California's Fish and Game Commission may regulatorily add or delete species of wild animals to or from a statutory list of wild animals that are prohibited to be possessed based upon the potential undesirability to native wildlife and agriculture as well as the welfare of the wild animals themselves.[209] California's Fish and Game Commission is also required to cooperate with California's Department of Food and Agriculture to prevent damage to native wildlife and agriculture and provide for the welfare of wild animals by regulating the confinement of imported wild animals and the possession of all other wild animals.[210] Nevada's Department of Agriculture is required to do all necessary things to control and eradicate parasitic and contagious diseases of animals and cooperate with the director of the Department of Wildlife to prevent the spread of communicable disease in animals.[211]

---

[207] U.S. Department of Health and Human Services. "Brucellosis." Centers for Disease Control and Prevention. http://www.cdc.gov/ncidod/dbmd/diseaseinfo/brucellosis_g.htm. Accessed December 16, 2004.

[208] U.S. Department of Agriculture. "Exotic Newcastle Disease." Animal and Plant Health Inspection Service. http://www.aphis.usda.gov/lpa/pubs/fsheet_faq_notice/fs_ahend.html. Accessed December 16, 2004.

[209] Cal. Fish & Game Code § 2118 (West Supp. 2004).

[210] *Id.* § 2120 (West 1998).

[211] Nev. Rev. Stat. Ann. § 571.120 (Michie Supp. 2003).

Under the direction of the director of Michigan's Department of Agriculture, the state veterinarian is required to develop and implement policies to enforce laws and regulations relating to the health and welfare of animals.[212] Unless otherwise legally prohibited, the state veterinarian may enter any premises to enforce requirements and persons may not impede the director of the Department of Agriculture from discharging his duties under the act.[213] The director may develop and implement scientifically based movement restrictions and requirements including prior movement permits, intrastate health certificates and animal movement certificates.[214] Animals may be quarantined to prevent the spread of known or suspected contagious and toxicological diseases and prior permission is required to import an animal quarantined elsewhere.[215] A health certificate required to move animals must be prepared and signed by an accredited veterinarian at origination.[216] Species that the director of the Department of Agriculture determines can potentially spread disease or parasites, cause physical harm or otherwise endanger native wildlife, humans, livestock and domestic animals may not be imported.[217] Before wild and exotic animals that are not regulated by the U.S. Fish and Wildlife Service or Michigan's Department of Natural Resources may be imported, the director of the Department of Agriculture may require their examination by an accredited veterinarian, testing and identification; health certificates are required from accredited veterinarians at origination to import wild and exotic animals.[218] Permitted wild and exotic animals must receive housing, feeding, care and restraint approved by the director of Department of Agriculture; live feral swine may neither be imported nor released without permission from the director.[219] Most of the violations under the act and its rules that would be of interest are misdemeanors subject to fines of at least $300, 30 days imprisonment or both and reasonable costs and attorney fees for prosecution with costs credited to the Department of Agriculture for enforcement; remedies and sanctions are cumulative so that they do not bar other criminal and civil liability.[220]

Georgia regulatorily lists nonnative birds that could breed in the wild to the detriment of agriculture if introduced. Absent adequate assurance to Gerogia's Department of Agriculture that a listed bird will not escape, importation is forbidden and a misdemeanor.[221] Parrots and exotic birds regulatorily designated by Georgia as potential carriers of disease are also forbidden, unless

---

[212] Mich. Comp. Laws Serv. § 287.708 (LexisNexis 2002).

[213] *Id.*

[214] *Id.* § 287.709. Animals include nonhuman vertebrates including exotics, which is defined as not native to North America. *Id.* § 287.703.

[215] *Id.* § 287.712 (LexisNexis Supp. 2004).

[216] *Id.* § 287.720 (LexisNexis 2002).

[217] *Id.* § 287.731 (LexisNexis Supp. 2004).

[218] *Id.*

[219] *Id.*

[220] *Id.* § 287.744 (LexisNexis 2002). Michigan's Department of Agriculture may regulatorily enforce this act. *Id.* § 287.745.

[221] Ga. Code Ann. § 4-10-7.1 (1995).

imported under USDA quarantine.[222] Dealing in and transporting exotic and pet birds is subject to Georgia's agricultural regulations enforced by its Department of Agriculture, which is statutorily required to cooperate with the Department of Natural Resources relating to duplicative authority over birds.[223]

Wildlife escaped from captivity, diseased, scientifically needed, dangerous to human or livestock health, damaging crops or otherwise unsuitable to remain in the wild may be taken by conservation officers, wildlife managers and other staff of Nebraska's Game and Parks Commission.[224]

To protect the health of livestock, Nebraska's Department of Agriculture may quarantine any area and any animal infected with disease or suspected of exposure to infection, may kill an infected animal and may regulate and prohibit movement of animals into, out of and within the state.[225] The department is authorized to enter the premises where an animal is suspected to be diseased to inspect, treat, etc., and enforce quarantines.[226] Anybody possessing an animal suspected to be infected with disease that is transmissible to livestock must be immediately reported to Nebraska's Department of Agriculture.[227] A departmental permit is required to move an animal suspected or actually infected with a transmissible disease.[228]

Unless permited by Nebraska's Department of Agriculture's Bureau of Animal Industry, it is illegal to import any animal known or suspected to be infected with or exposed to any transmissible disease or known to originate in a quarantined area.[229] With some statutory exceptions including for animals moving directly to a veterinary clinic for examination, imported animals require a certificate of veterinary inspection that contains the destination; the bureau may regulatorily require prior entry permits.[230] Upon good cause and without bond, district courts may restrain violations and threatened violations of Nebraska's Animal Importation Act and its regulations; the attorney general or county attorney is required to proceed judicially to obtain injunctions at the department's request and prosecute violations which are misdemeanors.[231]

---

[222] *Id.* § 4-10-7.2.

[223] *Id.* §§ 4-10-8, 4-10-9, 4-10-11 (1995 and Supp. 2003).

[224] Neb. Rev. Stat. § 37-353 (Supp. 2002). "Wildlife means any member of any nondomesticated species of the animal kingdom, whether reared in captivity or not . . . ." *Id.* § 37-247 (1998).

[225] *Id.* § 54-701. Animals are vertebrate members of the animal kingdom except humans and uncaptured wild animals. *Id.* § 54-701.3.

[226] *Id.* § 54-703.

[227] *Id.* § 54-742.

[228] *Id.* § 54-746.

[229] *Id.* § 54-787 (Supp. 2003). "Animal means all vertebrate members of the animal kingdom, except humans, fish, amphibians, and reptiles." *Id.* § 54-786.

[230] *Id.* § 54-788.

[231] *Id.* § 54-796.

INDIGENOUS WILDLIFE – DISEASE, GENETIC INTERACTION AND PREDATION

COMMENTS

Chad Peeling, Clyde Peeling's Reptiland. Pennsylvania does not face as much risk from invasive species of reptiles and amphibians as warmer regions. The vast majority of tropical and subtropical species cannot survive our winters, but it is possible for species from similar latitudes to become established. Red-eared sliders from the southeastern U.S. have shown tremendous resistance to the cold and could probably become established in Pennsylvania. The most effective avenue for preventing the release of invasive species in the state is public education.

Although genetic interaction is a possibility with specimens translocated to Pennsylvania from other states, disease transmission is a greater risk. Native species that are captured, kept for a time and then released pose as big a disease threat as released exotics.

Ern Tobias and Dee (Tobias) Hoffman, Lake Tobias Wildlife Park. Genetic interaction between escaped exotics and indigenous wildlife is not a big problem, but it is a possibility. Some species that do crossbreed are bobcat with lynx and red deer with elk.

STATUTES

Minnesota has a well-considered statute to address this concern. Minnesota's Commissioner of Natural Resources is authorized to prohibit or allow the importation, transportation or possession of wild animals and designate prohibited, regulated and unregulated exotic species.[232] This allows him to protect indigenous wildlife; in fact, the commissioner is required to establish a statewide program to prevent and curb the spread of harmful exotic species including coordinating governmental and private organizations and seeking federal funding and grants.[233] The commissioner must plan long-term to manage harmful exotic species with specific plans for individual species.[234] The plan must address prevention and detection of accidental introduction, coordinated dissemination of information to resource managers, public education and awareness, coordinated control of selected species of harmful exotic species,

[232] Minn. Stat. Ann. § 84.027 (West Supp. 2004).

[233] *Id.* § 84D.02. Harmful exotic species are those that can naturalize and displace or threaten native species in their natural communities or threaten national resources. Exotic species are wild and nonnative species of wild animals and aquatic plants. Native species are those that are naturally present and reproducing or that naturally expanded their historical range into the state. *Id.* § 84D.01.

[234] *Id.* § 84D.02.

participation of locals in management, reasonable and workable inspection requirements, closing access to infested areas, and maintaining access elsewhere and notice of penalties to travelers.[235]

Annually, the commissioner must report to the legislature with details of expenditures, analysis of effectiveness, information on management in other jurisdictions, information on progress by individual species and assessment of future needs.[236] The commissioner is required to classify exotic species as prohibited, regulated, unlisted or unregulated by considering the likelihood of: introduction if the species is allowed in the state, naturalizing if introduced, the magnitude of the potential adverse impact on native species and natural resources, the ability to control the spread of the species that was introduced and other appropriate criteria.[237] Illegal prohibited exotic species are subject to seizure and disposal but become legal by permission of the commissioner or regulation.[238] The commissioner must be notified within 48 hours of the introduction of a prohibited, regulated or unlisted exotic species.[239] The person allowing or causing the introduction must reasonably attempt to recapture or destroy the introduced animal.[240] If the exotic species is prohibited, the person is liable for the actual costs of the Department of Natural Resources' response; if the exotic species is regulated, the person is liable for the costs if the introduction violated his permit.[241] Compliance with this section voids criminal liability.[242]

Permits for prohibited exotic species are available for disposal, control, research and education; permits are available to introduce regulated exotic species.[243] Permits may be issued if the activity would not unreasonably risk harm to natural resources and permit decisions may be appealed.[244] The statute and rules are enforced by conservation officers and other licensed peace officers; violations may be civil and criminal (misdemeanors).[245] The civil penalty for illegally transporting most prohibited exotic species is $100.[246] Exempt from the statute are pathogens and terrestrial arthropods and birds and mammals statutorily defined as livestock.[247]

---

[235] *Id.*
[236] *Id.*
[237] *Id.* § 84D.03. "Introduced" means an exotic species was released or escaped and is in a free-living state. "Naturalize" means the exotic species can sustain itself in the wild outside its natural range. "Prohibited" means that it is regulatorily forbidden to be possessed, imported, exchanged, propagated, transported or introduced. *Id.* § 84D.01.
[238] *Id.* § 84D.05.
[239] *Id.* § 84D.08.
[240] *Id.*
[241] *Id.*
[242] *Id.*
[243] *Id.* § 84D.11.
[244] *Id.*
[245] *Id.* § 84D.13.
[246] *Id.*
[247] *Id.* § 84D.14.

Georgia is among the relatively few jurisdictions that have more comprehensive statutes specifically regulating the exchange, importation and possession of wild animals, which are related here at some length. In addition to the aforementioned regulation of nonnative birds by Georgia's Department of Agriculture, its Department of Natural Resources regulates wild animals and is expressly required to cooperate with the Department of Agriculture regarding birds. Among other details, note that Georgia lists animals requiring licensure and limits that licensure to business and public exhibitors. Also note that liability insurance is required for animals listed as inherently dangerous and owners of legally seized animals are liable to the Department of Natural Resources for reasonable storage fees.

To the extent that there is possible harmful competition for wildlife, introduction of disease harmful to wildlife, danger to natural resources and physical safety of humans, Georgia's Board of Natural Resources may regulate the importation, transportation, exchange and possession of wild animals.[248] Georgia's Department of Natural Resources may: quarantine and dispose of wild animals infected with disease harmful to wildlife, inspect facilities of licensees and condition their permits according to standards, and capture and contain wild animals posing a risk to natural resources and citizens.[249] Possession of statutorily and regulatorily listed wild animals requires licensure.[250] Wild animal licenses are available only to business and public exhibitors; free licenses are issued only for science and education.[251] Some regulated carriers are exempt from the wild animal licensure requirement.[252] Licensed exhibitors must be open to the public for specified or reasonable durations; governmental exhibitors and transient circuses donating at least 10% of proceeds to charity may obtain a free license but are subject to regulations relating to confinement.[253] Unless otherwise provided in the statutory chapter, wild animal licenses are required for statutorily and regulatorily listed animals.[254]

Proof of liability insurance covering claims from $40,000 to $500,000 per animal is required to obtain a wild animal license or permit for those statutorily or regulatorily classified as inherently dangerous.[255] Licenses and permits may not be transferred from one person to another; progeny of licensed female wild animals are permitted to be held under the mother's license for the longer of their physical dependence upon the mother or two months of age.[256] Licensees and permittees are required to use facilities approved by the Department of Natural

[248] Ga. Code Ann. § 27-5-2 (2003).
[249] *Id.* § 27-5-3.
[250] *Id.* § 27-5-4(a).
[251] *Id.* § 27-5-4(b).
[252] *Id.* § 27-5-4(d).
[253] *Id.* § 27-5-4(e).
[254] *Id.* § 27-5-4(f). The statutory list appears at § 27-5-5.
[255] *Id.* § 27-5-4(f).
[256] *Id.* § 27-5-4(g).

Resources.[257] Records of the importation, transfer and exchange of wild animals must be kept for 12 months and be available to the department during regular business hours.[258]

For wild animal licenses, applicants must: be age 18 or older, (if for mammals) be licensed by the USDA APHIS or document exemption therefrom, document that the facilities and holding of wild animals is not prohibited by local ordinance, have requisite business licenses and meet statutory specifications for confinement, including having a facility completely separate from a residence.[259] Statutorily requisite specifications to confine and transport wild animals cover facilities, feeding, sanitation, employees, separation, veterinary care, handling, vehicles, primary enclosures used for transport, food and water, and care in transit.[260] It is illegal to release captive wild animals and to confine or transport them in a manner posing a reasonable possibility of accidental release or escape.[261] Contraband wild animals are subject to seizure forcing owners to sue the state within 30 days of seizure and prove that the wild animal was legally held; unless the seizure was unlawful, the owner owes the Department of Natural Resources reasonable storage fees.[262] Owners of administratively seized wild animals go to an administrative law judge to appeal the seizure and are likewise liable for reasonable storage charges if the seizure was lawful.[263] Seized and recaptured wild animals may be disposed after final adjudication; escaped wild animals that threaten human safety and the wildlife population or are highly unlikely to be recaptured may be destroyed.[264] Licensed and permitted wild animals may not be killed or wounded for amusement, sport, enjoyment or gain.[265]

Some jurisdictions have much less specific statutes, apparently reliant upon regulation for the same or similar protection. Mississippi's Department of Wildlife, Fisheries and Parks is required to list approved, restricted and prohibited species with rules for importation, possession, sale and escape of those species and may permit aquatic species to be publicly stocked or released, with violations being Class I offenses subject to fines of $2000 to $5000 and five days imprisonment.[266] Nonindigenous animals may not be released without permission, which is dependent upon the species' potential detrimental impact on the environment.[267]

---

[257] *Id.* § 27-5-4(h).
[258] *Id.* § 27-5-4(j).
[259] *Id.* § 27-5-4(k).
[260] *Id.* § 27-5-6.
[261] *Id.* § 27-5-7.
[262] *Id.* § 27-5-8.
[263] *Id.* § 27-5-9.
[264] *Id.* § 27-5-10.
[265] *Id.* § 27-5-12.
[266] Miss. Code Ann. § 49-7-80 (West 1999).
[267] *Id.*

Nevada's Board of Wildlife Commissioners may regulatorily prohibit the importation, transportation and possession of any species of wildlife detrimental to wildlife and its habitat; the board may regulatorily provide for inspection of introduced and removed creatures along with inspection fees with written approval of the Department of Wildlife required to import or remove aquatic life, wildlife and eggs or spawn.[268] Including alternative livestock, any species of wildlife that escapes or is released without the permission of the department may be captured, seized and destroyed if necessary to protect wildlife and habitats. A possessor of wildlife must immediately report escapes and is liable for costs to capture, seize and destroy the animal plus any other damage.[269] Except as otherwise provided by statute or regulation, possession of live wildlife requires departmental licensure.[270] The Board of Wildlife Commissioners is required to regulate the species of wildlife that may be possessed and propagated and provide for departmental inspection of related facilities. For a fee, the department may issue commercial and noncommercial licenses to possess live wildlife.[271]

Less comprehensive (or at least less specific) than Minnesota's law but perhaps more clearly stated is the Pennsylvania Game Commission's broad statutory authority to "[p]rohibit the possession, importation, exportation or release of any species of birds or animals which may be considered dangerous or injurious to the general public or to the wildlife of this Commonwealth."[272] It is a summary offense to release an exotic animal into the wild in Pennsylvania.[273] Although "wildlife" is unduly narrowly defined in the Game and Wildlife Code as wild birds and wild mammals, the commission's statutory authority extends to any dangerous or injurious species of animals.[274] The Department of Agriculture has a general power of quarantine relating to diseases of animals under the Administrative Code[275] that seems to be a broader grant of statutory authority than its similar power of quarantine under the Domestic Animal Law.

---

[268] Nev. Rev. Stat. Ann. § 503.597 (Michie Supp. 2003). This section does not apply to alternative livestock. Wildlife "means any wild mammal, wild bird, fish, reptile, amphibian, mollusk or crustacean found naturally in a wild state, whether indigenous to Nevada or not and whether raised in captivity or not." *Id.* at § 501.097 (Michie 1995).

[269] *Id.* § 504.245 (Michie Supp. 2003).

[270] *Id.* § 504.295.

[271] *Id.* This section does not apply to alternative livestock.

[272] 34 Pa.C.S. § 322(c)(9).

[273] *Id.* §§ 2962(c), 2963(c), 2964(c).

[274] *Id.* § 102.

[275] Act of Apr. 9, 1929 (P.L 177, No. 175), § 1708; Pa. Stat. Ann. tit. 71. § 448 (West 1990).

COMMENTS

Animal protection and humane organizations. These organizations cite cruelty or neglect as a major reason to discourage or ban the keeping of wild animals as pets. Most private owners cannot provide the special care, housing, diet and maintenance that these animals require. According to some sources, almost 90% of exotic "pets" do not survive longer than one[276] or two years of captivity.[277] To decrease risks and to make an animal more socially acceptable, possessors sometimes resort to inhumane practices and maiming surgical procedures. Local veterinarians are usually untrained or unwilling to treat exotic animals. When individuals possessing exotic animals realize they cannot take care of their "pets," they often find out that neither zoos nor sanctuaries are available to accommodate the unwanted animals. As a result, many of these animals end up euthanized or abandoned. Left to roam in an alien environment, they are likely to perish or to present a threat to local habitat as well as to humans.

To support their objections to keeping wild animals in private possession, the animal protection and humane groups refer to the American Veterinary Medical Association (AVMA) Position on Wild Animals as Pets[278] and to the USDA's position statement on large wild and exotic cats.[279] Both of these discourage the keeping of wild animals as pets, though their statements are more reserved and more nuanced than the ones by the humane societies.

Striving to significantly reduce the availability and presence of wild animals as pets, most of these organizations lament the insufficiency and inconsistency of the existing federal, state and local laws regulating trade and possession of wild animals and emphasize the need for adequate, humane and sensible regulations.

David A. Oelberg, D.V.M., Veterinary Medical Officer, USDA APHIS Animal Care. The Commonwealth's current standards for cage and enclosure sizes are generally too small to allow the animal to move in a natural manner.

---

[276] The Association of Sanctuaries. "No Wild Pets!" http://www.taosanctuaries.org/wildlife/overview.htm. Accessed July 27, 2004.

[277] Humane Society of the United States. "Captive Exotics and Wild Animals as Pets." http://www.hsus.org/wildlife/issues_facing_wildlife/captive_exotics_and_wild_animals_as_pets. Accessed July 27, 2004.

[278] American Veterinary Medical Association. "AVMA Position on Wild Animals as Pets." 1990. http://www.avma.org/noah/members/policy/polwild.asp. Accessed July 27, 2004.

[279] United States Department of Agriculture. "Position Statement: Large Wild and Exotic Cats Make Dangerous Pets." February 2000. http://www.aphis.usda.gov/ac/position.pdf. Accessed July 27, 2004.

Terry Mattive and Jennifer Mattive, T&D's Cats of the World. The USDA requires a veterinary plan and a veterinarian on record before a license is issued. The veterinarian visits twice a year, and his recommendations must be implemented. It might be a good idea for the state to require veterinary plans, as well. Nutritional requirements should be included in the plan. Also, animals should not be altered (removing fangs or claws, for example) to make them safer to people.

The AZA's standards regarding caging requirements should be considered. Also, the standards of the European Association of Zoos and Aquariums should be reviewed, as the AZA might adopt those standards.

Chad Peeling, Clyde Peeling's Reptiland. If regulatory intervention is used to ensure appropriate animal care, minimum standards should be flexible and general. AZA standards are very high and reflect state-of-the-art animal care, but they also reflect the political pressures faced by public institutions (e.g., placating animal rights groups and upholding a public image). It is important to remember that maintaining animals in captivity is not an exact science. Approaches to caging, feeding, and behavioral enrichment are always changing and keepers need the leeway to experiment. Regulatory guidelines should define the objectives and leave the methodology to those providing the care.

Ern Tobias and Dee (Tobias) Hoffman, Lake Tobias Wildlife Park. Veterinarians who take care of exotics are few and far between; the veterinarian who took care of the animals at Lake Tobias for years died this year. In consultation with a veterinarian, Mr. Tobias performs a lot of the care the animals need.

STATUTES

It is common for jurisdictions to administratively regulate the care and keeping of captive exotic wildlife rather than enact specifications. For example, the director of Missouri's Department of Agriculture is required to regulatorily define exotic animals, generally referring to canines and felines that are not ordinarily domestically kept, and regulatorily establish standards for food, water, housing and health care as well as how to determine whether an operation is a farm or a breeder of pets.[280] The authority of Missouri's Department of Conservation to regulate wildlife is neither deprived nor diminished by this grant of statutory authority to its Department of Agriculture.[281] Under Missouri's Animal Care Facilities Act, USDA licensees must comply with USDA's standards; otherwise, licensees must comply with Missouri's Department of Agriculture regulations on shelter, food and water, and records of acquisition and

[280] Mo. Ann. Stat. § 273.350 (West 1993).
[281] *Id.*

disposition.[282] The director of Missouri's Department of Agriculture is required to regulate the maintenance of adequate health and veterinary care with those records required to be available to the state upon request.[283] Premises of licensees must be open for inspection and animals subject to quarantine if infectiously diseased or exposed to infectious disease.[284] An advisory committee helps the director of the Department of Agriculture to promulgate regulations.[285] License fees are credited to the Animal Care Reserve Fund to be used by the department to administer this act with no transfer to the general revenue fund.[286]

A person may maintain a noncommercial collection of legally obtained live wildlife in Nevada if the collection is neither publicly displayed nor adjunct to a commercial establishment and the species is regulatorily authorized to be possessed. Nevada's Board of Wildlife Commissioners is authorized to regulate minimal standards for fencing and containment.[287]

Permits to possess captive wildlife to be publicly exhibited in Alabama are $25 annually and require adherence to the Commissioner of Conservation and Natural Resources' promulgated exhibitory standards, including regulations on care and treatment, that are issued considering the advice of the commissioner's appointed committee of recognized experts. Permits are conditioned upon authorizing the commissioner's designees to enter and inspect permitted facilities. Violations are subject to a fine of up to $500, three months in prison or both. Publicly owned exhibits, privately owned circuses and pet shops are not covered by this statutory article.[288]

This common practice of regulating care and treatment standards rather then enacting them statutorily is followed in the Commonwealth. Georgia[289] and Michigan[290] are examples of jurisdictions with detailed statutes that specify some care and treatment standards more frequently found in regulations in other jurisdictions. If there is any concern that regulations in Pennsylvania are inadequate, more fulsome statutory direction for regulations might be appropriate.

---

[282] *Id.* § 273.344.
[283] *Id.* § 273.346.
[284] *Id.* § 273.348.
[285] *Id.* § 273.352.
[286] *Id*. § 273.357.
[287] Nev. Rev. Stat. Ann. § 503.590 (Michie 1995). This section does not apply to alternative livestock.
[288] Ala. Code §§ 9-11-320 to -11-328 (2001).
[289] Ga. Code Ann. § 27-5-6 (2003).
[290] Michigan's statutes regulate wolf-dog crosses and large carnivores, both of which are no longer newly permitted so that these standards apply to those possessed before the statutory prohibition was created. Mich. Comp. Laws Serv. §§ 287.1003-287.1023, 287.1103-287.1123 (LexisNexis 2002).

EXOTIC WILDLIFE AS PETS

COMMENTS

Most animal protection and humane organizations, including the Animal Protection Institute (API), the Captive Wild Animal Protection Coalition (CWAPC), the Humane Society of the United States, the International Fund for Animal Welfare (IFAW), the Fund for Animals and The Association of Sanctuaries (TAOS), tend to oppose the private possession of exotic animals. Their premise is that "by their very nature, these animals are wild and potentially dangerous and, as such, do not adjust well to a captive environment."[291] They believe that "the practice of keeping wild animals as pets is both dangerous for people and inhumane for animals."[292] Most of these groups declare their purposes as ensuring the safety of the animals and protecting the "communities from the safety and health risks the animals pose when in the hands of private individuals."[293]

The number of exotic animals kept as pets is estimated to be high and growing, with the problem becoming more pressing. Some of the organizations (e.g., API) focus on working with state and local governments; others (e.g., TAOS) seem to be more intent on educating the public on dangers associated with keeping wild animals as pets and dissuading individuals from purchasing them. The growing and apparently uncontrollable exotic animal pet trade is a major concern as is the ease at which they can be acquired and legally possessed.[294] The animal protection groups point out the general unsuitability of exotic animals as pets:

- they do not make good companions;
- they require special care and maintenance that the average person cannot provide;
- they suffer due to poor care when in the hands of private individuals; and
- they pose safety and health risks to their owners and the community in general.[295]

In support of their position against private ownership of exotic animals, the animal protection and humane organizations offer a variety of reasons, which fall into three main categories:

1) public safety;

---

[291] Animal Protection Institute. "Exotic Pet Campaign." November 1, 2004. http://www.api4animals.org/321print.htm. Accessed December 30, 2004.

[292] Captive Wild Animal Protection Coalition. "Home Page." http://www.cwapc.org. Accessed July 27, 2004.

[293] Animal Protection Institute, *supra* note 291.

[294] Animal Protection Institute, *supra* note 157.

[295] *Id.*

2) public health; and
3) animal welfare.[296]

Other considerations include risks associated with the impact of exotic wildlife on domestic animals (physical endangerment, genetic interaction and disease) and on indigenous wildlife (attack, competing for resources, genetic effect from hybridization and disease).

Humane societies cite numerous examples of exotic animals attacking their owners and bystanders. The accidents include tigers' and other non-domesticated felines' injurious or deadly attacks on humans, monkey bites, strangulation and bites from pet reptiles. By their very nature, wild animals have the potential to seriously injure or kill people; the inhumane and unnatural conditions in which they are forced to live in captivity vastly increase the likelihood of their exhibiting their natural instincts to the detriment of the community. The API calls exotic pets "time bombs waiting to explode."[297]

American Animal Hospital Association. Citing inadvertent abuse resultant from "[l]ack of knowledge about behavioral traits, social needs, and proper nutrition," and the possibility of disease, injury and death from captive wild animals, "[t]he American Animal Hospital Association recommends that veterinarians discourage the keeping of wild animals as pets."[298]

The American Association of Zoological Parks and Aquariums (now the AZA). Citing the virtual impossibility for wild animals "to adapt to traditional household living" and the impossibility "for pet owners to influence behavior patterns of wild animals or predict when wild and often destructive behavior will occur" along with unknown exposure to disease and parasites, the American Association of Zoological Parks and Aquariums asserts that "[c]aptive wild animals should be managed in a zoological park or aquarium by professional biologists and other specially trained persons."[299]

The American Veterinary Medical Association. "Exotic animals and wildlife . . . do not make good pets." The American Veterinary Medical Association "strongly opposes the keeping of wild carnivore species of animals as

---

[296] The Humane Society of the United States. "Captive Exotics and Wild Animals as Pets." http://www.hsus.org/wildlife/issues_facing_wildlife/captive_exotics_and_wild_animals_as_pets. Accessed July 27, 2004.

[297] Animal Protection Institute. "Three Reasons for Banning the Private Possession of Exotic Animals." May 29, 2001. http://www.api4animals.org/1001print.htm. Accessed December 30, 2004. *See also*, "Attack" *supra* p. 32.

[298] Captive Wild Animal Protection Coalition. "The American Animal Hospital Association's Position on Wild Animals as Pets." http://www.cwapc.org/news/statements/AAHA.html. Accessed October 24, 2004.

[299] Captive Wild Animal Protection Coalition. "The American Association of Zoological Parks and Aquariums Statement on Wild Animals as Pets." http://www.cwapc.org/news/statements/AAZPA.html. Accessed October 24, 2004.

pets and believes that all commercial traffic of these animals for such purpose should be prohibited." In addition, it "strongly opposes keeping as pets those reptiles and amphibians that are considered inherently dangerous to humans and believes that all commercial traffic of these animals for such purpose should be prohibited."[300] In addition, it also "strongly opposes keeping as pets any hybrids of wild canines crossbred with domestic animals."[301]

The Animal Protection Institute. "The Animal Protection Institute strongly opposes the private possession of exotic animals as 'pets.' . . . By their very nature exotic animals . . . do not adjust well to a captive environment. . . . They require special care, housing, diet and maintenance that the average person cannot provide."[302]

British Columbia Society for the Prevention of Cruelty to Animals. "The BC SPCA does not support the keeping of wild animals as pets."[303]

The Humane Society of the United States. "Wild and exotic (non-native) animals are unsuitable for home rearing and handling. . . . The only individuals who should be allowed to have wild animals are licensed wildlife rehabilitators and certain breeders. . . . Most owners are ignorant of a wild animal's needs."[304]

The National Humane Education Society. The society "opposes the keeping of wild and exotic animals as pets or service animals." It "also opposes the capture and breeding of wild or exotic animals for the purpose of selling them as pets." It considers wild animals to be "those not specifically bred over many generations to adapt to humans and their environment" and exotic animals to be "wild animals not native to North America."[305] "Only experts with many years of experience studying and working with wild and exotic animals are capable of caring for and safely interacting with them. The general public lacks this expertise and should not attempt to keep wild or exotic animals as pets. Documented attempts by members of the general public to keep wild or exotic

---

[300] Captive Wild Animal Protection Coalition. "The American Veterinary Medical Association's Statement on Wild Animals as Pets." http://www.cwapc.org/news/statements/AVMA.html. Accessed October 24, 2004.

[301] The American Veterinary Medical Association. "Canine Hybrids as Pets." http://www.avma.org/careforanimals/animatedjourneys/petselection/birds.asp. Accessed October 24, 2004.

[302] Captive Wild Animal Protection Coalition. "The Animal Protection Institute's Statement on Private Possession of Exotic 'Pets.'" http://www.cwapc.org/news/statements/API.html. Accessed October 24, 2004.

[303] Captive Wild Animal Protection Coalition. "The BC SPCA's Position on Wild Animals as Pets." http://www.cwapc.org/news/statements/BC_SPCA.html. Accessed October 24, 2004.

[304] The Humane Society of the United States, *supra* note 296.

[305] The National Humane Education Society. "Wild and Exotic Animals as Pets." http://www.nhes.org/articles.asp?article_id=59&section_id=60. Accessed December 2, 2004.

animals as pets have led to tragedy in many instances for both humans and animals."[306]

U.S. Department of Agriculture. "Large wild and exotic cats . . . are dangerous animals. . . . [O]nly qualified, trained professionals should keep these animals, even if they are only to be pets. . . . [T]he average person does not have the knowledge or experience to handle such an animal safely at home or in public. . . . The average person lacks the specialized equipment and expertise to provide properly for the containment, medical care, husbandry, and nutrition of a large wild or exotic cat."[307]

Game Commission and Department of Agriculture staff.[308] The "pet perception" some individuals have regarding exotic wildlife should be countered with educating the public about the risks inherent in the possession of exotic wildlife. It is tough for an agency to confront the pet perception without engendering a negative image of the agency.

Anne Irwin, Federated Humane Societies of Pennsylvania. Humane societies would generally welcome more restrictions on private ownership of exotic and potentially dangerous species.

Terry Mattive and Jennifer Mattive, T&D's Cats of the World. Exotic wildlife should not be pets. Even if an individual knows how to take care of the animal, caring for it is a huge responsibility. Big cats grow to 400 pounds or more and need 40 pounds of food each day. Also, even small animals are incredibly strong. If exotics are allowed to be pets, the owners should be required to obtain liability insurance.

Chad Peeling, Clyde Peeling's Reptiland. Banning a particular species of wildlife from private ownership is neither desirable nor necessary. Note that the word "pet" is loaded with meaning and does not describe the level of expertise or care delivered by the most committed and qualified keepers of captive wildlife. No sane person could argue that elephants, crocodiles or king cobras make good "pets," but there are other legitimate reasons to maintain wild animals in captivity.

Many private citizens keep wildlife for educational or breeding programs, and private collections serve as genetic reservoirs for species dwindling in the wild. The American bison is a powerful historical example. By 1890, bison had been eliminated from the wild by over-hunting and only existed in a few zoos and private collections. Bison exist today because of a joint effort to breed the captive

---

[306] *Id.*

[307] United States Department of Agriculture, Animal and Plant Health Inspection Service. "United States Department of Agriculture's Position Statement: Large Wild and Exotic Cats Make Dangerous Pets." February 2000. http://www.aphis.usda.gov/ac/position.html. Accessed October 24, 2004.

[308] *Supra* note 114.

specimens and release the offspring. Without the animals owned by private citizens, the species would surely have faded to extinction. Zoos (individually and collectively) lack the space and financial resources to keep vast numbers of any particular species. The Turtle Survival Alliance (TSA) is a modern consortium of zoological parks, aquariums and private collectors working to stem the tide of turtle extinction. Without the enthusiasm and resources of private collectors, zoos could not maintain enough specimens to keep captive populations genetically viable.

Serious private collectors often provide meticulous care for their animals. A hobbyist can devote all of his attention to a small group of animals. In some cases, private breeders provide better care than public institutions.

Elephants are extreme examples of captive wildlife, and many private individuals – and institutions for that matter – are incapable of doing them justice. But a handful of very wealthy people are able to dedicate the enormous resources elephants demand and keep them as well as any public facility. So, blanket rules do not make sense for captive wildlife. While most wild animals do not make good pets, there are exceptional people and circumstances that can properly accommodate virtually any creature.

It is reasonable to require owners of captive wildlife to comply with basic conditions to ensure reasonable care and public safety. In the case of venomous snake ownership, owners should be required to have access to (not necessarily possession of) appropriate antivenom. Hospitals often rely on zoos to provide antivenom for exotic venomous snakebites, leaving zoo staff unprotected until inventories can be replenished. It is difficult for private individuals to obtain permits to buy antivenom, but it is reasonable to require prior arrangements with local hospitals or sustained paid membership in an antivenom bank. It is also important to note that properly stored antivenom lasts decades beyond its expiration date, and doctors regularly dispense expired material.

It is unclear whether specific animal-related liability insurance should be required. In the case of venomous snakes, the vast majority of injuries occur when someone is cleaning the cage or directly handling the snake. "Innocent bystanders" are rarely, if ever, injured by accidental contact with an exotic venomous snake, although such injury is certainly possible.

Ern Tobias and Dee (Tobias) Hoffman, Lake Tobias Wildlife Park. As long as the individual knows how to handle and take care of the animal – and the township approves – there is no problem with exotic wildlife being kept as pets. Maryland and Virginia are slowly ending the possession of wild animals. It is a lot easier on the agencies involved if possession is not allowed.

BANNING THE POSSESSION OF CERTAIN EXOTIC WILDLIFE

COMMENTS

As detailed in the previous section, most animal protection, humane and veterinary organizations oppose the keeping of wildlife as pets, based on public health and safety and the welfare of the wildlife. It was also shown that some menagerie owners support the concept of prohibiting the possession of certain wildlife, while others do not.

STATUTES

Nebraska statutorily forbids the possession of a few animals and relies upon regulation to supplement the statutory prohibition. Except for Felis domesticus, governmentally owned zoos, nature centers, etc., and Canada Lynx and bobcats owned by fur licensees, no wolves, skunks or members of families Felidae and Ursidae may be kept captive in Nebraska.[309] Nebraska's Game and Parks Commission is required to regulate the exchange, possession and propagation of wild birds, wild mammals and wildlife in captivity.[310] Governmentally owned zoos, nature centers, etc., and USDA-licensed circuses do not need permits for captive wild birds, wild mammals and wildlife.[311] It is illegal to possess or import San Juan rabbits and other wild vertebrate animals including domesticated cervines that are declared the by Game and Parks Commission, in consultation with Nebraska's Department of Agriculture, to be a serious threat to economic or ecologic conditions. The commission may specifically permit these species to be possessed and acquired for science and education.[312]

Following a public hearing and consultation with the Department of Agriculture, the commission may regulate the importation and possession of any wild vertebrate animal, including domesticated cervines, that is found to be a serious threat to economic or ecologic conditions.[313] It is illegal to possess protected birds, their nests and eggs.[314] Nebraska's legislature intends to prevent the release or importation of live wildlife that may cause economic or ecologic harm or injure humans, agriculture, horticulture, forestry, wildlife or wildlife

---

[309] Neb. Rev. Stat. § 37-477(2) (Supp. 2002).

[310] *Id.* § 37-477(4). "Wild mammals" means Nebraska's native, migratory or established free-ranging species of mammals except for some such as fallow deer, feral domestic dogs and feral domestic cats, etc. *Id.* § 37-246. Wild birds are similarly defined with some exceptions for the English sparrow and common pigeon, among others. *Id.* § 37-245 (1998).

[311] *Id.* § 37-481 (Supp. 2002).

[312] *Id.* § 37-524 (1998).

[313] *Id.*

[314] *Id.* § 37-540 (Supp. 2002). Protected birds are all birds except game birds, pigeons, and two other species. *Id.* § 37-237.1.

resources; it also intends to prevent commercial exploitation or exportation of wildlife taken from the wild.[315] The commission is required to list wildlife authorized to be imported and released as well as wildlife authorized to be commercially exploited or exported.[316] Other than for commercial fish and bait fish, the regulations are to include permits, fees, numerosity of animals under a permit and the manner and location of release and collection; the regulations are to be amended as science, commerce and reliable data suggest.[317] Permit fees should cover the cost of processing and enforcing the permits as well as research into and management of resultant ecological effects. The fees go to Nebraska's State Treasurer for credit to the Nongame and Endangered Species Conservation Fund.[318]

Determination of economic or ecologic harm should use the best available scientific, commercial and other reliable data along with appropriate consultation with federal, state and county government and interested parties.[319] Upon its own initiative or the petition of a person presenting substantial evidence relating to the existence or nonexistence of economic or ecologic harm, the commission must review listed and unlisted species.[320] Among others, processors, governmental museums, parks and aquariums are largely exempt from the regulations affecting importation, exportation and commercial exploitation.[321] These regulations also do not apply to live wildlife legally shipped through Nebraska when both origination and destination are out of the state and the outcomes in those states regarding the wildlife are legal.[322]

Except for medical and psychological research or display in a licensed zoo or traveling circus, poisonous snakes that are neither generally found in nor native to Delaware and whose venom poses a risk of serious injury or death to humans may not be permitted by Delaware's Department of Agriculture.[323]

Unless statutorily and regulatorily permitted, possession of specified species of wild animals is also prohibited in California.[324] Species may be added or deleted from the statutory list of prohibited animals by regulations promulgated by California's Fish and Game Commission in cooperation with the Department of Food and Agriculture; prohibitions are based upon the potential undesirability to native wildlife and agriculture as well as the welfare of wild animals.[325] The Fish and Game Commission may designate wild animals that may be possessed

---

[315] *Id.* § 37-547.
[316] *Id.* § 37-548.
[317] *Id.*
[318] *Id.*
[319] *Id.*
[320] *Id.*
[321] *Id.* § 37-549.
[322] *Id.* § 37-550.
[323] Del. Code Ann. tit. 3, § 7201 (2001).
[324] Cal. Fish & Game Code § 2118 (West Supp. 2004).
[325] *Id.*

without a permit.[326] To prevent damage to native wildlife and agriculture, as well as to provide for the welfare of wild animals, the commission is required to cooperate with the Department of Food and Agriculture to regulate the confinement of imported wild animals and the possession of all other wild animals.[327] Animal life detrimental to agriculture may not be imported into California.[328]

Hawaii's Department of Agriculture may regulatorily prohibit the importation of any animal.[329] Statutorily listed live animals and any others that are potentially harmful to agriculture, horticulture, animal and public health, natural resources and the environment are prohibited; a specifically limited number of snakes may be imported by the government for research and exhibition.[330] Hawaii's Board of Agriculture is required to list conditionally approved animals permitted to be imported, restricted animals that require a permit to import and possess, and prohibited animals. Animals on none of the lists are prohibited but may be specially permitted on a case by case basis for emergencies, research that is nondetrimental to agriculture, the environment and humans and for exhibition if bonded.[331] Appropriations, user fees, interest, grants and other money go into the permit revolving fund, which is used for permits, amending lists of animals, monitoring, training personnel and other necessary purposes.[332] Unpermitted and escaped animals are subject to seizure, destruction and exportation at the owner's expense.[333] Unless legally imported, captively bred or scientifically permitted, wild birds may not be kept captive.[334]

Michigan now forbids the possession, breeding and transfer of wolf-dog crosses and large carnivores.[335] The District of Columbia limits the importation and possession of living animals to a list of domesticated ones traditionally kept in the home for pleasure.[336] Exempt from this limitation are federally licensed animal exhibitors and, possibly, licensed veterinarians and animal shelters.[337]

The example from Delaware illustrates the idea of forbidding animals that pose a risk of serious injury and death to humans, e.g., poisonous snakes. The example from District of Columbia's prohibition is broader in forbidding the possession of living animals that are not traditional pets. In an effort to perpetuate species, probably every jurisdiction prohibits the possession of endangered and

---

[326] *Id.* § 2118.5 (West 1998).
[327] *Id.* § 2120.
[328] Cal. Food & Agric. Code § 6304 (West 2001).
[329] Haw. Rev. Stat. Ann. § 150A-5.6 (Michie 2000).
[330] *Id.* § 150A-6 (Michie Supp. 2003).
[331] *Id.* § 150A-6.2 (Michie 2000).
[332] *Id.* § 150A-6.7.
[333] *Id.* § 150A-7.
[334] *Id.* § 183D-63 (Michie 1997). Wild birds are not game but live in the wild. *Id.* § 183D-1 (Michie Supp. 2003).
[335] Mich. Comp. Laws Serv. §§ 287.1003, 287.1103 (LexisNexis 2002).
[336] D.C. Code Ann. § 8-1808 (Supp. 2003).
[337] *Id.*

threatened species. California provides a further example of clarity by statutorily and regulatorily listing species that are prohibited while allowing the possession of animals that are not detrimental to agriculture, native wildlife, public health and safety and themselves if they can be cared for properly. Lists of statutorily and regulatorily prohibited wildlife typically contain exemptions for education, science and exhibition.[338]

DEFINITIONS

COMMENTS

Courtney Accurti, Pennsylvania Association of Boroughs. Clear definitions would help local municipalities, as most ordinances are vague regarding exotic animal possession.

Doug Hill, County Commissioners Association of Pennsylvania. The definitions need to be redone before either the Game Commission or the Department of Aquiculture could effectively license exotics.

Ern Tobias and Dee (Tobias) Hoffman, Lake Tobias Wildlife Park. The ambiguity of terms ranging from definitions to enclosure requirements must be clarified.

Richard Ulmer, Denis Beachel, Paul Mebley, Rich Hillegass and Mary Martin, cervid farmers. The definition of "exotic wildlife" should not be changed to include cervids.

STATUTES

"Exotic" is commonly understood to mean "from another part of the world; foreign."[339] "Wild" commonly means "living in a natural state; not domesticated."[340] "Game" commonly means "wild animals, birds, or fish hunted for food or sport,"[341] and "domestic" means "tame or domesticated."[342]

All of these standard English meanings suggest ways in which the Commonwealth's definitions and regulatory responsibilities may be clarified. It is reasonable that the Game Commission should regulate game and native wildlife

[338] *E.g.*, Kan. Stat. Ann. §32-956 (1993).

[339] *The American Heritage Dictionary of the English Language, Fourth Ed.* Houghton Mifflin (2000).

[340] *Id.*

[341] *Id.*

[342] *Id.*

and that the Department of Agriculture should regulate domestic animals, specifically those that are livestock, and traditional household pets. Exotic animals that are farm animals could also be regulated by the Department of Agriculture and those that are not should probably be regulated by the Game Commission, the regulator of game and wildlife. These semantics are common in other jurisdictions and tend to produce predictable statutory and regulatory outcomes because they conform to logic. E.g., Georgia considers "wildlife" to be species that are indigenous, introduced or specified by its Board of Natural Resources and "wild animals" to be animals that are neither wildlife nor those species that are normally domesticated.[343] In other words, Georgia uses the term "wild animals" for what the Commonwealth calls "exotic wildlife". It also maintains the semantic and logical distinctions among wild (exotic) animals, wildlife (indigenous animals) and domesticated animals. Rhode Island's regulatory definitions are also semantically clear and logically distinctive. Its terms are "domestic animals," "native wildlife" and "wild animals" with wild animals being most anything that is neither native nor domestic.[344]

Some jurisdictions might describe animals as deleterious to determine their administrative regulation or prohibition.[345] Other jurisdictions might flatly statutorily prohibit keeping dangerous animals (except for properly maintained zoos, educational institutions, animal refuges with escape-proof enclosures, etc.).[346] Illinois statutorily considers cats, bears, coyotes and poisonous reptiles to be prohibited dangerous animals.[347]

LOCAL GOVERNMENT

COMMENTS

Elam Herr, Pennsylvania State Association of Township Supervisors. Overall, local governments need to be involved in the process of licensing exotics in their municipalities. Municipalities should be notified when a license is issued, so they would be aware before an animal gets out and people come to the township, etc., who often know little.

Doug Hill, County Commissioners Association of Pennsylvania. Exotics may one day be licensed at the county level for species approved by the Department of Agriculture or the Game Commission. Currently, counties issue

[343] Ga. Code Ann. § 27-1-2(75), (77) (2003).

[344] Code of R. I. (Agric.) Rules governing wild animals importation and possession § 2.00 (1994).

[345] *E.g.*, Idaho Code §§ 25-3902, 25-3904 (Michie Supp. 2003).

[346] *E.g.*, 720 Ill. Comp. Stat. Ann. 585/1 (West 2003).

[347] *Id.*

doe licenses on behalf of the Game Commission and dog licenses on behalf of the Department of Agriculture, so this would not be taxing to the counties.

STATUTES

Cities and counties in North Carolina "may . . . regulate, restrict, or prohibit the possession or harboring" of animals that are dangerous to persons or property.[348] Those ordinances may not permit activities or conditions relating to wild animals that are "prohibited or more severely restricted by regulations of the Wildlife Resources Commission."[349] Mississippi also allows its municipalities to enact more stringent regulations and prohibitions than the state has for wild animals inherently dangerous to humans.[350]

Regulatorily, the Pennsylvania Game Commission effectively accomplishes the same thing as the North Carolina statutes by requiring permittees (or applicants) to comply with local requirements, which could be more restrictive than state law. This practice seems to be sensible, and it might be a good idea to statutorily adopt it. California allows a local entity to permit statutorily prohibited animals under a memorandum of understanding between the local entity and the Department of Fish and Game, while allowing local ordinances relating to the possession and care of wild animals to be more restrictive than state law and regulation.[351] In California, if an animal is not detrimental to agriculture, native wildlife, public health and safety or itself, the Department of Fish and Game or a local entity may permit its possession even if statutorily prohibited upon the nonrefundable payment of a permit application fee, if the applicant can properly care for the animal.[352]

For other than house cats, cat facilities for permitted possession of cats must be inspected by California's Department of Fish and Game or a local entity with the inspection fee going to the department.[353] The Commission of Fish and Game is required to regulate the confinement of cats and require a health certificate annually for each cat from a licensed veterinarian.[354]

California also authorizes its Department of Fish and Game to reimburse local entities for costs incurred enforcing provisions relating to possession of designated wild animals.[355] Unless otherwise specified, money collected under California's Fish and Game Code and laws protecting and preserving birds, mammals, fish, reptiles and amphibia is credited to the Fish and Game

[348] N.C. Gen. Stat. Ann. §§ 153-131, 160A-187 (2003).
[349] *Id.*
[350] Miss. Code Ann. § 49-8-17 (West 1999).
[351] Cal. Fish & Game Code §§ 2150, 2150.3, 2156 (West 1998).
[352] *Id.* § 2150.
[353] *Id.* § 3005.91.
[354] *Id.* § 3005.92.
[355] *Id.* § 2020

Preservation Fund.[356] The counties in which offenses are committed retain half of all fines and forfeitures for violations of the Fish and Game Code, its regulations and laws protecting and preserving birds, mammals, fish, reptiles and amphibia.[357] Louisiana is another jurisdiction that manages to split some penalties with local government. District attorneys there receive 40% of the amount collected in civil suits for the illegal possession of fish, wild birds and quadrupeds and other wildlife and aquatic life.[358]

Another reason that it might be a good idea to expressly allow local ordinances to be more restrictive than state law and regulation is the expected and predictably requisite response by local law enforcement should a potentially dangerous animal escape. In fact, Ohio requires escapes of nonindigenous animals or ones that present a risk of serious physical harm to persons or property to be reported within one hour to local law enforcement and other local governmental staff.[359] Escapes of wild animals inherently dangerous to humans in Mississippi are required to be immediately reported to the Department of Wildlife, Fisheries and Parks and local law enforcement.[360] New York requires persons harboring wild animals to annually report their presence to the local government, which must forward this disclosure to state police, county sheriffs, municipal police, fire companies and emergency medical service companies serving the locality.[361]

If municipalities in the commonwealth are statutorily authorized to enact ordinances to control animals which are more restrictive than the statutes, perhaps some details of California's law should be considered.

---

[356] *Id.* § 13001 (West Supp. 2004).

[357] *Id.* § 13003. These amounts must be deposited into a county fish and wildlife propagation fund to be spent to protect, conserve, propagate and preserve fish and wildlife. *Id.* § 13100. Expenditures are limited to public education, treatment and care of injured and confiscated wildlife, breeding and releasing, improving habitat, public hatcheries, related materials and supplies, controlling predation, science, administration, secret witness program, investigatory and prosecution costs as well as other purposes approved by the Department of Fish and Game that protect, conserve, propagate and preserve fish and wildlife. *Id.* § 13103.

[358] La. Rev. Stat. Ann. §§ 56:40.1, 56:40.4, 56:40.9 (West Supp. 2004).

[359] Ohio Rev. Code Ann. § 2927.1 (West 1997).

[360] Miss. Code Ann. § 49-8-13 (West 1999).

[361] N.Y. Gen. Mun. Law § 209-cc (Consol. Supp. 2004). "Wild animal" means nonhuman primates and prosimians, Felidae (except domesticated cats), Canidae (except domesticated dogs), Ursidae, "venomous snakes and all constrictors and python snakes that are ten feet or greater in length" and "Crocodilia that are five feet or greater in length." *Id.* In consultation with the Department of Environmental Conservation, the state fire administrator is required to "develop and maintain a list of the common names of animals to be reported." *Id.* The state fire administrator prescribes the manner of reporting. *Id.*

PERMITTING

COMMENTS

Terry Mattive and Jennifer Mattive, T&D's Cats of the World. Permit fees for possession of exotic wildlife (as a pet) could be increased to, for example, $500 per animal per year to give individuals an incentive to become educated about the animal and seriously consider the prospect of owning the animal. The specter of increasing illegal ownership of exotic wildlife should not prevent increasing the fee, because there is now and always will be illegal ownership. A waiting period of perhaps 90 days after applying for a permit might also decrease the risk of impulse buying of exotics.

A list of requirements and prohibitions should also be provided to the permit applicant. Violations should result in steeper fines than they do now. The State Police should not have primary enforcement responsibility. They are authorized to act on any violation of any state law, but calling the appropriate enforcement personnel – in this case, wildlife conservation officers – is best.

A permit program is only as good as its inspectors. Inspections should be unannounced. However, David A. Oelberg, D.V.M. (Veterinary Medical Officer, USDA APHIS Animal Care) added that unannounced inspections can waste a lot of time for inspectors, particularly for owners of exotics as pets, because the owner is often away from home (at work, for example).

Culled from comments of various organizations and individuals. As an additional means of clarification during the application process, and as a resource and educational tool for local agencies, the Game Commission and the Department of Agriculture could develop informational sheets or brochures to be distributed with certain permit applications and to promote public awareness. The brochure should contain information including, but not limited to, permit eligibility, steps in the application process, permit renewal instructions, text of relevant sections of the Game and Wildlife Code and the Agriculture Code, an explanation of the inspection process, an explanation of enclosure requirements and contacts at the local and state level, including the specific office, individual's name and title, mailing address, telephone number, email address and relevant website address. The brochure would be distributed with each application request for or renewal of exotic wildlife dealer and possession permits, menagerie and propagation permits and CLO licenses.

To promote public awareness, education and safety, the brochure could also be provided to officials in state and local government offices, veterinarians, farmers, hunters, humane societies and other interested organizations. Many of these organizations receive calls seeking information or relating concerns, and they could distribute the brochure to individuals and use it themselves in

answering questions. The brochure may help eliminate confusion and increase awareness of existing state laws while streamlining the application process.

Chad Peeling, Clyde Peeling's Reptiland. Permits for *captive* wildlife do very little to serve the entities they are meant to protect – captive animals, indigenous wildlife and the public. Regulation and permitting of activities related to *wild* populations (e.g., taking animals from the wild and hunting) are absolutely necessary for long-term conservation. But local, state and federal agencies charged with regulating captive wildlife rarely live up to their stated objectives. The scope of captive wildlife is enormous, both in number of keepers and diversity of species kept. Regulatory agencies are usually underfunded, understaffed and lacking in expertise. As a result, they miss the vast majority of activity in their jurisdictions. Those that try to abide by the rules and pursue permits receive the most scrutiny, while the disreputable holders of captive wildlife remain invisible. It is doubtful that the citizens of most states would be willing to pay to adequately fund captive wildlife agencies. Captive wildlife regulation is generally little more than window dressing and feel-good public policy. The downside of regulation is that it bogs down reputable individuals and institutions with expensive and time-consuming red tape.

The system should be dramatically streamlined. It is unclear that permits are necessary, but, if used, they should be free and clearly define the responsibilities of owning captive wildlife and the consequences of shirking those responsibilities.

Duplicative permitting exists between the federal government and the state, and that needs to be trimmed. AZA-accredited facilities should be given wider latitude to travel throughout the U.S. to show and display animals without all kinds of permitting. The laws are aimed at discouraging private ownership and target those who would try to break the law, but the heavy permitting, paperwork and fees only hurt the law-abiding facilities in the end.

Ern Tobias and Dee (Tobias) Hoffman. Any duplication between the Department of Agriculture and the Game Commission should be eliminated. Likewise, any duplication between the Commonwealth and the USDA should be eliminated. It would be helpful if completed USDA forms could be copied and submitted to the appropriate Commonwealth agency to obtain Commonwealth permits. It would also be helpful if requirements were the same. For example, both USDA and the Game Commission have enclosure requirements. No top is required on a bear enclosure according to USDA, but it is required by the Game Commission for a bear "cage" – unless it is called a "corral," in which case a top is not required.

A common form is needed for use by state and federal inspectors. A state inspection exemption should be considered for those already inspected by the

USDA. Also, a central contact person in the Game Commission would be helpful for persons with questions and would promote consistency in answers.

The USDA requires a Veterinary Care Program, Record of Animals on Hand transaction form and Record of Acquisition, Disposition or Transport to be completed for licensure. Common sense needs to be exercised during inspections. For example, it can be difficult to know when a baby animal was born or what sex it is.

The Game Commission requires a Deer Elk Propagators/Menagerie Annual Report for menagerie permit renewal. This information used to come directly from the USDA form; but the information required is different now, so two sets of recordkeeping are required. Also, the Game Commission has developed a Record of Acquisition/Disposition of Cervids to be used in preparing the Annual Report, but the two are not in the same format. The Game Commission also requires a Wildlife Possession/Dealer Annual Report – full inventory – to get an Exotic Wildlife Dealer Special Permit.

If an operator is not aware of all the requirements found in the various codes and regulations, he could be spending time and money on unrequired permits or could be operating without required permits and, therefore, subject to fines. A person often gets different answers when asking the same question of various personnel at the Game Commission and the Department of Agriculture. For example, hunting is not allowed on a CLO operated under the Department of Agriculture. However, if the same type of operation allows hunting, a permit from the Game Commission is required. Depending on who answers the question, a caller to the agency might not learn of this distinction. Terms in the codes and regulations are ambiguous and confusing. Game Commission permits are required for some animals that might be considered exotic, but not for others, and the difference is not always intuitive – or clear.

Enforcement appears to be somewhat arbitrary and is not uniform from region to region or from officer to officer. For example, where one wildlife conservation officer might require a top be added to a bear cage, another might simply call it a corral and not require a top.

Richard Ulmer, Denis Beachel, Paul Mebley, Rich Hillegass and Mary Martin, cervid farmers. Duplication in permitting should be eliminated and a central contact for permitting questions should be established at both the Department of Agriculture and the Game Commission.

STATUTES

Aside from these insightful comments about permits, the most notable observation might be that the permit fees have been priced at the very same

amount for approximately a quarter century. While a number of jurisdictions have low fees that have been statutorily set, some jurisdictions require the cost of their permits and licenses to be annually adjusted.[362] Florida's legislature reviews its statutory fees for licenses and permits (and exemptions therefrom) every five years.[363]

TRAINING

COMMENTS

Game Commission staff.[364] Of the 50 weeks training required to be a wildlife conservation officer, only four to six hours are devoted to exotic wildlife. This amount of time is inadequate to properly train the officers; however, it is the best the commission can do considering its resources and other statutory duties.

Elam Herr, Pennsylvania State Association of Township Supervisors. Increased training of local and state officials in the community is necessary for proper handling of inspections, monitoring of animal health and public protection in the case of escape.

Terry Mattive and Jennifer Mattive, T&D's Cats of the World. Law enforcement should be tightened up as should inspections. The training and knowledge of the Game Commission and the Department of Agriculture inspectors must be increased so they know what they are enforcing. The AZA, USDA and others offer seminars on various aspects of wild animals throughout the year. Ongoing training should be required.

Richard Ulmer, Denis Beachel, Paul Mebley, Rich Hillegass and Mary Martin, cervid farmers. Wardens must be trained to know what they are enforcing.

STATUTES

In Florida, counties and municipalities are authorized to enact ordinances, which do not conflict with other state law relating to the control of animals.[365] County-employed animal control officers must successfully complete a 40-hour

---

[362] Cal. Fish & Game Code § 713 (West Supp. 2004). This state also annually appropriates the cost of nongame fish and wildlife programs from its general fund. *Id.* §§ 711, 712 (West 1998).

[363] Fla. Stat. Ann. § 372.5711 (West 2000). Some fees are determined by classification and number of species. *Id.* § 372.921 (West Supp. 2004).

[364] *Supra* note 114.

[365] Fla. Stat. Ann. § 828.27 (West Supp. 2004).

minimum standards training course.[366] To remain validly certified, four hours of post certification continuing education training is required every two years.[367] To fund the training of animal control officers, a surcharge of $5 may be added to each civil penalty imposed for violating an ordinance controlling animals.[368]

TRANSFERRING OVERSIGHT AUTHORITY

COMMENTS

Department of Agriculture and Game Commission staff.[369] The issues involving wildlife and exotic wildlife are so multi-faceted that all of them cannot be addressed by a single agency or by state or federal government alone. For example, disease implications for humans could involve the CDC, the Pennsylvania Department of Health and the Pennsylvania Department of Agriculture. The Pennsylvania Departments of Agriculture and Health and the Pennsylvania Game Commission cooperate daily on rabies issues. Disease implications for domestic animals are addressed by both USDA APHIS and the Pennsylvania Department of Agriculture. Disease implications for wildlife are considered by the U.S. Fish and Wildlife Service and the Pennsylvania Game Commission. Invasive species of plants and animals are addressed by the Pennsylvania Department of Conservation and Natural Resources. Police departments become involved when exotic wildlife escape and present a danger to humans. Humane concerns for animals are addressed by the USDA and various humane associations, and police departments become involved when cruelty to animals is suspected.

The previous paragraph presents a short list of various issues and the numerous governmental and private agencies that address those issues. It might be possible to have only one agency do all the permitting or licensing that is required, but it is not realistic to expect one agency to do everything where exotic wildlife is concerned.

The Game Commission does not receive funds from the General Fund. All of its funding is provided by a limited base of people paying for hunting licenses and various permits. Hunting licenses provide the bulk of the commission's funding, and demographics indicate that the number of hunters will drop considerably by 2015. So, a transfer of oversight authority to an agency that receives appropriations from the General Fund might be advantageous.

---

[366] *Id.* The course is optional for city-employed animal control officers.
[367] *Id.*
[368] *Id.*
[369] S*upra* note 114.

Courtney Accurti, Pennsylvania Association of Boroughs. A move from the Game Commission to the Department of Agriculture is justifiable, but tightening up the definitions must be done first. Beyond clear definitions, it does not matter who enforces exotics maintained in captivity. The status quo is unenforceable. Wildlife conservation officers should not have to interpret the law, just enforce it, and that component of their jobs is being confused.

Elam Herr, Pennsylvania State Association of Township Supervisors. The association supports a transfer from the Game Commission to the Department of Agriculture from the standpoint of maintaining animal health in captivity and for farm-related operations. The association's members have had good relationships with the Department of Agriculture but little contact or opportunity to interact with the Game Commission, so they might have better access when going through the regulatory process with the Department of Agriculture.

Doug Hill, County Commissioners Association of Pennsylvania. It makes sense to move the exotic wildlife oversight and enforcement to the Department of Agriculture. The department has a better handle on it and more expertise in this issue.

Anne Irwin, Federated Humane Societies of Pennsylvania. The concept of a change is a good idea, as exotic oversight under the Game Commission has not inspired confidence. This may be partly a function of the regulations themselves and partly a consequence of the wildlife conservation officers not having the expertise and training necessary to oversee all kinds of exotic species. The function would be appropriate in the Department of Agriculture because of its oversight of all animal health under the Domestic Animal Law. If the regulation of captive exotic wildlife is transferred to the Department of Agriculture, the department must be adequately funded to take on the new responsibilities. Department staff would need additional training, and the department would need an influx of expertise, although staff veterinarians would provide a good base to start.

Ern Tobias and Dee (Tobias) Hoffman, Lake Tobias Wildlife Park. The Department of Agriculture does not have the expertise to handle exotic wildlife oversight.

OVERLAPPING AUTHORITY

STATUTES

Other jurisdictions similarly regulate animals through more than one commission or department. For example, when importation is not in the best interest of the state, Alabama's Commissioner of Conservation and Natural

Resources may regulatorily prohibit the importation of animals.[370] Presumably, the commissioner's authority is granted primarily to protect indigenous wildlife, because Alabama's State Board of Health is authorized to regulate animals likely to menace public health.[371]

Maine requires the coordination of two departments having overlapping authority over the importation of some animals. Maine's Commissioner of Agriculture, Food and Rural Resources is required to regulate importation to maintain the health of domestic animals and consult with Maine's Commissioner of Inland Fisheries and Wildlife to list animals requiring permits to import.[372]

Arizona has a clearer division of regulatory authority yet statutorily acknowledges that a practical overlap of responsibility might be unavoidable and desirable. The director of Arizona's Department of Game and Fish may lawfully order responses to diseases of freeranging or captive wildlife including quarantine, testing and destruction to prevent the spread of disease threatening animals and humans,[373] while the director of the Department of Agriculture may lawfully order and regulate responses[374] to diseases of animals that threaten the livestock and poultry industries.[375] The Game and Fish Commission is authorized to regulate the possession of wildlife[376] and may also regulate and license private zoos and the personal use and possession of wildlife[377] while, with the state veterinarian's advice, the director of Arizona's Department of Agriculture may regulatorily control the importation of animals.[378] The Department of Agriculture is also authorized to cooperate with other governmental agencies to control, destroy and relocate predatory wildlife and noxious rodents to protect industry and public health and safety.[379] Counties may do likewise.[380]

As previously mentioned, Nebraska requires its Game and Parks Commission to consult with its Department of Agriculture to determine which wild vertebrate animals to declare a serious threat to economic or ecologic conditions and, therefore, flatly prohibit or limit their possession to scientific and educational purposes.[381] California statutorily requires its Fish and Game Commission to cooperate with its Department of Food and Agriculture to regulatorily prohibit species based upon the potential undesirability to native wildlife and agriculture as well as the welfare of wild animals.[382]

---

[370] Ala. Code § 9-2-13 (Supp. 2002).
[371] *Id.* § 22-10-1 (1997).
[372] Me. Rev. Stat. Ann. tit. 7, § 1809 (West Supp. 2003).
[373] Ariz. Rev. Stat. Ann § 17-250 (West Supp. 2003).
[374] Including quarantine and destruction.
[375] Ariz. Rev. Stat. Ann. § 3-1205 (West 2002).
[376] *Id.* § 17-231 (West Supp. 2003).
[377] *Id.* § 17-238 (West 1996).
[378] *Id.* § 3-1203 (West 2002).
[379] *Id.* § 3-2401.
[380] *Id.* § 3-2405.
[381] Neb. Rev. Stat. § 37-524 (1998).
[382] Cal. Fish & Game Code § 2118 (West Supp. 2004).

The Pennsylvania Game Commission is already authorized to do anything necessary to administer and enforce the Game and Wildlife Code and accomplish and assure its purposes,[383] so there is no statutory impediment to its cooperation with other executive agencies. Both the Game Commission and the Department of Agriculture now cooperate when necessary, but if the statutory definitions are clarified and species are to be regulatorily designated as flatly prohibited, permitted with licensure or permitted without licensure, for example, then cooperation to regulatorily designate species accordingly should be statutorily required.

If numerosity is persuasive, most exotic wildlife should probably be regulated by the Game Commission rather than the Department of Agriculture, as it seems to be the more common practice among other jurisdictions to authorize Fish and Game Commissions to regulate the possession of birds, mammals, fish, amphibia and reptiles.[384]

It seems that maintaining the logical and reasonably clear distinction between domestic animals and wildlife would dictate that the Department of Agriculture regulate the former, regardless of whether the domestic animals are livestock or traditional household pets, while the Game Commission regulates the latter, regardless of whether the wildlife is game, native or exotic.

[383] 34 Pa.C.S. § 322(b), (c)(12). The commission is also authorized to participate in permitting with "any other Federal to State governmental agency." *Id.* § 2901(c)

[384] Private possession of exotic animals is regulated by departments of agriculture in seven states with an eighth using an animal industry board. Animal Protection Institute. "Agencies Regulating Private Possession of Exotic Animals." http://www.api4animals.org/1000print.htm. Accessed October 21, 2004.

CONCLUSIONS AND RECOMMENDATIONS

The Commonwealth's statutes regarding exotic wildlife possession should be amended to accomplish the following.

PROTECTION

1. For each of the three permit classifications (dealer, private possession and menagerie), require the Game Commission to list by regulation exotic wildlife that is prohibited (possession not allowed under any circumstances), that requires a permit for possession and that is allowed without a permit. The lists would vary in accordance with the permit classification, with that for private possession being the most restrictive and that for menageries being the least restrictive. Unlisted animals would be deemed to be forbidden. The statute should list broad categories of wildlife that the commission must consider under each permit classification in specifying by regulation which particular wildlife is prohibited, allowed with a permit and allowed without a permit.

For example, for private possession, the statute could specify the following broad categories of wildlife:

a. Prohibited:
    i. Large carnivores.
    ii. Venomous reptiles.
    iii. Primates.
    iv. Any other category the commission deems appropriate.
b. Permit required:
    i. Large omnivores or herbivores.
    ii. Any other category the commission deems appropriate.
c. Permit not required: Not applicable. A permit shall be required for the private possession of any wildlife not on the prohibited list.

2. Require the Game Commission to review the lists periodically (e.g., annually or biannually) and authorize the commission to amend the lists by regulation on its own initiative or upon petition. Require the commission to develop a procedure to be followed in reviewing and amending the lists, including consultation with the Departments of Agriculture and Health and holding a public hearing. Require an individual or organization seeking to possess an animal not included on a statutory list under the appropriate ownership category to file a petition with the Game Commission to add the animal to one of the lists. Authorize the commission to add the animal that is the subject of the petition to

the appropriate list under each of the three permit classifications even if the petition involved only one classification.

3. Require a permitee to annually notify local emergency response agencies of all dangerous animals possessed.

4. Require a permittee to promptly report the escape of a dangerous animal to the commission and local law enforcement officials. Require the commission to immediately notify the Departments of Agriculture and Health of the escape.

5. Authorize the commission to establish an advisory committee to help it with decisions related to the regulation of exotic wildlife or to anything within its purview.

6. Require the commission to establish a public education program to explain permitting requirements simply and concisely and provide a phone number and e-mail address to be used to obtain more information or clarification. This program should include developing informational brochures (as detailed on pp. 64-65, for example) to be distributed by the commission and by counties and private organizations. The information should also be provided on the commission's website.

PERMITTING

FEES

1. Require the Game Commission to establish permit fees for exotic wildlife by regulation.

2. Provide for the repeal of the statutory permit fees upon the promulgation of the commission's permit fee regulations.

3. Require the commission to review permit fees periodically (e.g., annually or biannually) and authorize the commission to increase the fees by regulation as necessary to better balance the costs and revenues related to exotic wildlife. This same approach could also be considered for all other special permits the agency might use (e.g., those currently identified in 34 Pa.C.S. § 2904).

It is justifiable to increase permit fees, as the Commonwealth has not seen an increase in any of the permits related to exotic wildlife in at least 22 years. Act 60 of 1982 marked the introduction of "wildlife dealer" and "wildlife possession" permits and set the annual fees at $500 and $200 per animal, respectively. Act 60

of 1982 also raised the menagerie permit fee from $15 to $300. The increase in the menagerie permit fee in 1982 was the last increase in the permits related to exotic wildlife. In fact, since 1982, the fees for all three permits have decreased, retroactive to the 1981-1982 permit year. Exotic wildlife dealer decreased from $500 to $200, exotic wildlife possession decreased from $200 per animal to $50 per animal and menagerie decreased from $300 to $100.

The budget information presented in the second chapter of this report demonstrates that the Game Commission is able to devote very little attention to exotic wildlife and loses at least $113,175 annually regulating it. Staff from the commission and the Governor's Special Advisor on Hunting, Fishing and Conservation emphasized that it is unfair to rely solely on hunters (through hunting license fees) to pay for the Commonwealth's involvement with exotic wildlife maintained in captivity. Clearer regulating authority alone will not result in more vigorous enforcement of laws and regulations regarding exotic wildlife. Adequate funding is essential to a sincere effort to improve regulation in this area.

4. Authorize the commission to correlate the amount of a permit fee to the number of individual animals involved or the number of species involved or both.

5. As detailed in the budget chapter of this report, legal training and some other enforcement expenditures cannot be determined for exotic wildlife. Therefore, require the commission to adopt accounting practices that enable it to more precisely determine all the costs and revenues involved with the oversight of exotic wildlife maintained in captivity. The agency could use this information during its periodic review of permit fees.

FORMS

Require the agencies involved in permitting wildlife to develop common forms for the use of permittees or regulatorily authorize the use of USDA forms by permittees whenever possible.

CARE AND KEEPING OF EXOTIC WILDLIFE

1. The Game Commission already does this, but to ensure that it continues to do so, require the commission to provide for specifics such as cage size, drainage, temperature, accessories, nutrition and water, cleaning and disinfecting of the cage and transportation requirements, by regulation.

2. Require a permit applicant to demonstrate that veterinary care is available for the particular animal to be possessed and to report to the commission if the veterinary care becomes unavailable.

3. Consider allowing veterinarians to inspect premises for the health and well-being of the wildlife in lieu of inspections by the commission. In addition to helping keep the wildlife healthy, this might reduce the commission's costs related to exotic wildlife.

4. Provide that permitted premises are subject to inspection at any reasonable time.

5. If dangerous animals are allowed, require the commission to establish safety requirements, including requirements for cage strength, fencing, signs notifying the public of danger and, possibly, the use of subcutaneous microchips to emit a LoJack signal which can be tracked by police or the commission in recovering an escaped dangerous animal.[385]

TRAINING

Require a certain number of training hours for wildlife conservation officers to be devoted to exotic wildlife. Also require periodic refresher courses. For example, a statutory provision in Florida requires local officers to obtain an initial 40 hours of training plus four hours every two years regarding animal control.

DEFINITIONS

1. At the very least, the definition of "exotic wildlife" should be amended to include certain categories of birds in the first sentence. This amendment would not go very far in alleviating the existent confusion surrounding the possession of "exotic wildlife" and other wildlife. As noted previously, it is not intuitive to consider a black bear exotic when black bears are native to the Commonwealth and "exotic" is commonly understood to mean "from another part of the world."

2. To alleviate confusion on a broader scale, provisions in Titles 1 (General Provisions), 3 (Agriculture) and 34 (Game and Wildlife) of the Pennsylvania Consolidated Statutes could be amended along the following lines:

a. "Wildlife" is either native or non-native and game or non-game. It includes any animal other than human that is ordinarily found in the wild regardless of whether it was bred or raised in captivity.

b. "Domestic" includes typical household pets, traditional livestock and alternative livestock.

---

[385] More information on LoJack, as used in motor vehicles, can be found at http://www.lojack.com/what/index.cfm.

c. Hybrids would be placed in the most restrictive category applicable.

3. Terms such as deleterious, dangerous or potentially dangerous or characteristics such as large, carnivorous or poisonous could be used to determine the level of regulation rather than who regulates exotic wildlife. Any change in the status quo should not deprive the Department of Agriculture of its existent general power of quarantine under The Administrative Code of 1929[386] or its specific power of quarantine under the Domestic Animal Law.[387]

LOCAL GOVERNMENT INVOLVEMENT

1. Authorize local enforcement of exotic wildlife permitting requirements. Authorize a political subdivision which assumes responsibility for enforcement to retain half of the fines and forfeitures it collects for violations and require it to remit the other half to the state.

2. Authorize local government to restrict or permit exotic wildlife to a greater degree than state law.

TRANSFER OF AUTHORITY

The oversight of exotic wildlife is an unwelcome regulatory responsibility. It is not part of the core mission of any agency and would, consequently, be relegated to secondary status or worse if moved. A transfer of regulatory responsibility is unlikely to result in a benefit other than the fairness of spreading the burden of the excess costs of exotic wildlife regulation across the entire population of the Commonwealth rather than relying solely on other permittees of the commission. However, a similar benefit could be achieved by keeping the regulatory authority in the Game Commission and increasing permit fees as detailed earlier in this chapter. This would exact more of the costs of regulating exotic wildlife from exotic wildlife dealer, exotic wildlife possession and menagerie permittees and reduce the current subsidy contributed by licensees of unrelated activity such as hunting. It is, therefore, recommended that the regulatory responsibility for captive exotic wildlife, as it is now, not be moved from the Game Commission. If global statutory changes are made (e.g., as described under “Definitions” on p.76 and under “Overlapping Authority” on p. 71), various changes in regulatory authority might be necessary.

[386] Act of Apr. 9, 1929 (P.L.177, No.175), § 1708; Pa. Stat. Ann. tit. 71, § 448 (West 1990).

[387] 3 Pa.C.S. ch. 23.

In addition to considering making the statutory amendments outlined previously, it is recommended that consideration be given to requiring the Joint State Government Commission to establish a legislative task force and an advisory committee of various experts in the field to study the issues regarding captive exotic wildlife – and possibly all captive wildlife – in more depth and develop legislative recommendations.

BIBLIOGRAPHY

American Veterinary Medical Association. "AVMA Position on Wild Animals as Pets." 1990. http://www.avma.org/noah/members/policy/polwild.asp. Accessed July 27, 2004.

Animal Protection Institute. "The Dangers of Keeping Exotic 'Pets'." http://www.api4animals.org/308print.htm. Accessed July 27, 2004.

_____. "Exotic 'Pet' Campaign." http://www.api4animals.org/321print.htm. Accessed July 27, 2004.

_____. "Model State Legislation." http://www.api4animals.org/1002print.htm. Accessed August 12, 2004.

_____. "Three Reasons for Banning the Private Possession of Exotic Animals." http://www.api4animals.org/1001.htm. Accessed July 27, 2004.

_____. "Agencies Regulating Private Possession of Exotic Animals." August 31, 2004. http://www.api4animals.org/1000print.htm. Accessed October 21, 2004.

The Association of Sanctuaries. "Three Reasons for Banning the Private Possession of Exotic Animals." http://www.taosanctuaries.org/wildlife/overview.htm. Accessed July 27, 2004.

Captive Wild Animal Protection Coalition. "Captive Wild Animal Report." May 2004 (no longer available online) and September 2004. http://cwapc.org/news/IncidentReportSept2004.pdf. Accessed July 27, 2004 and December 16, 2004.

The Fund for Animals. "Exotic 'Pets': Dangerous Decorations." *Fund Facts* (Exotic Animal Fact Sheet #1). http://fund.org/uploads/fs_ex1.pdf. Accessed July 27, 2004.

_____. "The Trade in Lives." *Fund Facts* (Exotic Animal Fact Sheet #2). http://fund.org/uploads/fs_ex2.pdf. Accessed July 27, 2004.

_____. "Wild Animals Belong in the Wild: Fact Sheet." February 19, 2004. http://fundforanimals.ctsg.com/library/documentViewer.asp?ID=1358. Accessed July 27, 2004.

The Humane Society of the United States. "Captive Exotics and Wild Animals as Pets." http://www.hsus.org/wildlife/issues_facing_wildlife/captive_exotics_and_wild_animals_as_pets. Accessed July 27, 2004.

_____. "Monkeypox Alert for Pet Owners." http://www.hsus.org/pets/pets_related_news_and_events/monkeypox_alert_for_pet_owners.html Accessed July 27, 2004.

_____. "The Whims and Dangers of the Exotic Pets Market." http://www.hsus.org/wildlife/issues_facing_wildlife/captive_exotics_and_wild_animals_as_pets/the_whims_and_dangers_of_the_exotic_pets_market.html. Accessed July 27, 2004.

International Fund for Animal Welfare. "Minnesota Passes Law Against Keeping Dangerous Animals as Pets." June 2, 2004. http://www.ifaw.org/ifaw/general/default.aspx?oid=96023.

Jensen, K. et al. "B-Virus and Free-Ranging Macaques." *Emerging Infectious Diseases*. 10.3 (March 2004).

Krebs, John W. et al. "Rabies Surveillance in the United States During 2001." *Journal of the American Veterinary Medical Association.* 221.12 (2002): 1690-1701. http://www.cdc.gov/ncidod/dvrd/rabies/Professional/publications/Surveillance/Surveillance01/text01.htm. Accessed October 29, 2004.

Mermin, J. et al. "Reptiles, Amphibians, and Human *Salmonella* Infection: A Population-Based, Case-Control Study." http://www.cdc.gov/foodnet/pub/CID/merminj.pdf.

Oh, Peter et al. "Human Exposure Following *Mycobacterium tuberculosis* Infection of Multiple Animal Species in a Metropolitan Zoo." *Emerging Infectious Diseases*. 8.11 (November 2002): 18 pars. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Infectious Diseases. http://www.cdc.gov/ncidod/EID/vol8no11/02-0302.htm. Accessed October 29, 2004.

Ostrowski, S.R. et al. "B-virus from Pet Macaque Monkeys: An Emerging Threat in the United States?" *Emerging Infectious Diseases.* 4.1 (January-March 1998).

Pennsylvania Department of Health. "Birth and Death Statistics, 1990 – 2003." Bureau of Health Statistics and Research.

http://www.dsf.health.state.pa.us/health/cwp/view.asp?a=175&Q=201652. Accessed October 28, 2004.

Pennsylvania Game Commission. "Charges Files in Case of Illegal Possession of a Mountain Lion." *2002 Press Releases.* http://www.pgc.state.pa.us/pgc/cwp/view.asp?A=11&Q=156971&pp=12&n=1. Accessed July 2, 2004.

U.S. Department of Agriculture. "Exotic Newcastle Disease." Animal and Plant Health Inspection Service. http://www.aphis.usda.gov/lpa/pubs/fsheet_faq_notice/fs_ahend.html.

_____. "Position Statement: Large Wild and Exotic Cats Make Dangerous Pets." February 2000. http://www.aphis.usda.gov/ac/position.pdf. Accessed July 27, 2004.

U.S. Department of Health and Human Services. "B Virus (Cercopithecine herpesvirus 1) Infection." Centers for Disease Control and Prevention, National Center for Infectious Diseases. http://www.cdc.gov/ncidod/diseases/bvirus.htm. Accessed October 29, 2004.

_____. "Brucellosis." Centers for Disease Control and Prevention. http://www.cdc.gov/ncidod/dbmd/diseaseinfo/brucellosis_g.htm. Accessed December 16, 2004.

_____. "Ebola Hemorrhagic Fever." Centers for Disease Control and Prevention, National Center for Infectious Diseases. http://www.cdc.gov/ncidod/dvrd/spb/mnpages/dispages/ebola.htm. Accessed October 29, 2004.

_____. "Key Facts About Tularemia." Centers for Disease Control and Prevention. http://www.bt.cdc.gov/agent/tularemia/facts.asp. Accessed October 29, 2004.

_____. "Leptospirosis." Centers for Disease Control and Prevention. http://www.cdc.gov/ncidod/dbmd/diseaseinfo/leptospirosis_g.htm. Accessed October 29, 2004.

_____. "Leptospirosis and Your Pet." Centers for Disease Control and Prevention. http://www.cdc.gov/ncidod/dbmd/diseaseinfo/leptospirosis_g_pet.htm#whatpets. Accessed October 29, 2004.

_____. "Outbreaks of *Escherichia coli* O157:H7 Infections Among Children Associated With Farm Visits: Pennsylvania and Washington, 2000."

Centers for Disease Control and Prevention. http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5015a5.htm. Accessed October 29, 2004.

_____. "Psittacosis." December 2003. Centers for Disease Control and Prevention. http://www.cdc.gov/ncidod/dbmd/diseaseinfo/psittacosis_t.htm. Accessed October 29, 2004.

_____. "Reptile-Associated Salmonellosis: Selected States, 1996-1998." *Morbidity and Mortality Weekly Report*. 48.44 (November 12, 1999): 1009-1013. Centers for Disease Control and Prevention. http://www.cdc.gov/mmwr/preview/mmwrhtml/mm4844a1.htm. Accessed October 29, 2004.

_____. "Ringworm and Animals." Centers for Disease Control and Prevention, National Center for Infectious Diseases. http://www.cdc.gov/healthpets/disease/ringworm.htm. Accessed October 29, 2004.

_____. "Salmonellosis: Frequently Asked Questions." Centers for Disease Control and Prevention. http://www.cdc.gov/ncidod/dbmd/diseaseinfo/salmonellosis_g.htm. Accessed October 29, 2004.

_____. *Summary of Notifiable Diseases.* Centers for Disease Control and Prevention. http://www.cdc.gov/epo/dphsi/annsum/index.htm. Accessed October 28, 2004.

_____. "What You Should Know About Monkeypox." Centers for Disease Control and Prevention. http://www.cdc.gov/ncidod/monkeypox/factsheet2.htm. Accessed October 29, 2004.

The Wildlife Society. "Wildlife Policy Statement - Invasive Plants and Animals." (The Society's mission is to enhance the ability of wildlife professionals to conserve diversity, sustain productivity and ensure responsible use of wildlife resources for the benefit of society.) http://www.wildlife.org/policy/index.cfm?tname=policystatements&statement=ps14. Accessed December 16, 2004.

APPENDIX A

HOUSE RESOLUTION NO. 797, PRINTER'S NO. 4217

PRIOR PRINTER'S NO. 4123 PRINTER'S NO. 4217

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 797 Session of 2004

INTRODUCED BY HERSHEY, REICHLEY, PHILLIPS, B. SMITH, BUNT, ARMSTRONG, CIVERA, CLYMER, CURRY, GODSHALL, HENNESSEY, JAMES, R. MILLER, S. MILLER, PICKETT, SAYLOR, SCAVELLO, SCHRODER, SURRA, YOUNGBLOOD, ZUG, BOYD, DALEY, DENLINGER AND CRAHALLA, JUNE 21, 2004

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 29, 2004

A RESOLUTION

Directing the Joint State Government Commission to study the feasibility and suitability of transferring the regulatory authority of exotic wildlife maintained in captivity from the Pennsylvania Game Commission to the Department of Agriculture.

WHEREAS, The definition of "exotic wildlife" in Title 34 of the Pennsylvania Consolidated Statutes is confusing and subject to misinterpretation; and

WHEREAS, The Pennsylvania Game Commission is currently the regulatory agency for exotic wildlife; and

WHEREAS, The Department of Agriculture has the authority to regulate the health of all animals maintained in captivity; and

WHEREAS, The citizens of this Commonwealth would greatly benefit from clearly defined areas of regulatory authority for exotic wildlife maintained in captivity; therefore be it

RESOLVED, That the House of Representatives direct the Joint State Government Commission to study the efficacy of the

existing statute and regulations as well as the feasibility and suitability of transferring the regulatory authority of exotic wildlife maintained in captivity from the Pennsylvania Game Commission to the Department of Agriculture; and be it further

RESOLVED, That this study address the following:

(1) Protection of the public from dangerous animals and disease transmission from exotic wildlife to humans.

(2) Protection of the domestic animal population from unwanted predators, unwanted genetic interaction and disease transmission from exotic wildlife.

(3) Protection of the indigenous wildlife population from unwanted predators, unwanted genetic interaction and disease transmission from exotic wildlife.

(4) The care and keeping of exotic wildlife maintained in captivity.

(5) Categories of exotic wildlife which should be regulated and by which agency. Should any species be prohibited from being maintained in captivity?

(6) Recommendations for clarifying the relevant definitions related to regulating exotic wildlife maintained in captivity.

(7) Recommendations for local government involvement in the regulation of exotic wildlife maintained in captivity.

(8) Ways the budgets of the Pennsylvania Game Commission, the Department of Agriculture and the General Fund would be affected by any change in the regulatory authority for exotic wildlife maintained in captivity. What new costs would be associated with a transfer of authority to the Department of Agriculture?

(9) How would the existing work force be utilized if any

change in regulatory authority is recommended? What new personnel would be necessary, what training would be available and at what cost?

and be it further

RESOLVED, THAT THE SCOPE OF THIS STUDY BE LIMITED TO EXOTIC WILDLIFE AND SHALL NOT INCLUDE "GAME ANIMALS" AS DEFINED IN TITLE 34 OF THE PENNSYLVANIA CONSOLIDATED STATUTES; AND BE IT FURTHER <—

RESOLVED, That the report of the Joint State Government Commission be submitted to the House of Representatives by December 31, 2004.

APPENDIX B

PENNSYLVANIA GAME COMMISSION'S
PERMIT APPLICATION PACKET

PGC - 12 (04/03)

1. Applicant Name, complete address & telephone number

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA GAME COMMISSION
PERMIT APPLICATION

5. I certify that I have read and understand the law and regulations as they will apply to the permit I am applying for and that all statements are true, correct and complete.

2. Name of permit applied for: (One Only)

3. Location where activity will take place if different than No. 1 above

(Signature of Applicant)

(Date)

4. Certified check or money order made payable to the Pennsylvania Game Commission in the amount of:

(Date of Birth)

(FOR GAME COMMISSION USE ONLY)

Date of Personal Contact and Reviewed Regulations _____
Recommendations: Approve [ ] No [ ]

Concurrence: Yes [ ] No [ ]

(Wildlife Conservation Officer Signature) (Dist.) (Date)

(Supervisor's Signature) (Date)

INSTRUCTIONS: CHECK BACK FOR FEE AND SPECIAL INSTRUCTIONS REGARDING INFORMATION FOR PERMIT YOU HAVE APPLIED FOR. USE SPACE BELOW AND ATTACH OTHER PAPERS AS REQUIRED. INSUFFICIENT INFORMATION WILL DELAY OR PREVENT ISSUANCE OF PERMIT.

BIRD BANDING $25.00 Submit application and project outline along with Federal Permit which will be validated.

COLLECTING $25.00 Include title of applicant, scientific background, project outline, species, number of specimens required and method of taking.

DISABLED PERSON $5.00 Lifetime Permit. $5.00 fee required on initial application. Describe disability completely. Submit a doctor's statement certifying the disabilities are permanent.

DOG TRAINING AREA $50.00 State name of organization and person responsible. Include names of 20 citizens. Give location by county, township and landowner. Copy of lease if leased. Total acreage.

FIELD DOG TRIALS:

TRIALS FOR SMALL GAME $25.00 Good for up to three consecutive days. Give dates, times, sponsor, property owner, county and township. Show game to be released and where obtained.

TRIALS FOR RACCOONS $25.00 Good for up to three consecutive days. Give dates, times, sponsor, property owner, county, township and describe where each cast will be. Also indicate if live raccoons or drags will be used.

TRIALS FOR RETRIEVERS $25.00 Good for up to three consecutive days. Give dates, times, sponsor, official guns, property owner, county and township. Show game to be released and where obtained. Submit separate check for required tags.

ENDANGERED OR THREATENED SPECIES: **NATIVE $300.00**
NON-NATIVE FREE WITH NECESSARY FEDERAL PERMIT
List species and where they will be obtained. In the case of non-native species a Federal Permit shall be submitted with application for validation.

FALCONRY $25.00 FOR EACH RAPTOR HELD List previous experience, books read, etc. Statement from licensed General or Master Falconer indicating they will be your sponsor.

FOX CHASING $150.00 Give name of sponsoring organization, person responsible, county and townships where chasing will be done.

FUR DEALER RESIDENT $100.00 Include firm name and business address.

FUR DEALER NONRESIDENT $300.00 Include firm name and name of one person designated to act as buyer.

REGULATED HUNTING GROUNDS Submit map or sketch of area and copy of lease if applicable. Include species to be hunted, name of hunting grounds and total acreage.

COMMERCIAL: $100.00 for first 100 acres and $25.00 for each additional 100 acres or part thereof.

NONCOMMERCIAL: $38.00 for first 100 acres and $8.00 for each additional 100 acres or part thereof.

RETRIEVER TRAINING AREA $50.00 State name of organization and person responsible. Include names of 20 citizens. Give location by county, township and landowner. Copy of lease if leased. Total acreage. Submit separate check for required tags.

TAXIDERMY: EXAM $50.00 — ANNUAL PERMIT $100.00 List experience, special schooling and any other pertinent information. Submit $50.00 to take examination. An additional $100.00 will be assessed for the permit if examination is passed.

WILDLIFE DEALER (EXOTIC) $200.00 List species in which you plan to deal. Officer must inspect facilities prior to approval. Applicant shall provide documentation of at least 2 years experience of hands-on work with the designated species.

WILDLIFE MENAGERIE $100.00 List birds and animals to be exhibited. Applicant shall provide documentation of at least 2 years experience of hands-on work with the designated species.

WILDLIFE POSSESSION (EXOTIC) $50.00 FOR EACH ANIMAL Indicate number and species of animals and where they will be obtained. Officer must inspect facilities prior to approval. Permit required in advance of receiving animals. Applicant shall provide documentation of at least 2 years experience of hands-on work with the designated species.

WILDLIFE PROPAGATION $25.00 FOR ONE SPECIES AND $10.00 FOR EACH ADDITIONAL SPECIES List species to be propagated and where stock will be obtained.

COMMERCIAL WILDLIFE PEST CONTROL: EXAM $25.00 - ANNUAL PERMIT $50.00 List experience and qualifications. Include business name if applicable.

PENNSYLVANIA GAME COMMISSION
HARRISBURG, PA

THE LAW GOVERNING EXOTIC WILDLIFE DEALER PERMITS

FROM THE GAME AND WILDLIFE CODE, TITLE 34 Pa. C.S.

Sec. 2904. (13) PERMIT FEES - WILDLIFE (EXOTIC) DEALER - $200.

Sec. 2961. DEFINITIONS.

* * * * *

"Exotic wildlife." The phrase includes, but is not limited to, all bears, coyotes, lions, tigers, leopards, jaguars, cheetahs, cougars, wolves and any crossbreed of these animals which have similar characteristics in appearance or features. The definition is applicable whether or not the birds or animals were bred or reared in captivity or imported from another state or nation.

"Exotic wildlife dealer." Any person who imports into this Commonwealth, possesses, buys, sells, locates or finds for a fee, barters, donates, gives away or otherwise disposes of more than one bird or one animal classified as exotic wildlife by this subchapter.

* * * * *

Sec. 2962. EXOTIC WILDLIFE DEALER PERMITS.

(a) **Authorization.** - The Commission may issue a permit to a person to act as an exotic wildlife dealer. The permit shall authorize the holder to import into this Commonwealth, possess, buy, sell, locate or find for a fee, barter, donate, give away or otherwise dispose of exotic wildlife. A dealer or third person who arranges any trades, sales or purchases set forth in Section 2965 (relating to exclusions) for any type of fee, reimbursement or commission shall be required to have an exotic wildlife dealer's permit.

(b) **Shelter, care and protection.** - No permit shall be granted by the Commission until it is satisfied that the provisions for housing and caring for the exotic wildlife and protection for the public are proper and adequate and in accordance with the standards which may be established by regulations adopted by the Commission.

(c) **Unlawful acts.** - It is unlawful for any person to:

(1) Import into this Commonwealth, possess, buy, sell, locate or find for a fee, barter, donate, give away or otherwise dispose of more than one bird or one animal classified as exotic wildlife in any calendar year without first securing a permit issued under this section.

(2) Release exotic wildlife into the wild.

(3) Fail to exercise due care in safeguarding the public from attack by exotic wildlife.

(4) Recklessly engage in conduct which places or may place another person in danger of attack by exotic wildlife.

(d) **Penalty.** -

(1) A violation of this section relating to permits or regulations adopted thereunder is a summary offense of the first degree.

(2) Any other violation of this section is a summary offense of the sixth degree.

(3) Each day of violation shall constitute a separate offense, but, under no circumstances, shall the accumulated penalty for purposes of a field receipt exceed $500. There shall be no limit on any accumulated penalty a court may assess.

(e) **Discretion of director.** - In addition to the penalties provided, the director may, for any violation of this section or the rules and regulations thereunder, revoke or suspend any permit and order the disposal of any exotic wildlife held.

FROM 58 PA CODE (REGULATIONS GOVERNING EXOTIC WILDLIFE DEALER)

Sec. 147.2 General.

(a) In addition to definitions in sections 102 and 2961 of the act (relating to definitions; and definitions), the following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Exotic wildlife - Members of the family Felidae except those species commonly called house cats and members of the family Canidae except those licensed by the Pennsylvania Department of Agriculture.

* * * * *

Sec. 147.241. Scope.

(a) General. This subchapter relates to the housing and care of exotic wildlife, as defined in §2961 of the act (relating to definitions), and public protection from wildlife which is being held or transported by exotic wildlife dealers.

(b) Confinement. It is unlawful to maintain exotic wildlife in confinement in unsanitary or unsafe condition, or in a manner which results in maltreatment, mistreatment or neglect. No species of exotic wildlife may be confined in a pen, cage or enclosure which does not meet minimum specifications in this subchapter. An animal may not be chained or tethered, or otherwise impeded from moving freely within an enclosure unless otherwise indicated on the permit.

(c) Housing. Exotic wildlife maintained under §2962 of the act (relating to exotic wildlife dealer permits) shall be housed in a safe and sanitary manner. Failure to provide sanitary surroundings or failure to adequately protect the public from exotic wildlife is a violation of this subchapter.

(d) Bill of sale. It is unlawful for a person to deal in exotic wildlife, except as provided in this subchapter, without a bill of sale or other documentary evidence showing the name and address of the supplier.

(e) Permit required. It is unlawful for a dealer to sell exotic wildlife to a person who does not have a permit required in Subchapter N (relating to exotic wildlife possession).

(f) Permit. A separate exotic wildlife dealer permit shall be required for each business location or facility.

(g) Experience required. A new applicant for an exotic wildlife dealer permit shall provide documentation of at least 2 years experience of hands-on work with the designated species, including care, feeding, handling, training and husbandry. This experience shall be from a recognized/approved facility and the owner, manager or licensee of this facility shall provide a letter of reference.

Sec. 147.242. Safety.

(a) Cage construction shall be sufficiently strong to contain exotic wildlife and protect the animals from injury from other specimens held. A cage considered unsafe by Commission personnel shall be reconstructed as directed. Reconstruction shall be completed and approved within 10 days after official notification, or before new animals are placed in the cage.

(b) It shall be unlawful to exhibit exotic wildlife to the public, except a private showing for prospective customers or personal friends.

(c) Exotic wildlife may not be removed from cages or directly exposed to the public.

Sec. 147.243. Sanitation.

(a) **Sanitation.** Exotic wildlife maintained under this section shall be kept in a sanitary manner.

(b) **Water.** Clean, fresh water shall be provided daily. Water containers shall be cleaned and disinfected daily.

(c) **Food.** Food shall be kept in a manner to prevent spoilage or contamination.

(d) **Waste.** Fecal and food waste shall be removed from cages and dens daily, and disposed of or stored in a manner to prevent noxious odors or attraction of insects or vermin. Hard floors shall be scrubbed and disinfected, at least weekly. Large pens with dirt floors shall be raked every 3 days, and the waste removed.

(e) **Drainage and pools.** Cages and pens shall be designed to provide adequate drainage of the enclosure. Standing water may not be allowed except in the case of species requiring water for wading, submersing or swimming. Pools provided for exotic wildlife shall be cleaned as often as needed to ensure good water quality.

(f) **General requirements.** Procedures for sanitation, water disposal and proper disposition of feces and other waste material shall be in compliance with the requirements of local, State or Federal authorities.

Sec. 147.244. Housing.

(a) **Specifications.** Minimum pen specifications and caging requirements for captive exotic wildlife are as follows:

(1) A cage or enclosure shall be covered at the top to prevent escape.

(2) A cage or enclosure shall be provided with bedding required for the animal's comfort and to protect them from inclement weather. A suitable shield for protection against the hot rays of the sun shall be provided on outside enclosures. If the natural climate of wildlife held differs from the climate of the area where the dealer's facility is located, provisions shall be made to adjust holding conditions to natural habitat.

(3) A cage shall have a secure locking device and shall be key locked or padlocked.

(b) **Permanent housing.** The following are required when exotic wildlife is held more than 10 days.

(1) **Bears.**

(i) Number or size. Single animal.

(ii) Cage size. 25'L by 12'W by 12'H. For a pair, the cage shall be 30'L by 15'W by 12'H.

(iii) Accessories. A pool 6'W by 10'L by 4' deep is mandatory for polar bears. Either the large pool or a freshwater drinking pool 2'W by 2'L by 18" deep with facilities for spraying or wetting the animals during hot weather periods is required for other bears.

(2) **Lions and tigers.**

(i) Number or size. Single animal.

(ii) Cage size. 15'L by 10'W by 8'H. For a pair, the cage shall be 20'L by 10'W by 8'H.

(iii) Accessories. At least two claw logs, one shelf 30"W, 10'L at one end and 40"H off the floor level.

(3) **Leopards, jaguars and cougars.**

(i) Number or size. Single animal.

(ii) Cage size. 10'L by 8'W by 8'H. For a pair, the cage shall be 15'L by 8'W by 8'H.

(iii) Accessories. At least two claw logs and one shelf 24"W, 8'L and 40"H off the floor level.

(4) **Cheetahs.**

(i) Number or size. Up to three animals.

(ii) Cage size. 40'L by 20'W by 8'H.

(iii) Accessories. A shelf 30"W by 6'L and 36" off the floor level is required for a single animal. For one pair, lengthen the shelf to 10 feet.

(5) **Lesser Cats. Bobcats, lynx, serval, caracal, ocelots and the like.**

(i) Number or size. Single animal.

(ii) Cage size. 8'L by 4'W by 6'H. For each additional animal, increase cage length 2 feet.

(iii) Accessories. At least two claw logs and a shelf 14"W by 4'L and 36" off the floor level are required. A den or retreat area is also required.

(6) **Geoffroy's cats, leopard cats, margay and other wild cats up to 10 pounds adult weight.**

(i) Number or size. Single animal.

(ii) Cage size. 4'L by 4'W by 6'H. For each additional animal, increase cage length by one foot.

(iii) Accessories. At least two claw logs and one shelf 6"W by

3'L and 36" off the floor level are required. A den or retreat area is also required.

(7) **Foxes, jackals and the like.**

(i) Number or size. One pair.
(ii) Cage size. 8'L by 4'W by 6'H.
(iii) Accessories. One shelf 18"W by 4'L and 36" off the floor level is required in addition to a den or retreat area.

(8) **Coyotes, cape hunting dogs, dingos and the like.**

(i) Number or size. Single animal.
(ii) Cage size. 10'L by 8'W by 6'H. For each additional animal, increase cage length by 10 feet.
(iii) Accessories. A secluded den area that is 4'W by 4'L for a single animal is required. Add 3 feet in length for each additional animal.

(9) **Wolves, hyenas.**

(i) Number or size. Single animal.
(ii) Cage size. 15'L by 8'W by 6'H. For a pair, double the cage length. For each additional animal after two, add 10 feet to the cage length.
(iii) Accessories. A secluded den area 4'W by 4'L is required for a single animal. Add 3 feet in length for each additional animal.

(c) **Temporary housing.** Required when exotic wildlife is held 10 days or less.

(1) Number or size. Single animal.

(2) Cage size. Cage length shall be at least double the animal's body length, excluding tail. Cage width shall equal or exceed body length. Cage height shall extend at least 2 feet above the standing animal's head to ensure proper ventilation. For two or more animals kept together, add 1/3 more cage length for each additional animal.

(3) Accessories. The cage must be constructed of steel or case-hardened aluminum. The cage shall have a secure locking device and shall be key locked or padlocked. The cage shall be well ventilated.

(d) **Traveling cage.** A traveling cage shall be used only in the actual transportation of exotic wildlife.

(1) Number or size. Single animal.

(2) Cage size. The size of traveling cages for wildlife in transit shall be as follows: The animal shall be able to turn around and stand up on all fours with head clearance.

(3) Accessories. The cage shall be constructed of steel or case-hardened aluminum with one solid side or portable divider panel so that no animal can harm another. A steel floor with wood surface suitable for drainage of urine is necessary. A cage shall have a secure locking device and shall be key locked or padlocked. The cage shall be well ventilated. A cage exposed directly to the public shall be constructed of steel or alloy bars no more than 1 1/2 inches apart.

(4) Ventilation. Exotic wildlife shall travel in air conditioned or well ventilated vehicles that may be adjusted to weather conditions. Animals

shall be provided with fresh water while in transit twice in 24 hours and be fed at least once every 24 hours.

Sec. 147.245. Acquisition and disposal.

(a) Exotic wildlife shall have been lawfully taken, exported, imported, transported, retained and possessed.

(b) Records shall be maintained of acquisitions and disposals of exotic wildlife as well as exotic wildlife born on the premises. Records shall be in ink, written in English and include the full name and address of the person with whom any transaction is conducted. Records shall be available for inspection by Commission personnel at reasonable hours. Entries shall be made on the day of transaction.

Sec. 147.246. Health and welfare.

Exotic wildlife shall be kept free from parasites, sickness or disease. If sick or diseased, exotic wildlife shall immediately be given professional medical attention, or destroyed in a humane manner.

PENNSYLVANIA GAME COMMISSION
HARRISBURG, PA

THE LAW GOVERNING EXOTIC WILDLIFE POSSESSION PERMITS

FROM THE GAME AND WILDLIFE CODE, TITLE 34 Pa. C.S.

Sec. 2904. (15) PERMIT FEES - WILDLIFE (EXOTIC) POSSESSION - $50. PER ANIMAL.

Sec. 2961. DEFINITIONS.

* * * * *

"Exotic wildlife." The phrase includes, but is not limited to, all bears, coyotes, lions, tigers, leopards, jaguars, cheetahs, cougars, wolves and any crossbreed of these animals which have similar characteristics in appearance or features. The definition is applicable whether or not the birds or animals were bred or reared in captivity or imported from another state or nation.

* * * * *

Sec. 2963. EXOTIC WILDLIFE POSSESSION PERMITS.

(a) **Authorization.** - The Commission may issue permits to persons to possess exotic wildlife which shall authorize the holder to purchase, receive or possess exotic wildlife from any lawful source from within or without this Commonwealth.

(b) **Shelter, care and protection.** - No permit provided for in this section shall be granted until the Commission is satisfied that the provisions for housing and caring for such exotic wildlife and for protecting the public are proper and adequate and in accordance with the standards established by the Commission.

(c) **Unlawful acts.** - It is unlawful for any person to:

(1) Possess, purchase or receive exotic wildlife, without first securing a permit to possess exotic wildlife issued under this section or regulations pertaining to this section.

(2) Release exotic wildlife into the wild.

(3) Fail to exercise due care in safeguarding the public from attack by exotic wildlife.

(4) Recklessly engage in conduct which places or may place another person in danger of attack by exotic wildlife.

(d) **Penalty.** -

(1) A violation of this section relating to permits is a summary offense of the third degree.

(2) Any other violation of this section is a summary offense of the fifth degree.

(3) Each day of violation shall constitute a separate offense, but under no circumstances shall the accumulated penalty for purposes of a field receipt exceed $300. There shall be no limit on any accumulated penalty a court

may assess.

(e) **Discretion of director.** - In addition to the penalties provided, the director may, for any violation of this section or the rules and regulations thereunder, revoke or suspend any permit and order the disposal of any exotic wildlife held.

FROM 58 PA CODE (EXOTIC WILDLIFE POSSESSION)

Sec. 147.2 General.

(a) In addition to definitions in sections 102 and 2961 of the act (relating to definitions; and definitions), the following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Exotic wildlife - Members of the family Felidae except those species commonly called house cats and members of the family Canidae except those licensed by the Pennsylvania Department of Agriculture.

* * * * *

Sec. 147.261. Scope.

(a) **General.** This subchapter relates to the housing and care of exotic wildlife, and public protection from exotic wildlife held or transported by a person holding an exotic wildlife possession permit.

(b) **Confinement.** It is unlawful to maintain exotic wildlife, in confinement, in unsanitary or unsafe condition, or in a manner which results in maltreatment, mistreatment or neglect. No exotic wildlife may be confined in any pen, cage or enclosure which does not meet the minimum pen specifications in this subchapter. An animal may not be chained or tethered, or otherwise impeded from moving freely within a cage or enclosure unless otherwise indicated on the permit.

(c) **Housing.** Exotic wildlife shall be housed in a safe and sanitary manner. Failure to provide sanitary surroundings for exotic wildlife or failure to adequately protect the public from exotic wildlife possessed under the act and this subchapter is a violation of this subchapter.

(d) **Bill of sale.** It is unlawful for a person to possess exotic wildlife, except as provided in this subchapter, without having a bill of sale or other documentary evidence showing the name and address of the supplier of the exotic wildlife.

(e) **Permit.** A separate exotic wildlife possession permit is required for each animal.

(f) Experience required. A new applicant for an exotic wildlife possession permit shall provide documentation of at least 2 years experience of hands-on work with the designated species, including care, feeding handling, training and husbandry. This experience shall be from a recognized/approved facility and the owner, manger or licensee of this facility shall provide a letter of reference.

Sec. 147.262. Restrictions.

Sections 147.242 - 147.246 pertain to all exotic wildlife possession permits.

Sec. 147.242. Safety.

(a) Cage construction shall be sufficiently strong to contain exotic wildlife and protect the animals from injury from other specimens held. A cage considered unsafe by Commission personnel shall be reconstructed as directed. Reconstruction shall be completed and approved within 10 days after official notification, or before new animals are placed in the cage.

(b) It shall be unlawful to exhibit exotic wildlife to the public, except a private showing for prospective customers or personal friends.

(c) Exotic wildlife may not be removed from cages or directly exposed to the public.

Sec. 147.243. Sanitation.

(a) **Sanitation.** Exotic wildlife maintained under this section shall be kept in a sanitary manner.

(b) **Water.** Clean, fresh water shall be provided daily. Water containers shall be cleaned and disinfected daily.

(c) **Food.** Food shall be kept in a manner to prevent spoilage or contamination.

(d) **Waste.** Fecal and food waste shall be removed from cages and dens daily, and disposed of or stored in a manner to prevent noxious odors or attraction of insects or vermin. Hard floors shall be scrubbed and disinfected, at least weekly. Large pens with dirt floors shall be raked every 3 days and the waste removed.

(e) **Drainage and pools.** Cages and pens shall be designed to provide adequate drainage of the enclosure. Standing water may not be allowed except in the case of species requiring water for wading, submersing or swimming. Pools provided for exotic wildlife shall be cleaned as often as needed to ensure good water quality.

(f) **General requirements.** Procedures for sanitation, water disposal and proper disposition of feces and other waste material shall be in compliance with the requirements of local, State or Federal authorities.

Sec. 147.244. Housing.

(a) **Specifications.** Minimum pen specifications and caging requirements for captive exotic wildlife are as follows:

(1) A cage or enclosure shall be covered at the top to prevent escape.

(2) A cage or enclosure shall be provided with bedding required for the animal's comfort and to protect them from inclement weather. A suitable shield for protection against the hot rays of the sun shall be provided on outside enclosures. If the natural climate of wildlife held differs from the climate of the area where the dealer's facility is located, provisions shall be made to adjust holding conditions to natural habitat.

(3) A cage shall have a secure locking device and shall be key locked or padlocked.

(b) **Permanent housing.** The following are required when exotic wildlife is held more than 10 days.

(1) **Bears.**

(i) Number or size. Single animal.
(ii) Cage size. 25'L by 12'W by 12'H. For a pair, the cage shall be 30'L by 15'W by 12'H.
(iii) Accessories. A pool 6'W by 10'L by 4' deep is mandatory for polar bears. Either the large pool or a freshwater drinking pool 2'W by 2'L by 18" deep with facilities for spraying or wetting the animals during hot weather periods is required for other bears.

(2) **Lions and tigers.**

(i) Number or size. Single animal.
(ii) Cage size. 15'L by 10'W by 8'H. For a pair, the cage shall be 20'L by 10'W by 8'H.
(iii) Accessories. At least two claw logs, one shelf 30"W, 10'L at one end and 40"H off the floor level.

(3) **Leopards, jaguars and cougars.**

(i) Number or size. Single animal.
(ii) Cage size. 10'L by 8'W by 8'H. For a pair, the cage shall be 15'L by 8'W by 8'H.
(iii) Accessories. At least two claw logs and one shelf 24"W, 8'L and 40"H off the floor level.

(4) **Cheetahs.**

(i) Number or size. Up to three animals.
(ii) Cage size. 40'L by 20'W by 8'H.
(iii) Accessories. A shelf 30"W by 6'L and 36" off the floor level is required for a single animal. For one pair, lengthen the shelf to 10 feet.

(5) **Lesser Cats. Bobcats, lynx, serval, caracal, ocelots and the like.**

(i) Number or size. Single animal.
(ii) Cage size. 8'L by 4'W by 6'H. For each additional animal, increase cage length 2 feet.
(iii) Accessories. At least two claw logs and a shelf 14"W by 4'L and 36" off the floor level are required. A den or retreat area is also required.

(6) **Geoffroy's cats, leopard cats, margay and other wild cats up to 10 pounds adult weight.**

(i) Number or size. Single animal.
(ii) Cage size. 4'L by 4'W by 6'H. For each additional animal, increase cage length by one foot.
(iii) Accessories. At least two claw logs and one shelf 6"W by 3'L and 36" off the floor level are required. A den or retreat area is also required.

(7) **Foxes, jackals and the like.**

(i) Number or size. One pair.

(ii) Cage size. 8'L by 4'W by 6'H.
(iii) Accessories. One shelf 18"W by 4'L and 36" off the floor level is required in addition to a den or retreat area.

(8) **Coyotes, cape hunting dogs, dingos and the like.**

(i) Number or size. Single animal.
(ii) Cage size. 10'L by 8'W by 6'H. For each additional animal, increase cage length by 10 feet.
(iii) Accessories. A secluded den area that is 4'W by 4'L for a single animal is required. Add 3 feet in length for each additional animal.

(9) **Wolves, hyenas.**

(i) Number or size. Single animal.
(ii) Cage size. 15'L by 8'W by 6'H. For a pair, double the cage length. For each additional animal after two, add 10 feet to the cage length.
(iii) Accessories. A secluded den area 4'W by 4'L is required for a single animal. Add 3 feet in length for each additional animal.

(c) **Temporary housing.** Required when exotic wildlife is held 10 days or less.

(1) Number or size. Single animal.

(2) Cage size. Cage length shall be at least double the animal's body length, excluding tail. Cage width shall equal or exceed body length. Cage height shall extend at least 2 feet above the standing animal's head to ensure proper ventilation. For two or more animals kept together, add 1/3 more cage length for each additional animal.

(3) Accessories. The cage must be constructed of steel or case hardened aluminum. The cage shall have a secure locking device and shall be key locked or padlocked. The cage shall be well ventilated.

(d) **Traveling cage.** A traveling cage shall be used only in the actual transportation of exotic wildlife.

(1) Number or size. Single animal.

(2) Cage size. The size of traveling cages for wildlife in transit shall be as follows: the animal shall be able to turn around and stand up on all fours with head clearance.

(3) Accessories. The cage shall be constructed of steel or case-hardened aluminum with one solid side or portable divider panel so that no animal can harm another. A steel floor with wood surface suitable for drainage of urine is necessary. A cage shall have a secure locking device and shall be key locked or padlocked. The cage shall be well ventilated. A cage exposed directly to the public shall be constructed of steel or alloy bars no more than 1 1/2 inches apart.

(4) Ventilation. Exotic wildlife shall travel in air conditioned or well ventilated vehicles that may be adjusted to weather conditions. Animals shall be provided fresh water while in transit twice in 24 hours and be fed at least once every 24 hours.

Sec. 147.245. Acquisition and disposal.

(a) Exotic wildlife shall have been lawfully taken, exported, imported, transported, retained and possessed.

(b) Records shall be maintained of acquisitions and disposals of exotic wildlife as well as exotic wildlife born on the premises. Records shall be in ink, written in English and include the full name and address of the person with whom a transaction is conducted. Records shall be available for inspection by Commission personnel at reasonable hours. Entries shall be made on the day of transaction.

Rev. 4/2003

Subchapter O. MENAGERIES

Sec.

§147.281. Scope.

(a) General and definitions. This subchapter relates to safeguards for public safety, humane care and treatment, adequate housing and nutrition, sanitation, safety, acquisition and disposal of wildlife and exotic wildlife held as part of a menagerie under the act or this part. Definitions contained in §2961 of the act (relating to definitions) apply to this subchapter.

(b) Confinement. It is unlawful to maintain wildlife, in confinement, in an unsanitary or unsafe condition or in a manner which results in maltreatment, mistreatment or neglect. No wildlife may be confined in a pen, cage or enclosure which does not meet minimum pen specifications in this subchapter. An animal may not be chained or tethered, or otherwise impeded from moving freely within a cage or enclosure unless otherwise indicated on the permit.

(c) Housing. Wildlife maintained under §2964 of the act (relating to menagerie permits) shall be housed in a safe and sanitary manner. Failure to provide sanitary surroundings for wildlife, or failure to adequately protect the public from wildlife possessed under this subchapter is a violation.

(d) Bill of sale. It is unlawful for a person to possess wildlife, for the purpose of exhibition, except as provided in this subchapter, without having a bill of sale or other documentary evidence showing the name and address of the supplier of the wildlife.

(e) Permit. The menagerie permit shall be produced upon demand of an officer of the Commission.

(f) Citizenship. Menagerie permits may be issued to a person who is a citizen of the United States.

(g) Experience required. A new applicant for a menagerie permit shall provide documentation of at least 2 years experience of hands-on work with the designated species, including care, feeding, handling, training and husbandry. This experience shall be from a recognized/approved facility and the owner, manager or licensee of this facility shall provide a letter of reference.

§147.282. Safety.

(a) Cage construction shall be sufficiently strong to contain the wildlife and to protect the animal from injury from other specimens on exhibit. Caging determined unsafe by Commission personnel shall be reconstructed as directed. Reconstruction shall be completed and approved within 30 days after official notification from the Commission.

(b) Except as provided in subsections (c) and (d), wildlife may not be removed from cages or directly exposed to the public. Safety barriers shall be present to adequately prevent wildlife from touching, grasping or biting visitors. Barriers such as walls, fences, moats, retaining rails and other necessary devices shall be present to prevent the public from approaching the cages, pens, enclosures or areas near enough to contact the wildlife.

(c) Public human contact with the following designated animals is permitted under the specified conditions:

(1) Ruminant animals.

(2) Organ grinder monkeys, trained performing chimpanzees and elephants if under the immediate control of the handler to preclude danger to the public.

(d) Wildlife other than members of the families Ursidae, Felidae and wild Canidae when exhibited on a stage or in an arena, may be removed from their cage by the exhibitor in a manner precluding danger to the public. Other human contact with the wildlife is prohibited.

§147.283. Sanitation.

(a) Sanitation. Wildlife maintained under this subchapter shall be kept in a sanitary manner.

(b) Water. Clean, fresh water shall be provided daily. Water containers shall be cleaned and disinfected daily.

(c) Food. Food shall be kept in a manner to prevent spoilage or contamination.

(d) Waste. Fecal and food waste shall be removed from cages and dens daily and disposed of or stored in a manner to prevent noxious odors or attraction of insects or vermin. Hard floors shall be scrubbed and disinfected at least weekly. Large pens and paddocks with dirt floors shall be raked every 3 days and the waste removed.

(e) Drainage and pools. Cages, pens and paddocks shall be designed so as to provide adequate drainage of the enclosure. Standing water is not allowed except in the case of animals requiring water for wading,

submersing or swimming. Pools provided for wildlife shall be cleaned as often as needed to ensure good water quality.

(f) General requirements. Procedures for sanitation, water disposal and proper disposition of feces and other waste material shall be in compliance with the requirements of local, State or Federal authorities.

§147.284. Housing.

(a) Cages or enclosures except paddocks, corrals, islands or grotto-type exhibits shall be covered at the top to prevent escape.

(b) A cage or enclosure shall have bedding required for the comfort and protection from inclement weather. A suitable shield for protection against the hot sun rays shall be provided on outside enclosures. If the natural climate of the wildlife being held differs from the climate of the area where the menagerie is located, provisions shall be made to adjust holding conditions to the natural habitat.

(c) Signs shall be conspicuously posted on cages or enclosures prohibiting the public from feeding, except food obtained from the permittee, or annoying the wildlife. The owner or operator is responsible for enforcement.

(d) A cage or enclosure shall be labeled in English with the proper common name of the wildlife confined. The letters shall be at least 1 inch in height.

(e) A cage shall have a secure locking device and shall be key locked or padlocked.

§147.285. Specifications.

It is unlawful for a permit holder to confine wildlife in a pen, cage or enclosure which does not meet minimum specifications or caging requirements. Except as otherwise provided in this section, minimum specifications and caging requirements for captive wildlife shall comply with the following:

(1) New World Monkeys.

(i) Marmosets.

(A) Number or size: One adult pair.

(B) Cage size: 3'L by 2'W by 4'H.

(C) Accessories: Two or more branch limbs for perching and a nest box.

(ii) Squirrel monkeys, titis, owls and other similar-sized monkeys.

(A) Number or size: One to three animals.

(B) Cage size: 4'L by 5'W by 5'H. For colonies of up to 15 monkeys, the cage shall be 12'L by 8'W by 6'H.

(C) Accessories: Two or more branch limbs for perching and a nest box.

(iii) Medium-sized South American monkeys. Capuchins, sakis and the like.

(A) Number or size: One pair.

(B) Cage size: 5'L by 5'W by 6'H. For groups of four or more, the cage shall be 10'L by 5'W by 6'H.

(C) Accessories: Three parallel bars for swinging.

(iv) Large South American monkeys. Spiders, wooleys, howlers, and the like.

(A) Number or size: One pair.

(B) Cage size: 6'L by 6'W by 8'H. For two pairs, the cage shall be 10'L by 6'W by 8'H.

(C) Accessories: Three parallel bars in upper part of cage for swinging, plus two or more perching areas.

(2) Old World Monkeys.

(i) Macaques, guenons, mangabys, langurs, and the like.

(A) Number or size: One pair.

(B) Cage size: 6'L by 5'W by 6'H. For groups of four to six animals, the cage shall be 12'L by 8'W by 6'H.

(C) Accessories: Three or more perches.

(ii) Baboons, mandrills, dog-faces, and the like.

(A) Number or size: One pair.

(B) Cage size: 10'L by 6'W by 6'H. For groups of three to six animals, the cage shall be extended 3 feet in length for each additional animal.

(C) Accessories: Two shelves 10 inches to 12 inches wide are necessary for sleeping and resting.

(3) Apes.

(i) Gibbons.

(A) Number or size: One pair, plus one or two offspring.

(B) Cage size: 12'L by 6'W by 8'H.

(C) Accessories: Three parallel bars at least 4 feet apart shall be provided in the top 1/3 of cage along the length of enclosure for swinging.

(ii) Chimpanzees and orangutans.

(A) Number or size: Young, single animals - 20 to 50 pounds.

(B) Cage size: 8'L by 6'W by 6'H. For adults, 50 pounds or over, the cages shall be 10'L by 6'W by 8'H. For two or three adults, double the floor area.

(iii) Gorillas.

(A) Number or size: Single animal.

(B) Cage size: 14'L by 12'W by 8'H. For two animals, double the floor area.

(4) Carnivores and certain omnivores with similar requirements.

(i) African lions and Asian tigers.

(A) Number or size: Single animal.

(B) Cage size: 15'L by 10'W by 8'H. For a pair, the cage shall be 20'L by 10'W by 8'H.

(C) Accessories: At least two claw logs, one shelf 30"W, 10'L and 40"H off the floor level.

(ii) Jaguars, leopards, pumas, cougars.

(A) Number or size: Single animal.

(B) Cage size: 10'L by 8'W by 8'H. For a pair, the cage shall be 15'L by 8'W by 8'H.

(C) Accessories: At least two claw logs and one shelf 24"W, 8'L and 40"H off the floor level.

(iii) Lesser cats. Bobcats, lynx, ocelots, margay, and the like.

(A) Number or size: Single animal.

(B) Cage size: 8'L by 4'W by 6'H. For a pair, the cage shall be 10'L by 4'W by 6'H.

(C) Accessories: At least two claw logs and one shelf 14"W, 4'L and 36"H off the floor level. A den or retreat area is also required.

(iv) Geoffroy's cats, leopard cats and other wild cats. Average 5 pounds adult weight.

(A) Number or size: Single animal.

(B) Cage size: 4'L by 4'W by 6'H.

(C) Accessories: At least two claw logs and one shelf or perch 6"W, 3'L and 36"H off the floor level.

(v) Cheetahs.

(A) Number or size: Up to three animals.

(B) Cage size: 40'L by 20'W by 8'H.

(C) Accessories: A shelf 30"W by 6'L by 36"H off the floor level is required for a single animal. For one pair, lengthen the shelf to 10 feet.

(vi) Bears. Six feet or more from rump to snout.

(A) Number or size: Single animal.

(B) Cage size: 25'L by 12'W by 12'H. For a pair, the cage shall be 30'L by 15'W by 12'H.

(C) Accessories: A pool 6'W by 10'L by 4' deep is mandatory for polar bears.

(vii) Bears. Up to 6 feet from rump to snout.

(A) Number or size: Single animal.

(B) Cage size: 20'L by 10'W by 10'H. For a pair, 30'L by 10'W by 10'H.

(viii) Sun bears.

(A) Number or size: Single animal.

(B) Cage size: 12'L by 8'W by 6'H. For a pair, the cage shall be 15'L by 8'W by 6'H.

(ix) Raccoons, coati-mundi, sloth, tayra and others of similar size and habitat, including North and South American porcupines and hyraxes.

(A) Number or size: Single animal.

(B) Cage size: 6'L by 5'W by 6'H. For two or three animals, cages shall be 8'L by 5'W by 6'H. Add 2 feet in length for each additional animal over three animals.

(C) Accessories: One shelf per animal plus at least two limbs for climbing are also required. Sloths require upright tree trunk with lateral branches of adequate size and strength to comfortably support the animal in normal posterial modes.

(x) Kinkajous, opossums, pottos, grissons, gallagos, tamanduas, slow loris, genets, and the like. Small climbing animals.

(A) Number or size: Single animal.

(B) Cage size: 4'L by 4'W by 6'H. For a pair, cages shall be 6'L by 4'W by 6'H. For additional animals, add 1 foot more of length per animal.

(C) Accessories: At least three limbs for climbing are required.

(xi) Squirrels, tree shrews, and the like.

(A) Number or size: One to two animals.

(B) Cage size: 3'L by 2'W by 4'H. Add 6 inches more in length for each additional animal.

(C) Accessories: At least three limbs and a nest box.

(xii) Agouti, pacas, wild rabbits, acushi, skunks and other rabbit-sized ground animals.

(A) Number or size: Single animal.

(B) Cage size: 6'L by 3'W by 3'H. For a pair or more, add 1 foot in length for each additional animal.

(C) Accessories: Two or more gnawing logs are required.

(xiii) Badger, woodchuck, large-crested porcupine and similar-sized ground animals.

(A) Number or size: Single animal.

(B) Cage size: 8'L by 6'W by 4'H. Add 3 feet in length for each additional animal.

(C) Accessories: Two or more gnawing logs are required for porcupines. Nest box or retreat is required for all animals.

(xiv) Beavers, muskrats and other semiaquatic small animals.

(A) Number or size: One to three animals.

(B) Cage size: 8'L by 4'W by 5'H. Add 2 feet in length for each additional animal.

(C) Accessories: A pool 4'W by 4'L by 24" deep. Two or more gnawing logs, nest box or retreat.

(xv) Otter.

(A) Number or size: One pair.

(B) Cage size: 10'L by 6'W by 6'H.

(C) Accessories: A pool 4'W by 6'L by 3' deep at one end. Increase cage and pool by 25% in horizontal dimensions for each additional animal. A slide and a dry place for a sleeping retreat are required. A safety guard rail with posted signs saying "No Molesting, Extremely Dangerous" is required.

(xvi) Pygmy hippopotamus, tapirs, capybaras, giant anteaters, and the like.

(A) Number or size: Single adult animal.

(B) Cage size: 24'L by 15'W.

(C) Accessories: A stepped or nonskid pool 6'W by 8'L by 4' deep - not necessary for anteaters. Increase the horizontal dimension in cage and pool size by 30% for each additional animal.

(xvii) Foxes, jackals and the like.

(A) Number or size: One pair.

(B) Cage size: 8'L by 4'W by 6'H.

(C) Accessories: One shelf 18"W by 3'H by 4'L. A den or nest box area is also required.

(xviii) Wolves, hyenas.

(A) Number or size: Single animal.

(B) Cage size: 15'L by 8'W by 6'H. For a pair, double the cage length. For each additional animal - after two - add 10 feet to the cage length.

(C) Accessories: A secluded den area 4'W by 4'L is required for a single animal; add 3 feet in length for each additional animal.

(xix) Coyotes, cape hunting dogs, dingos, wolverines, and the like.

(A) Number or size: Single animal.

(B) Cage size: 10'L by 8'W by 6'H. For a pair, double the cage length. For each additional animal after two, add 10 feet in length to the cage.

(C) Accessories: A secluded den area that is 4'W by 4'L for single animal is required; add 3 feet in length for each additional animal.

(xx) Weasels, martens, polecats, ferrets.

(A) Number or size: One pair.

(B) Cage size: 6'L by 3'W by 3'H.

(C) Accessories: A den is required.

(5) Marsupials and others.

(i) Kangaroos. Large wallaby, walleroo, and the like.

(A) Number or size: Single animal.

(B) Cage size: 20'L by 12'W by 8'H. For each additional animal add 25% surface area to cage.

(C) Accessories: A refuge area and shade are required. The ideal situation is an open paddock. If surface is of an artificial material, it shall be a non-skid surface.

(ii) Small wallaby.

(A) Number or size: One to two animals.

(B) Cage size: 12'L by 4'W by 6'H. Each additional animal requires a 25% increase in surface area.

(C) Accessories: Refuge area and shade are required. If surface is of an artificial material, it shall be a non-skid surface.

(iii) Hedgehogs.

(A) Number or size: One to two animals.

(B) Cage size: 2'L by 2'W by 2'H.

(C) Accessories: Cage should be constructed with a dirt floor over a wire bottom.

(iv) Armadillos.

(A) Number or size: Single animal.

(B) Cage size: A 6-foot circular cage - if not circular, the cage shall have same area with rounded corners having a minimum radius of 2 feet. Add 2 feet in diameter for each additional animal.

(C) Accessories: The cage shall be constructed with a dirt floor over a wire bottom.

(6) Odd- and even-toed animals, ostriches and other large running birds.

(i) Large-sized. Zebras, elk, giraffes, asses, wildebeests, camels, elands, buffaloes, bison, and the like.

(A) Number or size: Single animal.

(B) Cage size: 1,000 square foot paddock or corral. Each additional animal requires 25% more area.

(C) Accessories: Barn or shaded or protected area attached to or adjoining the paddock or corral.

(ii) Medium-sized. Ostriches, whitetailed deer, fallow deer, llamas, aoudads, wild goats and sheep-type animals, emus, cassowarys and rheas.

(A) Number or size: Single animal.

(B) Cage size: 500 square foot paddock or corral. Increase horizontal dimensions by 25% for each additional animal.

(C) Accessories: A shelter is required.

(iii) Small-sized. Dikdiks, small gazelles, peccary.

(A) Number or size: Single animal.

(B) Cage size: 300 square foot paddock or corral. Increase horizontal dimension by 25% for each additional animal.

(C) Accessories: A shelter is required.

(iv) Rhinoceros.

(A) Number or size: Single animal.

(B) Cage size: 1,500 square foot paddock or corral is required. Each additional animal requires 50% increase in horizontal dimension.

(C) Accessories: A heated barn or shelter and shade are required.

(v) Elephants.

(A) Number or size: Single animal.

(B) Cage size: 1,500 square foot paddock or corral. Whether chained or unchained, each animal shall be able to utilize the entire 1,500 square foot area. Each additional animal requires a 50% increase in horizontal dimension.

(C) Accessories: A heated barn or shelter and shade are required.

(vi) Hippopotamus, Nile.

(A) Number or size: Single animal.

(B) Cage size: 600 square feet plus 300 square foot pool.

(C) Accessories: 300 square feet non-skid ramped pool with a 5-foot depth. Each additional animal requires a 25% increase in pool and land area.

(7) Birds.

(i) General requirements. Enclosures for flying birds shall either be small enough to inhibit flying altogether or large enough to permit aerial maneuvering within the enclosure. An enclosure not sufficiently large may result in injuries from birds flying into the side of the enclosure. Raptors and members of the parrot family may be caged in conformity with this subparagraph or securely tethered to a suitable perch in a manner to preclude danger to the public.

(ii) Parrot-type. Macaws, large cockatoos.

(A) Number or size: Single specimen.

(B) Cage size: Adequate room for turning and sitting on a perch without touching its tail against sides or bottom of cage is required.

(C) Accessories: Suitable perch that is large enough so that the claws do not meet on the underside.

(iii) Medium-sized parrots. Small cockatoos, yellow-heads, grays, Amazons.

(A) Number or size: Up to two specimens.

(B) Cage size: 18"L by 18"W by 24"H.

(C) Accessories: One suitable perch per bird; diameter of perch shall be large enough so that claws do not meet on the underside.

(iv) Small parrots. Lovebirds, parakeets, and the like.

(A) Number or size: One or two birds.

(B) Cage size: 12"L by 24"W by 10"H. Community cages shall provide flight space.

(C) Accessories: One or more suitable perches - diameter shall be large enough so that claws do not meet on the underside.

(v) Waterfowl.

(A) Number or size: Not more than two pairs of adults or one pair with offspring of the year.

(B) Cage size: 100 square feet of area with 25% consisting of water area.

(xi) Eagles, hawks, owls, vultures, toucans and toucanets.

(A) Number or size: Single bird.

(B) Cage size: Cage shall be wide enough for the bird to spread its wings and fly-hop from floor to perch. Width shall be two times greater than wingspread. Perch to ground shall be twice as long as its body. Length of cage shall be five times the body length. Increase cage size 50% in length and 25% in width for each additional bird.

(C) Accessories: At least one suitable perch per bird - the diameter of the perch shall be large enough that talons do not meet on the underside. For large birds of prey, a stump high enough that when a bird is perched, the tail feathers are 6 inches off the floor. Roof of the cage shall be of sufficient height to permit the bird to rest erect on the perches.

(vii) Wild turkeys, peafowl and curassows.

(A) Number or size: One to three birds.

(B) Cage size: 144 square feet of horizontal space. Male peafowl shall have adequate turning room for its tail. Enclosures shall be at least 6 feet high.

(C) Accessories: The cage shall have at least one roost perch approximately 4 feet from the floor.

(viii) Lesser game birds, pheasants, and the like.

(A) Number or size: One to five birds.

(B) Cage size: One hundred square feet of horizontal space. Enclosures shall be at least 6 feet high. Each additional bird requires an additional 20 square feet.

(C) Accessories: At least one roost perch approximately 30 inches from the floor.

(ix) Community groups of finches and seedeaters.

(A) Number or size: Community group of 25 or less.

(B) Cage size: 4'W by 8'L by 8'H.

(x) Medium-sized flight birds. Jays, starlings, doves, pigeons, and the like.

(A) Number or size: One to two birds.

(B) Cage size: 3'L by 2'W by 5'H. For a community group the cage shall be large enough to allow flying and be at least 8 feet in diameter. The birds may be kept in parrot-style cage.

(xi) Wading birds. Flamingos, ibises, spoonbills, herons, egrets, and the like.

(A) Number or size: One to five birds.

(B) Cage size: 144 square feet of horizontal space. Birds in open, fenced areas shall be pinioned.

(C) Accessories: Shallow pools for wading plus dry land areas.

(xii) Storks and cranes.

(A) Number or size: One pair.

(B) Cage size: 144 square feet of horizontal space.

(xiii) Pelicans, cormorants and swans.

(A) Number or size: Two birds.

(B) Cage size: 144 square feet of horizontal space. Fifty percent of the area shall be water at least 18 inches deep. Add 25% more area in land and pool for each additional bird.

(C) Accessories: Pool is required.

(xiv) Penguins.

(A) Number or size: One pair.

(B) Cage size: 100 square feet of horizontal space of which 50% is water at least 36 inches deep. Add 10% area in water and land for each additional bird.

(C) Accessories: Water must be cooled to 55 degrees Fahrenheit and be flowing. Chilled waters are not required for Humboldt's penguins.

(8) Traveling wildlife.

(i) Large cats. Lions, tigers, jaguars, leopards, pumas and hybrids.

(A) Number or size: Single animal.

(B) Cage size: The size of traveling cages for wildlife on the road shall be as follows: animals shall be able to turn around and stand up on all fours with head clearance.

(C) Accessories: The cage shall be constructed of steel or case-hardened aluminum with one solid side or portable divider panel so that no animal can harm another. A steel floor with wood surface suitable for drainage of urine is necessary. A cage shall have a secure locking device and shall be key locked or padlocked. A cage shall be well ventilated. A cage exposed directly to the public shall be constructed of steel or alloy bars no more than 1-1/2 inches apart.

(ii) Bears and hyenas.

(A) Number or size: Single animal.

(B) Cage size: The animal shall be able to turn around and stand up on all fours with head clearance.

(C) Accessories: The cage shall be constructed of steel or case-hardened aluminum with one solid side or portable divider panel so that no animal can harm another. A steel floor suitable for drainage of urine is necessary. A cage shall be well ventilated. A cage exposed directly to the public shall be constructed of steel or alloy bars no more than 1-1/2 inches apart.

(iii) Primates.

(A) Number or size: Single animal.

(B) Cage size: Primates shall be able to stand up and turn around.

(C) Accessories: The cage shall be constructed of steel bars no more than 1 inch apart and sufficiently well constructed to be escape proof. Padlocks shall be used at the top and bottom of door.

(iv) Elephants.

(A) Number or size: Single animal.

(B) Cage size: While on the road, elephants shall be chained by front and back legs.

(v) Other wildlife. Other traveling wildlife shall be transported in cages large enough to permit the wildlife to stand up and turn around.

(vi) General. Traveling wild animals shall travel in air conditioned or well-ventilated vehicles that may be adjusted to weather conditions. Animals shall be provided with fresh water while in transit twice in 24 hours and be fed at least once every 24 hours.

(9) Temporary housing. Wildlife may be housed for a period of not more than 10 consecutive days at the same location in cages meeting the minimum size specifications in subparagraphs (i)-(viii). If wildlife is displayed for more than 10 consecutive days at the same location, the wildlife shall be placed in cages meeting minimum size specifications in paragraphs (1)-(8). The minimum size specifications for temporary housing are as follows:

(i) Large carnivores. Lions, tigers, jaguars, leopards, pumas, wolves, bears and hybrid cats.

(A) Number or size: Single animal.

(B) Cage size: Cage length shall be at least double the body length - excluding tail - of the animal. Cage width shall equal or exceed body length. Cage height shall extend at least 2 feet above the standing animal's head to ensure proper ventilation. For two or more animals kept together, add 1/3 more cage length for each additional animal.

(ii) Large primates. Gorillas.

(A) Number or size: Single animal.

(B) Cage size: 8'W by 8'L. Height shall extend at least 2 feet over the standing height of the animal.

(C) Accessories. Overhead pull bar and seat.

(iii) Adult orangutan.

(A) Number or size: Single animal.

(B) Cage size: 7'W by 7'L. Weight shall extend at least 2 feet over standing height of the animal.

(C) Accessories: The cage shall be equipped with overhead pull bar and seat.

(iv) Adult chimpanzee.

(A) Number or size: Single animal.

(B) Cage size: 6-1/2'W by 6-1/2'L. Height shall extend at least 2 feet over standing height of the animal.

(C) Accessories: The cage shall be equipped with overhead pull bar and seat.

(v) Young chimpanzee. Up to 50 pounds.

(A) Number or size: Single animal.

(B) Cage size: 5'W by 5'L. Height shall extend at least 2 feet over standing height of the animal.

(C) Accessories: The cage shall be equipped with overhead pull bar and seat.

(vi) Macaques.

(A) Number or size: Single animal.

(B) Cage size: 5'W by 5'L. Height shall extend at least 2 feet over standing height of animal.

(C) Accessories: The cage shall be equipped with overhead pull bar and seat.

(vii) Primates - general. Cages shall be well ventilated and have secure locking devices. Cages exposed directly to the public shall be constructed of steel or alloy bars not more than 1 inch apart.

(viii) Other wildlife. Cage length shall be at least double the body length - excluding tail - of the animal. Cage width shall equal or exceed body length. Cage height shall extend at least 1 foot above the standing animal's head. For two or more animals kept together, add 1/3 more cage length for each additional animal.

§147.286. Acquisition and disposal.

(a) Wildlife at a menagerie shall have been lawfully taken, exported, imported, transported, retained and possessed.

(b) The acquisition or disposal of wildlife shall be for the sole purpose of maintaining stock for the menagerie.

(c) The Commission officer approving the menagerie permit shall be notified, in writing, within 10 days after receipt of additional wildlife.

(d) The Commission officer approving the menagerie permit shall be notified, in writing, 10 days prior to disposal of wildlife when feasible.

(e) Records shall be maintained of acquisitions and disposals of wildlife as well as any wildlife born or hatched at the menagerie. Records

shall be in ink and written in plain English. Records shall be available for inspection by Commission personnel at any reasonable hour.

§147.287. Health and welfare.

Wildlife shall be kept free from parasites, sickness or disease. If sick or unsightly, wildlife shall be removed from public display and immediately given professional medical attention, or be destroyed in a humane manner.

Rev: 4/2003