

## HBA-NRS H.B. 1362 77(R)BILL ANALYSIS

Office of House Bill Analysis H.B. 1362  
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 County Affairs  
 7/18/2001  
 Enrolled

## BACKGROUND AND PURPOSE

Prior to 1995, the Texas Parks and Wildlife Department (TPWD) regulated the ownership of wild animals. Prior to the 77th Legislature, the legislature repealed law that regulated the possession of wild animals, primarily because TPWD did not have the personnel or resources to properly regulate possession of dangerous wild animals. House Bill 1362 gives authority to regulate the possession of dangerous wild animals to municipal and county authorities.

## RULEMAKING AUTHORITY

It is the opinion of the Office of House Bill Analysis that rulemaking authority is expressly delegated to the Texas Board of Health in SECTION 1 (Section 822.111, Health and Safety Code) and SECTION 6 of this bill.

## ANALYSIS

House Bill 1362 amends the Health and Safety Code to prohibit a person from owning, harboring, or having custody or control of a dangerous wild animal for any purpose unless the person is exempt under this Act or holds a nontransferable, one-year certificate of registration for that animal issued by an animal registration agency (agency). The bill authorizes the agency to establish and charge fees for the application, issuance, and renewal of a certificate of registration. The bill sets fee limits for each animal registered and for each person registering animals. The bill does not require a municipality that does not have an animal control office to create that office (Sec. 822.102 and 822.103). The bill sets forth requirements for an application for a certificate of registration for a dangerous wild animal and sets forth administrative procedures regarding license denial and revocation, including the appeal process (Secs. 822.104 and 822.105).

The bill requires a holder of a certificate of registration to prominently display the certificate at the premises where each animal that is the subject of the certificate of registration is kept. Not later than the 10th day after the date a person receives a certificate of registration, the bill requires the person to file a clear and legible copy of the certificate of registration with the Texas Department of Health (Sec. 822.106). The bill further requires an owner of a dangerous wild animal to allow the agency or a designated licensed veterinarian to enter the premises where the animal is kept and to inspect the animal, its primary enclosure, and the owner's records relating to the animal (Sec. 822.108). The bill sets forth provisions relating to the relocation or disposition of a dangerous wild animal (Sec. 822.109).

House Bill 1362 requires an owner of a dangerous wild animal to maintain liability insurance coverage in an amount of not less than \$100,000 for each occurrence for liability for damages to property and death or bodily injury to a person caused by the dangerous wild animal (Sec. 822.107). The bill requires an owner of a dangerous wild animal to notify the agency of any attack of a human by the animal within 48 hours of the attack and requires the owner to immediately notify the agency and the local law enforcement agency of any animal escape. The bill provides that the owner of a dangerous wild animal that escapes is liable for all costs incurred in apprehending and confining the animal. The bill also provides that an agency, a law enforcement agency, or an employee of an agency or law enforcement agency is not liable to an owner of a dangerous wild animal for damages arising in connection with the escape of a dangerous wild animal (Sec. 822.110).

The bill requires the Texas Board of Health (board) by rule to establish caging requirements and standards for the keeping and confinement of a dangerous wild animal not later than March 1, 2002. The bill authorizes an agency to approve a deviation from the caging requirements and standards established by the board under certain circumstances (Sec. 822.111). The bill sets forth provisions regarding the care, treatment, and transportation of a dangerous wild animal. The bill sets forth the conditions under which a person commits an offense and provides for

penalties and injunctions (Secs. 822.111-822.115).

The bill amends the Penal Code to provide that it is a defense to prosecution for an offense of cruelty to an animal that a person had a reasonable fear of bodily injury to the person or to another by a dangerous wild animal. The bill provides that it is a defense to prosecution for an offense of discharging a firearm in a public place or on or across a public road that a person who discharged the firearm had a reasonable fear of bodily injury to the person or to another by a dangerous wild animal (Secs. 42.01 and 42.09).

The bill amends the Local Government Code to authorize the commissioners court of a county by order to prohibit or regulate the keeping of a wild animal in the county, rather than at a residence or within 1,000 feet of a residence or public school (Sec. 240.002). The bill repeals law that authorizes the commissioners court of a county to prohibit or regulate the keeping of a wild animal in the county (Sec. 240.0025). A person is not required to obtain a certificate of registration for a dangerous wild animal before June 1, 2002. The bill requires each municipality and county to adopt any ordinance or order necessary to implement and administer the certificate of registration program.

EFFECTIVE DATE

September 1, 2001.