

1-1 By: Huffman, Alvarado, Lucio S.B. No. 641  
 1-2 (In the Senate - Filed February 5, 2019; March 1, 2019, read  
 1-3 first time and referred to Committee on Water & Rural Affairs;  
 1-4 April 24, 2019, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 7, Nays 0; April 24, 2019,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 641 By: Creighton

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to dangerous wild animals; providing penalties; creating a  
 1-20 criminal offense; authorizing a fee.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Chapter 822, Health and Safety Code, is amended  
 1-23 by adding Subchapter F to read as follows:

1-24 SUBCHAPTER F. REGULATION OF DANGEROUS WILD ANIMALS

1-25 Sec. 822.151. DEFINITIONS. In this subchapter:

1-26 (1) "Animal control authority" means a municipal or  
 1-27 county animal control office with authority over the area in which a  
 1-28 dangerous wild animal is located or a county sheriff in an area with  
 1-29 no animal control office.

1-30 (2) "Animal shelter" means a municipal or county  
 1-31 animal shelter or an animal shelter operated by a nonprofit  
 1-32 charitable organization established primarily to shelter and care  
 1-33 for stray and abandoned animals.

1-34 (3) "Commission" means the Health and Human Services  
 1-35 Commission.

1-36 (4) "Dangerous wild animal" means:

1-37 (A) a baboon;

1-38 (B) a bear;

1-39 (C) a cheetah;

1-40 (D) a chimpanzee;

1-41 (E) a clouded leopard;

1-42 (F) a cougar;

1-43 (G) a gorilla;

1-44 (H) a hyena;

1-45 (I) a jaguar;

1-46 (J) a leopard;

1-47 (K) a lion;

1-48 (L) a macaque;

1-49 (M) an orangutan;

1-50 (N) a snow leopard;

1-51 (O) a tiger; or

1-52 (P) any hybrid or subspecies of an animal listed  
 1-53 in this subdivision.

1-54 (5) "Owner" means any person who owns, possesses, or  
 1-55 has custody or control of a dangerous wild animal.

1-56 (6) "Person" means an individual, partnership,  
 1-57 corporation, trust, estate, joint stock company, foundation, or  
 1-58 association of individuals.

1-59 (7) "Wildlife sanctuary" means a charitable  
 1-60 organization that is exempt from taxation under Section 501(c)(3),

2-1 Internal Revenue Code of 1986, and that:  
2-2 (A) operates a place of refuge where an abused,  
2-3 neglected, unwanted, impounded, abandoned, orphaned, or displaced  
2-4 wild animal is provided care for the animal's lifetime; and  
2-5 (B) with respect to a dangerous wild animal owned  
2-6 by or in the custody or control of the organization, does not:  
2-7 (i) conduct a commercial activity,  
2-8 including the sale, trade, auction, lease, or loan of the animal or  
2-9 parts of the animal, or use the animal in any manner in a for-profit  
2-10 business or operation;  
2-11 (ii) breed the animal;  
2-12 (iii) allow direct contact between the  
2-13 public and the animal; or  
2-14 (iv) allow off-site transportation and  
2-15 display of the animal.  
2-16 Sec. 822.152. DANGEROUS WILD ANIMALS PROHIBITED;  
2-17 EXCEPTIONS. (a) Except as provided by this section, a person may  
2-18 not own, possess, sell, transfer, breed, or have custody or control  
2-19 of a dangerous wild animal.  
2-20 (b) The prohibition under Subsection (a) does not apply to:  
2-21 (1) a county, municipality, or agency of this state,  
2-22 an agency of the United States, or an agent or official of a county,  
2-23 municipality, or agency acting in the agent's or official's  
2-24 official capacity;  
2-25 (2) a research facility, as defined by Section 2(e),  
2-26 Animal Welfare Act (7 U.S.C. Section 2132(e)), that is licensed by  
2-27 the secretary of the United States Department of Agriculture under  
2-28 that Act;  
2-29 (3) a person holding a Class "A", Class "B", or Class  
2-30 "C" license issued by the United States secretary of agriculture  
2-31 under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) if the  
2-32 person complies with Section 822.153;  
2-33 (4) an institution accredited by the Association of  
2-34 Zoos and Aquariums or the Zoological Association of America;  
2-35 (5) a wildlife sanctuary;  
2-36 (6) a veterinary hospital providing treatment to a  
2-37 dangerous wild animal;  
2-38 (7) a person who holds a rehabilitation permit issued  
2-39 under Subchapter C, Chapter 43, Parks and Wildlife Code, while  
2-40 rehabilitating the dangerous wild animal;  
2-41 (8) a college or university that began displaying a  
2-42 dangerous wild animal as a mascot before September 1, 2019, and does  
2-43 not allow direct contact between the public and the mascot;  
2-44 (9) an animal shelter temporarily housing a dangerous  
2-45 wild animal seized under Section 822.156 or the written request of  
2-46 an animal control authority or a law enforcement agency acting  
2-47 under this subchapter; or  
2-48 (10) an owner lawfully in possession of a dangerous  
2-49 wild animal before September 1, 2019, if the owner complies with  
2-50 Section 822.154.  
2-51 Sec. 822.153. REGULATION OF CERTAIN LICENSE HOLDERS. A  
2-52 person described by Section 822.152(b)(3) may possess a dangerous  
2-53 wild animal if:  
2-54 (1) the person's license described by that subdivision  
2-55 is in good standing;  
2-56 (2) the person has not been convicted of or fined for  
2-57 an offense involving the abuse or neglect of any animal under local,  
2-58 state, or federal law;  
2-59 (3) none of the person's employees with responsibility  
2-60 for the security or care of the dangerous wild animal have been  
2-61 convicted of or fined for an offense described by Subdivision (2);  
2-62 (4) the person has not been cited by the United States  
2-63 Department of Agriculture under the Animal Welfare Act (7 U.S.C.  
2-64 Section 2131 et seq.) within the preceding three years for:  
2-65 (A) failure to allow a facility inspection; or  
2-66 (B) interference with a facility inspection;  
2-67 (5) the person has not been cited in an inspection  
2-68 report by the United States Department of Agriculture under the  
2-69 Animal Welfare Act for any violations during the preceding three

3-1 years related to a dangerous wild animal's health and safety being  
3-2 jeopardized by:  
3-3 (A) inappropriate veterinary care;  
3-4 (B) inappropriate handling of the animal causing  
3-5 stress or trauma to the animal or a threat to public safety;  
3-6 (C) inappropriate provision of food, water,  
3-7 shelter, or space; or  
3-8 (D) any infraction cited as a direct violation;  
3-9 (6) the person has not received any official notice of  
3-10 warning or entered into stipulations, consent decrees, or  
3-11 settlements with the United States Department of Agriculture during  
3-12 the preceding five years;  
3-13 (7) the person discloses any known pending  
3-14 investigation of the person by the United States Department of  
3-15 Agriculture;  
3-16 (8) the person maintains liability insurance in an  
3-17 amount not less than \$100,000 for each occurrence of property  
3-18 damage, bodily injury, or death caused by a dangerous wild animal  
3-19 possessed by the person;  
3-20 (9) the person has not had a license or permit for the  
3-21 care, possession, exhibition, propagation, or sale of animals  
3-22 revoked or suspended by any local, state, or federal agency; and  
3-23 (10) the person has a written plan, including  
3-24 protocols for training staff on methods of safe recapture, filed  
3-25 with the appropriate animal control authority for the quick and  
3-26 safe recapture or destruction for each of the person's dangerous  
3-27 wild animals if the animal escapes.  
3-28 Sec. 822.154. REGULATION OF CERTAIN OWNERS; REGISTRATION;  
3-29 FEE. (a) An owner described by Section 822.152(b)(10) may possess  
3-30 a dangerous wild animal if the owner:  
3-31 (1) has veterinary records or acquisition papers that  
3-32 establish ownership of the dangerous wild animal before September  
3-33 1, 2019;  
3-34 (2) has not been convicted of an offense involving  
3-35 cruelty to an animal;  
3-36 (3) has not had a license or permit relating to the  
3-37 care, possession, exhibition, breeding, or sale of a dangerous wild  
3-38 animal revoked or suspended by any local, state, or federal agency;  
3-39 (4) has developed and is prepared to implement an  
3-40 emergency plan for responding to the escape of or an attack by the  
3-41 dangerous wild animal and has provided the plan to the commission  
3-42 and animal control authority at the time the owner registers the  
3-43 animal under Subsection (b);  
3-44 (5) has provided a list of the owner's dangerous wild  
3-45 animals to the commission and animal control authority;  
3-46 (6) does not acquire by any means, including through  
3-47 purchase, donation, or breeding, an additional dangerous wild  
3-48 animal on or after September 1, 2019;  
3-49 (7) does not allow direct contact between the public  
3-50 and the dangerous wild animal;  
3-51 (8) registers the dangerous wild animal with the  
3-52 commission as required by Subsection (b);  
3-53 (9) notifies the commission of any attack of a human by  
3-54 the animal not later than 48 hours after the attack; and  
3-55 (10) immediately notifies the commission and local law  
3-56 enforcement of any escape of the animal from the owner's custody.  
3-57 (b) An owner described by Section 822.152(b)(10) shall  
3-58 annually register the owner's dangerous wild animal with the  
3-59 commission on a form provided by the commission and pay the  
3-60 registration fee established by the commission.  
3-61 (c) The commission may establish and charge a reasonable  
3-62 registration fee in an amount sufficient to cover the cost of  
3-63 administering this subchapter.  
3-64 Sec. 822.155. LIABILITY. (a) An owner described by  
3-65 Section 822.152(b)(10) is liable for all costs incurred in  
3-66 apprehending and confining a dangerous wild animal that escapes the  
3-67 owner's custody.  
3-68 (b) The commission, a local law enforcement agency, or an  
3-69 employee of the commission or agency is not liable to an owner

4-1 described by Section 822.152(b)(10) for damages arising from the  
 4-2 escape of the owner's dangerous wild animal, including liability  
 4-3 for property damage, injury, or death caused by the animal or for  
 4-4 injury to or the death of the animal.

4-5 Sec. 822.156. SEIZURE OF DANGEROUS WILD ANIMAL; HEARING.

4-6 (a) On a showing of probable cause that a dangerous wild animal is  
 4-7 owned, possessed, held in custody, or controlled in violation of  
 4-8 this subchapter, a justice court, county court, or county court at  
 4-9 law in the county in which the dangerous wild animal is located  
 4-10 shall:

4-11 (1) order an animal control authority or a peace  
 4-12 officer located in the county to seize the dangerous wild animal;

4-13 (2) issue a warrant authorizing the animal's seizure;  
 4-14 and

4-15 (3) schedule a hearing to be held on a date not later  
 4-16 than the 10th day after the date the warrant is issued to determine:

4-17 (A) whether a violation of this subchapter  
 4-18 occurred; and

4-19 (B) the final disposition of the dangerous wild  
 4-20 animal.

4-21 (b) The person executing a warrant described by Subsection  
 4-22 (a)(2) shall serve written notice of the hearing described by  
 4-23 Subsection (a)(3) to the owner of the dangerous wild animal at the  
 4-24 time the warrant is executed.

4-25 (c) The animal control authority or peace officer shall  
 4-26 seize the dangerous wild animal and provide for the impoundment of  
 4-27 the animal in secure and humane conditions until a court determines  
 4-28 the disposition of the animal and issues appropriate orders. This  
 4-29 subsection does not prevent an animal control authority or peace  
 4-30 officer from impounding an animal on the property in which the  
 4-31 animal is located at the time of the seizure.

4-32 (d) A court on finding that a violation of this subchapter  
 4-33 occurred shall assess against the owner of a seized dangerous wild  
 4-34 animal the reasonable costs of caring for the animal, including  
 4-35 boarding and veterinary costs.

4-36 (e) A court, on finding that a violation of this subchapter  
 4-37 occurred, shall determine the estimated costs likely to be incurred  
 4-38 by an animal control authority, law enforcement agency, wildlife  
 4-39 sanctuary, or zoo accredited by the Association of Zoos and  
 4-40 Aquariums or the Zoological Association of America to house and  
 4-41 care for a dangerous wild animal during the appeal process.

4-42 (f) After making the determination under Subsection (e),  
 4-43 the court at the time of entering the judgment shall set the amount  
 4-44 of bond for an appeal equal to the sum of:

4-45 (1) the amount of the costs ordered under Subsection  
 4-46 (d); and

4-47 (2) the amount of the estimated costs determined under  
 4-48 Subsection (e).

4-49 (g) A court may not require a person to provide a bond in an  
 4-50 amount greater than or in addition to the amount determined by the  
 4-51 court under Subsection (f) to perfect an appeal.

4-52 Sec. 822.157. DISPOSITION OF CERTAIN DANGEROUS WILD  
 4-53 ANIMALS. (a) If a court finds that a person has kept a dangerous  
 4-54 wild animal in violation of this subchapter, the court shall divest  
 4-55 the person's ownership of the animal and order ownership of the  
 4-56 animal to vest in the animal control authority.

4-57 (b) The animal control authority shall make a reasonable  
 4-58 effort to place the animal in the custody of a wildlife sanctuary or  
 4-59 an accredited zoo. If the animal control authority is unable to  
 4-60 place the animal with a wildlife sanctuary or an accredited zoo, the  
 4-61 animal control authority may humanely euthanize the animal in  
 4-62 compliance with state and federal law.

4-63 Sec. 822.158. CIVIL PENALTY. (a) A person who violates  
 4-64 this subchapter is liable to the county in which the violation  
 4-65 occurs for a civil penalty of not less than \$200 and not more than  
 4-66 \$2,000 for each animal with respect to which there is a violation  
 4-67 and for each day that the violation continues.

4-68 (b) A county in which the violation occurs may sue to  
 4-69 collect a civil penalty under this section. A civil penalty

5-1 collected under this subsection may be retained by the county.

5-2 (c) A county that sues under Subsection (b) may also recover  
5-3 the reasonable costs of investigation, reasonable attorney's fees,  
5-4 and other costs incurred by the county or an animal control  
5-5 authority.

5-6 Sec. 822.159. INJUNCTION. A county in which a dangerous  
5-7 wild animal is located or in which a person who is harmed or  
5-8 threatened with harm by a violation of this subchapter may sue an  
5-9 owner of a dangerous wild animal to enjoin a violation of this  
5-10 subchapter.

5-11 Sec. 822.160. OFFENSE; PENALTY. (a) A person commits an  
5-12 offense if the person violates this subchapter. Each animal with  
5-13 respect to which there is a violation and each day that a violation  
5-14 continues is a separate offense.

5-15 (b) An offense under this section is a Class A misdemeanor.

5-16 SECTION 2. Section 42.01(e), Penal Code, is amended to read  
5-17 as follows:

5-18 (e) It is a defense to prosecution for an offense under  
5-19 Subsection (a)(7) or (9) that the person who discharged the firearm  
5-20 had a reasonable fear of bodily injury to the person or to another  
5-21 by a dangerous wild animal as defined by Section 822.151 [~~822.101~~],  
5-22 Health and Safety Code.

5-23 SECTION 3. Section 42.092(d), Penal Code, is amended to  
5-24 read as follows:

5-25 (d) It is a defense to prosecution under this section that:

5-26 (1) the actor had a reasonable fear of bodily injury to  
5-27 the actor or to another person by a dangerous wild animal as defined  
5-28 by Section 822.151 [~~822.101~~], Health and Safety Code; or

5-29 (2) the actor was engaged in bona fide experimentation  
5-30 for scientific research.

5-31 SECTION 4. On January 1, 2020, Subchapter E, Chapter 822,  
5-32 Health and Safety Code, is repealed.

5-33 SECTION 5. (a) The repeal by this Act of Section 822.113,  
5-34 Health and Safety Code, does not apply to an offense committed under  
5-35 that section before the effective date of the repeal. An offense  
5-36 committed before the effective date of the repeal is governed by the  
5-37 law as it existed on the date the offense was committed, and the  
5-38 former law is continued in effect for that purpose. For purposes of  
5-39 this subsection, an offense was committed before the effective date  
5-40 of the repeal if any element of the offense occurred before that  
5-41 date.

5-42 (b) Section 822.160, Health and Safety Code, as added by  
5-43 this Act, applies only to an offense committed on or after the  
5-44 effective date of this Act. An offense committed before the  
5-45 effective date of this Act is governed by the law in effect on the  
5-46 date the offense was committed, and the former law is continued in  
5-47 effect for that purpose. For purposes of this subsection, an  
5-48 offense was committed before the effective date of this Act if any  
5-49 element of the offense occurred before that date.

5-50 (c) Not later than November 1, 2019, the executive  
5-51 commissioner of the Health and Human Services Commission shall  
5-52 adopt rules, establish the fees, and prescribe the application form  
5-53 necessary to implement Subchapter F, Chapter 822, Health and Safety  
5-54 Code, as added by this Act.

5-55 (d) Notwithstanding Subchapter F, Chapter 822, Health and  
5-56 Safety Code, as added by this Act, an owner of a dangerous wild  
5-57 animal is not required to comply with Subchapter F, Chapter 822,  
5-58 Health and Safety Code, as added by this Act, or rules adopted under  
5-59 that subchapter until January 1, 2020.

5-60 SECTION 6. Except as otherwise provided by this Act, this  
5-61 Act takes effect September 1, 2019.

5-62 \* \* \* \* \*