

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4793 (Substitute H-1 as passed by the House)
Sponsor: Representative Gerald Law
House Committee: Health Policy
Senate Committee: Agriculture and Forestry

Date Completed: 11-4-97

CONTENT

The bill would create the “Angie Nickerson Act” to prohibit a person from possessing a wolf-dog cross without a permit; making or receiving a conveyance of ownership of a wolf-dog cross unless the person was exporting the animal or the conveyance was in compliance with the bill; or breeding a wolf-dog cross. The bill also would provide for regulations of currently owned animals including conditions of a wolf-dog cross facility and the handling and care of the animals; standards for transporting or exporting wolf-dog crosses; penalties for violations of the bill or an order issued under it; and specification of owners’ responsibilities and liabilities.

“Wolf-dog cross” would mean a canid that was a crossbreed resulting from the breeding of a wolf with a dog, the breeding of two wolf-dog crosses, or the breeding of a wolf-dog cross with a dog or an animal represented by the owner through advertisement, registration papers, sworn statements, or any other method, as a wolf-dog cross.

The following is a more detailed description of the bill.

Permits

A person could not own a wolf-dog cross unless he or she had owned the animal at the time of the bill’s effective date and had obtained a permit. The permit would apply only to that individual animal, would be nontransferable, and would be valid in any local unit of government in which the possession of the wolf-dog cross was not prohibited by ordinance. (“Local unit” would mean a city, village, township, or county.)

An application for a permit would have to be made to the local unit where the animal was kept within 90 days of the bill’s effective date. Application for a permit would have to be accompanied by the following:

- A nonrefundable \$100 application fee.
- An annual permit fee established by the local unit which would have to be at least \$200 or an amount necessary to cover costs of enforcing the bill, whichever was greater.
- Information pertaining to the animal’s facility including a photograph, dimensions, a scale diagram, the location of any residence or the property, and a notarized statement that the facility or its construction was not prohibited by a local ordinance.
- A description of the number and types of wolf-dog crosses and when, where, and how the animals came into the applicant’s possession.

Permit requirements provided under the bill would not extend to a facility licensed or approved by the Association of Zoos and Aquaria, the United States Department of Agriculture, or the Fish and Wildlife Service of the United States Department of the Interior. (“Facility” would mean a cage, pen, or enclosure where a wolf-dog cross was kept.)

A permit issued by the local unit would have to include the name of the owner; the address where the animal would be kept; the number of animals kept; terms and conditions for exporting the animal to another state or country; the place and conditions of quarantine; the name and address of the primary veterinarian; proof of liability insurance coverage for the animal; and any other information as determined by the local unit, which could include permit designations required by it, the Michigan

Department of Agriculture, the Department of Community Health, the Department of Natural Resources (DNR), the U.S. Department of Agriculture, or the Fish and Wildlife Service of the U.S. Department of the Interior.

The bill's provisions governing wolf-dog crosses would be in addition to other State and Federal requirements.

Permit Denial, Revocation

The local unit could not issue a permit unless it found that the applicant had complied with the bill's permit application requirements, was at least 21 years of age, had not been convicted of violating a State or Federal criminal law, and had not been issued a court order requiring a wolf-dog cross to be euthanized or taken away. The local unit also would have to find that the facility and conditions complied with the bill, and that the wolf-dog cross had been sexually sterilized.

A permit could be revoked after an evidentiary hearing by the Department of Agriculture conducted pursuant to the Administrative Procedures Act. A person's permit would have to be revoked if the owner had been convicted of cruelty to animals; had violated the bill; or had been issued a court order for humane euthanization, sexual sterilization, or confiscation; or if the wolf-dog cross had seriously injured or killed a human or another animal.

The bill also specifies that a person who possessed a wolf-dog cross without a permit would be required to obtain a permit within 14 days of delivery of written notification by the Department, or transfer the ownership to a person with a permit. A violation of this provision would result in responsibility for all confiscation and placement costs.

Required Handling and Care

A person in possession of a wolf-dog cross would have to have the animal sexually sterilized by a veterinarian. The wolf-dog cross owner would be responsible for ensuring that the animal was under adult supervision and control to prevent injury to others, and that the animal never was tethered outdoors or transported outside of a travel cage. The wolf-dog cross's facility would have to meet the following specifications: sufficient security to prevent escape and protect the animal from injury; a floor area of at least 900 square feet with walls extending at least three feet below ground and at

least eight feet above ground with an inward overhang of at least three feet; construction material of cement blocks, bricks, concrete, chain, wires or bars; anchor by metal clamps or ties; double-gated safety entrance and lock; concrete perimeter of at least six feet wide and at least three feet wide inside and outside; and a secondary fence.

The bill also specifies the level of care to be provided to the wolf-dog cross with regard to sanitary conditions of the facility, food and water conditions, adequate drainage of surface water, and documented veterinary care; and would require that conditions such as temperature, ventilation, diet, and exercise be conducive to the animal's physical and psychological health and comfort. The owner would have to provide the Department of Agriculture with a certified documentation of death by a veterinarian, law enforcement authority, or the permitting agency within 10 business days after the animal's death.

Vaccination

If a wolf-dog cross potentially exposed a human, livestock, or mammalian pet to rabies by any penetration of the skin by teeth, scratches or abrasions, or by contamination of open wounds or mucous membranes with saliva or other infectious material, the potential exposure would have to be reported within 48 hours to the local health department in the case of human exposure or the permitting agency in the case of animal exposure.

A wolf-dog cross that could have potentially exposed a human, livestock, or mammalian pet would have to be humanely euthanized and immediately examined for rabies under the rules promulgated in Section 5111 of the Public Health Code.

Transporting and Exporting

The transportation of a wolf-dog cross in a vehicle would have to comply with the International Animal Transport Association standards and with the following requirements: The animal would have to have an individual cage (although unweaned pups could be caged with the mother), free of exhaust fumes and wastes and large enough for the animal to move freely; the animal would have to be fed at least once daily and given water twice daily; and there would have to be space between other animals. The bill also specifies that an animal could not be exported to another state or country unless it was lawful in the other state or country, or

the new destination and owner were approved by the regulatory agency of that state or country.

Penalties

A person who violated the bill or a court order issued under it would be guilty of a misdemeanor punishable by a fine of at least \$2000, imprisonment up to 90 days, community service work for up to 1,000 hours, revocation of a permit, loss of privileges to own or possess any animal for any period of time determined by the court, prosecution fees, and/or costs to care for, relocate, or euthanize the wolf-dog cross.

The bill could be enforced by an "law enforcement authority" (a local unit's law enforcement officer, including an animal control officer; a conservation officer of the DNR; or a State or Federal law enforcement officer). A law enforcement authority would be authorized to issue an appearance ticket, request a wolf-dog cross owner's permit, and inspect a wolf-dog cross's facility at reasonable hours.

The owner would have to be notified in writing by a law enforcement authority of a violation. He or she would have to correct the violation within 30 days of receiving the notice or would have to convey the animal to a person approved by the Department of Agriculture and authorized a permit. If the owner did not notify the law enforcement authority of the conveyance, an unannounced second inspection at a reasonable time within 30 to 60 days after the violation notification would have to be conducted and the owner would have to pay a reinspection fee. A violation that was not corrected would result in a permit revocation and animal confiscation by the law enforcement authority after a hearing.

The confiscated wolf-dog cross would be placed in a nature preserve or wildlife sanctuary (where hunting was not allowed), an animal protection shelter, or a zoo accredited by the Association of Zoos and Aquaria, where the animal would be safely and personally cared for under the bill's specifications, or the animal would have to be humanely euthanized at the owner's expense.

For a wolf-dog cross housed in conditions that would constitute a clear and present danger to human safety, the owner would have to provide an approved facility under the direction of the law enforcement authority.

Owner Responsibility and Liability

The bill specifies that the owner and the person in possession of a wolf-dog cross would be jointly and severally liable in a civil action for the death of or injury to a person or animal, or for property damage caused by the wolf-dog cross, whether or not a permit had been obtained. An owner immediately would have to contact a law enforcement officer of the local unit to report an escape or release (unintentional or intentional) of a wolf-dog cross. He or she would also be responsible for all expenses associated with efforts to recapture the escaped or released animal.

The bill specifies that a law enforcement authority or other person who had seen a wolf-dog cross pursuing, worrying, or wounding livestock or poultry or attacking a person, could kill the animal but would not be liable in damages or otherwise. A law enforcement authority also could confiscate or capture a wolf-dog cross by tranquilization or other humane methods. The wolf-dog cross's owner could be held liable for damages if the animal had trespassed into another person's field or enclosure where livestock and poultry were produced.

Other Provisions

A district court could issue a summons to show cause why a wolf-dog cross should not be euthanized, confined, sterilized, or confiscated if presented with a complaint alleging that the animal was not properly maintained, had destroyed property, or had killed or seriously injured any person or other animal. If the court found any of the allegations to be true, the court could order the animal to be euthanized; confined on the owner's property or sterilized, or both; or confiscated and relocated to an approved facility. The owner would be responsible for the costs of confiscation and placement of the animal.

The bill would require the Department to provide each licensed pet shop under Public Act 287 of 1969, and each registered animal control and animal protection shelter in the State, with information on the bill's provisions.

A local unit could adopt a more restrictive ordinance than the bill but would not be able to adopt an ordinance that would prohibit the possession of a dog based solely on the breed.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bill would have minimal fiscal impact on State

government and an indeterminate fiscal impact on local governments, depending on the number of wolf-dog crosses in the State.

The bill would authorize local governments to set wolf-dog permit fees to cover the cost of enforcement. Permits issued by local units would require an application fee of \$100 and an annual permit fee of the greater of \$200 or an amount necessary to cover the local unit's actual, reasonable costs of enforcing the Act. There is no information available regarding the number of permits or the amount of enforcement that would be needed. The bill also would prohibit the breeding of new wolf-dogs, so it is anticipated that local government enforcement revenues and costs would lessen over time.

Fiscal Analyst: G. Cutler
R. Ross

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.