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**SFA****BILL ANALYSIS**

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Senate Bill 782 (Substitute S-1)  
Sponsor: Senator Bill Bullard, Jr.  
Committee: Farming, Agribusiness and Food Systems

Date Completed: 11-10-99

## **CONTENT**

The bill would create the “Exotic Animal Act” to do the following:

- Prohibit a person from possessing an exotic animal (a non-domesticated cat or a bear) unless the person possessed the animal when the bill took effect and obtained a permit for the animal.
- Require the payment of an annual permit fee.
- Require an owner to have an identification number placed on the animal.
- Prohibit an exotic animal from being tethered outside on a leash or chain or running at-large, and require an exotic animal to be kept in a facility, as described in the bill, to prevent escape and injury.
- Permit an owner to keep an animal at his or her residence, under certain conditions, including supervision by a person who was at least 21 years of age.
- Require an owner to post signs on the property where an exotic animal was being kept; specify the physical conditions under which an exotic animal would have to be housed; and, permit a law enforcement authority to inspect a facility where an exotic animal was kept.
- Establish requirements for the transportation of an exotic animal.
- Require the reporting of the potential exposure to rabies of a human or certain other animals by an exotic animal as the result of a bite, scratch or abrasion; and, require the exotic animal to be euthanized under certain circumstances.
- Establish misdemeanor penalties for violations of the bill, and permit the seizure of an exotic animal under certain circumstances.
- Permit a local unit to adopt an ordinance that was more restrictive than the bill.
- Exempt certain animal protection shelters, zoological parks, and veterinarians from the bill’s provisions.

The bill would define “exotic animal” as:

- A cat of the Felidae family of a species that is nonnative to this State, whether wild or captive bred, including a hybrid cross with such a cat. This would not include a domesticated *Felis catus* or a domesticated Bengal cat certified by an internationally recognized multiple-cat domestic feline breeding association as being without wild parentage for at least four prior generations.
- A bear of a species that is native or nonnative to this State, whether wild or captive bred.

### Prohibitions

A person could not own or possess an exotic animal except in compliance with the bill; transfer an exotic animal unless the person were exporting it to another state or country in compliance with the bill; or breed an exotic animal. (“Person” would mean an individual, partnership, corporation, association, governmental entity, or other legal entity.)

### Permits

A person could not possess one or more exotic animals unless the person owned the exotic animals, possessed those animals on the bill’s effective date, applied for a permit for the animals within 90 days after the bill took effect, and obtained a permit for the animals. The permit would apply only to the individual exotic animals, would not be transferable to another person except through testate or intestate succession (inheritance with or without a will), and would be valid in any local unit in which possession of the animals was not prohibited by ordinance.

A person would have to file a permit application with the person specified by the first of the following that applied.

- The city or village agency to which an animal control officer was assigned, if the animals were kept in a city or village and it employed an animal control officer.
- The township agency to which an animal

control officer was assigned, if the animals were kept in a township and it employed an animal control officer.

- The county agency to which an animal control officer was assigned, if the county in which the animals were kept employed an animal control officer.
- The sheriff of the county where the animals were kept, if none of the above applied.

The applicant would have to include with the application an annual permit fee, which would have to be established by the governing body of the local unit whose agency issued the permit. The fee could not be less than the greater of the following:

- \$25 or, at the option of the local unit if the applicant kept more than one exotic animal in that local unit, \$25 for each exotic animal.
- An amount needed to cover the local unit's actual, reasonable costs of enforcing the bill.

The permit application also would have to include a written statement that specified the number of exotic animals that the applicant owned; described in detail each exotic animal owned by the applicant, including its identification number; and specified the name, address, and telephone number of the person from whom the owner obtained the exotic animal, if known.

A local unit could not issue a permit unless it found that the above requirements were met, and that the applicant was at least 21 years of age, had not been convicted of or found responsible for violating a local ordinance or State law prohibiting neglect or mistreatment of an animal, had not within the past 10 years been convicted of a felony, and was not subject to a court order requiring the forfeiture of an exotic animal or prohibiting the ownership or possession of an exotic animal. In addition, the local unit would have to find that the facility and the conditions in which each exotic animal would be kept complied with the bill.

A permit would have to include all of the following: the name and address of the permit holder and the address where each exotic animal would be kept, if different from that of the permit holder; the number of exotic animals owned by the permit holder; the identification number of each exotic animal; the name and address of the veterinarian who was expected to provide veterinary care to the exotic animal; and any other reasonable information as determined by the local unit. This information could include, but would not be limited to, a designation of permits required by a local unit, the 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. A local unit that issued a permit would have to notify the Michigan Department of Agriculture of the name and address of the permit holder and the number of exotic animals owned by the permit holder.

An exotic animal owner annually would have to pay to the local unit the annual permit fee.

An exotic animal owner would have to have an identification number placed on the animal by way of subcutaneous microchip, at the owner's expense, by or under the supervision of a veterinarian.

#### Control of Animal

An exotic animal could not be tethered outdoors, such as on a leash or chain, or allowed to run at-large. Except as otherwise provided, the exotic animal would have to be kept constantly in a facility that was sufficiently secure to prevent the animal's escape and protect the animal from injury; was constructed of cement blocks, bricks, concrete, chain link fence, wires, or bars of suitable thickness, gauge, or diameter to prevent the animal's escape and to protect the animal from injury; and was well braced and securely anchored at ground level or, if the facility were located in a residence or other building, at floor level and used metal clamps, ties, or braces, of a strength sufficient for cage construction for that species of exotic animal. The facility also would have to be enclosed within a secondary fence that was located at least three feet outside of the facility's walls and was adequate to prevent a human from coming into contact with the exotic animal; had an entrance with a lock that was kept locked at all times when the animal was kept in the facility; and, had a floor area that met or exceeded the minimum standards for housing as prescribed under the Federal Animal Welfare Act and regulations promulgated under it. ("Facility" would mean an indoor or outdoor cage, pen, or similar enclosure where an exotic animal was kept.)

The owner could, on a permanent or temporary basis, keep the animal in his or her residence and not in a facility, if the animal were under the supervision of a person who was at least 21 years of age. The owner could take the animal outdoors if all of the following requirements were met: the owner held the animal under control on a secure leash; the animal was within a securely fenced area; and, the animal was being moved between any two of the following: the exotic animal's facility, the owner's residence, a shift cage, or a vehicle, pursuant to the bill.

#### Owner Requirements

The owner of an exotic animal would have to present a permit for the animal upon the request of a law enforcement authority, and could not place the animal under the supervision of a person who was less than 21 years of age.

An owner would have to post and maintain signs on property where an exotic animal was kept. The signs would have to state: "A potentially dangerous exotic animal is kept on this property." Each sign would have to use block letters at least one-half inch high. A sign would have to be posted at each fence gate providing access to a residence on the property, providing access to a building in which the exotic animal's facility was located, or providing access to the facility. In addition, a sign would have to be posted on the outside of each door providing access to a residence on the property or providing access to any building in which the animal's facility was located, and on each side of the animal's facility, unless it were located in a residence or other building.

The exotic animal could not be mistreated or neglected. The conditions in which the animal was kept would have to be safe and conducive to the animal's physical health and comfort, and would have to promote normal behavior. The conditions would include, but not be limited to, temperature, ventilation, humidity, drainage, sanitation, diet, and exercise. Potable drinking water would have to be provided at least twice daily in a clean, accessible container, unless otherwise directed by a veterinarian. Swimming or wading pools would have to be cleaned as needed to ensure sufficiently sanitary water quality, and there would have to be adequate drainage of surface water from the facility. Food would have to be unspoiled and not contaminated with insects, fecal material, or any other substance that could cause the food to be unpalatable, that could decrease the nutrient value of the food, or that could pose a health risk to the exotic animal. Fecal and food wastes would have to be removed from the facility daily and stored or disposed of in a manner that prevented noxious odors, insect pests, or risks to human or animal health or the environment. Hard floors would have to be scrubbed and disinfected weekly. Large facilities with dirt floors would have to be raked every day and the raked waste would have to be removed daily. An exotic animal could be kept in a shift cage while the animal's facility was being cleaned. The shift cage would have to be appropriate in size for the animal and of an adequate construction to contain the animal safely.

At the owner's expense, care for the exotic animal would have to be provided by a veterinarian as needed. The veterinarian would have to keep up-to-date records of the care and retain the records until the animal died. When the exotic animal died, the owner would have to arrange to have the death

certified in writing by a veterinarian, law enforcement authority, or the permitting agency, which would have to submit the certification to the Department of Agriculture within 20 business days after the animal's death.

#### Transporting an Exotic Animal

A person transporting an exotic animal in a vehicle would have to comply with the standards in "International Air Transport Ass'n. Live Animal Regulations (26th ed., 1999)" applicable to the exotic animal species. In addition, a person transporting an exotic animal would have to comply with the requirements described below.

The animal would have to be caged individually and securely, even while inside a passenger vehicle or in the bed of a truck; however, a female exotic animal and each of her unweaned offspring, if any, would have to be transported in the same cage. The vehicle would have to provide fresh air without injurious drafts and provide adequate protection from the elements to the animal. The animal's cargo area would have to be as free as possible of engine exhaust fumes. Fecal and food wastes would have to be removed from the animal's transport cage at least daily. The temperature within the animal's cage could not be harmful to the animal's health. The cage would have to be large enough to ensure that the animal had sufficient space to stand erect, turn around, and lie naturally. The animal could not be placed in a cage over or next to another animal unless each enclosure had a fitted floor or lateral partition that prevented excreta from entering lower or adjacent enclosures. The exotic animal would have to be given potable water at least twice daily and fed at least once daily, unless otherwise directed by a licensed veterinarian.

#### Rabies Exposure, Vaccination

If an exotic animal potentially exposed a human to rabies by any penetration of the skin by teeth, any scratch or abrasion that caused penetration of the skin, or contamination of open wounds or mucous membranes with saliva or other infectious material, the exotic animal's owner would have to report the potential exposure to the local health department within 24 hours. If an exotic animal potentially exposed livestock or a mammalian pet to rabies by a means described above, the exotic animal's owner would have to report the potential exposure to the permitting agency within 24 hours. In either case, the exotic animal would have to be euthanized humanely by a veterinarian. The animal also would have to be examined immediately for rabies in the manner provided by rules promulgated under the Public Health Code.

If a rabies vaccination were or became approved by the Federal government for use on a species of

exotic animal, the owner of an exotic animal of that species would have to have the animal vaccinated for rabies by a veterinarian.

#### Liability

An exotic animal's entry onto a field or enclosure that was owned or leased by a livestock or poultry producer would constitute a trespass, and the exotic animal's owner would be liable in damages.

The owner of an exotic animal would be liable in a civil action for the death or injury of a person and for property damage, including the death or injury of another animal, caused by the exotic animal.

If an exotic animal escaped or were released, intentionally or unintentionally, the owner immediately would have to report the loss, escape, or release to a law enforcement officer of the local unit where the escape or release occurred. The owner would be liable for all expenses associated with efforts to recapture the exotic animal. The owner could bring against a person who was responsible in whole or part for the escape or release of the animal a civil action for damages, including damages and expenses under these provisions.

#### Inspections and Violations

The facility where an exotic animal was kept in captivity would be subject to inspection at reasonable hours by a law enforcement authority to ensure compliance with the bill.

If there were probable cause to believe that the bill was being violated, a law enforcement authority would have to issue to the exotic animal's owner a notice of the violation (as described below); arrest the owner or seek a warrant for his or her arrest, as appropriate under the Code of Criminal Procedure, for a misdemeanor violation of the bill; or, file a sworn complaint for forfeiture of the animal.

A law enforcement authority could give notice of a violation in writing to the owner of an exotic animal. The notice would have to identify the violation and include a copy of the bill. Within 30 days after the notice was delivered, the owner would have to transfer the animal or correct the violation and notify the law enforcement authority of the action taken. If the violation were failure to obtain a permit and it had been committed knowingly, within 14 days after the notice was delivered, the owner would have to transfer the animal and notify the law enforcement authority of the action taken.

An exotic animal transferred under these provisions would have to be transferred to an animal control shelter or animal protection shelter; a person licensed or approved by the DNR or the U.S. Fish and Wildlife Service; a zoological park approved and

accredited by the American Zoo and Aquarium Association; or a person approved by the Association of Sanctuaries. Notice that the animal was transferred would have to include evidence of the transfer satisfactory to the law enforcement authority.

Unless the exotic animal's owner notified the law enforcement authority that the animal had been transferred, the authority would have to conduct an inspection at a reasonable time at least 30 days after notice of the violation had been delivered. When the second inspection was conducted, the animal owner would have to pay a \$25 inspection fee or actual, reasonable costs of the inspection, whichever was greater, to the law enforcement authority. If the law enforcement authority found that the owner had not complied with the bill, the enforcement authority would have to seek forfeiture of the animal, as provided under the bill.

#### Penalties/Forfeiture

A person who violated the bill, other than a law enforcement authority, veterinarian, or permitting agency, would be guilty of a misdemeanor, punishable by a fine of at least \$250, plus prosecution costs; or, if the person failed to obtain a permit for the exotic animal, by a fine of at least \$500, plus prosecution costs. In addition, the person could be punished by one or more of the following: imprisonment for up to 93 days; community service work for up to 500 hours; or the loss of privileges to own or possess any animal.

If a person who owned or possessed an exotic animal violated the bill, the animal and any other exotic animal owned by that person would be subject to civil forfeiture. In a criminal action for a violation, the prosecuting attorney could file a petition requesting that the court issue an order for civil forfeiture of all of the exotic animals owned by that person.

Any person could file with a court having jurisdiction a complaint alleging that a person was violating the bill and requesting the court to order the civil forfeiture of all of the exotic animals owned by that person.

A law enforcement officer would have to seize an exotic animal pursuant to a seizure order issued by a court having jurisdiction over the exotic animal, upon a showing of probable cause that the animal was subject to forfeiture under the bill.

An exotic animal subject to forfeiture could be seized without process under any of the following circumstances:

- The seizure was incident to a lawful arrest for a violation of the bill.
- The seizure was pursuant to a valid search

warrant.

- The seizure was pursuant to an inspection under a valid administrative inspection warrant.
- There was probable cause to believe that the conditions under which the animal or another exotic animal owned by the same person was kept were directly or indirectly dangerous to human or animal health or safety.
- There existed exigent circumstances that precluded obtaining a court order, and there was probable cause to believe that the bill had been violated.
- The exotic animal or any other exotic animal owned by the same person was the subject of a prior judgment in favor of the State in a forfeiture proceeding.

If a seizure were to be accomplished by capture, tranquilization or other humane methods would have to be used for the capture.

An exotic animal seized under the bill would not be subject to any other action to recover personal property, but would be considered to be in the custody of the seizing agency, subject only to the bill's provisions concerning return of an exotic animal, or to an order and judgment of the court having jurisdiction over the forfeiture proceedings. When an exotic animal was seized, the law enforcement authority could remove the animal to a place designated by the court.

#### Return of Exotic Animal

An exotic animal that belonged to the victim of a crime would have to be returned promptly to the victim, except in the following circumstances:

- When the crime victim last possessed the exotic animal, he or she was in violation of the bill's permitting provisions.
- Until the dispute was resolved, if the ownership of the animal were disputed.
- If the property were required to be retained as evidence pursuant to the Crime Victim's Rights Act.

A law enforcement authority could return a seized exotic animal to its owner if the law enforcement authority were satisfied that the conditions resulting in the seizure had been corrected. If the exotic animal were seized pursuant to process issued by a court, the law enforcement authority would have to obtain approval of the court before returning the animal.

Unless the animal had been returned, the law enforcement authority, within 10 days after the animal was seized, would have to give written notice of the seizure and intent to forfeit the animal to the exotic animal's owner and any person who had been injured or whose property had been damaged by the animal. The notice would have to be delivered in person or sent by certified mail. If the name and address of the person were not reasonable ascertainable or personal delivery could not be accomplished reasonably, the notice would have to be published in a newspaper of general circulation in the county in which the exotic animal had been seized for 10 successive publishing days. Proof of written notice or publication would have to be filed with the court having jurisdiction over the seizure or forfeiture.

Immediately after the seizure, the law enforcement authority would have to notify the prosecuting attorney for the county in which the exotic animal had been seized or, if the Attorney General were actively handling a case involving or relating to the exotic animal, the Attorney General of the seizure of the animal and any intent to forfeit the animal under the bill.

A person could file a motion with the court having jurisdiction to return the exotic animal on the grounds that the animal was seized illegally or that the animal was not subject to forfeiture under the bill. The court would have to hear the motion within 30 days after it was filed. At the hearing on the motion, the Attorney General, or the attorney for the local unit in which the exotic animal had been seized, would have to establish probable cause to believe that the animal was subject to forfeiture under the bill and, if the person filing the motion claimed the exotic animal

had been seized illegally, that the animal was seized properly. If the Attorney General or the attorney for the local unit failed to sustain his or her burden of proof, the court would have to order the return of the exotic animal. The testimony of a person at a hearing held on the motion would not be admissible against the individual in any criminal proceeding except in a criminal prosecution for perjury. The bill also specifies that the testimony would not waive the person's constitutional right against self-incrimination.

A law enforcement authority would have to return a seized exotic animal to its owner within seven days after the occurrence of any of the following: the failure to issue a warrant against the owner of the animal for committing a misdemeanor under the bill or to file a complaint under the bill within 10 days after the exotic animal was seized; the dismissal of charges against the exotic animal's owner or of a complaint under the bill, as applicable; the court's determination that an order for the exotic animal to be forfeited could not be entered; the acquittal of the exotic animal's owner of any charges under the bill; or entry of a court order under the bill for the return of the exotic animal.

If an exotic animal were returned, the law enforcement authority would have to give written notice of the return to the persons who received notice of the forfeiture. The notice would have to be delivered in person or sent by certified mail. If the name and address of a person were not reasonably ascertainable or personal delivery of the notice could not be accomplished reasonably, the notice would have to be published in a newspaper of general circulation in the county in which the exotic animal had been seized for 10 successive publishing days.

#### Forfeiture Costs

If the court ordered an exotic animal to be forfeited, the forfeiture order would have to direct that each exotic animal be transferred to a wildlife sanctuary approved by the Association of Sanctuaries, an animal protection shelter, or a zoo accredited by the American Zoo and Aquarium Association, where the exotic animal would be cared for safely and humanely. Subject to the bill's provisions on an exotic animal's potentially exposing a human or other animals to rabies, if the exotic animal killed or injured a human being or animal, the forfeiture order could direct that the exotic animal be humanely euthanized by a veterinarian. A forfeiture order also would have to revoke any permit that could have been issued for the exotic animal under the bill and order payment of costs of placement and care.

If an exotic animal were seized, the owner of the animal would be liable for the costs of placement and care for the animal from the time of seizure until the time of return or forfeiture and, if an exotic animal

were order to be forfeited and euthanized, for the costs of humanely euthanizing and disposing of the animal. The bill specifies that this provision would not apply if the animal were returned.

#### Exemptions

The bill specifies that provisions on possessing an exotic animal and obtaining a permit for the animal, placing an identification number on the animal, and keeping an exotic animal in a facility would not apply to the following: an animal control shelter or animal protection shelter, a zoological park approved or accredited by the American Zoo and Aquarium Association, a law enforcement officer acting under the authority of the bill, a person approved by the Association of Sanctuaries, a veterinarian temporarily in possession of an exotic animal to provide veterinary care for or humanely euthanize the animal; or a person licensed or approved by the DNR or the U.S. Fish and Wildlife Service (except a person who possessed at least one black bear under the authority of a permit to hold wildlife in captivity issued by the DNR).

#### Other Provisions

A person could not export or attempt to export an exotic animal to another state or country unless the animal's import and possession were lawful in the other state or country, and the destination and proposed new owner of the animal had been approved by the regulatory agency in the other state or country having authority to do so, if any.

A law enforcement authority or other person could kill an exotic animal if the person saw the animal chasing or attacking a person or livestock, poultry, or any other animal. A person would not be liable in damages or otherwise for killing or attempting to kill an exotic animal under these circumstances.

A local unit could adopt an ordinance governing exotic animals that was more restrictive than the bill. The bill also specifies that its requirements would be in addition to any other requirements governing an exotic animal under State and Federal law.

The Department of Agriculture would have to provide each pet shop, animal control shelter, and animal protection shelter with information on the bill's requirements.

Legislative Analyst: L. Arasim

#### FISCAL IMPACT

The bill would result in an indeterminate, but probably negligible increase in State Department of Agriculture administrative costs. Local units of government that do not have a permitting program currently, or that do not have an ordinance banning

ownership of exotic animals, would experience indeterminate increases in both administrative and enforcement costs. The bill would allow affected local governments to assess permit fees to generate revenue sufficient to cover these costs. As the bill would bar ownership of exotic animals that were not already in the possession of an individual prior to the effective date of the bill, the increase in local government costs and revenues would be temporary.

Fiscal Analyst: P. Graham

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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.