

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 1032

Short Title: Protection of Inherently Dangerous Animals. (Public)

Sponsors: Senator Garwood.

Referred to: Judiciary II.

March 24, 2005

1 A BILL TO BE ENTITLED
2 AN ACT PROVIDING FOR THE PROTECTION OF THE PUBLIC AGAINST THE
3 HEALTH AND SAFETY RISKS THAT INHERENTLY DANGEROUS
4 ANIMALS POSE AND TO PROTECT THE WELFARE OF INHERENTLY
5 DANGEROUS ANIMALS.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. Chapter 19A of the General Statutes is amended by adding a
8 new Article to read:

9 "Article 6.

10 "Protection of Inherently Dangerous Animals.

11 "**§ 19A-70. Intent.**

12 (a) It is the intent of the General Assembly to protect the public against health
13 and safety risks that inherently dangerous animals pose to the community and to protect
14 the welfare of the individual animals held in private possession and at roadside zoos.
15 The General Assembly finds that by their very nature these animals are wild and
16 inherently dangerous and do not adjust well in captivity without sufficient provisions for
17 animal welfare and professional animal care expertise.

18 (b) The General Assembly finds that inherently dangerous animals are extremely
19 unpredictable and dangerous creatures; the Animal and Plant Health Inspection Service
20 of United States Department of Agriculture (USDA/APHIS), the American Zoo and
21 Aquarium Association (AZA), the American Veterinary Medical Association, and
22 numerous animal welfare and public safety organizations believe that only properly
23 trained professionals and certified institutions should keep these animals.

24 (c) The General Assembly finds that care and handling of these inherently
25 dangerous animals should be left to those qualified individuals who have the knowledge
26 and means to maintain them properly; the average owner of an inherently dangerous
27 animal lacks the specialized equipment and expertise necessary to provide properly for
28 the containment, medical care, husbandry, and nutrition of a wild animal, and it is

1 virtually impossible for an inherently dangerous animal to adapt to traditional household
2 settings or inadequate living spaces and conditions.

3 **"§ 19A-71. Definitions.**

4 (a) "Animal control authority" means the municipal or county animal control
5 agency or a county sheriff in an area that does not have an animal control office.

6 (b) "Department" means the Department of Environment and Natural Resources.

7 (c) "Inherently dangerous animal" means an animal that is capable of inflicting
8 serious or fatal injuries, or which has the potential to become a menace to the public
9 health or indigenous wildlife populations, whether the animal is bred in the wild or in
10 captivity, and includes all hybrids of that animal. The term does not include indigenous
11 wild animals, the taking or possessing of which are regulated by the Wildlife Resources
12 Commission under Article 22 of Chapter 113 of the General Statutes. The following are
13 examples of inherently dangerous animals, but indigenous varieties of the listed
14 classifications are not included within the definition, regardless of whether specifically
15 exempted here:

16 (1.) Class Mammalia

17 a. Order Carnivora

18 1. Family Felidae (lions, tigers, leopards, ocelots, servals,
19 etc.) – all species except domestic cats.

20 2. Family Canidae (wolves, foxes, jackals, etc.) – all
21 species except domestic dogs and indigenous foxes.

22 3. Family Ursidae (bears) – all species except black bears.

23 4. Family Viverridae (only binturongs).

24 5. Family Procyonidae (only kinkajous and coatis).

25 6. Family Hyaenidae (hyenas, etc.) – all species.

26 b. Order Marsupialia – only kangaroos.

27 c. Order Perissodactyla – only rhinoceroses.

28 d. Order Primates (lemurs, monkeys, chimpanzees, gorillas) – all
29 species.

30 e. Order Proboscidae (elephants, etc.) – all species.

31 f. Order Rodentia – only prairie dogs and Gambian rats.

32 (2.) Class Reptilia

33 a. Order Squamata

34 1. Family Varanidae – only water monitors and crocodile
35 monitors.

36 2. Family Boidae – all species whose adult length has the
37 potential to exceed eight feet in length.

38 3. Family Colubridae – only boomslangs and African twig
39 snakes.

40 4. Family Elapidae (cobras, mambas, etc.) – all species.

41 5. Family Natricidae – only keelback snakes.

42 6. Family Viperidae (vipers) – only nonindigenous species.

43 7. Family Helodermatidae (beaded lizards, Gila monsters,
44 etc.) – all species.

8. Family Hydrophiidae (sea snakes, etc.) – all species.

9. Family Atractaspidae (mole vipers, etc.) – all species.

b. Order Crocodylia (crocodiles, alligators, caimans, gavials, etc.) – all species.

The Department may declare any additional species, families, or classes of wild animals not specifically listed in G.S. 19A-71(c) to be an inherently dangerous animal for the purposes of this Article if the animal meets the definition set forth in this subsection.

(d) "Person" means any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, association, trust, estate, or any other legal entity, and any officer, member, shareholder, director, employee, agent or representative of the entity.

(e) "Possessor" means any person who owns, possesses, keeps, harbors, brings into the State, acts as a custodian of, or has custody or control of, an inherently dangerous animal.

(f) "Wildlife sanctuary" means a nonprofit organization described in section 170(b)(1)(A)(vi) of the Internal Revenue Code of 1986, and its subsequent amendments, that operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced inherently dangerous animals are provided care for their lifetimes or are released back to their natural habitat and, with respect to any animal owned by the organization, does not:

- (1) Conduct any activity that is not inherent to the animal's nature;
- (2) Use the animal for any type of entertainment;
- (3) Sell, trade, or barter the animal or the animal's body parts; or
- (4) Breed the animal for any purpose.

§ 19A-72. Exemptions.

(a) The provisions of this Article do not apply to:

- (1) Institutions accredited by the American Zoo and Aquarium Association (AZA) or under mentorship through the AZA.
- (2) Duly incorporated nonprofit animal protection organizations housing an inherently dangerous animal at the written request of the animal control authority.
- (3) Wildlife enforcement officers acting under the authority of this act.
- (4) Animal control or law enforcement agencies or officers acting under the authority of this act.
- (5) Licensed veterinary hospitals or clinics.
- (6) Any wildlife sanctuary as defined in G.S. 19A-71(f).
- (7) Any licensed or accredited research or medical institution.
- (8) Any licensed or accredited educational institution.
- (9) Any lawfully operated circus or rodeo.
- (10) A person temporarily transporting an inherently dangerous animal through the State if the transit time is not more than 96 hours and the animal is at all times maintained within a confinement sufficient to prevent the inherently dangerous animal from escaping.

1 **"§ 19A-73. Keeping of inherently dangerous animals prohibited.**

2 (a) A person shall not own, possess, keep, harbor, bring into the State, act as a
3 custodian of, or have custody or control of, an inherently dangerous animal, except in
4 compliance with this Article.

5 (b) A person shall not breed an inherently dangerous animal.

6 **"§ 19A-74. Personal possession permit required for possessor.**

7 (a) A person may not own, possess, keep, harbor, bring into the State, act as a
8 custodian of, or have custody or control of, an inherently dangerous animal unless that
9 person holds a personal possession permit for that animal issued by the Department. A
10 person may obtain a personal possession permit for an inherently dangerous animal only
11 if the following requirements are met:

12 (1) The person was in legal possession of the inherently dangerous animal
13 prior to January 1, 2006, and is the legal possessor of the inherently
14 dangerous animal.

15 (2) The person applies for and is granted a personal possession permit for
16 each inherently dangerous animal in the person's possession by March
17 31, 2006.

18 (b) Persons who meet the requirements of subsection (a) of this section shall
19 annually obtain a personal possession permit. From and after January 1, 2006, no new
20 inherently dangerous animal shall be brought into possession under authority of a
21 personal possession permit.

22 (c) A possessor shall file an application to receive a personal possession permit
23 with the Department on forms provided by the Department. The application shall
24 include the following:

25 (1) A written statement that sets forth at least the following information:

26 a. The name, address, telephone number, and date of birth of the
27 possessor;

28 b. A description of the inherently dangerous animal possessed,
29 including the scientific name, name, sex, age, color, weight, and
30 any distinguishing marks or coloration that would aid in the
31 identification of the animal;

32 c. A photograph of the inherently dangerous animal;

33 d. The address of the location where the inherently dangerous
34 animal is to be kept, including directions to the location if no
35 address exists;

36 e. The name, address, and telephone number of the person from
37 whom the possessor obtained the inherently dangerous animal,
38 if known;

39 f. The microchip number of the inherently dangerous animal,
40 excluding inherently dangerous animals exempted under
41 G.S. 19A-75; and

42 g. The name, address, and telephone number of the veterinarian
43 providing veterinary care to the inherently dangerous animal

- 1 and a certificate of good health from the possessor's
2 veterinarian.
- 3 (2) The possessor's certification in writing and notarized, that:
4 a. The applicant is 18 years of age or older;
5 b. The applicant has not been convicted of, or found responsible
6 for, violating a State or local law prohibiting cruelty, neglect, or
7 mistreatment of an animal, and has not within the past 10 years
8 been convicted of a felony or convicted for possession, sale, or
9 use of illegal narcotics;
10 c. The requirements set forth in subsection (a) of this section and
11 of G.S. 19A-75 have been met;
12 d. The facility and the conditions in which the inherently
13 dangerous animal will be kept are in compliance with this
14 Article;
15 e. The applicant has regularly provided veterinary care to the
16 inherently dangerous animal when needed and will provide
17 such care in the future; and
18 f. Proof that a licensed veterinarian has spayed or neutered the
19 inherently dangerous animal, as required by G.S. 19A-76.
- 20 (3) The possessor's plan for the quick and safe recapture of the inherently
21 dangerous animal if the inherently dangerous animal escapes at the
22 time of filing of the application.
- 23 (4) A copy of the possessor's policy for liability insurance at the time of
24 filing of the application, as required by G.S. 19A-79.
- 25 (5) Any additional information the Department may deem necessary to
26 carry out the provisions of this Article.
- 27 (6) Payment of a fee to be established by the Department for application,
28 issuance, and renewal of a personal possession permit in order to
29 recover the costs associated with the administration and enforcement
30 of this Article. The fee collected under this section may be used only
31 to administer and enforce the provisions of this Article.
- 32 (d) A permit shall not be granted unless the Department finds that all of the
33 requirements in subsection (c) of this section have been met.
- 34 (e) The personal possession permit shall set forth all of the following
35 information:
- 36 (1) The name, address, phone number, and date of birth of the permit
37 holder;
- 38 (2) The address where the inherently dangerous animal or animals will be
39 kept;
- 40 (3) The name, number, sex, species, age of the inherently dangerous
41 animal or animals, and any distinguishing marks or coloration that
42 would aid in the identification of the animals;
- 43 (4) The identification number required under G.S. 19A-75, if applicable;

1 (5) The name, address, and phone number of the veterinarian who
2 provides veterinary care to the inherently dangerous animal or animals
3 named on the permit; and

4 (6) Any other relevant information the Department may deem necessary.

5 (f) If a person can no longer care for an inherently dangerous animal, that person
6 may only transfer the animal to another person currently holding a valid personal
7 possession permit.

8 (g) The Department shall keep records of persons carrying a valid permit. A
9 permit holder shall notify the Department of any changes in the stated information on
10 the permit, including the death of an inherently dangerous animal.

11 **"§ 19A-75. Identification number.**

12 Every inherently dangerous animal shall be implanted with a microchip, at the
13 expense of the possessor, by or under the supervision of a veterinarian. This provision
14 does not apply if a veterinarian determines that the implant of a microchip would
15 endanger the well-being of the animal.

16 **"§ 19A-76. Spaying or neutering.**

17 Every inherently dangerous animal must be spayed or neutered, at the expense of the
18 possessor, by or under the supervision of a veterinarian. This provision does not apply if
19 a veterinarian determines that the spay or neuter procedure would endanger the
20 well-being of the animal.

21 **"§ 19A-77. Caging requirements and standards for inherently dangerous animals.**

22 For each inherently dangerous animal, the possessor shall comply with the American
23 Zoo and Aquarium Association's (AZA's) Minimum Husbandry Guidelines for animal
24 care and maintenance of that animal.

25 **"§ 19A-78. Care and treatment of inherently dangerous animals.**

26 (a) An inherently dangerous animal shall not be tethered, leashed, chained
27 outdoors, or allowed to run at large.

28 (b) An inherently dangerous animal shall not be mistreated, neglected,
29 abandoned, deprived of necessary food, water, and sustenance, or otherwise treated in a
30 manner that violates Article 47 of Chapter 14 of the General Statutes.

31 (c) A possessor transporting an inherently dangerous animal in a vehicle shall
32 keep the animal securely caged in the vehicle at all times.

33 (d) Each possessor shall have a plan for the quick and safe recapture of the
34 inherently dangerous animal if the animal escapes, and a plan for the destruction of the
35 animal if recapture is impossible.

36 (e) The possessor shall contact the Department, a wildlife sanctuary, or an
37 American Zoo and Aquarium Association (AZA) accredited facility if the possessor can
38 no longer care for the inherently dangerous animal prior to euthanasia of the inherently
39 dangerous animal, and shall do so before resorting to euthanasia.

40 **"§ 19A-79. Insurance; signs; notification.**

41 (a) The possessor of an inherently dangerous animal shall maintain liability
42 insurance coverage in an amount of not less than one hundred thousand dollars
43 (\$100,000) for each occurrence for liability damages for destruction of or damage to
44 property, and for death or bodily injury to a person caused by the inherently dangerous

1 animal. The possessor of an inherently dangerous animal shall provide a copy of the
2 policy for liability insurance to the Department on an annual basis.

3 (b) The possessor of an inherently dangerous animal shall have continuously
4 posted and displayed, at each possible entrance onto the premises where an inherently
5 dangerous animal is kept, a conspicuous sign, clearly legible, and easily readable by the
6 public, warning that there is an inherently dangerous animal on the premises. The
7 Department may prescribe the exact content and size of the sign.

8 (c) No person may intentionally release an inherently dangerous animal.

9 (d) If any inherently dangerous animal escapes, either intentionally or
10 unintentionally, the possessor of the animal shall immediately contact the Department
11 and the animal control authority or a law enforcement officer of the city or county in
12 which the possessor resides to report the escape or release.

13 (e) If an inherently dangerous animal escapes or is intentionally released, the
14 possessor is liable for all reasonable expenses associated with efforts to recapture the
15 animal, unless the escape is due to the criminal act of another person. If the inherently
16 dangerous animal cannot be recaptured safely by the Department, animal control
17 authority, or law enforcement officer, or if proper and safe housing cannot be found, the
18 Department may immediately euthanize the animal.

19 **"§ 19A-80. Public contact.**

20 Unless prior approval has been received from the Department, a person shall not
21 bring an inherently dangerous animal to any public property or commercial or retail
22 establishment unless the person is bringing the animal to a licensed veterinarian or a
23 veterinarian clinic.

24 **"§ 19A-81. Enforcement of Article.**

25 The provisions of this Article are enforceable by the Department, its staff, its agents,
26 animal control authorities, local law enforcement agents, and county sheriffs.

27 **"§ 19A-82. Inspection.**

28 The possessor of an inherently dangerous animal shall, at all reasonable times, allow
29 the Department, its staff, and its agents to enter the premises where the animal is kept to
30 ensure compliance with this Article.

31 **"§ 19A-83. Denial of personal possession permit; appeal.**

32 (a) If the Department finds that an applicant for an original or renewal of a
33 personal possession permit does not meet the requirements set forth in G.S. 19A-74, the
34 Department shall deny the applicant a personal possession permit and give the applicant
35 written notice of the denial and the reasons for the denial.

36 (b) If the Department finds that a person has not complied with this Article, the
37 Department may suspend or revoke the personal possession permit and give the
38 possessor written notice of the suspension or revocation and the reasons for the
39 suspension or revocation.

40 (c) A person who is denied a personal possession permit, who is denied a
41 renewal of a personal possession permit, or who has had a permit suspended or revoked,
42 may appeal the decision to the district court for the district in which the animal is
43 located no later than 15 days after the permit is denied, suspended, or revoked. The
44 decision of the court may not be appealed.

§ 19A-84. Confiscation and disposition of inherently dangerous animals.

(a) The Department may immediately confiscate any inherently dangerous animal if the animal is kept in violation of this Article. The possessor is liable for the costs of placement and care for the inherently dangerous animal from the time of confiscation until the time of return to the possessor, or until the time the animal has been relocated to an approved facility, such as a wildlife sanctuary or an institution accredited by the American Zoo and Aquarium Association (AZA).

(b) If an inherently dangerous animal is confiscated as a result of the animal being kept in violation of this Article, the possessor shall post a security bond or cash with the Department in an amount sufficient to guarantee payment of all reasonable expenses expected to be incurred in capturing, caring for, providing for, and placing the animal, including the estimated cost of feeding, medical care, and housing for at least 30 days, plus the cost of relocating the animal. The security bond or cash shall not prevent the Department from disposing of the animal at the end of the 30 days unless the person claiming the animal posts an additional security bond or cash with the Department to secure payment of all reasonable expenses expected to be incurred in caring and providing for the animal for an additional 30 days, and does so prior to the expiration of the first 30-day period. The amount of the security bond or cash shall be determined by the Department and based on the current rate to feed, provide medical care, and house the animal, plus the cost of relocating the animal and costs already incurred for capturing and relocating the animal.

(c) If the possessor of a confiscated animal cannot be located, or if a confiscated animal remains unclaimed, the Department may, in its discretion, contact an approved facility, such as a wildlife sanctuary or an institution accredited by the American Zoo and Aquarium Association (AZA), allow the animal to be adopted by a person who currently possesses a personal possession permit, or euthanize the animal.

(d) If the inherently dangerous animal cannot be taken up or recaptured safely by the Department, or if proper and safe housing cannot be found, the Department may immediately euthanize the animal.

(e) An inherently dangerous animal may be returned to the possessor only if, to the satisfaction of the Department, the possessor has a personal possession permit, has corrected the conditions resulting in the confiscation, and has paid the cost of placement and care of the animal while under the care and control of the Department.

§ 19A-85. Penalties.

(a) Any possessor who fails to obtain a personal possession permit under G.S. 19A-74 for an inherently dangerous animal or renew a personal possession permit for each inherently dangerous animal shall be liable for a civil penalty of not less than two hundred dollars (\$200.00) and not more than two thousand dollars (\$2,000) for each animal with respect to which there is a violation and for each day the violation continues. A civil penalty collected pursuant to this subsection may be retained by the Department.

(b) A person who violates the provisions of G.S. 19A-74(f), 19A-75, 19A-77, 19A-79(b), 19A-79(d), 19A-80, or 19A-82 is guilty of a Class 3 misdemeanor.

1 (c) A person who violates G.S. 19A-73(b), 19A-76, 19A-78, 19A-79(a),
2 19A-79(c), or 19A-84(b) is guilty of a Class 2 misdemeanor.

3 **"§ 19A-86. Local governing bodies.**

4 Pursuant to its authority under G.S. 153A-131 and G.S. 160A-187, a city or county
5 may adopt an ordinance governing inherently dangerous animals that is more restrictive
6 than this Article. Such an ordinance may apply to animals not covered by this Article,
7 provide additional caging standards, provide stricter care and treatment standards, or
8 otherwise restrict or prohibit the possession of inherently dangerous animals.

9 **"§ 19A-87. Severability.**

10 If any part of this act is found to be unconstitutional or unenforceable, it shall not
11 affect the constitutionality or enforceability of any other part."

12 **SECTION 2.** This act becomes effective January 1, 2006, and applies to
13 inherently dangerous animals existing in this State on or after that date. A person who
14 meets the legal requirements for possessing an inherently dangerous animal set forth in
15 Article 6 of Chapter 19A of the General Statutes, as enacted in this act, is not required
16 to obtain a personal possession permit by that date, but shall obtain that permit by
17 March 31, 2006. The Department of Environment and Natural Resources shall
18 implement and administer the provisions of Article 6 of Chapter 19A of the General
19 Statutes, and shall establish the fee authorized by that Article and the personal
20 possession permit program necessary to implement the provisions of that Article no
21 later than January 1, 2006.