

The following is the bill, with the most recent amendments, which form the basis of the new legislation banning certain reptiles in New York State.

* STATE OF NEW YORK*

2338

2005-2006 Regular Sessions

* IN ASSEMBLY*

January 25, 2005

Introduced by M. of A. TONKO -- (at request of the Department of Environmental Conservation) -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to possession of wild animals as pets; and to repeal certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph e of subdivision 6 of section 11-0103 of the environmental conservation law, as amended by chapter 693 of the laws of 2004, is amended to read as follows:

"Wild animal" shall not include "companion animal" as defined in section three hundred fifty of the agriculture and markets law. Wild animal includes, and is limited to, any or all of the following orders and families: Nonhuman primates and prosimians, Felidae [*(with the exception of domesticated and feral cats, which shall mean domesticated cats that were formerly owned and that have been abandoned and that are no longer socialized, as well as offspring of such cats),*] and *_all_* hybrids thereof, *_with the exception of the species_* *_Felis catus (domesticated and feral cats, which shall mean domesticated cats that were formerly owned and that have been abandoned and that are no longer socialized, as well as offspring of such cats) and hybrids of_* *_Felis catus that are registered by the American Cat Fanciers Association_* *_or the International Cat Association provided that such cats be without_* any wild felid parentage for a minimum of five generations, *_Canidae (with the exception of domesticated dogs and_* *_captive bred_* fennec foxes (*vulpes zerda*), Ursidae, All reptiles that are venomous by nature, pursuant to Department regulation, and the following species and [*families*] *_orders_*:

EXPLANATION--Matter in *_italics_* (underscored) is new; matter in brackets

[* *] is old law to be omitted.

LBD05420-01-5

A. 2338 Burmese Python (*Python m. bivittatus*), Reticulated Python (*Python reticulatus*), African Rock Python (*Python sabae*), Green Anaconda (*Eunectes maurinus*), Yellow Anaconda (*Eunectes notaeus*), Australian Amethystine Python (*Morelia amethistina* [*kinhorni*] *_and Morelia kinghorni_*), Indian Python (*Python molurus*), Asiatic (water) Monitor ([*V.*] *_Varanus_* *salvator*), Nile Monitor ([*V.*] *_Varanus_* *nilocitus*), White

Throat Monitor ([*V. albigularus*] *_Varanus_* *_albigularis_*), Black Throat Monitor ([*V. albigularus*] *_Varanus albigularis_ionides) and Crocodile Monitor ([*V.*] *_Varanus_* salvadori)*_, Komodo Dragon_* *(Varanus komodensis)*_ and any hybrid thereof, [*Crocodylia*] *_Crocodylia_*. § 2. Subdivision 32 of section 11-0103 of the environmental conservation law, as added by chapter 692 of the laws of 2004, is amended to read as follows:32. "Wildlife sanctuary" means an organization as described in section 170(b)(1)(A)(vi) of the Internal Revenue Code of 1986[*], and approved by* *the Association of Sanctuaries or the American Sanctuary Association,*] and that *_is in compliance with all applicable provisions of the Animal_* *_Welfare Act, 7 USC Sec. 2131 et seq. and_* operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced wild animals are provided care for their lifetime or rehabilitated and released back to their natural habitat, and, with respect to 22 any animal owned by the organization, does not: a. Use the animal for any type of entertainment, recreational or commercial purpose *_except for the purpose of exhibition as defined by_* *_the department_*; b. Sell, trade, lend or barter the animal or the animal's body parts; or c. Breed the animal. 29 § 3. Section 11-0512 of the environmental conservation law, as added by chapter 692 of the laws of 2004, subdivisions 2, 4 and 8 as amended by chapter 693 of the laws of 2004, is amended to read as follows: § 11-0512. Possession, sale, barter, transfer, exchange and import of wild animals as pets prohibited. 1. No person shall knowingly possess, harbor, sell, barter, transfer, exchange or import any wild animal for use as a pet in New York state, except as provided in subdivision three of this section. 2. This section shall not apply to the following persons and entities with respect to wild animals owned or harbored by them solely for a purpose other than for use as a pet: a. Zoological facilities licensed pursuant to 7 USC. Sec. [*2132 et.*] *_2131 et_* seq. [*and accredited by AZA (American Zoological and Aquarium* *Association)*]; b. Exhibitors licensed pursuant to the Animal Welfare Act, 7 USC. Sections 2132-2134 *_and reptile exhibitors_* who have demonstrated to the department, in accordance with regulations promulgated by the commissioner, that the sole purpose for which the wild animal or animals are used is for exhibition to the public for profit or compensation; c. Research facilities as defined in the Animal Welfare Act, 7 USC. Section 2132 (e), [*2 (e)*] which are licensed by the United States Secretary of Agriculture [*and approved under applicable state law*];d. Licensed veterinarians and incorporated humane societies, animal shelters, societies for the prevention of cruelty to animals or animal welfare organizations in temporary possession of wild animals; e. State universities*_, private colleges or universities,*_ or [*other*] state agencies working with wild animals; A. 2338 3 1 f. Wildlife rehabilitators licensed pursuant to the provisions of 2 subdivision three of section 11-0515 of this title and regulations 3 promulgated thereunder, who are tending to sick or injured wild animals; 4 g. A person having custody of a wild animal solely for the purpose of 5 transporting it to a licensed veterinarian, wildlife rehabilitator, 6 humane society or other entity authorized by this section to handle or 7 treat wild animals; h. A wildlife sanctuary as defined in subdivision thirty-two of section 11-0103 of this article; i. [*A person with a falconry or hawk license pursuant to section* *11-1003 of this article;* *j.*] A person who is not a resident of this state who is in the state only for the purpose of traveling between locations outside the state. In no event shall this time period exceed ten days; 15 [*k. Reptile exhibitors licensed pursuant to section 11-0516 of this* 16 *title;* *1.*] *_j._* A person who is [*completely*] paralyzed from the neck down who possesses a [*permit issued by the department for the possession of*] new world [*monkeys otherwise prohibited under this title. Such permit shall* *be revocable at the pleasure of the department and shall apply to the* *possession of new

world monkeys*] *_monkey_* trained to perform [*simple*] tasks for its owner[*]. The department shall adopt regulations concerning* *the training of such monkeys, proper care standards, and the procedures* *for permit issuance and revocation. Such regulations shall include* *requirements for the training and acclimation of the monkey, training in* *the proper care and oversight of the monkey by both the person and his* *or her caregiver or caregivers, and certification of the health of the* *monkey*] *_by an organization described in section 501(c) of the Internal_* *_Revenue Code of 1986 and dedicated to improving the quality of life of_* *_persons paralyzed from the neck down_*. 3. Any person who possesses or harbors a wild animal for use as a pet at the time that this section takes effect may retain possession of such animal for the remainder of its life, provided that such person: a. Has not been convicted of any offense relating to cruelty to animals or under a judicial order prohibiting possession of animals; b. Applies to the department within [*sixty days*] *_six months_* of the effective date of this section, and obtains from the department, a [*permit*] *_license_* pursuant to subdivision four of this section; and c. Complies with all *_applicable federal, state, or local laws, including any ordinance, rule or regulation adopted by a local board of_* *_health, or any_* rules and regulations established by the department as requisites for ownership of such wild animal. 4. The department shall be required to issue [*permits*] *_licenses_* authorizing possession of wild animals only to those persons who comply with the provisions of subdivision three of this section and with any regulations promulgated by the department thereunder. Such [*permits*] *_licenses_* shall be valid in any jurisdiction within the state where possession of a wild animal is not prohibited by local law *_or ordinance,_* *_rule or regulation adopted by a local board of health,_* and shall be renewable biennially *_during the life of the animal_* subject to continued compliance with the provisions of this section and with any regulations promulgated thereunder. The department shall forward copies of such [*permits*] *_licenses_* to the clerk of the city, town or village in which 54 each wild animal is harbored. a. [*Permit*] *_License_* applications shall include, but shall not be limited to, the following: A. 2338 4 (1) The name, address and telephone number of the person who owns, possesses or harbors the wild animal or animals, including an acknowledgment that the person who owns, possesses or harbors the wild animal or animals is twenty-one years of age or older. (2) The address of the location where the wild animal or animals will be kept, if different from the above. (3) A detailed description of each wild animal owned, possessed or harbored, including species, gender, age, any identifying characteristics, and an identification tag or tattoo if required by the department*_ , with proof, acceptable to the department, that each such wild_* *_animal was acquired prior to the effective date of this section_*. (4) The name, address and telephone number of the veterinarian, who [*will*] *_has agreed to_* treat the wild animal. (5) An acknowledgment indicating that the wild animal or animals will not be bred. (6) A detailed [*statement*] *_certification_* establishing that the location in which the wild animal will be kept complies with all *_appropriate_* standards of care [*promulgated by the department, but*] *_and_* at minimum complies with the standards for animal care set forth in the Federal Animal Welfare Act *_and other applicable federal, state and local_* *_standards,_* including, but not limited to housing, temperature, ventilation, drainage, sanitation, food, water, exercise and veterinary care appropriate to the species and sufficient to maintain the wild animal in good health. (7) An acknowledgment that the wild animal will not be tied, tethered, or chained outdoors, allowed to run at large and that the wild animal will not be brought to any public park or commercial or retail establishment unless it is being brought to a veterinarian or veterinary clinic. (8) An acknowledgment that possession, harboring or owning such wild animal does

not violate any applicable federal, state or local law, including any ordinance, rule or regulation adopted by a local board of health. b. The department shall set biennial permit license fees for the possession of wild animals pursuant to subdivision three of this section in an amount determined to be reasonable but not more than eighty one hundred seventy-five dollars for two years for each wild animal. Permit License fees shall be used solely for the implementation and enforcement of this section. 5. Prior to denial or revocation of a permit issued pursuant to subdivision four of this section, the department shall hold a hearing upon due notice to the person who owns, harbors or possesses the wild animal, at which such person shall have the opportunity to be heard. The provisions of the state administrative procedure act shall apply at proceedings held in accordance with this subdivision. The decision to deny or revoke a permit under this section shall be appealable to the denial or revocation of a license. 6. Any person in possession of a wild animal as a pet that has been granted a permit license pursuant to subdivision four of this section shall not breed, or sell, trade, barter or exchange such wild animal. 7. A person possessing, owning or harboring a wild animal who is denied a permit license pursuant to subdivision four of this section, or whose permit license is revoked, shall surrender such wild animal to the department or an authorized agent thereof at a location designated by the department for such surrender or a police or peace officer of this state, a local animal control officer, or a duly incorporated A. 2338 5 society for the prevention of cruelty to animals, or provide proof that the animal has been humanely euthanized according to American Veterinary Medical Association standards by a licensed veterinarian. 8. The department, any police or peace officer of this state, a local animal control officer, or a duly incorporated society for the prevention of cruelty to animals is hereby authorized to enforce the provisions of this section and issue notices of violation to persons in violation of this section, and shall have the authority to seize any wild animal held in violation of this section. A county society for the prevention of cruelty to animals must obtain a warrant before seizing a wild animal or arresting a person who owns or possesses a wild animal under this section. Wild animals seized or surrendered pursuant to the provisions of this section shall be transferred to a duly incorporated wildlife sanctuary as defined in this section, or a zoological facility [accredited by the American Zoological and Aquarium Association], or shall be humanely euthanized. Any costs associated with seizing, transferring or euthanizing a wild animal shall be borne by the person who owned, harbored or possessed the animal. The department shall also have the authority to seek injunctive relief in any court of appropriate jurisdiction to prevent continued violations of this section. 9. Notwithstanding any other provision of law, any person who knowingly breeds a wild animal or knowingly possesses, owns, harbors, sells, barter, transfers, exchanges, or imports a wild animal for use as a pet in violation of the provisions of this section shall be subject to the a penalty of not more than five hundred dollars for the first offense and not more than one thousand dollars for a second and subsequent offenses. Each instance of breeding, owning, harboring, sale, barter transfer, exchange, or import of a wild animal in violation of this section shall constitute a separate offense. 10. Nothing contained in this section shall prevent any city, town or county from enacting more restrictive provisions governing the possession of wild animals for use as pets. § 4. Section 11-0516 of the environmental conservation law is REPEALED. § 5. This act shall take effect immediately.