

SENATE BILL NO. 442
INTRODUCED BY E. STONINGTON

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE REGULATION OF EXOTIC WILDLIFE; PROVIDING THAT THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS MAY ISSUE PERMITS FOR AUTHORIZING THE IMPORTATION, POSSESSION, OR SALE OF CONTROLLED EXOTIC WILDLIFE AND CHARGE A REASONABLE FEE FOR THE PERMIT; PROVIDING FOR LISTS OF NONCONTROLLED, CONTROLLED, AND PROHIBITED EXOTIC WILDLIFE; ESTABLISHING A CLASSIFICATION REVIEW COMMITTEE TO ADVISE THE FISH, WILDLIFE, AND PARKS COMMISSION REGARDING THE IMPORTATION, POSSESSION, AND SALE OF EXOTIC WILDLIFE; PROVIDING EXCEPTIONS AND EXEMPTIONS FROM THE REGULATION OF EXOTIC WILDLIFE; PROVIDING AN AMNESTY PROGRAM FOR EXOTIC WILDLIFE POSSESSED AS OF JANUARY 1, 2004; AMENDING SECTIONS 87-5-701, 87-5-702, 87-5-704, 87-5-712, AND 87-5-716, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Regulation of exotic wildlife.** (1) A person may not import into the state, possess, or sell any exotic wildlife unless:

- (a) the importation, possession, or sale of the exotic wildlife is allowed by law or commission rule; or
- (b) the person has obtained department authorization pursuant to subsection (2).

(2) The department may issue a permit for authorizing the importation, possession, or sale of controlled exotic wildlife and make the permit available to persons who wish to import, possess, or sell controlled exotic wildlife, subject to rules of the commission and the department. The department may charge a reasonable fee, as determined by department rule, for the issuance of the authorization permit.

NEW SECTION. **Section 2. Noncontrolled exotic wildlife authorized for importation, possession, or sale.** (1) The following noncontrolled exotic wildlife may not be released or transplanted in the state, but may be imported, possessed, or sold as pets in Montana without a permit:

- (a) domestic animals;
- (b) tropical and subtropical birds in the order Passeriformes, including but not limited to birds in the families:

- (i) Sturnidae (mynahs);
- (ii) Ramphastidae (toucans, toucanettes);
- (iii) Fringillidae (siskins);
- (iv) Estrildidae (finches);
- (v) Emberizidae (cardinals);
- (vi) Ploceidae (weavers);
- (vii) Timaliidae (mesias);
- (viii) Viduinae (wydahs);
- (ix) Thraupidae (tanagers);
- (x) Zosteropidae (zosterops);
- (xi) Psittacidae (parrots, except the Quaker parakeet, *Myiopsittis monachus*);
- (xii) Loriidae (lories); and
- (xiii) Cacatuidae (cockatoos);
- (c) nonnative species in the subfamily Phasianae, except:
 - (i) chukar partridge (*Alectoris chukar*);
 - (ii) gray (Hungarian) partridge (*Perdix perdix*);
 - (iii) ring-necked pheasant (*Phasianus colchicus*); and
 - (iv) turkey (*Meleagris gallopavo*);
- (d) all tropical fish, subtropical fish, marine fish, common goldfish (*Carassius auratus*), and koi (*Cyprinus carpio*) for use in residential and office aquariums;
- (e) unless otherwise regulated pursuant to 87-5-116, all nonnative tropical and subtropical species of nonvenomous snakes not on the controlled or prohibited lists in the families:
 - (i) Boidae (boas);
 - (ii) Bolyeriidae (Round Island Boas);
 - (iii) Tropidophiidae (dwarf boas);
 - (iv) Pythonidae (pythons);
 - (v) Colubridae (modern snakes);
 - (vi) Acrochordidae (file and elephant trunk snakes);
 - (vii) Xenopeltidae (sunbeam snakes);
 - (viii) Aniliidae (pipe snakes);
 - (ix) Uropeltidae (shield-tailed snakes);

- (x) Anomalepididae (blind snakes);
- (xi) Leptotyphlopidae (blind snakes); and
- (xii) Typhlopidae (blind snakes);

(f) unless otherwise regulated pursuant to 87-5-116, all nonnative tropical and subtropical species of nonvenomous lizards not on the controlled or prohibited lists, including but not limited to the following families or subfamilies:

- (i) Agamidae (chisel-teeth lizards);
- (ii) Amphisbaenidae (worm lizards);
- (iii) Anelytropsidae (limbless lizards);
- (iv) Anguinae (glass and alligator lizards);
- (v) Anniellidae (legless lizards);
- (vi) Chamaeleonidae (chameleons);
- (vii) Cordylidae (girdle-tailed lizards);
- (viii) Corytophanidae (casquehead lizards);
- (ix) Crotaphytidae (collared and leopard lizards);
- (x) Dibamidae (blind lizards);
- (xi) Eublepharidae (eyelid geckos);
- (xii) Feyliniidae (African snake skinks);
- (xiii) Gekkonidae (geckos);
- (xiv) Helodermatidae (beaded lizards and gila monsters);
- (xv) Iguanidae (iguanas);
- (xvi) Lacertidae (wall lizards);
- (xvii) Lanthanotidae (earless monitor);
- (xviii) Phrynosomatidae (earless, spiny, and horned lizards);
- (xix) Polychrotidae (anoles);
- (xx) Pygopodidae (snake lizards);
- (xxi) Scincidae (skinks);
- (xxii) Teiidae (whiptail);
- (xxiii) Tropiduridae (neotropical ground lizards);
- (xxiv) Varanidae (monitor lizard);
- (xxv) Xantusiidae (night lizards); and

(xxvi) Xenosauridae (knob-scaled lizards);

(g) unless otherwise regulated pursuant to 87-5-116, all nonnative tropical and subtropical species of turtles not on the controlled or prohibited lists in the families:

- (i) Carettochelyidae (New Guinea softshell turtles);
- (ii) Chelidae (snake-necked turtles);
- (iii) Chelydridae (snapping turtles);
- (iv) Dermatemydidae (Central American river turtle);
- (v) Emydidae (pond turtles);
- (vi) Kinosternidae (mud turtles and musk turtles);
- (vii) Pelomedusidae (hidden-necked turtles);
- (viii) Platysternidae (big-headed turtle);
- (ix) Testudinidae (tortoises); and
- (x) Trionychidae (soft-shelled turtles);

(h) unless otherwise regulated pursuant to 87-5-116, all nonnative tropical and subtropical species of frogs and toads not on the controlled or prohibited lists in the families:

- (i) Atelopodidae (harlequin frogs);
- (ii) Bufonidae (true toads);
- (iii) Centrolenidae (glass frogs);
- (iv) Dendrobatidae (poison dart frogs);
- (v) Hylidae (tree frogs);
- (vi) Leptodactylidae (rain frogs);
- (vii) Microhylidae (narrow-mouthed toads);
- (viii) Pelobatidae (spadefoot toads);
- (ix) Pelodytidae (old world spadefoot toads);
- (x) Ranidae (true frogs, except bullfrogs, *Rana catesbeiana*);
- (xi) Rhacophoridae (old world tree frogs); and
- (xii) Rhinophrynidae (Mexican burrowing frog);

(i) unless otherwise regulated pursuant to 87-5-116, all nonnative tropical and subtropical species of limbless amphibians not on the controlled or prohibited lists in the families:

- (i) Caeciliidae (caecilians);
- (ii) Ichthyophiidae (fish caecilians);

(iii) Rhinatrematidae (beaked caecilians);
(iv) Scolecomorphidae (tropical caecilians); and
(v) Uraeotyphlidae (Indian caecilians); and
(j) unless otherwise regulated pursuant to 87-5-116, all nonnative tropical and subtropical species of salamanders not on the controlled or prohibited lists in the families:

- (i) Ambystomatidae (mole salamanders);
- (ii) Amphiumidae (amphiumas);
- (iii) Cryptobranchidae (hellbenders);
- (iv) Dicamptodontidae (giant salamanders);
- (v) Hynobiidae (Asian salamanders);
- (vi) Plethodontidae (woodland salamanders);
- (vii) Proteidae (waterdogs);
- (viii) Salamandridae (newts, except for rough-skinned newt, *Taricha granulosa*); and
- (ix) Sirenidae (sirens).

(2) The commission may by rule authorize the importation, possession, or sale of other species of noncontrolled exotic wildlife that are not listed in subsection (1) if it is determined that the other species present minimal disease, ecological, environmental, safety, or health risks.

NEW SECTION. Section 3. Controlled exotic wildlife list. As provided in 87-5-704(3)(a), the commission, after a public hearing and recommendation from the classification review committee established in [section 4], may by rule adopt a list of controlled exotic wildlife that may be imported, possessed, or sold only pursuant to commission and department rules and department authorization.

NEW SECTION. Section 4. Classification review committee -- composition and duties. (1) There is a classification review committee whose duty is to advise the commission regarding the importation, possession, and sale of exotic wildlife, including recommendations on animals to be placed on the noncontrolled, controlled, or prohibited exotic wildlife list.

- (2) The classification review committee is composed of at least one representative from:
- (a) the department;
 - (b) the department of public health and human services;
 - (c) the department of livestock; and

(d) the department of agriculture.

NEW SECTION. Section 5. Exceptions and exemptions to importation, possession, and sale of exotic wildlife. (1) [Sections 1 through 5] do not apply to an accredited zoological garden chartered by the state as a nonprofit corporation if the zoological garden establishes that the proposed facilities are adequate to provide secure confinement of the exotic wildlife in question.

(2) The department shall institute and administer an amnesty program for exotic wildlife possessed by a person as of January 1, 2004, who is not in compliance with [sections 1 through 4]. Until January 1, 2005, a person who reports the person's noncompliance to the department may not be prosecuted for a violation based on the reported noncompliance. Possession authorization must be provided by the department for species possessed as of January 1, 2004, and the authorization may include any conditions and restrictions necessary to minimize risks.

Section 6. Section 87-5-701, MCA, is amended to read:

"87-5-701. Purpose. The legislature finds that in order to protect the Montana's native wildlife and plant species of Montana and to protect the, livestock, horticultural, forestry, and agricultural production of Montana, and human health and safety, it is necessary to provide for the control of regulate the importation for introduction and the transplantation or introduction of wildlife in the state and to regulate the importation, transplantation, possession, and sale of exotic wildlife. Serious threats, known and unknown, to the well-being of native wildlife and plant species and to agricultural production, resulting from the introduction of wildlife and exotic wildlife into natural habitats, Montana necessitate the prohibition regulation of the importation for introduction and the transplantation or introduction of wildlife into natural habitats and regulation of the importation, transplantation, possession, and sale of exotic wildlife unless it can be shown that no harm will result from such the importation, transplantation, possession, sale, or introduction. Any importation for introduction or the, transplantation, possession, sale, or introduction permitted must be conducted in a manner to assure ensure that the introduced or transplanted population wildlife or exotic wildlife can be controlled if harm arises from unforeseen effects."

Section 7. Section 87-5-702, MCA, is amended to read:

"87-5-702. Definitions. For purposes of this part, the following definitions apply:

(1) "Controlled exotic wildlife" means species placed on the controlled exotic wildlife list under [section 3] that may be imported, possessed, or sold only pursuant to commission and department rules and an

authorization permit provided for in [section 1(2)].

(2) "Domestic animal" means an animal that, through long association with humans, has been bred to a degree that has resulted in genetic changes affecting color, temperament, conformation, or other attributes of the species to an extent that makes the animal unique and distinguishable from wild individuals of the species and that is readily controllable if accidentally released into the wild. The term includes livestock, as defined in 81-9-217, dogs, cats, rodents, Eurasian ferrets, and poultry.

(3) "Exotic wildlife" means a wildlife species that is not native to Montana.

(4) "Feral" means the appearance in a natural habitat of an animal and any offspring that has have escaped domestication captivity and become wild.

(5) "Importation" means the act of bringing into the state any wildlife receiving, bringing or having brought, or shipping into the state any wildlife from a location outside the state.

(6) "Introduction" means the release of from captivity or attempt to release from captivity, intentional or otherwise, wildlife from outside the state into natural habitats of the wild within the state.

(7) "Native wildlife" means a species or subspecies of wildlife that historically occurred in Montana and that has not been introduced by humans or has not migrated into Montana as a result of human activity.

(4) "Natural habitat" means any area in which the introduction of wildlife species may result in an uncontrolled, naturally reproducing population of that species becoming established.

(8) "Noncontrolled exotic wildlife" means animal species traditionally sold or kept as pets and includes animals listed in [section 2] or animals that are added to the list in [section 2] by commission rule.

(9) "Possession" means to own or have control over an animal for personal use or resale.

(10) "Prohibited exotic wildlife" means animal species placed on the list provided in 87-5-704(3)(a) that may not be imported, possessed, or sold.

(11) "Transplantation" means the release of or attempt to release, intentional or otherwise, wildlife from one place within the state into natural habitats in another part of the state.

(12)(a) "Wildlife" means any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, or other wild animal or the egg, sperm, embryo, or offspring thereof of the wild animal.

(b) The term does not include domestic animals."

Section 8. Section 87-5-704, MCA, is amended to read:

"87-5-704. Rulemaking. (1) The commission may adopt rules to implement 87-5-701, 87-5-702, and 87-5-711 through 87-5-715. In implementing 87-5-713, the commission may adopt rules approving species of

wildlife that may be introduced by the department. In implementing 87-5-715, the commission may adopt rules to authorize the control or extermination by the department of introduced wildlife species.

(2) The department may adopt rules to implement 87-5-713 and 87-5-715. In implementing 87-5-713 and 87-5-715, the department may not adopt rules in the subject areas reserved to the commission in subsection (1).

(3) (a) The commission may adopt rules to implement [sections 1 through 5] regarding the importation, possession, and sale of exotic wildlife, including adoption of a list of controlled exotic wildlife and a list of prohibited exotic wildlife. The commission may by rule add to the list of noncontrolled exotic wildlife provided in [section 2].

(b) The commission may adopt rules regarding the operation of the classification review committee established in [section 4].

(4) (a) The department may adopt rules regarding issuance of the authorization permit provided for in [section 1(2)], including the establishment of a reasonable fee for the permit.

(b) The department may adopt rules regarding the amnesty program provided for in [section 5(2)]."

Section 9. Section 87-5-712, MCA, is amended to read:

"87-5-712. Authority for commission to control importation, possession, or sale generally of certain wildlife species and exotic wildlife. The commission may, after public hearing and recommendation by the classification review committee in [section 4], list by administrative rule wildlife species or exotic wildlife prohibited from importation that may not be imported, possessed, or sold as pets for captive breeding for research or commercial purposes or, for the commercial pet trade, or for any other reason. A wildlife species or exotic wildlife may be placed on the list only after if the commission finds, ~~based on scientific investigation, that:~~

(1) the exotic wildlife species, because of behavioral traits or other biological considerations, would not be readily subject to control by man humans while in captivity;

(2) or that if released into natural habitat from captivity, the exotic wildlife would pose a substantial threat to native wildlife and plants or agricultural production; or

(3) the exotic wildlife would pose a risk to human health or safety, livestock, or native wildlife through disease transmission, hybridization, or ecological or environmental damage."

Section 10. Section 87-5-716, MCA, is amended to read:

"87-5-716. Consultation with the departments of agriculture and livestock. The commission and the department shall consult with the departments of agriculture and livestock in all matters relating to the control

of wildlife species and exotic wildlife that may have a harmful effect on agricultural production or livestock operations in the state."

NEW SECTION. **Section 11. Codification instruction.** [Sections 1 through 5] are intended to be codified as an integral part of Title 87, chapter 5, part 7, and the provisions of Title 87, chapter 5, part 7, apply to [sections 1 through 5].

NEW SECTION. **Section 12. Effective date.** [This act] is effective January 1, 2004.

- END -

