

ASSEMBLY, No. 480

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman VANDERVALK

1 **AN ACT** concerning certain potentially dangerous species of animals,
2 and amending and supplementing P.L.1973, c.309.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 3 of P.L.1973, c.309 (C.23:2A-3) is amended to read as
8 follows:

9 3. For the purposes of this act, unless the context clearly requires
10 a different meaning:

11 "Canid hybrid" means any animal resulting from the breeding of a
12 domestic dog (*Canis familiaris*) and a wolf (*Canis lupis*) or any other
13 canid, all subsequent generations of such a hybrid, and any animal that
14 is advertised, registered, or represented by its owner to be a canid
15 hybrid;

16 [a.] "Commissioner" means the Commissioner of the Department
17 of Environmental Protection;

18 [b.] "Department" means the Department of Environmental
19 Protection;

20 [c.] "Endangered species" means any species or subspecies of
21 wildlife whose prospects of survival or recruitment are in jeopardy or
22 are likely within the foreseeable future to become so due to any of the
23 following factors: (1) the destruction, drastic modification, or severe
24 curtailment of its habitat, or (2) its over-utilization for scientific,
25 commercial or sporting purposes, or (3) the effect on it of disease,
26 pollution, or predation, or (4) other natural or manmade factors
27 affecting its prospects of survival or recruitment within the State, or
28 (5) any combination of the foregoing factors. The term shall also be
29 deemed to include any species or subspecies of wildlife appearing on
30 any Federal endangered species list;

31 [d.] "Nongame species" means any wildlife for which a legal
32 hunting or trapping season has not been established or which has not

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 been classified as an endangered species by statute or regulation of this
2 State;

3 "Potentially dangerous species" means any species of exotic
4 mammal, bird, reptile or amphibian or nongame species that is capable
5 of inflicting serious or fatal injury or which has the potential to become
6 an agricultural pest or a menace to the public health or indigenous
7 wildlife populations, and shall include a canid hybrid;

8 [e.] "Take" means to harass, hunt, capture, kill, or attempt to
9 harass, hunt, capture, or kill, wildlife;

10 [f.] "Wildlife" means any wild mammal, bird, reptile, amphibian,
11 fish, mollusk, crustacean or other [wild] non-domestic animal or any
12 canid hybrid, or any part, product, egg or offspring or the dead body
13 or parts thereof.

14 (cf: P.L.1981, c.281, s.1)

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16 2. (New section) a. The department shall, by rule or regulation
17 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
18 (C.52:14B-1 et seq.), adopt a list of potentially dangerous species.
19 The department shall, in consultation with the Department of Health,
20 adopt rules and regulations to establish a permit system for the
21 possession and safe, proper, and humane care and management of
22 potentially dangerous species.

23 b. No person may possess a potentially dangerous species without
24 a permit issued pursuant to this section. All permit holders shall be 21
25 years of age or older, and shall demonstrate that the animal for which
26 the permit is sought, if it has attained reproductive age, has had its
27 reproductive capacity permanently altered through sterilization.
28 Sterilization shall not be required if the animal is kept for scientific,
29 zoological or exhibitory purposes. If the animal has not attained
30 reproductive age at the time of issuance of the permit, the permit shall
31 be issued with the condition that the animal will be sterilized upon
32 reaching reproductive age and that proof thereof shall be provided to
33 the department. The department may only issue a permit for the
34 possession of a canid hybrid for scientific, zoological or exhibitory
35 purposes, except the department may otherwise issue a permit to
36 persons possessing a canid hybrid prior to the 180th day after the
37 effective date of P.L. , c. (C.) (now before the Legislature as
38 this bill).

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40 3. (New section) A certified animal control officer appointed
41 pursuant to section 4 of P.L.1983, c.525 (C.4:19-15.16b) shall have
42 the power and authority within the jurisdiction of the municipality or
43 the entity employing, or contracting for, the certified animal control
44 officer to enforce the provisions of section 2 of P.L. , c. (C.
45)(now before the Legislature as this bill).

1 4. (New section) The department shall develop and implement a
2 method to reimburse municipalities for animal control or local health
3 department activities necessary for monitoring compliance with the
4 provisions of section 2 of P.L. c. (C.) (now before the
5 Legislature as this bill) from fees collected or received pursuant to
6 section 5 of P.L. 1973, c.309 (C.23:2A-5) in connection with the
7 administration of P.L. c. (C.) (now before the Legislature as
8 this bill).

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10 5. Section 5 of P.L.1973, c.309 (C.23:2A-5) is amended to read as
11 follows:

12 5. a. The commissioner shall have the power to formulate and
13 promulgate, adopt, amend and repeal rules and regulations, limiting,
14 controlling and prohibiting the taking, possession, transportation,
15 exportation, sale or offer for sale, or shipment of any nongame species,
16 potentially dangerous species or any wildlife on the endangered species
17 list. Such rules and regulations shall be designed to promote the
18 public health, safety and welfare and shall be adopted in accordance
19 with the "Administrative Procedure Act" (P.L.1968, c.410,
20 C.52:14B-1 et seq.).

21 b. The commissioner is authorized to conduct periodic inspections
22 in order to determine compliance with the rules and regulations
23 adopted pursuant to this section, and, to that end, is authorized to
24 charge and collect fees in an amount sufficient to cover the costs of
25 the inspections and services performed pursuant to this amendatory
26 act. Such fees shall be devoted entirely and exclusively to carrying out
27 the purposes and provisions of this amendatory act. Inspection fees
28 shall be established in accordance with a fee schedule adopted by the
29 department as a rule and regulation pursuant to the provisions of the
30 aforesaid "Administrative Procedure Act."

31 (cf: P.L.1981, c.281, s.2)

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33 6. Section 10 of P.L.1973, c.309 (C.23:2A-10) is amended to read
34 as follows:

35 10. a. If any person violates any of the provisions of this act or
36 any rule, regulation or order promulgated pursuant to the provisions
37 of this act, the department may institute a civil action in a court of
38 competent jurisdiction for injunctive relief to prohibit and prevent such
39 violation or violations and the [said] court may proceed in the action
40 in a summary manner.

41 b. Any person who violates the provisions of this act or any rule,
42 regulation or order promulgated pursuant to this act shall be liable to
43 a penalty of not less than \$100.00 and not more than \$3,000.00 for
44 each offense, to be collected in a civil action by a summary proceeding
45 under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.) or in any
46 case before a court of competent jurisdiction wherein injunctive relief

1 has been requested. Penalties recovered for violations hereof shall be
2 remitted as provided in R.S.23:10-19. For a violation of section 2 of
3 P.L. c. (C.) (now before the Legislature as this bill), any
4 penalties imposed as a result of an action brought by the department
5 shall be remitted as provided in R.S.23:10-19, and in the case of an
6 action brought by a municipality, 80 percent of the penalty imposed
7 shall be remitted to that municipality, and 20 percent shall be remitted
8 to the department. The Superior Court and municipal court shall have
9 jurisdiction to enforce [said] "the penalty enforcement law." If the
10 violation is of a continuing nature, each day during which it continues
11 shall constitute an additional, separate and distinct offense.

12 c. The department is hereby authorized and empowered to
13 compromise and settle any claim for a penalty under this section in
14 such amount in the discretion of the department as may appear
15 appropriate and equitable under all of the circumstances.

16 (cf: P.L.1991, c.91, s.278)

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18 7. This act shall take effect immediately.

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21 STATEMENT

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23 This bill would provide that no person may possess a canid hybrid
24 without a permit issued by the Department of Environmental
25 Protection. All canid hybrid permit holders would be required to be
26 21 years of age or older, and must demonstrate that the animal for
27 which the permit is sought, if it has attained reproductive age, has had
28 its reproductive capacity permanently altered through sterilization. If
29 the animal has not attained reproductive age at the time of issuance of
30 the permit, the permit would be issued with the condition that the
31 animal will be sterilized upon reaching reproductive age and that proof
32 thereof will be provided to the department. Sterilization would not be
33 required if the animal is kept for scientific, zoological or exhibitory
34 purposes. The department would be authorized to only issue a permit
35 for the possession of a canid hybrid for scientific, zoological or
36 exhibitory purposes, except the department may issue a permit to
37 persons possessing a canid hybrid prior to the 180th day after the
38 effective date of the bill.

39 The bill defines "canid hybrid" as any animal resulting from the
40 breeding of a domestic dog (*Canis familiaris*) and a wolf (*Canis lupus*)
41 or any other wildlife, all subsequent generations of such a hybrid, and
42 any animal that is advertised, registered, or represented by its owner
43 to be a canid hybrid; and "potentially dangerous species" as any
44 species of exotic mammal, bird, reptile or amphibian or nongame
45 species that is capable of inflicting serious or fatal injury or that has
46 the potential to become an agricultural pest or a menace to the public

1 health or indigenous wildlife populations, and would include any canid
2 hybrid.

3 Under the bill, the department is required to adopt a list of
4 potentially dangerous species as well as rules and regulations
5 pertaining to such animals, and, to establish, in consultation with the
6 Department of Health, a permit system for the possession and safe,
7 proper, and humane care and management of potentially dangerous
8 species.

9 The bill would further provide that a certified animal control officer
10 would have the power and authority within the jurisdiction of the
11 municipality or the entity employing, or contracting for, the certified
12 animal control officer to enforce the provisions of the bill. The
13 department would be required to develop and implement a method to
14 reimburse municipalities for animal control or local health agency or
15 local board of health activities necessary for monitoring compliance
16 with the bill, from certain fees collected or received pursuant to "The
17 Endangered and Nongame Species Conservation Act" in connection
18 with the administration of the bill.

19 The bill also provides that for a violation of its provisions, any
20 penalties imposed as a result of an action brought by the department
21 would be remitted to the Division of Fish, Game and Wildlife as
22 provided in R.S.23:10-19, and in the case of an action brought by a
23 municipality, 80 percent of the penalty imposed would be remitted to
24 that municipality, and 20 percent would be remitted to the division.

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29 Provides for regulation of canid hybrids and other potentially
30 dangerous species.