

## CHAPTER 122

**AN ACT** concerning the possession and release of certain animals, amending the title and body of P.L.1962, c.127, and repealing P.L.1970, c.149.

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

1. The title to P.L.1962, c.127 is amended to read as follows:

Title amended.

**AN ACT** concerning the possession and release of certain animals, and supplementing Title 23 of the Revised Statutes.

2. Section 1 of P.L.1962, c.127 (C.23:4-63.3) is amended to read as follows:

C.23:4-63.3 Possession, release of certain animals, prohibited; terms defined.

1. a. No person may possess any live indigenous animal, live exotic animal, live potentially dangerous indigenous animal, or live potentially dangerous exotic animal except as authorized pursuant to a permit issued by the Department of Environmental Protection or as may be authorized otherwise by the Fish and Game Council pursuant to rules and regulations adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. No person may release any live indigenous animal into the environment of the State except as authorized pursuant to a permit issued by the department or as may be authorized otherwise by the council pursuant to rules and regulations adopted pursuant to the "Administrative Procedure Act."

c. No person may release any live exotic animal into the environment of the State except as authorized pursuant to a permit issued by the department or as may be authorized otherwise by the council pursuant to rules and regulations adopted pursuant to the "Administrative Procedure Act."

d. No person may release any live potentially dangerous indigenous animal into the environment of the State except as authorized pursuant to a permit issued by the department or as may be authorized otherwise by the council pursuant to rules and regulations adopted pursuant to the "Administrative Procedure Act."

e. No person may release any live potentially dangerous exotic animal into the environment of the State except as authorized pursuant to a permit issued by the department or as may be authorized otherwise by the council pursuant to rules and regulations adopted pursuant to the "Administrative Procedure Act."

f. Every pet shop licensed in the State pursuant to section 8 of P.L.1941, c.151 (C.4:19-15.8) shall post in a conspicuous place in the pet shop a notice about the existence of this act and a copy of its provisions.

g. The department may attach such conditions to any permit issued or other authorization granted pursuant to this section as the department deems appropriate and necessary for the purpose of protecting indigenous animals or plants, the environment, agriculture, or the public health, safety, or welfare.

h. (1) The council shall adopt, pursuant to the "Administrative Procedure Act," such rules and regulations to supplement the State Fish and Game Code as may be necessary to implement this section.

(2) The council, by rule or regulation adopted pursuant to the "Administrative Procedure Act," may exempt from the requirements and provisions of this section any species of indigenous animal, exotic animal, potentially dangerous indigenous animal, or potentially dangerous exotic animal, provided that the possession or release of such animals would not pose a significant threat to indigenous animals or plants, the environment, agriculture, or the public health, safety, or welfare.

(3) This section shall not apply to any activities of the Division of Fish and Wildlife concerning the possession and release of animals.

i. The requirements and provisions of this section, or any permit issued or rule or regulation adopted pursuant thereto, shall be in addition to those concerning the possession or release of live indigenous animals, live exotic animals, live potentially dangerous indigenous animals, or live potentially dangerous exotic animals, as may be established by any other law or any permit issued

or rule or regulation adopted pursuant thereto, including but not limited to "The Endangered and Nongame Species Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.), R.S.23:4-50, R.S.23:4-52, and the State Fish and Game Code.

j. For the purposes of this section:

"Council" means the Fish and Game Council;

"Department" means the Department of Environmental Protection;

"Exotic animal" means any species of mammal, bird, reptile, amphibian, fish, mollusk, or crustacean that is not indigenous to New Jersey as determined by the Fish and Game Council in rules and regulations adopted pursuant to the "Administrative Procedure Act," and shall include the young or eggs of any such species, but shall not include (1) domesticated companion animals or farm livestock as defined by the Fish and Game Council, or (2) fish, shellfish, or game species not indigenous to New Jersey for which fishing, harvesting, hunting, or trapping is authorized and regulated pursuant to law, the State Fish and Game Code, or rules and regulations of the Fish and Game Council;

"Indigenous animal" means any species of mammal, bird, reptile, amphibian, fish, mollusk, or crustacean that is indigenous to New Jersey as determined by the Fish and Game Council in rules and regulations adopted pursuant to the "Administrative Procedure Act," and shall include the young or eggs of any such species;

"Potentially dangerous exotic animal" means any species of exotic animal that has been determined by the Fish and Game Council in rules and regulations adopted pursuant to the "Administrative Procedure Act," to: (1) be capable of inflicting serious or fatal injuries to humans, livestock, or pets; or (2) possess the potential for becoming a significant threat to indigenous animals or plants, the environment, agriculture, or the public health, safety, or welfare; and

"Potentially dangerous indigenous animal" means any species of indigenous animal that has been determined by the Fish and Game Council in rules and regulations adopted pursuant to the "Administrative Procedure Act," to: (1) be capable of inflicting serious or fatal injuries to humans, livestock, or pets; or (2) possess the potential for becoming a significant threat to indigenous animals or plants, the environment, agriculture, or the public health, safety, or welfare.

3. Section 2 of P.L.1962, c.127 (C.23:4-63.4) is amended to read as follows:

C.23:4-63.4 Violations; penalties.

2. a. If any person violates any provision of section 1 of P.L.1962, c.127 (C.23:4-63.3), or any permit issued or rule or regulation adopted pursuant thereto, the Department of Environmental Protection may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent the violation and the court may proceed in the action in a summary manner.

b. (1) Any person who violates subsection a. or subsection b. of section 1 of P.L.1962, c.127 (C.23:4-63.3), or any permit issued or rule or regulation adopted pursuant thereto, shall be liable to a civil penalty of not less than \$100 nor more than \$500 for the first offense, and not less than \$500 nor more than \$1,000 for any subsequent offense.

(2) Any person who violates subsection c. of section 1 of P.L.1962, c.127 (C.23:4-63.3), or any permit issued or rule or regulation adopted pursuant thereto, shall be liable to a civil penalty of not less than \$100 nor more than \$1,000 for the first offense, and not less than \$500 nor more than \$2,000 for any subsequent offense.

(3) Any person who violates subsection d. or subsection e. of section 1 of P.L.1962, c.127 (C.23:4-63.3), or any permit issued or rule or regulation adopted pursuant thereto, shall be liable to a civil penalty of not less than \$500 nor more than \$2,500 for the first offense, and not less than \$1,000 nor more than \$5,000 for any subsequent offense.

(4) The owner or operator of any pet shop that violates subsection f. of section 1 of P.L.1962, c.127 (C.23:4-63.3) shall be liable to a civil penalty of up to \$100 for each offense.

(5) Civil penalties established pursuant to this subsection may be collected in a civil action by a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274

(C.2A:58-10 et seq.) or in any case before a court of competent jurisdiction wherein injunctive relief has been requested pursuant to subsection a. of this section, and shall be remitted as provided pursuant to R.S.23:10-19. The Superior Court and municipal court shall have jurisdiction to enforce the "Penalty Enforcement Law of 1999."

(6) For the purposes of this subsection, each individual indigenous animal, exotic animal, potentially dangerous indigenous animal, or potentially dangerous exotic animal unlawfully possessed or released shall constitute an additional, separate and distinct offense, except in the case of the unlawful possession or release of the eggs of an amphibian, fish, mollusk, or crustacean, each egg mass shall constitute an additional, separate and distinct offense.

c. In addition to liability for any civil penalties established pursuant to subsection b. of this section, any person who violates any provision of subsection d. or subsection e. of section 1 of P.L.1962, c.127 (C.23:4-63.3), or any permit issued or rule or regulation adopted pursuant thereto, shall also be liable to pay all reasonable costs incurred by the department or any other State or local government entity in eradicating or controlling the unlawfully released potentially dangerous indigenous animal or potentially dangerous exotic animal, as the case may be, and their progeny if any.

d. The department is hereby authorized and empowered to compromise and settle any claim for a penalty or costs which may be assessed pursuant to subsection b. or subsection c. of this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances.

e. (1) Any person who purposely or knowingly violates subsection e. of section 1 of P.L.1962, c.127 (C.23:4-63.3) shall be guilty of a crime of the third degree.

(2) Any person who recklessly or negligently violates subsection e. of section 1 of P.L.1962, c.127 (C.23:4-63.3) shall be guilty of a crime of the fourth degree.

(3) For the purposes of this subsection, each individual potentially dangerous exotic animal unlawfully released shall constitute an additional, separate and distinct offense, except in the case of the unlawful possession or release of the eggs of an amphibian, fish, mollusk, or crustacean, each egg mass shall constitute an additional, separate and distinct offense.

Repealer.

4. P.L.1970, c.149 (C.23:5-33.1) is repealed.

5. This act shall take effect on the 180th day after the date of enactment.

Approved December 12, 2002.