

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 2:082. Transportation and holding of live exotic wildlife.

RELATES TO: KRS 150.010, 150.015, 150.186, 150.320, 150.330, 150.990, 150.183, 150.195, 150.235, 285.065, 285.085

STATUTORY AUTHORITY: KRS 65.877, 150.025(1), 150.090, 150.105, 150.180, 150.280, 50 C.F.R. 17, 50 C.F.R. 21[, 18 U.S.C. 42-43, 16 U.S.C. 3371-3378

NECESSITY, FUNCTION, AND CONFORMITY: KRS 65.877 authorizes local governments to regulate or prohibit inherently dangerous wildlife as identified by the department and requires the department to establish procedures for denying or issuing a transportation permit. KRS 150.025(1) authorizes the department to regulate the buying, selling, or transporting of wildlife. KRS 150.090 authorizes the department to appoint conservation officers charged with the enforcement of this chapter. KRS 150.105 authorizes the department to destroy or bring under control any wildlife causing damage to persons, property or other animals spreading disease and which should be eliminated to prevent further damage. KRS 150.180 authorizes the department to regulate the transportation of wildlife into Kentucky. KRS 150.280 requires the department to promulgate administrative regulations establishing procedures for the holding of protected wildlife. 50 C.F.R. 21 establishes the federal standards for holding migratory birds, including raptors. 50 C.F.R. 17 establishes the federal standards for endangered and threatened wildlife. This administrative regulation establishes the procedures for obtaining a transportation permit for exotic wildlife, prohibits the importation and possession of exotic species with the potential to damage native ecosystems, and places restrictions on importing, transporting, and holding species that are potentially dangerous to human health and safety.

Section 1. Definition. "Exotic wildlife" means wildlife species that have never naturally existed in the wild in Kentucky, including species introduced by man that have become naturalized.

Section 2. Transportation Permits and Certificates of Veterinary Inspection.

(1) A person shall apply for and obtain a valid transportation permit or permit authorization number from the department for all shipments of exotic wildlife, unless otherwise exempted by this or another administrative regulation, prior to:

- (a) Receiving a shipment of wildlife from outside of Kentucky; or
- (b) Transporting exotic wildlife into Kentucky;

(2) A copy of a valid transportation permit or permit authorization number shall accompany all shipments of wildlife into Kentucky.

(3) An individual transportation permit shall be valid for one (1) shipment of wildlife.

(4) An annual transportation permit shall be valid for multiple wildlife shipments for one (1) year from the date of issue.

(5) All shipments of wildlife, except for amphibians and reptiles, shall be accompanied by a:

- (a) Certificate of veterinary inspection stating that the wildlife is free from symptoms of disease; or
- (b) Federal quarantine certificate.

Section 3. Applying for Permits.

(1) A person shall apply for a transportation permit by completing the online application process when available at fw.ky.gov, or by submitting the necessary forms, as identified below, found on the department's Web site at fw.ky.gov.

- (a) For an individual transportation permit, an applicant must submit a completed "Individual Transportation Permit Application" form; or
- (b) For an annual transportation permit, an applicant must submit a completed "Annual Transportation Permit Application" form.
- (2) An applicant for a transportation permit shall only obtain wildlife from a legal source.
- (3) A permit holder must be at least eighteen (18) years of age.
- (4) An applicant shall submit a completed application and remit the correct fee, as established in 301 KAR 3:022 or 301 KAR 3:061.[]
- (5) An annual transportation permit holder shall submit a revised annual transportation permit application to the department via mail to the address listed on the annual transportation permit application or via email at FWpermits@ky.gov for any amendments to the original application and shall not ship wildlife unless the amendments are approved and a revised permit issued by the department.
- (6) A person transporting or possessing exotic wildlife shall be responsible for following all applicable federal and state laws and local ordinances regarding wildlife.
- (7) A person with a valid falconry permit, as established in 301 KAR 2:195, shall not be required to possess a transportation permit for those raptors held under the falconry permit.
- (8) An applicant possessing or transporting into Kentucky from outside the state federally protected migratory bird species, shall possess, and provide to the department, a valid United States Fish and Wildlife Service permit, except for persons or entities that meet the conditions listed in 50 C.F.R. 21.12(a) and (b), 50 C.F.R. 21.13, and 50 C.F.R. 21.14.
- (9) Federally endangered exotic species shall not be possessed or transported into Kentucky from outside the state, except the Department of Fish and Wildlife Resources may allow transportation or possession of any exotic endangered species of wildlife pursuant to KRS 150.183 and 301 KAR 3:061.

Section 4. Prohibited Species.

- (1) Except as specified in Section 5 of this administrative regulation, a person shall not possess or transport into Kentucky from outside the state, the following exotic wildlife that are considered potentially injurious to native ecosystems:
 - (a) Baya weaver (*Ploceus philippinus*);
 - (b) Blackbirds (Genus *Agelaius*), except native species;
 - (c) Cape sparrow (*Passer melanurus*);
 - (d) Cowbirds (Genus *Molothrus*), except native species;
 - (e) Cuckoo (Family *Cuculidae*), except native species;
 - (f) Dioch or red-billed quelea (*Quelea quelea*);
 - (g) European blackbird (*Turdus merula*);
 - (h) Fieldfare (*Turdus pilaris*);
 - (i) Flying fox or fruit bat (Genus *Pteropus*);
 - (j) Fox (Genus *Cerdocyon*, Genus *Lycalopex*, Genus *Otocyon*, Genus *Urocyon* and Genus *Vulpes*);
 - (k) Gambian giant pouched rat (*Cricetomys gambianus*);
 - (l) Giant, marine, or cane toad (*Bufo marinus*);
 - (m) Hawaiian rice bird or spotted munia (*Lonchura punctulata*);[]
 - (n) Java sparrow (*Padda oryzivora*);
 - (o) Madagascar weaver (*Foudia madagascariensis*);
 - (p) Mistle thrush (*Turdus viscivorus*);
 - (q) Monk or Quaker parakeet (*Myiopsitta monachus*);
 - (r) Multimammate rat (Genus *Mastomys*);
 - (s) Mute swan (*Cygnus olor*);
 - (t) Nutria (*Myocastor coypus*);

- (u) Prairie dog (*Cynomys* spp.);
- (v) Raccoon dog (*Nyctereutes procyonoides*);
- (w) Sky lark (*Alauda arvensis*);
- (x) Song thrush (*Turdus philomelus*);
- (y) Starling (Family Sturnidae) including pink starlings or rosy pastors (*Sturnus roseus*), except for Indian Hill mynahs (*Gracula religiosa*);
- (z) Suricate or slender-tailed meerkat (Genus *Suricata*);
- (aa) Tongueless or African clawed frog (*Xenopus laevis*);
- (bb) Weaver finch (Genus *Passer*), except *Passer domesticus*;
- (cc) White eyes (Genus *Zosterops*);
- (dd) Wild rabbits, hares, and pikas (Order Lagomorpha);
- (ee) Yellowhammer (*Emberiza citrinella*); or
- (ff) A member of the following families:
 1. Suidae (pigs or hogs), except for domestic swine;
 2. Viverridae (civets, genets, lingsangs, mongooses and fossas); or
 3. Tayassuidae (peccaries and javelinas).

(2) Except as specified in Section 5 and 6 of this administrative regulation, a person shall not possess or transport into Kentucky from outside the state the following inherently dangerous exotic wildlife:

- (a) Alligators or caimans (Family Alligatoridae);
- (b) African buffalo (*Syncerus caffer*);
- (c) Bears (Family Ursidae);
- (d) Cheetah (*Acinonyx jubatus*);
- (e) Clouded leopard (*Neofelis nebulosa*);
- (f) Crocodiles (Family Crocodylidae);
- (g) Elephants (Family Elephantidae);
- (h) Gavials (Family Gavialidae);
- (i) Gila monsters or beaded lizards (Family Helodermatidae);
- (j) Hippopotamus (*Hippopotamus amphibius*);
- (k) Honey badger or ratel (*Mellivora capensis*);
- (l) Hyenas (Family Hyaenidae), all species except aardwolves (*Proteles cristatus*);
- (m) Komodo dragon (*Varanus komodoensis*);
- (n) Lions, jaguars, leopards or tigers (Genus *Panthera*);
- (o) Lynx (Genus *Lynx*);
- (p) [(n)] Old world badger (*Meles meles*);
- (q) Primates, nonhuman (Order Primates);
- (r) Rhinoceroses (Family Rhinocerotidae);
- (s) Snow leopard (*Uncia uncia*);
- (t) Venomous exotic snakes of the families Viperidae, Atractaspididae, Elapidae, Hydrophidae, and Colubridae, except for hognose snakes (Genus *Heterodon*);
- (u) Wolverine (*Gulo gulo*); or
- (v) Hybrids of all species contained in this list.

Section 5. Exemptions.

- (1) A facility that is accredited by the Association of Zoos and Aquariums shall:
 - (a) Not be required to obtain a transportation permit for exotic wildlife;
 - (b) Be allowed to possess and transport into Kentucky from outside the state federally endangered species and the prohibited exotic species listed in Section 4 of this administrative regulation for official zoo activities; and
 - (c) Maintain prohibited exotic species in an enclosure sufficient to prevent escape and direct contact with the public.
- (2) Commissioner's exemption.

- (a) Upon written request, the commissioner may grant a written exemption for the possession or transportation into Kentucky of the prohibited species listed in Section 4.
- (b) Only the following entities shall be eligible for an exemption by the commissioner:
 - 1. A facility that is designated as the official zoo of a municipality;
 - 2. A college or university conducting research or education that fulfills a classroom requirement;
 - 3. A lawfully operated circus only possessing or transporting species into Kentucky that are not federally endangered, as listed in the current Endangered Species Act list;
 - 4. A facility previously granted an exemption by the commissioner for the purpose of housing confiscated wildlife and serving as an animal holding facility as a service to the Department.
 - 5. A facility previously granted a commissioner's exemption, as a licensed or accredited institute of education or research, that houses prohibited species at a permanent wildlife facility for educational or research purposes.

Section 6. Prohibited Species Requirements.

- (1) Prohibited exotic species possessed or transported into Kentucky shall be maintained within an enclosure sufficient to prevent:
 - (a) Escape; and
 - (b) Direct contact with the public.
- (2) A person may apply for a transportation permit to temporarily transport into and through the state to a destination outside of Kentucky a prohibited animal listed in Section 4(2) of this administrative regulation and shall not:
 - (a) Remain in the state in excess of forty-eight (48) hours;
 - (b) Stop in Kentucky for exhibition purposes; or
 - (c) Sell, trade, gift, barter, offer for sale, trade, gift, barter, or profit in any way from a prohibited animal while in Kentucky.
- (3) Except for Lynx, a person who legally possessed wildlife listed in Section 4(2) of this administrative regulation prior to July 13, 2005, may continue to possess the animal through the life of the animal and shall maintain:
 - (a) Veterinary records;
 - (b) Acquisition papers for the animal; or
 - (c) Any other evidence that establishes that the person possessed the animal in Kentucky prior to July 13, 2005.
- (4) Lynx legally held in Kentucky prior to December 1, 2021, may be allowed to remain in possession of the owner through the life of the animal.
 - (a) The owner shall maintain:
 - 1. Veterinary records;
 - 2. Acquisition papers for the animal; or
 - 3. Any other evidence that establishes that the person legally possessed the animal in Kentucky prior to December 1, 2021.
- (5) A person who legally possesses wildlife pursuant to subsection (3) or (4) of this section shall not, without an exemption pursuant to Section 5:
 - (a) Replace the wildlife after its death;
 - (b) Allow the wildlife to reproduce; or
 - (c) Transfer wildlife to other persons, except if the owner predeceases the animal, the animal may be transferred to another person with the approval of the Department's Wildlife Division Director.
- (6) If exotic wildlife listed in Section 4 of this administrative regulation escapes, the owner shall immediately contact local emergency services and the department at 800-252-5378 to report the escape.

(7) All bites, as established in KRS 258.065, or contact with applicable exotic animals that results in possible exposure to disease or zoonotic infection, shall be reported to the local county health department within twelve (12) hours.

(8) If an exotic mammal bites a person, or a mammal shows symptoms of a rabies infection, the owner of the animal must arrange for the animal to be killed in a manner as to preserve the brain intact and the animal's head shall be submitted for testing immediately to a laboratory approved by the Secretary for Health and Family Services to be tested for rabies, as established in 902 KAR 2:070 Section 5 and KRS 258.085(1)(c).
[.]

Section 7. Permit-exempt Animals. The following exotic animals shall not require permits from the department for possession or transportation into Kentucky:

- (1) Alpaca (*Vicugna pacos*);
- (2) American bison (*Bison bison*);
- (3) Breeds and varieties of goats derived from the wild goat or bezoar (*Capra hircus*);
- (4) Camel (*Camelus bactrianus* and *Camelus dromedarius*);
- (5) Canary (*Serinius canaria*)
- (6) Chinchilla (*Chinchilla laniger*);
- (7) Cockatoo and cockatiel (family *Cacatuidae*);
- (8) Domesticated races of ducks and geese (family *Anatidae*) morphologically distinguishable from wild ducks or geese;
- (9) Domesticated races of the European rabbit (*Oryctolagus cuniculus*) morphologically distinguishable from wild rabbits;
- (10) Domesticated races of mink (*Mustela vison*), if:
 - (a) Adults are heavier than 1.15 kilograms; or
 - (b) The fur color can be distinguished from wild mink;
- (11) Domesticated races of rats (*Rattus norvegicus* or *Rattus rattus*) or mice (*Mus musculus*);
- (12) Domesticated races of turkeys (*Meleagris gallopavo*) recognized by the American Poultry Association and the U.S. Department of Agriculture, but shall not include captive held or bred wild turkeys;
- (13) Domestic yak (*Bos grunniens*);
- (14) Gerbil (*Meriones unguiculatus*);
- (15) Guinea fowl (*Numida meleagris*);
- (16) Guinea pig (*Cavia porcellus*);
- (17) Hamster (*Mesocricetus* spp.);
- (18) Indian Hill mynah (*Gracula religiosa*);
- (19) Llama (*Lama glama*);
- (20) Parrot, lovebird, budgerigar, macaw, parakeet (except monk parakeet, *M. monachus*) (families *Psittacidae*, *Psittaculidae*, *Psitttrichasiidae*);
- (21) Peafowl (*Pavo cristatus*);
- (22) Pigeon (*Columba domestica* or *Columba livia*) or domesticated races of pigeons;
- (23) Ratite, as defined by KRS 247.870; and
- (24) Toucan (family *Rhamphastidae*).[.]

Section 8. Release. With the exception of pheasants and chukars, a person shall not release exotic wildlife into the wild.

Section 9. Inspections and Access.

- (1) A person in possession of exotic wildlife, pursuant to a transportation permit or commissioner's exemption, shall allow a conservation officer to inspect the holding facilities and the property on which the holding facilities are located at any reasonable time to carry out the purposes of this regulation.

(2) A transportation permit or commissioner's exemption holder shall allow any department approved representative, accompanied by a conservation officer, to access the holding facilities and the property on which the holding facilities are located at any reasonable time to carry out the purposes of this regulation.

Section 10. Permit Denial and Revocation.

(1) Denial.

(a) The department shall deny the issuance of a new permit, or deny a renewal of an existing or lapsed permit, and may confiscate wildlife from a person who:

1. Is convicted of a violation of any provisions of:
 - a. KRS Chapter 150;
 - b. Any department regulation; or
 - c. Any federal statute or regulation related to hunting, fishing, or wildlife;
2. Provides false information on a transportation permit application, certificate of veterinary inspection, federal quarantine certificate, request for commissioner's exemption, federal permits, reports, or records;
3. Acquires wildlife prior to receiving a transportation permit, commissioner's exemption, or certificate of veterinary inspection, except as established in Section 2(5), Section 3(7), Section 5(1) and Section 7;
4. Fails to comply with any provision of this regulation, 301 KAR 2:041, 301 KAR 2:081, 301 KAR 2:084, 301 KAR 2:195, 301 KAR 2:230, 301 KAR 2:251, 301 KAR 3:061, 302 KAR 20:020, 302 KAR 20:040, 50 C.F.R. 17, 50 C.F.R. 21, 18 U.S.C. 42-43, or 16 U.S.C. 3371-3378.

(2) Revocations.

(a) The department shall revoke a transportation permit or commissioner's exemption, and may confiscate wildlife, of a person who:

1. Is convicted of a violation of any provisions of:
 - a. KRS Chapter 150;
 - b. Any department regulation; or
 - c. Any federal statute or regulation related to hunting, fishing, or wildlife;
2. Provides false information on a transportation permit application, certificate of veterinary inspection, federal quarantine certificate, request for commissioner's exemption, federal permits, reports or records;
3. Acquires wildlife prior to receiving a transportation permit or commissioner's exemption, except as established in Sections 3(7) and Section 5(1);
4. Fails to comply with any provision of this regulation, 301 KAR 2:041, 301 KAR 2:081, 301 KAR 2:084, 301 KAR 2:195, 301 KAR 2:230, 301 KAR 2:251, 301 KAR 3:061, 302 KAR 20:020, 302 KAR 20:040, 50 C.F.R. 17, 50 C.F.R. 21, 18 U.S.C. 42-43, or 16 U.S.C. 3371-3378.

(b) A fee shall not be refunded for a permit that is revoked.

(3) Denial period.

(a) An applicant for a transportation permit whose permit has been revoked or denied for the grounds established in this section shall be ineligible to reapply, and all applications denied for the period established below:

1. The initial denial period shall be one (1) year;
2. A second denial period shall be three (3) years;
3. A third or subsequent denial period shall be five (5) years;

(4) Commissioner's exemption.

(a) A commissioner's exemption shall be revoked and future exemptions may be denied for:

1. Failure to maintain wildlife in an enclosure sufficient to prevent escape and direct contact with the public;

2. Failure to abide by the provisions set forth in an exemption letter or this regulation; or

3. Any other reason for which the Commissioner deems appropriate.

(b) If an exemption is terminated, all prohibited species shall be immediately placed in an enclosure sufficient to prevent escape and direct contact with the public and removed from the state within forty-eight (48) hours.

(5) Confiscated Wildlife.

(a) All captive wildlife may be confiscated if a transportation permit or commissioner's exemption is revoked or denied, or a person possesses or transports wildlife into Kentucky without a valid transportation permit, commissioner's exemption, or certificate of veterinary inspection, except as established in Section 2 (5), Section 3 (7), Section 5 (1), and Section 7.

(b) Wildlife that is confiscated, as established in this section, shall not be returned to the person, entity, or facility from which they were confiscated, and shall be transferred or euthanized with the approval of the Wildlife Division Director.

Section 11. Administrative Hearings.

(a) An individual whose permit has been denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B.

(b) A request for a hearing shall be in writing and postmarked or delivered in person to the department no later than thirty (30) days after notification of the denial or the revocation.

(c) Upon receipt of the request for a hearing, the department shall proceed according to the provisions of KRS Chapter 13B.

(d) The hearing officer's recommended order shall be considered by the commissioner and the commissioner shall issue a final order, pursuant to KRS Chapter 13B.

Section 12. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Annual Transportation Permit Application", 2021 edition;

(b) "Individual Transportation Permit Application", 2021 edition; and

(c) "Captive Wildlife Prohibited Species report form, 2021 edition;

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

RICH STORM, Commissioner

MIKE BERRY, Secretary

APPROVED BY AGENCY: August 3, 2021

FILED WITH LRC: August 5, 2021 at 9:22 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 22, 2021 at 10:00 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through October 31, 2021. Send written notification of intent to

attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Beth Frazee, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, email fwpubliccomments@ky.gov