

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

**301 KAR 2:081. Transportation and holding of live native wildlife.**

RELATES TO: KRS 150.010, 150.015, ~~[150.290, 150.305, ]~~150.320, 150.330, 150.360, 150.370, 150.990, 150.183, 150.190, 150.195, 150.235, 258.065, 258.085

STATUTORY AUTHORITY: KRS 65.877, ~~150.025(1)(e)~~, 150.105, 150.180, 150.280, 50 C.F.R. 21.29

NECESSITY, FUNCTION, AND CONFORMITY: KRS 65.877 authorizes local governments to regulate or prohibit inherently dangerous wildlife as identified by the Department of Fish and Wildlife Resources and requires the department to establish procedures for denying or issuing a transportation permit. ~~KRS 150.025(1)(e)~~ authorizes the department to promulgate administrative regulations for the buying, selling, or transporting of wildlife. KRS 150.105 authorizes the department to dispatch 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 buying, selling, or transporting of protected wildlife. KRS 150.280 requires the department to promulgate administrative regulations to establish the procedures for the propagation and holding of protected wildlife. 50 C.F.R. 21.29 establishes the federal standards for holding raptors for falconry purposes. This administrative regulation establishes requirements for the buying, selling, holding, and transportation of live native wildlife.

Section 1. Definitions.

(1) "Enhanced Rabies Surveillance ~~Zone~~~~area~~" means Bell, Boyd, Bracken, Carter, Clay, Elliot, Fleming, Floyd, Greenup, Harlan, Johnson, Knott, Knox, Laurel, Lawrence, Leslie, Letcher, Lewis, Martin, Mason, McCreary, Pike, Perry, Robertson, and Whitley counties.

(2) "Native wildlife" means wildlife species that have historically existed or currently exist in the wild in Kentucky without introduction by humans or have naturally expanded their range into Kentucky without introduction by humans.~~[man, except for introduced species which have become naturalized.]~~

(3) "Rabies vector species" means a:

- (a) Coyote (*Canis latrans*);
- (b) Gray fox (*Urocyon cinereoargenteus*);
- (c) Raccoon (*Procyon lotor*);
- (d) Red fox (*Vulpes vulpes*);
- (e) Spotted skunk (*Spilogale putorius*);~~[or]~~
- (f) Striped skunk (*Mephitis mephitis*); or
- (g) Any hybrid of (a) through (f).

Section 2. Taking and Possessing Native Wildlife.

(1) A person shall not possess native wildlife that was not legally acquired.

(2) For native wildlife obtained from the wild, a person shall not participate in any of the activities established in paragraphs (a) through (e) of this subsection~~[with native] wildlife obtained from the wild~~:

- (a) Buy;
- (b) Sell;
- (c) Offer to buy;
- (d) Offer to sell; or
- (e) Trade or barter.

(3) Except as established in Sections 5(5) and~~Section~~ 7(1) of this administrative regulation and subsections (4),~~and~~ (5), (6), and (9) of this section, a person holding native wildlife in captivity shall apply for and obtain the appropriate permit prior to acquiring wildlife.

(4) Northern bobwhite.

(a) A person may possess 100 or fewer northern bobwhite without a captive wildlife permit, if the:

1. Birds are not propagated or sold; and
2. He retains and possesses a receipt or proof of purchase.

(b) A person possessing northern bobwhite for dog training areas, shooting areas, or a shoot-to-train season shall comply with all applicable requirements of 301 KAR 2:041.

(c) Any confining facility shall comply with Sections 8, 9, 10, and 11 of this administrative regulation.

(5) Amphibians and reptiles.

(a) Five (5) or fewer individuals of each species of native reptile or amphibian may be taken year round or possessed for personal use without a permit, except there shall be:

1. No limit on common snapping or softshell turtles, as established in 301 KAR 1:058;
2. A limit of fifteen (15) bullfrogs per night, during the bullfrog season, as established in 301 KAR 1:082; and
3. A limit of twenty-five (25) dusky salamanders ~~or spring lizards~~ of the genus Desmognathus, as established in 301 KAR 1:130.

(b) There shall be no limit on the number of individuals of each species possessed by a commercial or noncommercial captive wildlife permit holder, if the permit holder does not possess more than five (5) wild-caught individuals of each species of amphibian or reptile.

(c) A captive wildlife permit shall not be required to hold reptiles with a color morphology that is distinctly different from the wild type of the same species of reptile.

(6) A person with a valid falconry permit, as established in 301 KAR 2:195, shall not be required to possess a noncommercial captive wildlife permit or transportation permit for those raptors held under the falconry permit.

~~(7) A rabies vector species that is trapped in accordance with 301 KAR 2:251~~~~within the enhanced rabies surveillance area~~ shall be dispatched~~euthanized~~ before being moved, unless immediately released at capture site, except that foxes and coyotes trapped during the trapping season, as established in~~pursuant to~~ 301 KAR 2:251, may be:

(a) Held for up to forty-eight (48) hours with a valid captive wildlife permit only for the purpose of being transferred to a permitted commercial foxhound training enclosure; and

(b) Transferred to a permitted commercial foxhound training enclosure if the enclosure is located within the county of capture.

~~[(7)] [A fox or coyote trapped within the enhanced rabies surveillance area during the trapping season may be held for up to forty-eight (48) hours with a valid captive wildlife] [permit before being transferred to a permitted commercial foxhound training] [enclosure.]~~

(8) A person shall not transport a living rabies vector species into or out of the Enhanced Rabies Surveillance Zone~~area~~.

(9) Except for foxes and coyotes, a captive wildlife permit is not required for captive-bred native wildlife legally imported or held in a temporary facility for ten (10) days or less.

(10) A permit holder shall report all bites and exposure events, as established in KRS 258.065, to the local county health department within twelve (12) hours.

(11) If a native mammal in a permit holder's possession bites a person, or a mammal shows symptoms of a rabies infection, the animal shall be dispatched immediately, as established in KRS 258.085 Section 1(c), and the permit holder shall submit its head 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.

(12) Department staff shall confiscate and dispatch any wild mammal that bites a person or shows symptoms of a rabies infection that is not otherwise immediately dispatched pursuant to subsection (11) of this section.

### Section 3. Captive Wildlife Permits and Record Keeping.

#### (1) Commercial captive wildlife permit.

(a) A commercial captive wildlife permit shall be required for a person to:

1. Sell;
2. Offer to sell;
3. Trade; ~~or~~
4. Barter; ~~or native wildlife.~~
5. Profit in any way from captive native wildlife, except as authorized by Section 2(9) of this administrative regulation.

(b) A commercial captive wildlife permit shall be renewable annually from the date of issue.

(c) A commercial captive wildlife permit shall be valid for one (1) specific captive wildlife facility.

#### (2) Noncommercial captive wildlife permit.

(a) A noncommercial captive wildlife permit shall be required for a person possessing native wildlife, but not selling, offering to sell, trading, ~~or~~ bartering, or profiting in any way from captive native wildlife~~[animals]~~.

(b) A noncommercial captive wildlife permit shall be renewable three (3) years from the date of issue.

(c) A noncommercial captive wildlife permit shall be valid for one (1) specific captive wildlife facility.

(3) A captive wildlife permit holder shall maintain accurate records for all captive-bred and wild-captured wildlife and include the information established in paragraphs (a) and (b) of this subsection.

(a) For each captive-bred animal, a person shall:

1. Record the common and scientific name;
2. Keep evidence of legal acquisition, which shall be a:
  - a. Bill of sale;
  - b. Receipted invoice; or
  - c. Certificate of origin;
3. Record and maintain each animal's date of birth;
4. Record and maintain each transaction date related to:
  - a. Sale;
  - b. Purchase;
  - c. Trade;
  - d. Barter; or
  - e. Gifting; and
5. Record and maintain information of the person either receiving or transferring captive wildlife, which shall include the person's:
  - a. Name;
  - b. Address;
  - c. Phone number; and
  - d. Captive wildlife permit number.

- (b) For each wild-captured animal, a person shall record and maintain the:
  - 1. Common and scientific name;
  - 2. Date of capture or date when received;
  - 3. Location of capture;
  - 4. Trapping license or hunting license number, if applicable, of the individual obtaining the wildlife; and
  - 5. Information of the person to whom the animal was given or received, which shall include the person's:
    - a. Name;
    - b. Address;
    - c. Phone number; and
    - d. Captive wildlife permit number.
- (4) A captive wildlife permit holder shall:
  - (a) Maintain all records for five (5) years; and
  - (b) Allow records to be inspected by a department representative upon request.

#### Section 4. 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 native wildlife, ~~native or exotic,~~ unless otherwise exempted by this or another administrative regulation, prior to:
  - (a) Receiving a shipment of native wildlife from outside of Kentucky;
  - (b) Importing native wildlife into Kentucky; or
  - (c) Transporting native wildlife into and through the state to a destination outside Kentucky.
- (2) A copy of a valid transportation permit or permit authorization number shall accompany all shipments of native wildlife into and through Kentucky.
- (3) An individual transportation permit shall be valid for one (1) shipment of native 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) ~~[A]~~ Certificate of veterinary inspection stating that the wildlife is free from symptoms of disease; or
  - (b) ~~[A]~~ Federal quarantine certificate.

#### Section 5. Applying for Permits.

- (1) A permit authorizes a person to hold native wildlife according to this administrative regulation.
- (2) An applicant for a captive wildlife or transportation permit shall:
  - (a) Submit a completed permit application;
  - (b) Provide the department with a valid email address;
  - (c) Submit the annual permit fee as established in 301 KAR 3:022, except for government agencies that meet the requirements in subsection (12) of this section; and
  - (d) Be at least eighteen (18) years of age.
- (3) For a commercial or noncommercial captive wildlife permit, an applicant shall submit a completed "Captive Wildlife Permit Application;
- (4) For an individual transportation permit, an applicant shall submit a completed "Individual Transportation Permit Application"; or
- (5) For an annual transportation permit, an applicant shall submit a completed "Annual Transportation Permit Application." ~~[A person shall complete an application for a captive wildlife permit or a transportation permit on a form supplied by the Department.]~~

~~(6)~~ ~~(2)~~ An applicant for a captive wildlife permit shall only obtain wildlife from one ~~(1)~~ of the legal sources established in paragraphs (a) through (d) of this subsection.

(a) A legal purchase or transfer of captive-bred animals from a commercial captive wildlife permit holder;

(b) A gift from a commercial or noncommercial captive wildlife permit holder;

(c) Wildlife trapped by the applicant during a legal season for the species with a valid trapping license, if applicable; or

(d) A legal out-of-state source if the applicant provides a valid transportation permit.

~~(7)~~ ~~(3)~~ Following permit issuance, the permit holder shall retain records as established in Section 3(3) and (4) of this administrative regulation.

~~(8)~~ ~~(4)~~ An applicant shall construct holding facilities that meet or exceed the enclosure specifications established in Sections 8 and 9 of this administrative regulation for each listed species to be acquired before submitting the captive wildlife application.

~~(9)~~ A person in legal possession of native wildlife that moves to Kentucky shall have thirty (30) days to pass a facility inspection and apply for a captive wildlife permit, provided they possessed a valid transportation permit to import the wildlife.

~~(10)~~ A captive wildlife permit holder shall not simultaneously hold a wildlife rehabilitation permit.

~~(11)~~ An applicant shall submit a completed application and the correct fee, as established in 301 KAR 3:022 or 301 KAR 3:061, except if the permit holder is a government agency engaged in legitimate conservation activities approved by the department, the fee shall be waived.

~~(12)~~ An applicant importing into Kentucky, transporting through Kentucky, or possessing within Kentucky, 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 possess a valid falconry permit or 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.

~~(13)~~ Federally endangered native species shall not be imported into Kentucky, transported through Kentucky, or possessed in Kentucky, except by a facility accredited by the Association of Zoos and Aquariums, as established in Section 7 of this administrative regulation, individuals possessing a United States Fish and Wildlife Service permit pursuant to KRS 150.183 and 301 KAR 3:061, or a facility listed as a cooperator in an Association of Zoos and Aquariums species survival plan.

~~{(5)} {The department shall deny a captive wildlife or transportation permit to an applicant that:}~~

~~{(a)} {Is less than eighteen (18) years of age;}~~

~~{(b)} {Has been convicted within the last year of a violation of;}~~

~~{1.} {This administrative regulation; or}~~

~~{2.} {301 KAR 2:082;}~~

~~{(c)} {Does not submit a completed application; or}~~

~~{(d)} {Does not remit the correct fee pursuant to 301 KAR 3:022.}~~

~~{(6)} {The department shall deny a captive wildlife permit to an applicant that:}~~

~~{(a)} {Has acquired wildlife prior to receiving an approved captive wildlife permit, except as allowed in Sections 2(4) and (5) of this administrative regulation; or}~~

~~{(b)} {Holds a wildlife rehabilitation permit as established in 301 KAR 2:075.}~~

~~(14)~~ ~~(7)~~ 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 is issued by the department.~~notify the department of any amendments to the original application at least forty eight (48) hours prior to any~~

~~wildlife shipment by calling the department at 800-858-1549, Monday through Friday, between 8 a.m. and 4:30 p.m. Eastern time.]~~

(15) ~~{(8)}~~ A person importing ~~or~~~~and~~ possessing native wildlife shall be responsible for following all applicable federal laws, state laws, and ~~complying with any~~ local ordinances~~ordinance~~ regarding ~~captives~~ wildlife.

#### Section 6. Prohibited Species.

~~{(1)}~~ Except as ~~established~~~~specified~~ in Sections 2(7) and~~Section~~ 7 of this administrative regulation, 301 KAR 2:075, and 301 KAR 3:120, a person shall not import, transport into Kentucky, or possess~~a~~:

(1) ~~{(a)}~~ Alligator snapping turtle (Macrochelys temminckii);

(2) ~~{(b)}~~ Bats of any species that are native to Kentucky, including:

(a) Big Brown Bat (*Eptesicus fuscus*);

(b) Eastern Red Bat (*Lasiurus borealis*);

(c) Eastern Small-Footed Myotis (*Myotis leibii*);

(d) Evening Bat (*Nycticeius humeralis*);

(e) Gray Bat (*Myotis grisescens*);

(f) Hoary Bat (*Lasiurus cinereus*);

(g) Indiana Bat (*Myotis sodalis*);

(h) Little Brown Bat (*Myotis lucifugus*);

(i) Northern Long-Eared Bat (*Myotis septentrionalis*);

(j) Rafinesque's Big-Eared Bat (*Corynorhinus rafinesquii*);

(k) Seminole Bat (*Lasiurus seminolus*);

(l) Silver-Haired Bat (*Lasiorycteris noctivagans*);

(m) Southeastern Myotis (*Myotis austroriparius*);

(n) Tricolored Bat (*Perimyotis subflavus*);

(o) Virginia Big-Eared Bat (*Corynorhinus townsendii virginianus*);

(3) Black bear (*Ursus americanus*);

(4) Bobcat (*Lynx rufus*);

(5) ~~{(e)}~~ Copperbelly water snake (*Nerodia erythrogaster neglecta*);

(6) ~~{(d)}~~ Cougar or mountain lion (*Felis concolor*);

(7) Hellbender (*Cryptobranchus alleganiensis*);

(8) Kirtland's Snake (*Clonophis kirtlandii*);

(9) Otter (*Lontra canadensis*);

(10) Rabies Vector Species (*Coyote (Canis latrans)*, *Gray fox (Urocyon cinereoargenteus)*, *Raccoon (Procyon lotor)*, *Red fox (Vulpes vulpes)*, *Spotted skunk (Spilogale putorius)*, *Striped skunk (Mephitis mephitis)*), or any hybrid of rabies vector species.

(11) Wild rabbits (All species of the Order Lagomorpha);

(12) ~~{(e)}~~ Wild turkey (*Meleagris gallopavo*); or

(13) ~~{(f)}~~ Wolf (*Canis lupus*).

~~{(2)}~~ ~~[The species established in paragraphs (a) through (d) of this subsection shall not be imported into or transported through Kentucky, except as specified in Section 7 of this administrative regulation.]~~

~~{(a)}~~ ~~[Coyote (*Canis latrans*);]~~

~~{(b)}~~ ~~[Fox (*Vulpes* spp.; *Alopex lagopus*; *Urocyon cinereoargenteus*);]~~

~~{(c)}~~ ~~[Raccoon (*Procyon lotor*); or]~~

~~{(d)}~~ ~~[Skunk (*Mephitis* spp.; *Spilogale putorius*; *Conepatus leuconotus*).]~~

#### Section 7. Exemptions.

(1) Accredited facilities. A facility that is accredited by the Association of Zoos and Aquariums~~[American Zoo and Aquarium Association]~~ shall:

- (a) Not be required to obtain a transportation or captive wildlife permit for native wildlife; ~~and~~
  - (b) Be allowed to import, transport, and possess federally endangered species and the prohibited species established in Section 6~~((1) and (2))~~ of this administrative regulation for official zoo activities; and
  - (c) Maintain prohibited species in an enclosure sufficient to prevent escape and direct contact with the public.
- (2) Commissioner's exemption.
- (a) Upon written request, the commissioner~~(department)~~ shall consider~~(grant)~~ an exemption for the importation or possession of the prohibited species listed in Section 6~~(Sections 6(1) and (2))~~ for legitimate scientific or educational purposes. ~~[by the following entities:]~~
  - (b) The commissioner shall exercise his or her discretion and only grant exemptions that are determined to promote and further the purposes of KRS Chapter 150.
  - (c) Only the following entities shall be eligible for consideration for an exemption by the commissioner:
    - 1. ~~((a))~~ A facility that is designated as the official zoo of a municipality;
    - 2. ~~((b))~~ A government agency conducting research or education at a permanent wildlife center; or
    - 3. ~~((c))~~ A college or university conducting research or education that fulfills a classroom requirement~~(; or)~~
  - ~~((d))~~ ~~[A licensed or accredited institution of:]~~
    - ~~[1.]~~ ~~[Research; or]~~
    - ~~[2.]~~ ~~[Education].~~
- (3) Legally possessed prohibited species.
- (a) Prohibited species legally possessed in Kentucky prior to April 4, 2023 may be allowed to remain in possession of a valid permit holder through the life of the animal by microchipping any rabies vector species, bobcats, or otters and reporting the microchip number to the department by submitting a "Native Prohibited Wildlife Report" form, found on the department's Web site at fw.ky.gov, by June 4, 2023
  - (b) Prohibited species shall not be transferred to other persons, except if the permit holder predeceases the animal, the animal may be transferred to another valid permit holder.
  - (c) Prohibited species shall not be allowed to reproduce.
  - (d) A person who legally possesses prohibited wildlife shall not replace that wildlife after its death.
  - (e) Prohibited species possessed or imported into Kentucky shall be maintained within an enclosure sufficient to prevent:
    - 1. Escape; and
    - 2. Direct contact with the public.

#### Section 8. Confining Facilities.

- (1) Except as established in 301 KAR 2:041, a cage, pen, or other enclosure for confining native wildlife shall be of sufficient structural strength to:
  - (a) Prevent the escape of the captive animal;
  - (b) Protect the caged animal from injury and predators; and
  - (c) Prevent the entrance of free individuals of the same species.
- (2) A wing-clipped and pinioned bird may be kept in a suitable unroofed enclosure, even though wild birds of the same species may enter the enclosure.
- (3) A person shall not maintain any native wildlife in captivity in an unsanitary or unsafe condition or in a manner that results in the maltreatment or neglect of that wildlife.

- (4) Native wildlife shall not be confined in any cage or enclosure that does not meet the minimum cage specifications in Section 9 of this administrative regulation.
- (5) A cage or enclosure shall be maintained as established in paragraphs (a) through (n) of this subsection:
- (a) Clean drinking water shall be provided daily in clean containers;
  - (b) Swimming or wading pools shall be cleaned as needed to ensure good water quality;
  - (c) Any cage or enclosure shall provide adequate drainage of surface water;
  - (d) A captive mammal or bird shall be fed daily;
  - (e) Food shall be:
    - 1. Of a type and quantity that meets the nutritional requirements for the particular species; and
    - 2. Provided in an unspoiled and uncontaminated condition;
  - (f) Any feeding container shall be kept clean, and uneaten food shall be removed within a reasonable time;
  - (g) A shelter shall be provided for security and protection from inclement weather;
  - (h) Shade or an overhead structure shall be provided in warm seasons;
  - (i) Fecal and food waste shall be:
    - 1. Removed from cage daily; and
    - 2. Stored or disposed of in a manner that prevents noxious odors and insect pests;
  - (j) Any cage or enclosure shall be ventilated to prevent noxious odors;
  - (k) A hard floor within a cage or enclosure shall be cleaned a minimum of once per week;
  - (l) A cage or enclosure with a dirt floor shall be raked a minimum of once every three (3) days with the waste removed;
  - (m) Animals that are compatible may be held in the same enclosure if the required floor space is provided; and
  - (n) A common wall shall be constructed between animals that are not compatible so the animals cannot interact.

#### Section 9. Minimum Enclosure Sizes and Associated Requirements for Stationary Facilities.

##### (1) Birds.

- (a) A northern bobwhite older than fourteen (14) weeks shall be held in an enclosure that meets the requirements established in subparagraphs 1. through 3. of this paragraph.
- 1. An enclosure for a single northern bobwhite shall be a minimum of 100 square feet.
  - 2. There shall be an increase in one (1) square foot per additional northern bobwhite.
  - 3. A northern bobwhite may be held in smaller breeding pens during the breeding season.
- (b) A duck shall be held in an enclosure that meets the requirements established in subparagraphs 1. and 2. of this paragraph.
- 1. No more than two (2) pairs or one (1) pair and their offspring prior to first molt shall be confined to an area smaller than 100 square feet; and
  - 2. There shall be at least two (2) square feet of additional land space for each additional adult duck.
- (c) A goose shall be held in an enclosure that meets the requirements established in subparagraphs 1. through 3. of this paragraph.
- 1. No more than two (2) pair or one (1) pair and their offspring prior to first molt shall be confined to an area smaller than 500 square feet;
  - 2. There shall be a minimum of fifty (50) square feet of water that is two (2) feet or greater in depth; and

3. There shall be at least 100 square feet of land and twenty-five (25) square feet of water surface for each additional adult goose.

(d) A ruffed grouse shall be held in an enclosure that meets the requirements established in subparagraphs 1. and 2. of this paragraph.

1. There shall be 200 square feet of floor space for five (5) or fewer birds with a height of at least six (6) feet; and

2. There shall be an additional twenty (20) square feet of floor space for each additional bird.

(e) A raptor shall be held in an enclosure meeting the federal falconry standards described in 50 C.F.R. Part 21.29.

(2) Mammals.

(a) A bat shall be held in an enclosure that meets the requirements established in subparagraphs 1. through 3. of this paragraph.

1. A little brown bat, long-eared bat, and pipistrelle shall be held in an enclosure that is at least 6 ft. x 6 ft. x 6 ft.

2. An evening or red bat shall be held in an enclosure that is at least 8 ft. x 12 ft. x 8 ft.

3. A big brown or hoary bat shall be held in an enclosure that is at least 10 ft. x 20 ft. x 8 ft.

(b) Except as established in 301 KAR 2:041, a fox, bobcat, or raccoon shall be held in an enclosure that meets the requirements established in subparagraphs 1. and 2. of this paragraph.

1. A single animal enclosure shall be 8 ft. x 8 ft. x 6 ft.; and

2. There shall be thirty (30) square feet floor space for each additional animal.

(c) A coyote shall be held in an enclosure that meets the requirements established in subparagraphs 1. and 2. of this paragraph.

1. A single animal enclosure shall be 8 ft. x 8 ft. x 6 ft.; and

2. There shall be twenty-five (25) square feet floor space for each additional animal.

(d) A beaver or otter shall be held in an enclosure that meets the requirements established in subparagraphs 1. through 4. of this paragraph.

1. A single animal enclosure shall be 8 ft. x 12 ft. x 6 ft. with a 4 ft. x 6 ft. pool that is three (3) feet deep at one (1) end;

2. There shall be an increase in horizontal cage size and pool size by eight (8) square feet for each additional animal;

3. An otter shall have a slide and a dry place for sleeping and retreat; and

4. A beaver shall be supplied with gnawing logs and a dry place for sleeping and retreat.

(e) A muskrat or mink shall be held in an enclosure that meets the requirements established in subparagraphs 1. through 3. of this paragraph.

1. A single animal enclosure shall be 6 ft. x 4 ft. x 3 ft. with a 2 ft. x 4 ft. pool which is two (2) feet deep at one (1) end;

2. There shall be an increase in horizontal cage size by eight (8) square feet and a pool size of two (2) square feet; and

3. A muskrat shall have gnawing material.

(f) A gray squirrel, fox squirrel, or flying squirrel shall be held in an enclosure that meets the requirements established in subparagraphs 1. and 2. of this paragraph.

1. A single animal enclosure shall be 4 ft. x 4 ft. x 8 ft.; and

2. There shall be an increase in floor space by two (2) square feet for each additional animal.

(g) A skunk, opossum, rabbit, or woodchuck shall be held in an enclosure that meets the requirements established in subparagraphs 1. through 3. of this paragraph.

1. A single animal enclosure shall be 6 ft. x 8 ft. x 8 ft.;

2. There shall be an increase in floor space by four (4) square feet for each additional animal; and
3. A woodchuck shall have several gnawing logs approximately six (6) inches in diameter.

(h) A weasel shall be held in an enclosure that meets the requirements established in subparagraphs 1. and 2. of this paragraph.

1. A single animal enclosure shall be 3 ft. x 3 ft. x 3 ft.; and
2. There shall be an increase in floor space by three (3) square feet for each additional animal.

Section 10. Mobile Facility. A mobile facility used in transporting native wildlife shall meet the requirements established in subsections (1) through (5) of this section.

- (1) The mobile facility shall be equipped to provide fresh air and adequate protection from the elements, without injurious drafts.
- (2) The animal housing area shall be free of engine exhaust fumes.
- (3) A cage shall be large enough to ensure that each animal has sufficient room to stand erect and lay naturally.
- (4) The structural strength of the enclosure shall be sufficient to contain the live animals and to withstand the normal rigors of transportation.
- (5) Native wildlife housed in a mobile facility for more than ten (10) days shall be housed in a cage that meets the minimum cage specifications provided in Section 8 of this administrative regulation [~~Wildlife transported in the same cage area shall be in compatible groups~~].

Section 11. Temporary Facility. Native wildlife housed in a temporary facility or exhibit shall be housed in a cage that meets the minimum cage specifications provided in Section 8 of this administrative regulation if present in any geographical location for more than ten (10) days.

Section 12. ~~Inspections and Access~~~~and Permit Revocation~~.

- (1) A permit holder shall allow a conservation officer to inspect the holding facilities, and the property on which the holding facilities are located, at any reasonable time.
- (2) A conservation officer shall immediately notify the permit holder if the inspection reveals a violation of any provision of this administrative regulation.
- (3) A facility shall fail inspection if any deficiencies are found during the inspection, or if the permit holder denies entry to the conservation officer at a reasonable time.
- (4) An applicant that fails a facility inspection shall correct any deficiencies within ten (10) days of the failed inspection.
- (5) A permit holder shall allow any department approved representative, accompanied by a conservation officer, to access the wildlife 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 13. Permit Denial and Revocation.

- (1) Denial. The department shall deny the issuance of a new permit, or deny a renewal of an existing or lapsed permit, and confiscate wildlife of a person who:
  - (a) Is convicted of a violation of any provisions of:
    1. KRS Chapter 150;
    2. Any department regulation; or
    3. Any federal statute or regulation related to hunting, fishing, or wildlife;
  - (b) Provides false information on a captive wildlife permit application, transportation permit application, certificate of veterinary inspection, federal quarantine certificate, request for commissioner's exemption, federal permits, reports, facility inspection, or records;

(c) Acquires wildlife prior to receiving an approved captive wildlife permit, transportation permit, or commissioner's exemption, except as established in Section 2(4), (5), and (6);

(d) Fails a facility inspection, as established in Section 12; or

(e) Fails to comply with any provision of this regulation, 301 KAR 2:041, 301 KAR 2:082, 301 KAR 2:084, 301 KAR 2:195, 301 KAR 2:230 or 301 KAR 2:251.

(2) Revocations.

(a) The department shall revoke the permit, and 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 captive wildlife permit application, transportation permit application, certificate of veterinary inspection, federal quarantine certificate, request for commissioner's exemption, federal permits, reports, facility inspection, or records;

3. Acquires wildlife prior to receiving an approved captive wildlife permit, transportation permit, or commissioner's exemption, except as established in Sections 2(4), (5), and (6);

4. Fails a facility inspection, as established in Section 12; or

5. Fails to comply with any provision of this administrative regulation, 301 KAR 2:041, 301 KAR 2:082, 301 KAR 2:084, 301 KAR 2:195, 301 KAR 2:230 or 301 KAR 2:251.

(b) If a person's captive wildlife permit is revoked for one (1) facility, permits for all other facilities in their name shall be revoked.

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

(3) Denial period.

(a) An applicant for a captive wildlife permit or 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;

(b) The department shall deny all captive wildlife permit applications for any facility in which a permit was denied or revoked, for the same period of time as the denial period, as established in this section.

(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 necessary to protect public health, public safety, native ecosystems, or native wildlife.

(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 shall be confiscated if a captive wildlife permit, transportation permit, or commissioner's exemption is revoked or denied, or a person possesses native wildlife without a valid captive wildlife permit, transportation permit, or

commissioner's exemption, except as established in Section 2(4), (5), or (6) or in Section 13, subsection 4(3)(b).

(b) Confiscated wildlife shall be released, transferred with the approval of the Wildlife Division, or dispatched, except that rabies vector species shall be dispatched immediately.

(c) Wildlife shall not be returned to the person, entity, or facility from which they were confiscated.

(d) Wildlife shall be surrendered to the department, for processing and disposition pursuant to regulation, upon being presented with a written order by the commissioner. [A captive wildlife permit shall be revoked for a period of one (1) year and all captive wildlife confiscated if a violation is not corrected within ten (10) days of the] [initial inspection.]

~~[(4)] [A fee shall not be refunded for a permit that is revoked].~~

(6) Administrative hearings.

(a) ~~[(5)]~~ 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 14. ~~[Section 13.]~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Captive Wildlife Permit Application", 2022~~[2012]~~ edition;

(b) "Annual Transportation Permit Application", 2022~~[2012]~~ edition;~~[and]~~

(c) "Individual Transportation Permit Application", 2022~~[2012]~~ edition;

(d) "Native Prohibited Wildlife Report", 2022 edition; and

(e) "Facility Inspection Checklist", 2022 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. or online at:

(a) <https://fw.ky.gov/Wildlife/Documents/captivewildapp.pdf> for the "Captive Wildlife Permit Application";

(b) <https://fw.ky.gov/Wildlife/Documents/annualtransportapp.pdf> for the "Annual Transportation Permit Application";

(c) <https://fw.ky.gov/Wildlife/Documents/indtransportapp.pdf> for the "Individual Transportation Permit Application";

(d) <https://fw.ky.gov/Wildlife/Documents/nativeprohibitedreport.pdf> for the "Native Prohibited Wildlife Report"; and

(e) <https://fw.ky.gov/Wildlife/Documents/RehabLEInspectionChecklist.pdf> for the "Facility Inspection Checklist".

*RICH STORM, Commissioner*

APPROVED BY AGENCY: September 15, 2022

FILED WITH LRC: September 15, 2022 at 11:45 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 29, 2022, at 12:30 p.m., at KDFWR Administration Building, 1 Sportsman<sup>€</sup>™s Lane, Frankfort, Kentucky 40601. Individuals

interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. 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 be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman<sup>™</sup>s Lane, phone (502) 564-3400, fax (502) 564-0506, email [fwpubliccomments@ky.gov](mailto:fwpubliccomments@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person: Jenny Gilbert**

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

This administrative regulation establishes requirements for the buying, selling, holding, commercial activity, and transportation of native wildlife.

**(b) The necessity of this administrative regulation:**

This administrative regulation is necessary to provide a defined process for the holding and transportation of live native wildlife. These processes are necessary to provide for the health and welfare of native wildlife and the safety of Kentucky citizens.

**(c) How this administrative regulation conforms to the content of the authorizing statutes:**

KRS 150.025(1)(c) authorizes the department to promulgate administrative regulations for the buying, selling, or transporting of wildlife. KRS 150.105 authorizes the department to dispatch 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 buying, selling, or transporting of protected wildlife. KRS 150.280 requires the department to promulgate administrative regulations to establish the procedures for the propagation and holding of protected wildlife. 50 C.F.R. 21.29 establishes the federal standards for holding raptors. This administrative regulation establishes requirements for the buying, selling, holding, and transportation of live native wildlife.

**(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:**

This regulation sets forth the requirements for applying for and receiving permits to buy, sell, hold and transport live native wildlife.

**(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:**

**(a) How the amendment will change this existing administrative regulation:**

These amendments will develop an online permitting system, expand the department's ability to deny or revoke a permit, clarify who is required to purchase a commercial wildlife permit, waive the fee for government agencies doing legitimate wildlife conservation, clarify that each non-contiguous captive wildlife facility needs a separate permit, prohibit the possession of eastern hellbender, eastern spotted skunk, Kirtland's snake, bobcats, Copperbelly water snake, rabies vector species, and bats, update the prohibited species exemption section, and provide grandfathering for previously held prohibited wildlife species.

**(b) The necessity of the amendment to this administrative regulation:**

These amendments are necessary to manage captive held native wildlife and improve the permitting process for these animals. Additionally, these amendments improve health and human safety in regards to the possession of live native wildlife.

**(c) How the amendment conforms to the content of the authorizing statutes:**

See (1)(c) above. This amendment falls within the reach of the authorizing statute KRS 150.025 (1)(c).

**(d) How the amendment will assist in the effective administration of the statutes:**

See (1)(d) above.

**(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:**

These amendments will make it easier and more straightforward to apply for a captive wildlife permit. Additionally, these amendments will help protect our citizenry and our wildlife populations from disease and other dangers posed by captive native wildlife. These regulations may impact those people who wish to be in possession of live native wildlife and those organizations requesting a commissioner's exemption to use or exhibit prohibited species of live native wildlife. These amendments are necessary for the health and safety of people and wildlife populations. Currently, there are 82 captive wildlife permit holders in Kentucky.

**(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:**

**(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:**

These amendments will allow for a more efficient permitting process for those species of live native wildlife that are legal to possess. Additionally, those persons in possession of a newly prohibited species will be allowed to hold that animal until the end of its life.

**(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):**

A minor cost will be incurred to have grandfathered prohibited species microchipped, if in possession. No additional costs will be incurred for other entities.

**(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):**

Those persons holding prohibited native wildlife will be allowed to maintain the animal for the remainder of its life.

**(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:**

**(a) Initially:**

There will be no initial administrative cost to the department to implement this administrative regulation.

**(b) On a continuing basis:**

There will be no cost to the department on a continuing basis.

**(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:**

The source of funding is the State Game and Fish Fund.

**(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:**

It will not be necessary to increase any other fees or to increase funding to implement this administrative regulation.

**(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:**

No fees are established directly or indirectly.

**(9) TIERING: Is tiering applied?**

No. Tiering is not applied because all permit holders are treated the equally.

## FISCAL NOTE

**(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?**

The Department of Fish and Wildlife Resources Divisions of Wildlife and Law Enforcement will be impacted by this administrative regulation.

**(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.**

KRS 150.280 authorizes the department to promulgate administrative regulations to establish the procedures for the propagation and holding of protected wildlife. 50 C.F.R 17, 21, and 22 establishes the federal standards for holding migratory birds, including raptors, and federally threatened and endangered wildlife.

**(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.**

**(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?**

No revenue is expected to be generated by this administrative regulation during the first year.

**(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?**

No revenue will be generated for subsequent years.

**(c) How much will it cost to administer this program for the first year?**

There will be no administrative cost to administer this program for the first year.

**(d) How much will it cost to administer this program for subsequent years?**

There will be no administrative costs incurred in subsequent years.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Revenues (+/-):**

**Expenditures (+/-):**

**Other Explanation:**

**(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.**

**(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?**

There will be no cost savings for the first year.

**(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?**

There will be no cost savings for subsequent years.

**(c) How much will it cost the regulated entities for the first year?**

There will be no cost to regulated entities for the first year.

**(d) How much will it cost the regulated entities for subsequent years?**

There will be no costs to regulated entities incurred in subsequent years.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Cost Savings (+/-):**

**Expenditures (+/-):**

**Other Explanation:**

**(5) Explain whether this administrative regulation will have a major economic impact, as defined below.**

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] There will be no major economic impact incurred.

## FEDERAL MANDATE ANALYSIS COMPARISON

**(1) Federal statute or regulation constituting the federal mandate.**

50 C.F.R. 21.29 or 50 C.F.R. 17, 21, and 22.

**(2) State compliance standards.**

KRS 150.330 and KRS 150.183

**(3) Minimum or uniform standards contained in the federal mandate.**

50 C.F.R. 21.29 establishes the federal standards for holding raptors for falconry purposes. 50 C.F.R. 17 establishes the federal standards for threatened and endangered wildlife. 50 C.F.R 21 establishes the federal standards for migratory birds. 50 C.F.R 22 establishes the federal standards for bald and golden eagles as the Bald and Golden Eagle Act.

**(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?**

No, changes to this administrative regulation were made to align with the federal statutes and regulations. The exception is that this regulation was amended to meet KRS 150.183 that prohibits federally endangered species from entering the state unless a federal permit is provided.

**(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.**

This regulation was amended to adhere to both federal and state statutes. KRS 150.183 prohibits importation, transportation, and possession of endangered species unless a federal permit is provided to the department. This provides further protections to endangered species that need stricter protections to populations and are often utilized for entertainment or exhibition purposes, at the detriment of native wildlife populations.