

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

RELATES TO: KRS 150.015, 150.290, 150.305, 150.320, 150.330, 150.360, 150.370, 150.990

STATUTORY AUTHORITY: KRS 150.025(1)(c), 150.180, 150.280, 50 C.F.R. 21.29

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1)(c) authorizes the department to promulgate administrative regulations for the buying, selling, or transporting of wildlife. 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.

Section 1. Definitions. (1)" Enhanced rabies surveillance 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 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*).

Section 2. Taking and Possessing Native Wildlife. (1) A person shall not possess native wildlife that was not legally acquired.

(2) 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 Section 7 of this administrative regulation and subsections (4) and (5) 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 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 snapping or softshell turtles;

2. A limit of fifteen (15) bullfrogs per night; and

3. A limit of twenty-five (25) dusky salamanders or spring lizards of the genus *Desmognathus*.

(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 rabies vector species trapped within the enhanced rabies surveillance area shall be euthanized before being moved, except that foxes and coyotes trapped during the trapping season, pursuant to 301 KAR 2:251, may be 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 rabies vector species into or out of the enhanced rabies surveillance area.

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 native wildlife.

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

(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 animals.

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

(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 wildlife, native or exotic, unless otherwise exempted by this or another administrative regulation, prior to:

- (a) Receiving a shipment of wildlife;
  - (b) Importing wildlife into Kentucky; or
  - (c) Transporting 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 wildlife into and through 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) A federal quarantine certificate.

Section 5. Applying for Permits. (1) A person shall complete an application for a captive wildlife permit or a transportation permit on a form supplied by the department.

- (2) An applicant for a captive wildlife permit shall only obtain wildlife from one 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 trap-

ping license, if applicable; or

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

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

(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.

(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.

(7) An annual transportation permit holder shall 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.

(8) A person importing and possessing native wildlife shall be responsible for complying with any local ordinance regarding captive wildlife.

Section 6. Prohibited Species. (1) Except as specified in Section 7 of this administrative regulation, a person shall not import, transport, or possess a:

(a) Alligator snapping turtle (*Macrochelys temminckii*);

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

(c) Copperbelly water snake (*Nerodia erythrogaster neglecta*);

(d) Cougar or mountain lion (*Felis concolor*);

(e) Wild turkey (*Meleagris gallopavo*); or

(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) A facility that is accredited by the American Zoo and Aquarium Association shall:

(a) Not be required to obtain a transportation permit for native wildlife; and

(b) Be allowed to import, transport, and possess the prohibited species established in Section 6(1) and (2) of this administrative regulation.

(2) Upon written request, the department shall grant an exemption for the importation or possession of the prohibited species listed in Sections 6(1) and (2) for legitimate scientific or educational purposes by the following entities:

(a) A facility that is designated as the official zoo of a municipality;

(b) A government agency;

- (c) A college or university; or
- (d) A licensed or accredited institution of:
  1. Research; or
  2. Education.

Section 8. Confining Facilities. (1) A cage, pen, or other enclosure for confining native wild-life 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 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) 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) 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 Permit Revocation. (1) A permit holder shall allow a conservation officer to inspect the holding facilities 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 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.

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

Section 13. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Captive Wildlife Permit Application", 2012 edition;

(b) "Annual Transportation Permit Application", 2012 edition; and

(c) "Individual Transportation Permit Application", 2012 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. (20 Ky.R. 2926; eff. 6-2-94; Am. 29 Ky.R. 1015; 1529; eff. 12-18-2002; 30 Ky.R. 691; 1302; eff. 1-5-2004; 2340; eff. 7-14-2004; 31 Ky.R. 825; 1072; eff. 1-4-2005; 33 Ky.R. 2361; eff. 5-4-2007; 34 Ky.R. 2432; 35 Ky.R. 23, eff. 7-9-2008; 38 Ky.R. 1887; 39 Ky.R. 18; eff. 7-12-2012; 44 Ky.R. 1130, 1513; eff. 2-2-2018)