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THE STATUS AND EVOLUTION OF LAWS AND POLICIES REGULATING PRIVATELY OWNED TIGERS IN THE UNITED STATES

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Introduction

Tigers (*Panthera tigris*) are one of the world's most endangered large cats. Once numbering in the hundreds of thousands, today the world's wild tiger population may number fewer than 4,000,¹ and viable populations remain in only 12 countries.²

Tigers are revered in Asia and have long been a source of fascination for people living in countries far from the tiger's native habitat. Romans used tigers in the Coliseum, and European royalty imported tigers for their menageries.³ In the United States (U.S.), tigers likely were first introduced for use in

¹ JOHN SEIDENSTICKER ET AL., *How Many Wild Tigers Are There? An Estimate for 2008* TIGERS OF THE WORLD: THE SCIENCE, POLITICS, AND CONSERVATION OF *PANTHERA TIGRIS* (Philip J. Nyhus & Ronald Tilson eds., 2d ed. forthcoming 2010).

² TIGERS OF THE WORLD: THE BIOLOGY, POLITICS, AND CONSERVATION OF *PANTHERA TIGRIS* (Philip J. Nyhus & Ronald Tilson eds., 2d ed. forthcoming 2010).

³ DANIEL HAHN, *THE TOWER MENAGERIE: THE AMAZING 600-YEAR HISTORY OF THE ROYAL COLLECTION OF WILD AND FEROCIOUS BEASTS KEPT AT THE TOWER OF LONDON* (Tarcher 2003).

circuses in the 1830s.⁴ Subsequently, tigers became a popular addition to most circuses and zoos. In the twentieth century, a growing number of individuals owned and bred tigers for sale and use in the pet trade. Ironically, as the world's wild tiger populations shrunk, the world's captive tiger populations increased. We estimate the number of tigers in the world's zoos, circuses, farms, and those owned by private individuals may exceed 13,000, a ratio of more than three captive tigers to every wild tiger.⁵ The U.S. alone likely has at least 5,000 captive tigers, and possibly many more.⁶

The large number of tigers and other large cats in captivity raises concern for the welfare of tigers, the safety of people interacting with tigers,⁷ and growing recognition that the largely unregulated trade in exotic species is a significant conservation and public policy challenge.⁸ Over the past decade, a growing number of states, counties, and municipalities have addressed these concerns by adopting a variety of regulations pertaining to the private ownership of tigers and other large, dangerous animals. Congress also has modified federal laws in an attempt to address more effectively the commercial ownership and trade of these species.

In this article, we summarize the current status and evolution of laws and policies regulating private ownership of tigers in the U.S. Many of these laws also address other large cats. We review major federal legislation and amendments that address laws regulating tigers and other large cats, describe and analyze the growth and geographic distribution of state laws addressing this topic, and identify some of the limitations of these efforts. We conclude that the existing mix of federal, state, and local policies is inadequate. Enforcement authorities lack adequate

⁴ BOB BROOKE, *Step Right Up!*, HISTORY MAGAZINE (2001).

⁵ PHILIP J. NYHUS ET AL., *Thirteen Thousand and Counting: How Growing Captive Tiger Populations Threaten Wild Tigers* TIGERS OF THE WORLD: THE BIOLOGY, POLITICS, AND CONSERVATION OF *PANTHERA TIGRIS* (Philip J. Nyhus & Ronald Tilson eds., 2d ed. forthcoming 2010).

⁶ *Id.*

⁷ PHILIP J. NYHUS ET AL., *Dangerous animals in captivity: Ex situ tiger conflict and implication for private ownership of exotic animals*, 22 ZOO BIOLOGY (2003)

⁸ NYHUS, *supra* note 5.

capacity, and compliance is easily circumvented by irresponsible owners. We do not even know with certainty how many tigers and other large cats exist in the U.S. We argue that a more coherent and forceful approach is needed to protect tigers and the public before the issue becomes more unmanageable than it already is.

Federal Laws and Amendments

An international treaty and three federal laws indirectly regulate private ownership of tigers in the U.S., but none strictly forbids the private possession of tigers and other large carnivores.⁹

The U.S. is a signatory of the Convention on International Trade in Endangered Species of Wild Fauna and Flora¹⁰ (CITES), an international treaty that establishes a system of import and export regulations for the purpose of preventing the over exploitation of animals and plants. International regulation and cooperation is necessary to ensure the future survival of many species because trade in wild animals and plants crosses the borders of many countries. In the case of tigers, it is well known that the borders of Asian tiger range states are especially porous. The magnitude of the illegal wildlife trade is enormous, with an economic worth of at least \$5 billion and possibly more than \$20 billion annually, thus ranking it just behind illicit drugs and possibly human trafficking and arms trafficking.¹¹

The U.S. national counterpart to CITES is the Endangered Species Act¹² (ESA). The ESA, enacted in 1973, regulates the interstate and international trade and taking of species officially listed as “Endangered” or “Threatened.” It is the first federal law to protect tigers, a species listed in the first version of the ESA. Specifically, the ESA regulates interstate commerce involving

⁹ NICOLE G. PAQUETTE, *The Tiger in the Backyard*, 33 ANIMAL ISSUES (2002), available at <http://www.api4animals.org/1402.htm>.

¹⁰ 1976 U.N.T.S. 224, 27 U.S.T. 1087.

¹¹ Liana Sun Wyler & Pervaze A. Sheikh, *International Illegal Trade in Wildlife: Threats and U.S. Policy* LIBRARY OF CONGRESS, CONGRESSIONAL RESEARCH SERVICE (RL34395, 2008).

¹² 16 U.S.C. §§1531-1544 (2000).

tigers, the importation and exportation of tigers, and the unauthorized “taking” of tigers within the U.S. The U.S. Fish and Wildlife Service (USFWS), the primary agency responsible for permitting activities related to listed terrestrial species, does not issue permits to possess or breed endangered or threatened animals as pets.¹³

For conservation purposes, USFWS issues Captive-bred Wildlife Permits that allow permit holders to buy and sell in interstate commerce living Endangered or Threatened species held within the U.S. These permits are issued to zoos and individuals breeding listed species born in the U.S. for the enhancement of species propagation, provided the people or institutions involved in the transaction are both registered for the same species. Under this system, otherwise prohibited activities can occur if they enhance propagation or survival of the affected species and assist captive breeding programs.¹⁴ In 1998, USFWS created an exemption to the Captive-bred Wildlife Permit which eliminates permit requirements for certain listed species. The exemption includes inter-subspecific crossed tigers, commonly referred to as “generic tigers.”¹⁵

The Animal Welfare Act¹⁶ (AWA) of 1966, as amended, is regulated and enforced by the United States Department of Agriculture’s (USDA) Animal Plant and Health Inspection Service (APHIS). The main purpose of the AWA is to “ensure minimum standards of care and treatment be provided for certain animals bred for commercial sale, used in research, transported commercially, or exhibited to the public.”¹⁷ Under the AWA, all individuals or businesses involved with animals covered under the law are required to be licensed or registered with APHIS.¹⁸

¹³ U.S. FISH AND WILDLIFE SERVICE, U.S. Endangered Species Act: Permits for Non-native Species or Import and Export of Non-native and Native Species, (2002).

¹⁴ U.S. FISH AND WILDLIFE SERVICE, Captive-bred Wildlife Registration under the U.S. Endangered Species Act, (1999).

¹⁵ (i.e., tigers whose ancestry cannot be traced back to wild-caught founders and that are not registered in the international Amur, Sumatran, or Malayan tiger studbooks.) See 50 C.F.R.17.21.

¹⁶ 7 U.S.C. §§ 2131-2159 (2000).

¹⁷ *Id.*

¹⁸ *Id.*

“Commercial activity” is a prerequisite for licensing; therefore, pet owners are not eligible to apply for a license from APHIS. Some states grant exemptions to individuals, entities, and organizations that are licensed or permitted by USDA.

An APHIS position statement on the private ownership of large cats recognizes that large wild and exotic cats, including tigers, are dangerous animals, and only qualified, trained professionals should keep these animals “even if they are only to be pets.”¹⁹ In the same statement, APHIS notes that it does not regulate the ownership and care of large wild and exotic cats as pets, but that state and local laws may apply in some situations.²⁰

Under The Lacey Act Amendments of 1981,²¹ regulated and enforced by USFWS, it is unlawful to import, export, transport, sell, purchase, receive or acquire wildlife taken, possessed, transported, or sold in violation of federal, state, foreign or Native American tribal laws, treaties or regulations.²² The Act applies to fish, wildlife, and plants—including their parts or products—that are indigenous to the U.S. and either included in the appendices to CITES or listed under state conservation laws.

In late 2003, Congress passed the Captive Wildlife Safety Act (CWSA), an amendment to The Lacey Act,²³ by making it illegal to import, export, buy, sell, transport, receive or acquire, in interstate or foreign commerce, live tigers and other large cats, including any hybrid combination of any of listed large cats, unless certain conditions are met. Exemptions under the CWSA include: individuals licensed or registered by APHIS, state colleges, universities, or agencies; state-licensed rehabilitators or veterinarians; and accredited wildlife sanctuaries.²⁴

So how effective are these laws? USFWS stringent permitting process is widely considered a reasonably effective deterrent to uncontrolled trafficking. Despite criticism from

¹⁹ UNITED STATES DEPARTMENT OF AGRICULTURE, ANIMAL AND PLANT HEALTH INSPECTION SERVICE Large Wild and Exotic Cats Make Dangerous Pets No. 1560 (2000).

²⁰ *Id.*

²¹ 16 U.S.C. §§ 3371-3378 (2000).

²² *Id.*

²³ *Id.*

²⁴ *Id.*

conservationists that the ESA is not strong enough, and opponents that it is too strong, the ESA and The Lacey Act have dramatically reduced the importation of tigers into the U.S. From the perspective of tiger conservation, it is difficult to import or export live tigers, even for zoos accredited by the Association of Zoos and Aquariums (AZA).

The effectiveness of APHIS to enforce the AWA is much less obvious. The core mission of APHIS is to protect the health and value of American agriculture and natural resources. While APHIS is charged with determining standards of humane care and treatment of animals, its role in enforcing animal welfare laws is more recent. Inspecting and permitting commercial exhibitors is a small component of its overall mission. In addition, exotic pet owners can become “exhibitors” under the AWA and receive a license which allows them to circumvent state laws that prohibit private possession of large cats.

Supporters of the CWSA hoped the law would help to reduce the number of large cats in private ownership. It has made transporting tigers and other large cats from one state to another more difficult, but individuals wanting to own pets can still circumvent these restrictions by obtaining an APHIS exhibitor’s license.

State Laws and Regulations

State regulations of tigers and other large cats are typically categorized as bans, licensing and permitting systems, or more general certification requirements. As of 2009, for tigers specifically, 32 states have bans, 12 have license or permit requirements, 6 have general regulations, and 2 have no form of regulation.²⁵

The most stringent form of oversight is a complete ban on the private ownership of tigers. Statute wording, which tends to be similar among states with bans, is exemplified by the Iowa statute that states “...a person shall not own or possess a dangerous wild animal, cause or allow a dangerous wild animal owned by a person or in the person’s possession to breed, or

²⁵ See Figure 1.

transport a dangerous wild animal to breed...”²⁶ In general, most states include exemptions for tigers that were legally possessed prior to enacting a ban. For example, Arkansas’s 2005 ban states that “A person may possess a large carnivore only if: (1) The person was in possession of the large carnivore...on or before August 12, 2005; and (2) The person applies for and is granted a permit for personal possession.”²⁷ Other common exemptions include AZA-accredited zoos, circuses, veterinarians, and wildlife refuges.

Some states have adopted a “partial ban” on the private possession of wild animals. Such states may ban tigers but not other dangerous animals, or *vice versa*. In Illinois, for example, a ban on “dangerous animals” does not include any non-human primates,²⁸ while Nevada bans private possession of wildlife including coyotes and foxes, but specifically allows tigers and wolves, among others, without permits.²⁹

Twelve states allow private ownership of tigers but require state permits. In Texas “a person may not own, harbor, or have custody or control of a dangerous wild animal for any purpose unless the person holds a certificate of registration for that animal...”³⁰ Maine requires a permit “to take alive, possess or import any native or exotic wildlife for the following purposes...: Wildlife Exhibit, including any commercial display of wildlife; General Wildlife Possession, including propagation or personal use of wildlife; Wildlife Rehabilitation; Wildlife Importation...and Scientific Collection.”³¹

Lastly, some states have only general requirements regulating tigers. Ohio requires a certificate of veterinary inspection for all non-domestic animals prior to their entry into the state.³² Other examples of basic regulations include cage

²⁶ IOWA ADMIN. CODE R. 21-77 (2008).

²⁷ ARK. CODE ANN. § 20-19-504(B)(2)) (2008).

²⁸ 720 ILL. COMP. STAT. 585/0.1 *et seq.* (2008).

²⁹ NEV. ADMIN. CODE §§ 503.110, 503.140 (2008).

³⁰ TEX. HEALTH & SAFETY CODE ANN. §§ 822.103 *et seq.* (2007).

³¹ 09-137-007 CODE ME. R. (2008).

³² OHIO ADMIN CODE §§ 901:1-17-12, 1501:31-23-01 (2008).

requirements³³ or mandated insurance coverage to protect against liability.

We noted three broad patterns when looking at the evolution of state laws regulating tigers specifically: (1) over time, the number of states passing laws has increased, (2) laws tend to evolve from the general to the specific, and (3) more recent laws tend to be more restrictive. Many of the laws we reviewed also address other large cats and exotic animals.

The first captive wildlife regulations were passed in the 1930s. The number of states passing laws banning, permitting, or regulating tigers increased from 1970-1980, with 25 states adopting a regulation or more stringent statute by 1985.³⁴ Over the past 20 years, 23 more states passed various forms of regulations. As of July 2009, only Wisconsin and West Virginia had not yet adopted laws regarding privately owned tigers.

The earliest state laws used to regulate private ownership of large, dangerous animals tended to be broad in scope, addressing wildlife in general. New Hampshire's regulatory history reflects this trend. In 1935, this state passed a statute stating that "no person shall import, possess, sell, exhibit, or release any live marine species or wildlife... without first obtaining a permit from the executive director."³⁵ Recent legislation tends to target specific species (*Panthera tigris*) or groups ("exotic pets") rather than "wildlife" or "animals." The most recent ban passed in Oregon, that becomes effective Jan 1, 2010, is intended "to protect the public against health and safety risks that exotic animals pose to the community," where "exotic animal" includes "any member of the family *Felidae* not indigenous to Oregon, except the species *Felis catus*."³⁶ The targeted language in this statute is rare in previous legislation.

Over time, various state statutes also show a tendency to become increasingly stringent. In 1992, for the first time, New Hampshire specifically listed tigers as a "wildlife" species for

³³ See MICH. COMP. LAWS §287.731 (2008).

³⁴ See Figure 1.

³⁵ N.H. REV. STAT. ANN. § 207:14 (2008).

³⁶ See S.B. 391, 75TH LEG. REG. SESS. (OR. 2009); OR. REV. STAT. §609.305, 609.319 (2007).

which a permit would not be issued.³⁷ Four other states have also increased their restrictions from a permit to a ban. Idaho and Montana have adopted permitting systems replacing more permissive regulations.

County and Municipal Laws and Ordinances

A substantial number of counties and municipalities also developed their own system for regulating the private possession of exotic or wild animals. We identified at least 226 counties and 85 municipalities that passed some form of regulations (described as “uncategorized” because we do not yet have enough information to classify all of these as bans, permits, or general regulations).³⁸ Of these, North Carolina and Texas have the largest number of counties and cities with regulations pertaining to tigers. Both states have specific statutes giving local governments the authority to regulate exotic animals. In Houston, Texas, for example, it is unlawful to possess a wild animal within the city except if under treatment by a licensed veterinarian, held in an AZA-accredited zoo or humane society, used for medical research, or being transported through the city. The Houston Code of Ordinances specifically lists tigers in its definition of wild animals, and also includes all animals listed as an “endangered species” under the ESA.

Stakeholders

A large number of stakeholders have an interest in private ownership of tigers and other large cats. Prominent opponents include animal welfare organizations like the Humane Society of the United States, Born Free USA, and the WildCat Conservation Legal Aid Society. A consortium of more than 20 animal protection organizations formed the Captive Wild Animal Protection Coalition expressly to reduce the availability, volume, and presence of dangerous animals as pets. Some sanctuary

³⁷ N.H. CODE ADMIN. R. ANN. FIS 804.04 (2008).

³⁸ See Figure 2.

owners also take a strong stand in support of restrictive legislation at the state and federal level.³⁹ Notable among these are Tippi Hedren, President of the Roar Foundation and Shambala Preserve, and Carole Baskin, CEO of Big Cat Rescue, who share similar missions to educate the public about the dangers of private ownership of exotic animals. A range of professional organizations and agencies also have stated their opposition to individuals owning tigers and other large and dangerous animals. These include AZA, the American Veterinary Medical Association, and the Centers for Disease Control and Prevention.

Among the most prominent advocates of private ownership include individual owners and associations of private owners, such as the Feline Conservation Federation. The issue appears to have little support outside this community of animal owners. In addition to claims of furthering education and conservation, the arguments used by these groups tend to be similar to those supporting less government involvement, constitutional rights, and private property advocacy.

What Drives Regulations of Tigers and Large Cats?

The increase in federal, state, and local laws and ordinances regulating private ownership of exotic species is driven by multiple factors related to animal welfare, public health and safety,⁴⁰ zoning and nuisance, ecological issues, awareness, and growth of special interest groups.

One of the most important drivers has been concern over animal welfare. Organizations like the Humane Society of the United States are prominent advocates of state and federal initiatives that restrict private ownership of exotic species. Many exotic species have specific needs, and tigers in particular require significant veterinary care, considerable amounts of food, and in the interest of both human and animal safety, should have special

³⁹ TAMMY QUIST, *History and Function of US Sanctuaries TIGERS OF THE WORLD: THE SCIENCE, POLITICS, AND CONSERVATION OF PANTHERA TIGRIS*, (Philip J. Nyhus & Ronald Tilson eds., 2d ed. forthcoming 2010).

⁴⁰ See MATTHEW G. LIEBMAN, *Detailed Discussion of Exotic Pet Laws*, (Michigan State University College of Law 2004), available at <http://www.animallaw.info/articles/ddusexoticpets.htm>.

housing.⁴¹ To raise awareness about the problem of private pet ownership, organizations and campaigns use pictures of distressed tigers and other animals in cages. A brochure from People for the Ethical Treatment of Animals (PETA), for example, has the heading, “Tigers: America’s Latest Homeless ‘Pet’” with a photograph of a dead and skinned tiger.

Public safety and health typically are prominent drivers of legislation restricting private ownership of exotic species. For some *taxa*, like monkeys, transmission of zoonotic diseases is a concern. For large, dangerous animals, protecting trainers, keepers, and visitors from bites and scratches is the largest concern. This is especially the case for tigers, which require substantial safety protocols to protect people from serious injury and death. We documented 17 deaths and 109 injuries to individuals by tigers in the U.S. between 1996 and 2008.⁴² The actual number of unreported injuries may be far higher because these only represent those published in searchable news sources. Half of all deaths from tigers occurred in Florida and Texas. It is difficult to monitor every injury, but of those serious enough to warrant mention in newspaper articles, 58% came from Florida, Texas, Minnesota, and California. More deaths occurred in states that had a ban (largely due to Florida, which accounted for five or about one-third of deaths), which simply confirms the limitations of many “bans.” More injuries also occurred in states with bans. Ironically, the fewest deaths occurred in states with no legislation.⁴³ There are several possible explanations for this trend. An individual in Florida who has or wants to own a tiger can apply to be an “exhibitor,” a tactic that is also used to circumvent federal laws, and thus the “ban” is not absolute. Another explanation for these patterns may be that attacks by tigers may have triggered relatively strict legislation, but existing private owners that are grandfathered may have animals which continue to result in attacks, as occurred in the examples in Minnesota below.

⁴¹ RONALD L. TILSON & ULYSSES S. SEAL, *TIGERS OF THE WORLD: THE BIOLOGY, BIOPOLITICS, MANAGEMENT, AND CONSERVATION OF AN ENDANGERED SPECIES*, (Noyes Publications 1987).

⁴² See Nyhus & Tilson, *supra* note 2.

⁴³ See Figure 3.

The three states with the most attacks have adopted different laws to address private ownership of large cats. In Florida, it is unlawful to possess a tiger (considered a “Class I” category of wildlife) unless the animal was in possession for personal use on August 1, 1980, or unless the entity is permitted to own a tiger. Owners can apply to be exhibitors. In Texas, a person may not own a tiger unless they hold a certificate of registration issued by a municipal or county animal registration agency. Minnesota only recently passed legislation in 2004 that prohibits private ownership of virtually all large cats, but grandfathered four existing facilities. At one facility, BEARCAT Hollow, a federal grand jury handed down a 55-count indictment against the owners and seven out-of-state individuals, alleging illegal trafficking in wild and exotic animals. The owners were convicted and sentenced to prison and the facility was closed. Another unlicensed facility in western Minnesota was closed and authorities removed nine tigers after a lion escaped. Subsequently, at a third facility a keeper was killed by a tiger. The tiger was shot and killed and the facility was shut down.

A number of regulations, particularly local ordinances, address zoning and nuisance issues. Reasons for these ordinances vary, but have included a wide range of complaints, such as safety, incompatible land use, (commercial areas versus residential) noise, odor, and other factors.

Finally, there are legitimate scientific concerns about the genetic origin of privately owned tigers⁴⁴ and their lack of conservation value.⁴⁵ For many exotic species, the risk of release into the wild is a major factor driving legislation that limits ownership. This is true for species like Burmese pythons, increasingly common in the Everglades of Florida, but not a problem for species like tigers that are not likely to establish feral populations in the U.S.

Conclusion

⁴⁴ TARA R. HARRIS ET AL., *Reconsidering the Value of Privately Owned Tigers for Conservation Management Programs*, ZOO BIOLOGY (in review).

⁴⁵ NYHUS, *supra* note 5.

Federal, state, and local governments have attempted to restrict ownership of tigers and other large cats, but the existing and often complex jumble of laws and ordinances have had mixed success in regulating effectively every private owner of tigers and other large cats. Notable among the remaining challenges is the issue of enforcement. At the federal level, APHIS does not have sufficient staff or resources to monitor effectively private owners of exotic species like tigers. The primary mission of APHIS is focused on agriculture, and adding funding for additional inspectors and resources to address private ownership of tigers and large cats is unlikely to become a priority.

Compounding this issue, APHIS only enforces what it terms “minimum standards” that are poorly defined, open to conflicting interpretations of compliance, and are generally regarded by accredited AZA member institutions, accredited sanctuaries,⁴⁶ and responsible members within the private sector as insufficient, if not unacceptable.

Few, if any, state or local governments have the funds or staff to monitor adequately commercial exhibitors of exotic species. A recent report by the Humane Society of the United States⁴⁷ describes Missouri, Nevada, North Carolina, Ohio, and Oklahoma as the “worst in the nation” regarding policies on keeping dangerous wild animals as pets. Even when apparently strict legislation is in place, significant loopholes remain that enable individuals to continue to own large cats. Some sanctuaries or wildlife rehabilitators may claim their operations are in line with guidelines and regulations when in fact they are not in compliance. This is possible because there is uncertainty in how individuals and organizations are defined which makes it difficult to differentiate between credible sanctuaries—those that do not breed, buy, sell, trade or use animals commercially—and “pseudo-sanctuaries”—those that exploit and abuse animals for

⁴⁶ QUIST, *supra* note 39.

⁴⁷ See *The Humane Society of the United States Names Five Worst States for Exotic Pets*, (March 18, 2009), available at http://www.hsus.org/press_and_publications/press_releases/worst_exotic_pet_states_031809.html.

profit.⁴⁸ It also is possible to obtain a permit to exhibit commercially but essentially to function as a private owner.

The diversity of regulations among and even within states has led to renewed calls for Congress to develop more coherent legislation to restrict interstate transport of tigers and large cats to make private ownership more accountable. These initiatives are also framed by the growing awareness within the international tiger conservation community that efforts to condemn the thousands of tigers in “tiger farms” in the People’s Republic of China are constrained when a similar number of tigers exist here in the U.S. One concern is that the U.S domestic tiger population ultimately could be used to fuel the trade in tiger bone for traditional Asian medicines.⁴⁹

Several approaches could be used to make private owners more accountable. Under the AWA, Congress could make the procedure to obtain licenses or permits from APHIS more restrictive and expensive. APHIS could decide to issue licenses and permits only in ratio to the number of their inspectors and limits of their budget. They also could decide to revoke the licenses of facilities with repeated violations. To accomplish this, APHIS and FWS, in conjunction with state and local governments, would need to develop a national system for tracking and monitoring the number and ownership of tigers and other large cats.⁵⁰ A formidable undertaking that illegal traffickers would try to avoid. At present, there is no reliable comprehensive database of large cats in private ownership. Without knowing how many tigers and other *felids* are in the U.S., it is difficult to monitor compliance and to adjust policies designed to regulate large cat owners.

What is clear from this review is that we have a multitude of laws, regulations, and ordinances in place, but no coherent federal policy to eliminate irresponsible ownership of large cats. At the federal level the ESA appears to have effectively eliminated the unpermitted importation and exportation of tigers into and out of

⁴⁸ QUIST, *supra* note 39.

⁴⁹ DOUGLAS F. WILLIAMSON & LEIGH A. HENRY, PAPER TIGERS?: THE ROLE OF THE U.S. CAPTIVE TIGER POPULATION IN THE TRADE IN TIGER PARTS (TRAFFIC North America, World Wildlife Fund 2008).

⁵⁰ *Id.*

the U.S., but at the state level, individuals who desire to own tigers and other large cats have found clever ways to circumvent APHIS' minimal standards and many state and local regulations. Other owners just acquire young tigers from other states, often paying for them with cash, and expect to remain unnoticed in rural locations. Too often this strategy works. Irresponsible private ownership of tigers or other large cats will not end until loopholes are closed, exemptions within statutes are redefined, the laws are enforced consistently, violators are prosecuted, and the public is educated.

There is a need to halt the ever-increasing number of tigers and other large, dangerous *felids* in the private sector, but also to recognize the cost in time, staff, and funds that would be necessary to further monitor compliance and to target a class of tiger owners who may care little about existing laws in the first place. We conclude that one solution is to prohibit the "breeding" of large cats except by permitted captive breeding programs. Legitimate sanctuaries already embrace this concept⁵¹ as does the AZA. In 2009, the AZA Board of Directors updated its definition of full participation in Species Survival Plans (SSP). This led to the initiation of a process that aims to reduce, over time, the number of generic tigers (currently, 141) held in AZA Institutional and Related Member facilities by adopting the policy that AZA-accredited institutions should not breed, acquire, or transfer generic tigers unless otherwise approved. In the short term, this will curtail the breeding of generic tigers, especially abnormal color morphs, and thus provide more space for SSP-managed individuals in AZA-accredited zoos.

The ultimate challenge is not how to prohibit private ownership of large cats completely, but how to restrict private ownership to responsible owners who provide humane care of their animals, do not breed and traffic in their offspring, support meaningful education and *in situ* and *ex situ* tiger conservation programs, and willingly comply with existing laws and regulations. If such restrictions can be put into place, the privately held population of generic tigers can only decrease.

⁵¹ QUIST, *supra* note 39.

FIGURE 1. Growth in number of states that have enacted laws that ban, require licenses or permits, or regulate tigers in the U.S. The gray line represents the number of states with no regulation.

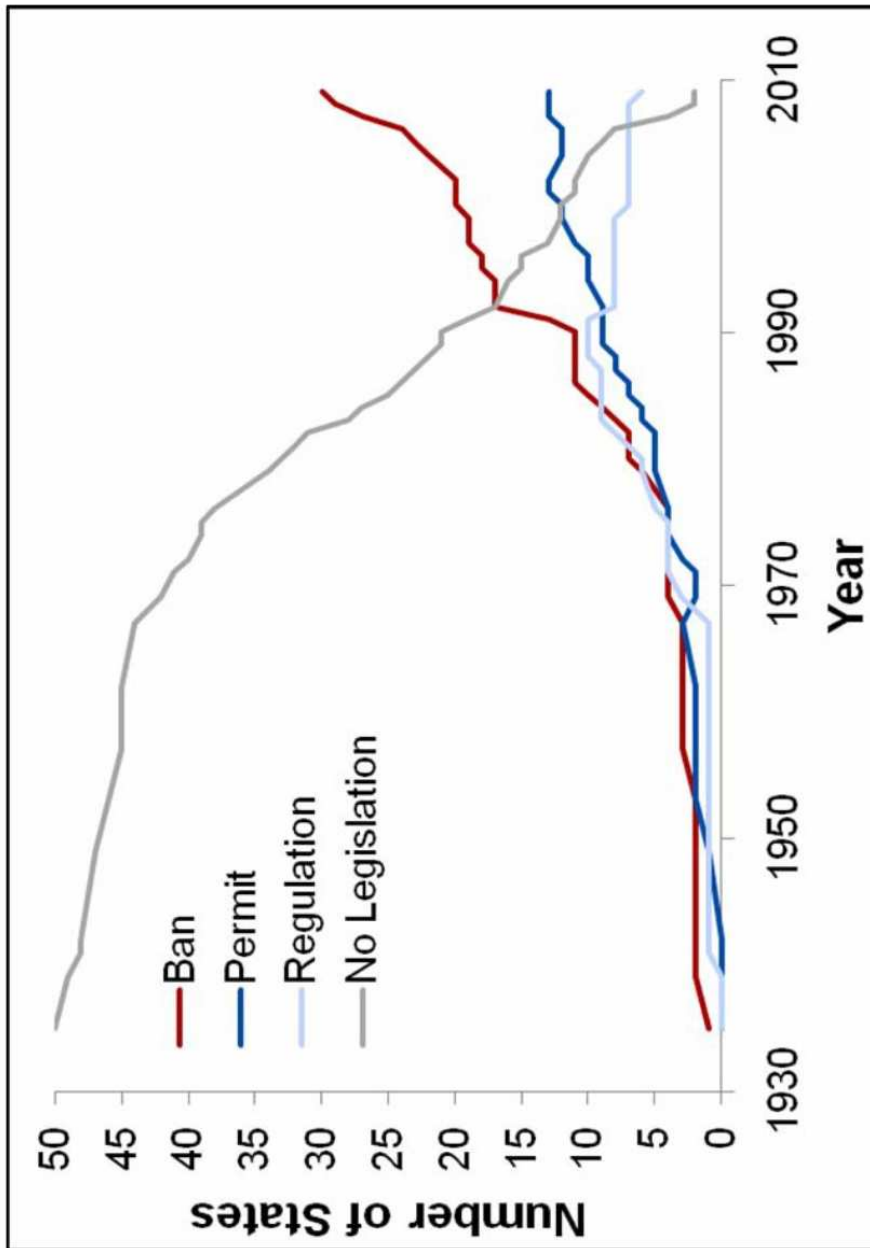
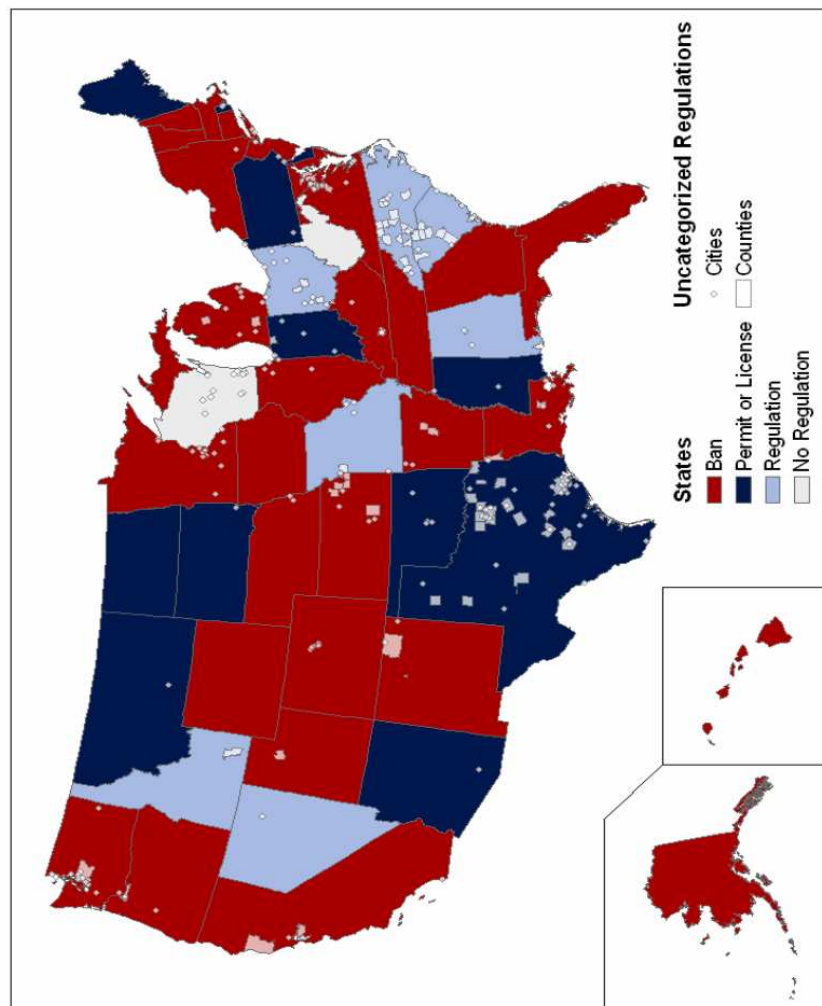
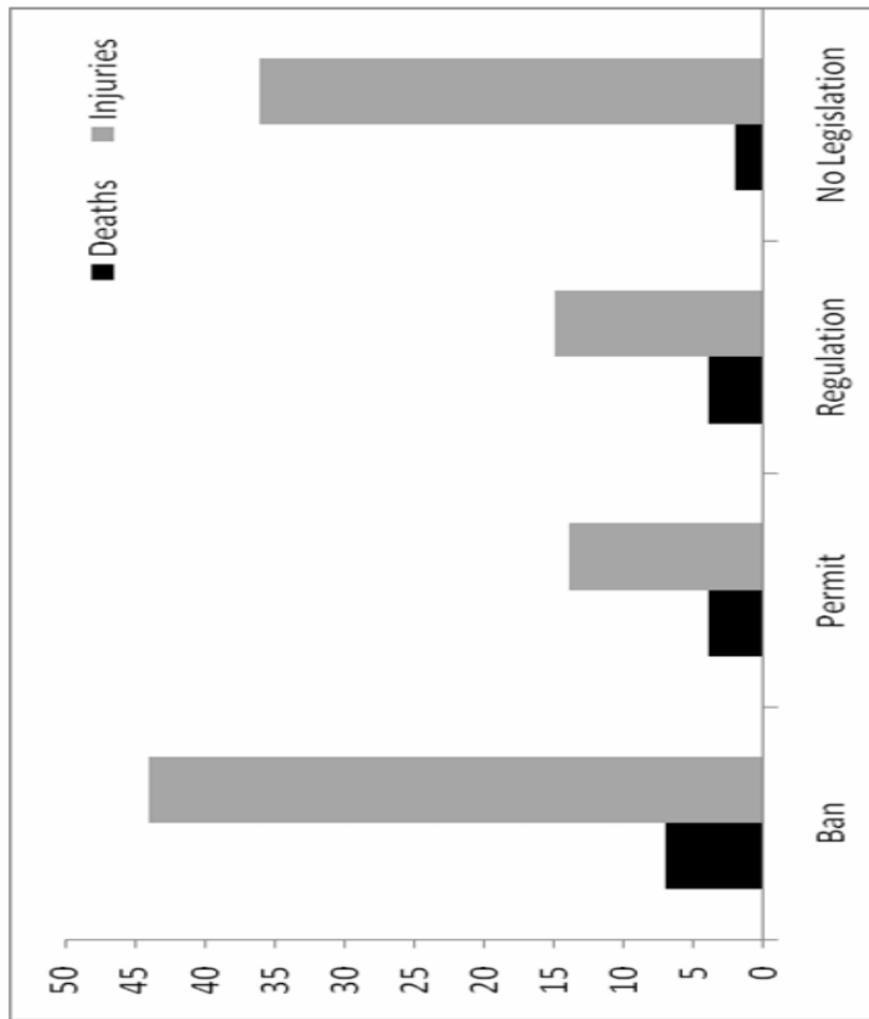


FIGURE 2. Distribution of states that have enacted laws that ban, require licenses or permits, or otherwise regulate tigers in the US. Original data from Born Free USA United with the Animal Protection Institute⁵² and further updated and modified to represent legislation pertaining to tigers in July 2009.



⁵² See BORN FREE USA, *Summary of State Laws Relating to Private Possession of Exotic Animals*, (2009) http://www.bornfreeusa.org/b4a2_exotic_animals_summary.php.

FIGURE 3. Comparison of number of people killed and injured by tigers between 1996 and 2008 in the U.S. by states that have enacted bans, require licenses or permits, regulations, or have no legislation. Incidents were tallied based on the date of the attack and the status of laws at that time, not the current status of laws in that state. Original tiger attack data published and updated July 2009.⁵³



⁵³ NYHUS, *supra* note 5.



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