

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H3/27/13

A Bill

HOUSE BILL 1391

5 By: Representative Sabin
6

For An Act To Be Entitled

8 *AN ACT TO PROHIBIT THE IMPORT, POSSESSION, SALE, AND*
9 *BREEDING OF APES, MACAQUES, AND BABOONS, EXCEPT BY*
10 *QUALIFIED FACILITIES; TO REQUIRE REGISTRATION OF ALL*
11 *PRIMATES; TO PROTECT PUBLIC SAFETY AND PROHIBIT*
12 *MISTREATMENT OF PRIMATES; AND FOR OTHER PURPOSES.*

Subtitle

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16 *TO PROHIBIT THE IMPORT, POSSESSION, SALE,*
17 *AND BREEDING OF APES, MACAQUES, AND*
18 *BABOONS, EXCEPT BY QUALIFIED FACILITIES;*
19 *TO REQUIRE REGISTRATION OF ALL PRIMATE;*
20 *AND PROTECT PUBLIC SAFETY AND PROHIBIT*
21 *MISTREATMENT OF PRIMATES.*

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23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code Title 20, Chapter 19, is amended to add an
27 additional subchapter to read as follows:

28 Subchapter 6 – Nonhuman Primates

29
30 20-19-601. Definitions.

31 As used in this subchapter:

32 (1) "Interested person" means an individual, partnership, firm,
33 joint stock company, corporation, association, trust, estate, or other legal
34 entity that a court determines may have a pecuniary interest in a primate
35 that is the subject of the petition under § 20-19-607;

36 (2) "Law enforcement officer" means a public servant vested by



1 law with a duty to maintain public order or to make an arrest for an offense,
2 including without limitation:

3 (A) An animal control officer; and

4 (B) An Arkansas State Game and Fish Commission Wildlife
5 Officer;

6 (3) "Person" means an individual, a partnership, a corporation,
7 an organization, or another legal entity or an officer, a member, a
8 shareholder, a director, an employee, an agent, or a representative of a
9 partnership, a corporation, an organization, or another legal entity;

10 (4) "Primate" means a live individual animal of the taxonomic
11 order Primates, excluding humans; and

12 (5)(A) "Temporary holding facility" means an incorporated
13 nonprofit animal protection organization, such as a registered humane society
14 and shelter, that temporarily houses a primate at the written request of a
15 law enforcement officer.

16 (B) "Temporary holding facility" includes a person who is
17 a registered primate owner who is temporarily caring for a primate; and

18 (6) "Wildlife sanctuary" means a nonprofit entity that:

19 (A) Operates a place of refuge where abused, neglected,
20 unwanted, impounded, abandoned, orphaned, or displaced animals are provided
21 care;

22 (B) Does not conduct a commercial activity with respect to
23 primates, including without limitation:

24 (i) Sale, trade, auction, lease, or loan of primates
25 or parts of primates; or

26 (ii) Use of primates in a for-profit business or
27 operation;

28 (C) Does not use primates for entertainment purposes or in
29 a traveling exhibit;

30 (D) Does not breed primates; and

31 (E) Does not allow members of the public to be in
32 proximity to primates without sufficient distance and protective barriers,
33 including without limitation offering photographic opportunities next to a
34 primate of any age.

35
36 20-19-602. Prohibited activities.

1 (a) A person shall not import, possess, sell, or breed the
2 following primates:

3 (1) An ape;

4 (2) A baboon; or

5 (3) A macaque.

6 (b)(1)(A) It is unlawful for a person to allow a member of the public
7 to come into direct contact with a primate.

8 (B) Subdivision (b)(1)(A) of this section does not apply
9 to a registered primate owner, the family of a registered primate owner, an
10 invited guest of a registered primate owner.

11 (2) If a primate potentially exposes a human to rabies or
12 another zoonotic disease by penetration or abrasion of the skin, the owner of
13 the primate shall report the potential exposure to the local public health
14 office within twenty-four (24) hours.

15 (c)(1) It is unlawful for a person to tether a primate outdoors, such
16 as on a leash or chain, or to allow a primate to run at-large.

17 (2) If a primate escapes or is released, the owner of the
18 primate immediately shall contact a law enforcement officer in the county in
19 which the primate is kept and the Arkansas State Game and Fish Commission to
20 report the loss, escape, or release.

21 (3) The owner of a primate that escapes or is released is liable
22 for all expenses associated with efforts to recapture the primate.

23 (d) It is unlawful to violate the caging and care standards in this
24 subchapter or to keep a primate in a manner that threatens animal welfare or
25 public safety.

26 (e) It is unlawful to operate a primate commercial breeding facility
27 in this state.

28
29 20-19-603. Exemptions.

30 (a) Subdivisions 20-19-302(a),(c), and (d) and § 20-19-605 do not apply
31 to:

32 (1) An institution accredited by the Association of Zoos and
33 Aquariums or a certified related facility that coordinates with an
34 Association of Zoos and Aquariums Species Survival Plan for breeding of
35 species listed as threatened or endangered under 16 U.S.C. § 1533, as it
36 existed on January 1, 2013;

1 (2) A research facility as defined in the Animal Welfare Act, 7
2 U.S.C. § 2132(e), as it existed on January 1, 2013;

3 (3) A wildlife sanctuary;

4 (4) A temporary holding facility;

5 (5) A licensed veterinarian for the purpose of providing
6 treatment to a primate;

7 (6) A law enforcement officer for purposes of enforcement or
8 investigation;

9 (7) A circus defined as an exhibitor holding a Class C license
10 under the Animal Welfare Act, 7 U.S.C. §§ 2131 et seq., as it existed on
11 January 1, 2013, that:

12 (A) Is in the state for less than ninety (90) days per
13 year;

14 (B) Regularly conducts performances featuring live,
15 dangerous, wild animals and multiple trained human entertainers, including
16 clowns and acrobats; and

17 (C) Does not allow a member of the public to be in
18 proximity to a dangerous, wild animal without sufficient distance and
19 protective barriers, including without limitation offering photographic
20 opportunities next to a dangerous, wild animal;

21 (8)(A) A person temporarily transporting a legally owned
22 primate, including an ape, macaque, or baboon, through this state if:

23 (i) The transit time is not more than ten (10) days;
24 and

25 (ii) The primate, including an ape, macaque, or
26 baboon, is not exhibited.

27 (B)(i) A transporter exempted under subdivision (8)(A) of
28 this section shall provide notice of the transport to the Arkansas State Game
29 and Fish Commission before entering the state, identifying the number and
30 type of primate, including an ape, macaque, or baboon, that will be
31 transported.

32 (ii) The notification required under subdivision
33 (8)(B)(i) of this section is in addition to a veterinary certificate or other
34 permit required by state, local, or federal law.

35 (iii) The transporter has complied with all state
36 and federal regulations regarding the transport; or

1 (9) A person who is temporarily transporting a legally owned
2 primate under § 20-19-604.

3 (b) However, a registered primate owner, including an ape, macaque, or
4 baboon owner may transfer a registered primate, including an ape, macaque, or
5 baboon.

6
7 20-19-604. Prior possession.

8 A person eighteen (18) years of age or older may continue to lawfully
9 possess a primate, including an ape, macaque, or baboon, if within one
10 hundred eighty (180) days after the effective date of this subchapter the
11 primate, including an ape, macaque, or baboon is registered under § 20-19-605
12 and if:

13 (1) The person maintains veterinary records, acquisition papers,
14 or other documents or records that establish that the person possessed the
15 primate, including an ape, macaque, or baboon, before the effective date of
16 this subchapter;

17 (2) The person does not acquire an ape, macaque, or baboon after
18 the effective date of this subchapter by purchase, trade, or breeding;

19 (3) The person has not pleaded guilty or nolo contendere to or
20 been found guilty of an offense involving the abuse or neglect of an animal
21 under a state, local, or federal law;

22 (4) The person is not subject to a court order requiring the
23 forfeiture of a primate;

24 (5) The person has not had a license or permit regarding the
25 care, possession, exhibition, breeding, or sale of an animal revoked or
26 suspended for more than six (6) months by a state, local, or federal
27 authority;

28 (6) The facility and the conditions in which each primate is
29 kept comply with this subchapter;

30 (7) The person does not bring a primate to a commercial or
31 retail establishment, unless it is owned or rented by the registered primate
32 owner, or a licensed veterinarian's office, an educational facility, a
33 facility rented for the sole purpose of education, or a hotel/motel where the
34 primate would not have direct contact with the public; or

35 (8) The person has an identification number placed in the
36 primate via subcutaneous microchip, at the expense of the owner, unless a

1 veterinarian determines the implantation would be harmful to the primate's
2 well-being.

3
4 20-19-605. Registration of primates.

5 (a)(1) Within one hundred eighty (180) days after the effective date
6 of this subchapter, a person who currently owns or possesses a primate or who
7 in the future may purchase, import, trade for or otherwise own or possess a
8 primate not prohibited under this subchapter shall submit to the county
9 sheriff of the county in which the person keeps a primate a registration form
10 provided by the sheriff's office.

11 (2)(A) The registration form shall include:

12 (i) The name, address, and telephone number of the
13 registrant;

14 (ii) A description of each primate, including the
15 scientific classification, name, gender, age, color, weight, and
16 distinguishing marks;

17 (iii) A photograph of the primate and the enclosure
18 in which the primate is kept with measurements to show compliance with this
19 subchapter;

20 (iv) The location at which the primate is kept;

21 (v) The name, address, and telephone number of the
22 person from whom the registrant obtained the primate, if known; and

23 (vi) A written statement giving the name and address
24 of the veterinarian who provides veterinary care to the primate, signed by
25 the veterinarian; and

26 (B) The registrant shall submit with the registration form
27 a one-time registration fee of fifty dollars (\$50.00) for the initial
28 registration and a fee of ten dollars (\$10.00) for each additional
29 registration to be deposited into the county treasury, which the county
30 sheriff's department shall use to offset the cost of issuing registration for
31 possession of a primate and for costs involved in controlling primates
32 located within the county.

33 (3) The county sheriff's office shall notify the Arkansas State
34 Game and Fish Commission of each registration received by the county
35 sheriff's office.

36 (b) The person shall notify the county sheriff's office of any changes

1 in the information provided on the registration form, including the death or
2 transfer of the primate.

3
4 20-19-606. Facility and care requirements.

5 (a) A person possessing a primate shall maintain the primate in an
6 enclosure that meets or exceeds the minimum standards set forth by the United
7 States Department of Agriculture under the Animal Welfare Act, 7 U.S.C. §
8 2132(e), as it existed on January 1, 2013, for each species of primate.

9 (b) A person possessing a primate shall comply with the minimum
10 standards of care set forth by the United States Department of Agriculture
11 under the Animal Welfare Act, 7 U.S.C. § 2132(e), as it existed on January 1,
12 2013.

13
14 20-19-607. Enforcement.

15 (a) Upon probable cause, a law enforcement officer may, seize a
16 primate possessed or kept in violation of this subchapter.

17 (b) A primate seized under this section is forfeited upon a judicial
18 determination that:

19 (1) The seized animal is a primate; and

20 (2) The owner of the seized primate has violated this subchapter
21 with regard to the seized primate.

22 (c)(1) A primate seized and forfeited under this section shall be
23 placed in the custody and control of a registered primate owner if possible.

24 (2) If placement is not possible under subdivision (c)(1) of
25 this section, a primate seized and forfeited under this section shall be
26 placed in the custody and control of a zoo accredited by the Association of
27 Zoos and Aquariums or a wildlife sanctuary.

28 (d)(1) A primate seized but not forfeited under this section shall be
29 impounded or quarantined at the home of a registered primate owner if
30 possible.

31 (2) If impoundment and quarantine under subdivision (d)(1) of
32 this section is not possible, a primate seized but not forfeited under this
33 section shall be kept in the custody of an institution accredited by the
34 Association of Zoos and Aquariums, a wildlife sanctuary, or a temporary
35 holding facility under § 20-19-603 until disposition of the seized primate.

36 (e)(1) A zoo, wildlife sanctuary, or temporary holding facility having

1 custody of a primate under this section may file a petition with the court
2 requesting that the person from whom the primate was seized or the owner of
3 the primate be ordered to post security.

4 (2)(A) Security ordered under subdivision (e)(1) of this section
5 shall be in an amount sufficient to secure payment of all reasonable expenses
6 expected to be incurred by the zoo, the wildlife sanctuary, or the temporary
7 holding facility in caring for and providing for the primate pending the
8 disposition of the primate.

9 (B) Reasonable expenses under subdivision (e)(2)(A) of
10 this section include without limitation, estimated medical care and boarding
11 of the primate before disposition.

12 (C) The amount of the security under subdivision (e)(2)(A)
13 of this section shall be determined by the court after taking into
14 consideration the facts and circumstances of the case, including without
15 limitation the recommendation of the organization having custody and care of
16 the seized primate and the cost of caring for the primate.

17 (D) If security under subdivision (e)(2)(A) of this
18 section has been posted, the zoo, the wildlife sanctuary, a registered
19 primate owner, or, or the temporary holding facility may draw from the
20 security the actual costs incurred in caring for the seized primate.

21 (3)(A) Upon receipt of a petition the court shall set a hearing
22 on the petition to be conducted within five (5) business days after the
23 petition is filed.

24 (B) The petitioner shall serve a copy of the petition on
25 the owner of the primate and the law enforcement entity that seized the
26 primate.

27 (C) The petitioner also shall serve a copy of the petition
28 on any interested person.

29 (D) If the court orders the posting of security under this
30 section; the person ordered to do so shall post the security with the clerk
31 of the court within five (5) business days after the hearing.

32 (E) Upon judicial determination on the disposition of the
33 seized primate, a person who posted the security under this section is
34 entitled to a refund of the security for any expenses not incurred by the
35 impounding organization.

36 (f) Voluntary relinquishment does not affect criminal charges that may

1 be pursued by the appropriate authorities.

2
3 20-19-608. Penalty.

4 A violation of this subchapter is a Class A misdemeanor.

5
6 20-19-609. Additional local restrictions authorized.

7 *This subchapter does not preempt the authority of a city, town, or*
8 *county.*

9 20-19-610. Rules.

10 (a) The Arkansas State Game and Fish Commission may adopt rules to
11 implement this subchapter.

12 (b) A rule adopted under this subchapter shall not add to the list of
13 *exempt entities or species of primates or impose additional fees or insurance*
14 *requirements.*

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