

1 State of Arkansas *As Engrossed: H3/27/13 H4/1/13 S4/5/13*

2 89th General Assembly

# A Bill

3 Regular Session, 2013

HOUSE BILL 1391

4

5 By: Representative Sabin

6 By: Senator J. Woods

7

8

## For An Act To Be Entitled

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

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## Subtitle

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

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### Subchapter 6 – Nonhuman Primates

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#### 20-19-601. Definitions.

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#### As used in this subchapter:

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



1           (2) "Law enforcement officer" means a public servant vested by  
2 law with a duty to maintain public order or to make an arrest for an offense,  
3 including without limitation:

4           (A) An animal control officer; and

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

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

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

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

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

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

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

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

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

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

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

31           (D) Does not breed primates; and

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

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1           20-19-602. Prohibited activities.

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

4           (1) An ape;

5           (2) A baboon; or

6           (3) A macaque.

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

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

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

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

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

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

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

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

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30           20-19-603. Exemptions.

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

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

1 existed on January 1, 2013;

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

4 (3) A wildlife sanctuary;

5 (4) A temporary holding facility;

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

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

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

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

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

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

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

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

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

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

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

36 (iii) The transporter has complied with all state

1 and federal regulations regarding the transport; or

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

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

7  
8 20-19-604. Prior possession.

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

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

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

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

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

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

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

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

36 (8) The person has an identification number placed in the

1 primate via subcutaneous microchip, at the expense of the owner, unless a  
2 veterinarian determines the implantation would be harmful to the primate's  
3 well-being.

4  
5 20-19-605. Registration of primates.

6 (a)(1)(A) Within one hundred eighty (180) days after the effective  
7 date of this subchapter, a person who currently owns or possesses a primate  
8 shall submit to the county sheriff of the county in which the person keeps a  
9 primate a registration form provided by the sheriff's office.

10 (B) A person who in the future may purchase, import, trade  
11 for, or otherwise own or possess a primate not prohibited under this  
12 subchapter shall within thirty (30) days after acquisition of the primate  
13 submit to the county sheriff of the county in which the person keeps the  
14 primate a registration form provided by the sheriff's office.

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

16 (i) The name, address, and telephone number of the  
17 registrant;

18 (ii) A description of each primate, including the  
19 scientific classification, name, gender, age, color, weight, and  
20 distinguishing marks;

21 (iii) A photograph of the primate and the enclosure  
22 in which the primate is kept with measurements to show compliance with this  
23 subchapter;

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

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

27 (vi) A written statement giving the name and address  
28 of the veterinarian who provides veterinary care to the primate, signed by  
29 the veterinarian; and

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

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

4           (b) The person shall notify the county sheriff's office of any changes  
5 in the information provided on the registration form, including the death or  
6 transfer of the primate.

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8           20-19-606. Facility and care requirements.

9           (a) A person possessing a primate shall maintain the primate in an  
10 enclosure that meets or exceeds the minimum standards set forth by the United  
11 States Department of Agriculture under the Animal Welfare Act, 7 U.S.C. §  
12 2132(e), as it existed on January 1, 2013, for each species of primate.

13           (b) A person possessing a primate shall comply with the minimum  
14 standards of care set forth by the United States Department of Agriculture  
15 under the Animal Welfare Act, 7 U.S.C. § 2132(e), as it existed on January 1,  
16 2013.

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18           20-19-607. Enforcement.

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

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

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

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

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

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

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

35                   (2) If impoundment and quarantine under subdivision (d)(1) of  
36 this section is not possible, a primate seized but not forfeited under this

1 section shall be kept in the custody of an institution accredited by the  
2 Association of Zoos and Aquariums, a wildlife sanctuary, or a temporary  
3 holding facility under § 20-19-603 until disposition of the seized primate.

4 (e)(1) A zoo, wildlife sanctuary, or temporary holding facility having  
5 custody of a primate under this section may file a petition with the court  
6 requesting that the person from whom the primate was seized or the owner of  
7 the primate be ordered to post security.

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

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

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

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

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

28 (B) The petitioner shall serve a copy of the petition on  
29 the owner of the primate and the law enforcement entity that seized the  
30 primate.

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

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

36 (E) Upon judicial determination on the disposition of the



1 seized primate, a person who posted the security under this section is  
2 entitled to a refund of the security for any expenses not incurred by the  
3 impounding organization.

4 (f) Voluntary relinquishment does not affect criminal charges that may  
5 be pursued by the appropriate authorities.

6  
7 20-19-608. Penalty.

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

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10 20-19-609. Additional local restrictions authorized.

11 This subchapter does not preempt the authority of a city, town, or  
12 county.

13 20-19-610. Rules.

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

16 (b) A rule adopted under this subchapter shall not add to the list of  
17 exempt entities or species of primates or impose additional fees or insurance  
18 requirements.

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