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SENATE BILL NO. 1315

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on February 5, 2015)

(Patron Prior to Substitute—Senator Lewis)

A BILL to amend the Code of Virginia by adding in Chapter 5 of Title 29.1 an article numbered 8, consisting of sections numbered 29.1-578 through 29.1-581, relating to nonhuman primates; penalties.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 5 of Title 29.1 an article numbered 8, consisting of sections numbered 29.1-578 through 29.1-581, as follows:

Article 8.

Primates.

§ 29.1-578. Definitions.

As used in this article, unless the context requires a different meaning:

"Circus" means an exhibitor that holds a valid Class "C" license issued under the Animal Welfare Act (7 U.S.C. § 2131 et seq.), has no permanent animal facilities in Virginia, and regularly conducts performances featuring live animals and multiple trained human entertainers, including clowns and acrobats.

"Officer" means any state or local police officer, conservation police officer as defined in § 9.1-101, animal control officer as defined in § 3.2-6555, humane investigator as defined in § 3.2-6558, or public prosecutor.

"Person" means any individual, partnership, corporation, organization, or other legal entity and any officer, member, shareholder, director, employee, agent, or representative thereof.

"Primate" means any species of the taxonomic order Primates, except humans.

"Primate sanctuary" means a nonprofit entity that (i) operates a place of refuge where an abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced animal is provided care for its lifetime; (ii) does not conduct any commercial activity with respect to primates, including the (a) sale, trade, auction, lease, or loan of primates or parts of primates and (b) use of primates in any manner in a for-profit business or operation; (iii) does not use primates for entertainment purposes or in a traveling exhibit; and (iv) does not breed any primates.

§ 29.1-579. Prohibitions; exceptions; regulations.

A. No person shall possess, sell, transfer, or breed a primate.

B. The prohibitions of subsection A shall not apply to:

1. A properly-maintained zoological park that is open to the public and is owned by a locality, the Commonwealth, or a private owner.

2. A research facility as defined in the Animal Welfare Act, 7 U.S.C. § 2131 et seq.; a circus or primate sanctuary as defined in § 29.1-578; a duly-incorporated nonprofit animal protection organization housing a primate temporarily at the written request of an officer acting pursuant to the provisions of § 29.1-580; a licensed veterinary hospital providing treatment to a primate; or an officer enforcing the provisions of this chapter.

3. A person temporarily transporting a legally owned primate through the Commonwealth if the transit time is not more than 24 hours, the primate is not exhibited, and the primate is maintained at all times in a species-appropriate cage or travel container. Such a transporter shall provide notice of the transport to the Department at least 72 hours prior to entering the Commonwealth, identifying the number and type of primate that will be transported, in addition to obtaining any veterinary certificate or other permits required by local, state, or federal law.

4. A person who lawfully possessed a primate prior to July 1, 2015, if the person (i) maintains veterinary records, acquisition papers, or other documents or records establishing that the person possessed the animal prior to July 1, 2015; (ii) acquires no additional primate on or after July 1, 2015, whether by purchase, donation, or breeding; (iii) has not been convicted of any offense involving the abuse or neglect of an animal pursuant to any local, state, or federal law; (iv) has not had a license or permit regarding the care, possession, exhibition, breeding, or sale of animals revoked or suspended by any local, state, or federal agency; (v) registers with, and pays a registration fee to, the Department by September 1, 2015, and annually thereafter, indicating the number of animals of each primate species in his possession; and (vi) notifies the Department at least 72 hours prior to sale or transfer of an existing primate, identifying the purchaser or transferee of the animal.

5. A person who receives a primate as a result of the death of a person possessing a primate pursuant to subdivision 4, if the new owner complies with the requirements of subdivision 4.

60 6. A person who possesses a valid exhibitor's license issued by the U.S. Department of Agriculture or
61 a valid exhibition permit issued by the Department of Game and Inland Fisheries.

62 C. The Board shall adopt regulations to implement the provisions of this article, including
63 regulations establishing registration fees on a sliding scale depending on the number of primates a
64 person possesses.

65 **§ 29.1-580. Seizure of a primate.**

66 A. An officer shall, after obtaining a warrant from any judge or magistrate upon probable cause,
67 seize or cause to be seized any primate possessed, sold, transferred, bred, or exhibited in violation of
68 this article. Such primate shall be immediately placed in the custody and control of a primate sanctuary,
69 a duly incorporated nonprofit animal protection organization housing a primate temporarily at the
70 written request of an officer acting pursuant to the provisions of this article, or a properly-maintained
71 zoological park that is open to the public and is owned by a locality, the Commonwealth, or a private
72 owner. If there is no immediate threat to public safety or animal welfare, an officer shall impound the
73 primate in place.

74 B. Upon seizing or impounding a primate, an officer shall petition the general district court in the
75 locality where the primate was seized or impounded for a hearing to determine whether the primate was
76 in fact possessed, sold, transferred, bred, or exhibited in violation of this article. The hearing shall be
77 held not more than 10 days from the date of the seizure or impoundment, and the officer shall provide
78 written notice of the hearing at least five days prior to the hearing to the person from whom the primate
79 was seized or impounded.

80 C. Upon judicial determination of a violation of any provision of this section, the seized or
81 impounded primate shall be deemed forfeited and the court shall order the violator to pay all
82 reasonable expenses incurred in caring for the primate, from the time the primate is seized until the
83 time such primate is forfeited, to the zoological park, primate sanctuary, or temporary holding facility in
84 possession of the primate. The court may also prohibit the possession or ownership of primates or other
85 nonnative wild animals by the person found to have violated this section.

86 D. A forfeited primate shall be transferred to an institution that is willing and able to take custody of
87 the forfeited primate. Such institution shall be a primate sanctuary or a properly-maintained zoological
88 park that is open to the public and is owned by a locality, the Commonwealth, or a private owner.
89 Nothing in this article shall be construed to prevent officers from humanely euthanizing a primate in
90 compliance with state and federal law if, after reasonable efforts, no such institution is willing and able
91 to provide long-term care for the primate.

92 E. Nothing in this article shall be construed to prevent the voluntary, permanent relinquishment of
93 any primate by its owner to a person legally able to possess the primate and willing and able to take
94 possession. Voluntary relinquishment shall have no effect on any criminal charges for violations of this
95 article.

96 F. Any primate found to be not properly confined, whether on the property of the owner or running
97 at large, may be humanely destroyed by officers in order to protect public safety. The owner of such
98 primate shall be liable for costs accrued to officers in humanely destroying or otherwise securing any
99 such primate.

100 **§ 29.1-581. Penalties; private action; article not exclusive of local ordinance.**

101 Any person who violates any provision of this article or any regulation adopted thereunder is guilty
102 of a Class 1 misdemeanor, and any person convicted of such a violation shall be subject to a fine of not
103 more than \$2,500 and confinement in jail for not more than 12 months, either or both.