

25102014D

HOUSE BILL NO. 1768

Offered January 13, 2025

Prefiled January 5, 2025

A BILL to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 66, consisting of sections numbered 3.2-6600 through 3.2-6605, relating to possession, sale, transfer, or breeding of nonhuman primates prohibited; penalties.

Patron—Martinez

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 3.2 a chapter numbered 66, consisting of sections numbered 3.2-6600 through 3.2-6605, as follows:

CHAPTER 66. PRIMATES.

§ 3.2-6600. Definitions.

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

"Animal control authority" means an entity acting alone or with another unit of a locality for enforcement of state or local animal control laws and the shelter and welfare of animals, including any animal control officer or deputy animal control officer pursuant to § 3.2-6555.

"Law-enforcement officer" means any person who is employed within the state or a local police department and responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth or force of any locality, including the sheriff's department of any locality. "Law-enforcement officer" also includes animal control officers pursuant to § 3.2-6555, humane investigators pursuant to § 3.2-6558, or a prosecutor of the Commonwealth.

"Locality" means any county, city, town, or political subdivision thereof in the Commonwealth.

"Primate" means any nonhuman species of the taxonomic order Primates.

"Primate sanctuary" means a nonprofit entity that (i) operates a place of refuge where abused, neglected, unwanted, impounded, orphaned, or displaced animals are provided care for the lifetime of such animals; (ii) does not conduct any commercial activity involving primates, including the (a) sale, trade, auction, lease, or loan of primates or parts of primates or (b) use of primates in any manner in a for-profit business or operation; (iii) does not allow direct contact between the general public and primates; (iv) does not use primates for any entertainment purposes, such as a traveling exhibit; and (v) does not breed any primates.

§ 3.2-6601. Possession, sale, transfer, or breeding of primates prohibited.

It is unlawful for any person to possess, sell, transfer, or breed a primate unless such person qualifies for an exception under § 3.2-6602.

§ 3.2-6602. Exceptions.

A. The provisions of § 3.2-6601 shall not apply to:

1. Research facilities, as defined in the federal Animal Welfare Act, 7 U.S.C. § 2132 (e);

2. Primate sanctuaries;

3. Public animal shelters or duly incorporated nonprofit animal protection organizations, including humane societies and shelters, temporarily housing a primate at the written request of a law-enforcement officer acting under the authority of this chapter;

4. Licensed veterinary hospitals providing treatment to a primate;

5. Law-enforcement officers acting in the performance of their official duties;

6. A zoological park or circus that holds a Class C exhibitor license in good standing prior to July 1, 2026, provided that such park or circus (i) has not been, and has not employed any person who has been, convicted of or fined for an offense involving the abuse or neglect of any animal pursuant to any federal, state, or local laws; (ii) has not had its license or permit revoked or suspended regarding the care, possession, exhibition, propagation, or sale of any animal by any federal, state, or local agency, and has not received any official warning letter, or entered into any stipulations, consent decrees, or settlements with the U.S. Department of Agriculture (USDA) within the past three years and shall disclose any known pending investigations that are being conducted by the USDA; (iii) has not been cited by the USDA under the federal Animal Welfare Act, 7 U.S.C. § 2131 et seq., for any noncompliant item within the past three years for any violation for a failure to allow a facility inspection or interference with a facility inspection; (iv) maintains liability insurance that is equal to or greater than \$250,000, with a deductible of not more than \$250 for each occurrence of property damage, bodily injury, or death caused by any primate possessed by the circus or zoological park; and (v) has a written plan, filed with the local animal control authority, for the quick and

59 *safe recapture of any primate that escapes, including written protocols for training staff on methods of safe*  
 60 *recapture of such primate;*

61 7. A person temporarily transporting a primate who has a right of property in such primate through the  
 62 Commonwealth, provided such primate is transferred within 24 hours, is not displayed as an exhibit to the  
 63 general public, and is housed at all times in a cage or travel container that is appropriate for its species;

64 8. A person who lawfully possesses a primate prior to July 1, 2026, provided that such person:

65 a. Has maintained veterinary records, acquisition papers, or other related documents showing proof of  
 66 ownership or control of the primate prior to July 1, 2026;

67 b. Does not acquire additional primates after July 1, 2026, whether by purchase, donation, or breeding;

68 c. Has not been convicted of violating any federal or state law or local ordinance involving the abuse or  
 69 neglect of any animal;

70 d. Has not had a license or permit regarding the care, possession, exhibition, breeding, or sale of animals  
 71 revoked or suspended by any federal, state, or local agency;

72 e. Has maintained a plan to implement escape, succession, and disaster plans and a current animal  
 73 inventory, to be made available to a law-enforcement officer upon request;

74 f. Has registered with, and has paid a registration fee to, the local animal control authority by September  
 75 1, 2026, and annually thereafter, providing (i) the number of animals of each primate species in his  
 76 possession and (ii) proof of liability insurance in an amount equal to or greater than \$250,000, with a  
 77 deductible of not more than \$250 for each occurrence of property damage, bodily injury, or death caused by  
 78 any primate possessed by such person; and

79 g. In the event a primate has been sold or transferred, has given 72-hour notice identifying the recipient of  
 80 such primate to the local animal control authority prior to such sale or transfer.

81 B. At all times any possession, sale, transfer, and transport of a primate shall be consistent with any  
 82 applicable federal, state, and local laws.

83 **§ 3.2-6603. Local authority to adopt stringent ordinances.**

84 A locality may, by ordinance, adopt more stringent restrictions, prohibitions, or requirements on the  
 85 possession, sale, transfer, or breeding of primates parallel with the requirements of this article, including  
 86 further restrictions, requirements, or prohibitions on a person exempted under § 3.2-6602 and the  
 87 registration fee paid by such person, provided that the fee is on a sliding scale based on the number of  
 88 primates a person possesses on July 1, 2026, and such fee is collected in accordance with § 3.2-6534.

89 **§ 3.2-6604. Seizure of a primate.**

90 A. For purposes of this section:

91 "Temporary holding facility" means any public animal shelter or duly incorporated nonprofit animal  
 92 protection organization, including humane societies and shelters, temporarily housing a primate at the  
 93 written request of a law-enforcement officer acting under the authority of this chapter.

94 "Zoological park" means a zoological park as described in subdivision A 6 of § 3.2-6602.

95 B. A law-enforcement officer may, after obtaining a warrant from any judge or magistrate upon probable  
 96 cause, seize or cause to be seized any primate possessed, sold, transferred, or bred in violation of this  
 97 chapter. Such primates shall be immediately placed in the custody and control of a primate sanctuary, a  
 98 temporary holding facility, or a zoological park. If there is no immediate threat to public safety or animal  
 99 welfare, a law-enforcement officer may impound the primate in place.

100 C. Upon seizing or impounding a primate pursuant to subsection B, a law-enforcement officer shall  
 101 petition the general district court in the locality in which the primate was seized or impounded for a hearing.  
 102 The hearing shall be held within 10 business days from the date of the seizure or impoundment of the  
 103 primate. The hearing shall be to determine if such primate was possessed, sold, transferred, or bred in  
 104 violation of this chapter. The law-enforcement officer shall cause to be served upon the person from whom  
 105 the primate was seized or impounded a written notice of the hearing at least five days prior to such hearing.

106 D. If the court determines that the primate has been possessed, sold, transferred, or bred in violation of  
 107 this chapter, then the court shall order that (i) the primate be deemed forfeited; (ii) the person from whom the  
 108 primate was seized or impounded pay all reasonable expenses incurred in caring and providing for such  
 109 primate from the time the animal is seized until such time that the primate is transferred to the zoological  
 110 park, primary sanctuary, or temporary holding facility in possession of the primate; and (iii) the primate be  
 111 transferred to a zoological park or a primary sanctuary that is willing and able to take custody of such  
 112 primate. The court may prohibit the possession or ownership of primates or other nonnative exotic animals  
 113 by the person found to have violated the provisions of this chapter. The court may also order that the primate  
 114 be humanely destroyed by a law-enforcement officer for any primate found to not be properly confined to  
 115 protect the safety of the public.

116 E. Nothing in this section shall be construed to:

117 1. Prevent a law-enforcement officer from humanely destroying a primate in compliance with federal and  
 118 state law if, after reasonable efforts, no zoological or a primary sanctuary is willing and able to provide  
 119 long-term care for the primate; and

120 2. Prevent a person with the right of property in a primate from voluntarily relinquishing the primate to a

121 *person who is willing and able to take possession of the primate; however, such voluntary relinquishment*  
122 *shall not be applicable in the case of criminal charges for violations of this chapter.*

123 **§ 3.2-6605. Enforcement; penalties**

124 *A. Any person who violates any provisions of this chapter or any local ordinance adopted pursuant to §*  
125 *3.2-6603 is guilty of a Class 1 misdemeanor.*

126 *B. Any person who has the right of property in or is custodian of the primate, whose willful act or*  
127 *omission in the care, control, or containment of such primate is so gross, wanton, and culpable as to show a*  
128 *reckless disregard for human life, and who is the proximate cause of such animal attacking and causing*  
129 *serious bodily injury to any person is guilty of a Class 6 felony.*

130 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**  
131 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**  
132 **appropriation cannot be determined for periods of imprisonment in state adult correctional facilities;**  
133 **therefore, Chapter 2 of the Acts of Assembly of 2024, Special Session I, requires the Virginia Criminal**  
134 **Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the**  
135 **Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for**  
136 **periods of commitment to the custody of the Department of Juvenile Justice.**

INTRODUCED

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