

FIRST REGULAR SESSION

SENATE BILL NO. 138

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEAVENY.

Read 1st time January 19, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

0048S.06I

AN ACT

To amend chapter 578, RSMo, by adding thereto sixteen new sections relating to private possession of nonhuman primates, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 578, RSMo, is amended by adding thereto sixteen new sections, to be known as sections 578.700, 578.703, 578.706, 578.709, 578.712, 578.715, 578.718, 578.721, 578.724, 578.727, 578.730, 578.733, 578.736, 578.739, 578.742, and 578.745, to read as follows:

578.700. 1. Sections 578.700 to 578.745 shall be known and may be cited as the "Nonhuman Primate Act".

2. As used in sections 578.700 to 578.745, the following terms shall mean:

(1) "Circus", an incorporated, class C licensee that is licensed under Chapter I of Title 9 of the Code of Federal Regulations that is temporarily in this state, and that offers skilled performances by live animals, clowns, and acrobats for public entertainment;

(2) "Department", the Missouri department of agriculture;

(3) "Nonhuman primate", any animal that is nonnative to this state and is a member of the following families, including hybrids thereof, which, due to their inherent nature, may be considered dangerous to humans:

(a) Cercopithecidae (macaques, baboons, guenons, mangabeys, colobus monkeys); and

(b) Homindae (chimpanzees, orangutans, gorillas);

(4) "Person", any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, association, trust, estate, or any other legal

20 entity, and any officer, member, shareholder, director, employee, agent,
21 or representative thereof;

22 (5) "Permit", an original or renewal permit issued by the
23 department under sections 578.700 to 578.745;

24 (6) "Possessor", any person who owns, possesses, keeps, harbors,
25 brings into the state, has in one's possession, acts as a custodian of, or
26 has custody or control of, a nonhuman primate;

27 (7) "Wildlife sanctuary", a nonprofit organization described in
28 Section 170(b)(1)(A)(vi), Internal Revenue Code 1986, and its subsequent
29 amendments, that operates a place of refuge where abused, neglected,
30 unwanted, impounded, abandoned, orphaned, or displaced exotic
31 animals are provided care for their lifetime or are released back to
32 their natural habitat, and with respect to any animal owned by the
33 organization, does not:

34 (a) Conduct any activity that is not inherent to the animal's
35 nature;

36 (b) Use the animal for any type of entertainment;

37 (c) Sell, trade, or barter the animal or the animal's body parts;

38 or

39 (d) Breed the animal for any purpose.

578.703. It shall be unlawful for any person to own, possess, keep,
2 harbor, breed, bring into the state, have in one's possession, act as a
3 custodian, or have custody or control of a nonhuman primate, except
4 in compliance with sections 578.700 to 578.745.

578.706. The provisions of sections 578.700 to 578.745 shall not
2 apply to:

3 (1) Duly incorporated nonprofit animal protection organizations
4 housing a nonhuman primate at the written request of the department;

5 (2) Animal control or law enforcement agencies or officers acting
6 under the authority of sections 578.700 to 578.745;

7 (3) Licensed veterinary hospitals or clinics;

8 (4) Wildlife sanctuaries;

9 (5) Licensed or accredited research or medical institutions;

10 (6) Licensed or accredited educational institutions;

11 (7) Persons temporarily transporting a nonhuman primate
12 through the state if the transit time is not more than seventy-two hours
13 and the animal is at all times maintained within a confinement

14 sufficient to prevent the nonhuman primate from escaping; or

15 (8) A circus.

578.709. 1. A person may not own, possess, keep, harbor, breed,
2 have in one's possession, act as a custodian, or have custody or control
3 of a nonhuman primate unless that person holds a valid permit for that
4 animal.

5 2. A person shall apply for a permit within thirty days of the
6 acquisition of the nonhuman primate unless such person owned or
7 otherwise had the nonhuman primate in his or her possession as of
8 August 28, 2011, in which case such person shall have until sixty days
9 after the promulgation of rules under section 578.739 to apply for a
10 permit.

578.712. 1. To obtain a permit under section 578.709, a person
2 shall submit an application to the department on forms provided by the
3 department. In addition to any other information the department may
4 deem necessary, the application shall require the following:

5 (1) The name, address, telephone number, and date of birth of
6 the applicant;

7 (2) A description of the nonhuman primate possessed by the
8 applicant, including the scientific name, name, sex, age, color, weight,
9 and any distinguishing marks or coloration that would aid in the
10 identification of the animal;

11 (3) The exact location where the nonhuman primate is to be kept;

12 (4) The name, address, and telephone number of the person from
13 whom the applicant obtained the nonhuman primate, if known;

14 (5) The name, address, and telephone number of the veterinarian
15 providing veterinary care to the nonhuman primate and a certificate
16 of good health from the possessor's veterinarian; and

17 (6) Copies of any federally- or internationally-required permits
18 for the nonhuman primate.

19 2. A permit shall be valid for up to five years, and may be
20 renewed. The department shall establish procedures for obtaining a
21 renewal permit.

22 3. A person shall not be eligible to apply for a permit under this
23 section if she or he is under twenty-one years of age.

578.715. 1. The department may establish and charge a separate
2 fee for the original application for and renewal of a permit. The

3 department shall set each fee in an amount to allow the department to
4 recover only up to the reasonable costs of administering and enforcing
5 sections 578.700 to 578.745. At no time shall the total fee revenues
6 unreasonably exceed the total cost of administering and enforcing these
7 sections. The fee revenues shall be deposited into the fund created
8 under this section and shall only be used by the department for the
9 administration and enforcement of these sections.

10 2. A permit shall not be issued by the department unless the
11 department finds that all of the requirements in sections 578.700 to
12 578.745 have been met.

13 3. A permit shall set forth all of the following information:

14 (1) The name, address, telephone number, and date of birth of
15 the permit holder;

16 (2) The address where the nonhuman primate will be kept if
17 different from the address in subdivision (1) of this subsection;

18 (3) The name, number, sex, species, age of the nonhuman
19 primate, and any distinguishing marks or coloration that would aid in
20 the identification of the animal;

21 (4) The name, address, and telephone number of the veterinarian
22 who provides veterinary care to the nonhuman primate named on the
23 permit. Veterinarian records for the nonhuman primate shall be made
24 available at any time; and

25 (5) Any other relevant information the department may deem
26 necessary.

27 4. The department shall keep records of all valid permit holders.
28 A permit holder shall notify the department of any changes to the
29 information on the permit within thirty days of such change, which
30 shall include the death of the nonhuman primate.

31 5. There is hereby created in the state treasury the "Nonhuman
32 Primate Fund", which shall consist of money collected under this
33 section. The state treasurer shall be custodian of the fund and may
34 approve disbursements from the fund in accordance with sections
35 30.170 and 30.180. Upon appropriation, money in the fund shall be used
36 solely for the administration of sections 578.700 to 578.745. Any moneys
37 remaining in the fund at the end of the biennium shall not revert to the
38 credit of the general revenue fund. The state treasurer shall invest
39 moneys in the fund in the same manner as other funds are

40 invested. Any interest and moneys earned on such investments shall be
41 credited to the fund.

578.718. 1. If the department finds that an applicant for an
2 original or renewal permit does not meet the requirements under
3 sections 578.700 to 578.745, the department shall deny the applicant a
4 permit and give the applicant written notice of the denial and the
5 reasons for the denial.

6 2. If the department finds that a person with a valid permit has
7 not complied with sections 578.700 to 578.745, the department may
8 suspend or revoke the permit and give the person written notice of the
9 suspension or revocation and the reasons for the suspension or
10 revocation.

11 3. The department may revoke a permit issued under sections
12 578.700 to 578.745 if the holder of the permit pleads guilty to or is found
13 guilty of a violation under sections 578.009 or 578.012.

14 4. A person who is denied a permit, denied a renewal of a permit,
15 or who has had a permit suspended or revoked may appeal the decision
16 to the director of the department no later than fifteen days after the
17 permit was denied, suspended, or revoked. The director shall hold an
18 informal hearing and shall render a decision within sixty days of
19 receiving notice of such appeal. Any decision by the director may be
20 appealed to a court of competent jurisdiction.

578.721. 1. If a possessor can no longer care for his or her
2 nonhuman primate, the possessor may:

3 (1) Transfer his or her nonhuman primate to another person who
4 holds a valid permit;

5 (2) Contact the department; or

6 (3) Contact a wildlife sanctuary.

7 2. In the event of a transfer under subdivision (1) of subsection
8 1 of this section, the department shall be notified at least thirty days
9 prior to the transfer and all relevant information on the permit for the
10 nonhuman primate shall be updated to reflect the transfer.

578.724. 1. Every nonhuman primate shall be spayed or neutered,
2 at the expense of the possessor, by or under the supervision of a
3 veterinarian. This provision shall not apply to a nonhuman primate if
4 a veterinarian determines that the spay or neuter procedure would
5 endanger the well-being of the nonhuman primate.

6 2. A nonhuman primate shall not be allowed to run at large.

7 3. A nonhuman primate shall not be mistreated, neglected,
8 abandoned, deprived of necessary and appropriate food, water, and
9 sustenance.

10 4. A person transporting a nonhuman primate in a vehicle shall
11 keep the animal securely caged in the vehicle at all times.

12 5. Each possessor shall have a plan for the quick and safe
13 recapture of an escaped or released nonhuman primate. Any such plan
14 shall include designated capture equipment, location, and lethal and
15 nonlethal options for recapture. The plan shall also include humane
16 euthanasia of the nonhuman primate if recapture is deemed impossible.

17 6. The possessor of a nonhuman primate shall have continuously
18 posted and displayed at each possible entrance onto the premises
19 where a nonhuman primate is kept a conspicuous sign, clearly legible,
20 and easily readable by the public warning that a nonhuman primate is
21 on the premises. In addition, the possessor shall conspicuously display
22 a sign with a warning symbol that informs children of the presence of
23 a nonhuman primate. The department shall prescribe by rule the
24 content and size of the sign.

578.727. 1. No person shall bring a nonhuman primate to any
2 public property or to a commercial or retail establishment unless such
3 person is bringing the nonhuman primate to a licensed veterinarian or
4 veterinary clinic or is displaying or holding the nonhuman primate at
5 a wildlife sanctuary.

6 2. If any nonhuman primate escapes, either intentionally or
7 unintentionally, the possessor of the nonhuman primate shall
8 immediately contact a law enforcement officer of the city or county
9 where the escape occurred to report the escape or release. The
10 possessor is liable for all expenses associated with efforts to recapture
11 the animal and may be subject to criminal prosecution.

12 3. No person shall intentionally release a nonhuman primate. If
13 a nonhuman primate is intentionally released, the person responsible
14 for the release is liable for all expenses associated with efforts to
15 recapture the animal and may be subject to criminal prosecution.

578.730. 1. The department, its staff, its agents, local law
2 enforcement agents, and county sheriffs may enforce the provisions of
3 sections 578.700 to 578.745.

4 **2. The possessor of a nonhuman primate, at all reasonable times,**
5 **shall allow law enforcement agents and the department, its staff, or its**
6 **agents to enter the premises where the nonhuman primate is kept to**
7 **ensure compliance with sections 578.700 to 578.745.**

578.733. 1. The department may immediately confiscate any
2 **nonhuman primate if the department determines that the animal is**
3 **being kept in contravention of sections 578.700 to 578.745. The**
4 **possessor is liable for the costs of placement and care for the**
5 **nonhuman primate from the time of confiscation until the time of**
6 **return to the possessor or until the time the animal has been relocated**
7 **to an approved facility, such as a wildlife sanctuary.**

8 **2. If a nonhuman primate is confiscated due to the animal being**
9 **kept in contravention of sections 578.700 to 578.745, the possessor shall**
10 **post a security bond or cash with the department in an amount**
11 **sufficient to guarantee payment of all reasonable expenses expected to**
12 **be incurred in caring and providing for the animal, including but not**
13 **limited to, the estimated cost of food, medical care, and housing for at**
14 **least thirty days. The security bond or cash shall not prevent the**
15 **department from disposing of the animal at the end of the thirty days**
16 **unless the person claiming the animal posts an additional security bond**
17 **or cash with the department to secure payment of all reasonable**
18 **expenses expected to be incurred in caring and providing for the**
19 **animal for an additional thirty days, and does so prior to the expiration**
20 **of the first thirty-day period. The amount of the security bond or cash**
21 **shall be determined by the department and based on the current rate**
22 **to feed, provide medical care, and house the animal.**

23 **3. If the possessor of a confiscated animal cannot be located or**
24 **if a confiscated animal remains unclaimed, at the discretion of the**
25 **department, the department may:**

- 26 **(1) Contact an approved facility, such as a wildlife sanctuary;**
27 **(2) Allow the animal to be adopted by a person who currently**
28 **possesses a permit; or**
29 **(3) Euthanize the animal.**

30 **4. If the nonhuman primate cannot be taken up or recaptured**
31 **safely by the department or if proper and safe housing cannot be found,**
32 **the department may immediately euthanize the animal.**

33 **5. A nonhuman primate may be returned to the possessor only if,**

34 to the satisfaction of the department, the possessor has a valid permit,
35 has corrected the conditions resulting in the confiscation, and has paid
36 the cost of placement and care of the animal while under the care and
37 control of the department. No nonhuman primate shall be returned to
38 a possessor who has had a nonhuman primate previously confiscated
39 by the department under this section. Additionally, the department
40 shall revoke any and all permits held by any possessor who has a
41 nonhuman primate confiscated more than once under this section.

578.736. 1. A violation of sections 578.700 to 578.745 shall be a
2 class A misdemeanor except that a violation of subsection 3 of section
3 578.727 shall be a class D felony.

4 2. Subsection 1 of this section shall not apply to a law
5 enforcement officer, animal control officer, veterinarian, or department
6 of agriculture employee with respect to the performance of the duties
7 of a law enforcement officer, animal control officer, veterinarian, or
8 department of agriculture employee under sections 578.700 to 578.745.

578.739. 1. By no later than February 28, 2012, the department
2 shall promulgate rules to implement and administer sections 578.700 to
3 578.745. This includes, but is not limited to, the creation of the permit
4 program established under sections 578.700 to 578.745, the form and
5 content of the applications for the permit and renewal permit, and fees
6 for the permit.

7 2. Any rule or portion of a rule, as that term is defined in section
8 536.010 that is created under the authority delegated in this section
9 shall become effective only if it complies with and is subject to all of
10 the provisions of chapter 536, and, if applicable, section 536.028. This
11 section and chapter 536 are nonseverable and if any of the powers
12 vested with the general assembly pursuant to chapter 536, to review, to
13 delay the effective date, or to disapprove and annul a rule are
14 subsequently held unconstitutional, then the grant of rulemaking
15 authority and any rule proposed or adopted after August 28, 2011, shall
16 be invalid and void.

578.742. A city or county may adopt an ordinance governing
2 nonhuman primates that is more restrictive than sections 578.700 to
3 578.745. This may include expanding the scope of the provisions to
4 include additional animals, requiring additional caging standards, or
5 adopting stricter care and treatment provisions. If a city or county has

6 an equal or more restrictive ordinance already in place as of August 28,
7 2011, that city or county shall be deemed to be in compliance with
8 sections 578.700 to 578.745.

578.745. If any provision of sections 578.700 to 578.745 or the
2 application thereof to anyone or to any circumstance is held invalid,
3 the remainder of those sections and the application of such provisions
4 to others or other circumstances shall not be affected thereby.

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