

Legislative Analysis



NONHUMAN PRIMATES: BAN OWNING, BREEDING, & IMPORTING

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4300 (reported from committee with amendment)

Sponsor: Rep. Andrew Kandrevas

Committee: Criminal Justice

First Analysis (8-14-13)

BRIEF SUMMARY: With some exceptions, the bill would prohibit owning, possessing, breeding, or importing into the state a nonhuman primate; a violation would be a misdemeanor.

FISCAL IMPACT: Information is not available on the number of persons who might be found in violation. Also, the bill provides for a number of different punishment options. Revenues and costs to the state and/or local units would depend on the punishment option assigned. Costs on local correctional systems would occur if jail terms are assigned. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. There would be an increase in fine revenue to the state if fines were assessed. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

THE APPARENT PROBLEM:

Despite several high profile cases involving serious injury inflicted by nonhuman primates, interest in the private ownership of these exotic animals continues to grow. Nonhuman primates (NHPs) include apes (e.g., chimpanzees, orangutans, and gorillas) and monkeys (e.g., baboons, lemurs, macaques, Capuchins). As babies and young animals, NHPs make attractive pets with their large eyes, humanlike qualities, and affectionate demeanors.

However, it is well documented that all that changes when the animals reach adolescence – around three to five years old. At that point of maturity, it is said, the so-called loving personality of the ape or monkey begins to change, with sudden and random outbursts of violence and destructive acts that have caught even attentive owners by surprise. Many current and former ape or monkey owners have reported injuries ranging from bites and scratches to more serious incidents of loss of teeth, digits bitten off, ears torn off, and the tragic incident in which a Connecticut woman lost her eyes, face, and both hands in a chimp attack.

In addition, the Centers for Disease Control and Prevention (CDC) reports that NHPs may carry – and transmit – dangerous infectious diseases, some of which may be fatal to humans. That is one reason the U.S. Department of Health and Human Services and the CDC recently finalized rules to tighten regulations pertaining to the importation of NHPs and NHP products. Currently, importation of apes and monkeys as pets into the US from

a foreign country is strictly prohibited, and a person who travels outside the US with the pet will not be able to bring the animal back into the country.

The domestic pet trade, however, is largely unregulated, though some states and local jurisdictions have enacted some form of regulation or outright ban on private ownership of NHPs. Despite prices that range from about \$3,000 for smaller monkeys to over \$45,000 for larger apes such as chimpanzees, the Michigan Humane Society estimates ownership of NHPs in the US to be about 3,000 to 15,000. It is not known how many of these are owned by Michigan residents.

Part of the problem of keeping apes and monkeys as pets is that they live extraordinarily long lives as compared to a dog or cat. Capuchins can live in captivity for 40 to 50 years; Cheetah, the chimpanzee actor in the Tarzan films, was by some accounts in his 70s when he died. Monkeys and apes also are said to require an extraordinary amount of interaction, specialized food, a veterinarian trained in the care of NHP, expensive home modifications, and very large and secure cages to protect both owners and the public. Thus, the pet may outlive its owner, or the owner may become too infirm or financially strapped to care for the pet.

Owners overwhelmed by the demands of their NHP often find that zoos refuse to take privately-owned NHPs because they lack the socialization necessary to assimilate into established colonies. The few rescue shelters around the country are quickly filling up with some having already reached capacity, according to media stories. The inability to properly care for an NHP results in many of these animals being housed in deplorable conditions, subjected to inhumane practices such as pulling out their teeth and nails, and deprived of the stimulation and personal interaction they need to remain mentally healthy.

Currently, the state of Michigan does not regulate private ownership of NHPs. Contrary to information published on several websites, Michigan does not require a permit to obtain a monkey or ape. The Animal Industry Act does, however, require an official interstate health certificate or official interstate certificate of veterinary inspection signed by an accredited veterinarian from the state of origin for any exotic animal (which includes NHPs) purchased or brought from another state into Michigan.

In light of the growing interest in the private ownership of nonhuman primates, coupled with the health and safety risks inherent with such ownership and the high risk for animal abuse, legislation has been offered to ban NHPs as pets.

THE CONTENT OF THE BILL:

House Bill 4300 would add a new provision to the Michigan Penal Code (MCL 750.70a, proposed) to prohibit the following:

- Transferring the ownership or possession of a nonhuman primate (NHP) except as otherwise authorized by the bill.

- Breeding or causing to breed an NHP unless authorized by the bill.
- Importing an NHP into the state unless the person obtained prior authorization from the Department of Agriculture and Rural Development and the person administers, or causes to be administered, a unique and permanent identification for each NHP.

The bill does not define the term "nonhuman primates," but it is generally understood to include classes of primates such as apes, monkeys, baboons, and lemurs, among others.

Exemptions

The following would be authorized to possess or own a nonhuman primate:

- A zoo accredited by the Association of Zoos and Aquariums.
- An institution accredited by the Association for Assessment and Accreditation of Laboratory Animal Care.
- A sanctuary accredited by the Global Federation of Animal Sanctuaries or the American Sanctuary Association.
- A person or organization holding a valid license issued by the U.S. Department of Agriculture for engaging in an activity involving an NHP while the licensee is engaged in the permitted activity.
- A law enforcement officer in the course of employment.
- A veterinarian in the course of the occupation.
- A permitting agency in the course of its business or mission as a permitting agency.
- Animal control personnel of a local unit of government in the course of occupation as an animal control office.
- A person who owns or possesses a Capuchin monkey trained to assist a person with a permanent disability or who is mobility impaired, if the service primate was trained by a 501(c)(3) charitable organization to assist a person living with a permanent physical disability or a person who is mobility impaired if the service primate is not located, and has no contact with people, in a public place.

Transferring ownership or possession:

The ownership or possession of an NHP could only be transferred to a person, entity, organization, or agency described above.

Authorization to breed

Only an accredited zoo, laboratory, or person owning or possessing a Capuchin service monkey as described above would be authorized to breed, or cause to be bred, a nonhuman primate.

Grandfather clause

The ban on ownership or possession of an NHP would not apply to a person owning or possessing an NHP on the date the bill is enacted into law. The exemption would only extend to the specific, individual NHP(s) owned or possessed on that date, and would apply only until the NHP died.

Penalty

A violation would be a misdemeanor punishable by permanent removal of the NHP from the defendant and imprisonment for not more than 93 days, community service for not more than 500 hours, and/or a fine of at least \$500 but not more than \$1,000.

The bill would take effect 90 days after enactment.

ARGUMENTS:

For:

The bill, which would ban keeping monkeys and apes as pets, is an appropriate measure in light of the public health risks posed by the private ownership of nonhuman primates. Macaque monkeys are natural hosts for the Herpes B virus, a potentially fatal disease to humans, and many viral and bacterial diseases can be transmitted between all NHPs and humans.

A ban on private ownership would also protect owners and others from injuries. Even small monkeys can inflict injuries through bites and scratches. Larger monkeys and apes, some breeds of which are seven times stronger than humans, can take down an adult man. These animals by nature seek to dominate others within any social group they are in. If they are in a home, they will therefore try to dominate the humans, starting with the smallest or frailest. Stories abound of owners having to fend off their pets who suddenly and seemingly without provocation attack them or guests. The ASPCA submitted written testimony on the bill reporting that at least 160 people have been injured by NHPs since 2000, one-third of whom were children. According to the bill's sponsor, an eight-year-old girl in his district was bitten by a monkey being walked through the neighborhood on a leash by its owner.

The ban would not apply to an NHP that was owned before the bill took effect. It would, however, prevent the owner from breeding, selling, or transferring ownership of that NHP to another person. The bill would also not apply to certain entities such as zoos, researchers, labs, or circuses, or veterinarians when treating a pet monkey or ape, law enforcement agency, or city or county animal shelter.

Further, Capuchin monkeys trained by "Helping Hands: Monkey Helpers" to assist people with impaired mobility (such as quadriplegics) would also be exempted from the bill's provisions. Since 1979, the charity has trained Capuchins to do such tasks as turn on computers, load DVD players, turn lights on and off, pick up straws, and other useful tasks to assist persons with serious mobility disabilities.

Response:

The bill does not specifically address how tourists traveling from other states with their pet NHPs would be treated under the bill. Would the grandfather clause, which allows ownership and possession for an NHP owned on the bill's effective date, apply also to these tourists if they carried proof of when they obtained the animal? Would they need to obtain the prior authorization from the Michigan Department of Agriculture and Rural Development and create a unique ID for their pet before coming into the state? Or would

the bill be interpreted to close the borders to all NHPs kept as pets, except for those owned by Michigan residents as of the date of enactment? Some people do travel with their pet apes and monkeys. Therefore, perhaps it would be helpful to clarify if, and under which circumstances, a nonresident owner of an NHP could (or could not) lawfully bring the pet across state lines.

In a separate matter, according to "Helping Hands: Monkey Helpers," the charity only breeds the Capuchins used in the program in Massachusetts, retains ownership of the animals even when placed with a disabled person, and only places neutered or spayed monkeys. Therefore, the exemption for the charity from the ban on breeding NHPs may be unnecessary.

For:

By prohibiting any future sales or transfers of monkeys and apes into or within the state, House Bill 4300 would provide greater protections to NHPs. Nonhuman primates do not make appropriate pets. People ignorant of the demanding care needed to keep these wild animals healthy fall prey to tactics by dealers that depict the animals as docile, loving creatures. However, NHPs need intensive stimulation and almost constant interaction with others. They cannot be left alone like a dog or cat. These are highly social beings that simply do not fare well in a home-based captive setting, and they do not develop normally unless raised around their own kind (such as in a zoo or in the wild) where they can be properly socialized from birth into their culture (something that cannot be learned later as an adult). The food, cages, vet care, toys and other things essential for proper care can cost thousands annually. Many owners are not equipped to meet the demanding needs of an NHP over its lifetime, which can be 30 to 60 years, if not more.

This often leads to pet monkeys and apes being subjected to abuse. Many have been removed from homes near death, suffering from inadequate food and hydration, sores and infections, or injured from restraints. Some owners remove the teeth and toenails of the primates - a painful procedure and one that does not remove the potential for the animal injuring people in other ways.

The director of the Phoenix Zoo, in a 2003 interview with the *National Geographic News*, was quoted in a Sept. 16 article entitled "The Perils of Keeping Monkeys as Pets" as saying, "If you try to keep them as pets, you're creating a mentally disturbed animal in 99.9 percent of the cases." Experts agree that animals separated from their mothers at birth and raised as a pet are unsuitable to go into other homes or even zoos, and many rescue shelters are already reaching capacity as to the number of apes and monkeys they can care for. Thus, if pet ownership were banned, as House Bill 4300 would do, more primates would be spared a life of pain and suffering.

For:

The bill fits with current trends in state and federal animal ownership laws. For example, Michigan already prohibits the personal ownership of certain exotic animals and wolf-dog hybrids. A recent federal rule extends existing requirements for the importation into the US of certain species of primates to all NHPs. A proposed federal rule to list all

chimpanzees, whether captive or wild, as endangered animals would place them under the Endangered Species Act. The rule, which could go into effect as early as mid-August of this year, recognizes that apes are wild animals and therefore not suited as pets. Further, recently the National Institutes of Health announced that the use of chimpanzees in biomedical research at its facilities would be greatly reduced, with no more than 50 of the approximately 360 research chimps being retained for research. Any future research using the remaining chimps, which could not be bred, would have to meet stringent Institute of Medicine principles. The NIH says the retired chimpanzees will be moved to sanctuaries as space opens up.

Against:

Though no arguments in opposition to the bill were presented during the committee hearing process, a search of Internet sites does show continued interest in private ownership of monkeys and apes. Some current owners interviewed in print and online newspapers believe that with a realistic approach, careful planning, and appropriate resources, it is possible to raise these animals in a safe and loving home environment, albeit not without a lot of personal sacrifice. One such owner of multiple Capuchins says of monkey ownership, "You are not getting a sweet baby monkey. You are taking on 45 years of trying to develop a monkey psychology that keeps you from being bitten and scratched, or finding yourself in a life of hell." ("My Monkey, My Self", Wadler, Joyce, *The New York Times*, Feb. 26, 2009). Thus, some may feel that the government should not limit their choice of pets.

POSITIONS:

The Department of Agriculture and Rural Development indicated support for the bill. (5-22-13)

A representative of the Michigan Humane Society testified in support of the bill. (5-15-13)

The ASPCA submitted testimony supporting the bill. (5-15-13)

The Detroit Zoo indicated support for the bill. (5-15-13)

The Michigan Veterinary Medical Association indicated support for the bill. (5-15-13)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.