

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegates Menes, Anderson, Barkley, Benson, Bronrott, Cane, V. Clagett, Conroy, Cryor, D. Davis, Dumais, Feldman, Frush, Gutierrez, Holmes, Hubbard, Lawton, Lee, Love, Madaleno, Mandel, Mayer, McComas, McDonough, Moe, Montgomery, Parker, Quinter, Ross, Shewell, Stern, Taylor, and F. Turner**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law - Prohibition Against Wild Animals**

3 FOR the purpose of expanding the list of animals that a person is prohibited from
4 importing into the State, offering for sale, trading, bartering, or exchanging;
5 prohibiting the possession or breeding of certain animals; expanding the list of
6 exceptions to the prohibition on importing into the State, offering for sale,
7 trading, bartering, possessing, breeding, or exchanging certain animals;
8 providing for the enforcement of the prohibition by certain entities; authorizing
9 the seizure of certain animals under certain circumstances; establishing
10 procedures relating to the seizure of certain animals, including provisions for
11 notice, hearings, costs, and the return of the animal under certain
12 circumstances; providing for the disposition of certain animals under certain
13 circumstances; establishing certain procedures when the owner of a certain

1 animal dies under certain circumstances; and generally relating to wild
2 animals.

3 BY repealing and reenacting, with amendments,
4 Article - Criminal Law
5 Section 10-621
6 Annotated Code of Maryland
7 (2002 Volume and 2005 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article - Criminal Law**

11 10-621.

12 (a) (1) This section does not apply to [a person who:

13 (i) offers the species listed in subsection (b) of this section for sale,
14 trade, barter, import, or exchange to a public zoo, park, museum, or educational
15 institution; or

16 (ii) holds a valid State or federal permit to use the species listed in
17 subsection (b) of this section for educational, medical, scientific, or exhibition
18 purposes.

19 (2) This section does not apply to an animal of a species of wildlife not
20 kept as a household pet that is individually exempted from this section under a
21 permit issued by the Department of Natural Resources]:

22 (I) A RESEARCH FACILITY OR FEDERAL RESEARCH FACILITY
23 LICENSED UNDER THE FEDERAL ANIMAL WELFARE ACT;

24 (II) AN EXHIBITOR LICENSED UNDER THE FEDERAL ANIMAL
25 WELFARE ACT THAT DISPLAYS THE ANIMALS SPECIFIED IN SUBSECTION (B) OF THIS
26 SECTION IN A PUBLIC SETTING AS THE EXHIBITOR'S PRIMARY FUNCTION;

27 (III) A PERSON WHO POSSESSES A VALID LICENSE OR PERMIT
28 ISSUED BY THE DEPARTMENT OF NATURAL RESOURCES TO IMPORT, SELL, TRADE,
29 BARTER, POSSESS, BREED, OR EXCHANGE AN ANIMAL SPECIFIED IN SUBSECTION (B)
30 OF THIS SECTION;

31 (IV) AN ANIMAL SANCTUARY THAT:

32 1. IS A NONPROFIT ORGANIZATION QUALIFIED UNDER §
33 501(C)(3) OF THE INTERNAL REVENUE CODE;

34 2. OPERATES A PLACE OF REFUGE FOR ABUSED,
35 NEGLECTED, IMPOUNDED, ABANDONED, ORPHANED, OR DISPLACED WILDLIFE;

1 3. DOES NOT CONDUCT COMMERCIAL ACTIVITY WITH
2 RESPECT TO ANY ANIMAL OF WHICH THE ORGANIZATION IS AN OWNER; AND

3 4. DOES NOT BUY, SELL, TRADE, LEASE, OR BREED ANY
4 ANIMAL EXCEPT AS AN INTEGRAL PART OF THE SPECIES SURVIVAL PLAN OF THE
5 AMERICAN ZOO AND AQUARIUM ASSOCIATION;

6 (V) AN ANIMAL CONTROL OFFICER UNDER THE JURISDICTION OF
7 THE STATE OR A LOCAL GOVERNING AUTHORITY, A LAW ENFORCEMENT OFFICER
8 ACTING UNDER THE AUTHORITY OF THIS SUBTITLE, OR A PRIVATE CONTRACTOR OF
9 A COUNTY OR MUNICIPAL CORPORATION THAT IS RESPONSIBLE FOR ANIMAL
10 CONTROL OPERATIONS;

11 (VI) A PERSON WHO HOLDS A VALID LICENSE TO PRACTICE
12 VETERINARY MEDICINE IN THE STATE AND TREATS THE ANIMAL SPECIFIED IN
13 SUBSECTION (B) OF THIS SECTION IN ACCORDANCE WITH CUSTOMARY AND NORMAL
14 VETERINARY PRACTICES; AND

15 (VII) A PERSON WHO IS NOT A RESIDENT OF THE STATE AND IS IN
16 THE STATE FOR 10 DAYS OR LESS FOR THE PURPOSE OF TRAVELING BETWEEN
17 LOCATIONS OUTSIDE OF THE STATE.

18 (2) (I) THIS SECTION DOES NOT PROHIBIT A PERSON WHO HAD
19 LAWFUL POSSESSION OF AN ANIMAL SPECIFIED IN SUBSECTION (B) OF THIS
20 SECTION ON OR BEFORE MAY 31, 2006, FROM CONTINUING TO POSSESS THAT ANIMAL
21 IF THE PERSON PROVIDES WRITTEN NOTIFICATION TO THE LOCAL ANIMAL CONTROL
22 AUTHORITY ON OR BEFORE AUGUST 1, 2006.

23 (II) THE NOTIFICATION SHALL INCLUDE:

24 1. THE PERSON'S NAME, ADDRESS, AND TELEPHONE
25 NUMBER;

26 2. THE NUMBER AND TYPE OF ANIMALS BEING KEPT; AND

27 3. A PHOTOGRAPH OF THE ANIMAL OR A DESCRIPTION OF A
28 TATTOO OR MICROCHIP IDENTIFICATION OF THE ANIMAL.

29 (3) THIS SECTION DOES NOT PROHIBIT A PERSON WHO ~~IS PARALYZED~~
30 ~~FROM THE NECK DOWN~~ HAS A DISABILITY THAT SEVERELY LIMITS MOBILITY FROM
31 POSSESSING AN ANIMAL SPECIFIED IN SUBSECTION (B) OF THIS SECTION IF THAT
32 ANIMAL IS:

33 (I) TRAINED TO PERFORM TASKS FOR THE OWNER BY AN
34 ORGANIZATION DESCRIBED IN SECTION 501(C) OF THE INTERNAL REVENUE CODE;
35 AND

36 (II) DEDICATED TO IMPROVING THE QUALITY OF LIFE OF A PERSON
37 ~~PARALYZED FROM THE NECK DOWN~~ WHO HAS A DISABILITY THAT SEVERELY LIMITS
38 MOBILITY.

1 (b) A person may not import into the State, offer for sale, trade, barter,
2 POSSESS, BREED, or exchange [as a household pet] a live:

3 (1) fox, skunk, raccoon, or bear;

4 (2) CAIMAN, ~~FALSE CAIMAN~~, alligator, or crocodile;

5 (3) member of the cat family other than the domestic cat ~~OR A~~;

6 ~~(4)~~ HYBRID OF A MEMBER OF THE CAT FAMILY AND A DOMESTIC CAT IF
7 THE HYBRID WEIGHS OVER 30 POUNDS; [or]

8 ~~(4)~~ ~~(5)~~ MEMBER OF THE DOG FAMILY OTHER THAN THE DOMESTIC
9 DOG ~~OR A~~;

10 ~~(6)~~ HYBRID OF A MEMBER OF THE DOG FAMILY AND A DOMESTIC DOG;

11 ~~(5)~~ ~~(7)~~ NONHUMAN PRIMATE, INCLUDING A LEMUR, MONKEY,
12 CHIMPANZEE, GORILLA, ORANGUTAN, MARMOSSET, LORIS, OR TAMARIN; OR

13 ~~(4)~~ ~~(6)~~ ~~(8)~~ poisonous snake in the family groups of Hydrophidae,
14 Elapidae, Viperidae, or Crotolidae.

15 (c) (1) A person who violates this section is guilty of a misdemeanor and on
16 conviction is subject to:

17 [(1)] (I) if an individual, a fine not exceeding \$1,000; or

18 [(2)] (II) if not an individual, a fine not exceeding \$10,000.

19 (2) THE PROVISIONS OF THIS SECTION MAY BE ENFORCED BY:

20 (I) ANY STATE OR LOCAL LAW ENFORCEMENT OFFICER; OR

21 (II) THE LOCAL ANIMAL CONTROL AUTHORITY FOR THE
22 JURISDICTION WHERE THE VIOLATION OCCURS.

23 (D) (1) AN ANIMAL SPECIFIED IN SUBSECTION (B) OF THIS SECTION MAY BE
24 IMMEDIATELY SEIZED IF:

25 (I) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE
26 POSSESSION OF THE ANIMAL IS IN VIOLATION OF THIS SECTION; OR

27 (II) THE ANIMAL POSES A RISK TO PUBLIC HEALTH OR PUBLIC
28 SAFETY.

29 (2) AN ANIMAL SPECIFIED IN SUBSECTION (B) OF THIS SECTION THAT IS
30 SEIZED MAY BE RETURNED TO THE PERSON WHO HAD POSSESSION OF THE ANIMAL
31 AT THE TIME THE ANIMAL WAS SEIZED ONLY IF IT IS ESTABLISHED THAT:

1 (I) POSSESSION OF THE ANIMAL BY THE PERSON IS NOT A
2 VIOLATION OF THIS SECTION; AND

3 (II) THE RETURN OF THE ANIMAL DOES NOT POSE A RISK TO
4 PUBLIC HEALTH OR PUBLIC SAFETY.

5 (3) (I) NOTICE THAT THE ANIMAL WAS SEIZED SHALL BE SERVED ON
6 THE PERSON WHO HAD POSSESSION OF THE ANIMAL AT THE TIME THE ANIMAL WAS
7 SEIZED BY:

8 1. POSTING A COPY OF THE NOTICE AT THE PLACE WHERE
9 THE ANIMAL WAS SEIZED;

10 2. REGULAR AND CERTIFIED MAIL, RETURN RECEIPT
11 REQUESTED; OR

12 3. DELIVERING THE NOTICE TO A PERSON RESIDING ON THE
13 PROPERTY FROM WHICH THE ANIMAL WAS SEIZED.

14 (II) THE NOTICE SHALL INCLUDE:

15 1. A DESCRIPTION OF THE ANIMAL SEIZED;

16 2. THE AUTHORITY FOR AND THE PURPOSE OF THE SEIZURE;

17 3. THE TIME, PLACE, AND CIRCUMSTANCES OF THE
18 SEIZURE;

19 4. A CONTACT PERSON AND TELEPHONE NUMBER;

20 5. A STATEMENT THAT THE PERSON FROM WHOM THE
21 ANIMAL WAS SEIZED MAY:

22 A. POST SECURITY TO PREVENT DISPOSITION OF THE
23 ANIMAL; AND

24 B. REQUEST A HEARING CONCERNING THE SEIZURE;

25 6. A STATEMENT THAT FAILURE TO POST SECURITY OR
26 REQUEST A HEARING WITHIN 10 DAYS OF THE DATE OF THE NOTICE WILL RESULT IN
27 THE DISPOSITION OF THE ANIMAL; AND

28 7. A STATEMENT THAT, UNLESS A COURT FINDS THAT THE
29 SEIZURE OF THE ANIMAL WAS NOT JUSTIFIED, THE ACTUAL COSTS OF THE CARE,
30 KEEPING, AND DISPOSAL OF THE ANIMAL ARE THE RESPONSIBILITY OF THE PERSON
31 FROM WHOM THE ANIMAL WAS SEIZED.

32 (4) (I) BEFORE A SEIZURE UNDER PARAGRAPH (1) OF THIS
33 SUBSECTION OCCURS, THE PERSON IN POSSESSION OF THE ANIMAL TO BE SEIZED
34 MAY REQUEST THAT THE ANIMAL REMAIN IN THE PERSON'S PHYSICAL CUSTODY FOR
35 30 DAYS AFTER THE DATE THE ANIMAL WAS TO BE SEIZED.

1 (II) DURING THE 30 DAYS PROVIDED IN SUBPARAGRAPH (I) OF THIS
2 PARAGRAPH, THE PERSON SHALL TAKE ALL NECESSARY ACTIONS TO COMPLY WITH
3 THIS SECTION.

4 (III) AT ANY REASONABLE TIME DURING THE 30-DAY PERIOD, THE
5 LOCAL ANIMAL CONTROL AUTHORITY MAY INSPECT THE PREMISES WHERE THE
6 ANIMAL IS BEING KEPT.

7 (5) (I) IF A PERSON WHO RETAINS POSSESSION OF AN ANIMAL UNDER
8 PARAGRAPH (4) OF THIS SUBSECTION IS NOT IN COMPLIANCE WITH THIS SECTION
9 AFTER THE 30-DAY PERIOD HAS EXPIRED, THE LOCAL ANIMAL CONTROL AUTHORITY
10 SHALL SEIZE THE ANIMAL AND PLACE IT IN A HOLDING FACILITY THAT IS
11 APPROPRIATE FOR THE SPECIES.

12 (II) THE AUTHORITY SEIZING AN ANIMAL UNDER THIS PARAGRAPH
13 SHALL PROVIDE NOTICE OF THE SEIZURE IN THE SAME MANNER AS PROVIDED IN
14 PARAGRAPH (3) OF THIS SUBSECTION.

15 (6) (I) A PERSON FROM WHOM AN ANIMAL WAS SEIZED MAY REQUEST
16 A HEARING IN THE DISTRICT COURT WITHIN 10 DAYS OF THE SEIZURE.

17 (II) A HEARING SHALL BE HELD AS SOON AS PRACTICABLE TO
18 DETERMINE THE VALIDITY OF THE SEIZURE AND THE DISPOSITION OF THE ANIMAL.

19 (7) (I) UNLESS THE COURT FINDS THAT THE SEIZURE OF THE ANIMAL
20 WAS NOT JUSTIFIED BY LAW, A PERSON FROM WHOM THE ANIMAL SPECIFIED IN
21 SUBSECTION (B) OF THIS SECTION IS SEIZED IS LIABLE FOR ALL ACTUAL COSTS OF
22 CARE, KEEPING, AND DISPOSAL OF THE ANIMAL.

23 (II) THE COSTS REQUIRED UNDER THIS PARAGRAPH SHALL BE
24 PAID IN FULL UNLESS A MUTUALLY SATISFACTORY AGREEMENT IS MADE BETWEEN
25 THE LOCAL ANIMAL CONTROL AUTHORITY AND THE PERSON CLAIMING AN
26 INTEREST IN THE ANIMAL.

27 (8) (I) IF THERE IS NO REQUEST FOR A HEARING WITHIN 10 DAYS OF
28 THE NOTICE OR IF THE COURT ORDERS A PERMANENT AND FINAL DISPOSITION OF
29 THE ANIMAL, THE LOCAL ANIMAL CONTROL AUTHORITY MAY TAKE STEPS TO FIND
30 LONG-TERM PLACEMENT OF THE ANIMAL WITH ANOTHER APPROPRIATE FACILITY
31 THAT IS EQUIPPED FOR THE CONTINUED CARE OF THE PARTICULAR SPECIES OF THE
32 ANIMAL.

33 (II) IF THERE IS NO ENTITY THAT IS SUITABLE FOR THE CARE OF
34 THE ANIMAL, THE ANIMAL MAY BE EUTHANIZED.

35 (E) THIS SECTION DOES NOT LIMIT A COUNTY OR MUNICIPALITY FROM
36 ENACTING LAWS OR ADOPTING REGULATIONS THAT ARE MORE RESTRICTIVE
37 PERTAINING TO ANY POTENTIALLY DANGEROUS ANIMALS, INCLUDING THOSE
38 SPECIFIED IN SUBSECTION (B) OF THIS SECTION.

1 (F) IF THE OWNER OF AN ANIMAL SPECIFIED IN SUBSECTION (B) OF THIS
2 SECTION DIES WITHOUT MAKING ARRANGEMENTS FOR THE TRANSFER OF CUSTODY
3 OF THE ANIMAL TO ANOTHER PERSON, THE ANIMAL MAY BE TURNED OVER TO ONE
4 OF THE ORGANIZATIONS SPECIFIED IN SUBSECTION (A)(1) OF THIS SECTION OR
5 EUTHANIZED IF NO SUITABLE LOCATION CAN BE FOUND IN A REASONABLE AMOUNT
6 OF TIME.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2006.