

beyond Florida and areas in South Texas.¹⁵¹ Opponents of the snake ban further argue that passage of a bill would circumvent the established process for listing an injurious species under the Lacey Act.¹⁵² Such a process traditionally consists of FWS performing a risk analysis on the proposed species, followed by a notice and comment period in which the public responds to the Service's findings.¹⁵³ Opponents also believe the snake ban would result in mass snake release and euthanasia because pet owners would no longer be able to rehome their snakes through sale or trade across state lines or take their snakes with them when they moved to another state.¹⁵⁴ In addition, opponents claim the ban would increase unemployment by putting thousands of people in the snake industry out of work.¹⁵⁵

In March 2010, under pressure from public officials to ban the animals, FWS opened up the public comment period for a proposed rule to list giant constrictor snakes as injurious wildlife under the Lacey Act.¹⁵⁶ It was the first time the agency attempted to list animals so widely held as pets.¹⁵⁷ The final comment period closed in August 2010, and the Service has yet to issue a final rule on the listing.¹⁵⁸

In May 2010, Sen. 373 was placed on the Senate Legislative Calendar under General Orders.¹⁵⁹ In December 2010, H.R. 2811 was placed on the Union Calendar.¹⁶⁰ No further action was taken on either bill.

II. STATE LEGISLATION

This Part discusses legislation considered or passed by state legislatures in 2010. The selected legislation is just a small portion of the hundreds of animal-related bills that touched on topics ranging from wildlife protection to stray livestock to disputes over barking dogs.¹⁶¹ Many state legislatures assign bill numbers over a two-year period and automatically reintroduce legislation in the second year of the bien-

¹⁵¹ *Id.*

¹⁵² Pet Indus. Jt. Advisory Council, *Congressional Python Ban: Companion Bills Propose to Ban Pythons under the Lacey Act*, <http://www.pijac.org/governmentaffairs/s373forum.asp> (accessed Apr. 2, 2011).

¹⁵³ *Id.*

¹⁵⁴ Pet Indus. Jt. Advisory Council, *Pet Alert, Florida's Senator Nelson Proposes Congressional Ban of All Pythons under the Lacey Act*, http://www.pijac.org/_documents/us_sb_373.pdf (Feb 17, 2009) (accessed Apr. 2, 2011).

¹⁵⁵ *Id.*

¹⁵⁶ 75 Fed. Reg. 11808 (Mar. 12, 2010).

¹⁵⁷ Kaufman, *supra* n. 150.

¹⁵⁸ FWS, *Public Comment Period for Proposed Rule to List Giant Constrictor Snakes as Injurious Wildlife Now Closed*, <http://www.fws.gov/verobeach/index.cfm?method=activityhighlights&id=11> (July 1, 2010) (accessed Apr. 2, 2011).

¹⁵⁹ Sen. 373 Summary, *supra* n. 141.

¹⁶⁰ H.R. 2811 Summary, *supra* n. 145.

¹⁶¹ See Am. Veterinary Med. Assn., *Legislative Report*, <http://www.cqstatetrack.com/taxis/viewrpt?report=4d0b996c1453&sid=> (accessed Apr. 2, 2011) (tracking 1,859 animal-related bills introduced in state legislatures within the past two years).

nium. The analysis below focuses on bills that were first introduced in 2010 or received significant legislative action in 2010.

A. *Importation and Possession of Non-native Snakes*

As discussed in Part I of this Article, Florida has struggled to control invasive non-native snake populations.¹⁶² Burmese pythons, in particular, have established breeding grounds in the Everglades, prompting concern that the snakes will adversely impact native wildlife populations and threaten public safety.¹⁶³ The issue received further attention in 2009 when an 8-foot-long Burmese python escaped from its cage in a central Florida home and strangled a 2-year-old girl in a neighboring bedroom.¹⁶⁴ Florida lawmakers responded by passing Senate Bill 318, a bill broadly prohibiting possession of several species of non-native reptiles, including five subspecies of pythons, the Green Anaconda, and the Nile Monitor.¹⁶⁵ The bill revised a 2007 statute that required a license to possess a reptile designated by the Florida Fish and Wildlife Conservation Commission as a “reptile of concern.”¹⁶⁶ The new measure grandfathered in previous licensees but declares that no person or corporation may “keep, possess, import into the state, sell, barter, trade, or breed” any prohibited species of reptile.¹⁶⁷ Prior to passage, Senate Bill 318 was amended to incorporate the language of Senate Bill 572, which proposed increased penalties for importing prohibited non-native species.¹⁶⁸ Despite the seriousness of their concerns, legislators used lighthearted tactics to support Senate Bill 318, handing out toy snakes and hissing “yes” in support of the

¹⁶² For a discussion of federal attempts to control non-native snake species, consult *supra* pt. I(G).

¹⁶³ Patrik Jonsson, *Overrun with Snakes, Florida Looks to Bounty Hunters*, 101-A Christian Sci. Monitor 20, 21 (July 9, 2009) (available at <http://www.csmonitor.com/Environment/Wildlife/2009/0709/overrun-with-snakes-florida-looks-to-bounty-hunters> (accessed Apr. 2, 2011)).

¹⁶⁴ Associated Press, *Escaped Pet Python Strangles 2-Year-Old Girl*, <http://www.katu.com/news/national/49695007.html> (July 2, 2009) (accessed Apr. 2, 2011).

¹⁶⁵ See Fla. H., *CS/SB 318 – Wildlife Regulation [EPSC]*, <http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=42380> (Mar. 1, 2011) (Senate Bill 318 passed on April 28, 2010); Fla. Sen. 318, 2010 Legis., 42d Reg. Sess. § 2(1)(a)–(b), (2)(a) (Apr. 28, 2010) (available at <http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=42380>; *select* Enrolled (accessed Apr. 2, 2011)).

¹⁶⁶ Fla. Sen. Bill Analysis & Fiscal Impact State., *SB 318*, 2010 Legis., 42d Reg. Sess. 1, 4 (Feb. 16, 2010).

¹⁶⁷ Fla. Sen. 318, 2010 Legis., 42d Reg. Sess. at § 2(2)(a)–(b).

¹⁶⁸ Fla. Sen. Bill Analysis & Fiscal Impact State., *CS/SB 318 & 572*, 2010 Legis., 42d Reg. Sess. 3-4 (Apr. 14, 2010); Fla. Sen. 572, 2010 Legis., 42d Reg. Sess. 4 (Apr. 12, 2010) (available at <http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=42558&SessionIndex=-1&SessionId=64&BillText=&BillNumber=572&BillSponsorIndex=0&BillListIndex=0&BillStatuteText=&BillTypeIndex=0&BillReferredIndex=0&HouseChamber=S&BillSearchIndex=0>; *select* Committee Substitute 1 (accessed Apr. 2, 2011)).

bill in committee.¹⁶⁹ The bill passed both chambers unanimously before receiving the governor's signature on June 3, 2010.¹⁷⁰

Several other states also considered bills restricting ownership of exotic snakes. While surfing the Internet, Georgia State Senator John Douglas discovered the story of a Florida toddler killed by her family's pet python.¹⁷¹ He subsequently introduced Senate Bill 303, which required owners of pythons and anacondas to apply for a "wild animal license" and to implant microchips in such snakes 2 inches or more in diameter.¹⁷² The bill died in committee on a tie vote after the motioning senator noted that the bill would not have saved the girl in Florida because she was killed by a snake that was unlicensed in contravention of existing Florida law.¹⁷³ In Louisiana, legislators passed a bill requiring permits for private possession of all venomous snakes and constrictor snakes in excess of 8 feet in length.¹⁷⁴ The bill also requires licenses for wholesalers or dealers of non-native snakes and authorizes the Louisiana Wildlife and Fisheries Commission to adopt rules on the "harvest, possession, sale, handling, housing, or importation [of] constrictors and poisonous snakes."¹⁷⁵ Legislators in Arizona, Rhode Island, and South Carolina likewise introduced bills that would have placed restrictions on the possession of non-native snakes and other reptiles.¹⁷⁶ The bill in Rhode Island was withdrawn by its sponsor after the Department of Environmental Management, which originally

¹⁶⁹ Robert Samuels, Miami Herald, *State Poised to Ban the Sale of Burmese Pythons*, <http://www.miamiherald.com/2010/04/29/1603455/state-poised-to-ban-the-sale-of.html> (Apr. 29, 2010) (accessed Apr. 2, 2011).

¹⁷⁰ Fla. Sen., *Senate 0318: Relating to Wildlife Regulation [EPSC]*, http://archive.fl.senate.gov/Session/select_2010_search_318 (accessed Apr. 2, 2011).

¹⁷¹ Ga. Sen. 2010 Meeting Minutes, *Senate Natural Resources & the Environment Committee*, 150th Gen. Assembly, 2009–2010 Reg. Sess. (Feb. 1, 2010) (available at <http://www.senate.ga.gov/committees/Documents/2010Minutes139.pdf> (accessed Apr. 2, 2011)).

¹⁷² Ga. Sen. 303, 150th Gen. Assembly, 2009–2010 Reg. Sess. § 1 (Jan. 12, 2010) (available at <http://www.legis.ga.gov/Legislation/en-US/display.aspx?Legislation=28974> (accessed Apr. 2, 2011)).

¹⁷³ Ga. Sen. 2010 Meeting Minutes, *Senate Natural Resources & the Environment Committee*, 150th Gen. Assembly, 2009–2010 Reg. Sess. 3 (Feb. 8, 2010) (available at <http://www.senate.ga.gov/committees/Documents/2010Minutes139.pdf> (accessed Apr. 2, 2011)).

¹⁷⁴ La. H. 1354, 36th Legis., 2010 Reg. Sess. 2 (June 16, 2010) (available at <http://www.legis.state.la.us/billdata/streamdocument.asp?did=722766> (accessed Apr. 2, 2011)) (as enrolled); La. St. Legis., *HB's Amended by Senate to be Concur*, <http://www.legis.state.la.us/billdata/streamdocument.asp?did=717520> (accessed Apr. 2, 2011) (House roll call tally for House Bill 1354 final passage); La. St. Legis., *HB 3rd & Final Ordered Subj to Call*, <http://www.legis.state.la.us/billdata/streamdocument.asp?did=715074> (accessed Apr. 2, 2011) (Senate roll call tally for House Bill 1354 final passage).

¹⁷⁵ La. H. 1354, 36th Legis., 2010 Reg. Sess. at 2.

¹⁷⁶ Ariz. H. 2375, 49th Legis., 2d Reg. Sess. § 4 (Jan. 19, 2010) (available at http://www.azleg.gov/DocumentsForBill.asp?Bill_Number=2375&Session_Id=93 (accessed Apr. 2, 2011)); R.I. Sen. 2027, Jan. Sess. 2010 § 1 (Jan. 13, 2010) (available at <http://www.rilin.state.ri.us/billtext10/senatetext10/s2027.pdf> (accessed Apr. 2, 2011)); S.C. H. 4218, 118th Gen. Assembly, 2009–2010 Sess. § 1 (Jan. 12, 2010) (available at http://www.scstatehouse.gov/sess118_2009-2010/bills/4218.htm (accessed Apr. 2, 2011)).

encouraged the introduction of the bill, opted instead to pursue an administrative rule change requiring permits for invasive reptiles.¹⁷⁷

B. Livestock Care Standards

Polls show that nearly two-thirds of Americans support strict laws regulating the treatment of farm animals.¹⁷⁸ This support corresponds to continued media attention on industrial livestock operations.¹⁷⁹ Animal welfare advocates have capitalized on the public's concern by sponsoring ballot initiatives to improve the care of livestock.¹⁸⁰ Voters in three states—Florida, Arizona, and California—passed such ballot initiatives in 2002, 2006, and 2008, respectively.¹⁸¹ Proponents of livestock care measures, especially The Humane Society of the United States (HSUS), have indicated plans to propose ballot initiatives elsewhere.¹⁸² This prospect prompted several state legislatures to preemptively propose legislation in 2010 creating state boards to regulate the care of livestock.¹⁸³

¹⁷⁷ See E-mail from Scott N. Marshall, St. Veterinarian, R.I. Dept. of Env'tl. Mgt., to Richard Myers, Law Student, Lewis & Clark L. Sch., *Quick Question about Senate Bill 2027 (2010 Session)* (Jan. 4, 2011, 8:23 a.m. EDT) (on file with *Animal Law*) (explaining that the bill was unnecessary in light of ongoing rulemaking); See also E-mail from John Tassoni, Sen., R.I. Sen., to Richard Myers, Law Student, Lewis & Clark L. Sch., *Quick Question about Senate Bill 2027* (Dec. 27, 2010, 1:40 p.m. EDT) (on file with *Animal Law*) (noting that the Department of Environmental Management influenced the introduction and withdrawal of the bill).

¹⁷⁸ Frank Newport, Gallup News Service, *Post-Derby Tragedy, 38% Support Banning Animal Racing*, <http://www.gallup.com/poll/107293/PostDerby-Tragedy-38-Support-Banning-Animal-Racing.aspx> (May 15, 2008) (accessed Apr. 2, 2011) (62% of respondents in 2003 and 64% of respondents in 2008 were in favor of “passing strict laws concerning the treatment of farm animals”).

¹⁷⁹ See *id.* (polls were taken the same week that video footage showing the maltreatment of cows in slaughterhouses made the news); Jerry L. Anderson, *Protection for the Powerless: Political Economy History Lessons for the Animal Welfare Movement*, 4 *Stan. J. Animal L. & Policy* 1, 39–42 (2011) (noting that popular books have significantly affected public opinion on animal welfare issues generally and industrial livestock operations specifically).

¹⁸⁰ See Elizabeth R. Springsteen, *A Proposal to Regulate Farm Animal Confinement in the United States and an Overview of Current and Proposed Laws on the Subject*, 14 *Drake J. Agric. L.* 437, 463–64 (2009) (noting that proponents of the ballot initiatives have relied on public sympathy to raise money and garner votes).

¹⁸¹ *Id.* at 440, 442, 447.

¹⁸² *Id.* at 440.

¹⁸³ See e.g. Beef Mag., *Animal Welfare Groups Want to Change Your Production Practices*, <http://beefmagazine.com/organizations/1109-animal-welfare-wants-change-farms/> (Nov. 9, 2009) (accessed Apr. 2, 2011) (describing an initiative adopted in Ohio as a “proactive move by the Ohio livestock industry”); see also e.g. Janet Patton, Lexington Herald-Leader, *Livestock Care Bill has Underlying Purpose*, <http://www.kentucky.com/2010/03/08/1172181/proposed-board-meant-to-stymie.html> (Mar. 8, 2010) (accessed Apr. 2, 2011) (explaining that the Kentucky bill proposing a Livestock Care Standards Commission was a response to the “attacks against animal agriculture by some radical ‘animal rights’ groups”); see also e.g. Neb. Farmer, *Idaho, Missouri Take Preemptive Action Against HSUS*, <http://nebraskafarmer.com/story.aspx/idaho/missouri/take/preemptive/action/against/hsus/36347> (Mar. 16, 2010) (accessed Apr. 2, 2011) (explaining

In Ohio, lawmakers passed House Bill 414, implementing the Ohio Livestock Care Standards Board and setting terms for board members.¹⁸⁴ Ohio voters and the General Assembly passed a constitutional amendment in 2009 that created the Board and authorized it to adopt rules “governing the care and well-being of livestock.”¹⁸⁵ On the day the measure passed, HSUS vowed to place an initiative on the 2010 fall ballot banning certain livestock confinement practices.¹⁸⁶ Governor Ted Strickland ultimately brokered a deal in which HSUS agreed to suspend its signature campaign on the condition that the Ohio Livestock Care Standards Board phase out gestation crates for sows by 2015 and veal crates for calves by 2017.¹⁸⁷ The compromise also prohibits the construction of new battery cage egg farms.¹⁸⁸ Both sides claimed victory in reaching the agreement, with farmers calling it a “national model.”¹⁸⁹

In Kentucky, State Senator David Givens introduced a bill creating the Kentucky Livestock Care Standards Commission, a fourteen-member board composed of two university representatives, the state veterinarian, five commodity organization representatives, a citizen-at-large, and other members appointed by the governor.¹⁹⁰ As introduced, Senate Bill 105 charged the Commission with establishing “standards governing the care and well-being of on-farm livestock and poultry.”¹⁹¹ Significantly, the bill also prohibited local governments from adopting “any ordinance, resolution, rule, or regulation regarding on-farm livestock or poultry care that is more stringent than the standards established by [the Commission].”¹⁹² Both chambers of the Kentucky Legislature passed Senate Bill 105, but the bill died after the Senate refused to concur to a House floor amendment requiring a certi-

that bills to establish livestock care boards in Idaho and Missouri were a preemptive response to HSUS ballot initiatives).

¹⁸⁴ Ohio H. 414, 128th Gen. Assembly, 2009–2010 Reg. Sess. § 1 (Mar. 31, 2010) (available at http://www.legislature.state.oh.us/BillText128/128_HB_414_PS_Y.pdf (accessed Apr. 2, 2011)) (as enacted).

¹⁸⁵ Ohio Sen. Jt. Res. 6, 128th Gen. Assembly, 2009–2010 Reg. Sess. (June 18, 2009) (available at http://www.legislature.state.oh.us/ResolutionText128/128_SJR_6_EN_N.pdf (accessed Apr. 2, 2011)); see also Springsteen, *supra* n. 180 at 455–56 (describing the amendment).

¹⁸⁶ Springsteen, *supra* n. 180 at 456–57.

¹⁸⁷ Erik Eckholm, *Farmers and Activists Move Toward a Truce on Animals' Close Quarters*, N.Y. Times A18 (Aug. 1, 2010) (available at <http://www.nytimes.com/2010/08/12/us/12farm.html> (accessed Apr. 2, 2011)).

¹⁸⁸ *Id.*

¹⁸⁹ Tim White, *Animal Cruelty Will Not be on the Ohio Ballot in November*, <http://beefproducer.com/story.aspx/animal/cruelty/will/not/be/on/the/ballot/in/november/10/39698> (July 1, 2010) (accessed Apr. 2, 2011).

¹⁹⁰ Ky. Sen. 105, 2010 Reg. Sess. § 2 (Jan. 26, 2010) (available at <http://www.lrc.ky.gov/record/10RS/SB105.htm>, select SB 105 (accessed Apr. 2, 2011)).

¹⁹¹ *Id.*

¹⁹² *Id.* at § 4.

fied organic farmer on the Commission.¹⁹³ The Senate then amended an unrelated bill, House Bill 398,¹⁹⁴ to incorporate the language of Senate Bill 105 without the House floor amendment.¹⁹⁵ With the added language establishing the Kentucky Livestock Care Standards Commission, House Bill 398 passed the House by a vote of ninety-five to five.¹⁹⁶

State Representative Dennis Keene, who voted against the legislation,¹⁹⁷ explained in his legislative update that the bill “is designed to protect Kentucky agriculture from what some call ‘anti-agriculture’ animal rights organizations.”¹⁹⁸ The Lexington Herald-Leader echoed this assessment, stating that “to prevent the imposition of what they see as onerous animal care standards . . . farm groups have lobbied for preemptive legislation to assign the regulatory right to boards stacked with representatives of animal agriculture organizations.”¹⁹⁹ However, Senator Givens, who sponsored the bill and chairs the Senate Agricultural Committee, believes the Commission will “root out the bad actors.”²⁰⁰ He noted that “the vast majority of our Kentucky farmers . . . are already complying with virtually everything this commission will be producing.”²⁰¹

Alabama and Louisiana, like Kentucky above, opted to include home rule restrictions in legislation addressing livestock care standards.²⁰² Home rule is the state grant of authority that allows local governments to self-govern and regulate activities in their jurisdic-

¹⁹³ Ky. Legis., *SB105 10RS WWW Version*, <http://www.lrc.ky.gov/record/10RS/SB105.htm> (accessed Apr. 2, 2011) (status and history for Senate Bill 105); Ky. H. Floor Amend. 3, 2010 Reg. Sess. 1 (Mar. 24, 2010) (available at <http://www.lrc.ky.gov/record/10RS/SB105.htm>; *select* HFA 3 (accessed Apr. 2, 2011)) (House Floor Amendment 3, requiring a certified organic farmer on the Commission, was filed to the committee substitute and included in the version of Senate Bill 105 passed by the House).

¹⁹⁴ See Ky. Legis., *HB398 WWW Version*, <http://www.lrc.ky.gov/record/10RS/HB398.htm> (accessed Apr. 2, 2011) (describing the bill and the new sections creating the Livestock Care Standards Board); Ky. H. 398, 2010 Reg. Sess. (Feb. 8, 2010) (available at <http://www.lrc.ky.gov/record/10RS/HB398.htm>; *select* HB 398 (accessed Apr. 2, 2011)).

¹⁹⁵ Ky. H. 398, 2010 Reg. Sess. at § 7.

¹⁹⁶ Ky. H. 398, 2010 Reg. Sess. (Apr. 12, 2010) (as enacted); Ky. H. 398 Roll Call Vote, *Commonwealth of Kentucky House of Representatives*, 2010 Reg. Sess. (Apr. 1, 2010) (available at http://www.lrc.ky.gov/record/10RS/HB398/vote_history.pdf (accessed Apr. 2, 2011)).

¹⁹⁷ Ky. H. 398 Roll Call Vote, *supra* n. 196.

¹⁹⁸ St. Rep. Dennis Keene, *Legislative Update March 26, 2010*, <http://www.denniskeene.com/?p=325> (Mar. 30, 2010) (accessed Apr. 2, 2011).

¹⁹⁹ Patton, *supra* n. 183.

²⁰⁰ Tim Thornberry, Bus. Lexington, *Legislation Introduced to Start Animal Welfare Commission*, http://www.bizlex.com/Articles-c-2010-02-16-91434.113117_Legislation_Introduced_to_Start_Animal_Welfare_Commission.html (Feb. 16, 2010) (accessed Apr. 2, 2011).

²⁰¹ *Id.*

²⁰² Ala. H. 561, 2010 Reg. Sess. § 1(e) (Apr. 14, 2010) (as enrolled); La. Sen. 36, 36th Legis., 2010 Reg. Sess. 2 (Mar. 29, 2010) (available at <http://www.legis.state.la.us/billdata/streamdocument.asp?did=715424> (accessed Apr. 2, 2011)).

tion.²⁰³ Because home rule authority derives from the state, legislatures can generally restrict it with a simple statutory declaration of preemption.²⁰⁴ Alabama did just that with the passage of House Bill 561, a measure authorizing the Alabama State Board of Agriculture and Industries to adopt rules on “the care and handling of livestock and animal husbandry practices.”²⁰⁵ The bill reserves “the entire subject matter” to the state and prohibits all future local ordinances on the care of livestock.²⁰⁶ Louisiana passed an equally sweeping home rule restriction.²⁰⁷ Lawmakers there unanimously approved Senate Bill 36, which expanded the duties of the Louisiana Board of Animal Health to include setting “standards governing the care and well-being” of livestock.²⁰⁸ The bill contains an express limit on home rule:

No municipality, parish, local governmental entity or governing authority of any group or association, private or public, having jurisdiction over a specific geographic area shall enact ordinances, laws, subdivision restrictions or regulations establishing standards applicable to the care and well-being of bovine, equine, ovine, caprine, porcine, and poultry bred, kept, maintained, raised, or used for show, profit, or for the purpose of selling or otherwise producing crops, animals, or plant or animal products for market, except [with the approval of the Commissioner of Agriculture and Forestry].²⁰⁹

In both states, proponents of the legislation cited the need for regulation that would not unnecessarily hinder the agriculture industry.²¹⁰ Alabama’s Agriculture and Industries Commissioner said the legislation would also “help create uniformity in the care and protection of livestock.”²¹¹

Several other states enacted legislation on livestock care standards. In Vermont, lawmakers passed legislation establishing the Livestock Care Standards Board to develop “policy recommendations regarding the care, handling, and well-being of livestock in the state.”²¹² Similarly, West Virginia legislators created the Livestock

²⁰³ Christopher A. Novak, *Agriculture’s New Environmental Battleground: The Preemption of County Livestock Regulations*, 5 Drake J. Agric. L. 429, 447 (2000).

²⁰⁴ *Id.* at 444–45.

²⁰⁵ Ala. H. 561, 2010 Reg. Sess. at § 1(d).

²⁰⁶ *Id.* at § 1(d)–(e).

²⁰⁷ La. Sen. 36, 36th Legis., 2010 Reg. Sess. at 2.

²⁰⁸ *Id.* at 1; La. St. Legis., *SB’s Final Passage Regular Calendar*, <http://www.legis.state.la.us/billdata/streamdocument.asp?did=694921> (accessed Apr. 2, 2011).

²⁰⁹ La. Sen. 36, 36th Legis., 2010 Reg. Sess. at 2.

²¹⁰ ALFA Farmers Federation, *Senate Sends Livestock Care Bill to Governor* http://www.alfafarmers.org/leg_newsletter/index.phtml?id=3517 (Apr. 16, 2010) (accessed Apr. 2, 2011); Sen. Francis Thompson, Press Release, *Sen. Thompson Gains Senate Approval of Key Agriculture Industry Measures* (Apr. 20, 2010) (available at <http://senate.legis.state.la.us/Thompson/releases/2010/04-20-2010.pdf> (accessed Apr. 2, 2011)).

²¹¹ Press Release, Ala. Dept. of Agric. & Indus., *HB561, The Animal Industry Bill Signed By Governor* (Apr. 23, 2010) (available at http://www.agi.state.al.us/press_releases/2010apr2301?pn=2 (accessed Apr. 2, 2011)).

²¹² Vt. Sen. 295, 70th Biennial Sess. § 6 (June 3, 2010) (as enacted) (much of the language of Senate Bill 295 was originally introduced in House Bill 767).

Care Standards Board and authorized it to promulgate legislative rules.²¹³ Only one West Virginia lawmaker opposed the bill,²¹⁴ citing concern with the number of state boards.²¹⁵ Illinois, Indiana, and Utah expanded the duties of existing boards to include setting livestock care standards.²¹⁶ Idaho, Missouri, and Oklahoma considered but did not pass legislation creating livestock care standards boards.²¹⁷

A few states proposed banning certain livestock care practices outright. Lawmakers in New York and Rhode Island introduced bills establishing “prevention of farm animal cruelty” acts,²¹⁸ both of which limited confinement and tethering of livestock in a manner similar to California’s Proposition 2, which voters passed in 2008.²¹⁹ Tennessee legislators introduced several bills that would have affected treatment of livestock, including bills establishing food and shelter requirements,²²⁰ requiring law enforcement inspection of any reports of cruelty,²²¹ and making existing animal cruelty statutes applicable to

²¹³ W. Va. H. 4201, 79th Legis., 2d Sess. (Mar. 13, 2010) (available at http://www.legis.state.wv.us/bill_status/bills_text.cfm?billdoc=HB4201%20SUB%20ENR.htm&yr=2010&sesstype=RS&i=4201 (accessed Apr. 2, 2011)) (as enrolled).

²¹⁴ W. Va. Sen. J., 79th Legis., 2d Sess. (Mar. 12, 2010) (available at http://www.legis.state.wv.us/Bulletin_Board/senate_journal.cfm?sdj=sdj-59th%20day.htm&ses_year=2010&sesstype=rs&headtype=jour&houseorig=s (accessed Apr. 2, 2011)); W. Va. H. J., 79th Legis., 2d Sess. 2350 (Mar. 13, 2010) (available at http://www.legis.state.wv.us/Bulletin_Board/house_journal.cfm?ses_year=2010&sesstype=rs&headtype=jour&houseorig=h (accessed Apr. 2, 2011)).

²¹⁵ E-mail from Troy Andes, Delegate, W. Va. H. of Delegates, to Richard Myers, Law Student, Lewis & Clark L. Sch., *Quick Question about Last Year’s Vote* (Jan. 1, 2011, 12:31 a.m. EDT) (on file with *Animal Law*).

²¹⁶ Ill. Sen. 3604, 96th Gen. Assembly (Feb. 11, 2010); Ind. H. 1099, 116th Gen. Assembly, 2d Reg. Sess. § 1 (Jan. 5, 2010); Utah H. 155, 58th Utah Legis., Gen. Sess. (Feb. 22, 2010).

²¹⁷ Idaho Sen. 1331, 60th Legis., 2d Reg. Sess. (Feb. 9, 2010); Idaho Legis., *Senate Bill 1331*, <http://www.legislature.idaho.gov/legislation/2010/S1331.htm> (accessed Apr. 2, 2011) (bill history for Senate Bill 1331); Mo. H. 2291, 95th Gen. Assembly, 2d Reg. Sess. (Mar. 3, 2010); Mo. H., *HB 2291*, <http://www.house.mo.gov/billssummary.aspx?bill=HB2291&year=2010&code=R> (accessed Apr. 2, 2011) (bill history for House Bill 2291); Okla. H. 2345, 52d Legis., 2d Sess. (Feb. 1, 2010); Okla. Legis., *HB2345*, <http://webserver1.lsb.state.ok.us/WebBillStatus/main.html>; *select* Basic Search Form; *select* 2010 Regular Session; *search* hb2345 (accessed Apr. 2, 2011) (bill history for House Bill 2345).

²¹⁸ N.Y. Assembly 8597, 233d Annual Legis. Sess. § 1 (Jan. 19, 2010) (as amended); R.I. H. 7769, Jan. Sess. 2010 § 1 (Feb. 25, 2010).

²¹⁹ Cal. Sec. of St. Debra Bowen, *Statement of the Vote* 13 (Nov. 4, 2008) (available at http://www.sos.ca.gov/elections/sov/2008_general/sov_complete.pdf (accessed Apr. 2, 2011)) (Proposition 2 passed with 63.5% of the vote).

²²⁰ Tenn. H. 3315, 106th Gen. Assembly § 1 (Feb. 1, 2010); Tenn. Sen. 3180, 106th Gen. Assembly § 1 (Jan. 28, 2010).

²²¹ Tenn. H. 3343, 106th Gen. Assembly § 1 (Feb. 1, 2010); Tenn. Sen. 3264, 106th Gen. Assembly § 1 (Jan. 28, 2010).

agricultural operations.²²² All of these Tennessee bills failed to receive a committee or floor vote.²²³

C. *Right-to-Hunt Constitutional Amendments*

In the past decade, several states have amended their constitutions to establish a right to hunt.²²⁴ More than a dozen states now have constitutional provisions expressly or impliedly providing citizens the right to hunt, trap, or fish.²²⁵ Courts have widely interpreted these constitutional provisions to have little, if any, effect on the authority of state legislatures to regulate hunting and fishing, including requiring hunting licenses, imposing fees, and prohibiting the taking of some species.²²⁶ However, courts have cited right-to-hunt constitutional provisions in addressing a wide range of other issues, including riparian rights, due process, and search-and-seizure claims.²²⁷ Despite the limited legal significance of such constitutional provisions, proponents insist that they are necessary to hedge against “liberal” efforts to restrict gun rights and ban sports hunting.²²⁸ The National Rifle Association has identified constitutional amendments as a “state-by-state priority” and vowed to “continue to lead efforts to pass these amendments across the nation.”²²⁹ Critics of the amendments suggest that the constitutional measures are “a solution in search of a problem” designed to increase voter turnout among conservative constituencies.²³⁰

²²² Tenn. H. 3386, 106th Gen. Assembly § 1(b) (Feb. 1, 2010); Tenn. Sen. 3546, 106th Gen. Assembly § 1(b) (Jan. 28, 2010).

²²³ Tenn. Gen. Assembly, *Bill Information for HB3315*, <http://wapp.capitol.tn.gov/apps/Billinfo/default.aspx?BillNumber=HB3315&ga=106> (accessed Apr. 2, 2011); Tenn. Gen. Assembly, *Bill Information for HB3343*, <http://wapp.capitol.tn.gov/apps/Billinfo/default.aspx?BillNumber=HB3343&ga=106> (accessed Apr. 2, 2011); Tenn. Gen. Assembly, *Bill Information for HB3386*, <http://wapp.capitol.tn.gov/apps/Billinfo/default.aspx?BillNumber=HB3386&ga=106> (accessed Apr. 2, 2011).

²²⁴ Douglas Shinkle, Natl. Conf. of State Legis., *State Constitutional Right to Hunt and Fish*, <http://www.ncsl.org/?tabid=21237> (updated Nov. 2010) (accessed Apr. 2, 2011) [hereinafter NCSL].

²²⁵ See Jeffrey Omar Usman, *The Game is Afoot: Constitutionalizing the Right to Hunt and Fish in the Tennessee Constitution*, 77 *Tenn. L. Rev.* 57, 75, 77–78, 81 (2010) (listing twelve states that expressly provide for the right to hunt and another five that provide for the right to bear arms for the purpose of, among other things, hunting: Alabama, California, Delaware, Georgia, Louisiana, Montana, Minnesota, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Rhode Island, Vermont, Virginia, West Virginia, and Wisconsin).

²²⁶ *Id.* at 85.

²²⁷ *Id.* at 86.

²²⁸ Suzi Parker, *A Constitutional Right to Hunt? Voters in Three States to Decide*, *Christian Sci. Monitor* 4 (Feb. 26, 2010) (available at <http://www.csmonitor.com/USA/Politics/2010/0226/A-constitutional-right-to-hunt-Voters-in-three-states-to-decide> (accessed Apr. 2, 2011)).

²²⁹ Natl. Rifle Assn., *NRA's Right to Hunt and Fish Amendments Adopted in Three States*, <http://www.nrapvf.org/news-alerts/2010/11/nra%E2%80%99s-right-to-hunt-and-fish-amendments-adopted-in-three-states.aspx> (Nov. 5, 2010) (accessed Apr. 2, 2011).

²³⁰ Parker, *supra* n. 228, at 4.

Three states—Arkansas, South Carolina, and Tennessee—successfully amended their constitutions in 2010 to include a right to hunt.²³¹ Legislators in Arizona passed a constitutional amendment with the requisite two-thirds majority, but voters rejected the measure 56% to 44%.²³² In Arkansas, voters approved Senate Joint Resolution 3 with more than 82% of the vote.²³³ The amendment provides that citizens “have the right to hunt, fish, trap, and harvest wildlife . . . subject only to regulations that promote sound wildlife conservation and management.”²³⁴ It also provides that “hunting, fishing, and trapping shall be a preferred means of managing and controlling non-threatened species.”²³⁵ South Carolina passed a constitutional amendment that similarly allows restrictions for wildlife conservation: “The citizens of this State have the right to hunt, fish, and harvest wildlife traditionally pursued, subject to laws and regulations promoting sound wildlife conservation and management as prescribed by the General Assembly.”²³⁶ In Tennessee, approximately 90% of voters supported a constitutional amendment to impose a reasonableness requirement on any limits to hunting and fishing.²³⁷ As passed, the amendment declares, “The citizens of this state shall have the personal right to hunt and fish, subject to reasonable regulations and restrictions prescribed by law.”²³⁸ Ten other states considered but did not pass legislation to amend their constitutions to protect the right to hunt and fish.²³⁹

²³¹ NCSL, *supra* n. 224.

²³² *Id.*; Ariz. Sec. of St., *State of Arizona Official Canvass 14* (Nov. 29, 2010) (available at <http://www.azsos.gov/election/2010/General/Canvass2010GE.pdf> (accessed Apr. 2, 2011)) (Proposition 109 received 714,144 yes votes and 926,991 no votes).

²³³ Ark. Sen. Jt. Res. 3, 87th Gen. Assembly, 2009 Reg. Sess. (Apr. 7, 2009) (as enrolled); Ark. Sec. of St., *Vote Naturally, 2010 General Election & Non Partisan Judicial Runoff Election*, http://www.votenaturally.org/electionresults/index.php?ac:show:contest_statewide=1&elecId=231&contestid=1 (accessed Apr. 2, 2011).

²³⁴ Ark. Sen. Jt. Res. 3, 87th Gen. Assembly, 2009 Reg. Sess. § 1 (Jan. 12, 2009).

²³⁵ *Id.*

²³⁶ S.C. H. Jt. Res. 3483, 118th Gen. Assembly, 2009–2010 Sess. § 1 (May 20, 2009) (as enrolled).

²³⁷ Tenn. St. Gen., *Constitutional Amendment 2* (available at <http://www.tn.gov/sos/election/results/2010-11/CACounty.pdf> (updated Dec. 2, 2010) (accessed Apr. 2, 2011)) (the constitutional amendment received 1,289,544 yes votes and 147,506 no votes); *see also* Tenn. Sen. Jt. Res. 30, 106th Gen. Assembly (Mar. 18, 2010) (available at <http://state.tn.us/sos/acts/106/resolutions/SJR0030.pdf> (accessed Apr. 2, 2011)) (the constitutional amendment passed by the voters was proposed by a joint resolution of the state’s general assembly).

²³⁸ Tenn. Sen. Jt. Res. 30, 106th Gen. Assembly at 2.

²³⁹ *See* NCSL, *supra* n. 224 (explaining that fourteen states considered such legislation in 2010 but only Arkansas, South Carolina, and Tennessee passed constitutional amendments).

D. Euthanasia of Dogs and Cats

Approximately 3 to 4 million animals are euthanized in animal shelters in the U.S. each year.²⁴⁰ Some of those animals are euthanized in carbon monoxide gas chambers—often in groups—in which death occurs from hypoxemia, or reduced blood oxygen levels.²⁴¹ According to opponents of the practice, death may take up to thirty minutes, causing animals to panic and suffer.²⁴² Numerous states have banned the use of gas chambers to euthanize cats and dogs.²⁴³ Eight legislatures considered bills on euthanasia in 2010, mostly regarding the use of gas chambers.²⁴⁴

In Illinois, State Senator Bill Brady introduced Senate Bill 2999, allowing the use of gas chambers to euthanize multiple animals at once.²⁴⁵ The bill would have partially repealed legislation passed in 2009 requiring that gas chambers only euthanize one animal at a time.²⁴⁶ Senate Bill 2999 contains a provision requiring “professional judgment when deciding whether or not a procedure shall involve the euthanasia of a single animal or multiple animals, taking into consideration the safety of facility staff and the most humane practices.”²⁴⁷ Senator Brady withdrew his sponsorship of Senate Bill 2999 shortly before winning his party’s nomination for governor,²⁴⁸ but the bill be-

²⁴⁰ Humane Socy. of the U.S., *Common Questions about Animal Shelters*, http://www.humanesociety.org/animal_community/resources/qa/common_questions_on_shelters.html (Oct. 26, 2009) (accessed Apr. 2, 2011); see also Am. Humane Assn., *Animal Shelter Euthanasia*, <http://www.americanhumane.org/about-us/newsroom/fact-sheets/animal-shelter-euthanasia.html> (accessed Apr. 2, 2011) (explaining estimates that 3.7 million animals were euthanized at shelters in 2008).

²⁴¹ Am. Veterinary Med. Assn., *AVMA Guidelines on Euthanasia* 9 (June 2007) (available at http://www.avma.org/issues/animal_welfare/euthanasia.pdf (accessed Apr. 2, 2011)).

²⁴² Press Release, Am. Socy. for the Prevention of Cruelty to Animals, *ASPCA Urges Pennsylvania Voters to Outlaw Gas Chambers in Animal Shelters* (June 30, 2010) (available at <http://www.aspc.org/Pressroom/press-releases/063010.aspx> (accessed Apr. 2, 2011)).

²⁴³ See Am. Humane Assn., *Humane Euthanasia of Shelter Animals Fact Sheet 2* (available at <http://www.americanhumane.org/assets/pdfs/animals/adv-ebi-fact-sheetpdf.pdf> (accessed Apr. 2, 2011)) (noting that nine states have laws explicitly banning all forms of gassing for all types of animals in shelters).

²⁴⁴ Del. Sen. 280, 145th Gen. Assembly § 3 (June 8, 2010); Ga. H. 788, 150th Gen. Assembly, 2009–2010 (May 20, 2010) (as passed House and Senate); Ill. Sen. 2999, 96th Gen. Assembly (Feb. 4, 2010); La. Sen. 73, 36th Legis., 2010 Reg. Sess. (June 16, 2010) (as enrolled); Mich. H. 6042, 95th Legis., Reg. Sess. (Apr. 13, 2010); Mich. H. 6043, 95th Legis., Reg. Sess. (Sept. 22, 2010) (as passed House); N.C. H. 1741, 2009 Gen. Assembly (May 18, 2010); Pa. Sen. 672, 2009 Reg. Sess. § 1 (Apr. 13, 2010) (as amended); Utah H. 185, 58th Utah Legis., Gen. Sess. § 2 (Feb. 3, 2010).

²⁴⁵ Ill. Sen. 2999, 96th Gen. Assembly at 2.

²⁴⁶ *Id.*; Ill. Sen. 38, 96th Gen. Assembly (Jan. 30, 2009) (codified at 510 Ill. Comp. Stat. 70/3.09(3) (2009)).

²⁴⁷ Ill. Sen. 2999, 96th Gen. Assembly at 2.

²⁴⁸ Mike Riopell, Quad-City Times, *Brady Backs Off Animal Euthanasia Proposal*, http://qctimes.com/news/state-and-regional/illinois/article_f8a53d90-21c3-11df-a189-001cc4c002e0.html (Feb. 24, 2010) (accessed Apr. 2, 2011).

came a major issue in the general election race when incumbent Governor Pat Quinn ran a television advertisement attacking Senator Brady for “mass euthanization of animals.”²⁴⁹

The Georgia General Assembly passed House Bill 788, prohibiting the use of gas chambers to euthanize cats and dogs.²⁵⁰ Georgia had previously banned most gas chambers but exempted animal shelters in rural counties or animal shelters that received permission from the Department of Agriculture prior to 1990.²⁵¹ The new statute categorically prohibits gas chambers for the euthanasia of cats and dogs.²⁵² Georgia lawmakers also passed House Bill 1106, requiring animal shelters to scan for a microchip prior to euthanizing an animal.²⁵³ An animal shelter or stray animal facility must scan for a microchip within twenty-four hours of receiving “any dog, cat, or other large animal traditionally kept as a household pet.”²⁵⁴ The animal must be scanned again for a microchip prior to being euthanized.²⁵⁵ A facility is not liable, however, for failure to scan an animal, nor is a facility required to scan an animal “too vicious or dangerous to permit safe handling.”²⁵⁶

Legislators in Louisiana and Utah considered the costs of euthanasia and ultimately took different actions on their respective bills addressing the issue. Louisiana unanimously passed Senate Bill 73, which includes a provision that will take effect in 2013 prohibiting the use of gas chambers to euthanize cats and dogs.²⁵⁷ The bill also re-

²⁴⁹ QuinnForIllinois, YouTube, *Bill Brady's Dog Plan*, <http://www.youtube.com/watch?v=7nvBtioirsg> (Sept. 30, 2010) (accessed Apr. 2, 2011); Louis Jacobson, Politifact.com, *Pat Quinn Blasts Bill Brady for Sponsoring Bill on Pet Euthanasia in Illinois Gubernatorial Race*, <http://www.politifact.com/truth-o-meter/statements/2010/oct/12/pat-quinn/pat-quinn-blasts-bill-brady-sponsoring-bill-pet-eu/> (Oct. 12, 2010) (accessed Apr. 2, 2011).

²⁵⁰ Ga. H. 788, 150th Gen. Assembly, 2009–2010 § 1 (available at <http://www.legis.ga.gov/Legislation/20092010/107349.pdf> (accessed Apr. 2, 2011)); Ga. Gen. Assembly, *HB 788 Animal Protection; Methods of Euthanasia; Provisions*, <http://www.legis.ga.gov/Legislation/en-US/History.aspx?Legislation=28253> (accessed Apr. 2, 2011) (bill history for House Bill 788).

²⁵¹ Ga. Code Ann. § 4-11-5.1(b), (h) (1995).

²⁵² Ga. Code Ann. § 4-11-5.1(d) (2010).

²⁵³ Ga. H. 1106, 150th Gen. Assembly, 2009–2010 (June 2, 2010) (available at <http://www.legis.ga.gov/Legislation/20092010/104540.pdf> (accessed Apr. 2, 2011)) (as passed by House and Senate); Ga. Gen. Assembly, *HB 1106 Animal Protection; Shelters Scan for Microchips Prior to Euthanasia; Provisions*, <http://www.legis.ga.gov/Legislation/en-US/History.aspx?Legislation=29667> (accessed Apr. 2, 2011) (bill history for House Bill 1106).

²⁵⁴ Ga. H. 1106, 150th Gen. Assembly, 2009–2010 at § 1.

²⁵⁵ *Id.*

²⁵⁶ *Id.*

²⁵⁷ La. St. Legis., *SB's Final Passage Local & Consent*, <http://www.legis.state.la.us/billdata/streamdocument.asp?did=716026> (accessed Apr. 2, 2011) (House roll call tally for Senate Bill 73 final passage showing unanimous vote); La. St. Legis., *SB 3rd Read & Final Passage*, <http://www.legis.state.la.us/billdata/streamdocument.asp?did=700959> (accessed Apr. 2, 2011) (Senate roll call tally for Senate Bill 73 final passage showing unanimous vote); La. Sen. 73, 36th Legis., 2010 Reg. Sess. at 1 (available at <http://>

quires that cats and dogs be anesthetized prior to euthanasia by injection.²⁵⁸ Analysis by Louisiana committee staff noted that euthanasia by injection is less expensive than euthanasia in gas chambers.²⁵⁹ According to data from HSUS, the cost per euthanized animal is \$2.29 for injection versus \$3.09 for gassing.²⁶⁰ In Utah, State Representative Jay Seegmiller presented the same HSUS cost data at the hearing before the Utah House Government Operations Standing Committee.²⁶¹ Rep. Seegmiller's bill, House Bill 185, would have prohibited the use of gas chambers to euthanize more than one animal at a time unless the chamber contained compartments for individual animals.²⁶² Several representatives from animal shelters spoke against the bill at the hearing.²⁶³ The bill passed easily in the House but died in the Senate on a vote of nine to fifteen.²⁶⁴ Legislators in Michigan and Pennsylvania also considered but did not pass measures prohibiting the use of gas chambers.²⁶⁵

E. *Primates as Pets*

In 2010, Illinois became the twenty-second state in the nation to ban primates as pets.²⁶⁶ The sponsor of the legislation, State Representative Daniel Burke, cited attacks by pet primates on their owners

www.legis.state.la.us/billdata/streamdocument.asp?did=722846 (accessed Apr. 2, 2011)).

²⁵⁸ La. Sen. 73, 36th Legis., 2010 Reg. Sess. at 1.

²⁵⁹ La. Legis. Fiscal Off., Fiscal Note on SB 73, *Euthanasia in Animals*, 36th Legis., 2010 Reg. Sess. 1 (June 21, 2010) (available at <http://www.legis.state.la.us/billdata/streamdocument.asp?did=720985> (accessed Apr. 2, 2011)).

²⁶⁰ *Id.*

²⁶¹ Utah H., *Minutes of the House Government Operations Standing Committee*, 58th Utah Legis., Gen. Sess. 2 (Feb. 26, 2010) (available at <http://le.utah.gov/~2010/minutes/HGOC0226.pdf> (accessed Apr. 2, 2011)); Doug Fakkema, *EBI Cost Analysis Matrix 2009* 4, http://www.animalsheltering.org/programs_and_services/euthanasia_information/ebi-cost-analysis-worksheet-2009.pdf (Jan. 2009) (accessed Apr. 2, 2011).

²⁶² Utah H. 185, 58th Utah Legis., Gen. Sess. (available at <http://le.utah.gov/~2010/bills/hbillint/hb0185.pdf> (accessed Apr. 2, 2011)).

²⁶³ Utah H., *Minutes of the House Government Operations Standing Committee*, 58th Utah Legis., Gen. Sess. at 2.

²⁶⁴ Utah St. Legis., *H.B. 185 Substitute Bill Status*, <http://le.utah.gov/~2010/status/hbillsta/hb0185s01.htm> (accessed Apr. 2, 2011).

²⁶⁵ Mich. H. 6042, 95th Legis., Reg. Sess. (Apr. 13, 2010); Mich. Legis., *House Bill 6042 (2010)*, [http://www.legislature.mi.gov/\(S\(tux5jxih4c5yn0v0yo2cz0rr\)\)/mileg.aspx?page=getObject&objectName=2010-HB-6042](http://www.legislature.mi.gov/(S(tux5jxih4c5yn0v0yo2cz0rr))/mileg.aspx?page=getObject&objectName=2010-HB-6042) (accessed Apr. 2, 2011) (providing bill history for House Bill 6042); Pa. Sen. 672, 2009 Reg. Sess. (Apr. 13, 2010); Pa. Gen. Assembly, *Senate Bill 672*, http://www.legis.state.pa.us/cfdocs/billinfo/bill_history.cfm?year=2009&sind=0&body=S&type=B&bn=672 (accessed Apr. 2, 2011) (providing bill history for Senate Bill 672).

²⁶⁶ Humane Socy. of the U.S., *The HSUS, HSLF Praise Illinois Governor for Signing Primate Pet Ban and Antifreeze Safety Bills*, http://www.humanesociety.org/news/press_releases/2010/07/illinois_primates_antifreeze_bills_072210.html (July 22, 2010) (accessed Apr. 2, 2011) [hereinafter *Primate Ban*].

as the motivation behind the bill.²⁶⁷ Several attacks by primates have received nationwide attention,²⁶⁸ including an attack in 2009 in which a 70-year-old Connecticut woman was “viciously mauled” by her friend’s pet primate named Travis.²⁶⁹ In addition to the risk of attack, proponents of the ban pointed to concerns about animal welfare and spread of disease.²⁷⁰

The legislation in Illinois amended the Illinois Dangerous Animals Act to prohibit possession or any right of property in primates.²⁷¹ The newly modified statute establishes a class C misdemeanor for possession of “a nonhuman member of the order primate, including but not limited to chimpanzee, gorilla, orangutan, bonobo, gibbon, monkey, lemur, loris, aye-aye, and tarsier.”²⁷² It exempts possession of capuchin monkeys trained to assist a person with permanent mobility impairment.²⁷³ It also exempts several types of entities, such as zoos, universities, research facilities, and animal sanctuaries.²⁷⁴ Under the bill, anyone who possessed a primate prior to January 1, 2011 may maintain possession of the animal so long as the person notifies the local animal control agency.²⁷⁵ Ironically, the primate that attacked a Connecticut woman was allowed to remain in the owner’s home under a similar grandfather exemption for pet primates owned prior to passage of the Connecticut law.²⁷⁶

Three other state legislatures considered but did not pass legislation addressing the issue of primates as pets.²⁷⁷ Legislators in Michi-

²⁶⁷ Michelle Manchir, Chicago Trib., *Lawmakers Vote to Ban Pet Monkeys, Novelty Lighters: A Look at Some of the 623 Bills That Passed the Legislature This Session*, http://articles.chicagotribune.com/2010-05-30/news/ct-met-illinois-legislature-bills-05320100528_1_lighter-ban-novelty-lighters-monkeys (May 30, 2010) (accessed Apr. 2, 2011).

²⁶⁸ See e.g., Rich Schapiro, Esquire, *The Worst Story I Ever Heard*, <http://www.esquire.com/print-this/chimpanzee-attack-0409-4?page=all> (Apr. 2009) (accessed Apr. 2, 2011) (telling the story of a California man who was attacked by two chimpanzees who had escaped their enclosures at an animal sanctuary).

²⁶⁹ Andy Newman, *Pet Chimp Is Shot to Death After Mauling Woman in Connecticut*, N.Y. Times A30 (Feb. 17, 2009) (available at <http://www.nytimes.com/2009/02/17/nyregion/17chimp.html?ref=nyregion>) (accessed Apr. 2, 2011).

²⁷⁰ *Primate Ban*, supra n. 266.

²⁷¹ Ill. H. 4801, 96th Gen. Assembly, Reg. Sess. (Jan. 12, 2010) (available at <http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=096-1219>) (accessed Apr. 2, 2011); 720 Ill. Comp. Stat. 585 (2010).

²⁷² 720 Ill. Comp. Stat. 585/0.1, 3.

²⁷³ *Id.* at 585/1(e).

²⁷⁴ *Id.* at 585/1(a).

²⁷⁵ *Id.* at 585/1(6).

²⁷⁶ Anahad O’Connor, *Woman Mauled by Chimp Has Surgery, and Her Vital Signs Improve*, N.Y. Times, <http://www.nytimes.com/2009/02/19/nyregion/19chimpanzee.html> (Feb. 18, 2009) (accessed Apr. 2, 2011); Conn. Gen. Stat. Ann. § 26-40a (West 2010).

²⁷⁷ Mich. H. 5762, 95th Legis., 2009–2010 Reg. Sess. (Jan. 21, 2010) (available at <http://www.legislature.mi.gov/documents/2009-2010/billintroduced/House/pdf/2010-HIB-5762.pdf>) (accessed Apr. 2, 2011); Okla. Sen. 1798, 52d Legis., 2d Reg. Sess. (Feb. 1, 2010) (available at <http://webserver1.lsb.state.ok.us/WebBillStatus/main.html>); select Basic Search Form, select 2010 Regular Session, search SB1798, select Introduced (ac-

gan proposed a ban on pet primates with no exception for current owners.²⁷⁸ The bill provided for fines of up to \$1,000 and imprisonment for up to ninety-three days for violation of the act.²⁷⁹ In Oklahoma, legislators introduced a bill which, with several exceptions, would have prohibited the possession of primates, bears, lions, tigers, leopards, cheetahs, jaguars, and cougars.²⁸⁰ In Virginia, legislators introduced a bill that would have amended existing dangerous animal statutes by adding primates to a list of prohibited animals.²⁸¹ All three bills died in committee in their house of origin.²⁸²

cessed Apr. 2, 2011)); Va. Sen. 570, 2010 Sess. (Jan. 13, 2010) (available at <http://leg1.state.va.us/cgi-bin/legp504.exe?101+ful+SB570+pdf> (accessed Apr. 2, 2011)).

²⁷⁸ Mich. H. 5762, 95th Legis., 2009–2010 Reg. Sess.

²⁷⁹ *Id.* at § 70A(1).

²⁸⁰ Okla. Sen. 1798, 52d Legis., 2d Sess. at § 1(A)(3), (B)(2), (F).

²⁸¹ Va. Sen. 570, 2010 Sess.

²⁸² Mich. Legis., *House Bill 5762 (2010)*, <http://www.legislature.mi.gov/%28S%28b1a4am45nvt3xx45bmv2uu55%29%29/mileg.aspx?page=getObject&objectName=2010-HB-5762> (accessed Apr. 2, 2011); Okla. Legis., *SB1978 Introduced*, <http://webserver1.lsb.state.ok.us/WebBillStatus/main.html>; *select* Basic Search Form, *search* SB1798 (accessed Apr. 2, 2011)); Va. Legis., *SB 570 Primates; Prohibits Any Person from Acquiring after July 1, 2010, penalty*, <http://leg1.state.va.us/cgi-bin/legp504.exe?ses=101&typ=bil&val=sb570> (accessed Apr. 2, 2011)).