S T A T E  O F  N E W  Y O R K

4964

2009-2010 Regular Sessions

I N  S E N A T E

April 27, 2009

Introduced by Sen. OPPENHEIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to the display of elephants

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The agriculture and markets law is amended by adding a new section 359-b to read as follows:

S 359-B. DISPLAY OF ELEPHANTS. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL MEAN:

A. "DISPLAY" MEANS ANY EXHIBIT, ACT, CIRCUS, PUBLIC SHOW, TRADE SHOW, PHOTOGRAPHIC OPPORTUNITY, CARNIVAL, PARADE, PETTING ZOO OR ZOO.

B. "TRAVELING EXHIBITION" MEANS A DISPLAY THAT HAS NO PERMANENT LEGAL RESIDENCE OR SITUS IN THIS STATE, OR WHICH REMAINS CONTINUOUSLY AT ANY SINGLE LOCATION IN THE STATE FOR LESS THAN SIXTY DAYS.

2. TRAVELING EXHIBITIONS; FILE ITINERARY. ANY PERSON WHO BRINGS AN ELEPHANT (ELEPHANTIDAE) INTO THIS STATE AS PART OF A TRAVELING EXHIBITION SHALL, NOT LESS THAN THIRTY DAYS PRIOR TO SUCH ELEPHANT'S ENTRY INTO THE STATE, FILE WITH THE DEPARTMENT A COPY OF THE ITINERARY OF THE ELEPHANT'S ENTRY INTO, STAY IN AND DEPARTURE FROM THE STATE. SUCH ITINERARY SHALL INCLUDE THE DATE AND LOCATION OF EACH DISPLAY OF THE ELEPHANT IN THIS STATE. THE DEPARTMENT SHALL BE NOTIFIED IN A TIMELY MANNER OF EACH CHANGE IN A FILED ITINERARY, SO THAT THE DEPARTMENT HAS NOTICE OF THE LOCATION OF EACH ELEPHANT WHILE IT IS IN THIS STATE. EACH AND EVERY VIOLATION OF THIS SUBDIVISION SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS.

3. TRANSPORTATION REQUIREMENTS. IN ADDITION TO ANY OTHER REQUIREMENT IMPOSED PURSUANT TO THE PROVISIONS OF THIS ARTICLE, THE AMBIENT TEMPERATURE OF ANY COMPARTMENT IN WHICH AN ELEPHANT IS TRANSPORTED WHILE IN THE STATE SHALL BE MAINTAINED BETWEEN FORTY-FIVE DEGREES AND EIGHTY-FIVE DEGREES FAHRENHEIT. FURTHERMORE, SUCH COMPARTMENT SHALL BE VENTILATED IN

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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A MANNER THAT PREVENTS THE ACCUMULATION OF NOXIOUS FUMES OR ODORS. THE OWNER, AGENT, CONSIGNEE OR PERSON IN CHARGE OF AN ELEPHANT TRANSPORT IN VIOLATION OF THE PROVISIONS OF THIS SUBDIVISION SHALL BE GUILTY OF A CLASS E FELONY.

4. INSPECTION. THE COMMISSIONER, ANY DULY DESIGNATED REPRESENTATIVE OF THE COMMISSIONER, ANY VETERINARIAN EMPLOYED BY THE DEPARTMENT OR ANY VETERINARIAN ACTING AT THE DIRECTION OF THE COMMISSIONER MAY, AT ANY REASONABLE TIME, ENTER AN AREA OR COMPARTMENT WHERE ANY ELEPHANT IS BEING KEPT TO INSPECT SUCH AREA OR COMPARTMENT AND THE ELEPHANT FOR COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE, ARTICLE ELEVEN OF THE ENVIRONMENTAL CONSERVATION LAW, AND THE RULES AND REGULATIONS ADOPTED PURSUANT THERETO. EACH PERSON IN CHARGE OF AN ELEPHANT SHALL PROVIDE SUCH ASSISTANCE AS SHALL BE NECESSARY TO PERFORM SUCH INSPECTION.

5. TETHERING. EVERY ELEPHANT SHALL HAVE ITS LEGS UNTETHERED FOR NOT LESS THAN ONE HOUR EACH DAY, NOT INCLUDING ANY PERIOD OF TIME DURING WHICH THE ELEPHANT IS ON PUBLIC DISPLAY. ANY PERSON IN CHARGE OF AN ELEPHANT TETHERED IN VIOLATION OF THIS SUBDIVISION SHALL BE GUILTY OF A CLASS E FELONY.

6. PROHIBITED EQUIPMENT. NO PERSON SHALL USE UPON ANY ELEPHANT ANY DEVICE WHICH EMITS AN ELECTRIC CURRENT OR SHOCK, OR ANY HOOKED INSTRUMENT IN A MANNER THAT CAUSES DAMAGE, SCARRING OR BREAKAGE TO THE SKIN OF SUCH ELEPHANT. A VIOLATION OF THIS SUBDIVISION SHALL CONSTITUTE A CLASS E FELONY.

7. PROHIBITED CONTACT. NO PERSON OWNING OR HAVING CONTROL OF AN ELEPHANT SHALL KNOWINGLY ALLOW ANY PERSON TO RIDE SUCH ELEPHANT, UNLESS SUCH PERSON IS ENGAGED IN TRAINING, EXHIBITING OR PROVIDING CARE TO THE ELEPHANT. A VIOLATION OF THIS SUBDIVISION SHALL CONSTITUTE A CLASS E FELONY.

8. NOTWITHSTANDING THE PROVISIONS OF SECTION THREE HUNDRED FIFTY-THREE OF THIS ARTICLE, ANY VIOLATION OF SUCH SECTION COMMITTED UPON AN ELEPHANT SHALL CONSTITUTE A CLASS D FELONY.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law.