

5971

2013-2014 Regular Sessions

I N S E N A T E

October 28, 2013

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

AN ACT to amend the agriculture and markets law, in relation to restricting the use of exotic and wild animals in traveling circuses and shows

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

- 1 Section 1. This act shall be known and may be cited as the "traveling  
2 exotic and wild animal protection act".  
3 S 2. Legislative findings. The legislature finds that:  
4 1. traveling circuses and shows are detrimental to animal welfare due  
5 to the adverse effects of captivity and transport;  
6 2. severe confinement, lack of free exercise, and the restriction of  
7 natural behaviors, cause animals used in traveling circuses and shows to  
8 suffer and be prone to health, behavioral, and psychological problems;  
9 3. tricks that exotic and non-domesticated animals are forced to  
10 perform require extreme physical coercion techniques, including the  
11 restriction of food, the use of elephant hooks (objects used to control  
12 and punish elephants), electric shocks, metal bars, whips, and other  
13 forms of physical abuse;  
14 4. welfare of animals subject to the conditions in traveling circuses  
15 and shows, such as constant travel, limited facilities, long periods of  
16 restricted movement, stress, and physical coercion, will inevitably be  
17 compromised, which can lead to increased risks to public safety;  
18 5. animals in traveling circuses and shows pose an additional risk to  
19 public safety because such animals have wild instincts and needs and  
20 have demonstrated unpredictability;  
21 6. use of collapsible, temporary facilities in traveling circuses and  
22 shows increases the risk of escaping exotic and non-domesticated animals  
23 seriously harming workers and the public;

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

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1 7. traveling circuses and shows bring people dangerously close to  
2 exotic and non-domesticated animals by displaying animals in inappropri-  
3 ate, uncontrolled areas that are not suited for the exhibition of such  
4 animals;

5 8. it is not possible to provide exotic and non-domesticated animals  
6 with facilities sufficient to maintain the optimum physical and mental  
7 health of the animals because of the suffering caused to the animals by  
8 the nature of traveling circuses and shows, in which restriction of  
9 movement, separation from natural groupings, restriction of food and  
10 water, and physical abuse are prevalent;

11 9. due to the mobile and transitory nature of traveling circuses and  
12 shows, law enforcement authorities cannot properly monitor the condi-  
13 tions of the animals or follow up on previous infractions by traveling  
14 circuses;

15 10. restricting the use of exotic and non-domesticated animals in  
16 traveling circuses and shows is the most cost-effective and efficient  
17 way to safeguard both animal welfare and public safety; and

18 11. animal-free circuses like Cirque du Soleil are growing in number,  
19 economic impact, and popularity, a testament to an educated public's  
20 desire to see humane entertainment.

21 S 3. The agriculture and markets law is amended by adding a new  
22 section 352 to read as follows:

23 S 352. USE OF EXOTIC OR WILD ANIMALS IN TRAVELING CIRCUSES AND EXHIBI-  
24 TIONS. 1. NO TRAVELING CIRCUS OR SHOW MAY ALLOW FOR THE PARTICIPATION  
25 OF AN EXOTIC OR WILD ANIMAL, INCLUDING A NON-HUMAN PRIMATE, IN AN ANIMAL  
26 ACT IF, DURING THE THIRTY DAY PERIOD PRECEDING SUCH PARTICIPATION, SUCH  
27 ANIMAL WAS TRAVELING IN A MOBILE HOUSING FACILITY.

28 2. THE RESTRICTION UNDER SUBDIVISION ONE OF THIS SECTION SHALL NOT  
29 APPLY TO THE USE OF AN EXOTIC OR WILD ANIMAL, INCLUDING A NON-HUMAN  
30 PRIMATE:

31 (A) IN AN EXHIBITION AT A NON-MOBILE, PERMANENT INSTITUTION OR FACILI-  
32 TY, INCLUDING AN ACCREDITED ZOO OR AQUARIUM;

33 (B) AS PART OF AN OUTREACH PROGRAM FOR EDUCATION OR CONSERVATION  
34 PURPOSES BY AN ACCREDITED ZOO, AQUARIUM, OR NOT-FOR-PROFIT CONSERVATION  
35 ORGANIZATION IF THE ANIMAL USED FOR SUCH PURPOSES IS NOT KEPT IN A  
36 MOBILE HOUSING FACILITY FOR MORE THAN TWELVE HOURS A DAY;

37 (C) BY A UNIVERSITY, COLLEGE, LABORATORY, OR OTHER RESEARCH FACILITY  
38 REGISTERED WITH THE SECRETARY OF THE DEPARTMENT OF AGRICULTURE PURSUANT  
39 TO THE ANIMAL WELFARE ACT (7 U.S.C. SECTION 2136);

40 (D) IN FILM, TELEVISION, OR ADVERTISING IF SUCH USE DOES NOT INVOLVE A  
41 LIVE PUBLIC EXHIBITION; OR

42 (E) IN A RODEO.

43 3. A TRAVELING CIRCUS OR SHOW THAT FAILS TO COMPLY WITH THIS SECTION  
44 OR ANY RULE, REGULATION, OR STANDARD PROMULGATED BY THE COMMISSIONER  
45 THEREUNDER, MAY BE ASSESSED A CIVIL PENALTY BY THE COMMISSIONER OF NOT  
46 MORE THAN TEN THOUSAND DOLLARS FOR EACH SUCH VIOLATION, AND THE COMMIS-  
47 SIONER MAY ALSO MAKE AN ORDER THAT SUCH PERSON SHALL CEASE AND DESIST  
48 FROM CONTINUING SUCH VIOLATION. EACH VIOLATION AND EACH DAY DURING  
49 WHICH A VIOLATION CONTINUES SHALL BE A SEPARATE OFFENSE. ANY PERSON WHO  
50 KNOWINGLY FAILS TO OBEY A CEASE AND DESIST ORDER MADE BY THE COMMISSION-  
51 ER UNDER THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY OF ONE THOU-  
52 SAND FIVE HUNDRED DOLLARS FOR EACH OFFENSE, AND EACH DAY DURING WHICH  
53 SUCH FAILURE CONTINUES SHALL BE DEEMED A SEPARATE OFFENSE.

54 4. THE FOLLOWING ARE EXEMPT FROM THE PROVISIONS OF THIS SECTION:

55 (A) INSTITUTIONS ACCREDITED BY THE AMERICAN ZOO AND AQUARIUM ASSOCI-  
56 ATION,

1 (B) ANY WILDLIFE SANCTUARY AS DEFINED IN THIS SECTION.

2 (C) NOT-FOR-PROFIT ENVIRONMENTAL EDUCATION PROGRAMS AS DEFINED UNDER  
3 THIS SECTION.

4 5. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE  
5 FOLLOWING MEANINGS:

6 (A) "TRAVELING CIRCUS" MEANS A CLASS C LICENSEE THAT IS LICENSED UNDER  
7 THE ANIMAL WELFARE ACT (7 U.S.C. SECTION 2131 ET SEQ.) AND ITS SUBSE-  
8 QUENT AMENDMENTS, REGULATIONS, AND STANDARDS ADOPTED PURSUANT TO THE  
9 ANIMAL WELFARE ACT, THAT OFFERS PERFORMANCES BY LIVE ANIMALS, CLOWNS,  
10 AND/OR ACROBATS THAT TRAVEL IN MOBILE HOUSING FACILITIES.

11 (B) "SHOW" MEANS ANY MOBILE OR STATIONARY ACT, CIRCUS, PUBLIC SHOW,  
12 TRADE SHOW, PHOTOGRAPHIC OPPORTUNITY, CARNIVAL, CITY OR COUNTY FAIR,  
13 AGRICULTURAL FAIR, RIDE, PARADE, RACE, PERFORMANCE, OR SIMILAR UNDERTAK-  
14 ING INCORPORATING WILD OR EXOTIC ANIMALS WHEREIN THE ANIMALS ARE TAKEN  
15 FROM THEIR PERMANENT RESIDENCE AND REQUIRED TO TRAVEL FOR ANY DISTANCE.

16 (C) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION, JOINT  
17 VENTURE, ASSOCIATION, TRUST, ESTATE, OR ANY OTHER LEGAL ENTITY, AND ANY  
18 OFFICER, MEMBER, SHAREHOLDER, DIRECTOR, EMPLOYEE, AGENT, OR REPRESENTATIVE  
19 OF THESE.

20 (D) "EXOTIC OR WILD ANIMALS" MEANS ANY OR ALL OF THE FOLLOWING OR THE  
21 FOLLOWING ORDERS AND FAMILIES, WHETHER BORN IN THE WILD OR IN CAPTIVITY,  
22 AND ALSO ANY OR ALL OF THEIR HYBRIDS WITH DOMESTIC SPECIES. THE ANIMALS  
23 LISTED ARE INTENDED TO ACT AS EXAMPLES AND ARE NOT TO BE CONSTRUED AS AN  
24 EXHAUSTIVE LIST OR LIMIT THE GENERALITY OF EACH GROUP OF ANIMALS, UNLESS  
25 OTHERWISE SPECIFIED:

26 (I) NON-HUMAN PRIMATES AND PROSIMIANS, SUCH AS CHIMPANZEES, BABOONS  
27 AND MONKEYS;

28 (II) FELIDAE, SUCH AS LIONS, TIGERS, COUGARS, LEOPARDS, OCELOTS AND  
29 SERVALS, BUT SHALL NOT INCLUDE DOMESTICATED ANIMALS;

30 (III) CANIDAE, SUCH AS WOLVES AND COYOTES, BUT SHALL NOT INCLUDE  
31 DOMESTIC DOGS;

32 (IV) URSIDAE, SUCH AS BEARS;

33 (V) MARSUPIALIA, SUCH AS KANGAROOS;

34 (VI) PROBOSCIDAE, SUCH AS ELEPHANTS;

35 (VII) ARTIODACTYLA, SUCH AS GIRAFFES AND CAMELS, BUT SHALL NOT INCLUDE  
36 DOMESTIC CATTLE, SWINE, SHEEP, OR GOATS;

37 (VIII) PERISSODACTYLA, SUCH AS ZEBRAS, BUT SHALL NOT INCLUDE DOMESTIC  
38 HORSES, DONKEYS, OR MULES.

39 (E) "WILDLIFE SANCTUARY" MEANS A 501(C)(3) ORGANIZATION DESCRIBED IN  
40 SECTION 170(B)(1)(A)(VI) OF THE INTERNAL REVENUE CODE 1986, AND ITS  
41 SUBSEQUENT AMENDMENTS WHERE:

42 (I) NO COMMERCIAL TRADE IN ANIMALS OCCURS, INCLUDING, BUT NOT LIMITED  
43 TO, SALE OF ANIMALS, ANIMAL PARTS, BY-PRODUCTS, OFFSPRING, PHOTOGRAPHIC  
44 OPPORTUNITIES OR PUBLIC EVENTS FOR FINANCIAL PROFIT, OR ANY OTHER ENTER-  
45 TAINMENT PURPOSES;

46 (II) NO PROPAGATION OF ANIMALS OCCURS IN THE FACILITY; AND

47 (III) NO ESCORTED PUBLIC VISITATION IS ALLOWED; NO DIRECT CONTACT  
48 BETWEEN THE PUBLIC AND WILD ANIMALS IS ALLOWED; ANIMALS ARE NOT TAKEN  
49 FROM THE SANCTUARY OR ENCLOSURES FOR EXHIBITION.

50 (F) "DOMESTICATED ANIMAL" MEANS ANY DOMESTICATED SHEEP, HORSE, CATTLE,  
51 FALLOW DEER, RED DEER, SIKA DEER, WHITETAIL DEER WHICH IS RAISED UNDER  
52 LICENSE FROM THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, LLAMA, GOAT,  
53 SWINE, FOWL, DUCK, GOOSE, SWAN, TURKEY, CONFINED DOMESTIC HARE OR  
54 RABBIT, PHEASANT OR OTHER BIRD WHICH IS RAISED IN CONFINEMENT UNDER  
55 LICENSE FROM THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION BEFORE RELEASE  
56 FROM CAPTIVITY, EXCEPT THAT THE VARIETIES OF FOWL COMMONLY USED FOR COCK

1 FIGHTS SHALL NOT BE CONSIDERED DOMESTIC ANIMALS FOR THE PURPOSES OF THIS  
2 SECTION.

3 (G) "ENVIRONMENTAL EDUCATION PROGRAM" MEANS ANIMAL USE OR EXHIBITION  
4 THAT IS DEVOTED TO IMPARTING KNOWLEDGE OR INFORMATION ABOUT THE EXHIB-  
5 ITED ANIMAL'S BEHAVIOR, HABITAT, LIFE CYCLE, MIGRATORY PATTERNS, FEEDING  
6 HABITS OR SIMILAR PEDAGOGICAL INFORMATION AND IS CONDUCTED BY AN INDI-  
7 VIDUAL OR INDIVIDUALS WHO IS/ARE ACCREDITED OR SIMILARLY QUALIFIED TO  
8 IMPART SUCH INFORMATION. AT NO TIME DURING AN EDUCATIONAL EXHIBITION  
9 WILL ANY ANIMAL BE MADE TO PERFORM ANY BEHAVIOR THAT IS NOT INTRIN-  
10 SICALLY NATURAL TO THE ANIMAL.

11 S 4. This act shall take effect one year after it shall have become a  
12 law. Effective immediately, the addition, amendment and/or repeal of any  
13 rule or regulation necessary for the implementation of this act on its  
14 effective date is authorized to be made on or before such date.