STATE OF NEW YORK

464

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IN ASSEMBLY

January 9, 2017

Introduced by M. of A. PAULIN, SEPULVEDA, LUPARDO, MOSLEY, OTIS, MAGEE, WOERNER, LAWRENCE, ZEBROWSKI, DINOWITZ -- Multi-Sponsored by -- M. of A. ENGLEBRIGHT, GLICK -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to prohibiting the use of elephants in entertainment acts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "elephant protection act".

§ 2. Legislative findings. The legislature hereby finds that:

a. elephant abuse is a matter of worldwide concern, and the state as a recognized environmental leader should help assure the protection and welfare of elephants;

b. it is widely recognized that elephants used for entertainment purposes ("entertainment elephants") suffer physical and psychological harm due to the living conditions and treatment to which they are subjected, resulting in increased mortality with life spans only one-half as long as wild elephants;

c. entertainment elephants are trained with cruel techniques that involve the use of objects to control and punish, such as bullhooks, electric shocks, metal bars, whips, chaining, and other forms of physical restriction and painful coercion;

d. entertainment elephants live in conditions that are in no way similar to their natural habitat, including an unnatural diet, restricted movement, inappropriate housing and a hostile climate;

e. entertainment elephants are subjected to confinement and social isolation, leading to physiological, behavioral and psychological impairments;

f. entertainment elephants transported into the state spend a significant portion of their lives inside trucks, trains or trailers, enduring additional physical restrictions and social isolation;

g. the use of elephants in entertainment provides a false and inaccurate educational experience for children and adults, often including

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

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performance tricks that are never executed by elephants in the wild and that are stressful or harmful to the animal; and

h. it is in the best interest of the state that the use of elephants in entertainment be prohibited, and that the state use its authority to aid in the protection and welfare of these animals.

§ 3. The agriculture and markets law is amended by adding a new section 380 to read as follows:

§ 380. Use of elephants in entertainment acts. 1. No person shall conduct or operate a display of elephants in any type of entertainment act.

2. Any person that violates the provisions of this section, or any rule or regulation promulgated pursuant thereto, may be assessed, by the commissioner, a civil penalty of not more than ten thousand dollars for each such violation. Each violation and each day during which a violation continues shall constitute a separate violation.

3. The provisions of this section shall not apply to:

(a) institutions accredited by the Association of Zoos and Aquariums;

(b) any wildlife sanctuary; and

(c) not-for-profit environmental education programs.

4. As used in this section:

(a) "Elephant" means the two species of the family Elephantidae:

(i) Loxodonta africana, also known as the African elephant; and

(ii) Elephas maximus, also known as the Asian elephant or Indian elephant.

(b) "Entertainment act" means any exhibition, act, circus, trade show, carnival, ride, parade, race, performance or similar undertaking.

(c) "Environmental education program" means animal use or exhibition that is devoted to imparting knowledge or information about the exhibited animal's behavior, habitat, life cycle, migratory patterns, feeding habits or similar pedagogical information, and that is conducted by an individual or individuals who are accredited or similarly qualified to impart such information. At no time during an educational exhibition shall any animal be made to perform any behavior that is not intrinsically natural to such animal.

(d) "Person" means an individual, partnership, limited liability company, corporation, joint venture, association, trust, estate or any other legal entity, and any officer, member, shareholder, director, employee, agent or representative of any such entity.

(e) "Wildlife sanctuary" means a 501(c)(3) organization described in section 170(b)(1)(A)(vi) of the Internal Revenue Code 1986, and its subsequent amendments where:

(i) no commercial trade in animals occurs including, but not limited to, sale of animals, animal parts, by-products, offspring, photographic opportunities or public events for financial profit, or any other entertainment purposes; and

(ii) no propagation of animals occurs in the facility; no escorted public visitation of animals is allowed; no direct contact between the public and wild animals is allowed; and animals are not taken from the sanctuary or enclosures for exhibition.

§ 4. This act shall take effect two years after it shall have become a law. Provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of the provisions of this act on its effective date are authorized and directed to be completed on or before such date.