

STATE OF NEW YORK

2098

2017-2018 Regular Sessions

IN SENATE

January 12, 2017

Introduced by Sen. MURPHY -- 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 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:

- 1 Section 1. Short title. This act shall be known and may be cited as
2 the "elephant protection act".
- 3 § 2. Legislative findings. The legislature hereby finds that:
- 4 a. elephant abuse is a matter of worldwide concern, and the state as a
5 recognized environmental leader should help assure the protection and
6 welfare of elephants;
- 7 b. it is widely recognized that elephants used for entertainment
8 purposes ("entertainment elephants") suffer physical and psychological
9 harm due to the living conditions and treatment to which they are
10 subjected, resulting in increased mortality with life spans only one-
11 half as long as wild elephants;
- 12 c. entertainment elephants are trained with cruel techniques that
13 involve the use of objects to control and punish, such as bullhooks,
14 electric shocks, metal bars, whips, chaining, and other forms of phys-
15 ical restriction and painful coercion;
- 16 d. entertainment elephants live in conditions that are in no way simi-
17 lar to their natural habitat, including an unnatural diet, restricted
18 movement, inappropriate housing and a hostile climate;
- 19 e. entertainment elephants are subjected to confinement and social
20 isolation, leading to physiological, behavioral and psychological
21 impairments;
- 22 f. entertainment elephants transported into the state spend a signif-
23 ificant portion of their lives inside trucks, trains or trailers, enduring
24 additional physical restrictions and social isolation;

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

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1 g. the use of elephants in entertainment provides a false and inaccur-
2 rate educational experience for children and adults, often including
3 performance tricks that are never executed by elephants in the wild and
4 that are stressful or harmful to the animal; and

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

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

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

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

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

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

20 (b) any wildlife sanctuary; and

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

22 4. As used in this section:

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

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

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

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

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

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

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

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

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

52 § 4. This act shall take effect two years after it shall have become a
53 law. Provided, however, that effective immediately, the addition, amend-
54 ment and/or repeal of any rule or regulation necessary for the implemen-
55 tation of the provisions of this act on its effective date are author-
56 ized and directed to be completed on or before such date.