



NEW YORK
CITY BAR

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**REPORT ON LEGISLATION BY THE
ANIMAL LAW COMMITTEE**

Int. No. 0049-2010

Council Members Mendez, Brewer, Chin, Koslowitz, Mark-Viverito, Palma, Williams, Dromm, Cabrera, Arroyo and Ignizio

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting the display of wild or exotic animals for public entertainment or amusement.

THIS LEGISLATION IS APPROVED WITH A RECOMMENDATION

1. Summary of the Proposed Law

Int. No. 49 would add a new section 17-196¹ to the New York City Administrative Code to prohibit the display of any wild or exotic animal in New York City. “Display” is defined as an “exhibition, act, circus, ride, trade show, carnival, parade, race, photographic opportunity, performance or similar undertaking in which animals are required to perform tricks, fight or participate as accompaniments in performances for the amusement or benefit of an audience.” The definition of “exotic animal” includes elephants, giraffes, camels, and other animals. The definition of “wild animal” includes monkeys, tigers, lions and other animals. The legislation excludes wildlife sanctuaries, accredited zoos and aquariums, institutions operated by the wildlife conservation society of New York, veterinarians, and laboratories from the prohibition. The law would be enforced by the Department of Health and Mental Hygiene or any City agency designated by the mayor. The fine for illegally exhibiting wild or exotic animals is \$1,000 per violation.

2. Reasons for the Prohibition

The Animal Welfare Act (AWA),² the City’s existing circus-permit requirement,³ and Article 26 of the N.Y. Agriculture & Markets Law have not effectively protected circus animals

¹ Since the bill was introduced, the provisions for the electronic death registration system were renumbered section 17-196 of the Administrative Code. Therefore, it is necessary to revise Int. 49 to change the section of the Administrative Code.

² 7 U.S.C. §§ 2131 *et seq.* The AWA requires that minimum standards be provided for the care, treatment, transportation, housing, handling, purchase and sale of certain warm-blooded animals used for research, exhibition, and commerce in order to ensure their humane treatment. A federal bill to amend the AWA, known as the Traveling Exotic Animals Protection Act (“TEAPA”; H.R. 3359) would bar the exhibition of animals traveling 15 days prior to a circus exhibition. The Committee submitted a report in support of TEAPA, which is available at <http://www2.nycbar.org/pdf/report/uploads/20072237-HRBillTravelingExoticAnimalProtectionAct.pdf>. Although

who perform in New York City from conditions inherent in circuses involving animal shows. As explained below, (a) the tricks that circus animals are forced to perform can involve physical coercion and abuse, (b) extensive travel and prolonged confinement of animals in circuses can be detrimental to their physical and psychological health and welfare, (c) the public safety and the safety of workers may be put at risk by the exhibition of wild and exotic animals in circuses, and (d) current law does not adequately protect circus animals from abuse and mistreatment.

(a) The tricks that circus animals are forced to perform can involve physical coercion and abusive tactics.

The tricks that circus animals are forced to perform such as headstands and jumping through rings of fire are not behaviors animals would perform in nature. In order to make the animals perform these tricks, it has been reported that some exhibitors use extreme physical coercion that results in trauma, physical injury and, in extreme circumstances, death. In 2004, an eight-month-old circus elephant was euthanized after a training session in which he fractured his back legs as a result of falling off of a platform used for a circus trick.⁴ Undercover footage of training for a circus shows elephants being hit by circus employees on sensitive parts of their bodies and faces with baseball bats, electric prods, pitchforks, and other objects.⁵ Former circus employees report that circus elephants were beaten in the face with sharp metal hooked rods known as bullhooks or ankuses, whipped, and yelled at in order to force them to perform stunts.⁶ Photographs taken by a former circus employee that were published in the *Washington Post* show baby elephants being tied up with rope and forcibly stretched and beaten by several men to make him perform tricks like headstands.⁷ Elephants are not the only animals to suffer; undercover investigators have also photographed and videotaped the abuse of camels, lions, dogs, monkeys, tigers, and other animals used in circuses in the United States and abroad. Occasionally, circuses kill animals that they are unable to control. For example, in 1997, the brother of a circus animal trainer shot and killed a tiger while the tiger was in his cage after the tiger attacked the animal trainer.⁸

TEAPA would be a step in the right direction if enacted, a ban on the use of animals in circuses in New York City is the best way to ensure that no animals are harmed in circuses locally.

³ 24 RCNY Health Code Reg. § 161.01. New York City requires a permit only for circuses not licensed under the AWA. The City's regulation is focused on protecting humans from exposure to dangerous animals and not on the well-being of animals in circuses.

⁴ Marc Kaufman, *USDA Investigates Death of Circus Lion*, WASHINGTON POST (Aug. 8, 2004) A3, at <http://www.washingtonpost.com/wp-dyn/articles/A48042-2004Aug7.html> (last visited February 12, 2013).

⁵ Footage available on the Last Chance for Animals Web site at <http://www.lcanimal.org/index.php/campaigns/elephants/circuses> (last visited February 12, 2013).

⁶ Deborah Nelson, *The Cruellest Show on Earth*, MOTHER JONES 48-57 (Nov./Dec. 2011), at <http://motherjones.com/environment/2011/10/ringling-bros-elephant-abuse> (last visited February 12, 2013).

⁷ Photographs of elephants being trained are available on Youtube.com at <http://www.youtube.com/watch?v=eDMyEHY6ELs> (last visited February 12, 2013).

⁸ Jen Girgen, *The Historical and Contemporary Prosecution and Punishment of Animals*, ANIMAL LAW 129 (May 12, 2003), at http://www.animallaw.info/journals/jo_pdf/lralvol9_p97.pdf (last visited February 12, 2013).

In addition to being victims of brutal training tactics, records indicate that some circus animals travel for extremely long periods of time, live in inadequate housing, and suffer harsh conditions on the road as they are transported to different venues. One animal welfare group estimates that many circus animals spend eleven months a year traveling,⁹ which can cause trauma and stress.¹⁰ In recent years, inspections and internal circus memoranda document circus animals, including large elephants, being confined to train boxcars for periods of over 24 hours, including a trip of 36 hours through the California and Arizona desert region.¹¹ In a 2012 inspection, the space provided by Ringling Brothers on a train ride was found to be extremely restrictive and contaminated with waste.¹² Occasionally, circus animals' traveling conditions may be so extreme that they result in death. For example, in 2004, a lion died while traveling in a boxcar¹³ and in 1997 an elephant died from heat prostration in a trailer.¹⁴ In addition to requiring long periods of travel, Circuses have been cited numerous times by the U.S.D.A. and have been found guilty of failing to provide adequate veterinary care, causing animals discomfort, failing to provide appropriate enclosures, and failing to remove excrement from enclosures to prevent animals from contamination.¹⁵ The U.S.D.A. cited a circus for housing big cats in rusty cages with splintered floors and for using the same containers for both food for tigers and their waste.¹⁶ And in November 2011, Ringling Brothers entered an agreement to pay \$270,000 to settle

⁹ Born Free USA, *Ten Fast Facts About Animals in the Circus*, at <http://www.bornfreeusa.org/facts.php?more=1&p=431> (last visited February 12, 2013).

¹⁰ G.A. Bradshaw, Animals and Society Institute, *Elephants in Circuses: Analysis of Practice, Policy, and Future* 14 (2007), at http://www.kerulos.org/projects/elephant_ptsd_assets/Bradshaw_ASI-Elephant_Policy-2007.pdf (last visited February 12, 2013).

¹¹ E.g., Michael Smith to Dr. Garland regarding a 7/12/04 Ringling Brothers train arrival (7/21/04) (documenting a 36-hour train ride), available at <http://c206728.r28.cf1.rackcdn.com/Plaintiffs-Will-Call-Exhibit-48.pdf>; J. William Misiura, Ringling Director of Transportation, Blue Unit Transportation Order Memos (2000-2008), available at <http://c206728.r28.cf1.rackcdn.com/Plaintiffs-Will-Call-Exhibit-49A.pdf> (last visited February 12, 2013).

¹² Philip K. Ensley, Report to Determine Physical Condition and Suitability to Perform Following Inspection of Ringling Brother and Barnum & Bailey Circus (RBBBC) Elephants at the Los Angeles Staples Center the Week of July 11-17 2012 (July 29, 2012), at <http://www.mediapeta.com/peta/PDF/philip-ensley-report.pdf> (last visited February 12, 2013).

¹³ Marc Kaufman, *USDA Investigates Death of Circus Lion*, WASHINGTON POST (Aug. 8, 2004) A3, at <http://www.washingtonpost.com/wp-dyn/articles/A48042-2004Aug7.html> (last visited February 12, 2013).

¹⁴ Donna Horowitz, *Elephant Death has Marin Wary of Fall Circus*, THE EXAMNER, (Aug. 8, 1997), at http://articles.sfgate.com/1997-08-08/news/28576686_1 (last visited February 12, 2013).

¹⁵ E.g., John F. Cuneo, Jr. et al., AWA Docket 03-0023 (Mar. 29, 2004), at http://www.dm.usda.gov/oaljdecisions/AWA_03_0023_032904.pdf; *Julius Von Hul d/b/a Circus Winterquarters*, AWA Docket 07-0177 (Dec. 16, 2008); PETA's Web page lists hundreds of citations against circuses for violating the Animal Welfare Act at <http://www.peta.org/issues/animals-in-entertainment/circuses-USDA-citations-problems.aspx> (last visited February 12, 2013).

¹⁶ Miguel Llanos, *Ringling Circus Paying Big Fine Over Animal Case*, NBC News (Nov. 28, 2011), at <http://usnews.nbcnews.com/news/2011/11/28/9072340-ringling-circus-paying-big-fine-over-animal-case?lite> (last visited February 12, 2013).

U.S.D.A. claims that it violated the Animal Welfare Act on multiple occasions from 2007 to 2011.¹⁷

(b) Circuses are detrimental to animal physical and psychological health.

Animals that are subjected to coercive training techniques, stressful travel conditions, and long periods of confinement are prone to serious health problems as is documented in reports by governmental agencies and animal advocacy organizations. For example, a 2007 report by the Animals and Society Institute entitled *Elephants in Circuses: Analysis of Practice, Policy, and Future* states that the stress of performing in circuses and in being forced to live in captivity can have a profound impact on elephant health and behavior:

[E]lephants used in circuses are subjected to absolute control, social and physical deprivation, and in many cases, psychological and physical violence. . . . The costs of such chronic stress and trauma are evident in elephant biology and behavior. Symptoms of elephants' inability to successfully adapt to captive conditions include decreased longevity, foot ailments, auto-immune disease, unanticipated aggression, depression, aggression toward each other, stereotypy [persistent repetition or sameness of act], and infanticide, all of which are commonly observed in elephants kept in close confinement.¹⁸

On August 10, 2011, a 54-year old circus elephant collapsed while boarding a train car shortly after a circus performance; video shot by eyewitnesses shows the elephant laying on the ground for several minutes.¹⁹ An investigation memo issued by the Division of Animal Care Services of the City of Sacramento California ("SACS") dated September 9, 2010, regarding the care and treatment of four Asian elephants by a circus, revealed that the elephants suffered from: "(1) Short stepping; (2) Lameness; (3) Walking on the outside of their feet; (4) Shuffling; and (5) Instability in their stifles."²⁰ This is significant because arthritis and foot problems are two of the

¹⁷ The Feld Entertainment settlement agreement is available at http://www.aphis.usda.gov/animal_welfare/downloads/FEI_signed_agreement.pdf (last visited February 12, 2013).

¹⁸ G.A. Bradshaw, Animals and Society Institute, *Elephants in Circuses: Analysis of Practice, Policy, and Future* 14 (2007), at http://www.kerulos.org/projects/elephant_ptsd_assets/Bradshaw_ASI-Elephant_Policy-2007.pdf (last visited February 12, 2013); see also Joyce Poole, co-founder ElephantVoices, letter to City of Hartford, CT Joint Committee on the Environment (Feb. 27, 2009) (discussing the psychological and emotional harm to elephants caused by common circus practices), at http://www.elephantvoices.org/multimedia-resources/document-download-center/doc_download/46-poole-j-2009-elephantvoices-letter-supporting-bill-to-protect-elephants.html (last visited February 12, 2013); G. Iossa *et al.*, *Are Wild Animals Suited to a Travelling Circus Life*, ANIMAL WELFARE 129-140 (2009).

¹⁹ Lucy Blodgett, *Elephant Abuse: Ringling Circus Cited After Elephant Collapses*, HUFFINGTON POST (Aug. 10, 2011), at http://www.huffingtonpost.com/2011/08/10/elephant-abuse-adi-protest_n_923882.html (last visited February 12, 2013).

²⁰ Letter from Penny E. Cistaro, City of Sacramento Animal Care Services Manager, to Feld Entertainment regarding the findings of an inspection of Ringling Bros. and Barnum & Bailey ("Ringling Brothers") (Sept. 9, 2010), at [http://www.mediapeta.com/peta/PDF/20100909LetterFromCityofSacramentotoFeldEntmt\(00057028\).pdf](http://www.mediapeta.com/peta/PDF/20100909LetterFromCityofSacramentotoFeldEntmt(00057028).pdf) (last visited February 12, 2013).

leading reasons why elephants are euthanized.²¹ Additionally, SACS concluded that “[t]hese four elephants show evidence of osteo-arthritis as exemplified by gait deficits and lameness.”²² A USDA inspection report of a circus in Chicago, dated November 18, 2010, revealed that one of the elephants “had chronic lameness since early 2009, and that the licensee has not conducted adequate diagnostics, developed an adequate treatment plan, or ensured that the elephant received prescribed treatments.”²³ It is especially troubling that many of the wild animals injured and neglected in circuses are endangered or threatened species.²⁴

(c) The public safety and the safety of workers are put at risk by the exhibition of wild and exotic animals in traveling circuses.

Reports too numerous to list here document escapes and attacks by circus animals and zoonotic illnesses that put the public, circus employees’, and the animal’s safety at risk. In New York City, A 450-pound tiger escaped from the New Cole Bros. Circus while being transferred from one cage to another near the Forest Park bandshell in Queens; as a result a few drivers who encountered the tiger were injured and received \$1 million from the circus as a settlement.²⁵ On November 24, 2012, a camel escaped from a circus in Glendale, California and ran down a busy four-lane boulevard.²⁶ On April 9, 2010, an elephant in a circus killed her handler.²⁷ In February 2010, a zebra escaped from a circus and ran down a section of Interstate 75 in Atlanta, Georgia, and was euthanized due to injuries sustained during the escape.²⁸ In 2009, an elephant escaped a

²¹ Murray E. Fowler, *An Overview of Foot Conditions in Asian and African Elephants*, THE ELEPHANT’S FOOT: PREVENTION AND CARE OF FOOT CONDITIONS IN CAPTIVE ASIAN ELEPHANTS 5 (2001).

²² *Id.*

²³ USDA Inspection Report of Feld Entertainment, Inc. (Ringling) on Nov. 18, 2010, <http://tiny.cc/Ringling11810> (at Adobe page 9) (last visited February 12, 2013).

²⁴ See Anastasia Niedrich, *Animals in Circuses and the Laws Governing Them*, Animal Legal & Historical Center (2010) (noting, for example, that the number of Bengal tigers in the United States in captivity exceed the number in the wild and citing two examples of deaths of such tigers due to neglect by circuses), at <http://www.animallaw.info/articles/dduscircus.htm#s64> (last visited February 12, 2013).

²⁵ Janon Fisher, *Tiger, Briefly on the Loose, Causes Collision*, N.Y. TIMES (Aug. 1, 2004), Jen Chung, *Escaped Circus Tiger Lawsuit Settlement*, Gothamist.com (Jan. 7, 2009), at <http://www.nytimes.com/2004/08/01/nyregion/tiger-briefly-on-the-loose-causes-collision.html>; http://gothamist.com/2009/01/07/escaped_circus_tiger_lawsuit_settle.php (last visited February 12, 2013).

²⁶ Camel Escapes Circus, Runs Amok Through Streets Of Glendale, Calif., Huffington Post (Nov. 24, 2012), at http://www.huffingtonpost.com/2012/11/24/camel-escapes-circus-runs_n_2184860.html (last visited February 12, 2013).

²⁷ Sherry Long, *Circus Fatal Blamed on Wire Sparks The Worker Killed by a Shrine Circus Elephant on Friday is Identified as Andrew Anderton, of Florida*, THE TIMES-LEADER (WILKES-BARRE) (April 11, 2010), at http://archives.timesleader.com/2010_16/2010_04_11_Circus_fatal_blamed_on_wire_sparks_-news.html (last visited February 12, 2013).

²⁸ Lindsay Barnett, *Lima, Zebra that Escaped Ringling Bros. Circus in Atlanta, is Euthanized*, L.A. TIMES (Mar. 19, 2010), at <http://latimesblogs.latimes.com/unleashed/2010/03/lima-zebra-ringling-bros-circus-escape-euthanized.html> (last visited February 12, 2013).

circus in Oklahoma and was hit by an SUV.²⁹ In 1997, a handler was killed by his tiger in a circus performance in Carrollton, Pennsylvania.³⁰ In 1994, an elephant crushed her trainer at a circus in Honolulu; after the attack, the elephant charged out of the arena onto the street and was gunned down by police.³¹ In 1991, a leopard jumped out of a ring in Wilkesboro, North Carolina and bit a three-year old girl on the neck.³² And it is reported that more than a third of a particular circus's elephants have been diagnosed with tuberculosis,³³ a potentially deadly disease that can be transmitted to humans.³⁴

(d) Current law does not protect circus animals from abuse and mistreatment.

Section 353 of the N.Y. Agriculture & Markets Law bars a person from beating an animal or denying an animal food or water and offers other protections. Because the training of circus animals usually occurs in jurisdictions outside of New York, it is not possible for New York City law enforcement to protect animals from being subjected to potentially harsh training techniques prior to their arrival in New York City. Furthermore, local law enforcement most likely lacks the training and expertise necessary to determine whether an exotic or wild circus animal's welfare is compromised.³⁵

APHIS (Animal and Plant Health Inspection Service), the section of the U.S. Department of Agriculture charged with enforcing AWA, is limited in its enforcement efforts, apparently due to a lack of resources and flawed investigative protocols. According to a USDA Inspector General report:

[F]or 6 of 40 traveling exhibitors we reviewed, Animal Care inspectors could not perform timely reinspections to ensure that serious noncompliant items that were

²⁹ Murray Evans, *Elephant That Escaped and Was Hit by SUV OK*, THE SEATTLE TIMES (Nov. 6, 2009), at http://seattletimes.nwsourc.com/html/nationworld/2010218625_apuscircuselephantescapes.html (last visited February 12, 2013).

³⁰ Zoocheck, *The Bull in the China Shop: An Assessment of the Human Safety Risks Associated With Wild Performing Animals in Circuses*, at <http://www.zoocheck.com/Reportpdfs/BullinCinashop.pdf> (last visited February 12, 2013).

³¹ Rosemarie Bernardo, *Shots Killing Elephant Echo Across Decade*, HONOLULU STAR-BULLETIN (Aug. 16, 2004), at <http://archives.starbulletin.com/2004/08/16/news/story2.html> (last visited February 12, 2013).

³² Exotic Animal Incident Report, Born Free USA, at http://www.bornfreeusa.org/database/exo_incident.php?id=14 (last visited February 12, 2013).

³³ Deborah Nelson, *The Cruellest Show on Earth*, MOTHER JONES, 56 (Nov./Dec. 2011), at <http://motherjones.com/environment/2011/10/ringling-bros-elephant-abuse> (last visited February 12, 2013).

³⁴ Rendi Murphee, *Elephant-to-human Transmission of Tuberculosis*, EMERG INFECT DIS (Mar. 2011), at http://wwwnc.cdc.gov/eid/article/17/3/10-1668_article.htm (last visited February 12, 2013).

³⁵ *C.f. City of Chicago Report Of The Inspector General's Office: A Review of the City's Animal Exhibition License and Permit Procedures 2* (Oct. 2012) (opining that City of Chicago Animal Care and Control "inspectors may lack the necessary training to identify issues specific to large or exotic animals" that are displayed in circuses), at <http://chicagoinspectorgeneral.org/wp-content/uploads/2012/10/Animal-Exhibitors-Public-Report.pdf> (last visited February 12, 2013).

identified in previous inspections had been resolved. For example, one exhibitor continued to show its elephants on the road even though an animal care inspector had previously cited the exhibitor for the animals being too thin for travelling exhibition. . . . Without reinspection, APHIS Animal Care inspectors cannot determine if the serious safety violations cited have been corrected.³⁶

3. Other Jurisdictions

Several other municipalities in the United States ban the use of all or some animals in circuses or implements used to train and control circus animals. The following is a partial list of some municipal laws banning the use of certain animals in circuses:³⁷

- a. *Ban on circuses:* Stamford, Connecticut prohibits circuses.³⁸
- b. *Ban on the use of certain animals in circuses:*
 - i. Boulder, Colorado prohibits the display of certain animals in circuses, including elephants and tigers.³⁹
 - ii. Hollywood, Florida prohibits the display of exotic, threatened or endangered species as defined by the United States Department of the Interior, which includes elephants and tigers.⁴⁰
 - iii. Revere, Massachusetts bans the exhibition of nondomesticated animals for entertainment or amusement purposes.⁴¹
 - iv. Richmond, Missouri bans the display of wild or exotic animals in circuses.⁴²
 - v. Somerville, Massachusetts bans the display of non-domestic animals in circuses.⁴³

³⁶ Audit Report by the USDA Office of the Inspector General, Controls Over APHIS Licensing of Animal Exhibitors, 33601-10-Ch at 2 (June 2010), at <http://www.usda.gov/oig/webdocs/33601-10-CH.pdf> (last visited February 12, 2013).

³⁷ More extensive lists of laws concerning restrictions on animals in circuses are available on the Animal Defenders International Web site at http://www.ad-international.org/animals_in_entertainment/go.php?id=281&ssi=10; and the Born Free U.S.A. Web site at http://www.bornfreeusa.org/b4a3_circuses_and_shows.php (last visited February 12, 2013).

³⁸ Stamford, Connecticut Code § 74-6 (“No carnivals, circuses or wild west shows shall be conducted, operated or performed within the city.”).

³⁹ Boulder, Colorado Code § 6-1-4.

⁴⁰ City of Hollywood, Florida Code § 92.60(D)(2)(c); U.S. Fish & Wildlife Services Species Reports, at http://ecos.fws.gov/tess_public/pub/listedAnimals.jsp (last visited February 12, 2013).

⁴¹ Revere, Massachusetts Code § 6.04.031.

⁴² Richmond, Missouri Code § 210.390.

⁴³ City of Somerville, Massachusetts Code § 3-39(a).

- c. *Ban on animals engaged in unnatural behavior*: St. John, Indiana bars circuses from displaying wild animals engaging in “unnatural behavior.”⁴⁴
- d. *Ban on implements commonly used to train circus animals*: Margate, Florida and Fulton County, Georgia ban the use of bull hooks, whips, electric prods, and similar devices likely to cause pain to animals.⁴⁵
- e. *Ban on circuses on public property*: Greenburgh, New York prohibits the display or wild or exotic animals on any property in which the town has a property interest.⁴⁶ Pasadena, California bans the display of wild or exotic animals on public property in the city.⁴⁷

Several countries have banned the use of animals in circuses. The following is a partial list of some of the countries that have such bans:

- a. Austria bans the use of wild animals in circuses.⁴⁸
- b. Bolivia prohibits the use of both wild and domestic animals in circuses.⁴⁹
- c. China bans the use of circus acts in zoos.⁵⁰
- d. Greece bans the use of all animals in circuses.⁵¹
- e. India bans lions, tigers, monkeys, panthers and bears from performing in circuses.⁵²
- f. Israel bans the use of wild animals in circuses.⁵³

⁴⁴ St. John, Indiana Code § 3-11(a) provides in part:

No person may sponsor, promote or train a wild, domestic, or exotic animal to participate in, contribute to the involvement of an animal in or attend as a spectator any activity or event in which any wild animal engages in unnatural behavior or is wrestled, fought, mentally or physically harassed or displayed in such a way that the animal is abused or stressed mentally or physically or is induced or encouraged to perform through the use of chemical, mechanical, electrical or manual devices in a manner that will cause or is likely to cause physical injury or suffering.

⁴⁵ Margate, Florida Code § 4-25(b); Fulton County, Georgia Code § 34-212.

⁴⁶ Greenburgh, New York Code § 345-2(A).

⁴⁷ Pasadena, California Code.

⁴⁸ In December 2011, the Austrian Constitutional Court determined that Austria’s ban on the use of wild animals in circuses was not unconstitutional. Decision G74/11; V63/11 (Dec. 1, 2011), at http://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Vfgh&Dokumentnummer=JFT_09888799_11G00074_00 (last visited February 12, 2013).

⁴⁹ Bolivia Law 4040; Jean Friedman-Rudovsky, *Bolivia’s Freed Circus Animals Need Homes*, TIME (Oct. 27, 2009), at <http://www.time.com/time/world/article/0,8599,1932343,00.html> (last visited February 12, 2013).

⁵⁰ Malcolm Moore, *China Bans Animal Circuses*, The Telegraph (Jan. 18, 2011), at <http://www.telegraph.co.uk/news/worldnews/asia/china/8266563/China-bans-animal-circuses.html> (last visited February 12, 2013).

⁵¹ Victoria Mindova, *Greece Bans Circuses with Animals*, GR REPORTER (Greece) (Feb. 9, 2012), at http://www.grreporter.info/en/greece_bans_circuses_animals/6044 (last visited February 12, 2013).

⁵² Animal Defenders International, *Help for India Circus Rescue* (Jan. 5, 2006), at http://www.ad-international.org/animals_in_entertainment/go.php?id=212&ssi=10 (last visited February 12, 2013).

- g. The Netherlands bans the use of wild animals in circuses.⁵⁴
- h. Paraguay bans the use of wild animals in circuses.⁵⁵
- i. Peru bans the use of wild animals in circuses.⁵⁶
- j. Singapore bans travelling circuses that display wild animals.⁵⁷

4. Opposition

In response to other legislation designed to protect circus animals, circuses have argued that their employees will lose jobs if animals may no longer perform, that animal acts are a kind of protected artistic expression, that the public will lose an opportunity to view entertainment, and other businesses will decline.⁵⁸

The opposition fails to address the overwhelming evidence, and common sense judgment, that wild and exotic circus animals experience profound suffering when they are forced to endure coercive training techniques and long hours of travel. Wild and exotic animals belong in their natural habitat; it is cruel to pack them into cages for ongoing transport and to force them to do tricks in front of loud audiences.

The opposition also exaggerates the intent and effect of a ban on the use of wild and exotic animals in circuses. Such a ban will not mean the end to all circus entertainment in New York City and a concomitant loss of hundreds of jobs. Circuses will simply have to focus on acts that do not use animals. Cirque du Soleil is wildly popular despite the fact that it does not use animals in its circus shows. New York City resident circuses, The Bindlestiff Family Cirkus and the Russian American Kids Circus, do not use animals. The roughly dozen animal-free circuses in the United States are a testament to the public's desire to see circuses that do not exploit wild and exotic animals.⁵⁹ The Los Angeles City Council's Committee on Personnel and Animal Welfare concluded that the City's circus permittees generated only \$15,000 to \$20,000 in direct

⁵³ Animal Defenders International, *Worldwide Circus Bans* (updated Oct. 4, 2012), at http://www.ad-international.org/animals_in_entertainment/go.php?id=281 (last visited February 12, 2013).

⁵⁴ Government of the Netherlands Web page, *Agriculture and Livestock, Animal Welfare*, at <http://www.government.nl/issues/agriculture-and-livestock/animals/animal-welfare> ("The cabinet Rutte-Asscher has decided that circuses will be banned from using wild animals in their performances.") (last visited February 12, 2013).

⁵⁵ Resolution 2002/12.

⁵⁶ Stacey Samuel, *Bob Barker Touts Bill to Protect Traveling Circus Animals*, CNN.com (Nov. 2, 2011), at <http://www.cnn.com/2011/11/02/politics/barker-circus-animals-bill/index.html> (last visited February 12, 2013).

⁵⁷ Agri-Food & Veterinary Authority of Singapore Web page (Dec. 29, 2000), at <http://www.ava.gov.sg/NewsEvents/PressReleases/2000/Ban+on+Performing+Wild+Animals+in+Travelling+Circuses.htm> (last visited February 12, 2013).

⁵⁸ See, e.g., Feld Entertainment (owner of Ringling) Press Release (Nov. 1, 2011), <http://www.feldentertainment.com/Press/PressRelease.aspx?id=55873> (last visited February 12, 2013).

⁵⁹ In Defense of Animals, *Fun Circuses: Circuses that do not use animal acts*, at <http://www.idausa.org/facts/circusfacts.html> (last visited February 12, 2013).

and indirect tax revenue in 2011 and suggested the possibility that such revenues may not be impacted at all if the circuses choose to perform without animals in the show.⁶⁰ And it may be in a circuses financial interest to do so. Circus Gatti, for example, has elected to forgo the use of exotic animals in its Canadian shows instead of getting permits.⁶¹

5. Recommendation

The Animal Law Committee supports this legislation as drafted. However, we express our concern about using any animals in circus performances because all animals are susceptible to the stress inherent in performing tricks in front of large audiences and the stress of continuous travel and confinement. In any event, we ask the Council to extend the ban in the legislation to the fennec fox, which is one of the bill's enumerated exceptions. Fennec foxes (*Vulpes zerda*) are animals originating in Africa that are protected by the Convention on International Trade in Endangered Species (CITES), an international treaty to which the United States is a party.⁶²

6. Summary

For the reasons explained above, Int. No. 49 is approved.

February 2013

⁶⁰ Brenda F. Barnette, General Manager, City of Los Angeles, Report to the Board of Animal Services Commissioners (Oct. 18, 2012); on file with the Committee.

⁶¹ Circus Gatti home page, <http://www.circusgatti.net> ("Due to federal regulations, there will be no exotic animals, including elephants, in Canada.") (last visited February 12, 2013).

⁶² CITES Appendix II, <http://www.cites.org/eng/app/appendices.php> (last visited February 12, 2013). The exception for fennec foxes may be a bill-drafting error; the definition of "wild animal" in the bill mirrors the definition of "wild animal" in N.Y. Environmental Conservation Law section 11-103, which serves an entirely different purpose. In the Environmental Conservation Law, fennec foxes may have been excluded because it is legal to keep them as pets in some jurisdictions outside of New York City. In New York City, the possession of fennec foxes as pets is barred by 24 RCNY Health Code Reg. 161.00(b).