

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

**A.3673  
S.5408**

**M. of A. Englebright  
Sen. Martinez**

AN ACT to amend the environmental conservation law, in relation to prohibiting the issuance of permits authorizing the use of wild animals in circuses.

**THIS LEGISLATION IS APPROVED**

**I. SUMMARY OF THE PROPOSED LEGISLATION**

Assembly Bill No. 3673/Senate Bill No. 5408 (the “Bill”) would add a new section 11-0541 to the Environmental Conservation Law that would prohibit the Department of Environmental Conservation (“DEC”) from issuing a license or permit to allow the exhibition<sup>1</sup> of a “wild animal” in a circus.<sup>2</sup> This would preclude circuses from exhibiting certain animals commonly used in circuses such as bears, lions, tigers, and monkeys. (Circuses are already barred from displaying elephants in New York under the Elephant Protection Act.<sup>3</sup>) The Bill does not preclude circuses from exhibiting animals for which no DEC exhibition permit is required such as certain captive-bred exotic birds, domesticated animals such as dogs, and farmed animals such as llamas, zebras, and camels.<sup>4</sup>

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<sup>1</sup> “Exhibition” means the regular display of wildlife “where the display itself is the chief object.” 6 NYCRR § 175.2(b).

<sup>2</sup> N.Y. ENVTL. CON. L. § 11-0103(6)(e) defines “wild animals” as the following orders and families of animals (excluding companion animals): (i) nonhuman primates (e.g., chimpanzees) and prosimians (e.g., lemurs), (ii) felidae (e.g., lions and tigers) and all hybrids (excluding domestic and feral cats), (iii) canidae (excluding domestic dogs and captive-bred fennec foxes), (iv) ursidae (e.g., bears), (v) crocodylia (e.g., alligators) and certain other reptiles. Companion animal means “any dog or cat, and shall also mean any other domesticated animal normally maintained in or near the household of the owner or person who cares for such other domesticated animal.” N.Y. AGRIC. & MKTS. L. § 350(5).

<sup>3</sup> N.Y. AGRIC. & MKTS. L. § 380. Illinois enacted the first statewide ban on the use of elephants in traveling acts (Illinois Public Act 100-0090, signed August 2017 and effective six months later, on January 1, 2018) and New York was the second state to act, prohibiting the use of elephants in entertainment acts. The New York law was signed October 19, 2017 (Chp. 333). The City Bar supported this legislation. *See* <http://s3.amazonaws.com/documents.nycbar.org/files/2017148-ElephantsinEntertainment.pdf> (all websites last visited May 28, 2019).

<sup>4</sup> Agriculture and Markets Law section 350(4) includes llamas and ungulates (e.g., camels and zebras) in its definition of “farm animals.” The definition of “wild animal” in the Environmental Conservation Law does not include these animals. And the definition of “wildlife,” which includes “animal life existing in a wild state,” would also not include such animals.

The prohibited DEC licenses and permits include, but are not limited to, education permits and exhibition permits,<sup>5</sup> and endangered or threatened species licenses.<sup>6</sup> The prohibition would not apply to zoos accredited by the American Association of Zoos and Aquariums and wildlife sanctuaries.<sup>7</sup> The term “circus” is not defined.

The Bill would not take effect until December 31, 2020, whereas the Elephant Protection Act takes effect in October 2019, two years after it was enacted.

## II. JUSTIFICATION

As explained below, the Bill is necessary to protect wild animals—many of which are endangered or threatened species<sup>8</sup>—used in circuses because (a) the tricks that such wild animals are forced to perform often 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 exhibiting wild animals in circuses, (d) circuses teach children an inhumane and distorted lesson about wildlife, and (e) current law—including the federal Animal Welfare Act (AWA)<sup>9</sup>

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<sup>5</sup> An “education or exhibition permit” refers to the licenses that the DEC issues to possess certain non-endangered and non-threatened wildlife issued under N.Y. Environmental Conservation Law section 11-0515(1) & (2) and 6 NYCRR Part 175. For information about licenses to collect, possess or sell non-endangered and non-threatened species, see DEC, Licenses to Collect, Possess or Sell, <https://www.dec.ny.gov/permits/28633.html>.

<sup>6</sup> “Endangered or threatened species license” refers to DEC licenses to possess certain endangered or threatened wildlife issued under N.Y. Environmental Conservation Law section 11-0535(2) and 6 NYCRR Part 175. For information about such licenses, see DEC, Endangered/Threatened Species License, <https://www.dec.ny.gov/permits/25012.html>.

<sup>7</sup> N.Y. Environmental Conservation Law section 11-0103 defines “wildlife sanctuary” as an:

organization as described in section 170(b)(1)(A)(vi) of the Internal Revenue Code of 1986 and that is in compliance with all applicable provisions of the Animal Welfare Act, 7 USC Sec. 2131 *et seq.* and operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced wild animals are provided care for their lifetime or rehabilitated and released back to their natural habitat, and, with respect to any animal owned by the organization, does not:

- a. Use the animal for any type of entertainment, recreational or commercial purpose except for the purpose of exhibition as defined by the department;
- b. Sell, trade, lend or barter the animal or the animal’s body parts; or
- c. Breed the animal.

<sup>8</sup> 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), <http://www.animallaw.info/articles/dduscircus.htm>.

<sup>9</sup> 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”) would bar the exhibition of animals traveling 15 days prior to a circus exhibition. The Committee has submitted a report in support of TEAPA, which is available at <http://www2.nycbar.org/pdf/report/uploads/20072237-HRBillTravelingExoticAnimalProtectionAct.pdf>.

and Article 26 of the New York State’s Agriculture & Markets Law—does not adequately protect circus animals from abuse and mistreatment. Although the Bill does not prohibit the use of all animals commonly used in circuses, following the Elephant Protection Act passed in 2017, it is another significant step in the right direction.<sup>10</sup>

**a. The Tricks that Wild Animals Are Forced to Perform in Circuses Often Involve Physical Coercion and Abusive Tactics.**

The tricks that animals are forced to perform in circuses, such as headstands and jumping through rings of fire, often involve physical coercion and abusive tactics. In particular, these are not behaviors animals would perform in nature and, in order to make animals perform them, some exhibitors use training methods that result in trauma, physical injury and, in extreme circumstances, death.<sup>11</sup> Moreover, performances in front of an audience and the attendant loud noise and bright lights cause wild animals stress.<sup>12</sup>

Undercover investigators and employee whistleblowers have reported, photographed and videotaped abuse of wild animals that would be protected by the Bill, including lions, tigers, monkeys, and bears, as well as other animals used in circuses in the United States and abroad. In 2018, an investigation showed, among other things, that a circus trained bears “primarily using aversive techniques, meaning that an uncomfortable or painful stimulus is applied in order to force the animal to move or act how the handler wants it to.”<sup>13</sup> In 2017, the Humane Society of the United States published an investigative report that documented a circus trainer’s abuse of tigers; for example, the investigator observed the trainer whipping a tiger 31 times in two minutes during a training session.<sup>14</sup> One former circus employee reported that he observed circus employees regularly hitting tigers on the head, jabbing tigers with sticks in the genitals and under the head, and intentionally shutting cage doors on their tails.<sup>15</sup> Occasionally, circuses even kill animals that they are unable to control. For example, in 1997, the brother of a circus animal

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<sup>10</sup> The City Bar supported a prior bill to amend the Agriculture and Markets Law to restrict traveling circuses or shows from allowing “participation of an exotic or wild animal.” See <https://www2.nycbar.org/pdf/report/uploads/20072638-RestrictionsOfWildAnimalsInCircuses.pdf>.

<sup>11</sup> See, e.g., JAY PRATTE, SHRINE CIRCUS ANIMAL WELFARE REPORT: JAMES CRISTY COLE CIRCUS (Feb. 2018), <https://www.mediapeta.com/peta/PDF/ShrineCircusReport2018PratteSigned.pdf>; Deborah Nelson, *The Cruellest Show on Earth*, MOTHER JONES (December 2011), <https://www.motherjones.com/environment/2011/10/ringling-bros-elephant-abuse>.

<sup>12</sup> E.g., Iossa et al., *Are Wild Animals Suited to a Travelling Circus Life?*, ANIMAL WELFARE 132-33 (2009) <https://pdfs.semanticscholar.org/ee5d/ab82f173944c0b3160d0f3a7b9ab8406e272.pdf>.

<sup>13</sup> PRATTE, *supra* note 11, at 22.

<sup>14</sup> Press Release, Humane Society of the United States, Undercover investigation by The Humane Society of the United States Reveals Abused Tigers Whipped and Hit at Circuses (May 18, 2017), [http://www.humanesociety.org/news/press\\_releases/2017/05/undercover-investigation-by051817.html?credit=blog\\_post\\_051817\\_id8986](http://www.humanesociety.org/news/press_releases/2017/05/undercover-investigation-by051817.html?credit=blog_post_051817_id8986).

<sup>15</sup> Redacted declaration of former Ringling employee (Mar. 20, 2008), [http://www.mediapeta.com/peta/PDF/2008-03-20\\_RedactedDeclaration\\_RBBBEmployee\\_tiger.pdf](http://www.mediapeta.com/peta/PDF/2008-03-20_RedactedDeclaration_RBBBEmployee_tiger.pdf).

trainer shot and killed a tiger while the tiger was in his cage after the tiger attacked the animal trainer.<sup>16</sup>

**b. Extensive Travel and Prolonged Confinement Can Be Detrimental to Circus Animals' Physical and Psychological Health.**

Wild animals are particularly harmed by being forced to travel for long periods of time, living in inadequate housing, and experiencing harsh conditions on the road as they are transported to different venues. For example, in 2010, an inspection report indicated that a popular circus confined 12 tigers to cages and gave them no opportunities to exercise aside from their circus performances in Chicago.<sup>17</sup> In 2010, a Marin County (California) Humane Society inspection report observed that a circus did not appear to be adequately exercising its tigers (and implied that it was possible that the only exercise they received was during their 12-minute circus acts), that there were periods when tigers had no access to water, and that the floors of the tigers' transport cages had large splinters and could be a potential safety hazard.<sup>18</sup> 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 boxcar.<sup>19</sup> One animal welfare group estimates that many circus animals spend eleven months a year traveling.<sup>20</sup>

In addition to requiring long periods of travel, circuses have been cited numerous times by the USDA and in some cases 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.<sup>21</sup>

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<sup>16</sup> Jen Girgen, *The Historical and Contemporary Prosecution and Punishment of Animals*, 9 ANIMAL LAW 97, 129 (2003), [https://www.animallaw.info/sites/default/files/lralvol9\\_p97.pdf](https://www.animallaw.info/sites/default/files/lralvol9_p97.pdf).

<sup>17</sup> Memo from Audrey Keller, DVM, to Cherie Travis, Executive Director of Animal Care and Control, re: City of Chicago Animal Inspection Report (Nov. 18, 2010), <http://www.mediapeta.com/peta/PDF/ReportAudreyKellerDVMChicagoACC.pdf>.

<sup>18</sup> Captain Cindy Machado, Animal Services Director, Marin Humane Society, Ringling Brothers Circus Blue Unit, Sacramento Inspection Observations from September 7-9, 2010, <http://www.mediapeta.com/peta/PDF/ReportCaptainCindyMachado.PDF>.

<sup>19</sup> Kaufman, *USDA Investigates Death of Circus Lion*, WASHINGTON POST A3.

<sup>20</sup> Born Free USA, *Ten Fast Facts About Animals in the Circus*, <http://www.bornfreeusa.org/facts.php?p=433&more=1>.

<sup>21</sup> See, e.g., *In re Cuneo, Jr.*, AWA Docket 03-0023 (Consent Decision and Order as to Respondents John N. Caudill, III, John N. Caudill, Jr., and Walker Brother's Circus Inc., Mar. 29, 2004), [https://web.archive.org/web/20151008220439/http://www.dm.usda.gov/oaljdecisions/AWA\\_03\\_0023\\_032904.pdf](https://web.archive.org/web/20151008220439/http://www.dm.usda.gov/oaljdecisions/AWA_03_0023_032904.pdf); *In re Julius Von Uhl d/b/a Circus Winterquarters*, AWA Docket 07-0177 (Order, Dec. 16, 2008), [http://www.oaljdecisions.dm.usda.gov/sites/default/files/100126AWA\\_07-0177\\_O.pdf](http://www.oaljdecisions.dm.usda.gov/sites/default/files/100126AWA_07-0177_O.pdf). PETA's website lists hundreds of citations against circuses for violating the Animal Welfare Act. See PETA, *Citations and Other Problems*, <http://www.peta.org/issues/animals-in-entertainment/circuses-USDA-citations-problems.aspx>.

**c. The Public Safety and The Safety Of Workers Are Put at Risk by Exhibiting Wild and Exotic Animals in Traveling Circuses.**

In addition to protecting animals, the Bill would also protect people, because public safety and the safety of workers are put at risk by exhibiting wild and exotic animals in traveling circuses. In 2017, for instance, a Bengal tiger escaped during transport from Florida to Tennessee; the tiger attacked a pet dog in a residential neighborhood; and police officers subsequently shot and killed the tiger.<sup>22</sup> 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, injuring drivers who had encountered the animal.<sup>23</sup> In 2017, a tiger got spooked during a circus in Florida and a fearful audience “started stampeding.”<sup>24</sup> And in 2013, a tiger escaped during a performance and an audience member encountered the tiger in the venue’s public restroom.<sup>25, 26</sup>

**d. Circuses Teach Children an Inhumane and Distorted Lesson about Wildlife.**

Children are naturally curious about animals and enjoy learning about them. But instead of teaching children about the natural behaviors and habitats of wild animals, circuses teach

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<sup>22</sup> Alexia Fernandez, *Tiger Killed in Atlanta Was Star of Ringling Bros. and Barnum & Bailey Before Circus Closed*, PEOPLE (Sept. 6, 2017), <https://people.com/pets/tiger-shot-atlanta-ringling-circus-star>.

<sup>23</sup> Janon Fisher, *Tiger, Briefly on the Loose, Causes Collision*, N.Y. TIMES, Aug. 1, 2004, <http://www.nytimes.com/2004/08/01/nyregion/tiger-briefly-on-the-loose-causes-collision.html>; Jen Chung, *Escaped Circus Tiger Lawsuit Settlement*, GOTHAMIST, Jan. 7, 2009, <http://gothamist.com/2009/01/07/escaped-circus-tiger-lawsuit-settle.php>.

<sup>24</sup> Alanna Quillen, *Incident at Tiger Show Causes Firestorm on Social Media; Trainers Deny Tigers Escaped*, WPTV (Feb. 16, 2017), <https://www.wptv.com/news/region-martin-county/stuart/incident-at-tiger-show-causes-firestorm-on-social-media-trainers-deny-tigers-escaped>.

<sup>25</sup> *Woman has Unlikely Encounter with Tiger in Bathroom*, ABC News (Apr. 20, 2013), <https://abcnews.go.com/GMA/video/caught-tape-tiger-escapes-circus-woman-discusses-bathroom-19021038>.

<sup>26</sup> Other examples concerning types of animals not covered by this Bill abound. In November 2012, for instance, a camel escaped from a circus in Glendale, California and ran down a busy four-lane boulevard. 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. In 2009, an elephant escaped a circus in Oklahoma and was hit by an SUV. And reportedly more than a third of one circus’s elephants have been diagnosed with tuberculosis, a potentially deadly disease that can be transmitted to humans. See *Camel Escapes Circus, Runs Amok Through Streets of Glendale, Calif.*, HUFFINGTON POST, Nov. 24, 2012, [https://web.archive.org/web/20121128101642/http://www.huffingtonpost.com/2012/11/24/camel-escapes-circus-runs\\_n\\_2184860.html](https://web.archive.org/web/20121128101642/http://www.huffingtonpost.com/2012/11/24/camel-escapes-circus-runs_n_2184860.html); Lindsay Barnett, *Lima, Zebra that Escaped Ringling Bros. Circus in Atlanta, is Euthanized*, L.A. TIMES (Mar. 19, 2010), <http://latimesblogs.latimes.com/unleashed/2010/03/lima-zebra-ringling-bros-circus-escape-euthanized.html>; Murray Evans, *Elephant That Escaped and Was Hit by SUV OK*, THE SEATTLE TIMES (Nov. 6, 2009), <http://www.seattletimes.com/nation-world/circus-elephant-that-escaped-and-was-hit-by-suv-ok/>; Nelson, *The Cruellest Show on Earth*, MOTHER JONES 56; Rendi Murphee, *Elephant-to-Human Transmission of Tuberculosis*, 17 EMERGING INFECTIOUS DISEASES 366-71 (Mar. 2011), [http://wwwnc.cdc.gov/eid/article/17/3/10-1668\\_article](http://wwwnc.cdc.gov/eid/article/17/3/10-1668_article); Nathalia Holt, *The Infected Elephant in the Room*, SLATE (Mar. 24, 2015), [http://www.slate.com/blogs/wild\\_things/2015/03/24/elephant\\_tuberculosis\\_epidemic\\_zoo\\_and\\_circus\\_animals\\_passing\\_tb\\_to\\_humans.html](http://www.slate.com/blogs/wild_things/2015/03/24/elephant_tuberculosis_epidemic_zoo_and_circus_animals_passing_tb_to_humans.html) (United States is currently in the midst of an elephant tuberculosis epidemic).

children that wild animals exist for our entertainment.<sup>27</sup> The New York legislature has already declared, among the many “legislative findings” in the Elephant Protection Act, “[T]he use of elephants in entertainment provides a false and inaccurate educational experience for children and adults.”<sup>28</sup> Many of the wild animals in circuses would roam vast distances were they not held in captivity. Circuses also “teach children that animals don’t have a right to freedom or privacy, or indeed any fundamental right to live their own lives.”<sup>29</sup>

Circuses teach children that it is appropriate to use force and violence to control other beings. In 2016, a Bengal tiger attacked his trainer in front of 33 children on a field trip to fair in Florida; video footage shows trainers forcefully beating the tiger with a stick.<sup>30</sup> Child psychologist Dr. Sujatha Ramakrishna posits that children who watch animals coerced into performing unnatural acts in circuses learn that force is an acceptable way to deal with animals and other people:

Wild animals that stand on their heads and jump through hoops are performing unnatural acts, under the threat of force. Children who watch these performances learn that it is acceptable to force another living creature to do something that is stressful, and often even painful, as long as it serves the purpose of entertainment. This mindset will carry over into their relationships with people, and it will not serve them well in life.<sup>31</sup>

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<sup>27</sup> Press Release, Animal Legal Defense Fund, How to Teach Children Kindness Toward Animals (Nov. 17, 2016), <http://aldf.org/press-room/press-releases/how-to-teach-children-kindness-toward-animals>.

<sup>28</sup> “The legislature hereby finds that...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; 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; 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; entertainment elephants are subjected to confinement and social isolation, leading to physiological, behavioral and psychological impairments; 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; *the use of elephants in entertainment provides a false and inaccurate educational experience for children and adults, often including performance tricks that are never executed by elephants in the wild and that are stressful or harmful to the animal*; and 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.” (Italics added for emphasis). Elephant Protection Act, *supra* note 3.

<sup>29</sup> Sue Donaldson and Will Kymlicka, *Zoos and Circuses: The Wrong Kind of Education About Animals*, THE GLOBE AND MAIL (updated May 16, 2018), <https://www.theglobeandmail.com/opinion/zoos-and-circuses-the-wrong-kind-of-education-about-animals/article29905445>.

<sup>30</sup> Joshua Rhett Miller, *Kids Watch in Horror as Tiger Attacks Trainer*, N.Y. POST (Oct. 26, 2016), <https://nypost.com/2016/10/26/tiger-attacks-trainer-in-front-of-kids-on-field-trip>.

<sup>31</sup> Sujatha Ramakrishna, *Opinion: The Circus Sends Kids the Wrong Message About Animals*, THE MERCURY NEWS (Aug. 9, 2010), <https://www.mercurynews.com/2010/08/09/opinion-the-circus-sends-kids-the-wrong-message-about-animals>.

**e. Current Law Does Not Adequately Protect Circus Animals from Abuse and Mistreatment.**

More generally, the Bill is necessary because current law does not adequately protect wild animals from abuse and mistreatment in circuses. For instance, state law bars a person from beating an animal or denying an animal food or water or “in any way further[ing] any act of cruelty to any animal,” and offers other protections.<sup>32</sup> But because the actual training of circus animals usually occurs in jurisdictions outside of New York, it is not possible for state and local law enforcement to protect animals from abusive training techniques before they arrive in New York State. Further, local law enforcement often lacks the training and expertise necessary to determine whether a wild animal’s welfare is compromised in the circus.<sup>33</sup>

At the federal level, APHIS (Animal and Plant Health Inspection Service)—the section of the USDA charged with enforcing the AWA—is likewise limited in its enforcement efforts. 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 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.<sup>34</sup>

Notably, at least one federal court has characterized the USDA’s review of applications for license renewals as “an automatic, ‘rubberstamping’ type transaction.”<sup>35</sup>

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<sup>32</sup> N.Y. AGRIC. & MKTS. L. § 353.

<sup>33</sup> Cf. *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) (stating 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), <http://chicagoinspectorgeneral.org/wp-content/uploads/2012/10/Animal-Exhibitors-Public-Report.pdf>.

<sup>34</sup> USDA, OFFICE OF THE INSPECTOR GENERAL, CONTROLS OVER APHIS LICENSING OF ANIMAL EXHIBITORS (June 2010), <http://www.usda.gov/oig/webdocs/33601-10-CH.pdf>.

<sup>35</sup> *Ray v. Vilsack*, No. 5:12-CV-212-BO (E.D.N.C.) (Oct 7, 2013 Order Granting Plaintiffs’ Motion to Compel Production of the Full Administrative Record and Plaintiffs’ Motion for Leave to File Supplemental Complaint. The case was brought under the Administrative Procedure Act by plaintiffs challenging the defendants’ decisions to renew the AWA license of roadside menagerie and animal dealer Jambbas Ranch. Plaintiffs argued that the renewal contravened the AWA’s statutory mandate requiring facilities to comply with USDA standards under the AWA and reflected a pattern, practice, and policy of rubberstamping AWA license renewal applications without requiring a demonstration of compliance.

### III. OTHER JURISDICTIONS

In July 2017, New York City banned the use of many wild and exotic animals in circuses.<sup>36</sup> The list of municipalities in the United States that already ban the use of all or some animals in circuses or implements used to train and control circus animals is quickly growing. The following is a partial list of some municipal laws banning the use of certain animals in circuses:<sup>37</sup>

a. *Ban on circuses using animals:*

- i. Stamford, Connecticut prohibits circuses.<sup>38</sup>
- ii. San Francisco, California bans all performances by wild and exotic animals in the city, including motion pictures.<sup>39</sup>

b. *Ban on the use of certain animals in circuses:*

- i. Santa Fe, New Mexico bans the use of wild or exotic animals in traveling animal shows and circuses.<sup>40</sup>
- ii. Portland, Maine bans the use of wild and/or exotic animals in traveling animal acts.<sup>41</sup>
- iii. Montgomery County, Maryland bans the use of wild animals in traveling animal acts.<sup>42</sup>

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<sup>36</sup> N.Y.C. ADMIN. CODE § 17-199.5. The City Bar supported this legislation. *See* [http://s3.amazonaws.com/documents.nycbar.org/files/20073187-WildlifeBanEntertainment\\_Animal\\_Report\\_FINAL\\_11.9.16.pdf](http://s3.amazonaws.com/documents.nycbar.org/files/20073187-WildlifeBanEntertainment_Animal_Report_FINAL_11.9.16.pdf) and [http://s3.amazonaws.com/documents.nycbar.org/files/20073185-WildlifeBanEntertainment\\_Animal\\_Testimony\\_FINAL\\_10.20.16.pdf](http://s3.amazonaws.com/documents.nycbar.org/files/20073185-WildlifeBanEntertainment_Animal_Testimony_FINAL_10.20.16.pdf).

<sup>37</sup> More extensive lists of laws concerning restrictions on animals in circuses are available on the websites for Animal Defenders International and Born Free USA. *See* Animal Defenders International, *Worldwide Circus Bans* (updated May 9, 2019), [http://www.ad-international.org/animals\\_in\\_entertainment/go.php?id=281&ssi=10](http://www.ad-international.org/animals_in_entertainment/go.php?id=281&ssi=10); Born Free USA, *Local Restrictions Governing Traveling Shows and Circuses in the U.S. and Canada* [http://www.bornfreeusa.org/b4a3\\_circuses\\_and\\_shows.php](http://www.bornfreeusa.org/b4a3_circuses_and_shows.php).

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

<sup>39</sup> City of San Francisco, Ordinance No. 55-15, April 2, 2015, <http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances15/o0055-15.pdf>. Violators are guilty of a misdemeanor. *See also* John Wildermuth, *S.F. Board Votes to Ban Wild, Exotic Animal Performances in City*, SFGATE, Apr. 14, 2015, <http://www.sfgate.com/bayarea/article/SF-Supervisors-vote-to-ban-animal-performances-in-6200216.php>.

<sup>40</sup> City of Santa Fe, New Mexico, Ordinance No. 2017-19 (Sept. 13, 2017), [https://www.santafenm.gov/archive\\_center/document/17858](https://www.santafenm.gov/archive_center/document/17858).

<sup>41</sup> City of Portland, Maine, Code of Ordinances §§5-506-5-509, <https://www.portlandmaine.gov/DocumentCenter/View/1069/Chapter-5-Animals-and-Fowl---Revised-9182017>.

<sup>42</sup> Montgomery County, Maryland Code § 5-204, [https://www.montgomerycountymd.gov/council/resources/files/lims/bill/2017/Signed/pdf/4583\\_1449\\_Signed\\_1219\\_2017.pdf](https://www.montgomerycountymd.gov/council/resources/files/lims/bill/2017/Signed/pdf/4583_1449_Signed_1219_2017.pdf).



- iv. Boulder, Colorado prohibits the display of certain animals in circuses, including elephants and tigers.<sup>43</sup>
  - v. 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.<sup>44</sup>
  - vi. Revere, Massachusetts bans the exhibition of nondomesticated animals for entertainment or amusement purposes.<sup>45</sup>
  - vii. Richmond, Missouri bans the display of wild or exotic animals in circuses.<sup>46</sup>
  - viii. Somerville, Massachusetts bans the display of non-domestic animals in circuses.<sup>47</sup>
- c. *Ban on animals engaged in unnatural behavior:* St. John, Indiana bars circuses from displaying wild animals engaging in “unnatural behavior.”<sup>48</sup>
- 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.<sup>49</sup> Similarly, Los Angeles bans the use of bull hooks and similar devices designed to inflict pain for the purpose of training and controlling the behavior of elephants.<sup>50</sup>
- 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.<sup>51</sup> Pasadena, California bans the display of wild or exotic animals on public property in the city.<sup>52</sup>

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<sup>43</sup> Boulder, Colorado Code § 6-1-4.

<sup>44</sup> City of Hollywood, Florida Code § 92.60(C); U.S. Fish & Wildlife Service, Listed Animals, [http://ecos.fws.gov/tess\\_public/pub/listedAnimals.jsp](http://ecos.fws.gov/tess_public/pub/listedAnimals.jsp).

<sup>45</sup> Revere, Massachusetts Code § 6.04.031.

<sup>46</sup> Richmond, Missouri Code § 210.390.

<sup>47</sup> City of Somerville, Massachusetts Code § 3-39(a).

<sup>48</sup> 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.

<sup>49</sup> Margate, Florida Code § 6-25(b); Fulton County, Georgia Code § 34-212.

<sup>50</sup> City of Los Angeles, Ordinance No. 183060 (codified at City of Los Angeles Municipal Code § 53.74).

<sup>51</sup> Greenburgh, New York Code § 345-2(A).

<sup>52</sup> Pasadena, California Code § 6.40.040.

Several countries have also banned the use of animals in circuses. Indeed, Scotland, Italy, and Ireland passed such legislation in 2017. The following is a partial list of some countries that have such bans:

- a. Austria bans the use of wild animals in circuses.<sup>53</sup>
- b. Bolivia prohibits the use of both wild and domestic animals in circuses.<sup>54</sup>
- c. Greece bans the use of all animals in circuses.<sup>55</sup>
- d. India bans lions, tigers, monkeys, panthers and bears from performing in circuses.<sup>56</sup>
- e. Iran bans issuance of permits allowing the use of wildlife in circuses.<sup>57</sup>
- f. Ireland bans circuses from using wild animals.<sup>58</sup>
- g. Israel bans the use of wild animals in circuses.<sup>59</sup>
- h. The Italian Parliament adopted legislation requiring circuses to phase out their use of animals.<sup>60</sup>
- i. Mexico bans on the use of wild animals in circuses.<sup>61</sup>
- j. The Netherlands bans the use of wild animals in circuses.<sup>62</sup>
- k. Paraguay bans the use of wild animals in circuses.<sup>63</sup>
- l. Peru bans the use of wild animals in circuses.<sup>64</sup>

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<sup>53</sup> In December 2011, the Austrian Constitutional Court reportedly determined that Austria's ban on the use of wild animals in circuses was not unconstitutional. See Stop Circus Suffering, No Legal Obstacles to UK Ban on Wild Animals in Circuses, <http://www.stopcircussuffering.com/news/europe/legal-obstacles-uk-ban-wild-animals-circuses/>.

<sup>54</sup> Bolivia Law 4040; Jean Friedman-Rudovsky, *Bolivia's Freed Circus Animals Need Homes*, TIME, Oct. 27, 2009, <http://www.time.com/time/world/article/0,8599,1932343,00.html>.

<sup>55</sup> See Victoria Mindova, *Greece Bans Circuses with Animals*, GR REPORTER, Feb. 9, 2012, at [http://www.grreporter.info/en/greece\\_bans\\_circuses\\_animals/6044](http://www.grreporter.info/en/greece_bans_circuses_animals/6044).

<sup>56</sup> See Animal Defenders International, *Help for Indian Circus Rescue* (Jan. 5, 2006), [http://www.ad-international.org/animals\\_in\\_entertainment/go.php?id=212&ssi=10](http://www.ad-international.org/animals_in_entertainment/go.php?id=212&ssi=10).

<sup>57</sup> See Animal Defenders International, *Iran Says No to Wild Animal Circuses!* (Mar. 29, 2016), [http://www.ad-international.org/animals\\_in\\_entertainment/go.php?id=4155&ssi=10](http://www.ad-international.org/animals_in_entertainment/go.php?id=4155&ssi=10).

<sup>58</sup> Mark Hilliard, *Ban on use of Wild Animals in Circuses as of 2018 Welcomed*, IRISH TIMES (Nov. 9, 2017), <https://www.irishtimes.com/news/ireland/irish-news/ban-on-use-of-wild-animals-in-circuses-as-of-2018-welcomed-1.3286010>.

<sup>59</sup> See Animal Defenders International, *Worldwide Circus Bans* (last updated Nov. 1, 2017), [http://www.ad-international.org/animals\\_in\\_entertainment/go.php?id=281](http://www.ad-international.org/animals_in_entertainment/go.php?id=281).

<sup>60</sup> Chloe Kerr, *Italy bans ALL animals in circuses: Rome vows to take THOUSANDS out of Spectacles*, SUNDAY EXPRESS (Nov. 8, 2017), <https://www.express.co.uk/news/world/877199/italy-ban-animal-circus>.

<sup>61</sup> See Animal Defenders International, *Worldwide Circus Bans*.

<sup>62</sup> See Government of the Netherlands, Animal Welfare, Welfare of Circus Animals, <https://www.government.nl/topics/animal-welfare/welfare-of-circus-animals> ("It is now illegal for circuses to include wild animals in their shows or to transport them for this purpose.").

<sup>63</sup> See Animal Equality, *Paraguay Bans Wild Animals in Circuses* (June 12, 2012), <http://www.iol.co.za/news/world/paraguay-bans-wild-animals-in-circuses-1314685> (discussing Resolución N°2002/12).

<sup>64</sup> See Stacey Samuel, *Bob Barker Touts Bill to Protect Traveling Circus Animals*, CNN.com (Nov. 2, 2011), <http://www.cnn.com/2011/11/02/politics/barker-circus-animals-bill/index.html>.

- m. Scotland bans the use of non-domesticated animals for performance or exhibition in travelling circuses.<sup>65</sup>
- n. Singapore bans travelling circuses that display wild animals.<sup>66</sup>

#### **IV. OPPOSITION**

In response to similar legislation designed to protect wild animals, some animal exhibitors have argued, among other things, that circus workers will lose jobs if animals may no longer perform; that the public will lose an opportunity to view entertainment; and that other businesses will decline due to the lack of circuses.<sup>67</sup>

We respectfully submit that such warnings are exaggerated. Banning wild animals from circuses does not mean the end to all circus entertainment in New York nor must it lead to the loss of hundreds of jobs. Rather, circuses will have to focus on acts that do not use wild animals. Cirque du Soleil, for instance, is popular despite the fact that it does not use animals in its circus shows. Other circuses, like the Bindlestiff Family Cirkus and the Russian American Kids Circus, likewise do not use animals. The roughly two 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.<sup>68</sup>

#### **V. SUMMARY AND RECOMMENDATION**

For the reasons explained above, the Animal Law Committee supports the Bill. We would support an effective date of October 2019, instead of 2020, given that the Elephant Protection Act, which prohibits the use of elephants in circuses, takes effect in October 2019 and the purpose of this Bill is related.

Animal Law Committee  
Christopher Wlach, Chair

Reissued May 2019

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<sup>65</sup> Scottish Government, Guidance on the Wild Animals in Travelling Circuses (Scotland) Act 2018, <https://www.gov.scot/publications/guidance-wild-animals-travelling-circuses-scotland-act-2018/>.

<sup>66</sup> See Agri-Food & Veterinary Authority of Singapore (Dec. 29, 2000), <https://web.archive.org/web/20090926235239/http://www.ava.gov.sg/NewsEvents/PressReleases/2000/Ban+on+Performing+Wild+Animals+in+Travelling+Circuses.htm>.

<sup>67</sup> See, e.g., Press Release, Feld Entertainment, Moran Sponsors Discrimination Bill Against Circus to Censor American Institution (Nov. 2, 2011), <http://www.feldentertainment.com/Press/PressRelease.aspx?id=55873>.

<sup>68</sup> Born Free USA, Get the Facts: Animal-Free Circuses, <http://www.bornfreeusa.org/facts.php?more=1&p=419>.