

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 618
Judiciary

(Delegate A. Miller, *et al.*)

Criminal Law – Cruelty to Animals – Traveling Elephant Acts

This bill prohibits a person from knowingly using, or authorizing the use of, an elephant in a traveling animal act. A person who violates this prohibition is guilty of a code violation and is subject to a civil penalty not to exceed \$10,000. The bill specifies the charging, pretrial, and trial procedures for the offense. The prohibition does not apply to an exhibition of elephants at a nonmobile, permanent institution or facility, such as a zoo.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to the bill’s penalty and court cost provisions. The Judiciary can handle the bill’s changes with existing resources.

Local Effect: Enforcement can be handled with existing resources. Revenues are not affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “Traveling animal act” means an act, carnival, circus, display, exposition, fair, parade, public showing, race, or a ride in which animals that have been transported to, from, or between locations are required to perform tricks, give rides, or participate as accompaniments for the entertainment, amusement, or benefit of a live audience.

A violation of the bill’s prohibition does not impose any of the civil disabilities that may result from a criminal conviction.

A State or local law enforcement officer or local animal control authority officer is authorized to issue a citation to a person who violates the bill's provisions. The bill establishes the jurisdiction of the District Court over this offense and requires the District Court to develop uniform citations that provide adequate notice to the person charged with the offense, as specified.

The civil penalty for the offense may be prepaid by the defendant, which is an admission of guilt. The bill requires the District Court to establish a schedule of prepayment penalties for the offense.

If the defendant does not admit guilt or otherwise wants a hearing, he or she may request a trial from the District Court. If a person does not request a trial or prepay the fine within 30 days of the issuance of the citation, or fails to appear after requesting a trial date, the court may impose the maximum fine and costs against the person and find the person guilty of using or authorizing the use of an elephant in a traveling animal act. The court cost for this proceeding is \$5. At trial, the State has the burden to prove the guilt of the person charged with the offense by a preponderance of the evidence.

Current Law: There is no statutory prohibition on the use of elephants in a traveling animal act.

A person is prohibited from importing into the State, offering for sale, trading, bartering, possessing, breeding, or exchanging a live fox, skunk, raccoon, bear, caiman, alligator, crocodile, wild or hybrid of a wild or domesticated dog or cat, as specified, nonhuman primate (including a lemur, monkey, chimpanzee, gorilla, orangutan, marmoset, loris, or tamarin), or a poisonous snake from specified snake families.

The prohibition does not apply to specified (1) circuses; (2) research facilities and exhibitors with licenses under the federal Animal Welfare Act (AWA); (3) an individual who possesses a permit from the Maryland Department of Natural Resources, as specified; (4) nonprofit animal sanctuaries; (5) State or local animal control facilities; (6) licensed veterinarians; and (7) nonresident persons travelling through the State, as specified.

Violators are guilty of a misdemeanor, punishable by a \$1,000 maximum fine for an individual or a \$10,000 maximum fine for a defendant other than an individual.

AWA seeks to ensure the humane treatment of animals intended for research, exhibitions purposes, as well as those intended for pets. The law requires researchers and exhibitors to be licensed and conform to specified standards for housing animals. While AWA does not refer to elephants specifically, its provisions apply to most warm-blooded animals and any other animal that the Secretary of the U.S. Department of Agriculture so determines.

Background: According to the People for the Ethical Treatment of Animals and the Humane Society of the United States (HSUS), Illinois became the first state to ban the use of elephants in circuses or other traveling acts in 2017. New York enacted similar legislation in 2017. HSUS reports that these laws followed the decision in 2015 by the Ringling Brothers traveling circus to phase out the use of elephants in its circus acts by 2018.

Small Business Effect: The bill may have a meaningful impact on any small businesses that promote elephant acts to the extent that events involving these animals must be altered or canceled.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Garrett, and Montgomery counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of State Police; People for the Ethical Treatment of Animals; Humane Society of the United States; *The New York Times*; Department of Legislative Services

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