

By Senator Jones

40-766-00

See HB

1 A bill to be entitled
2 An act relating to animal enterprises; amending
3 s. 828.40, F.S.; renaming the Florida Animal
4 Enterprise Protection Act as the Florida Animal
5 Enterprise Act; amending s. 828.41, F.S.;
6 revising the definition of "animal enterprise";
7 creating s. 828.44, F.S.; prohibiting the
8 harmful or abusive treatment of any elephant;
9 defining harmful or abusive acts or behavior;
10 prohibiting specified restraint or confinement
11 of an elephant; providing an exception;
12 prohibiting knowingly making an elephant
13 available to be ridden during a circus or
14 traveling show; prohibiting the importation
15 into the state of an elephant under specified
16 circumstances; providing exceptions;
17 prohibiting the use of an elephant in a circus
18 or traveling show under certain circumstances;
19 prohibiting the transport of specified
20 elephants; providing penalties; providing
21 requirements for circuses or traveling shows
22 operating within the state; requiring the
23 development of a written protocol; providing
24 for the keeping of specified records; providing
25 a penalty for violation; providing an effective
26 date.

27
28 Be It Enacted by the Legislature of the State of Florida:

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30 Section 1. Section 828.40, Florida Statutes, is
31 amended to read:

1 828.40 Short title.--Sections 828.40-828.44
2 ~~828.40-828.43~~ may be cited as the "Florida Animal Enterprise
3 Protection Act."

4 Section 2. Section 828.41, Florida Statutes, is
5 amended to read:

6 828.41 Definitions.--As used in ss. 828.40-828.44
7 ~~828.40-828.43~~, the term:

8 (1) "Animal enterprise" means:

9 (a) A commercial or academic enterprise that uses
10 animals for food or fiber production, agriculture, research,
11 or testing;

12 (b) A zoo, aquarium, circus, traveling show, rodeo, or
13 lawful competitive animal event; or

14 (c) Any fair or similar event intended to advance
15 agricultural arts and sciences.

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17 For purposes of this subsection, the term "circus" or
18 "traveling show" means a circus or traveling show that spends
19 more than 50 percent of its working time during a calendar
20 year away from its permanent facility or home base of
21 operation.

22 (2) "Physical disruption" does not include any lawful
23 disruption that results from lawful public, governmental, or
24 animal enterprise employee reaction to the disclosure of
25 information about an animal enterprise.

26 (3) "Serious bodily injury" means bodily injury that
27 creates a substantial risk of death or causes serious,
28 permanent disfigurement, or protracted loss or impairment of
29 the function of any bodily member or organ.

30 (4) "Economic damage" means the replacement costs of
31 lost or damaged property or records, the costs of repeating an

1 interrupted or invalidated experiment, and the loss of
2 profits.

3 Section 3. Section 828.44, Florida Statutes, is
4 created to read:

5 828.44 Humane treatment and handling of elephants;
6 restrictions on use of elephants in circuses or traveling
7 shows; penalties.--

8 (1) No person who owns, possesses, or is in charge of
9 an elephant shall engage in any act or behavior that is
10 harmful or abusive to an elephant or any act or behavior
11 which, if continued, would likely cause harm or abuse to an
12 elephant. For the purposes of this section, "harmful or
13 abusive acts or behaviors" include, but are not limited to:

14 (a) Deprivation of food, water, or rest.

15 (b) Use of an electric prod or other electrical device
16 for the purpose of disciplining an elephant. This paragraph
17 does not apply to the use of electrical fencing for the
18 purpose of containing an elephant.

19 (c) Physical beating.

20 (d) Insertion of any instrument into any bodily
21 orifice.

22 (e) Use of martingales.

23 (f) Use of block and tackle.

24 (2) No person shall restrain or confine an elephant
25 with chains for more than 8 hours in any 24-hour period,
26 except that an elephant may be restrained or confined with
27 chains for more than 8 hours in any 24-hour period when
28 veterinary care is being administered.

29 (3) No person shall knowingly make available any
30 elephant for the purpose of allowing an individual or

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1 individuals to ride the elephant during a circus or traveling
2 show.

3 (4) No person shall import into the state any live
4 elephant as part of a circus or traveling show unless the
5 elephant will reside in the state for more than 300 days in
6 the calendar year. This subsection shall not apply to the
7 importation into the state of any elephant for use in a
8 theatrical motion picture or television series.

9 (5) No elephant may be used in a circus or traveling
10 show which requires the confinement of the elephant in a truck
11 or rail car for more than 36 consecutive hours during a
12 calendar year.

13 (6) No elephant under 6 years of age may be used in a
14 circus or traveling show for performance or exhibition.

15 (7) No elephant in a circus or traveling show may be
16 transported for purposes of performance or exhibition when the
17 elephant is determined to be sick, lame, or arthritic. It
18 shall be the duty of the owner or director of a circus or
19 traveling show, or the person employed by the circus or
20 traveling show to be in charge of the handling and maintenance
21 of elephants, to remove any elephant exhibiting signs of
22 illness or stress from performance, exhibition, and travel
23 duties associated with the circus or traveling show.

24 (8) A person who violates the provisions of this
25 section commits a misdemeanor of the first degree, punishable
26 as provided in s. 775.082 or s. 775.083. Upon a second or
27 subsequent conviction for a violation of this section, such
28 person commits a felony of the third degree, punishable as
29 provided in s. 775.082, s. 775.083, or s. 775.084.

30 (9) Each circus or traveling show operating within the
31 state must develop a written protocol that specifically

1 addresses all policies related to the humane management and
2 handling of any elephant owned or used by the circus or
3 traveling show.

4 (a) The owner or director of a circus or traveling
5 show operating within the state shall:

6 1. Conduct a semiannual review of the policies
7 developed pursuant to this section.

8 2. Inspect and make an assessment of the physical
9 facility in which any elephant is kept.

10 3. Make an assessment of the safety measures used in
11 the handling and maintenance of any elephant.

12 4. Based on the assessment pursuant to subparagraph
13 3., identify and fully implement any needed corrective
14 measures.

15 5. Obtain, on a weekly basis, drug tests from all
16 elephant handlers and elephant keepers employed by the circus
17 or traveling show and submit such tests to the Department of
18 Agriculture and Consumer Services.

19 (b) Each owner or director of a circus or traveling
20 show operating within the state is required to keep written
21 records of compliance with the provisions of this subsection.
22 Such records shall be kept for a period of not less than 2
23 years and shall be available for inspection during normal
24 business hours by the Department of Agriculture and Consumer
25 Services, its authorized agents, or appropriate law
26 enforcement officials. A person who violates the provisions of
27 this paragraph commits a misdemeanor of the third degree,
28 punishable as provided in s. 775.082 or s. 775.083.

29 Section 4. This act shall take effect upon becoming a
30 law.

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LEGISLATIVE SUMMARY

Renames the Florida Animal Enterprise Protection Act as the Florida Animal Enterprise Act. Revises the definition of "animal enterprise." Prohibits the harmful or abusive treatment of any elephant and defines "harmful or abusive acts or behaviors" for purposes of the act. Prohibits restraint or confinement of an elephant with chains for more than 8 hours in any 24-hour period and provides an exception. Prohibits making an elephant available to be ridden during a circus or traveling show and provides penalties. Prohibits the importation into the state of an elephant unless the elephant will reside in the state for more than 300 days in the calendar year. Provides exceptions and penalties. Prohibits the use of an elephant in a circus or traveling show that requires the confinement of the elephant in a truck or rail car for more than 36 consecutive hours during a calendar year. Prohibits the use of an elephant under 6 years of age for performance or exhibition. Prohibits the transport of an elephant determined to be sick, lame, or arthritic for purposes of performance or exhibition. Provides penalties for violation. Provides requirements for circuses or traveling shows operating within the state with respect to the humane management and handling of elephants. Requires the development of a written protocol. Provides for the keeping of specified records. Provides a third-degree felony penalty for violation.