



Legislation Text

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Int. No. 590

By Council Members Hanif, Abreu, Krishnan, Cabán, Avilés, Gutiérrez, Nurse, Louis, Brewer and Epstein

A Local Law to amend the administrative code of the city of New York, in relation to the keeping, restraint, or possession of elephants

Be it enacted by the Council as follows:

Section 1. Title 17 of the administrative code of the city of New York is amended by adding a new chapter 22 to read as follows:

CHAPTER 22

ANIMALS

§ 17-2201 Definitions. As used in this chapter:

Director. The term “director” means the director of animal welfare.

Elephant. The term “elephant” means an animal in the family Elephantidae.

Office. The term “office” means the office of animal welfare.

§ 17-2202 Keeping, restraining, or possessing elephants. a. Prohibition. No person shall keep, restrain, or possess an elephant in the city, except as provided in subdivision b of this section.

b. Exception. A person shall not be liable for a violation of this section in connection with keeping, restraining, or possessing an elephant if all of the following conditions are met:

1. The total usable area of the elephant’s habitat must be a minimum of 15 acres per elephant;

2. The elephant must have continuous access to topographic features and stimuli necessary for emotional and physical wellbeing throughout the habitat;

3. The elephant must be able to forage for food and water throughout the habitat;

4. Female elephants must be housed in groups and allowed to form herds and social groupings unless a female elephant has a contagious disease that necessitates separation from other elephants;

5. Male elephants must be housed either in herds, or if solitary, in close proximity to other elephants where they can engage in olfactory, visual, and vocal communication;

6. The elephant must not be bred;

7. The elephant must not be mounted, ridden, or forced to do labor;

8. The elephant must not be used in educational or commercial exhibitions; and

9. The person keeping, restraining, or possessing the elephant must hold all such licenses and permits as may be required by law, rule, or regulation in connection therewith.

c. Disposition of elephant; notice. 1. Any person who keeps, restrains, or possesses an elephant in violation of subdivision a or b of this section shall relocate such elephant (i) to a facility that meets all of the conditions set forth in subdivision b or (ii) to a sanctuary that will allow the elephant to exercise autonomy, will not place the elephant on public display, will not breed or attempt to breed the elephant, and will house the elephant in a setting that closely resembles the elephant's natural habitat.

2. Any person relocating or otherwise disposing of an elephant because of inability to comply with subdivision b of this section shall submit an affidavit of disposition to the commissioner and the director of animal welfare within 10 days of such disposition. Such affidavit shall be notarized under oath and shall set forth with particularity the following information about the disposition of the elephant: (i) the date and manner of disposition, (ii) the name and business address of the transferee, if ownership of the elephant was transferred, (iii) the business address of the sanctuary or other facility to which the elephant was relocated, (iv) whether or not, upon the information and belief of the affiant, such sanctuary or other facility meets the criteria specified in paragraph 1 of this subdivision, and (v) the name of an individual in responsible charge who is employed by such sanctuary or other facility.

d. Denial of permit. The commissioner shall not approve any application for a permit to exhibit, use, or

display an elephant, or a renewal thereof, unless the applicant demonstrates to the satisfaction of the commissioner that the conditions of subdivision b are satisfied.

e. Civil penalty. A person who violates a provision of subdivision a, b, or c of this section is liable to pay a civil penalty of \$1,000 per day that such violation continues. The commissioner may recover such penalty by issuing a notice of violation and instituting a proceeding before the office of administrative trials and hearings.

f. Injunction. 1. Subject to all applicable provisions of the civil practice law and rules, any person may bring an action in a court of competent jurisdiction, on such person's own behalf, to enjoin any person who is alleged to be in violation of a provision of this section.

2. A court shall award a prevailing petitioner the reasonable attorney's fees and costs incurred in prosecuting such an action.

3. The rights of a person bringing an action under this section shall abate while any proceeding brought under subdivision e of this section is pending.

§ 2. This local law takes effect 90 days after it becomes law.

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