

SENATE No. 490

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to wild and exotic animal performance prohibition.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/31/2017</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>1/31/2017</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>2/1/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>2/3/2017</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>2/3/2017</i>
<i>Solomon Goldstein-Rose</i>	<i>3rd Hampshire</i>	<i>2/3/2017</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>	<i>2/3/2017</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	<i>2/3/2017</i>

SENATE No. 490

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 490) of Bruce E. Tarr, Jason M. Lewis, Michelle M. DuBois, Paul R. Heroux and other members of the General Court for legislation to prohibit wild and exotic animal performances. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act relative to wild and exotic animal performance prohibition.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 22 of Title II, Part I of the General Laws of the Commonwealth of
2 Massachusetts is amended to add a new section 23 to read as follows:

3 § 23 Wild and Exotic Animal Performances Prohibited.

4 Section 23 (A) Purpose. The purpose of this ordinance is to protect wild and exotic
5 animals from cruel and inhumane treatment, and to protect the public from dangers inherent to
6 traveling exhibitions and acts featuring wild and exotic animals.

7 Section 23 (B) Definitions. For purposes of this section, the following terms shall mean:

8 “Cause a Performance” shall mean to be responsible for a Performance, to financially
9 benefit as an owner or operator from a Performance, or to sponsor a Performance.

10 “Commissioner” shall mean the Commissioner of the Department of Public Safety,
11 pursuant to MA GenLaw, Part I, Title II, Ch.22, ss.2-3.

12 “Department” shall mean the Department of Public Safety, pursuant to MA GenLaw, Part
13 I, Title II, Ch.22.

14 “Domestic animal” shall mean any animal that is normally maintained as a pet or
15 companion in or near the household of the owner or person who cares for such domestic animal,
16 such as domestic dogs, domestic cats, ferrets, gerbils, horses, mice, rats, guinea pigs, rabbits, or
17 hamsters. This term excludes Wild Animals and Exotic Animals.

18 “Farm animal” shall mean poultry, cattle, sheep, swine, goats, horses, cattle, or swine.
19 This term excludes Wild Animals and Exotic Animals.

20 “Mobile or Traveling Housing Facility” shall mean a transporting vehicle such as a truck,
21 trailer, or railway car, used to house animals while traveling for exhibition or public education
22 purposes.

23 “Performance” shall mean any exhibition, public showing, presentation, display,
24 exposition, fair, agricultural fair, act, circus, ride, trade show, petting zoo, carnival, parade, race,
25 performance, or similar undertaking in which animals are required to perform tricks, fight, give
26 rides, or participate as accompaniments for the entertainment, amusement, or benefit of an
27 audience.

28 “Person” shall mean any individual, association, corporation, establishment, firm,
29 organization, trust, partnership, society, or company.

30 “Wild Animal” and “Exotic Animal” shall mean any animal that is not a Domestic
31 Animal or Farm Animal, whether wild-borne or captive-bred, and any hybrid of such animals
32 with Domestic Animals or Farm Animals. These terms shall include, but not be limited to,

33 animals such as: artiodactyla (hippopotami, giraffes, camels, llamas, but not cattle, swine, sheep,
34 or goats); canidae (except domestic dogs); cetacea (whales, dolphins, porpoises); crocodilia
35 (alligators, crocodiles); edentata (anteaters, sloths. armadillos); felidae (except domestic cats);
36 hyaenidae; marsupialia (kangaroos, opossums); mustelidae (skunks. weasels, otters, badgers);
37 non-human primates and prosimians (chimpanzees and monkeys); perissodactyla (rhinoceroses,
38 tapirs, zebras, but not horses, donkeys, or mules); pinnipedia (seals, sea lions, walruses);
39 proboscidea (elephants); procyonidae (raccoons, coatis); ratites (ostriches, emus, kiwis); ursidae
40 (bears); and viverridae (mongooses, civets, genets).

41 Section 23 (C) Prohibited acts. It shall be unlawful for any Person to Cause a
42 Performance of any Wild Animal or Exotic Animal on any public or private property within the
43 Commonwealth of Massachusetts.

44 Section 23 (D) Exemptions. The following are exempt from the prohibition in Section
45 23(c) above:

46 (1) Exhibitions at a non-mobile, permanent institution or facility accredited by the
47 Association of Zoos and Aquariums or the Global Federation of Animal Sanctuaries.

48 (2) Outreach programs for educational or conservation purposes by a facility
49 accredited by the Association of Zoos and Aquariums or the Global Federation of Animal
50 Sanctuaries, deemed educational by the Massachusetts Society for the Prevention of Cruelty to
51 Animals, if the animal used for such purposes is not kept in a Mobile or Traveling Housing
52 Facility for more than 12 hours a day.

53 (3) University, college, laboratory, or other research facilities registered by the
54 United States Secretary of Agriculture.

55 Section 23 (E) Implementation and Enforcement.

56 (1) Enforcement. Any authorized employee, officer, or agent of the Department or
57 any other state agency designated by the governor, including deputies and inspectors appointed
58 pursuant to MA GenLaw, Part I, Title II, Ch.22, ss.5-6; special police officers appointed pursuant
59 to MA GenLaw. Part I, Title II, Ch.22C, ss.57, 60 ; environmental police officers or deputies
60 appointed pursuant to MA GenLaw, Part I, Title II, Ch21A, s.10A; director, assistants, deputies,
61 officers, or agents to the director pursuant to MA GenLaw, Part I, Title XIX, Ch.131, ss.1, 4;
62 district health officers pursuant to MA GenLaw, Part I, Title XVI, Ch.111, ss.4, 18 ; and agents
63 and inspectors of the appointed pursuant to MA GenLaw, Part I, Title XIX, Ch.129, ss.9, 15-16;
64 shall be empowered to enforce the provisions of this section or any rule promulgated thereunder.

65 (2) Entry on premises. For the purpose of inspecting or examining animals or the
66 places where they are kept, any persons authorized or empowered under Section 23(e)(1) may
67 enter any building or part thereof or any enclosure or other place, and may examine or inspect
68 such animals or places. Records of inspection made under authority of this section shall be filed
69 with the Department no later than three months after such inspection. Whoever prevents,
70 obstructs, or interferes with such persons having like authority in the performance of any of his
71 duties, or whoever hinders, obstructs, or interferes with making such inspection or examination,
72 or whoever secretes or removes any animal, for the purpose of preventing it from being inspected
73 or examined, shall be punished by a fine of not more than one hundred dollars or by
74 imprisonment for not more than two months, or both.

75 (3) Rules. The Commissioner may promulgate any rules as may be necessary for the
76 purpose of carrying out this section.

77 Section 23 (F) Violation and penalties.

78 (1) Any Person who violates this section or any rule promulgated thereunder shall be
79 liable for a civil penalty, not to exceed \$5,000 for each violation. Each animal and each
80 performance constitutes a separate violation.

81 (2) The Commissioner may assess administrative fines, not to exceed \$500 per
82 offense, for violations of this chapter.

83 (3) The Commissioner may deny any application for, suspend, or revoke any license
84 or permit issued under this chapter upon a finding of noncompliance herewith. Denial,
85 suspension, or revocations shall be effective pending resolution of any appeal, unless otherwise
86 ordered by a court of competent jurisdiction. Without alleging or proving the lack of other
87 adequate remedies at law, the Commissioner may apply for an injunction to restrain any
88 violation of this chapter in order to protect human or animal health.

89 (4) The remedies provided in this section are available in addition to, and without
90 limiting, any other penalties provided by law or equity, in this chapter or elsewhere. The district
91 and superior courts shall have concurrent jurisdiction to enforce this chapter and to restrain
92 violations thereof. Enforcement actions brought under this section and appeals thereof shall
93 conform to the applicable provisions of chapter 30A and hearing regulations promulgated
94 thereunder. The Commissioner may issue orders necessary to enforce this chapter and to restrain
95 violations thereof. Such orders shall be effective pending resolution of any appeal, unless
96 otherwise ordered by a court of competent jurisdiction.

97 (5) The Commissioner may seek recovery of attorneys' fees and costs incurred in
98 bringing a civil action for injunction or civil penalties pursuant to this section.

99 Section 23 (G) Effective Date. This law shall take effect one hundred and eighty days
100 after enactment, provided however, that the Commissioner shall take such actions, including the
101 promulgation of rules, as may be necessary for the timely implementation of this law.