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Legislative Proposals Protecting Animals In Entertainment: At The Crossroads

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Today, legislation pertaining to the use of animals in entertainment runs the gamut from proposals promoting their use in amusement parks, and providing economic incentives to the horse racing and rodeo industries, to creating specific exemptions under state cruelty statutes to permit their display, and finally, to banning the use of certain species of animals in particular acts.

A wide divergence of thought is reflected in pending legislation on the use of animals in entertainment. Yet it represents one of the best examples of an area of the animal protection movement in flux and the beginning of a more educated public protesting the exploitation of animals for human entertainment and profit.

Whether it be under the guise of education or the advancement of science, measures to support and improve zoological facilities are usually little more than a means to promote business interests and financial prosperity for the community. As the first state in this nation to create and financially support a state arts agency, Utah, in passing Senate Bill 209,² realized that recreational and zoological facilities in the state enhance the quality of life of Utah citizens and the continued growth of Utah's tourist, convention and recreational industries. In its commitment to nurture

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2. See S.B. 209, 52nd Leg. (Utah 1998).

and expand cultural pursuits, Senate Bill 209 permits county legislative bodies to submit an opinion question to the residents of the county in support of a local sales and use tax of one-tenth to one percent to fund recreational and zoological facilities.³

In a similar fashion, in 1997, the Iowa legislature introduced a measure, currently pending in the House Ways and Means Committee, which authorizes cities and counties to contract indebtedness and issue general obligation bonds to provide funds to pay for the cost of opening, establishing, constructing, improving, remodeling, or extending the zoo.⁴ Other efforts to promote animals in entertainment can be seen in legislation regulating their housing and standard of care.⁵ To offer "protection" to certain higher primates and non-accredited American Association of Zoos and Aquariums (AAZA) amusement parks, the Louisiana house, last year, introduced H-1381.⁶ This bill outlines provisions for both the physical and psychological needs of primates, including providing appropriate social grouping of the species by gender, age, and environmental enrichments in order to simulate, as best as possible, the animals' natural habitat and social structure.⁷ Although it certainly is an improvement over the former practice of housing them in sterile cages, such efforts only provide the species with a more humane environment. It is far short, however, of banning their use in questionable facilities *altogether*.

There is no dearth of measures to support industries that use animals in sporting events, despite the recurring detrimental effect such activities have on the animals' health and safety. There is no better example of this than the horse racing and rodeo industries. A West Virginia legislator, representing one of the top ten states in horse ownership, saw fit to introduce a bill study the need to further develop the horse

3. *See id.*

4. *See* H.B. 69, 77th Leg., 77th Gen. Assembly, 1st Sess. (Iowa 1997).

5. *See* Animal Welfare Act, 7 U.S.C. § 2131 (1997).

6. *See* H. 1381, 23rd Leg., Reg. Sess. (La. 1997).

7. *See id.*

racing industry in the state, including the feasibility of establishing a year round indoor horse facility.⁸

In an effort to encourage the breeding and owning of high quality race horses, as well as promote equine competition and foster business and entertainment for its residents, Michigan last year went a step further. It enacted a law that creates a separate Office of the Racing Commissioner and legalizes wagering of live and simulcast horse racing.⁹ Although a fund was established to support equine research to: (a) improve the health of horses; (b) study performance related accidents and injuries; and (c) prevent equine illnesses and diseases, its objective was the effective promotion, growth, and development of the industry.¹⁰ Similar steps have been taken to enhance the rodeo industry. The Alabama house introduced a bill in 1997 that would exempt the Lee County Cattleman's Association Rodeo from collecting and remitting state, county, and municipal sales taxes levied upon admission fees.¹¹

Last year, the New Mexico Senate went to great lengths when it introduced a bill authorizing the State Board of Finance to issue and sell severance tax bonds of up to fifty thousand dollars to help equip, furnish, repair and renovate the rodeo community center in Hidalgo County.¹² In fact, the issue was of such urgency to the state, that the Senate declared it an emergency and provided that the Act take effect immediately, to preserve the public peace, health, and safety. Thankfully, both bills died in Committee.

Finally, the Nevada Assembly felt it incumbent to pass a joint resolution urging the U.S. Congress to adopt a Rodeo Freedom Act similar to the one introduced by Senators Richard Bryan and Harry Reid during the 104th Congress.¹³ Citing the substantial economic impact this activity has on the state, the resolution justified the need for this Act based on

8. See H.C.R. 46, 73rd Leg., 2d Reg. Sess. (W. Va. 1998).

9. See Mich. Comp. Laws. Ann. § 431 (West 1998).

10. See *id.*

11. See 1997 Ala. Acts 97-517.

12. See H.B. 9, 43rd Leg., 2d Sess. (N.M. 1998).

13. See A.R.J. 12, 69th Leg. (Nev. 1997).

perceived constitutional threats to commercial speech and freedom of association affecting the Professional Rodeo Cowboys Association. As such, the resolution called for an exemption from proposed federal regulations restricting the activities' programs and advertising sponsors of such events.¹⁴

Although not as far reaching, yet equally significant in impact, are measures to promote the notion that it is permissible to use animals as the object of an event or as prizes for winning contests. Last year the North Dakota Assembly enacted H.B. 1282 which allowed the use of live beef and dairy cattle as a raffle prize.¹⁵

The State of Georgia amended its state law to designate the Hawkinsville Club "Shoot the Bull Barbecue Championship" as the State's official beef barbecue championship cook-off.¹⁶ It also declared the "Slosheye Trail Big Pig Jig" as the official State pork barbecue cook-off.¹⁷ To add to these troubling activities, there is a disturbing trend to shroud animal cruelty in the name of a good cause by allowing donations of money raised from such events to charity. In the case of Georgia, the money will be donated to assist the international research center that is working toward a cure for Down's Syndrome.¹⁸ Similar measures can be seen in an effort to put a positive spin on hunting by requiring hunters to donate a portion of the meat to homeless facilities.¹⁹

An equally disconcerting, yet revealing, development is the introduction of legislation which would permit using animals in entertainment by specifically exempting such activity, or the entity sponsoring it, from the state cruelty statute.

The New Jersey Legislature introduced two such bills during last session: S-1767 would permit circuses licensed with the USDA, as a class C exhibitor, to keep or exhibit any

14. *See id.*

15. *See* N.D. Cent. Code § 36-21.1-09 (1998).

16. *See* Ga. Code Ann § 50-3-75 (1998).

17. *See id.*

18. *See* H.B. 616, 144th Gen Assembly, 1997-98 Reg. Sess. (Ga. 1997).

19. *See* S.B. 6160, 221st Leg. (N.Y. 1998).

animal along a roadway or at a market or shopping mall;²⁰ A-2652 would allow non-profit corporations, societies, or associations organized exclusively for religious, educational, charitable, or hospital purposes to use animals to solicit contributions for sponsoring events without being subject to the cruelty statute.²¹ Fortunately, neither bill passed. The Hawaii House of Representatives discovered that its animal cruelty statute may "inadvertently apply to state and county approved sporting events, including rodeos."²² As such, it proposed HB-1534 to exempt such activity from its anticruelty laws.²³

Finally, many state legislatures, perhaps feeling threatened by the recent string of successful state ballot initiatives that outlaw certain methods of hunting and trapping, have proposed amendments to their state constitutions in order to guarantee its citizens the right to hunt. Such proposals have been introduced in Minnesota,²⁴ Tennessee²⁵ and Wisconsin.²⁶ Idaho²⁷ has introduced legislation to do the same.

Despite the endless array of efforts to support and expand society's use of animals in entertainment, an increasing number of measures to ban their use altogether or to outlaw specific sporting events are being introduced in state legislatures across the country, and many show great promise for success. High on the list are bills that would prohibit the use of elephants or greatly curtail the method of training or confinement of these animals. Currently, legislation is pending in a Maryland House Judiciary Committee that would prohibit the use of live elephants in any carnival, circus, fair, contest, promotion or similar public or private entertainment.²⁸ Violation of a provision of the legislation would re-

20. See S.B. 1767, 207th Leg., 2d Sess. (N.J. 1996).

21. A.B. 2652, 207th Leg., 1st Sess. (N.J. 1996).

22. H.B. 1534, 19th Leg. (Haw. 1997).

23. See *id.*

24. See H.B. 559, 80th Leg. (Minn. 1997).

25. See H.R.J. 229, 100th Leg. (Tenn. 1997).

26. See S.R.J. 36, 93^d Leg. (Wis. 1997).

27. See S.B. 1398, 54th Leg., 2d Reg. Sess. (Idaho 1998).

28. See H.B. 1031, 412th Leg. (Md. 1998).

sult in a fine of up to twenty-five hundred dollars and/or imprisonment of up to six months.²⁹

Legislation is pending in both houses of the New York Legislature which would prohibit harmful or abusive acts to train elephants, including deprivation of food, water or rest; the use of electricity; physical beatings; and the insertion of an instrument or the use of shackles.³⁰ The bill also limits the use of chains to restrain or confine an elephant for a period no greater than two hours, unless it is necessary to do so for medical or public safety reasons.³¹ Similar legislation has been introduced in the Assembly regarding the use of tigers.³²

To its credit, Hawaii, in recognizing the inherent danger in using elephants, because of the stress and abuse the animal undergoes, is considering legislation before the Senate Committee on Economic Development which would prohibit their use in traveling exhibits in the state.³³ Mississippi, in a similar bill to regulate the possession of captive wild animals, goes a step further by prohibiting a person from sponsoring, promoting, or training a wild animal in any activity or event in which the animal engages in unnatural behavior or is wrestled; fought; mentally or physically harassed; or is displayed in such a way that causes the animal to become either mentally or physically abused or stressed. Although the legislation does not specifically prohibit the use of wild animals in entertainment or sporting events, the comprehensive nature of the provision would have a similar effect in preventing the use of these animals.

Diving horse acts and horse tripping events have caused great alarm to many spectators and concerned individuals throughout the country. Legislation is pending in both houses in Florida to ban high diving acts involving horses, mules, or donkeys.³⁴ Efforts to abolish horse tripping in fact

29. *See id.*

30. *See* S.B. 5066, 220th Leg. (N.Y. 1997).

31. *See id.*

32. *See* A.B. 8903, 221st Leg. (N.Y. 1997).

33. *See* H.B. 2593, 19th Leg. (Haw. 1997).

34. *See* S.B. 980, 15th Leg. 1st Sess. (Fla. 1997).

have met with great success in recent years in New Mexico,³⁵ California,³⁶ Illinois³⁷ and Oklahoma.³⁸ Massachusetts³⁹ and Nevada⁴⁰ have introduced legislation to do the same.

Due to the successful use of state ballot initiatives and the virtually insurmountable political obstacles that prevent the passage of legislation to criminalize many traditional sporting events using animals, Arizona⁴¹ and Missouri have launched initiatives for the 1998 ballot to ban cockfighting. Forty-five states already prohibit this sport.

Finally, and perhaps most importantly, although the legislative process and citizen initiatives go a long way in helping us achieve our objectives to protect animals used in entertainment or for sport, there is no more powerful tool than public education and consumer boycotts. One example, where this has worked, is greyhound racing. Today, fewer tracks are operating in the United States, due largely to an increased public awareness of the treatment of the greyhounds and the grueling lives many lead. Legislation is being introduced to generate funding and adoption programs are being established to care for retired greyhounds. Measures to support these efforts have been established in such states as Nevada, which enacted legislation last year to prohibit dog racing.⁴² New York is considering bills preempting this industry from ever taking hold,⁴³ and Massachusetts⁴⁴ and Florida⁴⁵ have created retirement and adoption programs.

Today, in the United States, we are fortunate enough to experience and benefit from some of the most amazing advances in modern science and technology. State of the art

35. See N.M. Stat. Ann. § 30-18-11 (Michie 1995).

36. See Cal. Penal Code § 597(g)(a) (West 1994).

37. See 510 Ill. Comp. Stat. Ann. 701/5.01 (West 1998).

38. See Okla. Stat. Ann. tit. 21 § 1700 (West 1997).

39. See H.B. 3785, 181st Gen. Ct. Reg. Sess. (Mass. 1997).

40. See S.B. 298, 69th Leg. (Nev. 1997).

41. See Ariz. Bal. Meas. 201, 43rd Leg., 2d Sess. (1998).

42. See A.B. 538, 69th Leg. (Nev. 1997).

43. See A.B. 3385, 220th Leg. (N.Y. 1997).

44. See H.B. 3440, 182nd Leg. (Mass. 1997).

45. See H.1599, 99th Leg. Reg. Sess. (Fla. 1997).

equipment and the special effects they produce are often used when making motion pictures or for highly esteemed circus productions, like those of Cirque de Soleil, without the use of animals. It is not only possible and more humane, but usually results in better quality entertainment. As technology improves and we promote its use in entertainment, we can offer policy makers a more humane alternative to the use of animals for human entertainment. As advocates, it is incumbent upon us to consider and adopt some of the creative funding mechanisms being implemented to promote the entertainment industry that employs animals in order to provide the necessary resources to retire animals currently being used. Through these measures and public education programs, we can prevent the future use and breeding of animals for entertainment and in sport and secure for them the respect and dignity they deserve.