

**MEMORANDUM**

December 8, 2017

TO: County Council

FROM: Jeffrey L. Zyontz, Senior Legislative Analyst

SUBJECT: **Action:** Bill 23-17, Animal Control – Performance Animal - Violations

**Public Safety Committee Recommendation (3-0):** approve Bill 23-17 with the following amendments

Delete all of the proposed new definitions in Section 5-101- Definitions (lines 6-35)

Delete all of the proposed changes to Section 5-201- Cruelty (lines 47-56)

Amend Section 5-202 Dangerous and potentially dangerous animals by:

Correcting the reference to the exception provision (line 60) and

Adding an exception for animals in the possession of an animal sanctuary and particular marsupials (lines 71-79)

Add a new Section 5-204 Traveling Animal Act – Prohibition with the following provisions:

- 1) Definitions for the terms “exhibition” (lines 84 – 87), “mobile or traveling housing facility” (lines 88-91), “traveling animal act” (lines 92- 94), and “wild animal” (lines 95-110).
- 2) The prohibition of a person or business from charging guests or visitors a fee to attend the exhibition of a wild animal in a traveling animal act (lines 111-112).
- 3) The authority for the County Executive to issue regulations (lines 113-114).

**Background**

Bill 23-17, Animal Control – Performance Animal - Violations, sponsored by Lead Sponsors Councilmembers Rice and Leventhal, Co-Sponsors Councilmembers Katz, Navarro, Riemer, Elrich, Hucker, and then-Council President Berliner, was introduced on June 27. A public hearing was held on July 18 and Public Safety Committee worksessions were held on September 11 and again on November 9.

The sponsors of Bill 23-17 want to protect wild animals. The Bill does this by removing the financial incentives to exhibit such animals.

As introduced, Bill 23-17 would:

- (1) Define the term “exhibit”;
- (2) Define the term performance animal;
- (3) Prohibit financial benefiting from the exhibition of performance animals;
- (4) Authorize the Animal Control Division to enforce prohibited act; and
- (5) Generally amend the provisions concerning animal cruelty.

## Issues

*Should the Council defer action on Bill 23-17?*

The Montgomery County Farm Bureau, the Montgomery Agricultural Producers, the Montgomery County Agricultural Center Inc., the Montgomery County Agricultural Advisory Committee and the Executive Director of the Montgomery County Agricultural Fair suggested the establishment of a Committee to define the problem that instigated Bill 23-17 and perhaps resolve the problem without legislation.

Deferring action is always an option. The Lead Sponsors of Bill 23-17 wish to proceed to Council action on the amended Bill. The Public Safety Committee recommended enacting Bill 23-17 with amendments.

*Why create a new section for traveling animal acts in the animal control law and remove the proposed provision from the animal cruelty section of the Code?*

The Committee recommended deleting all animals used in agriculture (raised for food, fiber, or labor) from the list of animals prohibited in traveling animal acts. In making this recommendation the Committee did not intend to imply that farm animals were excluded from animals within the jurisdiction of the cruelty provision or to imply that farm animals are being treated cruelly.

The Committee recommended adding a separate provision for traveling animal acts. This retained the current provisions for “cruelty” and define wild animals for the sole purpose of limiting fee based traveling animal acts.

*Should there be an exception to the dangerous and wild animal act provisions?*

The general prohibition on wild animals in the Code currently reads as follows:

Sec. 5-202. Dangerous and potentially dangerous animals.

- (a) Violation.
  - (1) Except as provided in subsection (d), a person must not import, sell, trade, buy, barter, breed, raise, keep, or possess:
    - (A) a wild animal; or
    - (B) any animal that the County or any other jurisdiction finds is dangerous or a threat to public health or safety, including types of animals excluded from State law prohibitions on dangerous animals.

Subsection (d) concerns “restriction or condition, including confinement or microchipping the animal, on the owner of a dangerous or potentially dangerous animal that is reasonably expected to protect the public health or safety”. The actual exception to the provision is subsection (h), “A dog serving a law enforcement agency is not a dangerous or potentially dangerous animal or a guard dog under this Section.”

There is no specific exception to the prohibition on possessing wild animals for animal rescues, sanctuaries, and rehabilitators permitted to operate in Maryland.

The Committee recommended adding the following 2 exceptions to prohibition on the possession of wild or potentially dangerous animals:

- 1) Animals in the possession of an animal sanctuary are not dangerous or potentially dangerous animals if the animal sanctuary:
  - (A) is a nonprofit organization qualified under §501(c)(3) of the Internal Revenue Code;
  - (B) operates a place of refuge for abused, neglected, impounded, abandoned, orphaned, or displaced wildlife; and
  - (C) does not conduct commercial activity with respect to any animal of which the organization is an owner.
- 2) Wild animals do not include kangaroos, wallabies, or sugar gliders.

The definition of an animal sanctuary is the same as the definition found in State law.

Kangaroos, wallabies and sugar gliders were excluded because of their existing presence in the County and the absence of complaints.<sup>1</sup> There is only one documented case of a person being killed by a Kangaroo. That occurred in 1936 when a hunter tried to save his dog from a battle involving a kangaroo in New South Wales, Australia.

#### *Why approve any version of Bill 23-17?*

The use of animals as a form of amusement, entertainment or display is detrimental to the safety of the public, including children and trainers. Wild animals pose a significant danger to audience members, trainers, and the public at large. Travel or confinement impairs the animals' physical, psychological, and social needs, while close confinement, lack of exercise, pressure to perform, and other physical requirements of performing render the animals unable to express natural behaviors and socialize appropriately. In addition, the training techniques, devices, or agents used to make the animals perform are many times abusive, cruel, and/or stressful, causing suffering to the animals and creating a greater threat to the public.<sup>2</sup>

The incentive for profit increases the incentive to create traveling animal acts, to train animals to perform on demand, and to short change animal care.

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<sup>1</sup> There is an on-going, USDA regulated business in Germantown that raises marsupials including kangaroos, wallabies, and sugar gliders. Part of their business is having visitors to their property and bringing animals to schools. Another part of their business is bringing baby animals to parties.

<sup>2</sup> Animal Law Resource Center; <http://www.animallaw.com/Model-Law-Circuses.cfm>.

*What is the scope of prohibited activity?*

As introduced, Bill 23-17 would prohibit a person or business from exhibiting or financially benefiting from the exhibition of any performance animal in a traveling animal act.

Performance animals are defined in the Bill.<sup>3</sup> A traveling animal act is not defined in the Bill as introduced.

The Committee recommended adding a definition of traveling animal act:

The term 'traveling animal act' means any performance of animals where such animals are transported to, from, or between locations for the purpose of such performance, in a mobile or traveling housing facility.<sup>4</sup>

With that definition, the Committee recommended that a "mobile or traveling housing facility" should be defined:

Mobile or traveling housing facility means a transporting vehicle such as a heavy commercial vehicle as defined by Section 59.1.4.2, trailer, or railway car, used to move or house wild animals.<sup>5</sup>

Currently it is a violation of the County Animal Control law to import, sell, trade, buy, barter, breed, raise, keep, or possess a wild animal.<sup>6</sup> This provision has never been used to ban traveling animal acts in the County. The act that causes a violation under Bill 23-17 is the exhibition that charges a fee for visitors or guests to attend an animal performance in a traveling animal act. The prohibited act, as recommended by the Committee is:

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<sup>3</sup> The Bill lists specific "orders" or "families" of animals with examples or exclusions. Within the science of taxonomy, all living organisms are classified by their kingdom, phylum, class, **order**, family, genus and species.

<sup>4</sup> This definition is identical to the definition of the same term in H.R. 1759 the "Traveling Exotic Animal and Public Safety Protection Act".

<sup>5</sup> Commercial Vehicle, Heavy: Any motor vehicle, tandem axle trailer, or semi-trailer used for carrying freight or merchandise, or used in any commercial enterprise that is:

1. greater than 10,000 pounds gross vehicle weight;
2. rated by the manufacturer with a load capacity of more than one ton;
3. 21 feet long or longer, measured from the extremes of the vehicle, including any object on the vehicle; or
4. more than 8 feet high, with properly inflated tires, measured from the ground to the highest part of the vehicle, including any racks but excluding any antennas.

A heavy commercial vehicle does not include a recreational vehicle, a motor vehicle owned or operated by the County or other government agency, a machine or a vehicle for agricultural use, or a tow truck that is less than 10,000 pounds gross vehicle weight, shorter than 21 feet in length as measured under subsection 3, and less than 8 feet high as measured under subsection 4.

<sup>6</sup> Section 5-202 (a) 1; a wild animal is defined as, "An animal of a species of an untamable disposition, a species in a state of nature, or a native self-sustaining species. All animals of these species are wild animals even if a particular animal has characteristics that reflect domestication or taming." An exotic animal is defined in the code as, "a non-native species kept as a pet or livestock, other than a rodent, rabbit or hare, or hoofed animal.

A person or business must not charge guests or visitors a fee to attend the exhibition of a wild animal in a traveling animal act.

*Should there be exemptions for animals cared for by certified humane zoos?*

Some legislation exempt animals from facilities accredited by the Association of Zoos and Aquariums (AZA). This organization started the voluntary accreditation process in 1974. Of the approximately 2,800 animal exhibitors licensed by the USDA across the country, less than 10% are AZA-accredited.

Another accrediting organization is the Zoological Association of America (ZAA). This is a much younger organization. ZAA was formed in 2005.<sup>7</sup> The standards for animal care between the 2 organizations are different.

The Council must avoid delegating its authority to a private party. Allowing accreditation by a third party to exempt some animal acts would be such a delegation. The Committee did not recommend a specific exception for a business certified by either organization.

*How did the Committee address educational opportunities?*

The Committee's recommendation is intended to allow the use of animals for educational opportunities when a fee (entrance fee, ticket, or minimum mandatory contribution) is NOT charged to observe or learn from animals.<sup>8</sup> It is not the practice of schools to require a fee for events that are part of its regular curriculum.

Bill 23-17 would not take away affordable and educational opportunities for residents in Montgomery County.<sup>9</sup> The revised Bill would allow ANY animal act that is part of a school's curriculum. Many traveling "zoos" bring farm animals (raised for food or fiber), or reptiles. These animals would be allowed in traveling acts even when the event is out of school and a fee is charged.

There are traveling zoos that include some animals that would not be allowed by the Bill (camels) if fees are charged.

*Would the enactment of Bill 23-17 have any effect on the Montgomery County Agricultural Fair or Agricultural fairs in general?*

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<sup>7</sup> The ZAA was established by the merger of two pre-existing organizations - The International Society of Zooculturists and the United Zoological Association.

<sup>8</sup> Proposed federal legislation (HR 1759) would allow an exception for environmental education programs with the following definition of education:

The term environmental education program means an animal exhibition that is professionally designed to impart knowledge or information for educational or conservation purposes about that animal's natural behavior, habitat, life cycle, or similar pedagogical information, conducted by an individual qualified to impart such information, which does not include any performance of behavior that does not naturally occur for that animal in the wild state.

<sup>9</sup> The National Zoo is free, has an unmatched variety of animals, and is accessible by Metro. Wild animal acts in the County have had entrance charges and are not required to be accessible by bus or rail.

Due to the Fair's location, the Fair would not be affected by Bill 23-17. The prohibition on performance animals would be part of the Animal Control Chapter of the Montgomery County Code. The fairgrounds is located in the City of Gaithersburg. Activities in Gaithersburg is **not** subject to the Animal Control Chapter of the Montgomery County Code.

Sometimes Gaithersburg sees the wisdom of County legislation and sometimes it finds wisdom appropriate for the City.<sup>10</sup> The enactment or disapproval of Bill 23-17 may or may not influence the City of Gaithersburg to enact a similar prohibition.

Even if the Agricultural Fair was held in unincorporated Montgomery County, all the animals listed as on display at the Agricultural Fair would be allowed by Bill 23-17 as redrafted.<sup>11</sup>

If the fairgrounds is relocated to an unincorporated area of Montgomery County, the income of the Montgomery County Agricultural Center Inc, who owns the fairgrounds would be negatively impacted to the extent that the fairgrounds had the opportunity to rent their facilities to traveling animal acts.<sup>12</sup> The fairgrounds has been rented to traveling animals acts in the past.

It is not the intent of Bill 23-17 to prohibit any agricultural fair that displays domesticated animals that are raised for food, fiber, or common household pets. (In the following issue, the Committee recommends excluding llamas, alpacas, emus, and ostriches from the list of prohibited traveling animal acts.)

Martin E. Svrcek, the Executive Director of the Montgomery County Agricultural Fairgrounds, would still request that "any animal act performed for educational purposes at the Montgomery County Fair" be exempted from prohibited acts under the Bill.

*Where did the list of prohibited animals come from and is it too broad?*

Staff did not have the competence to create the list of prohibited wild and exotic creatures in Bill 23-17.<sup>13</sup> The list of animal orders, families and exclusions follows the model ordinance available on the Born Free web site.<sup>14</sup> The major difference from that list is the inclusion of elasmobranchii (sharks) and pinnipedia (seals, sea lions, and walruses).

Testimony noted that the list would prohibit domesticated animals such as llamas, alpacas, ostriches, and emus.

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<sup>10</sup> "It is unwise to be too sure of one's own wisdom. It is healthy to be reminded that the strongest might weaken and the wisest might err." Mahatma Gandhi

<sup>11</sup> The animals listed on the Fair's website as being on display during the fair are: donkeys, mules, goats, horses, pigs, poultry, water fowl, rabbits, and sheep.

<sup>12</sup> Municipalities may choose to be regulated under the County's Animal Control Chapter. Gaithersburg has elected not to be subject to that Chapter. Gaithersburg may be inspired to adopt its own prohibition on traveling animal acts, but could occur with or without the Council's approval of Bill 23-17.

<sup>13</sup> Staff's single contribution to any form of biological science was an academic composition on "Our Friend the Frog". This paper was never published and was written decades before staff found gainful employment.

<sup>14</sup><http://466a221d5f0081643b32->

[5fd6e4345ef06428c08a34c1e533de0.r4.cf1.rackcdn.com/Model\\_City\\_Legislation\\_Traveling\\_Circus.pdf](http://466a221d5f0081643b32-5fd6e4345ef06428c08a34c1e533de0.r4.cf1.rackcdn.com/Model_City_Legislation_Traveling_Circus.pdf)

As everyone knows:<sup>15</sup>

Artiodactyla<sup>16</sup> includes llamas and alpacas

Struthioniformes<sup>17</sup> includes ostriches

Casuariiformes<sup>18</sup> includes emus

The Committee recommended excluding these domestic animals (used for food, fiber, or pets) from the definition of wild animal.<sup>19</sup>

*Should there be an additional exemption for agricultural activity?*

On December 7, the Chair of the Public Safety Committee received the following message from Jeremy Criss, the Director of the Office of Agricultural Services:

The agricultural community would be very appreciative of you if the language below is inserted into the final version of Bill 23-17 that the County Council approves....

Any agricultural activity as defined in the definition of agriculture and farming (Chapter 59) and conducted in accordance with the laws of the State of Maryland is explicitly recognized as humane and exempt from any and all provisions of this Chapter.

The enactment of this text would cover all of Chapter 5. The proposed text would be a self-imposed form of state preemption. It would nullify all aspects of Chapter 5 that are different than state law. Chapter 5 is explicitly aligned with state law with respect to animal cruelty (Section 5-201). Staff does not know if the prohibition on dangerous and potentially dangerous animals is the same as State Law and County law. Chapter 5 also has provisions for public nuisances (Section 5-203), and animal

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<sup>15</sup> That is everyone who has had the time to research taxonomy.

<sup>16</sup>This order is characterized by either two or four (usually) hooved toes on each foot, except for the peccary which has four toes on each forefoot, but only three on the hind. The American forms of the order are divisible into two groups based on the structure of the teeth, presence or absence of horns, and structure of the stomach and feet. The pig group has crushing cheek teeth, upper incisors, a simple stomach, no horns, four hooved toes, and includes the peccaries. The cow group has rasping cheek teeth, no upper incisors, two or four hooved toes on each foot, complex stomach, and horns or antlers in most species. It includes the deer, elk and allies; cows and allies; and the pronghorn.

<sup>17</sup> This is a small order of weak-flying, partridge-like birds and giant, flightless ratite birds found in the southern continents. The struthioniforms are characterized by a palaeognathous palate, a break in the postnasal strut, close approximation of the zygomatic process to the quadrate, and the structure of the rhamphotheca (the horny sheath covering a bird's beak).

<sup>18</sup> The Casuariiformes is an order of large flightless bird that has four surviving members: the three species of cassowary, and the only remaining species of emu. They are classified as one family Casuariidae or two, with the emu split off into its own family Dromaiidae. All four living members are native to Australia-New Guinea, but some possible extinct taxa occurred in other landmasses.

<sup>19</sup> Proposed federal legislation (HR 1759) would exclude "farm animals" from prohibited animals and would define farm animals as follows:

The term farm animal means any domestic species of alpacas, cattle, sheep, swine, goats, llamas, poultry, or horses, which are normally and have historically, been kept and raised on farms in the United States, and used or intended for use as food or fiber, or for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber. This term also includes animals such as rabbits, mink, and chinchilla, when they are used solely for purposes of meat or fur, and animals such as horses and llamas when used solely as work and pack animals. The term does not include exotic animals or wild animals.

business licenses (Section 5-404). The proposed text would exempt equestrian facilities (an agricultural use) from County licensing (Section 5-404 (a)(4)).

Staff does not recommend the text suggested by Mr. Criss.

This packet contains:

Bill 23-17 as revised

Legislative Request Report

Agricultural Community letters

Circle #

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F:\LAW\BILLS\1723 Animal Control - Prohibit Exhibition And Performance\Action Memo.Docx



Bill No. 23-17  
Concerning: Animal Control –  
Performance Animal - Violations  
Revised: 11/16/2017 Draft No. 10  
Introduced: June 27, 2017  
Expires: December 27, 2018  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsors: Councilmembers Rice and Leventhal  
Co-Sponsors: Councilmembers Katz, Navarro, Riemer, Elrich, Hucker and Council President  
Berliner

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**AN ACT** to:

- (1) Define ~~[[the term “exhibit”]]~~ certain terms;
- (2) ~~[[Define the term performance animal;~~
- (3)]] Prohibit the exhibition of ~~[[performance]]~~ wild animals in a traveling animal act;
- ~~[[4]]~~ (3) Authorize the Animal Control Division to enforce the prohibited act; and
- ~~[[5]]~~ (4) Generally amend the provisions concerning animal cruelty.

By amending

Montgomery County Code  
Chapter 5, Animal Control  
Sections 5-101, 5-102, and 5-201

By adding

Chapter 5, Animal Control  
Section 5-204

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<del>[Single boldface brackets]</del>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<del>[[Double boldface brackets]]</del>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1           **Sec. 1. Sections 5-101, 5-102, and 5-201 are amended and Section 5-204 is**  
2 **added as follows:**

3 **5-101. Definitions.**

4 In this Chapter, the following words and phrases have the following meanings:

5                           \*   \*   \*

6 **[[Display: Any exhibit, fair, act, circus, ride, or similar undertaking in which a**  
7 **performance animal is required to perform tricks, give rides, or participate as**  
8 **accompaniments for the entertainment, amusement, or benefit of another.]]**

9                           \*   \*   \*

10 **[[Exhibit: The display of a performance animal for the financial benefit of any person**  
11 **or business.]]**

12                           \*   \*   \*

13 **[[Performance animal: The following animals are performance animals. The animals**  
14 **listed in parentheses are intended to act as examples and are not to be construed as an**  
15 **exhaustive list or limit the generality of each group of animals, unless otherwise**  
16 **specified:**

17           (1) non-human primates and prosimians (such as chimpanzees, baboons,  
18 monkeys, etc.) – all species;

19           (2) felidae (such as lions, tigers, cougars, leopards, ocelots, servals, etc.) –  
20 all species except domestic cats;

21           (3) canidae (such as wolves, coyotes, etc.) – all species except domestic  
22 dogs;

23           (4) ursidae (such as bears) – all species;

24           (5) marsupialia (such as kangaroos, etc.) – all species;

25           (6) proboscidae (such as elephants) – all species;

26           (7) crocodilia (such as crocodiles, alligators, etc.) – all species;

27           (8) squamata (all species of snakes only);

28 (9) artiiodactyla (such as hippopotamuses, giraffes, camels, etc.) – all species  
29 except domestic cattle, swine, sheep, or goats;

30 (10) perissodactyla (such as zebras, rhinos, and tapirs) – all species except  
31 domestic horses, donkeys, or mules;

32 (11) struthioniformes (such as ostriches) – all species;

33 (12) casuariiformes (such as emus) – all species;

34 (13) Elasmobranchii (including nurse sharks and lemon sharks); and

35 (14) Pinnipedia (including seals, sea lions, and walruses).]]

36 \* \* \*

37 **5-102. Administration.**

38 \* \* \*

39 (e) Enforcement of [state] animal control laws. To the extent allowed by  
40 State law, the Division may enforce any State animal control law and  
41 any law under this Chapter. A reference in a State animal control law to  
42 the "appropriate authority" (or any similar term) in the County means  
43 the Division and any other County agency designated by regulation  
44 adopted under method (3).

45 \* \* \*

46 **5-201. Cruelty.**

47 (a) Violation [[under State Laws]].

48 A person must not violate State laws against cruelty to animals, such as  
49 by:

50 \* \* \*

51 [[b) Additional violation: A person or business must not exhibit or  
52 financially benefit from the exhibition of any performance animal in a  
53 traveling animal act.]]

54            ~~[[c]]~~ (b) Regulations. The County Executive may issue regulations,  
55                            consistent with State law, to interpret and implement State anti-cruelty  
56                            laws in the County ~~[[to interpret and enforce this subsection]]~~.

57                            \* \* \*

58        **Sec. 5-202. Dangerous and potentially dangerous animals.**

59        (a) Violation.

60            (1) Except as provided in subsection ~~[[d]]~~ (h) a person must not import, sell,  
61                            trade, buy, barter, breed, raise, keep, or possess:

62                            (A) a wild animal; or

63                            (B) any animal that the County or any other jurisdiction finds is  
64    dangerous or a threat to public health or safety, including  
65    types of animals excluded from State law prohibitions on  
66    dangerous animals.

67                            \* \* \*

68        (h) ~~[[Exception]]~~ Exceptions.

69            (1) A dog serving a law enforcement agency is not a dangerous or potentially  
70                            dangerous animal or a guard dog under this Section.

71            (2) Animals in the possession of an animal sanctuary are not dangerous or  
72                            potentially dangerous animals if the animal sanctuary:

73                            (A) is a nonprofit organization qualified under §501(c)(3) of the  
74    Internal Revenue Code;

75                            (B) operates a place of refuge for abused, neglected, impounded,  
76    abandoned, orphaned, or displaced wildlife; and

77                            (C) does not conduct commercial activity with respect to any animal  
78    of which the organization is an owner.

79            (3) Wild animals do not include kangaroos, wallabies, or sugar gliders.

80                            \* \* \*

81 **5-204. Traveling Animal Act - Prohibited.**

82 (a) Definitions. In this section, the following words have the meanings  
83 indicated:

84 (1) Exhibition means an act, circus, ride, or similar undertaking in  
85 which a wild animal is required to perform tricks, give rides, or  
86 participate as accompaniments for the entertainment, amusement,  
87 or benefit of any live audience.

88 (2) Mobile or traveling housing facility means a transporting vehicle  
89 such as a heavy commercial vehicle as defined by Section  
90 59.1.4.2, trailer, or railway car, used to move or house wild  
91 animals.

92 (3) Traveling animal act means the exhibition of a wild animal where  
93 the animal is transported to, from, or between locations for  
94 exhibition, in a mobile or traveling housing facility.

95 (4) Wild animal means all animals classified in the following orders  
96 or families except the species noted:

97 (A) non-human primates and prosimians;

98 (B) felidae, except domestic cats;

99 (C) canidae, except domestic dogs;

100 (D) ursidae;

101 (E) marsupialia;

102 (F) proboscidea;

103 (G) crocodilia;

104 (H) artiodactyla, except domestic cattle, bison, American  
105 buffalo, water buffalo, yak, zebu, gayal, bali cattle, suidae,  
106 sheep, goats, llamas, or alpacas;

107 (I) perissodactyla, except domestic horses, ponies, donkeys, or  
108 mules;

109 (J) elasmobranchii; and

110 (K) pinnipedia.

111 (b) Prohibition. A person or business must not charge guests or visitors a fee  
112 to attend the exhibition of a wild animal in a traveling animal act.

113 (c) Regulations. The County Executive may issue regulations under Method  
114 2, to interpret and enforce this subsection.

115 *Approved:*

116

117

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118 Hans D. Riemer, President, County Council Date

119 *Approved:*

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122 Isiah Leggett, County Executive Date

123 *This is a correct copy of Council action.*

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125

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126 Linda M. Lauer, Clerk of the Council Date

## LEGISLATIVE REQUEST REPORT

Bill 23-17

*Animal Control – Performance Animal - Violations*

**DESCRIPTION:** This Bill defines performance animals and prohibits a person or business from exhibiting or financially benefit from the exhibition of any performance animal. It also allows enforcement of the prohibition.

**PROBLEM:** Profiting by exhibition of wide animals creates an incentive for the capture those animals and creates an excessive opportunity for animal cruelty.

**GOALS AND OBJECTIVES:** The goal is to remove the financial incentive for displaying wide animals.

**COORDINATION:** Police Department – Animal Control Division

**FISCAL IMPACT:** To be requested.

**ECONOMIC IMPACT:** To be requested.

**EVALUATION:** To be requested.

**EXPERIENCE ELSEWHERE:** To be researched.

**SOURCE OF INFORMATION:** Jeff Zyontz, Senior Legislative Analyst, 240 777 7896

**APPLICATION WITHIN MUNICIPALITIES:** To be researched.

**PENALTIES:** Violations with be subject Class A violation



16 Chestnut Street | Gaithersburg, MD 20877 | Tel: 301-926-3100 Fax: 301-926-1532 | www.mccagfair.com

November 2, 2017

The Honorable Roger Berliner  
Montgomery County Council President  
100 Maryland Avenue  
Rockville, MD 20850

RE: Bill 23-17-Animal Control-Performance Animal-Violation

Dear President Berliner and Members of the Montgomery County Council:

After countless hours of deliberation with leaders of the Montgomery County Agricultural Fair, the agricultural community and County officials, we cannot support the content of Bill 23-17 in its current form. We believe that a work group should be appointed by the County Council which includes Council staff and representatives of the Animal Services Division, Fair and agricultural community so that we can better understand all implications and potential outcomes of this legislation. The formation of such a group was recommended during the September 11th work session and we continue to believe this represents the most productive path forward for all constituencies.

With no known violations concerning the care of exotic performance animals in Montgomery County, current regulations appear to be working with the Animal Services Division meeting their obligations well. Nevertheless, we are eager to understand better the concerns of the proponents of Bill 23-17 and to find an appropriate resolution to this matter. By creating a work group, we can come to a joint understanding of the issues at hand and the need to develop a legislative approach.

We plan to continue protecting the animals in our care while maintaining the excellent educational programming we provide to our community. We oppose Bill 23-17 in its current form because it risks altering fundamentally our ability to continue our great traditions without evidence of harm to the traveling performance animals at our events. To be clear, without the creation of a work group to review the reasons for and implications of the legislation, we must oppose Bill 23-17.

Sincerely,

Mark Ryba, President  
Montgomery County Agricultural Center Inc.

William F. Willard, Chair  
Montgomery Ag. Producers

Doug Lechlider  
Mont. Co. Ag. Advisory Committee

Cc: Montgomery County Council Members,  
Jim Clifford, Esquire MC Agricultural Center, Inc.



# Montgomery County Farm Bureau

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The Honorable Roger Berliner, President  
Montgomery County Council  
100 Maryland Avenue, 6th Floor  
Rockville, Maryland 20850

November 2, 2017

Dear Mr. Berliner:

The Montgomery County Farm Bureau (MCFB) opposes Bill 23-17. We believe it is an unnecessary piece of legislation. Given existing animal cruelty laws at the State and County levels and the fact there have been no known violations concerning traveling wild animal shows in Montgomery County, a need for the Bill does not exist.

We greatly appreciate the efforts that Council staff have made to modify the bill based upon our concerns and to narrow the focus of the bill; however, MCFB stands with the Ag Community and cannot support this bill as written. MCFB sees merit in the County Council assigning Bill 23-17 to a working group of stakeholders to thoroughly study any potential future implications to agriculture and understand how other jurisdictions have addressed similar situations.

Thank you again for working closely with the Ag Community.

Most Sincerely,  
Michele A. Cropp

*Michele A. Cropp* A rectangular stamp with a dashed border. On the left is a small black icon of a document with a checkmark. To the right of the icon, the text reads 'Verified by PDFfiller' in a bold font, with the date '11/03/2017' below it.

Michele A. Cropp, President  
Montgomery County Farm Bureau  
240-304-7767



November 3, 2017

The Honorable Roger Berliner  
Montgomery County Council President  
100 Maryland Avenue  
Rockville, MD 20850

RE: Bill 23-17-Animal Control-Performance Animal-Violation

President Berliner and Members of the Montgomery County Council:

Bill 23-17 has made many twists and turns since it was originally written on February 2, 2017 as an Act, by Ashley Rhinehart RN, Senior Food and Nutrition Manager at the Humane Society of the United States (HSUS), and sent to George Leventhal on April 12, 2017.

Since that time it has been considered for placement in Animal Cruelty, Chapter 5, Animal Control, Sections 5-101, 5-102, and 5-201. This did not prove to be enforceable by the Animal Welfare Division of Montgomery County as learned at the September 11, 2017 work session. Then it was to be placed in Sec. 5-202. Dangerous and Potentially Dangerous animals, and this did not work either. Now it is being considered by amending Chapter 5, Animal Control, Sections 5-101, 5-102, and 5-201, and by adding Chapter 5, Animal Control, Section 5-204 Traveling Act.

The fact that it has been so difficult to designate where it should be placed in our code, and that the Animal Welfare Division has no reports on record of animal cruelty by shows that have exotic animals leads to the conclusion that Montgomery County Maryland does not have an animal abuse problem and no need for Bill 23-17.

It has become commonplace to believe that humane treatment is not exercised by caretakers of performing animals and exhibits, but that could not be further from the truth. Performing animals are well respected and are provided with a life full of excellent medical care, environmental stimulation, and scientific based husbandry practices all of which are regulated by the United States Department of Agriculture (USDA) under the Animal Welfare Act (AWA). Those who violate animal cruelty laws should be

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prosecuted under the laws that are in place to protect animals from abusive behavior. Please remember that as of this date, there are no reported incidents of cruelty against exotic animals in Montgomery County according to the records of our Animal Welfare Division.

The intention to stop animal agriculture by the HSUS is evident when a Nutrition Manager from their organization wrote the first version of Bill 23-17 that was sent to the County Council.

Additionally:

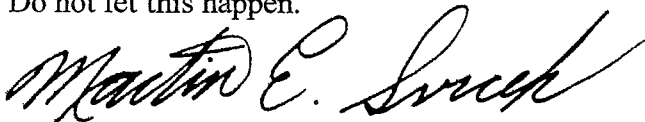
Wayne Pacelle, president of the Humane Society of the United States, told Animal People News his stated goal is to create "a National Rifle Association of the animal rights movement." "Animals are no one's property, and they have the right not be 'taken,' 'harvested,' or 'culled' or any other euphemism for murder that wildlife managers use. They are no one's property, just as you and I are no one's property other than our own."

Paul Shapiro, Vice President of Policy at HSUS, stated " eating meat causes animal cruelty."

John "J.P." Goodwin, former Political Director at HSUS, currently Senior Director of the Stop Puppy Mills campaign at HSUS told AR-Views, an animal rights Internet discussion group, that "My goal is the abolition of all animal agriculture".

This effort to pass Bill 23-17 is the first step in the slow demise of your Montgomery County Agricultural Fair and animal agriculture in our community. There is no need to create legislation to satisfy a philosophical agenda that is being promoted by the HSUS to solve an animal abuse claim that Montgomery County data indicates does not exist. Their goal is to promote animal regulation and then expand on legislation that is passed in local communities to move forward with their plan to severely restrict and ultimately stop animal agriculture.

Do not let this happen.



Martin E. Svrcek  
Executive Director  
Montgomery County Agricultural Fair

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