

HOUSE BILL 618

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8lr0832

By: **Delegates A. Miller, Atterbeary, Barve, Carr, Cullison, Hettleman, Lam, R. Lewis, Luedtke, Moon, Morhaim, Platt, Reznik, Robinson, Sanchez, Stein, Waldstreicher, and K. Young**

Introduced and read first time: January 29, 2018

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Cruelty to Animals – Traveling Elephant Acts**

3 FOR the purpose of prohibiting a person from knowingly using, or authorizing the use of,
4 an elephant to participate in a certain traveling animal act; establishing that a
5 certain prohibition does not apply to a certain elephant exhibition; establishing a
6 civil penalty for violation of this Act; providing that a person who violates this Act
7 may be issued a certain citation; authorizing certain law enforcement officers and
8 certain animal control authorities to issue a certain citation; establishing that a
9 violation of this Act is not a criminal conviction and does not impose any of the civil
10 disabilities that may result from a criminal conviction; establishing certain
11 requirements for a citation issued under this Act; providing that persons who receive
12 a citation may pay the civil penalty or may elect to stand trial in the District Court;
13 requiring the District Court to prescribe a certain form of citation; requiring the
14 Chief Judge of the District Court to establish a certain schedule for the prepayment
15 of a certain fine; providing that prepayment of a certain fine shall be considered a
16 plea of guilty of a certain violation; authorizing a certain person to request a certain
17 trial in a certain manner at a certain time; authorizing the court to impose a certain
18 fine and costs against a certain person and find the person guilty of a Code violation
19 for a certain purpose under certain circumstances; establishing certain procedures
20 for a certain Code violation proceeding; providing that a certain defendant is liable
21 for certain costs; authorizing the State's Attorney to prosecute a certain violation in
22 a certain manner; defining a certain term; and generally relating to cruelty to
23 animals.

24 BY adding to
25 Article – Criminal Law
26 Section 10–627
27 Annotated Code of Maryland
28 (2012 Replacement Volume and 2017 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That the Laws of Maryland read as follows:

3 **Article – Criminal Law**

4 **10–627.**

5 (A) IN THIS SECTION, “TRAVELING ANIMAL ACT” MEANS AN ACT, A
6 CARNIVAL, A CIRCUS, A DISPLAY, AN EXPOSITION, A FAIR, A PARADE, A PUBLIC
7 SHOWING, A RACE, OR A RIDE IN WHICH ANIMALS THAT HAVE BEEN TRANSPORTED
8 TO, FROM, OR BETWEEN LOCATIONS ARE REQUIRED TO PERFORM TRICKS, GIVE
9 RIDES, OR PARTICIPATE AS ACCOMPANIMENTS FOR ENTERTAINMENT, AMUSEMENT,
10 OR BENEFIT OF A LIVE AUDIENCE.

11 (B) THIS SECTION DOES NOT APPLY TO AN EXHIBITION OF ELEPHANTS AT A
12 NONMOBILE, PERMANENT INSTITUTION OR FACILITY.

13 (C) A PERSON MAY NOT KNOWINGLY USE, OR AUTHORIZE THE USE OF, AN
14 ELEPHANT IN A TRAVELING ANIMAL ACT.

15 (D) (1) A PERSON WHO VIOLATES SUBSECTION (C) OF THIS SECTION IS
16 SUBJECT TO A CIVIL PENALTY NOT TO EXCEED \$10,000.

17 (2) ADJUDICATION OF A VIOLATION UNDER SUBSECTION (C) OF THIS
18 SECTION:

19 (I) IS NOT A CRIMINAL CONVICTION FOR ANY PURPOSE; AND

20 (II) DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES THAT
21 MAY RESULT FROM A CRIMINAL CONVICTION.

22 (E) A PERSON WHO VIOLATES SUBSECTION (C) OF THIS SECTION SHALL BE
23 ISSUED A CITATION.

24 (F) A CITATION FOR A VIOLATION OF SUBSECTION (C) OF THIS SECTION MAY
25 BE ISSUED BY:

26 (1) ANY STATE OR LOCAL LAW ENFORCEMENT OFFICER; OR

27 (2) THE LOCAL ANIMAL CONTROL AUTHORITY FOR THE
28 JURISDICTION WHERE THE VIOLATION OCCURS.

29 (G) A CITATION ISSUED FOR A VIOLATION OF SUBSECTION (C) OF THIS

1 SECTION SHALL BE SIGNED BY THE OFFICER WHO ISSUES THE CITATION AND SHALL
2 CONTAIN:

3 (1) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE PERSON
4 CHARGED;

5 (2) THE DATE AND TIME THAT THE VIOLATION OCCURRED;

6 (3) THE LOCATION AT WHICH THE VIOLATION OCCURRED;

7 (4) THE FINE THAT MAY BE IMPOSED;

8 (5) A NOTICE STATING THAT PREPAYMENT OF THE FINE IS ALLOWED;

9 AND

10 (6) A NOTICE IN BOLDFACE TYPE THAT STATES THAT THE PERSON
11 SHALL:

12 (I) PAY THE FULL AMOUNT OF THE PRESET FINE; OR

13 (II) REQUEST A TRIAL DATE AT THE DATE, TIME, AND PLACE
14 ESTABLISHED BY THE DISTRICT COURT BY WRIT OR TRIAL NOTICE.

15 (H) THE FORM OF THE CITATION SHALL BE UNIFORM THROUGHOUT THE
16 STATE AND SHALL BE PRESCRIBED BY THE DISTRICT COURT.

17 (I) (1) THE CHIEF JUDGE OF THE DISTRICT COURT SHALL ESTABLISH A
18 SCHEDULE FOR THE PREPAYMENT OF THE FINE.

19 (2) PREPAYMENT OF A FINE SHALL BE CONSIDERED A PLEA OF
20 GUILTY TO A VIOLATION OF SUBSECTION (C) OF THIS SECTION.

21 (J) (1) A PERSON MAY REQUEST A TRIAL BY SENDING A REQUEST FOR
22 TRIAL TO THE DISTRICT COURT IN THE JURISDICTION WHERE THE CITATION WAS
23 ISSUED WITHIN 30 DAYS OF THE ISSUANCE OF THE CITATION.

24 (2) IF A PERSON DOES NOT REQUEST A TRIAL OR PREPAY THE FINE
25 WITHIN 30 DAYS OF THE ISSUANCE OF THE CITATION, THE COURT MAY IMPOSE THE
26 MAXIMUM FINE AND COSTS AGAINST THE PERSON AND FIND THE PERSON GUILTY OF
27 VIOLATING SUBSECTION (C) OF THIS SECTION.

28 (K) THE ISSUING JURISDICTION SHALL FORWARD A COPY OF THE CITATION
29 AND A REQUEST FOR TRIAL TO THE DISTRICT COURT IN THE DISTRICT HAVING

1 VENUE.

2 (L) IF A PERSON FAILS TO APPEAR AFTER HAVING REQUESTED A TRIAL, THE
3 COURT MAY IMPOSE THE MAXIMUM FINE AND COSTS AGAINST THE PERSON AND
4 FIND THE PERSON GUILTY OF VIOLATING SUBSECTION (C) OF THIS SECTION.

5 (M) IN A PROCEEDING FOR A VIOLATION OF SUBSECTION (C) OF THIS
6 SECTION:

7 (1) THE STATE HAS THE BURDEN TO PROVE THE GUILT OF THE
8 DEFENDANT BY A PREPONDERANCE OF THE EVIDENCE;

9 (2) THE COURT SHALL APPLY THE EVIDENTIARY STANDARDS AS
10 PRESCRIBED BY LAW OR RULE FOR THE TRIAL OF A CRIMINAL CASE;

11 (3) THE COURT SHALL ENSURE THAT THE DEFENDANT HAS RECEIVED
12 A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE DEFENDANT
13 UNDERSTANDS THOSE CHARGES;

14 (4) THE DEFENDANT IS ENTITLED TO CROSS-EXAMINE ALL
15 WITNESSES WHO APPEAR AGAINST THE DEFENDANT, TO PRODUCE EVIDENCE OR
16 WITNESSES ON BEHALF OF THE DEFENDANT, AND TO TESTIFY ON THE DEFENDANT'S
17 OWN BEHALF IF THE DEFENDANT CHOOSES TO DO SO;

18 (5) THE DEFENDANT IS ENTITLED TO BE REPRESENTED BY COUNSEL
19 OF THE DEFENDANT'S CHOICE AND AT THE EXPENSE OF THE DEFENDANT; AND

20 (6) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT GUILTY,
21 AND THE VERDICT OF THE COURT IN THIS CASE SHALL BE:

22 (I) GUILTY OF A CODE VIOLATION; OR

23 (II) NOT GUILTY OF A CODE VIOLATION.

24 (N) (1) THE DEFENDANT IS LIABLE FOR THE COSTS OF THE
25 PROCEEDINGS IN THE DISTRICT COURT.

26 (2) THE COURT COSTS FOR A VIOLATION OF SUBSECTION (C) OF THIS
27 SECTION IN WHICH COSTS ARE IMPOSED ARE \$5.

28 (O) (1) THE STATE'S ATTORNEY FOR ANY COUNTY MAY PROSECUTE A
29 VIOLATION OF SUBSECTION (C) OF THIS SECTION IN THE SAME MANNER AS
30 PROSECUTION FOR A VIOLATION OF THE CRIMINAL LAWS OF THE STATE.

1 **(2) IN A CASE FOR A VIOLATION OF SUBSECTION (C) OF THIS SECTION,**
2 **THE STATE'S ATTORNEY MAY:**

3 **(I) ENTER A NOLLE PROSEQUI OR MOVE TO PLACE THE CASE ON**
4 **THE STET DOCKET; AND**

5 **(II) EXERCISE AUTHORITY IN THE SAME MANNER AS**
6 **PRESCRIBED BY LAW FOR VIOLATION OF THE CRIMINAL LAWS OF THE STATE.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2018.