
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: SB 716 **Hearing Date:** April 28, 2015
Author: Lara
Version: April 6, 2015
Urgency: No **Fiscal:** Yes
Consultant: AA

Subject: *Animal Cruelty: Elephants*

HISTORY

Source: East Bay Zoological Society (Oakland Zoo); The Humane Society of the United States; Performing Animal Welfare Society (PAWS)

Prior Legislation: AB 777 (Levine) – 2007, died in the Assembly
AB 3027 (Levine) – 2006, held in Assembly Appropriations
SB 892 (McCorquodale) – Chapter 1423, Stats. 1989

Support: Active Environments, Inc.; Amboseli Trust for Elephants; American Society for the Prevention of Cruelty to Animals; Animal Legal Defense Fund (San Francisco Bay Area); Best Friends Animal Society; City of Oakland; Earth Island Institute; Elephant Voices; Elephant Sanctuary in Tennessee; Free Willy Keiko Foundation; The Fund for Animals Wildlife Center; The Global March for Elephants and Rhinos; Humane Society Veterinary Medical Association; In Defense of Animals; The League of Human Voters; March for Elephants and Rhinos San Francisco; The Marin Humane Society; San Diego Humane Society; San Francisco SPCA; Santa Clara County Activists for Animals; Sierra Wildlife Coalition; Uganda Carnivore Program; City of Los Angeles; several individuals

Opposition: Western Fairs Association; The Elephant Managers Association; several individuals

PURPOSE

The purpose of this bill is to prohibit the use of a bullhook or related device to discipline, manage or train an elephant, as specified.

Current law provides that it is a misdemeanor “for any owner or manager of an elephant to engage in abusive behavior towards the elephant, which behavior shall include the discipline of the elephant by any of the following methods:

- a) Deprivation of food, water, or rest.
- b) Use of electricity.
- c) Physical punishment resulting in damage, scarring, or breakage of skin.
- d) Insertion of any instrument into any bodily orifice.
- e) Use of martingales.
- f) Use of block and tackle. (Penal Code § 596.5.)

This bill would repeal this section on January 1, 2018, and on and after January 1, 2018, replaces it with a provision that that is identical except as follows:

- *This bill* would prohibit the use of the proscribed methods for purposes of “management” or “training” of an elephant; and
- *This bill* would include within its prohibitions the “(u)se of a bullhook, ankus, guide, or pitchfork, including the use of those devices without making contact.”

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past eight years, this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state’s ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its “ROCA” policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In February of this year the administration reported that as “of February 11, 2015, 112,993 inmates were housed in the State’s 34 adult institutions, which amounts to 136.6% of design bed capacity, and 8,828 inmates were housed in out-of-state facilities. This current population is now below the court-ordered reduction to 137.5% of design bed capacity.”(Defendants’ February 2015 Status Report In Response To February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).

While significant gains have been made in reducing the prison population, the state now must stabilize these advances and demonstrate to the federal court that California has in place the “durable solution” to prison overcrowding “consistently demanded” by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants’ Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee’s consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Stated Need for This Bill

The author states:

The bill amends Penal Code Section 596.5, which already prohibits a number of cruel and inhumane elephant training methods such as the use of electricity; deprivation of food and water; physical punishment resulting in damage, scarring, or breakage of skin; use of martingales; and the use of block and tackles. However, existing law does not address the most common cruel and inhumane training devices used on elephants the bullhook.

Bullhooks are commonly used by elephant handlers to train, punish, and control elephants. A bullhook resembles a fireplace poker. It has a sharp metal hook and spiked tip, and the handle is typically plastic or wood. It is used to prod, hook, strike, and hit elephants on their sensitive areas of skin in order to inflict pain during training, performing, and handling.

Both ends of the bullhook are used to inflict damage. The hook is used to apply varying degrees of pressure to sensitive spots on an elephant's body, causing the elephant to move away from the source of pain, often causing puncture wounds and lacerations. When the hooked end is held, the handle is used as a club, inflicting substantial pain when the elephant is struck in areas where little tissue separates skin and bone. Even when not in use, the bullhook is a constant reminder of the painful punishment that can be delivered at any time.

There is an alternative method that can be used. In fact, all of the accredited zoos in California and the Performing Animal Welfare Society Sanctuary are utilizing this training method which relies solely on positive reinforcement to guide elephant behavior.

2. What This Bill Would Do

As explained above, this bill would prohibit the use of a bullhook or related device to discipline, manage or train an elephant, as specified, effective January 1, 2018.

3. Background; Supporters

According to the sponsor and supporters of the bill, a "bullhook is a steel-pointed rod resembling a fireplace poker that is used to prod, hook, and strike elephants in order to dominate and control of them during training, performing, and handling. The sharp tip and hook are applied with varying degrees of pressure to sensitive spots on an elephant's body, causing the elephant to recoil from the source of pain. The handle is used as a club, inflicting substantial pain by striking areas where little tissue separates skin and bone. . . .

Elephant calves are forcibly separated from their mothers (females elephants naturally remain with their mothers for life) and taught to associate the bullhook with pain and fear. While the elephant is typically restrained, handlers repeatedly administer sharp jabs and hooks with the bullhook, and strike sensitive parts of

their bodies with the handle or metal hook. Thereafter, the elephant responds to the bullhook out of fear of pain (moving away from the device) and will be expected to perform a behavior on cue or suffer the painful consequences. . . .

Elephants are highly intelligent, powerful, and dangerous wild animals; there is no such thing as a “domesticated” elephant. Elephants in direct contact with humans present a serious risk and must be kept under strict control at all times. An elephant is not allowed to step out of line – not even for a moment – or she will be physically punished with the bullhook. Elephants would not voluntarily perform the grueling routines required in a typical circus act—these physically difficult tricks are only performed to avoid punishment. . . .

Protected Contact management uses positive reinforcement training paired with food treats and praise and a protective barrier between elephant and trainer; the bullhook is not used. With Protected Contact the elephant also has a choice to participate in training sessions. If they choose not to, then they may simply walk away from the trainer with no repercussions for doing so. Progressive facilities, including every California zoo accredited by the Association of Zoos and Aquariums (AZA), and sanctuaries including the Performing Animal Welfare Society in San Andreas, California, utilize this method and are able to effectively provide husbandry and veterinary care to elephants in a way that is safer for keepers and veterinarians, as well as psychologically and physically humane for elephants. . . .

The East Bay Zoological Society, which owns the Oakland Zoo, supports this bill, explaining in part that it has used the management style called “Protected Contact” described above. According to the Humane Society of the United States, “California zoos accredited by the Association of Zoos and Aquariums (AZA) no longer use bullhooks, nor does the Performing Animal Welfare Society’s sanctuary which is home to numerous rescued elephants. The AZA now also urges *all* its member zoos to switch to a safer and more humane elephant training system that does not utilize the bullhook.” (emphasis in original). The president and co-founder of PAWS, which is a sponsor of this bill, states in part:

Based on firsthand observations, I have concluded that there is no way to humanely use a bullhook – a weapon resembling a fireplace poker, with a sharp metal point and hook at the end – to train and manage elephants. By its very design, the bullhook is meant to inflict pain and instill fear. I have spent time around many circuses and personally seen handlers forcefully hook, jab and strike elephants with bullhooks on sensitive parts of their bodies before and during performances, and as a matter of routine handling. It was very obvious by the elephants’ responses that they both anticipated and experienced pain.

Animal exhibitors who work in direct contact with elephants – in circuses, elephant rides and other types of entertainment – rely on negative reinforcement training and the bullhook to cue elephant behavior. The elephant moves away from the bullhook to avoid pain. Handlers often use verbal commands that are sharp and harsh. The Protected Contact system used at PAWS, and in all California zoos accredited by the Association of Zoos and Aquariums, relies on positive reinforcement training and use of a protective barrier between keeper and

elephant. To cue behaviors, keepers utilize a “target,” which is a long---handled pole with a soft tip. In contrast to the bullhook, the elephant moves toward the “target,” and the behavior is reinforced with a food reward and gentle words of praise. Using this method, we are able to provide necessary husbandry and veterinary care, including specialized and more intensive care for our older elephants. The elephants cooperate with foot care, blood collection, trunk washes, physical examination, and a variety of husbandry behaviors without risk to our staff. The elephants willingly engage with keepers, and they display behaviors that indicate the training is a positive experience for them.

4. Opposition

The Western Fairs Association, which opposes this bill, states in part:

Our organization has been monitoring proposed legislation regarding guides for several years. Groups including the Elephant Manager’s Association, the Zoological Association of America, the Association of Zoos and Aquariums, the International Elephant Foundation Elephant Husbandry Resource Guide, and the American Veterinary Medical Association all recognize the guide as a husbandry tool to aid in caring of elephants and have policies in place for its use.

We see the efforts to ban the guide -- effectively shutting down elephant exhibits and rides at fairs -- as the beginning of a slippery slope that has serious implications for all fairs. . . .

Another opponent states in part:

When used CORRECTLY, an ankus is what a good trainer uses to let an elephant know which way to turn or when to pick up a foot etc. It is a tool which has been used for centuries and the reason it is used is because it does not harm the elephant but it can get their attention when their focus might wander or especially at times when they could injure a person simply due to their size (much like grabbing a child by the hand if they are heading towards something that might injure them). An elephant professional who has years of experience with elephants and elephant care should be well versed as to how and when to use an ankus correctly. To ban the use of the ankus is never going to do anything positive for the care and wellbeing of elephants; it will however do the exact opposite.

I am a veterinarian in California who has taken care of elephants for over 20 years. I have seen first-hand how the health of an animal is greatly influenced by the amount of close up care and attention it can receive. . . . Elephants in human care are no longer roaming the plains of Africa or the jungles of Asia and over the centuries training methods have evolved to allow giant, intelligent, thoughtful elephants to safely interact with humans and other animals. The elephants which have been lucky enough to have been raised and cared for by professionals who take the time to teach them and work with them for years so they can go different places and be around different people and animals are by far the luckiest and healthiest. . . . An elephant (or any undomesticated animal) under human care is not the same as an elephant still living wild and it shouldn’t have to be. We need

to do everything in our power to enable the humans who spend the time and effort to teach and care for these amazing creatures rather than demonize them and ban one of their necessary tools. Any tool in the wrong hands can do harm but the answer is not to ban the tool!!

-- END --