There Ought To Be A Law

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Sponsored by:
Global Federation of Animal Sanctuaries

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Avian Welfare Coalition
Global Federation of Animal Sanctuaries

Kellie Heckman, PhD, Executive Director

The GFAS mission is to continuously improve the quality of care for animals requiring sanctuary. To this end, we:

- Accredit sanctuaries based on worldwide standards of excellence
- Facilitate operational and financial support
- **Enhance effectiveness, recognition, and collaboration**
Denise Kelly, Project Coordinator

Denise is President and Co-Founder of the Avian Welfare Coalition www.avianwelfare.org.

A long-time activist for animal protection, she has 30+ years experience with captive birds.

Currently, Denise is a marketing consultant specializing in business development and advertising sales for the publishing field.

She also advises not-for-profit organizations on generating new revenue streams through sponsorship, advertising sales, and media opportunities. Among her clients in the animal welfare field were All Animals, member publication of the HSUS, and Best Friends.

Denise has worked with Best Friends Animal Society, Humane Education Advocates Reaching Teachers (HEART) and was a board member of The Association of Animal Sanctuaries (TAOS).

She formerly held positions as Director of Newsstand Circulation and Advertising Sales for a variety of consumer, trade, and special interest publications.
Formed in 2000, the Avian Welfare Coalition (AWC) is a working alliance dedicated to the ethical treatment of parrots and other captive birds. The mission of AWC is to raise awareness about the plight of captive birds and to serve as an educational resource for the humane community, lawmakers, and the general public. [www.avianwelfare.org](http://www.avianwelfare.org)

AWC also offers assistance and educational resources to shelter and animal control organizations in serving the needs of captive birds. For details, visit, [http://www.avianwelfare.org/shelter_outreach.htm](http://www.avianwelfare.org/shelter_outreach.htm)

Our webinars, produced in partnership with the Global Federation of Animal Sanctuaries, provide training to animal care professionals on the specialized care of exotic birds. We examine key topics for providing appropriate short-term care and securing care for a lifetime. Webinars are available online at: [www.avianwelfare.org/webinars](http://www.avianwelfare.org/webinars)

**Lucky: Based on a True Story**, our educational children's book, gently awakens children to the plight of captive birds and birds captured in the wild. The publication's dedicated website [http://www.LuckyTheLoriKeet.com](http://www.LuckyTheLoriKeet.com), is designed to engage children and educators in a variety of interactive creative activities that encourage children to be kind to animals and also teaches the valuable lesson about why wild animals belong in their native habitats.

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Sue Leary has served as President of American Anti-Vivisection Society (AAVS) and the Alternatives Research & Development Foundation (ARDF) since 1995. ARDF was the lead plaintiff in Alternatives Research & Development Foundation, (ARDF) v. Glickman, 100 F. Supp 2d 7 (D.D.C. 2000) that argued for inclusion of birds, rats and mice in the definition of animal in the AWA regulations. Ms. Leary is a board member of the Global Federation of Animal Sanctuaries.

Monica Engebretson, Animal Welfare Specialist and AWC board member, has worked professionally in the animal protection movement since 1999 taking on multiple issues including wildlife conflicts, captive birds, pet shops, and animal testing. She has helped write and successfully lobby multiple California bills including the bill that restricted the sale of unweaned birds, the bill that improved oversight of birds in pet shops, and the bill that restricted the sale of birds (and other animals) at flea markets and swap meets. She is also the author of the children’s book “Lucky” based on a true story of wild caught bird who she helped release while traveling with the Indonesian Parrot Project. Monica holds a degree in wildlife science with an emphasis on environmental ethics from Humboldt State University.
Tara Zuardo obtained a Bachelors degree with High Honors from the University of California, Berkeley, and a J.D. and certificate in Environmental and Natural Resources Law with an emphasis in Animal Law from Lewis & Clark Law School. Tara has had a lifelong concern for animal welfare, focusing on protection of wildlife and animal testing issues. She has published wildlife law articles in the Animal Law Review journal and has worked on wildlife and animal welfare policy and legal reform projects for a handful of organizations, including the Audubon Society, In Defense of Animals, the International Fund for Animal Welfare, the Earth Island Institute and the Animal Welfare Institute (AWI). Tara currently manages wildlife protection litigation and policy reforms at AWI.

Specialties: Animal Law; International Wildlife Law & Policy; Domestic Wildlife Law; Environmental Law & Advocacy; Natural Resources Law & Policy

DJ Schubert, Wildlife Biologist, Animal Welfare Institute. After graduating from Arizona State University with a Bachelor’s of Science degree in wildlife biology, DJ has served in the United States Peace Corps in Burkina Faso, West Africa, briefly worked for the US Fish and Wildlife Service, but has spent over 30 years working for non-profit organizations dedicated to protecting animals, domestic and wild. Since 2005, DJ has been employed by the Animal Welfare Institute working on both national and international wildlife issues and campaigns.
Agenda

Presenters will provide an overview on each of the following laws as they pertain to captive exotic birds:

- The Endangered Species Act (ESA)
- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
- Animal Welfare Act (AWA)
- Summary of State Laws
The Endangered Species Act (ESA)
Since 1951, the Animal Welfare Institute has been dedicated to reducing animal suffering caused by people.

We seek better treatment of animals everywhere – in the laboratory, on the farm, in commerce, at home, and in the wild.
Resources

Bird Trade: https://awionline.org/content/bird-trade


Parrot “Special” (4d) Rule (Threatened Species Only)

List available at: http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=50:2.0.1.1.1#50:2.0.1.1.4.1.4

All ESA prohibitions apply except import, export, and interstate commerce allowed without a permit if meet certain criteria.
Listed as Endangered or Threatened/not under Special 4d Rule

According to US Fish & Wildlife Service, the ESA does not prohibit ownership or selling WITHIN your state.

You CANNOT sell interstate (to someone else in another state) without a permit demonstrating that the sale enhances species’ survival, is for scientific research, zoological exhibition, education, or special purpose consistent with ESA (same applies to import & export).

Photo credit: Kevin Vang, Bird Explorers
Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
• What is it
• How does it work
• What species does it cover
• Strengths and weaknesses
BIRDS IN TRADE

• “Legal” trade
• Illegal trade
CITES AND WELFARE

• Appendix I
• Appendix II
• Transport standards
• Prospects for the future
RESOURCES

• CITES (https://cites.org)
• UNEP-WCMC CITES TRADE DATABASE (https://trade.cites.org)
• LEMIS Data (available via FOIA from USFWS)
• US Regulations (50 CFR 23 et seq.)
• Contact (dj@awionline.org)
Animal Welfare Act (AWA)
**What we do:**

- Support the development, validation, and adoption of non-animal methods in biomedical research, product testing, and education.
- Alternatives research grants
- Sponsor scientific meetings
- William and Eleanor Cave Award
- Science policy – Alternatives
Rats, Mice and Birds Under the AWA – A Timeline

- **December 24, 1970**
  AWA expanded to cover all warm-blooded animals
- **December 24, 1971**
  Regulations exclude birds, rats, and mice from AWA
- **January 8, 1992**
  As a result of 1991 ALDF, HSUS, et al. lawsuit, U.S. District Court calls USDA regulatory exclusion of birds, rats, and mice “arbitrary and capricious and violates the law.” However, case was lost on basis of legal standing of plaintiffs.
- **April 29, 1998**
  ARDF files petition with USDA, requesting inclusion of birds, rats, and mice in AWA.
- **March 9, 1999**
  ARDF sues USDA for inclusion of birds, rats, and mice to AWA
Rats, Mice and Birds Under the AWA – A Timeline

- **October 3, 2000**
  After judge grants standing to ARDF co-plaintiff, USDA settles with ARDF, agrees to initiate rulemaking that would include birds, rats, and mice in AWA regulations.

- **October 28, 2000**
  Provision inserted in the fiscal 2001 Agriculture Appropriations bill delays settlement from being executed.

- **May 13, 2002**
  Farm bill with Helms amendment excluding birds, rats of the genus *Rattus*, and mice of the genus *Mus*, ‘bred for use in research’, from the AWA definition of animal signed into law.

- **June 2004**
  USDA issues notice specifying change in definition and Advance Notice of Proposed Rulemaking regarding changes needed to cover birds, rats, and mice not specifically bred for research.
November 4, 2004
Working Group for Regulation of birds, rats, and mice, not bred for use in research submitted 75-page comments in November 2004 signed by 29 organizations including detailed recommendations on bird standards to USDA.

USDA quickly decided to use Subpart F to cover the included mice and rats, but recognized that Subpart F was not appropriate for birds and that they needed separate standards.

Over the years, despite repeated promises, USDA has not issued proposed regulations covering the breeding, sale, and care of birds not bred for research.
“Animal means any live or dead dog, cat, nonhuman primate, guinea pig, hamster, rabbit, or any other warm-blooded animal, which is being used, or is intended for use for research, teaching, testing, experimentation, or exhibition purposes, or as a pet. This term excludes birds, rats of the genus Rattus, and mice of the genus Mus, bred for use in research; horses not used for research purposes; and other farm animals, such as, but not limited to, livestock or poultry used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber. With respect to a dog, the term means all dogs, including those used for hunting, security, or breeding purposes.”
How the USDA Regulatory Process Works

Process followed by federal agencies is generally the same. see: https://www.reginfo.gov/public/reginfo/Regmap/index.jsp

1. Initiative brought to agency or raised within the agency.
2. Determine if a Rule is needed.
4. Reviewed by Office of Management and Budget, if needed (only those that are deemed “significant”).
6. Public comment period.
8. Reviewed by Office of Management and Budget, if needed (only those that are deemed “significant”).
Protections Provided for Animals Under the Animal Welfare Act

Code of Federal Regulations (CFR)

Part 3 - Standards
• Specifications for the Humane Handling, Care, Treatment, and Transportation (separated by type of animal)

Specific examples:
- Minimum cage size (height, floor space, etc)
- Different requirements for mothers and young
- Temperature range for housing
- Whether animal is permitted to be in outdoor housing
- Time restrictions, holding periods when transporting
- Enrichment (Nonhuman primates)
Commercial Entities and Activities Subject to Regulation

- Animal dealers (including breeders)
- Transport carriers
- Exhibitors
- Research facilities

Currently, there are no requirements governing bird-breeding facilities under the Animal Welfare Act.
What would the regulations provide specifically for birds?

Regs should provide same general categories of care standards

Part 3 - Standards
- Facilities and Operating Standards
- Animal Health and Husbandry Standards
- Transportation Standards

Photo credit: Foster Parrots, Ltd.
USDA has indicated repeatedly that it intends to establish regulations to cover birds. However, the delays have been unreasonable.

Alternatives Research & Development Foundation filed a complaint in federal court on December 3, 2015 to obtain relief and the case is still active.
Why is it taking so long for USDA to finalize specific regulations for birds? Where do we go from here?

Photo by Brian Jones ©Foster Parrots Ltd.
Will it make a difference?
Resources - AWA

Link for reference to AWA and regs:

Michigan State University, Animal Legal and Historical Center, Summary of the Animal Welfare Act:
https://www.animallaw.info/intro/animal-welfare-act-awa
Summary of State Laws
Current Laws That Apply to Captive Birds at the State Level – An Overview

Overview of Current Law and Suggested Approaches to Improving Captive Welfare in the U.S. at: http://www.bornfreeusa.org/b4a2_birdwelfare.php

State Laws Generally Cover:
- Possession
- Pet stores
- Breeding and Dealing
- Animal Care Provisions
- Transportation

Specific State Laws that provide protections for captive birds kept as pets:
- Colorado
- Massachusetts
- Minnesota
- New Jersey
- Oregon
- Virginia
Summary of State Laws Relating to Birds in Pet Shops

5 states have specific language defining housing requirements for birds that apply to pet shops: California, Colorado, Minnesota, Florida, Massachusetts

17 states include birds in their requirements for pet stores but do not have specific language defining housing requirements for birds and other significant shortcomings for the care of birds: Connecticut, Georgia, Illinois, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Nebraska, New Hampshire, New Jersey, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia

6 states have pet shop laws that regulate some pet shop practices but only apply to cats and dogs: Arizona, Delaware (dogs only), Missouri, Nevada, North Carolina, New York

22 states have no laws relevant to pet shops or do not have laws that mandate specific standards of care for animals sold in pet shops: Arkansas, Alabama, Alaska, Hawaii, Idaho, Indiana, Kentucky, Mississippi, Montana, New Mexico, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, West Virginia, Wisconsin, Wyoming

Updated 05/2017 - Source: Born Free USA - www.bornfreeusa.org
Unweaned birds – defined and sale prohibited.

“A bird can fully extend both of its wings at the same time without contacting the sides of the enclosure.”

“Perches are provided in a diameter that is appropriate for the species, age, size and condition of the bird and for the size of the enclosure.”

“There is sufficient space to enable each bird to fully extend its wings in every direction while all birds are simultaneously perched.”

“Primary enclosures for prey species shall be located where they cannot be directly seen by predator animals for that species.”

Veterinary consultation and visitation at least once per year

“Each primary enclosure shall provide animals with an enrichment device or devices appropriate for the species, age, size and condition of the animal”

“Each pet store operator shall maintain records for identification purposes of the person from whom the animals in the pet store were acquired, including that person’s name, address, and telephone number, and the date the animal was acquired.”
Hand Feeding : Sale of Unweaned Birds

The appearance of hand-raised baby parrots in the pet market increased the popularity of keeping parrots as pets.

Neonatal and juvenile stage is a time when the “pet quality” of captive parrots is considered the highest (Clubb 1998).

Problems include: aspiration pneumonia, burned or punctured crops, malnutrition and starvation.

Behavioral problems later in life.
California Unweaned Bird Law

Unweaned birds – may not be sold. Handfed bird under 1 year weight must be documented on sales receipt. Includes swap meets and bird marts.

Unweaned bird defined as “any bird that requires hand-feeding or animal assistance to sustain at least 90 percent of its own weight for at least 2 weeks”

“bird” defined as any order of Psittaciformes bird {i.e parrots}

Provisions for having unweaned birds in the store – requirements for employees to have completed PJAC avian certification program.
Flea Markets and Swap Meets

At the sales event

Between sales events
AB339 – California flea markets and swap meets

Provided 2 years for local jurisdiction to adopt standards for the care and treatment of animals at swap meets and set forth minimum requirements that must be included.

If no local ordinance adopted with the min standards by 2016 then animals can no be sold.

Minimum requirements specified nearly identical to CA pet shop law – as such nearly impossible to meet min. requirements in a swap meet setting. = effective ban.

Required a current business license issued by local jurisdiction where the animals are principally housed.

Records on where animals were acquired.
Suggested Approaches to Increasing Legal Protections for Captive Birds at the State Level

- Enforcement of existing laws
- Creation of new bird-specific laws
- Amendments to existing animal protection statutes, including:
  - Licensing and inspection requirements of breeding facilities
  - Pet shop bans
  - Regulations that include sales bans
- Utililze available Model Legislation – pet shop and unweaned birds
- Education and advocacy

Photo by Brian Jones ©Foster Parrots Ltd.
Additional Resources

GFAS Avian Education Page: http://www.sanctuaryfederation.org/gfas/information-tools-resources/avian-education/

GFAS Standards – All Species: http://www.sanctuaryfederation.org/gfas/for-sanctuaries/standards/


AWC Shelter Outreach Resource Center: http://www.avianwelfare.org/shelter_outreach.htm

AWC Webinars: http://www.avianwelfare.org/webinars


Avian Advocacy - A Special Report by the American Anti-Vivisection Society https://issuu.com/aavs/docs/aavs_av-magazine_2016-1_birds
A Final Word

Captive birds cannot be returned to the wild since they do not possess the learned skills necessary to survive; nor can they be set free to fend for themselves.

We have an ethical responsibility to provide the best care possible for those living in captivity. Captive birds deserve the same efforts to promote public education, protective legislation, sheltering, and placement afforded to domestic pets and other wild animals.

At the same time, we must step up legal protections and conservation efforts that will keep them flying in the skies of their native homelands as freely as our own native birds do in theirs.