

# What does the New York Legislation Mean?

by  
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By now most aviculturists have heard that New York has passed a law banning the sale of wild caught birds in that state effective November 1, 1985. Most, however, are not completely informed as to that law's local and national impact, due, in part, to the unfortunate mixture of fact and fantasy that has spread via rumor across the nation. This, then, will inform and enlighten.

An aid to understanding law, obviously, is to have that law before you, to be read and reread. Section 11-1728 was added to the New York State Statutory Code, to amend the Environmental Conservation Law to read: "Except as permitted by rule and regulation of the department, no person shall sell live wild birds, as defined in paragraph b of subdivision six of section 11-0103 of this chapter, unless such birds were born and raised in captivity."

What does that simple sentence say? "Person" is defined as any organization (quarantine station, pet shop) or individual (breeder, pet owner). Wild bird means any bird not *bred* in captivity (as distinguished from *reared*). Finally, the terms, "as permitted" means unless the person has a state permit, or he is exempted by regulation.

As with any law, some state agency must adopt regulations to implement the intent of the legislature. This law has been sent to the Department of Environmental Conservation, which has established an advisory committee to recommend rules to be implemented after public hearings. The committee is composed of Dr. Donald Bruning, New York Zoological Society; Ms. Nan Chadwick, Audubon Wildlife Advisory Committee; Mr. Arthur Freud, AFA; Mr. John Kullberg, American Society for the Prevention of Cruelty to Animals; Mr.

Robert Lopez, N.Y.S. Veterinary Medical Society; and Mr. Robert Sperandio, Empire State Pet Industry Council.

The Department of Environmental Conservation has asked the advisory committee to prepare a list of birds commonly bred in captivity, and not often wild caught, such that 90% or more of the individuals of such species offered for sale would be presumed to be captive bred. For example, canaries and cockatiels, which are 100% captive bred, would be included. Sun conures, which are at least 90% captive bred, would also be included, while most Amazons, all macaws, and nearly all cockatoos, among others, would be excluded.

Those organizations and individuals desiring to sell unlisted species would have to prove the birds were captive bred, or be licensed by the state to sell them. Sellers of listed species probably won't need permits. Since it is the legislative intent to eliminate the sale of wild caught birds, the only likely licensees will be zoological institutions and research facilities.

Certainly a number of misinformed breeders welcome this new law, believing that the prices they receive for their birds will rise, at last! This, unfortunately, is a misguided belief, which will bring great disappointment. Let us look, again, at the law.

The law refers to prohibitions against wild caught stock. Captive bred birds will still be sellable. The Department of Conservation is not concerned with *where* the captive bred stock was bred. Thus, those commonly bred species, which will be on the Department's list, may be brought in freely from other states AND may be imported from Europe and the Orient. The Department has already advised New York quaran-

tine station operators they will be free to import as many canaries and cockatiels as they desire.

What does all this mean? It means that those breeders who breed canaries and cockatiels as well as any other species on the list will be faced with a dramatic increase in imports of the very birds they raise and a corresponding decrease in the prices they receive for them. Why? Because captive bred birds are the only ones importers will be able to sell, and European and Asian dealers are selling those birds at rock bottom prices. Normal cockatiels, for example, sell for \$2.50 to \$3.50 each in Belgium, a country of less than five million people, but with over 50,000 bird breeders. Canaries in Taiwan sell for as little as one dollar each and Lady Gouldian finches for \$8.50 a pair.

What prices *will* go up? Most macaws, amazons, cockatoos, and the very rare parrots will rise dramatically, and for two reasons; no more imports and comparatively little captive breeding activity in these species. In short, most breeders will see the bottom fall out of an already depressed market, while the few breeders working with macaws and Amazons will see the value of their birds skyrocket. Lest these "lucky few" become too exuberant, that bird theft and smuggling will undoubtedly surge as never before should be a sobering thought, indeed! Maybe these "nouveau riche" macaw breeders will better afford sophisticated security systems.

What about those wild caught birds already in the hands of aviculturists and pet owners? These birds will not be allowed to be sold. There is *no* provision for a grandfather clause in the law and none has been suggested in the regulations. These birds will require that their owners be licensed by the state of New York. Further, the captive bred offspring from these wild caught birds, e.g. macaws, etc., must be so identified as to prove beyond doubt they were captive bred. No system for such identification has been established, although closed banding of young and the creation of a "paper trail" are some of the suggestions. Whichever method is ultimately selected, no method works under all circumstances and none are so infallible as to prevent the unscrupulous from cheating. Finally, if no method proves satisfactory for a given species, that species will, by necessity, be completely prohibited.

New York was the first state to adopt

this type of legislation. It was done in a manner that made it nearly impossible to thwart. No hearings were held and the sponsors told the legislature there was no opposition, in spite of the fact the New York Veterinary Medical Society, the A.F.A., the state's zoos, and the pet industry had gone on record against the bill. The democratic process was neatly avoided.

If New York was the first, it certainly is not the last. A similar bill has already been drafted in Massachusetts, and New York has been approached by lawmakers from several other states and from Congress, seeking information in preparation for the introduction of similar legislation elsewhere. Congressman Beilensen's (D-California) office recently spoke with AFA President Lee Philips seeking information in his apparent quest to introduce national legislation restricting the interstate sale of wild caught birds.

Why is this legislation being pushed? A cooperative effort of a number of national organizations including the U.S. Humane Society, the A.S.C.P.A., the Fund for Animals, and others firmly believe that imported birds are inhumanely treated during capture, transportation and sale and this activity should stop. They also have claimed that such traffic is depleting the wild populations to the point of endangerment. There is much inconsistency in these arguments.

First, the airlines are regulated as to the methods of transportation including the container dimensions, materials used, and temperature ranges under which birds may be shipped. Second, the USDA supervises quarantine stations and is, incidentally, responsible for enforcement of the U.S. Animal Welfare Act. Third, since captive bred birds are transported and quarantined under the same conditions and circumstances as wild caught birds, why is it that only the wild caught birds are allegedly inhumanely treated? Fourth, endangered or threatened species are not allowed to be imported into the U.S. under both the U.S. Endangered Species Act and under the CITES treaty except by special permit, already.

Why then, this law? It is the stated purpose of some of the sponsoring organizations to put an end to birds in cages and aviaries. Mr. Cleveland Amory, Director of the Fund for Animals, Inc., in his book, *Mankind?*, has argued for the elimination of the pet trade altogether and has gone so far as to picket selected pet shops on a sporadic

basis.

What does the future hold? Should the New York law become a reality in a significant number of states or on the national level, we can expect the following: 1) prices of domestically reared birds will decline to new lows due to the increased importation of captive bred birds from Europe and Asia, 2) pet shops depending on imported macaws, Amazons, cockatoos, etc., will go out of business because captive bred birds in those species will be in short supply, 3) many species of birds will disappear from aviculture or will be priced beyond reach of most fanciers, 4) smuggling and theft will soar beyond imagination, 5) suppliers of many products will lose their markets and go out of business resulting in scarcity and higher costs for breeders, 6) an end to those importers dependent on wild caught birds, 7) licensing of most breeders and dealers, and 8) substantial reporting and documentation requirements.

The posed threat to aviculture is the greatest since the infamous and nearly forgotten Injurious Wildlife Proposal of 1973. It represents the beginning of a piecemeal destruction of our hobby and strives to give the knockout punch to the best financed segment of our industry, the pet shops. Once they are emasculated, the hobbyist will swiftly be dealt a mortal blow.

What can we do? AFA will be at the forefront of the opposition in cooperation with other groups. It is vital we remain alert to the situation in our own states and respond swiftly when our interests are threatened, for we can expect no second chances. We must also strive to create support within our state governments for aviculture. This has already been accomplished in states such as California and Pennsylvania, both of which have adopted avian science and avian veterinary medical programs at the state university level. Once the state has a vested interest in aviculture, it is less likely to take actions harmful to those interests.

The AFA and its individual members in states lacking vested programs should endeavor to fill the gap through contact with appropriate authorities suggesting both agendas and sources of funding. AFA has already adopted this approach on the national level through the support of the National Cage and Aviary Bird Improvement Plan. If such a plan or similar plan had existed in New York on the state level, it is unlikely we would be confronted with the present problem. ●

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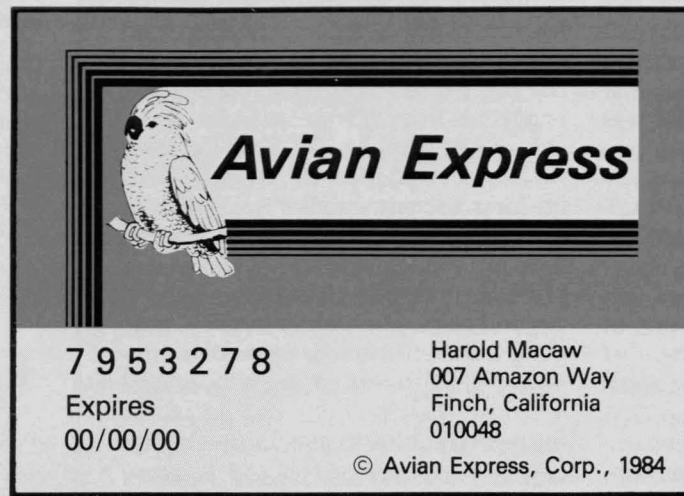
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