

3858--B

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I N S E N A T E

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Introduced by Sens. GRISANTI, AVELLA, DeFRANCISCO, GALLIVAN, JOHNSON, KRUEGER, MAZIARZ, OPPENHEIMER, SERRANO, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report, and to be reprinted as amended, retaining its place in the order of second report

AN ACT to amend the environmental conservation law, in relation to prohibiting the possession or sale of bear gallbladder

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 9 of section 11-0917 of the environmental
2 conservation law, paragraph b as added by chapter 491 of the laws of
3 1984, paragraph c as added and paragraphs d and e as relettered by chap-
4 ter 182 of the laws of 1993 and paragraph f as amended by chapter 432 of
5 the laws of 1997, is amended to read as follows:
6 9. a. The flesh of cottontail rabbits, varying hares, European hares,
7 squirrels, bear and deer shall not be bought or sold[, except as
8 provided in section 11-1713 with respect to bear].
9 b. BEAR GALLBLADDERS AND BILE SHALL NOT BE POSSESSED, BARTERED, SOLD
10 OR OFFERED FOR SALE OR OFFERED FOR BARTER UNLESS A VALID BEAR TAG IS
11 ATTACHED. FOR THE PURPOSES OF THIS PARAGRAPH A VALID BEAR TAG SHALL MEAN
12 THE TAG OR SIMILAR IDENTIFICATION REQUIRED BY THE GOVERNMENTAL ENTITY
13 THAT PERMITTED THE LEGAL TAKING OF SUCH BEAR. POSSESSION OF A BEAR GALL-
14 BLADDER WITHOUT A VALID BEAR TAG SHALL BE PRIMA FACIE EVIDENCE OF A
15 VIOLATION OF THIS PARAGRAPH. A MINIMUM FIVE THOUSAND DOLLAR PENALTY
16 SHALL BE ISSUED PER INFRACTION OF THIS PARAGRAPH. NOTHING IN THIS
17 SECTION PROHIBITS AN OFFICER, EMPLOYEE, OR AGENT OF THE FEDERAL GOVERN-
18 MENT OR THE DEPARTMENT FROM POSSESSING, TRANSPORTING, DELIVERING, OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 RECEIVING BEAR GALLBLADDERS OR BILE, FOR WILDLIFE LAW ENFORCEMENT
2 PURPOSES.

3 C. Notwithstanding paragraph a of this subdivision, game legally taken
4 may be possessed, prepared and served by a non-profit organization at
5 any meeting for the members and guests provided that there is no charge
6 for the meal.

7 [c.] D. Game legally taken may be donated to, and possessed, prepared
8 and distributed by a charitable or not-for-profit organization which
9 serves or distributes food without cost to the poor or needy. Game or
10 packages of game donated pursuant to this paragraph shall, notwithstand-
11 ing the requirements for tagging and labelling of game contained in
12 paragraph b of subdivision 5 of section 11-0911 of this [chapter] TITLE,
13 be tagged, labelled or marked "not for sale" and such tag, label or
14 marking shall identify the type of meat, the license number of the
15 taker, the name and address of the professional processor of the game
16 and the date of processing. The department shall make available
17 instructions for the safe and sanitary preparation of game, a list of
18 professional processors where potential donors may take their game for
19 preparation and packaging and a list of charitable or not-for-profit
20 organizations which accept donations of game. Professional processors,
21 charitable and not-for-profit organizations may notify the department of
22 their intention to participate in such distribution, and the department
23 shall include them in its lists unless good cause otherwise exists.

24 [d.] E. The dead bodies of birds belonging to all species or subspe-
25 cies native to this state, defined in SUBDIVISION FIVE OF section
26 11-0103 OF THIS ARTICLE, [subdivision 5] as protected wild birds, or
27 belonging to any family of which any species or subspecies is native to
28 this state, and is so defined in SUBDIVISION FIVE OF section 11-0103 OF
29 THIS ARTICLE, [subdivision 5] shall not be sold, offered for sale or
30 possessed for sale, for food purposes.

31 [e.] F. The plumage, skin or body of any wild bird shall not be sold,
32 possessed for sale or offered for sale [except as permitted by section
33 11-1729 or 11-1731 of the Fish and Wildlife Law].

34 [f.] G. No live wolf, coyote, coydog, fox, skunk, venomous reptile or
35 raccoon shall be possessed or transported, except under a license or
36 permit issued by the department. Every such license or permit shall
37 contain a prominent notice thereon warning the licensee or permittee of
38 his or her duty to exercise due care in safeguarding the public from
39 attack by such wild animal or venomous reptile and that failure to do so
40 is a crime under section three hundred seventy of the agriculture and
41 markets law. The provisions of the opening paragraph of section three
42 hundred seventy of the agriculture and markets law except the last
43 sentence thereof shall be set forth on such license or permit immediat-
44 ly following such warning notice.

45 S 2. Section 11-0911 of the environmental conservation law is amended
46 by adding a new subdivision 6 to read as follows:

47 6. A. THE TAKER MAY TRANSPORT THE CARCASS OF THE BEAR, FOR THE
48 PURPOSES OF HARVESTING THE GALLBLADDER AND/OR BILE, ONLY IF THE BEAR TAG
49 IS ATTACHED THERETO.

50 B. NO PERSON TAKING, POSSESSING OR TRANSPORTING BEAR SHALL FAIL TO
51 COMPLY WITH THE MANDATORY REQUIREMENTS OF THIS SECTION AND SECTION
52 11-0917 OF THIS TITLE.

53 S 3. Section 11-1733 of the environmental conservation law, the undes-
54 ignated paragraph as amended by chapter 432 of the laws of 1997, is
55 amended to read as follows:

56 S 11-1733. Taxidermy.

1 Persons engaged for hire in the business of preparing, stuffing or
2 mounting of skins of fish or wildlife shall keep in their place of busi-
3 ness a [register] TRUE AND COMPLETE RECORD, IN SUCH FORM AS IS REQUIRED
4 BY THE COMMISSIONER showing the name or description of every specimen
5 received, the date of receipt and the name and address of the person
6 from whom received. IN ADDITION, SUCH PERSONS SHALL ALSO RECORD ALL BEAR
7 GALLBLADDERS AND BILE RECEIVED ALONG WITH INFORMATION FROM THE VALID
8 BEAR TAG REQUIRED IN PARAGRAPH B OF SUBDIVISION NINE OF SECTION 11-0917
9 OF THIS ARTICLE. IN THE EVENT THAT SUCH PERSON SELLS OR BARTERS ANY
10 GALLBLADDER OR BILE THE RECORD SHALL ALSO INCLUDE THE NAME AND ADDRESS
11 OF THE PERSON OR PERSONS TO WHOM SUCH ITEMS WERE SOLD OR BARTERED. SUCH
12 INFORMATION SHALL BE REPORTED TO THE DEPARTMENT ANNUALLY AND RETAINED
13 FOR AT LEAST FIVE YEARS. Conservation officers and other persons author-
14 ized by the department shall have access to the register at all times.

15 S 4. Subdivision 2 of section 71-0921 of the environmental conserva-
16 tion law, as separately amended by chapters 313 and 711 of the laws of
17 1980, is amended to read as follows:

18 2. The illegal taking of a bear less than one year old or the taking
19 of a bear by a means or method not permitted by this chapter. Such
20 misdemeanor shall be punishable by imprisonment for not more than one
21 year or by a fine of not more than two thousand dollars, or by both such
22 imprisonment and fine. THE SALE OF BEAR GALLBLADDER/BILE IN VIOLATION OF
23 PARAGRAPH B OF SUBDIVISION NINE OF SECTION 11-0917 OF THIS CHAPTER SHALL
24 BE PUNISHABLE BY A FINE OF FIVE THOUSAND DOLLARS PER VIOLATION.

25 S 5. The department of environmental conservation shall publish infor-
26 mation reported pursuant to section 11-1733 of the environmental conser-
27 vation law on the department's website. Any personally identifying
28 information shall not be included on the website. The department shall
29 also include information, in the publication authorized in section
30 11-0323 of the environmental conservation law, indicating that bear
31 gallbladders and/or bile may not be sold in a manner contrary to section
32 11-0917 of the environmental conservation law.

33 S 6. This act shall take effect January first next succeeding the date
34 on which this act shall have become a law. Effective immediately, the
35 addition, amendment and/or repeal of any rule or regulation necessary
36 for the implementation of this act on its effective date are authorized
37 and directed to be made and completed on or before such effective date.