S T A T E O F N E W Y O R K

4686

2015-2016 Regular Sessions

I N S E N A T E

April 7, 2015

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to foreign game

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

Section 1. Section 11-1717 of the environmental conservation law, subdivision 2 as amended by section 18 of part H of chapter 58 of the laws of 2012, is amended to read as follows:

S 11-1717. Foreign game.

1. Foreign game means pheasants of all species, Scotch grouse, Norwegian ptarmigan, Norwegian white grouse, European black game, European black plover, European gray-legged partridge, European red-legged partridge, Egyptian quail, tinamou and species or subspecies of birds not native to this state, and European red deer, fallow deer [and], roebuck, AND "BIG FIVE AFRICAN SPECIES". AS USED IN THIS SECTION, THE TERM "BIG FIVE AFRICAN SPECIES" SHALL MEAN AN ORGANISM OF ANY OF THE FOLLOWING MEMBERS OF THE ANIMAL KINGDOM: AFRICAN ELEPHANT (LOXODONTA AFRICANA), AFRICAN LION (PANTERA LEO), AFRICAN LEOPARD (PANTHERA PARDUS PARDUS), THE BLACK RHINOCEROS (DICEROS BICORNIS) AND THE WHITE RHINOCEROS (CERATOTHERIUM SIMUM COTTONI), INCLUDING ANY PART, PRODUCT, OR OFFSPRING THEREOF, OR THE DEAD BODY OR PARTS THEREOF (EXCLUDING FOSSILS), WHETHER OR NOT INCLUDED IN A MANUFACTURED PRODUCT OR IN A FOOD PRODUCT.

2. The carcasses, or parts thereof, of foreign game imported from outside the United States may be bought and sold.

3. A. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, BIG FIVE AFRICAN SPECIES SHALL NOT BE IMPORTED, POSSESSED, SOLD, OFFERED FOR SALE, OR TRANSPORTED BY ANY INDIVIDUAL, FIRM, CORPORATION, ASSOCIATION, OR PARTNERSHIP WITHIN THE STATE OF NEW YORK.

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

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B. ANY LAW ENFORCEMENT OFFICER SHALL HAVE AUTHORITY TO ENFORCE THIS PROHIBITION AND, WHERE NECESSARY, TO EXECUTE ANY WARRANT TO SEARCH FOR AND SEIZE BIG FIVE AFRICAN SPECIES IMPORTED, POSSESSED, SOLD, OFFERED FOR SALE OR TRANSPORTED IN VIOLATION OF THIS SECTION. AS USED IN THIS PARAGRAPH, THE TERM "LAW ENFORCEMENT OFFICER" MEANS ANY OFFICER OR AGENT AUTHORIZED BY THE COMMISSIONER, OR ANY POLICE OFFICER OF THE STATE OF NEW YORK, OR ANY POLICE OFFICER OF ANY MUNICIPALITY WITHIN THE STATE OF NEW YORK, OR ANY PORT AUTHORITY AGENT OR PORT AUTHORITY POLICE OFFICER IN THE STATE OF NEW YORK.

4. UNLESS SUCH ACTIVITY IS PROHIBITED BY FEDERAL LAW, THE FOLLOWING EXCEPTIONS AND DEFENSES APPLY TO THE PROHIBITIONS OF SUBDIVISION THREE OF THIS SECTION:

A. THE BIG FIVE AFRICAN SPECIES WAS LOCATED OR POSSESSED WITHIN THE STATE OF NEW YORK PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND FIFTEEN WHICH AMENDED THIS SECTION AND THE LEGAL OWNER HAS OBTAINED A CERTIFICATE OF POSSESSION FROM THE SECRETARY OF STATE; OR

B. THE BIG FIVE AFRICAN SPECIES IS TO BE MADE PART OF A TEMPORARY OR PERMANENT COLLECTION OF A MUSEUM CHARTERED BY THE BOARD OF REGENTS PURSUANT TO THE EDUCATION LAW OR TO A MUSEUM AUTHORIZED BY A SPECIAL CHARTER FROM THE LEGISLATURE OF THIS STATE, PROVIDED THAT THE ARTICLE IS NOT THEREAFTER SOLD, OFFERED FOR SALE, TRADED, BARTERED OR DISTRIBUTED TO ANY PRIVATE PARTY; OR

C. THE BIG FIVE AFRICAN SPECIES IS DISTRIBUTED DIRECTLY TO A LEGAL BENEFICIARY OF A TRUST OR TO A LEGAL HEIR PROVIDED THE ARTICLE WAS LOCATED OR POSSESSED BY THE DECEDENT PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND FIFTEEN WHICH AMENDED THIS SECTION; PROVIDED FURTHER THAT AFTER TRANSFER TO THE BENEFICIARY OR HEIR THAT THE ARTICLE IS NOT THEREAFTER SOLD, OFFERED FOR SALE, TRADED, BARTERED OR DISTRIBUTED TO ANY PRIVATE PARTY; PROVIDED FURTHER THAT THE BENEFICIARY OR HEIR OBTAIN A CERTIFICATE OF POSSESSION FROM THE SECRETARY OF STATE WITHIN ONE HUNDRED EIGHTY DAYS OF OBTAINING THE ARTICLE.

S 2. Subdivision 1 of section 71-0919 of the environmental conservation law is amended by adding a new paragraph g to read as follows:

G. IN THE CASES PROVIDED FOR IN SECTION 11-1717 OF THIS CHAPTER: (A) ANY BIG FIVE AFRICAN SPECIES, PROPERTY AND/OR ITEM USED IN CONNECTION WITH A VIOLATION OF THIS SECTION SHALL BE HELD PENDING CRIMINAL PROCEEDINGS IN ANY COURT OF PROPER JURISDICTION.

(B) A DEFENDANT CONVICTED OF THIS OFFENSE SHALL BE SENTENCED PURSUANT TO PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION 55.10 OF THE PENAL LAW; PROVIDED, HOWEVER, THAT ANY TERM OF IMPRISONMENT IMPOSED FOR VIOLATION OF THIS SECTION SHALL BE A DEFINITE SENTENCE, WHICH MAY NOT EXCEED TWO YEARS.

(C) UPON CONVICTION, OR UPON THE ENTRY OF A JUDGMENT RESTRAINING A DEFENDANT FROM IMPORTING, POSSESSING, SELLING, OFFERING FOR SALE, OR TRANSPORTING ANY BIG FIVE AFRICAN SPECIES ON THE GROUNDS THAT SUCH ACTIVITY IS OR WOULD BE IN VIOLATION OF SECTION 11-1717 OF THIS CHAPTER, ANY SEIZED PROPERTY UNDER THIS PARAGRAPH SHALL BE FORFEITED AND, UPON FORFEITURE, DESTROYED.

S 3. This act shall take effect immediately.