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

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2009-2010 Regular Sessions

I N A S S E M B L Y

February 4, 2009

Introduced by M. of A. BALL, P. RIVERA, ALFANO, McKEVITT -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to prohibiting the possession, transportation and sale of bushmeat

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

Section 1. The environmental conservation law is amended by adding a new section 11-0538 to read as follows:

S 11-0538. POSSESSION OF BUSHMEAT; PROHIBITED.

1. A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE POSSESSION, IMPORTATION, TRANSPORTATION, SALE OR TAKING OF THE FLESH, BONES, SKELETON, SKULL, BLOOD, ORGAN, OTHER BODY PARTS OR CARCASS OF ANY SPECIES DEFINED IN PARAGRAPH B OF THIS SUBDIVISION.

B. PARAGRAPH A OF THIS SUBDIVISION SHALL APPLY TO THE FOLLOWING SPECIES:

FAMILY	ORDER/COMMON
ARTIODACTYLA	
BOVIDAE	
AFRICAN BUFFALO	SYNCERUS CAFFER
BOHOR REEDBUCK	REDUNCA REDUNCA
BONGO	BOOCERCUS EURYCEROS
BUSHBUCK	TRAGELAPHUS SCRIPTUS
CAPE GRYSBOK	RAPHICERUS MELANOTIS
COMMON ELAND	TRAGELAPHUS (TAUROTRAGUS)
DIK DIK	MADOQUA SPP.
DUIKER	CEPHALOPHUS SPP.
FOREST BUFFALO	SYNCERUS CAFFER NANUS
GEMSBOK OR ORYX	ORYX GAZELLA
GRANT'S GAZELLE	GAZELLA GRANTI
GREATER KUDU	TRAGELAPHUS STREPSICEROS
HARTEBEEST	ALCELAPHUS BUSELAPHUS

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

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1	IMPALA	AEPYCEROS MELAMPUS
2	KLIPSPRINGER	OREOTRAGUS OREOTRAGUS
3	LESSER KUDU	TRAGELAPHUS IMBERBUS
4	NYALA	TRAGELAPHUS ANGASII
5	ORIBI	OUREBIA OUREBI
6	PUKU	KOBUS VARDONI
7	SABLE ANTELOPE	HIPPOTRAGUS NIGER
8	SHARPE'S GRYSBOK	RAPHCIERUS MELANOTIS
9	SITATUNGA	TRAGELAPHUS SPEKEI
10	SOUTHERN OR COMMON REEDBUCK	REDUNCA ARUNDINUM
11	SPRINGBOK	ANTIDORCAS MARSUPIALIS
12	STEENBOK	RAPHICERUS CAMPESTRIS
13	SUNI	NEOTRAGUS MOSCHATUS
14	THOMSON'S GAZELLE	GAZELLA THOMSONII
15	WATERBUCK	KOBUS ELLIPSIPRYMNUS
16	TOPI	DAMALISCUS LUNATUS
17	WILDEBEEST	CONNOCHAETES TAURINUS
18	HIPPOPOTAMIDAE	
19	HIPPOPOTAMUS	HIPPOPOTAMUS AMPHIBIUS
20	GIRAFFIDAE	
21	GIRAFFE	GIRAFFA CAMELOPARDALIS
22	SUIDAE	
23	BUSH PIG	POTAMOCHOERUS PORCUS
24	GIANT FOREST HOG	HYLOCHOERUS MEINERTZHAGENI
25	WARTHOG	PHACOCHOERUS AETHIOPICUS
26	TRAGULIDAE	
27	WATER CHEVROTAIN	HYEMOSCHUS AQUATICUS
28	CARNIVORA	
29	CANIDAE	
30	BAT EARED FOX	OTOCYON MEGALOTIS
31	BLACK BACKED JACKAL	CANIS MESOMELAS
32	FELIDAE	
33	GOLDEN CAT	FELIS AURATA
34	LEOPARD	PANTHERA PARDUS
35	MELLIVORINAE	
36	HONEY BADGER OR RATEL	MELLIVORA CAPSIS
37	MUSTELIDAE	
38	CONGO CLAWLESS OTTER	AONYX CONGICA
39	SPOT-NECKED OTTER	LUTRA MACULICOLLIS
40	VIVERRIDAE	
41	AFRICAN CIVET	CIVECTICTIS CIVETTA
42	AQUATIC GET	OSBORNICTIS PISCIVORA
43	CRESTED GET	GETTA CRISTATA
44	JOHNSTON'S GET	GETTA JOHNSTONI
45	LEIGHTON'S LINSANG	POIANA RICHARDSONII LIBERISIS
46	LIBERIAN MONGOOSE	LIBERIICTIS KUHNI
47	MONGOOSE	CROSSARCHUS & HERPESTES SPP.
48	SMALL SPOTTED GET	GETTA SERVALINA
49	TWO SPOTTED PALM CIVET	NANDINIA BINOTATA
50	CORACIIFORMES	
51	BUCEROTIDAE	
52	BLACK-CASQUED HORNBILL	CERATOGYMNA ATRATA
53	BLACK AND WHITE CASQUED HORNBILL	BYCANISTES SUBCLINDRICUS
54	CUCULIFORMES	
55	MUSOPHAGIDAE	
56	BLUE PLANTAINEATER	CORYTHAEOLA CRISTATA

FALCONIFORMES	
ACCIPITRIDAE	
CROWNED HAWK EAGLE	STEPHANAOETUS CORNOATUS
GALLIFORMES	
PHASIANIDAE	
HELMETED OR TUFTED GUINEA FOWL	NUMIDA MELEAGRIS
HYRACOIDAE	
PROCAVIIDAE	
TREE HYRAX	DDROHYRAX DORSALIS
LAGOMORPHA	
LEPORIDAE	
SCRUB HARE	LEPUS SAXATILIS
PERISSODACTYLA	
EQUIDAE	
ZEBRA	EQUUS BURCHELLI SPP. CHAPMANI & CRAWSHAYI
PHOLIDOTA	
MANIDAE	
COMMON/TREE PANGOLIN	MANIS TRICUSPIS RAFINESQUE
GIANT PANGOLIN	MANIS GIGANTEA ILLIGER
PRIMATES	
CERCOPHITHECIDAE	
COLLARED MANGABEY	CERCOCEBUS TORQUATUS
CRESTED MANGABEY	CERCOCEBUS GALERITIS
DRILL	MANDRILLUS LEUCOPHAEUS
GREATER WHITE NOSED MONKEY	CERCOPITHECUS NICTITANS
GREY CHEEKED MANGABEY	CERCOCEBUS ALBIGA
CERCOPITHECINAE	
BABOON	PAPIO CYNOCEPHALUS
CROWNED GUON	CERCOPITHECUS POGONIAS
DE BRAZZA'S MONKEY	CERCOPITHECUS NEGLECTUS
DIANA MONKEY	CERCOPITHECUS DIANA
MANDRILL	MANDRILLUS LEUCOPHAEUS
MONA MONKEY	CERCOPITHECUS MONA
MOUSTACHED MONKEY	CERCOPITHECUS CEPHUS
OWL FACED MONKEY	CERCOPITHECUS HAMLYNI
PREUSS'S MONKEY	CERCOPITHECUS PREUSSI
RED-EARED MONKEY/RUSSETEARED GUON	CERCOPITHECUS ERYTHROTIS
SAMANGO MONKEY	CERCOPITHECUS MITIS
SCLATER'S MONKEY	CERCOPITHECUS SCLATERI
SUN TAILED MONKEY	CERCOPITHECUS SOLATUS
TALAPOIN	MIOPITHECUS TALAPOIN
WHITE-NOSED MONKEY	CERCOPITHECUS NICTITANS
WHITE-THROATED MONKEY	CERCOPITHECUS ERYTHROGASTER
COLOBIDAE	
BLACK COLOBUS	COLOBUS SATANAS
EASTERN BLACK & WHITE COLOBUS	COLOBUS GUEREZA
GEOFFREY'S PIED COLOBUS	COLOBUS VELLEROSUS
RED COLOBUS	COLOBUS BADIUS PNANTI
LORIDAE	
POTTO	PERODICTUS POTTO
PONGIDAE	
BONOBO	PAN PANISCUS
CHIMPANZEE	PAN TROGLODYTES I
CROSS RIVER GORILLA	GORILLA GORILLA SSP. DIEHLI
GRAUER'S OR EASTERN LOWLAND	GORILLA GORILLA BERINGEI

	GRAUERI
MOUNTAIN GORILLA	GORILLA BERINGEI BERINGEI I
WESTERN LOWLAND GORILLA	GORILLA GORILLA GORILLA I
PROBOSCIDEA	
ELEPHANTIDAE	
AFRICAN ELEPHANT	LOXODONTA AFRICANA
RODTIA	
HYSTRICIDAE	
BRUSH-TAILED PORCUPINE	ARTHERURUS AFRICANUS
MURIDAE	
GIANT RAT	CRICETOMYS EMINI
PEDETIDAE	
SPRINGHARE	PEDETES CAPSIS
SCIURIDAE	
RUWZORI SUN SQUIRREL	HELIOSCHIURUS RUWZORII
THRYONOMYIDAE	
GREATER CANE RAT (GRASSCUTTER)	THRIONOMYS SWINDERIANUS
STRUTHIONEFORMES	
STRUTHIONIDAE	
OSTRICH	STRUTHIO CAMELUS
SQUAMATA	
BOIDAE	
ROCK PYTHON	PYTHON SEHAE
VARANIDAE	
MONITOR LIZARD	VARANUS SPP.
TESTUDINES	
TESTUDINIDAE	
FOREST TORTOISE	KYNIXIS EROSA SCHWEIGGER

C. THE COMMISSIONER SHALL, BY REGULATION, ESTABLISH A PROCESS TO RECEIVE PUBLIC COMMENT ON SPECIES THAT SHOULD BE ADDED TO THE PROVISIONS OF PARAGRAPH B OF THIS SUBDIVISION.

2. ANY OFFICER OR AGENT AUTHORIZED BY THE COMMISSIONER OR ANY POLICE OFFICER, AS DEFINED IN SUBDIVISION THIRTY-FOUR OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW, SHALL HAVE THE AUTHORITY TO EXECUTE ANY WARRANT TO SEARCH FOR OR SEIZE ANY FLESH, BONES, SKELETONS, SKULLS, BLOOD, ORGANS, OTHER BODY PARTS OR CARCASSES POSSESSED, IMPORTED, TRANSPORTED, SOLD OR TAKEN IN VIOLATION OF SUBDIVISION ONE OF THIS SECTION, OR ANY PROPERTY OR ITEM USED IN CONNECTION WITH A VIOLATION OF SUCH SUBDIVISION; AND SUCH FLESH, BONES, SKELETONS, SKULLS, BLOOD, ORGANS, OTHER BODY PARTS AND CARCASSES SHALL BE HELD PENDING PROCEEDINGS IN ANY COURT OF PROPER JURISDICTION. UPON CONVICTION, OR UPON ENTRY OF A JUDGMENT RESTRAINING ANY VIOLATION OF SUBDIVISION ONE OF THIS SECTION, SUCH SEIZED FLESH, BONES, SKELETONS, SKULLS, BLOOD, ORGANS, OTHER BODY PARTS OR CARCASSES SHALL BE FORFEITED AND, UPON FORFEITURE, SHALL BE DESTROYED.

3. THE DEPARTMENT SHALL HAVE THE AUTHORITY TO SEEK INJUNCTIVE RELIEF IN ANY COURT OF PROPER JURISDICTION TO ENJOIN CONTINUED VIOLATION OF SUBDIVISION ONE OF THIS SECTION.

4. THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION SHALL NOT APPLY:

A. TO ANY PERSON HOLDING A VALID PERMIT ISSUED PURSUANT TO THE UNITED STATES ENDANGERED SPECIES ACT OR THE CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA; OR

B. TO ANY PERSON CERTIFIED BY THE COMMISSIONER AS BEING IN POSSESSION FOR ZOOLOGICAL, EDUCATIONAL OR SCIENTIFIC PURPOSES, AND IS NOT OTHERWISE PROHIBITED BY ANY STATE OR FEDERAL LAW, RULE OR REGULATION.

S 2. Section 71-0925 of the environmental conservation law is amended by adding a new subdivision 15 to read as follows:

15. IF THE VIOLATION WAS AN ACT PROHIBITED BY SUBDIVISION ONE OF SECTION 11-0538 OF THIS CHAPTER, OR BY ANY LAWFUL RULE OR REGULATION OF THE DEPARTMENT PROMULGATED PURSUANT THERETO, A CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS FOR THE FIRST CONVICTION THEREOF; AND A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS FOR A SECOND OR SUBSEQUENT CONVICTION. EACH INSTANCE OF VIOLATION SHALL CONSTITUTE A SEPARATE OFFENSE.

S 3. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further judicial review, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this act directly involved in the controversy in which the judgment shall have been rendered.

S 4. This act shall take effect immediately.