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

3731--B

2011-2012 Regular Sessions

I N A S S E M B L Y

January 26, 2011

Introduced by M. of A. KELLNER, KAVANAGH -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets 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 agriculture and markets law is amended by adding a new article 5-E to read as follows:

ARTICLE 5-E

BUSHMEAT

SECTION 97. POSSESSION OF BUSHMEAT PROHIBITED.

S 97. POSSESSION OF BUSHMEAT PROHIBITED. 1. A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER OR OF THE ENVIRONMENTAL CONSERVATION LAW, THE POSSESSION, IMPORTATION, TRANSPORTATION, SALE OR TAKING OF THE FLESH, BONES, SKELETON, SKULL, BLOOD, ORGANS, OTHER BODY PARTS OR CARCASS OF ANY SPECIES DEFINED IN PARAGRAPH B OF THIS SUBDIVISION IS PROHIBITED.

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)

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

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

CORACIIFORMES	
BUCEROTIDAE	
BLACK-CASQUED HORNBILL	CERATOGYMNA ATRATA
BLACK AND WHITE CASQUED HORNBILL	BYCANISTES SUBCLINDRICUS
CUCULIFORMES	
MUSOPHAGIDAE	
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 & CRAWS
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, (I) ESTABLISH A PROCESS FOR EXEMPTING AND TRACKING SPECIMENS OF BUSHMEAT ACQUIRED IN THE COUNTRY OF ORIGIN PURSUANT TO A LAWFULLY CONDUCTED SPORT HUNT; AND (II) 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 COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS REGARDING INSPECTION OF ANY FLESH, BONES, SKELETONS, SKULLS, BLOOD, ORGANS, AND OTHER BODY PARTS OR CARCASSES SEIZED PURSUANT TO SUBDIVISION TWO OF THIS

SECTION, INCLUDING WHICH EMPLOYEES OF THE DEPARTMENT OF AGRICULTURE AND MARKETS SHALL BE RESPONSIBLE FOR SUCH INSPECTIONS.

4. 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.

5. 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, OR PURSUANT TO A LAWFULLY CONDUCTED SPORT HUNT, AND IS NOT OTHERWISE PROHIBITED BY ANY STATE OR FEDERAL LAW, RULE OR REGULATION.

6. IF THE VIOLATION WAS AN ACT PROHIBITED BY SUBDIVISION ONE OF THIS SECTION, 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 2. 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 3. This act shall take effect immediately.