

7362

I N S E N A T E

May 2, 2012

Introduced by Sen. BALL -- 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 prohibiting the possession, transportation and sale of endangered chimpanzees

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

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

3 S 11-0538. POSSESSION OF ENDANGERED CHIMPANZEES; PROHIBITED.

4 1. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE
5 POSSESSION, IMPORTATION, TRANSPORTATION, SALE OR TAKING OF THE FLESH,
6 BONES, SKELETON, SKULL, BLOOD, ORGAN, OTHER BODY PARTS OR CARCASS OF ANY
7 ENDANGERED CHIMPANZEE.

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

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

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

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

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

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

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

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

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

23 S 4. This act shall take effect immediately.