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

971

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. KELLNER, KAVANAGH -- read once and referred to the Committee on Agriculture

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)
DIK DIK	MADOQUA SPP.
DUIKER	CEPHALOPHUS SPP.

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

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

1	BLACK-CASQUED HORNBILL	CERATOGYMNA ATRATA
2	BLACK AND WHITE CASQUED HORNBILL	BYCANISTES SUBCLINDRICUS
3	CUCULIFORMES	
4	MUSOPHAGIDAE	
5	BLUE PLANTAINEATER	CORYTHAEOLA CRISTATA
6	FALCONIFORMES	
7	ACCIPITRIDAE	
8	CROWNED HAWK EAGLE	STEPHANAOETUS CORNOATUS
9	GALLIFORMES	
10	PHASIANIDAE	
11	HELMETED OR TUFTED GUINEA FOWL	NUMIDA MELEAGRIS
12	HYRACOIDAE	
13	PROCAVIIDAE	
14	TREE HYRAX	DDROHYRAX DORSALIS
15	LAGOMORPHA	
16	LEPORIDAE	
17	SCRUB HARE	LEPUS SAXATILIS
18	PERISSODACTYLA	
19	EQUIDAE	
20	ZEBRA	EQUUS BURCHELLI SPP. CHAPMANI & CRAWS
21	PHOLIDOTA	
22	MANIDAE	
23	COMMON/TREE PANGOLIN	MANIS TRICUSPIS RAFINESQUE
24	GIANT PANGOLIN	MANIS GIGANTEA ILLIGER
25	PRIMATES	
26	CERCOPHITHECIDAE	
27	COLLARED MANGABEY	CERCOCEBUS TORQUATUS
28	CRESTED MANGABEY	CERCOCEBUS GALERITIS
29	DRILL	MANDRILLUS LEUCOPHAEUS
30	GREATER WHITE NOSED MONKEY	CERCOPITHECUS NICTITANS
31	GREY CHEEKED MANGABEY	CERCOCEBUS ALBIGA
32	CERCOPITHECINAE	
33	BABOON	PAPIO CYNOCEPHALUS
34	CROWNED GUON	CERCOPITHECUS POGONIAS
35	DE BRAZZA'S MONKEY	CERCOPITHECUS NEGLECTUS
36	DIANA MONKEY	CERCOPITHECUS DIANA
37	MANDRILL	MANDRILLUS LEUCOPHAEUS
38	MONA MONKEY	CERCOPITHECUS MONA
39	MOUSTACHED MONKEY	CERCOPITHECUS CEPHUS
40	OWL FACED MONKEY	CERCOPITHECUS HAMLYNI
41	PREUSS'S MONKEY	CERCOPITHECUS PREUSSI
42	RED-EARED MONKEY/RUSSETEARED GUON	CERCOPITHECUS ERYTHROTIS
43	SAMANGO MONKEY	CERCOPITHECUS MITIS
44	SCLATER'S MONKEY	CERCOPITHECUS SCLATERI
45	SUN TAILED MONKEY	CERCOPITHECUS SOLATUS
46	TALAPOIN	MIOPITHECUS TALAPOIN
47	WHITE-NOSED MONKEY	CERCOPITHECUS NICTITANS
48	WHITE-THROATED MONKEY	CERCOPITHECUS ERYTHROGASTER
49	COLOBIDAE	
50	BLACK COLOBUS	COLOBUS SATANAS
51	EASTERN BLACK & WHITE COLOBUS	COLOBUS GUEREZA
52	GEOFFREY'S PIED COLOBUS	COLOBUS VELLEROSUS
53	RED COLOBUS	COLOBUS BADIUS PNANTI
54	LORIDAE	
55	POTTO	PERODICTUS POTTO
56	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.