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

2649--A

2013-2014 Regular Sessions

I N S E N A T E

January 23, 2013

Introduced by Sen. BALL -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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 ENDANGERED SPECIES; PROHIBITED.

1. 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 ENDANGERED SPECIES IS PROHIBITED.

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.

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

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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.