

# STATE OF NEW YORK

4010--A

2017-2018 Regular Sessions

## IN ASSEMBLY

January 30, 2017

Introduced by M. of A. SEPULVEDA, THIELE, CARROLL, GALEF, D'URSO, ZEBROWSKI, ORTIZ, VANEL, TITONE, GOTTFRIED, BLAKE, McDONOUGH, LUPARDO, HARRIS, O'DONNELL, COLTON -- Multi-Sponsored by -- M. of A. HYNDMAN, WRIGHT -- read once and referred to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to enacting the "African Big Five Act" relating to foreign game

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. This act shall be known and may be cited as the "African  
2 Big Five Act".
- 3 § 2. Section 11-1717 of the environmental conservation law, subdivi-  
4 sion 2 as amended by section 18 of part H of chapter 58 of the laws of  
5 2012, is amended to read as follows:
- 6 § 11-1717. Foreign game.
- 7 1. Foreign game means pheasants of all species, Scotch grouse, Norwe-  
8 gian ptarmigan, Norwegian white grouse, European black game, European  
9 black plover, European gray-legged partridge, European red-legged  
10 partridge, Egyptian quail, tinamou and species or subspecies of birds  
11 not native to this state, and European red deer, fallow deer [~~and~~],  
12 roebuck, and "big five African species". As used in this section, the  
13 term "big five African species" shall mean an organism of any of the  
14 following members of the animal kingdom: African Elephant (Loxodonta  
15 africana), African Lion (Pantera leo), African Leopard (Panthera pardus  
16 pardus), the Black Rhinoceros (Diceros bicornis) and the White Rhinoce-  
17 ros (Ceratotherium simum cottoni), including any part, product, or  
18 offspring thereof, or the dead body or parts thereof (excluding  
19 fossils), whether or not included in a manufactured product or in a food  
20 product.
- 21 2. The carcasses, or parts thereof, of foreign game imported from  
22 outside the United States may be bought and sold.

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

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1 3. a. Notwithstanding the provisions of subdivision two of this  
2 section, big five African species shall not be imported, possessed,  
3 sold, offered for sale, or transported by any individual, firm, corpo-  
4 ration, association, or partnership within the state of New York.

5 b. Any law enforcement officer shall have authority to enforce this  
6 prohibition and, where necessary, to execute any warrant to search for  
7 and seize big five African species imported, possessed, sold, offered  
8 for sale or transported in violation of this section. As used in this  
9 paragraph, the term "law enforcement officer" means any officer or agent  
10 authorized by the commissioner, or any police officer of the state of  
11 New York, or any police officer of any municipality within the state of  
12 New York, or any port authority agent or port authority police officer  
13 in the state of New York.

14 4. Unless such activity is prohibited by federal law, the following  
15 exceptions and defenses apply to the prohibitions of subdivision three  
16 of this section:

17 a. The big five African species was located or possessed within the  
18 state of New York prior to the effective date of the chapter of the laws  
19 of two thousand eighteen which amended this section and the legal owner  
20 has obtained a certificate of possession from the secretary of state; or

21 b. The big five African species is to be made part of a temporary or  
22 permanent collection of a museum chartered by the board of regents  
23 pursuant to the education law or to a museum authorized by a special  
24 charter from the legislature of this state, provided that the article is  
25 not thereafter sold, offered for sale, traded, bartered or distributed  
26 to any private party; or

27 c. The big five African species is distributed directly to a legal  
28 beneficiary of a trust or to a legal heir provided the article was  
29 located or possessed by the decedent prior to the effective date of the  
30 chapter of the laws of two thousand eighteen which amended this section;  
31 provided further that after transfer to the beneficiary or heir that the  
32 article is not thereafter sold, offered for sale, traded, bartered or  
33 distributed to any private party; provided further that the beneficiary  
34 or heir obtain a certificate of possession from the secretary of state  
35 within one hundred eighty days of obtaining the article.

36 § 3. Subdivision 1 of section 71-0919 of the environmental conserva-  
37 tion law is amended by adding a new paragraph g to read as follows:

38 g. In the cases provided for in section 11-1717 of this chapter: (a)  
39 Any big five African species, property and/or item used in connection  
40 with a violation of this section shall be held pending criminal  
41 proceedings in any court of proper jurisdiction.

42 (b) A defendant convicted of this offense shall be sentenced pursuant  
43 to paragraph (b) of subdivision one of section 55.10 of the penal law;  
44 provided, however, that any term of imprisonment imposed for violation  
45 of this section shall be a definite sentence, which may not exceed two  
46 years.

47 (c) Upon conviction, or upon the entry of a judgment restraining a  
48 defendant from importing, possessing, selling, offering for sale, or  
49 transporting any big five African species on the grounds that such  
50 activity is or would be in violation of section 11-1717 of this chapter,  
51 any seized property under this paragraph shall be forfeited and, upon  
52 forfeiture, destroyed.

53 § 4. This act shall take effect immediately.