

# STATE OF NEW YORK

4010--B

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 -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to enacting the "Big Five African Trophies 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 "Big Five  
2 African Trophies Act".

3 § 2. Title 5 of Article 11 of the environmental conservation law is  
4 amended by adding a new section 11-0535-b to read as follows:

5 § 11-0535-b. Big five African trophies act.

6 1. Notwithstanding any other provision of law, no individual, firm,  
7 corporation, association, or partnership shall import, export, trans-  
8 port, process, sell, offer for sale, purchase, trade, barter, distribute  
9 or possess any part or product of the skin or body, whether raw or manu-  
10 factured, of the following animal species: African Elephant (*Loxodonta*  
11 *Africana*); African Leopard (*Panthera pardus*); African Lion (*Panthera*  
12 *leo*); Black Rhinoceros (*Diceros bicornis*); and White Rhinoceros (*Cera-*  
13 *totherium simum*).

14 2. Unless such activity is prohibited by federal law, paragraph e of  
15 subdivision six of section 11-0103 of this article, or sections 11-0512,  
16 11-0535-a, or 11-0536 of this title, the following exceptions and  
17 defenses apply to the prohibitions of subdivision one of this section:

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

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1 a. the part or product was located or possessed within the state of  
2 New York prior to the effective date of this section and the legal owner  
3 has obtained a certificate of possession from the secretary of state;

4 b. the part or product is to be made part of a temporary or permanent  
5 collection of a museum chartered by the board of regents pursuant to the  
6 education law or to a museum authorized by a special charter from the  
7 legislature of this state, provided that the article is not thereafter  
8 sold, offered for sale, traded, bartered or distributed to any private  
9 party; or

10 c. the part or product is distributed directly to a legal beneficiary  
11 of a trust or to a legal heir provided the article was located or  
12 possessed by the decedent prior to the effective date of this section;  
13 provided further that after transfer to the beneficiary or heir that the  
14 article is not thereafter sold, offered for sale, traded, bartered or  
15 distributed to any private party; provided further that the beneficiary  
16 or heir obtain a certificate of possession from the secretary of state  
17 within one hundred eighty days of obtaining the article.

18 3. Any officer or agent authorized by the commissioner, or any police  
19 officer of the state of New York, or any police officer of any munici-  
20 pality within the state of New York, shall have authority to execute any  
21 warrant to search for and seize any parts or products in violation of  
22 this section, as defined in subdivision one of this section, or any  
23 property or item used in connection with a violation of this section;  
24 such parts or products shall be held pending proceedings in any court of  
25 proper jurisdiction. Upon conviction, or upon the entry of a judgment  
26 restraining the import, export, transport, process, sale, offer for  
27 sale, purchase, trade, barter, distribution or possession of any such  
28 part or product on the ground that such parts or products are in  
29 violation of this section, such parts or products shall be forfeited  
30 and, upon forfeiture, either offered to a recognized institution for  
31 scientific or educational purposes, or destroyed.

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

34 g. In the cases provided for in section 11-0535-b of this chapter:  
35 (a) Any big five African species, property and/or item used in  
36 connection with a violation of this section shall be held pending crimi-  
37 nal proceedings in any court of proper jurisdiction.

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

43 (c) Upon conviction, or upon the entry of a judgment restraining a  
44 defendant from importing, possessing, selling, offering for sale, or  
45 transporting any big five African species on the grounds that such  
46 activity is or would be in violation of section 11-0535-b of this chap-  
47 ter, any seized property under this paragraph shall be forfeited and,  
48 upon forfeiture, destroyed.

49 § 4. This act shall take effect one year after it shall have become a  
50 law.