STATE OF NEW YORK

5116

2017-2018 Regular Sessions

IN ASSEMBLY

February 6, 2017

Introduced by M. of A. ROSENTHAL -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT prohibiting the possession and transport of certain animals and body parts thereof at airports and port facilities owned or operated by the Port Authority of New York and New Jersey

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

Section 1. a. As used in this section:

(1) "Big five African species" means the African elephant, Loxodonta africana; African leopard, Panthera pardus; African lion, Panthera leo; black rhinoceros, Diceros bicornis; and white rhinoceros, Ceratotherium simum.

(2) "Priority species" means any species or subspecies of wildlife that: appears on the list of wildlife determined to be endangered by the commissioner of the department of environmental conservation pursuant to 6 NYCRR §182.5(a); appears on any federal list of endangered or threatened species, or has been proposed to be included on any such list; or is a big five African species. "Priority species" shall include the whole animal or any part, product, egg, or offspring of such species, or the dead body or parts thereof, excluding fossils, whether or not included in a manufactured product or in a food product.

b. Notwithstanding the provisions of any other law to the contrary, priority species shall not be imported, exported, shipped, received, possessed, processed, sold, offered for sale, or transported by any individual, firm, corporation, association, or partnership at any airport or port facility owned or operated by the Port Authority of New York and New Jersey.

c. Any Port Authority agent or Port Authority police officer shall have authority to enforce the prohibition in subdivision b of this section and, where necessary, to apply for and execute any warrant to

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

LBD05122-01-7

search for and seize any priority species and any property or item used in connection with a violation of subdivision b of this section.

d. Unless the activity is prohibited by federal law, the following exceptions and defenses shall apply to the prohibition in subdivision b of this section:

(1) the priority species was lawfully located or possessed within the state of New York or the state of New Jersey prior to the effective date of this act; or

(2) the priority species is to be made part of a temporary or permanent collection at a museum or zoo, or similar educational or research facility, provided that the priority species is not thereafter sold, offered for sale, traded, bartered, or distributed to any private party.

e. (1) Any priority species and any property or item used in connection with a violation of subdivision b of this section shall be held pending criminal proceedings in any court of proper jurisdiction.

(2) A person who violates subdivision b of this section shall be guilty of a class E felony and, notwithstanding the provisions of sections 70.00 and 80.00 of the penal law of the state of New York to the contrary, shall be subject to imprisonment not to exceed 18 months and a fine of up to $100,000.

(3) Upon conviction, or upon the entry of a judgment restraining a person from any activity that is or would be in violation of subdivision b of this section, any seized property shall be forfeited, and upon forfeiture, disposed of in a manner consistent with the best interest of the public as determined by the court.

(4) Any penalty imposed pursuant to this section shall be in addition to any applicable penalty that may be imposed for a violation of article 11 of the environmental conservation law, 6 NYCRR Chapter 1, and any other applicable law, rule or regulation to the contrary.

§ 2. This act shall take effect upon the enactment into law by the state of New Jersey of legislation having an identical effect with this act, but if the state of New Jersey shall have already enacted such legislation, then it shall take effect immediately; and provided that the waterfront commission shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in section one of this act in order that the commission may maintain an accurate and timely effective data base of the official text of laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law.