

STATE OF NEW YORK

9159

IN SENATE

September 4, 2018

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the environmental conservation law, in relation to prohibiting the sale, trade or bartering or possession with intent to sell, trade or barter of certain wild animals or wild animal products and the penalties imposed therefor

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

1 Section 1. Subdivision 1 of section 11-0536 of the environmental
2 conservation law, as amended by chapter 338 of the laws of 2009, is
3 amended to read as follows:

4 1. Except as provided in subdivision three hereof, no part of the skin
5 or body, whether raw or manufactured, of the following species of wild
6 animals or the animal itself may be sold, traded, bartered, or offered
7 for sale, or possessed with intent to sell, trade or barter by any indi-
8 vidual, firm, corporation, association or partnership within the state
9 of New York:--Leopard (*Panthera pardus*), Snow Leopard (*Uncia*), Clouded
10 Leopard (*Neofelis nebulosa*), Tiger (*Panthera tigris*), Asiatic Lion
11 (*Panthera leo persica*), Cheetah (*Acinonyx jubatus*), Alligators, Caiman or
12 Crocodile of the Order Crocodylia (except as provided in subdivision two
13 of this section), tortoises of the genus *Gopherus*, marine turtles of the
14 family Cheloniidae and the family Dermochelidae, Vicuna (*Vicugna vicug-*
15 *na*), Wolf (*Canis lupus*), Red Wolf (*Canis niger*), or Tasmanian Forester
16 Kangaroo (*Macropus giganteus tasmaniensis*) or Polar Bear (*Thalarctos*
17 *maritimus*), Mountain Lion, sometimes called Cougar (*Felis concolor*),
18 Jaguar (*Panthera onca*), Ocelot (*Felis pardalis*), or Margay (*Felis*
19 *wiedii*), [~~Sumatran Rhinoceros (*Dicerorhinus sumatrensis*), or Black~~
20 ~~Rhinoceros (*Dicero bicornis*)~~] Rhinoceros (*Rhinocerotidae*) or Giraffe
21 (*Giraffa camelopardalis*).

22 § 2. Section 71-0924 of the environmental conservation law, as amended
23 by chapter 326 of the laws of 2014, is amended to read as follows:

24 § 71-0924. Illegal commercialization of fish, shellfish, crustaceans,
25 and wildlife.

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

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1 1. Notwithstanding any other provision of this chapter, when a
2 violation involves the sale, trade or barter of fish, shellfish, crusta-
3 ceans, wildlife, or parts thereof, the sale, trade or barter of which is
4 prohibited by the fish and wildlife law, the following additional penal-
5 ties shall be imposed:

6 [~~1-~~] a. where the value of fish, shellfish, crustaceans, wildlife, or
7 parts thereof, is two hundred fifty dollars or less, the offense shall
8 be a violation punishable by a fine of five hundred dollars and/or not
9 more than fifteen days of imprisonment;

10 [~~2-~~] b. where the value of fish, shellfish, crustaceans, wildlife, or
11 parts thereof, is more than two hundred fifty dollars but does not
12 exceed one thousand five hundred dollars, the offense shall be a misde-
13 meanor punishable by a fine of five thousand dollars and/or not more
14 than one year of imprisonment;

15 [~~3-~~] c. where the value of fish, shellfish, crustaceans, wildlife, or
16 parts thereof, exceeds one thousand five hundred dollars, the offense
17 shall constitute a class E felony under the provisions of the penal law;
18 [~~and~~]

19 [~~4-~~] d. where the value of ivory articles, as defined in section
20 11-0535-a of this chapter, exceeds twenty-five thousand dollars, the
21 offense shall constitute a class D felony under the provisions of the
22 penal law; and

23 e. with respect to a violation of the provisions of section 11-0536 of
24 this chapter, in addition to any other fines or penalties, where the
25 value of wildlife, or parts thereof, exceeds twenty-five thousand
26 dollars, the offense shall constitute a class D felony under the
27 provisions of the penal law, and shall be punishable by a fine of the
28 greater of: (i) twenty thousand dollars; or (ii) up to twice the fair
29 market value of the wildlife, or parts thereof.

30 [~~5-~~] 2. For the purposes of this section the value of fish, shellfish,
31 crustaceans and wildlife shall be the fair market value of or actual
32 price paid for such resource, whichever is greater. For purposes of this
33 section, "sale" shall include the acts of selling, trading or bartering
34 and all related acts, such as the act of offering for sale, trade or
35 barter, and shall also include the illegal possession of fish, shellf-
36 ish, wildlife or crustacea with intent to sell. It shall be presumptive
37 evidence of possession with intent to sell when such fish, shellfish,
38 wildlife or crustacea is possessed in quantities exceeding the allowable
39 recreational quantities, or is possessed in a retail or wholesale outlet
40 commonly used for the buying or selling of such fish, shellfish, wild-
41 life or crustacea, provided, however, that nothing in this subdivision
42 shall preclude the admission of other evidence which may serve to inde-
43 pendently prove a defendant's intent to sell.

44 § 3. Subdivisions 1, 2 and 3 of section 71-0927 of the environmental
45 conservation law, subdivisions 1 and 2 as amended and subdivision 3 as
46 added by chapter 284 of the laws of 2004, are amended to read as
47 follows:

48 1. Anyone convicted of violating the prohibition against harvesting,
49 taking, possessing or transporting shellfish under facts and circum-
50 stances meeting the criteria for imposition of sanctions pursuant to
51 paragraph c of subdivision [~~3~~] 1 of section 71-0924; or anyone convicted
52 two or more times within five years of violating the prohibition against
53 harvesting, taking, possessing or transporting shellfish under facts and
54 circumstances meeting the criteria for imposition of sanctions pursuant
55 to paragraph b of subdivision [~~3~~] 1 of section 71-0924, or of violating
56 subdivision 1 or 2, paragraph e or f of subdivision 3, subdivision 6, 8,

1 9, 10, 11, or 13 of section 13-0309, section 13-0317, subdivision 2 of
2 section 13-0323, section 13-0325, [~~subdivision 3 or 5 of~~] section
3 13-0327, or section 13-0344 of this chapter shall have his license to
4 take and land shellfish revoked and shall not be relicensed for a mini-
5 mum of five years thereafter, in addition to any other sanction imposed
6 pursuant to this article.

7 2. Anyone convicted of unlawfully harvesting, taking, possessing or
8 transporting any marine fish, shellfish or crustacea under facts and
9 circumstances meeting the criteria for imposition of sanctions pursuant
10 to paragraph c of subdivision [~~3~~] 1 of section 71-0924; or anyone
11 convicted two or more times within five years of unlawfully harvesting,
12 taking, possessing or transporting any marine fish, shellfish or crusta-
13 cea under facts and circumstances meeting the criteria for imposition of
14 sanctions pursuant to paragraph b of subdivision [~~3~~] 1 of section
15 71-0924, or of violating subdivision 1, paragraph c of subdivision 2,
16 subdivision 5, 6, 7 or 9 of section 13-0329, or section 13-0344 of this
17 chapter shall have his license to take and land lobsters revoked and
18 shall not be relicensed for a minimum of five years thereafter, in addi-
19 tion to any other sanction imposed pursuant to this article.

20 3. Any person convicted of violating the prohibition against harvest-
21 ing, taking, possessing or transporting any marine food fish under facts
22 and circumstances meeting the criteria for imposition of sanctions
23 pursuant to paragraph c of subdivision [~~3~~] 1 of section 71-0924; or any
24 person convicted two or more times within five years of violating the
25 prohibition against harvesting, taking, possessing or transporting any
26 marine food fish under facts and circumstances meeting the criteria for
27 imposition of sanctions pursuant to paragraph b of subdivision [~~3~~] 1 of
28 section 71-0924, or of violating section 13-0344 of this chapter, shall
29 have his license to take and land marine food fish revoked and shall not
30 be licensed for a minimum of five years thereafter, in addition to any
31 other sanctions imposed pursuant to this article.

32 § 4. This act shall take effect immediately. Effective immediately,
33 the addition, amendment and/or repeal of any rule or regulation neces-
34 sary for the implementation of this act on its effective date are
35 authorized to be made on or before such date.