STATE OF NEW YORK

5098

2019-2020 Regular Sessions

IN SENATE

April 9, 2019

Introduced by Sen. MARTINEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to designating certain species as vulnerable species and prohibiting the sale of articles made from such vulnerable species; and to require the department of environmental conservation to designate the giraffe as a vulnerable 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 11-0535-b to read as follows:

§ 11-0535-b. Vulnerable species.

1. As used in this section, "vulnerable species" shall mean any species of wildlife designated by the department, by regulation filed with the secretary of state, which meet the following criteria:

(a) On the basis of credible scientific evidence, which may include information contained on the international union for conservation of nature and natural resources red list of threatened species, or other similar data:

(i) the species has an observed, estimated, inferred, projected or suspected population size reduction of thirty percent or more over the last ten years or three generations, whichever is longer; or

(ii) the geographic range of the species is less than eight thousand square miles and the area of occupancy is less than eight hundred square miles, and the species' habitat is severely fragmented or the species is found in fewer than ten locations; or

(iii) there are less than ten thousand mature individuals and the risk of extinction of the species within one hundred years is more than ten percent; or

(iv) other factors that may cause the species to go extinct if they are not identified and reversed;

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

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(b) The species is known to be in trade in this state;

(c) The species is not protected as an endangered or threatened species by the secretary of the interior; and

(d) The species is not protected under the Marine Mammal Protection Act.

2. Except as otherwise provided in subdivision three of this section, no person shall sell, or possess with the intent to sell, any article made in whole or in part from the skin, hide, or other parts of any vulnerable species, except under license or permit from the department.

3. The commissioner may issue licenses or permits for the sale or possession with intent to sell of any article made in whole or in part from the skin, hide, or other parts of any vulnerable species, provided that:

(a) the article is part of a bona fide antique and the antique status of such antique is established by the owner or seller thereof with historical documentation evidencing provenance and showing the antique to be not less than one hundred years old; or

(b) the article is for bona fide educational or scientific purposes, or to be made part of a temporary or permanent collection of a museum chartered by the board of regents pursuant to the education law or to a museum authorized by a special charter from the legislature of this state, provided that the article is not thereafter sold to any private party.

4. The department shall maintain a list of vulnerable species identified pursuant to this section and post such list on the department's website.

5. Species shall not be designated as a vulnerable species for the purposes of this section if:

(a) the species is protected pursuant to any other provision of this chapter; or

(b) the taking of the species is regulated by the department pursuant to permit or license.

§ 2. Section 71-0925 of the environmental conservation law is amended by adding a new subdivision 17 to read as follows:

17. If the violation was an act prohibited by section 11-0535-b of this chapter, not more than one thousand dollars or not more than two times the value of the article involved, whichever is greater. If the violation is a second or subsequent violation of such section 11-0535-b, not more than two thousand dollars or not more than three times the value of the article involved, whichever is greater.

§ 3. Within 180 days of the effective date of this act, the department of environmental conservation shall promulgate regulations that, at a minimum, designate giraffes (Giraffa Camelopardalis) as a vulnerable species pursuant to section 11-0535-b of the environmental conservation law.

§ 4. 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.

§ 5. No later than January 1, 2021, the department of environmental conservation shall prepare a report outlining enforcement activities and recommendations regarding any necessary changes.

§ 6. This act shall take effect immediately.