STATE OF NEW YORK

2814

2021-2022 Regular Sessions

IN SENATE

January 25, 2021

Introduced by Sens. SEPULVEDA, SERRANO -- 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 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:

Section 1. This act shall be known and may be cited as the "Big Five African Trophies Act".

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

§ 11-0535-d. Big five African trophies act.

1. Notwithstanding any other provision of law, no individual, firm, corporation, association, or partnership shall import, export, transport, process, sell, offer for sale, purchase, trade, barter, distribute or possess any part or product of the skin or body, whether raw or manufactured, of the following animal species: African Elephant (Loxodonta Africana); African Leopard (Panthera pardus); African Lion (Panthera leo); Black Rhinoceros (Diceros bicornis); White Rhinoceros (Ceratotherium simum); and African Giraffe (giraffa camelopardalis).

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

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

b. the part or product is 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

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

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sold, offered for sale, traded, bartered or distributed to any private party; or

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

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

§ 3. Subdivision 1 of section 71-0919 of the environmental conservation law is amended by adding a new paragraph h to read as follows:

h. In the cases provided for in section 11-0535-d of this chapter:

(1) Any big five African species, property and/or item used in connection with a violation of this section shall be held pending criminal proceedings in any court of proper jurisdiction.

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

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

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