STATE OF NEW YORK

5266

2021-2022 Regular Sessions

IN SENATE

March 1, 2021

Introduced by Sen. MAY -- 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 hunting or sale of fish and wildlife pursuant to Indian treaty rights

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

Section 1. Section 11-0107 of the environmental conservation law, as amended by chapter 400 of the laws of 1973, is amended to read as follows:

§ 11-0107. Application of Fish and Wildlife Law.

1. No person shall, at any time of the year, pursue, take, wound or kill in any manner, number or quantity, any fish protected by law, game, protected wildlife, shellfish, harbor seals, crustacea protected by law, or protected insects, except as permitted by the Fish and Wildlife Law**, or by subdivision three of this section**.

2. No person shall, at any time of the year, buy, sell, offer or expose for sale, transport, or have in his possession any fish protected by law, game, protected wildlife, shellfish, harbor seals, crustacea protected by law, or part thereof, or protected insect, whether taken within the state or coming from without the state, except as permitted by the Fish and Wildlife Law**, or by subdivision three of this section**.

3. The provisions of subdivisions one and two of this section shall not apply to an enrolled citizen of an Indian nation or tribe, as defined by section two of the Indian law, who is exercising a hunting or fishing right reserved by a treaty to which such Indian nation or tribe is a party; provided, however, that the exercise of such treaty right or rights, outside the boundaries such Indian nation or tribe's reservation, shall be subject to any applicable state law or regulation otherwise protecting the species being hunted or fished that is: (a) necessary for the preservation of such species; (b) the least restrictive alternative for achieving preservation of such species; and (c) is necessary to prevent irreparable harm to such species.

§ 2. This act shall take effect immediately.

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

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