

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:

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

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

5 § 11-0535-d. Big five African trophies act.

6 1. Notwithstanding any other provision of law, no individual, firm,
7 corporation, association, or partnership shall import, export, trans-
8 port, process, sell, offer for sale, purchase, trade, barter, distribute
9 or possess any part or product of the skin or body, whether raw or manu-
10 factured, of the following animal species: African Elephant (Loxodonta
11 Africana); African Leopard (Panthera pardus); African Lion (Panthera
12 leo); Black Rhinoceros (Diceros bicornis); White Rhinoceros (Ceratother-
13 ium simum); and African Giraffe (giraffa camelopardalis).

14 2. Unless such activity is prohibited by federal law, paragraph e of
15 subdivision six of section 11-0103 of this article, or sections 11-0512,
16 11-0535-a, or 11-0536 of this title, the following exceptions and
17 defenses apply to the prohibitions of subdivision one of this section:

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

21 b. the part or product is to be made part of a temporary or permanent
22 collection of a museum chartered by the board of regents pursuant to the
23 education law or to a museum authorized by a special charter from the
24 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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1 sold, offered for sale, traded, bartered or distributed to any private
2 party; or

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

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

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

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

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

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

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

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