

23:2A-6.1 & 23:2A-6.2 et al.

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2016 **CHAPTER:** 6

NJSA: 23:2A-6.1 & 23:2A-6.2 et al. (Prohibits possession, transport, import, export, processing, sale, or shipment of parts and products of certain animal species threatened with extinction.)

BILL NO: S977 (Substituted for A2447)

SPONSOR(S) Lesniak and others

DATE INTRODUCED: February 4, 2016

COMMITTEE: **ASSEMBLY:** Environment and Solid Waste
 SENATE: Economic Growth

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** May 26, 2016
 SENATE: May 26, 2016

DATE OF APPROVAL: June 1, 2016

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First reprint enacted)

S977

SPONSOR'S STATEMENT: (Begins on page 9 of introduced bill)	Yes
COMMITTEE STATEMENT:	ASSEMBLY: Yes
	SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A2447

SPONSOR'S STATEMENT: (Begins on page 9 of introduced bill) Yes

COMMITTEE STATEMENT:	ASSEMBLY: Yes
	SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE: Yes

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS:

HEARINGS:

NEWSPAPER ARTICLES: Yes

"Import of threatened trophy animals banned in New Jersey," Press of Atlantic City, June 2, 2016

"Christie signs law banning trophy animals," Star-Ledger, June 3, 2016

"New Jersey bans import, export of threatened trophy animals," Daily Record, June 2, 2016

"Christie signs law banning 'trophy animals' in N.J.," nj.com, June 2, 2016

"Christie signs bills banning import of threatened trophy animals," NorthJersey.com, June 2, 2016

"Import of threatened trophy animals banned in New Jersey," Associated Press State Wire: New Jersey, June 2, 2016

RWH/CL

(CORRECTED COPY)

P.L.2016, CHAPTER 6, *approved June 1, 2016*

Senate, No. 977 (*First Reprint*)

1 AN ACT concerning certain animal species threatened with
2 extinction, amending and supplementing P.L.1973, c.309, and
3 amending R.S.23:4-27.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. Section 2 of P.L.1973, c.309 (C.23:2A-2) is amended to read
9 as follows:

10 2. The Legislature hereby finds and declares the following:

11 a. That it is the policy of this State to manage all forms of
12 wildlife to insure their continued participation in the ecosystem;

13 b. That species or subspecies of wildlife indigenous to the State
14 which may be found to be endangered should be accorded special
15 protection in order to maintain and to the extent possible enhance
16 their numbers; and

17 c. That the State should assist in the protection of species or
18 subspecies of wildlife which are deemed to be endangered ¹**[or**
19 **threatened]**¹ elsewhere by regulating the taking, possession,
20 transportation, importation, exportation, processing, sale or offer for
21 sale, or shipment within this State of species or subspecies of
22 wildlife including those on any **[Federal]** federal endangered ¹**[or**
23 **threatened]**¹ species list ¹**[, and those threatened with extinction**
24 **due to the trafficking of their parts and products]**¹ .

25 (cf: P.L.1973, c.309, s.2)

26

27 2. Section 3 of P.L.1973, c.309 (C.23:2A-3) is amended to read
28 as follows:

29 3. For the purposes of **[this act]** P.L.1973, c.309 (C.23:2A-1 et
30 seq.), unless the context clearly requires a different meaning:

31 **[a.]** "Commissioner" means the Commissioner of the
32 Department of Environmental Protection;

33 **[b.]** "Department" means the Department of Environmental
34 Protection;

35 **[c.]** "Endangered species" means any species or subspecies
36 of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate amendments adopted in accordance with Governor's
recommendations May 9, 2016.

1 wildlife whose prospects of survival or recruitment are in jeopardy
2 or are likely within the foreseeable future to become so due to any
3 of the following factors: (1) the destruction, drastic modification,
4 or severe curtailment of its habitat, or (2) its over-utilization for
5 scientific, commercial or sporting purposes, or (3) the effect on it of
6 disease, pollution, or predation, or (4) other natural or manmade
7 factors affecting its prospects of survival or recruitment within the
8 State, or (5) any combination of the foregoing factors. The term
9 shall also be deemed to include any species or subspecies of
10 wildlife appearing on any **【Federal】** federal endangered **1【or**
11 threatened】¹ species list;

12 **【d.】** "Nongame species" means any wildlife for which a legal
13 hunting or trapping season has not been established or which has
14 not been classified as an endangered species by statute or regulation
15 of this State;

16 **【e.】** "Take" means to harass, hunt, capture, kill, or attempt to
17 harass, hunt, capture, or kill, wildlife;

18 **【f.】** "Wildlife" means any wild mammal, bird, reptile,
19 amphibian, fish, mollusk, crustacean or other wild animal or any
20 part, product, egg or offspring or the dead body or parts thereof.
21 (cf: P.L.1981, c.281, s.1)

22
23 3. Section 4 of P.L.1973, c.309 (C.23:2A-4) is amended to read
24 as follows:

25 4. a. The commissioner shall conduct investigations concerning
26 wildlife indigenous to the State in order to develop information
27 relating to populations, distribution, habitat needs, limiting factors
28 and other biological and ecological data to determine management
29 measures necessary for their continued ability to sustain themselves
30 successfully. On the basis of such determinations the commissioner
31 shall develop management programs which shall be designed to
32 insure the continued ability of wildlife to perpetuate themselves
33 successfully.

34 b. On the basis of such investigations of wildlife and other
35 available scientific and commercial data the commissioner may by
36 rule or regulation promulgate a list of those species and subspecies
37 of wildlife indigenous to the State which are determined to be
38 endangered, giving their common and scientific names by species
39 and subspecies. The commissioner shall periodically review the
40 State list of endangered species and may by regulation amend the
41 list making such additions or deletions as are deemed appropriate.
42 (cf: P.L.1981, c.511, s.14)

43
44 4. Section 5 of P.L.1973, c.309 (C.23:2A-5) is amended to read
45 as follows:

46 5. a. The commissioner shall have the power to formulate and
47 promulgate, adopt, amend and repeal rules and regulations, limiting,
48 controlling and prohibiting the taking, possession, transportation,

1 importation, exportation, sale or offer for sale, or shipment of any
 2 nongame species or any wildlife on the State list of endangered
 3 species **list**, and for the purposes of implementing section 6 of
 4 P.L. , c. (C.) (pending before the Legislature as this bill).
 5 Such rules and regulations shall be designed to promote the public
 6 health, safety and welfare and shall be adopted in accordance with
 7 the "Administrative Procedure **Act**" (P.L.1968, c.410, C.52:14B-1
 8 et seq.) **Act**," P.L.1968, c.410 (C.52:14B-1 et seq.).

9 b. The commissioner is authorized to conduct periodic
 10 inspections in order to determine compliance with the rules and
 11 regulations adopted pursuant to this section, and, to that end, is
 12 authorized to charge and collect fees in an amount sufficient to
 13 cover the costs of the inspections and services performed pursuant
 14 to **this amendatory act** P.L.1973, c.309 (C.23:2A-1 et seq.). Such
 15 fees shall be devoted entirely and exclusively to carrying out the
 16 purposes and provisions of **this amendatory act** P.L.1973,
 17 c.309 (C.23:2A-1 et seq.). Inspection fees shall be established in
 18 accordance with a fee schedule adopted by the department as a rule
 19 and regulation pursuant to the provisions of the **aforsaid**
 20 "Administrative Procedure Act."
 21 (cf: P.L.1981, c.281, s.2)

22
 23 5. Section 6 of P.L.1973, c.309 (C.23:2A-6) is amended to read
 24 as follows:

25 6. Except as otherwise provided in **this act** P.L.1973, c.309
 26 (C.23:2A-1 et seq.) or the rules or regulations adopted thereunder,
 27 no person shall take, possess, transport, import, export, process, sell
 28 or offer for sale, or ship, and no common or contract carrier shall
 29 knowingly transport or receive for shipment, any species or
 30 subspecies of wildlife appearing on the following lists: (1) the list
 31 of wildlife determined to be endangered by the commissioner
 32 pursuant to **this act** P.L.1973, c.309 (C.23:2A-1 et seq.); (2) the
 33 list of nongame species regulated pursuant to **this act** P.L.1973,
 34 c.309 (C.23:2A-1 et seq.); **and** and (3) any **Federal** federal list
 35 of endangered ¹or threatened¹ species. Any species or subspecies
 36 of wildlife appearing on any of the foregoing lists which enters the
 37 State from another state or from a point outside the territorial limits
 38 of the United States and which is transported across the State
 39 destined for a point beyond the State may be so entered and
 40 transported without restriction in accordance with the terms of any
 41 **Federal** federal permit or permit issued under the laws or
 42 regulations of another state ¹, provided that such transport is not
 43 prohibited by section 6 of P.L. , c. (C.) (pending before the
 44 Legislature as this bill), section 3 of P.L.2014, c.22 (C.23:2A-13.3),
 45 or any other applicable law¹ .
 46 (cf: P.L.1981, c.281, s.4)

1 6. (New section) a. Notwithstanding the provisions of section
2 6 of P.L.1973, c.309 (C.23:2A-6) or any other law, or any rule or
3 regulation adopted pursuant thereto, to the contrary, no person shall
4 possess, transport, import, export, process, sell or offer for sale, or
5 ship, and no common or contract carrier shall knowingly transport
6 or receive for shipment any part or product of: (1) any **1** **["big five"]**
7 **specified**¹ African species; or (2) any species or subspecies of
8 elephant, rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine
9 turtle, or ray listed **1** **[": (a)"]**¹ in Appendix I or Appendix II of the
10 Convention on International Trade in Endangered Species of Wild
11 Fauna and Flora **1** **["; or (b) as critically endangered, endangered, or**
12 **vulnerable on the International Union for Conservation of Nature**
13 **and Natural Resources Red List of Threatened Species"]**¹ .

14 b. **1** **["Unless such activity is prohibited by federal or other State**
15 **law, rule, or regulation, the"]** **The**¹ following exceptions and
16 defenses shall apply to the prohibition in subsection a. of this
17 section:

18 (1) the part or product was lawfully possessed within the State
19 prior to the effective date of P.L. , c. (C.) (pending before
20 the Legislature as this bill) **1** **["], and the legal owner has obtained a**
21 **certificate of possession from the commissioner, as provided**
22 **pursuant to subsection c. of this section, within 180 days after the**
23 **effective date of P.L. , c. (C.) (pending before the**
24 **Legislature as this bill)"]**¹;

25 (2) the part or product is being used or displayed for scientific,
26 zoological, or educational purposes **1** **["as authorized by the**
27 **commissioner pursuant to State law"]**¹ ;

28 (3) the part or product is conveyed directly to a devisee, heir, or
29 beneficiary, provided that **1** **[": (a)"]**¹ the part or product was lawfully
30 possessed by the decedent prior to the effective date of this section;
31 **1** **["(b) after transfer to the devisee, heir, or beneficiary, the part or**
32 **product is not thereafter sold, offered for sale, or otherwise**
33 **distributed to any private party; and (c) the devisee, heir, or**
34 **beneficiary obtains a certificate of possession from the**
35 **commissioner, as provided pursuant to subsection c. of this section,**
36 **within 180 days after obtaining the part or product;"]**¹ or

37 (4) the person lawfully possesses any ivory, ivory product,
38 rhinoceros horn, or rhinoceros horn product in compliance with
39 section 3 of P.L.2014, c.22 (C.23:2A-13.3).

40 c. The department **1** **["shall"]** **may**¹ adopt, pursuant to the
41 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
42 seq.), such rules and regulations as may be necessary to implement
43 this section. **1** **["These rules and regulations shall include a process**
44 **for applying for the certificate of possession required pursuant to**
45 **subsection b. of this section. The department may charge a**
46 **reasonable fee to defray the cost of issuing a certificate of**
47 **possession.**

1 d. Notwithstanding the penalties provided for in section 10 of
2 P.L.1973, c.309 (C.23:2A-10), any person who possesses a part or
3 product in violation of this section and who fails to obtain a
4 certificate of possession within 180 days after the effective date of
5 this section, shall be subject only to a civil penalty of up to \$25 for
6 each day that person possesses the prohibited part or product
7 without a certificate, to be collected in a civil action by a summary
8 proceeding under the "Penalty Enforcement Law of 1999,"
9 P.L.1999, c.274 (C.2A:58-10 et seq.).

10 e. d.¹ Nothing in this section shall be construed to preclude a
11 person violating this section from also being liable for any
12 applicable violation of P.L.2014, c.22 (C.23:2A-13.1 et seq.),
13 R.S.23:4-27, or any other State law, rule, or regulation.

14 f.¹ e.¹ As used in this section:

15 "Beneficiary" has the same meaning as that term is defined in
16 N.J.S.3B:1-1.

17 " Big five Specified¹ African species" means the following
18 species of wildlife: (1) African elephant (*Loxodonta Africana*); (2)
19 African leopard (*Panthera pardus*); (3) African lion (*Panthera leo*);
20 (4) black rhinoceros (*Diceros bicornis*) ^{1;}¹ and (5)¹ white
21 rhinoceros (*Ceratotherium simum*) ¹ ; and (5) Cape buffalo
22 (*Syncerus caffer*)¹ .

23 "Devisee" has the same meaning as that term is defined in
24 N.J.S.3B:1-1.

25 "Heir" has the same meaning as that term is defined in
26 N.J.S.3B:1-1.

27

28 7. (New section) Notwithstanding the provisions of section 6
29 of P.L.1973, c.309 (C.23:2A-6), section 6 of P.L. , c. (C.)
30 (pending before the Legislature as this bill), or any other State law,
31 or any rule or regulation adopted pursuant thereto, to the contrary,
32 unless such activity is otherwise prohibited by federal law, a person
33 may possess, transport, import, export, process, sell or offer for
34 sale, or ship wildlife ¹, or part or product thereof: (1)¹ for purposes
35 related to the conduct of biomedical research at a facility licensed
36 by the United States Department of Agriculture pursuant to the
37 federal "Animal Welfare Act," 7 U.S.C. s.2131 et seq., or at a
38 facility conducting biomedical research in compliance with the
39 "Public Health Service Policy on Humane Care and Use of
40 Laboratory Animals" issued by the United States National
41 Institutes of Health ¹; (2) in accordance with the terms of any
42 federal permit or permit issued under the laws or regulations of
43 another state, if the wildlife, or part or product thereof, enters the
44 State from another state or from a point outside the territorial limits
45 of the United States, and is transported across the State destined for
46 a point beyond the State; or (3) in the course of undertaking any law
47 enforcement activities pursuant to federal or State law, or other
48 mandatory duties required by federal or State law, if the person is

1 an employee or agent of the federal government, the State
2 government, or a bi-state authority¹ .

3

4 8. Section 7 of P.L.1973, c.309 (C.23:2A-7) is amended to read
5 as follows:

6 7. a. The commissioner shall establish such programs,
7 including acquisition of land or aquatic habitats, as are deemed
8 necessary for the conservation and management of nongame and
9 endangered species of wildlife.

10 b. In carrying out programs authorized **【by this act】** P.L.1973,
11 c.309 (C.23:2A-1 et seq.), the commissioner may enter into
12 agreements with **【Federal】** federal agencies, with political
13 subdivisions of the State, or with private persons for administration
14 and management of any area established under this section or
15 utilized for management of nongame or endangered species of
16 wildlife.

17 c. With the approval of the Governor, the commissioner may
18 cooperate with and receive money from the **【Federal Government,**
19 **or】** federal government, any county or municipal government, or
20 **【from】** private sources for the purposes of **【this act】** P.L.1973,
21 c.309 (C.23:2A-1 et seq.). The commissioner may establish a
22 separate fund from these contributions for the support of nongame
23 and endangered species programs and for the purposes of P.L.1973,
24 c.309 (C.23:2A-1 et seq.).

25 d. The commissioner may authorize, under such terms and
26 conditions as may be prescribed by rule or regulation, the taking,
27 possession, transportation, importation, exportation, sale or offer for
28 sale, or shipment of nongame species and wildlife which appear on
29 the State list of endangered species for scientific, zoological, or
30 educational purposes, for propagation in captivity of such wildlife,
31 or for other special purposes.

32 e. The commissioner shall appoint a committee of experts to
33 advise and assist the commissioner in carrying out the intent of
34 **【this act】** P.L.1973, c.309 (C.23:2A-1 et seq.). **【Said】** These
35 experts shall include persons actively involved in the conservation
36 of wildlife.

37 (cf: P.L.1981, c.281, s.5)

38

39 9. R.S.23:4-27 is amended to read as follows:

40 23:4-27. a. No person shall sell or purchase wildlife, except as
41 authorized pursuant to this section or any other law or as may be
42 authorized by rule or regulation adopted by the division pursuant to
43 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
44 seq.).

45 b. The provisions of subsection a. of this section shall not
46 apply to the sale or purchase of wildlife authorized or regulated by
47 chapter 2A or 2B of this title, R.S.23:3-28 through R.S.23:3-39,
48 section 4 of P.L.1970, c.247 (C.23:3-65), R.S.23:4-50, R.S.23:5-2,

1 or Title 50 of the Revised Statutes, or any rule or regulation adopted
2 pursuant thereto, provided that the wildlife was taken and possessed
3 in a lawful manner.

4 c. Unless prohibited or restricted by rule or regulation adopted
5 by the division, the raw or processed hide of the white-tailed deer
6 (*Odocoileus virginianus*), the tail of the white-tailed deer, the
7 portion of the front leg of a white-tailed deer limited to the carpal,
8 metacarpal, and phalange bones, or the portion of the hind leg of a
9 white-tailed deer limited to the tarsus, metatarsus, and phalange
10 bones may be sold or purchased, provided that those parts or
11 products are from a white-tailed deer that was taken and possessed
12 in a lawful manner.

13 d. Notwithstanding the provisions of subsection a. of this
14 section to the contrary:

15 (1) the dead body or any part or product thereof of the following
16 wildlife may be sold or purchased, provided that the wildlife was
17 taken and possessed in a lawful manner:

18	Virginia Opossum	<i>Didelphis virginiana</i>
19	Beaver	<i>Castor canadensis</i>
20	Muskrat	<i>Ondatra zibethicus</i>
21	Nutria	<i>Myocaster coypus</i>
22	Coyote	<i>Canis latrans</i>
23	Red Fox	<i>Vulpes vulpes</i>
24	Gray Fox	<i>Urocyon cinereoargenteus</i>
25	Raccoon	<i>Procyon lotor</i>
26	Long Tail Weasel	<i>Mustela frenata</i>
27	Short Tail Weasel	<i>Mustela erminea</i>
28	Mink	<i>Mustela vison</i>
29	Striped Skunk	<i>Mephitis mephitis</i>
30	River Otter	<i>Lutra canadensis</i>

31 (2) wildlife not native to this State that originated from a state or
32 other jurisdiction where it is legal to sell or purchase that wildlife
33 and the wildlife was sold or purchased in accordance with the laws
34 of that state or other jurisdiction, may be sold or purchased in this
35 State unless prohibited by federal law, rule, or regulation, "The
36 Endangered and Nongame Species Conservation Act," P.L.1973,
37 c.309 (C.23:2A-1 et seq.), P.L.2014, c.22 (C.23:2A-13.1 et seq.), or
38 any other State law, rule, or regulation; provided that the wildlife is
39 labeled with the state or other jurisdiction of origin, the name and
40 address of the exporter, and all applicable permit numbers until the
41 expected final retail transaction has been made.

42 e. The division shall adopt, pursuant to the "Administrative
43 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules
44 and regulations as may be necessary to implement this section and
45 to otherwise provide for the control and regulation of the sale and
46 purchase of wildlife, including but not limited to wildlife not
47 specifically listed in this section.

1 f. In addition to any penalties that may be prescribed by any
2 other applicable law:

3 (1) a person who violates this section shall be:

4 (a) subject to a civil penalty of not less than \$200 and not more
5 than \$1,000 for the first offense, and not less than \$500 and not
6 more than \$3,000 for each subsequent offense. If the violation
7 involves the sale or purchase of a black bear (*Ursus americanus*),
8 turkey (*Meleagris gallapavo*), white-tailed deer (*Odocoileus*
9 *virginianus*), bobcat (*Felis rufus*), or illegally taken river otter
10 (*Lutra canadensis*), the civil penalty shall be not less than \$1,000
11 and not more than \$2,000 for the first offense, and not less than
12 \$1,500 and not more than \$3,000 for each subsequent offense; and

13 (b) assessed the replacement value of the animal, as prescribed
14 by section 10 of P.L.1990, c.29 (C.23:3-22.2); and

15 (2) a person who purposely violates this section when the total
16 value of the sale or purchase is:

17 (a) less than \$200 shall be guilty of a disorderly persons
18 offense;

19 (b) \$200 or more, but less than \$500, shall be guilty of a crime
20 of the fourth degree;

21 (c) \$500 or more shall be guilty of a crime of the third degree.

22 g. For the purposes of this section, "sell or purchase" means to
23 sell or offer for sale, possess for sale, purchase or agree to purchase,
24 receive compensation, barter or offer to barter, trade or offer to
25 trade, or transfer or offer to transfer, or conspire for any of those
26 purposes.

27 (cf: P.L.1997, c.291, s.2)

28

29 10. This act shall take effect immediately.

30

31

32

33

34 Prohibits possession, transport, import, export, processing, sale,
35 or shipment of parts and products of certain animal species
36 threatened with extinction.

SENATE, No. 977

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 4, 2016

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Assemblyman TIM EUSTACE

District 38 (Bergen and Passaic)

Assemblyman JAMEL C. HOLLEY

District 20 (Union)

Assemblyman REED GUSCIORA

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

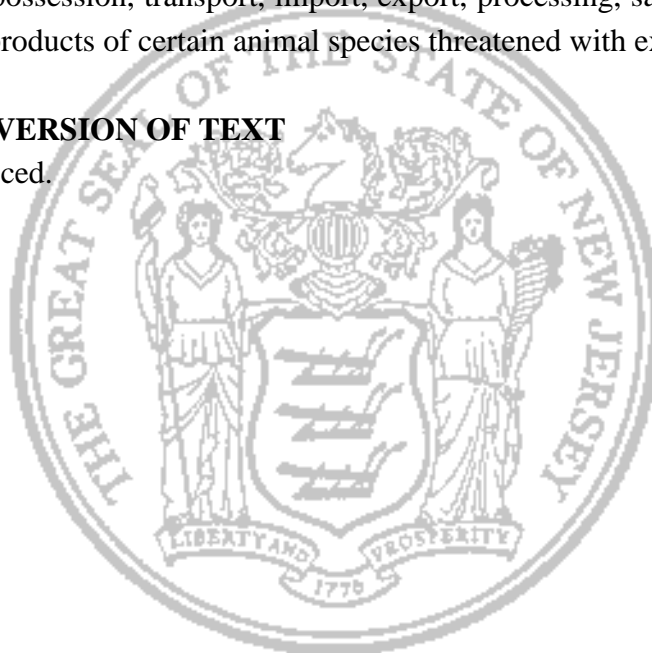
Senators Whelan, Allen and Assemblywoman Jasey

SYNOPSIS

Prohibits possession, transport, import, export, processing, sale, or shipment of parts and products of certain animal species threatened with extinction.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/15/2016)

1 AN ACT concerning certain animal species threatened with
2 extinction, amending and supplementing P.L.1973, c.309, and
3 amending R.S.23:4-27.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 2 of P.L.1973, c.309 (C.23:2A-2) is amended to read
9 as follows:

10 2. The Legislature hereby finds and declares the following:

11 a. That it is the policy of this State to manage all forms of
12 wildlife to insure their continued participation in the ecosystem;

13 b. That species or subspecies of wildlife indigenous to the State
14 which may be found to be endangered should be accorded special
15 protection in order to maintain and to the extent possible enhance
16 their numbers; and

17 c. That the State should assist in the protection of species or
18 subspecies of wildlife which are deemed to be endangered or
19 threatened elsewhere by regulating the taking, possession,
20 transportation, importation, exportation, processing, sale or offer for
21 sale, or shipment within this State of species or subspecies of
22 wildlife including those on any **【Federal】** federal endangered or
23 threatened species list, and those threatened with extinction due to
24 the trafficking of their parts and products.

25 (cf: P.L.1973, c.309, s.2)

26
27 2. Section 3 of P.L.1973, c.309 (C.23:2A-3) is amended to read
28 as follows:

29 3. For the purposes of **【this act】** P.L.1973, c. 309 (C.23:2A-1 et
30 seq.), unless the context clearly requires a different meaning:

31 **【a.】** "Commissioner" means the Commissioner of the
32 Department of Environmental Protection;

33 **【b.】** "Department" means the Department of Environmental
34 Protection;

35 **【c.】** "Endangered species" means any species or subspecies of
36 wildlife whose prospects of survival or recruitment are in jeopardy
37 or are likely within the foreseeable future to become so due to any
38 of the following factors: (1) the destruction, drastic modification,
39 or severe curtailment of its habitat, or (2) its over-utilization for
40 scientific, commercial or sporting purposes, or (3) the effect on it of
41 disease, pollution, or predation, or (4) other natural or manmade
42 factors affecting its prospects of survival or recruitment within the
43 State, or (5) any combination of the foregoing factors. The term
44 shall also be deemed to include any species or subspecies of
45 wildlife appearing on any **【Federal】** federal endangered or
46 threatened species list;

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 **[d.]** "Nongame species" means any wildlife for which a legal
2 hunting or trapping season has not been established or which has
3 not been classified as an endangered species by statute or regulation
4 of this State;

5 **[e.]** "Take" means to harass, hunt, capture, kill, or attempt to
6 harass, hunt, capture, or kill, wildlife;

7 **[f.]** "Wildlife" means any wild mammal, bird, reptile,
8 amphibian, fish, mollusk, crustacean or other wild animal or any
9 part, product, egg or offspring or the dead body or parts thereof.
10 (cf: P.L.1981, c.281, s.1)

11

12 3. Section 4 of P.L.1973, c.309 (C.23:2A-4) is amended to read
13 as follows:

14 4. a. The commissioner shall conduct investigations
15 concerning wildlife indigenous to the State in order to develop
16 information relating to populations, distribution, habitat needs,
17 limiting factors and other biological and ecological data to
18 determine management measures necessary for their continued
19 ability to sustain themselves successfully. On the basis of such
20 determinations the commissioner shall develop management
21 programs which shall be designed to insure the continued ability of
22 wildlife to perpetuate themselves successfully.

23 b. On the basis of such investigations of wildlife and other
24 available scientific and commercial data the commissioner may by
25 rule or regulation promulgate a list of those species and subspecies
26 of wildlife indigenous to the State which are determined to be
27 endangered, giving their common and scientific names by species
28 and subspecies. The commissioner shall periodically review the
29 State list of endangered species and may by regulation amend the
30 list making such additions or deletions as are deemed appropriate.

31 (cf: P.L.1981, c.511, s.14)

32

33 4. Section 5 of P.L.1973, c.309 (C.23:2A-5) is amended to read
34 as follows:

35 5. a. The commissioner shall have the power to formulate and
36 promulgate, adopt, amend and repeal rules and regulations, limiting,
37 controlling and prohibiting the taking, possession, transportation,
38 importation, exportation, sale or offer for sale, or shipment of any
39 nongame species or any wildlife on the State list of endangered
40 species **[list], and for the purposes of implementing section 6 of**
41 P.L. , c. (C.) (pending before the Legislature as this bill).
42 Such rules and regulations shall be designed to promote the public
43 health, safety and welfare and shall be adopted in accordance with
44 the "Administrative Procedure **[Act]**" (P.L.1968, c.410, C.52:14B-1
45 et seq.) **[Act,** P.L.1968, c.410 (C.52:14B-1 et seq.).

46 b. The commissioner is authorized to conduct periodic
47 inspections in order to determine compliance with the rules and
48 regulations adopted pursuant to this section, and, to that end, is

1 authorized to charge and collect fees in an amount sufficient to
2 cover the costs of the inspections and services performed pursuant
3 to **【this amendatory act】** P.L.1973, c.309 (C.23:2A-1 et seq.). Such
4 fees shall be devoted entirely and exclusively to carrying out the
5 purposes and provisions of **【this amendatory act】** P.L.1973,
6 c.309 (C.23:2A-1 et seq.). Inspection fees shall be established in
7 accordance with a fee schedule adopted by the department as a rule
8 and regulation pursuant to the provisions of the **【aforesaid】**
9 "Administrative Procedure Act."
10 (cf: P.L.1981, c.281, s.2)

11

12 5. Section 6 of P.L.1973, c.309 (C.23:2A-6) is amended to read
13 as follows:

14 6. Except as otherwise provided in **【this act】** P.L.1973, c.309
15 (C.23:2A-1 et seq.) or the rules or regulations adopted thereunder,
16 no person shall take, possess, transport, import, export, process, sell
17 or offer for sale, or ship, and no common or contract carrier shall
18 knowingly transport or receive for shipment, any species or
19 subspecies of wildlife appearing on the following lists: (1) the list
20 of wildlife determined to be endangered by the commissioner
21 pursuant to **【this act】** P.L.1973, c.309 (C.23:2A-1 et seq.); (2) the
22 list of nongame species regulated pursuant to **【this act】** P.L.1973,
23 c.309 (C.23:2A-1 et seq.); **【and】** and (3) any **【Federal】** federal list
24 of endangered or threatened species. Any species or subspecies of
25 wildlife appearing on any of the foregoing lists which enters the
26 State from another state or from a point outside the territorial limits
27 of the United States and which is transported across the State
28 destined for a point beyond the State may be so entered and
29 transported without restriction in accordance with the terms of any
30 **【Federal】** federal permit or permit issued under the laws or
31 regulations of another state, provided that such transport is not
32 prohibited by section 6 of P.L. , c. (C.) (pending before the
33 Legislature as this bill), section 3 of P.L.2014, c.22 (C.23:2A-13.3),
34 or any other applicable law.

35 (cf: P.L.1981, c.281, s.4)

36

37 6. (New section) a. Notwithstanding the provisions of section
38 6 of P.L.1973, c.309 (C.23:2A-6) or any other law, or any rule or
39 regulation adopted pursuant thereto, to the contrary, no person shall
40 possess, transport, import, export, process, sell or offer for sale, or
41 ship, and no common or contract carrier shall knowingly transport
42 or receive for shipment any part or product of: (1) any big five
43 African species; or (2) any species or subspecies of elephant,
44 rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, or
45 ray listed: (a) in Appendix I or Appendix II of the Convention on
46 International Trade in Endangered Species of Wild Fauna and
47 Flora; or (b) as critically endangered, endangered, or vulnerable on

1 the International Union for Conservation of Nature and Natural
2 Resources Red List of Threatened Species.

3 b. Unless such activity is prohibited by federal or other State
4 law, rule, or regulation, the following exceptions and defenses shall
5 apply to the prohibition in subsection a. of this section:

6 (1) the part or product was lawfully possessed within the State
7 prior to the effective date of P.L. , c. (C.) (pending before
8 the Legislature as this bill), and the legal owner has obtained a
9 certificate of possession from the commissioner, as provided
10 pursuant to subsection c. of this section, within 180 days after the
11 effective date of P.L. , c. (C.) (pending before the
12 Legislature as this bill);

13 (2) the part or product is being used or displayed for scientific,
14 zoological, or educational purposes as authorized by the
15 commissioner pursuant to State law;

16 (3) the part or product is conveyed directly to a devisee, heir, or
17 beneficiary, provided that: (a) the part or product was lawfully
18 possessed by the decedent prior to the effective date of this section;
19 (b) after transfer to the devisee, heir, or beneficiary, the part or
20 product is not thereafter sold, offered for sale, or otherwise
21 distributed to any private party; and (c) the devisee, heir, or
22 beneficiary obtains a certificate of possession from the
23 commissioner, as provided pursuant to subsection c. of this section,
24 within 180 days after obtaining the part or product; or

25 (4) the person lawfully possesses any ivory, ivory product,
26 rhinoceros horn, or rhinoceros horn product in compliance with
27 section 3 of P.L.2014, c.22 (C.23:2A-13.3).

28 c. The department shall adopt, pursuant to the "Administrative
29 Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), such rules
30 and regulations as may be necessary to implement this section.
31 These rules and regulations shall include a process for applying for
32 the certificate of possession required pursuant to subsection b. of
33 this section. The department may charge a reasonable fee to defray
34 the cost of issuing a certificate of possession.

35 d. Notwithstanding the penalties provided for in section 10 of
36 P.L.1973, c.309 (C.23:2A-10), any person who possesses a part or
37 product in violation of this section and who fails to obtain a
38 certificate of possession within 180 days after the effective date of
39 this section, shall be subject only to a civil penalty of up to \$25 for
40 each day that person possesses the prohibited part or product
41 without a certificate, to be collected in a civil action by a summary
42 proceeding under the "Penalty Enforcement Law of 1999,"
43 P.L.1999, c.274 (C.2A:58-10 et seq.).

44 e. Nothing in this section shall be construed to preclude a
45 person violating this section from also being liable for any
46 applicable violation of P.L.2014, c.22 (C.23:2A-13.1 et seq.),
47 R.S.23:4-27, or any other State law, rule, or regulation.

48 f. As used in this section:

1 “Beneficiary” has the same meaning as that term is defined in
2 N.J.S.3B:1-1.

3 “Big five African species” means the following species of
4 wildlife: (1) African elephant (*Loxodonta Africana*); (2) African
5 leopard (*Panthera pardus*); (3) African lion (*Panthera leo*); (4)
6 black rhinoceros (*Diceros bicornis*) and white rhinoceros
7 (*Ceratotherium simum*); and (5) Cape buffalo (*Syncerus caffer*).

8 “Devisee” has the same meaning as that term is defined in
9 N.J.S.3B:1-1.

10 “Heir” has the same meaning as that term is defined in
11 N.J.S.3B:1-1.

12

13 7. (New section) Notwithstanding the provisions of section 6 of
14 P.L.1973, c.309 (C.23:2A-6), section 6 of P.L. , c. (C.)
15 (pending before the Legislature as this bill), or any other State law,
16 or any rule or regulation adopted pursuant thereto, to the contrary,
17 unless such activity is otherwise prohibited by federal law, a person
18 may possess, transport, import, export, process, sell or offer for
19 sale, or ship wildlife for purposes related to the conduct of
20 biomedical research at a facility licensed by the United States
21 Department of Agriculture pursuant to the federal “Animal Welfare
22 Act,” 7 U.S.C. s.2131 et seq., or at a facility conducting biomedical
23 research in compliance with the “Public Health Service Policy on
24 Humane Care and Use of Laboratory Animals” issued by the United
25 States National Institutes of Health.

26

27 8. Section 7 of P.L.1973, c.309 (C.23:2A-7) is amended to read
28 as follows:

29 7. a. The commissioner shall establish such programs,
30 including acquisition of land or aquatic habitats, as are deemed
31 necessary for the conservation and management of nongame and
32 endangered species of wildlife.

33 b. In carrying out programs authorized **【by this act】** P.L.1973,
34 c.309 (C.23:2A-1 et seq.), the commissioner may enter into
35 agreements with **【Federal】** federal agencies, with political
36 subdivisions of the State, or with private persons for administration
37 and management of any area established under this section or
38 utilized for management of nongame or endangered species of
39 wildlife.

40 c. With the approval of the Governor, the commissioner may
41 cooperate with and receive money from the **【Federal Government,**
42 **or】** federal government, any county or municipal government, or
43 **【from】** private sources for the purposes of **【this act】** P.L.1973,
44 c. 309 (C.23:2A-1 et seq.). The commissioner may establish a
45 separate fund from these contributions for the support of nongame
46 and endangered species programs and for the purposes of P.L.1973,
47 c. 309 (C.23:2A-1 et seq.).

1 d. The commissioner may authorize, under such terms and
2 conditions as may be prescribed by rule or regulation, the taking,
3 possession, transportation, importation, exportation, sale or offer for
4 sale, or shipment of nongame species and wildlife which appear on
5 the State list of endangered species for scientific, zoological, or
6 educational purposes, for propagation in captivity of such wildlife,
7 or for other special purposes.

8 e. The commissioner shall appoint a committee of experts to
9 advise and assist the commissioner in carrying out the intent of
10 **【this act】** P.L.1973, c.309 (C.23:2A-1 et seq.). **【Said】** These
11 experts shall include persons actively involved in the conservation
12 of wildlife.

13 (cf: P.L.1981, c.281, s.5)

14

15 9. R.S.23:4-27 is amended to read as follows:

16 23:4-27. a. No person shall sell or purchase wildlife, except as
17 authorized pursuant to this section or any other law or as may be
18 authorized by rule or regulation adopted by the division pursuant to
19 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
20 seq.).

21 b. The provisions of subsection a. of this section shall not
22 apply to the sale or purchase of wildlife authorized or regulated by
23 chapter 2A or 2B of this title, R.S.23:3-28 through R.S.23:3-39,
24 section 4 of P.L.1970, c.247 (C.23:3-65), R.S.23:4-50, R.S.23:5-2,
25 or Title 50 of the Revised Statutes, or any rule or regulation adopted
26 pursuant thereto, provided that the wildlife was taken and possessed
27 in a lawful manner.

28 c. Unless prohibited or restricted by rule or regulation adopted
29 by the division, the raw or processed hide of the white-tailed deer
30 (*Odocoileus virginianus*), the tail of the white-tailed deer, the
31 portion of the front leg of a white-tailed deer limited to the carpal,
32 metacarpal, and phalange bones, or the portion of the hind leg of a
33 white-tailed deer limited to the tarsus, metatarsus, and phalange
34 bones may be sold or purchased, provided that those parts or
35 products are from a white-tailed deer that was taken and possessed
36 in a lawful manner.

37 d. Notwithstanding the provisions of subsection a. of this
38 section to the contrary:

39 (1) the dead body or any part or product thereof of the following
40 wildlife may be sold or purchased, provided that the wildlife was
41 taken and possessed in a lawful manner:

42 Virginia Opossum	<i>Didelphis virginiana</i>
43 Beaver	<i>Castor canadensis</i>
44 Muskrat	<i>Ondatra zibethicus</i>
45 Nutria	<i>Myocaster coypus</i>
46 Coyote	<i>Canis latrans</i>
47 Red Fox	<i>Vulpes vulpes</i>
48 Gray Fox	<i>Urocyon cinereoargenteus</i>

1	Raccoon	Procyon lotor
2	Long Tail Weasel	Mustela frenata
3	Short Tail Weasel	Mustela erminea
4	Mink	Mustela vison
5	Striped Skunk	Mephitis mephitis
6	River Otter	Lutra canadensis

7 (2) wildlife not native to this State that originated from a state or
 8 other jurisdiction where it is legal to sell or purchase that wildlife
 9 and the wildlife was sold or purchased in accordance with the laws
 10 of that state or other jurisdiction, may be sold or purchased in this
 11 State unless prohibited by federal law, rule, or regulation, “The
 12 Endangered and Nongame Species Conservation Act,” P.L.1973,
 13 c.309 (C.23:2A-1 et seq.), P.L.2014, c.22 (C.23:2A-13.1 et seq.), or
 14 any other State law, rule, or regulation; provided that the wildlife is
 15 labeled with the state or other jurisdiction of origin, the name and
 16 address of the exporter, and all applicable permit numbers until the
 17 expected final retail transaction has been made.

18 e. The division shall adopt, pursuant to the "Administrative
 19 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules
 20 and regulations as may be necessary to implement this section and
 21 to otherwise provide for the control and regulation of the sale and
 22 purchase of wildlife, including but not limited to wildlife not
 23 specifically listed in this section.

24 f. In addition to any penalties that may be prescribed by any
 25 other applicable law:

26 (1) a person who violates this section shall be:

27 (a) subject to a civil penalty of not less than \$200 and not more
 28 than \$1,000 for the first offense, and not less than \$500 and not
 29 more than \$3,000 for each subsequent offense. If the violation
 30 involves the sale or purchase of a black bear (*Ursus americanus*),
 31 turkey (*Meleagris gallapavo*), white-tailed deer (*Odocoileus*
 32 *virginianus*), bobcat (*Felis rufus*), or illegally taken river otter
 33 (*Lutra canadensis*), the civil penalty shall be not less than \$1,000
 34 and not more than \$2,000 for the first offense, and not less than
 35 \$1,500 and not more than \$3,000 for each subsequent offense; and

36 (b) assessed the replacement value of the animal, as prescribed
 37 by section 10 of P.L.1990, c.29 (C.23:3-22.2); and

38 (2) a person who purposely violates this section when the total
 39 value of the sale or purchase is:

40 (a) less than \$200 shall be guilty of a disorderly persons
 41 offense;

42 (b) \$200 or more, but less than \$500, shall be guilty of a crime
 43 of the fourth degree;

44 (c) \$500 or more shall be guilty of a crime of the third degree.

45 g. For the purposes of this section, “sell or purchase” means to
 46 sell or offer for sale, possess for sale, purchase or agree to purchase,
 47 receive compensation, barter or offer to barter, trade or offer to

1 trade, or transfer or offer to transfer, or conspire for any of those
2 purposes.

3 (cf: P.L.1997, c.291, s.2)

4

5 10. This act shall take effect immediately.

6

7

8

STATEMENT

9

10 This bill would prohibit the possession, transport, import, export,
11 processing, sale, or shipment of parts and products of: (1) any big
12 five African species; or (2) any species or subspecies of elephant,
13 rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, or
14 ray listed: (a) in Appendix I or Appendix II of the Convention on
15 International Trade in Endangered Species of Wild Fauna and
16 Flora; or (b) as critically endangered, endangered, or vulnerable on
17 the International Union for Conservation of Nature and Natural
18 Resources Red List of Threatened Species. The big five African
19 species are the African elephant, African leopard, African lion,
20 black and white rhinoceros, and Cape buffalo.

21 Under the bill, a person would not be liable for a violation if: (1)
22 the part or product was lawfully possessed in the State prior to the
23 effective date of the bill, and the legal owner obtains a certificate of
24 possession from the commissioner; (2) the part or product is being
25 used or displayed for scientific, zoological, or education purposes;
26 (3) the part or product is conveyed directly to a devisee, heir, or
27 beneficiary, provided: (a) the part or product was lawfully
28 possessed by the decedent prior to the effective date of the bill, (b)
29 after transfer, the part or product is not thereafter sold, offered for
30 sale, or otherwise distributed, and (c) the devisee, heir, or
31 beneficiary obtains a certificate of possession; and (4) the person
32 lawfully possesses any ivory, ivory product, rhinoceros horn, or
33 rhinoceros horn product in compliance with P.L.2014, c.22.

34 A person who violates the bill is subject to the penalties set forth
35 in the "The Endangered and Nongame Species Conservation Act."
36 Specifically, a violator is guilty of a crime of the third degree, and
37 is subject to a criminal fine of between \$5,000 and \$50,000, a civil
38 penalty of up to \$25,000, and a civil administrative penalty of up to
39 \$25,000 per day of violation, as well as other penalties.
40 Notwithstanding these penalties, a person who possesses wildlife in
41 violation of the bill and who fails to obtain a certificate of
42 possession within 180 days after the effective date, is subject only
43 to a civil penalty of up to \$25 for each day that person possesses the
44 prohibited wildlife without a certificate.

45 The bill also provides that, notwithstanding the prohibitions in
46 the bill and the act to the contrary, unless prohibited by federal law,
47 a person may possess, transport, import, export, process, sell or
48 offer for sale, or ship wildlife for purposes related to the conduct of

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1 biomedical research at a facility licensed by the U.S. Department of
2 Agriculture pursuant to the federal “Animal Welfare Act” or at a
3 facility conducting biomedical research in compliance with the U.S.
4 National Institutes of Health’s “Public Health Service Policy on
5 Humane Care and Use of Laboratory Animals.”

6 The bill clarifies that the prohibitions in section 6 of P.L.1973,
7 c.309 apply to species appearing on the federal list of threatened
8 species. The bill also clarifies that the importation of any species
9 listed in section 6 of P.L.1973, c.309 is also prohibited.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

SENATE, No. 977

STATE OF NEW JERSEY

DATED: MARCH 3, 2016

The Assembly Environment and Solid Waste Committee reports favorably Senate Bill No. 977.

This bill prohibits the possession, transport, import, export, processing, sale, or shipment of the parts or products of: (1) any big five African species; or (2) any species or subspecies of elephant, rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, or ray listed (a) in Appendix I or Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, or (b) as critically endangered, endangered, or vulnerable on the International Union for Conservation of Nature and Natural Resources Red List of Threatened Species. The big five African species are the African elephant, African leopard, African lion, black rhinoceros and white rhinoceros, and Cape buffalo.

The bill exempts a person from liability for a violation if: (1) the animal part or product is lawfully possessed in the State prior to the effective date of the bill, and the legal owner obtains a certificate of possession from the Commissioner of Environmental Protection; (2) the animal part or product is being used or displayed for scientific, zoological, or educational purposes; (3) the animal part or product is conveyed directly to a devisee, heir, or beneficiary, provided (a) the animal part or product was lawfully possessed by the decedent prior to the effective date of the bill, (b) after transfer, the animal part or product is not thereafter sold, offered for sale, or otherwise distributed, and (c) the devisee, heir, or beneficiary obtains a certificate of possession; or (4) the person lawfully possesses any ivory, ivory product, rhinoceros horn, or rhinoceros horn product in compliance with P.L.2014, c.22.

A person who violates the bill is subject to the penalties set forth in the "The Endangered and Nongame Species Conservation Act." Specifically, a violator would be guilty of a crime of the third degree, and subject to a criminal fine of between \$5,000 and \$50,000, a civil penalty of up to \$25,000, and a civil administrative penalty of up to \$25,000 per day of violation, as well as other penalties. Notwithstanding these penalties, a person who possesses an animal part or product in violation of the bill and who fails to obtain a

certificate of possession within 180 days after the effective date, is subject to a civil penalty of up to \$25 for each day that person possesses the prohibited animal part or product without a certificate.

The bill provides that, notwithstanding the prohibitions in the bill and “The Endangered and Nongame Species Conservation Act” to the contrary, unless prohibited by federal law, a person may possess, transport, import, export, process, sell or offer for sale, or ship wildlife for purposes related to the conduct of biomedical research at a facility licensed by the United States Department of Agriculture pursuant to the federal “Animal Welfare Act” or at a facility conducting biomedical research in compliance with the United States National Institutes of Health’s “Public Health Service Policy on Humane Care and Use of Laboratory Animals.”

As reported by the committee, this bill is identical to Assembly Bill No. 2447 as also reported by the committee.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 977

STATE OF NEW JERSEY

DATED: JANUARY 28, 2016

The Senate Economic Growth Committee reports favorably Senate Bill No. 977.

As reported, this bill prohibits the possession, transport, import, export, processing, sale, or shipment of a part and product of: (1) any big five African species; or (2) any species or subspecies of elephant, rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, or ray listed: (a) in Appendix I or Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora; or (b) as critically endangered, endangered, or vulnerable on the International Union for Conservation of Nature and Natural Resources Red List of Threatened Species. The big five African species are the African elephant, African leopard, African lion, black and white rhinoceros, and Cape buffalo.

The bill exempts a person from liability for a violation if: (1) the animal part or product is lawfully possessed in the State prior to the effective date of the bill, and the legal owner obtains a certificate of possession from the Commissioner of the Department of Environmental Protection (commissioner); (2) the animal part or product is being used or displayed for scientific, zoological, or education purposes; (3) the animal part or product is conveyed directly to a devisee, heir, or beneficiary, provided: (a) the animal part or product was lawfully possessed by the decedent prior to the effective date of the bill, (b) after transfer, the animal part or product is not thereafter sold, offered for sale, or otherwise distributed, and (c) the devisee, heir, or beneficiary obtains a certificate of possession; and (4) the person lawfully possesses any ivory, ivory product, rhinoceros horn, or rhinoceros horn product.

A person who violates the bill is subject to the penalties set forth in the "The Endangered and Nongame Species Conservation Act." Specifically, a violator is guilty of a crime of the third degree, and is subject to a criminal fine of between \$5,000 and \$50,000, a civil penalty of up to \$25,000, and a civil administrative penalty of up to \$25,000 per day of violation, as well as other penalties. Notwithstanding these penalties, a person who possesses an animal part or product in violation of the bill and who fails to obtain a certificate of possession, within 180 days after the effective date, is

subject to a civil penalty of up to \$25 for each day that person possesses the prohibited animal part or product without a certificate.

The bill provides that, notwithstanding the prohibitions in the bill and the “The Endangered and Nongame Species Conservation Act” to the contrary, unless prohibited by federal law, a person may possess, transport, import, export, process, sell or offer for sale, or ship wildlife for purposes related to the conduct of biomedical research at a facility licensed by the United States Department of Agriculture pursuant to the federal “Animal Welfare Act” or at a facility conducting biomedical research in compliance with the United States National Institutes of Health’s “Public Health Service Policy on Humane Care and Use of Laboratory Animals.”

ASSEMBLY, No. 2447

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 4, 2016

Sponsored by:

Assemblyman TIM EUSTACE

District 38 (Bergen and Passaic)

Assemblyman JAMEL C. HOLLEY

District 20 (Union)

Assemblyman REED GUSCIORA

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Assemblywoman Jasey

SYNOPSIS

Prohibits possession, transport, import, export, processing, sale, or shipment of parts and products of certain animal species threatened with extinction.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/15/2016)

1 AN ACT concerning certain animal species threatened with
2 extinction, amending and supplementing P.L.1973, c.309, and
3 amending R.S.23:4-27.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 2 of P.L.1973, c.309 (C.23:2A-2) is amended to read
9 as follows:

10 2. The Legislature hereby finds and declares the following:

11 a. That it is the policy of this State to manage all forms of
12 wildlife to insure their continued participation in the ecosystem;

13 b. That species or subspecies of wildlife indigenous to the State
14 which may be found to be endangered should be accorded special
15 protection in order to maintain and to the extent possible enhance
16 their numbers; and

17 c. That the State should assist in the protection of species or
18 subspecies of wildlife which are deemed to be endangered or
19 threatened elsewhere by regulating the taking, possession,
20 transportation, importation, exportation, processing, sale or offer for
21 sale, or shipment within this State of species or subspecies of
22 wildlife including those on any **[Federal]** federal endangered or
23 threatened species list, and those threatened with extinction due to
24 the trafficking of their parts and products.

25 (cf: P.L.1973, c.309, s.2)

26
27 2. Section 3 of P.L.1973, c.309 (C.23:2A-3) is amended to read
28 as follows:

29 3. For the purposes of **[this act]** P.L.1973, c. 309 (C.23:2A-1 et
30 seq.), unless the context clearly requires a different meaning:

31 **[a.]** "Commissioner" means the Commissioner of the
32 Department of Environmental Protection;

33 **[b.]** "Department" means the Department of Environmental
34 Protection;

35 **[c.]** "Endangered species" means any species or subspecies of
36 wildlife whose prospects of survival or recruitment are in jeopardy
37 or are likely within the foreseeable future to become so due to any
38 of the following factors: (1) the destruction, drastic modification,
39 or severe curtailment of its habitat, or (2) its over-utilization for
40 scientific, commercial or sporting purposes, or (3) the effect on it of
41 disease, pollution, or predation, or (4) other natural or manmade
42 factors affecting its prospects of survival or recruitment within the
43 State, or (5) any combination of the foregoing factors. The term
44 shall also be deemed to include any species or subspecies of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 wildlife appearing on any **【Federal】** federal endangered or
2 threatened species list;

3 **【d.】** "Nongame species" means any wildlife for which a legal
4 hunting or trapping season has not been established or which has
5 not been classified as an endangered species by statute or regulation
6 of this State;

7 **【e.】** "Take" means to harass, hunt, capture, kill, or attempt to
8 harass, hunt, capture, or kill, wildlife;

9 **【f.】** "Wildlife" means any wild mammal, bird, reptile,
10 amphibian, fish, mollusk, crustacean or other wild animal or any
11 part, product, egg or offspring or the dead body or parts thereof.
12 (cf: P.L.1981, c.281, s.1)

13

14 3. Section 4 of P.L.1973, c.309 (C.23:2A-4) is amended to read
15 as follows:

16 4. a. The commissioner shall conduct investigations concerning
17 wildlife indigenous to the State in order to develop information
18 relating to populations, distribution, habitat needs, limiting factors
19 and other biological and ecological data to determine management
20 measures necessary for their continued ability to sustain themselves
21 successfully. On the basis of such determinations the commissioner
22 shall develop management programs which shall be designed to
23 insure the continued ability of wildlife to perpetuate themselves
24 successfully.

25 b. On the basis of such investigations of wildlife and other
26 available scientific and commercial data the commissioner may by
27 rule or regulation promulgate a list of those species and subspecies
28 of wildlife indigenous to the State which are determined to be
29 endangered, giving their common and scientific names by species
30 and subspecies. The commissioner shall periodically review the
31 State list of endangered species and may by regulation amend the
32 list making such additions or deletions as are deemed appropriate.

33 (cf: P.L.1981, c.511, s.14)

34

35 4. Section 5 of P.L.1973, c.309 (C.23:2A-5) is amended to read
36 as follows:

37 5. a. The commissioner shall have the power to formulate and
38 promulgate, adopt, amend and repeal rules and regulations, limiting,
39 controlling and prohibiting the taking, possession, transportation,
40 importation, exportation, sale or offer for sale, or shipment of any
41 nongame species or any wildlife on the State list of endangered
42 species **【list】**, and for the purposes of implementing section 6 of
43 P.L. , c. (C.) (pending before the Legislature as this bill).
44 Such rules and regulations shall be designed to promote the public
45 health, safety and welfare and shall be adopted in accordance with
46 the "Administrative Procedure **【Act】** (P.L.1968, c.410, C.52:14B-1
47 et seq.) **【 Act,】** P.L.1968, c.410 (C.52:14B-1 et seq.).

1 b. The commissioner is authorized to conduct periodic
2 inspections in order to determine compliance with the rules and
3 regulations adopted pursuant to this section, and, to that end, is
4 authorized to charge and collect fees in an amount sufficient to
5 cover the costs of the inspections and services performed pursuant
6 to **[this amendatory act]** P.L.1973, c.309 (C.23:2A-1 et seq.). Such
7 fees shall be devoted entirely and exclusively to carrying out the
8 purposes and provisions of **[this amendatory act]** P.L.1973,
9 c.309 (C.23:2A-1 et seq.). Inspection fees shall be established in
10 accordance with a fee schedule adopted by the department as a rule
11 and regulation pursuant to the provisions of the **[aforesaid]**
12 "Administrative Procedure Act."

13 (cf: P.L.1981, c.281, s.2)

14

15 5. Section 6 of P.L.1973, c.309 (C.23:2A-6) is amended to read
16 as follows:

17 6. Except as otherwise provided in **[this act]** P.L.1973, c.309
18 (C.23:2A-1 et seq.) or the rules or regulations adopted thereunder,
19 no person shall take, possess, transport, import, export, process, sell
20 or offer for sale, or ship, and no common or contract carrier shall
21 knowingly transport or receive for shipment, any species or
22 subspecies of wildlife appearing on the following lists: (1) the list
23 of wildlife determined to be endangered by the commissioner
24 pursuant to **[this act]** P.L.1973, c.309 (C.23:2A-1 et seq.); (2) the
25 list of nongame species regulated pursuant to **[this act]** P.L.1973,
26 c.309 (C.23:2A-1 et seq.); **[and]** and (3) any **[Federal]** federal list
27 of endangered or threatened species. Any species or subspecies of
28 wildlife appearing on any of the foregoing lists which enters the
29 State from another state or from a point outside the territorial limits
30 of the United States and which is transported across the State
31 destined for a point beyond the State may be so entered and
32 transported without restriction in accordance with the terms of any
33 **[Federal]** federal permit or permit issued under the laws or
34 regulations of another state, provided that such transport is not
35 prohibited by section 6 of P.L. , c. (C.) (pending before the
36 Legislature as this bill), section 3 of P.L.2014, c.22 (C.23:2A-13.3),
37 or any other applicable law.

38 (cf: P.L.1981, c.281, s.4)

39

40 6. (New section) a. Notwithstanding the provisions of section
41 6 of P.L.1973, c.309 (C.23:2A-6) or any other law, or any rule or
42 regulation adopted pursuant thereto, to the contrary, no person shall
43 possess, transport, import, export, process, sell or offer for sale, or
44 ship, and no common or contract carrier shall knowingly transport
45 or receive for shipment any part or product of: (1) any big five
46 African species; or (2) any species or subspecies of elephant,
47 rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, or
48 ray listed: (a) in Appendix I or Appendix II of the Convention on

1 International Trade in Endangered Species of Wild Fauna and
2 Flora; or (b) as critically endangered, endangered, or vulnerable on
3 the International Union for Conservation of Nature and Natural
4 Resources Red List of Threatened Species.

5 b. Unless such activity is prohibited by federal or other State
6 law, rule, or regulation, the following exceptions and defenses shall
7 apply to the prohibition in subsection a. of this section:

8 (1) the part or product was lawfully possessed within the State
9 prior to the effective date of P.L. , c. (C.) (pending before
10 the Legislature as this bill), and the legal owner has obtained a
11 certificate of possession from the commissioner, as provided
12 pursuant to subsection c. of this section, within 180 days after the
13 effective date of P.L. , c. (C.) (pending before the
14 Legislature as this bill);

15 (2) the part or product is being used or displayed for scientific,
16 zoological, or educational purposes as authorized by the
17 commissioner pursuant to State law;

18 (3) the part or product is conveyed directly to a devisee, heir, or
19 beneficiary, provided that: (a) the part or product was lawfully
20 possessed by the decedent prior to the effective date of this section;
21 (b) after transfer to the devisee, heir, or beneficiary, the part or
22 product is not thereafter sold, offered for sale, or otherwise
23 distributed to any private party; and (c) the devisee, heir, or
24 beneficiary obtains a certificate of possession from the
25 commissioner, as provided pursuant to subsection c. of this section,
26 within 180 days after obtaining the part or product; or

27 (4) the person lawfully possesses any ivory, ivory product,
28 rhinoceros horn, or rhinoceros horn product in compliance with
29 section 3 of P.L.2014, c.22 (C.23:2A-13.3).

30 c. The department shall adopt, pursuant to the "Administrative
31 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules
32 and regulations as may be necessary to implement this section.
33 These rules and regulations shall include a process for applying for
34 the certificate of possession required pursuant to subsection b. of
35 this section. The department may charge a reasonable fee to defray
36 the cost of issuing a certificate of possession.

37 d. Notwithstanding the penalties provided for in section 10 of
38 P.L.1973, c.309 (C.23:2A-10), any person who possesses a part or
39 product in violation of this section and who fails to obtain a
40 certificate of possession within 180 days after the effective date of
41 this section, shall be subject only to a civil penalty of up to \$25 for
42 each day that person possesses the prohibited part or product
43 without a certificate, to be collected in a civil action by a summary
44 proceeding under the "Penalty Enforcement Law of 1999,"
45 P.L.1999, c.274 (C.2A:58-10 et seq.).

46 e. Nothing in this section shall be construed to preclude a
47 person violating this section from also being liable for any

1 applicable violation of P.L.2014, c.22 (C.23:2A-13.1 et seq.),
2 R.S.23:4-27, or any other State law, rule, or regulation.

3 f. As used in this section:

4 “Beneficiary” has the same meaning as that term is defined in
5 N.J.S.3B:1-1.

6 “Big five African species” means the following species of
7 wildlife: (1) African elephant (*Loxodonta Africana*); (2) African
8 leopard (*Panthera pardus*); (3) African lion (*Panthera leo*); (4)
9 black rhinoceros (*Diceros bicornis*) and white rhinoceros
10 (*Ceratotherium simum*); and (5) Cape buffalo (*Syncerus caffer*).

11 “Devisee” has the same meaning as that term is defined in
12 N.J.S.3B:1-1.

13 “Heir” has the same meaning as that term is defined in
14 N.J.S.3B:1-1.

15

16 7. (New section) Notwithstanding the provisions of section 6 of
17 P.L.1973, c.309 (C.23:2A-6), section 6 of P.L. , c. (C.)
18 (pending before the Legislature as this bill), or any other State law,
19 or any rule or regulation adopted pursuant thereto, to the contrary,
20 unless such activity is otherwise prohibited by federal law, a person
21 may possess, transport, import, export, process, sell or offer for
22 sale, or ship wildlife for purposes related to the conduct of
23 biomedical research at a facility licensed by the United States
24 Department of Agriculture pursuant to the federal “Animal Welfare
25 Act,” 7 U.S.C. s.2131 et seq., or at a facility conducting biomedical
26 research in compliance with the “Public Health Service Policy on
27 Humane Care and Use of Laboratory Animals” issued by the United
28 States National Institutes of Health.

29

30 8. Section 7 of P.L.1973, c.309 (C.23:2A-7) is amended to read
31 as follows:

32 7. a. The commissioner shall establish such programs,
33 including acquisition of land or aquatic habitats, as are deemed
34 necessary for the conservation and management of nongame and
35 endangered species of wildlife.

36 b. In carrying out programs authorized **by this act** P.L.1973,
37 c.309 (C.23:2A-1 et seq.), the commissioner may enter into
38 agreements with **Federal** federal agencies, with political
39 subdivisions of the State, or with private persons for administration
40 and management of any area established under this section or
41 utilized for management of nongame or endangered species of
42 wildlife.

43 c. With the approval of the Governor, the commissioner may
44 cooperate with and receive money from the **Federal Government,**
45 **or** federal government, any county or municipal government, or
46 **from** private sources for the purposes of **this act** P.L.1973,
47 c.309 (C.23:2A-1 et seq.). The commissioner may establish a
48 separate fund from these contributions for the support of nongame

1 and endangered species programs and for the purposes of P.L.1973,
 2 c. 309 (C.23:2A-1 et seq.).

3 d. The commissioner may authorize, under such terms and
 4 conditions as may be prescribed by rule or regulation, the taking,
 5 possession, transportation, importation, exportation, sale or offer for
 6 sale, or shipment of nongame species and wildlife which appear on
 7 the State list of endangered species for scientific, zoological, or
 8 educational purposes, for propagation in captivity of such wildlife,
 9 or for other special purposes.

10 e. The commissioner shall appoint a committee of experts to
 11 advise and assist the commissioner in carrying out the intent of
 12 **【this act】** P.L.1973, c.309 (C.23:2A-1 et seq.). **【Said】** These
 13 experts shall include persons actively involved in the conservation
 14 of wildlife.

15 (cf: P.L.1981, c.281, s.5)

16

17 9. R.S.23:4-27 is amended to read as follows:

18 23:4-27. a. No person shall sell or purchase wildlife, except as
 19 authorized pursuant to this section or any other law or as may be
 20 authorized by rule or regulation adopted by the division pursuant to
 21 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
 22 seq.).

23 b. The provisions of subsection a. of this section shall not
 24 apply to the sale or purchase of wildlife authorized or regulated by
 25 chapter 2A or 2B of this title, R.S.23:3-28 through R.S.23:3-39,
 26 section 4 of P.L.1970, c.247 (C.23:3-65), R.S.23:4-50, R.S.23:5-2,
 27 or Title 50 of the Revised Statutes, or any rule or regulation adopted
 28 pursuant thereto, provided that the wildlife was taken and possessed
 29 in a lawful manner.

30 c. Unless prohibited or restricted by rule or regulation adopted
 31 by the division, the raw or processed hide of the white-tailed deer
 32 (*Odocoileus virginianus*), the tail of the white-tailed deer, the
 33 portion of the front leg of a white-tailed deer limited to the carpal,
 34 metacarpal, and phalange bones, or the portion of the hind leg of a
 35 white-tailed deer limited to the tarsus, metatarsus, and phalange
 36 bones may be sold or purchased, provided that those parts or
 37 products are from a white-tailed deer that was taken and possessed
 38 in a lawful manner.

39 d. Notwithstanding the provisions of subsection a. of this
 40 section to the contrary:

41 (1) the dead body or any part or product thereof of the following
 42 wildlife may be sold or purchased, provided that the wildlife was
 43 taken and possessed in a lawful manner:

44	Virginia Opossum	<i>Didelphis virginiana</i>
45	Beaver	<i>Castor canadensis</i>
46	Muskrat	<i>Ondatra zibethicus</i>
47	Nutria	<i>Myocaster coypus</i>
48	Coyote	<i>Canis latrans</i>

1	Red Fox	Vulpes vulpes
2	Gray Fox	Urocyon cinereoargenteus
3	Raccoon	Procyon lotor
4	Long Tail Weasel	Mustela frenata
5	Short Tail Weasel	Mustela erminea
6	Mink	Mustela vison
7	Striped Skunk	Mephitis mephitis
8	River Otter	Lutra canadensis

9 (2) wildlife not native to this State that originated from a state or
10 other jurisdiction where it is legal to sell or purchase that wildlife
11 and the wildlife was sold or purchased in accordance with the laws
12 of that state or other jurisdiction, may be sold or purchased in this
13 State unless prohibited by federal law, rule, or regulation, “The
14 Endangered and Nongame Species Conservation Act,” P.L.1973,
15 c.309 (C.23:2A-1 et seq.), P.L.2014, c.22 (C.23:2A-13.1 et seq.), or
16 any other State law, rule, or regulation; provided that the wildlife is
17 labeled with the state or other jurisdiction of origin, the name and
18 address of the exporter, and all applicable permit numbers until the
19 expected final retail transaction has been made.

20 e. The division shall adopt, pursuant to the "Administrative
21 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules
22 and regulations as may be necessary to implement this section and
23 to otherwise provide for the control and regulation of the sale and
24 purchase of wildlife, including but not limited to wildlife not
25 specifically listed in this section.

26 f. In addition to any penalties that may be prescribed by any
27 other applicable law:

28 (1) a person who violates this section shall be:

29 (a) subject to a civil penalty of not less than \$200 and not more
30 than \$1,000 for the first offense, and not less than \$500 and not
31 more than \$3,000 for each subsequent offense. If the violation
32 involves the sale or purchase of a black bear (*Ursus americanus*),
33 turkey (*Meleagris gallapavo*), white-tailed deer (*Odocoileus*
34 *virginianus*), bobcat (*Felis rufus*), or illegally taken river otter
35 (*Lutra canadensis*), the civil penalty shall be not less than \$1,000
36 and not more than \$2,000 for the first offense, and not less than
37 \$1,500 and not more than \$3,000 for each subsequent offense; and

38 (b) assessed the replacement value of the animal, as prescribed
39 by section 10 of P.L.1990, c.29 (C.23:3-22.2); and

40 (2) a person who purposely violates this section when the total
41 value of the sale or purchase is:

42 (a) less than \$200 shall be guilty of a disorderly persons
43 offense;

44 (b) \$200 or more, but less than \$500, shall be guilty of a crime
45 of the fourth degree;

46 (c) \$500 or more shall be guilty of a crime of the third degree.

47 g. For the purposes of this section, “sell or purchase” means to
48 sell or offer for sale, possess for sale, purchase or agree to purchase,

1 receive compensation, barter or offer to barter, trade or offer to
2 trade, or transfer or offer to transfer, or conspire for any of those
3 purposes.

4 (cf: P.L.1997, c.291, s.2)

5

6 10. This act shall take effect immediately.

7

8

9

STATEMENT

10

11 This bill would prohibit the possession, transport, import, export,
12 processing, sale, or shipment of parts and products of: (1) any big
13 five African species; or (2) any species or subspecies of elephant,
14 rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, or
15 ray listed: (a) in Appendix I or Appendix II of the Convention on
16 International Trade in Endangered Species of Wild Fauna and
17 Flora; or (b) as critically endangered, endangered, or vulnerable on
18 the International Union for Conservation of Nature and Natural
19 Resources Red List of Threatened Species. The big five African
20 species are the African elephant, African leopard, African lion,
21 black and white rhinoceros, and Cape buffalo.

22 Under the bill, a person would not be liable for a violation if: (1)
23 the part or product was lawfully possessed in the State prior to the
24 effective date of the bill, and the legal owner obtains a certificate of
25 possession from the commissioner; (2) the part or product is being
26 used or displayed for scientific, zoological, or education purposes;
27 (3) the part or product is conveyed directly to a devisee, heir, or
28 beneficiary, provided: (a) the part or product was lawfully
29 possessed by the decedent prior to the effective date of the bill, (b)
30 after transfer, the part or product is not thereafter sold, offered for
31 sale, or otherwise distributed, and (c) the devisee, heir, or
32 beneficiary obtains a certificate of possession; and (4) the person
33 lawfully possesses any ivory, ivory product, rhinoceros horn, or
34 rhinoceros horn product in compliance with P.L.2014, c.22.

35 A person who violates the bill is subject to the penalties set forth
36 in the "The Endangered and Nongame Species Conservation Act."
37 Specifically, a violator is guilty of a crime of the third degree, and
38 is subject to a criminal fine of between \$5,000 and \$50,000, a civil
39 penalty of up to \$25,000, and a civil administrative penalty of up to
40 \$25,000 per day of violation, as well as other penalties.
41 Notwithstanding these penalties, a person who possesses wildlife in
42 violation of the bill and who fails to obtain a certificate of
43 possession within 180 days after the effective date, is subject only
44 to a civil penalty of up to \$25 for each day that person possesses the
45 prohibited wildlife without a certificate.

46 The bill also provides that, notwithstanding the prohibitions in
47 the bill and the act to the contrary, unless prohibited by federal law,
48 a person may possess, transport, import, export, process, sell or

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1 offer for sale, or ship wildlife for purposes related to the conduct of
2 biomedical research at a facility licensed by the U.S. Department of
3 Agriculture pursuant to the federal “Animal Welfare Act” or at a
4 facility conducting biomedical research in compliance with the U.S.
5 National Institutes of Health’s “Public Health Service Policy on
6 Humane Care and Use of Laboratory Animals.”

7 The bill clarifies that the prohibitions in section 6 of P.L.1973,
8 c.309 apply to species appearing on the federal list of threatened
9 species. The bill also clarifies that the importation of any species
10 listed in section 6 of P.L.1973, c.309 is also prohibited.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2447

STATE OF NEW JERSEY

DATED: MARCH 3, 2016

The Assembly Environment and Solid Waste Committee reports favorably Assembly Bill No. 2447.

This bill prohibits the possession, transport, import, export, processing, sale, or shipment of the parts or products of: (1) any big five African species; or (2) any species or subspecies of elephant, rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, or ray listed (a) in Appendix I or Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, or (b) as critically endangered, endangered, or vulnerable on the International Union for Conservation of Nature and Natural Resources Red List of Threatened Species. The big five African species are the African elephant, African leopard, African lion, black rhinoceros and white rhinoceros, and Cape buffalo.

The bill exempts a person from liability for a violation if: (1) the animal part or product is lawfully possessed in the State prior to the effective date of the bill, and the legal owner obtains a certificate of possession from the Commissioner of Environmental Protection; (2) the animal part or product is being used or displayed for scientific, zoological, or educational purposes; (3) the animal part or product is conveyed directly to a devisee, heir, or beneficiary, provided (a) the animal part or product was lawfully possessed by the decedent prior to the effective date of the bill, (b) after transfer, the animal part or product is not thereafter sold, offered for sale, or otherwise distributed, and (c) the devisee, heir, or beneficiary obtains a certificate of possession; or (4) the person lawfully possesses any ivory, ivory product, rhinoceros horn, or rhinoceros horn product in compliance with P.L.2014, c.22.

A person who violates the bill is subject to the penalties set forth in the "The Endangered and Nongame Species Conservation Act." Specifically, a violator would be guilty of a crime of the third degree, and subject to a criminal fine of between \$5,000 and \$50,000, a civil penalty of up to \$25,000, and a civil administrative penalty of up to \$25,000 per day of violation, as well as other penalties. Notwithstanding these penalties, a person who possesses an animal part or product in violation of the bill and who fails to obtain a

certificate of possession within 180 days after the effective date, is subject to a civil penalty of up to \$25 for each day that person possesses the prohibited animal part or product without a certificate.

The bill provides that, notwithstanding the prohibitions in the bill and “The Endangered and Nongame Species Conservation Act” to the contrary, unless prohibited by federal law, a person may possess, transport, import, export, process, sell or offer for sale, or ship wildlife for purposes related to the conduct of biomedical research at a facility licensed by the United States Department of Agriculture pursuant to the federal “Animal Welfare Act” or at a facility conducting biomedical research in compliance with the United States National Institutes of Health’s “Public Health Service Policy on Humane Care and Use of Laboratory Animals.”

As reported by the committee, this bill is identical to Senate Bill No. 977 as also reported by the committee.

SENATE BILL NO. 977

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 977 with my recommendations for reconsideration.

Senate Bill No. 977 and Senate Bill No. 978 were introduced after the death of "Cecil the Lion," whose killing by a big game hunter in Zimbabwe sparked anger around the world. In essence, these bills seek to discourage big game hunting overseas by prohibiting the trophies from these hunts from entering New Jersey. In general, Senate Bill No. 977 would prohibit the possession, import or sale of the parts of certain species in New Jersey. Senate Bill No. 978 would specifically prohibit the parts of the same species from entering the ports and airports operated by the Port Authority of New York and New Jersey.

More specifically, Senate Bill No. 977 would ban the importation or possession of the parts of any of the "Big Five" African species, i.e., the African lion, the African leopard, the African elephant, the white and black rhinoceros, and the Cape buffalo. The bill would also prohibit a person from bringing into the State the parts of any lion, tiger, elephant, or other specified types of animals that are listed in Appendix I or II of the Convention on International Trade in Endangered Species ("CITES"), an international treaty to which the United States is a signatory. The bill would also bar the parts of these types of animals from the State if they are listed as vulnerable, endangered, or critically endangered by the International Union for Conservation of Nature ("IUCN"), a well-known nongovernmental organization that, among other things, classifies species based on their risk of extinction.

I will endorse reasonable measures that help protect threatened species. Unfortunately, these bills contain

provisions that are not reasonable, and therefore, I cannot sign these bills in their current form. Perhaps most troubling are the provisions that would require existing owners of covered items to register them with the Department of Environmental Protection, or else face daily fines. It is not hard to imagine how this unwieldy and potentially costly registration scheme could catch many by surprise, subjecting them to unfair penalties. Accordingly, I recommend that the bills impose a prospective ban, but not apply new prohibitions on covered animal parts already possessed within our State.

I am also concerned that the bills could interfere with interstate and international commerce, since the bills contain provisions that would prevent covered products, even with appropriate permits, from merely passing through the State, its ports, or airports. These provisions would not only necessitate impractical inspection procedures, but again, could sweep up unsuspecting persons (particularly those from out-of-state) who logically assume that a federal permit would enable them to transport covered products through the State or port facility therein. Therefore, I recommend changes that would allow a covered product to be brought into the State, under appropriate permit, but only if it is destined for a location outside the State.

I further propose other changes that will improve these bills. For example, I recommend that the bills protect the CITES-listed species, but not incorporate by reference the IUCN's list of vulnerable, threatened and endangered species. This is because the IUCN is an independent organization whose lists are subject to change and therefore should not carry the force of law in our State. CITES, by contrast, is a formal treaty signed by our government. Another change I propose is to

remove specific references to the Cape buffalo, a species that the IUCN itself considers to be of "least concern" when it comes to extinction risk. I believe it important that the bills remain focused on species threatened with extinction, consistent with their stated purpose. Finally, I recommend changes that would expressly allow law enforcement agents to carry out their duties without inadvertently running afoul of the prohibitions set forth in these bills. These latter amendments are modeled after an exception included within the aforementioned legislation concerning ivory and rhinoceros horn.

Importantly, with my amendments, these bills prospectively would prohibit a person from importing parts of covered species (including the African lion) and keeping them in our State. Of course, no state legislation could ever by itself outlaw trophy hunts conducted overseas. There are significant questions whether such bans help or actually hurt wildlife conservation. If these bills are returned to me as I propose, however, we can be confident that the body parts of endangered animals will no longer be welcome in New Jersey.

Accordingly, I herewith return Senate Bill No. 977 and recommend that it be amended as follows:

<u>Page 2, Section 1, Line 18:</u>	Delete "or"
<u>Page 2, Section 1, Line 19:</u>	Delete "threatened"
<u>Page 2, Section 1, Line 22:</u>	Delete "or"
<u>Page 2, Section 1, Line 23:</u>	Delete "threatened"
<u>Page 2, Section 1, Line 23:</u>	Delete ", and those threatened with extinction due to" and insert "."
<u>Page 2, Section 1, Line 24:</u>	Delete in its entirety
<u>Page 2, Section 2, Line 45:</u>	Delete "or"
<u>Page 2, Section 2, Line 46:</u>	Delete "threatened"
<u>Page 4, Section 5, Line 24:</u>	Delete "or threatened"

<u>Page 4, Section 5, Line 31:</u>	Delete ", provided that such transport is not" and insert "."
<u>Page 4, Section 5, Lines 32-34:</u>	Delete in their entirety
<u>Page 4, Section 6, Line 42:</u>	Delete "big five" and insert "specified"
<u>Page 4, Section 6, Line 45:</u>	Delete ": (a)"
<u>Page 4, Section 6, Line 47:</u>	Delete "; or (b) as critically endangered, endangered or vulnerable on" and insert "."
<u>Page 5, Section 6, Lines 1-3:</u>	Delete in their entirety
<u>Page 5, Section 6, Line 4:</u>	Delete "law, rule or regulation, the" and insert "b. The"
<u>Page 5, Section 6, Line 8:</u>	Delete ", and the legal owner has obtained a" and insert ";"
<u>Page 5, Section 6, Lines 9-12:</u>	Delete in their entirety
<u>Page 5, Section 6, Line 14:</u>	Delete "as authorized by the" and insert ";"
<u>Page 5, Section 6, Line 15:</u>	Delete in its entirety
<u>Page 5, Section 6, Line 17:</u>	Delete ": (a)"
<u>Page 5, Section 6, Lines 19-24:</u>	Delete in their entirety and insert "or"
<u>Page 5, Section 6, Line 28:</u>	Delete "shall" and insert "may"
<u>Page 5, Section 6, Lines 31-43:</u>	Delete in their entirety
<u>Page 5, Section 6, Line 44:</u>	Delete "e." and insert "d."
<u>Page 5, Section 6, Line 48:</u>	Delete "f." and insert "e."
<u>Page 6, Section 6, Line 3:</u>	Delete "Big five" and insert "Specified"
<u>Page 6, Section 6, Line 6:</u>	After "(<i>diceros bicornis</i>)" insert ";"
<u>Page 6, Section 6, Line 6:</u>	After "and" insert "(5)"
<u>Page 6, Section 6, Line 7:</u>	Delete "; and (5) Cape buffalo (<i>Syncerus caffer</i>)"
<u>Page 6, Section 7, Line 19:</u>	After "wildlife" insert ", or part or product thereof: (1)"
<u>Page 6, Section 7, Line 25:</u>	After "Health" insert "; (2) in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state, if the wildlife, or part or product thereof,

enters the State from another state or from a point outside the territorial limits of the United States, and is transported across the State destined for a point beyond the State; or (3) in the course of undertaking any law enforcement activities pursuant to federal or State law, or other mandatory duties required by federal or State law, if the person is an employee or agent of the federal government, the State government, or a bi-state authority"

Respectfully,

/s/ Chris Christie

Governor

[seal]

Attest:

/s/ Thomas P. Scrivo

Chief Counsel to the Governor

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Governor Chris Christie Takes Action On Pending Legislation

Thursday, June 2, 2016 Tags: [Bill Action](#)



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Trenton, NJ – Governor Chris Christie announced action that has been taken on the following legislation:

BILL SIGNING:

S-977/A-2447 (Lesniak, Sarlo/Eustace, Holley, Gusciora) – Prohibits possession, transport, import, export, processing, sale or shipment of parts and products of certain animal species threatened with extinction

S-978/A-2510 (Lesniak, Sarlo/Eustace, Holley, Gusciora) – Prohibits possession and transport of parts and products of certain animals at PANYNJ airports and port facilities

Press Contact:
Brian Murray
609-777-2600



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