

SENATE, No. 978

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 4, 2016

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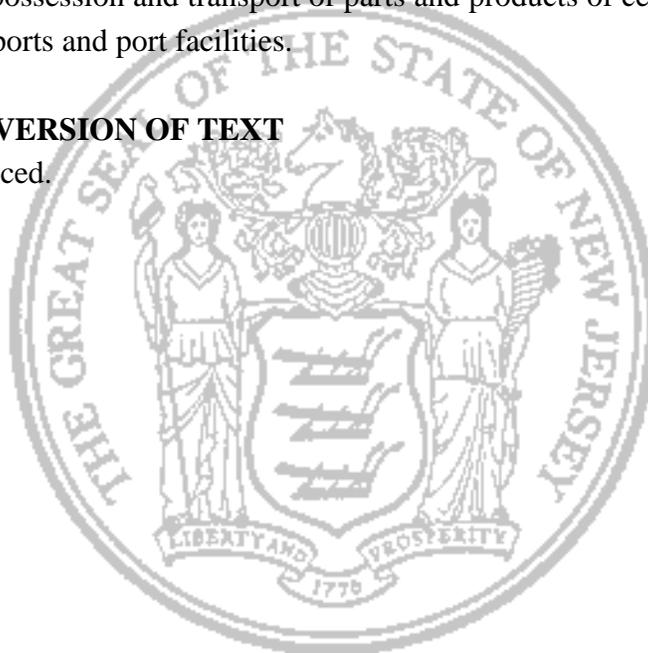
Senators Whelan, Allen and Assemblywoman Quijano

SYNOPSIS

Prohibits possession and transport of parts and products of certain animals at PANYNJ airports and port facilities.

CURRENT VERSION OF TEXT

As introduced.



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

1 AN ACT concerning the possession and transport of the parts and
2 products of certain animals at certain airports and port facilities
3 and supplementing Title 32 of the Revised Statutes.

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

7
8 1. a. As used in P.L. , c. (C.) (pending before the
9 Legislature as this bill):

10 "Big five African species" means the African elephant, *Loxodonta*
11 *africana*; African leopard, *Panthera pardus*; African lion, *Panthera*
12 *leo*; black rhinoceros, *Diceros bicornis*, and white rhinoceros,
13 *Ceratotherium simum*; and Cape buffalo, *Syncerus caffer*.

14 "Priority species" means: (1) any big five African species; or (2)
15 any species or subspecies of elephant, rhinoceros, tiger, lion, leopard,
16 cheetah, pangolin, marine turtle, or ray listed: (a) in Appendix I or
17 Appendix II of the Convention on International Trade in Endangered
18 Species of Wild Fauna and Flora; or (b) as critically endangered,
19 endangered, or vulnerable on the International Union for Conservation
20 of Nature and Natural Resources Red List of Threatened Species

21 b. Notwithstanding the provisions of any other law to the
22 contrary, the parts or products of priority species shall not be imported,
23 exported, shipped, received, possessed, processed, sold, offered for
24 sale, or transported by any individual, firm, corporation, association, or
25 partnership at any airport or port facility owned or operated by the Port
26 Authority of New York and New Jersey.

27 c. Any Port Authority agent or Port Authority police officer shall
28 have authority to enforce the prohibition in subsection b. of this
29 section and, where necessary, to apply for and execute any warrant to
30 search for and seize any part or product of a priority species and any
31 property or item used in connection with a violation of subsection b. of
32 this section.

33 d. Unless the activity is prohibited by federal law, the following
34 exceptions and defenses shall apply to the prohibition in subsection b.
35 of this section:

36 (1) the part or product was lawfully located or possessed within
37 the State of New Jersey or the State of New York prior to the effective
38 date of P.L. , c. (C.) (pending before the Legislature as this
39 bill), and the legal owner has obtained a certificate of possession from
40 the Commissioner of Environmental Protection, as provided pursuant
41 to subsection e. of this section, within 180 days after the date of
42 enactment of P.L. , c. (C.) (pending before the Legislature as
43 this bill);

44 (2) the part or product is to be made part of a temporary or
45 permanent collection at a museum or zoo, or similar educational or
46 research facility, provided that the part or product is not thereafter
47 sold, offered for sale, traded, bartered, or distributed to any private
48 party ; or

1 (3) the part or product is to be used for purposes related to the
2 conduct of biomedical research at a facility licensed by the United
3 States Department of Agriculture pursuant to the federal "Animal
4 Welfare Act," 7 U.S.C. s.2131 et seq., or at a facility conducting
5 biomedical research in compliance with the "Public Health Service
6 Policy on Humane Care and Use of Laboratory Animals" issued by the
7 United States National Institutes of Health.

8 e. The Department of Environmental Protection shall adopt,
9 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
10 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to
11 implement this section. These rules and regulations shall include a
12 process for applying for the certificate of possession required pursuant
13 to paragraph (1) of subsection d. of this section. The department may
14 charge a reasonable fee to defray the cost of issuing a certificate of
15 possession.

16 f. (1) Any part or product of a priority species and any property
17 or item used in connection with a violation of subsection b. of this
18 section shall be held pending criminal proceedings in any court of
19 proper jurisdiction.

20 (2) A person who violates subsection b. of this section shall be
21 guilty of a crime of the fourth degree and, notwithstanding the
22 provisions of N.J.S.2C:43-3 to the contrary, shall be subject to
23 imprisonment not to exceed 18 months and a fine of up to \$100,000.

24 (3) Upon conviction, or upon the entry of a judgment restraining a
25 person from any activity that is or would be in violation of subsection
26 b. of this section, any seized property shall be forfeited, and upon
27 forfeiture, disposed of in a manner consistent with the best interest of
28 the public as determined by the court.

29 (4) Any penalty imposed pursuant to this section shall be in
30 addition to any applicable penalty that may be imposed for a violation
31 of "The Endangered and Nongame Species Conservation Act,"
32 P.L.1973, c.309 (C.23:2A-1 et seq.), P.L.2014, c.22 (C.23:2A-13.1 et
33 seq.), R.S.23:4-27, and any other applicable law.

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35 2. This act shall take effect upon the enactment by the State of
36 New York of legislation having an identical effect, but if such
37 legislation has already been enacted by the State of New York then
38 this act shall take effect immediately.

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STATEMENT

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43 This bill would prohibit the import, export, shipment, receipt,
44 possession, processing, sale, offer for sale, or transport of the parts or
45 products of priority species at any airport or port facility owned or
46 operated by the Port Authority of New York and New Jersey. A
47 priority species is: (1) any big five African species; or (2) any species
48 or subspecies of elephant, rhinoceros, tiger, lion, leopard, cheetah,

1 pangolin, marine turtle, or ray listed: (a) in Appendix I or Appendix II
2 of the Convention on International Trade in Endangered Species of
3 Wild Fauna and Flora; or (b) as critically endangered, endangered, or
4 vulnerable on the International Union for Conservation of Nature and
5 Natural Resources Red List of Threatened Species. The big five
6 African species are the African elephant, African leopard, African lion,
7 black and white rhinoceros, and Cape buffalo.

8 A person who violates the bill would be guilty of a fourth degree
9 crime and be subject to imprisonment for up to 18 months and a fine of
10 up to \$100,000. Upon conviction, any property used in connection
11 with the violation would be forfeited and disposed of in a manner
12 consistent with the best interest of the public. Any penalty imposed
13 under the bill would be in addition to any penalty that may be imposed
14 pursuant to any other applicable law.

15 The bill would not apply to a part or product: 1) that was lawfully
16 possessed prior to the effective date of the bill, provided the legal
17 owner obtains a certificate of possession from the commissioner
18 within 180 days after the date of enactment of the bill, 2) that is to be
19 used at a museum, zoo, or similar facility, or 3) that is to be used for
20 purposes related to the conduct of biomedical research at an
21 appropriately licensed facility. The commissioner would be directed
22 to adopt rules and regulations that include a process for applying for
23 the certificate of possession. The commissioner could charge a
24 reasonable fee to defray the cost of issuing a certificate of possession.