

[Second Reprint]
SENATE, No. 3416

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED AUGUST 10, 2015

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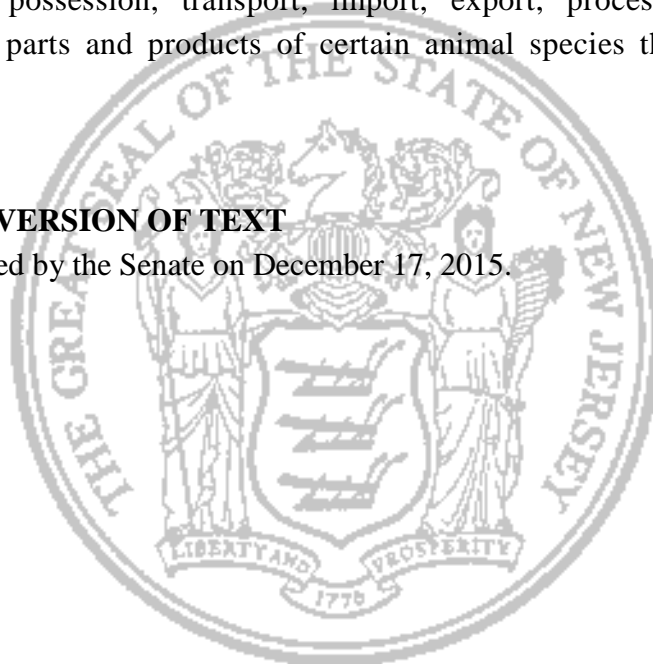
Senators Bateman and Gordon

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 amended by the Senate on December 17, 2015.



(Sponsorship Updated As Of: 1/12/2016)

1 AN ACT concerning certain animal species threatened with
 2 extinction ¹**and** ¹amending ¹and supplementing¹ P.L.1973,
 3 c.309 ¹,¹ and ¹amending¹ 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 ¹**the big five African species,**¹ those on any
 23 **Federal** federal endangered or threatened species list, and those
 24 ¹**species or subspecies appearing on the lists described in**
 25 **paragraphs (4) and (5) of subsection a. of section 6 of P.L.1973,**
 26 **c. 309 (C.23:2A-6)**¹ threatened with extinction due to the
 27 trafficking of their parts and products¹.

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

29

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

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

34 ¹**"Big five African species" means the following species of**
 35 **wildlife: (1) African elephant (*Loxodonta Africana*); (2) African**
 36 **leopard (*Panthera pardus*); (3) African lion (*Panthera leo*); (4)**
 37 **black rhinoceros (*Diceros bicornis*) and white rhinoceros**
 38 **(*Ceratotherium simum*); and (5) Cape buffalo (*Syncerus caffer*);**¹

39 **[a.]** "Commissioner" means the Commissioner of the
 40 Department of Environmental Protection;

41 **[b.]** "Department" means the Department of Environmental
 42 Protection;

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 SBA committee amendments adopted November 9, 2015.

²Senate floor amendments adopted December 17, 2015.

1 **【c.】** "Endangered species" means any species or subspecies of
2 wildlife whose prospects of survival or recruitment are in jeopardy
3 or are likely within the foreseeable future to become so due to any
4 of the following factors: (1) the destruction, drastic modification,
5 or severe curtailment of its habitat, or (2) its over-utilization for
6 scientific, commercial or sporting purposes, or (3) the effect on it of
7 disease, pollution, or predation, or (4) other natural or manmade
8 factors affecting its prospects of survival or recruitment within the
9 State, or (5) any combination of the foregoing factors. The term
10 shall also be deemed to include any species or subspecies of
11 wildlife appearing on any ¹**【Federal】** federal¹ endangered species
12 list;

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

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

19 **【f.】** "Wildlife" means any wild mammal, bird, reptile,
20 amphibian, fish, mollusk, crustacean or other wild animal or any
21 part, product, egg or offspring or the dead body or parts thereof.
22 (cf: P.L.1981, c.281, s.1)
23

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

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

35 b. On the basis of such investigations of wildlife and other
36 available scientific and commercial data the commissioner may by
37 rule or regulation promulgate a list of those species and subspecies
38 of wildlife indigenous to the State which are determined to be
39 endangered, giving their common and scientific names by species
40 and subspecies. The commissioner shall periodically review the
41 State list of endangered species and may by regulation amend the
42 list making such additions or deletions as are deemed appropriate.
43 (cf: P.L.1981, c.511, s.14)
44

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

47 5. a. The commissioner shall have the power to formulate and
48 promulgate, adopt, amend and repeal rules and regulations, limiting,

1 controlling and prohibiting the taking, possession, transportation,
2 importation, exportation, sale or offer for sale, or shipment of any
3 nongame species or any wildlife on the State list of endangered
4 species **list**, and for the purposes of implementing section 6 of
5 **1[P.L.1973, c.309 (C.23:2A-6)] P.L. , c. (C.) (pending**
6 **before the Legislature as this bill)**¹. Such rules and regulations
7 shall be designed to promote the public health, safety and welfare
8 and shall be adopted in accordance with the "Administrative
9 Procedure **Act**" (P.L.1968, c.410, C.52:14B-1 et seq.) **Act,**"
10 P.L.1968, c.410 (C.52:14B-1 et seq.).

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

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

24

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

27 6. a. Except as otherwise provided in **this act** P.L.1973,
28 c.309 (C.23:2A-1 et seq.) or the rules or regulations adopted
29 thereunder, no person shall take, possess, transport, import, export,
30 process, sell or offer for sale, or ship, and no common or contract
31 carrier shall knowingly transport or receive for shipment, any **big**
32 five African species or any¹ species or subspecies of wildlife
33 appearing on the following lists: (1) the list of wildlife determined
34 to be endangered by the commissioner pursuant to **this act**
35 P.L.1973, c.309 (C.23:2A-1 et seq.); (2) the list of nongame species
36 regulated pursuant to **this act** P.L.1973, c.309 (C.23:2A-1 et
37 seq.); **and** ¹and¹ (3) any **Federal** federal list of endangered or
38 threatened species ¹**;** (4) Appendix I or Appendix II of the
39 Convention on International Trade in Endangered Species of Wild
40 Fauna and Flora; and (5) the International Union for Conservation
41 of Nature and Natural Resources Red List of Threatened Species, as
42 either critically endangered, endangered, or vulnerable**].** Any
43 species or subspecies of wildlife appearing on any of the foregoing
44 lists which enters the State from another state or from a point
45 outside the territorial limits of the United States and which is
46 transported across the State destined for a point beyond the State
47 may be so entered and transported without restriction in accordance

1 with the terms of any federal permit or permit issued under the laws
2 or regulations of another state, provided that such transport is not
3 prohibited by section 6 of P.L. , c. (C.) (pending before the
4 Legislature as this bill), section 3 of P.L.2014, c.22 (C.23:2A-13.3),
5 or any other applicable law¹. **【Any species or subspecies of wildlife**
6 **appearing on any of the foregoing lists which enters the State from**
7 **another state or from a point outside the territorial limits of the**
8 **United States and which is transported across the State destined for**
9 **a point beyond the State may be so entered and transported without**
10 **restriction in accordance with the terms of any Federal permit or**
11 **permit issued under the laws or regulations of another state.】**

12 ¹**【b. Unless such activity is prohibited by federal or other State**
13 **law, rule, or regulation, the following exceptions and defenses**
14 **apply to the prohibition in subsection a. of this section:**

15 (1) the wildlife was lawfully possessed within the State prior to
16 the date of enactment of P.L. , c. (C.) (pending before the
17 Legislature as this bill), and the legal owner has obtained a
18 certificate of possession from the commissioner, as provided
19 pursuant to subsection c. of this section, within 180 days after the
20 date of enactment of P.L. , c. (C.) (pending before the
21 Legislature as this bill);

22 (2) the wildlife is being used or displayed for scientific,
23 zoological, or educational purposes, for propagation in captivity of
24 such wildlife, or for other special purposes, all as authorized by the
25 commissioner; or

26 (3) the wildlife is conveyed directly to a legal beneficiary of a
27 trust or to a legal heir, provided that: (a) the wildlife was lawfully
28 possessed by the decedent prior to the date of enactment of P.L. ,
29 c. (C.) (pending before the Legislature as this bill); (b) after
30 transfer to the beneficiary or heir, the wildlife is not thereafter sold,
31 offered for sale, or otherwise distributed to any private party; and
32 (c) the beneficiary or heir obtains a certificate of possession from
33 the commissioner, as provided pursuant to subsection c. of this
34 section, within 180 days after obtaining the wildlife.

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

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

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

1 ¹6. (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 ²~~take,~~² possess, transport, import, export, process, sell or offer for
5 sale, or ship, and no common or contract carrier shall knowingly
6 transport or receive for shipment ²any part or product of² : (1) any
7 big five African species ²~~or the parts or products thereof~~² ; or (2)
8 any species or subspecies of elephant, rhinoceros, tiger, lion,
9 leopard, cheetah, pangolin, marine turtle, or ray listed: (a) in
10 Appendix I or Appendix II of the Convention on International Trade
11 in Endangered Species of Wild Fauna and Flora; or (b) as critically
12 endangered, endangered, or vulnerable on the International Union
13 for Conservation of Nature and Natural Resources Red List of
14 Threatened Species ²~~, or the parts or products thereof~~² .
15 b. Unless such activity is prohibited by federal or other State
16 law, rule, or regulation, the following exceptions and defenses shall
17 apply to the prohibition in subsection a. of this section:
18 (1) the ²~~wildlife~~² part or product² was lawfully possessed
19 within the State prior to the effective date of ²~~this section~~² ,
20 P.L. , c. (C.) (pending before the Legislature as this bill)² ,
21 and the legal owner has obtained a certificate of possession from
22 the commissioner, as provided pursuant to subsection c. of this
23 section, within 180 days after the effective date of ²~~this section~~² ;
24 P.L. , c. (C.) (pending before the Legislature as this bill)² ;
25 (2) the ²~~wildlife~~² part or product² is being used or displayed for
26 scientific, zoological, or educational purposes ²~~, for propagation in~~²
27 captivity of such wildlife, or for other special purposes, all² as
28 authorized by the commissioner ²pursuant to State law² ;
29 (3) the ²~~wildlife~~² part or product² is conveyed directly to a
30 devisee, heir, or beneficiary, provided that: (a) the ²~~wildlife~~² part
31 or product² was lawfully possessed by the decedent prior to the
32 effective date of this section; (b) after transfer to the devisee, heir,
33 or beneficiary, the ²~~wildlife~~² part or product² is not thereafter
34 sold, offered for sale, or otherwise distributed to any private party;
35 and (c) the devisee, heir, or beneficiary obtains a certificate of
36 possession from the commissioner, as provided pursuant to
37 subsection c. of this section, within 180 days after obtaining the
38 ²~~wildlife~~² part or product² ; or
39 (4) the person lawfully possesses any ivory, ivory product,
40 rhinoceros horn, or rhinoceros horn product in compliance with
41 section 3 of P.L.2014, c.22 (C.23:2A-13.3).
42 c. The department 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.
45 These rules and regulations shall include a process for applying for
46 the certificate of possession required pursuant to subsection b. of

1 this section. The department may charge a reasonable fee to defray
 2 the cost of issuing a certificate of possession.

3 d. Notwithstanding the penalties provided for in section 10 of
 4 P.L.1973, c.309 (C.23:2A-10), any person who possesses
 5 ²[wildlife] a part or product² in violation of this section and who
 6 fails to obtain a certificate of possession within 180 days after the
 7 effective date of this section, shall be subject only to a civil penalty
 8 of up to \$25 for each day that person possesses the prohibited
 9 ²[wildlife] part or product² without a certificate, to be collected in
 10 a civil action by a summary proceeding under the "Penalty
 11 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

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

16 f. As used in this section:

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

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

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

26 "Heir" has the same meaning as that term is defined in
 27 N.J.S.3B:1-1.¹

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

42
 43 ¹[6.] ²[7.1] 8.² Section 7 of P.L.1973, c.309 (C.23:2A-7) is
 44 amended to read as follows:

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

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

8 c. With the approval of the Governor, the commissioner may
9 cooperate with and receive money from the **[Federal Government,**
10 **or]** federal government, any county or municipal government, or
11 **[from]** private sources for the purposes of **[this act]** P.L.1973,
12 c. 309 (C.23:2A-1 et seq.). The commissioner may establish a
13 separate fund from these contributions for the support of nongame
14 and endangered species programs and for the purposes of P.L.1973,
15 c. 309 (C.23:2A-1 et seq.).

16 d. The commissioner may authorize, under such terms and
17 conditions as may be prescribed by rule or regulation, the taking,
18 possession, transportation, importation, exportation, sale or offer for
19 sale, or shipment of nongame species and wildlife which appear on
20 the State list of endangered species for scientific, zoological, or
21 educational purposes, for propagation in captivity of such wildlife,
22 or for other special purposes.

23 e. The commissioner shall appoint a committee of experts to
24 advise and assist the commissioner in carrying out the intent of
25 **[this act]** P.L.1973, c.309 (C.23:2A-1 et seq.). **[Said]** These
26 experts shall include persons actively involved in the conservation
27 of wildlife.

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

29
30 ¹**[7.]** ²**[8.1]** ^{9.2} R.S.23:4-27 is amended to read as follows:

31 23:4-27. a. No person shall sell or purchase wildlife, except as
32 authorized pursuant to this section or any other law or as may be
33 authorized by rule or regulation adopted by the division pursuant to
34 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.).

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

43 c. Unless prohibited or restricted by rule or regulation adopted
44 by the division, the raw or processed hide of the white-tailed deer
45 (*Odocoileus virginianus*), the tail of the white-tailed deer, the
46 portion of the front leg of a white-tailed deer limited to the carpal,
47 metacarpal, and phalange bones, or the portion of the hind leg of a
48 white-tailed deer limited to the tarsus, metatarsus, and phalange

1 bones may be sold or purchased, provided that those parts or
2 products are from a white-tailed deer that was taken and possessed
3 in a lawful manner.

4 d. Notwithstanding the provisions of subsection a. of this
5 section to the contrary:

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

9 Virginia Opossum	Didelphis virginiana
10 Beaver	Castor canadensis
11 Muskrat	Ondatra zibethicus
12 Nutria	Myocaster coypus
13 Coyote	Canis latrans
14 Red Fox	Vulpes vulpes
15 Gray Fox	Urocyon cinereoargenteus
16 Raccoon	Procyon lotor
17 Long Tail Weasel	Mustela frenata
18 Short Tail Weasel	Mustela erminea
19 Mink	Mustela vison
20 Striped Skunk	Mephitis mephitis
21 River Otter	Lutra canadensis

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

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

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

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

42 (a) subject to a civil penalty of not less than \$200 and not more
43 than \$1,000 for the first offense, and not less than \$500 and not
44 more than \$3,000 for each subsequent offense. If the violation
45 involves the sale or purchase of a black bear (*Ursus americanus*),
46 turkey (*Meleagris gallapavo*), white-tailed deer (*Odocoileus*
47 *virginianus*), bobcat (*Felis rufus*), or illegally taken river otter
48 (*Lutra canadensis*), the civil penalty shall be not less than \$1,000

1 and not more than \$2,000 for the first offense, and not less than
2 \$1,500 and not more than \$3,000 for each subsequent offense; and

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

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

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

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

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

12 g. For the purposes of this section, "sell or purchase" means to
13 sell or offer for sale, possess for sale, purchase or agree to purchase,
14 receive compensation, barter or offer to barter, trade or offer to
15 trade, or transfer or offer to transfer, or conspire for any of those
16 purposes.

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

18

19 ¹[8.] ²[9.¹] 10.² This act shall take effect immediately.