

## Memorandum in Support

### COMMITTEE ON ANIMALS AND THE LAW

Animals # 19

May 24, 2018

S. 1883-B

By: Senator Avella

A. 4010-B

By: M. of A. Sepulveda

Senate Committee: Environmental Conservation

Assembly Committee: Environmental Conservation

Effective Date: One year after it shall have become a law

**AN ACT** to amend the environmental conservation law, in relation to enacting the "Big Five African Trophies Act" relating to foreign game.

**LAW & SECTION REFERRED TO:** Sections 11-0535-b and 71-0919 of the Environmental Conservation Law.

### THE COMMITTEE ON ANIMALS AND THE LAW SUPPORTS THIS LEGISLATION

This bill would amend the Environmental Conservation Law by adding two new sections designed to contribute to the preservation and conservation of the following endangered wildlife species: the African Elephant (*Loxodonta africana*); African Leopard (*Panthera pardus*); African Lion (*Panthera leo*); Black Rhinoceros (*Diceros bicornis*); and White Rhinoceros (*Ceratotherium simum*), collectively referred to as "The Big Five African Trophies" (BIG FIVE). New Section 11-0535-b lists the BIG FIVE and prohibits, with few exceptions, the import, export, possession, sale, purchase or transportation of any part or product of the skin or body of the BIG FIVE, whether raw or manufactured. In addition, any law enforcement officer or New York State designated agent is granted the authority to enforce the prohibition enacted by this bill, including the authority to execute warrants for the search and seizure of any unlawfully obtained or possessed body parts, skin or derivatives of the BIG FIVE. Provisions for the forfeiture, distribution or destruction of confiscated items pursuant to legal or judicial proceedings are included in the statute.

Along with the prohibitions, and barring any federal preemptions or conflicts with paragraph (e) of subdivision six of section 11-0103 of this article, or sections 11-0512, 11-0535-a, or 11-0536 of Title 5 of the NY Environmental Conservation Law, the legislation would provide exceptions for the lawful ownership of any part or product

located or possessed within the state of New York prior to the effective date of the bill. Exceptions are also granted to any New York State museums chartered under the Education Law or by act of the legislature, provided the article is not thereafter sold, offered for sale, traded, bartered or distributed to any private party. Additionally, the possession of any item lawfully possessed prior to the enactment of this bill and distributed to a beneficiary by will or trust is allowed, provided the heir or beneficiary obtains a lawful certificate of possession from the New York Secretary of State within 180 days of the transfer of ownership. Any subsequent sale or transfer of the item to a private party would be prohibited.

Subdivision 1 of section 71-0919 of the Environmental Conservation Law would be amended to include a new paragraph (g) giving temporary possession of any item at issue pursuant to section 11-0535-b to a court of proper jurisdiction. Additionally, paragraph (g) outlines the penalties for conviction of violations of 11-0535-b pursuant to section 55.10(1) of the penal law, but limits imprisonment sentences to definite terms not to exceed two years. Moreover, any property held by the court in conjunction with the criminal proceedings shall be forfeited and destroyed upon a defendant's conviction.

On March 20, 2018, the last male Northern White Rhinoceros passed away. With only two female Northern White Rhinos in captivity remaining alive, the extinction of the Northern White Rhinoceros, one of two subspecies of White Rhinoceros, is imminent, despite the decades of warnings by conservation experts that preservation efforts were critical. Chillingly, a similar scenario is projected for the African Elephant. Currently, less than 350,000 African Elephants remain in the wild, and the International Union for the Conservation of Nature (IUCN) and many conservation organizations like the World Wildlife Fund concur that the population is likely insufficient for African Elephants to survive extinction. Despite the looming possibility of extinction, approximately 30,000 African Elephants are slaughtered annually by poachers and trophy hunters. African Lions face a similar threat of extinction, as population estimates suggest that only 20,000 remain in the wild. According to the African Wildlife Federation, the population of African Black Rhinos in the wild declined approximately 98% since 1960, with fewer than 5,500 currently existing in the wild. Exact population numbers are difficult to obtain for the elusive African Leopard, but the species is considered threatened with extinction by the Convention of International Trade in Endangered Species (CITES).

Among the key factors threatening or contributing to the extinction concerns for the BIG FIVE is their vulnerability and attractiveness to trophy hunters and poachers. Dishearteningly, the United States is the largest importer in the world of trophy-hunted, endangered species. In 2016, approximately 60% of the trophy animals exported from six African countries, Mozambique, Namibia, South Africa, Tanzania, Zambia and Zimbabwe, were imported into the U.S. Between 2014-16, over 1,000 leopard trophies were imported to the US from South Africa, leading the South African government to impose a 2016 moratorium on leopard trophy hunting in the region. According to CITES, 182 wild lions and 276 captive-bred ("canned hunting") lions were imported resulting in approximately a 43% decline in the African lion population.

In 2014, the U.S. Fish and Wildlife Service (USFWS) banned the import of elephant trophies from Zimbabwe and Tanzania because of the decimation of the elephant populations from trophy hunting in those two countries. Following the imposition of the ban, more than 600 elephant trophies were imported into the US from other African countries, demonstrating that without a ban, trophy hunters will continue to decimate BIG FIVE populations. On July 6, 2016, an almost complete ban on commercial ivory trade was imposed by the USFWS, one more step to ending the global elephant poaching crisis. However, in January 2018, in a move seen as a reversal of the policy adopted under the previous administration, the USFWS replaced the ban on imports from Zimbabwe and Tanzania with a case-by-case determination whether elephant trophies from those countries could be imported into the U.S., without any clear standards for how those determinations will be made by the agency.

In 2015 Cecil, a Southern African lion that lived in the Hwange National Park in Zimbabwe, was killed by Walter Palmer, an American recreational hunter. Palmer had a permit that allowed him to hunt and kill a lion, but not in the protected area of the national park. The lion was killed outside the park, and there is evidence that he was lured outside the protected area in order to allow this hunter to track and kill him. Cecil was well known to the public because of his regular presence in the Hwange National Park, and the public uproar following his killing led to increased public awareness of the dangers posed to lion populations by trophy hunting. The death of Cecil led to changes in hunting regulations in the African countries where the BIG FIVE are found, and even private companies responded; Delta and 44 other airlines banned the freight shipment worldwide of BIG FIVE trophies on their planes.

Claims from trophy hunting enthusiasts such as members of Safari Club International, the leader in trophy hunting expeditions, and the National Rifle Association (NRA), that the threat of extinction fuels conservation efforts by trophy hunters are of questionable validity. As reported by CNN in January 2018, the Dallas Safari Club, under the auspices of conservation, auctioned off a hunting permit for one of the last remaining African Black Rhinos for \$350,000, declaring that the proceeds would be donated to the Namibian government for conservation efforts. Organizations seeking to protect the remaining population pointed out that the killing of a member of the nearly-extinct species does not send a conservation message.

State action can be taken to reverse the impact of the USFWS withdrawal of the ban on trophy importation. New York State is the busiest of the 18 states designated as ports of entry for animal trophies. Between 2005-2014, over 1,541 lions, 1,130 African elephants and 83 pairs of tusks, 1,169 African leopards and 110 African white rhinos, plus three pairs of horns, were imported and processed through New York. A ban on the importation, possession, sale, and transportation of BIG FIVE skins, body parts or derivative products into New York, as proposed by S.1883-B/A.4010-B, will have an even greater impact in supporting efforts to reverse the extinction trajectories for the BIG FIVE.

As the bill sponsors point out, New York's involvement in the importation of animal trophies places it in a unique position to significantly influence BIG FIVE conservation efforts through a ban on importation of these trophy animals into or through this state.

For the foregoing reasons, the Committee on Animals and the Law **SUPPORTS** the passage and enactment of this legislation.