

## Memorandum Urging Approval

### COMMITTEE ON ANIMALS AND THE LAW

Animals #10-GOV

May 28, 2019

S. 5098  
A. 6600

By: Senator Martinez  
By: M. of A. Englebright

Senate Committee: Rules  
Assembly Committee: Ways and Means  
Effective Date: Immediately

**AN ACT** to amend the environmental conservation law, in relation to designating certain species as vulnerable species and prohibiting the sale of articles made from such vulnerable species; and to require the department of environmental conservation to designate the giraffe as a vulnerable species.

**LAW & SECTION REFERRED TO:** A new section 11-0535-b is added to the Environmental Conservation Law; section 71-0925 is amended.

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

This bill creates a new category of protection for animals threatened with extinction that are not provided protection under existing federal or state law, designating them as “vulnerable species” in a new Section 11-0535-b of the Environmental Conservation Law. The determination that a species is vulnerable is made in accordance with the criteria set forth in this new section, and is based on a population size reduction, a reduction in the area occupied by the species, a reduction in the number of mature animals, and other factors that may cause the species to become extinct. Determination that these criteria are met may be based upon information compiled by an organization such as the International Union for Conservation of Nature, and their conclusion that the species is threatened. The designation that a species is vulnerable may only be applied to animals in trade in New York State, and it is specifically intended to apply to species that are not protected as an endangered or threatened species by the Secretary of the Interior, protected under the Marine Mammal Protection Act, or protected in New York under any other statute.

The legislation provides that the Department of Environmental Conservation will designate a species as a “vulnerable species” by adoption of a regulation filed with the Secretary of State. DEC is required to maintain a list of vulnerable species and publish them on the DEC website. No species may be designated as a “vulnerable species” if it is protected by another section of the Environmental Conservation Law, or if DEC regulates the taking of the species pursuant to a permit or license.

Under this bill, no person may sell, or possess with the intent of selling, any article made in whole or in part of any part of the animal designated as a vulnerable species. There are exceptions to this prohibition, allowing for the possession or sale of any such articles that is an antique, or held for educational or scientific purposes, or intended to become part of the collection of a museum chartered by New York State.

The legislation would establish penalties for a violation of any of the prohibitions on possession or sale of articles made from any part of a vulnerable species; the penalties would be one thousand dollars or two times the value of the article involved, whichever is greater, for a first offense; and two thousand dollars or three times the value of the article involved, whichever is greater, for subsequent offenses.

The Department of Environmental Conservation would be directed to adopt regulations designating the giraffe (*Giraffa Camelopardalis*) as a vulnerable species under the provisions of this legislation. The department also would be required to prepare a report on this act no later than January 1, 2021, outlining enforcement activities and making recommendations for necessary changes.

For species threatened with extinction, each animal killed for their parts, for display, consumption, medicinal purposes or otherwise, means one more step towards extinction. Unlike inorganic commodities, wildlife does not reproduce on demand and their reproductive success is sensitive to environmental and other factors that cannot be manipulated at will. For giraffes, the reality is devastating; poaching for bushmeat, excessive sport hunting and public demand for giraffe trophies, trinkets, jewelry and clothing over the past 30 years has led to a 40% reduction in population worldwide.

Unfortunately, giraffes are virtually unprotected under international, federal or state laws, although the excessive rate of decline has garnered the concern of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Meeting in May of this year, the consortium of 183 member nations, united to mitigate the threat of extinction for species subject to trade, will consider adopting limited restrictions on excessive commercial trade of giraffe species. Even if approved, it is unknown whether the recommendation will yield positive results or in what time frame.

A 2018 investigation of online and U.S. retail markets conducted by the Humane Society of the United States (HSUS) revealed that the United States is a major destination for commercialized giraffe products and parts; primarily bone, hide, tails and trophies. Between 2006 and 2015, over 40,000 giraffe parts, the rough equivalent of 4,000 giraffe, were introduced into U.S. markets primarily for commercial purposes.

It is a matter for alarm; with the population decline, the lack of protections and the unregulated thriving market, this species seems headed for inevitable extinction. That reality is confirmed by the International Union for the Conservation of Nature, the recognized global authority on the status of the natural world, which announced last year that the Kordofan and Nubian giraffe subspecies are now extinct, due largely to habitat loss and international exploitation. With only

100,000 giraffes remaining in the wild, it is chilling to consider that one out of every 25 of those giraffes ends up in the U.S. as some form of home décor, rug or jewelry.

The 2018 HSUS investigation also revealed that in the U.S., New York State is one of the main locations where giraffe parts and products are sold. As a primary center of commercial activity that depends on the killing of giraffes elsewhere in the world, New York plays a lead role in this species' continued demise.

Despite New York's demonstrated commitment to protecting wildlife threatened with extinction, there are currently no protections or restrictions imposed for the commercialization of giraffes or other threatened species that are not indigenous to this state and are not protected under the federal Endangered Species Act (ESA). Current ECL Section 182.2(e) provides protection only to species indigenous to New York or listed as endangered under the ESA. This bill would close that gap.

By creating new protections for "vulnerable species," New York could stop posing a threat to the survival of giraffes and other iconic or critical species. In doing so, New York could serve as a potential role model for other states to do the same.

The Committee on Animals and Law applauds the sponsors of this bill for recognizing the need for New York to take a proactive stance in forestalling further threats to the survival of the giraffe and other similarly unprotected species. It is hoped that future amendments might provide for more robust protections and penalties that would further disincentivize the illegal trade that has put many of these species in danger of extinction.

For the foregoing reasons, the NYSBA's Committee on Animals and the Law **SUPPORTS** this legislation and **URGES ITS APPROVAL** by the Governor.