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State Endangered Species Act Statutes:

New York



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Endangered Species § 11-0535 – 0535C

Current through 2020 released Chapters 1-56, 58-169

§ 11-0535. Endangered and threatened species, species of special concern

1. For the purposes of this section, “endangered species” shall mean those species of fish, shellfish, crustacea and wildlife designated by the department, by regulation filed with the Secretary of State, as seriously threatened with extinction, “threatened species” shall mean those species of fish and wildlife designated by the department, by regulation filed with the Secretary of State, which are likely to become endangered species within the foreseeable future throughout all or a significant portion of their range, and “species of special concern” shall mean those species of fish and wildlife designated by the department, by regulation filed with the Secretary of State, which are found by the department to be at risk of becoming threatened in New York. Such regulation shall include, but not be limited to, endangered and threatened species as so designated by the Secretary of the Interior, provided, however, that such regulation shall take effect sixty days after it has been filed with the Secretary of State, and provided, further, that the commissioner may exclude any such species as the commissioner may determine after investigation to be no longer endangered or threatened from the restrictions of this section.

2. Notwithstanding any other provision of this chapter, the taking, importation, transportation, possession or sale of any endangered or threatened species of fish, shellfish, crustacea or wildlife, or hides or other parts thereof, or the sale or possession with intent to sell any article made in whole or in part from the skin, hide or other parts of any endangered or threatened species of fish, shellfish, crustacea or wildlife is prohibited, except under license or permit from the department.

3. Notwithstanding any other provision of this chapter, the department may promulgate regulations to the taking, importation, transportation, possession or sale of any species of special concern as the department deems necessary for the proper protection of such species.

§ 11-0535-a. Illegal ivory articles and rhinoceros horns

1. As used in this section:

a. “Distribute” means a transfer or change in possession with an accompanying change in legal ownership.

b. “Ivory article” means any item containing worked or raw ivory from any species of elephant or mammoth.



c. “Raw ivory” means any elephant or mammoth tusk, and any piece thereof, the surface of which, polished, or unpolished, is unaltered or minimally carved.

d. “Worked ivory” means any elephant or mammoth tusk, and any piece thereof, which is not raw ivory.

2. Except as otherwise provided in subdivision three of this section, no person shall sell, offer for sale, purchase, trade, barter or distribute an ivory article or rhinoceros horn.

3. Unless such activity is prohibited by federal law, rule or regulation, the commissioner may issue licenses or permits for the sale, offering for sale, purchase, trading, bartering or distribution of ivory articles or rhinoceros horns, provided that:

a. the ivory article or rhinoceros horn is part of a bona fide antique and is less than twenty percent by volume of such antique, and the antique status of such antique is established by the owner or seller thereof with historical documentation evidencing provenance and showing the antique to be not less than one hundred years old;

b. the distribution or change of possession of the ivory article or rhinoceros horn is for bona fide educational or scientific purposes, or to a museum chartered by the board of regents pursuant to the education law or to a museum authorized by a special charter from the legislature of this state; or

c. the distribution of the ivory article or rhinoceros horn is to a legal beneficiary of a trust or to an heir or distributee of an estate; or

d. the ivory article or rhinoceros horn is part of a musical instrument, including, without limitation, string and wind instruments and pianos, and the owner or seller provides historical documentation as the department may require, demonstrating provenance and showing the item was manufactured no later than nineteen hundred seventy-five.

§ 11-0535-b. Vulnerable species.

1. As used in this section, “vulnerable species” shall mean any species of wildlife designated by the department, by regulation filed with the secretary of state, which meet the following criteria:

(a) On the basis of credible scientific evidence, which may include information contained on the international union for conservation of nature and natural resources red list of threatened species, or other similar data:

(i) the species has an observed, estimated or projected population decline that if unreversed, will likely result in the species becoming endangered or threatened within the foreseeable future; or

(ii) other factors that may cause the species to go extinct if they are not identified and reversed;

(b) The species is known to be in trade in this state;

(c) The species is not protected as an endangered or threatened species by the secretary of the interior; and

(d) The species is not protected under the Marine Mammal Protection Act.



2. Except as otherwise provided in subdivision three of this section, no person shall sell, or possess with the intent to sell, any article made in whole or in part from the skin, hide, or other parts of any vulnerable species, except under license or permit from the department.

3. The commissioner may issue licenses or permits for the sale or possession with intent to sell of any article made in whole or in part from the skin, hide, or other parts of any vulnerable species, provided that:

(a) the article is part of a bona fide antique and the antique status of such antique is established by the owner or seller thereof with historical documentation evidencing provenance and showing the antique to be not less than one hundred years old; or

(b) the article is for bona fide educational or scientific purposes, or to be made part of a temporary or permanent collection of a museum chartered by the board of regents pursuant to the education law or to a museum authorized by a special charter from the legislature of this state, provided that the article is not thereafter sold to any private party.

4. The department shall maintain a list of vulnerable species identified pursuant to this section and post such list on the department's website.

5. Species shall not be designated as a vulnerable species for the purposes of this section if:

(a) the species is protected pursuant to any other provision of this chapter; or

(b) the taking of the species is regulated by the department pursuant to permit or license.

§ 11-0535-c. Endangered and threatened species mitigation bank fund.

1. The department is hereby authorized to utilize funds in the endangered and threatened species mitigation bank fund, established pursuant to section ninety-nine-hh of the state finance law, for the purposes of implementing an endangered and threatened species mitigation plan approved by the department.

2. Such fund shall consist of contributions, in an amount determined by the department, deposited by an applicant granted a siting permit to construct a major renewable energy facility, where such applicant has been ordered to mitigate harm to a threatened or endangered species or its habitat.

3. In administering the provisions of this article, the commissioner:

a. May, in the name of the state, enter into contracts with not-for-profit corporations, private or public universities, and private contractors for services contemplated by this title. Such contracts shall be subject to approval by the state comptroller and, as to form, by the attorney general.

b. Shall approve vouchers for payments pursuant to an approved contract. All such payments shall be paid on the audit and warrant of the state comptroller;

c. May, in the name of the state, enter into contracts with a not-for-profit corporation to administer grants made pursuant to this title, including the approval and payment of vouchers for approved contracts; and



d. May perform such other and further acts as may be necessary, proper, or desirable to carry out the provisions of this article.

4. Nothing in this article shall be construed to limit or restrict any powers of the commissioner or any other agency pursuant to any other provision of law.

5. The commissioner is authorized and directed to promulgate any regulations deemed necessary to implement this section.

