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## OLR Bill Analysis

### sSB 925

#### ***AN ACT PROHIBITING THE IMPORT, SALE AND POSSESSION OF AFRICAN ELEPHANTS, LIONS, LEOPARDS, BLACK RHINOCEROS, WHITE RHINOCEROS AND GIRAFFES.***

#### **SUMMARY**

This bill generally bans importing, possessing, selling, offering for sale, or transporting in Connecticut a specimen (dead or alive) of any of six types of African animals, which the bill collectively refers to as the “big six African species.” It applies to certain elephants, lions, leopards, giraffes, and two rhinoceros species.

The bill establishes a graduated penalty structure for violations, ranging from no penalty for someone who, unaware and in good faith, violates the ban, to a class D felony for someone with at least two prior violations subject to penalty. In all cases, the bill requires seizing the specimen and any other property or item used in connection with the violation. The specimen, property, or item is then forfeited and, unless the specimen is alive, destroyed.

The bill contains several exemptions, including for a specimen that is already legally in the state or distributed to a beneficiary or heir, as long as the owner or distributee timely obtains a certificate of possession from the Department of Energy and Environmental Protection (DEEP). The ban also does not apply to fossils and ivory and the following under certain conditions: circuses; museums; zoological institutions; and motion picture, television, or digital media production companies.

Lastly, the bill specifies that the ban does not prohibit transporting through the state endangered or threatened species subject to the terms of another state’s permit, which existing law allows.

The United States regulates the trade of the species covered by the

bill, except the African giraffe, through the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and laws such as the Endangered Species Act (16 U.S.C. § 1531 *et seq.*). Specifically, trade of the species requires permits at a minimum (see BACKGROUND).

EFFECTIVE DATE: October 1, 2021

## **SCOPE OF BAN**

### ***Species Covered***

The ban applies to any specimen of any of the following six species:

1. African elephant (*loxodonta Africana*),
2. African lion (*panthera leo*),
3. African leopard (*panthera pardus pardus*),
4. African giraffe (*giraffa camelopardalis*),
5. Black rhinoceros (*diceros bicornis*), and
6. White rhinoceros (*ceratotherium simum cottoni*).

A specimen generally includes any part, product, or offspring of the species, whether dead or alive, including part of a manufactured or food product (see *Exemptions*, below).

### ***Exemptions***

***Fossils and Ivory.*** The bill's ban does not apply to fossils or ivory.

***Individuals and Museums.*** The bill also exempts from the ban, if federal law does not prohibit it, a specimen that is:

1. located or possessed in Connecticut before October 1, 2021, and whose legal owner obtains a certificate of possession from DEEP within the 180 days after that date;
2. distributed directly to a legal beneficiary of a trust or to a legal heir who obtains a certificate of possession from DEEP within

180 days after receiving the specimen; or

3. part of a museum collection of an institution with a federal educational or scientific tax exemption or will be used by a zoological institution for educational purposes, as long as it is not subsequently sold, offered for sale, traded, bartered, or distributed to another party.

For a transfer to a legal beneficiary or heir to be exempt, the specimen must also have been located or possessed by the decedent before October 1, 2021, and the beneficiary or heir may not then sell or offer the specimen for sale, or trade, barter, or distribute it to someone else.

**Zoos, Circuses, and Production Companies.** The bill does not apply to zoological institutions and circuses when they import, transport, or possess live big six African species.

The bill also specifies that its ban does not apply to the exhibition, purchase, transport, or use of these animals in a motion picture, television, or digital media production if the involved production company employs or contracts with a federally licensed dealer or exhibitor or a federally registered carrier, intermediate handler, or unlicensed exhibitor.

By law, these dealers and exhibitors must meet U.S. Department of Agriculture (USDA) standards for humanely handling, caring for, treating, and transporting animals (7 U.S.C. § 2143). Carriers and intermediate handlers must follow USDA requirements for accepting animals for transport, such as documentation, transport conditions, and delivery notification (9 C.F.R. § 3.136).

## **PENALTIES**

Under the bill, a first offense is an infraction (see BACKGROUND), unless the violator was unaware, in good faith, of the violation when he or she committed it. In that case, there is no penalty (other than forfeiting the specimen or related property or other item, see below). For someone who previously did not commit an infraction because of

good faith unawareness, a second offense is an infraction.

The bill makes the first offense committed after an infraction a class B misdemeanor, punishable by a fine of up to \$1,000, up to six months in prison, or both. An offense committed after a class B misdemeanor is a class D felony, punishable by a fine of up to \$5,000, up to five years in prison, or both.

## **SEIZURE AND DESTRUCTION**

Beginning October 1, 2021, any law enforcement officer may enforce the bill's provisions, including executing warrants to search for and seize a banned specimen.

The bill requires (1) seizing the specimen and any other property or item used in connection with violating the ban and (2) holding the specimen, property, or item pending any criminal proceeding. In the proceeding, the bill allows secondary evidence, such as photographs, to be admissible as evidence to the same extent as the banned specimen.

Under the bill, a violator or someone who is the subject of a judgment restraining him or her from violating the ban must forfeit the specimen, property, or other item seized and held related to a violation, regardless of good faith unawareness. The specimen (unless alive), property, or item must also be destroyed.

## **BACKGROUND**

### ***Infractions***

Infractions are punishable by fines, usually set by Superior Court judges, of between \$35 and \$90, plus a \$20 or \$35 surcharge and an additional fee based on the amount of the fine. There may be additional charges depending on the type of infraction. With the various additional charges, the total amount due can be over \$300 but often is less than \$100.

An infraction is not a crime, and violators can pay the fine by mail without making a court appearance.

***International Law on Animal Trade***

CITES is an international treaty under which governments agree to restrict international trade in certain plants and animals and products derived from them. It provides a framework for countries to follow when adopting legislation to implement the treaty. Trade in protected species must be licensed and there are different levels of protection based on a species' endangered status. CITES currently has 183 members as parties to the treaty, including the United States.

***Legislative History***

The Senate referred the bill (File 216) to the Judiciary Committee which reported a substitute establishing the bill's graduated penalty structure, rather than having any violation of the bill's provisions be a felony punishable by a fine of up to \$10,000, up to two years in prison, or both.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 24 Nay 8 (03/12/2021)

Judiciary Committee

Joint Favorable Substitute

Yea 32 Nay 6 (05/03/2021)