
OLR Bill Analysis

sSB 925 (as amended by Senate "B" and House "A")*

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

SUMMARY

This bill 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," unless covered by the bill's exemptions. 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. Under the bill, a specimen and any other property or item used in connection with a violation must be seized and held. If there is a conviction or judgment restraining someone from violating the ban, the specimen, property, or item must be forfeited and destroyed (unless the specimen is alive).

The bill contains several exemptions, including for a specimen that (1) federal law or a federal permit expressly allows for the possession of (see BACKGROUND) or (2) 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. The ban also does not apply to fossils, ivory, or the following under certain conditions: circuses; museums; educational, scientific, or zoological institutions; taxidermy services; or motion picture, television, or digital media production companies. The bill specifies that the ban does not prohibit transporting through the state endangered or threatened species subject to another state's permit, which existing law allows.

*Senate Amendment "B" (1) replaces the underlying bill's graduated penalty structure (see *Legislative History*, below), making a first offense a class A misdemeanor, punishable by a fine of up to \$2,000, up to a year in prison, or both, and a subsequent offense a class D felony; (2) adds the exemptions for (a) lawfully possessing a specimen under a federal law or permit, (b) taxidermy services, and (c) tax exempt educational or scientific institutions for research purposes; and (3) allows museums and institutions to transfer specimens to certain tax-exempt entities.

*House Amendment "A" reinstates the graduated penalty structure replaced by Senate Amendment "B."

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

Federally Authorized Possession. The bill allows possessing a specimen of one of the big six African species if a federal law or permit expressly authorizes it (see BACKGROUND).

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

Individuals, Museums, and Educational or Scientific Institutions. 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 the Department of Energy and Environmental Protection (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;
3. (a) to be used by a zoological institution for educational purposes or (b) part of a collection of a museum or an educational or scientific institution with a federal educational or scientific tax exemption, as long as it is not subsequently sold, offered for sale, traded, bartered, or distributed to another party that is not a tax exempt museum or educational or scientific institution; or
4. imported to Connecticut by a tax exempt educational or scientific institution for research purposes.

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.

Taxidermy Services. Unless prohibited by federal law, the bill allows possessing a big six African species specimen in the state if it is for performing taxidermy services. However, for the exemption to apply, the specimen must be removed from the state within 14 days after the services' completion.

Zoos, Circuses, and Production Companies. The bill does not

apply to zoological institutions or 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 them

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, any specimen, property, or other item that is seized, must be forfeited if there is a conviction or a judgment restraining someone from violating the ban. 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

Federal and International Law on Animal Trade

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.

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 (File 637) establishing a graduated penalty structure, with a first offense an infraction or no penalty in the case of good faith unawareness, rather than having any offense 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)