



Senate

General Assembly

File No. 637

January Session, 2021

Substitute Senate Bill No. 925

Senate, May 7, 2021

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

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

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2021*) (a) For purposes of this
2 section, "big six African species" means any specimen of any of the
3 following members of the animal kingdom: African elephant (*loxodonta*
4 *africana*), African lion (*panthera leo*), African leopard (*panthera pardus*
5 *pardus*), black rhinoceros (*diceros bicornis*), white rhinoceros
6 (*ceratotherium simum cottoni*) and African giraffe (*giraffa*
7 *camelopardalis*), including any part, product or offspring thereof, or the
8 dead body or parts thereof, except fossils, whether or not it is included
9 in a manufactured product or in a food product.

10 (b) No person shall import, possess, sell, offer for sale or transport in
11 this state any big six African species.

12 (c) Any law enforcement officer shall have authority to enforce the

13 provisions of this section and, whenever necessary, to execute any
14 warrant to search for and seize any big six African species imported,
15 possessed, sold, offered for sale or transported in violation of this
16 section.

17 (d) Unless such activity is otherwise prohibited by federal law, the
18 provisions of subsection (b) of this section shall not apply if any of the
19 following conditions exist: (1) Such specimen of a big six African species
20 was located or possessed within the state prior to the effective date of
21 this section and the legal owner of such specimen obtained a certificate
22 of possession from the Commissioner of Energy and Environmental
23 Protection not later than one hundred eighty days after the effective date
24 of this section; (2) such specimen of a big six African species is to be part
25 of a temporary or permanent collection of a museum that has a tax
26 exemption from the federal Internal Revenue Service as an educational
27 or scientific institution or is to be used by a zoological institution for
28 educational purposes, provided such specimen is not subsequently
29 sold, offered for sale, traded, bartered or distributed to any other party;
30 or (3) such specimen of a big six African species is distributed directly
31 to a legal beneficiary of a trust or to a legal heir provided: (A) Such
32 specimen was located or possessed by the decedent prior to the effective
33 date of this section, (B) such beneficiary or heir does not subsequently
34 sell, offer for sale, trade, barter or distribute such specimen to any other
35 person, and (C) such beneficiary or heir obtains a certificate of
36 possession from the Commissioner of Energy and Environmental
37 Protection not later than one hundred eighty days after receipt of such
38 specimen.

39 (e) Any specimen of a big six African species and any other property
40 or item used in connection with a violation of the provisions of this
41 section shall be seized and held pending any criminal proceeding
42 pursuant to this section. In any criminal prosecution pursuant to this
43 section, secondary evidence, including, but not limited to, photographs,
44 shall be admissible against the defendant to the same extent as such
45 specimen would be admissible.

46 (f) (1) Any person who violates the provisions of this section for (A)
47 a first offense shall have committed an infraction, unless such person in
48 good faith at the time of such offense was unaware that he or she was
49 importing, possessing, selling, offering for sale or transporting any
50 specimen of a big six African species, or (B) a second offense shall have
51 committed an infraction if such person previously violated the
52 provisions of this section, but was not found to have committed an
53 infraction because he or she in good faith at the time of such previous
54 offense was unaware that he or she was importing, possessing, selling,
55 offering for sale or transporting any specimen of a big six African
56 species.

57 (2) Any person who subsequently violates the provisions of this
58 section and whose immediate previous offense for a violation of this
59 section was an infraction under subdivision (1) of this subsection shall
60 be guilty of a class B misdemeanor.

61 (3) Any person who violates the provisions of this section for any
62 offense subsequent to an offense under subdivision (2) of this subsection
63 shall be guilty of a class D felony.

64 (g) Any specimen of a big six African species and any other property
65 or item that is seized and held pursuant to this section shall be forfeited
66 and, upon such forfeiture, destroyed if seized from any person who is
67 (1) found to have violated the provisions of this section under
68 subdivision (1) of subsection (f) of this section, whether or not such
69 violation constitutes an infraction, (2) convicted under subdivision (2)
70 or (3) of subsection (f) of this section, or (3) restrained by a judgment
71 from importing, possessing, selling, offering for sale or transporting any
72 specimen of a big six African species on the grounds that such activity
73 is or would be a violation of the provisions of this section. Nothing in
74 this subsection shall be construed to require or authorize the destruction
75 of a living specimen of a big six African species.

76 (h) Nothing in this section shall be construed to apply to the
77 importing, possessing, selling, offering for sale or transporting of ivory
78 in this state.

79 (i) Nothing in this section shall be construed to apply to the
80 importing, transporting or possessing of a live big six African species by
81 any zoological institution or circus.

82 (j) Nothing in this section shall be construed to apply to the
83 transportation, purchase, exhibition or use of any animal in a motion
84 picture, television or digital media production by a motion picture,
85 television or digital media production company that employs or
86 contracts with a dealer or exhibitor licensed pursuant to 7 USC 2133, as
87 amended from time to time, or with a carrier, intermediate handler or
88 unlicensed exhibitor registered under 7 USC 2136, as amended from
89 time to time, to conduct such transport, purchase, exhibition or use.

90 Sec. 2. Subsection (d) of section 26-311 of the general statutes is
91 repealed and the following is substituted in lieu thereof (*Effective October*
92 *1, 2021*):

93 (d) Nothing in section 1 of this act, sections 26-303 to 26-312, inclusive,
94 or any regulations adopted pursuant to said sections shall prohibit
95 transportation through this state of any endangered or threatened
96 species in accordance with the terms of any permit issued under the
97 laws of another state provided the person in possession of an
98 endangered or threatened species can prove legal possession of the
99 species.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2021</i>	New section
Sec. 2	<i>October 1, 2021</i>	26-311(d)

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Correction, Dept.; Judicial Dept. (Probation)	GF - Potential Cost	See Below	See Below
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill bans importing, possessing, selling, offering for sale, or transporting certain specimens of African animals and creates penalties for violating the ban. Violations of this provision may result in a potential cost for incarceration or probation and a potential revenue gain from fines assessed. On average, the marginal cost to the state for incarcerating an offender for the year is \$2,200¹ while the average marginal cost for supervision in the community is less than \$700² each year.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of violations.

¹ Inmate marginal cost is based on increased consumables (e.g. food, clothing, water, sewage, living supplies, etc.) This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

² Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

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)