
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: SB 1487 **Hearing Date:** April 24, 2018
Author: Stern
Version: April 2, 2018
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Iconic African Species Protection Act*

HISTORY

Source: Social Compassion in Legislation

Prior Legislation: AB 96 (Atkins) Chapter 475, Stats. 2015
AB 2075 (Alejo) Chapter 464, Stats. 2013

Support: Animal Legal Defense Fund; Animal Defenders International; Center for Biological Diversity; Humane Society International; The Humane Society of the United States; Western Animal Hospital; hundreds of individuals

Opposition: Safari Club International

PURPOSE

The purpose of this bill is to make it a misdemeanor to possess any species or subspecies of African elephant, African lion, leopard, black rhinoceros, white rhinoceros, giraffe, Jentink's duiker, plains zebra, mountain zebra, hippopotamus, and striped hyena, including any part product or offspring, or the dead body or parts, excluding fossils, whether or not included in a manufactured product or in a food product.

Existing law provides that the importation, possession, or release of wild animals defined as bird, amphibians, mammals and other classes of animal life. Violations are misdemeanors with a penalty of up to 6 months in county jail and/or a fine of \$500-\$10,000 (approximately \$2,050 - \$41,000 with penalty assessments). (Fish and Game Code § 2118)

Existing law makes it a misdemeanor to possess or trade in goods made from ivory or rhinoceros horn. On a first offense if the value of the ivory or horn is \$250 or less then the penalty is 30 days in jail and/or a fine of \$1,000-\$10,000 (approximately \$4,100- \$41,000) for second offense the penalty is imprisonment in the county jail for up to a year and a fine of \$5,000-\$40,000, (approximately \$20,500-\$164,000). If the value of the ivory or horn is \$250 or more then the penalty is imprisonment in the county jail for up to a year and a fine of \$5,000-\$40,000, (approximately \$20,500-\$164,000) on the second offense the penalty is up to one year in county jail and a fine of \$10,000 to \$50,000 (approximately \$41,000 to \$205,000) or two times the total value. (Fish and Game Code § 2022)

Existing law makes it a misdemeanor to import into California, to possess with intent to sell, or to sell the dead body or any part or product of polar bear, leopard, ocelot, tiger, cheetah, jaguar, sable antelope, wolf, zebra, whale, cobra, python, sea turtle, colobus monkey, kangaroo, vicuna, sea otter, free-roaming feral horse, dolphin or porpoise, Spanish lynch or elephant. The penalty

is up to six months in county jail and/ or a fine of \$1,000 to \$5,000 (approximately \$4,100 to \$20,500). (Penal Code § 653o)

Existing law prohibits possession with the intent to sell or the sale of a dead body or any part of any species or subspecies of animal or plant that is illegal to import under the federal endangered species act of the Marine Mammal Protection Act. (Penal Code § 653p)

Existing law provides that it is unlawful to import into this state for commercial purposes, to possess with intent to sell or to sell within the state the dead body, or any part of product thereof of any seal. The penalty is up to 6 months in county jail or a fine of \$1,000 to \$5,000 (approximately \$4,100 to \$20,500). (Penal Code § 653q)

Existing law provides that it a misdemeanor to possess with intent to sell, or to sell the dead body, or any part or product thereof, of any fish, bird, amphibian, reptile, or mammal specified in Sections 653o or 653p. The penalty is up to 6 months in county jail and/or a fine of \$1,000 (approximately \$4,100).

This bill would enact the Iconic African Species Protection Act as follows:

- 1) Defines “Iconic African Species” as any species or subspecies of African elephant, African lion, leopard, black rhinoceros, white rhinoceros, giraffe, Jentink’s duiker, plains zebra, mountain zebra, hippopotamus, and striped hyena, including any part product or offspring, or the dead body or parts, excluding fossils, whether or not included in a manufactured product or in a food product.
- 2) Includes the same definition of bona fide educational or scientific institution that is used in Fish and Game Code 2022 (the ivory/rhino horn prohibition).
- 3) Prohibits the possession of these species by any individual, firm, corporation, association, or partnership in California.
- 4) Provides exceptions to the prohibition as follows:
 - Employees of the federal, state, or local government undertaking a law enforcement activity;
 - When the article is possessed for wholly noncommercial purposes and was possessed within California before 1/1/2019 and is not thereafter sold, offered for sale, traded, bartered, or distributed to any private party within the state;
 - When the article is lawfully imported in the state pursuant to a permit or exemption under the California Endangered Species Act (CESA). Under such circumstances, the article must be removed from the state and may not be possessed within the state.
 - For ivory and rhinoceros horn, the article must be possessed in conformity with Fish and Game Code Section 2022.
 - If the article is distributed to legal beneficiary of a trust or heir, the article may not be thereafter sold, offered for sale, traded, bartered, or distributed to any private party.
- 5) Establishes penalties for a first violation as imprisonment in the county jail for up to a year and a fine of \$5,000-\$40,000 (approximately \$20,500-\$164,000).

- 6) Establishes penalties for subsequent convictions penalty is up to one year in county jail and a fine of \$10,000 to \$50,000 (approximately \$41,000 to \$205,000).
- 7) Authorizes a separate administrative penalty of up to \$10,000 for a violation that results in a fine, that is identical to the administrative penalties described above pertaining to ivory and rhinoceros horn violations of state law.
- 8) States that this bill would not preclude enforcement under Section 2022 of the Fish and Game Code or Sections 653o, 653p, or 653r of the Penal Code.
- 9) States that provisions of this bill are severable if a prohibition involving one species is declared invalid.

COMMENTS

1. Need for This Bill

According to the author:

The world is currently witnessing a widespread decimation of many of the most iconic and essential large animal populations throughout the African continent. Between 2007 and 2014, Savanna elephant populations declined by 30 percent, equal to 144,000 elephants. African lion populations are estimated to have declined by 43% between 1993 and 2014. Black rhino numbers have declined by 97.6% since 1960. The situation is just as dire for other species such as the white rhino, leopard, giraffe, Jentink's duiker, plains and mountain zebra, hippopotamus, and hyena. By banning the possession of the dead body or body part of 12 of the most endangered iconic African animal species, SB 1487 would take a big step towards promoting more sustainable ecotourism activities that will save these important endangered animals for generations to come.

In light of the recent decision by the federal government to allow elephant trophy imports, it is time for California step up and send a signal that trophy hunting is fundamentally unsustainable and should not be part of the solution to stemming the tide of extinction.

2. Misdemeanor Penalties for Possession of African Species

This bill would create a new misdemeanor for the possession of specified African species and any part, product, offspring, or the dead body or parts thereof, including, but not limited to, the African elephant or the black rhinoceros by any individual, firm, corporation, association, or partnership within the State of California, except as specified for, among other things, use for educational or scientific purposes by a bona fide educational or scientific institution.

The penalties for the misdemeanor are:

- Up to on year in county jail and/or a fine of \$5,000 to \$40,000. With penalty assessments of approximately 310% the fine will actually be approximately \$20,500-\$164,000.
- A second or subsequent violation would be up to one year in county jail and a fine of \$10,000 to \$50,000. With penalty assessments of approximately 310% the fine will actually be approximately \$41,000 to \$205,000.

The penalties in this bill are identical to those in Fish and Game Code Section 2022 for the possession of ivory or rhinoceros horn of a value of more than \$250.

3. Amends from Committee on Natural Resources and Water

The following amendments that were agreed to in the Committee on Natural Resources and Water will be adopted in this Committee.

According to the analysis from the Committee on Natural Resources and Water “the following amendments which are generally intended to make the bill prospective, to eliminate the possibility of penalties being assessed against those not involved in the trade of trophy animals, and to eliminate impractical deadlines.”

1. Page 4, line 12. End the sentence after 2019 and delete lines 13-14.
2. Page 4, lines 16. Change California Endangered Species Act to “federal endangered species act.”
3. Page 4, lines 26-28, delete.

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