

CHAPTER 6

AN ACT concerning certain animal species threatened with extinction, amending and supplementing P.L.1973, c.309, and amending R.S.23:4-27.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P.L.1973, c.309 (C.23:2A-2) is amended to read as follows:

C.23:2A-2 Legislative findings and declarations.

2. The Legislature hereby finds and declares the following:

- a. That it is the policy of this State to manage all forms of wildlife to insure their continued participation in the ecosystem;

- b. That species or subspecies of wildlife indigenous to the State which may be found to be endangered should be accorded special protection in order to maintain and to the extent possible enhance their numbers; and

- c. That the State should assist in the protection of species or subspecies of wildlife which are deemed to be endangered elsewhere by regulating the taking, possession, transportation, importation, exportation, processing, sale or offer for sale, or shipment within this State of species or subspecies of wildlife including those on any federal endangered species list.

2. Section 3 of P.L.1973, c.309 (C.23:2A-3) is amended to read as follows:

C.23:2A-3 Definitions.

3. For the purposes of P.L.1973, c.309 (C.23:2A-1 et seq.), unless the context clearly requires a different meaning:

"Commissioner" means the Commissioner of the Department of Environmental Protection;

"Department" means the Department of Environmental Protection;

"Endangered species" means any species or subspecies of wildlife whose prospects of survival or recruitment are in jeopardy or are likely within the foreseeable future to become so due to any of the following factors: (1) the destruction, drastic modification, or severe curtailment of its habitat, or (2) its over-utilization for scientific, commercial or sporting purposes, or (3) the effect on it of disease, pollution, or predation, or (4) other natural or manmade factors affecting its prospects of survival or recruitment within the State, or (5) any combination of the foregoing factors. The term shall also be deemed to include any species or subspecies of wildlife appearing on any federal endangered species list;

"Nongame species" means any wildlife for which a legal hunting or trapping season has not been established or which has not been classified as an endangered species by statute or regulation of this State;

"Take" means to harass, hunt, capture, kill, or attempt to harass, hunt, capture, or kill, wildlife;

"Wildlife" means any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean or other wild animal or any part, product, egg or offspring or the dead body or parts thereof.

3. Section 4 of P.L.1973, c.309 (C.23:2A-4) is amended to read as follows:

C.23:2A-4 Investigations, list of endangered species.

4. a. The commissioner shall conduct investigations concerning wildlife indigenous to the State in order to develop information relating to populations, distribution, habitat needs, limiting factors and other biological and ecological data to determine management measures necessary for their continued ability to sustain themselves successfully. On the basis of such determinations the commissioner shall develop management programs which shall be designed to insure the continued ability of wildlife to perpetuate themselves successfully.

b. On the basis of such investigations of wildlife and other available scientific and commercial data the commissioner may by rule or regulation promulgate a list of those species and subspecies of wildlife indigenous to the State which are determined to be endangered, giving their common and scientific names by species and subspecies. The commissioner shall periodically review the State list of endangered species and may by regulation amend the list making such additions or deletions as are deemed appropriate.

4. Section 5 of P.L.1973, c.309 (C.23:2A-5) is amended to read as follows:

C.23:2A-5 Rules, regulations; inspections; fees.

5. a. The commissioner shall have the power to formulate and promulgate, adopt, amend and repeal rules and regulations, limiting, controlling and prohibiting the taking, possession, transportation, importation, exportation, sale or offer for sale, or shipment of any nongame species or any wildlife on the State list of endangered species, and for the purposes of implementing section 6 of P.L.2016, c.6 (C.23:2A-6.1). Such rules and regulations shall be designed to promote the public health, safety and welfare and shall be adopted in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. The commissioner is authorized to conduct periodic inspections in order to determine compliance with the rules and regulations adopted pursuant to this section, and, to that end, is authorized to charge and collect fees in an amount sufficient to cover the costs of the inspections and services performed pursuant to P.L.1973, c.309 (C.23:2A-1 et seq.). Such fees shall be devoted entirely and exclusively to carrying out the purposes and provisions of P.L.1973, c.309 (C.23:2A-1 et seq.). Inspection fees shall be established in accordance with a fee schedule adopted by the department as a rule and regulation pursuant to the provisions of the "Administrative Procedure Act."

5. Section 6 of P.L.1973, c.309 (C.23:2A-6) is amended to read as follows:

C.23:2A-6 Prohibitions relative to certain species.

6. Except as otherwise provided in P.L.1973, c.309 (C.23:2A-1 et seq.) or the rules or regulations adopted thereunder, no person shall take, possess, transport, import, export, process, sell or offer for sale, or ship, and no common or contract carrier shall knowingly transport or receive for shipment, any species or subspecies of wildlife appearing on the following lists: (1) the list of wildlife determined to be endangered by the commissioner pursuant to P.L.1973, c.309 (C.23:2A-1 et seq.); (2) the list of nongame species regulated pursuant to P.L.1973, c.309 (C.23:2A-1 et seq.); and (3) any federal list of endangered species. Any species or subspecies of wildlife appearing on any of the foregoing lists which enters the State from another state or from a point outside the territorial limits of the United States and which is transported across the State destined for a point beyond the State may be so entered and transported without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.

C.23:2A-6.1 Prohibitions relative to products, parts of certain species; exceptions; rules, regulations; definitions.

6. a. Notwithstanding the provisions of section 6 of P.L.1973, c.309 (C.23:2A-6) or any other law, or any rule or regulation adopted pursuant thereto, to the contrary, no person shall possess, transport, import, export, process, sell or offer for sale, or ship, and no common or contract carrier shall knowingly transport or receive for shipment any part or product of: (1) any specified African species; or (2) any species or subspecies of elephant, rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, or ray listed in Appendix I or Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

b. The following exceptions and defenses shall apply to the prohibition in subsection a. of this section:

(1) the part or product was lawfully possessed within the State prior to the effective date of P.L.2016, c.6 (C.23:2A-6.1 et al.);

(2) the part or product is being used or displayed for scientific, zoological, or educational purposes;

(3) the part or product is conveyed directly to a devisee, heir, or beneficiary, provided that the part or product was lawfully possessed by the decedent prior to the effective date of this section; or

(4) the person lawfully possesses any ivory, ivory product, rhinoceros horn, or rhinoceros horn product in compliance with section 3 of P.L.2014, c.22 (C.23:2A-13.3).

c. The department may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to implement this section.

d. Nothing in this section shall be construed to preclude a person violating this section from also being liable for any applicable violation of P.L.2014, c.22 (C.23:2A-13.1 et seq.), R.S.23:4-27, or any other State law, rule, or regulation.

e. As used in this section:

"Beneficiary" has the same meaning as that term is defined in N.J.S.3B:1-1.

"Devisee" has the same meaning as that term is defined in N.J.S.3B:1-1.

"Heir" has the same meaning as that term is defined in N.J.S.3B:1-1.

"Specified African species" means the following species of wildlife: (1) African elephant (*Loxodonta Africana*); (2) African leopard (*Panthera pardus*); (3) African lion (*Panthera leo*); (4) black rhinoceros (*Diceros bicornis*); and (5) white rhinoceros (*Ceratotherium simum*).

C.23:2A-6.2 Activities permitted pursuant to conduct of biomedical research.

7. Notwithstanding the provisions of section 6 of P.L.1973, c.309 (C.23:2A-6), section 6 of P.L.2016, c.6 (C.23:2A-6.1), or any other State law, or any rule or regulation adopted pursuant thereto, to the contrary, unless such activity is otherwise prohibited by federal law, a person may possess, transport, import, export, process, sell or offer for sale, or ship wildlife, or part or product thereof: (1) for purposes related to the conduct of biomedical research at a facility licensed by the United States Department of Agriculture pursuant to the federal "Animal Welfare Act," 7 U.S.C. s.2131 et seq., or at a facility conducting biomedical research in compliance with the "Public Health Service Policy on Humane Care and Use of Laboratory Animals" issued by the United States National Institutes of Health; (2) in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state, if the wildlife, or part or product thereof, enters the State from another state or from a point outside the territorial limits of the United States, and is

transported across the State destined for a point beyond the State; or (3) in the course of undertaking any law enforcement activities pursuant to federal or State law, or other mandatory duties required by federal or State law, if the person is an employee or agent of the federal government, the State government, or a bi-state authority.

8. Section 7 of P.L.1973, c.309 (C.23:2A-7) is amended to read as follows:

C.23:2A-7 Programs for conservation and management of nongame and endangered species of wildlife.

7. a. The commissioner shall establish such programs, including acquisition of land or aquatic habitats, as are deemed necessary for the conservation and management of nongame and endangered species of wildlife.

b. In carrying out programs authorized by P.L.1973, c.309 (C.23:2A-1 et seq.), the commissioner may enter into agreements with federal agencies, with political subdivisions of the State, or with private persons for administration and management of any area established under this section or utilized for management of nongame or endangered species of wildlife.

c. With the approval of the Governor, the commissioner may cooperate with and receive money from the federal government, any county or municipal government, or private sources for the purposes of P.L.1973, c.309 (C.23:2A-1 et seq.). The commissioner may establish a separate fund from these contributions for the support of nongame and endangered species programs and for the purposes of P.L.1973, c.309 (C.23:2A-1 et seq.).

d. The commissioner may authorize, under such terms and conditions as may be prescribed by rule or regulation, the taking, possession, transportation, importation, exportation, sale or offer for sale, or shipment of nongame species and wildlife which appear on the State list of endangered species for scientific, zoological, or educational purposes, for propagation in captivity of such wildlife, or for other special purposes.

e. The commissioner shall appoint a committee of experts to advise and assist the commissioner in carrying out the intent of P.L.1973, c.309 (C.23:2A-1 et seq.). These experts shall include persons actively involved in the conservation of wildlife.

9. R.S.23:4-27 is amended to read as follows:

Unlawful sale, purchase of wildlife; penalties.

23:4-27. a. No person shall sell or purchase wildlife, except as authorized pursuant to this section or any other law or as may be authorized by rule or regulation adopted by the division pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. The provisions of subsection a. of this section shall not apply to the sale or purchase of wildlife authorized or regulated by chapter 2A or 2B of this title, R.S.23:3-28 through R.S.23:3-39, section 4 of P.L.1970, c.247 (C.23:3-65), R.S.23:4-50, R.S.23:5-2, or Title 50 of the Revised Statutes, or any rule or regulation adopted pursuant thereto, provided that the wildlife was taken and possessed in a lawful manner.

c. Unless prohibited or restricted by rule or regulation adopted by the division, the raw or processed hide of the white-tailed deer (*Odocoileus virginianus*), the tail of the white-tailed deer, the portion of the front leg of a white-tailed deer limited to the carpal, metacarpal, and phalange bones, or the portion of the hind leg of a white-tailed deer limited to the tarsus, metatarsus, and phalange bones may be sold or purchased, provided that those

parts or products are from a white-tailed deer that was taken and possessed in a lawful manner.

d. Notwithstanding the provisions of subsection a. of this section to the contrary:

(1) the dead body or any part or product thereof of the following wildlife may be sold or purchased, provided that the wildlife was taken and possessed in a lawful manner:

Virginia Opossum	<i>Didelphis virginiana</i>
Beaver	<i>Castor canadensis</i>
Muskrat	<i>Ondatra zibethicus</i>
Nutria	<i>Myocaster coypus</i>
Coyote	<i>Canis latrans</i>
Red Fox	<i>Vulpes vulpes</i>
Gray Fox	<i>Urocyon cinereoargenteus</i>
Raccoon	<i>Procyon lotor</i>
Long Tail Weasel	<i>Mustela frenata</i>
Short Tail Weasel	<i>Mustela erminea</i>
Mink	<i>Mustela vison</i>
Striped Skunk	<i>Mephitis mephitis</i>
River Otter	<i>Lutra canadensis</i>

(2) wildlife not native to this State that originated from a state or other jurisdiction where it is legal to sell or purchase that wildlife and the wildlife was sold or purchased in accordance with the laws of that state or other jurisdiction, may be sold or purchased in this State unless prohibited by federal law, rule, or regulation, "The Endangered and Nongame Species Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.), P.L.2014, c.22 (C.23:2A-13.1 et seq.), or any other State law, rule, or regulation; provided that the wildlife is labeled with the state or other jurisdiction of origin, the name and address of the exporter, and all applicable permit numbers until the expected final retail transaction has been made.

e. The division shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to implement this section and to otherwise provide for the control and regulation of the sale and purchase of wildlife, including but not limited to wildlife not specifically listed in this section.

f. In addition to any penalties that may be prescribed by any other applicable law:

(1) a person who violates this section shall be:

(a) subject to a civil penalty of not less than \$200 and not more than \$1,000 for the first offense, and not less than \$500 and not more than \$3,000 for each subsequent offense. If the violation involves the sale or purchase of a black bear (*Ursus americanus*), turkey (*Meleagris gallapavo*), white-tailed deer (*Odocoileus virginianus*), bobcat (*Felis rufus*), or illegally taken river otter (*Lutra canadensis*), the civil penalty shall be not less than \$1,000 and not more than \$2,000 for the first offense, and not less than \$1,500 and not more than \$3,000 for each subsequent offense; and

(b) assessed the replacement value of the animal, as prescribed by section 10 of P.L.1990, c.29 (C.23:3-22.2); and

(2) a person who purposely violates this section when the total value of the sale or purchase is:

(a) less than \$200 shall be guilty of a disorderly persons offense;

(b) \$200 or more, but less than \$500, shall be guilty of a crime of the fourth degree;

(c) \$500 or more shall be guilty of a crime of the third degree.

g. For the purposes of this section, "sell or purchase" means to sell or offer for sale, possess for sale, purchase or agree to purchase, receive compensation, barter or offer to

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barter, trade or offer to trade, or transfer or offer to transfer, or conspire for any of those purposes.

10. This act shall take effect immediately.

Approved June 1, 2016.