

116TH CONGRESS
1ST SESSION

S. 804

To amend the Marine Mammal Protection Act of 1972 to protect the cultural practices and livelihoods of producers of Alaska Native handicrafts and fossilized ivory products, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 14, 2019

Mr. SULLIVAN (for himself and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Marine Mammal Protection Act of 1972 to protect the cultural practices and livelihoods of producers of Alaska Native handicrafts and fossilized ivory products, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Empowering Rural
5 Economies Through Alaska Native Sustainable Arts and
6 Handicrafts Act”.

1 **SEC. 2. ALASKA NATIVE HANDICRAFTS.**

2 Section 101(b) of the Marine Mammal Protection Act
3 Of 1972 (16 U.S.C. 1371(b)) is amended to read as fol-
4 lows:

5 “(b) APPLICATION TO CERTAIN ALASKA NATIVES.—

6 “(1) DEFINITIONS.—In this subsection:

7 “(A) AUTHENTIC NATIVE ARTICLE OF
8 HANDICRAFTS AND CLOTHING.—The term ‘au-
9 thentic native article of handicrafts and cloth-
10 ing’ means an item composed wholly, or in some
11 significant respect, of natural materials that is
12 produced, decorated, or fashioned in the exer-
13 cise of traditional native handicrafts without
14 the use of a pantograph, multiple carvers, or
15 any other mass copying device.

16 “(B) TRADITIONAL NATIVE HANDI-
17 CRAFTS.—The term ‘traditional native handi-
18 crafts’ includes weaving, carving, stitching, sew-
19 ing, lacing, beading, drawing, and painting.

20 “(C) FOSSILIZED IVORY.—The term ‘fos-
21 silized ivory’ includes a fossilized tooth or tusk
22 from a species of walrus, mammoth, mastodon,
23 narwhal, or whale.

24 “(2) APPLICATION.—Except as provided in sec-
25 tion 109, the provisions of this Act shall not apply
26 with respect to the taking of any marine mammal by

1 any Indian, Aleut, or Eskimo who resides in Alaska
2 and who dwells on the coast of the North Pacific
3 Ocean or the Arctic Ocean if such taking—

4 “(A)(i) is for subsistence purposes; or

5 “(ii) is done for purposes of creating and
6 selling authentic native articles of handicrafts
7 and clothing; and

8 “(B) in each case, is not accomplished in
9 a wasteful manner.

10 “(3) LIMITATIONS.—Notwithstanding para-
11 graph (2), if, under this Act, the Secretary deter-
12 mines any species or stock of marine mammal sub-
13 ject to taking by Indians, Aleuts, or Eskimos to be
14 depleted, the Secretary may prescribe regulations
15 upon the taking of such marine mammals by any In-
16 dian, Aleut, or Eskimo described in this subsection.
17 Such regulations may be established with reference
18 to species or stocks, geographical description of the
19 area included, the season for taking, or any other
20 factors related to the reason for establishing such
21 regulations and consistent with the purposes of this
22 Act. Such regulations shall be prescribed after notice
23 and hearing required by section 103 of this title and
24 shall be removed as soon as the Secretary deter-
25 mines that the need for their imposition has dis-

1 appeared. In promulgating any regulation or making
 2 any assessment pursuant to a hearing or proceeding
 3 under this subsection or section 117(b)(2), or in
 4 making any determination of depletion under this
 5 subsection or finding regarding unmitigable adverse
 6 impacts under subsection (a)(5) that affects stocks
 7 or persons to which this subsection applies, the Sec-
 8 retary shall be responsible for demonstrating that
 9 such regulation, assessment, determination, or find-
 10 ing is supported by substantial evidence on the basis
 11 of the record as a whole. The preceding sentence
 12 shall only be applicable in an action brought by one
 13 or more Alaska Native organizations representing
 14 persons to which this subsection applies.

15 “(4) SPECIAL RULES.—

16 “(A) INTERSTATE COMMERCE.—Only au-
 17 thentic native articles of handicrafts and cloth-
 18 ing may be sold in interstate commerce.

19 “(B) EDIBLE PORTIONS OF MARINE MAM-
 20 MALS.—Any edible portion of a marine mammal
 21 may be sold in a native village or town in Alas-
 22 ka or for native consumption.

23 “(5) PROHIBITIONS.—

24 “(A) MAMMOTH, MASTODON, AND WALRUS
 25 IVORY, MARINE MAMMAL BONES, TEETH, AND

1 BALEEN.—No State shall prohibit the importa-
2 tion, sale, offer for sale, transfer, trade, barter,
3 possession, or possession with the intent to sell,
4 transfer, trade, or barter of mammoth, mas-
5 todon, or walrus ivory, marine mammal bones,
6 teeth, or baleen produced under this title by an
7 Indian, Aleut, or Eskimo, as an authentic na-
8 tive article of handicrafts and clothing.

9 “(B) FOSSILIZED IVORY.—No State shall
10 prohibit the importation, sale, offer for sale,
11 transfer, trade, possession, or possession with
12 the intent to sell, transfer, trade, or barter, of
13 fossilized ivory.”.

○