
SENATE COMMITTEE ON NATURAL RESOURCES AND WATER

Senator Henry Stern, Chair

2019 - 2020 Regular

Bill No:	AB 719	Hearing Date:	July 9, 2019
Author:	Blanca Rubio		
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Urgency:	No	Fiscal:	Yes
Consultant:	William Craven		

Subject: Endangered wildlife: crocodiles and alligators

BACKGROUND AND EXISTING LAW

- 1) Makes it unlawful to import into the state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of specified wild animal species that are not native to California. Violation of this prohibition is punishable as a misdemeanor subject to a fine of not less than \$1,000 and not more than \$5,000, or six months imprisonment, or both. [Penal Code (PEN) §653(o)]
- 2) Makes it unlawful, commencing January 1, 2020, 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 or product thereof, of a crocodile or alligator. Importation, possession, and sale of such products are currently allowed in California until that date, except that the law does not authorize importation or sale of any alligator or crocodilian species, or any products thereof, that are listed as endangered under the federal Endangered Species Act, or where such action would be in violation of any federal law or international treaty to which the United States is a party. (PEN §653o)
- 3) Existing federal law establishes the Endangered Species Act (Title 16, United State Code, §§1531 et seq.) to protect animals at risk.
- 4) The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is an international agreement between 183 governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival. PEN §653o complements the implementation of CITES.
- 5) CITES was drafted as a result of a resolution adopted in 1963 at a meeting of members of IUCN (The International Union for Conservation of Nature). The text of the Convention was agreed to at a meeting of representatives of 80 countries in Washington, D.C., in 1973, and in 1975 CITES entered into force. The U.S. is a party to CITES.
- 6) CITES is an international agreement to which nations and regional economic integration organizations adhere voluntarily. Although CITES is legally binding, it does not take the place of national laws. Rather, it provides a framework to be respected by each member which has to adopt its own legislation to ensure that CITES is implemented at the national level.

Annually, international wildlife trade is estimated to be worth billions of dollars and to include hundreds of millions of plant and animal specimens. The trade is diverse,

ranging from live animals and plants to a vast array of wildlife products derived from them, including food products, exotic leather goods, wooden musical instruments, timber, tourist curios and medicines. Levels of exploitation of some animal and plant species are high, and the trade in them, together with other factors, such as habitat loss, is capable of heavily depleting their populations and even bringing some species close to extinction. Many wildlife species in trade are not endangered, but the existence of an agreement to ensure the sustainability of the trade is important in order to safeguard these resources for the future.

Because the trade in wild animals and plants crosses borders between countries, the effort to regulate it requires international cooperation to safeguard certain species from over-exploitation. Today, it accords varying degrees of protection to more than 35,000 species of animals and plants, whether they are traded as live specimens, fur coats or dried herbs.

- 7) The IUCN established its “Red List” of threatened species in 1964. According to the IUCN, the list “has evolved to become the world’s most comprehensive information source on the global conservation status of animal, fungi, and plant species.” The intent of the Red List is to guide research and direct actions needed to protect species. The Red List informs CITES.
- 8) Animals listed in CITES’ Appendices are subject to varying levels of trade restriction.
 - a) Appendix I species are the most endangered species among CITES-listed animals and international trade in those species is prohibited.
 - b) Appendix II species are “not now threatened with extinction, but may become so if trade is not controlled.” Importantly, as seen below, Appendix II species include “look-alike” species for those species that appear similar when traded.
- 9) Existing state law establishes the California Department of Fish and Wildlife (department) and the Fish and Game Commission (commission) in the California Natural Resources Agency. The department’s mission is “to manage California’s diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public.”
 - a) In general, the commission sets regulations that the department implements and enforces. The department also provides data and expertise to inform the commission’s decision-making process.

PROPOSED LAW

This bill:

- 1) Extends for five years, until January 1, 2025, the existing provision that permits the commercial importation, possession with intent to sell, and sale in California of the dead body, or parts and products from the dead body, of an alligator and crocodile.
- 2) Prohibits the importation or sale of any alligator or crocodile, or the products thereof, that is listed as endangered under the Endangered Species Act, or that would be in violation of any federal law or international treaty.

- 3) Requires products sold in California before January 1, 2025 to be accompanied by a disclosure that the materials were sourced in full compliance with the provisions of the Convention on International Trade in Endangered Species (CITES).

ARGUMENTS IN SUPPORT

According to the author, “since being listed on the Federal Endangered Species list in 1971, the resurgence of the alligator population in the wild habitat is nothing short of an amazing recovery. The species now flourishes in the wild in many Southeastern US states (their natural habitat), while the illegal trade (hunting and poaching) in alligator skins has essentially been eliminated.

That resurgence is due to a coordinated response by federal and state government agencies, environmental and wildlife groups, international organizations and the development of a legitimate, highly regulated alligator farming industry working together.

This effort has resulted in the US Fish and Wildlife Service stating that “The story of the American alligator is one of both drastic decline and complete recovery. A story of state and federal cooperation, it is truly one of the prominent successes of the nation’s endangered species program”. In effect, the coordinated effort to restore the alligator species has resulted in an “ecosystem” that does the following things:

1. Provides a well-coordinated and funded program that helps to maintain and preserve alligator wildlife habitat (wetlands and coastal marshes).
2. Requires regulated alligator farmers to provide a minimum of 10% of farmed alligator yearlings back into the wildlife to promote the wild population.
3. Provides revenue sources to both private and public wetland property owners for use in wetland maintenance.
4. The revenue generated for these efforts comes from three sources:
 - a) Revenue from alligator farmers who purchase eggs from the wild for farming purposes.
 - b) A fee paid by alligator farmers per hide (or skin) harvested to states to promote the regulation of the farms and wetlands.
 - c) Both governmental and private NGO funds which are accessed through the matching funds provided by farmers.

Without the legal, commercial market for alligator and crocodile products and the revenue it provides for farmers and the above efforts, the “ecosystem” created to save alligators will collapse, with the unintended consequence of providing a market for illegal hunting and poaching.

In addition, failure to extend the current law prohibition would adversely impact groundbreaking medical research being conducted at California universities, by making research elements less available and more expensive. It would also prohibit the sale of important pet foods made using alligator meat upon which allergy sensitive pets rely.”

Other supporters emphasize the economic importance of the trade in alligator and crocodile products, estimated to be \$1 billion annually on a global basis, the need to avoid disruption of that trade, and how the failure of this bill could affect the wetlands restoration efforts funded by the industry in Louisiana. Several supporters asserted that no other state or country currently bans alligator or crocodile trade.

The Pet Food Institute indicated that some pet foods contain alligator protein which can help pets with special dietary needs. Another company that makes the vaccine that is used in Louisiana to curtail the spread of West Nile virus supports the bill.

A significant volume of supporting materials was submitted to the Committee.

ARGUMENTS IN OPPOSITION

According to a coalition that includes Defenders of Wildlife, Natural Resources Defense Council, Sierra Club California, and Center for Biological Diversity, AB 719 would continue to waive existing law by allowing a market for alligator and crocodile products even though there is considerable evidence that international trafficking in wildlife, particularly endangered animals, is a significant problem in California as well as the rest of the United States. These groups also oppose the process by which this bill was referred to this committee.

This coalition notes that while the status of the American alligator was upgraded from “endangered” to “threatened due to similarity of appearance” after increased trade regulations were put in place and controlled farming operations began in 1987. However, international trafficking threatens more than 20 additional crocodylian species and they argue it is time for California to allow the prohibition on trade to recommence.

They argue that the harvested skins of protected crocodylian species are illegally harvested and then tanned into luxury leather goods. Because of the similar appearance of the leather of various crocodiles, alligators, caimans, and gharials, combined with inadequate tracking legal harvest, it is virtually impossible for consumers to distinguish between products made from legally farmed as opposed to wild-caught endangered animals.

Separately, Defenders of Wildlife has released a study showing that illegal wildlife shipments from Latin America, (tracking 10 years of trade), showed that reptile species were among the top traded illegal products seized by volume, with 5700 pounds of shoes and 4700 pounds of small leather products. Of these, caiman and crocodile were the most common.

The study indicated that 9% of all the shipments contained caiman items, 86% of which were sourced from the wild, and 50% of which were imported for commercial purposes. It also indicated that 9% of all shipments contained crocodile items, 96% of which were sourced from the wild, and 88% of which were imported for personal purposes.

A coalition of animal protection nonprofit organizations are also in opposition. The letter argues that crocodiles and alligators are killed using barbaric methods such as being skinned alive, so they can be turned into luxury items. Undercover videos have

documented inhumane treatment of animals. These groups also note that many companies have already banned exotic animal skins including Adidas, Bebe, Hugo Boss, Nike, Puma, Stella McCartney, Victoria Beckham, among others.

A research paper from opposition groups take aim at the research provided by the supporters. This paper, written by Clifford Warwick, a noted, peer-reviewed researcher, emphasizes the lack of appropriate husbandry of the industry, that 25% of all wildlife trade is illegal, and that monitoring and enforcement of illegal trade, including in the U.S., is deficient.

As for the argument that alligators produce certain substances that may have medical values, this paper points out ongoing research into that question is not dependent on a market in commercial body parts. Warwick also dismisses the argument that re-instating a ban in California will drive the market underground. He notes that previous bans on other reptile species did not have that effect. Instead, the industry simply contracted to follow the law.

COMMENTS

Background: The American alligator is one species of the reptile order *crocodilia*, which includes crocodiles and caiman that is commercially traded for both its hide and meat. Because of the threatened or endangered status of some crocodylians, both domestic and international trade are highly regulated and monitored. The U.S. Fish and Wildlife Service (USFWS), through the Endangered Species Act (ESA) and other wildlife laws, monitors state programs and inspects all shipments of hides that are exported. Individual state agencies regulate both wild harvest and farm production activities. Foreign importers of alligator and crocodile hides are subject to the regulations of a treaty known as the Convention for the International Trade of Endangered Species (CITES). There are 26 species of alligators, crocodiles, caiman, and gharials listed and protected under CITES. Opposition groups note that this bill could legalize conduct that may threaten endangered or threatened species and contribute to their inhumane treatment.

History of the Sunset. In 2006, former Governor of Louisiana Kathleen Blanco sponsored SB 1485 (Hollingsworth), which lifted the ban on importation and sale of alligator and crocodile products in California. The state of Louisiana argued that permitting the sale of alligator products in California would encourage sustainable use management of alligator populations in Louisiana, benefit local communities and economic recovery in that state after Hurricanes Katrina and Rita, and encourage conservation of wetlands. The Legislature agreed to lift the ban but added a sunset date of 2010 in response to concerns that allowing importation could encourage increased production, putting increased pressure on wild stocks, or lead to more harvesting of endangered or threatened species that resemble species taken legally. In 2009, the sunset was extended for another five years to 2015 with the passage of SB 609 (Hollingsworth). The state of Louisiana again sponsored the measure, and asserted that the opening up of the California market had helped to support a sustainable use program that generated significant annual economic revenue for coastal Louisiana. They cited that CITES had recognized Louisiana's management program as a world-wide model for sustainable conservation. In 2014, the law was extended five more years to 2020 with the passage of AB 2075 (Alejo) sponsored by the California Retailers Association.

Global Trade and CITES Regulations. Of the 23 species in the order *crocodilia*, seven are endangered and four are vulnerable according to the International Union for Conservation of Nature's (IUCN) Red List, which assesses the conservation status of species at a global level. Crocodiles and alligators are found in international trade for the leather, for meat, and as live animals for breeding operations, the pet industry, and zoos. According to the UN Environment World Conservation Monitoring Centre's (UNEP-WCMC) 2018 report on international trade in crocodilian skins, ten species are legally traded commercially. Alligators comprise nearly 40 percent of global trade. They and two other species, the Nile crocodile and the Brown Caiman, account for 85 percent of trade. All three are listed as least concerned by the IUCN. Two traded species are listed as endangered or vulnerable, but these exports are reported as farm-raised and account for two percent of global trade. More than 1.4 million skins are exported globally. Most meat is consumed or used locally but over 1.2 million pounds of meat are still exported globally each year.

All crocodilians are listed in either Appendix I (endangered) or Appendix II (threatened or similar in appearance to threatened species) of CITES. Under CITES, all hides sold commercially are required to be tagged to distinguish them from listed species that are not permitted to be legally traded. However, the products made from the hide are not required to carry tags. A 1987 USFWS ruling noted "small parts and products of crocodilian leather are nearly impossible to distinguish when made into goods, thus hampering the identification of legal alligator products from those of endangered or threatened crocodilians. Problems with identification could increase illegal trade in endangered crocodilian products" (Federal Register: 52 FR 21059-21064). All countries are also required to submit annual reports on the alligators and crocodiles harvested to CITES. The US has filed all required annual reports, but several countries important to the global crocodile products trade including Australia, Bangladesh, Botswana, Israel, Papua New Guinea, Panama, South Africa, and Tanzania fail to do so despite new enforcement regulations. The UNEP-WCMC report also notes that the accuracy of data as well as the quality and consistency of some annual reports further limit analysis of the trade. CITES attempts to improve accuracy by cross matching import data with original export permit information. The report summarizes: "Significant improvement in reporting of crocodilian trade continues; however, absence of annual reports from some countries continues to be a hindrance to timely analysis of the trade."

History of Alligators in Louisiana. In response to a declining alligator population due to over hunting and loss of habitat, Louisiana banned alligator hunting in 1962. Alligators gained federal protection in 1967, and were listed as endangered in 1973 with the passing of ESA. As the population started recovering, Louisiana reopened a limited hunting season in certain areas of the state in 1972 and then expanded it statewide in 1981. In the 1970s, the Louisiana Department of Fisheries and Wildlife (LDFW) also developed a program of regulated commercial harvest and farming. The intent of the program was to convince private landowners, who own the majority of Louisiana's wetlands (roughly two million acres of alligator habitat), to view alligators as a resource rather than a liability, to maintain habitats, and to provide long-term benefits to the survival of the species. In 1975 alligators were downlisted under the ESA to "threatened" and were deemed recovered by 1987. The LDFW's 2017 summer survey estimated that there were 50,989 wild alligator nests, down 12 percent from 2016 due to Tropical Storm Cindy but up over 650 percent from the 1971 survey. From this survey, the LDFW estimates there are currently two million wild alligators in Louisiana.

Louisiana is one of nine southern states that has a regulated alligator hunt and one of four that have commercial alligator farming (the others are Texas, Georgia, and Florida). Louisiana accounts for over 90 percent of total annual farm-raised production and over 60 percent of wild alligator harvests. Florida accounts for eight percent of farm-raised alligators and nearly 35 percent of wild alligator harvests. Louisiana and Florida also rely on private certified hunters to deal with, annually, over 10,000 nuisance alligators—alligators that pose a threat to people or property. Hunters are allowed to process the meat and skin of the nuisance alligator for commercial sale as compensation.

In order to export alligator hides and meat, the state of Louisiana is required by USFWS and CITES regulations to certify annually that the harvest programs will not be detrimental to the survival of the species. The LDFW sets hunting and egg harvest quotas for different habitat areas based upon the annual nest surveys as to not negatively impact populations at any location. Alligator eggs collected from the wild are then grown in captivity on alligator farms. The LDWF requires a certain percentage, similar to wild survival rates, of juvenile alligators hatched from the eggs be returned to the wild within two years of hatching, and the released alligators are tagged for follow-up monitoring. The return requirement is 10 percent, down from a 20 percent return requirement in the early 1990s as the population has recovered. During the 2017 hunting season, a total of 15,052 wild alligators were harvested (down from 34,234 in 2016), 387,373 wild alligator eggs were collected, and 49,112 farm raised alligators were returned to the wild. Louisiana has 57 licensed alligator farms with a total of 857,728 alligators. These farms harvested 382,039 alligators and over a million pounds of meat in 2017 with an estimated worth of \$70 million.

Concerns over Farm Conditions and Slaughter. In recent years, issues have been raised regarding appropriate humane methods for slaughter of farm-raised alligators. In 2011, to address the issues, the LDFW and the Louisiana State University School of Veterinary Medicine developed a document entitled “Best Management Practices for Louisiana Alligator Farming.” The document details recommended practices to ensure animal welfare of captive reared alligators in Louisiana, including egg collection, hatching, rearing, release to the wild, and euthanasia. This document was updated in January 2016 as new information regarding euthanasia was investigated. The recommended methods have been approved by the American Veterinary Medicine Association. There are, however, ongoing concerns regarding the implementation of these kinds of guidelines and regulations particularly in countries where enforcement may not be as robust. Past media reports have pointed to abuse and inhumane slaughtering of crocodiles at farms in Vietnam and a small alligator farm in Texas.

The Lookalike Problem. As noted earlier, it is virtually impossible for consumers to tell the difference between products made from farmed versus wild-caught animals. Conservation groups have been trying for years to convince the industry to develop a system to number skins and products with tags that can’t be counterfeited. While Louisiana does tag skins, product manufacturers do not take finished products. This bill could lead to otherwise innocent Californians purchasing products made from wild-caught, endangered animals.

CITES recognizes the problem of lookalike species and specifically extends protection to them based on that very reason. The proponents may have a difficult problem in overcoming that point.

Similarly, a curious amendment in the Assembly Water Parks and Wildlife Committee was successful in helping an earlier bill this year achieve passage in that committee. The amendment provided that all products introduced into California were “made using materials that were sourced in full compliance with the provisions of the [CITES] Convention.”

The obvious difficulty with this amendment is that it makes a declaration that products are in full compliance with CITES but it does not establish how that compliance will be verified. For that amendment to work, there has to be a way to track products back to the skins that were used, and there has to be a way to make sure the skins are from lawfully sourced animals, and that products use the skins that are legally sourced. That system simply does not exist at the present. Some conservation groups have been actively pursuing a discussion with the industry on this point for years but that discussion has never developed.

A related problem for the proponents is posed by AB 1260 (Maienschein) which, among other things, prohibits the importation in California of products made from caiman. As noted above, the several species of caiman are in the alligator family which, in turn, is in the crocodylia order. Because the caiman leather can easily be confused for that of another species, AB 1260, if it becomes state law, may irreconcilably conflict with this bill. AB 1260 is currently pending in Senate Appropriations, after having passed this Committee.

The waiver of §PEN 653o has been granted 3 times by the Legislature with no discernable action by the industry or the proponents of this bill to develop an effective tracking or chain of custody system. The Committee may therefore want to defeat this bill.

On the point of developing an effective tracking system, it is not clear what it takes to create movement in that regard, but as an alternative to defeating the bill, the Committee may want to hold this bill until next year (or later) pending the development of such a system. The lack of a market in California may provide an incentive. Several industries have certification systems to inform consumers of the production safeguards of their products. Staff suggests that an effective tracking and chain of custody system must be certified as effective by the director of the Department of Fish and Wildlife. Any such system also must be able to ensure chain of custody from skin to product to ensure that products come from lawfully sourced skins, differentiate between caiman and other species, and specifically enable enforcement of any prohibition of trade in lookalike species.

SUPPORT

Accessories Council
AdvaMed
American Watch Association
AMTAN Louisiana
Belvedere Shoes
Beverly Hills Chamber of Commerce
Biocom
Boehringer Ingelheim Animal Health
USA Inc.
Brooks Family Alligator Farm II, LLC
Caimanes y Cocodrilos de Chiapas
California Biomedical Research
Association
California Grain and Feed
California Hispanic Chamber of
Commerce
California Life Sciences Association
California Retailers Association
Cape Cobra Leathercraft
Comtesse Delphine de Grasse
Crocodilian Innovations
Donald Organic Extractions, LLC
ECOCAIMAN S.A.S.
Faggioli s.r.l.
Federation of Swiss Watch Industry
FRANCESCO SKINS CORP
Georgia Agribusiness Council
Global Alligator Coalition, LLC
Hesiquio Benitez Diaz, Head of the
CITES Scientific Authority of Mexico
Ikon Construction, LLC
Innovative Extractions, LLC
Izintaba Crocodile Farm
Jerome CARAGUEL
JL & Co., LTD/John Lobb America
jPardue
Dozens of individuals

JT Shea properties LLC
Karen Kay Atelier
Lacerta Life Sciences, LLC
Lagniappe Nutrition, LLC
LIRICA S.A.S.
Lola Prusac
Louisiana Landowners Association, Inc.
Mercury Leather Works
METTIQUE
Mississippi Department of Wildlife,
Fisheries, and Parks
MNDW, LLC
Monarch Marketing, LLC
Monk Made Goods
MwaLeatherGoods
Nathan Wall & Sons Alligator Services,
LLC
Nathan Wall Alligator Consulting, LLC
Nomadic Hardgoods
Nutcracker Inc.
Pelletterie Bianchi e Nardi SpA
Pet Food Institute
Rancho 2R, LLC
Second Time Around Watch Company
SELMINT
Silver King
South LA Nutrition, LLC
Swampland Leather Company, LLC
UNIC Italian Tanneries
United Leather Product Co., Ltd.
Wall to Wall Alligator Company, LLC
Wall's Gator Farm II, LLC
Wall's Gator Farm, LLC
WG Alligator Farm, LLC
WHG Consulting, LLC
White Line S.r.l.

OPPOSITION

Advancing Law for Animals
Animal Hero Kids
Animal Hope in Legislation
Animal Legal Defense Fund
Animal Welfare Institute
Anonymous for the Voiceless
Berkeley Animal Rights Center
California Coastal Protection Network
Center for Biological Diversity
Clean Water Action
Compassionate Bay
Cultivate Empathy for All
Defenders of Wildlife
Delfina Saddlery
Direct Action Everywhere
Fur Free Minneapolis
Hangars Underwear
Happy Hen Sanctuary
Humane Society of the United States
International Citizen Fashion
Jane Unchained News Network
Natural Resources Defense Council
PawPac
Peace 4 Animals
People for the Ethical Treatment of Animals
Petacure
Poison Free Malibu
Project Coyote
Raptors are the Solution
Sierra Club California
Social Compassion in Legislation
The HIT Living Foundation
The Save Movement
The Sheep Heal Project
Their Turn
Veterans Empowered to Protect African Wildlife
Voters for Animal Rights
Women United for Animal Welfare
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