

Sullivan\_substitute\_modified



AMENDMENT NO. \_\_\_\_\_

Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—119th Cong., 1st Sess.****S. 254**

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

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by Mr. SULLIVAN

Viz:

1 Strike all after the enacting clause and insert the fol-  
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Alaska’s Right to Ivory  
5 Sales and Tradition Act” or the “ARTIST Act”.

6 **SEC. 2. ALASKA NATIVE HANDICRAFTS.**

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

10 “(b) EXEMPTION FOR ALASKAN NATIVES.—

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

1                   “(A) AUTHENTIC ALASKA NATIVE ARTICLE  
2                   OF HANDICRAFTS AND CLOTHING.—The term  
3                   ‘authentic Alaska Native article of handicrafts  
4                   and clothing’ means an item composed wholly,  
5                   or in some significant respect, of natural mate-  
6                   rials and that is produced, decorated, or fash-  
7                   ioned in the exercise of traditional Alaska Na-  
8                   tive handicrafts by an Alaska Native who re-  
9                   sides in Alaska and who dwells on the coast of  
10                  the North Pacific Ocean or the Arctic Ocean  
11                  without the use of a pantograph, multiple  
12                  carvers, or any other mass copying device.

13                  “(B) MARINE MAMMAL IVORY.—The term  
14                  ‘marine mammal ivory’ includes a tooth or tusk  
15                  from a walrus (*Odobenus rosmarus*) or a spe-  
16                  cies of cetacean.

17                  “(C) TRADITIONAL ALASKA NATIVE  
18                  HANDICRAFTS.—The term ‘traditional Alaska  
19                  Native handicrafts’ includes weaving, carving,  
20                  stitching, sewing, lacing, beading, drawing, and  
21                  painting.

22                  “(2) EXEMPTION.—

23                  “(A) IN GENERAL.—Except as provided in  
24                  section 109, the provisions of this Act shall not  
25                  apply with respect to the taking of any marine

mammal by any Alaska Native who resides in Alaska and who dwells on the coast of the North Pacific Ocean or the Arctic Ocean if such taking—

“(i)(I) is for subsistence purposes; or

“(II) is done for purposes of creating and selling authentic Alaska Native articles of handicrafts and clothing; and

“(ii) in each case, is not accomplished in a wasteful manner.

“(B) SPECIAL RULES.—

“(i) INTERSTATE COMMERCE OF ITEMS.—An item presented as an authentic Alaska Native article of handicrafts and clothing may be sold in interstate commerce only if it comports with the definition provided in paragraph (1)(A).

“(ii) EDIBLE PORTION OF MARINE MAMMAL.—Any edible portion of a marine mammal taken for the purpose of creating and selling authentic Alaska Native articles of handicrafts and clothing may be sold for native consumption or in a native village or town in Alaska.

“(3) LIMITATIONS.—

1           “(A) IN GENERAL.—Notwithstanding para-  
2 graph (2), if, under this Act, the Secretary de-  
3 termines any species or stock of marine mam-  
4 mal subject to taking by Alaska Natives to be  
5 depleted, the Secretary may prescribe regula-  
6 tions upon the taking of such marine mammals  
7 by any Alaska Native described in this sub-  
8 section.

9           “(B) CONTENT OF REGULATIONS.—The  
10 regulations described in subparagraph (A) may  
11 be established with reference to species or  
12 stocks, geographical area, the season for taking,  
13 or any other factors related to the reason for  
14 establishing such regulations and consistent  
15 with the purposes of this Act.

16           “(C) NOTICE AND HEARING; REMOVAL OF  
17 REGULATIONS.—The regulations described in  
18 subparagraph (A) shall be prescribed after no-  
19 tice and hearing required by section 103 of this  
20 title and shall be removed as soon as the Sec-  
21 retary determines that the need for their im-  
22 position has disappeared.

23           “(D) REGULATIONS TO BE SUPPORTED BY  
24 SUBSTANTIAL EVIDENCE.—In promulgating any  
25 regulation or making any assessment pursuant

1 to a hearing or proceeding under this sub-  
2 section or section 117(b)(2), or in making any  
3 determination of depletion under this subsection  
4 or finding regarding unmitigable adverse im-  
5 pacts under subsection (a)(5) that affects  
6 stocks or persons to which this subsection ap-  
7 plies, the Secretary shall demonstrate in writing  
8 (and make such writing publicly available on  
9 the website of the Secretary) that, in consider-  
10 ation of the whole record, including Indigenous  
11 knowledge, such regulation, assessment, deter-  
12 mination, or finding is supported by substantial  
13 evidence.

14 “(E) APPLICABILITY.—The requirement  
15 under subparagraph (D) shall only be applica-  
16 ble in an action brought by one or more Alaska  
17 Native organizations representing persons to  
18 which this subsection applies.

19 “(4) PROHIBITIONS.—No State shall prohibit  
20 the interstate commerce, importation, sale, offer for  
21 sale, transfer, trade, barter, possession, or posses-  
22 sion with the intent to sell, transfer, trade, or barter  
23 of marine mammal ivory or marine mammal bone or  
24 baleen incorporated under this title by an Alaska

1 Native, into an authentic Alaska Native article of  
2 handicrafts and clothing.

3 “(5) RULE OF CONSTRUCTION.—Nothing in  
4 this subsection shall be construed to—

5 “(A) impact the rights of any Indian Tribe  
6 (as defined in section 4 of the Indian Self-De-  
7 termination and Education Assistance Act (25  
8 U.S.C. 5304)) in effect on the date of enact-  
9 ment of the Alaska’s Right to Ivory Sales and  
10 Tradition Act; or

11 “(B) undermine any government-to-govern-  
12 ment consultation or engagement.”.