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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the “Empowering Rural Economies Through Alaska Native Sustainable Arts and Handicrafts Act”.

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Section 101(b) of the Marine Mammal Protection Act Of 1972 (16 U.S.C. 1371(b)) is amended to read as follows:

“(b) APPLICATION TO CERTAIN ALASKA NATIVES.—

“(1) DEFINITIONS.—In this subsection:

“(A) AUTHENTIC NATIVE ARTICLE OF HANDICRAFTS AND CLOTHING.—The term ‘authentic native article of handicrafts and clothing’ means an item composed wholly, or in some significant respect, of natural materials that is produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of a pantograph, multiple carvers, or any other mass copying device.

“(B) TRADITIONAL NATIVE HANDICRAFTS.—The term ‘traditional native handicrafts’ includes weaving, carving, stitching, sewing, lacing, beading, drawing, and painting.

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

“(2) APPLICATION.—Except as provided in section 109, the provisions of this Act shall not apply with respect to the taking of any marine mammal by
any Indian, Aleut, or Eskimo who resides in Alaska
and who dwells on the coast of the North Pacific
Ocean or the Arctic Ocean if such taking—

“(A)(i) is for subsistence purposes; or
“(ii) is done for purposes of creating and
selling authentic native articles of handicrafts
and clothing; and
“(B) in each case, is not accomplished in
a wasteful manner.

“(3) LIMITATIONS.—Notwithstanding para-
graph (2), if, under this Act, the Secretary deter-
mines any species or stock of marine mammal sub-
ject to taking by Indians, Aleuts, or Eskimos to be
depleted, the Secretary may prescribe regulations
upon the taking of such marine mammals by any In-
dian, Aleut, or Eskimo described in this subsection.
Such regulations may be established with reference
to species or stocks, geographical description of the
area included, the season for taking, or any other
factors related to the reason for establishing such
regulations and consistent with the purposes of this
Act. Such regulations shall be prescribed after notice
and hearing required by section 103 of this title and
shall be removed as soon as the Secretary deter-
mines that the need for their imposition has dis-
appeared. In promulgating any regulation or making any assessment pursuant to a hearing or proceeding under this subsection or section 117(b)(2), or in making any determination of depletion under this subsection or finding regarding unmitigable adverse impacts under subsection (a)(5) that affects stocks or persons to which this subsection applies, the Secretary shall be responsible for demonstrating that such regulation, assessment, determination, or finding is supported by substantial evidence on the basis of the record as a whole. The preceding sentence shall only be applicable in an action brought by one or more Alaska Native organizations representing persons to which this subsection applies.

"(4) Special rules.—

"(A) Interstate commerce.—Only authentic native articles of handicrafts and clothing may be sold in interstate commerce.

"(B) Edible portions of marine mammals.—Any edible portion of a marine mammal may be sold in a native village or town in Alaska or for native consumption.

"(5) Prohibitions.—

"(A) Mammoth, mastodon, and walrus ivory, marine mammal bones, teeth, and
Baleen.—No State shall prohibit the importation, sale, offer for sale, transfer, trade, barter, possession, or possession with the intent to sell, transfer, trade, or barter of mammoth, mastodon, or walrus ivory, marine mammal bones, teeth, or baleen produced under this title by an Indian, Aleut, or Eskimo, as an authentic native article of handicrafts and clothing.

“(B) Fossilized Ivory.—No State shall prohibit the importation, sale, offer for sale, transfer, trade, possession, or possession with the intent to sell, transfer, trade, or barter, of fossilized ivory.”.

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