



The terms "game", "wildlife" and "protected wildlife" are defined in ECL §11-0103 to include "deer". See ECL §11-0103(2), (3), (6). Accordingly, any exception for deer antlers from this broad restriction must be found in a more specific provision for the purchase, sale, transportation or possession of deer or deer parts in ECL Article 11.

ECL §11-0917 regulates the possession, transportation and sale of deer as wild game and other wildlife. ECL §11-0917(4) provides:

The carcasses, flesh, head, hide, feet or fur of wildlife, except birds, may be bought and sold without restriction, except as provided in subdivisions 8, 9 or 10. The head, skin, plumage, hide, feet or fur of wildlife may be possessed and transported without restriction except (a) as provided in section 11-0911 with respect to deer, (b) as provided in subdivision 9 with respect to birds, and (c) as provided in subdivision 8 or subdivision 10.

Subdivisions 8 and 9 of ECL §11-0917 do not relate to deer; and subdivision 10 provides that no wildlife shall be possessed, transported or sold contrary to the terms of any statute or DEC order, permit or license pursuant to which such wildlife was taken or acquired.<sup>1</sup> Therefore, these subdivisions specifically permit the purchase, sale or transport of the enumerated parts of legally taken deer. ECL §11-0911 sets forth the procedures for

---

<sup>1</sup>In addition, 16 U.S.C. §3372 prohibits the import, export, sale, receipt, acquisition or purchase of wildlife taken or possessed in violation of any state law or regulation.

possessing and transporting taken wild deer. This section inter alia, requires the tagging of and specifies handling methods for taken deer and detached heads of deer. These sections do not address antlers apart from the deer head.

As long as the required procedures for taking, possessing and transporting deer are followed, the Fish and Wildlife Law permits the purchase, sale and transport of a deer's head. Although deer antlers are not included in the parts of deer itemized in the law, deer antlers are appendages to the head. Construing deer head in its ordinary usage and meanings, McKinney's Statutes §232, it is plain that antlers were intended to be included with heads. The antlers are a bony outgrowth and part of a deer's head. See, Webster's Third International Dictionary (1961) for definition of "antler", 97, and "horn", 1091. Of course, if the antlers are shed by the deer and found separately, they are no longer part of the wild animal, and not subject to these strictures at all.

There is no restriction in the ECL with respect to whether transport is within the State or outside its boundaries. ECL §11-0917(1)(b) allows transport "within the state and from within to without the State". Export is, therefore, expressly provided; courts have construed the Fish and Wildlife Law as permitting the import, and similar considerations support the export of wildlife. See People v. Bisbee, 90 Misc. 601, 153 N.Y.S. 993 (1915), aff'd 173 A.D. 127, 159 N.Y.S. 435 (1st Dept. 1916).

Federal considerations reinforce this statutory export authority.

Hughes v. Oklahoma, 441 U.S. 322 (1979).

Therefore, deer antlers of whitetail deer may be purchased in or exported from New York State provided the deer is lawfully taken, possessed and handled pursuant to ECL Article 11.



Nicholas A. Robinson  
Deputy Commissioner/General Counsel  
New York State Department of  
Environmental Conservation

Dated: Albany, New York  
June 20, 1984