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# A BILL FOR AN ACT

RELATING TO WILDLIFE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that there is broad  
2 consensus that the trafficking of animals threatened with  
3 extinction continues to grow at an alarming pace, threatening an  
4 increasing variety of animal species. These species are  
5 threatened with extinction in large part due to the trafficking  
6 of their parts and products. The National Strategy for  
7 Combating Wildlife Trafficking, released in February 2014,  
8 recognized the important role that states have in protecting  
9 species that are subject to illegal wildlife trade. Federal law  
10 regulates the transfer or importation of parts or products made  
11 from endangered animal species, but because of increasing demand  
12 for these products around the world, state authority needs to be  
13 aligned with federal and international laws to appropriately  
14 regulate these markets on a local level.

15           The legislature finds that in September 2015, the United  
16 States and China announced a cooperative effort to take  
17 comprehensive action to curb wildlife trafficking, stating that



1 the "United States and China commit to enact nearly complete  
2 bans on ivory import and export, including significant and  
3 timely restrictions on the import of ivory as hunting trophies,  
4 and to take significant and timely steps to halt the domestic  
5 commercial trade of ivory."

6 The legislature finds that as Hawaii is the host of the  
7 September 2016 World Conservation Congress held by the  
8 International Union for the Conservation of Nature and the  
9 United States, it is important to demonstrate Hawaii's  
10 continuing leadership in global conservation challenges,  
11 international wildlife trafficking, and endangered species  
12 protection.

13 The legislature finds that the most effective way to  
14 discourage illegal trafficking in animal species threatened with  
15 extinction is to eliminate markets and profits. It is in the  
16 public interest to protect animal species threatened with  
17 extinction by prohibiting within the State of Hawaii, with  
18 certain limited exceptions, the sale, offer for sale, purchase,  
19 trade, barter for, and distribution of any part or product of  
20 any species of elephant (Elephantidea), mammoth (Mammuthus),  
21 rhinoceros (Rhinocerotidea), tiger (Pathera tigris), great ape



1 (Hominoidea), Hawaiian monk seal (*Neomonachus schauinslandi*),  
2 shark (Elasmobranchii selachimorpha), ray (Elasmobranchii  
3 batoidea), sea turtle (Chelonioidae), walrus (*Odobenidae*  
4 *odobenus*), narwhal (*Monodon monoceros*), whale (Cetacea),  
5 hippopotamus (*Hippopotamus amphibious*), lion (*Panthera leo*),  
6 pangolin (*Manis*), cheetah (*Acinonyx jubatus*), jaguar (*Panthera*  
7 *onca*), or leopard (*Panthera pardus*) that is identified as  
8 threatened with extinction by specified international  
9 conservation organizations. These animals are the most  
10 trafficked species that are threatened with extinction as  
11 documented by illegal wildlife product seizure data compiled by  
12 TRAFFIC, a program of the World Wildlife Fund and the  
13 International Union for Conservation of Nature, and data  
14 collected by other international conservation organizations.

15 The purpose of this Act is to improve coordination between  
16 state natural resource laws and other government authorities in  
17 accordance with the intent expressed by section 183D-8, Hawaii  
18 Revised Statutes. As other countries and states adopt laws to  
19 protect endangered species, Hawaii needs to ensure that it is  
20 not an attractive market for illegal wildlife trafficking.



1 SECTION 2. Chapter 183D, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§183D-A Trafficking of certain wildlife prohibited. (a)

5 Notwithstanding section 183D-6 to the contrary, no person shall  
6 sell, offer to sell, purchase, trade, barter for, or distribute  
7 any covered animal species part or product from the following  
8 animal species: elephant (Elephantidea), rhinoceros  
9 (Rhinocerotidea), tiger (Panthera tigris), great ape  
10 (Hominoidea), hippopotamus (Hippopotamus amphibious), lion  
11 (Panthera leo), pangolin (Manis), cheetah (Acinonyx jubatus),  
12 jaguar (Panthera onca), or leopard (Panthera pardus).

13 (b) Unless otherwise authorized by the federal Marine  
14 Mammal Protection Act, 16 United States Code Chapter 31, the  
15 sale, offer to sell, purchase, trade, barter for, or  
16 distribution of any covered animal species part or product from  
17 the following animal marine species is prohibited: Hawaiian monk  
18 seal (Neomonachus schauinslandi), shark (various Elasmobranchii  
19 selachimorpha), ray (Elasmobranchii batoidea), sea turtle  
20 (Chelonioidea), narwhal (Monodon monoceros), whale (Cetacea), or



1 walrus (Odobenidae odobenus), insofar as the species,  
2 subspecies, or distinct population segment is listed on:

3 (1) The Convention on International Trade in Endangered  
4 Species of Wild Fauna and Flora, Appendices 1 or 2;

5 (2) The International Union for the Conservation of Nature  
6 Red List as vulnerable, endangered, or critically  
7 endangered; or

8 (3) The Endangered Species Act as threatened or  
9 endangered,

10 as listed on the effective date of Act \_\_\_\_\_, Session Laws of  
11 Hawaii 2016.

12 (c) The sale, offer to sell, purchase, trade, barter for,  
13 or distribution of any covered animal species part or product  
14 from mammoth (Mammuthus) is prohibited, even though the species  
15 is extinct.

16 (d) The following are exempt from the prohibitions of this  
17 section:

18 (1) The covered animal species part or product is part of  
19 a bona fide antique; provided that the antique status  
20 of the antique is established by the owner or seller  
21 with historical documentation showing the antique is



- 1           not less than one hundred years old, the covered  
2           animal species part or product is less than twenty per  
3           cent by volume of the antique, and any animal species  
4           part or product is a fixed component or components of  
5           a larger manufactured item and is not, in its current  
6           form, the primary source of value of the item;
- 7           (2) The distribution of the covered animal species part or  
8           product is for a bona fide educational or scientific  
9           purpose, or to or from a museum;
- 10          (3) The distribution of the covered animal species part or  
11          product is to a legal beneficiary of an estate, trust,  
12          or other inheritance, upon the death of the owner of  
13          the covered animal species part or product;
- 14          (4) The covered animal species part or product is less  
15          than twenty per cent by volume of a musical  
16          instrument, including string instruments and bows,  
17          wind and percussion instruments, and pianos, if the  
18          owner or seller provides historical documentation  
19          demonstrating provenance and showing the item was  
20          manufactured no later than 1975;



1       (5) Guns and knives whose composition contains less than  
2       twenty per cent ivory, including mammoth ivory, or  
3       rhinoceros horn;

4       (6) The intrastate sale, offer for sale, purchase, trade,  
5       barter for, or distribution of the covered animal  
6       species part or product is expressly authorized by  
7       federal law or permit; or

8       (7) Traditional cultural practices that are expressly  
9       protected under article XII, section 7, of the state  
10       constitution.

11       (e) There is a presumption of possession with intent to  
12       sell a covered animal species part or product when the part or  
13       product is possessed by a retail or wholesale establishment or  
14       other forum engaged in the business of buying or selling similar  
15       items. The rebuttable presumption shall not preclude a finding  
16       of intent to sell based on any other evidence that may serve to  
17       independently establish such intent.

18       (f) For purposes of this section, "covered animal species  
19       part or product" means any item that contains, or is wholly or  
20       partially made from, any covered animal species."



1 SECTION 3. Section 183D-5, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) Any person violating section 183D-A, 183D-25.5, 183D-  
4 26, 183D-27, 183D-32, 183D-62, or 183D-64 shall be guilty of a  
5 misdemeanor, and upon conviction thereof, shall be punished as  
6 follows:

7 (1) For a first conviction by a mandatory fine of not less  
8 than \$200, or by imprisonment of not more than one  
9 year, or both;

10 (2) For a second conviction within five years of a  
11 previous conviction, by a mandatory fine of not less  
12 than \$1,000, or by imprisonment of not more than one  
13 year, or both, and all firearms, animal parts,  
14 products, or items containing prohibited animal parts  
15 or products used in the commission of the violations  
16 shall be considered contraband to be forfeited to and  
17 disposed of by the State; and

18 (3) For a third or subsequent conviction within five years  
19 of the first two or more convictions, by a mandatory  
20 fine of not less than \$2,000, or by imprisonment of  
21 not more than one year, or both, and all firearms,





1           animal parts, products, or items containing prohibited  
2           animal parts or products used in the commission of the  
3           violations shall be considered contraband to be  
4           forfeited to and disposed of by the State."

5           SECTION 4. In codifying the new section added by section 2  
6 of this Act, the revisor of statutes shall substitute  
7 appropriate section numbers for the letters used in designating  
8 the new sections in this Act.

9           SECTION 5. New statutory material is underscored.

10          SECTION 6. If any provision of this Act, or the  
11 application thereof to any person or circumstance, is held  
12 invalid, the invalidity does not affect other provisions or  
13 applications of the Act that can be given effect without the  
14 invalid provision or application, and to this end the provisions  
15 of this Act are severable.

16          SECTION 7. This Act shall take effect on December 31,  
17 2016; provided that no enforcement actions shall be taken under  
18 this Act until December 31, 2017.



**Report Title:**  
Wildlife

**Description:**  
Prohibits the trafficking of protected animal species, with limited exceptions. (HB2502 HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

