
A BILL FOR AN ACT

RELATING TO NATURAL RESOURCES.

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

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

14 The legislature finds that the most effective way to
15 discourage illegal trafficking is to eliminate markets and
16 profits. It is in the public interest to protect animal species
17 threatened with extinction by prohibiting within the State, with



1 certain limited exceptions, the sale, offer for sale, purchase,
2 trade, possession with intent to sell, or barter for any part or
3 product of any species of elephant (Elephantidae), mammoth
4 (Mammuthus), rhinoceros (Rhinocerotidae), tiger (Panthera
5 tigris), great apes (Hominoidea), sharks and rays
6 (Elasmobranchii), sea turtles (Chelonioidea), walrus (Odobenus
7 rosmarus), narwhal (Monodon monoceros), whales (Cetacea),
8 hippopotamus (Hippopotamus amphibius), monk seals (Neomonachus),
9 lions (Panthera leo), pangolins (Manis), cheetah (Acinonyx
10 jubatus), jaguar (Panthera onca), and leopard (Panthera pardus)
11 identified as threatened with extinction by the Convention on
12 International Trade in Endangered Species and the Endangered
13 Species Act. These animals represent some of the most
14 trafficked species threatened with extinction according to
15 illegal wildlife product seizure data gathered by the World
16 Wildlife Fund-TRAFFIC, International Union for the Conservation
17 of Nature, and other international conservation organizations.

18 The legislature further finds that in September 2015, the
19 United States and China announced a cooperative effort to take
20 comprehensive action to curb wildlife trafficking, including
21 significant restrictions on the import of ivory as hunting



1 trophies and halting the domestic commercial trade of ivory. As
2 the host of the upcoming International Union for the
3 Conservation of Nature World Conservation Congress with the
4 United States in September 2016, it is important to demonstrate
5 Hawaii's continuing leadership in global conservation challenges
6 such as international wildlife trafficking and endangered
7 species protection.

8 The purpose of this Act is to improve coordination between
9 state and other government authorities as encouraged in section
10 183D-8, Hawaii Revised Statutes, and to remove any potential
11 conflicts of law that unintentionally make Hawaii an attractive
12 market for illegal wildlife trafficking as other countries and
13 states pass legislation to protect global populations of
14 endangered species.

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

18 "§183D- Wildlife trafficking; prohibited. (a) Except
19 as authorized under section 183D-6, no person shall sell, offer
20 to sell, purchase, trade, possess with intent to sell, or barter
21 for any part or product from the following animal family, genus,



1 or species: elephant (Elephantidae), rhinoceros
2 (Rhinocerotidae), tiger (Panthera tigris), great apes
3 (Hominoidea), hippopotamus (Hippopotamus amphibius), lions
4 (Panthera leo), pangolins (Manis), cheetah (Acinonyx jubatus),
5 jaguar (Panthera onca), or leopard (Panthera pardus).

6 (b) Except as authorized under section 183D-6, and with
7 concurrence from the board of land and natural resources, no
8 person shall sell, offer to sell, purchase, trade, possess with
9 intent to sell, or barter for any part or product from the
10 following marine family, genus, or species: sea turtles
11 (Chelonioidea), monk seals (Neomonachus), narwhal (Monodon
12 monoceros), whales (Cetacea), or walrus (Odobenus rosmarus)
13 insofar as the species, subspecies, or distinct population
14 segment is listed:

15 (1) On appendix I or II of the Convention on International
16 Trade in Endangered Species; or

17 (2) As endangered or threatened under the Endangered
18 Species Act.

19 (c) Except as authorized under section 183D-6 and the
20 Magnuson-Stevens Fishery Conservation and Management Act (16
21 U.S.C. Section 1851 et seq.) as amended, and with concurrence



1 from the board of land and natural resources, no person shall
2 sell, offer to sell, purchase, trade, possess with intent to
3 sell, or barter for any part or product from rays and sharks
4 (Elasmobranchii) insofar as the species is listed:

- 5 (1) On appendix I of the Convention on International Trade
6 in Endangered Species; or
- 7 (2) As endangered or threatened under the Endangered
8 Species Act.

9 (d) Except as authorized under section 183D-6, no person
10 shall sell, offer to sell, purchase, trade, possess with intent
11 to sell, or barter for any part or product from mammoth
12 (Mammuthus), although the species is extinct.

13 (e) To the extent permitted under federal law, none of the
14 prohibitions set forth in this section shall apply if:

- 15 (1) The covered animal species part or product is part of
16 a bona fide antique; provided that:
 - 17 (A) The antique status of such a part or product is
18 established by the owner or seller thereof with
19 historical documentation showing the antique to
20 be not less than one hundred years old;



- 1 (B) The covered animal species part or product is
- 2 less than twenty per cent by volume of such an
- 3 antique; and
- 4 (C) The covered animal species part or product is a
- 5 fixed component or components of a larger
- 6 manufactured item and is not, in its current
- 7 form, the primary source of value of the item;
- 8 (2) The distribution of the covered animal species part or
- 9 product is:
- 10 (A) For a bona fide educational or scientific
- 11 purpose; or
- 12 (B) To or from a museum;
- 13 (3) The distribution of the covered animal species part or
- 14 product is to a legal beneficiary of an estate, trust,
- 15 or other inheritance;
- 16 (4) The covered animal species part or product is less
- 17 than twenty per cent by volume of a gun, knife, or
- 18 musical instrument, including without limitation
- 19 string instruments and bows, wind and percussion
- 20 instruments, and pianos, if the owner or seller
- 21 provides historical documentation showing the item was



1 manufactured no later than 1975 and the covered animal
2 species part or product is a fixed component or
3 components of a larger manufactured item and is not,
4 in its current form, the primary source of value of
5 the item; or

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

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

18 (g) None of the prohibitions set forth in this section
19 shall apply to traditional cultural practices expressly
20 protected under article XII, section 7, of the state
21 constitution.



1 (h) For the purposes of this section, "covered animal
2 species part or product" means any part or product of an animal
3 species prohibited from being sold, offered for sale, purchased,
4 traded, or bartered for pursuant to this section.

5 (i) The department of land and natural resources may adopt
6 rules pursuant to chapter 91, as needed, to further implement or
7 enforce this section."

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

10 "(b) Any person violating section 183D- , 183D-25.5,
11 183D-26, 183D-27, 183D-32, 183D-62, or 183D-64 shall be guilty
12 of a misdemeanor, and upon conviction thereof, shall be punished
13 as follows:

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

17 (2) For a second conviction within five years of a
18 previous conviction, by a mandatory fine of not less
19 than \$1,000, or by imprisonment of not more than one
20 year, or both, and all firearms, animal parts,
21 products, or items containing prohibited animal parts



1 or products used in the commission of the violations
2 shall be considered contraband to be forfeited to and
3 disposed of by the State; and

4 (3) For a third or subsequent conviction within five years
5 of the first two or more convictions, by a mandatory
6 fine of not less than \$2,000, or by imprisonment of
7 not more than one year, or both, and all firearms,
8 animal parts, products, or items containing prohibited
9 animal parts or products used in the commission of the
10 violations shall be considered contraband to be
11 forfeited to and disposed of by the State."

12 SECTION 4. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 5. If any provision of this Act, or the
16 application thereof to any person or circumstance, is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the Act that can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this Act are severable.

21 SECTION 6. New statutory material is underscored.



1 SECTION 7. This Act shall take effect upon its approval;
2 provided that there shall be no enforcement actions pursuant to
3 this Act until December 31, 2017.



Report Title:

Wildlife; Species; Trafficking; Fines

Description:

Prohibits the sale, offer to sell, purchase, trade, possession with intent to sell, or barter of any part or product from various animal and marine species. Provides exceptions to this prohibition, including for traditional cultural practices protected under the State Constitution. Imposes penalties for violations of the prohibition on trafficking animal parts and products. (SB2647 HD1)

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