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# 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 and threatened animal species, but due to the  
11 increasing demand for these products around the world, it is  
12 important to align state authority with federal and  
13 international laws to appropriately regulate these markets on a  
14 local level.

15           The legislature further finds that the most effective way  
16 to discourage illegal trafficking is to eliminate markets and  
17 profits. It is in the public interest to protect animal species



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

19 The legislature further finds that in September 2015, the  
20 United States and China announced a cooperative effort to take  
21 comprehensive action to curb wildlife trafficking, including



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

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

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

19 "§183D- Wildlife trafficking; prohibited. (a) No  
20 person shall sell, offer to sell, purchase, trade, possess with  
21 intent to sell, or barter for any part or product from the



1 following animal family, genus, or species: elephant  
2 (Elephantidae), rhinoceros (Rhinocerotidae), tiger (Panthera  
3 tigris), great ape (Hominoidea), hippopotamus (Hippopotamus  
4 amphibius), lion (Panthera leo), pangolin (Manis), cheetah  
5 (Acinonyx jubatus), jaguar (Panthera onca), or leopard (Panthera  
6 pardus).

7 (b) Unless otherwise authorized by federal law including  
8 the Marine Mammal Protection Act, 16 United States Code, chapter  
9 31, no person shall sell, offer to sell, purchase, trade,  
10 possess with intent to sell, or barter for any part or product  
11 from the following marine family, genus, or species: sea turtle  
12 (Chelonioidea), monk seal (Neomonachus), narwhal (Monodon  
13 monoceros), whale (Cetacea), or walrus (Odobenus rosmarus)  
14 insofar as the species, subspecies, or distinct population  
15 segment is listed:

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

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

20 (c) Unless otherwise authorized by federal law including  
21 the Magnuson-Stevens Fishery Conservation and Management Act (16



1 U.S.C. section 1851 et seq.) as amended, no person shall sell,  
2 offer to sell, purchase, trade, possess with intent to sell, or  
3 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) No person shall sell, offer to sell, purchase, trade,  
10 possess with intent to sell, or barter for any part or product  
11 from mammoth (Mammuthus), although the species is extinct.

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

14 (1) The covered animal species part or product is part of  
15 a bona fide antique; provided that:

16 (A) The antique status of such a part or product is  
17 established by the owner or seller thereof with  
18 historical documentation showing the antique to  
19 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;

6 (5) The sale, offer for sale, purchase, trade, possess  
7 with intent to sell or barter of the covered animal  
8 species part or product is expressly authorized by  
9 federal law or permit; or

10 (6) The activity is authorized under section 183D-6.

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

19 (g) None of the prohibitions set forth in this section  
20 shall apply to traditional cultural practices expressly



1 protected under article XII, section 7, of the state  
2 constitution.

3 (h) For the purposes of this section, "covered animal  
4 species part or product" means any item that contains, or is  
5 wholly or partially made from, any covered animal species.

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

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

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

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

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





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

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

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

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



1 SECTION 6. New statutory material is underscored.

2 SECTION 7. This Act shall take effect upon its approval;  
3 provided that there shall be no enforcement actions pursuant to  
4 this Act prior to June 30, 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 HD2)

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

