

SENATE BILL 381

M1

2lr2129
CF HB 52

By: **Senators Smith, Hettleman, Elfreth, Kramer, Kagan, and Young**

Introduced and read first time: January 24, 2022

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Wildlife Trafficking Prevention**

3 FOR the purpose of prohibiting a person from purchasing, selling, offering for sale, or
4 possessing with the intent to sell certain parts or products of certain animal species
5 under certain circumstances, subject to certain exceptions; authorizing a court to
6 order that a person who violates this Act pay certain restitution; requiring that fines
7 and restitution imposed under this Act be credited to the State Wildlife Management
8 and Protection Fund to be used for the preservation of threatened or endangered
9 species; and generally relating to the prevention of wildlife trafficking in the State.

10 BY repealing and reenacting, with amendments,
11 Article – Natural Resources
12 Section 10–209
13 Annotated Code of Maryland
14 (2012 Replacement Volume and 2021 Supplement)

15 BY adding to
16 Article – Natural Resources
17 Section 10–2B–01 through 10–2B–09 to be under the new subtitle “Subtitle 2B.
18 Wildlife Trafficking Prevention”
19 Annotated Code of Maryland
20 (2012 Replacement Volume and 2021 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 That the Laws of Maryland read as follows:

23 **Article – Natural Resources**

24 10–209.

25 (a) In this section, “Fund” means the State Wildlife Management and Protection

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Fund.

2 (b) There is a State Wildlife Management and Protection Fund in the
3 Department.

4 (c) The purpose of the Fund is to finance the scientific investigation, protection,
5 propagation, and management of wildlife.

6 (d) The Department shall administer the Fund.

7 (e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of
8 the State Finance and Procurement Article.

9 (2) The Treasurer shall hold the Fund separately and the Comptroller shall
10 account for the Fund.

11 (f) The Fund consists of:

12 (1) Any money received for a license, stamp, application, or permit fee
13 under this title, unless otherwise provided; [and]

14 (2) Any investment earnings of the Fund; AND

15 **(3) FINES AND RESTITUTION PAID FOR VIOLATIONS RELATING TO**
16 **WILDLIFE TRAFFICKING UNDER SUBTITLE 2B OF THIS TITLE.**

17 (g) The Fund may be used only for:

18 (1) The scientific investigation, protection, propagation, and management
19 of wildlife; and

20 (2) Administrative costs calculated in accordance with § 1–103(b)(2) of this
21 article.

22 (h) (1) The Treasurer shall invest the money of the Fund in the same manner
23 as other State money may be invested.

24 (2) Any investment earnings of the Fund may not be transferred or revert
25 to the General Fund of the State, but shall remain in the Fund.

26 (i) Expenditures from the Fund may be made only in accordance with the State
27 budget.

28 **SUBTITLE 2B. WILDLIFE TRAFFICKING PREVENTION.**

29 **10–2B–01.**

1 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
2 **INDICATED.**

3 **(B) “BONA FIDE SCIENTIFIC OR EDUCATIONAL INSTITUTION” MEANS AN**
4 **INSTITUTION THAT ESTABLISHES EDUCATIONAL OR SCIENTIFIC TAX-EXEMPT**
5 **STATUS THROUGH DOCUMENTATION FROM THE INTERNAL REVENUE SERVICE.**

6 **(C) “COVERED ANIMAL SPECIES” MEANS ANY SPECIES OF:**

7 **(1) BONOBO;**

8 **(2) CHEETAH;**

9 **(3) CHIMPANZEE;**

10 **(4) ELEPHANT;**

11 **(5) GIRAFFE;**

12 **(6) GORILLA;**

13 **(7) HIPPOPOTAMUS;**

14 **(8) JAGUAR;**

15 **(9) LEOPARD;**

16 **(10) LION;**

17 **(11) MAMMOTH;**

18 **(12) MASTODON;**

19 **(13) ORANGUTAN;**

20 **(14) PANGOLIN;**

21 **(15) RHINOCEROS;**

22 **(16) SEA TURTLE; OR**

23 **(17) TIGER.**

(D) "COVERED ANIMAL SPECIES PART OR PRODUCT" MEANS ANY ITEM THAT CONTAINS OR IS WHOLLY OR PARTLY MADE FROM A COVERED ANIMAL SPECIES.

(E) "MUSICAL INSTRUMENT" INCLUDES A STRING INSTRUMENT OR BOW, A WIND OR PERCUSSION INSTRUMENT, OR A PIANO.

(F) (1) "SELL" MEANS ANY ACT OF SELLING, TRADING, OR BARTERING FOR MONETARY OR NONMONETARY CONSIDERATION.

(2) "SELL" DOES NOT INCLUDE A NONMONETARY TRANSFER OF OWNERSHIP BY WAY OF GIFT, DONATION, OR BEQUEST.

10-2B-02.

(A) THIS SUBTITLE APPLIES TO ANY SALE OR TRANSFER OF OWNERSHIP THAT OCCURS IN THE COURSE OF A COMMERCIAL TRANSACTION FOR WHICH:

(1) THE BUYER TAKES PHYSICAL POSSESSION OF THE COVERED ANIMAL SPECIES PART OR PRODUCT IN THE STATE; OR

(2) THE SELLER IS LOCATED IN THE STATE.

(B) THIS SUBTITLE DOES NOT APPLY TO:

(1) FEDERAL OR STATE LAW ENFORCEMENT ACTIVITY;

(2) DUTIES MANDATED BY FEDERAL OR STATE LAW;

(3) ACTIVITY EXPRESSLY AUTHORIZED BY FEDERAL LAW; OR

(4) A COVERED ANIMAL SPECIES PART OR PRODUCT THAT IS A FIXED COMPONENT OF:

(I) AN ANTIQUE THAT IS NOT MADE WHOLLY OR PRIMARILY FROM THE COVERED ANIMAL SPECIES PART OR PRODUCT, PROVIDED THAT:

1. THE ANTIQUE STATUS IS ESTABLISHED BY THE OWNER OR SELLER THROUGH DOCUMENTATION SHOWING PROVENANCE AND THAT THE COVERED ANIMAL SPECIES PART OR PRODUCT IS AT LEAST 100 YEARS OLD; AND

2. THE TOTAL WEIGHT OF THE COVERED ANIMAL SPECIES PART OR PRODUCT IS LESS THAN 200 GRAMS; OR

(II) A MUSICAL INSTRUMENT, PROVIDED THAT:

1. THE COVERED ANIMAL SPECIES PART OR PRODUCT WAS LEGALLY ACQUIRED; AND

2. THE TOTAL WEIGHT OF THE COVERED ANIMAL SPECIES PART OR PRODUCT IS LESS THAN 200 GRAMS.

10-2B-03.

IN THIS SUBTITLE, THE CALCULATION OF THE VALUE OF A COVERED ANIMAL SPECIES PART OR PRODUCT SHALL BE THE GREATER OF THE FAIR MARKET VALUE OF OR THE ACTUAL PRICE PAID FOR THE COVERED ANIMAL SPECIES PART OR PRODUCT.

10-2B-04.

EXCEPT AS PROVIDED IN § 10-2B-05 OF THIS SUBTITLE, A PERSON MAY NOT PURCHASE, SELL, OFFER FOR SALE, OR POSSESS WITH INTENT TO SELL ANY ITEM THAT THE PERSON KNOWS OR SHOULD KNOW IS A COVERED ANIMAL SPECIES PART OR PRODUCT.

10-2B-05.

UNLESS PROHIBITED BY FEDERAL LAW, THE DEPARTMENT MAY ALLOW THE PURCHASE BY, OR SALE, OFFER FOR SALE, OR POSSESSION WITH INTENT TO SELL TO, A BONA FIDE SCIENTIFIC OR EDUCATIONAL INSTITUTION OF ANY LAWFULLY ACQUIRED COVERED ANIMAL SPECIES PART OR PRODUCT.

10-2B-06.

THERE IS A REBUTTABLE PRESUMPTION THAT A PERSON POSSESSES A COVERED ANIMAL SPECIES PART OR PRODUCT WITH THE INTENT TO SELL IF THE COVERED ANIMAL SPECIES PART OR PRODUCT IS POSSESSED IN A RETAIL OR WHOLESALE ESTABLISHMENT COMMONLY USED FOR THE BUYING OR SELLING OF SIMILAR ITEMS.

10-2B-07.

(A) A PERSON THAT VIOLATES THIS SUBTITLE:

(1) FOR A FIRST OFFENSE, IS GUILTY OF A MISDEMEANOR AND ON

CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING THE GREATER OF \$3,000 OR 2 TIMES THE VALUE OF THE COVERED ANIMAL SPECIES PART OR PRODUCT;

(2) FOR A SECOND OR SUBSEQUENT OFFENSE FOR WHICH THE VALUE OF THE COVERED ANIMAL SPECIES PART OR PRODUCT IN QUESTION DOES NOT EXCEED \$250, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$6,000; OR

(3) FOR A SECOND OR SUBSEQUENT OFFENSE FOR WHICH THE VALUE OF THE COVERED ANIMAL SPECIES PART OR PRODUCT IN QUESTION EXCEEDS \$250, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING THE GREATER OF \$10,000 OR 3 TIMES THE VALUE OF THE COVERED ANIMAL SPECIES PART OR PRODUCT.

(B) IF A PERSON IS CONVICTED OF VIOLATING THIS SUBTITLE, IN ADDITION TO ANY OTHER PENALTY PROVIDED IN THIS TITLE, THE COURT MAY ORDER THE PERSON TO PAY RESTITUTION TO THE STATE IN AN AMOUNT NOT EXCEEDING 2 TIMES THE VALUE OF THE COVERED ANIMAL SPECIES PART OR PRODUCT IN QUESTION.

(C) FINES AND RESTITUTION IMPOSED UNDER THIS SECTION SHALL BE CREDITED TO THE DEPARTMENT FOR THE BENEFIT OF THE STATE WILDLIFE MANAGEMENT AND PROTECTION FUND ESTABLISHED UNDER § 10-209 OF THIS TITLE, TO BE USED ONLY FOR THE PRESERVATION OF THREATENED OR ENDANGERED SPECIES.

10-2B-08.

ON A CONVICTION UNDER THIS SUBTITLE, ANY SEIZED COVERED ANIMAL SPECIES PART OR PRODUCT:

(1) SHALL BE FORFEITED; AND

(2) MAY BE:

(i) MAINTAINED BY THE DEPARTMENT FOR EDUCATIONAL OR TRAINING PURPOSES;

(ii) DONATED BY THE DEPARTMENT TO A SCIENTIFIC OR EDUCATIONAL INSTITUTION; OR

(iii) DESTROYED.

1 **10-2B-09.**

2 **THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2022.