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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 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  
18 certain limited exceptions, the sale, offer for sale, purchase,



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

16 The legislature further finds that in September 2015, the  
17 United States and China announced a cooperative effort to take  
18 comprehensive action to curb wildlife trafficking, including  
19 significant restrictions on the import of ivory as hunting  
20 trophies and halting the domestic commercial trade of ivory. As  
21 the host of the upcoming International Union for the



1 Conservation of Nature World Conservation Congress with the  
2 United States in September 2016, it is important to demonstrate  
3 Hawaii's continuing leadership in global conservation challenges  
4 such as international wildlife trafficking and endangered  
5 species protection.

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

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

16 "§183D- Wildlife trafficking; prohibited. (a) Except  
17 as authorized under section 183D-6, no person shall sell, offer  
18 to sell, purchase, trade, or barter for any part or product from  
19 the following animal species: elephant (Elephantidae),  
20 rhinoceros (Rhinocerotidae), tiger (Panthera tigris), great apes  
21 (Hominoidea), hippopotamus (Hippopotamus amphibius), lions



1 (Panthera leo), pangolins (Manis), cheetah (Acinonyx jubatus),  
2 jaguar (Panthera onca), or leopard (Panthera pardus).

3 (b) Except as authorized under section 183D-6, no person  
4 shall sell, offer to sell, purchase, trade, or barter for any  
5 part or product from the following marine species: sea turtles  
6 (Chelonioidae), monk seals (Neomonachus), narwhal (Monodon  
7 monoceros), whales (Cetacea), or walrus (Odobenus rosmarus)  
8 insofar as the species, subspecies, or distinct population  
9 segment is listed:

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

12 (2) As endangered or critically endangered on the  
13 International Union for the Conservation of Nature red  
14 list; or

15 (3) As endangered under the Endangered Species Act.

16 (c) Except as authorized under section 183D-6, no person  
17 shall sell, offer to sell, purchase, trade, or barter for any  
18 part or product from rays and sharks (Elasmobranchii) insofar as  
19 the species is listed:

20 (1) On appendix I of the Convention on International Trade  
21 in Endangered Species; or



1       (2) As endangered under the Endangered Species Act.

2       (d) Except as authorized under section 183D-6, no person  
3 shall sell, offer to sell, purchase, trade, or barter for any  
4 part or product from mammoth (Mammuthus), although the species  
5 is extinct.

6       (e) None of the prohibitions set forth in this section  
7 shall apply if:

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

10       (A) The antique status of such a part or product is  
11 established by the owner or seller thereof with  
12 historical documentation showing the antique to  
13 be not less than one hundred years old; and

14       (B) The covered animal species part or product is  
15 less than twenty per cent by volume of such an  
16 antique;

17       (2) The covered animal species part or product is part of  
18 a firearm or knife; provided that:

19       (A) The firearm or knife is legally purchased and  
20 possessed; and



- 1           (B) The covered animal species part or product is  
2           less than twenty per cent by volume of the  
3           firearm or knife;
- 4           (3) The distribution of the covered animal species part or  
5           product is:
- 6           (A) For a bona fide educational or scientific  
7           purpose; or
- 8           (B) To or from a museum;
- 9           (4) The distribution of the covered animal species part or  
10           product is to a legal beneficiary of an estate, trust,  
11           or other inheritance, upon the death of the owner of  
12           the covered animal species part or product;
- 13           (5) The covered animal species part or product is less  
14           than twenty per cent by volume of a musical  
15           instrument, including without limitation string  
16           instruments and bows, wind and percussion instruments,  
17           and pianos, if the owner or seller provides historical  
18           documentation showing the item was manufactured no  
19           later than 1975;
- 20           (6) The covered animal species part or product is a fixed  
21           component or components of a larger manufactured item



1 and is not, in its current form, the primary source of  
2 value of the item; or

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

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

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

19 (h) For the purposes of this section, "covered animal  
20 species part or product" means any part or product of an animal



1 species prohibited from being sold, offered for sale, purchased,  
2 traded, or bartered for pursuant to this section."

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

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

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

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

20 (3) For a third or subsequent conviction within five years  
21 of the first two or more convictions, by a mandatory





1 fine of not less than \$2,000, or by imprisonment of  
2 not more than one year, or both, and all firearms,  
3 animal parts, products, or items containing prohibited  
4 animal parts or products used in the commission of the  
5 violations shall be considered contraband to be  
6 forfeited to and disposed of by the State."

7 SECTION 4. This Act does not affect rights and duties that  
8 matured, penalties that were incurred, and proceedings that were  
9 begun before its effective date.

10 SECTION 5. 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 6. New statutory material is underscored.

17 SECTION 7. This Act shall take effect on July 1, 2050.

18



**Report Title:**

Wildlife; Species; Trafficking; Fines

**Description:**

Prohibits the sale, offering to sell, purchase, trade, 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. Takes effect 7/1/2050. (SD1)

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

