

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Natural Resources, Fish, and Wildlife to which was  
3 referred House Bill No. 99 entitled “An act relating to trade in covered animal  
4 parts or products” respectfully reports that it has considered the same and  
5 recommends that the bill be amended by striking out all after the enacting  
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 10 V.S.A. chapter 124 is added to read:

8 CHAPTER 124. TRADE IN COVERED ANIMAL PARTS OR PRODUCTS

9 § 5501. DEFINITIONS

10 As used in this chapter:

11 (1) “Bona fide educational or scientific institution” means an institution  
12 that establishes through documentation that it is a tax-exempt institution under  
13 the Internal Revenue Service’s educational or scientific tax exemption.

14 (2) “Covered animal” means any species of:

15 (A) Cheetah (Acinonyx jubatus);

16 (B) Elephant (family Elephantidae);

17 (C) Giraffe (Giraffa camelopardalis) ;

18 (D) Hippopotamus (family Hippopotamidae);

19 (E) Jaguar (Panthera onca);

20 (F) Leopard (Panthera pardus);

21 (G) Lion (Panthera leo);

1           (H) Mammoth (genus Mammuthus);

2           (I) Mastodon (genus Mammut);

3           (J) Pangolin (family Manidae);

4           (K) Endangered ray, as listed by the Convention on International

5 Trade in Endangered Species of Wild Fauna and Flora;

6           (L) Rhinoceros (family Rhinocerotidae);

7           (M) Sea turtle (family Chelonioidea);

8           (N) Endangered shark, as listed by the Convention on International

9 Trade in Endangered Species of Wild Fauna and Flora;

10           (O) Tiger (Panthera tigris);

11           (P) Whale (families Balaenidae, Balaenopteridae, Cetotheriidae,

12 Eschrichtiidae, Monodontidae, Physeteridae, Kogiidae, and Ziphiidae); or

13           (Q) The following primates: gorillas, bonobos, orangutans, gibbons,

14 or chimpanzees.

15           (3) “Covered animal part or product” means any item that contains, or is  
16 wholly or partially made from, a covered animal, including the meat or flesh of  
17 a covered animal sold as food.

18           (4) “Sale” or “sell” means any act of selling, trading, or bartering for  
19 monetary or nonmonetary consideration, and includes any transfer of  
20 ownership that occurs in the course of a commercial transaction. “Sale” or

1 “sell” shall not include a nonmonetary transfer of ownership by way of gift,  
2 donation, or bequest.

3 (5) “Secretary” means the Secretary of Natural Resources.

4 (6) “Total value” means either the fair market value or the actual price  
5 paid for a covered animal part or product, whichever is greater.

6 § 5502. PROHIBITION

7 Except as provided in this chapter, notwithstanding any other provision of  
8 law to the contrary, a person shall not purchase, sell, offer for sale, or possess  
9 with intent to sell any item that the person knows or should know is a covered  
10 animal part or product.

11 § 5503. EXCEPTIONS

12 The prohibition on the purchase, sale, offer for sale, or possession with  
13 intent to sell set forth in section 5502 of this title shall not apply:

14 (1) To employees or agents of the federal or State government  
15 undertaking any law enforcement activities pursuant to federal or State law, or  
16 any mandatory duties required by federal or State law;

17 (2) When the activity is expressly authorized by federal law;

18 (3) To an antique composed in whole or in part of a covered animal part  
19 or product or a covered animal part or product that is a fixed component of an  
20 antique, provided that the antique status is established by the owner or seller  
21 with documentation evidencing reasonable provenance and showing that the

1 covered animal part or product to be not less than 100 years old.

2 Documentation evidencing reasonable provenance and the age of the covered  
3 animal part or product may include receipts of purchase, invoices, bills of sale,  
4 prior appraisals, inclusion in auction catalogues, museum or art gallery exhibit  
5 catalogs, and the signed certification of an antique appraiser to the age of the  
6 covered animal part. The issuance of a false or fraudulent certification of the  
7 age of a covered animal part or product shall be subject to penalty under  
8 section 5506 of this section.

9 (4) When the covered animal part or product is a fixed component of a  
10 larger manufactured or handcrafted item and the covered animal part or  
11 product is not in its current form, does not account for more than 50 percent of  
12 the value of the item, and the total weight of the covered animal part or product  
13 is less than 200 grams;

14 (5) When the covered animal part or product is a fixed component of a  
15 musical instrument, including string instruments and bows, wind and  
16 percussion instruments, and pianos, provided that the covered animal part or  
17 product was legally acquired and provided that the total weight of the covered  
18 animal part or product is less than 200 grams; or

19 (6) The activity is authorized under section 5504 of this title.

1     § 5504. EDUCATIONAL OR SCIENTIFIC USE

2             The Secretary may permit, under terms and conditions as the Secretary may  
3     require, the purchase, sale, offer for sale, or possession with intent to sell of  
4     any covered animal part or product for educational or scientific purposes by a  
5     bona fide educational or scientific institution unless the activity is prohibited  
6     by federal law, and provided that the covered animal part or product was  
7     legally acquired.

8     § 5505. PRESUMPTION OF POSSESSION WITH INTENT TO SELL

9             There shall be a rebuttable presumption that a person possesses a covered  
10     animal part or product with intent to sell when the part or product is possessed  
11     by a retail or wholesale establishment or other forum engaged in the business  
12     of buying or selling similar items. This rebuttable presumption shall not  
13     preclude a court from finding intent to sell a covered animal part or product  
14     based on any other evidence that may serve to independently establish intent.

15     § 5506. PENALTIES

16             The penalties for a violation of a provision of this chapter are as follows:

17             (1) For a first offense, where the total value of the covered animal part  
18     or product does not exceed \$250.00, a person shall be fined not more than  
19     \$1,000.00 nor less than \$400.00 or imprisoned for not more than 30 days, or  
20     both.

1           (2) For a first offense, where the total value of the covered animal part  
2           or product exceeds \$250.00, a person shall be fined not more than \$2,000.00  
3           nor less than \$1,000.00 or imprisoned for not more than 60 days, or both.

4           (3) For a second offense, where the total value of the covered animal  
5           part or product does not exceed \$250.00, a person shall be fined not more than  
6           \$2,000.00 nor less than \$1,000.00 or imprisoned for not more than 60 days, or  
7           both.

8           (4) For a second offense, where the total value of the covered animal  
9           part or product exceeds \$250.00, a person shall be fined not more than  
10           \$4,000.00 nor less than \$2,000.00 or imprisoned for not more than 90 days, or  
11           both.

12           § 5507. SEIZURE.

13           A person convicted of violating a provision of this chapter shall forfeit to  
14           the Secretary the covered animal part or product that is the subject of the  
15           violation. The Secretary may:

16           (1) authorize that the covered animal part or product be maintained for  
17           educational or training purposes;

18           (2) authorize that the covered animal part or product be donated to a  
19           bona fide educational or scientific institution; or

20           (3) require that the covered animal part or product be destroyed.

1     § 5508. RULES

2             The Secretary may adopt rules necessary to implement the requirements of  
3     this chapter.

4     Sec. 2. EFFECTIVE DATE

5             This act shall take effect on **January 1, 2022.**

6

7

8

9

10

11

12             (Committee vote: \_\_\_\_\_)

13

\_\_\_\_\_

14

Representative \_\_\_\_\_

15

FOR THE COMMITTEE