

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. **part 4,** 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) “Commissioner” means the Commissioner of Fish and Wildlife.

16 (4) “Covered animal part or product” means any item that contains, or is

17 wholly or partially made from, a covered animal, including the meat or flesh of

18 a covered animal sold as food.

19 (5) “Firearm” has the same meaning as in 13 V.S.A. § 4016(a)(3).

20 (6) “Sale” or “sell” means any act of selling, trading, or bartering for

21 monetary or nonmonetary consideration, and includes any transfer of

1 ownership that occurs in the course of a commercial transaction. “Sale” or
2 “sell” shall not include a nonmonetary transfer of ownership by way of gift,
3 donation, or bequest.

4 (7) “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 (a) 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) when the covered animal part or product is a fixed component of an
19 antique that is not made wholly or partially from the covered animal part or
20 product, provided that:

1 (A) the antique status is established by the owner or seller of the
2 covered animal part or product with documentation providing evidence of the
3 provenance of the covered animal part or product and showing the covered
4 animal part or product to be not less than 100 years old; and

5 (B) the total weight of the covered animal part or product is less than
6 200 grams;

7 (4) when the covered animal part or product is a fixed component of a
8 firearm; knife; or musical instrument, including string instruments and bows,
9 wind and percussion instruments, and pianos, provided that the covered animal
10 part or product was legally acquired and provided that the total weight of the
11 covered animal part or product is less than 200 grams; or

12 (5) the activity is authorized under section 5504 of this title.

13 (b) Documentation evidencing reasonable provenance or the age of a
14 covered animal part or product that may be purchased, sold, offered for sale, or
15 possessed under subsection (a) of this section may include receipts of
16 purchase, invoices, bills of sale, prior appraisals, auction catalogues, museum
17 or art gallery exhibit catalogs, and the signed certification of an antique
18 appraiser to the age of the covered animal part. The issuance of a false or
19 fraudulent certification of the age of a covered animal part or product shall be
20 subject to penalty under section 5506 of this section.

1 § 5504. EDUCATIONAL OR SCIENTIFIC USE

2 The Commissioner may permit, under terms and conditions as the
3 Commissioner may require, the purchase, sale, offer for sale, or possession
4 with intent to sell of any covered animal part or product for educational or
5 scientific purposes by a bona fide educational or scientific institution unless the
6 activity is prohibited by federal law, and provided that the covered animal part
7 or product was 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 **Commissioner** the covered animal part or product that is the subject of the
15 violation. The **Commissioner** 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 Commissioner may adopt rules necessary to implement the
3 requirements of this chapter.

4 Sec. 2. EFFECTIVE DATE

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

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12 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE