

1 S.29

2 Introduced by Senators Pearson, Balint, and Clarkson

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; wildlife; trade in wildlife parts and
6 products

7 Statement of purpose of bill as introduced: This bill proposes to prohibit the
8 purchase, sale, offer for sale, or possession with intent to sell of any item that a
9 person knows or should know is a covered animal part or product. A covered
10 animal product would be defined as an item that contains, or is wholly or
11 partially made from, a covered animal. A covered animal would be defined as
12 any species of: cheetah, elephant, giraffe, hippopotamus, jaguar, leopard, lion,
13 mammoth, mastodon, pangolin, ray, rhinoceros, sea turtle, shark, tiger, or
14 whale. The bill would include exceptions from the prohibition on the
15 purchase, sale, offer for sale, or possession of intent to sell a covered animal
16 product for fixed components of an antique or musical instrument and for
17 activities authorized by federal law or conducted by federal or State
18 employees.

19 An act relating to trade in covered animal parts or products

1 It is hereby enacted by the General Assembly of the State of Vermont:

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

3 CHAPTER 124. TRADE IN COVERED ANIMAL PARTS OR PRODUCTS

4 § 5501. DEFINITIONS

5 As used in this chapter:

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

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

10 (A) Cheetah (Acinonyx jubatus);

11 (B) Elephant (family Elephantidae);

12 (C) Giraffe (Giraffa camelopardalis) ;

13 (D) Hippopotamus (family Hippopotamidae);

14 (E) Jaguar (Panthera onca);

15 (F) Leopard (Panthera pardus);

16 (G) Lion (Panthera leo);

17 (H) Mammoth (genus Mammuthus);

18 (I) Mastodon (genus Mammut),

19 (J) Pangolin (family Manidae);

20 (K) Ray (families Dasyatidae, Gymnuridae, Myliobatidae,

21 Narcinidae, Rhinobatidae, Torpedinidae, Urolophidae);

1 (L) Rhinoceros (family Rhinocerotidae);

2 (M) Sea turtle (family Chelonioidea);

3 (N) Shark (orders Carcharhiniformes, Echinorhiniformes,
4 Heterodontiformes, Hexanchiformes, Lamniformes, Orectolobiformes,
5 Prisiophoriformes, Squaliformes, and Squatiniformes);

6 (O) Tiger (Panthera tigris); or

7 (P) Whale (families Balaenidae, Balaenopteridae, Cetotheriidae,
8 Eschrichtiidae, Monodontidae, Physeteridae, Kogiidae, and Ziphiidae).

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

12 (4) “Sale” or “sell” means any act of selling, trading, or bartering for
13 monetary or nonmonetary consideration, and includes any transfer of
14 ownership that occurs in the course of a commercial transaction, but does not
15 include a nonmonetary transfer of ownership by way of gift, donation, or
16 bequest.

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

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

1 § 5502. PROHIBITION

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

6 § 5503. EXCEPTIONS

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

9 (1) to employees or agents of the federal or State government
10 undertaking any law enforcement activities pursuant to federal or State law, or
11 any mandatory duties required by federal or State law;

12 (2) when the activity is expressly authorized by federal law;

13 (3) when the covered animal part or product is a fixed component of an
14 antique that is not made wholly or partially from the covered animal part or
15 product, provided that:

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

20 (B) the total weight of the covered animal part or product is less than
21 200 grams;

1 (4) when the covered animal part or product is a fixed component of a
2 musical instrument, including string instruments and bows, wind and
3 percussion instruments, and pianos, provided that the covered animal part or
4 product was legally acquired and provided that the total weight of the covered
5 animal part or product is less than 200 grams; or

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

7 § 5504. EDUCATIONAL OR SCIENTIFIC USE

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

14 § 5505. PRESUMPTION OF POSSESSION WITH INTENT TO SELL

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

1 § 5506. PENALTIES

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

3 (1) For a first offense, where the total value of the covered animal part
4 or product does not exceed \$250.00, a person shall be fined not more than
5 \$1,000.00 nor less than \$400.00 or imprisoned for not more than 30 days, or
6 both.

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

10 (3) For a second offense, where the total value of the covered animal
11 part or product does not exceed \$250.00, a person shall be fined not more than
12 \$2,000.00 nor less than \$1,000.00 or imprisoned for not more than 60 days, or
13 both.

14 (4) For a second offense, where the total value of the covered animal
15 part or product exceeds \$250.00, a person shall be fined not more than
16 \$4,000.00 nor less than \$2,000.00 or imprisoned for not more than 90 days, or
17 both.

18 § 5507. SEIZURE.

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

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

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

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

6 § 5508. RULES

7 The Secretary may adopt rules necessary to implement the requirements of
8 this chapter.

9 Sec. 2. EFFECTIVE DATE

10 This act shall take effect on January 1, 2020.