

# SENATE BILL 560

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CF HB 686

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By: **Senators Young and Smith**

Introduced and read first time: February 1, 2017

Assigned to: Education, Health, and Environmental Affairs

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## 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; establishing, under  
6 certain circumstances, a rebuttable presumption that a person possesses certain  
7 parts or products of certain animal species with the intent to sell; establishing  
8 certain penalties for a violation of this Act; authorizing a court to order that a person  
9 who violates this Act pay certain restitution; requiring that fines and restitution  
10 imposed under this Act be credited and used for certain purposes; establishing a  
11 certain additional source of revenue for the State Wildlife Management and  
12 Protection Fund; providing for the disposal of certain seized parts or products of  
13 certain animal species; providing for the calculation of the value of certain parts or  
14 products of certain animal species for certain purposes; authorizing the Department  
15 to adopt certain regulations; defining certain terms; and generally relating to the  
16 prevention of wildlife trafficking in the parts or products of certain animal species in  
17 the State.

18 BY repealing and reenacting, with amendments,  
19 Article – Natural Resources  
20 Section 10–209  
21 Annotated Code of Maryland  
22 (2012 Replacement Volume and 2016 Supplement)

23 BY adding to  
24 Article – Natural Resources  
25 Section 10–2B–01 through 10–2B–09 to be under the new subtitle “Subtitle 2B.  
26 Wildlife Trafficking Prevention”  
27 Annotated Code of Maryland  
28 (2012 Replacement Volume and 2016 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

**Article – Natural Resources**

10–209.

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

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

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

(d) The Department shall administer the Fund.

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

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

(f) The Fund consists of:

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

(2) Any investment earnings of the Fund; AND

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

(g) The Fund may be used for:

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

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

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

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

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

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

**10-2B-01.**

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

(B) “COVERED ANIMAL SPECIES” MEANS ANY SPECIES OF:

(1) BONOBO;

(2) CHEETAH;

(3) CHIMPANZEE;

(4) ELEPHANT, INCLUDING MAMMOTH;

(5) GORILLA;

(6) JAGUAR;

(7) LEOPARD;

(8) LION;

(9) ORANGUTAN;

(10) RHINOCEROS;

(11) SEA TURTLE; OR

(12) TIGER.

(C) “COVERED ANIMAL SPECIES PART OR PRODUCT” MEANS ANY MANUFACTURED ITEM THAT CONTAINS OR IS WHOLLY OR PARTLY MADE FROM A COVERED ANIMAL SPECIES.

(D) “MUSICAL INSTRUMENT” INCLUDES A STRING INSTRUMENT OR BOW, A WIND OR PERCUSSION INSTRUMENT, OR A PIANO.

1 **10-2B-02.**

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

6 **10-2B-03.**

7       **EXCEPT AS PROVIDED IN §§ 10-2B-04 AND 10-2B-05 OF THIS SUBTITLE, A**  
8 **PERSON MAY NOT PURCHASE, SELL, OFFER FOR SALE, OR POSSESS WITH INTENT TO**  
9 **SELL ANY ITEM THAT THE PERSON KNOWS OR SHOULD KNOW IS A COVERED ANIMAL**  
10 **SPECIES PART OR PRODUCT.**

11 **10-2B-04.**

12       **THIS SUBTITLE DOES NOT APPLY TO:**

13               **(1)    FEDERAL OR STATE LAW ENFORCEMENT ACTIVITY;**

14               **(2)    DUTIES MANDATED BY FEDERAL OR STATE LAW;**

15               **(3)    ACTIVITY AUTHORIZED BY FEDERAL LAW; OR**

16               **(4)    A COVERED ANIMAL SPECIES PART THAT IS A COMPONENT OF AN**  
17 **ANTIQUE OR A MUSICAL INSTRUMENT IF:**

18                       **(I)    THE COVERED ANIMAL SPECIES PART IS A FIXED**  
19 **COMPONENT OF AND IS NOT THE PRIMARY SOURCE OF VALUE FOR THE**  
20 **MANUFACTURED ITEM;**

21                       **(II)   THE COVERED ANIMAL SPECIES PART WEIGHTS LESS THAN**  
22 **200 GRAMS OR CONSTITUTES LESS THAN 20% OF THE MANUFACTURED ITEM;**

23                       **(III)   THE MANUFACTURED ITEM IS NOT MADE WHOLLY OR**  
24 **PRIMARILY FROM THE COVERED ANIMAL SPECIES PART;**

25                       **(IV)   1.    IN THE CASE OF ELEPHANT IVORY, THE IVORY WAS**  
26 **TAKEN FROM THE ELEPHANT BEFORE FEBRUARY 26, 1976; AND**

27                                       **2.    IN THE CASE OF IVORY IN GENERAL, THE IVORY IS NOT**  
28 **RAW; AND**

(V) THE OWNER OR SELLER OF THE MANUFACTURED ITEM PROVIDES DOCUMENTATION THAT SHOWS THAT THE MANUFACTURED ITEM IS AT LEAST 100 YEARS OLD.

**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 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 TWO 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 FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING THE GREATER OF \$10,000 OR THREE 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.

**10-2B-09.**

THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.