M1 2lr2129 CF HB 52

By: Senators Smith, Hettleman, Elfreth, Kramer, Kagan, and Young

Introduced and read first time: January 24, 2022

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

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1	AN	ACT	concerning

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Natural Resources - Wildlife Trafficking Prevention

- FOR the purpose of prohibiting a person from purchasing, selling, offering for sale, or possessing with the intent to sell certain parts or products of certain animal species under certain circumstances, subject to certain exceptions; authorizing a court to order that a person who violates this Act pay certain restitution; requiring that fines and restitution imposed under this Act be credited to the State Wildlife Management and Protection Fund to be used for the preservation of threatened or endangered species; and generally relating to the prevention of wildlife trafficking in the State.
- 10 BY repealing and reenacting, with amendments,
- 11 Article Natural Resources
- 12 Section 10–209
- 13 Annotated Code of Maryland
- 14 (2012 Replacement Volume and 2021 Supplement)
- 15 BY adding to
- 16 Article Natural Resources
- Section 10–2B–01 through 10–2B–09 to be under the new subtitle "Subtitle 2B.
- 18 Wildlife Trafficking Prevention"
- 19 Annotated Code of Maryland
- 20 (2012 Replacement Volume and 2021 Supplement)
- 21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
- 22 That the Laws of Maryland read as follows:
- 23 Article Natural Resources
- 24 10–209.
- 25 (a) In this section, "Fund" means the State Wildlife Management and Protection

- 1 Fund.
- 2 (b) There is a State Wildlife Management and Protection Fund in the 3 Department.
- 4 (c) The purpose of the Fund is to finance the scientific investigation, protection, 5 propagation, and management of wildlife.
- 6 (d) The Department shall administer the Fund.
- 7 (e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of 8 the State Finance and Procurement Article.
- 9 (2) The Treasurer shall hold the Fund separately and the Comptroller shall 10 account for the Fund.
- 11 (f) The Fund consists of:
- 12 (1) Any money received for a license, stamp, application, or permit fee 13 under this title, unless otherwise provided; [and]
- 14 (2) Any investment earnings of the Fund; AND
- 15 (3) FINES AND RESTITUTION PAID FOR VIOLATIONS RELATING TO 16 WILDLIFE TRAFFICKING UNDER SUBTITLE 2B OF THIS TITLE.
- 17 (g) The Fund may be used only for:
- 18 (1) The scientific investigation, protection, propagation, and management 19 of wildlife; and
- 20 (2) Administrative costs calculated in accordance with § 1–103(b)(2) of this 21 article.
- 22 (h) (1) The Treasurer shall invest the money of the Fund in the same manner 23 as other State money may be invested.
- 24 (2) Any investment earnings of the Fund may not be transferred or revert 25 to the General Fund of the State, but shall remain in the Fund.
- 26 (i) Expenditures from the Fund may be made only in accordance with the State 27 budget.
- 28 SUBTITLE 2B. WILDLIFE TRAFFICKING PREVENTION.
- 29 **10–2B–01**.

1 2	(A) IN INDICATED.	THIS	SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
3 4 5	INSTITUTION	THAT	TIDE SCIENTIFIC OR EDUCATIONAL INSTITUTION" MEANS AN ESTABLISHES EDUCATIONAL OR SCIENTIFIC TAX-EXEMPT DOCUMENTATION FROM THE INTERNAL REVENUE SERVICE.
6	(c) "C	OVERI	ED ANIMAL SPECIES" MEANS ANY SPECIES OF:
7	(1)	Во	NOBO;
8	(2)	Сн	петан;
9	(3)	Сн	IIMPANZEE;
0	(4)	EL	EPHANT;
1	(5)	GI	RAFFE;
12	(6)	Go	ORILLA;
13	(7)	HI	PPOPOTAMUS;
4	(8)	JA	GUAR;
5	(9)	LE	OPARD;
6	(1)	0) Lie	ON;
17	(1	1) MA	AMMOTH;
18	(1)	2) MA	ASTODON;
9	(1	3) Or	ANGUTAN;
20	(1	4) PA	NGOLIN;
21	(1	5) RH	IINOCEROS;
22	(1	6) SE.	A TURTLE; OR

(17) TIGER.

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- 1 (D) "COVERED ANIMAL SPECIES PART OR PRODUCT" MEANS ANY ITEM THAT 2 CONTAINS OR IS WHOLLY OR PARTLY MADE FROM A COVERED ANIMAL SPECIES.
- 3 (E) "MUSICAL INSTRUMENT" INCLUDES A STRING INSTRUMENT OR BOW, A 4 WIND OR PERCUSSION INSTRUMENT, OR A PIANO.
- 5 (F) (1) "SELL" MEANS ANY ACT OF SELLING, TRADING, OR BARTERING 6 FOR MONETARY OR NONMONETARY CONSIDERATION.
- 7 (2) "SELL" DOES NOT INCLUDE A NONMONETARY TRANSFER OF 8 OWNERSHIP BY WAY OF GIFT, DONATION, OR BEQUEST.
- 9 **10-2B-02.**
- 10 (A) THIS SUBTITLE APPLIES TO ANY SALE OR TRANSFER OF OWNERSHIP
 11 THAT OCCURS IN THE COURSE OF A COMMERCIAL TRANSACTION FOR WHICH:
- 12 (1) THE BUYER TAKES PHYSICAL POSSESSION OF THE COVERED 13 ANIMAL SPECIES PART OR PRODUCT IN THE STATE; OR
- 14 (2) THE SELLER IS LOCATED IN THE STATE.
- 15 (B) THIS SUBTITLE DOES NOT APPLY TO:
- 16 (1) FEDERAL OR STATE LAW ENFORCEMENT ACTIVITY;
- 17 (2) DUTIES MANDATED BY FEDERAL OR STATE LAW;
- 18 (3) ACTIVITY EXPRESSLY AUTHORIZED BY FEDERAL LAW; OR
- 19 (4) A COVERED ANIMAL SPECIES PART OR PRODUCT THAT IS A FIXED 20 COMPONENT OF:
- 21 (I) AN ANTIQUE THAT IS NOT MADE WHOLLY OR PRIMARILY 22 FROM THE COVERED ANIMAL SPECIES PART OR PRODUCT, PROVIDED THAT:
- 23 1. The antique status is established by the
- 24 OWNER OR SELLER THROUGH DOCUMENTATION SHOWING PROVENANCE AND THAT
- 25 THE COVERED ANIMAL SPECIES PART OR PRODUCT IS AT LEAST 100 YEARS OLD; AND
- 26 2. The total weight of the covered animal
- 27 SPECIES PART OR PRODUCT IS LESS THAN 200 GRAMS; OR

1 (II) A MUSICAL INSTRUMENT, PROVIDED THAT:

- 1. The covered animal species part or product
- 3 WAS LEGALLY ACQUIRED; AND
- 4 2. The total weight of the covered animal
- 5 SPECIES PART OR PRODUCT IS LESS THAN 200 GRAMS.
- 6 **10–2B–03.**
- 7 IN THIS SUBTITLE, THE CALCULATION OF THE VALUE OF A COVERED ANIMAL
- 8 SPECIES PART OR PRODUCT SHALL BE THE GREATER OF THE FAIR MARKET VALUE
- 9 OF OR THE ACTUAL PRICE PAID FOR THE COVERED ANIMAL SPECIES PART OR
- 10 PRODUCT.
- 11 **10–2B–04.**
- 12 EXCEPT AS PROVIDED IN § 10–2B–05 OF THIS SUBTITLE, A PERSON MAY NOT
- 13 PURCHASE, SELL, OFFER FOR SALE, OR POSSESS WITH INTENT TO SELL ANY ITEM
- 14 THAT THE PERSON KNOWS OR SHOULD KNOW IS A COVERED ANIMAL SPECIES PART
- 15 OR PRODUCT.
- 16 **10–2B–05.**
- 17 UNLESS PROHIBITED BY FEDERAL LAW, THE DEPARTMENT MAY ALLOW THE
- 18 PURCHASE BY, OR SALE, OFFER FOR SALE, OR POSSESSION WITH INTENT TO SELL
- 19 TO, A BONA FIDE SCIENTIFIC OR EDUCATIONAL INSTITUTION OF ANY LAWFULLY
- 20 ACQUIRED COVERED ANIMAL SPECIES PART OR PRODUCT.
- 21 **10–2B–06.**
- THERE IS A REBUTTABLE PRESUMPTION THAT A PERSON POSSESSES A
- 23 COVERED ANIMAL SPECIES PART OR PRODUCT WITH THE INTENT TO SELL IF THE
- 24 COVERED ANIMAL SPECIES PART OR PRODUCT IS POSSESSED IN A RETAIL OR
- 25 WHOLESALE ESTABLISHMENT COMMONLY USED FOR THE BUYING OR SELLING OF
- 26 SIMILAR ITEMS.
- 27 **10–2B–07.**
- 28 (A) A PERSON THAT VIOLATES THIS SUBTITLE:
- 29 (1) FOR A FIRST OFFENSE, IS GUILTY OF A MISDEMEANOR AND ON

- 1 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING THE GREATER OF \$3,000 OR 2
- 2 TIMES THE VALUE OF THE COVERED ANIMAL SPECIES PART OR PRODUCT;
- 3 (2) FOR A SECOND OR SUBSEQUENT OFFENSE FOR WHICH THE VALUE
- 4 OF THE COVERED ANIMAL SPECIES PART OR PRODUCT IN QUESTION DOES NOT
- 5 EXCEED \$250, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A
- 6 FINE NOT EXCEEDING \$6,000; OR
- 7 (3) FOR A SECOND OR SUBSEQUENT OFFENSE FOR WHICH THE VALUE
- 8 OF THE COVERED ANIMAL SPECIES PART OR PRODUCT IN QUESTION EXCEEDS \$250,
- 9 IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
- 10 EXCEEDING THE GREATER OF \$10,000 OR 3 TIMES THE VALUE OF THE COVERED
- 11 ANIMAL SPECIES PART OR PRODUCT.
- 12 (B) IF A PERSON IS CONVICTED OF VIOLATING THIS SUBTITLE, IN ADDITION
- 13 TO ANY OTHER PENALTY PROVIDED IN THIS TITLE, THE COURT MAY ORDER THE
- 14 PERSON TO PAY RESTITUTION TO THE STATE IN AN AMOUNT NOT EXCEEDING 2
- 15 TIMES THE VALUE OF THE COVERED ANIMAL SPECIES PART OR PRODUCT IN
- 16 QUESTION.
- 17 (C) FINES AND RESTITUTION IMPOSED UNDER THIS SECTION SHALL BE
- 18 CREDITED TO THE DEPARTMENT FOR THE BENEFIT OF THE STATE WILDLIFE
- 19 MANAGEMENT AND PROTECTION FUND ESTABLISHED UNDER § 10–209 OF THIS
- 20 TITLE, TO BE USED ONLY FOR THE PRESERVATION OF THREATENED OR
- 21 ENDANGERED SPECIES.
- 22 **10–2B–08.**
- ON A CONVICTION UNDER THIS SUBTITLE, ANY SEIZED COVERED ANIMAL
- 24 SPECIES PART OR PRODUCT:
- 25 (1) SHALL BE FORFEITED; AND
- 26 **(2)** MAY BE:
- 27 (I) MAINTAINED BY THE DEPARTMENT FOR EDUCATIONAL OR
- 28 TRAINING PURPOSES;
- 29 (II) DONATED BY THE DEPARTMENT TO A SCIENTIFIC OR
- 30 EDUCATIONAL INSTITUTION; OR
- 31 (III) DESTROYED.

- 1 **10–2B–09.**
- 2 THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.
- 3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 4 October 1, 2022.