

# HOUSE BILL 542

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By: **Delegates Luedtke, Atterbeary, Barkley, Carr, Frush, Healey, Hettleman, Holmes, Jalisi, Knotts, Lam, Moon, Morhaim, Platt, S. Robinson, Smith, Stein, and Turner**

Introduced and read first time: February 3, 2016

Assigned to: Environment and Transportation

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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, subject to a certain  
11 exception; establishing a certain additional source of revenue for the Birdwatcher's  
12 Fund; authorizing a judge to award a reward to a person providing information  
13 leading to a conviction for a violation of this Act; requiring that the reward be paid  
14 from a percentage of certain fine proceeds but not exceed a certain amount;  
15 prohibiting a reward from being awarded to a law enforcement officer or an employee  
16 of the Department of Natural Resources; providing for the disposal of certain seized  
17 parts or products of certain animal species; providing for the calculation of the value  
18 of certain parts or products of certain animal species for certain purposes;  
19 authorizing the Department to adopt certain regulations; defining certain terms; and  
20 generally relating to the prevention of wildlife trafficking in the parts or products of  
21 certain animal species in the State.

22 BY repealing and reenacting, with amendments,  
23 Article – Natural Resources  
24 Section 10–2A–06.1  
25 Annotated Code of Maryland  
26 (2012 Replacement Volume and 2015 Supplement)

27 BY adding to

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Natural Resources

2 Section 10–2B–01 through 10–2B–10 to be under the new subtitle “Subtitle 2B.  
3 Wildlife Trafficking Prevention”

4 Annotated Code of Maryland

5 (2012 Replacement Volume and 2015 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

7 That the Laws of Maryland read as follows:

8 **Article – Natural Resources**

9 10–2A–06.1.

10 (a) (1) In this section the following words have the meanings indicated.

11 (2) “Birdwatcher” means a person who engages in birdwatching.

12 (3) (i) “Birdwatching” means identifying, studying, and recording the  
13 presence of wild birds in their natural surroundings.

14 (ii) “Birdwatching” does not include incidental sightings of wild birds  
15 in their natural surroundings.

16 (b) The purpose of this section is to provide a special fund that shall be expended  
17 for the preservation of nongame wildlife species and threatened and endangered species.

18 (c) There is a Birdwatcher’s Fund.

19 (d) (1) **[All] THE BIRDWATCHER’S FUND CONSISTS OF:**

20 **(I) ALL** revenue that the Department derives from the issuance of  
21 birdwatcher’s stamps and decals **[shall be credited to the Birdwatcher’s Fund]; AND**

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

24 (2) The Secretary shall administer the Birdwatcher’s Fund.

25 (3) Money in the Birdwatcher’s Fund shall be expended only for the  
26 preservation of nongame wildlife species and threatened and endangered species.

27 (e) (1) The fee for a birdwatcher’s stamp or decal is \$5.

28 (2) Private contributions, grants and donations may be made to the  
29 Birdwatcher’s Fund.

1 (3) Any person engaged in a retail business who desires to sell  
2 birdwatcher's stamps and decals as an agent under the Department's control and  
3 supervision shall apply on forms prepared and prescribed by the Department.

4 (4) An agent may retain 25 cents out of the birdwatcher's stamp or decal  
5 fee for each birdwatcher's stamp or decal the agent sells.

6 (5) The Department, by regulation, shall provide procedures and forms for  
7 the sale of birdwatcher's stamps and decals.

8 (f) The purpose of this Fund is:

9 (1) Dissemination of information pertaining to nongame wildlife species  
10 and threatened and endangered species conservation, management, and values;

11 (2) Scientific investigation and survey of nongame wildlife species and  
12 threatened and endangered species for better protection and conservation;

13 (3) Propagation, distribution, protection, and restoration of nongame  
14 wildlife species and threatened and endangered species;

15 (4) Research and management of nongame wildlife species and threatened  
16 and endangered species;

17 (5) Development of habitats for nongame wildlife species and threatened  
18 and endangered species;

19 (6) Acquisition of habitats for nongame wildlife species and threatened and  
20 endangered species; and

21 (7) Matching of funds available to the Department under federal programs  
22 for projects and activities authorized under this section.

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

24 **10-2B-01.**

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

27 (B) "COVERED ANIMAL SPECIES" MEANS ANY SPECIES OF:

28 (1) BONOBO;

29 (2) CHEETAH;

- 1           **(3) CHIMPANZEE;**
- 2           **(4) ELEPHANT, INCLUDING MAMMOTH;**
- 3           **(5) GORILLA;**
- 4           **(6) JAGUAR;**
- 5           **(7) LEOPARD;**
- 6           **(8) LION;**
- 7           **(9) ORANGUTAN;**
- 8           **(10) RHINOCEROS;**
- 9           **(11) SEA TURTLE; OR**
- 10           **(12) TIGER.**

11           **(C) "COVERED ANIMAL SPECIES PART OR PRODUCT" MEANS ANY**  
12 **MANUFACTURED ITEM THAT CONTAINS OR IS WHOLLY OR PARTIALLY MADE FROM A**  
13 **COVERED ANIMAL SPECIES.**

14           **(D) "MUSICAL INSTRUMENT" INCLUDES A STRING INSTRUMENT OR BOW, A**  
15 **WIND OR PERCUSSION INSTRUMENT, OR A PIANO.**

16 **10-2B-02.**

17           **IN THIS SUBTITLE, THE CALCULATION OF THE VALUE OF A COVERED ANIMAL**  
18 **SPECIES PART OR PRODUCT SHALL BE THE GREATER OF THE FAIR MARKET VALUE**  
19 **OF OR THE ACTUAL PRICE PAID FOR THE COVERED ANIMAL SPECIES PART OR**  
20 **PRODUCT.**

21 **10-2B-03.**

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

26 **10-2B-04.**

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

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

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

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

5                   **(4) A COVERED ANIMAL SPECIES PART OR PRODUCT THAT IS PART OF**  
6 **AN ANTIQUE OR A MUSICAL INSTRUMENT IF:**

7                           **(I) THE COVERED ANIMAL SPECIES PART IS A FIXED**  
8 **COMPONENT OF A LARGER MANUFACTURED ITEM AND IS NOT THE PRIMARY SOURCE**  
9 **OF VALUE FOR THE ITEM;**

10                           **(II) THE TOTAL WEIGHT OF THE COVERED ANIMAL SPECIES**  
11 **PARTS IN THE MANUFACTURED ITEM IS LESS THAN 200 GRAMS;**

12                           **(III) THE MANUFACTURED ITEM IS NOT MADE WHOLLY OR**  
13 **PRIMARILY OF THE COVERED ANIMAL SPECIES PART;**

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

16   **2. IN THE CASE OF IVORY IN GENERAL, THE IVORY IS NOT**  
17 **RAW; AND**

18                           **(V) THE OWNER OR SELLER OF THE MANUFACTURED ITEM**  
19 **PROVIDES DOCUMENTATION THAT SHOWS:**

20   **1. PROVENANCE OF THE MANUFACTURED ITEM;**

21   **2. FOR AN ANTIQUE, THAT THE MANUFACTURED ITEM IS**  
22 **AT LEAST 100 YEARS OLD; AND**

23   **3. FOR A MUSICAL INSTRUMENT, THAT THE**  
24 **MANUFACTURED ITEM WAS MADE IN 1975 OR EARLIER.**

25 **10-2B-05.**

26           **UNLESS PROHIBITED BY FEDERAL LAW, THE DEPARTMENT MAY ALLOW THE**  
27 **PURCHASE BY, OR SALE, OFFER FOR SALE, OR POSSESSION WITH INTENT TO SELL**

1 TO, A SCIENTIFIC OR EDUCATIONAL INSTITUTION OF ANY LAWFULLY ACQUIRED  
2 COVERED ANIMAL SPECIES PART OR PRODUCT.

3 **10-2B-06.**

4 THERE IS A REBUTTABLE PRESUMPTION THAT A PERSON POSSESSES A  
5 COVERED ANIMAL SPECIES PART OR PRODUCT WITH THE INTENT TO SELL IF THE  
6 COVERED ANIMAL SPECIES PART OR PRODUCT IS POSSESSED IN A RETAIL OR  
7 WHOLESALE ESTABLISHMENT COMMONLY USED FOR THE BUYING OR SELLING OF  
8 SIMILAR ITEMS.

9 **10-2B-07.**

10 (A) A PERSON THAT VIOLATES THIS SUBTITLE:

11 (1) FOR A FIRST OFFENSE, IS GUILTY OF A MISDEMEANOR AND ON  
12 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$3,000;

13 (2) FOR A SECOND OR SUBSEQUENT OFFENSE FOR WHICH THE VALUE  
14 OF THE COVERED ANIMAL SPECIES PART OR PRODUCT IN QUESTION DOES NOT  
15 EXCEED \$250, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A  
16 FINE NOT EXCEEDING \$6,000; OR

17 (3) FOR A SECOND OR SUBSEQUENT OFFENSE FOR WHICH THE VALUE  
18 OF THE COVERED ANIMAL SPECIES PART OR PRODUCT IN QUESTION EXCEEDS \$250,  
19 IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT  
20 EXCEEDING \$10,000.

21 (B) IF A PERSON IS CONVICTED OF VIOLATING THIS SUBTITLE, IN ADDITION  
22 TO ANY OTHER PENALTY PROVIDED IN THIS TITLE, THE COURT MAY ORDER THE  
23 PERSON TO PAY RESTITUTION TO THE STATE IN AN AMOUNT NOT EXCEEDING 2  
24 TIMES THE VALUE OF THE COVERED ANIMAL SPECIES PART OR PRODUCT IN  
25 QUESTION.

26 (C) EXCEPT AS PROVIDED IN § 10-2B-08 OF THIS SUBTITLE, FINES AND  
27 RESTITUTION IMPOSED UNDER THIS SECTION SHALL BE CREDITED TO THE  
28 DEPARTMENT FOR THE BENEFIT OF THE BIRDWATCHER'S FUND ESTABLISHED  
29 UNDER § 10-2A-06.1 OF THIS TITLE, TO BE USED ONLY FOR THE PRESERVATION OF  
30 THREATENED OR ENDANGERED SPECIES.

31 **10-2B-08.**

1           **(A) IN ACCORDANCE WITH THIS SECTION, ON CONVICTION FOR A VIOLATION**  
2 **UNDER THIS SUBTITLE, THE COURT MAY AWARD A REWARD TO A PERSON PROVIDING**  
3 **INFORMATION LEADING TO THE CONVICTION.**

4           **(B) A REWARD SHALL BE PAID FROM THE FINE PROCEEDS IN AN AMOUNT**  
5 **NOT TO EXCEED THE LESSER OF ONE-HALF OF THE FINE IMPOSED OR \$500.**

6           **(C) A REWARD MAY NOT BE AWARDED TO A LAW ENFORCEMENT OFFICER OR**  
7 **AN EMPLOYEE OF THE DEPARTMENT.**

8 **10-2B-09.**

9           **ON A CONVICTION UNDER THIS SUBTITLE, ANY SEIZED COVERED ANIMAL**  
10 **SPECIES PART OR PRODUCT:**

11                   **(1) SHALL BE FORFEITED; AND**

12                   **(2) MAY BE:**

13                           **(I) MAINTAINED BY THE DEPARTMENT FOR EDUCATIONAL OR**  
14 **TRAINING PURPOSES;**

15                           **(II) DONATED BY THE DEPARTMENT TO A SCIENTIFIC OR**  
16 **EDUCATIONAL INSTITUTION; OR**

17                           **(III) DESTROYED.**

18 **10-2B-10.**

19           **THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.**

20           **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
21 **October 1, 2016.**