

Department of Legislative Services
 Maryland General Assembly
 2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 542 (Delegate Luedtke, *et al.*)
 Environment and Transportation

Natural Resources - Wildlife Trafficking Prevention

This bill establishes provisions relating to wildlife trafficking. Specifically, the bill prohibits the purchase, sale, or possession with the intent to sell any item that a person knows, or should know, is a “covered animal species” part or product, with specified exceptions. A violator is guilty of a misdemeanor and subject to maximum fines ranging from \$3,000 to \$10,000, depending on the number of offenses and the value of the covered animal species or part. A violator may also be subject to restitution. Fines and restitution imposed under the bill are credited to the existing Birdwatcher’s Fund within the Department of Natural Resources (DNR), except as specified. The bill also establishes provisions for the disposition of any seized covered animal species part or product. DNR may adopt implementing regulations.

Fiscal Summary

State Effect: General fund expenditures increase by \$11,900 in FY 2017 only for computer programming costs for the Judiciary. DNR can implement the bill with existing budgeted resources, as discussed below. Special fund revenues may increase due to the bill’s penalty and restitution provisions.

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
SF Revenue	-	-	-	-	-
GF Expenditure	\$11,900	\$0	\$0	\$0	\$0
Net Effect	(\$11,900)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill is not expected to have a material impact on local operations or finances.

Small Business Effect: None, assuming compliance with the law.

Analysis

Bill Summary: “Covered animal species” means any of a number of listed species including bonobo, elephant (including mammoth), leopard, and sea turtle, among others.

The bill’s provisions do not apply to federal or State law enforcement activity, duties mandated by federal or State law, activity authorized by federal law, or a covered animal species part or product that is part of an antique or a musical instrument if several specified conditions are met. In addition, unless prohibited by federal law, DNR may authorize the purchase, sale, or possession with the intent to sell a covered animal species part or product to a scientific or educational institution if the part or product is lawfully acquired.

The bill establishes a 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 outlet commonly used for the buying or selling of similar items.

A person who violates the bill’s provisions is guilty of a misdemeanor and subject to a fine of up to (1) \$3,000 for a first offense; (2) \$6,000 for a second or subsequent offense for which the value of the part or product does not exceed \$250; or (3) \$10,000 for a second or subsequent offense if the value of the part or product exceeds \$250. The bill establishes a provision regarding the calculation of the value of a covered part or product.

In addition to any other penalty, the court may order a person convicted of violating the bill’s provisions to pay restitution to the State in an amount up to two times the value of the covered animal species part or product.

On conviction for a violation, the court may also award a reward to a person providing information leading to the conviction. A reward must be paid from the fine proceeds in an amount not to exceed the lesser of one-half of the fine imposed or \$500. However, a reward may not be awarded to a law enforcement officer or a DNR employee.

Except to pay rewards, fines and restitution imposed under the bill’s provisions are credited to the Birdwatcher’s Fund within DNR to be used for the preservation of threatened or endangered species.

On conviction under the bill, any seized covered animal species part or product must be forfeited and may be maintained by DNR for educational purposes, donated by DNR to a scientific or educational institution, or destroyed.

Current Law: Established under the Endangered Species Nongame and Endangered Species Conservation Act, the purpose of DNR’s Birdwatcher’s Fund is, generally, the preservation of nongame wildlife species and threatened and endangered species.

Currently, the only source of revenue for the fund comes from birdwatcher's stamp and decal fees.

If any fine is imposed by the District Court for a violation of any provision of Title 10 (Wildlife) of the Natural Resources Article, the fine is collected pursuant to the provisions of law of the District Court system (and paid into the general fund). If any fine is imposed by the circuit court of any county, the fine, less the costs of collection, is paid into the State Wildlife Management and Protection Fund and used to finance the scientific investigation, protection, propagation, and management of wildlife.

If a person is convicted of violating any provision of Title 10 (Wildlife) of the Natural Resources Article and the violation causes or results in the injury, death, or destruction of any wildlife, in addition to any other penalty provided, the court may order the person to pay restitution to the State for the resource value of the wildlife, as determined by the court, taking into account DNR regulations. Restitution paid under this provision must be credited to DNR to be used only for the replacement, habitat management, or enforcement programs for injured, killed, or destroyed wildlife or protected species of animals.

Background: The United States has voluntarily agreed to abide by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The stated purpose of CITES is to ensure that international trade in specimens of wild animals and plants does not threaten their survival. Approximately 180 nations are a party to CITES. In addition, the federal Endangered Species Act, African Elephant Conservation Act, and specified regulations and executive orders impose certain restrictions and prohibitions on the import, export, and domestic sale of specified endangered animal parts, such as ivory and rhinoceros horns. The U.S. Fish and Wildlife Service's Division of Management Authority and Division of Scientific Authority, as well as the Office of Law Enforcement, are primarily responsible for implementing and enforcing CITES in the United States.

State Expenditures: General fund expenditures for the Judiciary increase by \$11,910 in fiscal 2017 only, which reflects 144 hours of computer programming to update the Judiciary's cash registers and computer system to reflect the violations and penalties established under the bill. Any form changes can be handled by the Judiciary with existing resources. In addition, while the number of additional cases filed as a result of the bill is unknown, the bill is not expected to have a material impact on the Judiciary's caseload.

DNR can implement the bill with existing budgeted resources. However, DNR advises that it does not have a State laboratory facility to determine the quantities of a protected species part in a substance or manufactured item. Thus, it is assumed that DNR continues to collaborate with federal agencies to prosecute and investigate any cases that arise under the bill's provisions. The Natural Resource Police advises that it has issued one State

citation in the past five years for wildlife trafficking with respect to the species covered under the bill.

Additional Information

Prior Introductions: None.

Cross File: SB 991 (Senator Young) - Rules.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Natural Resources, U.S. Fish and Wildlife Service, Department of Legislative Services

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