

HOUSE BILL 712

M2
HB 686/17 – ENV

8lr3024

By: **Delegates Luedtke, Atterbeary, Carr, Fraser-Hidalgo, Frush, Holmes, Kaiser, Kramer, McCray, Robinson, and Waldstreicher**

Introduced and read first time: January 31, 2018

Assigned to: Environment and Transportation

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 2017 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 2017 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Natural Resources**

4 10–209.

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

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

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

11 (d) The Department shall administer the Fund.

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

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

16 (f) The Fund consists of:

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

19 (2) Any investment earnings of the Fund; AND

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

22 (g) The Fund may be used only for:

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

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

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

29 (2) Any investment earnings of the Fund may not be transferred or revert

1 to the General Fund of the State, but shall remain in the Fund.

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

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

5 **10-2B-01.**

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

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

9 (1) BONOBO;

10 (2) CHEETAH;

11 (3) CHIMPANZEE;

12 (4) ELEPHANT, INCLUDING MAMMOTH;

13 (5) GORILLA;

14 (6) JAGUAR;

15 (7) LEOPARD;

16 (8) LION;

17 (9) ORANGUTAN;

18 (10) RHINOCEROS;

19 (11) SEA TURTLE; OR

20 (12) TIGER.

21 (C) "COVERED ANIMAL SPECIES PART OR PRODUCT" MEANS ANY
22 MANUFACTURED ITEM THAT CONTAINS OR IS WHOLLY OR PARTLY MADE FROM A
23 COVERED ANIMAL SPECIES.

24 (D) "MUSICAL INSTRUMENT" INCLUDES A STRING INSTRUMENT OR BOW, A
25 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 **ANTIQUÉ OR 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 WEIGHS 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**

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

4 **10-2B-05.**

5 **UNLESS PROHIBITED BY FEDERAL LAW, THE DEPARTMENT MAY ALLOW THE**
6 **PURCHASE BY, OR SALE, OFFER FOR SALE, OR POSSESSION WITH INTENT TO SELL**
7 **TO, A SCIENTIFIC OR EDUCATIONAL INSTITUTION OF ANY LAWFULLY ACQUIRED**
8 **COVERED ANIMAL SPECIES PART OR PRODUCT.**

9 **10-2B-06.**

10 **THERE IS A REBUTTABLE PRESUMPTION THAT A PERSON POSSESSES A**
11 **COVERED ANIMAL SPECIES PART OR PRODUCT WITH THE INTENT TO SELL IF THE**
12 **COVERED ANIMAL SPECIES PART OR PRODUCT IS POSSESSED IN A RETAIL OR**
13 **WHOLESALE ESTABLISHMENT COMMONLY USED FOR THE BUYING OR SELLING OF**
14 **SIMILAR ITEMS.**

15 **10-2B-07.**

16 **(A) A PERSON THAT VIOLATES THIS SUBTITLE:**

17 **(1) FOR A FIRST OFFENSE, IS GUILTY OF A MISDEMEANOR AND ON**
18 **CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING THE GREATER OF \$3,000 OR 2**
19 **TIMES THE VALUE OF THE COVERED ANIMAL SPECIES PART OR PRODUCT;**

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

24 **(3) FOR A SECOND OR SUBSEQUENT OFFENSE FOR WHICH THE VALUE**
25 **OF THE COVERED ANIMAL SPECIES PART OR PRODUCT IN QUESTION EXCEEDS \$250,**
26 **IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING**
27 **THE GREATER OF \$10,000 OR 3 TIMES THE VALUE OF THE COVERED ANIMAL**
28 **SPECIES PART OR PRODUCT.**

29 **(B) IF A PERSON IS CONVICTED OF VIOLATING THIS SUBTITLE, IN ADDITION**
30 **TO ANY OTHER PENALTY PROVIDED IN THIS TITLE, THE COURT MAY ORDER THE**
31 **PERSON TO PAY RESTITUTION TO THE STATE IN AN AMOUNT NOT EXCEEDING 2**
32 **TIMES THE VALUE OF THE COVERED ANIMAL SPECIES PART OR PRODUCT IN**

1 QUESTION.

2 (C) FINES AND RESTITUTION IMPOSED UNDER THIS SECTION SHALL BE
3 CREDITED TO THE DEPARTMENT FOR THE BENEFIT OF THE STATE WILDLIFE
4 MANAGEMENT AND PROTECTION FUND ESTABLISHED UNDER § 10-209 OF THIS
5 TITLE, TO BE USED ONLY FOR THE PRESERVATION OF THREATENED OR
6 ENDANGERED SPECIES.

7 10-2B-08.

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

10 (1) SHALL BE FORFEITED; AND

11 (2) MAY BE:

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

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

16 (III) DESTROYED.

17 10-2B-09.

18 THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2018.