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Introduced by Representatives McCullough of Williston, Brumsted of Shelburne, Webb of Shelburne, Anthony of Barre City, Austin of Colchester, Bates of Bennington, Briglin of Thetford, Carroll of Bennington, Chase of Colchester, Cina of Burlington, Colston of Winooski, Conlon of Cornwall, Cordes of Lincoln, Dolan of Waitsfield, Donovan of Burlington, Gardner of Richmond, Killacky of South Burlington, Macaig of Williston, Masland of Thetford, Mrowicki of Putney, Ode of Burlington, O’Sullivan of Burlington, Page of Newport City, Patt of Worcester, Rachelson of Burlington, Redmond of Essex, Scheu of Middlebury, Squirrell of Underhill, Sullivan of Burlington, Till of Jericho, Townsend of South Burlington, Troiano of Stannard, Walz of Barre City, and Yantachka of Charlotte

Referred to Committee on

Date:

Subject: Conservation and development; wildlife; trade in wildlife parts and products

Statement of purpose of bill as introduced: This bill proposes to prohibit the purchase, sale, offer for sale, or possession with intent to sell of any item that a person knows or should know is a covered animal part or product. A covered

1 animal product would be defined as an item that contains, or is wholly or
2 partially made from, a covered animal. A covered animal would be defined as
3 any species of: cheetah, elephant, giraffe, hippopotamus, jaguar, leopard, lion,
4 mammoth, mastodon, pangolin, ray, rhinoceros, sea turtle, shark, tiger, or
5 whale. The bill would include exceptions from the prohibition on the
6 purchase, sale, offer for sale, or possession of intent to sell a covered animal
7 product for fixed components of an antique or musical instrument and for
8 activities authorized by federal law or conducted by federal or State
9 employees.

10 An act relating to trade in covered animal parts or products

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 10 V.S.A. chapter 124 is added to read:

13 CHAPTER 124. TRADE IN COVERED ANIMAL PARTS OR PRODUCTS

14 § 5501. DEFINITIONS

15 As used in this chapter:

16 (1) “Bona fide educational or scientific institution” means an institution
17 that establishes through documentation that it is a tax-exempt institution under
18 the Internal Revenue Service’s educational or scientific tax exemption.

19 (2) “Covered animal” means any species of:

20 (A) Cheetah (Acinonyx jubatus);

- 1 (B) Elephant (family Elephantidae);
- 2 (C) Giraffe (Giraffa camelopardalis) ;
- 3 (D) Hippopotamus (family Hippopotamidae);
- 4 (E) Jaguar (Panthera onca);
- 5 (F) Leopard (Panthera pardus);
- 6 (G) Lion (Panthera leo);
- 7 (H) Mammoth (genus Mammuthus);
- 8 (I) Mastodon (genus Mammut),
- 9 (J) Pangolin (family Manidae);
- 10 (K) Ray (families Dasyatidae, Gymnuridae, Myliobatidae,
11 Narcinidae, Rhinobatidae, Torpedinidae, Urolophidae);
- 12 (L) Rhinoceros (family Rhinocerotidae);
- 13 (M) Sea turtle (family Chelonioidea);
- 14 (N) Shark (orders Carcharhiniformes, Echinorhiniformes,
15 Heterodontiformes, Hexanchiformes, Lamniformes, Orectolobiformes,
16 Prisiphoriformes, Squaliformes, and Squatiniformes);
- 17 (O) Tiger (Panthera tigris); or
- 18 (P) Whale (families Balaenidae, Balaenopteridae, Cetotheriidae,
19 Eschrichtiidae, Monodontidae, Physeteridae, Kogiidae, and Ziphiidae).

1 (3) “Covered animal part or product” means any item that contains, or is
2 wholly or partially made from, a covered animal, including the meat or flesh of
3 a covered animal sold as food.

4 (4) “Sale” or “sell” means any act of selling, trading, or bartering for
5 monetary or nonmonetary consideration, and includes any transfer of
6 ownership that occurs in the course of a commercial transaction, but does not
7 include a nonmonetary transfer of ownership by way of gift, donation, or
8 bequest.

9 (5) “Secretary” means the Secretary of Natural Resources.

10 (6) “Total value” means either the fair market value or the actual price
11 paid for a covered animal part or product, whichever is greater.

12 § 5502. PROHIBITION

13 Except as provided in this chapter, notwithstanding any other provision of
14 law to the contrary, a person shall not purchase, sell, offer for sale, or possess
15 with intent to sell any item that the person knows or should know is a covered
16 animal part or product.

17 § 5503. EXCEPTIONS

18 The prohibition on the purchase, sale, offer for sale, or possession with
19 intent to sell set forth in section 5502 of this title shall not apply:

1 (1) to employees or agents of the federal or State government
2 undertaking any law enforcement activities pursuant to federal or State law, or
3 any mandatory duties required by federal or State law;

4 (2) when the activity is expressly authorized by federal law;

5 (3) when the covered animal part or product is a fixed component of an
6 antique that is not made wholly or partially from the covered animal part or
7 product, provided that:

8 (A) the antique status is established by the owner or seller of the
9 covered animal part or product with documentation providing evidence of the
10 provenance of the covered animal part or product and showing the covered
11 animal part or product to be not less than 100 years old; and

12 (B) the total weight of the covered animal part or product is less than
13 200 grams;

14 (4) when the covered animal part or product is a fixed component of a
15 musical instrument, including string instruments and bows, wind and
16 percussion instruments, and pianos, provided that the covered animal part or
17 product was legally acquired and provided that the total weight of the covered
18 animal part or product is less than 200 grams; or

19 (5) the activity is authorized under section 5504 of this title.

1 § 5504. EDUCATIONAL OR SCIENTIFIC USE

2 The Secretary may permit, under terms and conditions as the Secretary may
3 require, the purchase, sale, offer for sale, or possession with intent to sell of
4 any covered animal part or product for educational or scientific purposes by a
5 bona fide educational or scientific institution unless the activity is prohibited
6 by federal law, and provided that the covered animal part or product was
7 legally acquired.

8 § 5505. PRESUMPTION OF POSSESSION WITH INTENT TO SELL

9 There shall be a rebuttable presumption that a person possesses a covered
10 animal part or product with intent to sell when the part or product is possessed
11 by a retail or wholesale establishment or other forum engaged in the business
12 of buying or selling similar items. This rebuttable presumption shall not
13 preclude a court from finding intent to sell a covered animal part or product
14 based on any other evidence that may serve to independently establish intent.

15 § 5506. PENALTIES

16 The penalties for a violation of a provision of this chapter are as follows:

17 (1) For a first offense, where the total value of the covered animal part
18 or product does not exceed \$250.00, a person shall be fined not more than
19 \$1,000.00 nor less than \$400.00 or imprisoned for not more than 30 days, or
20 both.

1 (2) For a first offense, where the total value of the covered animal part
2 or product exceeds \$250.00, a person shall be fined not more than \$2,000.00
3 nor less than \$1,000.00 or imprisoned for not more than 60 days, or both.

4 (3) For a second offense, where the total value of the covered animal
5 part or product does not exceed \$250.00, a person shall be fined not more than
6 \$2,000.00 nor less than \$1,000.00 or imprisoned for not more than 60 days, or
7 both.

8 (4) For a second offense, where the total value of the covered animal
9 part or product exceeds \$250.00, a person shall be fined not more than
10 \$4,000.00 nor less than \$2,000.00 or imprisoned for not more than 90 days, or
11 both.

12 § 5507. SEIZURE.

13 A person convicted of violating a provision of this chapter shall forfeit to
14 the Secretary the covered animal part or product that is the subject of the
15 violation. The Secretary may:

16 (1) authorize that the covered animal part or product be maintained for
17 educational or training purposes;

18 (2) authorize that the covered animal part or product be donated to a
19 bona fide educational or scientific institution; or

20 (3) require that the covered animal part or product be destroyed.

1 § 5508. RULES

2 The Secretary may adopt rules necessary to implement the requirements of
3 this chapter.

4 Sec. 2. EFFECTIVE DATE

5 This act shall take effect on January 1, 2020.