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AN ACT

RELATING TO WILDLIFE; ENACTING THE WILDLIFE TRAFFICKING ACT;  
PROVIDING POWERS AND DUTIES; PROHIBITING CERTAIN ACTIONS;  
MAKING TRAFFICKING OF ANIMAL SPECIES THREATENED WITH  
EXTINCTION A CRIME; PROVIDING EXCEPTIONS; PRESCRIBING  
PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. SHORT TITLE.--This act may be cited as the  
"Wildlife Trafficking Act".

SECTION 2. DEFINITIONS.--As used in the Wildlife  
Trafficking Act:

A. "covered animal species" means any extant  
species of elephant, rhinoceros, tiger, lion, leopard,  
cheetah, jaguar, pangolin, great ape, marine turtle, shark,  
caiman, ray or other species covered by Appendix 1 of the  
Convention on International Trade in Endangered Species of  
Wild Fauna and Flora, to which the United States is a treaty  
party;

B. "covered animal species part or product" means  
any portion of a covered animal species or any item that  
contains, is advertised as containing or is wholly or  
partially made from a part that comes from a covered animal  
species;

C. "distribute" means either a change in

1 possession for consideration or a change in legal ownership;

2 D. "educational or scientific institution" means  
3 an institution that has an educational or scientific tax  
4 exemption from the federal internal revenue service or the  
5 institution's national or state tax authority;

6 E. "sell" includes bartering for, exchanging,  
7 trading or possessing with the intent to sell and each such  
8 transaction made by any person, with or without remuneration,  
9 including any intrastate sale through the internet; and

10 F. "total value of the covered animal species part  
11 or product" means the fair market value of such part or  
12 product, the price at which the part or product was offered  
13 for sale or the actual price paid for the part or product,  
14 whichever is greater.

15 SECTION 3. PROHIBITED ACTS.--

16 A. Except as provided in Section 4 of the Wildlife  
17 Trafficking Act, it is unlawful for a person to knowingly  
18 sell or purchase any covered animal species part or product.

19 B. The act of obtaining an appraisal of any  
20 covered animal species part or product alone does not  
21 constitute possession with intent to sell.

22 SECTION 4. EXCEPTIONS.--It is not a violation of  
23 Section 3 of the Wildlife Trafficking Act if any of the  
24 following conditions are satisfied:

25 A. the covered animal species part or product is a SJC/SB 81  
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1 fixed component of an antique product that is not made wholly  
2 or primarily of covered animal species parts or products,  
3 provided that the antique status is established by the owner  
4 or seller with evidence proving origin and showing that:

5 (1) the covered animal species part or  
6 product is more than one hundred years old;

7 (2) the total weight of the covered animal  
8 species part or product is less than two hundred grams; and

9 (3) at least fifty percent of the value of  
10 the antique does not stem from the covered animal species  
11 part or product;

12 B. the covered animal species part or product is a  
13 component of a gun or musical instrument, including stringed  
14 instruments and bows, wind and percussion instruments and  
15 pianos;

16 C. the covered animal species part or product is  
17 lawfully possessed by an enrolled member of a federally  
18 recognized Indian nation, tribe or pueblo for traditional,  
19 cultural or religious purposes;

20 D. the defendant distributed the covered animal  
21 species part or product to an educational or scientific  
22 institution and such institution establishes, through  
23 evidence, that it is in compliance with all federal laws  
24 regulating the covered animal species part or product;

25 E. the noncommercial transfer of ownership of the

1 covered animal species part or product is to a legal  
2 beneficiary of an estate, trust or other inheritance upon the  
3 death of the owner of the covered animal species part or  
4 product or is a gift;

5 F. the sale, trade or purchase of the covered  
6 animal species part or product is authorized by the  
7 Convention on International Trade in Endangered Species of  
8 Wild Fauna and Flora or by federal or state law or permit; or

9 G. the alleged violation of a provision of Section  
10 3 of the Wildlife Trafficking Act is by an employee or agent  
11 of a federal, state or local law enforcement agency and who  
12 is operating in the employee's or agent's official capacity  
13 as a federal, state or local law enforcement officer.

14 SECTION 5. CRIMINAL PENALTIES--CIVIL FINES.--

15 A. A person who violates Section 3 of the Wildlife  
16 Trafficking Act is guilty of a misdemeanor and upon  
17 conviction shall be punished pursuant to the provisions of  
18 Section 31-19-1 NMSA 1978.

19 B. Each covered animal species part or product  
20 sold or purchased in violation of Section 3 of the Wildlife  
21 Trafficking Act is a separate offense. Two or more offenses  
22 may be charged in the same complaint, information or  
23 indictment and punished as separate offenses for each covered  
24 animal species part or product involved.

25 C. With or without a criminal conviction, a person

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1 who violates Section 3 of the Wildlife Trafficking Act and  
2 anyone who benefited or would have benefited from the  
3 violation may be sued in district court and is subject to a  
4 fine of up to twenty-five thousand dollars (\$25,000) or three  
5 times the total value of the covered animal species part or  
6 product, whichever is greater.

7 D. Upon conviction in a criminal court or a  
8 finding in a civil court for a violation of Section 3 of the  
9 Wildlife Trafficking Act, the court shall order the  
10 forfeiture of the covered animal species part or product and  
11 shall order that the covered animal species part or product  
12 be:

13 (1) given to the United States fish and  
14 wildlife service, if requested by that agency;

15 (2) destroyed; or

16 (3) donated to an educational or scientific  
17 institution.

18 SECTION 6. ENFORCEMENT AUTHORITY.--

19 A. The criminal enforcement provisions of the  
20 Wildlife Trafficking Act may be enforced by any commissioned  
21 law enforcement officer, including an officer employed by the  
22 department of game and fish and the state parks division of  
23 the energy, minerals and natural resources department.

24 B. The civil enforcement provision of the Wildlife  
25 Trafficking Act may be enforced by any agency or political

1 subdivision of the state that employs commissioned law  
2 enforcement officers or by any person authorized by the  
3 attorney general.

4 SECTION 7. EFFECTIVE DATE.--The effective date of the  
5 provisions of this act is July 1, 2017. \_\_\_\_\_

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