

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0550.01 Jane Ritter x4342

HOUSE BILL 16-1341

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HOUSE SPONSORSHIP

Ginal and McCann, Pettersen, Lebsock

SENATE SPONSORSHIP

(None),

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House Committees

Health, Insurance, & Environment

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING PROTECTING ANIMAL SPECIES THREATENED WITH  
102 EXTINCTION BY PROHIBITING TRAFFICKING.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill prohibits the sale, purchase, trade, or distribution (sale) of any covered animal species part or product, with limited exceptions, including exceptions for certain antiques, guns and knives, and musical instruments. The bill establishes an unclassified misdemeanor for a first offense and an unclassified felony for second and subsequent offenses,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*



1 SUPERFAMILY *CHELONIOIDEA*, AND THE SUBCLASS *ELASMOBRANCHII*.

2 (2) "COVERED ANIMAL SPECIES PART OR PRODUCT" MEANS ANY  
3 ITEM THAT CONTAINS, IS ADVERTISED AS CONTAINING, OR IS WHOLLY OR  
4 PARTIALLY MADE FROM A PART THAT COMES FROM A COVERED ANIMAL  
5 SPECIES.

6 (3) "EDUCATIONAL OR SCIENTIFIC INSTITUTION" MEANS AN  
7 INSTITUTION THAT HAS AN EDUCATIONAL OR SCIENTIFIC TAX EXEMPTION  
8 FROM THE FEDERAL INTERNAL REVENUE SERVICE OR THE INSTITUTION'S  
9 NATIONAL OR STATE TAX AUTHORITY.

10 (4) "PERSON OR ENTITY" MEANS AN INDIVIDUAL, ASSOCIATION,  
11 PARTNERSHIP, PUBLIC OR PRIVATE CORPORATION, OR ANY OTHER PUBLIC  
12 OR PRIVATE ORGANIZATION OF ANY CHARACTER.

13 (5) "SALE" OR "SELL" INCLUDES BARTERING FOR, EXCHANGING,  
14 TRADING, OR POSSESSING WITH THE INTENT TO SELL AND EACH SUCH  
15 TRANSACTION MADE BY ANY PERSON OR ENTITY, WITH OR WITHOUT  
16 REMUNERATION, INCLUDING ANY INTRASTATE SALE THROUGH THE  
17 INTERNET.

18 (6) "TOTAL VALUE OF THE COVERED ANIMAL SPECIES PART OR  
19 PRODUCT" MEANS THE FAIR MARKET VALUE OF SUCH ITEMS, THE PRICE AT  
20 WHICH THE COVERED ANIMAL SPECIES PART OR PRODUCT WAS OFFERED  
21 FOR SALE OR THE ACTUAL PRICE PAID FOR SUCH ITEM, WHICHEVER IS  
22 GREATER.

23 **33-6-304. Prohibited acts.** (1) EXCEPT AS AUTHORIZED IN  
24 SECTION 33-6-305, IT IS UNLAWFUL FOR A PERSON OR ENTITY TO SELL OR  
25 PURCHASE ANY COVERED ANIMAL SPECIES PART OR PRODUCT.

26 (2) (a) IT IS PRIMA FACIE EVIDENCE THAT A COVERED ANIMAL  
27 SPECIES PART OR PRODUCT IS BEING OFFERED FOR SALE IF IT IS PRESENT AT

1 A RETAIL OR WHOLESALE ESTABLISHMENT IN ANY LOCATION WHERE ITEMS  
2 ARE SOLD, OR ON AN INTERNET SALES SITE WHERE GOODS ARE OFFERED  
3 FOR SALE.

4 (b) IT IS PRIMA FACIE EVIDENCE OF POSSESSION WITH INTENT TO  
5 SELL A COVERED ANIMAL SPECIES PART OR PRODUCT IF SUCH PART OR  
6 PRODUCT IS IN A LOCATION WHERE A RETAIL, WHOLESALE, OR INTERNET  
7 ESTABLISHMENT STORES GOODS AWAITING SALE.

8 (c) NOTHING IN THIS SUBSECTION (2) PRECLUDES A FINDING THAT  
9 A COVERED ANIMAL SPECIES PART OR PRODUCT IS FOR SALE OR POSSESSED  
10 WITH AN INTENT TO SELL BASED ON ANY OTHER EVIDENCE THAT MAY  
11 SERVE TO INDEPENDENTLY ESTABLISH THAT THE COVERED ANIMAL  
12 SPECIES PART OR PRODUCT IS OR WILL BE FOR SALE.

13 (d) THE ACT OF OBTAINING AN APPRAISAL OF ANY COVERED  
14 ANIMAL SPECIES PART OR PRODUCT ALONE DOES NOT CONSTITUTE  
15 POSSESSION WITH INTENT TO SELL.

16 **33-6-305. Exceptions.** (1) IT IS AN AFFIRMATIVE DEFENSE TO  
17 SECTION 33-6-304 IF ANY OF THE FOLLOWING CONDITIONS ARE SATISFIED:

18 (a) THE COVERED ANIMAL SPECIES PART OR PRODUCT IS A FIXED  
19 COMPONENT OF AN ANTIQUE PRODUCT THAT IS NOT MADE WHOLLY OR  
20 PRIMARILY OF COVERED ANIMAL SPECIES PARTS OR PRODUCTS, PROVIDED  
21 THAT THE ANTIQUE STATUS IS ESTABLISHED BY THE OWNER OR SELLER  
22 WITH DOCUMENTATION PROVING ORIGIN AND SHOWING THAT:

23 (I) THE COVERED ANIMAL SPECIES PART OR PRODUCT IS MORE  
24 THAN ONE HUNDRED YEARS OLD;

25 (II) THE TOTAL WEIGHT OF THE COVERED ANIMAL SPECIES PART OR  
26 PRODUCT IS LESS THAN TWO HUNDRED GRAMS OR ONE-HALF POUND; AND

27 (III) THE PRIMARY VALUE OF THE ANTIQUE DOES NOT STEM FROM

1 THE COVERED ANIMAL SPECIES PART OR PRODUCT;

2 (b) THE DEFENDANT DISTRIBUTED THE COVERED ANIMAL SPECIES  
3 PART OR PRODUCT TO AN EDUCATIONAL OR SCIENTIFIC INSTITUTION AND  
4 SUCH INSTITUTION ESTABLISHES, THROUGH DOCUMENTATION OR OTHER  
5 SUFFICIENT EVIDENCE, THAT IT IS IN COMPLIANCE WITH ALL FEDERAL LAWS  
6 REGULATING THE COVERED ANIMAL SPECIES PART OR PRODUCT;

7 (c) THE NONCOMMERCIAL TRANSFER OF OWNERSHIP OF THE  
8 COVERED ANIMAL SPECIES PART OR PRODUCT IS TO A LEGAL BENEFICIARY  
9 OF AN ESTATE, TRUST, OR OTHER INHERITANCE UPON THE DEATH OF THE  
10 OWNER OF THE COVERED ANIMAL SPECIES PART OR PRODUCT;

11 (d) THE COVERED ANIMAL SPECIES PART OR PRODUCT IS A FIXED  
12 COMPONENT OF A GUN OR KNIFE IF:

13 (I) THE COVERED ANIMAL SPECIES PART OR PRODUCT IS LESS THAN  
14 TWENTY PERCENT OF THE GUN OR KNIFE BY VOLUME; AND

15 (II) THE SELLER OR PROSPECTIVE SELLER ESTABLISHES THROUGH  
16 DOCUMENTATION THAT THE GUN OR KNIFE WAS MANUFACTURED BEFORE  
17 1976;

18 (e) THE COVERED ANIMAL SPECIES PART OR PRODUCT IS A FIXED  
19 COMPONENT OF A MUSICAL INSTRUMENT, INCLUDING STRINGED  
20 INSTRUMENTS AND BOWS, WIND AND PERCUSSION INSTRUMENTS, AND  
21 PIANOS, IF:

22 (I) THE COVERED ANIMAL SPECIES PART OR PRODUCT WAS  
23 LEGALLY ACQUIRED;

24 (II) THE TOTAL WEIGHT OF THE COVERED ANIMAL SPECIES PART OR  
25 PRODUCT IS LESS THAN TWO HUNDRED GRAMS OR ONE-HALF POUND; AND

26 (III) THE DATE THE MUSICAL INSTRUMENT WAS PRODUCED WAS  
27 PRIOR TO THE EFFECTIVE DATE OF THIS PART 3, AS DOCUMENTED THROUGH

1 SUFFICIENT EVIDENCE BY THE OWNER OR SELLER;

2 (f) THE SALE OR PURCHASE OF THE COVERED ANIMAL SPECIES PART  
3 OR PRODUCT IS EXPRESSLY AUTHORIZED BY FEDERAL LAW OR PERMIT; OR

4 (g) THE ALLEGED VIOLATION OF ANY PROVISION OF SECTION  
5 33-6-304 IS BY AN EMPLOYEE OR AGENT OF THE FEDERAL, STATE, OR  
6 LOCAL LAW ENFORCEMENT AGENCY OPERATING IN HIS OR HER OFFICIAL  
7 CAPACITY AS A FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT OFFICER.

8 **33-6-306. Penalties.** (1) IN ADDITION TO ANY PENALTIES  
9 ESTABLISHED BY ANY OTHER APPLICABLE LAW, A PERSON OR ENTITY WHO  
10 VIOLATES SECTION 33-6-304:

11 (a) FOR A FIRST CONVICTION, IS GUILTY OF AN UNCLASSIFIED  
12 MISDEMEANOR, PUNISHABLE BY A FINE OF NOT LESS THAN THREE  
13 THOUSAND DOLLARS BUT NOT TO EXCEED FIVE THOUSAND DOLLARS, OR  
14 AN AMOUNT EQUAL TO TWO TIMES THE TOTAL VALUE OF THE COVERED  
15 ANIMAL SPECIES PART OR PRODUCT INVOLVED IN THE OFFENSE,  
16 WHICHEVER IS GREATER; AND

17 (b) FOR A SECOND OR SUBSEQUENT CONVICTION, IS GUILTY OF AN  
18 UNCLASSIFIED FELONY PUNISHABLE BY A FINE OF NOT LESS THAN FIVE  
19 THOUSAND DOLLARS BUT NOT TO EXCEED TWENTY-FIVE THOUSAND  
20 DOLLARS, OR AN AMOUNT EQUAL TO THREE TIMES THE TOTAL VALUE OF  
21 THE COVERED ANIMAL SPECIES PART OR PRODUCT INVOLVED IN THE  
22 OFFENSE, WHICHEVER IS GREATER.

23 (2) EACH COVERED ANIMAL SPECIES PART OR PRODUCT SOLD OR  
24 PURCHASED IN VIOLATION OF SECTION 33-6-304 IS A SEPARATE OFFENSE.  
25 TWO OR MORE OFFENSES MAY BE CHARGED IN THE SAME COMPLAINT,  
26 INFORMATION, OR INDICTMENT AND PUNISHED AS SEPARATE OFFENSES FOR  
27 EACH COVERED ANIMAL SPECIES PART OR PRODUCT INVOLVED.

1           (3) UPON CONVICTION FOR A VIOLATION OF SECTION 33-6-304, THE  
2 COURT SHALL ORDER THE FORFEITURE OF THE COVERED ANIMAL SPECIES  
3 PART OR PRODUCT THAT WAS THE SUBJECT OF THE VIOLATION AND  
4 DETERMINE THE PENALTY FOR THE VIOLATION BASED ON THE ASSESSED  
5 TOTAL VALUE OF THE COVERED ANIMAL SPECIES PART OR PRODUCT. AFTER  
6 SENTENCING THE DEFENDANT, THE COURT SHALL ORDER THAT THE  
7 FORFEITED COVERED ANIMAL SPECIES PART OR PRODUCT BE EITHER  
8 DESTROYED OR DONATED TO AN EDUCATIONAL OR SCIENTIFIC  
9 INSTITUTION.

10           (4) IF A PERSON OR ENTITY IS CONVICTED OF A VIOLATION OF  
11 SECTION 33-6-304, THE COURT SHALL GIVE JUDGMENT IN FAVOR OF THE  
12 STATE OF COLORADO, THE APPROPRIATE PROSECUTING ATTORNEY, OR THE  
13 APPROPRIATE LAW ENFORCEMENT AGENCY AND AGAINST THE OFFENDER  
14 FOR THE AMOUNT OF THE COSTS OF PROSECUTION AND ANY FINES  
15 IMPOSED. SUCH JUDGMENTS ARE ENFORCEABLE IN THE SAME MANNER AS  
16 CIVIL JUDGMENTS.

17           **33-6-307. Enforcement authority.** EACH COLORADO WILDLIFE  
18 OFFICER OR OTHER COMMISSIONED OFFICER OF THE DIVISION SHALL  
19 ENFORCE THE PROVISIONS OF THIS PART 3. OTHER PEACE OFFICERS, AS  
20 DEFINED IN SECTION 33-1-102, MAY ASSIST THE COLORADO WILDLIFE  
21 OFFICERS IN THE ENFORCEMENT OF THIS PART 3.

22           **SECTION 2. Effective date.** This act takes effect November 1,  
23 2016, and applies to offenses committed on or after said date.

24           **SECTION 3. Safety clause.** The general assembly hereby finds,  
25 determines, and declares that this act is necessary for the immediate  
26 preservation of the public peace, health, and safety.