

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0550.01 Jane Ritter x4342

HOUSE BILL 16-1341

HOUSE SPONSORSHIP

Ginal and McCann, Pettersen, Lebsock

SENATE SPONSORSHIP

(None),

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

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

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 EVIDENCE 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; 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 [REDACTED] EVIDENCE, THAT IT IS IN
5 COMPLIANCE WITH ALL FEDERAL LAWS REGULATING THE COVERED
6 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 EVIDENCE THAT THE GUN OR KNIFE WAS MANUFACTURED BEFORE 1976;

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

21 (I) THE COVERED ANIMAL SPECIES PART OR PRODUCT IS LESS THAN
22 TWENTY PERCENT OF THE MUSICAL INSTRUMENT BY VOLUME; AND

23 (II) THE SELLER OR PROSPECTIVE SELLER ESTABLISHES THROUGH
24 EVIDENCE THAT THE MUSICAL INSTRUMENT WAS MANUFACTURED BEFORE
25 1976; [REDACTED]

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

1 (g) THE ALLEGED VIOLATION OF ANY PROVISION OF SECTION
2 33-6-304 IS BY AN EMPLOYEE OR AGENT OF THE FEDERAL, STATE, OR
3 LOCAL LAW ENFORCEMENT AGENCY OPERATING IN HIS OR HER OFFICIAL
4 CAPACITY AS A FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT OFFICER.

5 **33-6-306. Penalties.** (1) IN ADDITION TO ANY PENALTIES
6 ESTABLISHED BY ANY OTHER APPLICABLE LAW, A PERSON OR ENTITY WHO
7 VIOLATES SECTION 33-6-304:

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

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

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

25 (3) UPON CONVICTION FOR A VIOLATION OF SECTION 33-6-304, THE
26 COURT SHALL ORDER THE FORFEITURE OF THE COVERED ANIMAL SPECIES
27 PART OR PRODUCT THAT WAS THE SUBJECT OF THE VIOLATION AND

1 DETERMINE THE PENALTY FOR THE VIOLATION BASED ON THE ASSESSED
2 TOTAL VALUE OF THE COVERED ANIMAL SPECIES PART OR PRODUCT. AFTER
3 SENTENCING THE DEFENDANT, THE COURT SHALL ORDER THAT THE
4 FORFEITED COVERED ANIMAL SPECIES PART OR PRODUCT BE EITHER
5 DESTROYED OR DONATED TO AN EDUCATIONAL OR SCIENTIFIC
6 INSTITUTION.

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

14 **33-6-307. Enforcement authority.** EACH COLORADO WILDLIFE
15 OFFICER OR OTHER COMMISSIONED OFFICER OF THE DIVISION SHALL
16 ENFORCE THE PROVISIONS OF THIS PART 3. OTHER PEACE OFFICERS, AS
17 DEFINED IN SECTION 33-1-102, MAY ASSIST THE COLORADO WILDLIFE
18 OFFICERS IN THE ENFORCEMENT OF THIS PART 3.

19 **SECTION 2. Effective date.** This act takes effect November 1,
20 2016, and applies to offenses committed on or after said date.

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