

Initiative Language:

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OREGON:

SECTION 1. This Act shall be known and cited as the “Wildlife Trafficking Prevention Act.”

SECTION 2. ORS 498.022 is amended to read:

498.022. **(1)** Except as the State Fish and Wildlife Commission by rule may provide otherwise, but subject to subsection (2) below, no person shall purchase, sell or exchange, or offer to purchase, sell or exchange any wildlife, or any part thereof.

(2) Wildlife Trafficking Prevention.

(a) Except as provided in subsection **(2)(b)** of this section, and notwithstanding any other provision of law, or rule enacted pursuant to subsection **(1)** of this section, a person shall not purchase, sell, offer for sale, or possess with intent to sell, any item that the person knows or should know is a covered animal species part or product.

(b) Subsection **(2)(a)** of this section shall not apply:

(A) To employees or agents of the federal or state government undertaking any law enforcement activities pursuant to federal or state law or any mandatory duties required by federal or state law;

(B) When the activity is expressly authorized by federal law;

(C) When the activity involves a species that is subject to a federal management plan under Title III of P.L. 94-265 (16 U.S.C. §§ 1851-1869), as amended;

(D) When the activity is exempted by ORS 498.257(3) or ORS 509.160(3);

(E) When the covered animal species part or product is a fixed component of an antique that is not made wholly or primarily of the covered animal species part or product, provided that the antique status is established by the owner or seller thereof with documentation evidencing provenance and showing the covered animal species part or product to be not less than one hundred years old, and provided that the total weight of the covered animal species part or product is less than 200 grams;

(F) When the covered animal species part or product is a fixed component of a musical instrument, including, but not limited to, string instruments and bows, wind and percussion instruments, and pianos, provided that the covered animal species part or product was legally acquired and provided that the total weight of the covered animal species part or product is less than 200 grams;

(G) To the noncommercial transfer of ownership of a covered animal species part or product to a legal beneficiary of an estate, trust, or other inheritance;

(H) To the donation of a covered animal species part or product to a bona fide scientific or educational institution for scientific or educational purposes; or

(I) To the possession of a covered animal species part or product by any enrolled member of a federally-recognized Indian tribe.

(c) There is a presumption of possession with intent to sell a covered animal species part or product when the part or product is possessed by a retail or wholesale establishment or other forum engaged in the business of buying or selling of similar items. This rebuttable presumption shall not preclude a finding of intent to sell based on any other evidence which may serve to independently establish such intent.

(d) Each violation of subsection **(2)** of this section shall be punishable by a civil penalty not to exceed \$6,500 or an amount equal to two times the total value of the covered animal species part or product that is the subject of the violation,

whichever is higher. The civil penalty authorized by this subsection shall be imposed in the manner provided by ORS 183.745.

(e) Any covered animal species part or product that is subject to seizure by or forfeiture to the Oregon Department of Fish and Wildlife shall not be sold by the Department.

(f) The Oregon Fish and Wildlife Commission may adopt rules necessary for the implementation of subsection (2) of this section, including rules restricting the purchase, sale, offer for sale, or possession with intent to sell, of parts or products of any animal species that so closely resemble in appearance parts or products of a covered animal species that law enforcement personnel would have substantial difficulty in attempting to differentiate between the species.

(g) As used in subsection (2) of this section:

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(A) “Covered animal species” means any species of:

(i) elephant;

(ii) rhinoceros;

(iii) whale;

(iv) tiger;

(v) lion;

(vi) leopard;

(vii) cheetah;

(viii) jaguar;

(ix) pangolin;

(x) sea turtle;

(xi) shark (excluding spiny dogfish as defined in ORS 498.257(1)); or

(xii) ray.

(B) “Covered animal species part or product” means any item that contains, or is wholly or partially made from, any covered animal species.

(C) “Person” means any individual, firm, partnership, joint venture, corporation, limited liability company, joint stock company, estate, trust, receiver, syndicate, association, or other legal entity.

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

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

SECTION 3. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. This Act shall take effect on July 1, 2017.