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

B. "covered animal species" means any extant
species of elephant, lion, rhinoceros or other species
covered by Appendix 1 of the Convention on International
Trade in Endangered Species of Wild Fauna and Flora;

C. "distribute" means either a change in
possession for consideration or a change in legal ownership;

D. "educational or scientific institution" means
an institution that has an educational or scientific tax

1 exemption from the federal internal revenue service or the
2 institution's national or state tax authority;

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

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

12 SECTION 3. PROHIBITED ACTS.--

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

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

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

23 A. the covered animal part or product is a fixed
24 component of an antique product that is not made wholly or
25 primarily of covered animal parts or products; provided that

1 the antique status is established by the owner or seller with
2 evidence proving origin and showing that:

3 (1) the covered animal part or product is
4 more than one hundred years old;

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

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

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

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

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

24 E. the noncommercial transfer of ownership of the
25 covered animal species or covered animal part or product is

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

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

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

15 SECTION 5. CRIMINAL AND CIVIL PENALTIES.--

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

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

1 product involved.

2 C. With or without a criminal conviction, a person
3 who violates Section 3 of the Wildlife Trafficking Act and
4 anyone who benefited or would have benefited from the
5 violation may be sued in district court and is subject to a
6 penalty not to exceed ten thousand dollars (\$10,000) or three
7 times the total value of the covered animal species or
8 covered animal part or product, whichever is greater.

9 D. Upon conviction in a criminal court or a
10 finding in a civil court for a violation of Section 3 of the
11 Wildlife Trafficking Act, the court shall order that the
12 covered animal species or covered animal part or product 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, 2020. _____

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