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Michie's TM Hawaii Revised Statutes Annotated
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Division 1. Government
Title 12 Conservation and Resources
Subtitle 4 Forestry and Wildlife; Recreation Areas; Fire Protection
Chapter 183D Wildlife
Part I. General Provisions

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HRS § 183D-4.5 (2016)

§ 183D-4.5. Wildlife trafficking; prohibited.

(a) No person shall sell, offer to sell, purchase, trade, possess with intent to sell, or barter for any part or product from the following animal family, genus, or species: elephant (*Elephantidae*), rhinoceros (*Rhinocerotidae*), tiger (*Panthera tigris*), great ape (*Hominoidea*), hippopotamus (*Hippopotamus amphibius*), lion (*Panthera leo*), pangolin (*Manis*), cheetah (*Acinonyx jubatus*), jaguar (*Panthera onca*), or leopard (*Panthera pardus*).

(b) Unless otherwise authorized by federal law including the Marine Mammal Protection Act, *16 United States Code, chapter 31*, no person shall sell, offer to sell, purchase, trade, possess with intent to sell, or barter for any part or product from the following marine family, genus, or species: sea turtle (*Chelonioidae*), monk seal (*Neomonachus*), narwhal (*Monodon monoceros*), whale (*Cetacea*), or walrus (*Odobenus rosmarus*) insofar as the species, subspecies, or distinct population segment is listed:

(1) On appendix I or II of the Convention on International Trade in Endangered Species; or

(2) As endangered or threatened under the Endangered Species Act.

(c) Unless otherwise authorized by federal law including the Magnuson-Stevens Fishery Conservation and Management Act (*16 U.S.C. section 1851 et seq.*) as amended, no person shall sell, offer to sell, purchase, trade, possess with intent to sell, or barter for any part or product from rays and sharks (*Elasmobranchii*) insofar as the species is listed:

(1) On appendix I of the Convention on International Trade in Endangered Species; or

(2) As endangered or threatened under the Endangered Species Act.

(d) No person shall sell, offer to sell, purchase, trade, possess with intent to sell, or barter for any part or product from mammoth (*Mammuthus*), although the species is extinct.

(e) To the extent permitted under federal law, none of the prohibitions set forth in this section shall apply if:

(1) The covered animal species part or product is part of a bona fide antique; provided that:

(A) The antique status of such a part or product is established by the owner or seller thereof with historical documentation showing the antique to be not less than one hundred years old;

(B) The covered animal species part or product is less than twenty per cent by volume of such an antique; and

(C) The covered animal species part or product is a fixed component or components of a larger manufactured item and is not, in its current form, the primary source of value of the item;

(2) The distribution of the covered animal species part or product is:

(A) For a bona fide educational or scientific purpose; or

(B) To or from a museum;

(3) The distribution of the covered animal species part or product is to a legal beneficiary of an estate, trust, or other inheritance;

(4) The covered animal species part or product is less than twenty per cent by volume of a gun, knife, or musical instrument, including without limitation string instruments and bows, wind and percussion instruments, and pianos, if the owner or seller provides historical documentation showing the item was manufactured no later than 1975 and the covered animal species part or product is a fixed component or components of a larger manufactured item and is not, in its current form, the primary source of value of the item;

(5) The sale, offer for sale, purchase, trade, possess with intent to sell or barter of the covered animal species part or product is expressly authorized by federal law or permit; or

(6) The activity is authorized under section 183D-6.

(f) There is established a rebuttable 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 similar items. This rebuttable presumption shall not preclude a finding of intent to sell based on any other evidence that may serve to independently establish such intent.

(g) None of the prohibitions set forth in this section shall apply to traditional cultural practices expressly protected under article XII, section 7, of the state constitution.

(h) For the purposes of this section, "covered animal species part or product" means any item that contains, or is wholly or partially made from, any covered animal species.

(i) The department of land and natural resources may adopt rules pursuant to chapter 91, as needed, to further implement or enforce this section.

HISTORY: HISTORY:

L 2016, c 125, § 2, effective June 23, 2016.