

---

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

SENATE BILL

No. 605 Session of  
2019

---

INTRODUCED BY LEACH, FARNESE, TARTAGLIONE, BREWSTER,  
SANTARSIERO, DINNIMAN AND HUGHES, APRIL 30, 2019

---

REFERRED TO JUDICIARY, APRIL 30, 2019

---

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in riot, disorderly conduct and  
3 related offenses, prohibiting the purchase, sale, offer for  
4 sale or possession with intent to sell covered animal parts  
5 or products; and imposing penalties.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Title 18 of the Pennsylvania Consolidated  
9 Statutes is amended by adding a section to read:

10 § 5518. Prohibiting the purchase, sale, offer for sale or  
11 possession with intent to sell covered animal parts  
12 or products.

13 (a) Offense defined.--Notwithstanding any other provision of  
14 law, no person may purchase, sell, offer to sell or possess with  
15 intent to sell any item that the person knows or should know is  
16 a covered animal part or product.

17 (b) Exceptions.--Unless otherwise prohibited by 34 Pa.C.S. §  
18 2167 (relating to endangered or threatened species), the  
19 provisions of this section shall not apply to:

1           (1) An employee or agent of the Federal or State  
2 government undertaking a law enforcement activity pursuant to  
3 Federal or State law or a mandatory duty required by Federal  
4 or State law.

5           (2) An activity expressly authorized by Federal law.

6           (3) A covered animal part or product that is a fixed  
7 component of an antique not made wholly or partially of the  
8 covered animal part or product, provided that:

9           (i) the antique status is established by the owner  
10 or seller thereof with documentation evidencing  
11 provenance and showing the covered animal part or product  
12 to be not less than 100 years old; and

13           (ii) the total weight of the covered animal part or  
14 product is less than 200 grams.

15           (4) A covered animal part or product that is a fixed  
16 component of a musical instrument, including a string  
17 instrument or bow, wind or percussion instrument or piano,  
18 provided that:

19           (i) the covered animal part or product was legally  
20 acquired; and

21           (ii) the total weight of the covered animal part or  
22 product is less than 200 grams.

23           (c) Educational or scientific use.--The Pennsylvania Game  
24 Commission may permit, under terms and conditions as the  
25 commission may prescribe, the purchase, sale, offer for sale or  
26 possession with intent to sell of a covered animal part or  
27 product for educational or scientific purposes by a bona fide  
28 educational or scientific institution unless the activity is  
29 prohibited by Federal law or regulation and provided that the  
30 covered animal part or product was legally acquired.

1 (d) Presumption of possession with intent to sell.--

2 (1) There is a rebuttable presumption of possession with  
3 intent to sell a covered animal part or product when the part  
4 or product is possessed by a retail or wholesale  
5 establishment or other forum engaged in the business of  
6 buying or selling similar items.

7 (2) The rebuttable presumption under paragraph (1) shall  
8 not be construed to preclude a finding of intent to sell on  
9 any other evidence that may serve to independently establish  
10 such intent.

11 (e) Penalties.--A person who violates subsection (a) commits  
12 a misdemeanor and shall, upon conviction, be sentenced as  
13 follows:

14 (1) For a first offense, where the total value of the  
15 covered animal part or product does not exceed \$250, the  
16 person shall be guilty of a misdemeanor of the third degree  
17 and subject to a fine not exceeding \$2,500 or a period of  
18 imprisonment not to exceed one year, or both.

19 (2) For a first offense, where the total value of the  
20 covered animal part or product exceeds \$250, the person shall  
21 be guilty of a misdemeanor of the second degree and subject  
22 to a fine not exceeding \$5,000 or a period of imprisonment  
23 not to exceed two years, or both.

24 (3) For a second or subsequent offense, where the total  
25 value of the covered animal part or product does not exceed  
26 \$250, the person shall be guilty of a misdemeanor of the  
27 second degree and subject to a fine not exceeding \$5,000 or a  
28 period of imprisonment not to exceed two years, or both.

29 (4) For a second or subsequent offense, where the total  
30 value of the covered animal part or product exceeds \$250, the

1 person shall be guilty of a misdemeanor of the first degree  
2 and subject to a fine not exceeding \$10,000 or a period of  
3 imprisonment not to exceed five years, or both.

4 (f) Fine.--In addition to, and separate from, any criminal  
5 penalty provided for in subsection (e), a civil or  
6 administrative fine of an amount not to exceed two times the  
7 total value of the covered animal part or product involved in  
8 the violation may be imposed for a violation of subsection (a)  
9 or any rule, regulation or order promulgated pursuant thereto.

10 (g) Seizure.--Upon conviction for violating the provisions  
11 of this section, the court shall order the seizure of the  
12 covered animal part or product involved in the violation and  
13 transfer the covered animal part or product to the Pennsylvania  
14 Game Commission. After transfer, the covered animal part or  
15 product shall be:

16 (1) maintained by the commission for educational or  
17 training purposes;

18 (2) donated by the commission to a bona fide educational  
19 or scientific institution; or

20 (3) destroyed.

21 (h) Definitions.--As used in this section, the following  
22 words and phrases shall have the meanings given to them in this  
23 subsection unless the context clearly indicates otherwise:

24 "Bona fide educational or scientific institution." An  
25 institution that establishes through documentation educational  
26 or scientific tax exemption from the Federal Internal Revenue  
27 Service.

28 "Covered animal." Any species of:

29 (1) bonobo;

30 (2) cheetah;

- 1           (3) chimpanzee;
- 2           (4) dolphin;
- 3           (5) elephant;
- 4           (6) giraffe;
- 5           (7) gorilla;
- 6           (8) hippopotamus;
- 7           (9) jaguar;
- 8           (10) leopard;
- 9           (11) lion;
- 10           (12) mammoth;
- 11           (13) mastodon;
- 12           (14) narwhal;
- 13           (15) orangutan;
- 14           (16) panda bear;
- 15           (17) pangolin;
- 16           (18) polar bear;
- 17           (19) porpoise, including vaquita;
- 18           (20) ray;
- 19           (21) rhinoceros;
- 20           (22) sea turtle;
- 21           (23) shark;
- 22           (24) tiger;
- 23           (25) walrus; or
- 24           (26) whale.

25           "Covered animal part or product." An item that contains, or  
26 is wholly or partially made from, a covered animal.

27           "Sale" or "sell." An act of selling, trading or bartering  
28 for monetary or nonmonetary consideration. The term includes any  
29 transfer of ownership that occurs in the course of a commercial  
30 transaction. The term does not include a nonmonetary transfer of

1 ownership by way of gift, donation or bequest.

2 "Total value." The fair market value or the actual price

3 paid for a covered animal part or product, whichever is greater.

4 Section 2. This act shall take effect in six months.