



**Colorado  
Legislative  
Council  
Staff**

**HB16-1341**

**FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 16-0550 **Date:** April 13, 2016  
**Prime Sponsor(s):** Rep. Ginal; McCann **Bill Status:** House Health, Insurance, & Environment  
**Fiscal Analyst:** Clare Pramuk (303-866-2677)

**BILL TOPIC:** PROTECTION ENDANGERED ANIMALS POACHING TRAFFICKING

<b>Fiscal Impact Summary</b>	<b>FY 2016-2017</b>	<b>FY 2017-2018</b>
<b>State Revenue</b>	<u>&lt;\$5,000</u>	<u>&lt;\$5,000</u>
General Fund, Cash Funds	<5,000	<5,000
<b>State Expenditures</b>	Increased workload.	
<b>TABOR Impact</b>	<\$5,000	<\$5,000
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Ongoing state revenue and workload increase.		

**Summary of Legislation**

This bill prohibits the sale or purchase of any covered animal species part or product with certain exceptions. Covered animals include elephants, rhinoceroses, tigers, lions, leopards, cheetahs, pangolins, marine turtles, sharks, and rays.

A first conviction is an unclassified misdemeanor subject to a fine of \$3,000 to \$5,000, or an amount equal to twice the total value of the animal species part or product involved in the offense, whichever is greater. A second or subsequent conviction is an unclassified felony subject to a fine of \$5,000 to \$25,000, or an amount equal to three times the total value of the covered animal species part or product involved in the offense, whichever is greater. Upon conviction, the covered animal species part or product involved in the offense is forfeited, the value assessed for determining the penalty, and destroyed or donated to an educational or scientific institution. The person or entity convicted is required to pay the costs of prosecution in addition to the fines imposed.

A person or entity has an affirmative defense if the animal species part or product is:

- a fixed component of an antique product under certain circumstances;
- in compliance with all federal laws regulating the covered animal species part or product;
- transferred through inheritance;
- a fixed component of a gun or knife under certain circumstances;

- part of a musical instrument under certain circumstances;
- expressly authorized by federal law or permit; or
- bought or sold by a law enforcement official operating in an official capacity.

Wildlife officers in Colorado Parks and Wildlife (CPW) in the Department of Natural Resources (DNR) are required to enforce the provisions of the bill and may be assisted by other peace officers. The bill also requires a court to award the costs of prosecution and fines in favor of the state, prosecuting attorney or local law enforcement agency.

## Comparable Crime

Pursuant to Section 2-2-322 (2.5), C.R.S., Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. Under current law, it is a misdemeanor to take, possess, transport, export, process, sell or offer for sale, or ship any species or subspecies of wildlife indigenous to the state listed as threatened or endangered, subject to a fine of \$25 per offense, a surcharge of \$2.50, and an assessment of five hunting license suspension points. Because cases are typically turned over to the United States Fish and Wildlife Service for prosecution, there have been no convictions under the indigenous wildlife statutes, and no demographic data are available. As such, the fiscal note assumes that convictions for this new misdemeanor and felony will be minimal.

## State Revenue

Beginning in FY 2016-17, this bill is anticipated to increase state revenue by less than \$5,000 per year. The fiscal note assumes that fines will be credited to the General Fund. The fine penalty for an unclassified misdemeanor is \$3,000 to \$5,000. The fine penalty for an unclassified felony is \$5,000 to \$25,000. Because the courts have discretion in the amount of fine levied, the increase in revenue is estimated as less than \$5,000 each year.

## TABOR Impact

This bill increases state revenue from fines, which will increase the amount of money required to be refunded under TABOR.

## State Expenditures

Beginning in FY 2016-17, this bill will increase workload for multiple state agencies as explained below.

**Colorado Parks and Wildlife.** The CPW will have an increase in workload to respond to and investigate reports of unlawful sale or purchase of covered animal species parts or products. This is not expected to significantly increase workload for the CPW and can be accomplished within existing appropriations. If the workload is higher than expected, the fiscal note assumes that DNR will seek additional funding through the annual budget process.

**Trial courts.** The workload for trial courts in the Judicial Department may increase beginning in FY 2016-17 to try any new cases charged under this bill. As noted in the Comparable Crime section, the number of cases is expected to be minimal, and any increase in workload can be accomplished within the current trial court appropriations.

**Office of the State Public Defender and Office of Alternate Defense Counsel.** The bill may increase workload or costs for the Office of the State Public Defender and Office of Alternate Defense Counsel, to provide representation for any persons deemed to be indigent. The fiscal note assumes any such increases are minimal and will not require an increase in appropriations for any agency within the Judicial Department.

## Local Government Impact

**Misdemeanor offenses in county courts.** The bill will increase workload and revenue for district attorneys to prosecute any new offenses under the bill.

**Denver County Court.** The court will try misdemeanor cases under the bill for trafficking of covered animal species parts and products that occur in the City and County of Denver. The bill results in an increase in workload and revenue for the Denver County Court, managed and funded by the City and County of Denver.

## Technical Note

The bill is not clear as to where fines are deposited or what constitutes the costs of prosecution.

## Effective Date

The bill takes effect November 1, 2016, and applies to offenses committed on or after this date.

## Departmental Difference

The DNR believes it requires an increase of 10.0 FTE, which includes one criminal investigator for every 2 of CPW's 18 administrative areas and a supervisor in Denver. In addition to operating expenses and capital outlay, these FTE require training, law enforcement supplies, and vehicles. For FY 2016-17, costs are prorated for the effective date and paydate shift to \$679,321 and 5.0 FTE. For FY 2017-18, costs are \$1,149,578 and 10.0 FTE. The fiscal note assumes that the existing staff of CPW are sufficient to address the potential workload generated by the bill.

## State and Local Government Contacts

Corrections	Counties	District Attorneys
Higher Education	Information Technology	Judicial
Law	Municipalities	Natural Resources
Public Safety	Sheriffs	