



State of Washington  
DEPARTMENT OF FISH AND WILDLIFE

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January 1, 2017

The Honorable Kirk Pearson  
Washington State Senator  
107 Irv Newhouse Building  
Post Office Box 40415  
Olympia, WA 98504

The Honorable Brian Blake  
Washington State Representative  
314 John L. O'Brien Building  
Post Office Box 40600  
Olympia, WA 98504

Dear Senator Pearson and Representative Blake:

In 2015, Washington State residents passed Initiative Measure No. 1401, which concerns the trafficking of animal species threatened with extinction. This measure makes the selling, purchasing, trading, or distributing certain animal species threatened with extinction, and products containing such species, a gross misdemeanor or class-C felony, with exemptions for certain types of transfers.

Initiative Measure No. 1401 directed the Department of Fish and Wildlife to “...provide a comprehensive report outlining current and future enforcement activities and strategies related to this act, including recommendations regarding any necessary changes, to the relevant policy and fiscal committees of the Senate and House of Representatives.” The report is to be submitted to the Legislature by January 1, 2017.

Please find the report included in this document. If you have any questions regarding this report, please contact Raquel Crosier, Legislative Liaison at (360) 902-2226.

Sincerely,

James Unsworth, Ph.D.  
Director



## **Wildlife Trafficking**

### **2016 Legislative Report**

#### **Overview**

Wildlife trafficking – the illegal trade of animal products – is pushing numerous species to extinction around the world. This multi-billion dollar international black market involves indigenous species from many nations, including those in the United States.

In response, President Obama created a task force to develop a strategy to combat wildlife trafficking. The resulting *United States Strategy and Implementation for Combating Wildlife Trafficking* identified three primary strategies: strengthening domestic and global law enforcement, reducing demand for wildlife products, and building international cooperation.

Links to the federal strategy and implementation plan are available at <http://www.state.gov/e/oes/ecw/wlt/>.

In support of these strategies, Washington joined several other states in passing laws to protect certain endangered species and strengthen penalties for traffickers that trade them.

Introduced as Initiative 1401 – and overwhelmingly passed by voters in 2015 – the Washington Animal Trafficking Act (WATA) expands state authority to regulate illicit markets on a local level and provides penalties for noncompliance. WATA provides Washington Department of Fish and Wildlife (WDFW) Police with the authority to protect certain subspecies of 10 of the world's most illegally traded endangered species:

- Elephants
- Rhinoceros
- Tigers
- Lions
- Leopards
- Cheetahs
- Pangolins
- Marine turtles
- Sharks
- Rays

WDFW Police is the primary enforcer of this new law, which represents a significant new responsibility for the agency. The department has detectives that specialize in investigating

illegal trade in local natural resources, and officers have a presence at border crossings and marine and air ports.

Implementing WATA, however, represents additional challenges for the department. Success in protecting endangered and threatened species depends upon bolstering cross-border partnerships, as well as increasing the resources necessary to focus on the problem.

## **Current Activities**

Without additional funding, WDFW Police leveraged existing staff in an effort to monitor activities and enforce provisions of the new law. This included:

- Meeting with over 30 African countries wildlife protection officials in an effort to better understand challenges and facilitate intelligence sharing
- Execution of a joint project with Working Dogs for Conservation to determine K-9 capability in detecting contraband wildlife in shipping containers
- Applying for two grants to develop a K-9 unit to be deployed at shipping ports and the U.S. Canada Border – one denied; one still under consideration
- Development of outreach material educating the public about the anti-trafficking law [http://wdfw.wa.gov/enforcement/wildlife\\_trafficking.html](http://wdfw.wa.gov/enforcement/wildlife_trafficking.html)
- An award of a \$25,000 grant from the National Oceanic and Atmospheric Administration to begin illegal import operations
- Saturation patrols scheduled in areas where there is cross border movement of natural resources
- Creation of a temporary project position for a detective to coordinate with federal agencies, such as U.S. Border Patrol and Customs. This was possible by shifting a uniformed field position and use of existing funds, which cannot be sustained for a period beyond six months.

## **Future Activities**

While future activities on a proactive basis are dependent on funding, some steps will be taken to ensure WDFW Police have the basic foundation to address encountered violations. This will include:

- Developing an agreement with California Department of Fish and Wildlife (CDFW) to develop genetic markers for non-indigenous species. The CDFW laboratory facility is law enforcement certified to conduct forensic work on evidence that will be admissible in Washington State criminal courts. Washington State's capability in this area would need to be developed at a greater cost than what could be achieved by collaborating with a West Coast partner.

- Collaborating with the University of Washington. Species identification and origin is often easily obscured. Recent meetings with the University hold promise for the development of tools that would yield cause for seizures in the field or provide the foundation for further testing in forensics labs.

## **Recommendations**

**Provide Funding for Special Operations:** Many of the covered animal species are rare, and are typically smuggled and traded in the same fashion as illegal drugs and guns. While overt inspections at border crossings and ports of entries are a viable strategy in deterrence and detecting violations of the law, covert or under-cover approaches are critical to accomplishing more than a surface effort. While the WDFW Police State-wide Investigative Unit routinely uses those techniques to apprehend those in the business of illegal trade, the techniques are time intensive and require the use of dedicated operatives. Without additional funding, WDFW cannot afford additional shifts from existing responsibilities.

**Clarify / Strengthen Inspection Authority:** The WDFW Police basic commercial business inspection authority does not clearly address cross border movement of animals. It is strongly suggested that RCW 77.15.096 (Inspection without warrant—Commercial fish and wildlife entities—Limitations) be amended to specify the authority to inspect imported and exported fish and wildlife resources.

RCW 77.15.096 specifically states: Fish and wildlife officers may inspect without warrant at reasonable times and in a reasonable manner the premises, containers, fishing equipment, fish, seaweed, shellfish, and wildlife, and records required by the department of any commercial fisher or wholesale dealer or fish buyer. Fish and wildlife officers may similarly inspect without warrant the premises, containers, fishing equipment, fish, shellfish, and wildlife, and records required by the department of any shipping agent or other person placing or attempting to place fish, shellfish, or wildlife into interstate commerce.

Based on the context of the statute, the word “interstate” *could* be construed as meaning anything beyond our borders, which could include international. However, it is unknown if this is legally defensible. Setting aside whether “interstate” could be viewed as “international,” the related wording of the statute (which speaks of a person “placing...fish, shellfish, or wildlife into interstate commerce”) seems to focus on a person shipping product out of our state. This begs the question then if the authority can be applied to someone receiving product into our state from any other origin.