



House of Representatives

General Assembly

File No. 529

January Session, 2015

Substitute House Bill No. 6955

House of Representatives, April 8, 2015

The Committee on Environment reported through REP. ALBIS of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT PROHIBITING THE SALE AND TRADE OF IVORY AND RHINOCEROS HORN.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2016*) (a) For the purposes of this
2 section:

3 (1) "Ivory" means any tooth or tusk, or any part thereof, that is
4 composed of ivory from any animal, including, but not limited to, any
5 elephant, hippopotamus, narwhal, walrus or whale or any piece
6 thereof, regardless of whether such tooth or tusk is raw ivory, worked
7 ivory or made into or part of an ivory product;

8 (2) "Ivory product" means any item that contains or that is wholly or
9 partially made from ivory;

10 (3) "Raw ivory" means any ivory with a surface that is unaltered or
11 minimally changed by carving;

12 (4) "Rhinoceros horn" means the horn, or any piece thereof, of any

13 species of rhinoceros;

14 (5) "Rhinoceros horn product" means any item that contains, or is
15 wholly or partially made from, any rhinoceros horn;

16 (6) "Total value" means the fair market value or the actual price
17 paid, whichever is greater; and

18 (7) "Worked ivory" means ivory that is embellished, carved, marked,
19 or otherwise altered so that it is no longer raw ivory.

20 (b) No person shall import, sell, offer for sale, purchase, barter or
21 possess with the intent to sell, any ivory, ivory product, rhinoceros
22 horn or rhinoceros horn product, except: (1) When such import is
23 expressly authorized by a federal license or permit, (2) if such ivory,
24 ivory product, rhinoceros horn or rhinoceros horn product is one
25 hundred years old or older, (3) if such ivory, ivory product, rhinoceros
26 horn or rhinoceros horn product was made a part of a musical
27 instrument on or before January 1, 1975, (4) if such person is an
28 employee or agent of the federal or state government and is
29 undertaking any law enforcement activity pursuant to federal or state
30 law or any mandatory duty required by federal or state law, (5) the
31 transfer of possession of such ivory, ivory product, rhinoceros horn or
32 rhinoceros horn product to a legal beneficiary upon the death of the
33 owner of the ivory, ivory product, rhinoceros horn or rhinoceros horn
34 product or in anticipation of such owner's death and such owner did
35 not gain ownership of such ivory, ivory product, rhinoceros horn or
36 rhinoceros horn product in violation of this section, or (6) such import,
37 offer, purchase, barter or possession is for a bona fide educational,
38 conservatorial or scientific purpose at a university, museum or
39 hospital, respectively, and such purpose is not otherwise prohibited by
40 federal law.

41 (c) Prima facie evidence of possession with intent to sell ivory, ivory
42 product, rhinoceros horn, or rhinoceros horn product shall include, but
43 not be limited to, the possession of such ivory, ivory product,
44 rhinoceros horn or rhinoceros horn product in a retail or wholesale

45 location that is commonly used for the buying or selling of animal-
46 derived products. Obtaining an appraisal of ivory, an ivory product,
47 rhinoceros horn or a rhinoceros horn product shall not constitute
48 possession with intent to sell.

49 (d) Any person who violates the provisions of subsection (b) of this
50 section shall: (1) For the first offense, be guilty of a class B
51 misdemeanor and shall be fined not less than one thousand dollars or
52 an amount equal to two times the total value of the subject ivory, ivory
53 product, rhinoceros horn or rhinoceros horn product, whichever is
54 greater, and (2) for a second or any subsequent offense, be guilty of a
55 class B misdemeanor and fined not less than five thousand dollars or
56 an amount equal to two times the total value of the subject ivory, ivory
57 products, rhinoceros horn or rhinoceros horn product.

58 (e) At the time of arrest for the alleged violation of the provisions of
59 subsection (b) of this section, the court shall order the seizure of the
60 subject ivory, ivory product, rhinoceros horn or rhinoceros horn
61 product. Following any conviction, the subject ivory, ivory product,
62 rhinoceros horn or rhinoceros horn product shall be donated to an
63 educational, conservatorial or scientific institution or organization
64 including, but not limited to, a museum, university or hospital.

65 Sec. 2. Section 26-304 of the general statutes is repealed and the
66 following is substituted in lieu thereof (*Effective July 1, 2016*):

67 As used in sections 22a-2, 23-5c, 23-74, 23-75, 26-40c, 26-40d, 26-40f
68 and 26-303 to [26-315] 26-314, inclusive:

69 (1) "Department" means the Department of Energy and
70 Environmental Protection;

71 (2) "Conserve" and "conservation" mean to use all methods and
72 procedures necessary to maintain or increase the populations of any
73 endangered or threatened species to the point at which the provisions
74 of sections 22a-2, 23-5c, 23-74, 23-75, 26-40c, 26-40d, 26-40f and 26-303
75 to [26-315] 26-314, inclusive, are no longer necessary, including, but not

76 limited to, all activities associated with resources management, such as
77 research, census, monitoring, regulation and law enforcement, habitat
78 acquisition, restoration and maintenance, propagation, live trapping,
79 transplantation and regulated taking;

80 (3) "Wildlife" means all species of invertebrates, fish, amphibians,
81 reptiles, birds and mammals [which] that are wild by nature and parts
82 thereof;

83 (4) "Plants" means any member of the plant kingdom and parts
84 thereof;

85 (5) "Native" means any species indigenous to this state;

86 (6) "Species" means any species, subspecies, or variety of animal or
87 plant, and includes any distinct population segment of any animal or
88 plant;

89 (7) "Endangered species" means any native species documented by
90 biological research and inventory to be in danger of extirpation
91 throughout all or a significant portion of its range within the state and
92 to have no more than five occurrences in the state, and any species
93 determined to be an "endangered species" pursuant to the federal
94 Endangered Species Act;

95 (8) "Threatened species" means any native species documented by
96 biological research and inventory to be likely to become an
97 endangered species within the foreseeable future throughout all or a
98 significant portion of its range within the state and to have no more
99 than nine occurrences in the state, and any species determined to be a
100 "threatened species" pursuant to the federal Endangered Species Act,
101 except for such species determined to be endangered by the
102 commissioner in accordance with section 26-306;

103 (9) "Species of special concern" means any native plant species or
104 any native nonharvested wildlife species documented by scientific
105 research and inventory to have a naturally restricted range or habitat
106 in the state, to be at a low population level, to be in such high demand

107 by man that its unregulated taking would be detrimental to the
108 conservation of its populations or has been extirpated from the state;

109 (10) "Endangered Species Act" means the Endangered Species Act of
110 1973, Public Law 93-205, as amended from time to time;

111 (11) "Take" or "taking" mean to capture, collect, destroy, harm, hunt,
112 kill, pursue, shoot, trap, snare, net, possess, transport, remove, sell or
113 offer for sale, export or import or to attempt to engage in any such
114 conduct or any act of assistance to any other person in taking or
115 attempting to take such native wildlife and native plants whether or
116 not such act results in capture or collection;

117 (12) "Essential habitat" means the geographic area which contains
118 those physical or biological features which are identifiable and have
119 been demonstrated as being decisive to the continued existence of any
120 endangered or threatened species and includes, but is not limited to,
121 significant areas used for courtship, mating, and other reproductive
122 activities, rearing of young, feeding and shelter of endangered and
123 threatened species;

124 (13) "Destruction or adverse modification of essential habitat" means
125 any activity that significantly alters, pollutes, impairs, degrades,
126 damages, destroys or otherwise reduces the ability of the habitat to
127 sustain populations of endangered or threatened species;

128 (14) "Threaten the continued existence" means to engage in any
129 action that reduces appreciably the likelihood of the survival and
130 recovery of an endangered or threatened species in the wild by
131 reducing the reproduction, numbers, or distribution of such species;

132 (15) "Occurrence" means a population of a species breeding and
133 existing within the same ecological community and capable or
134 potentially capable of interbreeding with other members of that
135 species within that community.

136 Sec. 3. Section 26-315 of the general statutes is repealed. (*Effective*
137 *July 1, 2016*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2016</i>	New section
Sec. 2	<i>July 1, 2016</i>	26-304
Sec. 3	<i>July 1, 2016</i>	Repealer section

ENV *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Resources of the General Fund	GF - Potential Revenue Gain	Less than 5,000	Less than 5,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill bans the importation, sale, purchase, and bartering of any animal ivory, rhinoceros horn or associated products, allowing for certain exemptions.

It establishes a new fine, of at least \$1,000 (or twice the value of the product) for first-time violators. It is anticipated that less than 5 violations may occur, resulting in a revenue gain of less than 5,000 annually.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of violations.

OLR Bill Analysis

sHB 6955

AN ACT PROHIBITING THE SALE AND TRADE OF IVORY AND RHINOCEROS HORN.

SUMMARY:

This bill generally bans the import, sale, purchase, and barter of any animal's tooth or tusk ("ivory") or rhinoceros horn or products made from them. It exempts ivory, horn, or associated products if they are (1) allowed under federal law or the subject of law enforcement activity, (2) a certain age, (3) incorporated into certain musical instruments, (4) transferred to a legal beneficiary, or (5) for education, conservation, or scientific purposes.

The bill also prohibits someone from offering the banned products for sale or possessing them with intent to sell. It specifies that possessing the ivory, horn, or an associated product in a retail or wholesale location commonly used to buy or sell animal-derived products is prima facie evidence of intent to sell. Obtaining an appraisal of the ivory, horn, or product, however, does not constitute such evidence.

The bill makes a violation a class B misdemeanor (see below). It also requires (1) seizure of the ivory or horn when an arrest is made and (2) upon a conviction, a donation to certain organizations such as hospitals, museums, or universities.

Conforming to the ban, the bill repeals a provision requiring the Department of Energy and Environmental Protection commissioner to adopt regulations on the trade of raw elephant ivory or products made from the ivory if he finds that it contributes to elephant endangerment or extinction.

EFFECTIVE DATE: July 1, 2016

SCOPE OF BAN

The bill's ban applies to:

1. ivory, which includes any animal's tooth or tusk, or any part of it, including but not limited to one from elephants, hippopotami, narwhals, walruses, or whales;
2. horn, or any part of it, from any rhinoceros species; and
3. any product that has, in whole or part, ivory or rhinoceros horn.

The ivory covered by the bill includes ivory that (1) has an unaltered or minimally carved surface (raw ivory) or (2) is embellished, carved, marked, or otherwise altered so that it is no longer raw ivory (worked ivory).

The bill exempts ivory, rhinoceros horn, or their associated products, if it:

1. is authorized under a federal license or permit;
2. is at least 100 years old;
3. was part of a musical instrument before January 2, 1975;
4. is transferred to a legal beneficiary upon the owner's death, or in anticipation of death, and the owner did not obtain the ivory, horn, or product counter to the bill's provisions;
5. is for a hospital, museum, or university for bona fide educational, conservatorial, or scientific reasons allowed by federal law; or
6. possessed by federal or state employees or agents as part of law enforcement activity or other required duties (see BACKGROUND).

PENALTIES FOR VIOLATIONS

Criminal Penalties

The bill makes violating the ban a class B misdemeanor, punishable by up to six months in prison, a fine, or both. It subjects a first-time violator to a fine of at least \$1,000 or twice the total value of the ivory, horn, or product, whichever is greater. Subsequent violations are subject to a fine of at least \$5,000 or twice the total value of the ivory, horn, or product. Under the bill, the total value is the greater of the (1) fair market value or (2) actual price paid.

Confiscation

The bill requires a court to order seizure of the ivory, horn, or associated product when an arrest is made. After a conviction for a violation of the bill's provisions, seized items must be donated to an educational, conservatorial, or scientific institution or organization, such as a hospital, museum, or university.

BACKGROUND***Related International Law***

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is an international treaty that restricts the international trade of certain plants and animals. Currently, 179 countries, including the United States, are parties to the treaty. CITES regulates the commercial and noncommercial trade of elephants, including their ivory and ivory products.

Related Federal Law

The United States regulates trade in elephant ivory and rhinoceros horn under such laws as the African Elephant Conservation Act, Endangered Species Act, and CITES, and their implementing regulations. A permit or other documentation is often required. A 2014 Fish and Wildlife Service order (Director's Order No. 2010) requires strict implementation and enforcement of these laws, and the agency is amending its regulations to increase commercial trade restrictions. Certain items are exempt, including sport-hunting trophies, scientific specimens, ivory that is part of a musical instrument, ivory that is inherited if removed from the wild prior to a certain date, and other

lawfully-acquired ivory.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 25 Nay 4 (03/20/2015)