



General Assembly

Amendment

January Session, 2015

LCO No. 7261



Offered by:

- REP. URBAN, 43rd Dist.
- REP. ALBIS, 99th Dist.
- REP. WILLIS, 64th Dist.
- REP. MEGNA, 97th Dist.
- REP. HENNESSY, 127th Dist.

To: Subst. House Bill No. 6955

File No. 529

Cal. No. 336

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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

5 (1) "Ivory" means any tooth or tusk, or any part thereof, that is
6 composed of ivory from any elephant or mammoth or any piece
7 thereof, regardless of whether such tooth or tusk is raw ivory, worked
8 ivory or made into or part of an ivory product;

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

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

13 (4) "Rhinoceros horn" means the horn, or any piece thereof, of any
14 species of rhinoceros;

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

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

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

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

42 purpose at a university, museum or hospital, respectively, and such
43 purpose is not otherwise prohibited by federal law.

44 (c) Prima facie evidence of possession with intent to sell ivory, ivory
45 product, rhinoceros horn, or rhinoceros horn product shall include, but
46 not be limited to, the possession of such ivory, ivory product,
47 rhinoceros horn or rhinoceros horn product in a retail or wholesale
48 location that is commonly used for the buying or selling of animal-
49 derived products. Obtaining an appraisal of ivory, an ivory product,
50 rhinoceros horn or a rhinoceros horn product shall not constitute
51 possession with intent to sell.

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

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

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

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

72 (1) "Department" means the Department of Energy and

73 Environmental Protection;

74 (2) "Conserve" and "conservation" mean to use all methods and
75 procedures necessary to maintain or increase the populations of any
76 endangered or threatened species to the point at which the provisions
77 of sections 22a-2, 23-5c, 23-74, 23-75, 26-40c, 26-40d, 26-40f and 26-303
78 to [26-315] ~~26-314~~, inclusive, are no longer necessary, including, but not
79 limited to, all activities associated with resources management, such as
80 research, census, monitoring, regulation and law enforcement, habitat
81 acquisition, restoration and maintenance, propagation, live trapping,
82 transplantation and regulated taking;

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

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

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

89 (6) "Species" means any species, subspecies, or variety of animal or
90 plant, and includes any distinct population segment of any animal or
91 plant;

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

98 (8) "Threatened species" means any native species documented by
99 biological research and inventory to be likely to become an
100 endangered species within the foreseeable future throughout all or a
101 significant portion of its range within the state and to have no more
102 than nine occurrences in the state, and any species determined to be a

103 "threatened species" pursuant to the federal Endangered Species Act,
104 except for such species determined to be endangered by the
105 commissioner in accordance with section 26-306;

106 (9) "Species of special concern" means any native plant species or
107 any native nonharvested wildlife species documented by scientific
108 research and inventory to have a naturally restricted range or habitat
109 in the state, to be at a low population level, to be in such high demand
110 by man that its unregulated taking would be detrimental to the
111 conservation of its populations or has been extirpated from the state;

112 (10) "Endangered Species Act" means the Endangered Species Act of
113 1973, Public Law 93-205, as amended from time to time;

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

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

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

131 (14) "Threaten the continued existence" means to engage in any
132 action that reduces appreciably the likelihood of the survival and
133 recovery of an endangered or threatened species in the wild by

134 reducing the reproduction, numbers, or distribution of such species;

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

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

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| 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 |