

Dear Representative,

I am writing today to voice my opposition to Raised Opposition to HB No. 5578

While the plight of elephants and other endangered species in Africa is of great concern, it is important to preserve Connecticut's history and protect genuine antiques, of 100 years or older, that may contain ivory. If a Ban of any object containing ivory is enacted in Connecticut it would irreparably harm the appreciation of early Connecticut and American history. Museums, dealers, collectors and researchers alike would be additionally harmed by financial loss and a loss of personal liberty. And in the end, the preservation of Connecticut's history would suffer significantly. This would be a loss for all residents of the State and beyond, and likely not result in the protection of any elephants living in Africa today.

I urge you to read the comment left by Dr. Daniel Stiles for the United States Fish and Wildlife Service as that organization undergoes a review of Federal legislation. Dr. Stiles is the leading scholar on the global ivory market and states in no uncertain terms that a ban on ivory will not help the situation and may indeed make it worse. A Summary of his comment can be found at <http://www.regulations.gov/#!documentDetail;D=FWS-HQ-IA-2013-0091-0415> with a PDF file attached to the website and below.

I would also urge you to consider Connecticut's legislation carefully as California is currently facing legal action against their ivory ban legislation. A summary of that case can be found at <http://www.antiquestradegazette.com/news/2016/jan/15/california-collectors-take-on-the-state-over-ivory-ban/> and attached below.

I urge you to enact antiques and musical instrument exemptions in any legislation that will regulate the trade in ivory in Connecticut. The preservation of endangered species and Connecticut's history are not mutually exclusive.

Sincerely,

Edwin J. Nadeau III, Vice President
Nadeau's Auction Gallery

SUMMARY - see attachment for the full version

I am greatly concerned by the increase in elephant poaching that has occurred beginning in about 2007. I oppose illegal ivory trade in the strongest terms and condemn the elephant poaching that supplies demand in Asia and elsewhere. But my in-depth research and understanding of how and why elephant poaching for ivory is motivated and driven has led me to believe that a "prohibitionist" approach is the wrong one.

I recently conducted a study for WCS-China on ivory demand. We concluded that evidence was overwhelming that the increase in elephant poaching was caused by East Asian speculator demand for raw ivory, not by consumer demand for worked ivory. There are well over 2,000 tons of illegal raw ivory unaccounted for since 2002. We believe much of it is stored by speculators who believe that increasing scarcity will continue to drive prices higher. Restricting trade of ivory in the U.S. will have no effect on addressing this problem, and could divert needed resources to do so.

Demand for recently poached ivory in the U.S. as recounted in the cases described can be adequately addressed by pre-2014 existing law, as the successful prosecutions demonstrate. It is difficult to see how the proposals for more stringent controls that will adversely affect those owning and wishing to trade legal ivory will increase protection of elephants in Africa. If anything, it will divert law enforcement effort away from the type of large cases described towards chasing collectors wanting to trade chess sets and netsukes.

I carried out another study recently that found that there is a glut of estate raw tusks in the U.S. that sell for prices about 10-15% of those that can be obtained in China. No informed ivory trafficker would try to smuggle tusks into the U.S. Research I carried out in 2013 in New York and in California in 2014 found that the worked ivory markets were down in scale considerably since the Martin & Stiles USA survey. The relative importance of the USA as a destination for illegal ivory has been greatly exaggerated.

I would like to dispel the false claim that the U.S. is the second largest market for illegal ivory in the world. It can be traced to Martin and Stiles' U.S. ivory report in 2008. Table 90 ranks the U.S. second behind China/Hong Kong, based on the number of ivory items seen. The table says nothing about whether the items are legal or illegal.

FWS stated, "Stiles estimated, in his 2014 follow-up study, that as much as one half of the ivory for sale in two California cities during his survey had been imported illegally. All of this demonstrates the need to impose restrictions on commercializing elephant ivory within the United States."

The report in question said nothing about "imported illegally". The report only stated that "There is a much higher incidence of what appears to be ivory of recent manufacture in California, roughly doubling from approximately 25% in 2006 to about half in 2014".

No conclusions should be drawn about what percentage of ivory in the USA is legal or illegal based on visual examination.

The age of manufacture of an ivory item says nothing about its legality. What matters is the date and manner of import.

The proposed changes to the 4(d) rule would have little or no effect on the way the majority of illegal ivory enters the U.S. or is traded interstate. It is smuggled in mislabeled or hidden in something. Denying antiques legal importation will not address the smuggling problem. The revised rule 4(d) permits interstate trade in antiques, so if antiques are smuggled in, they can continue to enter the trade system.

If the U.S. government and NGOs are serious about addressing the elephant poaching crisis, they should not divert human and financial resources away from the real problem. Litigation will no doubt ensue, wasting everyone's time and money. For example, it is highly debatable that antique ivory can be prohibited import under the AfECA as the FWS maintains. The AfECA allows the import of worked ivory from a country that certifies that the source of the ivory is legal and was exported in accordance with its laws.

It is a diversion to be fighting this battle with mostly law-abiding American citizens when Asian speculators are buying tons of poached ivory representing the slaughter of 20,000-30,000 elephants every year. And why are the speculators doing this? Because those who wish to prohibit legal ivory trade are creating the conditions for speculators to cash in. They are cutting off legal supply of raw ivory, creating artificial scarcity, before making the effort to create appropriate conditions in which it would make sense to cut off supply.

I would strongly urge the U.S. government to devote its energies and resources to solving the real problem that is annihilating elephant populations in Africa - speculator demand for raw ivory in eastern Asia.

Ivory collectors in California are suing the state in the hope of overturning restrictive legislation that comes in to force on July 1 this year.

The Ivory Education Institute (IEI), an association formed in 2014 to advance the interests of collectors of objects made from ivory, filed their complaint against The State of California and the Department of Fish and Wildlife at the Superior Court in Los Angeles on December 15, 2015.

Godfrey Harris, director of the IEI, said that under Assembly Bill 96, passed by the legislature of the State of California in 2015, "ivory objects held throughout California will be rendered worthless".

He added: "We believe the court will see [Bill 96] for what it is - 'feel good' legislation with no appreciable likelihood of saving elephants, but with considerable loss to the public."

The complaint asks that the authorities strike down the bill on the grounds that it is unconstitutional.

Federal Restrictions

Following federal restrictions on the trade in ivory in 2014, a number of US states have followed with tougher rules. The IEI say that "with certain modest exceptions" Assembly Bill 96 will make it a crime to sell any elephant or marine ivory - regardless of whether raw or worked and regardless of the age of the item.

Fines will be between \$1000-10,000 for a first offence and more for subsequent convictions.

Chief among the objections to Bill 96 filed by the IEI is that the new law deprives owners of the value of their property without proper compensation. The IEI believe this violates the so-called 'taking' clause in the US constitution.

Bill 96 repeals a statute in place since 1976 that allowed pre-1977 ivory works of art to be traded.

The IEI further say the law in California will violate the Commerce Clause of the US Constitution because it amounts to an attempt by one state to control commerce outside its borders. It was this argument that saw the reach of the California Resale Royalty Act narrowed in 2015.

The IEI add that the US constitution requires that international matters such as this be restricted to actions by the Federal Government.

The IE also take issue with Bill 96 on the grounds that:

- The 20% or 5% rule will be open to guesswork (see below).
- There is no demonstrable benefit to current African elephant herds by banning sales of antiques.
- There is no additional provision for funding the law.
- There is no basis for including extinct species in the list of prohibited items.

Harris told ATG that the State of California have asked for a ten-day extension to the 30-day limit in which to file a response on behalf of the Department of Fish and Wildlife. He expects legal action will begin January 25.

Ivory Law Factfile

- The ivory law that comes into effect in California on July 1 this year (Assembly Bill 96) extends to the teeth and tusks of extinct species (mammoth and mastodon) and includes hippo, walrus, warthog, whale and narwhal.

- It will allow only for sales of pre-1975 musical instruments where ivory forms less than 20% of the volume and antiques (defined as objects not less than 100 years old) where ivory forms less than 5% of the volume.