



General Assembly

February Session, 2016

***Raised Bill No. 5578***

LCO No. 1752



Referred to Committee on ENVIRONMENT

Introduced by:  
(ENV)

***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) "Bona fide educational or scientific institution" means an  
4 institution that establishes through documentation either of the  
5 following: (A) An educational or scientific tax exemption, from the  
6 federal Internal Revenue Service or such institution's national or state  
7 tax authority; or (B) accreditation as an educational or scientific  
8 institution, from a qualified national or state authority for the  
9 institution's location;

10 (2) "Ivory" means a tooth or tusk from a species of elephant,  
11 hippopotamus, mammoth, walrus, whale, or narwhal, or a piece  
12 thereof, including any product that contains or that is advertised as  
13 containing ivory;

14 (3) "Rhinoceros horn" means the horn or a piece or derivative  
15 thereof, such as powder, of a species of rhinoceros, including any  
16 product containing or advertised as containing rhinoceros horn;

17 (4) "Sale" or "sell" means selling, trading, bartering for monetary or  
18 nonmonetary consideration, or giving away in conjunction with a  
19 commercial transaction; and

20 (5) "Total value" means either the fair market value or the actual  
21 price paid for ivory or rhinoceros horn, whichever is greater.

22 (b) Except as provided in subsections (c) and (d) of this section, no  
23 person shall purchase, sell, offer for sale or possess with the intent to  
24 sell any ivory or rhinoceros horn.

25 (c) The prohibitions in subsection (b) of this section shall not apply  
26 to any of the following:

27 (1) Any employee or agent of the federal or state government  
28 undertaking a law enforcement activity pursuant to federal or state  
29 law or a mandatory duty required by federal law;

30 (2) Any activity expressly authorized by federal law;

31 (3) Ivory that is part of a musical instrument or an antique provided:

32 (A) Such ivory was removed from the wild prior to February 26,  
33 1976, if such ivory is elephant ivory;

34 (B) Such ivory is a fixed component of a larger manufactured item  
35 and is not, in its current form, the primary source of the total value for  
36 such item;

37 (C) The total volume of the ivory component is less than twenty per  
38 cent;

39 (D) The manufactured item is not made wholly or primarily of  
40 ivory;

41 (E) The ivory is not raw, unaltered or minimally changed by  
42 carving; and

43 (F) The owner or seller provides historical documentation  
44 demonstrating provenance that verifies:

45 (i) If the item is a musical instrument that contains elephant ivory,  
46 that such instrument was manufactured prior to January 1, 1976; or

47 (ii) If the item is an antique, that it is not less than one hundred  
48 years old; or

49 (4) The noncommercial transfer of ownership of ivory or rhinoceros  
50 horn to a legal beneficiary of an estate, trust or other inheritance.

51 (d) The Department of Energy and Environmental Protection may  
52 permit, under terms and conditions as the department may prescribe,  
53 the purchase, sale, offer for sale, or possession with intent to sell of an  
54 ivory or rhinoceros horn article to a bona fide educational or scientific  
55 institution or a museum if each of the following criteria is satisfied:

56 (1) The purchase, sale, offer for sale, or possession with intent to sell  
57 is not prohibited by federal law; and

58 (2) The ivory or rhinoceros horn was legally acquired before January  
59 1, 1991, and was not subsequently and will not be transferred from one  
60 person to another for financial gain or profit.

61 (e) It shall be presumptive evidence of possession with intent to sell  
62 ivory or rhinoceros horn if the ivory or rhinoceros horn is possessed in  
63 a retail or wholesale outlet commonly used for the buying or selling of  
64 similar items. Such presumption shall not preclude a finding of intent  
65 to sell based on any other evidence that may serve to independently  
66 establish such intent.

67 (f) Any person who violates any provision of this section or any  
68 rule, regulation, or order adopted pursuant to this section shall be

69 guilty of a class B misdemeanor provided: (1) For the first offense,  
70 such person shall be fined not less than three thousand dollars or an  
71 amount equal to two times the total value of the article involved,  
72 whichever is greater, or imprisoned for not more than six months, or  
73 both; and (2) for a second or any subsequent violation, such person  
74 shall be fined not less than six thousand dollars or an amount equal to  
75 three times the total value of the article involved, whichever is greater,  
76 or imprisoned not more than one year, or both.

77 (g) In addition to the provisions of subsection (f) of this section, an  
78 administrative penalty of not more than twenty thousand dollars may  
79 be imposed for a violation of any provision of this section, or any rule,  
80 regulation or order adopted pursuant to this section. Civil penalties  
81 authorized pursuant to this subsection may be imposed  
82 administratively by the Department of Energy and Environmental  
83 Protection in accordance with the following provisions:

84 (1) The Commissioner of Energy and Environmental Protection  
85 shall issue a complaint to any person upon whom an administrative  
86 penalty may be imposed pursuant to this section. Such complaint shall  
87 allege the act that constitutes a violation of this section, relevant facts  
88 and the proposed amount of such penalty.

89 (2) Such complaint shall be served by personal notice or certified  
90 mail and inform the party who is served that the party may request a  
91 hearing not later than twenty days from the date of service. If a hearing  
92 is requested, such hearing shall be scheduled before the commissioner  
93 or his or her designee. Any such request for a hearing shall contain a  
94 brief statement of the material facts the party claims support his or her  
95 contention that an administrative penalty should not be imposed or  
96 that an administrative penalty of a lesser amount is warranted. Any  
97 party served with a complaint pursuant to this subsection shall be  
98 deemed to have waived the right to a hearing if a request for a hearing  
99 is not received by the commissioner not later than twenty days after  
100 the date of service of the complaint. If a hearing is not requested or if

101 such right is deemed to be waived, any order imposing an  
102 administrative penalty pursuant to this subsection shall be final.

103 (3) The commissioner or his or her designee shall control the nature  
104 and order of the hearing proceedings. Hearings shall be informal in  
105 nature and need not be conducted in accordance with the rules of  
106 evidence. The commissioner or his or her designee shall issue a final  
107 order not later than forty-five days after the close of such hearing. A  
108 final copy of the order shall be served by certified mail upon the party  
109 served with the complaint.

110 (4) (A) Any party may obtain review of a final order by filing an  
111 appeal to the Superior Court not later than thirty days after the date of  
112 service of such final order.

113 (B) Any administrative penalty shall be due and payable to the  
114 department not later than sixty days after the time to seek appeal to  
115 the Superior Court has expired or, when the party has not requested a  
116 hearing on such complaint, not later than twenty days after the order  
117 imposing such administrative penalty becomes final.

118 (h) Administrative penalties collected pursuant to this section shall  
119 be used for law enforcement purposes.

120 (i) For any administrative penalty that is imposed by, the  
121 Department of Energy and Environmental Protection, the department  
122 may pay not more than one-half of such administrative penalty or five  
123 hundred dollars, whichever is less, to any person who provides  
124 information that led to the imposition of such administrative penalty.  
125 Such payment shall not be authorized if the person who provides such  
126 information is a law enforcement officer or an officer or agent of the  
127 Department of Energy and Environmental Protection.

128 (j) Upon conviction or other entry of judgment for a violation of this  
129 section, any seized ivory or rhinoceros horn shall be forfeited and,  
130 upon forfeiture, either be maintained by the Department of Energy and

131 Environmental Protection for educational or training purposes,  
132 donated by the department to a bona fide educational or scientific  
133 institution or destroyed.

134 (k) The Commissioner of Energy and Environmental Protection may  
135 adopt regulations, in accordance with chapter 54 of the general  
136 statutes, to implement the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2016</i>	New section

**Statement of Purpose:**

To prohibit the sale and trade of ivory and rhinoceros horn in the state.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*