



General Assembly

Amendment

February Session, 2016

LCO No. 5975



Offered by:
REP. BOLINSKY, 106th Dist.

To: Subst. House Bill No. 5578

File No. 418

Cal. No. 283

"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 October 1, 2016*) For the purposes of this
4 section:

5 (1) "Bona fide educational or scientific institution" means an
6 institution that establishes through documentation either of the
7 following: (A) Educational or scientific tax exemption, from the federal
8 Internal Revenue Service or the institution's national, state or local tax
9 authority; or (2) accreditation as an educational or scientific institution,
10 from a national, regional, state or local authority for the institution's
11 location;

12 (2) "Ivory" means any tooth or tusk composed of ivory from a
13 species of elephant or hippopotamus, or a piece thereof, whether raw
14 ivory or worked ivory, or made into or part of an ivory product;

15 (3) "Ivory product" means any item that contains ivory, that is
16 wholly or partially made from ivory, or that is advertised as containing
17 ivory;

18 (4) "Raw ivory" means polished or unpolished ivory that is
19 unaltered or minimally changed by carving;

20 (5) "Rhinoceros horn" means the horn, or a piece thereof, of a species
21 of rhinoceros;

22 (6) "Rhinoceros horn product" means any item that contains
23 rhinoceros horn, is wholly or partially made from any rhinoceros horn,
24 or is advertised as containing rhinoceros horn;

25 (7) "Sale" or "sell" means selling, trading, bartering for monetary or
26 nonmonetary consideration, or giving away in conjunction with a
27 commercial transaction;

28 (8) "Total value of the ivory, ivory products, rhinoceros horn and
29 rhinoceros horn products" means the fair market value of the ivory,
30 ivory products, rhinoceros horn and rhinoceros horn products, or the
31 actual price paid for the ivory, ivory products, rhinoceros horn and
32 rhinoceros products, whichever is greater; and

33 (9) "Worked ivory" means embellished, carved, marked or otherwise
34 altered ivory that can no longer be considered raw ivory.

35 (b) No person shall import, sell, offer for sale, purchase, barter or
36 possess with the intent to sell, any ivory, ivory product, rhinoceros
37 horn or rhinoceros horn product, except as otherwise provided in this
38 section.

39 (c) It shall be prima facia evidence of possession with intent to sell
40 when ivory, an ivory product, rhinoceros horn or rhinoceros horn
41 product is possessed in a retail or wholesale outlet commonly used for
42 buying or selling of similar products, provided nothing in this
43 subsection shall preclude a finding of intent to sell based on any other
44 evidence that may independently establish such intent.

45 (d) Notwithstanding the provisions of subsection (b) of this section,
46 unless such activity is prohibited by federal law, rule or regulation, the
47 following activities shall be permitted:

48 (1) Any conveyance of ivory, an ivory product, rhinoceros horn or
49 rhinoceros horn product that is part of an estate or other items being
50 conveyed to lawful beneficiaries upon the death of an owner, to a legal
51 beneficiary;

52 (2) Employees or agents of the federal or state government
53 undertaking law enforcement activities pursuant to federal or state law
54 or any mandatory duties required by federal or state law;

55 (3) An import expressly authorized by federal license or permit or a
56 lawful permit issued under 46 the Convention on International Trade
57 in Endangered Species of Wild Fauna and Flora (CITES);

58 (4) The import, sale, offer for sale, purchase, barter or possession
59 with intent to sell, ivory, ivory product, rhinoceros horn or rhinoceros
60 horn product to a bona fide educational or scientific institution for
61 bona fide educational purposes or for conducting noncommercial
62 scientific purposes or to a museum, if both of the following criteria are
63 satisfied: (A) Such activity is not prohibited by federal law; and (B) the
64 ivory or rhinoceros horn was legally acquired before January 1, 1991,
65 and was not subsequently transferred from one person to another for
66 financial gain or profit after the effective date of this section;

67 (5) The sale of a manufactured or handmade item containing ivory,
68 provided: (A) Such item is a bona fide antique and is established by the
69 owner or seller, through either historical documentation
70 demonstrating provenance or through authentication consistent with
71 federal standards, to satisfy the criteria of 16 USC 1539; (B) the item is a
72 musical instrument, provided that the ivory component is less than
73 twenty per cent by volume of the instrument and the owner or seller
74 provides historical documentation demonstrating provenance and
75 showing the item was manufactured no later than 1975; or (C) the item
76 contains de minimis quantities of ivory and meets all the following

77 criteria: (i) The ivory is a fixed component or components of a larger
78 manufactured or handmade item and is not, in its current form, the
79 primary source of the value of the item; (ii) the ivory is not raw; (iii)
80 the manufactured item is not made wholly or primarily of ivory; (iv)
81 the total weight of the ivory component or components is less than two
82 hundred grams; (v) the item was manufactured before the effective
83 date of this section; and (vi) the ivory was imported into the United
84 States prior to January 18, 1990, or was imported to the United States
85 under a CITES preconvention certificate with no limitation on its
86 commercial use.

87 (e) Any person who violates the provisions of this section or any
88 regulation adopted pursuant to this section shall: (1) For a first offense,
89 be fined not more than four thousand dollars or an amount equal to
90 two times the total value of the ivory, ivory products, rhinoceros horn
91 or rhinoceros horn products involved in the offense, and may be
92 imprisoned not more than six months; (2) for a second or subsequent
93 offense, be fined not less than eight thousand dollars or an amount
94 equal to two times the total value of the ivory, ivory products,
95 rhinoceros horn or rhinoceros horn products involved in the offense,
96 whichever is greater, and may be imprisoned for not longer than
97 eighteen months; and (3) for an offense where the total value of the
98 ivory, ivory products, rhinoceros horn or rhinoceros horn products
99 involved in the offense are equal to twenty-five thousand dollars or
100 more, be fined not less than forty thousand dollars or an amount equal
101 to two times such total value, whichever is greater and may be
102 imprisoned for not longer than thirty months.

103 (f) Upon any conviction for violating the provisions of this section,
104 the court shall order the seizure of all ivory, ivory products, rhinoceros
105 horn or rhinoceros horn products involved in the violation and
106 determine the penalty for the violation based on the assessed value of
107 the seized products according to subsection (e) of this section. After
108 sentencing the defendant, the court shall order that the seized ivory,
109 ivory products, rhinoceros horn or rhinoceros horn products be
110 transferred to the Department of Energy and Environmental Protection

111 for proper disposition. The department, at its discretion, may destroy
 112 the ivory, ivory products, rhinoceros horn or rhinoceros horn products
 113 or donate such items to an educational or scientific institution or
 114 organization, including, but not limited to, a museum or university.

115 (g) There is established a separate, nonlapsing fund of the General
 116 Fund to be known as the Elephant Ivory and Rhino Horn Trafficking
 117 Enforcement Fund. Such fund shall contain all moneys as directed by
 118 law. The fund shall be used by the Department of Energy and
 119 Environmental Protection to increase or expand enforcement and
 120 educational efforts related to the provisions of this section and to
 121 provide financial rewards offered to persons providing information
 122 leading to the arrest and conviction of persons found to be in violation
 123 of this section. The department may use the fund for necessary and
 124 reasonable administrative and personnel costs related to the specific
 125 purposes of the fund. The department shall not use the fund for
 126 personnel costs that exist as of the effective date of this section.

127 (h) The Commissioner of Energy and Environmental Protection
 128 may, in accordance with the provisions of chapter 54 of the general
 129 statutes adopt regulations to implement the provisions of this section."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2016	New section