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H.220

Introduced by Representatives McCullough of Williston, Webb of Shelburne,
Belaski of Windsor, Bock of Chester, Browning of Arlington,
Brumsted of Shelburne, Christie of Hartford, Dakin of
Colchester, Deen of Westminster, Dunn of Essex, Grad of
Moretown, Joseph of North Hero, Lucke of Hartford, Macaig of
Williston, Masland of Thetford, Mrowicki of Putney, Sharpe of
Bristol, Sheldon of Middlebury, Sullivan of Burlington, Till of
Jericho, Townsend of South Burlington, Walz of Barre City,
Weed of Enosburgh, and Yantachka of Charlotte

Referred to Committee on

Date:

Subject: Conservation and development; endangered species; ivory and
rhinoceros horn

Statement of purpose of bill as introduced: This bill proposes to prohibit the
importation, sale, offer for sale, purchase, barter, or possession with intent to
sell of any ivory, ivory product, rhinoceros horn, or rhinoceros horn product in
Vermont.

An act relating to the sale of ivory or rhinoceros horn

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. 10 V.S.A. § 5411 is added to read:

3 § 5411. SALE OF IVORY OR RHINOCEROS HORN

4 (a) Definitions. As used in this section:

5 (1) "Ivory" means a tooth or tusk or any piece of a tooth or tusk
6 composed of ivory from any animal including elephant, hippopotamus,
7 mammoth, narwhal, walrus, or whale, whether raw, worked, made into, or part
8 of an ivory product.

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

11 (3) "Raw ivory" means any ivory the surface of which, polished or
12 unpolished, is unaltered or minimally changed by carving.

13 (4) "Rhinoceros horn" means the horn or any piece of the horn 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 of the ivory, ivory products, rhinoceros horn, and
18 rhinoceros horn products" means the fair market value of the ivory, ivory
19 products, rhinoceros horn, and rhinoceros horn products, or the actual price
20 paid for the ivory, ivory products, rhinoceros horn, and rhinoceros products,
21 whichever is greater.

1 (7) “Worked ivory” means ivory that has been embellished, carved,
2 marked, or otherwise altered so that it can no longer be considered raw ivory.

3 (b) Prohibition. In addition to the prohibitions and penalties established by
4 federal law or any other applicable law, it shall be unlawful for a person to
5 import, sell, offer for sale, purchase, barter, or possess with intent to sell any
6 ivory, ivory product, rhinoceros horn, or rhinoceros horn product in this State,
7 except as authorized under subsections (d), (e), and (f) of this section.

8 (c) Presumption of intent to sell. The possession of any ivory, ivory
9 product, rhinoceros horn, or rhinoceros horn product in a retail or wholesale
10 outlet commonly used for the buying or selling of similar products shall
11 constitute presumptive evidence of possession with intent to sell under this
12 section. Nothing in this subsection shall preclude a finding of intent to sell
13 based on any evidence that may serve independently to establish intent to sell.
14 The act of obtaining an appraisal of ivory, an ivory product, rhinoceros horn,
15 or a rhinoceros horn product shall not constitute possession with intent to sell.

16 (d) Authorized conveyance to beneficiaries. A person may convey ivory,
17 an ivory product, rhinoceros horn, or a rhinoceros horn product to the legal
18 beneficiary of the ivory, ivory product, rhinoceros horn, or rhinoceros horn
19 product that is part of an estate or other items being conveyed to lawful
20 beneficiaries upon the death or in anticipation of the death of the owner of the
21 ivory, ivory product, rhinoceros horn, or rhinoceros horn product.

1 (e) Exceptions. The prohibitions set forth in this section shall not apply to:

2 (1) employees or agents of the federal or State government undertaking
3 any law enforcement activities pursuant to federal or State law or any
4 mandatory duties required by federal or State law; or

5 (2) where the import is expressly authorized by federal law, license, or
6 permit.

7 (f) Permit for educational or scientific purposes. The Secretary of Natural
8 Resources may issue a permit for the import, sale, offer for sale, purchase,
9 barter, or possession with intent to sell of any ivory, ivory product, rhinoceros
10 horn, or rhinoceros horn product for bona fide educational or scientific
11 purposes, unless the proposed activity is prohibited by federal law. A permit
12 issued under this subsection may contain any terms or conditions required by
13 the Secretary.

14 (g) Penalties. In addition to any penalty that may be imposed under federal
15 law or any other applicable law, a violation of the requirements of this section
16 or any rule adopted under this section is punishable as follows:

17 (1) For the first offense, the violation is punishable by a term of
18 imprisonment of not more than six months and a fine of not less than
19 \$1,000.00 or an amount equal to two times the total value of the ivory, ivory
20 products, rhinoceros horn, and rhinoceros horn products involved in the
21 offense, whichever is greater.

1 (2) For the second or subsequent offense, the violation is punishable by
2 a term of imprisonment of not more than 18 months and a fine of not less than
3 \$5,000.00 or an amount equal to two times the total value of the ivory, ivory
4 products, rhinoceros horn, and rhinoceros horn products involved in the
5 offense, whichever is greater.

6 (h) Seizure. Upon a conviction for violation of this section or the rules
7 adopted under this section, the court shall order the seizure of all ivory, ivory
8 products, rhinoceros horn, and rhinoceros horn products involved in the
9 violation and determine the penalty for the violation based on the assessed
10 value of the seized products. After sentencing the defendant, the court shall
11 order that the seized ivory, ivory products, rhinoceros horn, and rhinoceros
12 horn products be transferred to the Secretary of Natural Resources for proper
13 disposition. The Secretary, in his or her discretion, may destroy the ivory,
14 ivory products, rhinoceros horn, and rhinoceros horn products, or donate them
15 to an educational or scientific institution or organization.

16 (i) Rulemaking. The Secretary of Natural Resources may adopt rules
17 necessary to carry out the provisions of this section.

18 Sec. 2. EFFECTIVE DATE

19 This act shall take effect on July 1, 2017.