

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Fish, Wildlife and Water Resources to which was referred
3 House Bill No. 297 entitled “An act relating to the sale of ivory or rhinoceros
4 horn” respectfully reports that it has considered the same and recommends that
5 the bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

7 Sec. 1. 10 V.S.A. chapter 175 is added to read:

8 **CHAPTER 175. IVORY AND RHINOCEROUS HORN**

9 **§ 7701. SALE OF IVORY OR RHINOCEROS HORN**

10 (a) Definitions. As used in this act:

11 (1) “Ivory” means any tusk composed of ivory from an elephant or
12 mammoth, or any piece thereof, whether raw ivory or worked ivory, or made
13 into, or part of, an ivory product.

14 (2) “Ivory product” means any item that contains, or is wholly or
15 partially made from, any ivory.

16 (3) “Raw ivory” means any ivory the surface of which, polished or
17 unpolished, is unaltered or minimally changed by carving.

18 (4) “Rhinoceros horn” means the horn, or any piece thereof, of any
19 species of rhinoceros.

20 (5) “Rhinoceros horn product” means any item that contains, or is
21 wholly or partially made from, any rhinoceros horn.

1 (6) “Total value of the ivory, ivory products, rhinoceros horn, and
2 rhinoceros horn products” means the fair market value of the ivory, ivory
3 products, rhinoceros horn, and rhinoceros horn products, or the actual price
4 paid for the ivory, ivory products, rhinoceros horn, and rhinoceros products,
5 whichever is greater.

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

8 (b) Prohibition. In addition to the prohibitions and penalties established by
9 federal law, a person in this State shall not import, sell, offer for sale, purchase,
10 barter, or possess with intent to sell, any ivory, ivory product, rhinoceros horn,
11 or rhinoceros horn product, except as authorized under subsections (d) and (e)
12 of this section.

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

1 (d) Authorized conveyance to beneficiaries. A person may convey ivory,
2 an ivory product, rhinoceros horn, or a rhinoceros horn product to the legal
3 beneficiary of the ivory, ivory product, rhinoceros horn, or rhinoceros horn
4 product that is part of an estate or other items being conveyed to lawful
5 beneficiaries upon the death of the owner of the ivory, ivory product,
6 rhinoceros horn, or rhinoceros horn product or in anticipation of that death.

7 (e) Exceptions.

8 (1) The prohibitions of this section shall not apply to:

9 (A) employees or agents of the federal government or the State
10 undertaking any law enforcement activities pursuant to federal or State law
11 or any mandatory duties required by federal or State law;

12 (B) import expressly authorized by federal law, license, or permit;

13 (C) the import of legally acquired ivory as part of a personal or
14 household move into the State;

15 (2) In connection with any action alleging violation of this section, any
16 person claiming the benefit of any exception under this section shall have the
17 burden of proving that the exception is applicable and was valid and in force at
18 the time of the alleged violation.

19 (f) Permit for education or scientific purposes. The Secretary of Natural
20 Resources may issue a permit for the import, sale, offer for sale, purchase,
21 barter, or possession with intent to sell of any ivory, ivory product, rhinoceros

1 horn, or rhinoceros horn product for a bona fide educational or scientific
2 purpose, unless the proposed activity is prohibited by federal law. A permit
3 issued under this subsection may contain any terms or conditions required by
4 the Secretary.

5 (g) Enforcement and penalties.

6 (1) This section may be enforced by a law enforcement officer as
7 defined in 20 V.S.A. § 2358.

8 (2) A person who violates this section or a rule adopted pursuant to this
9 section commits a misdemeanor and shall be fined:

10 (A) For a first offense, \$1,000.00 or an amount equal to two times the
11 total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn
12 products involved in the offense, whichever is greater.

13 (B) For a second or subsequent offense, \$5,000.00 or an amount
14 equal to two times the total value of the ivory, ivory products, rhinoceros horn,
15 and rhinoceros horn products involved in the offense, whichever is greater.

16 (3) The penalties provided in this section shall be in addition to any
17 penalty that may be imposed under federal law.

18 (h) Seizure. Upon a conviction for a violation of this section or the rules
19 adopted under this section, a court shall order the seizure of all ivory, ivory
20 products, rhinoceros horn, and rhinoceros horn products involved in the
21 violation and determine the penalty for the violation based on the assessed

1 value of the seized products. After sentencing the defendant, the court shall
2 order that the seized ivory, ivory products, rhinoceros horn, and rhinoceros
3 horn products be transferred to the Secretary of Natural Resources for proper
4 disposition. The Secretary, in his or her discretion, may destroy the ivory,
5 ivory products, rhinoceros horn, and rhinoceros horn products or donate them
6 to an educational or scientific institution or organization.

7 (i) Rulemaking. The Secretary of Natural Resources may adopt rules to
8 implement the requirements of this section.

9 (j) Educational information. The Secretary of Natural Resources shall
10 maintain on its website information regarding the prohibition of the sale and
11 purchase of ivory and rhinoceros horns in this State.

12 Sec. 2. REPORT ON IVORY AND RHINOCEROS HORN PROHIBITION

13 On or before January 15, 2020, the Secretary of Natural Resources, after
14 consultation with the U.S. Fish and Wildlife Service, shall submit to the House
15 Committee on Fish, Wildlife and Water Resources and the Senate Committee
16 on Natural Resources and Energy a report regarding the implementation of
17 10 V.S.A. § 7701, including a summary of:

18 (1) enforcement activities taken by the State, including the outcome of
19 any items seized;

20 (2) the financial impact of the prohibition of the sale of ivory and
21 rhinoceros horns on Vermont businesses;

- 1 (3) what actions other states have taken with regard to the sale of ivory
2 and rhinoceros horns; and
3 (4) recommendations regarding necessary changes to Vermont law,
4 including the extension or repeal of the prohibition.

5 Sec. 3. EFFECTIVE DATE

6 This act shall take effect on July 1, 2016.

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13 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE