

Report of Committee of Conference

H.297

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference, to which were referred the disagreeing votes of the two Houses upon House Bill, entitled:

H. 297. An act relating to the sale of ivory or rhinoceros horn

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

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

CHAPTER 175. IVORY AND RHINOCEROS HORN

§ 7701. SALE OF IVORY OR RHINOCEROS HORN

(a) Definitions. As used in this act:

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

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

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

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

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

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

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

(b) Prohibition. Except as authorized under subsections (c) and (e) of this section, a person in this State shall not import, sell, offer for sale, purchase, barter, or possess with intent to sell any ivory, ivory product, rhinoceros horn, or rhinoceros horn product.

(c) Exceptions.

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

(A) Employees or agents of the federal government or the State undertaking any law enforcement activities pursuant to federal or State law or any mandatory duties required by federal or State law.

(B) The import of ivory, ivory products, rhinoceros horn, or rhinoceros horn products:

(i) expressly authorized by federal law, license, or permit; or

(ii) as part of a personal or household move into the State.

(C) Ivory that is part of a bona fide antique, firearm, knife, or musical instrument, including a string, wind, or percussion instrument or piano, if:

(i) the ivory is a fixed component or components of a larger manufactured item and is not, in its current form, the primary source of value of the item;

(ii) the total weight of the ivory component or components is less than 200 grams;

(iii) the manufactured item is not made wholly or primarily of ivory;

(iv) the ivory is not raw; and

(v) the owner or seller provides historical documentation, including serial numbers or other identifying information on the item, that demonstrates that:

(I) the item is not less than 100 years old, if it is an antique; or

(II) the item was manufactured no later than 1975, if it is a firearm, knife, or musical instrument.

(D) the import, sale, offer for sale, purchase, barter, or possession with intent to sell of any ivory, ivory product, rhinoceros horn, or rhinoceros horn product for a bona fide educational or scientific purpose or to a museum, unless the proposed activity is prohibited by federal law.

(E) A person transporting ivory from a point outside this State through the State, if authorized by federal law.

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

(d) Presumption of intent to sell. The possession in this State of any ivory, ivory product, rhinoceros horn, or rhinoceros horn product in a retail or wholesale outlet commonly used for the buying or selling of similar products shall constitute a rebuttable presumption of possession with intent to sell under this section. Nothing in this subsection shall preclude a finding of intent to sell based on any evidence that may serve independently to establish intent to sell. The act alone of obtaining an appraisal of ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product shall not constitute possession with intent to sell.

(e) Authorized conveyance to beneficiaries. Upon the death of the owner of the ivory, ivory product, rhinoceros horn, or rhinoceros horn product or in

anticipation of that death, a person may convey ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product to the legal beneficiary of the ivory, ivory product, rhinoceros horn, or rhinoceros horn product that is part of an estate or other items being conveyed to a lawful beneficiary.

(f) Enforcement; civil penalties.

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

(2) A person who violates this section commits a civil violation and shall be assessed a civil penalty as follows:

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

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

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

(g) Educational information. The Secretary of Natural Resources shall maintain on the Agency's website information regarding the prohibition of the sale and purchase of ivory and rhinoceros horn in this State.

Sec. 2. 4 V.S.A. § 1102(b) is amended to read:

(b) The Judicial Bureau shall have jurisdiction of the following matters:

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(27) Violations of 10 V.S.A. § 7701, relating to the sale or import of ivory or rhinoceros horn.

Sec. 3. REPORT ON IVORY AND RHINOCEROS HORN PROHIBITION

On or before January 15, 2022, the Secretary of Natural Resources, after consultation with the U.S. Fish and Wildlife Service, shall submit to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy a report regarding the implementation of 10 V.S.A. § 7701, including a summary of:

(1) enforcement activities taken by the State;

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

(3) what actions other states have taken with regard to the sale of ivory and rhinoceros horn; and

(4) recommendations regarding necessary changes to Vermont law, including the extension or repeal of the prohibition.

Sec. 4. EFFECTIVE DATE

This act shall take effect on January 1, 2018.

COMMITTEE ON THE PART OF  
THE SENATE

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SEN. NAME

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SEN. NAME

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SEN. NAME

COMMITTEE ON THE PART OF  
THE HOUSE

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REP. JAMES M. MCCULLOUGH

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REP. AMY SHELDON

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REP. PAUL LEFEBVRE