



**Testimony of Joanne Bourbeau, Northeastern Regional Director and VT State Director  
The Humane Society of the United States**

**Before the Vermont House Committee on Fish, Wildlife & Water Resources**

**In strong support of H. 297, An Act Relating to the Sale of Ivory or Rhinoceros Horn**

*April 8, 2015*

The Humane Society of the United States (HSUS) is the nation's largest animal protection organization, with significant membership and support here in Vermont. I am here today on behalf of the HSUS and the Vermont Humane Federation (VHF), to urge the Committee's support for H. 297 that would prohibit any person to sell, offer to sell, purchase, possess with intent to sell or import with intent to sell any ivory article or rhinoceros horn.

Elephants are one of the most iconic and beloved wild animals. Yet, today, these magnificent animals are being gunned down and poisoned in unprecedented numbers—reaching nearly 100 killed per day—all for their ivory tusks. According to research published in August 2014 in the Proceedings of the National Academy of Sciences of the United States<sup>1</sup>, approximately 100,000 elephants in Africa were killed between 2010 and 2012. In 2014, we learned that 1,215 rhinos were killed in South Africa alone out of a remaining 29,000 left in the wild<sup>2</sup>.

As the nation's largest animal protection organization, The HSUS' concern regarding the ivory and rhino trade is first and foremost the cruelty of poaching inflicted on the elephants and rhinos. In the case of elephants, because one third of the tusk is attached to the skull of the animal, poachers brutally hack off the face of the elephant to obtain the tusk. Poachers kill entire elephant families, including its youngest members as long as they have tusks. Elephant babies, who do not have tusks that have emerged, are left as orphans unable to fend for themselves and often die if not rescued by humans in time. Poachers use a similar cruel method to mutilate a rhino's face to hack off the horn.

It is the demand for ivory and rhino horn that is driving the elephant and rhino massacre. Most of the demand for ivory is in China, where the ivory carving tradition dates back to prehistoric times, and where it is still legal to buy, carve and sell ivory. But, according to the results of the most recent, comprehensive ivory market survey published in 2008<sup>3</sup>, the United States is the second largest retail market for ivory, after China.

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<sup>1</sup> "Illegal killing for ivory drives global decline in African elephants", Proceedings of the National Academy of Sciences of the United States, Vol. 111, No. 36. <http://www.pnas.org/content/111/36/13117>

<sup>2</sup> South African government data. <http://app.leg.wa.gov/documents/billdocs/2015-16/Htm/Bills/Senate%20Bills/5241.htm>

<sup>3</sup> Martin, E., and D. Stiles. 2008. Ivory Markets in the USA. Care for the Wild International and Save the Elephants. West Sussex, UK and London, UK.

<http://www.savetheelephants.org/files/pdf/publications/2008%20Martin%20&%20Stiles%20Ivory%20Markets%20in%20the%20USA.pdf>

United States laws and regulations pertaining to ivory trade are confusing and riddled with loopholes that are exploited by those involved in the international and domestic ivory trade. This also leads to consumer confusion about what is legal and what is not. The result is a flourishing, poorly regulated domestic ivory market in the United States.

As an example, ivory sale in and import into the State of Vermont are covered by two federal laws:

- The Endangered Species Act (ESA):
  - The United Nations Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which currently prohibits the international commercial trade in African and Asian elephant ivory, is implemented through the ESA. However, there are exceptions to this rule. Generally, any ivory possessed prior to July 1, 1975 is “pre-Convention” and can be traded internationally for commercial purposes. Sport-hunted elephant trophies can be imported but not for commercial purposes. CITES does not address domestic trade in ivory.
  - The ESA also has its own rules governing international trade as well as domestic trade in ivory. Under the ESA, the Asian elephant was listed as “endangered” on June 14, 1976 and the African elephant as “threatened” in 1978. This means that, in general, it is illegal to import, export or sell Asian elephant ivory on the domestic U.S. market, although it is legal to sell Asian elephant ivory legally possessed prior to 1976. However, the threatened status of the African elephant meant that ivory from that species continued to be imported, exported and sold domestically until January 20, 1990 when the CITES ivory trade ban became effective. African elephant ivory legally possessed prior to that date may be sold on the domestic market. Furthermore, import, export and sale of ivory that is “antique” (more than 100 years old) are allowed provided that there is documentation showing the age of the item along with other requirements under the federal law.
  - The ESA does not regulate the import, export or domestic trade in ivory from species like mammoths or warthogs, which is difficult to distinguish from elephant ivory.
- The African Elephant Conservation Act banned the importation of raw and worked ivory from African elephants as of January 1, 1990. The ban does not include sport-hunted elephant trophies.

However, these laws do not provide comprehensive control of the ivory trade to ensure that ivory offered for sale in the United States is not coming from recently poached elephants. For example, the United States does not register or license all importers, manufacturers, wholesalers and retailers dealing in raw, semi-worked or worked ivory products; does not have recording or inspection procedures to enable appropriate government agencies to monitor the flow of ivory within the United States; does not have compulsory trade controls over raw ivory; and does not have a comprehensive and demonstrably effective reporting and enforcement system for sale of worked ivory.

The difficulty of enforcing these laws cannot be overlooked. Ivory is a term that can refer to the tusks of Asian or African elephants, or the tusks of extinct mammoths (dug up from the frozen tundra of Siberia or Alaska), or the teeth of hippos, walrus, sperm whale, narwhal, warthog or boar. Only experts, using special equipment, can sometimes tell the difference between Asian and African elephant tusks, or between elephant and mammoth tusks. Even then, it is not always possible to tell the difference between ivories of these closely related species.

As an example of the enforcement problems, the U.S. Fish and Wildlife Service (USFWS) seized ivory carvings being imported from Hong Kong. The subject was importing 56 ivory carvings (mainly “netsukes” which are small ivory carvings of animals or people) in his baggage, and told the Wildlife Inspector that they were all mammoth ivory and did not require a permit. He had receipts from Hong Kong shops where he had purchased the items, stating that they were “mammoth tusk carvings”. The carvings were sent to the USFWS National Fish and Wildlife Forensics Laboratory to be tested. Out of the 55 carvings tested, ten were made from ivory from African or Asian elephants (these items were seized), while another 6 carvings were made from extinct elephant ivory from mammoths or mastodons. However, the majority of the carvings could not be determined with accuracy to be either elephant ivory or the ivory from mammoths. In fact, 29 carvings were made from “elephant ivory of an indeterminate source”. Furthermore, ten of the carvings were found to be “carvings made from dentine (ivory) of an indeterminate source”, presumably meaning that it could not be determined even which type of animal the ivory originated from. If one of the most advanced wildlife forensics laboratories in the world has difficulty distinguishing between ivories, and thus between potentially legal or illegal items, it is almost impossible to expect the average ivory buyer to be able to do so.

A 2002 investigation by the HSUS of ivory markets in the United States<sup>4</sup> found ivory sellers who offered to provide fraudulent documents to investigators indicating that elephant ivory was mammoth ivory, that new ivory was old ivory, or that recently imported ivory was imported a long time ago.

This investigation also found:

- The United States has a large market for worked ivory; these markets are supplied, at least in part, by illegal imports from Hong Kong of ivory objects carved in China.
- Those in the ivory business offered tips about how best to smuggle ivory into the United States including placing small ivory items in their luggage in a certain manner to avoid detection by x-ray machines and importing ivory through United States ports, such as Alaska, where there are few United States Fish and Wildlife Service inspectors.
- There is no real disincentive to smuggling ivory into the United States. Although large-scale smugglers can be fined and imprisoned, small-scale ivory smugglers are usually only required to forfeit the ivory objects.

A 2008 study of ivory markets in the United States<sup>5</sup> found:

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<sup>4</sup> Humane Society of the United States. 2002. An Investigation of Ivory Markets in the United States. The Humane Society of the United States. Washington, DC, USA. [http://www.humanesociety.org/assets/pdfs/Ivory\\_Trade\\_Report.pdf](http://www.humanesociety.org/assets/pdfs/Ivory_Trade_Report.pdf)

<sup>5</sup> See footnote 1.

- 24,004 ivory items were found in 657 outlets in 16 towns and cities visited in the USA.
- The United States has the second largest ivory retail market in the world after China/Hong Kong, as determined by numbers of items seen for sale.
- 7,400 ivory items, or nearly one-third of the total, appeared to have been crafted after 1989, making their importation illegal. Inspection of pieces (mainly of Chinese origin) in shops suggested that many figurines, netsukes and jewelry items were recently made. Some African items also looked recently made.
- The United States legally imported some 3,530 tusks and about 2,400 raw ivory pieces between 1990 and 2005 and some of this material was illegally sold into the commercial market.
- Over 40,000 worked ivory items, excluding personal effects, were legally imported to the United States from 1995-2007. Previous studies found that ivory workshops in Asia and Africa produce fake antiques. Thus, even the imported worked ivory into the USA that seems old could be recently made.
- Federal and state authorities rarely inspect shops or Internet sites for illegal raw or worked ivory.
- Some contraband gets past Customs and there are no effective internal ivory transport and retail market controls.

New York and New Jersey enacted laws to prohibit sales of ivory and rhino horns last August. Seven other states besides Vermont have pending bills—including CA, NV, IL, MA, RI, OR and CT. These states are taking a robust measure to crack down on the illegal wildlife trade out of a shared concern about the threat of extinction facing these imperiled animals as well as the threat wildlife trafficking poses on our national security.

At 8 to 10 billion dollar per year, the illegal wildlife trade ranks as the fourth most lucrative international criminal activity, behind only narcotics, counterfeiting and human trafficking. Lured by handsome financial profits, transnational organized syndicates and terrorist groups have turned to poaching and trafficking to fund their criminal atrocities. For example, in Sudan, ivory is bartered by the Lord's Resistance Army (LRA) for arms and ammunition with its patrons in the North Sudanese military. LRA reportedly makes between 8 and 12 million dollars per year from sales of illegal ivory. The Arab tribes of North Sudan, the backbone of the Janjaweed militias, have carried out some of the continent's most notorious recent elephant massacres. According to an investigation<sup>6</sup> by the Elephant Action League (EAL), Somalia-based al-Qaeda affiliate, al-Shabaab, trades up to three tons of ivory every month. EAL estimated that profits from the ivory trade supported about 40 percent of al-Shabaab's operations.

President Obama in a July 2013 Executive Order<sup>7</sup> identified wildlife trafficking as a matter of national interest, stating "The survival of protected wildlife species such as elephants [and other species] has beneficial economic, social, and environmental impacts that are important to all nations. Wildlife trafficking reduces those benefits while generating billions of dollars in illicit revenues each year, contributing to the illegal economy, fueling instability, and undermining security.....For these reasons, it is in the national interest of the United States to combat wildlife

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<sup>6</sup> <http://www.independent.co.uk/voices/campaigns/elephant-campaign/elephant-campaign-how-africas-white-gold-funds-the-alshabaab-militants-9102862.html>

<sup>7</sup> Executive Order 13648

trafficking.” The Administration subsequently released a “National Strategy on Combating Wildlife Trafficking” and a series of administrative actions to tighten up federal regulations and strengthen enforcement of the import and interstate sales of ivory and other wildlife products that are regulated under the Endangered Species Act. The U.S. Fish and Wildlife Service has been tasked to issue additional measures to ratchet down on import, export and interstate commerce of the ivory trade.

Numerous high-profile and large-scale seizures during the last few years show that the U.S. market is a fertile ground for smuggled ivory and rhino horns. According to Interpol’s rule of thumb, only 10 percent of contraband is seized. This suggests that for every major seizure of illegal ivory in the U.S., many more illegal items were smuggled into the U.S. Once these illegal ivory items cross our borders, there is no effective control mechanism to stop their circulation in the markets.

Below are a few examples of recent significant ivory and rhino horn seizures:

- In 2012, an investigation by the Manhattan District Attorney, the USFWS and New York State Department of Environmental Conservation agents led to the confiscation in Manhattan’s diamond district of roughly a ton of ivory trinkets which filled 72 banker boxes, representing approximately tusks of 100 slaughtered elephants. The seized goods were worth 2 million dollars<sup>8</sup>.
- An ongoing investigation since 2012 by the USFWS, dubbed “Operation Crash”<sup>9</sup>, in collaboration with the Department of Justice has made 17 arrests and nine convictions concerning wildlife crimes. One conviction involves a transnational criminal network that smuggled rhino horns and elephant ivory collectively worth more than 4.5 million dollars. Ringleader of the network, Zhifei Li, was sentenced to 70 months in prison on May 27, 2014.
- On June 4, 2014, a Philadelphia art dealer, Victor Gordon, who pleaded guilty for smuggling African elephant ivory, was sentenced to 30 months in prison<sup>10</sup>. One ton of elephant ivory was seized from Gordon’s Philadelphia store in April 2009. According to a National Geographic article, Gordon instructed his West African co-conspirator, “how to alter receipts and to dye the material to make it appear old.”<sup>11</sup>
- The USFWS’ “Operation Scratchoff”, which targets smuggling of elephant ivory from Africa to the U.S., discovered various ways traffickers use to avoid detection. For instance, “shipments were accompanied by fraudulent shipping and customs documents identifying their contents as African wooden handicrafts or wooden statues. The ivory itself was painted to look like wood; covered with clay; or hidden inside wooden handicrafts, such as traditional African musical instruments.”<sup>12</sup>

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<sup>8</sup> <http://www.manhattanda.com/press-release/da-vance-announces-guilty-pleas-dealers-selling-illegal-ivory>

<sup>9</sup> <http://www.fws.gov/home/feature/2014/3-31-14-Operation-Crash-Overview.pdf>

<sup>10</sup> <http://www.justice.gov/usao/nye/pr/June14/2014June4.php>

<sup>11</sup> <http://news.nationalgeographic.com/news/2014/06/140604-victor-gordon-ivory-trafficking-philadelphia-operation-scratchoff-usf-ws-forest-elephants-gabon/>

<sup>12</sup> “Eye on Ivory, Investigations & Inspections”, USFWS, <http://www.fws.gov/le/pdf/Elephant-Ivory-Investigations.pdf>

The lack of effective controls along the trade routes, combined with the difficulty of distinguishing legally acquired ivory from ivory of recently poached elephants, are exploited by unscrupulous dealers to launder illicit ivory into our marketplace. The USFWS has remarked that “it is extremely difficult to differentiate legally acquired ivory, such as ivory imported in the 1970s, from ivory derived from elephant poaching. USFWS criminal investigations and anti-smuggling efforts have shown clearly that legal ivory trade can serve as a cover for illegal trade. By significantly restricting ivory trade in the United States, it will be more difficult to launder illegal ivory into the market and thus reduce the threat of poaching to imperiled elephant populations.”<sup>13</sup> In a January 2014 hearing of the New York State Assembly Committee on Environmental Conservation, assistant director of the Office of Law Enforcement at USFWS, William Woody testified that law enforcement agents “struggle to identify the age of the ivory they find for sale, which determines its legality.”<sup>14</sup>

The threat of extinction facing elephants waits for no one while poachers and traffickers continue their slaughter and despicable activities unabated. The time for a prohibition on the U.S. domestic ivory markets is now and Vermont can contribute to the federal, national and global conservation efforts by closing Vermont’s markets to ivory and rhino horns. H. 297 does exactly that, and I encourage you to support this important measure.

Sincerely,



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<sup>13</sup> <http://www.fws.gov/international/pdf/factsheet-ivory-crush-qa.pdf>

<sup>14</sup> [http://www.craigslist.com/article/20140116/PROFESSIONAL\\_SERVICES/140119890/citys-illegal-ivory-trade-threatens-elephants](http://www.craigslist.com/article/20140116/PROFESSIONAL_SERVICES/140119890/citys-illegal-ivory-trade-threatens-elephants)