

Testimony of the
Vermont Federation of Sportsman's Clubs
before
Senate Committee on Economic Development, Housing and General Affairs
regarding H.297

My name is Chris Bradley, I am the President of the Vermont Federation of Sportsman's clubs.

I begin by making it very clear that the VTFSC does not support poaching or the illegal taking of elephants or rhinoceros, nor do we support the illegal trafficking in elephant ivory or rhinoceros horn.

With that said, Ivory has been used for centuries in gun making, just as it has been used in furniture, jewelry, musical instruments and works of art. Ivory has been widely used in rifle and shotgun sights and sight inserts; it has been used for ornamental inlays in rifle and shotguns stocks; it has been used in knife handles, and has additionally used for such things as pistol grips.

As a Curio & Relic Federal Firearm License holder (FFL), I am a collector of unique firearms which is what this class of FFL deals with. While I cannot actively engage in the business of selling firearms, I am not prohibited from occasionally selling, but I fail to see how my selling a firearm, or any other object for that matter that is over 50 or even 100 years old and may contain ivory or rhinoceros horn has any effect on current poaching and illegal trafficking in ivory or rhinoceros horn.

This bill as written has a significant number of problems, despite its intent which can be seen as laudable. For example:

1. Funding and Manpower

From testimony given previously by HSUS on this topic, it seems that the Federal Government has not been as effective as could be hoped in stopping this illegal trafficking. From that documentation, It would seem that more resources are needed to more effectively stop this trafficking - which means that the resources and manpower of Vermont will be used. This however means budget dollars, but I am concerned that there does not seem to be consideration of how this mandate would be funded. As it pertains to the Department of Fish & Wildlife, do we assume that this burden will now fall on our game wardens, when they have a great deal on their plates already, without extra funding?

If I am correct and this responsibility will fall on the Department of Fish & Wildlife, will Appropriations be looking at this bill to see how the funding for Fish & Wildlife will be increased to accommodate this extra work and enforcement?

2. How Big a Problem in Vermont?

Again reflecting on the HSUS testimony, we understand that there is trafficking, but I am not currently aware that this specific problem has been documented to have been found in Vermont.

Has this issue been found in Vermont, and if so, is it pressing enough to us that we devote manpower and money to tackle it when we have huge challenges facing us already with our budget?

3. Does the selling of "old" ivory really induce a market for "new" ivory?

For centuries, ivory has been used in making all sorts of items. How does one tell, without destroying/defacing/devaluing any given historical item that *may* contain ivory, whether the ivory is from an elephant or rhinoceros or is instead from whale bone or walrus tusk? Without removing and weighing every piece, how would someone know whether or not they have more than 200 grams? What does 7.14 ounces of ivory even look like?

As written, the answers to these questions must be discovered by a hapless citizen who discovers that they may have ivory in their possession.

Will the state offer any service that would allow an honest citizen to ascertain the answer to these questions, or is this cost to be borne solely by the unfortunate citizen who discovers he has a chess set that appears to possibly be made of ivory?

4. Preponderance of Evidence

In the wording of (e) Exceptions (2), it appears that the burden of proof is not borne by the state to prove that a piece of ivory is not an exception, this burden falls on the accused to prove that they have an exception. This approach appears to be an exception to normal enforcement, where the burden of proof is on the state. In reviewing this further, will this aspect be reviewed by Senate Judiciary for their view on consistency with existing state law?

5. Individual Loss of Assets

Over the years, people collect things that interest them and often these items are obtained because they have value and that value will likely appreciate. When it is unclear that the sale of ivory that is over 100 years old has any measurable effect on creating a market for ivory that has been illegally obtained and trafficked, how and why is it fair to penalize any individual by removing from them their ability to convert their assets into cash when they may have been acquiring these assets for years with no hint that there might be a problem down the road?

If any individual ends up in this situation, it must be seen that any item that they may have that is comprised of ivory would be seriously devalued if that person had to remove the ivory in order to sell, or otherwise replace that ivory with something else. For example, there is really no telling how much ivory has been inlaid into a stock without actually removing it all and weighing it, thus destroying what is likely to be very valuable property.

In summary, the Federation supports the general intent of preventing the sale of ivory that results from poaching and illegal trafficking of elephant ivory and rhinoceros horn. Given that the sale of ivory, ivory products and even rhinoceros horn was legal, or at least not illegal for centuries, and given the fact that a citizen could legitimately believe that there was no need to keep detailed records of when they obtained an object that may be comprised of ivory, it seems likely that many innocent citizens will be caught in a situation where they cannot prove when a given object came into their possession, how much they paid for it, or even where it came from.

While we understand that there has been discussion about setting an "age" on what constitutes illegal/trafficked ivory, and let's say that is set at an arbitrary 100 years, we still have the issue of how a citizen proves how much ivory they may have in any one object, how old that ivory or object is, or where they may have obtained it. The Federation therefore must respectfully oppose this bill as written.