

1 TO THE HONORABLE SENATE:

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

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

9                   CHAPTER 175. IVORY AND RHINOCEROS HORN

10                  § 7701. SALE OF IVORY OR RHINOCEROS HORN

11                  (a) Definitions. As used in this chapter:

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

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

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

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

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

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

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

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

15          (c) Presumption of intent to sell. The possession in this State of any ivory,  
16       ivory product, rhinoceros horn, or rhinoceros horn product in a retail or  
17       wholesale outlet commonly used for the buying or selling of similar products  
18       shall constitute presumptive evidence of possession with intent to sell under  
19       this section. Nothing in this subsection shall preclude a finding of intent to sell  
20       based on any evidence that may serve independently to establish intent to sell.  
21       The act of obtaining an appraisal of ivory, an ivory product, rhinoceros horn,

1       or a rhinoceros horn product alone shall not constitute possession with intent  
2       to sell.

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

9       (e) Exceptions.

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

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

14       (B) The import of legally acquired ivory, ivory products, rhinoceros  
15       horn, or rhinoceros horn products:

16       (i) expressly authorized by federal law, license, or permit; or  
17       (ii) as part of a personal or household move into the State.

18       (C)(i) The sale of legally acquired ivory or ivory products provided  
19       the item is accompanied by a sworn statement certifying ownership, signed by  
20       the owner and notarized on or before July 1, 2017. The sworn statement shall

1       include a detailed description of the item, the approximate age of the item, and  
2       a picture.

3           (ii) Upon sale of the ivory or ivory product, the sworn statement  
4       shall be updated with the new owner's notarized signature and date of sale. An  
5       update to a sworn statement after July 1, 2017 shall not prohibit the sale of the  
6       item, as long as the new owner maintains the original sworn statement  
7       notarized prior to July 1, 2017.

8           (iii) The owner of ivory or ivory products shall not notarize his or  
9       her own ivory or ivory products under this subdivision.

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

14          (f) Enforcement; civil penalties.

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

17           (2) A person who violates this section shall be assessed a civil penalty  
18       under the authority of the Judicial Bureau as follows:

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

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

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

6               (g) Seizure. Upon a conviction for a violation of this section or the rules  
7               adopted under this section, a 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               (h) Rulemaking. The Secretary of Natural Resources may adopt rules to  
17               implement the requirements of this section.

18               (i) Educational information. The Secretary of Natural Resources shall  
19               maintain on its website information regarding the prohibition of the sale and  
20               purchase of ivory and rhinoceros horns in this State.

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

2 On or before January 15, 2022, the Secretary of Natural Resources, after  
3 consultation with the U.S. Fish and Wildlife Service, shall submit to the House  
4 Committee on Fish, Wildlife and Water Resources and the Senate Committee  
5 on Natural Resources and Energy a report regarding the implementation of  
6 10 V.S.A. § 7701, including a summary of:

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

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

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

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

15 Sec. 3. 4 V.S.A. § 1102(b) is amended to read:

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

17 \* \* \*

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

20 Sec. 4. EFFECTIVE DATE

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

1

2 (Committee vote: \_\_\_\_\_)

3 \_\_\_\_\_

4 Senator \_\_\_\_\_

5 FOR THE COMMITTEE