

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.

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2 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE