

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and 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. Except as authorized under subsections (c) and (f) of this  
11          section, 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.

14          (c) Exceptions.

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

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

19           (B) The import of legally acquired ivory, ivory products, rhinoceros  
20           horn, or rhinoceros horn products:

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

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

2                   (C) The sale of legally acquired ivory or ivory products provided that  
3 the item is accompanied by a sworn statement that complies with subsection  
4 (d) of this section.

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

9                   (d) Ivory certification.

10                  (1) In order to sell an ivory item or ivory product on or after July 1,  
11 2017, a person shall certify the ivory or ivory product with a sworn statement  
12 as required by this subsection.

13                  (2) A sworn statement under this subsection shall:

14                   (A) include a statement, under pains and penalties of perjury,  
15 certifying ownership of the item and attesting that the ivory or ivory product  
16 has been legally acquired and its sale will not violate any federal or State law.

17                   (B) include a detailed description of the item, the approximate age of  
18 the item, and a picture; and

19                   (C) be notarized by a Vermont notary public prior to July 1, 2017.

1           (3)(A) A sworn statement under this subsection shall not certify multiple  
2           pieces of ivory or ivory products, unless the pieces, taken together, are part of a  
3           larger product and are to be sold together.

4           (B) A person shall not notarize his or her own sworn statement under  
5           this subsection.

6           (C) Upon sale of the ivory or ivory product, the sworn statement shall  
7           be transferred with the item to the new owner. A subsequent owner is  
8           authorized to sell the ivory or ivory product, if they maintain the original  
9           sworn statement required by this subsection.

10          (e) Presumption of intent to sell. The possession in this State of any ivory,  
11          ivory product, rhinoceros horn, or rhinoceros horn product in a retail or  
12          wholesale outlet commonly used for the buying or selling of similar products  
13          shall constitute presumptive evidence of possession with intent to sell under  
14          this section. Nothing in this subsection shall preclude a finding of intent to sell  
15          based on any evidence that may serve independently to establish intent to sell.  
16          The act of obtaining an appraisal of ivory, an ivory product, rhinoceros horn,  
17          or a rhinoceros horn product alone shall not constitute possession with intent  
18          to sell.

19          (f) Authorized conveyance to beneficiaries. A person may convey ivory,  
20          an ivory product, rhinoceros horn, or a rhinoceros horn product to the legal  
21          beneficiary of the ivory, ivory product, rhinoceros horn, or rhinoceros horn

1 product that is part of an estate or other items being conveyed to lawful  
2 beneficiaries upon the death of the owner of the ivory, ivory product,  
3 rhinoceros horn, or rhinoceros horn product or in anticipation of that death.

4 (g) Enforcement; civil penalties.

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

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

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

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

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

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

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

21 (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, including the outcome of any items seized;

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

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

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

Sec. 4. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except that subsection (d) shall take effect on passage.

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

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Senator \_\_\_\_\_

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FOR THE COMMITTEE