

H. 297: An act relating to the sale of ivory or rhinoceros horn

Section by Section Summary

Sec. 1. Adds Chapter 175 (Ivory and Rhinoceros Horn) to Title 10 (Conservation and Development) — § 7701

(a) Definitions

- This subsection adds definitions that apply throughout the new chapter relating to ivory and rhinoceros horn, including a definition of ivory, ivory products, rhinoceros horn, rhinoceros horn product, and total value of the ivory, ivory product, rhinoceros horn, and rhinoceros horn product.

(b) Prohibition

- This subsection provides that, in addition to the prohibition and penalties provided by federal law, a person shall not import, sell, offer for sale, purchase, barter, possess with intent to sell, any ivory, ivory product, rhinoceros horn, or rhinoceros horn product.

(c) Presumption of Intent to Sell

- This subsection provides that the possession of these items in a retail or wholesale outlet commonly used for the buying or selling of similar products shall constitute presumptive evidence of possession with intent to sell.
- This is a presumption and may be rebutted.
- Additionally, the act of obtaining an appraisal of these products shall not constitute possession with intent to sell.
- Possession alone is not illegal under H.297.

(d) Authorized Conveyance

- This subsection allows a person to convey to a legal beneficiary ivory, ivory products, rhinoceros horn, or rhinoceros horn products upon the death of the owner or in anticipation of death.

(e) Exceptions

- This subsection provides that the prohibition in subsection (b) shall not apply to the following:
 - Employees or agents of the federal government or the State undertaking a lawful law enforcement activity.

- The import of legally acquired ivory, ivory products, rhinoceros horn, or rhinoceros horn products:
 - Expressly authorized by federal law; or
 - As part of a personal or household move into the State.
- The sale of ivory or ivory products expressly authorized by federal law, license or permit, provided that the total weight of the ivory or ivory components is less than 200 grams.
 - This would allow the sale of “qualifying antiques” and other items meeting the proposed federal “de minimis” exception, provided that the products contain less than 200 grams of ivory.
- The import and sale of ivory, ivory products, rhinoceros horn, rhinoceros horn products for a bona fide educational or scientific purpose or to a museum, unless the activity is prohibited by federal law.
- A person claiming an exception under this chapter would have the burden of proving the exception is applicable and was valid at the time of the alleged violation.

(f) Enforcement

- This subsection provides that the section may be enforced by a law enforcement officer.
- A violation is a misdemeanor with the following fines:
 - 1st Offense — \$1,000.00 or an amount equal to two times the total value of the item.
 - 2nd or Subsequent Offense — \$5,000.00 or an amount equal to two times the total value of the item.
- Penalties may be in addition to those imposed under federal law.

(g) Seizure

- This subsection provides that, upon conviction, a court shall order the seizure of all ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the violation.
- The seized items would be transferred to the Secretary of ANR for disposition who may destroy them or donate them to an educational or scientific institution or organization.

(h) Rulemaking

- This subsection provides the Secretary of Natural Resources with authority to adopt rules to implement this section.

(i) Educational Information

- This subsection requires the Secretary of Natural Resources to maintain on its website information regarding the prohibition of the sale and purchase of ivory and rhinoceros horns in this State.

Sec. 2. Report

- This section provides that the Secretary of Natural Resources shall consult with the U.S. Fish and Wildlife Service and submit a report to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy regarding the implementation of the ban on sale and purchase of ivory and rhinoceros horn. This report would be due on January 15, 2022.

Sec. 3. Effective Date

- The act shall take effect on January 1, 2018.