



HUMANE SOCIETY
INTERNATIONAL



THE HUMANE SOCIETY
OF THE UNITED STATES

February 26, 2020

Chair Amy Sheldon
House Committee on Natural Resources, Fish, and Wildlife
Vermont General Assembly
115 State Street
Montpelier, VT 05633-5301

Re: Support H.99, prohibits the trade in parts and products of imperiled species

Dear Chair Sheldon, Vice Chair Lefebvre, and Members of the Committee,

In September 2018 it was reported that nearly 90 elephants were found dead near the Okavango Delta wildlife sanctuary in Botswana.¹ This poaching incident is particularly shocking because, according to the Great Elephant Census, Botswana is home to the largest remaining elephant population in the world. This massacre underscores the deplorable state of the global crisis that is driving poachers to slaughter animals across the planet at a quickening rate. It's overwhelmingly clear that the world must do everything possible to protect elephants and other wild animals threatened by the illegal wildlife trade before they disappear forever.

The illegal wildlife trade is a multibillion-dollar global industry that affects millions of animals and communities around the world. Wild animals such as elephants and rhinos are killed in massive numbers and suffer from horrific cruelty. Poachers brutally kill elephants and harvest their tusks, sometimes while the animal is still alive. Animals are not the only casualty in the global poaching and trafficking epidemic. More than a thousand wildlife rangers have been killed during the last decade, disrupting families and weakening the social and economic foundations of vulnerable communities. Criminal syndicates profit from trafficking of imperiled species products and undermine the rule of law. Market demand for wildlife products drives the killing of iconic animals and provides an incentive for wildlife trafficking.

H.99 will stop the sale of parts and products of covered species, including cheetah, elephant, giraffe, hippopotamus, jaguar, leopard, lion, mammoth, mastodon, pangolin, ray, rhinoceros, sea turtle, shark, tiger, and whale, within Vermont and ensure that our residents do not contribute to the illegal wildlife trade. H.99 aligns with national and international conservation measures. Wildlife smugglers exploit insufficient enforcement controls so that they can launder illicit wildlife products into the marketplace. Sales of otherwise legal wildlife products stimulate demand for illegal products. Local measures are a critical tool to close the gaps that international and federal authorities do not have the capacity to address. By approving H.99, Vermont will join the states of California, Hawaii, Illinois, Minnesota, Nevada, New Hampshire, New Jersey, New York, Oregon, and Washington that have adopted laws to close their markets to products of imperiled species.

¹ <https://www.npr.org/2018/09/03/644340279/nearly-90-elephants-found-dead-near-botswana-sanctuary-killed-by-poachers>

The United States market for illegal wildlife products is significant

Quantifying the scale of the illegal wildlife trade is difficult because of its covert nature. However, estimates for the total value of the global illegal trade in wildlife products range from \$7 to \$10 billion annually – not including illegal logging and fishing.² Quantifying the specific U.S. demand is also challenging; however, it is estimated to be significant, and parallels legal demand for wildlife.³ The U.S. legal trade in wildlife products has grown from \$1 billion in 1999 to \$6.3 billion in 2016.⁴ One estimate places the U.S. illegal wildlife trade to be an additional one-third of that value, which would work out to be approximately \$2 billion annually.⁵ Significantly, the United States was the world’s second-largest market for elephant ivory, behind only China, when a 2008 study was conducted to survey the U.S. trade in ivory.⁶

Wildlife trafficking has a significant impact on biodiversity worldwide

The International Union for Conservation of Nature (IUCN) estimates that, overall, wildlife is being exploited at unsustainable levels and this exploitation causes population declines—even when that estimate is adjusted for the effects of habitat loss and climate change.⁷ Many species and species groups, including African elephants, rhinos, great apes, big cats, bears, and pangolins, are directly threatened because of the illegal wildlife trade. Additional effects from the illegal wildlife trade include a loss of ecosystem functions that are provided by the affected species, the spread of disease, the spread of invasive species, and incidental impacts on non-target species.

The savanna elephant population has declined by 144,000 – that’s 30% of the population – since 2007, primarily from poaching.⁸ More than 1,000 rhinos were poached in South Africa in 2017 out of 29,000 rhinos remaining worldwide.⁹ Other iconic animals aren’t faring any better. Populations of big cat species are decreasing across the globe. Fewer than 4,000 tigers remain in the wild. Tigers continue to face the threat of poaching and illegal trade in their parts such as skins or bones. Increasingly, other big cat species, such as jaguars, leopards, and lions are also at risk as their bones are now being sold as substitutes for or disguised as tiger bones. African lion populations have declined by 43% since 1993 and are still declining. All seven species of sea turtle are threatened with extinction. One

² Wyler, L. S., & Sheikh, P. A. (2013, July). International illegal trade in wildlife: threats and US policy. Library of Congress Washington DC Congressional Research Service. Available at <https://www.fas.org/sgp/crs/misc/RL34395.pdf>

³ Wyler, L. S., & Sheikh, P. A. (2008, August). International illegal trade in wildlife: threats and US policy. Library of Congress Washington DC Congressional Research Service. Available at <http://fpc.state.gov/documents/organization/110404.pdf>

⁴ <https://www.fws.gov/le/annual-reports.html>

⁵ Goyenechea, A. & Indenbaum, R. A. (2015). Combating Wildlife Trafficking From Latin America To The United States. Defenders of Wildlife. Available at <https://www.defenders.org/publication/combating-wildlife-trafficking-latin-america-united-states>

⁶ UNEP, CITES, IUCN, TRAFFIC (2013). Elephants in the Dust – The African Elephant Crisis. A Rapid Response Assessment. Available at <http://www.grida.no/publications/rr/elephants/>

⁷ UNEP (2016). Analysis of the environmental impacts of illegal trade in wildlife. Available at http://www.unep.org/about/sgb/Portals/50153/UNEA/FINAL_%20UNEA2_Inf%20doc%2028.pdf

⁸ <http://www.greatelephantcensus.com/final-report/>

⁹ <https://news.nationalgeographic.com/2018/01/wildlife-watch-rhino-poaching-crisis-continues-south-africa/>

fourth of shark and ray species are threatened with extinction. Giraffes have been undergoing what experts call a “silent extinction” as their numbers have plummeted 40% since 1990.¹⁰ In 2018, our investigators found giraffe parts and products for sale at more than 52 locations in the U.S.¹¹ Pangolins may be the most highly-trafficked mammal species group in the world. All eight species are threatened with extinction with one million animals killed for the illegal trade in the last decade.¹² In February 2019, nine tons of pangolin scales were seized in Hong Kong.¹³

This situation is at a crisis point. We must enact an all-of-the-above approach to ensure the survival of these animals in the wild, and that requires that government entities, even those far removed from the places where these animals live, do whatever they can to ensure that the poaching and wildlife trafficking epidemics come to an end.

Federal law and regulations primarily focus on interstate commerce; the wildlife trafficking and poaching crises require action to disrupt *intrastate* sales of wildlife products

Economic theory explains that allowing legal sales of endangered animal products, such as ivory, can exacerbate poaching problems, if illegal products are laundered into the legal market for these products.¹⁴ Thus, the legal market for these products provides a cover for illegal products to flourish because of the ease of mixing the two. Prohibiting the trade in these items here in Vermont will in fact help prevent poaching from occurring in countries far away. The market for these products is global and interconnected. Any demand for wildlife products, whether in Vermont or elsewhere, stimulates supply.

Federal laws and regulations primarily restrict the importation and interstate trade of products from endangered and threatened species, but generally do not regulate *intrastate* sales. For instance, regarding the “4(d)” rule to the Endangered Species Act concerning African elephants on strengthening federal ivory regulations, the U.S. Fish and Wildlife Service (“USFWS”) says that this rule “... does not reach sale or offer for sale or activities in the course of a commercial activity that occur solely within the boundaries of a State.”¹⁵ Further, “Businesses would not be prohibited by the 4(d) rule from selling raw or worked ivory within the State in which they are located.” The USFWS points to Vermont laws and regulations in its advisory to individuals to seek out local and state laws to ensure that any intrastate ivory commercial activity they are considering is legal.¹⁶

The patchwork of federal laws and regulations creates the potential for loopholes that are exploited by those involved in the international and domestic ivory trade. In addition, federal implementation and enforcement are limited due to insufficient resources. State and local measures are critical to complement federal laws and regulations. Former USFWS Director Dan Ashe has said on this topic, “The

¹⁰ <https://www.washingtonpost.com/news/morning-mix/wp/2016/12/08/silent-extinction-giraffes-listed-as-a-vulnerable-species-after-30-year-population-plunge/>

¹¹ <http://www.hsi.org/assets/pdfs/giraffe-report-HSI-HSUS-082318.pdf>

¹² <https://www.iucn.org/news/species/201606/iucn-director-general%E2%80%99s-statement-world-environment-day>

¹³ <https://www.nytimes.com/2019/02/01/world/asia/pangolin-smuggling-hong-kong.html>

¹⁴ Fischer, C., 2004. The complex interactions of markets for endangered species products. *Journal of Environmental Economics and Management*, 48, 926-953; Fischer, C., 2010. Does Trade Help or Hinder the Conservation of Natural Resources? *Review of Environmental Economics and Policy*, 4(1), 103-121.

¹⁵ <http://www.fws.gov/policy/library/2015/2015-18487.pdf>

¹⁶ <https://www.fws.gov/international/travel-and-trade/ivory-ban-questions-and-answers.html>

ivory poaching and trafficking crisis is a complex problem that requires action on multiple levels to ensure that commercial trade doesn't contribute to the slaughter of elephants in the wild. ... As we work to make it harder for criminals to launder illegal ivory into international and interstate commercial trade, it's encouraging to see states taking action within their own borders.¹⁷ A retired special agent with the USFWS noted that state regulations can help because, "Federal officers are often overwhelmed and can't get to some of the smaller cases. ... If state officers get to look into ivory and rhino horn, that's a big help to prohibit the trade."¹⁸

The USFWS has warned that:

"... [the U.S. is] a significant consumer and trader of illegal ivory ... Although there is legal domestic trade in antiques and other legally acquired ivory imported prior to the 1989 [African Elephant Conservation Act] ivory import moratorium, **we believe a substantial amount of elephant ivory continues to be illegally imported and enter the domestic market.** Ivory sold in the United States typically includes worked items such as carvings and components of larger finished products such as knife handles, billiard cues and furniture. Ivory is sold in retail shops as well as through online sellers. **It is extremely difficult to differentiate legally acquired ivory from ivory derived from elephant poaching.** Our criminal investigations and anti-smuggling efforts have clearly shown legal ivory trade can serve as a cover for illegal trade. As just one example, Service and state officers seized more than \$2million-worth of illegal elephant ivory from two New York City retail stores in 2012."¹⁹ (emphasis added).

Numerous high-profile and large-scale seizures during the last few years show that the U.S. market is fertile ground for smuggled ivory and rhino horns. Once these items are smuggled into the U.S., there are no effective control mechanisms in jurisdictions without sales prohibitions to stop their circulation in local markets:

- In March 2017, a well-known Beverly Hills, California auctioneer was indicted for smuggling 15 rhino horns, worth \$2.4 million, to China.²⁰
- In February 2016, a New York City antique dealer pled guilty to trafficking elephant ivory and other prohibited wildlife products.²¹
- In June 2014, a Philadelphia art dealer, who pled guilty for smuggling African elephant ivory for a decade, was sentenced to 30 months in prison.²² One ton of elephant ivory was seized from the dealer's store in April 2009. According to a National Geographic article, the dealer instructed his West African co-conspirator "... how to alter receipts and to dye the material to make it appear old."²³ His ivory was sold to buyers across the U.S.

¹⁷ <http://news.nationalgeographic.com/2015/04/150407-ivory-trade-vermont-usfws-victor-gordon-cities-nra/>

¹⁸ <http://news.nationalgeographic.com/2015/04/150407-ivory-trade-vermont-usfws-victor-gordon-cities-nra/>

¹⁹ Revision to the Endangered Species Act (ESA) Special Rule for the African Elephant, Questions and Answers. U.S. Fish and Wildlife Service. Available at <https://www.fws.gov/international/pdf/questions-and-answers-african-ivory-4d-final-rule.pdf>

²⁰ <https://www.justice.gov/usao-sdny/pr/beverly-hills-auctioneer-charged-rhinoceros-horn-smuggling-conspiracy>

²¹ <http://www.wgrz.com/news/crime/franklinville-man-pleads-guilty-to-trafficking-prohibited-wildlife/45487554>

²² <http://www.justice.gov/usao/nye/pr/June14/2014June4.php>

²³ <http://news.nationalgeographic.com/news/2014/06/140604-victor-gordon-ivory-trafficking-philadelphia-operation-scratchoff-usf-ws-forest-elephants-gabon/>

- In 2012, a ton of ivory trinkets, filling 72 banker boxes and representing the tusks of approximately 100 slaughtered elephants were seized in New York City. The seized goods were worth \$2 million.²⁴
- An ongoing federal investigation since 2012 has made 17 arrests and 9 convictions concerning wildlife crimes. One conviction involves a transnational criminal network that smuggled rhino horns and elephant ivory collectively worth more than \$4.5 million.²⁵

A 2017 report of the U.S ivory market found that recent federal regulatory changes and tightened state laws have been effective at decreasing the market for ivory.²⁶ However, metropolitan areas without local restrictions have emerged as the largest markets for ivory.

Various investigations conducted in Hawaii,²⁷ California,²⁸ Oregon,²⁹ Maryland,³⁰ Massachusetts³¹ and Washington, DC³² have found many items for sale made of elephant ivory that did not appear to be antique. (The investigations in Hawaii, California and Oregon took place before each state's law was enacted prohibiting the trade in elephant ivory and rhino horn. Massachusetts and Maryland do not have a state laws prohibiting the trade in elephant ivory and rhino horn.) Most of the stores or sellers that investigators visited did not have the documentation to prove the legality or origin of their items – making it impossible to know if the products were imported in violation of federal law. Other sellers seemed to deliberately confuse or mislead investigators.

State and local laws prohibiting the trade in elephant ivory, rhino horn, and the parts of other imperiled species are essential as a backstop against any potential rollbacks at the federal level. Several bills have been introduced in Congress that would roll back ivory trade provisions in the Endangered Species Act, such as the African Elephant Conservation and Legal Ivory Possession Act (H.R. 226, 115th Congress).

Vermont should take action now

As jurisdictions take action to combat the wildlife trafficking problem within their own borders, the markets for these products inevitably move to other areas with weaker laws and regulations. Vendors told investigators in 2016, "... elephant ivory items are being relocated from states with intrastate commercial restrictions to states lacking legislation, for purposes of sale."³³

²⁴ <http://www.manhattanda.com/press-release/da-vance-announces-guilty-pleas-dealers-selling-illegal-ivory>

²⁵ <http://www.fws.gov/home/feature/2014/3-31-14-Operation-Crash-Overview.pdf>

²⁶ Kramer, R., Sawyer, R., Amato, S. and LaFontaine, P. (2017) The US elephant ivory market: A new baseline. TRAFFIC, Washington, DC. Available at http://www.traffic.org/general-reports/TRAFFIC_US_Ivory_Report_2017.pdf.

²⁷ http://www.humanesociety.org/news/press_releases/2016/03/hawaii-ivory-undercover-investigation-030316.html

²⁸ https://www.nrdc.org/sites/default/files/wil_15010601a.pdf

²⁹ http://www.humanesociety.org/news/press_releases/2016/10/oregon-endangered-animal-products-101116.html

³⁰ http://www.humanesociety.org/news/press_releases/2017/02/investigation-finds-products-020817.html;

³¹ http://www.humanesociety.org/news/press_releases/2017/10/investigation-raises-concerns-100217.html

³² <https://blog.humanesociety.org/2019/07/hsus-hsi-undercover-investigation-reveals-thriving-market-for-ivory-in-washington-d-c.html>

³³ Kramer, R., Amato, S., Sawyer, R., Grein, G., Allan, C. and LaFontaine, P. 2016. A Rapid Assessment of U.S. Physical Ivory Markets. TRAFFIC US, Washington DC, USA.

Other states have already taken action on this issue. Both New Jersey and New York enacted ivory sales ban laws in 2014, with California following suit in 2015. In 2015, Washington voters passed a wildlife trafficking ballot measure with 71% of voters in support. In 2016, Hawaii enacted a comprehensive law prohibiting the sale of elephant ivory and other imperiled species products. In 2016, Oregon voters passed a wildlife trafficking ballot measure with 69% of voters in support. In 2017, Nevada enacted a ban on the sale of certain wildlife products, including ivory. In 2018, New Hampshire and Illinois passed laws clamping down on the sale of products from imperiled species, and Minnesota closed the door on the sale of ivory and rhino horn in 2019. States without laws restricting the trade in these items may soon find themselves as havens for these products.

Wildlife trafficking is a significant security threat

States are cracking down on the illegal wildlife trade out of a shared concern about the threat of extinction facing these imperiled animals, as well as the threat that wildlife trafficking poses to our national security. At \$7 to \$10 billion per year, the illegal wildlife trade ranks as perhaps the fourth most lucrative international criminal activity, behind only narcotics, counterfeiting, and human trafficking. Lured by huge financial profits, transnational organized syndicates and terrorist groups have turned to poaching and trafficking to fund their criminal atrocities. For example, in Sudan, ivory is bartered by the Uganda-based Lord's Resistance Army (LRA) for arms and ammunition with its patrons in the North Sudanese military.³⁴ According to a United Nations Environment Program report, armed militias in the Sub-Saharan range likely drew in annual income of \$4 to 12 million from ivory trafficking.³⁵ An investigation by the Elephant Action League (EAL) found that the Somalia-based al-Qaeda affiliate al-Shabaab trades up to three tons of ivory every month.³⁶ EAL estimated that profits from the ivory trade supported about 40 percent of al-Shabaab's operations.

President Obama, in a July 2013 Executive Order,³⁷ identified wildlife trafficking as a matter of national interest, stating, "The survival of protected wildlife species such as elephants [and other species] has beneficial economic, social, and environmental impacts that are important to all nations. Wildlife trafficking reduces those benefits while generating billions of dollars in illicit revenues each year, contributing to the illegal economy, fueling instability, and undermining security. ... For these reasons, it is in the national interest of the United States to combat wildlife trafficking." President Trump continued the commitment to this issue in an executive order stating that it shall be the policy of the executive branch to strengthen enforcement of laws against transnational crime and international trafficking, including wildlife trafficking.³⁸

³⁴ <https://www.treasury.gov/press-center/press-releases/Pages/sm0234.aspx>

³⁵ Nellemann, C., Henriksen, R., Raxter, P., Ash, N., Mrema, E. (Eds). 2014. The Environmental Crime Crisis – Threats to Sustainable Development from Illegal Exploitation and Trade in Wildlife and Forest Resources. A UNEP Rapid Response Assessment. United Nations Environment Programme and GRID-Arendal, Nairobi and Arendal, ISBN: 978-82-7701-132-5

³⁶ <http://www.independent.co.uk/voices/campaigns/elephant-campaign/elephant-campaign-how-africas-white-gold-funds-the-alshabaab-militants-9102862.html>

³⁷ Executive Order 13648

³⁸ Executive Order 13773, <https://www.whitehouse.gov/presidential-actions/presidential-executive-order-enforcing-federal-law-respect-transnational-criminal-organizations-preventing-international-trafficking/>

Individuals will still be able to possess, and under some exemptions, sell these items

H.99 proposes to prohibit the import, sale, offer for sale, purchase, barter, or possession with intent to sell of parts and products of covered imperiled species, with exemptions. Owners of legal items can continue to possess the items, convey them to beneficiaries, or transfer them, as long as no commercial transactions are involved. Exemptions apply for some items, such as qualifying antiques and musical instruments.

Thank you for your time and consideration of this important matter. We urge you to support H.99 to protect wild animals from cruel poaching, wildlife trafficking, and the threat of extinction.

Sincerely,

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