


Councilmember Mary M. Cheh

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6 A BILL
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10 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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15 To prohibit the import, sale, offer for sale, purchase, barter, or possession with intent to sell ivory
16 and rhinoceros horns in the District.
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18 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
19 act may be cited as the “Elephant Ivory and Rhinoceros Horn Trafficking Prohibition Act of
20 2015”.

21 Sec. 2. (a) Except as provided in subsection (c), no person shall import, sell, offer for
22 sale, purchase, barter, or possess with intent to sell, any ivory, ivory product, rhinoceros horn, or
23 rhinoceros horn product.

24 (b) It shall be prima facie evidence of possession with intent to sell ivory, an ivory
25 product, rhinoceros horn, or a rhinoceros horn product when ivory, an ivory product, rhinoceros
26 horn, or a rhinoceros horn product is possessed in a retail or wholesale outlet commonly used for
27 buying or selling of similar products; provided, that nothing in this subsection shall be construed
28 to preclude a finding of possession with intent to sell ivory, an ivory product, rhinoceros horn, or
29 a rhinoceros horn product based on any other evidence which may independently establish such
30 intent. The act of obtaining an appraisal of ivory, an ivory product, rhinoceros horn, or a
31 rhinoceros horn product alone shall not constitute possession with intent to sell.

32 (c) The prohibitions of subsection (a) shall not apply to:

33 (1) A person who conveys ivory, an ivory product, rhinoceros horn, or a
34 rhinoceros horn product that is part of an estate or other items being conveyed to lawful
35 beneficiaries upon the death of the owner, or in anticipation of the death of the owner, to a legal
36 beneficiary;

37 (2) The import, sale, offer for sale, purchase, barter, or possession with intent to
38 sell ivory, ivory product, rhinoceros horn, or rhinoceros horn product for educational or scientific
39 purposes by a bona fide educational or scientific institution.

40 (3) Employees or agents of the federal or state government undertaking law
41 enforcement activities pursuant to federal or state law or any duties required by federal or state
42 law.

43 (4) Imports expressly authorized by federal license or permit.

44 (5) Ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product that is
45 part of a bona fide antique and that is less than 20% by volume of the antique, if the antique
46 status is established by the owner or seller of the antique with historical documentation
47 establishing provenance and showing the antique to be not less than 100 years old.

48 (6) Ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product that is
49 part of a musical instrument and that is less than 20% by volume of the instrument, if the owner
50 or seller provides historical documentation establishing provenance and showing the instrument
51 was manufactured no later than 1975.

52 (d) A person found guilty of violating this section shall, upon conviction, be subject to
53 the following:

54 (1) For a first offense, a fine of not more than \$1,000, or an amount equal to 2
55 times the value of the ivory, ivory product, rhinoceros horn, or rhinoceros horn product
56 confiscated, whichever is greater, or imprisonment for not more than 18 months, or both.

57 (2) For a second offense, a fine of not more than \$5,000, or an amount equal to 2
58 times the total value of the ivory, ivory products, rhinoceros horn, or rhinoceros horn products
59 confiscated, whichever is greater; or imprisonment for not more than 3 years, or both.

60 (3) For a third or subsequent offense, or for any offense where the total value of
61 the ivory, ivory products, rhinoceros horn, and rhinoceros horn products confiscated equals or is
62 greater than \$25,000, a fine of not more than \$25,000 or imprisonment for not more than 5 years,
63 or both.

64 (4) The fines set forth in this subsection shall not be limited by section 101 of the
65 Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-
66 317; D.C. Official Code § 22-3571.01 *et seq.*).

67 (e) Upon a conviction for violating this section, the court shall order the seizure of all
68 ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the violation
69 and determine the penalty for the violation based on the assessed value of the seized products
70 according to subsection (f) of this section. The Department, at its discretion, may destroy the
71 ivory, ivory products, rhinoceros horn, and rhinoceros horn products or donate them to a bona
72 fide educational or scientific institution.

73 (f) For the purposes of this section, the term:

74 (1) “Bona fide antique” means an object not less than 100 years old.

75 (2) “Bona fide educational or scientific institution” means an institution that
76 establishes through documentation either of the following:

77 (A) The institution has either an educational or scientific tax exemption
78 from the federal Internal Revenue Service or the institution's national, state, or local tax
79 authority; or

80 (B) The institution is accredited as an educational or scientific institution
81 from a qualified national, regional, state, or local authority for the institution's location.

82 (3) "Ivory" means any tooth or tusk composed of ivory from any animal,
83 including an elephant, hippopotamus, mammoth, narwhal, walrus, or whale, or any piece thereof,
84 whether raw ivory or worked ivory.

85 (4) "Ivory product" means any item that contains, or that is wholly or partially
86 made from, ivory.

87 (5) "Raw ivory" means any ivory the surface of which, polished or unpolished, is
88 unaltered or minimally changed by carving.

89 (6) "Rhinoceros horn" means the horn, or any piece thereof, of any species of
90 rhinoceros.

91 (7) "Rhinoceros horn product" means any item that contains, or is wholly or
92 partially made from, any rhinoceros horn.

93 (8) "Total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn
94 products" means the fair market value of the ivory, ivory products, rhinoceros horn, and
95 rhinoceros horn products, or the actual price paid for the ivory, ivory products, rhinoceros horn,
96 and rhinoceros horn products, whichever is greater.

97 (9) "Worked ivory" means embellished, substantially carved, marked, or
98 otherwise altered ivory.

99 Sec. 3. Fiscal impact statement.

100 The Council adopts the fiscal impact statement in the committee report as the fiscal
101 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
102 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

103 Sec. 4. Effective date.

104 This act shall take effect 6 months after approval by the Mayor (or in the event of veto by
105 the Mayor, action by the Council to override the veto), a 30-day period of congressional review
106 as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
107 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
108 Columbia Register.