

By Senator Altman

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1 A bill to be entitled
2 An act relating to illegal ivory articles and
3 rhinoceros horns; creating s. 379.2376, F.S.; defining
4 terms; prohibiting the manufacture, sale, purchase,
5 and distribution of ivory articles and rhinoceros
6 horns; providing exceptions and penalties; directing
7 the Fish and Wildlife Conservation Commission to adopt
8 rules, post information on its website, and submit a
9 report to the Legislature; amending s. 379.4015, F.S.;
10 specifying applicability of penalty provisions
11 relating to the illegal manufacture, sale, purchase,
12 or distribution of ivory articles and rhinoceros
13 horns; providing a directive to the Division of Law
14 Revision and Information; providing an effective date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Section 379.2376, Florida Statutes, is created
19 to read:

20 379.2376 Illegal ivory articles and rhinoceros horns.-

21 (1) As used in this section, the term:

22 (a) "Distribute" means a transfer or change in possession
23 with an accompanying change in legal ownership.

24 (b) "Ivory article" means any item containing worked or raw
25 ivory from any species of elephant or mammoth.

26 (c) "Raw ivory" means any elephant or mammoth tusk, or any
27 piece thereof, the surface of which, polished or unpolished, is
28 unaltered or minimally carved.

29 (d) "Worked ivory" means any elephant or mammoth tusk, or

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30 any piece thereof, which is not raw ivory.

31 (2) Except as otherwise provided in this section, a person
32 may not knowingly and willingly manufacture, sell, purchase, or
33 distribute an ivory article or rhinoceros horn.

34 (3) Unless such activity is prohibited by federal law,
35 rule, or regulation, the commission may issue a license or
36 permit for the sale, purchase, or distribution of ivory articles
37 or rhinoceros horns if:

38 (a) The ivory article or rhinoceros horn is part of a bona
39 fide antique and is less than 20 percent by volume of the
40 antique, and the owner or seller provides historical
41 documentation that demonstrates provenance of the item and that
42 the item is at least 100 years old;

43 (b) The distribution of the ivory article or rhinoceros
44 horn is for bona fide educational or scientific purposes or for
45 display in a State University System museum or gallery;

46 (c) The distribution of the ivory article or rhinoceros
47 horn is to a legal beneficiary of a trust or to an heir or
48 distributee of an estate; or

49 (d) The ivory article or rhinoceros horn is part of a
50 musical instrument, including, but not limited to, a string or
51 wind instrument or piano, and the owner or seller provides
52 historical documentation that demonstrates provenance of the
53 item and that the item was manufactured no later than 1975.

54 (4) A violation of this section is punishable as provided
55 in s. 379.4015.

56 (5) (a) The commission shall adopt rules to implement this
57 section.

58 (b) Within 30 days after the effective date of this act,

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59 the commission shall post on its website information regarding
60 the prohibition on the manufacture, sale, purchase, and
61 distribution of ivory articles and rhinoceros horns.

62 (c) By January 1, 2020, the commission shall submit a
63 report to the Legislature outlining enforcement activities
64 pursuant to this section and recommendations for any necessary
65 changes.

66 Section 2. Paragraph (a) of subsection (1), paragraph (a)
67 of subsection (4), and paragraph (a) of subsection (6) of
68 section 379.4015, Florida Statutes, are amended to read:

69 379.4015 Nonnative and captive wildlife penalties.—

70 (1) LEVEL ONE.—Unless otherwise provided by law, the
71 following classifications and penalties apply:

72 (a) A person commits a Level One violation if he or she
73 violates any of the following provisions:

74 1. Rules or orders of the commission requiring free permits
75 or other authorizations to possess captive wildlife.

76 2. Rules or orders of the commission relating to the filing
77 of reports or other documents required of persons who are
78 licensed to possess captive wildlife.

79 3. Rules or orders of the commission requiring permits to
80 possess captive wildlife for which a fee is charged, when the
81 person being charged was issued the permit and the permit has
82 expired less than 1 year prior to the violation.

83 4. Rules or orders of the commission requiring a license or
84 permit to sell, purchase, or distribute ivory articles or
85 rhinoceros horns.

86 (4) LEVEL FOUR.—Unless otherwise provided by law, the
87 following classifications and penalties apply:

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88 (a) A person commits a Level Four violation if he or she
89 violates:

90 1. Any Level Three provision after the permanent revocation
91 of a license or permit.

92 2. Any rules or orders of the commission relating to the
93 manufacture, sale, purchase, or distribution of ivory articles
94 or rhinoceros horns where the value of the ivory articles or
95 rhinoceros horns exceeds \$25,000.

96 (6) CIVIL PENALTY.—

97 (a) In addition to other applicable penalties, the
98 commission may impose against any person, party, firm,
99 association, or corporation convicted of a criminal violation of
100 any provision of s. 379.231, s. 379.2376, s. 379.372, s.
101 379.3761, or s. 379.3762 a civil penalty of not more than \$5,000
102 for each animal, ivory article, or rhinoceros horn, unless
103 otherwise authorized pursuant to subparagraphs 1.-6. ~~1.-5.~~ For
104 all related violations attributable to a specific violator, the
105 total civil penalty may not exceed \$10,000 for each assessment
106 for each animal, ivory article, or rhinoceros horn.

107 1. The history of noncompliance of the violator for any
108 previous violation of this chapter or rules or orders of the
109 commission shall be considered in determining the amount of the
110 civil penalty.

111 2. The direct economic benefit gained by the violator from
112 the violation may be added to the scheduled civil penalty.

113 3. The costs incurred by the commission related to the
114 escape, recovery, and care of the wildlife for which the
115 violation was issued shall be added to the civil penalty.

116 4. The civil penalty assessed for a violation may not

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117 exceed \$5,000 for each animal unless:

118 a. The violator has a history of noncompliance;

119 b. The economic benefit of the violation exceeds \$5,000; or

120 c. The costs incurred by the commission related to the
121 escape, recovery, and care of the wildlife for which the
122 violation was issued exceeds \$5,000.

123 5. If the violation was an act prohibited by s. 379.2376,
124 the civil penalty may not exceed \$3,000 or two times the value
125 of the article involved, whichever is greater. If the violation
126 is a second or subsequent violation of s. 379.2376, the civil
127 penalty may not exceed \$6,000 or three times the value of the
128 article involved, whichever is greater.

129 ~~6.5.~~ The civil penalty assessed pursuant to this subsection
130 may be reduced by the commission for mitigating circumstances,
131 including good faith efforts to comply before or after discovery
132 of the violations by the commission.

133 Section 3. The Division of Law Revision and Information is
134 directed to replace the phrase "the effective date of this act"
135 wherever it occurs in this act with the date the act becomes a
136 law.

137 Section 4. This act shall take effect upon becoming a law.