

BILL NUMBER:S7955

TITLE OF BILL: An act to amend the environmental conservation law, in relation to musical instruments containing ivory or rhinoceros horn; and to amend chapter 326 of the laws of 2014 amending the environmental conservation law relating to prohibiting the purchase and sale of ivory articles and rhinoceros horns and increasing the penalties for the illegal sale of such articles, in relation to amending the effective date thereof and permitting the sale of mammoth items through June 30, 2015

Purpose:

This bill would allow certain purchases and sales of mammoth ivory articles.

Summary of Provisions:

Section 1 of the bill would amend Environmental Conservation Law (ECL) § 11-0535-a(3)(d) to revise the musical instrument exception to the prohibition on the trade of ivory articles to provide that 1) the ivory or rhinoceros horn must be less than 20 percent by volume of the instrument, and 2) an instrument that contains only mammoth ivory may be traded if the owner or seller documents that it was manufactured prior to June 30, 2014.

Section 2 of the bill would amend § 7 of Chapter 326 of the Laws of 2014 to provide that any person who possessed mammoth ivory articles on the effective date of Chapter 326 may sell, offer for sale, trade, barter, or distribute such articles through June 30, 2015, if it is documented that the articles are mammoth and were obtained prior to the effective date of Chapter 326.

Section 3 of the bill sets forth the effective date.

Existing law:

ECL § 11-0535-a, enacted by Chapter 326, became effective August 12, 2014. It prohibits the sale, offer for sale, purchase, trade, barter, or distribution of ivory articles and rhinoceros horns, except that in very limited situations DEC may issue a license under the provisions of ECL § 11-0535-a(3)(a)-(d). Pursuant to ECL § 11-0535-a(3)(d), if an ivory article or rhinoceros horn is part of a musical instrument, the item may be sold or purchased with a DEC license if the owner or seller can document that the instrument was manufactured no later than 1975. An "ivory article" is any item containing worked or raw ivory from any species of elephant or mammoth.

Statement in Support:

Chapter 326 enacted ECL § 11-0535-a to prohibit the trade in most articles made of or containing elephant ivory, mammoth ivory, and rhinoceros horn, and increased civil and criminal penalties for violations related to the illegal commercialization of such materials to help deter the illegal trade of ivory and rhinoceros horns in New York. It is extremely difficult to differentiate legally acquired ivory from ivory derived from elephant poaching. The U.S. Fish and

Wildlife Service (USFWS) has stated that its criminal investigations and anti-smuggling efforts clearly show that legal ivory trade can serve as a cover for illegal trade and that significantly restricting ivory trade in the United States makes laundering illegal ivory into the market more difficult. These facts compel New York to allow few exceptions to the prohibitions in ECL § 11-0535-a, and only with a DEC license.

Mammoth ivory is included within the definition of ivory article in ECL § 11-0535-a because it is difficult to distinguish from elephant ivory. Although there are methods for identifying mammoth, identification is not possible with the naked eye; a carved ivory object must be examined by a trained scientist to obtain a positive identification. As such, continuing to allow trade in mammoth as a substitute for elephant ivory would work against efforts to stop the illegal trade of ivory articles in the State. While it is essential to prohibit the trade of mammoth ivory to deter the illegal ivory trade within New York, it is important that persons who owned and traded in mammoth ivory prior to enactment of ECL § 11-0535-a be treated equitably.

ECL § 11-0535-a(3)(d) currently provides that a musical instrument must have been manufactured prior to 1975 to qualify for the exception to the trade prohibition; this is to ensure that if the item contains elephant ivory, the ivory was legally acquired. This bill would revise this requirement to provide that an instrument containing only mammoth ivory would qualify for the exception if the owner or seller could document that it was manufactured prior to June 30, 2014. In addition, Chapter 326 provides that any person who had a license allowing the sale of elephant ivory articles or rhinoceros horn prior to the effective date of the chapter may sell the articles listed on the license until the license expires. Mammoth ivory was not previously regulated and licenses were not required to trade in mammoth ivory. This bill would provide that any person who obtained mammoth ivory prior to the effective date of Chapter 326 could continue to sell that ivory until June 30, 2015, thereby providing persons an opportunity to sell mammoth items that were lawfully obtained.

Budget implications:

None.

Effective Date:

The bill would take effect immediately, and be deemed to have been in full force and effect on the same date and in the same manner as Chapter 326 of the Laws of 2014 took effect.

Text

STATE OF NEW YORK

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7955

IN SENATE

October 29, 2014

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Introduced by Sens. LANZA, AVELLA, GOLDEN -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the environmental conservation law, in relation to musical instruments containing ivory or rhinoceros horn; and to amend chapter 326 of the laws of 2014 amending the environmental conservation law relating to prohibiting the purchase and sale of ivory articles and rhinoceros horns and increasing the penalties for the illegal sale of such articles, in relation to amending the effective date thereof and permitting the sale of mammoth items through June 30, 2015

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph d of subdivision 3 of section 11-0535-a of the

environmental conservation law, as added by chapter 326 of the laws of 2014, is amended to read as follows:

d. the ivory article or rhinoceros horn is [part] LESS THAN TWENTY PERCENT BY VOLUME of a musical instrument, including, without limitation, string and wind instruments and pianos, and the owner or seller provides historical documentation as the department may require, demonstrating provenance and showing the item was manufactured no later than nineteen hundred seventy-five IF THE INSTRUMENT CONTAINS ELEPHANT IVORY, OR JUNE THIRTIETH, TWO THOUSAND FOURTEEN IF THE INSTRUMENT CONTAINS ONLY MAMMOTH IVORY.

S 2. Section 7 of chapter 326 of the laws of 2014 amending the environmental conservation law relating to prohibiting the purchase and sale of ivory articles and rhinoceros horns and increasing penalties for the illegal sale of such articles, is amended to read as follows:

S 7. This act shall take effect immediately; provided, however, any person who has been issued a license or permit allowing the sale of elephant ivory articles or rhinoceros horns prior to the effective date of this act may sell such articles listed on such license or permit until such license or permit has expired; AND PROVIDED FURTHER, THAT ANY PERSON WHO POSSESSES MAMMOTH IVORY ARTICLES ON THE DATE THIS ACT TAKES EFFECT MAY SELL, OFFER FOR SALE, TRADE, BARTER, OR DISTRIBUTE SUCH ARTICLES THROUGH JUNE 30, 2015, IF THE ARTICLES ARE ACCOMPANIED BY DOCUMENTATION SUFFICIENT TO SHOW THAT SUCH ARTICLES ARE MAMMOTH IVORY OBTAINED PRIOR TO THE EFFECTIVE DATE OF THIS ACT.

S 3. This act shall take effect immediately, and shall be deemed to have been in full force and effect on the same date and in the same manner as chapter 326 of the laws of 2014, took effect.