

2015 -- H 5660

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO CRIMINAL OFFENSES - SALE OF IVORY OR RHINOCEROS HORNS

Introduced By: Representatives Handy, Palangio, Serpa, and Fogarty

Date Introduced: February 26, 2015

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 12 of the General Laws entitled "CRIMINAL PROCEDURE" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 69

4 SALE OF IVORY OR RHINOCEROS HORNS

5 **12-69-1. Legislative findings.** – The general assembly finds and declares as follows:

6 (1) Ivory trafficking is at the highest rate ever recorded, with an estimated confiscation of
7 more than forty-one (41) tons of illegal ivory worldwide in 2013;

8 (2) Despite laws to protect elephants, more than thirty-five thousand (35,000) African
9 elephants were slaughtered in 2012 and scientists expect the current levels of illegal trade in ivory
10 will bring elephants to extinction within twenty (20) years;

11 (3) Other species with ivory teeth and tusks, such as hippopotamuses, narwhals, walruses,
12 and whales, are equally threatened and the protection of one species may inadvertently draw
13 poachers' efforts to another species;

14 (4) Precious artifacts from prehistoric mammoths are also not safe and need protection
15 from illegal ivory traffickers; that currently the population of all species of rhinoceros living in
16 the wild worldwide has dwindled to 29,000 and, in February 2014, a federal ban on commercial
17 trade of rhinoceros horn and elephant ivory has focused the need to protect rhinoceros
18 populations from poachers as well, and that the most effective way to discourage the illegal
19 trafficking is to eliminate markets and profits for the traffickers.

1 (5) The general assembly therefore determines that it is an important public purpose to
2 protect all species of rhinoceros and all species of animals with ivory teeth and tusks by
3 prohibiting the import, sale, purchase, barter, or possession with intent to sell, of any ivory, ivory
4 product, rhinoceros horn, or rhinoceros horn product.

5 **12-69-1-2. Definitions. – As used in this chapter:**

6 (1) "Ivory" means any tooth or tusk composed of ivory from any animal, including, but
7 not limited to, an elephant, hippopotamus, mammoth, narwhal, walrus, or whale, or any piece
8 thereof, whether raw ivory or worked ivory, or made into, or part of, an ivory product.

9 (2) "Ivory product" means any item that contains, or that is wholly or partially made
10 from, any ivory.

11 (3) "Raw ivory" means any ivory the surface of which, polished or unpolished, is
12 unaltered or minimally changed by carving.

13 (4) "Rhinoceros horn" means the horn, or any piece thereof, of any species of rhinoceros.

14 (5) "Rhinoceros horn product" means any item that contains, or is wholly or partially
15 made from any rhinoceros horn.

16 (6) "Total value of the ivory, ivory product, rhinoceros horn, and rhinoceros horn
17 products" means the fair market value of the ivory, ivory products, rhinoceros horn, and
18 rhinoceros horn products, or the actual price paid for the ivory, ivory products, rhinoceros horn,
19 and rhinoceros horn products, whichever is greater.

20 (7) "Worked ivory" means ivory that has been embellished, carved, marked, or otherwise
21 altered so that it can no longer be considered raw ivory.

22 **12-69-3. Unlawful possession or sale of ivory or rhinoceros horns. – (a) In addition to**
23 **the prohibitions established pursuant to, and the penalties imposed for violations of, chapter 37 of**
24 **title 20 and any other applicable law, it shall be unlawful for any person to import, sell, offer for**
25 **sale, purchase, barter, or possess with intent to sell, any ivory, ivory product, rhinoceros horn, or**
26 **rhinoceros horn product except as provided pursuant to this section.**

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

34 (c) A person may convey ivory, an ivory product, rhinoceros horn, or a rhinoceros horn

1 product to the legal beneficiary of the ivory, ivory product, rhinoceros horn, or rhinoceros horn
2 product which is part of an estate or other items being conveyed to lawful beneficiaries upon the
3 death of the owner of the ivory, ivory product, rhinoceros horn, or rhinoceros horn product or in
4 anticipation of that death.

5 (d) None of the prohibitions set forth in this section shall apply to employees or agents of
6 the federal or state government undertaking any law enforcement activities pursuant to federal or
7 state law or any mandatory duties required by federal or state law.

8 (e) The prohibition on import set forth in subsection (a) of this section shall not apply
9 where the import is expressly authorized by federal license or permit.

10 (f) The department of environmental management may permit, under terms and
11 conditions as the department may prescribe, the import, sale, offer for sale, purchase, barter, or
12 possession with intent to sell, any ivory, ivory product, rhinoceros horn, or rhinoceros horn
13 product for bona fide educational or scientific purposes, unless this activity is prohibited by
14 federal law.

15 **12-69-4. Penalty for violation. -- (a) Upon conviction of a violation of this chapter:**

16 (1) For a first offense, a person shall be guilty of a misdemeanor and shall be fined not
17 more than one thousand dollars (\$1,000) or an amount equal to two (2) times the total value of the
18 ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the offense,
19 whichever is greater; and

20 (2) For a second or subsequent offense, a person shall be guilty of a felony and shall be
21 fined not less than five thousand dollars (\$5,000) or an amount equal to two (2) times the total
22 value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the
23 offense, whichever is greater.

24 (b) Upon a conviction for violating the provisions of this chapter, the court shall order the
25 seizure of all ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the
26 violation and determine the penalty for the violation based on the assessed value of the seized
27 products pursuant to subsection (a) of this section. After sentencing the defendant, the court shall
28 order that the seized ivory, ivory products, rhinoceros horn, rhinoceros horn products be
29 transferred to the department of environmental management for proper disposition. The
30 department, at its discretion, may destroy the ivory, ivory products, rhinoceros horn, and
31 rhinoceros horn products or donate them to an educational or scientific institution or organization,
32 including, but not necessarily limited to, a museum, university, or research group.

33 **12-69-5. Rules and regulations. -- The department of environmental management may**
34 **adopt, pursuant to chapter 35 of title 42 (administrative procedure act), such rules and regulations**

1 [necessary for the implementation and administration of this chapter.](#)

2 SECTION 2. This act shall take effect on January 1, 2016.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CRIMINAL OFFENSES - SALE OF IVORY OR RHINOCEROS HORNS

1 This act would prohibit any person from importing, selling, offering for sale, purchasing,
2 bartering, or possessing with intent to sell, any ivory, ivory product, rhinoceros horn, or
3 rhinoceros horn product, with limited exceptions.

4 This act would take effect on January 1, 2016.

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