

1 H.297

2 Introduced by Representatives Wright of Burlington, Lenes of Shelburne,  
3 Bartholomew of Hartland, Batchelor of Derby, Beck of  
4 St. Johnsbury, Browning of Arlington, Fields of Bennington,  
5 Long of Newfane, Macaig of Williston, Manwaring of  
6 Wilmington, Myers of Essex, Shaw of Pittsford, and Toleno of  
7 Brattleboro

8 Referred to Committee on

9 Date:

10 Subject: Fish and wildlife; endangered species; ivory; rhinoceros horn

11 Statement of purpose of bill as introduced: This bill proposes to prohibit the  
12 import, sale, offer for sale, purchase, barter, or possession with intent to sell of  
13 any ivory, ivory product, rhinoceros horn, or rhinoceros horn product.

14 An act relating to the sale of ivory or rhinoceros horn

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. 10 V.S.A. § 5411 is added to read:

17 § 5411. SALE OF IVORY OR RHINOCEROS HORN

18 (a) Definitions. As used in this act:

19 (1) "Ivory" means any tooth or tusk composed of ivory from any animal,  
20 including an elephant, hippopotamus, mammoth, narwhal, walrus, or whale, or

1 any piece thereof, whether raw ivory or worked ivory, or made into, or part of,  
2 an ivory product.

3 (2) “Ivory product” means any item that contains, or that is wholly or  
4 partially made from, any ivory.

5 (3) “Raw ivory” means any ivory the surface of which, polished or  
6 unpolished, is unaltered or minimally changed by carving.

7 (4) “Rhinoceros horn” means the horn, or any piece thereof, of any  
8 species of rhinoceros.

9 (5) “Rhinoceros horn product” means any item that contains, or is  
10 wholly or partially made from, any rhinoceros horn.

11 (6) “Total value of the ivory, ivory products, rhinoceros horn, and  
12 rhinoceros horn products” means the fair market value of the ivory, ivory  
13 products, rhinoceros horn, and rhinoceros horn products, or the actual price  
14 paid for the ivory, ivory products, rhinoceros horn, and rhinoceros products,  
15 whichever is greater.

16 (7) “Worked ivory” means ivory that has been embellished, carved,  
17 marked, or otherwise altered so that it can no longer be considered raw ivory.

18 (b) Prohibition. In addition to the prohibitions and penalties established by  
19 federal law or any other applicable law, a person shall not import, sell, offer for  
20 sale, purchase, barter, or possess with intent to sell, any ivory, ivory product,

1 rhinoceros horn, or rhinoceros horn product, except as authorized under  
2 subsections (d) and (e) of this section.

3 (c) Presumption of intent to sell. The possession of any ivory, ivory  
4 product, rhinoceros horn, or rhinoceros horn product in a retail or wholesale  
5 outlet commonly used for the buying or selling of similar products shall  
6 constitute presumptive evidence of possession with intent to sell under this  
7 section. Nothing in this subsection shall preclude a finding of intent to sell  
8 based on any evidence that may serve independently to establish intent to sell.  
9 The act of obtaining an appraisal of ivory, an ivory product, rhinoceros horn,  
10 or a rhinoceros horn product alone shall not constitute possession with intent  
11 to sell.

12 (d) Authorized conveyance to beneficiaries. A person may convey ivory,  
13 an ivory product, rhinoceros horn, or a rhinoceros horn product to the legal  
14 beneficiary of the ivory, ivory product, rhinoceros horn, or rhinoceros horn  
15 product that is part of an estate or other items being conveyed to lawful  
16 beneficiaries upon the death of the owner of the ivory, ivory product,  
17 rhinoceros horn, or rhinoceros horn product or in anticipation of that death.

18 (e) Exceptions. The prohibitions of this section shall not apply:

19 (1) to employees or agents of the federal government or the State  
20 undertaking any law enforcement activities pursuant to federal or State law  
21 or any mandatory duties required by federal or State law; or

1           (2) where the import is expressly authorized by federal law, license,  
2           or permit.

3           (f) Permit for education or scientific purposes. The Secretary of Natural  
4           Resources may issue a permit for the import, sale, offer for sale, purchase,  
5           barter, or possession with intent to sell of any ivory, ivory product, rhinoceros  
6           horn, or rhinoceros horn product for bona fide educational or scientific  
7           purposes, unless the proposed activity is prohibited by federal law. A permit  
8           issued under this subsection may contain any terms or conditions required by  
9           the Secretary.

10          (g) Penalties. In addition to any penalty that may be imposed under federal  
11          law or any other applicable law, a violation of the requirements of this section  
12          or any rule adopted under this section is punishable as follows:

13               (1) for a first offense, the violation is punishable by a fine of not less  
14               than \$1,000.00 or an amount equal to two times the total value of the ivory,  
15               ivory products, rhinoceros horn, and rhinoceros horn products involved in the  
16               offense, whichever is greater; and

17               (2) for a second or subsequent offense, the violation is punishable by a  
18               fine of not less than \$5,000.00 or an amount equal to two times the total value  
19               of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products  
20               involved in the offense, whichever is greater.

1       (h) Seizure. Upon a conviction for a violation of this section or the rules  
2       adopted under this section, a court shall order the seizure of all ivory, ivory  
3       products, rhinoceros horn, and rhinoceros horn products involved in the  
4       violation and determine the penalty for the violation based on the assessed  
5       value of the seized products. After sentencing the defendant, the court shall  
6       order that the seized ivory, ivory products, rhinoceros horn, and rhinoceros  
7       horn products be transferred to the Secretary of Natural Resources for proper  
8       disposition. The Secretary, in his or her discretion, may destroy the ivory,  
9       ivory products, rhinoceros horn, and rhinoceros horn products or donate them  
10       to an educational or scientific institution or organization.

11       (i) Rulemaking. The Secretary of Natural Resources may adopt rules to  
12       implement the requirements of this section.

13       Sec. 2. EFFECTIVE DATE

14       This act shall take effect on January 1, 2016.