

  
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.