



Councilmember Elissa Silverman



Councilmember Mary M. Cheh



Councilmember Brianne K. Nadeau



Councilmember Anita Bonds

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To prohibit the import, sale, offer for sale, purchase, barter, or possession with intent to sell ivory products and rhinoceros horn products.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Elephant Ivory and Rhinoceros Horn Trafficking Prohibition Act of 2019".

Sec. 2. (a) Except as provided in subsection (c) of this section, no person shall import, sell, offer for sale, purchase, barter, or possess with intent to sell, any ivory, ivory product, rhinoceros horn, or rhinoceros horn product.

(b) It shall be prima facie evidence of possession with intent to sell ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product when ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product is possessed in a retail or wholesale outlet commonly used for buying or selling of similar products; provided, that nothing in this subsection shall be construed to preclude a finding of possession with intent to sell ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product based on any other evidence which may independently establish such

36 intent. The act of obtaining an appraisal of ivory, an ivory product, rhinoceros horn, or a
37 rhinoceros horn product alone shall not constitute possession with intent to sell.

38 (c) The prohibitions of subsection (a) of this section shall not apply to:

39 (1) A person who conveys ivory, an ivory product, rhinoceros horn, or a
40 rhinoceros horn product that is part of an estate or other items being conveyed to lawful
41 beneficiaries upon the death of the owner, or in anticipation of the death of the owner, to a legal
42 beneficiary;

43 (2) The import, sale, offer for sale, purchase, barter, or possession with intent to
44 sell ivory, ivory product, rhinoceros horn, or rhinoceros horn product for educational or scientific
45 purposes by a bona fide educational or scientific institution;

46 (3) Employees or agents of the federal or state government undertaking law
47 enforcement activities pursuant to federal or state law or any duties required by federal or state
48 law;

49 (4) Imports expressly authorized by federal law;

50 (5) Ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product that is
51 part of a bona fide antique and that is less than 20% by volume of the antique, if the antique
52 status is established by the owner or seller of the antique with historical documentation
53 establishing provenance and showing the antique to be not less than 100 years old; and

54 (6) Ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product that is
55 part of a musical instrument and that is less than 20% by volume of the instrument, if the owner
56 or seller provides historical documentation establishing provenance and showing the instrument
57 was manufactured no later than 1975.

58 (d)(1) A person found guilty of violating this section shall, upon conviction, be subject to
59 the following:

60 (A) For a first offense, a fine of not more than \$1,000, or an amount equal
61 to 2 times the value of the ivory, ivory product, rhinoceros horn, or rhinoceros horn product
62 confiscated, whichever is greater, or imprisonment for not more than 18 months, or both;

63 (B) For a second offense, a fine of not more than \$5,000, or an amount
64 equal to 2 times the total value of the ivory, ivory products, rhinoceros horn, or rhinoceros horn
65 products confiscated, whichever is greater; or imprisonment for not more than 3 years, or both;
66 and

67 (C) For a third or subsequent offense, or for any offense where the total
68 value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products confiscated
69 equals or is greater than \$25,000, a fine of not more than \$25,000 or imprisonment for not more
70 than 5 years, or both.

71 (2) The fines set forth in paragraph (1) of this subsection shall not be limited by
72 section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11,
73 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01 *et seq.*).

74 (e) Upon a conviction for violating this section, the court shall order the seizure of all
75 ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the violation
76 and determine the penalty for the violation based on the assessed value of the seized products
77 according to subsection (f) of this section. The Mayor may destroy the ivory, ivory products,
78 rhinoceros horn, and rhinoceros horn products or donate them to a bona fide educational or
79 scientific institution.

80 (f) For the purposes of this section, the term:

81 (1) “Bona fide antique” means an object not less than 100 years old.

82 (2) “Bona fide educational or scientific institution” means an institution that
83 establishes through documentation either of the following:

84 (A) The institution has either an educational or scientific tax exemption
85 from the federal Internal Revenue Service or the institution’s national, state, or local tax
86 authority; or

87 (B) The institution is accredited as an educational or scientific institution
88 from a qualified national, regional, state, or local authority for the institution’s location.

89 (3) “Ivory” means any tooth or tusk composed of ivory from any species of
90 elephant, mammoth, hippopotamus, narwhal, or whale, or any piece thereof, whether raw ivory
91 or worked ivory.

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

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

96 (6) “Rhinoceros horn” means the horn, or any piece thereof, of any species of
97 rhinoceros.

98 (7) “Rhinoceros horn product” means any item that contains, or is wholly or
99 partially made from, any rhinoceros horn.

100 (8) “Total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn
101 products” means the fair market value of the ivory, ivory products, rhinoceros horn, and
102 rhinoceros horn products, or the actual price paid for the ivory, ivory products, rhinoceros horn,
103 and rhinoceros horn products, whichever is greater.

104 (9) “Worked ivory” means embellished, substantially carved, marked, or
105 otherwise altered ivory.

106 Sec. 3. Fiscal impact statement.

107 The Council adopts the fiscal impact statement in the committee report as the fiscal
108 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
109 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

110 Sec. 4. Effective date.

111 This act shall take effect following approval by the Mayor (or in the event of veto by the
112 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
113 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
114 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
115 Columbia Register.