

SECOND REGULAR SESSION

HOUSE BILL NO. 2747

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KIRKTON.

6337H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 578, RSMo, by adding thereto one new section relating to the prohibition of the sale of ivory, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 578, RSMo, is amended by adding thereto one new section, to be known as section 578.700, to read as follows:

578.700. 1. This section shall be known and may be cited as the "Ivory Ban Act".

2. As used in this section, the following terms shall mean:

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

(2) "Ivory product", any item that contains, or that is wholly or partially made from, any ivory;

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

(4) "Rhinoceros horn", the horn, or any piece thereof, of any species of rhinoceros;

(5) "Rhinoceros horn product", any item that contains, or is wholly or partially made from, any rhinoceros horn;

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

3. (1) In addition to the prohibitions under any other law, it shall be unlawful for any person to import, sell, offer for sale, purchase, barter, or possess with intent to sell any

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

18 ivory, ivory product, rhinoceros horn, or rhinoceros horn product, except as provided by
19 this section.

20 (2) It shall be presumptive evidence of possession with intent to sell when any ivory,
21 ivory product, rhinoceros horn, or rhinoceros horn product is possessed in a retail or
22 wholesale outlet commonly used for the buying or selling of similar products; provided
23 however, that nothing in this subdivision shall preclude a finding of intent to sell based on
24 any other evidence which may serve to independently establish such intent. The act of
25 obtaining an appraisal of ivory, an ivory product, a rhinoceros horn, or a rhinoceros horn
26 product alone shall not constitute possession with intent to sell.

27 (3) A person may convey ivory, an ivory product, a rhinoceros horn, or a
28 rhinoceros horn product to the legal beneficiary of the ivory, ivory product, rhinoceros
29 horn, or rhinoceros horn product which is part of an estate or other items being conveyed
30 to lawful beneficiaries upon the death of the owner of the ivory, ivory product, rhinoceros
31 horn, or rhinoceros horn product or in anticipation of that death.

32 (4) None of the prohibitions set forth in this section shall apply to employees or
33 agents of the federal or state government undertaking any law enforcement activities under
34 federal or state law or any mandatory duties required by federal or state law.

35 (5) The prohibition on importing ivory, ivory products, rhinoceros horns, or
36 rhinoceros horn products set forth in subdivision (1) of this subsection shall not apply
37 where the import is expressly authorized by federal license or permit.

38 (6) The department of natural resources may permit, under terms and conditions
39 as the department may adopt by rule, the import, sale, offer for sale, purchase, barter, or
40 possession with intent to sell of any ivory, ivory product, rhinoceros horn, or rhinoceros
41 horn product for bona fide educational or scientific purposes, unless this activity is
42 prohibited by federal law.

43 4. (1) In addition to any applicable penalties which may be imposed under any
44 other law, a person violating any provision of subsection 3 of this section, or any rule
45 adopted under subsection 5 of this section, shall be guilty of:

46 (a) For a first offense, a class A misdemeanor and subject to a fine of not more than
47 one thousand dollars; and

48 (b) For a second or subsequent offense, a class D felony until December 31, 2016,
49 and a class E felony beginning January 1, 2017, and subject to a fine of not more than five
50 thousand dollars.

51 (2) Upon a conviction for violating the provisions of subsection 3 of this section, the
52 court shall order the seizure of all ivory, ivory products, rhinoceros horns, and rhinoceros
53 horn products involved in the violation and determine the penalty for the violation based

54 on the assessed value of the seized products under subdivision (1) of this subsection. After
55 sentencing the defendant, the court shall order that the seized ivory, ivory products,
56 rhinoceros horns, and rhinoceros horn products be transferred to the department of
57 natural resources for proper disposition. The department of natural resources, at its
58 discretion, may destroy the ivory, ivory products, rhinoceros horns, and rhinoceros horn
59 products or donate them to an educational or scientific institution or organization,
60 including but not limited to a museum, university, or research group.

61 5. The department of natural resources may promulgate rules for the
62 implementation of this section. Any rule or portion of a rule, as that term is defined in
63 section 536.010, that is created under the authority delegated in this section shall become
64 effective only if it complies with and is subject to all of the provisions of chapter 536 and,
65 if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any
66 of the powers vested with the general assembly pursuant to chapter 536 to review, to delay
67 the effective date, or to disapprove and annul a rule are subsequently held
68 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
69 after August 28, 2016, shall be invalid and void.

70 6. The provisions of this section shall not apply to any person who has been issued
71 a license or permit to sell, offer for sale, purchase, barter, or possess with the intent to sell
72 any ivory, ivory product, rhinoceros horn, or rhinoceros horn product prior to the August
73 28, 2016.

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