

Honolulu, Hawaii

MAR 21 2014

RE: H.B. No. 493
H.D. 1
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 493, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO ANIMAL CRUELTY,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish a reporting requirement for any dog or cat captured or killed in any steel-jawed leg-hold trap, snare, conibear trap, or foot- or leg-hold trap;
- (2) Establish an animal cruelty offense for the use of snares, conibear traps, and foot- or leg-hold traps in residential areas and the use of steel-jawed leg-hold traps;
- (3) Provide an exemption for certain activities carried out by state and federal agencies; and
- (4) Establish the offense as a misdemeanor.

Your Committee received testimony in support of this measure from the Hawaiian Humane Society and one individual.

Prior to the hearing on this measure, your Committee posted and made available for public review a proposed S.D. 1, which amends this language by deleting its contents and inserting



language to establish a new chapter in the Hawaii Revised Statutes, to:

- (1) Include within the definition of "ivory products" ivory from elephants, hippopotamuses, walruses, whales, and narwhals;
- (2) Establish the offense of the unlawful sale or trade of ivory products for any person who imports, sells, offers to sell, or possesses with the intent to sell any ivory product;
- (3) Create exemptions for the sale or trade of ivory products, including antique ivory or ivory legally imported prior to 1975 if from an Asian elephant or prior to 1990 if from an African elephant; provided that the seller can demonstrate that the ivory product meets the requirements per Director's Order No. 210 dated February 25, 2014, from the United States Fish and Wildlife Service, "Administrative Actions to Strengthen U.S. Trade Controls for Elephant Ivory, Rhinoceros Horn, and Parts and Products of Other Species Listed Under the Endangered Species Act (ESA)"; and
- (4) Allow the forfeiture of seized ivory products and provide remedies.

Your Committee received testimony in support of the proposed S.D. 1 from the Department of Land and Natural Resources, The Humane Society of the United States, Humane Society International, Natural Resource Defense Council, Oahu Society for the Prevention of Cruelty to Animals, and seventy-six individuals. Your Committee received testimony in opposition to the proposed S.D. 1 from one individual.

Your Committee finds that African elephants are nearing extinction due to the high price of ivory that is driven by an increase in consumer demand. Tusks are traded internationally and sold worldwide as carved trinkets. An investigation supported by The Humane Society of the United States and Humane Society International found that Hawaii is the third highest retailer of elephant ivory in the United States, behind California and New York.



Your Committee notes that the Legislature adopted S.C.R. No. 149, S.D. 1 (2013), which urged Hawaii residents and businesses to comply with the Convention on International Trade in Endangered Species of Wild Fauna and Flora and not buy or sell ivory of unknown origin. However, ivory of unknown origin and age continues to be sold in Hawaii. Your Committee further notes that the prohibition on the sale of ivory should not only apply to elephant ivory, but also to other animals that have ivory teeth or tusks to prevent an increase in poaching of these other species if the sale of ivory products from the African elephant is prohibited. Accordingly, the proposed S.D. 1 ensures the continued existence of African elephants and other animals that have ivory teeth or tusks by taking positive actions to enhance prospects for their survival.

The Humane Society of the United States testified that the proposed S.D. 1 is not intended to prohibit the following:

- (1) The personal or private possession of ivory products, only the sale of ivory products;
- (2) The passing down of Native Hawaiian or family heirlooms made of ivory;
- (3) Ivory products for display in museums for educational or research purposes;
- (4) Other ivory products that are permitted by the United States Fish and Wildlife Services; and
- (5) Appraisals of personally or privately possessed ivory products performed for insurance purposes.

Accordingly, your Committee has amended this measure by adopting the proposed S.D. 1 and amending it further by adopting the language suggested by The Humane Society of the United States to:

- (1) Clarify that the one of the purposes of the new chapter proposed to be added to the Hawaii Revised Statutes is to create an exemption for the sale or trade of ivory products, including antique ivory or ivory legally, rather than illegally, imported prior to a certain year depending on the species of elephant;



- (2) Clarify that the exemption to the offense of unlawful sale or trade of ivory products applies to a person selling, offering for sale, or possessing with intent to sell any ivory products or product containing ivory who possesses documentation, if the person provides such documentation to the person purchasing the ivory product, in addition to the Department of Land and Natural Resources, upon request;
- (3) Insert language to specify that the documentation regarding the ivory product being sold or traded must demonstrate that the specific ivory product was possessed or imported prior to 1972, when the Marine Mammal Protection Act was enacted, if the ivory product is walrus or whale species ivory;
- (4) Change the effective date from January 1, 2015, to July 1, 2015; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 493, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 493, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



CLAYTON HEE, Chair



