

1 "Person" has the same meaning as in section 711-1108.5.

2 "Sale" or "sell" means all acts of selling, trading, or
3 bartering for monetary or nonmonetary consideration, including
4 online and internet sales.

5 § -3 Unlawful sale or trade of ivory products. (a) A
6 person commits the offense of unlawful sale or trade of ivory
7 products if the person imports, sells, offers to sell, or
8 possesses with intent to sell any ivory product. The act of
9 obtaining an appraisal of the ivory product shall not alone
10 constitute possession with intent to sell.

11 (b) A person convicted of committing the offense of
12 unlawful sale or trade of ivory products shall be sentenced as
13 follows for each offense:

14 (1) For the first offense, the person shall be guilty of a
15 misdemeanor and shall be fined not less than \$1,000,
16 or an amount equal to two times the total value of the
17 ivory products involved in the offense, whichever is
18 greater, or the person may be sentenced to a term of
19 imprisonment, or both; and

20 (2) For any second or subsequent offense, the person shall
21 be guilty of a class C felony and shall be fined not



1 less than \$5,000, or an amount equal to two times the
2 total value of the ivory products involved in the
3 offense, whichever is greater, or the person may be
4 sentenced to a term of imprisonment, or both.

5 (c) This section shall not apply to:

6 (1) Employees or agents of the federal government
7 undertaking any law enforcement activities pursuant to
8 federal law or any mandatory duties required by
9 federal law;

10 (2) Persons importing ivory products that are expressly
11 authorized by federal license or permit; or

12 (3) Persons selling, offering for sale, or possessing with
13 intent to sell any ivory product or product containing
14 ivory when the person possesses documentation, and
15 provides the documentation to the person purchasing
16 the ivory product and to the department upon request,
17 that:

18 (A) Clearly matches the description of the ivory
19 product;

20 (B) Demonstrates that the specific ivory product was:



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- 1 (i) Legally imported to the United States prior
- 2 to 1975 if the ivory product is Asian
- 3 elephant ivory;
- 4 (ii) Legally imported to the United States prior
- 5 to 1990 if the ivory product is African
- 6 elephant ivory; or
- 7 (iii) For walrus and whale species, legally
- 8 possessed or imported to the United States
- 9 prior to 1972;
- 10 (C) Provides definitive proof of the identity of the
- 11 species of which the ivory product is composed in
- 12 whole or in part; provided that proof shall be
- 13 demonstrated in the following forms:
- 14 (i) A bona fide DNA analysis;
- 15 (ii) A qualified appraisal as that term is
- 16 defined in Director's Order No. 210 dated
- 17 February 25, 2014, from the United States
- 18 Fish and Wildlife Service, "Administrative
- 19 Actions to Strengthen U.S. Trade Controls
- 20 for Elephant Ivory, Rhinoceros Horn, and
- 21 Parts and Products of Other Species Listed



1 Under the Endangered Species Act (ESA)", and
2 Director's Order No. 210, Appendix 1; or
3 (iii) Other documentation that definitively
4 demonstrates the identification of the
5 species through a detailed chain of
6 ownership analysis of the ivory product; and
7 (D) Demonstrates that the ivory product meets the
8 federal definition of antique, as provided by
9 title 16 U.S.C. section 1539(h).

10 (d) For the purposes of this section, "total value of the
11 ivory products" means the fair market value of the ivory
12 products or the actual price paid for the ivory products,
13 whichever is greater.

14 § -4 Disposition of seized ivory products. Upon
15 conviction or other entry of judgment for a violation of this
16 chapter, any seized ivory products shall be subject to
17 forfeiture pursuant to chapter 712A. Ivory products seized and
18 forfeited may be destroyed or offered to an entity possessing a
19 permit for educational or scientific activities.



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1 § -5 Remedies. Nothing in this chapter shall be
2 construed to prohibit or impair any civil or administrative
3 action or penalty available in law or equity.

4 § -6 Rules. The department shall adopt rules in
5 accordance with chapter 91 to effectuate the purposes of this
6 chapter."

7 SECTION 2. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 3. This Act shall take effect upon approval;
11 provided that this Act shall not apply to ivory products
12 imported into the State prior to the effective date of this Act
13 and initially sold prior to June 30, 2019.

14

INTRODUCED BY:



JAN 20 2016



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Report Title:

Animal Cruelty; Import and Sale of Ivory Products; Prohibitions; Penalties

Description:

Establishes 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 and creates exemptions for the sale or trade of ivory products. Grants a grace period against all enforcement actions against ivory products in the State prior to the effective date of the measure until June 30, 2019.

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