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LAW/RWH

P.L.2014, CHAPTER 22, *approved August 1, 2014*
Senate, No. 2012 (*First Reprint*)

1 AN ACT concerning the ¹import,¹ sale, purchase, barter, or
2 possession of ivory or rhinoceros horn and supplementing Title
3 23 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. The Legislature finds and declares that ivory trafficking is at
9 the highest rate ever recorded, with an estimated confiscation of
10 more than 41 tons of illegal ivory worldwide in 2013; that despite
11 laws to protect elephants, more than 35,000 African elephants were
12 slaughtered in 2012 and scientists expect the current levels of
13 illegal trade in ivory will bring elephants to extinction within 20
14 years; that other species with ivory teeth and tusks – such as
15 hippopotamuses, narwhals, walruses, and whales – are equally
16 threatened and the protection of one species may inadvertently draw
17 poachers' efforts to another species; that precious artifacts from
18 prehistoric mammoths are also not safe and need protection from
19 illegal ivory traffickers; that currently the population of all species
20 of rhinoceros living in the wild worldwide has dwindled to 29,000
21 and, in February 2014, a federal ban on commercial trade of
22 rhinoceros horn and elephant ivory has focused the need to protect
23 rhinoceros populations from poachers as well; and that the most
24 effective way to discourage the illegal trafficking is to eliminate
25 markets and profits for the traffickers.

26 The Legislature therefore determines that it is an important
27 public purpose to protect all species of rhinoceros and all species of
28 animals with ivory teeth and tusks by prohibiting the ¹import,¹ sale,
29 purchase, barter, or possession with intent to sell, of any ivory,
30 ivory product, rhinoceros horn, or rhinoceros horn product.

31
32 2. As used in this act:

33 “Ivory” means any tooth or tusk ¹composed of ivory¹ from ¹any
34 animal, including, but not limited to,¹ an elephant, hippopotamus,
35 mammoth, narwhal, walrus, or whale, or any piece thereof, whether
36 raw ivory or worked ivory, or made into, or part of, an ivory
37 product.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEG committee amendments adopted May 5, 2014.

1 “Ivory product” means any item that contains, or that is wholly
2 or partially made from, any ivory.

3 “Raw ivory” means any ivory the surface of which, polished or
4 unpolished, is unaltered or minimally changed by carving.

5 “Rhinoceros horn” means the horn, or any piece thereof, of any
6 species of rhinoceros.

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

9 “Total value of the ivory, ivory products, rhinoceros horn, and
10 rhinoceros horn products” means the fair market value of the ivory,
11 ivory products, rhinoceros horn, and rhinoceros horn products, or
12 the actual price paid for the ivory, ivory products, rhinoceros horn,
13 and rhinoceros products whichever is greater.

14 “Worked ivory” means ivory that has been embellished, carved,
15 marked, or otherwise altered so that it can no longer be considered
16 raw ivory.

17

18 3. a. In addition to the prohibitions established pursuant to,
19 and the penalties imposed for violations of, R.S.23:4-27, “The
20 Endangered and Nongame Species Conservation Act,” P.L.1973,
21 c.309 (C.23:2A-1 et seq.), and any other applicable law, it shall be
22 unlawful for any person to ¹import,¹ sell, offer for sale, purchase,
23 barter, or possess with intent to sell, any ivory, ivory product,
24 rhinoceros horn, or rhinoceros horn product, except as provided
25 pursuant to ¹[subsection b. or c. of]¹ this section.

26 ¹b. It shall be presumptive evidence of possession with intent to
27 sell when any ivory, ivory product, rhinoceros horn, or rhinoceros
28 horn product is possessed in a retail or wholesale outlet commonly
29 used for the buying or selling of similar products, provided,
30 however, that nothing in this subsection shall preclude a finding of
31 intent to sell based on any other evidence which may serve to
32 independently establish such intent.¹ The act of obtaining an
33 appraisal of ivory, an ivory product, rhinoceros horn, or a
34 rhinoceros horn product, alone shall not constitute possession with
35 intent to sell.

36 ¹[b.] c.¹ A person may convey ivory, an ivory product,
37 rhinoceros horn, or a rhinoceros horn product to the legal
38 beneficiary of the ivory, ivory product, rhinoceros horn, or
39 rhinoceros horn product which is part of an estate or other items
40 being conveyed to lawful beneficiaries upon the death of the owner
41 of the ivory, ivory product, rhinoceros horn, or rhinoceros horn
42 product in anticipation of that death.

43 ¹[c. A person complying with the rules and regulations adopted
44 by the Department of Environmental Protection pursuant to section
45 5 of this act may sell, offer for sale, purchase, barter, or possess:

1 (1) Asian elephant ivory, or an Asian elephant ivory product
2 made wholly or in part of Asian elephant ivory, that was legally
3 obtained prior to 1975;

4 (2) African elephant ivory, or an African elephant ivory product
5 made wholly or in part of African elephant ivory, that was legally
6 obtained prior to 1990;

7 (3) ivory from, or an ivory product made wholly or in part of,
8 hippopotamus, mammoth, narwhal, walrus, or whale ivory that was
9 legally obtained prior to the effective date of this act; or

10 (4) rhinoceros horn or rhinoceros horn product that was legally
11 obtained prior to the effective date of this act.】

12 d. None of the prohibitions set forth in this section shall apply
13 to employees or agents of the federal or State government
14 undertaking any law enforcement activities pursuant to federal or
15 State law or any mandatory duties required by federal or State law.

16 e. The prohibition on import set forth in subsection a. of this
17 section shall not apply where the import is expressly authorized by
18 federal license or permit.

19 f. The Department of Environmental Protection may permit,
20 under terms and conditions as the department may prescribe, the
21 import, sale, offer for sale, purchase, barter, or possession with
22 intent to sell, any ivory, ivory product, rhinoceros horn, or
23 rhinoceros horn product for bona fide educational or scientific
24 purposes, unless this activity is prohibited by federal law.¹

25

26 4. a. In addition to any applicable penalties which may be
27 imposed pursuant to R.S.23:4-27, “The Endangered and Nongame
28 Species Conservation Act,” P.L.1973, c.309 (C.23:2A-1 et seq.), or
29 any other applicable law, a person violating any provision of
30 section 3 of this act, or any rule or regulation adopted pursuant to
31 section 5 of this act, shall be guilty of:

32 (1) for a first offense, a disorderly persons offense and,
33 notwithstanding the provisions of N.J.S.2C:43-3, shall be fined not
34 less than \$1,000 or an amount equal to two times the total value of
35 the ivory, ivory products, rhinoceros horn, and rhinoceros horn
36 products involved in the offense, whichever is greater; and

37 (2) for a second or subsequent offense, a crime of the fourth
38 degree and, notwithstanding the provisions of N.J.S.2C:43-3, shall
39 be fined not less than \$5,000 or an amount equal to two times the
40 total value of the ivory, ivory products, rhinoceros horn, and
41 rhinoceros horn products involved in the offense, whichever is
42 greater.

43 b. Upon a conviction for violating the provisions of section 3
44 of this act, the court shall ¹【seize】 order the seizure of¹ all ivory,
45 ivory products, rhinoceros horn, and rhinoceros horn products
46 involved in the violation ¹【, assess the value,】¹ and determine the
47 penalty ¹【and sentencing】¹ for the violation ¹based on the assessed

1 value of the seized products¹ pursuant to subsection a. of this
2 section. After ¹**【making this determination and issuing the**
3 **sentence】** sentencing the defendant¹ , the court shall ¹**【remit】** order
4 that¹ the seized ivory, ivory products, rhinoceros horn, and
5 rhinoceros horn products ¹be transferred¹ to the Department of
6 Environmental Protection for proper disposition. The department,
7 at its discretion, may destroy the ivory, ivory products, rhinoceros
8 horn, and rhinoceros horn products or donate them to an educational
9 or scientific institution or organization, including, but not
10 necessarily limited to, a museum, university, or research group.

11

12 5. The Department of Environmental Protection ¹**【shall】** may¹
13 adopt, pursuant to the “Administrative Procedure Act,” P.L.1968,
14 c.410 (C.52:14B-1 et seq.), rules and regulations necessary for the
15 implementation ¹and administration¹ of this act ¹**【,** including, but
16 not limited to: procedures for registering ivory, ivory products,
17 rhinoceros horn, or rhinoceros horn products; determining whether
18 ivory, ivory products, rhinoceros horn, or rhinoceros horn products
19 were obtained legally; documenting or otherwise substantiating
20 whether acquisition or possession of certain ivory, ivory products,
21 rhinoceros horn, or rhinoceros horn products is legal; and legally
22 selling, purchasing, bartering, and possessing ivory, ivory products,
23 rhinoceros horn, or rhinoceros horn products pursuant to this act¹ **】**¹.

24

25 6. This act shall take effect immediately ¹, except that sections
26 3 and 4 of this act shall remain inoperative for six months following
27 the date of enactment¹.

28

29

30

31

32 Prohibits import, sale, purchase, barter, or possession of ivory or
33 rhinoceros horn and items containing ivory or rhinoceros horn, with
34 limited exceptions.

SENATE, No. 2012

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED APRIL 28, 2014

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

SYNOPSIS

Prohibits sale, purchase, barter, or possession of ivory or rhinoceros horn and items containing ivory or rhinoceros horn, with limited exceptions.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the sale, purchase, barter, or possession of
2 ivory or rhinoceros horn and supplementing Title 23 of the
3 Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. The Legislature finds and declares that ivory trafficking is at
9 the highest rate ever recorded, with an estimated confiscation of
10 more than 41 tons of illegal ivory worldwide in 2013; that despite
11 laws to protect elephants, more than 35,000 African elephants were
12 slaughtered in 2012 and scientists expect the current levels of
13 illegal trade in ivory will bring elephants to extinction within 20
14 years; that other species with ivory teeth and tusks – such as
15 hippopotamuses, narwhals, walruses, and whales – are equally
16 threatened and the protection of one species may inadvertently draw
17 poachers' efforts to another species; that precious artifacts from
18 prehistoric mammoths are also not safe and need protection from
19 illegal ivory traffickers; that currently the population of all species
20 of rhinoceros living in the wild worldwide has dwindled to 29,000
21 and, in February 2014, a federal ban on commercial trade of
22 rhinoceros horn and elephant ivory has focused the need to protect
23 rhinoceros populations from poachers as well; and that the most
24 effective way to discourage the illegal trafficking is to eliminate
25 markets and profits for the traffickers.

26 The Legislature therefore determines that it is an important
27 public purpose to protect all species of rhinoceros and all species of
28 animals with ivory teeth and tusks by prohibiting the sale, purchase,
29 barter, or possession with intent to sell, of any ivory, ivory product,
30 rhinoceros horn, or rhinoceros horn product.

31

32 2. As used in this act:

33 “Ivory” means any tooth or tusk from an elephant,
34 hippopotamus, mammoth, narwhal, walrus, or whale, or any piece
35 thereof, whether raw ivory or worked ivory, or made into, or part
36 of, an ivory product.

37 “Ivory product” means any item that contains, or that is wholly
38 or partially made from, any ivory.

39 “Raw ivory” means any ivory the surface of which, polished or
40 unpolished, is unaltered or minimally changed by carving.

41 “Rhinoceros horn” means the horn, or any piece thereof, of any
42 species of rhinoceros.

43 “Rhinoceros horn product” means any item that contains, or is
44 wholly or partially made from, any rhinoceros horn.

45 “Total value of the ivory, ivory products, rhinoceros horn, and
46 rhinoceros horn products” means the fair market value of the ivory,
47 ivory products, rhinoceros horn, and rhinoceros horn products, or

1 the actual price paid for the ivory, ivory products, rhinoceros horn,
2 and rhinoceros products whichever is greater.

3 “Worked ivory” means ivory that has been embellished, carved,
4 marked, or otherwise altered so that it can no longer be considered
5 raw ivory.

6
7 3. a. In addition to the prohibitions established pursuant to,
8 and the penalties imposed for violations of, R.S.23:4-27, “The
9 Endangered and Nongame Species Conservation Act,”
10 P.L.1973, c.309 (C.23:2A-1 et seq.), and any other applicable law,
11 it shall be unlawful for any person to sell, offer for sale, purchase,
12 barter, or possess with intent to sell, any ivory, ivory product,
13 rhinoceros horn, or rhinoceros horn product, except as provided
14 pursuant to subsection b. or c. of this section. The act of obtaining
15 an appraisal of ivory, an ivory product, rhinoceros horn, or a
16 rhinoceros horn product, alone shall not constitute possession with
17 intent to sell.

18 b. A person may convey ivory, an ivory product, rhinoceros
19 horn, or a rhinoceros horn product to the legal beneficiary of the
20 ivory, ivory product, rhinoceros horn, or rhinoceros horn product
21 which is part of an estate or other items being conveyed to lawful
22 beneficiaries upon the death of the owner of the ivory, ivory
23 product, rhinoceros horn, or rhinoceros horn product in anticipation
24 of that death.

25 c. A person complying with the rules and regulations adopted
26 by the Department of Environmental Protection pursuant to section
27 5 of this act may sell, offer for sale, purchase, barter, or possess:

28 (1) Asian elephant ivory, or an Asian elephant ivory product
29 made wholly or in part of Asian elephant ivory, that was legally
30 obtained prior to 1975;

31 (2) African elephant ivory, or an African elephant ivory product
32 made wholly or in part of African elephant ivory, that was legally
33 obtained prior to 1990;

34 (3) ivory from, or an ivory product made wholly or in part of,
35 hippopotamus, mammoth, narwhal, walrus, or whale ivory that was
36 legally obtained prior to the effective date of this act; or

37 (4) rhinoceros horn or rhinoceros horn product that was legally
38 obtained prior to the effective date of this act.

39

40 4. a. In addition to any applicable penalties which may be
41 imposed pursuant to R.S.23:4-27, “The Endangered and Nongame
42 Species Conservation Act,” P.L.1973, c.309 (C.23:2A-1 et seq.), or
43 any other applicable law, a person violating any provision of
44 section 3 of this act, or any rule or regulation adopted pursuant to
45 section 5 of this act, shall be guilty of:

46 (1) for a first offense, a disorderly persons offense and,
47 notwithstanding the provisions of N.J.S.2C:43-3, shall be fined not
48 less than \$1,000 or an amount equal to two times the total value of

S2012 LESNIAK

1 the ivory, ivory products, rhinoceros horn, and rhinoceros horn
2 products involved in the offense, whichever is greater; and

3 (2) for a second or subsequent offense, a crime of the fourth
4 degree and, notwithstanding the provisions of N.J.S.2C:43-3, shall
5 be fined not less than \$5,000 or an amount equal to two times the
6 total value of the ivory, ivory products, rhinoceros horn, and
7 rhinoceros horn products involved in the offense, whichever is
8 greater.

9 b. Upon a conviction for violating the provisions of section 3
10 of this act, the court shall seize all ivory, ivory products, rhinoceros
11 horn, and rhinoceros horn products involved in the violation, assess
12 the value, and determine the penalty and sentencing for the
13 violation pursuant to subsection a. of this section. After making
14 this determination and issuing the sentence, the court shall remit the
15 seized ivory, ivory products, rhinoceros horn, and rhinoceros horn
16 products to the Department of Environmental Protection for proper
17 disposition. The department, at its discretion, may destroy the
18 ivory, ivory products, rhinoceros horn, and rhinoceros horn
19 products or donate them to an educational or scientific institution or
20 organization, including, but not necessarily limited to, a museum,
21 university, or research group.

22
23 5. The Department of Environmental Protection shall adopt,
24 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
25 (C.52:14B-1 et seq.), rules and regulations necessary for the
26 implementation of this act, including, but not limited to: procedures
27 for registering ivory, ivory products, rhinoceros horn, or rhinoceros
28 horn products; determining whether ivory, ivory products,
29 rhinoceros horn, or rhinoceros horn products were obtained legally;
30 documenting or otherwise substantiating whether acquisition or
31 possession of certain ivory, ivory products, rhinoceros horn, or
32 rhinoceros horn products is legal; and legally selling, purchasing,
33 bartering, and possessing ivory, ivory products, rhinoceros horn, or
34 rhinoceros horn products pursuant to this act.

35
36 6. This act shall take effect immediately.

37

38

39

STATEMENT

40

41 This bill prohibits any person from selling, offering for sale,
42 purchasing, bartering, or possessing with intent to sell, any ivory,
43 ivory product, rhinoceros horn, or rhinoceros horn product, with
44 limited exceptions. The bill:

45 1) permits a person to convey ivory, ivory products, rhinoceros
46 horn, or rhinoceros horn products to legal beneficiaries;

47 2) directs the Department of Environmental Protection to
48 establish procedures for addressing ivory, ivory products,

S2012 LESNIAK

1 rhinoceros horn, or rhinoceros horn products that were obtained
2 legally; and

3 3) specifies that the act of obtaining an appraisal of ivory, an
4 ivory product, rhinoceros horn, or a rhinoceros horn product alone
5 would not constitute possession with intent to sell.

6 The bill also establishes, in addition to any applicable penalties
7 which may be imposed pursuant to R.S.23:4-27, "The Endangered
8 and Nongame Species Conservation Act," or any other applicable
9 law, the following:

10 1) for a first offense, the person would be guilty of a disorderly
11 persons offense and fined not less than \$1,000 or an amount equal
12 to two times the total value of the ivory, ivory products, rhinoceros
13 horn, and rhinoceros horn products involved in the offense,
14 whichever is greater; and

15 (2) for a second or subsequent offense, the person would be
16 guilty of a crime of the fourth degree and fined not less than \$5,000
17 or an amount equal to two times the total value of the ivory, ivory
18 products, rhinoceros horn, and rhinoceros horn products involved in
19 the offense, whichever is greater.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 2012

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 5, 2014

The Senate Economic Growth Committee reports favorably and with committee amendments Senate Bill No. 2012.

As amended and reported, this bill prohibits any person from importing, selling, offering for sale, purchasing, bartering, or possessing with intent to sell, any ivory, ivory product, rhinoceros horn, or rhinoceros horn product, with limited exceptions. The bill:

1) permits a person to convey ivory, ivory products, rhinoceros horn, or rhinoceros horn products to legal beneficiaries;

2) specifies that none of the prohibitions set forth in the bill applies to employees or agents of the federal or State government undertaking any law enforcement activities pursuant to federal or State law or any mandatory duties required by federal or State law;

3) specifies that the import prohibition does not apply where the import is expressly authorized by federal license or permit;

4) specifies that the Department of Environmental Protection (DEP) may permit the import, sale, offering for sale, purchasing, bartering, or possessing with intent to sell ivory, ivory products, rhinoceros horn, or rhinoceros horn products for bona fide educational or scientific purposes; and

5) specifies that the act of obtaining an appraisal of ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product alone does not constitute possession with intent to sell.

The bill establishes, in addition to any applicable penalties which may be imposed pursuant to law, the following:

1) for a first offense, the person would be guilty of a disorderly persons offense and fined not less than \$1,000 or an amount equal to two times the total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the offense, whichever is greater; and

(2) for a second or subsequent offense, the person would be guilty of a crime of the fourth degree and fined not less than \$5,000 or an amount equal to two times the total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the offense, whichever is greater.

The committee amended the bill to specify that: 1) none of the prohibitions set forth in the bill apply to federal or State employees or agents undertaking any law enforcement activities pursuant to federal or State law or any mandatory duties required by federal or State law; 2) the import prohibition does not apply where the import is expressly authorized by federal license or permit; and 3) the DEP may permit the import, sale, offering for sale, purchasing, bartering, or possessing with intent to sell ivory, ivory products, rhinoceros horn, or rhinoceros horn products for bona fide educational or scientific purposes. The amendments also: prohibit the importation of these products; remove the provisions directing the DEP to establish procedures for addressing these products when obtained legally; allow, rather than require, the DEP to adopt rules and regulations necessary to implement and administer the bill; expand the definition of ivory to include any animal with ivory teeth or tusks; establish under certain circumstances a presumption of possession with the intent to sell; and delay the operative date of certain sections of the bill to six months after the date of enactment.

ASSEMBLY, No. 3128

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MAY 8, 2014

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

SYNOPSIS

Prohibits import, sale, purchase, barter, or possession of ivory or rhinoceros horn and items containing ivory or rhinoceros horn, with limited exceptions.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/17/2014)

1 AN ACT concerning the import, sale, purchase, barter, or possession
2 of ivory or rhinoceros horn and supplementing Title 23 of the
3 Revised Statutes.

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16 threatened and the protection of one species may inadvertently draw
17 poachers' efforts to another species; that precious artifacts from
18 prehistoric mammoths are also not safe and need protection from
19 illegal ivory traffickers; that currently the population of all species
20 of rhinoceros living in the wild worldwide has dwindled to 29,000
21 and, in February 2014, a federal ban on commercial trade of
22 rhinoceros horn and elephant ivory has focused the need to protect
23 rhinoceros populations from poachers as well; and that the most
24 effective way to discourage the illegal trafficking is to eliminate
25 markets and profits for the traffickers.

26 The Legislature therefore determines that it is an important
27 public purpose to protect all species of rhinoceros and all species of
28 animals with ivory teeth and tusks by prohibiting the import, sale,
29 purchase, barter, or possession with intent to sell, of any ivory,
30 ivory product, rhinoceros horn, or rhinoceros horn product.

31

32 2. As used in this act:

33 "Ivory" means any tooth or tusk composed of ivory from any
34 animal, including, but not limited to, an elephant, hippopotamus,
35 mammoth, narwhal, walrus, or whale, or any piece thereof, whether
36 raw ivory or worked ivory, or made into, or part of, an ivory
37 product.

38 "Ivory product" means any item that contains, or that is wholly
39 or partially made from, any ivory.

40 "Raw ivory" means any ivory the surface of which, polished or
41 unpolished, is unaltered or minimally changed by carving.

42 "Rhinoceros horn" means the horn, or any piece thereof, of any
43 species of rhinoceros.

44 "Rhinoceros horn product" means any item that contains, or is
45 wholly or partially made from, any rhinoceros horn.

46 "Total value of the ivory, ivory products, rhinoceros horn, and
47 rhinoceros horn products" means the fair market value of the ivory,
48 ivory products, rhinoceros horn, and rhinoceros horn products, or

1 the actual price paid for the ivory, ivory products, rhinoceros horn,
2 and rhinoceros products, whichever is greater.

3 “Worked ivory” means ivory that has been embellished, carved,
4 marked, or otherwise altered so that it can no longer be considered
5 raw ivory.

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7 3. a. In addition to the prohibitions established pursuant to,
8 and the penalties imposed for violations of, R.S.23:4-27, “The
9 Endangered and Nongame Species Conservation Act,” P.L.1973,
10 c.309 (C.23:2A-1 et seq.), and any other applicable law, it shall be
11 unlawful for any person to import, sell, offer for sale, purchase,
12 barter, or possess with intent to sell, any ivory, ivory product,
13 rhinoceros horn, or rhinoceros horn product, except as provided
14 pursuant to this section.

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

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

32 d. None of the prohibitions set forth in this section shall apply
33 to employees or agents of the federal or State government
34 undertaking any law enforcement activities pursuant to federal or
35 State law or any mandatory duties required by federal or State law.

36 e. The prohibition on import set forth in subsection a. of this
37 section shall not apply where the import is expressly authorized by
38 federal license or permit.

39 f. The Department of Environmental Protection may permit,
40 under terms and conditions as the department may prescribe, the
41 import, sale, offer for sale, purchase, barter, or possession with
42 intent to sell, any ivory, ivory product, rhinoceros horn, or
43 rhinoceros horn product for bona fide educational or scientific
44 purposes, unless this activity is prohibited by federal law.

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46 4. a. In addition to any applicable penalties which may be
47 imposed pursuant to R.S.23:4-27, “The Endangered and Nongame
48 Species Conservation Act,” P.L.1973, c.309 (C.23:2A-1 et seq.), or

1 any other applicable law, a person violating any provision of
2 section 3 of this act, or any rule or regulation adopted pursuant to
3 section 5 of this act, shall be guilty of:

4 (1) for a first offense, a disorderly persons offense and,
5 notwithstanding the provisions of N.J.S.2C:43-3, shall be fined not
6 less than \$1,000 or an amount equal to two times the total value of
7 the ivory, ivory products, rhinoceros horn, and rhinoceros horn
8 products involved in the offense, whichever is greater; and

9 (2) for a second or subsequent offense, a crime of the fourth
10 degree and, notwithstanding the provisions of N.J.S.2C:43-3, shall
11 be fined not less than \$5,000 or an amount equal to two times the
12 total value of the ivory, ivory products, rhinoceros horn, and
13 rhinoceros horn products involved in the offense, whichever is
14 greater.

15 b. Upon a conviction for violating the provisions of section 3
16 of this act, the court shall order the seizure of all ivory, ivory
17 products, rhinoceros horn, and rhinoceros horn products involved in
18 the violation and determine the penalty for the violation based on
19 the assessed value of the seized products pursuant to subsection a.
20 of this section. After sentencing the defendant, the court shall order
21 that the seized ivory, ivory products, rhinoceros horn, and
22 rhinoceros horn products be transferred to the Department of
23 Environmental Protection for proper disposition. The department,
24 at its discretion, may destroy the ivory, ivory products, rhinoceros
25 horn, and rhinoceros horn products or donate them to an educational
26 or scientific institution or organization, including, but not
27 necessarily limited to, a museum, university, or research group.
28

29 5. The Department of Environmental Protection may adopt,
30 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
31 (C.52:14B-1 et seq.), rules and regulations necessary for the
32 implementation and administration of this act.
33

34 6. This act shall take effect immediately, except that sections 3
35 and 4 of this act shall remain inoperative for six months following
36 the date of enactment.
37

38
39 STATEMENT
40

41 This bill prohibits any person from importing, selling, offering
42 for sale, purchasing, bartering, or possessing with intent to sell, any
43 ivory, ivory product, rhinoceros horn, or rhinoceros horn product,
44 with limited exceptions. The bill:

45 1) permits a person to convey ivory, ivory products, rhinoceros
46 horn, or rhinoceros horn products to legal beneficiaries;

47 2) specifies that none of the prohibitions set forth in the bill
48 applies to employees or agents of the federal or State government

- 1 undertaking any law enforcement activities pursuant to federal or
2 State law or any mandatory duties required by federal or State law;
- 3 3) specifies that the import prohibition does not apply where
4 the import is expressly authorized by federal license or permit;
- 5 4) specifies that the Department of Environmental Protection
6 may permit the import, sale, offering for sale, purchasing, bartering,
7 or possessing with intent to sell ivory, ivory products, rhinoceros
8 horn, or rhinoceros horn products for bona fide educational or
9 scientific purposes; and
- 10 5) specifies that the act of obtaining an appraisal of ivory, an
11 ivory product, rhinoceros horn, or a rhinoceros horn product alone
12 does not constitute possession with intent to sell.
- 13 The bill establishes, in addition to any applicable penalties which
14 may be imposed pursuant to law, the following:
- 15 1) for a first offense, the person would be guilty of a disorderly
16 persons offense and fined not less than \$1,000 or an amount equal
17 to two times the total value of the ivory, ivory products, rhinoceros
18 horn, and rhinoceros horn products involved in the offense,
19 whichever is greater; and
- 20 (2) for a second or subsequent offense, the person would be
21 guilty of a crime of the fourth degree and fined not less than \$5,000
22 or an amount equal to two times the total value of the ivory, ivory
23 products, rhinoceros horn, and rhinoceros horn products involved in
24 the offense, whichever is greater.

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 3128

STATE OF NEW JERSEY

DATED: MAY 8, 2014

The Assembly Commerce and Economic Development Committee reports favorably Assembly Bill No. 3128.

This bill prohibits any person from importing, selling, offering for sale, purchasing, bartering, or possessing with intent to sell, any ivory, ivory product, rhinoceros horn, or rhinoceros horn product, with limited exceptions. The bill:

- 1) permits a person to convey ivory, ivory products, rhinoceros horn, or rhinoceros horn products to legal beneficiaries;
- 2) specifies that none of the prohibitions set forth in the bill applies to employees or agents of the federal or State government undertaking any law enforcement activities pursuant to federal or State law or any mandatory duties required by federal or State law;
- 3) specifies that the import prohibition does not apply where the import is expressly authorized by federal license or permit;
- 4) specifies that the Department of Environmental Protection may permit the import, sale, offering for sale, purchasing, bartering, or possessing with intent to sell ivory, ivory products, rhinoceros horn, or rhinoceros horn products for bona fide educational or scientific purposes; and
- 5) specifies that the act of obtaining an appraisal of ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product alone does not constitute possession with intent to sell.

The bill establishes, in addition to any applicable penalties which may be imposed pursuant to law, the following:

- 1) for a first offense, the person would be guilty of a disorderly persons offense and fined not less than \$1,000 or an amount equal to two times the total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the offense, whichever is greater; and
- 2) for a second or subsequent offense, the person would be guilty of a crime of the fourth degree and fined not less than \$5,000 or an amount equal to two times the total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the offense, whichever is greater.

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Governor Christie Signs Bipartisan Legislation To Crack Down On Black Market Ivory Trafficking

Tuesday, August 5, 2014

Tags: [Bill Action](#)

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State of New Jersey
OFFICE OF THE GOVERNOR

Trenton, NJ – Governor Chris Christie today signed into law bipartisan legislation prohibiting individuals from importing, selling or purchasing any ivory or rhinoceros horn product. S-2012 makes federal prohibitions applicable to the ivory and rhinoceros horn trade within New Jersey, and includes strict penalties for those caught dealing in the black market of this industry. The bill will help protect previous and endangered wildlife by targeting traffickers with stiff financial penalties.

“With this legislation, we are making it clear that there are strict consequences for individuals who would seek to profit from trafficking in these products and their harvesting that brings far-reaching, harmful consequences on endangered animal populations,” said Governor Chris Christie. “These stricter measures will help to reduce the amount of criminal activity that surrounds this industry while protecting wildlife populations that are already seriously threatened from this harmful practice.”

“The economic penalties associated with this legislation will have a direct, severe effect on those in illegal possession of ivory” said Senator Christopher Bateman. “Ivory trafficking is at the highest rate ever recorded, we must work with other states to crack down on organized crime connected with ivory sales.”

“By signing this bill into law, Governor Christie is closing loopholes in ivory commerce prohibitions that allowed New Jersey to foster the blood ivory trade and poaching profits for terrorist organizations such as Al Qaeda-affiliated, the Lord’s Resistance Army, Janjaweed, and others,” said Assemblyman Raj Mukherji. “Given the role of our ports in wildlife trafficking and the rate at which the ivory trade is driving elephants and other endangered and threatened species toward extinction, these measures will directly contribute to protecting these magnificent species while chopping away at a major funding source for terrorists.”

The penalties include a first offense to be treated as a disorderly persons offense, punishable by fine of \$1,000 or double the value of the product, whichever is greater. A second and subsequent offense would be treated as a fourth-degree crime, punishable by a fine of \$5,000 or double the value of the product. The bill requires that upon an offender’s conviction, the prohibited product is to be transferred to the Department of Environmental Protection for disposal (via destruction or donation to an educational institution).

The bill would treat the presence of ivory or a rhinoceros horn in a “retail or wholesale outlet commonly used for the buying or selling of similar products” as “presumptive evidence” of possession with intent to sell the product. The new law does provide important exceptions that allow for the possession and transfer of ivory products when they are used for legitimate law enforcement purposes or educational purposes pursuant to state Department of Environmental Protection permit.

Primary sponsors of S-2012 include Senators Raymond J. Lesniak (D-Union) and Christopher Bateman (R- Somerset, Hunterdon, Mercer, Middlesex), Assembly members Raj Mukherji (D-Hudson) and Mila M. Jasey (D- Essex/Morris).

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Press Contact: