

8824--A

I N A S S E M B L Y

February 19, 2014

Introduced by M. of A. SWEENEY, WEISENBERG, LIFTON, O'DONNELL, STEC, GUNTHER, JAFFEE, KAVANAGH, SCHIMEL, TITONE, FAHY, ROZIC, OTIS, GOTTFRIED, COOK, ENGLEBRIGHT, DINOWITZ, MILLMAN, CAHILL, ROBINSON, ROSENTHAL, BROOK-KRASNY, BRAUNSTEIN, CORWIN, MOSLEY, CYMBROWITZ, MARKEY, ZEBROWSKI, GALEF, HEVESI, SKOUFIS, MILLER, LAVINE, TEDISCO, ORTIZ, BARRETT, STECK, WEPRIN, PEOPLES-STOKES, RAIA, BENEDETTO, PERRY -- Multi-Sponsored by -- M. of A. ABINANTI, BRENNAN, CERETTO, CURRAN, GLICK, HENNESSEY, LUPARDO, LUPINACCI, MALLIOTAKIS, MAYER, PAULIN, PRETLOW, RIVERA, SCARBOROUGH, SKARTADOS -- read once and referred to the Committee on Environmental Conservation -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to prohibiting the purchase and sale of ivory articles and rhinoceros horns and increasing the penalties for the illegal sale of such articles

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The environmental conservation law is amended by adding a  
2 new section 11-0535-a to read as follows:  
3 S 11-0535-A. ILLEGAL IVORY ARTICLES AND RHINOCEROS HORNS.  
4 1. AS USED IN THIS SECTION:  
5 A. "DISTRIBUTE" MEANS A TRANSFER OR CHANGE IN POSSESSION WITH AN  
6 ACCOMPANYING CHANGE IN LEGAL OWNERSHIP.  
7 B. "IVORY ARTICLE" MEANS ANY ITEM CONTAINING WORKED OR RAW IVORY FROM  
8 ANY SPECIES OF ELEPHANT OR MAMMOTH.  
9 C. "RAW IVORY" MEANS ANY ELEPHANT OR MAMMOTH TUSK, AND ANY PIECE  
10 THEREOF, THE SURFACE OF WHICH, POLISHED, OR UNPOLISHED, IS UNALTERED OR  
11 MINIMALLY CARVED.  
12 D. "WORKED IVORY" MEANS ANY ELEPHANT OR MAMMOTH TUSK, AND ANY PIECE  
13 THEREOF, WHICH IS NOT RAW IVORY.  
14 2. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION THREE OF THIS SECTION,  
15 NO PERSON SHALL SELL, OFFER FOR SALE, PURCHASE, TRADE, BARTER OR  
16 DISTRIBUTE AN IVORY ARTICLE OR RHINOCEROS HORN.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 3. UNLESS SUCH ACTIVITY IS PROHIBITED BY FEDERAL LAW, RULE OR REGU-  
2 LATION, THE COMMISSIONER MAY ISSUE LICENSES OR PERMITS FOR THE SALE,  
3 OFFERING FOR SALE, PURCHASE, TRADING, BARTERING OR DISTRIBUTION OF IVORY  
4 ARTICLES OR RHINOCEROS HORNS, PROVIDED THAT:

5 A. THE IVORY ARTICLE OR RHINOCEROS HORN IS PART OF A BONA FIDE ANTIQUE  
6 AND IS LESS THAN TWENTY PERCENT BY VOLUME OF SUCH ANTIQUE, AND THE  
7 ANTIQUE STATUS OF SUCH ANTIQUE IS ESTABLISHED BY THE OWNER OR SELLER  
8 THEREOF WITH HISTORICAL DOCUMENTATION EVIDENCING PROVENANCE AND SHOWING  
9 THE ANTIQUE TO BE NOT LESS THEN ONE HUNDRED YEARS OLD;

10 B. THE DISTRIBUTION OR CHANGE OF POSSESSION OF THE IVORY ARTICLE OR  
11 RHINOCEROS HORN IS FOR BONA FIDE EDUCATIONAL OR SCIENTIFIC PURPOSES; OR

12 C. THE DISTRIBUTION OF THE IVORY ARTICLE OR RHINOCEROS HORN IS TO A  
13 LEGAL BENEFICIARY OF A TRUST OR TO AN HEIR OR DISTRIBUTE OF AN ESTATE.

14 S 2. Section 71-0925 of the environmental conservation law is amended  
15 by adding a new subdivision 16 to read as follows:

16 16. IF THE VIOLATION WAS AN ACT PROHIBITED BY SECTION 11-0535-A OF  
17 THIS CHAPTER, NOT MORE THAN THREE THOUSAND DOLLARS OR NOT MORE THAN TWO  
18 TIMES THE VALUE OF THE ARTICLE INVOLVED, WHICHEVER IS GREATER. IF THE  
19 VIOLATION IS A SECOND OR SUBSEQUENT VIOLATION OF SUCH SECTION 11-0535-A,  
20 NOT MORE THAN SIX THOUSAND DOLLARS OR NOT MORE THAN THREE TIMES THE  
21 VALUE OF THE ARTICLE INVOLVED, WHICHEVER IS GREATER.

22 S 3. Within 30 days of the effective date of this act, the department  
23 of environmental conservation shall maintain on its website information  
24 regarding the prohibition on the sale and purchase of ivory articles and  
25 rhinoceros horns in the state.

26 S 4. Severability. If any clause, sentence, paragraph, section or part  
27 of this act shall be adjudged by any court of competent jurisdiction to  
28 be invalid and after exhaustion of all further judicial review, the  
29 judgment shall not affect, impair or invalidate the remainder thereof,  
30 but shall be confined in its operation to the clause, sentence, para-  
31 graph, section or part of this act directly involved in the controversy  
32 in which the judgment shall have been rendered.

33 S 5. No later than January 1, 2020, the department of environmental  
34 conservation shall prepare a report outlining enforcement activities and  
35 recommendations regarding any necessary changes, including but not  
36 limited to the extension or repeal of this act.

37 S 6. This act shall take effect immediately; provided, however, any  
38 person who has been issued a license or permit allowing the sale of  
39 elephant ivory articles or rhinoceros horns prior to the effective date  
40 of this act may sell such articles listed on such license or permit  
41 until such license or permit has expired.