



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4843

by Rep. Martin J. Moylan

SYNOPSIS AS INTRODUCED:

New Act

Creates the Ivory Ban Act. Provides that it shall be unlawful for any person to import, sell, offer for sale, purchase, barter, or possess with intent to sell, any ivory, ivory product, rhinoceros horn, or rhinoceros horn product. Provides that these provisions do not apply to specified antique weapons or musical instruments. Establishes penalties for violation of the Act. Provides that the Department of Natural Resources may permit, under terms and conditions as the Department may adopt by rule, the import, sale, offer for sale, purchase, barter, or possession with intent to sell, of any ivory, ivory product, rhinoceros horn, or rhinoceros horn product for bona fide educational or scientific purposes, unless this activity is prohibited by federal law. Provides that the Department may adopt any rules necessary for the implementation of the Act.

LRB100 20395 SLF 35708 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning ivory.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Ivory
5 Ban Act.

6 Section 5. Definitions. As used in this Act:

7 "Ivory" means any tooth or tusk composed of ivory from any
8 animal, including, but not limited to, an elephant,
9 hippopotamus, mammoth, narwhal, walrus, or whale, or any piece
10 thereof, whether raw ivory or worked ivory, or made into, or
11 part of, an ivory product.

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

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

16 "Rhinoceros horn" means the horn, or any piece thereof, of
17 any species of rhinoceros.

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

20 "Total value of the ivory, ivory products, rhinoceros horn,
21 and rhinoceros horn products" means the fair market value of
22 the ivory, ivory products, rhinoceros horn, and rhinoceros horn
23 products, or the actual price paid for the ivory, ivory

1 products, rhinoceros horn, and rhinoceros products, whichever
2 is greater.

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

6 Section 10. Prohibitions.

7 (a) In addition to the prohibitions under any other law, it
8 shall be unlawful for any person to import, sell, offer for
9 sale, purchase, barter, or possess with intent to sell, any
10 ivory, ivory product, rhinoceros horn, or rhinoceros horn
11 product, except as provided by this Act.

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

23 (c) A person may convey ivory, an ivory product, rhinoceros
24 horn, or a rhinoceros horn product to the legal beneficiary of
25 the ivory, ivory product, rhinoceros horn, or rhinoceros horn

1 product which is part of an estate or other items being
2 conveyed to lawful beneficiaries upon the death of the owner of
3 the ivory, ivory product, rhinoceros horn, or rhinoceros horn
4 product or in anticipation of that death.

5 (d) None of the prohibitions set forth in this Section
6 shall apply to employees or agents of the federal or State
7 government undertaking any law enforcement activities under
8 federal or State law or any mandatory duties required by
9 federal or State law.

10 (e) The prohibition on import set forth in subsection (a)
11 of this Section shall not apply where the import is expressly
12 authorized by federal license or permit.

13 (f) The Department of Natural Resources may permit, under
14 terms and conditions as the Department may adopt by rule, the
15 import, sale, offer for sale, purchase, barter, or possession
16 with intent to sell, of any ivory, ivory product, rhinoceros
17 horn, or rhinoceros horn product for bona fide educational or
18 scientific purposes, unless this activity is prohibited by
19 federal law.

20 Section 12. Exemptions. The prohibitions under Section 10
21 shall not apply:

22 (1) When the ivory or rhinoceros horn is part of a bona
23 fide antique gun or knife and is less than 20% by volume of
24 the antique, and the seller establishes by documentation
25 that the antique is not less than 100 years old.

1 (2) When the ivory or rhinoceros horn is part of a
2 musical instrument, including, but not limited to, a string
3 or wind instrument or piano, and that is less than 20% by
4 volume of the instrument, and the owner or seller provides
5 historical documentation demonstrating provenance and
6 showing the item was manufactured no later than 1975.

7 Section 15. Penalties.

8 (a) In addition to any applicable penalties which may be
9 imposed under any other law, a person violating any provision
10 of Section 10 of this Act, or any rule adopted under Section 20
11 of this Act, shall be guilty of:

12 (1) for a first offense, a business offense and shall
13 be fined not less than \$1,000 or an amount equal to 2 times
14 the total value of the ivory, ivory products, rhinoceros
15 horn, and rhinoceros horn products involved in the offense,
16 whichever is greater; and

17 (2) for a second or subsequent offense, a Class A
18 misdemeanor and shall be fined not less than \$5,000 or an
19 amount equal to 2 times the total value of the ivory, ivory
20 products, rhinoceros horn, and rhinoceros horn products
21 involved in the offense, whichever is greater.

22 (b) Upon a conviction for violating the provisions of
23 Section 10 of this Act, the court shall order the seizure of
24 all ivory, ivory products, rhinoceros horn, and rhinoceros horn
25 products involved in the violation and determine the penalty

1 for the violation based on the assessed value of the seized
2 products under subsection (a) of this Section. After sentencing
3 the defendant, the court shall order that the seized ivory,
4 ivory products, rhinoceros horn, and rhinoceros horn products
5 be transferred to the Department of Natural Resources for
6 proper disposition. The Department, at its discretion, may
7 destroy the ivory, ivory products, rhinoceros horn, and
8 rhinoceros horn products or donate them to an educational or
9 scientific institution or organization, including, but not
10 necessarily limited to, a museum, university, or research
11 group.

12 Section 20. Rulemaking authority. The Department of
13 Natural Resources may adopt any rules necessary for the
14 implementation of this Act.