

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE BILL DRH40426-MH-108 (03/23)

Short Title: Ban Endangered Species Product Trafficking. (Public)

Sponsors: Representatives Harrison, McGrady, and Saine (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO BAN TRAFFICKING IN IVORY AND RHINOCEROS HORN.  
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** G.S. 113-331 through G.S. 113-337 of Article 25 of Chapter 113 of  
5 the General Statutes are recodified as Part 1 of Article 25 of Chapter 113 of the General  
6 Statutes, to be entitled "General Provisions."

7 **SECTION 2.** Article 25 of Chapter 113 of the General Statutes is amended by  
8 adding a new Part to read:

9 "Part 2. Ivory and Rhinoceros Horn.

10 **"§ 113-338. Definitions.**

11 The following definitions apply in this Part:

- 12 (1) Covered animal product. – Any ivory, ivory product, rhinoceros horn, or  
13 rhinoceros horn product.  
14 (2) Ivory. – Any tusk composed of ivory from an elephant or mammoth, or any  
15 piece thereof, whether raw ivory or worked ivory, or made into, or part of,  
16 an ivory product.  
17 (3) Ivory product. – Any item that contains, or is wholly or partially made from,  
18 any ivory.  
19 (4) Raw ivory. – Any ivory the surface of which, polished or unpolished, is  
20 unaltered or minimally changed by carving.  
21 (5) Rhinoceros horn. – The horn, or any piece thereof, of any species of  
22 rhinoceros.  
23 (6) Rhinoceros horn product. – Any item that contains, or is wholly or partially  
24 made from, any rhinoceros horn.  
25 (7) Total value of the covered animal products. – The fair market value of the  
26 covered animal products, or the actual price paid for the covered animal  
27 products, whichever is greater.  
28 (8) Worked ivory. – Ivory that has been embellished, carved, marked, or  
29 otherwise altered so that it can no longer be considered raw ivory.

30 **"§ 113-339. Prohibitions; exceptions; burden of proof.**

31 (a) Prohibition. – In addition to the prohibitions and penalties established by federal  
32 law, a person in this State shall not import, sell, offer for sale, purchase, barter, or possess with  
33 intent to sell any covered animal product, except as authorized under subsections (e) and (d) of  
34 this section.

35 (b) Presumption of Intent to Sell. – The possession in this State of any covered animal  
36 product in a retail or wholesale outlet commonly used for the buying or selling of similar



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1 products shall constitute presumptive evidence of possession with intent to sell under this  
2 section. Nothing in this subsection shall preclude a finding of intent to sell based on any  
3 evidence that may serve independently to establish intent to sell. The act of obtaining an  
4 appraisal of a covered animal product alone shall not constitute possession with intent to sell.

5 (c) Authorized Conveyance to Beneficiaries. – A person may convey a covered animal  
6 product to the legal beneficiary of the covered animal product that is part of an estate of other  
7 items being conveyed to lawful beneficiaries upon the death of the owner of the covered animal  
8 product or in anticipation of that death.

9 (d) Exceptions. – The prohibitions of this section shall not apply to any of the  
10 following:

11 (1) Employees or agents of the federal government or the State undertaking any  
12 law enforcement activities pursuant to federal or State law or any mandatory  
13 duties required by federal or State law.

14 (2) The import of legally acquired covered animal products:

15 a. Expressly authorized by federal law, license, or permit; or

16 b. As part of a personal or household move into the State.

17 (3) The sale of ivory or ivory products expressly authorized by federal law,  
18 license, or permit, provided that the total weight of the ivory or ivory  
19 components is less than 200 grams.

20 (4) The import, sale, offer for sale, purchase, barter, or possession with intent to  
21 sell of any covered animal product for a bona fide educational or scientific  
22 purpose or to a museum, unless the proposed activity is prohibited by federal  
23 law.

24 (5) The covered animal product is part of a bona fide antique; provided that all  
25 of the following apply:

26 a. The antique status of such a part or product is established by the  
27 owner or seller thereof with historical documentation showing the  
28 antique to be not less than 100 years old.

29 b. The covered animal product is less than twenty percent (20%) by  
30 volume of such an antique.

31 c. The covered animal product is a fixed component or components of a  
32 larger manufactured item and is not, in its current form, the primary  
33 source of value of the item.

34 (6) The covered animal product is less than twenty percent (20%) by volume of  
35 a gun, knife, or musical instrument, including, without limitation, string  
36 instruments and bows, wind and percussion instruments, and pianos, if the  
37 owner or seller provides historical documentation showing the item was  
38 manufactured no later than 1975 and the covered animal product is a fixed  
39 component or components of a larger manufactured item and is not, in its  
40 current form, the primary source of value of the item;

41 (e) Burden of Proof. – In connection with any action alleging violation of this section,  
42 any person claiming the benefit of any exception shall have the burden of proving that the  
43 exception is applicable and was valid and in force at the time of the alleged violation.

44 **"§ 113-340. Enforcement; civil remedies.**

45 (a) A person who violates this section shall be fined:

46 (1) For a first offense, one thousand dollars (\$1,000) or an amount equal to two  
47 times the total value of the covered animal product involved in the offense,  
48 whichever is greater.

49 (2) For a second or subsequent offense, five thousand dollars (\$5,000) or an  
50 amount equal to two times the covered animal product involved in the  
51 offense, whichever is greater.

1           (3)   The penalties provided in this subsection shall be in addition to any penalty  
2           that may be imposed under federal law.

3           (b)   Seizure. – Upon a conviction for a violation of this section or the rules adopted  
4           under this section, a court shall order the seizure of all ivory, ivory products, rhinoceros horn,  
5           and rhinoceros horn products involved in the violation and determine the penalty for the  
6           violation based on the assessed value of the seized products. After sentencing the defendant, the  
7           court shall order that the seized ivory, ivory products, rhinoceros horn, and rhinoceros horn  
8           products be transferred to the Executive Director for proper disposition. The Executive Director  
9           in his or her discretion may destroy the ivory, ivory products, rhinoceros horn, and rhinoceros  
10          horn products or donate them to an educational or scientific institution or organization.

11          **"§ 113-341. Rule making.**

12          The Wildlife Resources Commission may adopt rules to implement the requirements of this  
13          section.

14          **"§ 113-342. Educational information.**

15          The Wildlife Resources Commission shall maintain on its Web site information regarding  
16          the prohibition of the sale and purchase of ivory and rhinoceros horns in this State.

17          **"§ 113-343. Report on ivory and rhinoceros horn prohibition.**

18          On or before January 15, 2022, the Wildlife Resources Commission, after consultation with  
19          the U.S. Fish and Wildlife Service, shall submit to the Joint Legislative Oversight Committee  
20          on Agriculture and Natural and Economic Resources and the Fiscal Research Division a report  
21          regarding the implementation of this act including a summary of all of the following:

- 22           (1)   Enforcement activities taken by the State, including the outcome of any  
23           items seized.  
24           (2)   The financial impact of the prohibition of the sale of ivory and rhinoceros  
25           horns on North Carolina businesses.  
26           (3)   Actions other states have taken with regard to the sale of ivory and  
27           rhinoceros horns.  
28           (4)   Recommendations regarding necessary changes to North Carolina law,  
29           including the extension or repeal of the prohibition."

30          **SECTION 3.** This act becomes effective January 1, 2018.