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A BILL
23-34

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To prohibit the distribution of certain prohibited animal products, including ivory and rhinoceros horn, to exempt certain transfers of prohibited animal products from the prohibition, and to provide penalties.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Ivory and Horn Trafficking Prohibition Act of 2020”.

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) “Educational or scientific institution” means an entity that:

(A) Receives an educational or scientific tax exemption from the federal Internal Revenue Service or the institution’s national, state, or local tax authority; or

(B) Is accredited as an educational or scientific institution from a qualified national, regional, state, or local authority for the institution’s location.

(2) “Prohibited animal product” means:

(A) The tooth or tusk composed of ivory, whether raw or worked, from any species of elephant, hippopotamus, mammoth, mastodon, narwhal, or whale;

(B) The horn of any species of rhinoceros; or

27 (C) An item that is wholly or partially composed of any material described
28 in subparagraph (A) or (B) of this paragraph.

29 Sec. 3. Unlawful distribution of a prohibited animal product.

30 (a) Beginning one year after the applicability date of this act, a person commits the offense
31 of unlawful distribution of a prohibited animal product if that person knowingly imports, sells,
32 offers for sale, purchases, barter, trades, or possesses with intent to sell a prohibited animal
33 product.

34 (b) Notwithstanding subsection (a) of this section, a person does not commit the offense of
35 unlawful distribution of a prohibited animal product if the person:

36 (1) Bequeaths the prohibited animal product to the legal beneficiary of an estate or
37 trust upon the death of the owner;

38 (2) Gifts or donates the prohibited animal product without remuneration; or

39 (3) Is a government employee or agent conducting law enforcement activities
40 pursuant to federal, state, or local law;

41 (4) Is an educational or scientific institution that imports, sells, offers for sale,
42 purchases, barter, trades, or possesses with intent to sell a prohibited animal product for
43 educational or scientific purposes;

44 (5) Is engaging in activity that is expressly authorized by federal law or a permit
45 issued pursuant to federal law;

46 (6) Imports, sells, offers for sale, purchases, barter, trades, or possesses with intent
47 to sell a prohibited animal product that is part of an antique that:

48 (A) Is composed of not more than 20% of a prohibited animal product by
49 volume; and

50 (B) The person can, through documentation, establish provenance and
51 demonstrate that the antique is at least 100 years old; or

52 (7) Imports, sells, offers for sale, purchases, barter, trades, or possesses with intent
53 to sell a prohibited animal product that is part of a musical instrument that:

54 (A) Is composed of less than 20% of a prohibited animal product by volume;
55 and

56 (B) The person can establish provenance and demonstrate that the musical
57 instrument was manufactured before 1976.

58 (c) The act of obtaining an appraisal of a prohibited animal product alone shall not
59 constitute possession with intent to sell or offer for sale.

60 Sec. 4. Penalties.

61 (a) Except as provided in subsections (b) and (c) of this section, a person convicted of
62 unlawful distribution of a prohibited animal product shall:

63 (1) For a first offense, be fined no more than \$1,000 or twice the value of the
64 prohibited animal product, whichever is greater, incarcerated for no more than 30 days, or both;

65 (2) For a second offense, be fined no more than \$5,000 or twice the value of the
66 prohibited animal product, whichever is greater, incarcerated for no more than one year, or both;
67 and

68 (3) For a third or subsequent offense, be fined no more than \$25,000 or thrice the
69 value of the prohibited animal product, whichever is greater, incarcerated for no more than 3 years,
70 or both.

71 (b) For any offense where the total value of the prohibited animal product is greater than
72 \$25,000, a person convicted of unlawful distribution of a prohibited animal product shall be fined
73 thrice the value of the prohibited animal product, incarcerated for no more than 3 years, or both.

74 (c) If the person convicted of unlawful distribution of a prohibited animal product is not an
75 individual, the court may double the applicable fine specified in subsection (a) or subsection (b)
76 of this section.

77 (d) The fines set forth in this section shall not be limited by section 101 of the Criminal
78 Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C.
79 Official Code § 22-3571.01).

80 Sec. 5. Rules.

81 The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act,
82 approved October 21, 1968 (82 Stat. 1204; D.C. Official Code 2-501 *et seq.*), shall issue rules to
83 implement the provisions of this act.

84 Sec. 6. Applicability.

85 (a) This act shall apply upon the date of inclusion of its fiscal effect in an approved
86 budget and financial plan.

87 (b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in
88 an approved budget and financial plan, and provide notice to the Budget Director of the Council
89 of the certification.

90 (c)(1) The Budget Director shall cause the notice of the certification to be published in
91 the District of Columbia Register.

92 (2) The date of publication of the notice of the certification shall not affect the
93 applicability of this act.

94 Sec. 7. Fiscal impact statement.

95 The Council adopts the fiscal impact statement in the committee report as the fiscal impact
96 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
97 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

98 Sec. 8. Effective date.

99 This act shall take effect following approval by the Mayor (or in the event of veto by the
100 Mayor, action by the Council to override the veto), a 60-day period of congressional review as
101 provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24,
102 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of
103 Columbia Register.