

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 2511

By: Teague

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5
6 AS INTRODUCED

7 An Act relating to game and fish; defining terms;
8 prohibiting the sale or purchase of ivory or ivory
9 products; providing for presumptive evidence under
10 certain circumstances; specifying that appraisals do
11 not constitute possession with intent to sell;
12 allowing for the conveyance of ivory to legal
13 beneficiaries; exempting federal and state employees
14 or agents from specified prohibitions and penalties;
15 exempting imported ivory products from specified
16 prohibitions and penalties when authorized by federal
17 license or permit; authorizing the Department of
18 Wildlife Conservation to issue permits; listing
19 activities allowed under permits; providing
20 penalties; directing courts to seize certain items
21 and determine penalty; requiring transfer of seized
22 items to the Department; authorizing destruction or
23 donation of seized items; providing for codification;
24 and providing an effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 7-505 of Title 29, unless there
21 is created a duplication in numbering, reads as follows:

22 A. As used in this section:

23 1. "Ivory" means any tooth or tusk composed of ivory from any
24 animal, including, but not limited to, an elephant, hippopotamus,

1 mammoth, narwhal, walrus, or whale, or any piece thereof, whether
2 raw ivory or worked ivory, or made into, or part of, an ivory
3 product;

4 2. "Ivory product" means any item that contains, or that is
5 wholly or partially made from, any ivory;

6 3. "Raw ivory" means any ivory the surface of which, polished
7 or unpolished, is unaltered or minimally changed by carving;

8 4. "Total value of the ivory and ivory products" means the fair
9 market value of the ivory and ivory products, or the actual price
10 paid for the ivory and ivory products, whichever is greater; and

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

14 B. In addition to the prohibitions established pursuant to, and
15 the penalties imposed for violations of, Sections 7-502 and 7-503 of
16 Title 29 of the Oklahoma Statutes, and any other applicable law, it
17 shall be unlawful for any person to import, sell, offer for sale,
18 purchase, barter or possess with intent to sell any ivory or ivory
19 product except as otherwise provided for pursuant to this section.

20 C. It shall be presumptive evidence of possession with intent
21 to sell when any ivory or ivory product is possessed in a retail or
22 wholesale outlet commonly used for the buying or selling of similar
23 products. Nothing in this subsection shall preclude a finding of
24 intent to sell based on any other evidence which may serve to

1 independently establish such intent. The act of obtaining an
2 appraisal of ivory or an ivory product alone shall not constitute
3 possession with intent to sell.

4 D. A person may convey ivory or an ivory product to the legal
5 beneficiary of the ivory or ivory product which is part of an estate
6 or other items being conveyed to lawful beneficiaries upon the death
7 of the owner of the ivory or ivory product or in anticipation of
8 that death.

9 E. None of the prohibitions set forth in this section shall
10 apply to employees or agents of the federal or state government
11 undertaking any law enforcement activities pursuant to federal or
12 state law or any mandatory duties required by federal or state law.

13 F. The prohibition on import set forth in subsection B of this
14 section shall not apply where the import is expressly authorized by
15 federal license or permit.

16 G. Unless the activity is prohibited by federal law, the
17 Department of Wildlife Conservation may issue a permit, under terms
18 and conditions as the Department may prescribe, authorizing the
19 import, sale, offer for sale, purchase, barter or possession with
20 intent to sell of any ivory or ivory product:

21 1. For bona fide educational or scientific purposes;

22 2. When the ivory or ivory product is part of a bona fide
23 antique and is less than twenty percent (20%) by volume of the
24 antique and the antique status of the antique is established by the

1 owner or seller with historical documentation evidencing and showing
2 the antique to be not less than one hundred (100) years old; or

3 3. When the ivory or ivory product is part of a musical
4 instrument including, but not limited to, string and wind
5 instruments and pianos, or part of a firearm or pocket knife.

6 H. 1. In addition to any applicable penalties which may be
7 imposed pursuant to Sections 7-502 and 7-503 of Title 29 of the
8 Oklahoma Statutes, and any other applicable law, a person violating
9 any provision of this section shall be guilty of:

10 a. for a first offense, a misdemeanor and upon
11 conviction, shall be punished by a fine of not less
12 than One Thousand Dollars (\$1,000.00) or an amount
13 equal to two (2) times the total value of the ivory or
14 ivory products involved in the offense, whichever is
15 greater, and

16 b. for a second or subsequent offense, a misdemeanor and
17 upon conviction, shall be punished by a fine of not
18 less than Five Thousand Dollars (\$5,000.00) or an
19 amount equal to two (2) times the total value of the
20 ivory or ivory products involved in the offense,
21 whichever is greater.

22 2. Upon a conviction for violating the provisions of this
23 section, the court shall order the seizure of all ivory and ivory
24 products involved in the violation and determine the penalty for the

1 violation based on the assessed value of the seized products
2 pursuant to paragraph 1 of this subsection. After sentencing the
3 defendant, the court shall order that the seized ivory and ivory
4 products be transferred to the Department of Wildlife Conservation
5 for proper disposition. The Department, at its discretion, may
6 destroy the ivory and ivory products or donate them to an
7 educational or scientific institution or organization, including,
8 but not limited to, a zoo, museum, university or research group.

9 SECTION 2. This act shall become effective November 1, 2018.

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11 56-2-8428 GRS 12/05/17

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