
SENATE BILL 5241

State of Washington

64th Legislature

2015 Regular Session

By Senators Litzow and Hatfield

1 AN ACT Relating to ivory and rhinoceros horn trafficking;
2 amending RCW 77.15.260; adding a new section to chapter 77.15 RCW;
3 and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) Ivory trafficking is occurring at the highest rate ever
7 recorded, with an estimated confiscation of more than forty-one tons
8 of illegal ivory worldwide in 2013;

9 (2) Despite laws to protect elephants, more than thirty-five
10 thousand African elephants were slaughtered in 2012;

11 (3) Scientists expect the current level of illegal ivory trade
12 will cause the extinction of elephants within twenty years;

13 (4) Precious artifacts from prehistoric mammoths also need
14 protection from illegal ivory traffickers;

15 (5) The current worldwide population of all rhinoceros species
16 living in the wild has dwindled to twenty-nine thousand;

17 (6) A February 2014 federal ban on the commercial trade of
18 rhinoceros horn and elephant ivory has highlighted the need to
19 protect rhinoceros and elephant populations from poachers; and

20 (7) The most effective way to discourage illegal trafficking is
21 to eliminate markets and profits.

1 The legislature therefore determines that it is an important
2 public purpose to protect all species of rhinoceros and elephants, as
3 well as prehistoric mammoth artifacts, by prohibiting the import,
4 sale, purchase, barter, and possession with intent to sell, of any
5 ivory, ivory product, rhinoceros horn, or rhinoceros horn product.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.15
7 RCW to read as follows:

8 (1) Except as provided in this section, no person or entity may
9 sell, offer to sell, purchase, trade, traffic, barter for, or
10 distribute any ivory article or rhinoceros horn.

11 (2) The director or the director's designee may issue a license
12 or permit to sell, offer to sell, purchase, trade, barter for, or
13 distribute ivory articles or rhinoceros horns, provided that:

14 (a) The ivory article or rhinoceros horn comprises (i) less than
15 five percent by volume (ii) of a bona fide antique, and (iii) the
16 owner or seller provides to both the department and the grantee or
17 buyer documented evidence of provenance sufficient to establish the
18 antique to be one hundred or more years old;

19 (b) The distribution, transfer, or other change in possession of
20 the ivory article or rhinoceros horn is for a bona fide educational
21 or scientific purpose, or to a museum chartered by an educational
22 institution established, operated, and governed under Title 28A, 28B,
23 or 28C RCW;

24 (c) The distribution of the ivory article or rhinoceros horn is
25 to a legal beneficiary of a trust or to an heir or distributee of an
26 estate; or

27 (d) The ivory article or rhinoceros horn is part of a musical
28 instrument, including string and wind instruments and pianos, if the
29 owner or seller provides to both the department and the grantee or
30 buyer documented evidence of provenance sufficient to establish the
31 instrument was manufactured prior to January 1, 1976.

32 (3) The department must create and make available to the public,
33 including on its web site, the provisions of this section and
34 information regarding the prohibition of the sale and purchase of
35 ivory articles and rhinoceros horns.

36 (4) The definitions in this subsection apply throughout this
37 section unless the context clearly requires otherwise.

38 (a) "Distribute" means a transfer or change in possession with an
39 accompanying change in legal ownership.

1 (b) "Ivory" means any tooth or tusk composed of ivory from any
2 elephant or mammoth, or any part thereof, whether raw ivory or worked
3 ivory, or made into, or part of, an ivory product.

4 (c) "Ivory article" means any item containing worked or raw ivory
5 from any species of elephant or mammoth.

6 (d) "Ivory product" means any item that contains, or that is
7 wholly or partially made from, any ivory.

8 (e) "Raw ivory" means any ivory the surface of which, polished or
9 unpolished, is unaltered or minimally changed by carving.

10 (f) "Rhinoceros horn" means the horn, or any part thereof, of any
11 species of rhinoceros.

12 (g) "Rhinoceros horn product" means any item that contains, or is
13 wholly or partially made from, any rhinoceros horn.

14 (h) "Value" means the fair market value of the ivory, ivory
15 products, rhinoceros horn, and rhinoceros horn products, or the
16 actual price paid for the ivory, ivory products, rhinoceros horn, and
17 rhinoceros products, whichever is greater.

18 (i) "Worked ivory" means embellished, carved, marked, or
19 otherwise altered ivory such that it can no longer be considered raw
20 ivory.

21 **Sec. 3.** RCW 77.15.260 and 2012 c 176 s 19 are each amended to
22 read as follows:

23 (1) A person is guilty of unlawful trafficking in fish,
24 shellfish, or wildlife in the second degree if the person traffics in
25 fish, shellfish, or wildlife with a wholesale value of less than two
26 hundred fifty dollars and:

27 (a) The fish, shellfish, or wildlife is classified as game, food
28 fish, shellfish, game fish, or protected wildlife and the trafficking
29 is not authorized by statute or department rule; ~~((e))~~

30 (b) The fish, shellfish, or wildlife is unclassified and the
31 trafficking violates any department rule; or

32 (c) A statute or department rule identifies and disallows the
33 trafficking of the fish, shellfish, or wildlife species, including
34 any species, in whole or in part, not found in a wild state in
35 Washington.

36 (2)(a) A person is guilty of unlawful trafficking in fish,
37 shellfish, or wildlife in the first degree if the person commits the
38 act described by subsection (1) of this section and:

1 (i) The fish, shellfish, or wildlife has a value of two hundred
2 fifty dollars or more; or

3 (ii) The fish, shellfish, or wildlife is designated as an
4 endangered species or deleterious exotic wildlife and such
5 trafficking is not authorized by any statute or department rule.

6 (b) For purposes of this subsection (2), whenever any series of
7 transactions that constitute unlawful trafficking would, when
8 considered separately, constitute unlawful trafficking in the second
9 degree due to the value of the fish, shellfish, or wildlife, and the
10 series of transactions are part of a common scheme or plan, then the
11 transactions may be aggregated in one count and the sum of the value
12 of all the transactions considered when determining the degree of
13 unlawful trafficking involved.

14 (3)(a) Unlawful trafficking in fish, shellfish, or wildlife in
15 the second degree is a class C felony.

16 (b) Unlawful trafficking in fish, shellfish, or wildlife in the
17 first degree is a class B felony.

--- END ---