

[First Reprint]

**SENATE, No. 2012**

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**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

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INTRODUCED APRIL 28, 2014

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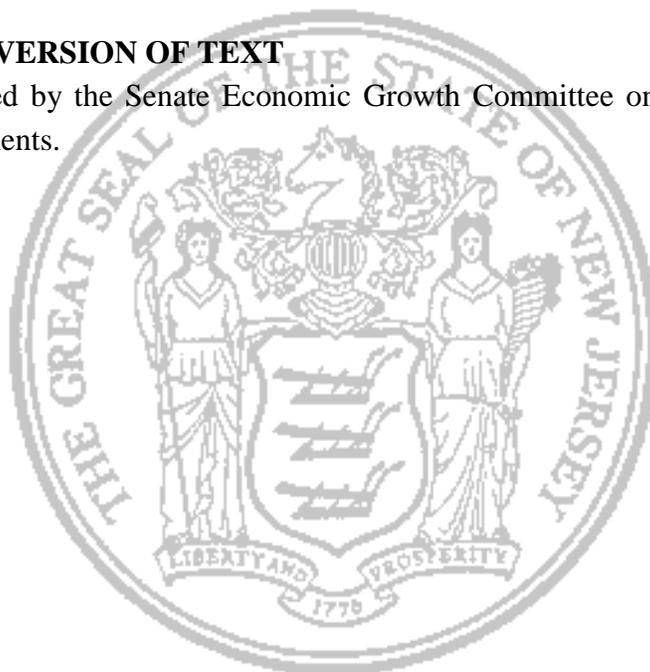
**Senator Bateman**

**SYNOPSIS**

Prohibits import, sale, purchase, barter, or possession of ivory or rhinoceros horn and items containing ivory or rhinoceros horn, with limited exceptions.

**CURRENT VERSION OF TEXT**

As reported by the Senate Economic Growth Committee on May 5, 2014, with amendments.



**(Sponsorship Updated As Of: 6/17/2014)**

1 AN ACT concerning the <sup>1</sup>import,<sup>1</sup> sale, purchase, barter, or  
2 possession of ivory or rhinoceros horn and supplementing Title  
3 23 of the Revised Statutes.

4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7

8 1. The Legislature finds and declares that ivory trafficking is at  
9 the highest rate ever recorded, with an estimated confiscation of  
10 more than 41 tons of illegal ivory worldwide in 2013; that despite  
11 laws to protect elephants, more than 35,000 African elephants were  
12 slaughtered in 2012 and scientists expect the current levels of  
13 illegal trade in ivory will bring elephants to extinction within 20  
14 years; that other species with ivory teeth and tusks – such as  
15 hippopotamuses, narwhals, walruses, and whales – are equally  
16 threatened and the protection of one species may inadvertently draw  
17 poachers’ efforts to another species; that precious artifacts from  
18 prehistoric mammoths are also not safe and need protection from  
19 illegal ivory traffickers; that currently the population of all species  
20 of rhinoceros living in the wild worldwide has dwindled to 29,000  
21 and, in February 2014, a federal ban on commercial trade of  
22 rhinoceros horn and elephant ivory has focused the need to protect  
23 rhinoceros populations from poachers as well; and that the most  
24 effective way to discourage the illegal trafficking is to eliminate  
25 markets and profits for the traffickers.

26 The Legislature therefore determines that it is an important  
27 public purpose to protect all species of rhinoceros and all species of  
28 animals with ivory teeth and tusks by prohibiting the <sup>1</sup>import,<sup>1</sup> sale,  
29 purchase, barter, or possession with intent to sell, of any ivory,  
30 ivory product, rhinoceros horn, or rhinoceros horn product.

31

32 2. As used in this act:

33 “Ivory” means any tooth or tusk <sup>1</sup>composed of ivory<sup>1</sup> from <sup>1</sup>any  
34 animal, including, but not limited to,<sup>1</sup> an elephant, hippopotamus,  
35 mammoth, narwhal, walrus, or whale, or any piece thereof, whether  
36 raw ivory or worked ivory, or made into, or part of, an ivory  
37 product.

38 “Ivory product” means any item that contains, or that is wholly  
39 or partially made from, any ivory.

40 “Raw ivory” means any ivory the surface of which, polished or  
41 unpolished, is unaltered or minimally changed by carving.

42 “Rhinoceros horn” means the horn, or any piece thereof, of any  
43 species of rhinoceros.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SEG committee amendments adopted May 5, 2014.

1 “Rhinoceros horn product” means any item that contains, or is  
2 wholly or partially made from, any rhinoceros horn.

3 “Total value of the ivory, ivory products, rhinoceros horn, and  
4 rhinoceros horn products” means the fair market value of the ivory,  
5 ivory products, rhinoceros horn, and rhinoceros horn products, or  
6 the actual price paid for the ivory, ivory products, rhinoceros horn,  
7 and rhinoceros products whichever is greater.

8 “Worked ivory” means ivory that has been embellished, carved,  
9 marked, or otherwise altered so that it can no longer be considered  
10 raw ivory.

11

12 3. a. In addition to the prohibitions established pursuant to,  
13 and the penalties imposed for violations of, R.S.23:4-27, “The  
14 Endangered and Nongame Species Conservation Act,” P.L.1973,  
15 c.309 (C.23:2A-1 et seq.), and any other applicable law, it shall be  
16 unlawful for any person to <sup>1</sup>import,<sup>1</sup> sell, offer for sale, purchase,  
17 barter, or possess with intent to sell, any ivory, ivory product,  
18 rhinoceros horn, or rhinoceros horn product, except as provided  
19 pursuant to <sup>1</sup>[subsection b. or c. of]<sup>1</sup> this section.

20 <sup>1</sup>b. It shall be presumptive evidence of possession with intent to  
21 sell when any ivory, ivory product, rhinoceros horn, or rhinoceros  
22 horn product is possessed in a retail or wholesale outlet commonly  
23 used for the buying or selling of similar products, provided,  
24 however, that nothing in this subsection shall preclude a finding of  
25 intent to sell based on any other evidence which may serve to  
26 independently establish such intent.<sup>1</sup> The act of obtaining an  
27 appraisal of ivory, an ivory product, rhinoceros horn, or a  
28 rhinoceros horn product, alone shall not constitute possession with  
29 intent to sell.

30 <sup>1</sup>[b.] c.<sup>1</sup> A person may convey ivory, an ivory product,  
31 rhinoceros horn, or a rhinoceros horn product to the legal  
32 beneficiary of the ivory, ivory product, rhinoceros horn, or  
33 rhinoceros horn product which is part of an estate or other items  
34 being conveyed to lawful beneficiaries upon the death of the owner  
35 of the ivory, ivory product, rhinoceros horn, or rhinoceros horn  
36 product in anticipation of that death.

37 <sup>1</sup>[c. A person complying with the rules and regulations adopted  
38 by the Department of Environmental Protection pursuant to section  
39 5 of this act may sell, offer for sale, purchase, barter, or possess:

40 (1) Asian elephant ivory, or an Asian elephant ivory product  
41 made wholly or in part of Asian elephant ivory, that was legally  
42 obtained prior to 1975;

43 (2) African elephant ivory, or an African elephant ivory product  
44 made wholly or in part of African elephant ivory, that was legally  
45 obtained prior to 1990;

1 (3) ivory from, or an ivory product made wholly or in part of,  
2 hippopotamus, mammoth, narwhal, walrus, or whale ivory that was  
3 legally obtained prior to the effective date of this act; or

4 (4) rhinoceros horn or rhinoceros horn product that was legally  
5 obtained prior to the effective date of this act.】

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

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

13 f. The Department of Environmental Protection may permit,  
14 under terms and conditions as the department may prescribe, the  
15 import, sale, offer for sale, purchase, barter, or possession with  
16 intent to sell, any ivory, ivory product, rhinoceros horn, or  
17 rhinoceros horn product for bona fide educational or scientific  
18 purposes, unless this activity is prohibited by federal law.<sup>1</sup>

19  
20 4. a. In addition to any applicable penalties which may be  
21 imposed pursuant to R.S.23:4-27, “The Endangered and Nongame  
22 Species Conservation Act,” P.L.1973, c.309 (C.23:2A-1 et seq.), or  
23 any other applicable law, a person violating any provision of  
24 section 3 of this act, or any rule or regulation adopted pursuant to  
25 section 5 of this act, shall be guilty of:

26 (1) for a first offense, a disorderly persons offense and,  
27 notwithstanding the provisions of N.J.S.2C:43-3, shall be fined not  
28 less than \$1,000 or an amount equal to two times the total value of  
29 the ivory, ivory products, rhinoceros horn, and rhinoceros horn  
30 products involved in the offense, whichever is greater; and

31 (2) for a second or subsequent offense, a crime of the fourth  
32 degree and, notwithstanding the provisions of N.J.S.2C:43-3, shall  
33 be fined not less than \$5,000 or an amount equal to two times the  
34 total value of the ivory, ivory products, rhinoceros horn, and  
35 rhinoceros horn products involved in the offense, whichever is  
36 greater.

37 b. Upon a conviction for violating the provisions of section 3  
38 of this act, the court shall <sup>1</sup>【seize】 order the seizure of<sup>1</sup> all ivory,  
39 ivory products, rhinoceros horn, and rhinoceros horn products  
40 involved in the violation <sup>1</sup>【, assess the value,】<sup>1</sup> and determine the  
41 penalty <sup>1</sup>【and sentencing】<sup>1</sup> for the violation <sup>1</sup>based on the assessed  
42 value of the seized products<sup>1</sup> pursuant to subsection a. of this  
43 section. After <sup>1</sup>【making this determination and issuing the  
44 <sup>1</sup>【sentence】 sentencing the defendant<sup>1</sup> , the court shall <sup>1</sup>【remit】 order  
45 that<sup>1</sup> the seized ivory, ivory products, rhinoceros horn, and  
46 rhinoceros horn products <sup>1</sup>be transferred<sup>1</sup> to the Department of  
47 Environmental Protection for proper disposition. The department,

1 at its discretion, may destroy the ivory, ivory products, rhinoceros  
2 horn, and rhinoceros horn products or donate them to an educational  
3 or scientific institution or organization, including, but not  
4 necessarily limited to, a museum, university, or research group.

5  
6 5. The Department of Environmental Protection <sup>1</sup>~~shall~~ may<sup>1</sup>  
7 adopt, pursuant to the “Administrative Procedure Act,” P.L.1968,  
8 c.410 (C.52:14B-1 et seq.), rules and regulations necessary for the  
9 implementation <sup>1</sup>~~and administration~~<sup>1</sup> of this act <sup>1</sup>~~],~~ including, but  
10 not limited to: procedures for registering ivory, ivory products,  
11 rhinoceros horn, or rhinoceros horn products; determining whether  
12 ivory, ivory products, rhinoceros horn, or rhinoceros horn products  
13 were obtained legally; documenting or otherwise substantiating  
14 whether acquisition or possession of certain ivory, ivory products,  
15 rhinoceros horn, or rhinoceros horn products is legal; and legally  
16 selling, purchasing, bartering, and possessing ivory, ivory products,  
17 rhinoceros horn, or rhinoceros horn products pursuant to this act<sup>1</sup>.

18  
19 6. This act shall take effect immediately <sup>1</sup>, except that sections  
20 3 and 4 of this act shall remain inoperative for six months following  
21 the date of enactment<sup>1</sup>.