

HOUSE BILL No. 4509

April 23, 2015, Introduced by Reps. Yanez, Derek Miller, Wittenberg, Zemke, Plawecki and Irwin and referred to the Committee on Natural Resources.

A bill to prohibit the sale, purchase, barter, or possession with intent to sell of ivory or rhinoceros horn or products thereof; to authorize the issuance of permits; to provide for the powers and duties of state governmental officers and agencies; to require the seizure of certain items and provide for their disposition; and to provide for penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this section:

2 (a) "Department" means the department of natural resources.

3 (b) "Ivory" means any tooth or tusk composed of ivory from any
4 animal, including, but not limited to, an elephant, hippopotamus,
5 mammoth, narwhal, walrus, or whale, or any piece thereof, whether
6 or not polished, embellished, carved, or marked.

1 (c) "Ivory product" means an item that contains, or that is
2 wholly or partially made from, ivory.

3 (d) "Rhinoceros horn" means the horn, or any piece thereof, of
4 any species of rhinoceros.

5 (e) "Rhinoceros horn product" means an item that contains, or
6 is wholly or partially made from, rhinoceros horn.

7 (f) "Total value of the ivory, ivory products, rhinoceros
8 horn, and rhinoceros horn products" means the fair market value of
9 the ivory, ivory products, rhinoceros horn, and rhinoceros horn
10 products, or the actual price paid for the ivory, ivory products,
11 rhinoceros horn, and rhinoceros horn products, whichever is
12 greater.

13 Sec. 3. (1) Except as provided in this act, a person shall not
14 import, sell, offer for sale, purchase, barter, or possess with
15 intent to sell any ivory, ivory product, rhinoceros horn, or
16 rhinoceros horn product.

17 (2) There is a rebuttable presumption that any ivory, ivory
18 product, rhinoceros horn, or rhinoceros horn product possessed in a
19 retail or wholesale outlet commonly used for the buying or selling
20 of similar products is possessed with intent to sell. The act of
21 obtaining an appraisal of ivory, an ivory product, rhinoceros horn,
22 or a rhinoceros horn product alone does not constitute possession
23 with intent to sell.

24 Sec. 5. (1) Section 3(1) does not apply to an employee or
25 agent of the federal government or this state undertaking any law
26 enforcement activity pursuant to federal or state law or any duty
27 imposed by federal or state law.

1 (2) The prohibition on import set forth in section 3(1) does
2 not apply if the import is expressly authorized by a federal
3 license or permit.

4 Sec. 7. Unless the activity is prohibited by federal law, the
5 department may issue a permit, under terms and conditions as the
6 department may prescribe, authorizing the import, sale, offer for
7 sale, purchase, barter, or possession with intent to sell of ivory,
8 an ivory product, rhinoceros horn, or a rhinoceros horn product
9 under any of the following conditions:

10 (a) For bona fide educational or scientific purposes.

11 (b) If the ivory, ivory product, rhinoceros horn, or
12 rhinoceros horn product is part of a bona fide antique and is less
13 than 20% by volume of the antique and if the owner or seller
14 establishes by documentation that the antique is not less than 100
15 years old.

16 (c) If the ivory, ivory product, rhinoceros horn, or
17 rhinoceros horn product is part of a musical instrument, including,
18 but not limited to, string and wind instruments and pianos, or a
19 part of a firearm, and if the owner or seller establishes by
20 documentation that the item was manufactured not later than 1975.

21 Sec. 9. The department may promulgate rules to implement this
22 act pursuant to the administrative procedures act of 1969, 1969 PA
23 306, MCL 24.201 to 24.328.

24 Sec. 11. (1) A person who violates this act or a rule
25 promulgated or permit issued or under this act is guilty of a
26 misdemeanor punishable as follows:

27 (a) For a first offense, by a fine of not less than \$1,000.00

1 or an amount equal to twice the total value of the ivory, ivory
2 products, rhinoceros horn, and rhinoceros horn products involved in
3 the offense, whichever is greater.

4 (b) For a second or subsequent offense, by a fine of not less
5 than \$5,000.00 or an amount equal to twice the total value of the
6 ivory, ivory products, rhinoceros horn, and rhinoceros horn
7 products involved in the offense, whichever is greater.

8 (2) Upon a conviction for violating this act or a rule
9 promulgated or permit issued under this act, the court shall order
10 the seizure of all ivory, ivory products, rhinoceros horn, and
11 rhinoceros horn products involved in the violation and determine
12 the fine for the violation.

13 (3) After sentencing the defendant, the court shall order that
14 the seized ivory, ivory products, rhinoceros horn, and rhinoceros
15 horn products be transferred to the department for proper
16 disposition. The department, at its discretion, may destroy the
17 ivory, ivory products, rhinoceros horn, and rhinoceros horn
18 products or donate them to an educational or scientific institution
19 or organization, including, but not limited to, a zoo, museum,
20 university, or research group.

21 Enacting section 1. This act takes effect 90 days after the
22 date it is enacted into law.