

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Jay D. Livingstone

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to ivory and rhinoceros horn trafficking.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	<i>1/21/2025</i>

HOUSE No.

[Pin Slip]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act relative to ivory and rhinoceros horn trafficking.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 131B the
2 following chapter:-

3 CHAPTER 131C. IVORY AND RHINOCEROS HORN TRAFFICKING

4 Section 1. (a) As used in this chapter, the following terms shall have the following
5 meanings, unless the context requires otherwise:-

6 "Ivory", a tooth or tusk from any species of elephant, mammoth or mastodon, or a piece
7 thereof, or an item or product containing a tooth or tusk from any of said species, or containing a
8 piece thereof.

9 "Rhinoceros horn", the horn, or a piece thereof, or derivative such as powder, of any
10 species of rhinoceros, or an item or product containing rhinoceros horn or a piece or derivative
11 thereof.

12 "Total value", the fair market value of the ivory or rhinoceros horn, or the actual price
13 paid for the ivory or rhinoceros horn, whichever is greater.

14 "Bona fide educational or scientific institution", an institution that establishes through
15 documentation an educational or a scientific tax exemption, from the federal Internal Revenue
16 Service or the institution's national or state tax authority.

17 "Sale" or "sell", selling, trading, bartering or offering for sale, trade or barter for
18 monetary or nonmonetary consideration, including, but not limited to any transfer of ownership
19 that occurs in the course of a commercial transaction.

20 (i) The term does not include a nonmonetary transfer of ownership by way of gift,
21 donation or bequest.

22 (ii) For purposes of this section, a sale shall be deemed to occur in this Commonwealth if:

23 (1) the buyer takes physical possession of the ivory or rhinoceros horn in this
24 Commonwealth; or

25 (2) the seller is located in this Commonwealth.

26 Section 2. (a) Notwithstanding any general or special law to the contrary and in addition
27 to the prohibitions and penalties established under sections 1 to 7, inclusive, of chapter 131A, no
28 person shall sell, offer for sale, purchase, or possess with intent to sell, any ivory or rhinoceros
29 horn, except as provided in this section.

30 (b) It shall be prima facia evidence of possession with intent to sell when a person
31 possesses ivory or rhinoceros horn in a retail or wholesale outlet; provided, however, that

32 nothing in this subsection shall preclude a finding of intent to sell based on any other evidence
33 which may independently establish such intent.

34 (c) Subsection (a) shall not apply to

35 (i) an employee or agent of the federal or state government undertaking a law
36 enforcement activity pursuant to federal or state law or a mandatory duty required by federal
37 law;

38 (ii) an activity that is authorized by an exemption or permit under federal law or that is
39 otherwise expressly authorized under federal law;

40 (iii) ivory or rhinoceros horn that is a fixed component of a musical instrument,
41 including, but not limited to, a string or wind instrument or piano; provided, however, that the
42 ivory or rhinoceros horn was legally acquired; and provided further, that the total weight of the
43 ivory or rhinoceros horn is less than 200 grams;

44 (iv) ivory or rhinoceros horn that is a fixed component of an antique that is not made
45 wholly or primarily of ivory or rhinoceros horn; provided, however that the antique status is
46 established by the owner or seller thereof with documentation evidencing provenance and
47 showing that the ivory or rhinoceros horn is not less than 100 years old, and provided that the
48 total weight of the ivory or rhinoceros horn is less than 200 grams.; (v) manufactured or
49 handcrafted items that contain a de minimis amount of ivory, provided, that the seller can
50 demonstrate compliance with all of the following criteria:

51 (1) the ivory was imported into the United States prior to January 18, 1990, or was
52 imported into the United States under a Convention on International Trade in Endangered

53 Species of Wild Fauna and Flora pre-Convention certificate with no limitation on its commercial
54 use;

55 (2) the ivory is a fixed or integral component of a larger manufactured or handcrafted
56 item and is not in its current form the primary source of the value of the item; provided, however,
57 that the ivory does not account for more than 50 percent of the value of the item;

58 (3) the ivory is not raw; (4) the manufactured or handcrafted item is not made wholly or
59 primarily of ivory;

60 provided, however, that the ivory does not account for more than 50 percent of the item
61 volume; (5) the total weight of the ivory component or components is less than 200 grams; and
62 (6) the item was manufactured or handcrafted before July 6, 2016; (vi) the purchase, sale, offer
63 for sale, or possession with intent to sell ivory or rhinoceros horn to a bona fide educational or
64 scientific institution for educational or scientific purposes; provided, however, that: (1) the
65 purchase, sale, offer for sale, or possession with intent to sell the ivory or rhinoceros horn is not
66 prohibited by federal law; and (2) the ivory or rhinoceros horn was legally acquired before
67 January 1, 1991, and was not subsequently transferred from one person to another for financial
68 gain or profit after July 1, 2026;

69 Section 3. (a) Violations of this chapter shall be punished:

70 (i) for a first offense, by a fine of not more than \$4,000 or 2 times the total value of the
71 ivory and rhinoceros horn involved in the offense, whichever is greater, or imprisonment up to 6
72 months in a house of correction, or both;

73 (ii) for a second offense, by a fine of not less than \$8,000 or 2 times the total value of the
74 ivory and rhinoceros horn involved in the offense, whichever is greater, or by imprisonment for
75 up to 18 months in a house of correction, or both; or

76 (iii) for a third or subsequent offense or for an offense where the total value of the ivory
77 or rhinoceros horn involved in the offense is not less than \$25,000, by imprisonment for up to
78 two and a half years in a house of correction and a fine of not less than \$40,000 or 2 times the
79 total value of the ivory and rhinoceros horn involved in the offense, whichever is greater.

80 Fines assessed pursuant to this section shall be deposited in the Elephant Ivory and Rhino
81 Horn Trafficking Enforcement Fund under section 4.

82 (b) Upon a conviction for violation of this chapter, the court shall order the seizure of all
83 ivory and rhinoceros horn involved in the violation and shall transfer the products to the
84 department of fish and game for proper disposition. The department, at its discretion, may
85 destroy the ivory and rhinoceros horn or donate it to a bona fide educational or scientific
86 institution .

87 Section 4. (a) There shall be an Elephant Ivory and Rhinoceros Horn Trafficking
88 Enforcement Fund. The director of law enforcement shall administer the fund to increase or
89 expand enforcement and educational efforts related to the provisions of this chapter which may
90 include financial rewards offered to a person providing information leading to the arrest and
91 conviction of a person found to be in violation of this chapter. The office of law enforcement
92 may use the fund for necessary and reasonable administrative and personnel costs related
93 to the specific purposes of the fund. The office of law enforcement shall not use the fund for

94 personnel or overhead costs not related to the purposes of the fund. The fund shall not be
95 assessed any indirect costs.

96 (b) There shall be credited to the fund: (i) all revenues received under section 3; (ii)
97 revenue from appropriations or other money authorized by the general court and specifically
98 designated to be credited to the fund; and (iii) funds from public or private sources including, but
99 not limited to, gifts, grants, donations, rebates and settlements received by the commonwealth
100 that are specifically designated to be credited to the fund.

101 The fund may be expended by the director of law enforcement without further
102 appropriation and any funds remaining at the end of a fiscal year shall not revert to the General
103 Fund and shall be available for use in subsequent fiscal years. The director shall report annually,
104 not later than October 1, on the fund's activity to the senate and house chairs of the joint
105 committee on environment, natural resources and agriculture and the house and senate
106 committees on ways and means. The report shall include, but not be limited to, an accounting of:

107 (i) revenue received by the fund; (ii) expenditures from the fund, including the recipient,
108 date and reason for the expenditure; and (iii) the total fund balance.

109 SECTION 2. This act shall take effect 1 year from the date of passage.