

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis

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:

Jason M. Lewis

DISTRICT/ADDRESS:

Fifth Middlesex

SENATE No.

[Pin Slip]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 519 OF 2023-2024.]

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.

4 IVORY AND RHINOCEROS HORN TRAFFICKING

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

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

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

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

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

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

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

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

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

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

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

31 (b) It shall be prima facia evidence of possession with intent to sell when a person
32 possesses ivory or rhinoceros horn in a retail or wholesale outlet; provided, however, that
33 nothing in this subsection shall preclude a finding of intent to sell based on any other evidence
34 which may independently establish such intent.

35 (c) Subsection (a) shall not apply to:

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

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

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

45 (iv) ivory or rhinoceros horn that is a fixed component of an antique that is not made
46 wholly or primarily of ivory or rhinoceros horn; provided, however that the antique status is
47 established by the owner or seller thereof with documentation evidencing provenance and
48 showing that the ivory or rhinoceros horn is not less than 100 years old, and provided that the
49 total weight of the ivory or rhinoceros horn is less than 200 grams;

50 (v) manufactured or handcrafted items that contain a de minimis amount of ivory,
51 provided, that the seller can demonstrate compliance with all of the following criteria:

52 (1) the ivory was imported into the United States prior to January 18, 1990, or was
53 imported into the United States under a Convention on International Trade in Endangered
54 Species of Wild Fauna and Flora pre-Convention certificate with no limitation on its commercial
55 use;

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

59 (3) the ivory is not raw;

60 (4) the manufactured or handcrafted item is not made wholly or primarily of ivory;
61 provided, however, that the ivory does not account for more than 50 percent of the item volume;

62 (5) the total weight of the ivory component or components is less than 200 grams; and

63 (6) the item was manufactured or handcrafted before July 6, 2016;

64 (vi) the purchase, sale, offer for sale, or possession with intent to sell ivory or rhinoceros
65 horn to a bona fide educational or scientific institution for educational or scientific purposes;
66 provided, however, that: (1) the purchase, sale, offer for sale, or possession with intent to sell the
67 ivory or rhinoceros horn is not prohibited by federal law; and (2) the ivory or rhinoceros horn
68 was legally acquired before January 1, 1991, and was not subsequently transferred from one
69 person to another for financial gain or profit after July 1, 2026;

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

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

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

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

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

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

88 Section 4. (a) There shall be an Elephant Ivory and Rhinoceros Horn Trafficking
89 Enforcement Fund. The director of law enforcement shall administer the fund to increase or
90 expand enforcement and educational efforts related to the provisions of this chapter which may
91 include financial rewards offered to a person providing information leading to the arrest and
92 conviction of a person found to be in violation of this chapter. The office of law enforcement

93 may use the fund for necessary and reasonable administrative and personnel costs related to the
94 specific purposes of the fund. The office of law enforcement shall not use the fund for personnel
95 or overhead costs not related to the purposes of the fund. The fund shall not be assessed any
96 indirect costs.

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

102 The fund may be expended by the director of law enforcement without further
103 appropriation and any funds remaining at the end of a fiscal year shall not revert to the General
104 Fund and shall be available for use in subsequent fiscal years. The director shall report annually,
105 not later than October 1, on the fund's activity to the senate and house chairs of the joint
106 committee on environment, natural resources and agriculture and the house and senate
107 committees on ways and means. The report shall include, but not be limited to, an accounting of:
108 (i) revenue received by the fund; (ii) expenditures from the fund, including the recipient, date
109 and reason for the expenditure; and (iii) the total fund balance.

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