

S. 440, H. 1275

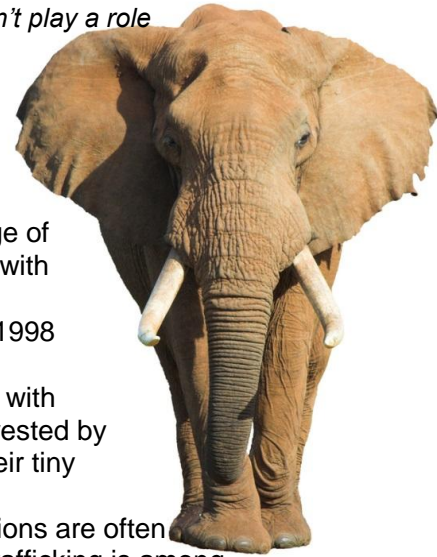
An Act to Prevent Trafficking in Ivory and Rhino Horns

Sponsor: State Senator Jason Lewis, Representative Lori Ehrlich

Summary: This bill would clamp down on illegal ivory and rhino horns sales by prohibiting the sale, trade and distribution of ivory and rhino horn within our state. It will ensure the Commonwealth doesn't play a role in an unprecedented global poaching crisis by prohibiting the trade in these products.

Why is this bill needed?

- Wildlife trafficking is an escalating global crisis and is fueled in part by the U.S. ivory market – which is among the top few markets globally.
- Between 2010 and 2012, 100,000 elephants were killed for their ivory – an average of one every 15 minutes. All extant five rhino species are threatened with extinction, with merely 28,000 remaining worldwide.
- Worldwide illegal ivory trade has more than doubled since 2007 and tripled since 1998 **and Mass. plays a role in this market.**
- Elephant and rhino poaching is a brutal and bloody practice – animals are chased with helicopters and shot down with military-grade weapons. Tusks and horns are harvested by cutting off faces of the sometimes still-living animals. Babies are often killed for their tiny stubble of tusk or horn.
- **Poaching is a national security issue** – extremist groups and terrorist organizations are often involved in wildlife trafficking, using it to finance their military operations. Wildlife trafficking is among the top 5 criminal markets worldwide alongside narcotics, weapons, human trafficking, and counterfeiting.
- We may see **extinctions within our lifetimes**. Scientists estimate some populations of African elephant will be extinct within the next few decades if poaching continues at current rate. Black rhinos have experienced a 96% population decline since 1970 with fewer than 4,800 members of the species remaining today.
- **Poaching for ivory and rhino horns is the cause of this crisis.**



What would this bill do?

- **Prohibit the ivory and rhino horn trade in Massachusetts** to ensure the Commonwealth doesn't play a role in illegal trafficking and help to stem an unprecedented global poaching crisis.
- **Prevent ivory traffickers from exploiting federal loopholes:** despite federal regulations restricting sale, import, and export, antique ivory and pre-1973 ivory and certain other ivory and rhino horn items can be sold under the Endangered Species Act and African Elephant Conservation Act. Criminals capitalize on these loopholes by aging newly harvested ivory so that it appears old. Thus, legal trade serves as a cover for illegal ivory trade and distribution (see reverse)
- **Impose heavy fines** on traffickers, order seizure of illegal ivory and rhino horn products upon conviction.
- **Establish the Endangered Elephant and Rhino Conservation and Education Fund** from penalties assessed under the new law. This Fund will promote conservation and increase education and outreach programs for these species, as well as provide financial rewards for information leading to the arrest and conviction of violators.
- **Make law enforcement's job easier.** An ivory and rhino horn trade ban provides clarity for federal and state law enforcement officers who would no longer have to determine if ivory and horn is legal or illegal under the complex federal regulatory scheme.
- **This bill would NOT** criminalize possession of ivory currently owned by Mass residents or prohibit inheritance or noncommercial gifts.

Last year, both New Jersey and New York passed similar laws and bills have been, or are expected to be, filed in California, Connecticut, Illinois, Oregon, Rhode Island, and Vermont in 2015.



Antiques & the Ivory Trade

Q: Do antiques play a role in the current poaching crisis?

A: YES.

- The U.S. is one of the world's largest commercial ivory markets and studies indicate that illegal ivory is frequently sold alongside legal (including antique) ivory in shops nationwide.
- While U.S. laws ban certain ivory and rhino horn trade, the laws contain loophole exceptions – such as those permitting the sale of antique ivory – enabling criminals to smuggle and sell newly-carved ivory from recently-poached elephants to unknowing American consumers.
- A 2008 market survey estimated that up to one-third (of 24,000) ivory items available for sale across the U.S. (including antiques) may have been illegal.ⁱ
- In 2014, a Philadelphia antiques shop owner was sentenced to prison after using the U.S. legal antique ivory market to launder illegal ivory. For a decade, he trafficked ivory from West Africa to the U.S., instructing his West African counterpart on how to alter receipts and to stain the ivory brown using potassium permanganate to make it appear antique. The US Fish and Wildlife Service seized more than one ton of African elephant ivory, noting that the "ivory was pretty much all disguised to look like antique ivory." Receipts showed ivory sold from the shop to Massachusetts buyers.ⁱⁱ
- In March 2015 a dealer in Chinese antiques was arrested for selling carved elephant ivory items, passing them off as ox bone, and attempting to smuggle ivory and rhino horn products out of the U.S.ⁱⁱⁱ
- In 2010 a popular Nantucket scrimshander was convicted of multiple felony counts of participating in an international conspiracy to smuggle elephant ivory and whale teeth into the U.S. A Nantucket antiques dealer was found guilty in the same case for illegal importation and sale of endangered sperm whale teeth and narwhal tusks.
- The US Fish and Wildlife Service –the primary agency tasked with enforcing federal ivory and rhino trade laws– has stated: "a substantial amount of elephant ivory is illegally imported and enters the domestic market" and "[o]ur criminal investigators and anti-smuggling efforts have clearly shown that legal ivory trade can serve as a cover for illegal trade."^{iv}

Q: Can't you tell a real antique from fake antique ivory?

A: NO – it is extremely difficult to tell the difference

- It is very difficult to distinguish illegal from legal ivory without expensive scientific testing. This makes enforcement of U.S. law extremely difficult, as most dealers in supposedly legal ivory do not have the necessary documentation. Traffickers exploit regulatory loopholes to sell poached ivory in legal markets.
- In the U.S. independent investigations found huge amounts of ivory for sale in retail stores and auction houses, most of which is labeled as "antique" – but few of the items have proper documentation, and truly old ivory is often sold side-by-side with carvings from recently-poached elephants.
- "Even with high-tech tools, there's often no way to tell pre-ban [legal] from post-ban [illegal] ivory that's been distressed or discolored to look like an antique. Authorities find it impossible to tell African ivory from Asian elephant ivory, which is regulated under different laws, or from any number of other ivory-like substances: mammoth ivory, hippo teeth, walrus teeth, warhog tusks, and so on. Many times the only means of identifying specific types of ivory is via expensive, destructive lab tests." Edward Grace, deputy assistant director for law enforcement at the U.S. Fish and Wildlife Service^v

ⁱ *Ivory Markets in the USA*, Esmond Martin & Daniel Stiles, 2008

ⁱⁱ *Overwhelmed U.S. port inspectors unable to keep up with illegal wildlife trade*, The Washington Post, October 17, 2014, http://www.washingtonpost.com/national/health-science/overwhelmed-us-port-inspectors-unable-to-keep-up-with-illegal-wildlife-trade/2014/10/17/2fc72086-fe42-11e3-b1f4-8e77c632c07b_story.html (accessed April 4, 2015); *US Ivory Dealer Victor Gordon Sentenced to 30 Months for Smuggling*, National Geographic News, June 5, 2014, <http://news.nationalgeographic.com/news/2014/06/140604-victor-gordon-ivory-trafficking-philadelphia-operation-scratchoff-usf-ws-forest-elephants-gabon/>

ⁱⁱⁱ *St. Cloud State professor arrested, accused of smuggling ivory, rhinoceros horn*, Minneapolis StarTribune, updated March 31, 2015, <http://www.startribune.com/local/298172091.html?page=all&prepage=1&c=y#continue> (accessed April 4, 2015); *Musicians, Take Note: Your Instrument May Be Contraband*, NPR Music, April 7, 2014, <http://www.npr.org/2014/04/07/300267040/musicians-take-note-your-instrument-may-be-contraband> (accessed April 4, 2015)

^{iv} *USFWS Moves to Ban Commercial Elephant Ivory Trade Q&A*, USFWS International Affairs, updated Sep., 2014, <http://www.fws.gov/international/travel-and-trade/ivory-ban-questions-and-answers.html#30> (accessed Dec. 1, 2014)

^v *Amid Elephant Slaughter, Ivory Trade in U.S. Continues*, Yale Environment 360, February 13, 2014, http://e360.yale.edu/feature/amid_elephant_slaughter_ivory_trade_in_us_continues/2738/ (accessed April 4, 2015)