

SENATE BILL REPORT

SB 5241

As of January 28, 2015

Title: An act relating to ivory and rhinoceros horn trafficking.

Brief Description: Concerning ivory and rhinoceros horn trafficking.

Sponsors: Senators Litzow, Fain, Rolfes and Pedersen.

Brief History:

Committee Activity: Natural Resources & Parks: 1/28/15.

SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

Staff: Bonnie Kim (786-7316)

Background: Wildlife trafficking reduces the economic, social, and environmental benefits of wildlife while generating billions of dollars in illicit revenues each year. Ivory trafficking is occurring at the highest rate ever recorded, with an estimated 41 tons of illegal ivory confiscated worldwide in 2013. In 2014 the federal government initiated a ban on the commercial trade of rhinoceros horn and elephant ivory in the United States. The most effective way to discourage illegal trafficking and protect endangered wild elephant and rhinoceros populations is to eliminate markets and profits.

Washington law prohibits certain conduct related to possessing, selling, or otherwise transferring fish and wildlife. For example it is unlawful to sell shark fin products or to knowingly possess wildlife taken in violation of another state or country's laws. Trafficking fish, shellfish, or wildlife classified as game, food fish, shellfish, or game fish; protected wildlife when trafficking is not specifically authorized by law or rule; or, in unclassified fish, shellfish, or wildlife, contrary to law or department rule, is unlawful. Trafficking offenses are class C (second degree) and class B (first degree) felonies.

Summary of Bill: A person is guilty of unlawful trafficking in fish, shellfish, or wildlife if a statute or rule identifies and disallows the trafficking of the species, including any species, in whole or in part, not found in a wild state in Washington. No person or entity may sell, offer to sell, purchase, trade, traffic, barter for, or distribute any ivory article or rhinoceros horn. The state Fish and Wildlife Commission may issue a license or permit to sell, offer to sell, purchase, trade, barter for, or distribute ivory articles or rhinoceros horns, provided that:

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- the ivory article or rhinoceros horn is less than 5 percent by volume of a bona fide antique, and the seller provides to both the Washington Department of Fish and Wildlife (WDFW) and buyer documented evidence of provenance establishing the antique to be 100 or more years old;
- the distribution, transfer, or other change in possession is for a bona fide educational or scientific purpose, or to a museum chartered by an educational institution;
- the distribution is to a legal beneficiary of a trust or to a distributee of an estate; or
- the ivory article or rhinoceros horn is part of a musical instrument, if the seller provides to both WDFW and the buyer documented evidence of provenance establishing the instrument was manufactured no later than 1975.

WDFW must create and make available to the public information regarding the prohibition of the sale and purchase of ivory articles and rhinoceros horns.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: With this bill, Washington will join a national effort to protect the endangered elephant population. In 2012, 35,000 African elephants were killed; if continued at the same pace, elephants will be extinct in 20 years. Organized crime is involved in the illegal trade. The U.S. is among the largest ivory markets in the world. Elephant populations are declining at an increasing rate. The American public is not informed in this issue. The largest use of small parts of ivory are carved into knives. This bill will support workers in Africa tracking poaching teams and in Asia working on decreasing demand. The Washington Department of Fish and Wildlife (WDFW) supports the intent of this bill; this bill does not appear to place an undue burden on enforcement officers but licensing and permitting may be onerous. There were 41 tons of global large scale ivory seizures in 2013. Less than 29,000 African rhinos remain on the planet. It is worth losing the value of family heirlooms to stop violent militant poachers. Washington citizens recently donated \$26 million to help save African elephants. This bill will reduce the demand for ivory. Many people have ivory items but we all know that when items lose their value, trade stops. Elephants play a major role in the ecosystem. I don't want to be the last generation to see elephants; I want my children to see elephants too.

CON: This bill is overbroad and takes away citizens' rights to sell their own property. A federal order already makes interstate sales of ivory illegal. Recently made musical instruments do not typically contain ivory but we request an exemption for all musical instruments because it would require a very expensive documentation procedure. This bill will not accomplish its goal but will harm people that have no part in the illegal ivory trade. Collection communities sell and trade ivory products legally. Mammoths are extinct and mammoth tusks are not protected. Establishing provenance is difficult for the average person. This bill will not help in any way to help African elephants or stop poaching. Ivory

trade bans encourage African government corruption. This bill will not stop poaching but will make the futures sale of legally purchased guns illegal. Prohibition always fails. This bill shifts the burden to prove legal possession to the seller or owner. This bill needs reasonable guidelines as to how the ivory is managed. This bill will burden piano owners, sellers, and technicians because proving provenance is impossible when original manufacturers go out of business. This bill would make hundreds of thousands of musical instruments made with mammoth tusks illegal. This bill will render my business illegal.

OTHER: This bill could be fixed to address the poaching issue without criminalizing otherwise legal behavior.

Persons Testifying: PRO: Deborah Jensen, Woodland Park Zoo; Larry Dahl, Metro Parks Tacoma; Sam Wasser, University of WA; Thomas Tochtermann, Rhino Mercy, President; Steve Crown, WDFW; Jared Axelrod, Vulcan; Keefe Kamp, Michaela McGibbon, Anastasia Greenleaf, Point Defiance Zoo and Aquarium; Mo McBroom, The Nature Conservancy; Craig Standridge, Jen Reichert, citizens.

CON: Stuart Halsan, Legal Ivory Rights Coalition; Paul Gjorling, The Seattle Symphony; Mark Pidgeon, Hunters Heritage Council; Mike Vellekamp, Fox Knives USA; Tim Wegner, Blade-Tech Industries; Gary Wagner, Wagner Instruments; George Mounce, Ragtime Piano Service, President of Puget Sound Chapter, Piano Technicians Guild; Brian Judy, National Rifle Assn.; Todd Rathner, Knife Rights; Cynthia Nochowitz, David Jung, Wendy Huber, citizens.

OTHER: Randy Ray, Ivory Jacks.