

SJR

4

<TARGET><BILL>SJR 4</BILL><SUBJECT>SJR
4</SUBJECT><COMM>HJUD30</COMM></TARGET>

ALASKA STATE LEGISLATURE

SENATOR DONALD C. OLSON



ALASKA
STATE CAPITOL
ROOM 510
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Sponsor Statement Senate Joint Resolution 4

States like New York, New Jersey, California, Hawaii, Washington, and Oregon have passed legislation and/or voter initiatives to try and curtail the illegal poaching of African elephants.

Some consequences of their legislative language are prohibiting the purchase or possession of all ivory: legally obtained walrus ivory, legally obtained mastodon ivory, and legally obtained mammoth ivory; in addition to the Africa-based endangered wildlife ivory. This language in state legislation has major impacts on Alaska residents who legally obtain ivory as a byproduct of subsistence or with fossilized ivory. They do not add to the poaching of endangered species. In addition, many who subsist, use byproducts like ivory to provide additional cash income in some of the most impoverished areas of our state. If additional state legislation restricting or banning ivory are passed, without federal clarification or legislation, individuals in New York, New Jersey, California, Hawaii, Washington, and Oregon will continue facing harsh punishments for purchasing Alaskan art or pieces made of legally acquired Alaska ivory. This will further limit and reduce the customer base for Alaskan ivory.

I strongly urge my colleagues to join me supporting this resolution to demonstrate Alaska standing up for our ivory artists and craftsmen who handcraft legally obtained walrus, mammoth, and mastodon ivory.

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Senate Joint Resolution 4

Summary of Changes

Page 1, Lines 1-2:

Delete: "Urging the Alaska Congressional Delegation to introduce bills to provide for the exemption of legally acquired walrus, mammoth, and mastodon ivory from laws that ban the sale, use, and possession of ivory."

Insert: "Urging the United States Congress to pass legislation providing for the exemption of legally acquired walrus, mammoth, and mastodon ivory from laws that ban the sale, use, and possession of ivory."

Page 1, New Lines 11-12:

Insert: "WHEREAS, non-Native individuals in the state use legally acquired mammoth ivory to make handicrafts, jewelry, and artwork; and"

Page 2, lines 4 and 9:

Delete: Native

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MEMO

To: House Community and Regional Affairs Committee

From: Senator Donny Olson
SJR 4 Prime Sponsor

Subject: S.1965 Federal Legislation

Date: April 3, 2018

House Community and Regional Affairs Members,

Thank you for allowing me to provide additional information in response to a question regarding the effectiveness of a state resolution urging federal legislation to exempt Alaska ivory from Lower 48 ivory restrictions and bans.

Alaskan ivory artists and craftsmen have suffered a noticeable drop in ivory sales the past few years. Six states have already enacted restrictions or total bans of ivory and sixteen other states have similar legislation in process. Quick national action is needed to address the unintended consequences to Alaska ivory of these ivory restrictions and bans.

Senator Dan Sullivan introduced S.1965 into Congress, on October 17, 2017. This bill amends the Marine Mammal Protection Act and directly prohibits state ivory restrictions and bans affecting Alaska ivory. SJR 4 will be a helpful tool for Senator Sullivan demonstrating to senators and representatives how serious Alaska is taking the unintended impacts these state ivory restrictions and bans have had on Alaska ivory artists and craftsmen.

I direct your attention to page 4 of the S.1965 copy attached with this memo to read the language in S.1965 addressing this issue.



6 of 11 DOCUMENTS

Deering's California Codes Annotated
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*** Current through all 2016 legislation and propositions ***
(2016 Regular and 2015-2016 2nd Ex. Sessions)

FISH AND GAME CODE
Division 3. Fish and Game Generally
Chapter 1. Taking and Possessing in General

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Fish & G Code § 2022 (2017)

§ 2022. Prohibition against purchase, sale, or import of ivory or rhinoceros horn; Criminal penalties; Administrative penalties; Reward

(a) For the purposes of this section, the following terms have the following meanings:

(1) "Bona fide educational or scientific institution" means an institution that establishes through documentation either of the following:

(A) Educational or scientific tax exemption, from the federal Internal Revenue Service or the institution's national, state, or local tax authority.

(B) Accreditation as an educational or scientific institution, from a qualified national, regional, state, or local authority for the institution's location.

(2) "Ivory" means a tooth or tusk from a species of elephant, hippopotamus, mammoth, mastodon, walrus, warthog, whale, or narwhal, or a piece thereof, whether raw ivory or worked ivory, and includes a product containing, or advertised as containing, ivory.

(3) "Rhinoceros horn" means the horn, or a piece thereof, or a derivative such as powder, of a species of rhinoceros, and includes a product containing, or advertised as containing, a rhinoceros horn.

(4) "Sale" or "sell" means selling, trading, bartering for monetary or nonmonetary consideration, giving away in conjunction with a commercial transaction, or giving away at a location where a commercial transaction occurred at least once during the same or the previous calendar year.

(5) "Total value" means either the fair market value or the actual price paid for ivory or rhinoceros horn, whichever

is greater.

(b) Except as provided in subdivision (c), it is unlawful to purchase, sell, offer for sale, possess with intent to sell, or import with intent to sell ivory or rhinoceros horn.

(c) The prohibitions set forth in subdivision (b) do not apply to any of the following:

(1) An employee or agent of the federal or state government undertaking a law enforcement activity pursuant to federal or state law, or a mandatory duty required by federal law.

(2) An activity that is authorized by an exemption or permit under federal law or that is otherwise expressly authorized under federal law.

(3) Ivory or rhinoceros horn that is part of a musical instrument, including, but not limited to, a string or wind instrument or piano, and that is less than 20 percent by volume of the instrument, if the owner or seller provides historical documentation demonstrating provenance and showing the item was manufactured no later than 1975.

(4) Ivory or rhinoceros horn that is part of a bona fide antique and that is less than five percent by volume of the antique, if the antique status is established by the owner or seller of the antique with historical documentation demonstrating provenance and showing the antique to be not less than 100 years old.

(5) The purchase, sale, offer for sale, possession with intent to sell, or importation with intent to sell ivory or rhinoceros horn for educational or scientific purposes by a bona fide educational or scientific institution if both of the following criteria are satisfied:

(A) The purchase, sale, offer for sale, possession with intent to sell, or import with intent to sell the ivory or rhinoceros horn is not prohibited by federal law.

(B) The ivory or rhinoceros horn was legally acquired before January 1, 1991, and was not subsequently transferred from one person to another for financial gain or profit after July 1, 2016.

(d) Possession of ivory or rhinoceros horn in a retail or wholesale outlet commonly used for the buying or selling of similar items is prima facie evidence of possession with intent to sell. This evidence does not preclude a finding of intent to sell based on any other evidence that may serve to establish that intent independently or in conjunction with this evidence.

(e) For a violation of any provision of this section, or any rule, regulation, or order adopted pursuant to this section, the following criminal penalties shall be imposed:

(1) For a first conviction, where the total value of the ivory or rhinoceros horn is two hundred fifty dollars (\$250) or less, the offense shall be a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000), or more than ten thousand dollars (\$10,000), imprisonment in the county jail for not more than 30 days, or by both the fine and imprisonment.

(2) For a first conviction, where the total value of the ivory or rhinoceros horn is more than two hundred fifty dollars (\$250), the offense shall be a misdemeanor punishable by a fine of not less than five thousand dollars (\$5,000), or more than forty thousand dollars (\$40,000), imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

(3) For a second or subsequent conviction, where the total value of the ivory or rhinoceros horn is two hundred fifty dollars (\$250) or less, the offense shall be a misdemeanor punishable by a fine of not less than five thousand dollars (\$5,000), or more than forty thousand dollars (\$40,000), imprisonment in county jail for not more than one year, or by both the fine and imprisonment.

(4) For a second or subsequent conviction, where the total value of the ivory or rhinoceros horn is more than two hundred fifty dollars (\$250), the offense shall be a misdemeanor punishable by a fine of not less than ten thousand dollars (\$10,000), or more than fifty thousand dollars (\$50,000) or the amount equal to two times the total value of the ivory or rhinoceros horn involved in the violation, whichever is greater, imprisonment in county jail for not more than one year, or by both the fine and imprisonment.

(f) In addition to, and separate from, any criminal penalty provided for under subdivision (e), an administrative penalty of up to ten thousand dollars (\$10,000) may be imposed for a violation of any provision of this section, or any rule, regulation, or order adopted pursuant to this section. Penalties authorized pursuant to this subdivision may be imposed by the department consistent with all of the following:

(1) The chief of enforcement issues a complaint to any person or entity on which an administrative penalty may be imposed pursuant to this section. The complaint shall allege the act or failure to act that constitutes a violation, relevant facts, the provision of law authorizing the administrative penalty to be imposed, and the proposed penalty amount.

(2) The complaint and order is served by personal notice or certified mail and informs the party served that the party may request a hearing no later than 20 days from the date of service. If a hearing is requested, it shall be scheduled before the director or his or her designee, which designee shall not be the chief of enforcement issuing the complaint and order. A request for hearing shall contain a brief statement of the material facts the party claims support his or her contention that an administrative penalty should not be imposed or that an administrative penalty of a lesser amount is warranted. A party served with a complaint pursuant to this subdivision waives the right to a hearing if no hearing is requested within 20 days of service of the complaint, in which case the order imposing the administrative penalty shall become final.

(3) The director, or his or her designee, shall control the nature and order of the hearing proceedings. Hearings shall be informal in nature, and need not be conducted according to the technical rules relating to evidence. The director, or his or her designee, shall issue a final order within 45 days of the close of the hearing. A final copy of the order shall be served by certified mail upon the party served with the complaint.

(4) A party may obtain review of the final order by filing a petition for a writ of mandate with the superior court within 30 days of the date of service of the final order. The administrative penalty shall be due and payable to the department within 60 days after the time to seek judicial review has expired or, where the party has not requested a hearing of the order, within 20 days after the order imposing an administrative penalty becomes final.

(g) For any conviction or other entry of judgment imposed by a court for a violation of this section resulting in a fine, the court may pay one-half of the fine, but not to exceed five hundred dollars (\$500), to any person giving information that led to the conviction or other entry of judgment. This reward shall not apply if the informant is a regular salaried law enforcement officer, or officer or agent of the department.

(h) Upon conviction or other entry of judgment for a violation of this section, any seized ivory or rhinoceros horn shall be forfeited and, upon forfeiture, either maintained by the department for educational or training purposes, donated by the department to a bona fide educational or scientific institution, or destroyed.

(i) Administrative penalties collected pursuant to this section shall be deposited in the Fish and Game Preservation Fund and used for law enforcement purposes upon appropriation by the Legislature.

(j) This section does not preclude enforcement under *Section 653o of the Penal Code*.

HISTORY:

Added Stats 2015 ch 475 § 2 (AB 96), effective January 1, 2016, operative July 1, 2016. Amended Stats 2016 ch 86 § 135 (SB 1171), effective January 1, 2017.

NOTES:

Amendments:

2016 Amendment:

(1) Substituted "do not" for "shall not" in the introductory clause of subd (c); (2) substituted "does not" for "shall not" in the second sentence of subd (d); (3) deleted "civil" after "administrative" in the first sentence of subd (f)(1); and (4) substituted "an administrative penalty should not" for "no administrative penalty should" in the third sentence of subd (f)(2).

Note

Stats 2015 ch 475 provides:

SECTION 1. The Legislature finds and declares all of the following:

(a) There is worldwide concern regarding the plight of elephants and rhinoceroses, who are being poached at alarming rates -- an average of 96 elephants per day are killed in Africa.

(b) Illegal poaching and wildlife trafficking is the fourth largest transnational crime and ivory helps fund the military operations of notorious terrorist groups. Smuggling gangs move tons of tusks to markets thousands of miles away.

(c) International, federal, and state laws are all being strengthened to protect these iconic species from cruelty and extinction. The states of New York and New Jersey recently enacted strong prohibitions on intrastate ivory and rhinoceros horn commerce and the federal government has proposed strengthened ivory trade and import regulations.

(d) California has prohibited the ivory trade since 1977, but a loophole has rendered the law unenforceable -- allowing illegal sales to flourish. San Francisco and Los Angeles have consistently ranked among the top trading markets for illegal ivory in the United States.

SEC. 6. This act shall become operative on July 1, 2016.

Hierarchy Notes:

Fish & G Code Note

Div. 3 Note

Div. 3, Ch. 1 Note

115TH CONGRESS
1ST SESSION

S. 1965

To amend the Marine Mammal Protection Act of 1972 to protect the cultural practices and livelihoods of producers of Alaska Native handicrafts and traditional mammoth ivory products, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 17, 2017

Mr. SULLIVAN (for himself and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Marine Mammal Protection Act of 1972 to protect the cultural practices and livelihoods of producers of Alaska Native handicrafts and traditional mammoth ivory products, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Allowing Alaska to
5 Improve Vital Opportunities in the Rural Economy Act”
6 or the “Allowing Alaska IVORY Act”.

1 **SEC. 2. ALASKA NATIVE HANDICRAFTS.**

2 Section 101(b) of the Marine Mammal Protection Act
3 of 1972 (16 U.S.C. 1371(b)) is amended—

4 (1) by striking paragraph (1) and all that fol-
5 lows through “is done” in the first sentence of para-
6 graph (2) and inserting the following:

7 “(A)(i) is for subsistence purposes; or

8 “(ii) is done”;

9 (2) by redesignating paragraph (3) as subpara-
10 graph (B), and indenting appropriately;

11 (3) in the matter preceding subparagraph (A)(i)
12 (as redesignated by paragraph (1)), by striking “(b)
13 Except as” and inserting the following:

14 “(b) APPLICATION TO CERTAIN ALASKA NATIVES.—

15 “(1) DEFINITIONS.—In this subsection:

16 “(A) AUTHENTIC NATIVE ARTICLE OF
17 HANDICRAFTS AND CLOTHING.—The term ‘au-
18 thentic native article of handicrafts and cloth-
19 ing’ means an item composed wholly or in some
20 significant respect of natural materials that is
21 produced, decorated, or fashioned in the exer-
22 cise of traditional native handicrafts without
23 the use of a pantograph, multiple carvers, or
24 any other mass copying device.

25 “(B) TRADITIONAL NATIVE HANDI-
26 CRAFTS.—The term ‘traditional native handi-

1 crafts' includes weaving, carving, stitching, sew-
2 ing, lacing, beading, drawing, and painting.

3 “(2) APPLICATION.—Except as”;

4 (4) in subparagraph (A)(ii) of paragraph (2)
5 (as redesignated by paragraph (1)), by striking “and
6 clothing:” and all that follows through “painting”
7 and inserting “and clothing”;

8 (5) in the flush text following subparagraph (B)
9 of paragraph (2) (as redesignated by paragraph (2)),
10 by striking “Notwithstanding the preceding provi-
11 sions of this subsection, when” and inserting the fol-
12 lowing:

13 “(3) LIMITATIONS.—Notwithstanding para-
14 graph (2), if”;

15 and

16 (6) by adding at the end the following:

17 “(4) SPECIAL RULES.—

18 “(A) INTERSTATE COMMERCE.—Only au-
19 thentic native articles of handicrafts and cloth-
20 ing may be sold in interstate commerce.

21 “(B) EDIBLE PORTIONS OF MARINE MAM-
22 MALS.—Any edible portion of a marine mammal
23 may be sold in a native village or town in Alas-
24 ka or for native consumption.

25 “(5) PROHIBITIONS.—

1 “(A) WALRUS IVORY OR WHALE BONE.—
2 No State shall prohibit the importation, sale,
3 offer for sale, transfer, trade, barter, possession
4 or possession with the intent to sell, transfer,
5 trade, or barter of walrus ivory or whale bone
6 produced under this title by an Indian, Aleut,
7 or Eskimo as an authentic native article of
8 handicrafts and clothing.

9 “(B) MAMMOTH IVORY.—No State shall
10 prohibit the importation, sale, offer for sale,
11 transfer, trade, possession or possession with
12 the intent to sell, transfer, trade, or barter of
13 mammoth ivory or a mammoth ivory product.”.

○

State authorities seize hundreds of thousands of dollars' worth of illicit ivory in Los Angeles County

Feb. 10, 2017

A California Department of Fish and Wildlife investigator inspects a sculpture for ivory at a Los Angeles store this week. (California Department of Fish and Wildlife)

[Hannah Fry](#) Contact Reporter

Hundreds of thousands of dollars' worth of illicit ivory was seized from shops in Los Angeles County this week as part of authorities' effort to enforce a law that bans the sale of the precious material.

California Department of Fish and Wildlife agents on Wednesday and Thursday inspected 10 shops for illegal ivory in the Los Angeles County area, including sites in Beverly Hills, Pomona and Long Beach.

The enforcement marked a step forward for the agency in halting the serious issue of wildlife trafficking, said Lt. Chris Stoots, a spokesman for the California Fish and Wildlife's law enforcement division.

"This is our active approach to enforcing this law and making it clear that illegal trafficking of animals in California won't be tolerated," he said.

Officials found dozens of illegal ivory items such as combs, brushes and knife handles. Larger pieces included marble and bronze sculptures with ivory inlays.

Ivory has long been lauded by some as an exotic status symbol, and California legislators in 2015 enacted a law making it more difficult to sell and purchase the illicit material.

Assembly Bill 96 closed a loophole in state law that allowed some elephant ivory to be bought and sold in California as long as it was originally obtained before 1977. The law, which became effective in July 2016, imposed a near-total ban on the commercial trading of African elephant ivory, as well as teeth or tusks from hippopotamuses, mammoths, mastodons, walruses, warthogs, whales and narwhals.

Fish and Wildlife officials gave business owners about six months to adjust to the new rules, and now they're beginning to crack down, Stoots said.

"The grace time has seen its light," he said. "Most people know or should now know about the law."

<http://www.latimes.com/local/lanow/la-me-ln-ivory-enforcement-20170210-story.html>

The more stringent regulations mean that people caught selling, buying, importing or possessing ivory with an intent to sell face a misdemeanor charge with fines that range between \$1,000 and \$40,000 for a first offense depending on the value of the ivory. They also can face jail time, according to the law.

Fish and Wildlife officials plan to compile reports on the businesses where they found ivory this week and forward them to each shop's local district attorney's office, which will determine whether to file charges, Stoots said.

He declined to name the businesses inspected.

Animal poaching is a global issue that officials have been working for decades to combat as populations of elephants and other mammals targeted for their teeth and tusks decline. Despite public awareness campaigns and international enforcement, it continues to be a critical problem, officials say.

[A 2015 report](#) commissioned by the National Resources Defense Council, which investigated illegal African ivory trafficking, found that as much as 90% of the ivory examined in Los Angeles markets and stores was illegal under state law.

Daniel Stiles, who wrote the report, investigated more than 100 vendors in Los Angeles and the Bay Area in March and April 2015 and examined more than 1,250 items.

Stiles concluded that illegal ivory trade remains a prevalent problem statewide and must be addressed.

California Department of Fish and Wildlife officials agree.

"The big issue for us is we're taking a stand against wildlife trafficking on a global perspective," Stoots said. "What we can control is what's going on here in California."

KTUU

By Jack Carney |

Posted: Wed 7:33 PM, Feb 07, 2018

Alaska natives concerned after Etsy bans ivory products

WASILLA, AK - Ivory may be legal for some Alaskans to carve and sell, but the rest of the world, including some lower 48 states, have banned or are debating a ban of any ivory products being sold. These restrictions could hit Alaska native artists especially hard.

Three states have banned sales of all ivory within their borders and recently Etsy banned all sales of products from its website, legal or not. But Alaska native populations are not only allowed to hunt walrus but also sell or trade for their tusks to other natives, like Athabaskan Ivory Carver Leonard Savage. He claims the confusion over what's legal and no legal in the ivory trade is threatening his ability to make a living.

"You know I've done this probably longer than you've been alive I started when I was 15 and 16 years old and you know it was a good way to make a living raised my kids with it. I have lots to do, it never ends," said Savage.

The work may never end, but his ability to sell his products on Etsy did earlier this week when the website added ivory to their list of prohibited items.

In a statement to the Associated press, Etsy said: "We have updated our policies to reflect the increasingly global nature of our business and our community. With increased global regulation surrounding ivory and animal products, we can no longer accommodate such products produced by Native Alaskans in our marketplace."

Savage disagrees complete with the new policy and fears that more pressure to ban ivory, legal or not, will eventually do more damage to a native ivory art industry struggling to stay afloat.

"They don't realize that they're hurting a lot of people that do this legitimately and for a good reason. You know what I do helps a lot of people when I buy my tusks from people in St. Lawrence Isle people in Gambell and Savoonga and they, you know, in turn they are able to go and buy gasoline and things they can't find out there in the middle of nowhere. To me it's wrong I mean they have no idea what happens up here with the Walrus and how it's hunted and what it's used for," said Savage.

According to the Alaska Department of Law Consumer Protection Unit:

Any item produced after 1935 that is marketed with terms like "Indian," "Native American," or "Alaska Native" must have been made by a member of a state or federally-recognized tribe or a certified non-member Indian artisan. That's the law.

A certified Indian artisan is an individual certified by the governing body of the tribe of his or her descent as a non-member Indian artisan.

That's why Alaska Republican Senator Dan Sullivan responded to Etsys ban by saying: "Your policy fails to recognize that Alaska Natives are explicitly authorized under federal laws, the Marine Mammal Protection Act, to work with and sell walrus ivory, whale tooth and bone, and other non-elephant ivory."

Savage said he's tried carving some products using birch trees and was able to fashion various wooden carvings like an intricate nativity scene. But birch products don't pull in as much money Savage said the nativity scene birch carving might get him \$20-\$25 but a smaller ivory carving of say a small single small animal can get him as much as \$200 or more, a big difference in dollars especially when it's his main source of income.



1 of 1 DOCUMENT

Michie's TM Hawaii Revised Statutes Annotated
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*** This document is current through the 2016 Second Special Session. Subject to changes by Revisor pursuant to HRS 23G-15. ***

Division 1. Government
Title 12 Conservation and Resources
Subtitle 4 Forestry and Wildlife; Recreation Areas; Fire Protection
Chapter 183D Wildlife
Part I. General Provisions

Go to the Hawaii Code Archive Directory

HRS § 183D-4.5 (2016)

§ 183D-4.5. Wildlife trafficking; prohibited.

(a) No person shall sell, offer to sell, purchase, trade, possess with intent to sell, or barter for any part or product from the following animal family, genus, or species: elephant (*Elephantidae*), rhinoceros (*Rhinocerotidae*), tiger (*Panthera tigris*), great ape (*Hominoidea*), hippopotamus (*Hippopotamus amphibius*), lion (*Panthera leo*), pangolin (*Manis*), cheetah (*Acinonyx jubatus*), jaguar (*Panthera onca*), or leopard (*Panthera pardus*).

(b) Unless otherwise authorized by federal law including the Marine Mammal Protection Act, *16 United States Code, chapter 31*, no person shall sell, offer to sell, purchase, trade, possess with intent to sell, or barter for any part or product from the following marine family, genus, or species: sea turtle (*Chelonioidea*), monk seal (*Neomonachus*), narwhal (*Monodon monoceros*), whale (*Cetacea*), or walrus (*Odobenus rosmarus*) insofar as the species, subspecies, or distinct population segment is listed:

- (1) On appendix I or II of the Convention on International Trade in Endangered Species; or
- (2) As endangered or threatened under the Endangered Species Act.

(c) Unless otherwise authorized by federal law including the Magnuson-Stevens Fishery Conservation and Management Act (*16 U.S.C. section 1851 et seq.*) as amended, no person shall sell, offer to sell, purchase, trade, possess with intent to sell, or barter for any part or product from rays and sharks (*Elasmobranchii*) insofar as the species is listed:

- (1) On appendix I of the Convention on International Trade in Endangered Species; or

(2) As endangered or threatened under the Endangered Species Act.

(d) No person shall sell, offer to sell, purchase, trade, possess with intent to sell, or barter for any part or product from mammoth (*Mammuthus*), although the species is extinct.

(e) To the extent permitted under federal law, none of the prohibitions set forth in this section shall apply if:

(1) The covered animal species part or product is part of a bona fide antique; provided that:

(A) The antique status of such a part or product is established by the owner or seller thereof with historical documentation showing the antique to be not less than one hundred years old;

(B) The covered animal species part or product is less than twenty per cent by volume of such an antique; and

(C) The covered animal species part or product is a fixed component or components of a larger manufactured item and is not, in its current form, the primary source of value of the item;

(2) The distribution of the covered animal species part or product is:

(A) For a bona fide educational or scientific purpose; or

(B) To or from a museum;

(3) The distribution of the covered animal species part or product is to a legal beneficiary of an estate, trust, or other inheritance;

(4) The covered animal species part or product is less than twenty per cent by volume of a gun, knife, or musical instrument, including without limitation string instruments and bows, wind and percussion instruments, and pianos, if the owner or seller provides historical documentation showing the item was manufactured no later than 1975 and the covered animal species part or product is a fixed component or components of a larger manufactured item and is not, in its current form, the primary source of value of the item;

(5) The sale, offer for sale, purchase, trade, possess with intent to sell or barter of the covered animal species part or product is expressly authorized by federal law or permit; or

(6) The activity is authorized under section 183D-6.

(f) There is established a rebuttable presumption of possession with intent to sell a covered animal species part or product when the part or product is possessed by a retail or wholesale establishment or other forum engaged in the business of buying or selling similar items. This rebuttable presumption shall not preclude a finding of intent to sell based on any other evidence that may serve to independently establish such intent.

(g) None of the prohibitions set forth in this section shall apply to traditional cultural practices expressly protected under article XII, section 7, of the state constitution.

(h) For the purposes of this section, "covered animal species part or product" means any item that contains, or is wholly or partially made from, any covered animal species.

(i) The department of land and natural resources may adopt rules pursuant to chapter 91, as needed, to further implement or enforce this section.

HISTORY: HISTORY:

ALASKA STATE LEGISLATURE

SENATOR DONALD C. OLSON



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STATE CAPITOL
ROOM 510
JUNEAU, ALASKA 99801-1182

(907) 465-3707
FAX (907) 465-4821

MEMO

To: Senate Resources Committee

From: Senator Donny Olson
SJR 4 Prime Sponsor

Subject: Walrus Protection Status

Date: January 31, 2018

Senate Resources Members,

Thank you for allowing me to provide additional information in response to questions regarding the status of walrus in the Endangered Species Act (ESA) and the Convention of International Trade in Endangered Species (CITES).

As of October 2017, the United States Fish and Wildlife found, upon reviewing the biological status and threats to their existence, that walrus are not considered threatened or endangered under the ESA.

Under the CITES appendices, walruses are listed under appendix III- which is the least stringent protection status under the three appendices- being listed based only upon a request to combat exploitation, not upon the status of threatened with extinction or the possibility of becoming threatened in the future, as appendix I and appendix II are listed.

Please contact my staff with any other questions.

Sincerely,

A handwritten signature in blue ink that reads "Donny Olson".

Senator Donny Olson



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Conserving the Nature of America (<https://www.fws.gov>) (<https://www.fws.gov>)

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Press Release

After Comprehensive Review, Service Determines Pacific Walrus Does Not Require Endangered Species Act Protection

October 4, 2017

Contact(s):

Andrea Medeiros, Andrea_Medeiros@fws.gov, (907) 786-3695

The U.S. Fish and Wildlife Service has found that the Pacific walrus does not require protection as threatened or endangered under the Endangered Species Act (ESA). The finding follows a comprehensive review and analysis of the best available scientific information concerning the species, as well as local and traditional ecological knowledge of Alaska Native peoples.

The Pacific walrus is found throughout the continental shelf waters of the Bering and Chukchi seas and occasionally in the East Siberian Sea and Beaufort Sea. In its review, the Service paid particular attention to the impact to the species of the ongoing loss of sea ice in the walrus's range.

While walruses use sea ice for a variety of activities, including breeding, birthing, resting and avoiding predators, they have shown an ability to adapt to sea ice loss that was not foreseen when the Service last assessed the species in 2011. Given these behavioral changes, the Service determined that it could not predict, with confidence, future behavioral responses of the species beyond 2060. Accordingly, that date was used as the limit for determining whether the walrus was likely to become endangered within the "foreseeable future," under the ESA. Beyond that time, predicting behavioral responses becomes too speculative to be considered best available science for the purposes of a listing determination.

"Our decision not to list the Pacific walrus under the Endangered Species Act at this time is based on a rigorous evaluation of the best available science, which indicates the population appears stable, and the species has demonstrated an ability to adapt to changing conditions," said Fish and Wildlife Service Principal Deputy Director Greg Sheehan. "If future circumstances warrant or new information comes to light, we can and will re-evaluate the Pacific walrus for ESA protection. In the meantime, the species will continue to be federally protected under the Marine Mammal Protection Act."

Other stressors that were identified in 2011, including subsistence harvest, have declined. The Pacific walrus population appears to be approaching stability with reproductive and survival rates that are higher than in the 1970s–1980s.

The Pacific walrus will continue to receive protection in the U.S. under the Marine Mammal Protection Act (MMPA). Protections afforded under the MMPA include prohibitions on the harvest, import, and export of the Pacific walrus or walrus products, except by Alaska Natives for subsistence and handicraft creation and sale. In addition to monitoring the population, the Service will continue to work with the State of Alaska, coastal communities and other partners to conserve the Pacific walrus population and minimize the impacts of stressors where possible.

The decision today is the Service's final action regarding a petition submitted to the agency in 2008 to list the Pacific walrus. For more information regarding this decision, please visit: <https://www.fws.gov/alaska/fisheries/mmm/walrus/esa.htm> (<https://www.fws.gov/alaska/fisheries/mmm/walrus/esa.htm>).

The mission of the U.S. Fish and Wildlife Service is working with others to conserve, protect, and enhance fish, wildlife, plants, and their habitats for the continuing benefit of the American people. We are both a leader and trusted partner in fish and wildlife conservation, known for our scientific excellence, stewardship of lands and natural resources, dedicated professionals, and commitment to public service. For more information on our work and the people who make it happen, visit www.fws.gov (<https://www.fws.gov>).

For more information on our work and the people who make it happen, visit <http://www.fws.gov> (<https://www.fws.gov>). Connect with our Facebook page (<https://www.facebook.com/usfws>), follow our tweets (<https://twitter.com/usfws>), watch our YouTube Channel (<https://www.youtube.com/usfws>) and download photos from our Flickr page (<http://www.flickr.com/photos/usfws/>).

Last updated: May 10, 2016

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Subsistence Harvested Walrus Tagging Statistics By Location and Year

Walrus reported as harvested and tagged by Alaska Native subsistence hunters in accordance with the Marine Mammal Marking, Tagging, and Reporting Rule (50 CFR 18.23).

Village	1988-2011	2012	2013	2014	2015	2016	Total
Atkasuk	5	0	0	0	0	0	5
Barrow	490	35	23	11	20	10	589
Bethel	30	0	0	0	0	0	30
Brevig Mission	372	8	12	28	9	15	444
Buckland	1	0	0	0	0	0	1
Chefornak	14	3	0	1	0	0	18
Chevak	15	1	0	1	0	0	17
Dillingham	32	0	0	0	0	0	32
Elim	43	2	2	1	4	0	52
Emmonak	4	0	0	0	0	0	4
Fairbanks	0	0	0	0	0	0	0
Gambell	13068	766	173	195	193	394	14789
Golovin	0	0	1	0	0	0	1
Goodnews Bay	5	0	0	0	0	0	5
Hooper Bay	183	18	2	3	10	6	222
Kaktovik	2	0	0	0	0	0	2
King Island	935	16	19	38	17	4	1029
King Salmon	11	0	0	0	0	0	11
Kipnuk	73	7	9	5	4	6	104
Kivalina	73	0	0	0	0	0	73
Kongiganak	51	0	0	0	0	0	51
Kotzebue	23	0	0	0	1	0	24
Kwigillingok	39	0	0	1	0	0	40

Village	1989-2011	2012	2013	2014	2015	2016	Total
Little Diomedede	2735	13	3	5	4	9	2769
Manokotak	7	0	0	6	0	0	13
Mekoryuk	97	0	2	0	1	0	100
Newtok	5	1	0	0	0	0	6
Nightmute	0	0	0	1	0	0	1
Nome	298	14	14	0	4	31	361
Platinum	4	0	2	1	0	0	7
Point Hope	96	12	3	1	11	12	135
Point Lay	46	0	1	0	1	0	48
Quinhagak	18	0	0	0	0	0	18
Savoonga	10568	440	260	215	304	232	12019
Scammon Bay	1	1	0	0	4	1	7
Shaktoolik	86	4	0	2	0	0	92
Shishmaref	705	0	11	3	12	1	732
St. Michael	1	0	0	0	0	0	1
Stebbins	19	0	0	0	0	0	19
Teller	38	1	13	1	3	0	56
Togiak	60	0	7	2	0	0	69
Toksook Bay	55	2	1	14	1	0	73
Tuntutuliak	32	0	0	0	0	0	32
Tununak	12	0	0	0	0	0	12
Twin Hills	13	0	0	0	1	0	14
Unalakleet	14	0	0	0	2	0	16
Wainwright	880	41	29	75	25	40	1090
Wales	290	1	4	2	2	0	299
Total	31549	1386	591	612	633	761	35532

ALASKA STATE LEGISLATURE

SENATOR DONALD C. OLSON



ALASKA
STATE CAPITOL
ROOM 504
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MEMO

To: House Community and Regional Affairs Committee

From: Senator Donny Olson
SJR 4 Prime Sponsor

DO For Senator Donny Olson

Subject: S.1965 Federal Legislation

Date: April 3, 2018

House Community and Regional Affairs Members,

Thank you for allowing me to provide additional information in response to a question regarding the effectiveness of a state resolution urging federal legislation to exempt Alaska ivory from Lower 48 ivory restrictions and bans.

Alaskan ivory artists and craftsmen have suffered a noticeable drop in ivory sales the past few years. Six states have already enacted restrictions or total bans of ivory and sixteen other states have similar legislation in process. Quick national action is needed to address the unintended consequences to Alaska ivory of these ivory restrictions and bans.

Senator Dan Sullivan introduced S.1965 into Congress, on October 17, 2017. This bill amends the Marine Mammal Protection Act and directly prohibits state ivory restrictions and bans affecting Alaska ivory. SJR 4 will be a helpful tool for Senator Sullivan demonstrating to senators and representatives how serious Alaska is taking the unintended impacts these state ivory restrictions and bans have had on Alaska ivory artists and craftsmen.

I direct your attention to page 4 of the S.1965 copy attached with this memo to read the language in S.1965 addressing this issue.

mammal is in accord with sound principles of resource protection and conservation as provided in the purposes and policies of this Act: *Provided further, however,* That no marine mammal or no marine mammal product may be imported into the United States unless the Secretary certifies that the program for taking marine mammals in the country of origin is consistent with the provisions and policies of this Act. Products of nations not so certified may not be imported into the United States for any purpose, including processing for exportation.

(B) Except for scientific research purposes as provided for in paragraph (1) of this subsection, during the moratorium no permit may be issued for the taking of any marine mammal which is classified as belonging to an endangered species pursuant to the Endangered Species Conservation Act of 1969 or has been designated by the Secretary as depleted, and no importation may be made of any such mammal.

Endangered species.

80 Stat. 926;
83 Stat. 283.
16 USC 668aa
note.

(b) The provisions of this Act shall not apply with respect to the taking of any marine mammal by any Indian, Aleut, or Eskimo who dwells on the coast of the North Pacific Ocean or the Arctic Ocean if such taking—

Alaskan natives, exemptions.

(1) is for subsistence purposes by Alaskan natives who reside in Alaska, or

(2) is done for purposes of creating and selling authentic native articles of handicrafts and clothing: *Provided,* That only authentic native articles of handicrafts and clothing may be sold in interstate commerce: *And provided further,* That any edible portion of marine mammals may be sold in native villages and towns in Alaska or for native consumption. For the purposes of this subsection, the term "authentic native articles of handicrafts and clothing" means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional native handicrafts include, but are not limited to weaving, carving, stitching, sewing, lacing, beading, drawing, and painting; and

"Authentic native articles of handicrafts and clothing."

(3) in each case, is not accomplished in a wasteful manner.

Notwithstanding the preceding provisions of this subsection, when, under this Act, the Secretary determines any species or stock of marine mammal subject to taking by Indians, Aleuts, or Eskimos to be depleted, he may prescribe regulations upon the taking of such marine mammals by any Indian, Aleut, or Eskimo described in this subsection. Such regulations may be established with reference to species or stocks, geographical description of the area included, the season for taking, or any other factors related to the reason for establishing such regulations and consistent with the purposes of this Act. Such regulations shall be prescribed after notice and hearing required by section 103 of this title and shall be removed as soon as the Secretary determines that the need for their imposition has disappeared.

Depleted species or stocks, regulations.

(c) In order to minimize undue economic hardship to persons subject to this Act, other than those engaged in commercial fishing operations referred to in subsection (a) (2) of this section, the Secretary, upon any such person filing an application with him and upon filing such information as the Secretary may require showing, to his satisfaction, such hardship, may exempt such person or class of persons from provisions of this Act for no more than one year from the date of the enactment of this Act, as he determines to be appropriate.



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*** Current through 2016 released chapters 1-519 ***

Environmental Conservation Law
Article 11 Fish and Wildlife
Title 5 Fish and Wildlife Management Practices Cooperative Program; Prohibitions; Taking of Fish, Wildlife, Shellfish
and Crustacea for Scientific or Propagation Purposes; Destructive Wildlife; Rabies Control; Guides; Endangered
Species

Go to the New York Code Archive Directory

NY CLS ECL § 11-0535-a (2016)

§ 11-0535-a. *Illegal ivory articles and rhinoceros horns*

1. As used in this section:

- a. "Distribute" means a transfer or change in possession with an accompanying change in legal ownership.*
- b. "Ivory article" means any item containing worked or raw ivory from any species of elephant or mammoth.*
- c. "Raw ivory" means any elephant or mammoth tusk, and any piece thereof, the surface of which, polished, or unpolished, is unaltered or minimally carved.*
- d. "Worked ivory" means any elephant or mammoth tusk, and any piece thereof, which is not raw ivory.*

2. Except as otherwise provided in subdivision three of this section, no person shall sell, offer for sale, purchase, trade, barter or distribute an ivory article or rhinoceros horn.

3. Unless such activity is prohibited by federal law, rule or regulation, the commissioner may issue licenses or permits for the sale, offering for sale, purchase, trading, bartering or distribution of ivory articles or rhinoceros horns, provided that:

a. the ivory article or rhinoceros horn is part of a bona fide antique and is less than twenty percent by volume of such antique, and the antique status of such antique is established by the owner or seller thereof with historical documentation evidencing provenance and showing the antique to be not less than one hundred years old;

b. the distribution or change of possession of the ivory article or rhinoceros horn is for bona fide educational or scientific purposes, or to a museum chartered by the board of regents pursuant to the education law or to a museum

authorized by a special charter from the legislature of this state; or

c. the distribution of the ivory article or rhinoceros horn is to a legal beneficiary of a trust or to an heir or distributee of an estate; or

d. the ivory article or rhinoceros horn is part of a musical instrument, including, without limitation, string and wind instruments and pianos, and the owner or seller provides historical documentation as the department may require, demonstrating provenance and showing the item was manufactured no later than nineteen hundred seventy-five.

HISTORY:

L 2014, ch 326, § 1, eff Aug 12, 2014; amd, L 2014, ch 327, § 1, eff Aug 12, 2014.

NOTES:

Editor's Notes

Laws 2014, ch 326, §§ 4 and 7, eff Aug 12, 2014, provides:

§ 4. Within 30 days of the effective date of this act, the department of environmental conservation shall maintain on its website information regarding the prohibition on the sale and purchase of ivory articles and rhinoceros horns in the state.

§ 7. This act shall take effect immediately; provided, however, any person who has been issued a license or permit allowing the sale of elephant ivory articles or rhinoceros horns prior to the effective date of this act may sell such articles listed on such license or permit until such license or permit has expired.

Laws 2014, ch 327, § 2, eff Aug 12, 2014, provides as follows:

§ 2. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2014, amending the environmental conservation law relating to prohibiting the purchase and sale of ivory articles and rhinoceros horns and increasing the penalties for the illegal sale of such articles, as proposed in legislative bills numbers S. 7890 and A. 10143, takes effect.

Amendment Notes:

2014, chapter 327, § 1 amended: Sub 3, par b by adding the matter in italics.



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*** Current through 2016 released chapters 1-519 ***

Environmental Conservation Law
Article 71 Enforcement
Title 9 Enforcement of Articles 11 and 13--The Fish and Wildlife Law

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NY CLS ECL § 71-0924 (2016)

§ 71-0924. Illegal commercialization of fish, shellfish, crustaceans, and wildlife

Notwithstanding any other provision of this chapter, when a violation involves the sale, trade or barter of fish, shellfish, crustaceans, wildlife, or parts thereof, the sale, trade or barter of which is prohibited by the fish and wildlife law, the following additional penalties shall be imposed:

1. where the value of fish, shellfish, crustaceans, wildlife, or parts thereof, is two hundred fifty dollars or less, the offense shall be a violation punishable by a fine of five hundred dollars and/or not more than fifteen days of imprisonment;
2. where the value of fish, shellfish, crustaceans, wildlife, or parts thereof, is more than two hundred fifty dollars but does not exceed one thousand five hundred dollars, the offense shall be a misdemeanor punishable by a fine of five thousand dollars and/or not more than one year of imprisonment; <1>
3. where the value of fish, shellfish, crustaceans, wildlife, or parts thereof, exceeds one thousand five hundred dollars, the offense shall constitute a class E felony under the provisions of the penal law <1>; *and*
4. *where the value of ivory articles, as defined in section 11-0535-a of this chapter, exceeds twenty-five thousand dollars, the offense shall constitute a class D felony under the provisions of the penal law.*

<1>5. For the purposes of this section the value of fish, shellfish, crustaceans and wildlife shall be the fair market value of or actual price paid for such resource, whichever is greater. For purposes of this section, "sale" shall include the acts of selling, trading or bartering and all related acts, such as the act of offering for sale, trade or barter, and shall also include the illegal possession of fish, shellfish, wildlife or crustacea with intent to sell. It shall be presumptive evidence of possession with intent to sell when such fish, shellfish, wildlife or crustacea is possessed in quantities exceeding the allowable recreational quantities, or is possessed in a retail or wholesale outlet commonly used for the buying or selling of such fish, shellfish, wildlife or crustacea, provided, however, that nothing in this subdivision

shall preclude the admission of other evidence which may serve to independently prove a defendant's intent to sell.

HISTORY:

Add, L 1988, ch 69, § 2, eff Nov 1, 1988; amd, L 1996, ch 417, § 7, eff Sept 1, 1996 (see 1996 note below); L 2014, ch 326, § 2, eff Aug 12, 2014.

NOTES:

Editor's Notes:

Laws 1988, ch 69, § 1, eff Nov 1, 1988, provides as follows:

Section 1. The legislature finds that it is essential to protect the state's fish, shellfish, crustacea, wildlife and game for the purposes of the state's ecological well-being, recreation and commerce. Current penalties against the illegal commercialization of these resources do not serve as deterrents against the exploitation of the fish, shellfish, crustacea, wildlife or game.

The legislature further finds that there is great incentive to violate the state's laws and for the illegal taking and overtaking of these natural resources because of the high market value they represent and the potential profit in their sale.

Therefore, it is the purpose of this act to increase the fines and penalties for the illegal taking of fish, shellfish, crustacea, wildlife and game and to scale such fines and penalties according to the relative market value of the fish, shellfish, crustacea, wildlife and game.

Laws 1996, ch 417, § 8, eff Sept 1, 1996, provides as follows:

§ 8. This act shall take effect on the first day of September next succeeding the date on which it shall have become a law; provided, however, that any rules and regulations necessary for the implementation of the provisions of this act are authorized to be promulgated, amended and/or repealed on or before such effective date.

Laws 2014, ch 326, §§ 4 and 7, eff Aug 11, 2014, provide:

§ 4. Within 30 days of the effective date of this act, the department of environmental conservation shall maintain on its website information regarding the prohibition on the sale and purchase of ivory articles and rhinoceros horns in the state.

§ 7. This act shall take effect immediately; provided, however, any person who has been issued a license or permit allowing the sale of elephant ivory articles or rhinoceros horns prior to the effective date of this act may sell such articles listed on such license or permit until such license or permit has expired.

Amendment Notes

The 2014 amendment by ch 326, § 2 added 4; redesignated former 4 as 5; and made related changes.

NOTES TO DECISIONS

Indictment counts were properly dismissed as duplicitous where they alleged illegal commercialization of fish, shellfish, crustaceans, and wildlife under CLS ECL § 71-0924(3), based on separate violations of CLS ECL § 11-1319 and its regulations. *People v Cacic*, 251 A.D.2d 678, 675 N.Y.S.2d 110, 1998 N.Y. App. Div. LEXIS 7953 (N.Y. App. Div. 2d Dep't), app. denied, 92 N.Y.2d 923, 680 N.Y.S.2d 464, 703 N.E.2d 276, 1998 N.Y. LEXIS 3770 (N.Y. 1998).

SECTION 1. This Act shall be known and cited as the "Wildlife Trafficking Prevention Act."

SECTION 2. ORS 498.022 is amended to read:

498.022. (1) Except as the State Fish and Wildlife Commission by rule may provide otherwise, but subject to subsection (2) below, no person shall purchase, sell or exchange, or offer to purchase, sell or exchange any wildlife, or any part thereof.

(2) Wildlife Trafficking Prevention.

(a) Except as provided in subsection (2)(b) of this section, and notwithstanding any other provision of law, or rule enacted pursuant to subsection (1) of this section, a person shall not purchase, sell, offer for sale, or possess with intent to sell, any item that the person knows or should know is a covered animal species part or product.

(b) Subsection (2) (a) of this section shall not apply:

(A) To employees or agents of the federal or state government undertaking any law enforcement activities pursuant to federal or state law or any mandatory duties required by federal or state law;

(B) When the activity is expressly authorized by federal law;

(C) When the activity involves a species that is subject to a federal management plan under Title III of P.L. 94-265 (16 U.S.C. §§ 1851-1869), as amended;

(D) When the activity is exempted by ORS 498.257(3) or ORS 509.160(3);

(E) When the covered animal species part or product is a fixed component of an antique that is not made wholly or primarily of the covered animal species part or product, provided that the antique status is established by the owner or seller thereof with documentation evidencing provenance and showing the covered animal species part or product to be not less than one hundred years old, and provided that the total weight of the covered animal species part or product is less than 200 grams;

(F) When the covered animal species part or product is a fixed component of a musical instrument, including, but not limited to, string instruments and bows, wind and percussion instruments, and pianos, provided that the covered animal species part or product was legally acquired and provided that the total weight of the covered animal species part or product is less than 200 grams;

(G) To the noncommercial transfer of ownership of a covered animal species part or product to a legal beneficiary of an estate, trust, or other inheritance;

(H) To the donation of a covered animal species part or product to a bona fide scientific or educational institution for scientific or educational purposes; or

(I) To the possession of a covered animal species part or product by any enrolled member of a federally-recognized Indian tribe.

(c) There is a presumption of possession with intent to sell a covered animal species part or product when the part or product is possessed by a retail or wholesale establishment or other forum engaged in the business of buying or selling of similar items. This rebuttable presumption shall not preclude a finding of intent to sell based on any other evidence which may serve to independently establish such intent.

(d) Each violation of subsection (2) of this section shall be punishable by a civil penalty not to exceed \$6,500 or an amount equal to two times the total value of the covered animal species part or product that is the subject of the violation, whichever is higher. The civil penalty authorized by this subsection shall be imposed in the manner provided by ORS 183.745.

(e) Any covered animal species part or product that is subject to seizure by or forfeiture to the Oregon Department of Fish and Wildlife shall not be sold by the Department.

(f) The Oregon Fish and Wildlife Commission may adopt rules necessary for the implementation of subsection (2) of this section, including rules restricting the purchase, sale, offer for sale, or possession with intent to sell, of parts or products of any animal species that so closely resemble in appearance parts or products of a covered animal species that law enforcement personnel would have substantial difficulty in attempting to differentiate between the species.

(g) As used in subsection (2) of this section:

(A) "Covered animal species" means any species of:

(i) elephant;

(ii) rhinoceros;

(iii) whale;

(iv) tiger;

(v) lion;

(vi) leopard;

(vii) cheetah;

(viii) jaguar;

(ix) pangolin;

(x) sea turtle;

(xi) shark (excluding spiny dogfish as defined in ORS 498.257(1)); or

(xii) ray.

(B) "Covered animal species part or product" means any item that contains, or is wholly or partially made from, any covered animal species.

(C) "Person" means any individual, firm, partnership, joint venture, corporation, limited liability company, joint stock company, estate, trust, receiver, syndicate, association, or other legal entity.

(D) "Sale" or "sell" means any act of selling, trading, or bartering for monetary or nonmonetary consideration, and includes any transfer of ownership that occurs in the course of a commercial transaction, but does not include a nonmonetary transfer of ownership by way of gift, donation, or bequest.

(E) "Total value" means either the fair market value or the actual price paid for a covered animal species part or product, whichever is greater.

SECTION 3. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. This Act shall take effect on July 1, 2017.

FEDERAL COOPERATION WITH STATES

Sec. 109. (a) (1) Except as otherwise provided in this section, no State may adopt any law or regulation relating to the taking of marine mammals within its jurisdiction or attempt to enforce any State law or regulation relating to such taking.

Law enforcement.

(2) Any State may adopt and enforce any laws or regulations relating to the protection and taking, within its jurisdiction, of any species or population stock of marine mammals if the Secretary determines, after review thereof, that such laws and regulations will be consistent with (A) the regulations promulgated under section 103 of this title with respect to such species or population stock, and (B) such other provisions of this Act, and any rule or regulation promulgated pursuant to this title, which apply with respect to such species or population stock. If the Secretary determines that any such State laws and regulations are so consistent, the provisions of this Act, except this section and sections 101 (except to the extent that the Secretary waives the application of section 101 to permit such State laws and regulations to take effect) and 110 of this title, and title II of this Act, shall not apply with respect to the species or population stock concerned within the jurisdiction of the State.

State laws and regulations, review.

(3) Notwithstanding the preceding provisions of this subsection and the provisions of subsection (c) of this section, the Secretary shall continuously monitor and review the laws and regulations of any State which has assumed responsibility for marine mammals as provided for in paragraph (2) of this subsection. Whenever the Secretary finds that the laws and regulations of any such State are not in substantial compliance with either paragraph (1) or (2), or both, he shall resume responsibilities under this Act for the marine mammals concerned within the jurisdiction of that State, superseding such State laws and regulations to the extent which, after notice and opportunity for hearing, he deems necessary.

Mammals, taking for humane purposes.

(4) Nothing in this Act shall prevent a State or local government official or employee, in the course of his duties as an official or employee, from taking a marine mammal in a humane manner if such taking (A) is for the protection or welfare of such mammal or for the protection of the public health and welfare, and (B) includes steps designed to assure the return of such mammal to its natural habitat.

Grants to States.

(b) The Secretary is authorized to make grants to each State whose laws and regulations relating to protection and management of marine mammals which primarily inhabit waters or lands within the boundaries of that State are found to be consistent with the purposes and policies of this Act. The purpose of such grants shall be to assist such States in developing and implementing State programs for the protection and management of such marine mammals. Such grants shall not exceed 50 per centum of the costs of a particular program's development and implementation. To be eligible for such grants, State programs shall include planning and such specific activities, including, but not limited, to research, censusing, habitat acquisition and improvement, or law enforcement as the Secretary finds contribute to the purposes and policies of this Act. The Secretary may also, as a condition of any such grant, provide that State agencies report at regular intervals on the status of species and populations which are the subject of such grants.

Limitation.

Eligibility.

Report.

(c) The Secretary is authorized and directed to enter into cooperative arrangements with the appropriate officials of any State for the delegation to such State of the administration and enforcement of this title: *Provided*, That any such arrangement shall contain such provisions as the Secretary deems appropriate to insure that the purposes and policies of this Act will be carried out.

is prohibited.

(8) "Commercial" means related to or connected with buying, selling, or bartering.

(9) "Commission" means the state fish and wildlife commission.

(10) "Concurrent waters of the Columbia river" means those waters of the Columbia river that coincide with the Washington-Oregon state boundary.

(11) "Contraband" means any property that is unlawful to produce or possess.

(12) "Covered animal species" means any species of elephant, rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, shark, or ray either: (a) Listed in appendix I or appendix II of the convention on international trade in endangered species of wild flora and fauna; or (b) listed as critically endangered, endangered, or vulnerable on the international union for conservation of nature and natural resources red list of threatened species.

(13) "Covered animal species part or product" means any item that contains, or is wholly or partially made from, any covered animal species.

(14) "Deleterious exotic wildlife" means species of the animal kingdom not native to Washington and designated as dangerous to the environment or wildlife of the state.

(15) "Department" means the department of fish and wildlife.

(16) "Director" means the director of fish and wildlife.

(17) "Distribute" or "distribution" means either a change in possession for consideration or a change in legal ownership.

(18) "Endangered species" means wildlife designated by the commission as seriously threatened with extinction.

(19) "Ex officio fish and wildlife officer" means:

(a) A commissioned officer of a municipal, county, or state agency having as its primary function the enforcement of criminal laws in general, while the officer is acting in the respective jurisdiction of that agency;

(b) An officer or special agent commissioned by one of the following: The national marine fisheries service; the Washington state parks and recreation commission; the United States fish and wildlife service; the Washington state department of natural resources; the United States forest service; or the United States parks service, if the agent or officer is in the respective jurisdiction of the primary commissioning agency and is acting under a mutual law enforcement assistance agreement between the department and the primary commissioning agency;

(c) A commissioned fish and wildlife peace officer from another state who meets the training standards set by the Washington state criminal justice training commission pursuant to *RCW 10.93.090*, *43.101.080*, and *43.101.200*, and who is acting under a mutual law enforcement assistance agreement between the department and the primary commissioning agency; or

(d) A Washington state tribal police officer who successfully completes the requirements set forth under *RCW 43.101.157*, is employed by a tribal nation that has complied with *RCW 10.92.020(2) (a)* and (b), and is acting under a mutual law enforcement assistance agreement between the department and the tribal government.

(20) "Fish" includes all species classified as game fish or food fish by statute or rule, as well as all fin fish not currently classified as food fish or game fish if such species exist in state waters. The term "fish" includes all stages of

77.15.135. Unlawful sale, purchase, trade, barter, or distribution of covered animal species part or product – Penalty – Report to the legislature – Adoption of rules.

(1) Except as authorized in subsections (2) and (3) of this section, it is unlawful for a person to sell, offer to sell, purchase, trade, barter for, or distribute any covered animal species part or product.

(2) The prohibitions set forth in subsection (1) of this section do not apply if any of the following conditions is [are] satisfied:

(a) The covered animal species part or product is part of a bona fide antique, provided the antique status of such an antique is established by the owner or seller thereof with historical documentation evidencing provenance and showing the antique to be not less than one hundred years old, and the covered animal species part or product is less than fifteen percent by volume of such an antique;

(b) The distribution of the covered animal species part or product is for a bona fide educational or scientific purpose, or to or from a museum;

(c) The distribution of the covered animal species part or product is to a legal beneficiary of an estate, trust, or other inheritance, upon the death of the owner of the covered animal species part or product;

(d) The covered animal species part or product is less than fifteen percent by volume of a musical instrument, including, without limitation, string instruments and bows, wind and percussion instruments, and pianos; or

(e) The intrastate sale, offer for sale, purchase, trade, barter for, or distribution of the covered animal species part or product is expressly authorized by federal law or permit.

(3) The prohibitions set forth in subsection (1) of this section do not apply to an employee or agent of a federal, state, or local government undertaking any law enforcement activity pursuant to federal, state, or local law or any mandatory duty required by federal, state, or local law.

(4) (a) Except as otherwise provided in this section, a person is guilty of unlawful trafficking in species threatened with extinction in the second degree if the person commits the act described in subsection (1) of this section and the violation involves covered animal species parts or products with a total market value of less than two hundred fifty dollars.

(b) Except as otherwise provided in this section, a person is guilty of unlawful trafficking in species threatened with extinction in the first degree if the person commits the act described by subsection (1) of this section and the violation:

(i) Involves covered animal species parts or products with a total market value of two hundred fifty dollars or more;

(ii) Occurs after entry of a prior conviction under this section; or

(iii) Occurs within five years of entry of a prior conviction for any other gross misdemeanor or felony under this chapter.

(c) Unlawful trafficking in species threatened with extinction in the second degree is a gross misdemeanor.

(d) Unlawful trafficking in species threatened with extinction in the first degree is a class C felony.

(e) If a person commits the act described by subsection (1) of this section and such an act also would be a violation of any other criminal provision of this title, the prosecuting authority has discretion as to which crime or

Fiscal Note

State of Alaska
2018 Legislative Session

Bill Version:	CSSJR 4(RES)
Fiscal Note Number:	2
(S) Publish Date:	1/31/2018

Identifier: SJR4-LEG-SESS-04-04-17
 Title: AK LEGALLY ACQUIRED IVORY USE
 EXEMPTION
 Sponsor: OLSON
 Requester: SENATE COMMUNITY & REGIONAL AFFAIRS

Department:
 Appropriation:
 Allocation:
 OMB Component Number: 0

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2019 Request	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
OPERATING EXPENDITURES	FY 2019	FY 2019					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2018) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2019) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency?
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version/comments:

N/A. INITIAL VERSION. ONE PAGE. ZERO NOTE

Prepared By: Senator Giessel
Senate Resources Committee

Phone: (907)465-4843
 Date: 01/26/2018

AMENDMENT

1

OFFERED IN THE HOUSE
TO: CSSJR 4(RES)

BY REPRESENTATIVE EASTMAN

1 Page 1, line 2:

2 Delete "and"

3 Following "mastodon":

4 Insert ", and other"

5

6 Page 1, line 3, following "of":

7 Insert "African elephant"

8

9 Page 2, line 9:

10 Delete the first occurrence of "and"

11 Following "mastodon":

12 Insert ", and other"

13

14 Page 2, line 14:

15 Delete the first occurrence of "and"

16 Following "mastodon":

17 Insert ", and other"

18

19 Page 2, line 15, following "of":

20 Insert "African elephant"

21

22 Page 2, line 18:

23 Delete the first occurrence of "and"

- 1 Following "mastodon":
- 2 Insert ", and other"
- 3
- 4 Page 2, line 19, following "of":
- 5 Insert "African elephant"