

SJR

4

<TARGET><BILL>SJR 4</BILL><SUBJECT>SJR
4</SUBJECT><COMM>SCRA30</COMM></TARGET>

ALASKA STATE LEGISLATURE

SENATOR DONALD C. OLSON



ALASKA
STATE CAPITOL
ROOM 510
JUNEAU, ALASKA 99801-1182

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

Sponsor Statement Senate Joint Resolution 4

States like New York, California, Hawaii, and Washington have passed legislation and voter initiatives to try and curtail the illegal poaching of African elephants, some of the consequences in their language prohibits the purchase or possession of all ivory: legally obtain walrus ivory, legally obtained mastodon ivory, legally obtained mammoth ivory; in addition to the Africa-based, endangered wildlife.

This language in state legislation poses a negative consequence on rural Alaska residents who legally obtain ivory through a byproduct of subsistence, they do not add to the poaching of endangered species. In addition, many who subsist, use the byproducts like ivory to provide additional cash income in some of the most impoverished areas of the state. If state legislation continues with no federal clarification or legislation, individuals in New York, California, Hawaii, and Washington will continue to face harsh punishments for purchasing Alaskan made ivory, further limiting Alaskans' customer base.

I strongly urge my colleagues to join me in support of this resolution to show Alaska's support for our artists who handicraft legally obtained walrus, mammoth, and mastodon ivory.

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 2/1/17

FURTHER: Resources

DATE TURNED
IN TO OFFICE: 4/4/17

Community and Regional Affairs Committee considered SENATE JOINT RESOLUTION NO. 4

SJR 4-AK LEGALLY ACQUIRED IVORY USE EXEMPTION

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.

and recommends:

- be replaced with CS _____ (_____) Same Title New Title
- adopt previous CS _____ (_____) Same Title New Title
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
EED	MVA
DEC	DNR
DFG	DPS
GOV	REV
DHS	DOT
AJS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
LEG			✓	1

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	NO REC	AMEND
<i>Beta Gardner</i>	Gardner	α			
<i>Anna L. MacKinnon</i>	MacKinnon	✓			
<i>Bert Steidman</i>	STEIDMAN	✓			
CHAIR: <i>Cliff Bishop</i>	BISHOP	✓			

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: SJR 4
 Fiscal Note Number: 1
 () Publish Date: 4/5/17

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)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates					
			FY 2018	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
OPERATING EXPENDITURES								
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	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 (FY2017) cost: 0.0 (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) 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:

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

Prepared By:	JESSICA GEARY, FINANCE MANAGER	Phone:	(907)465-6626
Division:	LEGISLATIVE AFFAIRS AGENCY	Date:	04/04/2017 04:23 PM
Approved By:	PAM VARNI, EXECUTIVE DIRECTOR	Date:	04/04/2017
Agency:	LEGISLATIVE AFFAIRS AGENCY		

ALASKA STATE LEGISLATURE

SENATOR DONALD C. OLSON

SENATE DISTRICT T

Session

Alaska State Capitol
Juneau, AK 99801
(907) 465-3707
Fax (907) 465-4821
Sen.Donny.Olson@akleg.gov



Interim

PO Box 1630
Nome, AK 99762
Toll Free 800-597-3707
(907) 269-0254
Fax (907) 269-2031
Sen.Donny.Olson@akleg.gov

April 3, 2017

Colleagues,

During the committee meeting for Community and Regional Affairs, my staff provided a quick answer to Senator Stedman's question regarding only possession of ivory in states that have banned ivory. Please see below for a more detailed answer:

In New York, currently ivory, as defined in statute as from a mammoth or elephant, can be possessed but cannot be sold, offered for sale, purchased, traded, bartered, or distributed. However, there are permits available that the commissioner may issue for those purposes with certain requirements.

In California, Ivory as defined as a tooth or tusk from elephant, hippopotamus, mammoth, mastodon, walrus, warthog, whale, or narwhal, can be possessed but not sold, purchased, bartered, imported, or possessed with intent to sell. It is also noteworthy that the possession of ivory in a retail or wholesale outlet is considered prima facie evident of possession with intent to sell, but that does not preclude a finding of intent to sell based upon any other evidence. The exceptions in prohibitions include if the ivory was legally acquired before January 1, 1991 and was not transferred for financial gain after July 1, 2016, this exception makes the statute ambiguous in if it is lawful to possess or not.

In Hawaii, Ivory as defined as a product from a sea turtle, monk seal, narwhal, whale, walrus, can be possessed but not sold, offered for sale, purchased, traded, possessed with intent to sell, or bartered. The same applies for mammoth. However, the prohibitions are not applied to the traditional or cultural practices of the Ahupua'a people of Hawaii.

In New Jersey, it is unlawful to *possess*, transport, import, export, process, sell or offer for sale, or ship any specified *African Species*; or any species or subspecies of elephant, rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, or ray. If the product was possessed within the state lawfully before June 16, 2016 it is exempted. It is unlawful to import, sale, purchase, barter, trade, or possess with intent to sell any ivory, or rhinoceros horn, it is lawful to possess but not in a wholesale or retail outlet (intent to sell).

In Washington, ivory as defined as any part or product of elephant, rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, shark, or ray, is legal to possess but not sold, offered for sale, purchased, traded, bartered, or distributed.

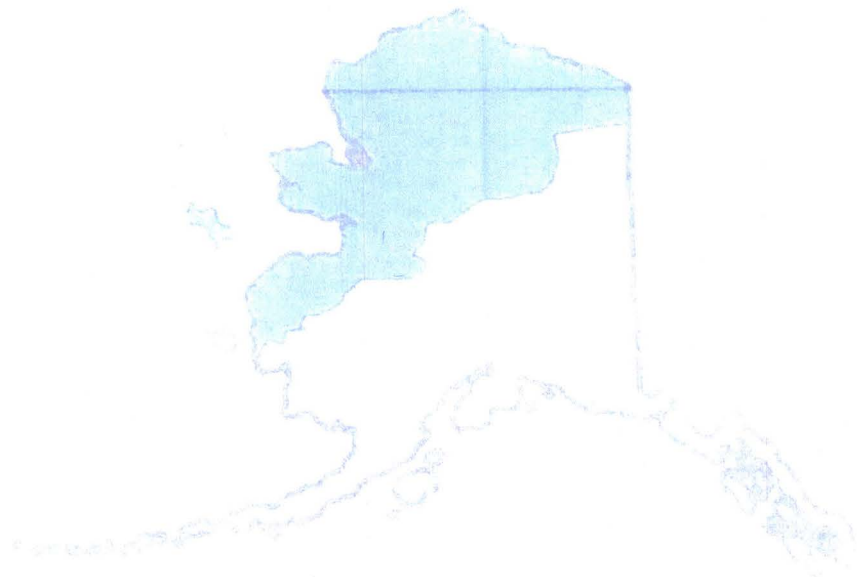
For most of the state exemptions for buying, selling, or transferring include musical instruments provided that they are less than 20% by volume ivory and manufactured not later than 1975. Some of the states require a permit issued before buying, selling, or transferring.

Please contact myself if you have any more questions.

Best,

A handwritten signature in blue ink, appearing to read "Donald C. Olson". The signature is fluid and cursive, with the first name "Donald" being the most prominent part.

Senator Donald C. Olson



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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	1989-2011	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 Diomedes	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
Shaktolik	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

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.

(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—

(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

(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.

(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.

Endangered species.

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

Alaskan natives, exemptions.

"Authentic native articles of handicrafts and clothing."

Depleted species or stocks, regulations.

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.

Reports.

(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.



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.

Cal Fish & G Code § 2022

(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 6530 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



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

HRS § 183D-4.5

(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:

L 2016, c 125, § 2, effective June 23, 2016.



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*** This section is current through New Jersey 217th Second Annual Session, L. 2017, J.R. 1 ***

Title 23. Fish and Game, Wild Birds and Animals
Chapter 2A. Wildlife Conservation

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 23:2A-6.1 (2017)

§ 23:2A-6.1. Prohibitions relative to products, parts of certain species; exceptions; rules, regulations; definitions.

a. Notwithstanding the provisions of section 6 of P.L.1973, c.309 (*C.23:2A-6*) or any other law, or any rule or regulation adopted pursuant thereto, to the contrary, no person shall possess, transport, import, export, process, sell or offer for sale, or ship, and no common or contract carrier shall knowingly transport or receive for shipment any part or product of: (1) any specified African species; or (2) any species or subspecies of elephant, rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, or ray listed in Appendix I or Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

b. The following exceptions and defenses shall apply to the prohibition in subsection a. of this section:

(1) the part or product was lawfully possessed within the State prior to the effective date [June 6, 2016] of P.L.2016, c.6 (*C.23:2A-6.1 et al.*);

(2) the part or product is being used or displayed for scientific, zoological, or educational purposes;

(3) the part or product is conveyed directly to a devisee, heir, or beneficiary, provided that the part or product was lawfully possessed by the decedent prior to the effective date [June 1, 2016] of this section; or

(4) the person lawfully possesses any ivory, ivory product, rhinoceros horn, or rhinoceros horn product in compliance with section 3 of P.L.2014, c.22 (*C.23:2A-13.3*).

c. The department may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (*C.52:14B-1 et seq.*), such rules and regulations as may be necessary to implement this section.

d. Nothing in this section shall be construed to preclude a person violating this section from also being liable for any applicable violation of P.L.2014, c.22 (*C.23:2A-13.1 et seq.*), *R.S.23:4-27*, or any other State law, rule, or regulation.

e. As used in this section:

"Beneficiary" has the same meaning as that term is defined in N.J.S.3B:1-1.

"Devisee" has the same meaning as that term is defined in N.J.S.3B:1-1.

"Heir" has the same meaning as that term is defined in N.J.S.3B:1-1.

"Specified African species" means the following species of wildlife: (1) African elephant (*Loxodonta Africana*); (2) African leopard (*Panthera pardus*); (3) African lion (*Panthera leo*); (4) black rhinoceros (*Diceros bicornis*); and (5) white rhinoceros (*Ceratotherium simum*).

HISTORY: L. 2016, c. 6, § 6, eff. June 1, 2016.

NOTES:

Publisher's Note:

The bracketed material was added by the Publisher to provide a reference.

Editor's Notes:

L. 2016, c. 6 was enacted in accordance with the Governor's recommendations made on conditional veto of the legislation (Senate Bill No. 977) earlier in the session.



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Title 23. Fish and Game, Wild Birds and Animals
Chapter 2A. Wildlife Conservation

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 23:2A-13.1 (2017)

§ 23:2A-13.1. Findings, declarations relative to ivory trafficking

The Legislature finds and declares that ivory trafficking is at the highest rate ever recorded, with an estimated confiscation of more than 41 tons of illegal ivory worldwide in 2013; that despite laws to protect elephants, more than 35,000 African elephants were slaughtered in 2012 and scientists expect the current levels of illegal trade in ivory will bring elephants to extinction within 20 years; that other species with ivory teeth and tusks such as hippopotamuses, narwhals, walruses, and whales are equally threatened and the protection of one species may inadvertently draw poachers' efforts to another species; that precious artifacts from prehistoric mammoths are also not safe and need protection from illegal ivory traffickers; that currently the population of all species of rhinoceros living in the wild worldwide has dwindled to 29,000 and, in February 2014, a federal ban on commercial trade of rhinoceros horn and elephant ivory has focused the need to protect rhinoceros populations from poachers as well; and that the most effective way to discourage the illegal trafficking is to eliminate markets and profits for the traffickers.

The Legislature therefore determines that it is an important public purpose to protect all species of rhinoceros and all species of animals with ivory teeth and tusks by prohibiting the import, sale, purchase, barter, or possession with intent to sell, of any ivory, ivory product, rhinoceros horn, or rhinoceros horn product.

HISTORY: L. 2014, c. 22, § 1, eff. Aug. 1, 2014.

NOTES:

Effective Dates:

Section 6 of L. 2014, c. 22 provides: "This act shall take effect immediately, except that sections 3 and 4 [23:2A-13.3 and 23:2A-13.4] of this act shall remain inoperative for six months following the date of enactment." Chapter 22, L. 2014, was approved on Aug. 1, 2014.



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Title 23. Fish and Game, Wild Birds and Animals
Chapter 2A. Wildlife Conservation

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 23:2A-13.2 (2017)

§ 23:2A-13.2. Definitions relative to ivory trafficking

As used in this act [C.23:2A-13.1 et seq.]:

"Ivory" means any tooth or tusk composed of ivory from any animal, including, but not limited to, an elephant, hippopotamus, mammoth, narwhal, walrus, or whale, or any piece thereof, whether raw ivory or worked ivory, or made into, or part of, an ivory product.

"Ivory product" means any item that contains, or that is wholly or partially made from, any ivory.

"Raw ivory" means any ivory the surface of which, polished or unpolished, is unaltered or minimally changed by carving.

"Rhinoceros horn" means the horn, or any piece thereof, of any species of rhinoceros.

"Rhinoceros horn product" means any item that contains, or is wholly or partially made from, any rhinoceros horn.

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

"Worked ivory" means ivory that has been embellished, carved, marked, or otherwise altered so that it can no longer be considered raw ivory.

HISTORY: L. 2014, c. 22, § 2, eff. Aug. 1, 2014.

NOTES:

Publisher's Note:

The bracketed material was added by the Publisher to provide a reference.

Effective Dates:

Section 6 of L. 2014, c. 22 provides: "This act shall take effect immediately, except that sections 3 and 4 [23:2A-13.3 and 23:2A-13.4] of this act shall remain inoperative for six months following the date of enactment." Chapter 22, L. 2014, was approved on Aug. 1, 2014.



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Title 23. Fish and Game, Wild Birds and Animals
Chapter 2A. Wildlife Conservation

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 23:2A-13.3 (2017)

§ 23:2A-13.3. Additional prohibitions, penalties; exemptions [Operative February 1, 2015]

a. In addition to the prohibitions established pursuant to, and the penalties imposed for violations of, *R.S.23:4-27*, "The Endangered and Nongame Species Conservation Act," P.L.1973, c.309 (*C.23:2A-1 et seq.*), and any other applicable law, it shall be unlawful for any person to import, sell, offer for sale, purchase, barter, or possess with intent to sell, any ivory, ivory product, rhinoceros horn, or rhinoceros horn product, except as provided pursuant to this section.

b. It shall be presumptive evidence of possession with intent to sell when any ivory, ivory product, rhinoceros horn, or rhinoceros horn product is possessed in a retail or wholesale outlet commonly used for the buying or selling of similar products, provided, however, that nothing in this subsection shall preclude a finding of intent to sell based on any other evidence which may serve to independently establish such intent. The act of obtaining an appraisal of ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product, alone shall not constitute possession with intent to sell.

c. A person may convey ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product to the legal beneficiary of the ivory, ivory product, rhinoceros horn, or rhinoceros horn product which is part of an estate or other items being conveyed to lawful beneficiaries upon the death of the owner of the ivory, ivory product, rhinoceros horn, or rhinoceros horn product or in anticipation of that death.

d. None of the prohibitions set forth in this section shall apply 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.

e. The prohibition on import set forth in subsection a. of this section shall not apply where the import is expressly authorized by federal license or permit.

f. The Department of Environmental Protection may permit, under terms and conditions as the department may prescribe, the import, sale, offer for sale, purchase, barter, or possession with intent to sell, any ivory, ivory product, rhinoceros horn, or rhinoceros horn product for bona fide educational or scientific purposes, unless this activity is prohibited by federal law.

HISTORY: L. 2014, c. 22, § 3, eff. Aug. 1, 2014, operative Feb. 1, 2015.

NOTES:

Effective Dates:

Section 6 of L. 2014, c. 22 provides: "This act shall take effect immediately, except that sections 3 and 4 [23:2A-13.3 and 23:2A-13.4] of this act shall remain inoperative for six months following the date of enactment." Chapter 22, L. 2014, was approved on Aug. 1, 2014.



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Title 23. Fish and Game, Wild Birds and Animals
Chapter 2A. Wildlife Conservation

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 23:2A-13.4 (2017)

§ 23:2A-13.4. Additional penalties, degree of crime; disposition of seized ivory [Operative February 1, 2015]

a. In addition to any applicable penalties which may be imposed pursuant to *R.S.23:4-27*, "The Endangered and Nongame Species Conservation Act," P.L.1973, c.309 (*C.23:2A-1* et seq.), or any other applicable law, a person violating any provision of section 3 [*C.23:2A-13.3*] of this act, or any rule or regulation adopted pursuant to section 5 [*C.23:2A-13.5*] of this act, shall be guilty of:

(1) for a first offense, a disorderly persons offense and, notwithstanding the provisions of *N.J.S.2C:43-3*, shall be fined not less than \$ 1,000 or an amount equal to two times the total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the offense, whichever is greater; and

(2) for a second or subsequent offense, a crime of the fourth degree and, notwithstanding the provisions of *N.J.S.2C:43-3*, shall be fined not less than \$ 5,000 or an amount equal to two times the total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the offense, whichever is greater.

b. Upon a conviction for violating the provisions of section 3 [*C.23:2A-13.3*] of this act, the court shall order the seizure of all ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the violation and determine the penalty for the violation based on the assessed value of the seized products pursuant to subsection a. of this section. After sentencing the defendant, the court shall order that the seized ivory, ivory products, rhinoceros horn, and rhinoceros horn products be transferred to the Department of Environmental Protection for proper disposition. The department, at its discretion, may destroy the ivory, ivory products, rhinoceros horn, and rhinoceros horn products or donate them to an educational or scientific institution or organization, including, but not necessarily limited to, a museum, university, or research group.

HISTORY: L. 2014, c. 22, § 4, eff. Aug. 1, 2014, operative Feb. 1, 2015.

NOTES:

Publisher's Note:

The bracketed material was added by the Publisher to provide a reference.

Effective Dates:

Section 6 of L. 2014, c. 22 provides: "This act shall take effect immediately, except that sections 3 and 4 [23:2A-13.3 and 23:2A-13.4] of this act shall remain inoperative for six months following the date of enactment." Chapter 22, L. 2014, was approved on Aug. 1, 2014.



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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).



Eskimo Walrus Commission
"To protect the pacific walrus population."

Kawerak, Inc.  P.O. Box 948  Nome, AK 99762
Telephone: (907) 443-4380 or 443-4360

March 15, 2017

Senator Donny Olson
Senate Capitol Room 510
Juneau, AK 99801

Dear Senator Olson,

Thank you for introducing Senate Joint Resolution 4 (SJR4) that urges "Alaska Congressional delegation to introduce legislation to provide exemption of legally acquired ivory." This is wonderful to hear.

Eskimo Walrus Commission (EWC) wholeheartedly supports SJR4 as EWC advocates for protecting the livelihood of Alaska Native residents and artists who rely on marine mammal products including walrus ivory in their arts and handicrafts. As we all know, the economic importance of walrus ivory is critical to Alaska Native communities. I believe SJR4 makes a strong statement of support by the State Legislature and necessary step to encourage the Alaska Congressional delegation to protect Alaska Native cultural and economic dependence on Arctic marine mammals.

Thank you for your continuing work on our behalf.

Sincerely,

Vera Metcalf, Director
Eskimo Walrus Commission

cc: Charlie Brower, Chair, EWC
Melanie Bahnke, President, Kawerak
Rose Fosdick, Vice President, Kawerak
Susie Silook, Sikuliq, Inc.
Jimmy Stotts, President, ICC Alaska

WC Member
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Kawerak, Inc.

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Telephone: (907)-443-4380 or (907)-638-6402

Toll Free: 1-877-277-4392

Fax: (907)-443-4484



Eskimo Walrus Commission

"To protect the pacific walrus population."

Eskimo Walrus Commission Executive Committee

Resolution 2016-01

A Resolution Opposing the Inclusion of Walrus, Mammoth, and Mastodon Ivory in African Elephant Ivory Ban Laws in the United States

WHEREAS, the Eskimo Walrus Commission was formed in 1978 by Kawerak, Inc. and represents 19 coastal subsistence walrus hunting communities in Alaska; and

WHEREAS, the use of legally acquired walrus, mammoth, and mastodon ivory by Alaska Native carvers to create tools, handicrafts, jewelry, and artwork is a longstanding cultural tradition that continues to be a vital component of Alaska Native culture today; and

WHEREAS, the Marine Mammal Protection Act (MMPA) explicitly protects the right of coastal Alaska Natives to harvest marine mammals and utilize their byproducts in handicrafts for sale in the United States; and

WHEREAS, the sale of walrus, mammoth, and mastodon ivory tools, handicrafts, jewelry, and artwork by Alaska Natives is an important source of income in the cash-limited economies of rural Alaska; and

WHEREAS, in efforts to stem the poaching of African elephants, various U.S. states have passed laws banning the sale, use, or possession of all ivory, and additional states are considering such laws; and

WHEREAS, these ivory ban laws fail to acknowledge the difference between African elephant ivory and legally acquired walrus, mammoth, and mastodon ivory used by Alaska Native artists; and

WHEREAS, these state ivory ban laws may cause residents of those states to face prosecution for buying, owning, or bringing home legally acquired ivory from Alaska; and

WHEREAS, these state ivory ban laws will negatively impact Alaska Native artists who depend on the sale of their handicrafts as a source of important income in a cash-limited economy;

NOW THEREFORE BE IT RESOLVED THAT the Eskimo Walrus Commission opposes the inclusion of walrus, mammoth, and mastodon ivory in ivory ban laws; and

BE IT FURTHER RESOLVED THAT the Eskimo Walrus Commission requests that walrus, mammoth, and mastodon ivory be exempted from current and future ivory ban laws in the United States.

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Charles D.N. Brower

Charles D.N. Brower, Chair

CERTIFICATION:

I, the undersigned Vice Chair of the Eskimo Walrus Commission hereby certify that the foregoing resolution 2016-01 was adopted by a majority vote of the Eskimo Walrus Commission Executive Committee. Passed this 16th day of June 2016 through a telephone poll vote.



TEL: (907) 445-5231 • FAX: (907) 443-4452

SERVING THE
VILLAGES OF:
BREVIG MISSION
COUNCIL
DIOMEDE
ELIM
GAMBELL
GOLOVIN
KING ISLAND
KOYUK
MARY'S IGLOO
NOME
SAVOONGA
SHAKTOOLIK
SHISHMAREF
SOLOMON
ST. MICHAEL
TELLER
UNALAKLEET
WALES
WHITE MOUNTAIN

**KAWERAK, INC.
RESOLUTION 2016-03**

**A RESOLUTION OF SUPPORT FOR ESKIMO WALRUS COMMISSION'S
OPPOSITION OF INCLUDING WALRUS, MAMMOTH, AND MASTODON
IVORY IN AFRICAN ELEPHANT IVORY BAN LAWS IN THE UNITED
STATES**

WHEREAS, Kawerak, Inc. is the regional tribal consortium in the Bering Strait region of Alaska; and

WHEREAS, the Eskimo Walrus Commission was formed in 1978 by Kawerak, Inc. and represents 19 coastal subsistence walrus hunting communities in Alaska; and

WHEREAS, the use of legally acquired walrus, mammoth, and mastodon ivory by Alaska Native carvers to create tools, handicrafts, jewelry, and artwork is a longstanding cultural tradition that continues to be a vital component of Alaska Native culture today; and

WHEREAS, the Marine Mammal Protection Act (MMPA) explicitly protects the right of coastal Alaska Natives to harvest marine mammals and utilize their byproducts in handicrafts for sale in the United States; and

WHEREAS, the sale of walrus, mammoth, and mastodon ivory tools, handicrafts, jewelry, and artwork by Alaska Natives is an important source of income in the cash-limited economies of rural Alaska; and

WHEREAS, in efforts to stem the poaching of African elephants, various U.S. states have passed laws banning the sale, use, or possession of all ivory, and additional states are considering such laws; and

WHEREAS, these ivory ban laws fail to acknowledge the difference between African elephant ivory and legally acquired walrus, mammoth, and mastodon ivory used by Alaska Native artists; and

WHEREAS, these state ivory ban laws may cause residents of those states to face prosecution for buying, owning, or bringing home legally acquired ivory from Alaska; and

WHEREAS, these state ivory ban laws will negatively impact Alaska Native artists who depend on the sale of their handicrafts as a source of important income in a cash-limited economy;

NOW THEREFORE BE IT RESOLVED, that Kawerak, Inc. supports EWC Resolution 2016-01 opposing the inclusion of walrus, mammoth, and mastodon ivory in ivory ban laws; and

BE IT FURTHER RESOLVED that Kawerak, Inc. requests that walrus, mammoth, and mastodon ivory be exempted from current and future ivory ban laws in the United States.


Frank Katchatag, Board Chairman

CERTIFICATION

I, the undersigned Secretary of the Kawerak, Inc. Board of Directors, hereby certify that the foregoing resolution was adopted by majority vote of the Board Executive Committee of Kawerak, Inc. during a duly called meeting on June 30th, 2016 with 1 for, ~~0~~ against, and ~~0~~ abstentions.


Kirsten Timbers, Kawerak Board Secretary



SIVUQAQ, INCORPORATED

P.O. BOX 101 ~ GAMBELL, ALASKA 99742

Telephone: (907) 985-5826

Fax: (907) 985-5426

Email: sivuqaq@gci.net or sivuqaqregistrar13@gmail.com

Registrar Telephone: 985-5003

Resolution 03-2016

A resolution of Sivuuqag, Incorporated, requesting that the serious issue of the mass confusion generated by Executive Order 13648, which ends the African elephant ivory market in America, be included as an agenda item in the White House Tribal Nations Conference.

WHEREAS, the Board of Directors of Sivuuqag, Inc. are concerned about the health and economic welfare of our residents, and,

WHEREAS, Executive Order 13648 of July 1, 2013, which ends the African elephant ivory market in America and provides an exemption for items already permitted under existing federal legislation, which includes the protections set forth under the Marine Mammal Protection Act (MMPA) of our hunting rights for walrus and other sea mammals, and, importantly, the use of inedible portions in the production of arts and crafts, and,

WHEREAS, states are crafting and passing laws banning elephant ivory and are erroneously including walrus ivory in their description of ivory, even with an inclusion of the federal exemption noted in the Executive Order for items permitted under existing federal law, and,

WHEREAS, Alaska Native peoples use of walrus ivory is not explicitly mentioned in the federal or state laws, along with whale, polar bear and sea otter, all of which are included in the state laws, and are mammals we legally continue to hunt and create arts and crafts from, and,

WHEREAS, the ensuing confusion is creating a de facto ban of our walrus ivory products, with sales reported as decreased by the businesses our artists and craftspeople depend on, and,

WHEREAS, our subsistence based community depends substantially upon the walruses, bowhead whales and seals for our nutritional needs, with the inedible portions used to create our arts and crafts, and,

WHEREAS, this income is vital to our residents because our unemployment rates are at approximately 75% and,

WHEREAS, prices for food from our stores are astronomically expensive due to the high shipping costs in rural Alaska, and most residents cannot sustain themselves through purchases from these outlets, and,

WHEREAS, our pre-capitalist culture of hunting in a non-wasteful manner and only to fulfill our nutritional needs remains one of sharing with our entire community, and,

WHEREAS, we have no alternative food sources, and the small income derived from our sales of ivory arts and crafts is necessary for the financing of further hunting, and,

WHEREAS, the fuel, boats, ammunition, and other technology necessary for hunting in our modern world is expensive, and,

WHEREAS, the emotionally charged and highly graphic photographs of headless, rotting elephant carcasses, directed towards the American and worldwide public by powerful wildlife organizations, as they actively pursue a stated goal to eliminate all ivory markets worldwide, is turning ivory into an unsavory word, and is ultimately going to destroy our market and our only means of self-sufficiency, and,

WHEREAS, we can do little to counter the efforts of these wildlife organizations because we are not as well funded, and they are not duly concerned with our dire dilemma, and,

WHEREAS, we were not invited to dialogue and address our concerns in the crafting of the Executive Order by the Department of the Interior and U.S. Fish and Wildlife Service, as they've stated in a press release on this issue that upon review of their legal obligation to inform and involve tribes in matters affecting them, they determined that this issue did not involve any Native American Tribes, and,

WHEREAS, we are invisible in this matter of vital importance to the our food security, and USFWS has not responded to Vera Metcalf, the Eskimo Walrus Commission Director and a tribal member of our island community, and,

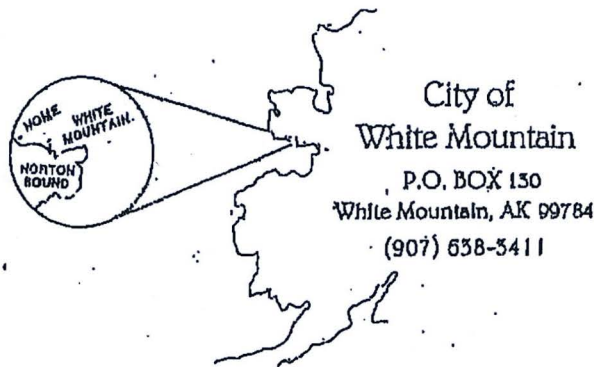
WHEREAS, we are not poachers or sports hunters, nor involved in terrorism or organized crime, and a ban on walrus ivory does not work towards the elimination of the poaching of African elephant ivory, which is the explicitly stated goal of the Executive Order, and,

WHEREAS, additionally, old walrus ivory is entirely distinguishable from both mammoth ivory and old elephant ivory, and we depend on the sales of that resource, and,

WHEREAS, the European Union's ban on seal products destroyed the subsistence based seal product market of the Greenlandic Inuit before the Prime Minister of Denmark resolved the law in their favor, and it has yet to be determined if the Inuit nation of Greenland can fully recover,

NOW, THEREFORE BE IT RESOLVED that all efforts be set forth to provide us with an opportunity to address this grave matter with President Barack Obama through inclusion of our issue in the agenda for the final White House Tribal Nations Conference in Washington, D.C, September 26-27, 2016. President Obama created this law, but we are certain he did not mean to do us harm, and instead has demonstrated sincere concerns for our communities. We are heartened by that, for the welfare of our residents and our artists.

BY: 
Secretary, Sivuqaq, Incorporated



**City of White Mountain
Resolution Number 16-09**

**A RESOLUTION OF SUPPORT FOR ESKIMO WALRUS COMMISSION'S
OPPOSITION OF INCLUDING WALRUS, MAMMOTH, AND MASTADON IVORY IN
AFRICAN ELEPHANT IVORY BAN LAWS IN THE UNITED STATES**

WHEREAS, the City of White Mountain is a class II municipal government in the Bering Straits region of Alaska; and

WHEREAS, the City of White Mountain was formed in 1969 by community members and is governed by seven appointed City Council members; and

WHEREAS, the use of legally acquired walrus, mammoth, and mastodon ivory by Alaska Native carvers to create tools, handicrafts, jewelry, and artwork is a longstanding cultural tradition that continues to be a vital component of Alaska Native culture today; and

WHEREAS, the Marine Mammal Protection Act (MMPA) explicitly protects the right of coastal Alaska Natives to harvest marine mammals and utilize their byproducts in handicrafts for sale in the United States; and

WHEREAS, the sale of walrus, mammoth and mastodon ivory tools, handicrafts, jewelry and artwork by Alaska Natives is an important source of income in the cash-limited economies of rural Alaska; and

WHEREAS, in efforts to stem the poaching of African elephants, various U.S. states have passed laws banning the sale, use, or possession of all ivory, and additional states are considering such laws; and

WHEREAS, these ivory ban laws fail to acknowledge the difference between African elephant ivory and legally acquired walrus, mammoth, and mastodon ivory used by Alaska Native artists; and

WHEREAS, these state ivory ban laws may cause residents of those states to face prosecution for buying, owning or bringing home legally acquired ivory from Alaska; and

WHEREAS, these state ivory ban laws will negatively impact Alaska Native artists who depend on the sale of their handicrafts as a source of important income in a cash-limited economy; and

NOW THEREFORE BE IT RESOLVED, the City of White Mountain supports Eskimo Walrus Commission Resolution 2016-01 opposing the inclusion of walrus, mammoth and mastodon ivory in ivory ban laws; and

BE IT FURTHER RESOLVED that the City of White Mountain requests that walrus, mammoth, and mastodon ivory be exempted from current and future ivory bans laws in the United States.

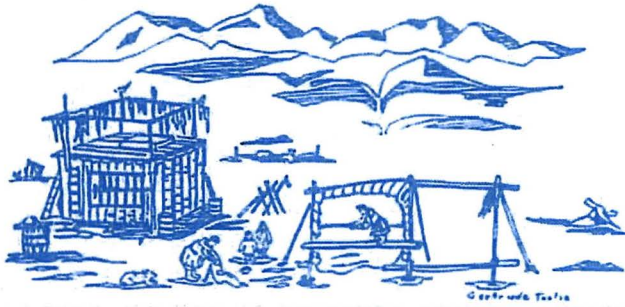
ADOPTED by a duly constituted quorum of the City Council of White Mountain, Alaska, this 27th day of September, 2016.

SIGNED: 

Daniel Harrelson, Mayor

ATTEST: 

Amy Titus, City Clerk



NATIVE VILLAGE OF SAVOONGA • P.O. BOX 120, SAVOONGA, AK 99769 • PHONE 984-6414 • FAX 984-6027

Joint Resolution 2016-01

A joint resolution of the Native Village of Savoonga, City of Savoonga, and Kukulget, Incorporated, requesting that the serious issue of the mass confusion generated by Executive Order 13648, which ends the African elephant ivory market in America, be included as an agenda item in the White House Tribal Nations Conference.

WHEREAS, the governing bodies of Savoonga are concerned about the health and economic welfare of our residents, and,

WHEREAS, Executive Order 13648 of July 1, 2013, which ends the African elephant ivory market in America and provides an exemption for items already permitted under existing federal legislation, which includes the protections set forth under the Marine Mammal Protection Act (MMPA) of our hunting rights for walrus and other sea mammals, and, importantly, the use of inedible portions in the production of arts and crafts, and,

WHEREAS, states are crafting and passing laws banning elephant ivory and are erroneously including walrus ivory in their description of ivory, even with an inclusion of the federal exemption noted in the Executive Order for items permitted under existing federal law, and,

WHEREAS, Alaska Native people use of walrus ivory is not explicitly mentioned in the federal or state laws, along with whale, polar bear and sea otter, all of which are included in the state laws, and are mammals we legally continue to hunt and create arts and crafts from, and,

WHEREAS, the ensuing confusion is creating a de facto ban of our walrus ivory products, with sales reported as decreased by the businesses our artists and craftspeople depend on, and,

WHEREAS, our subsistence based community depends substantially upon the walruses, bowhead whales and seals for our nutritional needs, with the inedible portions used to create our arts and crafts, and,

WHEREAS, this income is vital to our residents because our unemployment rates are at approximately 75% and,

WHEREAS, prices for food from our stores are astronomically expensive due to the high shipping costs in rural Alaska, and most residents cannot sustain themselves through purchases from these outlets, and,



NATIVE VILLAGE OF SAVOONGA • P.O. BOX 120, SAVOONGA, AK 99769 • PHONE 984-6414 • FAX 984-6027

WHEREAS, our pre-capitalist culture of hunting in a non-wasteful manner and only to fulfill our nutritional needs remains one of sharing with our entire community, and,

WHEREAS, we have no alternative food sources, and the small income derived from our sales of ivory arts and crafts is necessary for the financing of further hunting, and,

WHEREAS, the fuel, boats, ammunition, and other technology necessary for hunting in our modern world is expensive, and,

WHEREAS, the emotionally charged and highly graphic photographs of headless, rotting elephant carcasses, directed towards the American and worldwide public by powerful wildlife organizations, as they actively pursue a stated goal to eliminate all ivory markets worldwide, is turning ivory into an unsavory word, and is ultimately going to destroy our market and our only means of self-sufficiency, and,

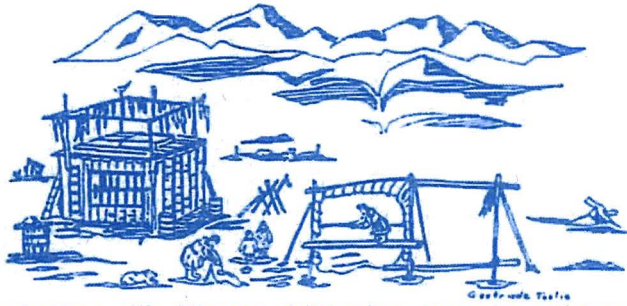
WHEREAS, we can do little to counter the efforts of these wildlife organizations because we are not as well funded, and they are not duly concerned with our dire dilemma, and,

WHEREAS, we were not invited to dialogue and address our concerns in the crafting of the Executive Order by the Department of the Interior and U.S. Fish and Wildlife Service, as they've stated in a press release on this issue that upon review of their legal obligation to inform and involve tribes in matters affecting them, they determined that this issue did not involve any Native American Tribes, and,

WHEREAS, we are invisible in this matter of vital importance to our food security, and USFWS has not responded to Vera Metcalf, the Eskimo Walrus Commission Director and a tribal member of our island community, and,

WHEREAS, we are not poachers or sports hunters, nor involved in terrorism or organized crime, and a ban on walrus ivory does not work towards the elimination of the poaching of African elephant ivory, which is the explicitly stated goal of the Executive Order, and,

WHEREAS, additionally, old walrus ivory is entirely distinguishable from both mammoth ivory and old elephant ivory, and we depend on the sales of that resource, and,




NATIVE VILLAGE OF SAVOONGA • P.O. BOX 120, SAVOONGA, AK 99769 • PHONE 984-6414 • FAX 984-6027

WHEREAS, the European Union's ban on seal products destroyed the subsistence based seal product market of the Greenlandic Inuit before the Prime Minister of Denmark resolved the law in their favor, and it has yet to be determined if the Inuit nation of Greenland can fully recover,

NOW, THEREFORE BE IT RESOLVED that all efforts be set forth to provide us with an opportunity to address this grave matter with President Barack Obama through inclusion of our issue in the agenda for the final White House Tribal Nations Conference in Washington, D.C, September 26-27, 2016. President Obama created this law, but we are certain he did not mean to do us harm, and instead has demonstrated sincere concerns for our communities. We are heartened by that, for the welfare of our residents and our artists.

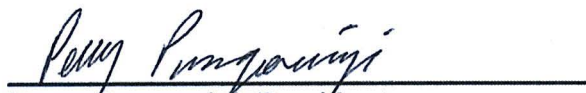
BY:



Myron Kingeekuk, Mayor
City of Savoonga



Delbert Pungowiyi, IRA President
Native Village of Savoonga



Perry Pungowiyi, President
Kukulget, Incorporated



NATIVE VILLAGE OF KOYUK IRA COUNCIL
PO BOX 53030 KOYUK, ALASKA 99753
PHONE: (907) 963-3651 FAX: (907) 963-2353 EMAIL: tc.kka@kawerak.org

Resolution # 16-10-13-02

**A RESOLUTION IN SUPPORT OF ESKIMO WALRUS COMMISSION'S OPPOSITION OF INCLUDING
WALRUS, MAMMOTH, AND MASTODON IVORY IN AFRICAN ELEPHANT IVORY BAN LAWS IN THE
UNITED STATES**

WHEREAS, the Native Village of Koyuk is a federally recognized tribal government body for the community of Koyuk, Alaska in the Bering Straits Region of Alaska.

WHEREAS, the Eskimo Walrus Commission was formed in 1978 by Kawerak, Inc. and represents 19 coastal subsistence walrus hunting communities in Alaska; and

WHEREAS, the use of legally acquired walrus, mammoth, and mastodon ivory by Alaska Native carvers to create tools, handicrafts, jewelry, and artwork is a longstanding cultural tradition that continues to be a vital component of Alaska Native culture today; and

WHEREAS, the Marine Mammal Protection Act (MMPA) explicitly protects the right of coastal Alaska Natives to harvest marine mammals and utilize their byproducts in handicrafts for sale in the United States; and

WHEREAS, the sale of walrus, mammoth, and mastodon ivory tools, handicrafts, jewelry, and artwork by Alaska Natives is an important source of income in the cash-limited economies of rural Alaska; and

WHEREAS, in efforts to stem the poaching of African elephants, various U.S. states have passed laws banning the sale, use, or possession of all ivory, and additional states are considering such laws; and

WHEREAS, these ivory ban laws fail to acknowledge the difference between African elephant ivory and legally acquired walrus, mammoth, and mastodon ivory used by Alaska Native artists; and

WHEREAS, these state ivory ban laws may cause residents of those states to face prosecution for buying, owning, or bringing home legally acquired ivory from Alaska; and

WHEREAS, these state ivory ban laws will negatively impact Alaska Native artists who depend on the sale of their handicrafts as a source of important income in a cash-limited economy;

NOW THEREFORE BE IT RESOLVED, that the Native Village of Koyuk supports EWC Resolution 2016-01 opposing the inclusion of walrus, mammoth, and mastodon ivory in ivory ban laws; and

BE IT FURTHER RESOLVED that the Native Village of Koyuk requested that walrus, mammoth, and mastodon ivory be exempted from current and future ivory ban laws in the United States.

CERTIFICATION

This resolution as passed on this 13th day of October, 2016, with a vote of 6 yeas, 0 nays, 0 absentions, 1 absent.

Lola Hannon

Lola Hannon, President

Travis Dewey

Travis Dewey, Treasurer

Presented By:
Councilman Brown

Action Taken:
Yes 6
No 0
Abstain 0

CITY OF NOME, ALASKA

RESOLUTION NO. R-16-10-04 (Amended)

**A RESOLUTION OPPOSING THE INCLUSION OF WALRUS, MAMMOTH, AND MASTODON
IVORY IN AFRICAN ELEPHANT IVORY BAN LAWS**

WHEREAS, various U.S. States have passed laws banning the sale, use, or possession of all ivory products and other states are considering similar laws; and,

WHEREAS, these ivory ban laws fail to recognize the difference between African elephant ivory and legally acquired walrus, mammoth and mastodon ivory used by Alaska Native artists; and,

WHEREAS, the Marine Mammal Protection Act explicitly protects the right of coastal Alaska Natives to harvest marine mammals and utilize their byproducts in handicrafts for sale; and,

WHEREAS, such ivory ban laws will negatively impact the cash-limited economy of the Bering Strait Region, of which the City of Nome serves as the economic and transportation hub; and,

NOW, THEREFORE, BE IT RESOLVED that the City of Nome opposes the inclusion of walrus, mammoth and mastodon ivory in ivory ban laws; and,

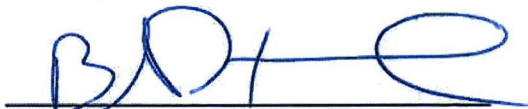
BE IT FURTHER RESOLVED that the City of Nome requests that walrus, mammoth, and mastodon ivory be exempted from current and future ivory ban laws.

APPROVED and SIGNED this 24th day of October, 2016.



RICHARD BENEVILLE,
Mayor

ATTEST:



BRYANT HAMMOND,
City Clerk

Qayassiq Walrus Commission
c/o: Bristol Bay Native Association
P.O. Box 310
Dillingham, AK 99576
Moses Toyukak, Sr., Chairman

COPY

QWC Resolution 2016:01

A Resolution Opposing the Inclusion of Walrus, Mammoth, and Mastodon Ivory in African Elephant Ivory Ban Laws in the United States

WHEREAS, the Qayassiq Walrus Commission (QWC) is an established Native Marine Mammal Commission functioning continuously since 1995, the QWC is a principal advocacy body in Bristol Bay, Alaska regarding marine mammal subsistence use and the preservation of marine mammal habitat areas, including the Pacific walrus and other marine mammal species traditionally harvested by the Bristol Bay tribal communities; and

WHEREAS, the Qayassiq Walrus Commission represents nine (9) walrus hunting coastal communities of Aleknagik, Clarks Point, Dillingham, Ekuk, Ekwok, Manokotak, New Stuyahok, Togiak, and Twin Hills in Alaska; and

WHEREAS, the use of legally acquired walrus, mammoth, and mastodon ivory by Alaska Native carvers to create tools, handicrafts, jewelry, and artwork is a longstanding cultural tradition that continues to be a vital component of Alaska Native culture today; and

WHEREAS, the sale of walrus, mammoth, and mastodon ivory tools, handicrafts, jewelry, and artwork by Alaska Natives is an important source of income in the cash-limited economies of rural Alaska; and

WHEREAS, in efforts to stem the poaching of African elephants, various U.S. states have passed laws banning the sale, use, or possession of all ivory, and additional states are considering such laws; and

WHEREAS, these ivory ban laws fail to acknowledge the difference between African elephant ivory and legally acquired walrus, mammoth, and mastodon ivory used by Alaska Native artists; and

WHEREAS, these state ivory ban laws may cause residents of those states to face prosecution for buying, owning, or bringing home legally acquired ivory from Alaska; and

WHEREAS, these state ivory ban laws will negatively impact Alaska Native artists who depend on the sale of their handicrafts as a source of important income in a cash-limited economy;

NOW THEREFORE BE IT RESOLVED THAT the Qayassiq Walrus Commission opposes the inclusion of walrus, mammoth, and mastodon ivory in ivory ban laws; and

BE IT FURTHER RESOLED THAT the Qayassiq Walrus Commission requests that walrus, mammoth, and mastodon ivory be exempted from current and future ivory ban laws in the United States.


Moses Toyukak, Sr, QWC Chairman

CERTIFICATION:

I, the undersigned Vice-Chair of the Qayassiq Walrus Commission hereby certify that the foregoing resolution 2016-01 was adopted by a majority vote of the Qayassiq Walrus Commission. Passed this 8th day of September 2016.



NATIVE VILLAGE OF BARROW IÑUPIAT TRADITIONAL GOVERNMENT

RESOLUTION 2016- 16

A RESOLUTION SUPPORTING ESKIMO WALRUS COMMISSION RESOLUTION 2016-01 OPPOSING THE INCLUSION OF WALRUS, MAMMOTH, AND MASTADON IVORY IN AFRICAN ELEPHANT IVORY BAN LAWS IN THE UNITED STATES

WHEREAS, the Eskimo Walrus Commission was formed in 1978 by Kawerak, Inc. and represents 19 coastal subsistence walrus hunting communities in Alaska; and

WHEREAS, the use of legally acquired walrus, mammoth, and mastodon ivory by Alaska Native carvers to create tools, handicrafts, jewelry, and artwork is a longstanding cultural tradition that continues to be a vital component of Alaska Native culture today; and

WHEREAS, the Marine Mammal Protection Act (MMPA) explicitly protects the right of coastal Alaska Natives to harvest marine mammals and utilize their byproducts in handicrafts for sale in the United States; and

WHEREAS, the sale of walrus, mammoth, and mastodon ivory tools, handicrafts, jewelry, and artwork by Alaska Natives is an important source of income in the cash-limited economies of rural Alaska; and

WHEREAS, in efforts to stem the poaching of African elephants, various U.S. states have passed laws banning the sale, use, or possession of all ivory, and additional states are considering such laws; and

WHEREAS, these ivory ban laws fail to acknowledge the difference between African elephant ivory and legally acquired walrus, mammoth, and mastodon ivory used by Alaska Native artists; and

WHEREAS, these state ivory ban laws may cause residents of those states to face prosecution for buying, owning, or bringing home legally acquired ivory from Alaska; and

WHEREAS, these state ivory ban laws will negatively impact Alaska Native artists who depend on the sale of their handicrafts as a source of important income in a cash-limited economy;

NOW THEREFORE BE IT RESOLVED, that the Native Village of Barrow supports EWC Resolution 2016-01 opposing the inclusion of walrus, mammoth, and mastodon ivory in ivory ban laws; and

BE IT FURTHER RESOLVED that the Native Village of Barrow requests that walrus, mammoth, and mastodon ivory be exempted from current and future ivory ban laws in the United States.

ATTESTED:

ADOPTED at a duly convene meeting of the governing body of Native Village of Barrow Tribal Council in which was a quorum on the 20th day of June, 2016, by a vote of:

ADOPTED at a duly convene meeting of the governing body of Native Village of Barrow Tribal Council in which was a quorum on the ___ day of June, 2016, by a vote of 7 IN FAVOR, 0 OPPOSED, AND 0 NOT VOTING.



Thomas Olemaun, President



Fannie Suvlu, Secretary



ALASKA FEDERATION OF NATIVES
2016 ANNUAL CONVENTION
RESOLUTION 16-30

- TITLE:** IN SUPPORT OF USE AND SALES OF WALRUS IVORY IN TOOLS, ARTS AND CRAFTS
- WHEREAS:** The Alaska Federation of Natives (AFN) is the largest statewide Native organization in Alaska and its membership includes 151 federally recognized tribes, 150 village corporations, 12 regional corporations and 12 regional non-profit and tribal consortiums that contract and compact to run federal and state programs; and
- WHEREAS:** The mission of AFN is to enhance and promote the cultural, economic, and political voice of the entire Alaska Native community; and
- WHEREAS:** Alaska Native people have harvested Pacific walrus for millennia as a source of food, clothing, building material, carving medium for tools, arts, crafts; and
- WHEREAS:** Walrus are a source of pride, traditions, stories and dance; and
- WHEREAS:** The Marine Mammal Protection Act (MMPA) explicitly protects the right of coastal Alaska Natives to harvest marine mammals and utilize their byproducts in handicrafts for sale in the United States; and
- WHEREAS:** Walrus hunting communities and hunters are represented by the Eskimo Walrus Commission which was formed in 1978 by Kawerak, Inc. and represents 19 coastal subsistence walrus hunting communities in Alaska; and
- WHEREAS:** The use of legally acquired walrus, mammoth, and mastodon ivory by Alaska Native carvers to create tools, handicrafts, jewelry, and artwork is a longstanding cultural tradition that continues to be a vital component of Alaska Native culture today; and
- WHEREAS:** The sale of walrus, mammoth, and mastodon ivory tools, handicrafts, jewelry, and artwork by Alaska Natives is an important source of income in the cash-limited economies of rural Alaska; and
- WHEREAS:** In efforts to stem the poaching of African elephants, various U.S. states have passed laws banning the sale, use, or possession of all ivory, and additional states are considering such laws; and
- WHEREAS:** These ivory ban laws fail to acknowledge the difference between African elephant ivory and legally acquired walrus, mammoth, and mastodon ivory used by Alaska Native artists; and

WHEREAS: These state ivory ban laws may cause residents of those states to face prosecution for buying, owning, or bringing home legally acquired ivory from Alaska; and

WHEREAS: These state ivory ban laws negatively impact Alaska Native artists who depend on the sale of their handicrafts as a source of important income in a cash-limited economy;

WHEREAS: AFN joins Kawerak and Eskimo Walrus Commission's stance to oppose the inclusion of walrus, mammoth, and mastodon ivory in domestic ivory ban laws; and

NOW THEREFORE BE IT RESOLVED by the delegates to the 2016 Annual Convention of the Alaska Federation of Natives that AFN encourage the "banning of domestic sales of elephant ivory" and requests that walrus, mammoth, and mastodon ivory, Whale bone, Walrus Skin, Sea Otter, Seal Skin be exempted from current and future domestic ivory ban laws in the United States.

BE IT FURTHER RESOLVED, that this resolution shall be the policy of AFN until it is withdrawn or modified by subsequent resolution.

SUBMITTED BY:	COUNCIL FOR THE ADVANCEMENT OF ALASKA NATIVES & KAWERAK, INC.
BOARD ACTION:	PASS
CONVENTION ACTION:	PASS



Julie Kitka
Julie E. Kitka
President



ALASKA FEDERATION
OF NATIVES

June 10, 2016

Honorable Lisa Murkowski
United States Senate
709 Hart Senate Office Building
Washington, DC 20510
Via email: Nathan_Bergerbest@murkowski.senate.gov

Re: Ivory Bans

Dear Senator Murkowski:

On behalf of the Alaska Federation of Natives, I am writing to urge you to take action to protect the livelihood of Alaska Native artists who use walrus or fossilized mammoth or mastodon ivory in their art as various states move to ban ivory use, possession, sales and import.

As you know, AFN is the largest statewide Native organization in Alaska. Our membership includes 185 federally recognized Alaska Native tribes, 153 village corporations, 12 regional corporations, and 12 regional nonprofit and tribal consortiums that compact and contract to run federal and state programs. Formed nearly fifty years ago, AFN continues to be the principle forum and voice of Alaska Natives in dealing with critical issues of public policy and government.

In an effort to stem the poaching that is decimating the African elephant population, President Obama issued an Executive Order in 2013 to sharply curb the domestic commercial trade of African elephant ivory. Following that sentiment, New Jersey, New York, California, Massachusetts and Washington all have laws on the books that, to some extent, ban the sale, use and possession of ivory; more states are considering such laws. While we understand the need to protect endangered species, these laws fail to acknowledge the difference between elephant ivory and the walrus and fossilized ivory legally taken and used by Alaska Native artists in a wide range of mediums.

The Marine Mammal Protection Act (MMPA) explicitly protects Alaska Native harvest of certain marine mammals, such as walrus, and use of marine mammal products in handicrafts for sale in the United States. The use or sale of mammoth or mastodon ivory is also exempt from most laws regarding ivory sales because these creatures have long been extinct.

We are concerned that the state ivory bans are written so broadly that residents of those states could face prosecution for bringing home from Alaska art that contains legal ivory. More significantly, Alaska Native traditional and contemporary use generates important income from the sale of Alaska Native art and handicrafts and is therefore crucial to many rural families and economically depressed communities, and the practice of creating these works sustains our cultures and traditions. Threat of prosecution and actions that may stifle economic, social and cultural activities as well as decrease Native handicraft and fine art sales will severely impact our already depressed rural economies.

We ask that you intervene to protect the rights and livelihood of Alaska Native artists, either legislatively or by contacting states that are considering these bans.

If you have any questions or require further clarification about the content of this letter, please contact me directly at (907) 274-3611 or nevakitka@aol.com.

Sincerely,

A handwritten signature in black ink that reads "Julie E. Kitka". The signature is written in a cursive, flowing style.

Julie Kitka
President

**A Resolution of the Alaska State Council on the Arts
Opposing the Inclusion of Domestic Walrus, Mammoth & Mastodon Ivory In
African Elephant Ivory Ban Laws in the United States**

WHEREAS, the Alaska State Council on the Arts (ASCA) was created in statute in 1966 by the Alaska State Legislature to act as Alaska's State Arts Agency with a mission to represent, support, and advance the creative endeavors of individuals, organizations, and agencies throughout Alaska; and

WHEREAS, in an effort to stem the poaching of African elephants, various U.S. states have enacted laws banning the sale, use, or possession of all ivory, and additional states are considering such laws; and

WHEREAS, these domestic ivory bans fail to acknowledge the difference between African elephant ivory and legally acquired walrus, mammoth, and mastodon ivory used by Alaska Native artists; and

WHEREAS, the Marine Mammal Protection Act (MMPA) explicitly protects the rights of Alaska Natives to harvest marine mammals and utilize their byproducts in art for sale in the United States; and

WHEREAS, the use of legally acquired walrus, mammoth, and mastodon ivory by Alaska Native artists to create tools, handicrafts, jewelry, and artwork is a longstanding cultural tradition that is an actively vital component of Alaska Native culture today throughout Alaska; and

WHEREAS, the passage of state domestic ivory bans negatively impacts Alaska Native artists who depend on the sale of their art as an important cash income source to support their economic autonomy and therefore their families and communities in a cash-limited economy; and

WHEREAS, ASCA supports Alaska Native artists through a variety of efforts including its Traditional Native Arts Program, Alaska Native Arts Senior Advisory Committee, Alaska Native Leadership Program, Alaska's Living Cultural Treasures and Rural Artists Residencies Programs, and other initiatives; and

WHEREAS, ASCA has supported and advocated for protection of Alaska Native artists and their artwork through such initiatives as the Silver Hand program (Alaska Native arts authentication program) and by acting in an advisory capacity to federal agencies such as the U.S. Federal Trade Commission, U.S. Department of the Interior Indian Arts & Crafts Board, U.S. Migratory Bird Protection, U.S. Fish & Wildlife Service, and the Alaska State Attorney General's Office and Alaska Department of Natural Resources, with respect to issues impacting Alaska Native artists; and

WHEREAS, ASCA has developed strong partnerships with Alaska Native profit and non-profit organizations and tribal entities through the delivery of professional development services, and supports efforts by Alaska Native organizations such as Kawerak, Inc., the Eskimo Walrus Commission, and the Alaska Federation of Natives and other Alaska Native entities who seek to

protect Alaska Native rights regarding the customary and economic use of walrus ivory from these state bans;

NOW THEREFORE BE IT RESOLVED that ASCA requests that walrus, mammoth and mastodon ivory be exempted from all current and future domestic ivory ban laws in the United States; and

BE IT FURTHER RESOLVED that ACSA requests Alaska's Congressional Delegation take any and all steps necessary to ensure that Alaska Native artists' creative opportunities and economic rights to use walrus, mammoth, and mastodon ivory remain protected under already established state and federal law.



Benjamin Brown, Chair

CERTIFICATION:

I, the undersigned Vice Chair of the Alaska State Council on the Arts hereby certify that the foregoing resolution was adopted by a unanimous vote of the Alaska State Council on the Arts. Passed this 16 day of November 2016.



Kessler Woodward, Vice Chair



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians
Resolution #PHX-16-049

TITLE: A Call for the National Oceanic and Atmospheric Administration to Actively Enforce Section 101(b) of the Marine Mammal Protection Act

EXECUTIVE COMMITTEE

- PRESIDENT Brian Cladoosby Swinomish Tribe
FIRST VICE-PRESIDENT Fawn Sharp Quinault Indian Nation
RECORDING SECRETARY Aaron Payment Sault Ste. Marie Tribe of Chippewa Indians of Michigan
TREASURER W. Ron Allen Jamestown S'Kallam Tribe

REGIONAL VICE-PRESIDENTS

ALASKA Jerry Isaac Native Village of Tanacross

EASTERN OKLAHOMA Joe Byrd Cherokee Nation

GREAT PLAINS Leander McDonald Spirit Lake Nation

MIDWEST Roger Rader Pokagon Band of Potawatomi

NORTHEAST Lance Gumbs Shinnecock Indian Nation

NORTHWEST Mel Sheldon, Jr. Tulalip Tribes

PACIFIC Jack Potter, Jr. Redding Rancheria

ROCKY MOUNTAIN Darrin Old Coyote Crow Nation

SOUTHEAST Larry Townsend Lumbee Tribe

SOUTHERN PLAINS Liana Onnen Prairie Band of Potawatomi Nation

SOUTHWEST Joe Garcia Ohkay Owingeh Pueblo

WESTERN Bruce Ignacio Ute Indian Tribe

EXECUTIVE DIRECTOR Jacqueline Pata Tlingit

NCAI HEADQUARTERS 1516 P Street, N.W. Washington, DC 20005
202.636.7767
202.636.7797 fax
www.ncai.org

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, Indigenous peoples' have harvested marine mammals for time immemorial for both nutritional and utilitarian needs; and

WHEREAS, Alaska Native peoples have developed rich cultures and practices around marine mammals and these practices continue today; and

WHEREAS, many Rural Alaska Native communities are subsistence based and substantially depend upon marine mammals for economic purposes and nourishment; and

WHEREAS, Alaska Native peoples have always utilized ivory from marine mammals and ivory is now an economic driving force for many native households; and

WHEREAS, this dependent relationship between Indigenous peoples and marine mammals is protected by the Marine Mammal Protection Act; and

WHEREAS, the Marine Mammal Protection Act was enacted in 1972 prohibiting the take, import, and export of marine mammals by United States citizens; and

WHEREAS, Section 101(b) of the Marine Mammal Protection Act exempts coastal Indians, Aleuts, and Eskimos from the provisions for the purpose of traditional, non-wasteful practices which includes harvesting marine mammals; and

WHEREAS, Section 101(b) recognizes the importance of harvesting marine mammals by the exemption of Alaska Natives for the purposes of creating or selling “authentic native artifacts of arts, crafts, and clothing;” and

WHEREAS, State governments such as, California, Hawaii, Massachusetts, New Jersey, New York and possible others have adopted state laws that are inconsistent with the Marine Mammal Protection Act and prohibit the sale of “authentic native artifacts of arts, crafts, and clothing.”

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians calls upon the National Oceanic and Atmospheric Administration to actively enforce the Alaska Native exemption in Section 101(b) of the Marine Mammal Protection Act so they can continue to practice traditional and customary lifeways and economies utilizing the ivory from marine mammals; and

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

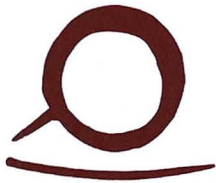
CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2016 Annual Session of the National Congress of American Indians, held at the Phoenix Convention Center, October 9th- 14th 2016, with a quorum present.


Brian Cladoosby, President

ATTEST:


Aaron Payment, Recording Secretary



INUIT

**Inuit Circumpolar Council
Executive Council Resolution 16-01**

**A Resolution of Support for Eskimo Walrus Commission's Opposition of Including
Walrus, Mammoth, and Mastodon Ivory in African Elephant Ivory Ban Laws in the
United States**

WHEREAS, the Inuit Circumpolar Council (ICC) was founded in 1977 to represent the interests of the Inuit of Greenland, Canada, Russia, and Alaska; and

WHEREAS, the ICC works to protect and promote Inuit culture and society; and

WHEREAS, the 2010 Nuuk Declaration instructs ICC to "Support Inuit hunters in their struggle to adapt to the new Arctic, and Ask ICC to fight unethical and unfair trade restrictions placed on our own products"; and

WHEREAS, 2010 Nuuk Declaration further states to "Instruct ICC to promote the redefinition of hunting activities and use of renewable resources by Inuit as a profession within all international human rights fora"; and

WHEREAS, the use of legally acquired walrus, mammoth, mastodon or other marine mammal ivory by Inuit carvers to create tools, handicrafts, jewelry, and artwork is a longstanding cultural tradition that continues to be a vital component of Inuit culture today; and

WHEREAS, the sale of walrus, mammoth, and mastodon ivory tools, handicrafts, jewelry, and artwork by Inuit is an important source of income in the cash-limited economies of Arctic communities; and

WHEREAS, in efforts to stem the poaching of African elephants, various U.S. states have passed laws banning the sale, use, or possession of all ivory, and additional states are considering such laws; and

WHEREAS, these ivory ban laws fail to acknowledge the difference between African elephant ivory and legally acquired walrus, mammoth, and mastodon ivory used by Inuit artists; and

WHEREAS, these state laws will negatively impact Inuit artists who depend on the sale of their handicrafts as a source of important income in a cash-limited economy.

THEREFORE BE IT RESOLVED, that ICC insists that walrus, mammoth, and mastodon ivory be exempted from current and future ivory bans at regional, national and international levels.

BE IT FURTHER RESOLVED that the ICC Executive Council expresses support to the Eskimo Walrus Commission's Resolution 2016-01 *A Resolution Opposing the Inclusion of Walrus, Mammoth, and Mastodon Ivory in African Elephant Ivory Ban Laws in the United States.*

UNANIMOUSLY PASSED AND ADOPTED by the ICC Executive Council in a regular meeting on this 27th day of August, 2016.

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Okalik Egeesiak, Chair
Inuit Circumpolar Council



**A Resolution of the Alaska State Council on the Arts
Opposing the Inclusion of Domestic Walrus, Mammoth & Mastodon Ivory In
African Elephant Ivory Ban Laws in the United States**

WHEREAS, the Alaska State Council on the Arts (ASCA) was created in statute in 1966 by the Alaska State Legislature to act as Alaska's State Arts Agency with a mission to represent, support, and advance the creative endeavors of individuals, organizations, and agencies throughout Alaska; and

WHEREAS, in an effort to stem the poaching of African elephants, various U.S. states have enacted laws banning the sale, use, or possession of all ivory, and additional states are considering such laws; and

WHEREAS, these domestic ivory bans fail to acknowledge the difference between African elephant ivory and legally acquired walrus, mammoth, and mastodon ivory used by Alaska Native artists; and

WHEREAS, the Marine Mammal Protection Act (MMPA) explicitly protects the rights of Alaska Natives to harvest marine mammals and utilize their byproducts in art for sale in the United States; and

WHEREAS, the use of legally acquired walrus, mammoth, and mastodon ivory by Alaska Native artists to create tools, handicrafts, jewelry, and artwork is a longstanding cultural tradition that is an actively vital component of Alaska Native culture today throughout Alaska; and

WHEREAS, the passage of state domestic ivory bans negatively impacts Alaska Native artists who depend on the sale of their art as an important cash income source to support their economic autonomy and therefore their families and communities in a cash-limited economy; and

WHEREAS, ASCA supports Alaska Native artists through a variety of efforts including its Traditional Native Arts Program, Alaska Native Arts Senior Advisory Committee, Alaska Native Leadership Program, Alaska's Living Cultural Treasures and Rural Artists Residencies Programs, and other initiatives; and

WHEREAS, ASCA has supported and advocated for protection of Alaska Native artists and their artwork through such initiatives as the Silver Hand program (Alaska Native arts authentication program) and by acting in an advisory capacity to federal agencies such as the U.S. Federal Trade Commission, U.S. Department of the Interior Indian Arts & Crafts Board, U.S. Migratory Bird Protection, U.S. Fish & Wildlife Service, and the Alaska State Attorney General's Office and Alaska Department of Natural Resources, with respect to issues impacting Alaska Native artists; and

WHEREAS, ASCA has developed strong partnerships with Alaska Native profit and non-profit organizations and tribal entities through the delivery of professional development services, and supports efforts by Alaska Native organizations such as Kawerak, Inc., the Eskimo Walrus Commission, and the Alaska Federation of Natives and other Alaska Native entities who seek to

protect Alaska Native rights regarding the customary and economic use of walrus ivory from these state bans;

NOW THEREFORE BE IT RESOLVED that ASCA requests that walrus, mammoth and mastodon ivory be exempted from all current and future domestic ivory ban laws in the United States; and

BE IT FURTHER RESOLVED that ACSA requests Alaska's Congressional Delegation take any and all steps necessary to ensure that Alaska Native artists' creative opportunities and economic rights to use walrus, mammoth, and mastodon ivory remain protected under already established state and federal law.



Benjamin Brown, Chair

CERTIFICATION:

I, the undersigned Vice Chair of the Alaska State Council on the Arts hereby certify that the foregoing resolution was adopted by a unanimous vote of the Alaska State Council on the Arts. Passed this 16 day of November 2016.



Kessler Woodward, Vice Chair



ALASKA STATE
COUNCIL ON THE ARTS

November 16, 2016

Dear Senator Sullivan:

I am writing on behalf of the Alaska State Council on the Arts (ASCA) to thank you for bringing the attention of the United States Senate to the important issue of state legislative bans of possession and sale of art pieces containing ivory from domestic sources traditionally used by Alaska Native artists. ASCA is keenly aware of the significant problems this issue presents to artists across the Great Land, and especially those who live and create art in rural Alaska.

ASCA is very grateful to you for holding field hearings in conjunction with the recent annual convention of the Alaska Federation of Natives in Fairbanks. Several Council members were in attendance, and they communicated to the full Council the need for ASCA to take a position in support of your efforts in conjunction with Senator Murkowski and Congressman Young to ensure this problem is addressed. ASCA adopted the enclosed resolution at our recent annual meeting in Anchorage. We would respectfully ask that it be entered into the record of the hearing as additional testimony from Alaskans regarding this issue.

ASCA's mission is to represent, support, and advance the creative endeavors of individuals, organizations, and agencies throughout Alaska. Our strategic goals include expanding the creative workforce, ensuring that artists are paid for their work, and allowing all Alaskans to lead creative lives. Your efforts to counter ill-advised state laws banning possession or sale of art containing traditional materials such as domestic walrus ivory are directly supportive of our mission and goals.

Please don't hesitate to let ASCA know what else we may do to support your efforts to help Alaska Native artists remain able to use traditional materials in their creative endeavors. This fight is so worthwhile, and we want to do all we can to help you succeed.

Yours sincerely,

Benjamin Brown, Chairman
Alaska State Council on the Arts