

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1403

02/18/2019 Authored by Lee, Persell, Gunther, Huot, Becker-Finn and others
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy

1.1 A bill for an act
1.2 relating to wildlife; prohibiting trade in ivory and rhinoceros horn; authorizing
1.3 rulemaking; providing criminal penalties; proposing coding for new law in
1.4 Minnesota Statutes, chapter 84.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. [84.0896] TRADE IN IVORY AND RHINOCEROS HORN PROHIBITED.

1.7 Subdivision 1. Definitions. (a) The definitions in this subdivision apply to this section.

1.8 (b) "Bona fide educational or scientific institution" means an institution that documents
1.9 educational or scientific tax-exempt status from the federal Internal Revenue Service.

1.10 (c) "Commissioner" means the commissioner of natural resources.

1.11 (d) "Ivory" means:

1.12 (1) a tooth or tusk from any species of elephant, hippopotamus, mammoth, mastodon,
1.13 walrus, whale, or narwhal, or any piece thereof, whether raw or worked; and

1.14 (2) any product containing or advertised as containing ivory.

1.15 (e) "Person" means an individual, firm, partnership, joint stock company, association,
1.16 or public or private corporation.

1.17 (f) "Rhinoceros horn" means:

1.18 (1) the horn, a piece of a horn, or a derivative of a horn, such as powder, of any species
1.19 of rhinoceros; and

1.20 (2) any product containing or advertised as containing a rhinoceros horn.

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

2.5 (h) "Total value" means the fair market value or the actual price paid for the ivory or
2.6 rhinoceros horn, whichever is greater.

2.7 Subd. 2. **Prohibition.** Except as provided in this section, a person must not purchase,
2.8 sell, offer for sale, or possess with intent to sell any item that the person knows or should
2.9 know is ivory or rhinoceros horn.

2.10 Subd. 3. **Exceptions.** This section does not apply:

2.11 (1) to employees or agents of federal or state government undertaking law enforcement
2.12 activities according to federal or state law or mandatory duties required by federal or state
2.13 law;

2.14 (2) when the activity is expressly authorized by federal law;

2.15 (3) when the ivory or rhinoceros horn is a fixed component of an antique that is not
2.16 made wholly or partially from the ivory or rhinoceros horn, if:

2.17 (i) the antique status is established by the owner or seller of the item with documentation
2.18 evidencing provenance and showing the ivory or rhinoceros horn to be not less than one
2.19 hundred years old; and

2.20 (ii) the total weight of the ivory or rhinoceros horn is less than 200 grams; or

2.21 (4) when the ivory or rhinoceros horn is a fixed component of a musical instrument,
2.22 including but not limited to string instruments and bows, wind and percussion instruments,
2.23 and pianos, if the ivory or rhinoceros horn was legally acquired and the total weight of the
2.24 ivory or rhinoceros horn is less than 200 grams.

2.25 Subd. 4. **Educational or scientific use.** Unless the activity is prohibited by federal law
2.26 or regulation, the commissioner may permit a bona fide educational or scientific institution
2.27 to purchase, sell, offer for sale, or possess with intent sell ivory or rhinoceros horn for
2.28 educational or scientific purposes if the ivory or rhinoceros horn was legally acquired.

2.29 Subd. 5. **Presumption of possession with intent to sell.** There is a presumption of
2.30 possession with intent to sell ivory or rhinoceros horn when the item is possessed by a retail
2.31 or wholesale establishment or other forum engaged in the business of buying or selling

3.1 similar items. This rebuttable presumption does not preclude a finding of intent to sell on
3.2 any other evidence that may serve to independently establish the intent.

3.3 Subd. 6. **Violations.** A violation of this section or any rule adopted under this section
3.4 is subject to the following criminal penalties:

3.5 (1) for a first violation, when the total value of the ivory or rhinoceros horn does not
3.6 exceed \$250, the person is guilty of a misdemeanor and subject to a fine not to exceed
3.7 \$1,000, imprisonment not to exceed 90 days, or both;

3.8 (2) for a first violation, when the total value of the ivory or rhinoceros horn exceeds
3.9 \$250, the person is guilty of a gross misdemeanor and subject to a fine not to exceed \$3,000,
3.10 imprisonment not to exceed one year, or both;

3.11 (3) for a second violation, when the total value of the ivory or rhinoceros horn does not
3.12 exceed \$250, the person is guilty of a gross misdemeanor and subject to a fine not to exceed
3.13 \$3,000, imprisonment not to exceed one year, or both; and

3.14 (4) for a second violation, when the total value of the ivory or rhinoceros horn exceeds
3.15 \$250, the person is guilty of a felony and subject to a fine not to exceed \$10,000,
3.16 imprisonment not to exceed three years, or both.

3.17 Subd. 7. **Enforcement.** A peace officer or conservation officer, pursuant to chapter 626,
3.18 may execute a warrant to search for and seize ivory or rhinoceros horn purchased, sold,
3.19 offered for sale, or possessed with intent to sell in violation of this section. Seized property
3.20 must be held pending judicial proceedings. Upon conviction, seized property is forfeited to
3.21 the state and must be offered to an educational or scientific institution or destroyed.

3.22 Subd. 8. **Rules.** The commissioner may adopt rules necessary to implement and administer
3.23 this section.

3.24 **EFFECTIVE DATE.** This section is effective January 1, 2020.