

HB 2747 -- IVORY

SPONSOR: Kirkton

This bill specifies that in addition to the prohibitions under any other law, it is 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.

It is 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 these provisions 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, a rhinoceros horn, or a rhinoceros horn product alone does not constitute possession with intent to sell.

A person is authorized to convey ivory, an ivory product, a 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.

These prohibitions do not apply to employees or agents of the federal or state government undertaking any law enforcement activities under federal or state law or any mandatory duties required by federal or state law. The prohibition on importing ivory, ivory products, rhinoceros horns, or rhinoceros horn products do not apply where the import is expressly authorized by a federal license or permit.

The Department of Natural Resources may permit, under terms and conditions as the department may adopt by rule, the import, sale, offer for sale, purchase, barter, or possession with intent to sell of 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.

A person violating these provisions is guilty of a class A misdemeanor and subject to a fine of not more than \$1,000 for the first offense and for a second or subsequent offense, a class D felony until December 31, 2016, and a class E felony beginning January 1, 2017, and subject to a fine of not more than \$5,000. Upon conviction, the court must order the seizure of all ivory,

ivory products, rhinoceros horns, and rhinoceros horn products involved in the violation and determine the penalty for the violation based on the assessed value of the seized products. After sentencing the defendant, the court must order that the seized ivory, ivory products, rhinoceros horns, and rhinoceros horn products be transferred to the Department of Natural Resources for proper disposition.

The department, at its discretion, may destroy the ivory, ivory products, rhinoceros horns, and rhinoceros horn products or donate them to an educational or scientific institution or organization, including but not limited to a museum, university, or research group.

These provisions do not apply to any person who has been issued a license or permit to sell, offer for sale, purchase, barter, or possess with the intent to sell any ivory, ivory product, rhinoceros horn, or rhinoceros horn product prior to the August 28, 2016.