

JAN 22 2016

A BILL FOR AN ACT

RELATING TO WILDLIFE PROTECTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the trafficking of
2 rhinoceros horn has increased during recent decades. The
3 current worldwide population of rhinoceroses living in the wild
4 has decreased to twenty-nine thousand. The Northern White
5 Rhinoceros was declared extinct in the wild in 2011 and the
6 populations of the Southern White Rhinoceros and Black
7 Rhinoceros subspecies continue to decrease. More than one
8 thousand rhinoceroses in South Africa were killed in 2013 for
9 their horns. If this poaching rate continues, scientists expect
10 rhinoceros will become extinct within the next few decades.
11 Therefore, the legislature finds that the most effective way to
12 prevent the illegal trafficking of rhinoceros horn is to
13 eliminate the markets for and profits of wildlife traffickers.
14 Wildlife and animal welfare experts agree that an effective
15 method to save the critically endangered rhinoceros is to
16 prohibit the intrastate sale of rhinoceros horn. New York and



1 New Jersey enacted legislation in August 2014 to prohibit the
2 sale of ivory and rhinoceros horn.

3 Furthermore, the legislature adopted S.C.R. No. 149, S.D. 1
4 (Regular Session of 2013), urging Hawaii residents and
5 businesses to comply with the Convention on International Trade
6 in Endangered Species of Wild Fauna and Flora and to not buy or
7 sell ivory of unknown origin. However, ivory of unknown origin
8 and age continues to be sold in Hawaii.

9 The purpose of this Act is to protect all rhinoceroses by
10 prohibiting the importation, sale, barter, or possession with
11 the intent to sell of any rhinoceros horn or rhinoceros horn
12 product.

13 SECTION 2. The Hawaii Revised Statutes is amended by
14 adding a new chapter to be appropriately designated and to read
15 as follows:

16 "CHAPTER

17 UNLAWFUL SALE OR TRADE OF RHINOCEROS HORN

18 § -1 Findings and purpose. The legislature finds that
19 the worldwide population of all species of rhinoceros living in
20 the wild has decreased due to poachers killing rhinoceroses for



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1 their horns. The legislature finds it necessary to prohibit the
2 sale of rhinoceros horn.

3 The purpose of this chapter is to take positive actions to
4 enhance prospects for the continued existence of rhinoceroses by
5 establishing the offense of unlawful sale or trade of rhinoceros
6 horn to prohibit any person from selling or importing with the
7 intent to sell any rhinoceros horn, regardless of its age.

8 § -2 **Definitions.** As used in this chapter unless the
9 context otherwise requires:

10 "Bona fide educational or scientific institution" means an
11 institution that establishes through documentation:

- 12 (1) An educational or scientific tax exemption from the
13 Internal Revenue Service or the institution's
14 national, state, or local tax authority; or
15 (2) An accreditation as an educational or scientific
16 institution from a qualified national, regional,
17 state, or local authority, as applicable.

18 "Department" means the department of land and natural
19 resources.

20 "Distribution" means a transfer or change in possession
21 with an accompanying change in legal ownership.



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1 "Person" means the same as in section 711-1108.5.

2 "Rhinoceros horn" means the horn, any piece of the horn, or
3 any derivative of the horn, such as powder, of any species of
4 rhinoceros. "Rhinoceros horn" includes any product containing
5 or advertised as containing any rhinoceros horn.

6 "Sale" or "sell" means all acts of selling, trading, or
7 bartering for monetary or nonmonetary consideration or
8 distribution in the consumer marketplace, including internet
9 sales.

10 "Value of the rhinoceros horn" means the fair market value
11 of or actual price paid for the rhinoceros horn, whichever is
12 greater.

13 § -3 Unlawful sale or trade of rhinoceros horn. (a) A
14 person commits the offense of unlawful sale or trade of
15 rhinoceros horn if the person sells, offers to sell, possesses
16 with the intent to sell, or imports with the intent to sell any
17 rhinoceros horn.

18 (b) It shall be presumptive evidence of possession with
19 the intent to sell when the rhinoceros horn is possessed in a
20 retail or wholesale outlet commonly used for the buying or
21 selling of rhinoceros horn. This presumption shall not preclude



1 a finding of intent to sell based on any other evidence that may
2 serve to independently establish the intent to sell.

3 (c) A person convicted of committing the offense of
4 unlawful sale or trade of rhinoceros horn shall be sentenced as
5 follows:

6 (1) For the first offense, the person shall be guilty of a
7 misdemeanor and shall be fined not less than \$1,000 or
8 an amount equal to two times the total value of the
9 rhinoceros horn involved in the offense, whichever is
10 greater, or the person may be sentenced to a term of
11 imprisonment, or both; and

12 (2) For any subsequent offense, the person shall be guilty
13 of a class C felony and shall be fined not less than
14 \$5,000 or an amount equal to two times the total value
15 of the rhinoceros horn involved in the offense,
16 whichever is greater, or the person may be sentenced
17 to a term of imprisonment, or both.

18 § -4 Exemptions. This chapter shall not apply to:

19 (1) Employees or agents of the federal or state government
20 undertaking any law enforcement activities pursuant to



1 federal or state law, or any mandatory duties required
2 by federal or state law;

3 (2) Persons importing rhinoceros horn, or any activity,
4 that is expressly authorized by federal law; and

5 (3) Persons possessing a permit authorized by the
6 department to sell, offer to sell, possess with the
7 intent to sell, or import with the intent to sell any
8 rhinoceros horn for educational or scientific purposes
9 by a bona fide educational or scientific institution,
10 unless the sale or importation of rhinoceros horn is
11 prohibited by federal law or regulation; provided that
12 the rhinoceros horn was legally acquired no later than
13 July 1, 1990, and was not subsequently transferred
14 from one person to another for financial gain or
15 profit on or after July 1, 2016.

16 § -5 **Disposition of seized rhinoceros horn.** For a
17 violation of this chapter, any seized rhinoceros horn shall be
18 subject to forfeiture pursuant to chapter 712A. Rhinoceros horn
19 seized and forfeited shall be destroyed or offered to a bona
20 fide educational or scientific institution possessing a permit



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Report Title:

Animal Cruelty; Import and Sale of Rhinoceros Horn;
Prohibitions; Penalties

Description:

Establishes the offense of the unlawful sale or trade of rhinoceros horn for any person who sells, offers to sell, possesses with the intent to sell, or imports with the intent to sell any rhinoceros horn. Creates exemptions for the sale or trade of rhinoceros horn.

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