
SUBSTITUTE HOUSE BILL 1131

State of Washington

64th Legislature

2015 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Pettigrew, Buys, Fitzgibbon, Appleton, Gregerson, S. Hunt, Stanford, Walkinshaw, Muri, and Goodman)

READ FIRST TIME 02/05/15.

1 AN ACT Relating to ivory and rhinoceros horn trafficking;
2 amending RCW 77.15.100 and 9A.82.010; adding a new section to chapter
3 77.15 RCW; creating a new section; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Ivory trafficking is occurring at the highest rate ever
7 recorded, with an estimated confiscation of more than forty-one tons
8 of illegal ivory worldwide in 2013;

9 (b) Despite laws to protect elephants, more than thirty-five
10 thousand African elephants were slaughtered in 2012;

11 (c) Scientists expect the current level of illegal ivory trade
12 will cause the extinction of elephants within twenty years;

13 (d) The current worldwide population of all rhinoceros species
14 living in the wild has dwindled to twenty-nine thousand;

15 (e) The national strategy for combatting wildlife trafficking,
16 released in February 2014, and the director of the United States fish
17 and wildlife service's order number 210, issued pursuant to the
18 national strategy for combatting wildlife trafficking, have
19 highlighted the need to protect rhinoceros and elephant populations
20 from poachers; and

1 (f) The most effective way to discourage illegal trafficking is
2 to eliminate markets and profits.

3 (2) The legislature therefore determines that it is an important
4 public purpose to protect all species of rhinoceros and elephants by
5 prohibiting the sale, purchase, trade, barter for, and distribution,
6 of any ivory, ivory product, rhinoceros horn, or rhinoceros horn
7 product.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.15
9 RCW to read as follows:

10 (1) Except as authorized in subsection (2) of this section, it is
11 unlawful for a person or entity to sell, offer to sell, purchase,
12 trade, barter for, or distribute any ivory article or rhinoceros horn
13 product.

14 (2) A person or entity may lawfully sell, offer to sell,
15 purchase, trade, barter for, or distribute an ivory article or
16 rhinoceros horn product, provided that one of the following
17 conditions is satisfied:

18 (a) The ivory article or rhinoceros horn product:

19 (i) Is constructed so that the ivory or horn comprises less than
20 five percent by volume of the overall article or product; and

21 (ii) Is a bona fide antique that is at least one hundred years
22 old;

23 (b) The distribution, transfer, or other change in possession of
24 the ivory article or rhinoceros horn is for a bona fide educational
25 or scientific purpose, or to a museum chartered by an educational
26 institution established, operated, and governed under Title 28A, 28B,
27 or 28C RCW;

28 (c) The distribution of the ivory article or rhinoceros horn is
29 to a legal beneficiary of a trust or to an heir or distributee of an
30 estate; or

31 (d) The ivory article or rhinoceros horn is part of a firearm,
32 sword, knife, trinket, or musical instrument, including string and
33 wind instruments and pianos, and the ivory or rhinoceros horn was not
34 acquired in violation of federal law.

35 (3) The department must create and make available to the public,
36 including on its web site, information regarding the prohibition of
37 the sale and purchase of ivory articles and rhinoceros horns.

38 (4) The definitions in this subsection apply throughout this
39 section unless the context clearly requires otherwise.

1 (a) "Distribute" means a transfer or change in possession with an
2 accompanying change in legal ownership in exchange for consideration.

3 (b) "Ivory" means any tooth or tusk composed of ivory from an
4 elephant, whether raw ivory or worked ivory, or made into, or part
5 of, an ivory article.

6 (c) "Ivory article" means any item containing, or composed wholly
7 of, worked or raw ivory.

8 (d) "Raw ivory" means any ivory with a surface that is polished
9 or unpolished, unaltered, or minimally changed by carving.

10 (e) "Rhinoceros horn" means the horn, or any part thereof, of any
11 species of rhinoceros.

12 (f) "Rhinoceros horn product" means any item that contains, or is
13 wholly or partially made from, any rhinoceros horn.

14 (g) "Trinket" means a small ornament, piece of jewelry, small
15 container, or other collectible, no matter the price.

16 (h) "Worked ivory" means embellished, carved, marked, or
17 otherwise altered ivory such that it can no longer be considered raw
18 ivory.

19 (5) A violation of this section is a gross misdemeanor. A
20 violation of this section may also be punishable under
21 chapter 9A.82 RCW.

22 **Sec. 3.** RCW 77.15.100 and 2014 c 48 s 4 are each amended to read
23 as follows:

24 (1) Fish, shellfish, and wildlife are property of the state under
25 RCW 77.04.012. Fish and wildlife officers may:

26 (a) Sell seized, commercially taken, or possessed fish and
27 shellfish to a wholesale buyer and deposit the proceeds into the fish
28 and wildlife enforcement reward account under RCW 77.15.425.

29 (b) Donate seized, recreationally taken, or possessed fish,
30 shellfish, and wildlife ((may be donated)) to nonprofit charitable
31 organizations ((. The charitable organization must)) that qualify for
32 tax-exempt status under 26 U.S.C. Sec. 501(c)(3) of the federal
33 internal revenue code.

34 (c) Dispose of any ivory article or rhinoceros horn product
35 seized through the enforcement of section 2 of this act through sale
36 or donation as allowed under state, federal, and international law.

37 (2) (a) Unless otherwise provided in this title, fish, shellfish,
38 ((~~or~~)) wildlife, or any ivory article or rhinoceros horn product as
39 taken or possessed in violation of this title or department rule

1 shall be forfeited to the state upon conviction or any outcome in
2 criminal court whereby a person voluntarily enters into a disposition
3 that continues or defers the case for dismissal upon the successful
4 completion of specific terms or conditions. For criminal cases
5 resulting in other types of dispositions, the fish, shellfish, ((~~or~~))
6 wildlife, ivory article, or rhinoceros horn product may be returned,
7 or its equivalent value paid, if the fish, shellfish, ((~~or~~))
8 wildlife, ivory article, or rhinoceros horn product have already been
9 donated or sold.

10 (b) For the purposes of this subsection, the terms "ivory
11 article" and "rhinoceros horn product" have the same meaning as
12 defined in section 2 of this act.

13 **Sec. 4.** RCW 9A.82.010 and 2013 c 302 s 10 are each amended to
14 read as follows:

15 Unless the context requires the contrary, the definitions in this
16 section apply throughout this chapter.

17 (1)(a) "Beneficial interest" means:

18 (i) The interest of a person as a beneficiary under a trust
19 established under Title 11 RCW in which the trustee for the trust
20 holds legal or record title to real property;

21 (ii) The interest of a person as a beneficiary under any other
22 trust arrangement under which a trustee holds legal or record title
23 to real property for the benefit of the beneficiary; or

24 (iii) The interest of a person under any other form of express
25 fiduciary arrangement under which one person holds legal or record
26 title to real property for the benefit of the other person.

27 (b) "Beneficial interest" does not include the interest of a
28 stockholder in a corporation or the interest of a partner in a
29 general partnership or limited partnership.

30 (c) A beneficial interest is considered to be located where the
31 real property owned by the trustee is located.

32 (2) "Control" means the possession of a sufficient interest to
33 permit substantial direction over the affairs of an enterprise.

34 (3) "Creditor" means a person making an extension of credit or a
35 person claiming by, under, or through a person making an extension of
36 credit.

37 (4) "Criminal profiteering" means any act, including any
38 anticipatory or completed offense, committed for financial gain, that
39 is chargeable or indictable under the laws of the state in which the

1 act occurred and, if the act occurred in a state other than this
2 state, would be chargeable or indictable under the laws of this state
3 had the act occurred in this state and, except for a crime like the
4 crime defined in section 2 of this act, is punishable as a felony and
5 by imprisonment for more than one year, regardless of whether the act
6 is charged or indicted, as any of the following:

7 (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;

8 (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;

9 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;

10 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;

11 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060,
12 9A.56.080, and 9A.56.083;

13 (f) Unlawful sale of subscription television services, as defined
14 in RCW 9A.56.230;

15 (g) Theft of telecommunication services or unlawful manufacture
16 of a telecommunication device, as defined in RCW 9A.56.262 and
17 9A.56.264;

18 (h) Child selling or child buying, as defined in RCW 9A.64.030;

19 (i) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040,
20 and 9A.68.050;

21 (j) Gambling, as defined in RCW 9.46.220 and 9.46.215 and
22 9.46.217;

23 (k) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;

24 (l) Unlawful production of payment instruments, unlawful
25 possession of payment instruments, unlawful possession of a personal
26 identification device, unlawful possession of fictitious
27 identification, or unlawful possession of instruments of financial
28 fraud, as defined in RCW 9A.56.320;

29 (m) Extortionate extension of credit, as defined in RCW
30 9A.82.020;

31 (n) Advancing money for use in an extortionate extension of
32 credit, as defined in RCW 9A.82.030;

33 (o) Collection of an extortionate extension of credit, as defined
34 in RCW 9A.82.040;

35 (p) Collection of an unlawful debt, as defined in RCW 9A.82.045;

36 (q) Delivery or manufacture of controlled substances or
37 possession with intent to deliver or manufacture controlled
38 substances under chapter 69.50 RCW;

39 (r) Trafficking in stolen property, as defined in RCW 9A.82.050;

40 (s) Leading organized crime, as defined in RCW 9A.82.060;

1 (t) Money laundering, as defined in RCW 9A.83.020;
2 (u) Obstructing criminal investigations or prosecutions in
3 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120,
4 9A.72.130, 9A.76.070, or 9A.76.180;
5 (v) Fraud in the purchase or sale of securities, as defined in
6 RCW 21.20.010;
7 (w) Promoting pornography, as defined in RCW 9.68.140;
8 (x) Sexual exploitation of children, as defined in RCW 9.68A.040,
9 9.68A.050, and 9.68A.060;
10 (y) Promoting prostitution, as defined in RCW 9A.88.070 and
11 9A.88.080;
12 (z) Arson, as defined in RCW 9A.48.020 and 9A.48.030;
13 (aa) Assault, as defined in RCW 9A.36.011 and 9A.36.021;
14 (bb) Assault of a child, as defined in RCW 9A.36.120 and
15 9A.36.130;
16 (cc) A pattern of equity skimming, as defined in RCW 61.34.020;
17 (dd) Commercial telephone solicitation in violation of RCW
18 19.158.040(1);
19 (ee) Trafficking in insurance claims, as defined in RCW
20 48.30A.015;
21 (ff) Unlawful practice of law, as defined in RCW 2.48.180;
22 (gg) Commercial bribery, as defined in RCW 9A.68.060;
23 (hh) Health care false claims, as defined in RCW 48.80.030;
24 (ii) Unlicensed practice of a profession or business, as defined
25 in RCW 18.130.190(7);
26 (jj) Improperly obtaining financial information, as defined in
27 RCW 9.35.010;
28 (kk) Identity theft, as defined in RCW 9.35.020;
29 (ll) Unlawful shipment of cigarettes in violation of RCW
30 70.155.105(6) (a) or (b);
31 (mm) Unlawful shipment of cigarettes in violation of RCW
32 82.24.110(2);
33 (nn) Unauthorized sale or procurement of telephone records in
34 violation of RCW 9.26A.140;
35 (oo) Theft with the intent to resell, as defined in RCW
36 9A.56.340;
37 (pp) Organized retail theft, as defined in RCW 9A.56.350;
38 (qq) Mortgage fraud, as defined in RCW 19.144.080;
39 (rr) Commercial sexual abuse of a minor, as defined in RCW
40 9.68A.100;

1 (ss) Promoting commercial sexual abuse of a minor, as defined in
2 RCW 9.68A.101; (~~ee~~)

3 (tt) Trafficking, as defined in RCW 9A.40.100, promoting travel
4 for commercial sexual abuse of a minor, as defined in RCW 9.68A.102,
5 and permitting commercial sexual abuse of a minor, as defined in RCW
6 9.68A.103; or

7 (uu) Unlawfully distributing ivory or rhinoceros horn, as defined
8 in section 2 of this act.

9 (5) "Dealer in property" means a person who buys and sells
10 property as a business.

11 (6) "Debtor" means a person to whom an extension of credit is
12 made or a person who guarantees the repayment of an extension of
13 credit or in any manner undertakes to indemnify the creditor against
14 loss resulting from the failure of a person to whom an extension is
15 made to repay the same.

16 (7) "Documentary material" means any book, paper, document,
17 writing, drawing, graph, chart, photograph, phonograph record,
18 magnetic tape, computer printout, other data compilation from which
19 information can be obtained or from which information can be
20 translated into usable form, or other tangible item.

21 (8) "Enterprise" includes any individual, sole proprietorship,
22 partnership, corporation, business trust, or other profit or
23 nonprofit legal entity, and includes any union, association, or group
24 of individuals associated in fact although not a legal entity, and
25 both illicit and licit enterprises and governmental and
26 nongovernmental entities.

27 (9) "Extortionate extension of credit" means an extension of
28 credit with respect to which it is the understanding of the creditor
29 and the debtor at the time the extension is made that delay in making
30 repayment or failure to make repayment could result in the use of
31 violence or other criminal means to cause harm to the person,
32 reputation, or property of any person.

33 (10) "Extortionate means" means the use, or an express or
34 implicit threat of use, of violence or other criminal means to cause
35 harm to the person, reputation, or property of any person.

36 (11) "Financial institution" means any bank, trust company,
37 savings and loan association, savings bank, mutual savings bank,
38 credit union, or loan company under the jurisdiction of the state or
39 an agency of the United States.

1 (12) "Pattern of criminal profiteering activity" means engaging
2 in at least three acts of criminal profiteering, one of which
3 occurred after July 1, 1985, and the last of which occurred within
4 five years, excluding any period of imprisonment, after the
5 commission of the earliest act of criminal profiteering. In order to
6 constitute a pattern, the three acts must have the same or similar
7 intent, results, accomplices, principals, victims, or methods of
8 commission, or be otherwise interrelated by distinguishing
9 characteristics including a nexus to the same enterprise, and must
10 not be isolated events. However, in any civil proceedings brought
11 pursuant to RCW 9A.82.100 by any person other than the attorney
12 general or county prosecuting attorney in which one or more acts of
13 fraud in the purchase or sale of securities are asserted as acts of
14 criminal profiteering activity, it is a condition to civil liability
15 under RCW 9A.82.100 that the defendant has been convicted in a
16 criminal proceeding of fraud in the purchase or sale of securities
17 under RCW 21.20.400 or under the laws of another state or of the
18 United States requiring the same elements of proof, but such
19 conviction need not relate to any act or acts asserted as acts of
20 criminal profiteering activity in such civil action under RCW
21 9A.82.100.

22 (13) "Real property" means any real property or interest in real
23 property, including but not limited to a land sale contract, lease,
24 or mortgage of real property.

25 (14) "Records" means any book, paper, writing, record, computer
26 program, or other material.

27 (15) "Repayment of an extension of credit" means the repayment,
28 satisfaction, or discharge in whole or in part of a debt or claim,
29 acknowledged or disputed, valid or invalid, resulting from or in
30 connection with that extension of credit.

31 (16) "Stolen property" means property that has been obtained by
32 theft, robbery, or extortion.

33 (17) "To collect an extension of credit" means to induce in any
34 way a person to make repayment thereof.

35 (18) "To extend credit" means to make or renew a loan or to enter
36 into an agreement, tacit or express, whereby the repayment or
37 satisfaction of a debt or claim, whether acknowledged or disputed,
38 valid or invalid, and however arising, may or shall be deferred.

39 (19) "Traffic" means to sell, transfer, distribute, dispense, or
40 otherwise dispose of stolen property to another person, or to buy,

1 receive, possess, or obtain control of stolen property, with intent
2 to sell, transfer, distribute, dispense, or otherwise dispose of the
3 property to another person.

4 (20)(a) "Trustee" means:

5 (i) A person acting as a trustee under a trust established under
6 Title 11 RCW in which the trustee holds legal or record title to real
7 property;

8 (ii) A person who holds legal or record title to real property in
9 which another person has a beneficial interest; or

10 (iii) A successor trustee to a person who is a trustee under
11 (a)(i) or (ii) of this subsection.

12 (b) "Trustee" does not mean a person appointed or acting as:

13 (i) A personal representative under Title 11 RCW;

14 (ii) A trustee of any testamentary trust;

15 (iii) A trustee of any indenture of trust under which a bond is
16 issued; or

17 (iv) A trustee under a deed of trust.

18 (21) "Unlawful debt" means any money or other thing of value
19 constituting principal or interest of a debt that is legally
20 unenforceable in the state in full or in part because the debt was
21 incurred or contracted:

22 (a) In violation of any one of the following:

23 (i) Chapter 67.16 RCW relating to horse racing;

24 (ii) Chapter 9.46 RCW relating to gambling;

25 (b) In a gambling activity in violation of federal law; or

26 (c) In connection with the business of lending money or a thing
27 of value at a rate that is at least twice the permitted rate under
28 the applicable state or federal law relating to usury.

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