By Senator Altman

16-01052-15 20151120

A bill to be entitled

An act relating to illegal ivory articles and rhinoceros horns; creating s. 379.2376, F.S.; defining terms; prohibiting the manufacture, sale, purchase, and distribution of ivory articles and rhinoceros horns; providing exceptions and penalties; directing the Fish and Wildlife Conservation Commission to adopt rules, post information on its website, and submit a report to the Legislature; amending s. 379.4015, F.S.; specifying applicability of penalty provisions relating to the illegal manufacture, sale, purchase, or distribution of ivory articles and rhinoceros horns; providing a directive to the Division of Law Revision and Information; providing an effective date.

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Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 379.2376, Florida Statutes, is created to read:

379.2376 Illegal ivory articles and rhinoceros horns.-

- (1) As used in this section, the term:
- (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, or any piece thereof, the surface of which, polished or unpolished, is unaltered or minimally carved.
 - (d) "Worked ivory" means any elephant or mammoth tusk, or

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any piece thereof, which is not raw ivory.

(2) Except as otherwise provided in this section, a person may not knowingly and willingly manufacture, sell, purchase, or distribute an ivory article or rhinoceros horn.

- (3) Unless such activity is prohibited by federal law, rule, or regulation, the commission may issue a license or permit for the sale, purchase, or distribution of ivory articles or rhinoceros horns if:
- (a) The ivory article or rhinoceros horn is part of a bona fide antique and is less than 20 percent by volume of the antique, and the owner or seller provides historical documentation that demonstrates provenance of the item and that the item is at least 100 years old;
- (b) The distribution of the ivory article or rhinoceros
 horn is for bona fide educational or scientific purposes or for
 display in a State University System museum or gallery;
- (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, but not limited to, a string or wind instrument or piano, and the owner or seller provides historical documentation that demonstrates provenance of the item and that the item was manufactured no later than 1975.
- (4) A violation of this section is punishable as provided in s. 379.4015.
- $\underline{\mbox{(5) (a)}}$ The commission shall adopt rules to implement this section.
 - (b) Within 30 days after the effective date of this act,

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the commission shall post on its website information regarding the prohibition on the manufacture, sale, purchase, and distribution of ivory articles and rhinoceros horns.

(c) By January 1, 2020, the commission shall submit a report to the Legislature outlining enforcement activities pursuant to this section and recommendations for any necessary changes.

Section 2. Paragraph (a) of subsection (1), paragraph (a) of subsection (4), and paragraph (a) of subsection (6) of section 379.4015, Florida Statutes, are amended to read:

379.4015 Nonnative and captive wildlife penalties.-

- (1) LEVEL ONE.—Unless otherwise provided by law, the following classifications and penalties apply:
- (a) A person commits a Level One violation if he or she violates any of the following provisions:
- 1. Rules or orders of the commission requiring free permits or other authorizations to possess captive wildlife.
- 2. Rules or orders of the commission relating to the filing of reports or other documents required of persons who are licensed to possess captive wildlife.
- 3. Rules or orders of the commission requiring permits to possess captive wildlife for which a fee is charged, when the person being charged was issued the permit and the permit has expired less than 1 year prior to the violation.
- 4. Rules or orders of the commission requiring a license or permit to sell, purchase, or distribute ivory articles or rhinoceros horns.
- (4) LEVEL FOUR.—Unless otherwise provided by law, the following classifications and penalties apply:

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(a) A person commits a Level Four violation if he or she violates:

- $\underline{1.}$ Any Level Three provision after the permanent revocation of a license or permit.
- 2. Any rules or orders of the commission relating to the manufacture, sale, purchase, or distribution of ivory articles or rhinoceros horns where the value of the ivory articles or rhinoceros horns exceeds \$25,000.
 - (6) CIVIL PENALTY.-
- (a) In addition to other applicable penalties, the commission may impose against any person, party, firm, association, or corporation convicted of a criminal violation of any provision of s. 379.231, s. 379.2376, s. 379.372, s. 379.3761, or s. 379.3762 a civil penalty of not more than \$5,000 for each animal, ivory article, or rhinoceros horn, unless otherwise authorized pursuant to subparagraphs 1.-6. 1.-5. For all related violations attributable to a specific violator, the total civil penalty may not exceed \$10,000 for each assessment for each animal, ivory article, or rhinoceros horn.
- 1. The history of noncompliance of the violator for any previous violation of this chapter or rules or orders of the commission shall be considered in determining the amount of the civil penalty.
- 2. The direct economic benefit gained by the violator from the violation may be added to the scheduled civil penalty.
- 3. The costs incurred by the commission related to the escape, recovery, and care of the wildlife for which the violation was issued shall be added to the civil penalty.
 - 4. The civil penalty assessed for a violation may not

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exceed \$5,000 for each animal unless:

- a. The violator has a history of noncompliance;
- b. The economic benefit of the violation exceeds \$5,000; or
- c. The costs incurred by the commission related to the escape, recovery, and care of the wildlife for which the violation was issued exceeds \$5,000.
- 5. If the violation was an act prohibited by s. 379.2376, the civil penalty may not exceed \$3,000 or two times the value of the article involved, whichever is greater. If the violation is a second or subsequent violation of s. 379.2376, the civil penalty may not exceed \$6,000 or three times the value of the article involved, whichever is greater.
- $\underline{6.5.}$ The civil penalty assessed pursuant to this subsection may be reduced by the commission for mitigating circumstances, including good faith efforts to comply before or after discovery of the violations by the commission.
- Section 3. The Division of Law Revision and Information is directed to replace the phrase "the effective date of this act" wherever it occurs in this act with the date the act becomes a law.
 - Section 4. This act shall take effect upon becoming a law.