

REFERENCE TITLE: ivory; rhinoceros horn; sales; prohibition.

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2176

Introduced by
Representatives Andrade, Benally, Cardenas, Hale, Plumlee, Rios, Saldate,
Steele: Alston, Fernandez, Frieese, Gabaldón, McCune Davis, Mendez, Otondo

AN ACT

AMENDING TITLE 17, CHAPTER 3, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING
SECTION 17-347; AMENDING TITLE 44, ARIZONA REVISED STATUTES, BY ADDING
CHAPTER 36; RELATING TO TRANSACTIONS INVOLVING IVORY OR RHINOCEROS HORN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 17, chapter 3, article 2, Arizona Revised Statutes,
3 is amended by adding section 17-347, to read:

4 17-347. Ivory or rhinoceros horn permits; definitions

5 A. THE DEPARTMENT MAY ISSUE A PERMIT FOR THE IMPORT, SALE, OFFER FOR
6 SALE, PURCHASE, BARTER OR POSSESSION WITH INTENT TO SELL OF ANY IVORY, IVORY
7 PRODUCT, RHINOCEROS HORN OR RHINOCEROS HORN PRODUCT FOR BONA FIDE EDUCATIONAL
8 OR SCIENTIFIC PURPOSES, UNLESS THE PROPOSED ACTIVITY IS PROHIBITED BY FEDERAL
9 LAW. A PERMIT ISSUED UNDER THIS SECTION MAY CONTAIN ANY TERMS OR CONDITIONS
10 REQUIRED BY THE DEPARTMENT.

11 B. FOR THE PURPOSES OF THIS SECTION, "IVORY", "IVORY PRODUCT",
12 "RHINOCEROS HORN" AND "RHINOCEROS HORN PRODUCT" HAVE THE SAME MEANINGS
13 PRESCRIBED IN SECTION 44-7851.

14 Sec. 2. Title 44, Arizona Revised Statutes, is amended by adding
15 chapter 36, to read:

16 CHAPTER 36

17 SALE OF IVORY OR RHINOCEROS HORN

18 ARTICLE 1. GENERAL PROVISIONS

19 44-7851. Definitions

20 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

21 1. "IVORY" MEANS ANY TOOTH OR TUSK COMPOSED OF IVORY FROM ANY ANIMAL,
22 INCLUDING AN ELEPHANT, HIPPOPOTAMUS, MAMMOTH, NARWHAL, WALRUS OR WHALE OR ANY
23 PIECE OF ANY ANIMAL, WHETHER RAW IVORY OR WORKED IVORY, OR MADE INTO, OR PART
24 OF, AN IVORY PRODUCT.

25 2. "IVORY PRODUCT" MEANS ANY ITEM THAT CONTAINS OR THAT IS WHOLLY OR
26 PARTIALLY MADE FROM ANY IVORY.

27 3. "RAW IVORY" MEANS ANY IVORY THE SURFACE OF WHICH, POLISHED OR
28 UNPOLISHED, IS UNALTERED OR MINIMALLY CHANGED BY CARVING.

29 4. "RHINOCEROS HORN" MEANS THE HORN OR ANY PIECE OF THE HORN OF ANY
30 SPECIES OF RHINOCEROS.

31 5. "RHINOCEROS HORN PRODUCT" MEANS ANY ITEM THAT CONTAINS OR THAT IS
32 WHOLLY OR PARTIALLY MADE FROM ANY RHINOCEROS HORN.

33 6. "TOTAL VALUE OF THE IVORY, IVORY PRODUCTS, RHINOCEROS HORN AND
34 RHINOCEROS HORN PRODUCTS" MEANS THE FAIR MARKET VALUE OF THE IVORY, IVORY
35 PRODUCTS, RHINOCEROS HORN AND RHINOCEROS HORN PRODUCTS OR THE ACTUAL PRICE
36 PAID FOR THE IVORY, IVORY PRODUCTS, RHINOCEROS HORN AND RHINOCEROS PRODUCTS,
37 WHICHEVER IS GREATER.

38 7. "WORKED IVORY" MEANS IVORY THAT HAS BEEN EMBELLISHED, CARVED,
39 MARKED OR OTHERWISE ALTERED SO THAT IT CAN NO LONGER BE CONSIDERED RAW IVORY.

40 44-7852. Prohibitions; presumption of intent to sell

41 A. IN ADDITION TO THE PROHIBITIONS AND PENALTIES ESTABLISHED BY
42 FEDERAL LAW OR ANY OTHER APPLICABLE LAW, A PERSON MAY NOT IMPORT, SELL, OFFER
43 FOR SALE, PURCHASE, BARTER OR POSSESS WITH INTENT TO SELL ANY IVORY, IVORY
44 PRODUCT, RHINOCEROS HORN OR RHINOCEROS HORN PRODUCT, EXCEPT AS PRESCRIBED BY
45 SECTIONS 17-347, 44-7853 AND 44-7854.

1 B. THE POSSESSION OF ANY IVORY, IVORY PRODUCT, RHINOCEROS HORN OR
2 RHINOCEROS HORN PRODUCT IN A RETAIL OR WHOLESALE OUTLET COMMONLY USED FOR THE
3 BUYING OR SELLING OF SIMILAR PRODUCTS CONSTITUTES PRESUMPTIVE EVIDENCE OF
4 POSSESSION WITH INTENT TO SELL UNDER THIS SECTION. THIS SUBSECTION DOES NOT
5 PRECLUDE A FINDING OF INTENT TO SELL BASED ON ANY EVIDENCE THAT MAY SERVE
6 INDEPENDENTLY TO ESTABLISH INTENT TO SELL. THE ACT OF OBTAINING AN APPRAISAL
7 OF IVORY, AN IVORY PRODUCT, RHINOCEROS HORN OR A RHINOCEROS HORN PRODUCT
8 ALONE DOES NOT CONSTITUTE POSSESSION WITH INTENT TO SELL.

9 44-7853. Authorized conveyance to beneficiaries

10 A PERSON MAY CONVEY IVORY, AN IVORY PRODUCT, RHINOCEROS HORN OR A
11 RHINOCEROS HORN PRODUCT TO THE LEGAL BENEFICIARY OF THE IVORY, IVORY PRODUCT,
12 RHINOCEROS HORN OR RHINOCEROS HORN PRODUCT THAT IS PART OF AN ESTATE OR OTHER
13 ITEMS BEING CONVEYED TO LAWFUL BENEFICIARIES ON THE DEATH OF THE OWNER OF THE
14 IVORY, IVORY PRODUCT, RHINOCEROS HORN OR RHINOCEROS HORN PRODUCT OR IN
15 ANTICIPATION OF THAT DEATH.

16 44-7854. Exceptions

17 THIS CHAPTER DOES NOT APPLY:

18 1. TO EMPLOYEES OR AGENTS OF THE FEDERAL GOVERNMENT OR THIS STATE WHO
19 ARE UNDERTAKING ANY LAW ENFORCEMENT ACTIVITIES PURSUANT TO FEDERAL OR STATE
20 LAW OR ANY MANDATORY DUTIES REQUIRED BY FEDERAL OR STATE LAW.

21 2. IF THE IMPORT IS EXPRESSLY AUTHORIZED BY FEDERAL LAW, LICENSE OR
22 PERMIT.

23 44-7855. Violation; civil penalties

24 IN ADDITION TO ANY PENALTY THAT MAY BE IMPOSED UNDER FEDERAL LAW OR ANY
25 OTHER APPLICABLE LAW, A VIOLATION OF THIS CHAPTER IS PUNISHABLE BY A CIVIL
26 PENALTY OF NOT LESS THAN ONE THOUSAND DOLLARS OR AN AMOUNT EQUAL TO TWO TIMES
27 THE TOTAL VALUE OF THE IVORY, IVORY PRODUCTS, RHINOCEROS HORN AND RHINOCEROS
28 HORN PRODUCTS INVOLVED IN THE OFFENSE, WHICHEVER IS GREATER, EXCEPT THAT A
29 SECOND OR SUBSEQUENT VIOLATION IS PUNISHABLE BY A CIVIL PENALTY OF NOT LESS
30 THAN FIVE THOUSAND DOLLARS OR AN AMOUNT EQUAL TO TWO TIMES THE TOTAL VALUE OF
31 THE IVORY, IVORY PRODUCTS, RHINOCEROS HORN AND RHINOCEROS HORN PRODUCTS
32 INVOLVED IN THE OFFENSE, WHICHEVER IS GREATER.

33 44-7856. Seizure

34 ON ADJUDICATION OF A VIOLATION OF THIS CHAPTER, A COURT SHALL ORDER THE
35 SEIZURE OF ALL IVORY, IVORY PRODUCTS, RHINOCEROS HORN AND RHINOCEROS HORN
36 PRODUCTS INVOLVED IN THE VIOLATION AND DETERMINE THE PENALTY FOR THE
37 VIOLATION BASED ON THE ASSESSED VALUE OF THE SEIZED PRODUCTS. THE COURT
38 SHALL ORDER THAT THE SEIZED IVORY, IVORY PRODUCTS, RHINOCEROS HORN AND
39 RHINOCEROS HORN PRODUCTS BE TRANSFERRED TO THE ARIZONA GAME AND FISH
40 DEPARTMENT FOR PROPER DISPOSITION. THE ARIZONA GAME AND FISH DEPARTMENT MAY
41 DESTROY THE IVORY, IVORY PRODUCTS, RHINOCEROS HORN AND RHINOCEROS HORN
42 PRODUCTS OR DONATE THEM TO AN EDUCATIONAL OR SCIENTIFIC INSTITUTION OR
43 ORGANIZATION.