

The Elephant in the Room: Ivory Ban Seeks to Curb Poaching

Article By:

Sheppard, Mullin, Richter, & Hampton LLP

With the June passage of New York Senate bill S7890 and Assembly bill A10143, the Empire State's elephant and mammoth ivory and rhino horn trade may be approaching extinction.

The legislation, which will take effect after receiving the governor's signature:

- Places a permanent ban on the commercial sale of elephant and mammoth ivory and rhino horn in the state.
- Makes certain exceptions, authorizing the New York Department of Environmental Conservation to issue permits for the sale of the following items containing elephant ivory, such as:

1. 100 year-old antiques comprised of less than 20 percent elephant ivory, with documented proof of provenance

2. musical instruments (string, wind and piano) manufactured prior to 1975

3. elephant ivory where transfer of ownership is for education and scientific purposes including to a museum authorized by a special charter from the legislature

4. elephant ivory where transfer is by inheritance to a legal beneficiary of a trust or estate

- Increases penalties as follows:
 - A fine of \$3,000 or 2x the value of the article, whichever is greater, for the first offense
 - A fine of \$6,000 or 3x the value of the article, whichever is greater, for the second offense
 - Class D Felony for any articles exceeding \$25,000 (up to 7 years imprisonment)

Activist groups, including the Wildlife Conservation Society, National Resources Defense Council,

and the Humane Society of the United States, have praised the New York legislation, which will likely drop New York from the No. 2 spot (behind all of China) among the biggest ivory markets in the world.

Some reports indicate that the population of wild African elephants, whose ivory can be worth \$1,500 per pound, has dwindled from millions to about 500,000. The worldwide demand for ivory leads some to believe the mammals are killed at a rate of 30,000 to 35,000 per year.

The New York legislation comes after the United States Fish & Wildlife Service (“USFWS”) announced in February it planned to implement a series of administrative actions. Under these regulations, sales within the US would be prohibited, except for 1) a strictly defined class of documented antiques; and 2) in intrastate commerce only (not across state lines) for ivory or rhino horn imported prior to 1990 for African elephants, 1975 for Asian elephants, 1977 for black rhinos, and 1975 for any other rhino. A May update from the USFWS states it will allow musicians to transport instruments containing African ivory, and others to import museum specimens and “certain other items” not intended for commercial sale. Owners of these items must prove that the items were legally acquired prior to February 26, 1976, the date the African elephant was listed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

The new law may move the ivory trade to other US jurisdictions in advance of the planned Federal ban. The legislation will likely affect the value of myriad items made with ivory or rhino horn. However, it is unclear the extent to which these monetary values will be impacted, as we have yet to see how these law will be enforced.

Copyright © 2025, Sheppard Mullin Richter & Hampton LLP.

National Law Review, Volume IV, Number 213

Source URL: <https://natlawreview.com/article/elephant-room-ivory-ban-seeks-to-curb-poaching>