

# PROGRAM BILL #44

S.

Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,  
and when printed to be committed  
to the Committee on

----- A.  
Assembly  
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IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

## \*ENVCONLA\*

(Prohibits the sale, purchase,  
trade, barter and distribution of  
certain ivory articles and rhinoceros  
horns)

En Con L. ban ivory & rhino horns

## AN ACT

to amend the environmental conserva-  
tion law, in relation to prohibiting  
the purchase and sale of ivory arti-  
cles and rhinoceros horns and  
increasing the penalties for the  
illegal sale of such articles

The People of the State of New  
York, represented in Senate and  
Assembly, do enact as follows:

## IN SENATE

### Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship  
of this proposal:

s15 Addabbo	s02 Flanagan	s28 Krueger	s55 O'Brien	s51 Seward
s11 Avella	s59 Gallivan	s24 Lanza	s58 O'Mara	s09 Skelos
s40 Ball	s12 Gianaris	s39 Larkin	s21 Parker	s14 Smith
s42 Bonacic	s41 Gipson	s37 Latimer	s13 Peralta	s26 Squadron
s04 Boyle	s22 Golden	s01 LaValle	s30 Perkins	s16 Stavisky
s44 Breslin	s47 Griffo	s52 Libous	s61 Ranzenhofner	s35 Stewart-
s38 Carlucci	s60 Grisanti	s45 Little	s48 Ritchie	Cousins
s50 DeFrancisco	s06 Hannon	s05 Marcellino	s33 Rivera	s46 Tkaczyk
s32 Diaz	s36 Hassell-	s43 Marchione	s56 Robach	s53 Valesky
s18 Dilan	Thompson	s07 Martins	s19 Sampson	s57 Young
s31 Espaillat	s27 Hoylman	s62 Maziarz	s10 Sanders	s03 Zeldin
s49 Farley	s63 Kennedy	s25 Montgomery	s23 Savino	s08
s17 Felder	s34 Klein	s54 Nozzolio	s29 Serrano	s20

## IN ASSEMBLY

### Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the  
multi-sponsorship of this proposal:

a049 Abbate	a147 DiPietro	a076 Kellner	a132 Palmesano	a099 Skoufis
a092 Abinanti	a115 Duprey	a040 Kim	a002 Palumbo	a022 Solages
a084 Arroyo	a004 Englebright	a131 Kolb	a088 Paulin	a114 Stec
a035 Aubry	a109 Fahy	a105 Lalor	a141 Peoples-	a110 Steck
a120 Barclay	a071 Farrell	a013 Lavine	Stokes	a127 Stirpe
a106 Barrett	a126 Finch	a050 Lentol	a058 Perry	a011 Sweeney
a082 Benedetto	a008 Fitzpatrick	a125 Lifton	a086 Pichardo	a112 Tedisco
a117 Blankenbush	a124 Friend	a102 Lopez, P.	a089 Pretlow	a101 Tenney
a062 Borelli	a095 Galef	a123 Lupardo	a073 Quart	a001 Thiele
a026 Braunstein	a137 Ganft	a010 Lupinacci	a019 Ra	a061 Titone
a044 Brennan	a007 Garbarino	a121 Magee	a012 Raia	a031 Titus
a119 Brindisi	a148 Giglio	a129 Magnarelli	a006 Ramos	a146 Walter
a138 Bronson	a080 Gjonaj	a064 Malliotakis	a078 Rivera	a041 Weinstein
a046 Brook-Krasny	a066 Glick	a030 Markey	a128 Roberts	a020 Weisenberg
a093 Buchwald	a023 Goldfeder	a090 Mayer	a056 Robinson	a024 Weprin
a118 Butler	a150 Goodell	a108 McDonald	a068 Rodriguez	a070 Wright
a103 Cahill	a075 Gottfried	a014 McDonough	a072 Rosa	a096 Zebrowski
a043 Camara	a005 Graf	a017 McKeivitt	a067 Rosenthal	a054
a145 Ceretto	a100 Gunther	a107 McLaughlin	a025 Rozic	a055
a033 Clark	a139 Hawley	a038 Miller	a116 Russell	a059
a047 Colton	a083 Heastie	a052 Millman	a149 Ryan	a060
a032 Cook	a003 Hennessey	a015 Montesano	a009 Saladino	a077
a144 Corwin	a028 Hevesi	a136 Morelle	a111 Santabarbara	a079
a085 Crespo	a048 Hikiad	a057 Mosley	a029 Scarborough	a098
a122 Crouch	a018 Hooper	a039 Moya	a016 Schimel	a113
a021 Curran	a042 Jacobs	a133 Nojay	a140 Schirminger	a134
a063 Cusick	a097 Jaffee	a037 Nolan	a087 Sepulveda	a143
a045 Cymbrowitz	a135 Johns	a130 Oaks	a065 Silver	
a053 Davila	a094 Katz	a069 O'Donnell	a027 Simanowitz	
a034 DenDekker	a074 Kavanagh	a051 Ortiz	a036 Simotas	
a081 Dinowitz	a142 Kearns	a091 Otis	a104 Skartados	

1) Single House Bill (introduced and printed separately in either or  
both houses). Uni-Bill (introduced simultaneously in both houses and printed  
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2  
signed copies of bill and 4 copies of memorandum in support (single house);  
or 4 signed copies of bill and 8 copies of memorandum  
in support (uni-bill).

1 Section 1. The environmental conservation law is amended by adding a  
2 new section 11-0535-a to read as follows:

3 § 11-0535-a. Illegal ivory articles and rhinoceros horns.

4 1. As used in this section:

5 a. "Distribute" means a transfer or change in possession with an  
6 accompanying change in legal ownership.

7 b. "Ivory article" means any item containing worked or raw ivory from  
8 any species of elephant or mammoth.

9 c. "Raw ivory" means any elephant or mammoth tusk, and any piece  
10 thereof, the surface of which, polished, or unpolished, is unaltered or  
11 minimally carved.

12 d. "Worked ivory" means any elephant or mammoth tusk, and any piece  
13 thereof, which is not raw ivory.

14 2. Except as otherwise provided in subdivision three of this section,  
15 no person shall sell, offer for sale, purchase, trade, barter or  
16 distribute an ivory article or rhinoceros horn.

17 3. Unless such activity is prohibited by federal law, rule or regu-  
18 lation, the commissioner may issue licenses or permits for the sale,  
19 offering for sale, purchase, trading, bartering or distribution of ivory  
20 articles or rhinoceros horns, provided that:

21 a. the ivory article or rhinoceros horn is part of a bona fide antique  
22 and is less than twenty percent by volume of such antique, and the  
23 antique status of such antique is established by the owner or seller  
24 thereof with historical documentation evidencing provenance and showing  
25 the antique to be not less than one hundred years old;

26 b. the distribution or change of possession of the ivory article or  
27 rhinoceros horn is for bona fide educational or scientific purposes, or

1 to a museum chartered by the board of regents pursuant to the education  
2 law; or

3 c. the distribution of the ivory article or rhinoceros horn is to a  
4 legal beneficiary of a trust or to an heir or distributee of an estate;  
5 or

6 d. the ivory article or rhinoceros horn is part of a musical instru-  
7 ment, including, without limitation, string and wind instruments and  
8 pianos, and the owner or seller provides historical documentation as the  
9 department may require, demonstrating provenance and showing the item  
10 was manufactured no later than nineteen hundred seventy-five.

11 § 2. Section 71-0924 of the environmental conservation law, as added  
12 by chapter 69 of the laws of 1988, and subdivision 4 as amended by chap-  
13 ter 417 of the laws of 1996, is amended to read as follows:

14 § 71-0924. Illegal commercialization of fish, shellfish, crustaceans,  
15 and wildlife.

16 Notwithstanding any other provision of this chapter, when a violation  
17 involves the sale, trade or barter of fish, shellfish, crustaceans,  
18 wildlife, or parts thereof, the sale, trade or barter of which is  
19 prohibited by the fish and wildlife law, the following additional penal-  
20 ties shall be imposed:

21 1. where the value of fish, shellfish, crustaceans, wildlife, or parts  
22 thereof, is two hundred fifty dollars or less, the offense shall be a  
23 violation punishable by a fine of five hundred dollars and/or not more  
24 than fifteen days of imprisonment;

25 2. where the value of fish, shellfish, crustaceans, wildlife, or parts  
26 thereof, is more than two hundred fifty dollars but does not exceed one  
27 thousand five hundred dollars, the offense shall be a misdemeanor

1 punishable by a fine of five thousand dollars and/or not more than one  
2 year of imprisonment; [and]

3 3. where the value of fish, shellfish, crustaceans, wildlife, or parts  
4 thereof, exceeds one thousand five hundred dollars, the offense shall  
5 constitute a class E felony under the provisions of the penal law[.];  
6 and

7 4. where the value of ivory articles, as defined in section 11-0535-a  
8 of this chapter, exceeds twenty-five thousand dollars, the offense shall  
9 constitute a class D felony under the provisions of the penal law.

10 [4.] 5. For the purposes of this section the value of fish, shellfish,  
11 crustaceans and wildlife shall be the fair market value of or actual  
12 price paid for such resource, whichever is greater. For purposes of  
13 this section, "sale" shall include the acts of selling, trading or  
14 bartering and all related acts, such as the act of offering for sale,  
15 trade or barter, and shall also include the illegal possession of fish,  
16 shellfish, wildlife or crustacea with intent to sell. It shall be  
17 presumptive evidence of possession with intent to sell when such fish,  
18 shellfish, wildlife or crustacea is possessed in quantities exceeding  
19 the allowable recreational quantities, or is possessed in a retail or  
20 wholesale outlet commonly used for the buying or selling of such fish,  
21 shellfish, wildlife or crustacea, provided, however, that nothing in  
22 this subdivision shall preclude the admission of other evidence which  
23 may serve to independently prove a defendant's intent to sell.

24 § 3. Section 71-0925 of the environmental conservation law is amended  
25 by adding a new subdivision 16 to read as follows:

26 16. If the violation was an act prohibited by section 11-0535-a of  
27 this chapter, not more than three thousand dollars or not more than two  
28 times the value of the article involved, whichever is greater. If the

1 violation is a second or subsequent violation of such section 11-0535-a,  
2 not more than six thousand dollars or not more than three times the  
3 value of the article involved, whichever is greater.

4 § 4. Within 30 days of the effective date of this act, the department  
5 of environmental conservation shall maintain on its website information  
6 regarding the prohibition on the sale and purchase of ivory articles and  
7 rhinoceros horns in the state.

8 § 5. Severability. If any clause, sentence, paragraph, section or part  
9 of this act shall be adjudged by any court of competent jurisdiction to  
10 be invalid and after exhaustion of all further judicial review, the  
11 judgment shall not affect, impair or invalidate the remainder thereof,  
12 but shall be confined in its operation to the clause, sentence, para-  
13 graph, section or part of this act directly involved in the controversy  
14 in which the judgment shall have been rendered.

15 § 6. No later than January 1, 2020, the department of environmental  
16 conservation shall prepare a report outlining enforcement activities and  
17 recommendations regarding any necessary changes, including but not  
18 limited to the extension or repeal of this act.

19 § 7. This act shall take effect immediately; provided, however, any  
20 person who has been issued a license or permit allowing the sale of  
21 elephant ivory articles or rhinoceros horns prior to the effective date  
22 of this act may sell such articles listed on such license or permit  
23 until such license or permit has expired.