

File No. 150091

Committee Item No. 2
Board Item No. 7

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Land Use & Development

Date Feb. 2, 2015

Board of Supervisors Meeting

Date Feb. 10, 2015

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>AB 96</u> |
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Completed by: Andrea Ausberry Date Jan. 29, 2015
Completed by: _____ Date _____

1 [Supporting California Assembly Bill 96 (Atkins and Lara) - Prohibiting the Sale of Ivory and
2 Rhinoceros Horn]

3 **Resolution supporting California State Assembly Bill 96, co-authored by Speaker of the**
4 **State Assembly Atkins and State Senator Lara, which prohibits the sale of ivory and**
5 **rhinoceros horn in California.**

6
7 WHEREAS, There is worldwide concern regarding the plight of African and Asian
8 elephants and rhinoceroses, which are considered "keystone" species in their respective
9 ecosystems; and

10 WHEREAS, African Elephants are being poached at alarming rates — an average of
11 96 elephants per day are killed and some estimates suggest that central African elephants
12 could be extinct by 2025; and

13 WHEREAS, More than 1,020 rhinoceroses out of a remaining 29,000 in the wild were
14 poached in South Africa alone in 2014; and

15 WHEREAS, Rhinoceros poaching is estimated to be increasing by 30% each year and
16 is threatening the species with extinction; and

17 WHEREAS, Illegal poaching and wildlife trafficking is the fourth largest transnational
18 crime and illicit ivory syndicates greatly contribute to armed strife; and

19 WHEREAS, Smuggling gangs routinely engage in corruption and violence to move
20 tons of tusks to markets thousands of miles away, further enabling the funding of other
21 criminal operations and destabilizing nations; and

22 WHEREAS, International, Federal, and State laws are all being strengthened to protect
23 these iconic species from cruelty and extinction; and

1 WHEREAS, The States of New York and New Jersey recently enacted strong
2 prohibitions on intra-state ivory and rhinoceros horn commerce and the Federal government
3 has proposed strengthened ivory trade and import regulations; and

4 WHEREAS, San Francisco, along with Los Angeles, has consistently ranked among
5 the top trading markets for illegal ivory in the United States; and

6 WHEREAS, California has prohibited the ivory trade since 1977, but a loophole has
7 rendered the law unenforceable — allowing illegal sales to flourish; and

8 WHEREAS, Assembly Bill 96, co-authored by Speaker of the California State
9 Assembly Toni Atkins and State Senator Ricardo Lara, prohibits a person from purchasing,
10 selling, offering for sale, possessing with intent to sell, or importing with intent to sell ivory or
11 rhinoceros horn, except as specified for educational or scientific criteria or consistent with
12 defined antiquities provisions; and

13 WHEREAS, AB 96 closes the existing loophole by making the ivory trade illegal
14 regardless of the date of its importation, and makes this prohibition enforceable by the
15 Department of Fish and Wildlife; and

16 WHEREAS, The California Commission on Asian and Pacific Islander American Affairs
17 voted in support of AB 96; now, therefore, be it

18 RESOLVED, That the City and County of San Francisco strongly supports Assembly
19 Bill 96 prohibiting the sale of ivory and rhinoceros horn in California regardless of date of
20 importation; and, be it

21 FURTHER RESOLVED, That the City and County of San Francisco is unwavering in its
22 support and protection for elephants and rhinoceroses and strongly condemns illegal
23 poaching.

ASSEMBLY BILL

No. 96

Introduced by Assembly Member Atkins
(Principal coauthor: Senator Lara)
(Coauthors: Assembly Members Bloom, Bonta, Levine,
Maienschein, McCarty, Rendon, and Williams)
(Coauthor: Senator Pavley)

January 7, 2015

An act to add Section 2022 to the Fish and Game Code, and to repeal Section 5 of Chapter 692 of the Statutes of 1976, relating to animal parts and products.

LEGISLATIVE COUNSEL'S DIGEST

AB 96, as introduced, Atkins. Animal parts and products: importation or sale of ivory and rhinoceros horn.

Existing law makes it a crime to import into the state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of an elephant. Existing law exempts the possession with intent to sell, or sale of the dead body, or any part or product thereof, of any elephant before June 1, 1977, or the possession with intent to sell or the sale of any such item on or after June 1, 1977, if the item was imported before January 1, 1977.

This bill would delete this exemption. By changing the definition of a crime, this bill would impose a state-mandated local program.

This bill would prohibit a person from purchasing, selling, offering for sale, possessing with intent to sell, or importing with intent to sell ivory or rhinoceros horn, except as specified, and would make this prohibition enforceable by the Department of Fish and Wildlife. The bill would make a violation of this provision or any rule, regulation, or

order adopted pursuant to this provision a misdemeanor subject to specified criminal penalties. By creating a new crime, the bill would impose a state-mandated local program. In addition to the specified criminal penalties, the bill would authorize the department to impose a civil penalty of up to \$10,000 for a violation of this provision or any rule, regulation, or order adopted pursuant to this provision. The bill would authorize the department to permit the purchase, sale, offer for sale, possession with intent to sell, or importation with intent to sell ivory or rhinoceros horn for educational or scientific purposes by a bona fide educational or scientific institution if certain criteria are satisfied.

This bill would provide that the provisions of this bill are severable.

This bill would make these provisions operative on July 1, 2016.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) There is worldwide concern regarding the plight of elephants
- 4 and rhinoceroses, who are being poached at alarming rates — an
- 5 average of 96 elephants per day are killed in Africa.
- 6 (b) Illegal poaching and wildlife trafficking is the fourth largest
- 7 transnational crime and ivory helps fund the military operations
- 8 of notorious terrorist groups. Smuggling gangs move tons of tusks
- 9 to markets thousands of miles away.
- 10 (c) International, federal, and state laws are all being
- 11 strengthened to protect these iconic species from cruelty and
- 12 extinction. The states of New York and New Jersey recently
- 13 enacted strong prohibitions on intra-state ivory and rhinoceros
- 14 horn commerce and the federal government has proposed
- 15 strengthened ivory trade and import regulations.
- 16 (d) California has prohibited the ivory trade since 1977, but a
- 17 loophole has rendered the law unenforceable — allowing illegal
- 18 sales to flourish. San Francisco and Los Angeles have consistently

1 ranked among the top trading markets for illegal ivory in the United
2 States.

3 SEC. 2. Section 2022 is added to the Fish and Game Code, to
4 read:

5 2022. (a) For the purposes of this section, the following terms
6 have the following meanings:

7 (1) "Bona fide educational or scientific institution" means an
8 institution that establishes through documentation either of the
9 following:

10 (A) Educational or scientific tax exemption, from the federal
11 Internal Revenue Service or the institution's national, state, or
12 local tax authority.

13 (B) Accreditation as an educational or scientific institution,
14 from a qualified national, regional, state, or local authority for the
15 institution's location.

16 (2) "Ivory" means a tooth or tusk from a species of elephant,
17 hippopotamus, mammoth, walrus, whale, or narwhal, or a piece
18 thereof, whether raw ivory or worked ivory, and includes a product
19 containing, or advertised as containing, ivory.

20 (3) "Rhinceros horn" means the horn, or a piece thereof, or a
21 derivative such as powder, of a species of rhinceros, and includes
22 a product containing, or advertised as containing, a rhinceros
23 horn.

24 (4) "Sale" or "sell" means selling, trading, bartering for
25 monetary or nonmonetary consideration, giving away in
26 conjunction with a commercial transaction, or giving away at a
27 location where a commercial transaction occurred at least once
28 during the same or the previous calendar year.

29 (5) "Total value" means either the fair market value or the actual
30 price paid for ivory or rhinceros horn, whichever is greater.

31 (b) Except as provided in subdivisions (c) and (d), a person shall
32 not purchase, sell, offer for sale, possess with intent to sell, or
33 import with intent to sell ivory or rhinceros horn.

34 (c) The prohibitions set forth in subdivision (b) shall not apply
35 to any of the following:

36 (1) An employee or agent of the federal or state government
37 undertaking a law enforcement activity pursuant to federal or state
38 law, or a mandatory duty required by federal law.

1 (2) An activity that is authorized by an exemption or permit
2 under federal law or that is otherwise expressly authorized under
3 federal law.

4 (3) Ivory or rhinoceros horn that is part of a musical instrument,
5 including, but not limited to, a string or wind instrument or piano,
6 and that is less than 20 percent by volume of the instrument, if the
7 owner or seller provides historical documentation demonstrating
8 provenance and showing the item was manufactured no later than
9 1975.

10 (4) Ivory or rhinoceros horn that is part of a bona fide antique
11 and that is less than five percent by volume of the antique, if the
12 antique status is established by the owner or seller of the antique
13 with historical documentation demonstrating provenance and
14 showing the antique to be not less than 100 years old.

15 (d) The department may permit the purchase, sale, offer for sale,
16 possession with intent to sell, or importation with intent to sell
17 ivory or rhinoceros horn for educational or scientific purposes by
18 a bona fide educational or scientific institution if both of the
19 following criteria are satisfied:

20 (1) The purchase, sale, offer for sale, possession with intent to
21 sell, or import with intent to sell the ivory or rhinoceros horn is
22 not prohibited by federal law.

23 (2) The ivory or rhinoceros horn was legally acquired before
24 January 1, 1991, and was not subsequently transferred from one
25 person to another for financial gain or profit after July 1, 2016.

26 (e) It shall be presumptive evidence of possession with intent
27 to sell ivory or rhinoceros horn if the ivory or rhinoceros horn is
28 possessed in a retail or wholesale outlet commonly used for the
29 buying or selling of similar items. This presumption shall not
30 preclude a finding of intent to sell based on any other evidence
31 that may serve to independently establish that intent.

32 (f) For a violation of any provision of this section, or any rule,
33 regulation, or order adopted pursuant to this section, the following
34 criminal penalties shall be imposed:

35 (1) For a first conviction, where the total value of the ivory or
36 rhinoceros horn is two hundred fifty dollars (\$250) or less, the
37 offense shall be a misdemeanor punishable by a fine of not less
38 than one thousand dollars (\$1,000), or more than ten thousand
39 dollars (\$10,000), imprisonment in the county jail for not more
40 than 30 days, or by both the fine and imprisonment.

1 (2) For a first conviction, where the total value of the ivory or
2 rhinoceros horn is more than two hundred fifty dollars (\$250), the
3 offense shall be a misdemeanor punishable by a fine of not less
4 than five thousand dollars (\$5,000), or more than forty thousand
5 dollars (\$40,000), imprisonment in the county jail for not more
6 than one year, or by both the fine and imprisonment.

7 (3) For a second or subsequent conviction, where the total value
8 of the ivory or rhinoceros horn is two hundred fifty dollars (\$250)
9 or less, the offense shall be a misdemeanor punishable by a fine
10 of not less than five thousand dollars (\$5,000), or more than forty
11 thousand dollars (\$40,000), imprisonment in county jail for not
12 more than one year, or by both the fine and imprisonment.

13 (4) For a second or subsequent conviction, where the total value
14 of the ivory or rhinoceros horn is more than two hundred fifty
15 dollars (\$250), the offense shall be a misdemeanor punishable by
16 a fine of not less than ten thousand dollars (\$10,000), or more than
17 fifty thousand dollars (\$50,000) or the amount equal to two times
18 the total value of the ivory or rhinoceros horn involved in the
19 violation, whichever is greater, imprisonment in county jail for
20 not more than one year, or by both the fine and imprisonment.

21 (g) In addition to, and separate from, any criminal penalty
22 provided for under subdivision (f), a civil or administrative fine
23 of up to ten thousand dollars (\$10,000) may be imposed for a
24 violation of any provision of this section, or any rule, regulation,
25 or order adopted pursuant to this section. Civil penalties authorized
26 pursuant to this subdivision may be imposed administratively by
27 the department consistent with all of the following:

28 (1) The chief of enforcement issues a complaint to any person
29 or entity on which an administrative civil penalty may be imposed
30 pursuant to this section. The complaint shall allege the act or failure
31 to act that constitutes a violation, relevant facts, the provision of
32 law authorizing the civil penalty to be imposed, and the proposed
33 penalty amount.

34 (2) The complaint and order is served by personal notice or
35 certified mail and informs the party served that the party may
36 request a hearing no later than 20 days from the date of service. If
37 a hearing is requested, it shall be scheduled before the director or
38 his or her designee, which designee shall not be the chief of
39 enforcement issuing the complaint and order. A request for hearing
40 shall contain a brief statement of the material facts the party claims

1 support his or her contention that no administrative penalty should
2 be imposed or that an administrative penalty of a lesser amount is
3 warranted. A party served with a complaint pursuant to this
4 subdivision waives the right to a hearing if no hearing is requested
5 within 20 days of service of the complaint, in which case the order
6 imposing the administrative penalty shall become final.

7 (3) The director, or his or her designee, shall control the nature
8 and order of the hearing proceedings. Hearings shall be informal
9 in nature, and need not be conducted according to the technical
10 rules relating to evidence. The director or his or her designee shall
11 issue a final order within 45 days of the close of the hearing. A
12 final copy of the order shall be served by certified mail upon the
13 party served with the complaint.

14 (4) A party may obtain review of the final order by filing a
15 petition for a writ of mandate with the superior court within 30
16 days of the date of service of the final order. The administrative
17 penalty shall be due and payable to the department within 60 days
18 after the time to seek judicial review has expired or, where the
19 party has not requested a hearing of the order, within 20 days after
20 the order imposing an administrative penalty becomes final.

21 (h) For any conviction or other entry of judgment for a violation
22 of this section resulting in a fine, the department may, upon
23 appropriation by the Legislature, pay one-half of the fine, but not
24 to exceed five hundred dollars (\$500), to any person giving
25 information that led to the conviction or other entry of judgment.
26 This reward shall not apply if the informant is a regular salaried
27 law enforcement officer, or officer or agent of the department.

28 (i) Upon conviction or other entry of judgment for a violation
29 of this section, any seized ivory or rhinoceros horn shall be
30 forfeited and, upon forfeiture, either maintained by the department
31 for educational or training purposes, donated by the department
32 to a bona fide educational or scientific institution, or destroyed.

33 (j) This section does not preclude enforcement under Section
34 6530 of the Penal Code.

35 SEC. 3. Section 5 of Chapter 692 of the Statutes of 1976 is
36 repealed.

37 ~~SEC. 5. Section 1 of this act shall become operative June 1,~~
38 ~~1977. No provision of law shall prohibit the possession with intent~~
39 ~~to sell, or sale of the dead body, or any part of product thereof, of~~
40 ~~any elephant prior to June 1, 1977, or the possession with intent~~

1 to sell or the sale of any such item on or after such date which was
2 imported prior to the effective date of this act.

3 ~~The burden of proof to demonstrate that such item or items were~~
4 ~~imported prior to the effective date of this act shall be placed upon~~
5 ~~the defendant.~~

6 SEC. 4. The provisions of this act are severable. If any
7 provision of this act or its application is held invalid, that invalidity
8 shall not affect other provisions or applications that can be given
9 effect without the invalid provision or application.

10 SEC. 5. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.

19 SEC. 6. This act shall become operative on July 1, 2016.

Fact Sheet

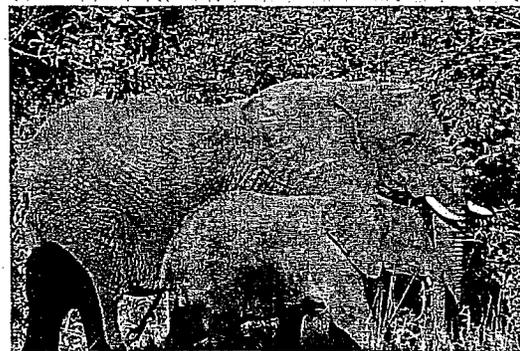
Assembly Bill 96 (Atkins/Lara)

Coauthors: Senators Hancock, Leno, Pan and Pavley and Assemblymembers Bloom, Bonta, Levine, Maeinschein, McCarty, Rendon and Williams

Protect African elephants and rhinos from poaching

The goal of AB 96 is to help save African elephants and rhinoceros from extinction by closing the enforcement loophole in California's decades-old ban on the sale of elephant ivory and to prohibit the sale of rhinoceros horn.

Every year, more than 35,000 elephants and over 1,000 rhinoceros are brutally killed for their ivory tusks and horns. Demand for elephant ivory decorations and jewelry and rhinoceros horn for "medicinal use" is fueling soaring poaching rates, leading to drastic declines in the species and potentially imminent extinction.



(C) Fish and Wildlife Service

One of the most effective ways to protect elephants and rhinos is to eliminate the market for ivory and rhino horn by prohibiting their purchase and sale, and by educating consumers. AB 96 will end California's contribution to the demand for elephant ivory and rhino horn by closing a loophole in the state's ivory law and banning purchase, sale, offer for sale, possession with intent to sell, and importation with intent to sell of ivory and rhino horn. Similar bans were enacted in New York – the country's largest ivory market – and New Jersey in 2014.

ELEPHANTS & RHINOS ARE IN TROUBLE



Fish and Wildlife Service

African elephants and rhinos are being slaughtered at an unprecedented rate and driven to extinction by poaching. In just three years from 2010 through 2012, more than 100,000 elephants were brutally killed for their tusks—roughly 35,000 elephants a year or 96 elephants a day. Since 2007, the number of rhinos poached has increased from 13 to at least 1,116 in 2014. If the current poaching rates continue, African forest elephants could be extinct within the decade and rhinos could disappear even sooner.

Rising demand for elephant ivory and rhino horn is the driver behind skyrocketing incidents of poaching. Elephant ivory has become increasingly popular for decorative purposes (e.g., carvings) and jewelry, while rhino horn is used in some Asian countries for medicinal purposes, even though it has no pharmaceutical value. Growing demand has driven ivory and rhino horn prices to soar, making

rhino horn more valuable than gold or cocaine.

THE U.S. IVORY MARKET IS FUELING DEMAND



Fish and Wildlife Service

While a majority of the demand for ivory and rhino horn comes from Asia, the United States has one of the world's largest ivory markets after China. There is so much illegal ivory in the United States because while new ivory (i.e., ivory from recently killed elephants) has been banned in the country since 1989, older or "antique" ivory has been permitted. The legal market in the United States has created a parallel *illegal* market because it's difficult to determine ivory age.

As the second largest ivory retail market in the country after New York, demand in California is contributing to poaching in Africa. Los Angeles and San Francisco are the epicenters of this trade. A 2014 study of California's ivory market commissioned by the Natural Resources Defense Council found more than 1,250 ivory items in 77 markets and stores in the two cities. Up to 90% of the ivory seen in Los Angeles and approximately 80% of the ivory seen in San Francisco was likely illegal under California law. Further, the proportion of recently-made ivory items in the state doubled since 2006 from 25% to 50%.

CALIFORNIA SHOULD FIX ITS LAW & JOIN THE GLOBAL ELEPHANT & RHINO PROTECTION TREND

In 1976, California passed its own ivory law (Penal Code section 653o), which makes it unlawful to import, possess with intent to sell, or sell any elephant part. However, uncodified language in the annotated portion of the code exempts elephant parts imported prior to June 1, 1977, creating a gaping loophole for illegal ivory. This loophole has made it nearly impossible for the California Department of Fish and Wildlife to enforce the law. Further, the law does not apply to rhino horn.



Kenya Wildlife Service

For this reason, California should join New York and New Jersey in becoming the first states to adopt stricter laws to combat the illegal trade in ivory and rhino horn. Other states considering such legislation include Hawaii, Florida, Connecticut, and Massachusetts.

With elephants and rhinos disappearing at alarming rates, we must act now! AB 96 will complement the global and regional trend toward elephant and rhino protection and reaffirm California's leadership in wildlife conservation.

Capitol contacts:

Jennifer Fearing, The Humane Society of the US/Humane Society International, (916) 469-9827, jennifer@fearlessadvocacy.com
Victoria Rome, Natural Resources Defense Council, (415) 875-6100, vrome@nrdc.org
Mark Theisen, California Association of Zoos & Aquariums, (916)441-1392, mark_theisen@gualcogroup.com



California Ivory Bill (AB 96) Q&A

Q: Doesn't California already ban the sale of ivory?

A: On its face, California law, which was enacted in 1976, appears extremely strong. Penal Code section 6530 prohibits the importation for commercial purposes, possession with intent to sell, or sale of any elephant part. However, uncodified language in the annotated portion of the code exempts elephant parts imported prior to June 1, 1977, creating a gaping loophole for illegal ivory. This has made the law nearly impossible to enforce. Additionally, the California Department of Fish and Wildlife does not believe it is responsible for enforcing 6530 because it is contained in the Penal Code, provisions of which are typically enforced by police officers, sheriff deputies, and other peace officers throughout the state, and because neither the California Fish and Game Code nor state wildlife regulations enforced by the Department of Fish and Wildlife reference elephants or elephant products. Further, current California law does not restrain the trade in rhinoceros parts.

Q: Who is selling ivory and rhino horn in California and for what purpose?

A: Rhino horn in California and elsewhere in the United States is typically sold by individual people – not in stores – who likely imported or acquired the horn legally (e.g., as a hunting trophy). They usually sell it to individuals who intend to export it to Asia, where people in countries like Vietnam use it for “medicinal purposes.” For example, in April 2014 the U.S. Department of Justice and U.S. Fish and Wildlife Service prosecuted two California men for illegally selling two rhino horns. On the other hand, the majority of ivory in California is sold by tourist shops, antique stores, and outdoor weekend markets in San Francisco and Los Angeles—mainly for decorative purposes (e.g., figurines) and jewelry. It is sold both to U.S. citizens and to Asian tourists, who often prefer to buy it in the United States instead of China because it is less expensive here.

Q: Are musical instrument makers still manufacturing violins, pianos, and the like using ivory?

A: Yes, some instruments still contain a small amount of ivory and some manufacturers still use it, especially for restoration of older instruments. That's why AB 96 exempts musical instruments comprised of less than 20% by volume of ivory from its prohibitions. In other words, under AB 96 Californians would still be able to purchase, sell, offer for sale, possess with intent to sell, and import from other states with intent to sell musical instruments made of less than 20% ivory. However, many musical instrument makers no longer produce musical instruments made of ivory. In 1956, Steinway & Sons, the renowned piano maker, and other piano manufacturers agreed to abandon ivory and started using plastic for keys. Martin Guitar began phasing out the use of ivory in the mid-1970s out of concern for elephant conservation and announced last year that it has completely removed ivory from its supply chain. Chairman and CEO Chris Martin IV said: “Forty-five years ago we phased out the use of ivory. And yet today I'm still concerned about the horrible slaughter of elephants. This is a terrible shame and it should stop. And the only way it is going to stop is if people stop buying and using ivory.”

Q: Why is 1975 the cutoff date for allowing instruments with less than 20% of ivory or rhino horn?

A: 1975 is the year that the Convention on International Trade in Endangered Species entered into force. Thus, many protections for rhinos and elephants have been tied to this date.

Q: What is the rationale for a 20% threshold for musical instruments and a 5% threshold for antiques?

A: Musical instruments and bona fide antique items with a very limited amount of ivory are not a major contributor to illegal ivory trade. Instead, the vast majority of illegal ivory items in the U.S. market are made *entirely* or *almost entirely* from ivory. By exempting instruments and antiques with only small amounts of ivory, AB 96 targets the real problem and permits transfers of items that typically contain only old ivory.

Q: How does AB 96 compare with the new New Jersey and New York laws?

A: AB 96 is very similar to both the New Jersey and New York laws in that it prohibits the vast majority of ivory and rhino horn transactions and increases the penalties for ivory traffickers. While the three bills differ in small ways depending on the given state's politics – mainly with regards to exemptions, species covered, and penalties – they all serve the same goal of reducing demand for ivory and rhino horn and deterring wildlife traffickers.

Q: What were the votes in the New York and New Jersey legislatures?

A: The New Jersey law received unanimous support in the Senate and Assembly committees and passed overwhelmingly on final passage with a unanimous vote in the Senate and a vote of 75 to 2 in the Assembly. The New York law also received strong final passage votes of 43 to 17 in the Senate and 131 to 3 in the Assembly.

Q: How does AB 96 compare with federal regulations?

A: As part of the President's National Strategy to Combat Wildlife Trafficking, the federal government announced it will strengthen existing restrictions on elephant ivory and products of Endangered Species Act-listed species. While this is a critical step toward ending the illegal ivory trade in the United States, loopholes remain for antiques and other items allowed under existing federal regulations, such as ivory products made from ivory imported before 1990 for African elephants and 1975 for Asian elephants (although dating the ivory is the key obstacle as it is very difficult to do). While the burden of proof has shifted to the seller, as long as enforcement capacity remains low, illegal ivory will continue to leak into the U.S. marketplace. The U.S. Fish and Wildlife Service is encouraging states to go further with state level bans/moratoria as a two-tiered system (state/federal) will be the best way to stop the ivory trade in its tracks. New York and New Jersey enacted such bans in August 2014. Prohibitions on intra-state sales of ivory and rhino horn products complement the federal regulations restricting interstate sales of these items.

Q: Isn't this more of a federal issue since elephants and rhinos don't live in California?

A: While it's true that elephants and rhinos are not native to California, as the second largest ivory market in the United States and a market for rhino horn as well, California is responsible

for some of the demand that is driving the poaching of these species. To save elephants and rhinos from extinction, we must curb global demand for ivory and rhino horn—and that includes demand in California. California enacted the shark fin trade ban in 2011 for similar reasons and the impact reverberated across the globe.

Q: How would AB 96 be enforced?

A: AB 96 would be enforced by the California Department of Fish and Wildlife. Because the bill is very clear and enacts a near-total ban on ivory, it will be fairly simple for state wildlife officers to enforce.

Q: What does the antiques industry think about laws like AB 96?

A: It depends. Some antique dealers do not believe ivory should be bought and sold and some—especially those who deal in ivory—believe the ivory trade should remain unrestricted. There are also antique dealers who do not want to contribute to the demise of elephants and rhinos and do not engage in the ivory and rhino horn trade. The bottom line is that it's difficult to accurately determine whether ivory is old/antique or from a recently killed elephant. So as long as ivory sales are permitted, some store owners will sneak new ivory disguised to look old onto their shelves. However, bona fide antique items with a small percentage of ivory are not a major contributor to the illegal ivory trade. Instead, most legitimate antiques only contain a small portion of ivory, while most illegal ivory antiques are comprised entirely or almost entirely of ivory. Therefore, AB 96 protects the purchase and sale of most legitimate antiques containing ivory by exempting bona fide antiques comprised of less than 5% ivory.

Q: Don't some guns include small bits of ivory? If so, should they be exempted?

A: Yes, some guns do include small bits of ivory. Since AB 96 exempts bona fide antiques comprised of less than 5% of ivory, guns that meet these criteria are exempted under the bill.

Q: Can my family pass on bona fide antique heirlooms made of ivory to relatives if we want?

A: Yes, because AB 96 only prohibits *commercial* transactions, family members can pass on antique ivory to heirs and beneficiaries.

Q: What role do elephants and rhinos play in their ecosystems?

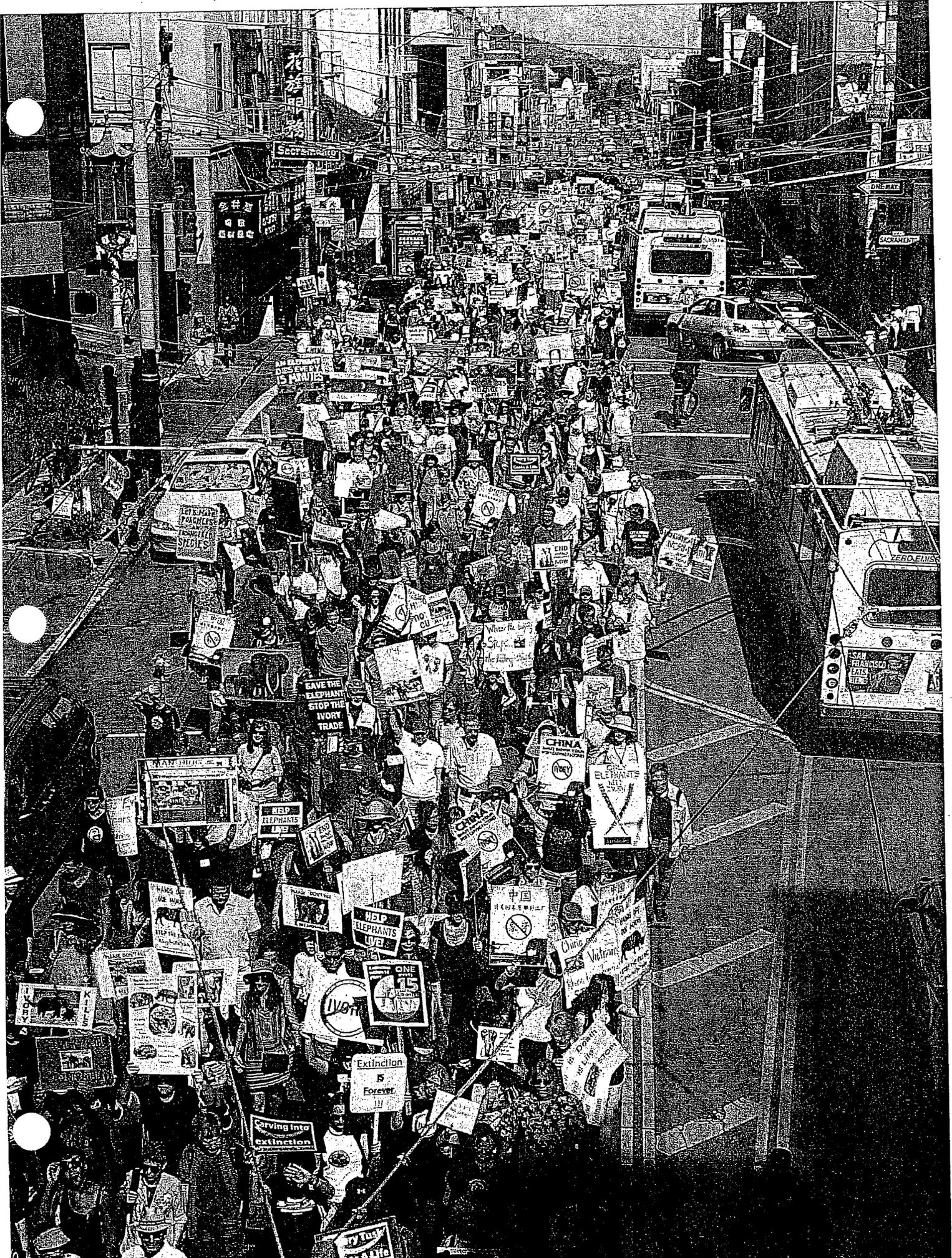
A: As keystone species, elephants and rhinos play a key role in maintaining the balance of all other species in the ecosystem. Elephants pull down trees and break up thorny bushes, which help create grasslands on which other animals live. They create nutrient-rich salt licks for other animals. They dig waterholes in dry riverbeds that other animals use for water. And they create trails that act as fire breakers and water runoffs. For these reasons, they are sometimes referred to as "ecosystem engineers." Rhinos play a similar role. By selectively grazing on numerous plants, they allow other vegetation to grow that would otherwise be unable to compete. As such, scientists have found that areas where rhinos reside have 60-80% more short grass cover than areas where rhinos are not found and, in turn, are home to more smaller grazing animals such as zebra, gazelle, and antelope.

Q: How will stopping the sale of legal ivory help save elephants?

A: Legal domestic ivory markets are an enforcement challenge and often serve to provide cover for laundering of ivory from illegally killed elephants in Africa. The combination of limited enforcement, minimum penalties, and elaborate forgery schemes, has enabled traffickers to bring illegal ivory into the U.S. market. Once ivory enters a state's borders, it becomes almost impossible to distinguish old/legal ivory from illegal ivory. As long as demand for ivory remains high and enforcement effort is low, the legal trade will continue to serve as a front and criminal syndicates will continue to drive elephant poaching across Africa.

Q: What support is there within the global Asian community for stopping the ivory trade?

A: Many Asian Americans, advocates, and groups in China have called for an end to the ivory trade here in the United States and in China, the largest destination for illegal ivory. Chinese celebrities, such as former NBA player Yao Ming and renowned Chinese actress Li Bingbing, who is also the United Nations Environment Program's ambassador, have publicly urged an ivory ban to save elephants. In China, several proposals that call for reductions in the country's demand for ivory and/or prohibitions on the ivory trade are currently pending in the National People's Congress.



SECRETARIATO

ON-TIME

SORRENTI

AN ELEPHANT DOES NOT
DISAPPEAR IN 15 MINUTES

LET'S
PARKLES
FOR THE
SIDS'S
MOTHERS

LET
END
NOW

ENDING
NOW

SAVE THE
ELEPHANT
STOP THE
IVORY
TRADE

White
Rice
Saves
the
Elephants

CHINA

ELPHANTS

TRANSDUCER

HELP
ELEPHANTS
LIVE!

CHINA

WANG
ONE
MAY

HELP
ELEPHANTS
LIVE!

HELP
ELEPHANTS
LIVE!

CHINA

Victims

ONE
15

Extinction
is
Forever

Saving into
extinction

TV
LIVE

