

Amendment No. 371

Senate Amendment to Senate Bill No. 194

(BDR 52-664)

Proposed by: Senate Committee on Commerce, Labor and Energy**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

MAS/KCR



Date: 4/19/2017

S.B. No. 194—Prohibits the sale of products derived from or containing certain animal species under certain circumstances. (BDR 52-664)



SENATE BILL NO. 194—SENATORS DENIS, PARKS, CANCELA, ATKINSON, MANENDO;
FORD, RATTI AND SEGERBLOM

PREFILED FEBRUARY 13, 2017

JOINT SPONSORS: ASSEMBLYMEN SWANK, EDWARDS, FRIERSON, CARRILLO,
HAMBRICK; BILBRAY-AXELROD, DALY, JAUREGUI AND JOINER

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Prohibits the sale of products derived from or containing certain animal species under certain circumstances. (BDR 52-664)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.

Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to trade practices; prohibiting the sale of products derived from or containing certain animal species under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Endangered Species Act of 1973 and the African Elephant Conservation Act restrict importation to, exportation from and trade throughout the United States of certain items made of or containing certain animal parts. (16 U.S.C. §§ 1531 et seq.; 16 U.S.C. §§ 4201 et seq.) **Section 2** of this bill prohibits the purchase, sale or possession with intent to sell any item in this State that ~~is a person knows or should know contains or~~ is, wholly or partially, made of an animal part or byproduct derived from a shark fin or any species of elephant, rhinoceros, ~~whale,~~ tiger, lion, leopard, cheetah, jaguar, pangolin, sea turtle, ~~shark,~~ ray, mammoth, narwhal, walrus or hippopotamus. **Section 2** also designates the criminal and civil penalties to be imposed upon a person for violating these provisions. **Section 3** of this bill exempts certain classes of sales from the provisions of **section 2**, including certain sales involving: (1) law enforcement; (2) antiques; (3) musical instruments; (4) knives and firearms; and (5) a scientific or educational institution. **Section 4** ~~2~~ 3 also exempts sales of items specifically authorized for sale by federal law.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 597 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *1. Except as otherwise provided in section 3 of this act, a person*
4 *shall not purchase, sell, offer for sale or possess with intent to sell any item that*
5 *~~the person knows or should know contains or~~ is, wholly or partially, made of an*
6 *animal part or byproduct derived from a shark fin or any species of elephant,*
7 *rhinoceros, ~~whale,~~ tiger, lion, leopard, cheetah, jaguar, pangolin, sea turtle,*
8 *~~shark,~~ ray, mammoth, narwhal, walrus or hippopotamus.*

9 2. Any person who violates a provision of subsection 1:

10 (a) For the first offense, is guilty of a gross misdemeanor;

11 (b) For the second offense, is guilty of a category E felony and shall be
12 punished as provided in NRS 193.130; and

13 (c) For the third and any subsequent offense, is guilty of a category D felony
14 and shall be punished as provided in NRS 193.130.

15 3. In addition to the criminal penalties set forth in this section, a person
16 who violates a provision of this section, upon conviction, shall pay a civil penalty
17 not to exceed \$6,500 or an amount equal to four times the fair market value of
18 the item which is the subject of the violation, whichever is greater.

19 4. As used in this section ~~for "sale"~~ :

20 (a) "Sale" or "sell" means any act of selling, trading or bartering, for
21 monetary or nonmonetary consideration, and includes any transfer of ownership
22 that occurs in the course of a commercial transaction, but does not include a
23 nonmonetary transfer of ownership to a legal beneficiary of a trust or to a person
24 by way of gift, donation, inheritance or bequest.

25 (b) "Shark fin" means the fresh and uncooked, or cooked, frozen, dried or
26 otherwise processed, detached fin or tail of a shark.

27 **Sec. 3.** *1. The provisions of section 2 of this act do not apply to:*

28 (a) Any activity undertaken by a law enforcement agency or officer pursuant
29 to federal or state law.

30 (b) An antique that contains a de minimis quantity of an animal part or
31 byproduct derived from any species listed in subsection 1 of section 2 of this act,
32 provided that the animal part or byproduct is a fixed component of the antique
33 and the owner or seller of the antique establishes with documentation evidencing
34 provenance of the antique that the antique is at least 100 years old.

35 (c) A musical instrument, including, without limitation, piano, string
36 instrument and bow, wind instrument and percussion instrument, that contains a
37 de minimis quantity of an animal part or byproduct derived from any species
38 listed in subsection 1 of section 2 of this act, provided that the owner or seller of
39 the musical instrument:

40 (1) Possesses any certification or permit required by federal law for the
41 sale of the musical instrument; and

42 (2) Establishes with documentation evidencing provenance that the
43 musical instrument was legally acquired.

44 (d) A knife or firearm that contains an animal part or byproduct derived
45 from any species listed in subsection 1 of section 2 of this act if:

46 (1) The animal part or byproduct:

47 (I) Is a fixed part of the knife or firearm; and

48 (II) Originated in or was legally imported to the United States; and

1 (2) *The owner or seller of the knife or firearm establishes with*
2 *documentation evidencing provenance that the knife or firearm was legally*
3 *acquired; and*

4 (3) *All the requirements for the sale of the knife or firearm set forth in*
5 *federal and state law are met.*

6 (e) *Sales authorized by the Department of Business and Industry to a bona*
7 *fide scientific or educational institution of an item that contains an animal part*
8 *or byproduct derived from any species listed in subsection 1 of section 2 of this*
9 *act, provided that the owner or seller of the item:*

10 (1) *Possesses any certification or permit required by federal law for the*
11 *sale of the item; and*

12 (2) *Establishes with documentation evidencing provenance that the item*
13 *was legally acquired.*

14 (f) *Any item that contains an animal part or byproduct derived from any*
15 *species listed in subsection 1 of section 2 of this act for which the owner or seller*
16 *has obtained any certification or permit required by federal law for the sale of the*
17 *item or that is specifically authorized for sale by federal law, provided that all the*
18 *requirements for the sale of the item set forth in federal or state law have been*
19 *met.*

20 2. *As used in this section, “de minimis quantity” means:*

21 (a) *Less than 20 percent of an item by volume;*

22 (b) *Less than 200 grams in weight when examined as a separate component;*
23 *and*

24 (c) *Less than 20 percent of the fair market value of an item or of the actual*
25 *price paid for the item, whichever is greater.*

26 Sec. 4. This act becomes effective on January 1, 2018.