

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5694
OFFERED BY MR. BEGICH OF ALASKA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Alaska’s Right to Ivory
3 Sales and Tradition Act” or the “ARTIST Act”.

4 SEC. 2. ALASKA NATIVE HANDICRAFTS.

5 Section 101(b) of the Marine Mammal Protection Act
6 Of 1972 (16 U.S.C. 1371(b)) is amended to read as fol-
7 lows:

8 “(b) EXEMPTION FOR ALASKAN NATIVES.—

9 “(1) DEFINITIONS.—In this subsection:

10 “(A) AUTHENTIC ALASKA NATIVE ARTICLE
11 OF HANDICRAFTS AND CLOTHING.—The term
12 ‘authentic Alaska Native article of handiercrafts
13 and clothing’ means an item composed wholly,
14 or in some significant respect, of natural mate-
15 rials and that is produced, decorated, or fash-
16 ioned in the exercise of traditional Alaska Na-
17 tive handiercrafts by an Alaska Native who re-
18 sides in Alaska and who dwells on the coast of

1 the North Pacific Ocean or the Arctic Ocean
2 without the use of a pantograph, multiple
3 carvers, or any other mass copying device.

4 “(B) MARINE MAMMAL IVORY.—The term
5 ‘marine mammal ivory’ includes a tooth or tusk
6 from a walrus (*Odobenus rosmarus*) or a spe-
7 cies of cetacean.

8 “(C) TRADITIONAL ALASKA NATIVE
9 HANDICRAFTS.—The term ‘traditional Alaska
10 Native handicrafts’ includes weaving, carving,
11 stitching, sewing, lacing, beading, drawing, and
12 painting.

13 “(2) EXEMPTION.—

14 “(A) IN GENERAL.—Except as provided in
15 section 109, the provisions of this Act shall not
16 apply with respect to the taking of any marine
17 mammal by any Alaska Native who resides in
18 Alaska and who dwells on the coast of the
19 North Pacific Ocean or the Arctic Ocean if such
20 taking—

21 “(i)(I) is for subsistence purposes; or

22 “(II) is done for purposes of creating
23 and selling authentic Alaska Native articles
24 of handicrafts and clothing; and

1 “(ii) in each case, is not accomplished
2 in a wasteful manner.

3 “(B) SPECIAL RULES.—

4 “(i) INTERSTATE COMMERCE OF
5 ITEMS.—An item presented as an authen-
6 tic Alaska Native article of handicrafts and
7 clothing may be sold in interstate com-
8 merce only if it comports with the defini-
9 tion provided in paragraph (1)(A).

10 “(ii) EDIBLE PORTION OF MARINE
11 MAMMAL.—Any edible portion of a marine
12 mammal taken for the purpose of creating
13 and selling authentic Alaska Native articles
14 of handicrafts and clothing may be sold for
15 native consumption or in a native village or
16 town in Alaska.

17 “(3) LIMITATIONS.—

18 “(A) IN GENERAL.—Notwithstanding para-
19 graph (2), if, under this Act, the Secretary de-
20 termines any species or stock of marine mam-
21 mal subject to taking by Alaska Natives to be
22 depleted, the Secretary may prescribe regula-
23 tions upon the taking of such marine mammals
24 by any Alaska Native described in this sub-
25 section.

1 “(B) CONTENT OF REGULATIONS.—The
2 regulations described in subparagraph (A) may
3 be established with reference to species or
4 stocks, geographical area, the season for taking,
5 or any other factors related to the reason for
6 establishing such regulations and consistent
7 with the purposes of this Act.

8 “(C) NOTICE AND HEARING; REMOVAL OF
9 REGULATIONS.—The regulations described in
10 subparagraph (A) shall be prescribed after no-
11 tice and hearing required by section 103 of this
12 title and shall be removed as soon as the Sec-
13 retary determines that the need for their impo-
14 sition has disappeared.

15 “(D) REGULATIONS TO BE SUPPORTED BY
16 SUBSTANTIAL EVIDENCE.—In promulgating any
17 regulation or making any assessment pursuant
18 to a hearing or proceeding under this sub-
19 section or section 117(b)(2), or in making any
20 determination of depletion under this subsection
21 or finding regarding unmitigable adverse im-
22 pacts under subsection (a)(5) that affects
23 stocks or persons to which this subsection ap-
24 plies, the Secretary shall demonstrate in writing
25 (and make such writing publicly available on

1 the website of the Secretary) that, in consider-
2 ation of the whole record, including Indigenous
3 knowledge, such regulation, assessment, deter-
4 mination, or finding is supported by substantial
5 evidence.

6 “(E) APPLICABILITY.—The requirement
7 under subparagraph (D) shall only be applica-
8 ble in an action brought by one or more Alaska
9 Native organizations representing persons to
10 which this subsection applies.

11 “(4) PROHIBITIONS.—No State shall prohibit
12 the interstate commerce, importation, sale, offer for
13 sale, transfer, trade, barter, possession, or posses-
14 sion with the intent to sell, transfer, trade, or barter
15 of marine mammal ivory or marine mammal bone or
16 baleen incorporated under this title by an Alaska
17 Native, into an authentic Alaska Native article of
18 handicrafts and clothing.

19 “(5) RULE OF CONSTRUCTION.—Nothing in
20 this subsection shall be construed to—

21 “(A) impact the rights of any Indian Tribe
22 (as defined in section 4 of the Indian Self-De-
23 termination and Education Assistance Act (25
24 U.S.C. 5304)) in effect on the date of enact-

1 ment of the Alaska’s Right to Ivory Sales and
2 Tradition Act; or

3 “(B) undermine any government-to-govern-
4 ment consultation or engagement.”.

