

# HOUSE BILL REPORT

## SSB 5666

---

*As Reported By House Committee on:  
Fisheries & Wildlife*

**Title:** An act relating to protecting salmon and steelhead.

**Brief Description:** Protecting salmon and steelhead resources from nonendangered marine mammals.

**Sponsor(s):** Senate Committee on Environment & Natural Resources (originally sponsored by Senators Rasmussen, Metcalf, Snyder, Hansen, Patterson, Bauer, von Reichbauer, Barr and Thorsness).

**Brief History:**

Reported by House Committee on:  
Fisheries & Wildlife, March 28, 1991, DPA.

---

**HOUSE COMMITTEE ON  
FISHERIES & WILDLIFE**

**Majority Report:** *Do pass as amended.* Signed by 11 members: Representatives R. King, Chair; Morris, Vice Chair; Wilson, Ranking Minority Member; Fuhrman, Assistant Ranking Minority Member; Basich; Cole; Haugen; Hochstatter; Orr; Padden; and Spanel.

**Staff:** Keitlyn Watson (786-7310).

**Background:**

Current Federal Law - The Marine Mammal Protection Act

Marine mammals are protected under the Marine Mammal Protection Act (MMPA) of 1972. Any actions taken involving these animals must be covered under a federal permit or have specific authorization in the act. The National Marine Fisheries Service (NMFS) under the U.S. Department of Commerce administers whales, dolphins, porpoises, sea lions and seals. The U.S. Fish and Wildlife Service under the Department of the Interior administers all other marine mammals. No state may enforce any state law or regulation relating to the taking of any species of marine mammal within the state unless the federal government has transferred authority for the conservation and management of that species. Under the MMPA, populations of marine mammals may not be reduced unless the population has achieved what

is termed "optimum sustainable population," that is the number at which the population achieves maximum productivity.

Exemptions exist to the limitation on taking marine mammals through a permit process for scientific research, public display, and taking incidental to commercial fishing. The MMPA also allows federal, state, or local government entities to take a marine mammal if such a taking is for:

- (1) the protection or welfare of the mammal;
- (2) the protection of the public health and welfare; or
- (3) the nonlethal removal of nuisance animals.

"Herschel": California Sea Lions versus Steelhead at Ballard Locks

The recent case of sea lion/steelhead trout interaction at Ballard locks involves predation on wild runs of steelhead trout by the California sea lion. The area is located in the Lake Washington ship canal from Lake Washington to the seaward side of the Hiram M. Chittenden or "Ballard" locks facility out into Shilshole Bay. The majority of the area of predation is downstream of the locks.

Following their summer breeding season, the sea lions migrate northward along the coasts of California, Oregon, Washington, and British Columbia. The sea lions at the Ballard locks are males originating in the Channel Islands in California or further south. These sea lions did not occur historically in Washington.

The locks and dams were built in 1916 to control the water level in Lake Washington and to provide ship and barge traffic between Lake Washington, Lake Union and Puget Sound. The location of the locks facility, and the fact that wild and hatchery steelhead trout congregate at the locks before moving into Lake Washington, make the trout vulnerable to predation. The sea lion/steelhead conflict at Ballard locks began in 1980. Prior to that year, sea lion presence at Ballard locks was rare. Predation increased from 1980 to 1985 when 59 percent of the returning wild fish were removed by 40 - 60 sea lions. Sea lion predation has not allowed the Department of Wildlife escapement goal of 1,600 steelhead to be attained in the last few years. Continued shortfalls in spawning escapement could result in unrecoverable steelhead populations.

To date, non-lethal means have been used to attempt to control the sea lions. A sea lion harassment program was implemented in 1985/1986 by the Department of Wildlife. Efforts have included harassment using underwater

firecrackers, chase boats and sonic repulsion devices, capture nets, taste aversion conditioning, experimental barrier nets, the trapping and relocation of sea lions to the outer coast of Washington, and, in 1990, the trapping and relocation of sea lions to their breeding grounds in California. None of these efforts has had long-term success. NMFS has stated that an exemption from the MMPA for lethal removal in this situation is not warranted.

**Summary of Amended Bill:** The findings section describes the efforts by the departments of Fisheries and Wildlife to unsuccessfully control marine mammals that prey on steelhead and salmon.

The Department of Wildlife shall pursue all available options to gain authority from the National Marine Fisheries Service for taking of marine mammals that are preventing the achievement of escapement goals for identified anadromous fish runs, including salmon and steelhead. Taking includes harassing, hunting, capturing, or killing. The Department of Wildlife is to make every effort to control these marine mammals so that escapement goals for anadromous fish can be reached.

The Department of Fisheries is directed to support the Department of Wildlife in its efforts to gain authority to control these marine mammals.

**Amended Bill Compared to Substitute Bill:** The amended bill removes the requirement that the Department of Fisheries pursue all available options to gain authority from the National Marine Fisheries Service to take marine mammals, and instead requires the Department of Fisheries to support the Department of Wildlife in its efforts to gain authority to take marine mammals. The amended bill replaces the requirement that the Department of Wildlife pursue all available options for lethal removal with a requirement that the department pursue all available options for taking, which includes harassment, hunting, capture, or killing. The amended bill limits the required actions by the Department of Wildlife to situations in which escapement goals for anadromous fish are not being met due to marine mammal predation. The substitute bill requires that the Department of Wildlife take action in all situations in which nonendangered marine mammals are preying on salmon and steelhead.

**Fiscal Note:** Available. New fiscal note requested on March 28, 1991.

**Effective Date of Amended Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This bill will give the Department of Wildlife some support in its attempts to prevent sea lions from decimating the winter steelhead run at Ballard locks. Harbor seals and sea lions are reproducing at a tremendous rate. The Marine Mammal Protection Act should not necessarily apply to them.

**Testimony Against:** None.

**Witnesses:** Senator Rasmussen, prime sponsor (pro); Pamela Madsen and Steve Jeffries, Washington Department of Wildlife (neutral with concerns: gaining authority from the federal government to conduct lethal removal will be difficult and expensive); and Susan Markey, Washington Department of Fisheries (neutral).