

HOUSE BILL REPORT

SJM 8030

As Passed House - Amended
March 1, 1994

Brief Description: Requesting a modification of the Marine Mammal Protection Act.

Sponsors: Senators Oke, Owen, Hochstatter, Hargrove, Roach, Erwin, L. Smith, Spanel, Haugen and Snyder.

Brief History:

Reported by House Committee on:
Fisheries & Wildlife, February 22, 1994, DPA.
Passed House - Amended, March 1, 1994, 86-11.

HOUSE COMMITTEE ON FISHERIES & WILDLIFE

Majority Report: Do pass as amended. Signed by 9 members: Representatives King, Chair; Orr, Vice Chair; Fuhrman, Ranking Minority Member; Sehlin, Assistant Ranking Minority Member; Basich; Chappell; Foreman; Quall and Scott.

Staff: Keitlyn Watson (786-7310).

Background: Marine mammals in Washington include seals, sea lions, whales, dolphins, porpoises and otters. Other marine mammals not occurring in Washington are manatees, walruses and polar bears. Marine mammals that are increasing in Washington and that interact with Washington's sport and commercial fisheries include the Pacific harbor seal and the California sea lion. Seals and sea lions prey upon both salmon and steelhead. There has been concern about the impact of these species on salmonid populations, but marine mammal protection is under the authority of the federal government.

Current Federal Law - The Marine Mammal Protection Act

Marine mammals are protected under the federal 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 regulates whales, dolphins, porpoises, sea lions and seals, and the U.S. Fish and Wildlife Service under the Department of the Interior regulates 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 to the state for the conservation and management of that species.

Under current federal law, populations of marine mammals may not be reduced unless the population is at its "optimum sustainable population" level, which is the number at which the population achieves maximum productivity.

Exemptions exist to the moratorium 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.

The MMPA is currently being reauthorized and amended.

"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 which is not native to Washington. 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 first documented sighting was in 1950. As many as 6,000 sea lions have moved through Washington waters during the fall months. The animals begin moving south from British Columbia in mid-March, and are gone from Washington waters by late May. The species is an opportunistic feeder, feeding on prey that is close by and concentrated.

The winter run of steelhead returning to the Lake Washington system is composed of wild, naturally-reproducing fish and hatchery origin fish stocked in the system as smolts. Hatchery fish return from late November to early February, and wild fish return from early December through mid-May. The Department of Wildlife manages wild steelhead by

establishing escapement goals that are sufficient to maintain a healthy self-perpetuating population.

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 to 60 sea lions. Sea lion predation has not allowed the escapement goal 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 1985-86 by the Department of Wildlife. The NMFS, the state Department of Wildlife (WDW), the Army Corps of Engineers-Seattle District (ACE), and the Muckleshoot and Suquamish Indian Tribes have worked cooperatively for the past five years in an effort to protect this winter run of wild steelhead. Efforts 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 and this winter, the trapping and relocation of sea lions to their breeding grounds in California.

Summary of Bill: The President and Congress are requested to modify the MMPA to provide for reasonable, balanced and prudent populations of seals and sea lions in Washington, and to provide for active management by federal and state management agencies, including the use of lethal removal.

Fiscal Note: Not requested.

Testimony For: The Legislature needs to send Congress a signal that we need help. The seal and sea lion populations are out of balance, and nonlethal removal of the animals is costly and ineffective. The memorial will help our state's congressional delegation represent our concerns.

Testimony Against: None.

Witnesses: Senator Oke, prime sponsor (pro).