

HOUSE BILL REPORT

SSJM 8005

As Reported By House Committee On:
Fisheries & Wildlife

Brief Description: Requesting the federal government to allow the state of Washington to permanently remove certain predatory seals and sea lions.

Sponsors: Senate Committee on Natural Resources (originally sponsored by Senators Oke, Owen, Hargrove, Amondson, Erwin, Haugen, Snyder, Hochstatter, Deccio, M. Rasmussen and Roach).

Brief History:

Reported by House Committee on:
Fisheries & Wildlife, March 25, 1993, DPA.

HOUSE COMMITTEE ON FISHERIES & WILDLIFE

Majority Report: Do pass as amended. Signed by 8 members: Representatives King, Chair; Orr, Vice Chair; Sehlin, Assistant Ranking Minority Member; Basich; Chappell; Foreman; Lemmon; 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 in Washington.

Current Federal Law - The Marine Mammal Protection Act

Marine mammals are protected from harvest under the federal Marine Mammal Protection Act (MMPA) of 1972. The MMPA is up for reauthorization in Congress this year. 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 harvesting 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 California sea lion 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 that are 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 1985/1986 by the Department of Wildlife. The NMFS, the Washington 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 four 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, the trapping and relocation of sea lions to their breeding grounds in California. None of these efforts has had long-term success. This past fall and winter, the WDW used high-pitched underwater sounding devices to frighten the sea lions away. The results have not yet been analyzed, but in general the devices had mixed success.

The late Senator A. L. "Slim" Rasmussen introduced legislation over the last few years to allow the state to lethally remove predatory sea lions and seals.

Summary of Amended Bill: President Bill Clinton and Congress are requested to recognize the wisdom of the late Senator A. L. "Slim" Rasmussen and allow the state of Washington to lethally remove predatory seals and sea lions in order to improve anadromous fish runs.

Amended Bill Compared to Substitute Bill: The amendment makes technical changes and identifies specific changes sought in the Marine Mammal Protection Act: 1) to authorize state or federal agencies to lethally remove, where appropriate, marine mammals causing significant damage to other valuable natural resources; 2) to continue to allow individual fishers to protect their gear and catch by lethally removing animals which are not threatened or endangered; and 3) to provide a framework that allows the active management of abundant populations at stable and

healthy levels. References to shooting or killing are changed to "lethal removal."

Fiscal Note: Not requested.

Testimony For: (on substitute bill) Now is the right time to send a message to Washington, D.C., because the Marine Mammal Protection Act (MMPA) is up for reauthorization. Marine mammals are currently at population levels that threaten the existence of important native anadromous fish runs. Clam beaches have been decertified because of marine mammal pollution. Lethal removal of marine mammals is a necessary tool in responsible, scientific management of natural resources. Non-lethal means have been tried and don't work. It would be a good idea to ask for specific changes in the MMPA that parallel current efforts of the Pacific States Marine Fisheries Commission (The amended bill does this.).

Testimony Against: (on substitute bill) None.

Witnesses: Senator Bob Oke, prime sponsor (pro); Senator Brad Owen, sponsor (pro); and Terry Wright, Northwest Indian Fisheries Commission (pro).