

HOUSE BILL REPORT

HB 2888

As Passed House:
February 10, 2016

Title: An act relating to cetacean captivity.

Brief Description: Concerning cetacean captivity.

Sponsors: Representatives Van De Wege, Pettigrew, Stanford, Morris, Kuderer, S. Hunt, Appleton, Peterson, Fitzgibbon, Hurst, Pollet and Farrell.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/2/16, 2/4/16 [DP].

Floor Activity:

Passed House: 2/10/16, 64-33.

Brief Summary of Bill

- Creates, within the Fish and Wildlife Code, the offense of Unlawful Cetacean Captivity as a gross misdemeanor.
- Prescribes penalties for an Unlawful Cetacean Captivity violation of not more than \$5,000 or imprisonment for not more than 364 days, or both.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 7 members: Representatives Blake, Chair; Walkinshaw, Vice Chair; Hurst, Lytton, Pettigrew, Stanford and Van De Wege.

Minority Report: Do not pass. Signed by 5 members: Representatives Buys, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Chandler, Orcutt and Schmick.

Minority Report: Without recommendation. Signed by 1 member: Representative Kretz.

Staff: Rebecca Lewis (786-7339).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Cetaceans are aquatic, marine mammals, including whales, dolphins, and porpoises. The federal Marine Mammal Protection Act prohibits, with certain exceptions, the taking of marine mammals in United States waters and by United States citizens on the high seas, and the importation of marine mammals and marine mammal products into the United States. Permits and exemptions allow for incidental takes, scientific research, and for first-time import or capture of wild marine animals for public display.

Under state law, it is a natural resource infraction to cause a vessel to approach or be in the path of a southern resident Orca whale (Orca). It is also an infraction to feed an Orca or fail to disengage the transmission of a vessel within 200 yards of an Orca. There are a few exceptions, including: engaging in a treaty Indian or commercial fishing operation that is actively setting, retrieving, or closely tending fishing gear; engaging in rescue of a beached Orca overseen, authorized, or coordinated by a volunteer stranding network; or engaging in an activity permitted by the Department of Fish and Wildlife or the National Marine Fisheries Service.

Summary of Bill:

The Fish and Wildlife Code offense of Unlawful Cetacean Captivity is created within the Fish and Wildlife Code. A violation of Unlawful Cetacean Captivity is a gross misdemeanor and is punishable upon conviction by a fine of not more than \$5,000 or by imprisonment for not more than 364 days, or both. The following acts each constitute Unlawful Cetacean Captivity:

- holding a wild-caught or captive-bred cetacean in captivity for performance or entertainment purposes;
- capturing or importing into the state a wild-caught or captive-bred cetacean with the intention of using the cetacean for performance or entertainment purposes;
- breeding a cetacean in captivity; or
- importing, exporting, or collecting semen, other gametes, or embryos of a cetacean for the purpose of artificial insemination.

A person may lawfully hold a cetacean for rehabilitation, rescue or stranding, or research purposes. If possible, a person or entity holding a cetacean for rehabilitation or research purposes must return the cetacean to the wild. If it is not possible to return the cetacean to the wild, the person or entity must hold the cetacean at a location approved by the National Marine Fisheries Service and may not use the cetacean for performance or entertainment purposes.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Holding whales in captivity for entertainment purposes is increasingly frowned upon by the public, and this legislation will ensure that whales are not held in captivity in the state. There is a small change from a bill from a previous year specifying that cetaceans must be held in a location approved by the National Marine Fisheries Service if they cannot be released back into the wild. Orca whales have experienced significant population growth, and the population cannot afford more deaths or captures. Seven Orcas are known to have been born in 2015, which is more than in recent years. It is worthwhile to view Orcas in their natural habitat. There is a companion bill in the Senate that has bipartisan support. The bill would only ban holding whales and other cetaceans for entertainment purposes. Other states have enacted this kind of legislation.

This is a very important issue; people have taken time out of school and work to come testify. Not a single Orca in captivity has died from natural causes or old age. People have seen graphic images of sick and injured whales in captivity. Marine park breeding programs result in hybrid offspring that would not occur in the wild, and whales are artificially inseminated when they are too young to rear offspring. Whales are normally peaceful animals, but in captivity they harm themselves by running into the walls of the pools they are kept in, and are harmed by other aggressive whales. In some cases, whales have attacked trainers. Whales need space to swim.

People are being miseducated, and think they can have dolphins as pets. There is no evidence that marine parks provide adequate education for the public, and there are other ways to learn about whales. People are entertained by shows that feature whales and dolphins, but they do not inspire people to learn.

(Opposed) None.

Persons Testifying: Representative Van De Wege, prime sponsor; Grace Campbell; Carol Ray; Anna Gullickson; and Christine Caruso.

Persons Signed In To Testify But Not Testifying: None.