

SENATE BILL REPORT

SB 6099

As Reported by Senate Committee On:
Agriculture, Water, Natural Resources & Parks, February 1, 2018

Title: An act relating to orca captivity.

Brief Description: Concerning orca captivity.

Sponsors: Senators Ranker, Carlyle, Wellman, Darneille, Rolfes, Keiser, Dhingra, Van De Wege, Hunt, Palumbo, Saldaña, Kuderer and Mullet.

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 1/16/18, 2/01/18 [DPS].

Brief Summary of First Substitute Bill

- Provides the circumstances under which a person is guilty of the misdemeanor unlawful orca captivity.
- Adds a civil penalty of up to \$100,000 for a person engaging in commercial activity regarding orca captivity.
- Identifies certain circumstances under which orca captivity is lawful.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 6099 be substituted therefor, and the substitute bill do pass.

Signed by Senators Van De Wege, Chair; McCoy, Vice Chair; Warnick, Ranking Member; Honeyford and Nelson.

Staff: Angela Kleis (786-7469)

Background: The National Oceanic and Atmospheric Administration (NOAA) Fisheries is responsible for the stewardship of the nation's ocean resources and their habitat. Orca are protected under the Marine Mammals Protection Act (MMPA). MMPA generally prohibits take of marine mammals in United States waters by any person and by United States citizens

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.

in international waters. NOAA Fisheries can authorize take of marine life protected under MMPA for certain activities such as:

- scientific research;
- enhancing the survival or recovery of a marine mammal species or stock;
- commercial and educational photography;
- first-time import for public display;
- capture of wild marine mammals for public display; or
- incidental takes.

As of 2017, there are 60 orca held in captivity—27 wild-caught and 33 captive-breed—in eight different countries. There are currently no orca held in captivity in Washington State.

The Washington Department of Fish and Wildlife (WDFW) is mandated to preserve, protect, perpetuate, and manage the wildlife and food fish, game fish, and shellfish in state waters and offshore waters. As part of this mandate, WDFW is authorized to regulate many aspects of fishing, harvesting, and hunting, including the type of species; quantities taken; the transportation, sale, and disposal; and reporting requirements.

Summary of Bill (First Substitute): A new misdemeanor of unlawful orca captivity prohibits any person from:

- holding a wild-caught or captive-breed orca in captivity for purposes including display, performance, or entertainment purposes;
- breeding or impregnating an orca held in captivity in the state;
- importing, exporting, or collecting semen or embryos of an orca for the purpose of artificial insemination; or
- exporting, transporting, moving, or selling an orca located in the state to another state or country unless otherwise authorized by federal law.

In addition, if a person acts for commercial purposes regarding orca captivity, the court shall impose a civil penalty of not more \$100,000.

It is lawful for a bona fide educational or scientific institution to hold an orca for rehabilitation after a rescue or stranding or for research purposes. However, WDFW must be immediately notified upon the rescue or acquisition of any orca. An orca held for rehabilitation or research purposes must be returned to the wild whenever possible. If it is not possible to return an orca to the wild, the orca may be used for educational presentations but may not be used for breeding, performance, or entertainment purposes.

Definitions are provided for bona fide educational or scientific institution; educational presentations; and orca.

EFFECT OF CHANGES MADE BY AGRICULTURE, WATER, NATURAL RESOURCES & PARKS COMMITTEE (First Substitute):

- Removes language regarding a penalty of up to \$100,000 for conviction of a misdemeanor. Under current law, the penalty for a misdemeanor is a fine of up to \$1,000 or up to 90 days in jail, or both.

- Adds a civil penalty of up to \$100,000 for a person engaging in commercial activity regarding orca captivity. The penalties will be deposited into the state general fund.
- Makes technical changes.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Washington always had a policy for no more whales in captivity but we never had a law. This is good policy and preemptive legislation with support from the industry.

Persons Testifying: PRO: Senator Kevin Ranker, Prime Sponsor; Ralph Munro, former Secretary of State; Carol Ray, citizen.

Persons Signed In To Testify But Not Testifying: No one.