

HOUSE BILL REPORT

ESSB 5831

As Reported by House Committee On:

Natural Resources

Title: An act relating to Initiative Measure No. 713.

Brief Description: Repealing the provisions of Initiative No. 713.

Sponsors: Senate Committee on Natural Resources, Parks & Shorelines (originally sponsored by Senators Swecker, Fairley, Oke, Constantine, Regala, Rasmussen and Hochstatter).

Brief History:

Committee Activity:

Natural Resources: 2/22/02, 2/26/02 [DPA].

Brief Summary of Engrossed Substitute Bill (As Amended by House Committee)

- Repeals five sections of Initiative 713, the trap ban– initiative and amends the section that creates the prohibition against using sodium fluoroacetate.

HOUSE COMMITTEE ON NATURAL RESOURCES

Majority Report: Do pass as amended. Signed by 8 members: Representatives Doumit, Chair; Sump, Ranking Minority Member; Buck, Eickmeyer, Ericksen, Jackley, Orcutt and Pearson.

Minority Report: Do not pass. Signed by 3 members: Representatives Rockefeller, Vice Chair; McDermott and Upthegrove.

Staff: Jason Callahan (786-7117).

Background:

In November of 2000, the voters of Washington passed Initiative 713. This initiative made it a gross misdemeanor to use any body-gripping trap to capture any mammal, or to use a leghold or neck snare trap to capture a mammal for recreation or commerce. The initiative also made it illegal to buy, sell, barter or otherwise exchange the fur of a

mammal that has been trapped with a body-gripping trap. Common rat and mouse traps are exempted from the definition of body-gripping traps.

The director of the Department of Fish and Wildlife may grant permits to use certain traps in limited circumstances, including protection of public health and safety, and wildlife research.

Article 2, Section 41, of the Washington State Constitution allows the Legislature to repeal or modify a citizen's initiative. However, if the initiative has been passed by the voters within the previous two years, two-thirds of both houses must vote to amend an initiative. Case law in Washington suggests that although the Legislature may amend an initiative within two years of its enactment, it may not be permitted to completely repeal an initiative.

Summary of Amended Bill:

The provisions of Initiative 713, the "trap ban" initiative, are repealed, except for the prohibition against using sodium fluoroacetate. It is not unlawful to use a body-gripping, neck snare, or leghold trap to capture a mammal, or to buy, sell, or barter the fur of a mammal that was trapped.

Amended Bill Compared to Engrossed Substitute Bill:

The amendment retains the prohibition against using the poison sodium fluoroacetate that was contained in Initiative 713.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: The tools removed by Initiative 713 for the management of predators has led to an increase in livestock being taken by coyotes, feral dogs, cougars and other animals. The tools made illegal by the initiative are legitimate wildlife management tools. People desperate to maintain order with wildlife may be tempted into using traps that are illegal, unsafe and environmentally unsound. Unlike the devices that are legal today, the traps banned by the initiative were extremely selective and only trapped the targeted species. Rifle hunting predators is far less effective, safe and cost-effective. Animals are encroaching into human areas, threatening children and resulting in the loss of pets.

The livestock industry has always considered loss to predation as a cost of doing business, but Initiative 713 has taken away the tools needed to make the risk of loss manageable. The industry is seeing losses of up to 20 percent, and not just from the sick or old. The young are the producers' investment in the future, and the producers should be allowed to protect that investment. It is inhumane to allow a calf to be mauled by a coyote. In addition, the coyotes are chasing cattle onto the public roads, causing a significant danger to the motoring public.

The aviation industry is losing control of animals on the runways. Wildlife strikes on runways cost an average of \$430 million a year in damages nationally and create risks to human health. The airport managers must provide for a safe infrastructure; therefore, they need as many tools at their disposal as possible to help combat this risk. Birds are not the only threats to runways. Large mammals, such as coyotes, also have the potential to cause harm. Airports ensure public safety with an integrated wildlife management program, which often includes trapping.

Burrowing animals are damaging lawns, fields, dikes, septic systems, reforestation projects, and levies. Likewise, beavers are hampering good forest stewardship. Farmers are planting a buffer along stream sides, but out-of-control beaver populations are eating the young saplings before they can mature and offer shade to the salmon in the stream. Not only are beavers affecting agriculture by eating apple trees, but muskrats are burrowing into the backs of ponds and reservoirs, making irrigation ineffective. Beavers are also carriers of Giardia, a crossover human-animal disease. If beaver populations are not controlled, the disease could spread.

The state has a duty to protect its citizens from the damage caused by wildlife, since wildlife is a public resource.

The permit system set up in the bill is too cumbersome and not conducive to the needs of rural wildlife management. Trapping permit applications in 2002 have increased twofold over the number of applications for the same period in 2001. The increasing trend in permit applications indicates that the demand for wildlife damage control is also increasing. In addition, even animals legally trapped with a permit must be wasted, since the pelt cannot be sold.

The consequences of the initiative were substantially unintended. The founders of Washington understood that occasionally an initiative would have such unintended consequences, so they provided a mechanism for the Legislature to address the consequences. The Legislature has a statewide responsibility, and the flaws of the initiative should be corrected for everyone effected, not just for a few. The initiative should either be repealed entirely, or be allowed to stand whole.

The proponents of the initiative have committed a gross violation of the public trust. The initiative was only successful because it was funded with out-of-state money and

supported by a consistent pattern of misrepresentation. A fact sheet produced by the Department of Fish and Wildlife indicated to the supporters that the language of the initiative did in fact include moles and gophers. Post-election surveys have indicated that the initiative would have failed had voters known that moles and gophers were not excluded from the ban. The state's natural resources should be managed by biologists and not emotion.

Testimony Against: Initiative 713 was a popular initiative that passed with nearly 55 percent of the vote. A wholesale repeal of the initiative is unjustified. The Legislature should not rush to protect the citizens from their own decisions. A repeal of the initiative would be a breach of trust between the Legislature and the people. It would undermine the democratic process and discourage youth from participating in government. The arguments for the repeal are all based in economic profit. The need for profits should not trump a society's moral convictions.

The intent of the initiative was to stop inhumane trapping for recreation or fur commerce. The voters did not act without an understanding of the issues. The message of the initiative is not that killing is wrong, but that it should be done humanely. Indiscriminate trapping causes losses to pets and is pure torture to any animal that is captured. Compassion must be pursued. Although compassion does not bring in tax revenue, it is needed for a civilization.

Permits were purposefully included in the initiative to allow for trapping to protect endangered species and to protect people and livestock from danger. These provisions were well-crafted, but the actual mechanisms of the permit were established by the Department of Fish and Wildlife, and fault with their application should be directed to the department and not the initiative.

Initiative 713 was successful because hundreds of local citizens volunteered their time and donated money.

Testified: (In support) Senator Swecker, prime sponsor; Roger Woodruff, United States Department of Agriculture; Ed Owens, Citizens for Responsible Wildlife Management; Jim Zimmerman, Washington Cattlemen's Association; Frederick Blauert, Washington Farm Bureau and Washington State Sheep Producers; Linda Johnson, Washington Farm Bureau; Bob Schnebly; Melvin Wheeler and Alvy Fox, Citizens for Washington Wildlife; Robert Laaghery, Washington State Archery Association; Jeffrey Robb, Washington Airport Management Association, Washington Public Ports, and Port of Port Angeles; Bill Garvin, Washington Forest Protection Association; Nels Hanson, Washington Farm Forestry Association; Gene Frymire; James Crayne; B.J. Thorniley, Washingtonians for Wildlife Conservation; Kyle A. Winton, Washington Wildlife Federation; and Neal Houser, Washington Hunter Education Instructors Association.

(Neutral) Dr. Jeff Koenings and Steve Pozzanghera, Department of Fish and Wildlife.

(Opposed) Lisa Wathne, The Humane Society of the United States; Robert Stagman and Jennifer Hillman, Progressive Animal Welfare Society; Angela Smith and David Thornton, Northwest Animal Rights Network; Tom Townsend, Evergreen Animal Rights Network; Joan Delehanty; Judy Cadman, Progressive Animal Welfare Society, Pasados Safe Haven, and Northwest Animal Rights Network; David Beunel, Action for Animals; Jim Robertson; Stacie Nielson; Jasmin Baker-Kinney; Kristi Coats-Hartman; Nancy Pennington; Stewart Metz, M.D.; Claudine Erlandson; Katherine Bragdon; Jim Reynolds; Phyllis Mains; and Franziska Edwards.