

SENATE BILL REPORT

SB 6099

As of January 17, 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.

Brief Summary of Bill

- Provides the circumstances under which a person or entity is guilty of the misdemeanor unlawful orca captivity.
- Prescribes a fine of not more than \$100,000, upon conviction of unlawful orca captivity.
- Identifies certain circumstances under which orca captivity is lawful.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

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 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

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- 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: A new misdemeanor of unlawful orca captivity prohibits any person or entity 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.

Unlawful orca captivity is punishable, upon conviction, by a fine of not more than \$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.

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: 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.