

AMENDED IN SENATE AUGUST 10, 2016

AMENDED IN ASSEMBLY APRIL 20, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1453

Introduced by Assembly Member ~~Rendon~~ Bloom

February 27, 2015

~~An act to add Section 768.3 to the Public Utilities Code, relating to public utilities. An act to add Section 4502 to the Fish and Game Code, relating to marine mammals, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1453, as amended, ~~Rendon~~ Bloom. ~~Electrical corporations: underground electrical facilities: worker safety. Protection of orcas: unlawful activities.~~

(1) Existing law makes it unlawful to take any marine mammal, as defined, except as provided under specified federal laws.

This bill would make it unlawful to hold in captivity an orca, whether wild-caught or captive-bred, for any purpose, including for display, performance, or entertainment purposes; to breed or impregnate an orca held in captivity; to export, collect, or import the semen, other gametes, or embryos of an orca held in captivity for the purpose of artificial insemination; or to export, transport, move, or sell an orca located in the state to another state or country, except as provided.

The bill would provide that a person, corporation, or institution that intentionally or negligently violates these provisions is guilty of a misdemeanor punishable by a fine not to exceed \$100,000. By creating a new crime, the bill would impose a state-mandated local program.

(2) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) *This bill would declare that it is to take effect immediately as an urgency statute.*

~~The Public Utilities Act authorizes the Public Utilities Commission to require public utilities, including electrical corporations, to construct, maintain, and operate their facilities and equipment to promote and safeguard the health and safety of its employees. A violation of the Public Utilities Act, or any decision, rule, direction, demand, or requirement of the commission is a crime.~~

~~This bill would require the commission, by January 1, 2017, to adopt a rule regulating work performed in underground electrical facilities by, or on behalf of, an electrical corporation that is consistent with certain worker safety protections. Because a violation of the rule would be a crime, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4502 is added to the Fish and Game Code,
- 2 to read:
- 3 4502. This section shall be known, and may be cited, as the
- 4 California Orca Protection Act.
- 5 (a) It is unlawful for any person to do any of the following:
- 6 (1) (A) Except as provided in subparagraph (B) and subdivision
- 7 (c), hold in captivity an orca, whether wild-caught or captive-bred,
- 8 for any purpose, including, but not limited to, display, performance,
- 9 or entertainment purposes.
- 10 (B) An orca located in the state on the effective date of this act
- 11 may continue to be held in captivity for its current purpose until

1 *June 1, 2017, and thereafter may be used only for educational*
2 *presentations.*

3 *(2) Breed or impregnate any orca held in captivity in the state.*

4 *(3) Export, collect, or import the semen, other gametes, or*
5 *embryos of an orca held in captivity for the purpose of artificial*
6 *insemination.*

7 *(4) Export, transport, move, or sell an orca located in the state*
8 *to another state or country unless otherwise authorized by federal*
9 *law or if the transfer is to another facility within North America*
10 *that meets standards comparable to those provided under the*
11 *Animal Welfare Act (7 U.S.C. Sec. 2131 et seq.).*

12 *(b) A person, corporation, or institution that intentionally or*
13 *negligently violates subdivision (a) is guilty of a misdemeanor*
14 *and, upon conviction thereof, shall be punished by a fine not to*
15 *exceed one hundred thousand dollars (\$100,000).*

16 *(c) This section does not apply to an orca that is held for*
17 *rehabilitation after a rescue or stranding or for research purposes.*
18 *However, an orca that is held for rehabilitation or research*
19 *purposes shall be returned to the wild whenever possible and, if*
20 *return to the wild is not possible, the orca may be used for*
21 *educational presentations, but shall not be used for breeding,*
22 *performance, or entertainment purposes.*

23 *(d) As used in this section, the following terms are defined as*
24 *follows:*

25 *(1) "Educational presentation" means a live, scheduled orca*
26 *display in the presence of spectators that includes natural*
27 *behaviors, enrichment, exercise activities, and a live narration*
28 *and video content that provides science-based education to the*
29 *public about orcas.*

30 *(2) "Orca" means a killer whale (*Orcinus orca*).*

31 *(e) The provisions of this section are severable. If any provision*
32 *of this section or its application is held invalid, that invalidity shall*
33 *not affect other provisions or applications that can be given effect*
34 *without the invalid provision or application.*

35 *SEC. 2. No reimbursement is required by this act pursuant to*
36 *Section 6 of Article XIII B of the California Constitution because*
37 *the only costs that may be incurred by a local agency or school*
38 *district will be incurred because this act creates a new crime or*
39 *infraction, eliminates a crime or infraction, or changes the penalty*
40 *for a crime or infraction, within the meaning of Section 17556 of*

1 *the Government Code, or changes the definition of a crime within*
2 *the meaning of Section 6 of Article XIII B of the California*
3 *Constitution.*

4 *SEC. 3. This act is an urgency statute necessary for the*
5 *immediate preservation of the public peace, health, or safety within*
6 *the meaning of Article IV of the Constitution and shall go into*
7 *immediate effect. The facts constituting the necessity are:*

8 *In order to ensure the protection of Orcas at the earliest possible*
9 *time, it is necessary that this act take effect immediately.*

10 SECTION 1. ~~Section 768.3 is added to the Public Utilities~~
11 ~~Code, to read:~~

12 ~~768.3.—(a) The Legislature finds and declares all of the~~
13 ~~following:~~

14 ~~(1) Electrical equipment, including transformers and switches,~~
15 ~~housed in underground facilities, such as manholes and vaults,~~
16 ~~present an extremely hazardous working environment if work is~~
17 ~~attempted while the equipment is energized.~~

18 ~~(2) There have been numerous fatalities and serious injuries~~
19 ~~when work has been performed in underground electrical facilities~~
20 ~~while the equipment was energized.~~

21 ~~(3) California has thousands of underground electrical facilities.~~
22 ~~The commission has provided electrical corporations with limited~~
23 ~~authority to avoid installing additional underground electrical~~
24 ~~facilities.~~

25 ~~(4) Work is performed in underground electrical facilities by~~
26 ~~both employees of the electrical corporation and by employees of~~
27 ~~outside contractors. Some of these employees do not have the~~
28 ~~technical training to know how to deenergize the equipment, to~~
29 ~~perform a hot sean or gas test, to determine if the equipment has~~
30 ~~been deenergized, and to make safe a confined space working~~
31 ~~environment. These employees can be at severe risk if electrical~~
32 ~~equipment is not properly deenergized and set to avoid~~
33 ~~automatically becoming reenergized.~~

34 ~~(5) Only a qualified electrical worker has the training and~~
35 ~~qualifications to ensure that an underground electrical facility has~~
36 ~~been fully deenergized and that it is safe to proceed with the work~~
37 ~~in the facility.~~

38 ~~(b) By January 1, 2017, the commission shall adopt a rule~~
39 ~~regulating work performed in underground electrical facilities by,~~

1 ~~or on behalf of, an electrical corporation that does all of the~~
2 ~~following:~~

3 ~~(1) Prohibits work directly on energized underground electrical~~
4 ~~equipment.~~

5 ~~(2) Requires a qualified electrical worker to determine that~~
6 ~~underground electrical equipment has been deenergized and is in~~
7 ~~a mode that would make the equipment safe to be worked on.~~

8 ~~(e) For the purposes of this section, the following terms mean~~
9 ~~the following:~~

10 ~~(1) “Qualified electrical worker” has the same meaning as set~~
11 ~~forth in Section 2700 of Title 8 of the California Code of~~
12 ~~Regulations.~~

13 ~~(2) “Underground electrical equipment” means equipment~~
14 ~~energized in excess of 600 volts and all or part of the equipment~~
15 ~~is in an underground electrical facility.~~

16 ~~(3) “Underground electrical facility” means a vault, manhole,~~
17 ~~or other subsurface confined structure.~~

18 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
19 ~~Section 6 of Article XIII B of the California Constitution because~~
20 ~~the only costs that may be incurred by a local agency or school~~
21 ~~district will be incurred because this act creates a new crime or~~
22 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
23 ~~for a crime or infraction, within the meaning of Section 17556 of~~
24 ~~the Government Code, or changes the definition of a crime within~~
25 ~~the meaning of Section 6 of Article XIII B of the California~~
26 ~~Constitution.~~