

AMENDED IN SENATE AUGUST 17, 2016

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 Bloom
(Coauthors: Assembly Members Atkins and Levine)

February 27, 2015

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, Bloom. 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.

Vote: 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
12 June 1, 2017, and thereafter may be used only for educational
13 presentations.

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

15 (3) Export, collect, or import the semen, other gametes, or
16 embryos of an orca held in captivity for the purpose of artificial
17 insemination.

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

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

27 ~~(e) This section does not apply to an orca that is held for~~
28 ~~rehabilitation after a rescue or stranding or for research purposes.~~

1 ~~However, an orca that is held for rehabilitation or research purposes~~
2 ~~shall be returned to the wild whenever possible and, if return to~~
3 ~~the wild is not possible, the orca may be used for educational~~
4 ~~presentations, but shall not be used for breeding, performance, or~~
5 ~~entertainment purposes.~~

6 *(c) This section does not apply to an orca that is held by a bona*
7 *fide educational or scientific institution for rehabilitation after a*
8 *rescue or stranding or for research purposes. However, the*
9 *department shall be notified immediately upon the rescue or*
10 *acquisition of any orca, and an orca that is held for rehabilitation*
11 *or research purposes shall be returned to the wild whenever*
12 *possible. If return to the wild is not possible, the orca may be used*
13 *for educational presentations, but shall not be used for breeding,*
14 *performance, or entertainment purposes.*

15 (d) As used in this section, the following terms are defined as
16 follows:

17 (1) “Educational presentation” means a live, scheduled orca
18 display in the presence of spectators that includes natural behaviors,
19 enrichment, exercise activities, and a live narration and video
20 content that provides science-based education to the public about
21 orcas.

22 (2) “Orca” means a killer whale (*Orcinus orca*).

23 (3) “*Bona fide educational or scientific institution*” means an
24 *institution that establishes through documentation either of the*
25 *following:*

26 (A) *Educational or scientific tax exemption, from the federal*
27 *Internal Revenue Service or the institution’s national, state, or*
28 *local tax authority.*

29 (B) *Accreditation as an educational or scientific institution,*
30 *from a qualified national, regional, state, or local authority for*
31 *the institution’s location.*

32 (C) *Accreditation by a nationally or internationally recognized*
33 *zoological or aquarium accreditation organization.*

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

38 SEC. 2. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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

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