

AMENDED IN ASSEMBLY APRIL 14, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2305

**Introduced by Assembly Member Bloom
(Coauthor: Assembly Member Levine)**

February 18, 2016

An act to add Section 4502 to the Fish and Game Code, relating to marine mammals.

LEGISLATIVE COUNSEL'S DIGEST

AB 2305, 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.

Vote: majority. 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 January 1, 2017, may
11 continue to be held in captivity *for its current purpose and after*
12 *June 1, 2017, may continue to be used for educational presentations*
13 ~~until it is retired or until its death.~~ *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 and following).

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 (c) This section does not apply to an orca that is held for
28 rehabilitation after a rescue or stranding or for research purposes.
29 However, an orca that is held for rehabilitation or research purposes
30 shall be returned to the wild whenever possible and, if return to

1 the wild is not possible, the orca *may be used for educational*
2 *presentations, but* shall not be used for breeding, performance, or
3 entertainment purposes.

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

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

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

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

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