

103D CONGRESS
1ST SESSION

H. R. 656

To provide more effective protection for marine mammals.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 1993

Mr. BILIRAKIS (for himself, Mr. LEWIS of Florida, Mr. MORAN, Mr. HUGHES, Mr. RAVENEL, Mr. FROST, Mr. GOSS, Mr. SHAW, Mr. BROWN of California, Mr. PALLONE, and Mr. BEILENSON) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To provide more effective protection for marine mammals.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Marine Mammal Cap-
5 ture, Export, and Public Display Protection Act of 1993”.

6 **SEC. 2. PROTECTION OF MARINE MAMMALS UNDER ANI-**

7 **MAL WELFARE ACT.**

8 (a) PENALTIES; RELATIONSHIP TO STATE LAW.—

9 The Animal Welfare Act (7 U.S.C. 2131 et seq.) is amend-
10 ed by adding at the end the following:

1 **“SEC. 30. PROVISIONS RELATING TO MARINE MAMMALS.**

2 “(a) PENALTIES.—In lieu of any civil or criminal
3 penalty applicable under this Act for a violation of this
4 Act committed by a person with respect to a marine mam-
5 mal, the person shall be liable for a civil or criminal pen-
6 alty, respectively, under section 105 of the Marine Mam-
7 mal Protection Act of 1972.

8 “(b) RELATIONSHIP TO STATE LAW.—This Act shall
9 not be considered to supersede, preempt, or otherwise af-
10 fect any provision of State law that provides protection
11 to marine mammals that is greater than the protection
12 provided by this Act.

13 “(c) MARINE MAMMAL DEFINED.—In this section,
14 the term ‘marine mammal’ has the meaning that term has
15 under section 3 of the Marine Mammal Protection Act of
16 1972.”.

17 (b) REVIEW AND REVISION OF STANDARDS.—Not
18 later than 180 days after the date of the enactment of
19 this Act, the Secretary of Agriculture shall—

20 (1) review the standards established under the
21 Animal Welfare Act for the care and habitat of ma-
22 rine mammals in captivity and determine whether
23 those standards require provision of adequate living
24 conditions for those marine mammals, considering—

25 (A) the sizes of marine mammals to which
26 the standards apply;

1 (B) current knowledge of marine mammal
2 physiology and behavior, including with respect
3 to marine mammal needs for exercise, auditory
4 capabilities, and pre- and post-natal require-
5 ments;

6 (C) the psychological and physical well-
7 being of marine mammals;

8 (D) marine mammal needs related to social
9 grouping, including minimum group size, gen-
10 der mix, and age composition;

11 (E) interspecies compatibility; and

12 (F) environmental modifications that
13 might allow for more normal behavior and so-
14 cial interaction; and

15 (2) issue rules which make such modifications
16 to those standards as are appropriate to ensure the
17 humane handling, care, treatment, and transpor-
18 tation of marine mammals in captivity.

19 **SEC. 3. MARINE MAMMAL TRACKING SYSTEM.**

20 (a) ESTABLISHMENT.—Section 103 of the Marine
21 Mammal Protection Act of 1972 (16 U.S.C. 1374) is
22 amended by adding at the end the following:

23 “(g) TRACKING SYSTEM.—

24 “(1) IN GENERAL.—The Secretary and the Sec-
25 retary of Agriculture shall jointly issue regulations

1 which establish a system for tracking marine mam-
2 mals that are taken in waters under the jurisdiction
3 of the United States or imported into the United
4 States.

5 “(2) REQUIREMENTS.—A tracking system
6 under this subsection shall provide for—

7 “(A) monitoring the location of marine
8 mammals held in captivity in the United States;

9 “(B) the assignment of a registration num-
10 ber to each marine mammal that is covered by
11 the system; and

12 “(C) the verification of the location of ma-
13 rine mammals covered by the system as part of
14 annual inspections conducted by the Animal
15 and Plant Health Inspection Service of the De-
16 partment of Agriculture.

17 “(3) SUMMARIES OF INFORMATION.—The Sec-
18 retary shall—

19 “(A) publish regularly in the Federal Reg-
20 ister a summary of information regarding the
21 status of marine mammals that is collected
22 through the tracking system under this sub-
23 section; and

24 “(B) make copies of those summaries
25 available to the public upon request.”.

1 (b) MORATORIUM ON TAKINGS IN WATERS OF THE
2 UNITED STATES.—

3 (1) IN GENERAL.—Notwithstanding any other
4 provision of law or any permit issued under the Ma-
5 rine Mammal Protection Act of 1972 (16 U.S.C.
6 1361 et seq.), it shall be unlawful to take any ma-
7 rine mammal in waters under the jurisdiction of the
8 United States during the period beginning on the
9 date of the enactment of this Act and ending on the
10 effective date of regulations issued under the amend-
11 ment made by subsection (a).

12 (2) PENALTIES.—The penalties provided under
13 section 105 of the Marine Mammal Protection Act
14 of 1972 (16 U.S.C. 1375) shall apply to a violation
15 of this section.

16 (3) DEFINITIONS.—In this subsection, each of
17 the terms “marine mammal”, “take”, and “waters
18 under the jurisdiction of the United States” has the
19 meaning that term has under section 3 of the Ma-
20 rine Mammal Protection Act of 1972 (16 U.S.C.
21 1362).

22 **SEC. 4. LIMITATIONS ON EXPORTATION OF MARINE MAM-**
23 **MALS.**

24 (a) PERMIT REQUIRED FOR EXPORTATION.—The
25 Marine Mammal Protection Act of 1972 is amended—

1 (1) in section 102(a) (16 U.S.C. 1372(a))—

2 (A) in paragraph (4) by striking “and”;

3 (B) in paragraph (5) by striking the period
4 and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(6) for any person to export from the United
7 States a marine mammal other than in accordance
8 with a permit under section 104.”;

9 (2) in section 103(a) (16 U.S.C. 1373(a)) by
10 striking “taking and importing” and inserting “tak-
11 ing, importing, and exporting”; and

12 (3) in section 104 (16 U.S.C. 1374)—

13 (A) in subsection (a) by striking “taking or
14 importation” and inserting “taking, importa-
15 tion, or exportation”;

16 (B) in subsection (b)(1)—

17 (i) in subparagraph (A) by striking
18 “taken or imported” and inserting “taken,
19 imported, or exported”; and

20 (ii) in subparagraph (B) by inserting
21 “or exported” after “imported”;

22 (C) in subsection (d) by striking “taking or
23 importation” each place that term appears and
24 inserting “taking, importation, or exportation”;
25 and

1 (D) in subsection (f)—

2 (i) in paragraph (1) by striking “tak-
3 ing importation” and inserting “taking,
4 importation, or exportation”;

5 (ii) in paragraph (2) by striking “tak-
6 ing or importation” and inserting “taking,
7 importation, or exportation”; and

8 (iii) in paragraph (3) by striking
9 “taken or imported” and inserting “taken,
10 imported, or exported”.

11 (b) LIMITATION ON PERMITS FOR EXPORTATION.—
12 Section 104(c) of the Marine Mammal Protection Act of
13 1972 (16 U.S.C. 1374(c)) is amended by adding at the
14 end the following:

15 “(5) The Secretary may not issue a permit which au-
16 thorizes the exportation of a marine mammal unless—

17 “(A) the marine mammal is exported solely for
18 the purpose of maintaining or improving the health
19 and well-being of the marine mammal; and

20 “(B) the permit prohibits use of the marine
21 mammal for any other purpose.”.

22 **SEC. 5. LIMITATIONS ON SCIENTIFIC RESEARCH PERMITS.**

23 (a) LIMITATIONS.—Section 104(c)(3) of the Marine
24 Mammal Protection Act of 1972 (16 U.S.C. 1374(c)(3))
25 is amended to read as follows:

1 “(3)(A) A permit may be issued for scientific re-
2 search purposes only to an applicant which submits with
3 its permit application information indicating that the tak-
4 ing is required to further a bona fide scientific purpose
5 and does not involve unnecessary duplication of research.

6 “(B) The Secretary shall not issue a permit for re-
7 search which involves surgical procedures or the lethal tak-
8 ing of a marine mammal, unless—

9 “(i) the Secretary determines that the results of
10 such research will directly benefit that species or
11 stock of marine mammals, and that such research
12 fulfills a critically important research need; and

13 “(ii) the applicant demonstrates that a
14 nonlethal and noninvasive method for carrying out
15 the research is not feasible.

16 “(C) A permit issued for scientific research shall re-
17 quire that any release of a marine mammal taken under
18 the permit shall occur—

19 “(i) in the general vicinity of the location at
20 which the marine mammal was captured; or

21 “(ii) in the case of a simultaneous release of
22 more than one marine mammal at the same location,
23 in the natural environment of the species released.

24 “(D) In establishing the terms of any permit for sci-
25 entific research, the Secretary shall—

1 “(i) give preference to requiring that the release
2 of any marine mammal taken or imported under the
3 permit be carried out simultaneously and at the
4 same location as the release of other marine mam-
5 mals; and

6 “(ii) in any case in which such a marine mam-
7 mal is so released, require that each marine mammal
8 is permanently marked for easy identification.

9 “(E) A permit issued for scientific research purposes
10 shall be effective for a period which—

11 “(i) shall be specified by the Secretary in the
12 terms of the permit; and

13 “(ii) may not exceed 2 years.

14 “(F) The Secretary may extend the effective period
15 under subparagraph (E) for a permit if the Secretary—

16 “(i) determines the extension is necessary for
17 the completion of a long-term study; and

18 “(ii) specifies the period of the extension.”.

19 (b) APPLICATION OF AMENDMENTS.—The amend-
20 ments made by this section shall apply to permits issued
21 under the Marine Mammal Protection Act of 1972 (16
22 U.S.C. 1361 et seq.) after the date of the enactment of
23 this Act.

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