

118TH CONGRESS  
2D SESSION

# S. 3694

To amend the Marine Mammal Protection Act of 1972 and the Animal Welfare Act to prohibit the taking, importation, exportation, and breeding of certain cetaceans for public display, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2024

Mr. WYDEN (for himself, Mr. PADILLA, Ms. WARREN, Mr. BOOKER, and Ms. DUCKWORTH) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend the Marine Mammal Protection Act of 1972 and the Animal Welfare Act to prohibit the taking, importation, exportation, and breeding of certain cetaceans for public display, and for other purposes.

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 “Strengthening Welfare  
5 in Marine Settings Act of 2024” or as the “SWIMS Act  
6 of 2024”.

7 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

8 (a) FINDINGS.—Congress finds the following:

1           (1) Certain cetaceans, namely orcas, beluga  
2 whales, false killer whales, and pilot whales are  
3 large-brained mammals who engage in creative prob-  
4 lem solving, intentional communication, show signs  
5 of empathy for others and complex emotions, and  
6 form lifelong bonds.

7           (2) Science increasingly supports that the spe-  
8 cies listed in paragraph (1) suffer in captivity. They  
9 die prematurely, engage in stereotypic behavior that  
10 is indicative of suffering and distress, are held in  
11 barren tanks, and are sometimes isolated from mem-  
12 bers of their own species, among other harms.

13           (3) Current Federal laws allow the species list-  
14 ed in paragraph (1) to be confined in concrete tanks  
15 that fail to meet their basic psychological, physical,  
16 and social needs.

17           (b) SENSE OF CONGRESS.—It is the sense of Con-  
18 gress that the species listed in paragraph (1) of subsection  
19 (a) should not be subject to restraint, coercion, or control  
20 by any person for purposes of public display.

21 **SEC. 3. PROHIBITION ON EXPORTATION, TAKING, AND IM-**  
22 **PORTATION OF CERTAIN CETACEANS.**

23           (a) PROHIBITION ON EXPORTATION.—Section 102 of  
24 the Marine Mammal Protection Act of 1972 (16 U.S.C.

1 1372) is amended by adding at the end the following new  
2 subsection:

3 “(g)(1) Notwithstanding any other provision of law,  
4 it is unlawful to export any orca, beluga whale, false killer  
5 whale, or pilot whale except for the transport of such spe-  
6 cies—

7 “(A) to a marine mammal sanctuary with a de-  
8 termination by the Secretary that the transportation  
9 to such sanctuary is in the best interest of the indi-  
10 vidual marine mammal; or

11 “(B) for release to the wild.

12 “(2) In this subsection, the term ‘sanctuary’ means  
13 a place of refuge where marine mammals—

14 “(A) live in a captive setting as close as possible  
15 to their natural environment;

16 “(B) are prioritized individually with respect to  
17 well-being and autonomy; and

18 “(C) are not used for profit or breeding for the  
19 purpose of public display.”.

20 (b) PROHIBITION ON PERMITS FOR TAKING OR IM-  
21 PORTATION.—Section 104(a) of the Marine Mammal Pro-  
22 tection Act of 1972 (16 U.S.C. 1374(a)) is amended to  
23 read as follows:

1       “(a)(1) Except as provided in paragraph (2), the Sec-  
 2 retary may issue permits which authorize the taking or  
 3 importation of any marine mammal.

4       “(2) Notwithstanding any other provision of law, the  
 5 Secretary may not issue any permit that authorizes the  
 6 taking or importation of any orca, beluga whale, false kill-  
 7 er whale, or pilot whale for the purpose of public display.

8       “(3) The Secretary may issue permits for the inci-  
 9 dental taking of marine mammals in the course of com-  
 10 mercial fishing operations only as specifically provided for  
 11 in section 101(a)(5) or 306, or subsection (h) of this sec-  
 12 tion.”.

13 **SEC. 4. PROHIBITION ON BREEDING OF CERTAIN**  
 14 **CETACEANS.**

15       The Animal Welfare Act (17 U.S.C. 2131 et seq.) is  
 16 amended by adding at the end the following:

17 **“SEC. 30. BREEDING OF CERTAIN CETACEANS.**

18       “‘It shall be unlawful for any person to breed or artifi-  
 19 cially inseminate any orca, beluga whale, false killer whale,  
 20 or pilot whale for purposes of using the progeny of such  
 21 species for public display.’”.

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