

117TH CONGRESS
2D SESSION

S. 4740

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.

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2022

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

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 2022” or as the “SWIMS Act
6 of 2022”.

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

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

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

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

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

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

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

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

1 1372(a)) is amended by adding at the end the following
 2 new 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.”.

