

AB 2140: Orca Welfare and Safety Act

March 2014

SDCTA Position:

OPPOSE

Rationale for Position:

SeaWorld is of substantial economic and fiscal importance to the City of San Diego and our entire region. While AB 2140 focuses on one specific type of animal, the underlying principle would extend to all animals held in captivity, putting the entire SeaWorld operation at risk as well as the San Diego Zoo and Safari Park which are also of substantial economic and fiscal importance to our region. The legislation also threatens SeaWorld's ability to continue promoting respect for animals and the environment by exposing the community and tourists alike to marine life.

Title: Orca Welfare and Safety Act

Jurisdiction: California

Type: Statutory

Vote: Simple Majority of Assembly and Senate

Status: Yet to be referred to committee

Issue: Captive orcas.

Description: Aimed at SeaWorld and reportedly inspired by the film *Blackfish*, Assembly Bill (AB) 2140 would outlaw the breeding of captive orcas and using orcas for entertainment purposes.

Fiscal Impact: the fiscal impact of AB 2140 would ultimately be determined by the reduction of visitors to San Diego. In addition, because of the variable rent payments determined by revenues, the City of San Diego will be directly negatively impacted fiscally for every dollar of revenue lost due to the banning of Shamu shows.

Background:

SeaWorld Background

SeaWorld opened its amusement park in San Diego in 1964. SeaWorld operations include education, research, and conservation in addition to entertainment. The 189-acre park is a landmark on Mission Bay to San Diegans and tourists alike.

"Blackfish"

Blackfish is a film that portrays SeaWorld's use of a captive orca for performance and entertainment purposes and the life of that whale, which was involved in the death of its trainer. *Blackfish* premiered in January 2013 at the Sundance Film Festival and was later released in the US, aired repeatedly on CNN, and was made available on Netflix streaming. Some protests have occurred however SeaWorld has said that, with respect to its impact on business, "we can see no noticeable impact."¹

¹Lori Weisberg and Michael Gardner. UT San Diego. "[SeaWorld: Little effect from 'Blackfish'](#)." March 13, 2014.

SeaWorld has responded in a statement calling the film inaccurate, misleading, and exploiting a tragedy. The family of the trainer has also publically chastised the film saying that the trainer, one of SeaWorld's most respected trainers, would not have made a career there if she had thought the orcas were not receiving proper care.²

SDCTA Past Positions

SDCTA supported the ultimately successful Proposition D on the November 1998 ballot. The proposition created an ordinance to amend the 30 foot height limit in the Coastal Zone to allow Sea World to plan and construct exhibits, attractions, and educational facilities. SDCTA supported the proposition under the rationale that no taxpayer funds can be spent for any improvements, attractions, or exhibits and that Proposition D applies only to the Sea World leasehold and proposed exhibits or attractions which cannot be built without approval of both the City of San Diego and the Coastal Commission.

Proposal:

Aimed at SeaWorld and reportedly inspired by the film *Blackfish*, Assembly Bill (AB) 2140 would make the following four acts illegal:

- Holding an orca in captivity for entertainment purposes;
- Capturing or importing orcas for entertainment purposes;
- Breeding orcas in captivity;
- Dealing in the breeding of captive orcas across state lines.

In addition, the legislation outlines the penalty for noncompliance as no more than \$100,000, no more than six months in a county jail, or both.

The legislation also explicitly exempts occurrences of captivity for the purposes of rehabilitation and outlines the acceptable alternative to releasing rehabilitated orcas or those currently used for entertainment purposes. Although it is stated that these orcas should be released into the wild "whenever possible," when it is not possible "as determined by the best available science," it is stated that they shall be held in sea pens and not used for entertainment purposes or breeding.

Policy Implications:

Economic Impact

Economic Impact of AB 2140

The degree to which removing Shamu shows from SeaWorld will negatively impact SeaWorld, and the local and state economy is difficult to estimate, especially by an outside organization unfamiliar with what exhibits within SeaWorld best attract visitors and specifically tourists. Many tourists travel from outside of the County of San Diego primarily to visit SeaWorld. The economic impact of AB 2140 would ultimately be determined by the reduction of visitors to San Diego.

² Jason Garcia. Orlando Sentinel. "[Family of Dawn Brancheau chastises 'Blackfish'.](#)" January 21, 2014.

Economic Impact of Zoological Organizations in San Diego

In addition to SeaWorld, the San Diego Zoo and Safari Park similarly bring economic benefits and a greater respect for wildlife and the environment to San Diegans. The underlying argument made in AB 2140 could, in time, expand to other animals at SeaWorld, and those at the San Diego Zoo and Safari Park. SDCTA recently released a [full economic impact study](#) on the San Diego Zoo and Safari Park. The combined annual economic impact of these three zoological attractions, when taken together, is substantially over one billion dollars and is responsible for well over 10,000 additional jobs in the County of San Diego.

With respect to SeaWorld individually, San Diego Tourism Authority President and CEO sent a letter to Assembly Majority Leader Toni Atkins Speaker stating the following:

- SeaWorld is San Diego's top tourist attraction for overnight visitors, after our beaches.
- Visitors spend an average of \$371 per person per trip compared to \$177 for all leisure travelers to San Diego.
- Twelve percent (12%) of all overnight visitors say they visited SeaWorld on their trip to San Diego.
- SeaWorld is a draw for the important long-haul travel market including attracting international visitors to California.
- Forty percent (40%) of SeaWorld visitors stay at hotels, further boosting the economic impact to our community.

Respect for Marine Life

The lease between the City of San Diego and SeaWorld requires that SeaWorld provide educational programming for elementary school children.³ In 2013, this resulted in 87,000 students and chaperones participating in this program. The price per participant is also limited to \$6 per participant (chaperones do not pay) by the agreement.

This program highlights the educational aspect of SeaWorld which is in no way limited to children on field trips. It is presumed that the achieved increased understanding inspires attendees of all ages to respect their environment and marine life moving forward.

Fiscal Impact:

Fiscal Impact of AB 2140

As with the economic impact of AB 2140, the fiscal impact of AB 2140 would ultimately be determined by the reduction of visitors to San Diego. In addition, because of the variable rent payments determined by revenues, the City of San Diego will be directly negatively impacted fiscally for every dollar of revenue losses due to the banning of Shamu shows.

Fiscal Impact of SeaWorld

In addition to state and local tax and fee revenues that are a result of increased economic activity within the County of San Diego, SeaWorld pays property taxes and rent to the City of San Diego for the property housing the theme park. Property taxes and rent payments in 2013 totaled over \$5 million and \$14 million respectively.

³ Lisa Halverstat. Voice of San Diego. "[SeaWorld Lease Gives Taxpayers a Stake in Shamu's Success.](#)" March 12, 2014.

The current 50-year lease, which allows for a renegotiation every 10 years, ensures a minimum annual rent of \$10.4 million however includes revenue sharing variables allowing the City of San Diego to collect more when business is thriving.⁴

SeaWorld also put aside \$10 million prior to 2007 for infrastructure upgrades nearby the park.⁵

Fiscal Impact of Zoological Organizations in San Diego

The combined annual fiscal impact of these three zoological attractions, when taken together, is estimated to exceed \$100 million dollars in revenue for state and local governments.

List of Proponents:

- Assembly Member Richard Bloom
- Assembly Member Lorena Gonzalez
- People for the Ethical Treatment of Animals (PETA)

Proponent Arguments:

- Working with orcas is not safe for trainers.
- Orcas are too large to be held captive in concrete tanks.
- Orcas are large and intelligent and should not be held captive for entertainment.
- Living in captivity is not mentally healthy for orcas and leads to violent behavior.
- It's about job quality and workplace safety at SeaWorld – whether it involves groundskeepers, concessions workers or killer whale trainers.⁶

List of Opponents:

- Assembly Member Rocky Chavez
- City of San Diego Mayor Kevin Faulconer

Opponent Arguments:

- The success of SeaWorld is important to the San Diego economy.
- The success of SeaWorld is important to the fiscal stability of the City of San Diego.
- More than half of zoological attraction visitors report an elevated awareness of their role in conservation as a direct consequence of their visit.⁷

⁴ Ibid.

⁵ Ibid.

⁶ Richard Allyn. CBS8. "[Bill may ban SeaWorld San Diego from using orcas.](#)" March 6, 2014.

⁷ Association of Zoos & Aquariums. "[Why Zoos & Aquariums Matter: Assessing the Impact of a Visit to a Zoo or Aquarium.](#)" 2007.