
HOUSE BILL 1364

State of Washington

67th Legislature

2021 Regular Session

By Representatives Young and Kloba

1 AN ACT Relating to addressing the impacts of pinnipeds on
2 populations of threatened southern resident orca prey; creating new
3 sections; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that salmon,
6 listed as endangered species, are of great importance to the culture
7 of all peoples of the Pacific Northwest and are an important link in
8 the food chain. Not only are salmon important to humankind, but
9 salmon are a main food source for critically endangered southern
10 resident orcas. The legislature further finds that pinnipeds such as
11 sea lions and seals are also culturally valuable and protected under
12 federal law, but nevertheless pose a significant threat to salmon and
13 orca recovery through ongoing and excessive predation. Because of the
14 particularly delicate wildlife management questions posed by
15 competition between pinnipeds, orcas, and fish, the state should seek
16 feedback from a wide array of affected tribes and other parties while
17 deciding on an appropriate course of action to address pinniped
18 predation of salmon.

19 (2) The majestic southern resident orca is gravely endangered in
20 part due to lack of prey exacerbated by an over expansion of a
21 California sea lion population in the United States, which has grown

1 by 6.2 percent, on average, since 1983. The legislature recognizes
2 recent work done by the state in cooperation with tribes and
3 neighboring states using increased management authority from the
4 federal government to address pinniped populations in the lower
5 Columbia river. The legislature also recognizes the importance of not
6 just continuing those efforts but also expanding the use of similar
7 tools to manage predatory pinnipeds in Puget Sound, where southern
8 resident orcas historically have been seen in the summer and fall.

9 (3) Further, the legislature recognizes the sovereignty of
10 federally recognized tribes and intends to ensure that the tribes
11 have the appropriate tools to continue pinniped management efforts as
12 they deem appropriate.

13 (4) Therefore, the legislature intends to preserve and protect
14 both the orcas and the salmon of the Pacific Northwest by encouraging
15 the state to work in cooperation with Indian tribes, the scientific
16 community, and various other entities to maximize their use of the
17 tools available to address the threat of pinnipeds to the salmon
18 while minimizing negative impacts to protected or endangered species.

19 NEW SECTION. **Sec. 2.** (1)(a) The department must propose an
20 action to file for a permit under any of sections 101, 103, 104, 109,
21 and 120 of the federal marine mammal protection act, 16 U.S.C. Sec.
22 1374 and 1389, as necessary, for the maximum lethal take of
23 pinnipeds, taking into consideration other potentially relevant
24 sources of take. The goal of this take must be to enhance the
25 survival or recovery of salmon species protected in Washington under
26 RCW 77.12.020 and the federal endangered species act, 16 U.S.C. Sec.
27 1531 et seq., and southern resident orcas protected in Washington
28 under RCW 77.12.020 and the federal marine mammal protection act, 16
29 U.S.C. Sec. 1371. The department must pursue each available federal
30 marine mammal protection act permit option identified in this
31 section, as necessary relative to the success, or lack thereof, of
32 previously attempted permit applications, and must prioritize permit
33 applications that it deems most likely to quickly achieve the goal of
34 enhancing and recovering endangered salmon species and southern
35 resident orcas. The department shall continue any activities
36 authorized by a federal permit pursuant to this section.
37 Additionally, nothing in this section prohibits tribes with treaty
38 rights in Washington from engaging in management activities.

1 (b) In parallel with pursuing actions in (a) of this subsection,
2 the department must solicit input from affected parties regarding the
3 take permit policy options under consideration by the department.
4 Upon the effective date of this section, the department must
5 coordinate an independent science panel to review and evaluate the
6 scientific understanding of the extent and effect of pinniped
7 predation on chinook salmon in Puget Sound and Washington's outer
8 coast. Additionally, the department must convene a management panel
9 of state, tribal, and federal agencies to communicate with the
10 independent science panel, and assess appropriate management actions
11 to include in federal permit applications. The affected parties that
12 the department must consult with include, but are not limited to:

13 (i) Federally recognized Indian tribes with reservations lying
14 within counties that border Puget Sound;

15 (ii) Federally recognized Indian tribes with reservations lying
16 within counties that border the outer coast;

17 (iii) Federally recognized Indian tribes with reservations lying
18 within counties that border the Columbia river;

19 (iv) Commercial fishers;

20 (v) Recreational fishers; and

21 (vi) Conservation organizations.

22 (2) To ensure that permit processes can be perused in a timely
23 and efficient manner affording environmental protections, the
24 department may adopt relevant documents prepared to fulfill the
25 requirements of the national environmental policy act of 1969 for
26 purposes of compliance with chapter 43.21C RCW.

27 (3) For the purposes of this section, "department" means the
28 department of fish and wildlife.

29 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of
31 the state government and its existing public institutions, and takes
32 effect immediately.

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