
SENATE BILL 6268

State of Washington

65th Legislature

2018 Regular Session

By Senators Ranker, Rolfes, Chase, Van De Wege, Conway, Keiser, and Llias

Read first time 01/11/18. Referred to Committee on Agriculture, Water, Natural Resources & Parks.

1 AN ACT Relating to creating the orca protection act; amending RCW
2 77.15.740; adding a new section to chapter 77.15 RCW; creating new
3 sections; making appropriations; and providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that southern
6 resident killer whales, also known as orcas, are critically
7 endangered with the population at a thirty-year low of seventy-six
8 whales and scientific evidence building that they are nutritionally
9 stressed. These marine icons are an apex predator species that
10 indicate the overall health of Washington state's marine ecosystems.
11 They also are culturally significant to many Washington tribes and
12 the region as a whole, and are the foundation of an estimated sixty
13 million dollar tourist industry. Existing threats to the orca include
14 a decline in food sources, including Chinook salmon, as well as
15 environmental and human pressures. Therefore, the legislature intends
16 to take immediate action to reverse this emergency.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.15
18 RCW to read as follows:

19 (1) In order to facilitate the enforcement of RCW 77.15.740,
20 provide extra protection to newborn calves, and protect critical

1 feeding areas, the department must conduct a minimum of one hundred
2 patrols during the twenty-two most active weeks for southern resident
3 killer whale viewing activity each year. In doing so, the department
4 must prioritize Wednesday through Monday patrols when recreational
5 whale watching activity is most active.

6 (2) The legislature recognizes that weather and sea conditions
7 may impact the department's ability to conduct the number of patrols
8 identified in subsection (1) of this section. If the department does
9 not complete the identified number of patrols during a given annual
10 period, the department must provide a written explanation for, and
11 documentation of, the reasons for the missed patrols to the
12 commission and appropriate committees of the legislature.

13 **Sec. 3.** RCW 77.15.740 and 2014 c 48 s 22 are each amended to
14 read as follows:

15 (1) Except as provided in subsection (2) of this section, it is
16 unlawful to:

17 (a) Cause a vessel or other object to approach, in any manner,
18 within two hundred yards of a southern resident orca whale;

19 (b) Position a vessel to be in the path of a southern resident
20 orca whale at any point located within four hundred yards of the
21 whale. This includes intercepting a southern resident orca whale by
22 positioning a vessel so that the prevailing wind or water current
23 carries the vessel into the path of the whale at any point located
24 within four hundred yards of the whale;

25 (c) Fail to disengage the transmission of a vessel that is within
26 two hundred yards of a southern resident orca whale; ~~((or))~~

27 (d) Feed a southern resident orca whale; or

28 (e) Exceed a speed of seven knots within one-half mile of a
29 southern resident orca whale.

30 (2) A person is exempt from subsection (1) of this section if
31 that person is:

32 (a) Operating a federal government vessel in the course of his or
33 her official duties, or operating a state, tribal, or local
34 government vessel when engaged in official duties involving law
35 enforcement, search and rescue, or public safety;

36 (b) Operating a vessel in conjunction with a vessel traffic
37 service established under 33 C.F.R. and following a traffic
38 separation scheme, or complying with a vessel traffic service measure

1 of direction. This also includes support vessels escorting ships in
2 the traffic lanes, such as tug boats;

3 (c) Engaging in an activity, including scientific research,
4 pursuant to a permit or other authorization from the national marine
5 fisheries service and the department;

6 (d) Lawfully engaging in a treaty Indian or commercial fishery
7 that is actively setting, retrieving, or closely tending fishing
8 gear;

9 (e) Conducting vessel operations necessary to avoid an imminent
10 and serious threat to a person, vessel, or the environment, including
11 when necessary for overall safety of navigation and to comply with
12 state and federal navigation requirements; or

13 (f) Engaging in rescue or clean-up efforts of a beached southern
14 resident orca whale overseen, coordinated, or authorized by a
15 volunteer stranding network.

16 (3) For the purpose of this section, "vessel" includes aircraft
17 while on the surface of the water, and every description of
18 watercraft on the water that is used or capable of being used as a
19 means of transportation on the water. However, "vessel" does not
20 include inner tubes, air mattresses, sailboards, and small rafts, or
21 flotation devices or toys customarily used by swimmers.

22 (4)(a) A violation of this section is a natural resource
23 infraction punishable under chapter 7.84 RCW and carries a fine of
24 five hundred dollars, not including statutory assessments added
25 pursuant to RCW 3.62.090.

26 (b) A person who qualifies for an exemption under subsection (2)
27 of this section may offer that exemption as an affirmative defense,
28 which that person must prove by a preponderance of the evidence.

29 NEW SECTION. **Sec. 4.** (1) The department of fish and wildlife
30 must coordinate with appropriate federal, tribal, and nongovernmental
31 partners to identify research and management actions undertaken since
32 the federal southern resident killer whale recovery plan adoption in
33 2008 that relate to impacts from human-generated marine noise. The
34 department of fish and wildlife must identify any relevant research
35 findings and management actions undertaken. Additionally, the
36 department must identify options and recommendations on potential
37 actions the state can take, through departmental or legislative
38 action, to further killer whale recovery efforts by addressing
39 impacts from noise.

1 (2) The department of fish and wildlife must provide its
2 analysis, options, and recommendations to the appropriate committees
3 of the legislature by December 1, 2018.

4 NEW SECTION. **Sec. 5.** (1) The Salish Sea institute at Western
5 Washington University must convene a meeting to improve the
6 coordination of recovery strategies for southern resident killer
7 whales between Washington and British Columbia, and to establish
8 timelines for recovery actions. The meeting must occur by June 30,
9 2018. The institute must provide a summary of the meeting and
10 outcomes to the appropriate committees of the legislature within
11 thirty days of the conclusion of the meeting.

12 (2) This section expires December 31, 2018.

13 NEW SECTION. **Sec. 6.** (1) The sum of eight hundred seventy-five
14 thousand dollars, or as much thereof as may be necessary, is
15 appropriated for the fiscal year ending June 30, 2018, from the
16 general fund to the department of fish and wildlife for the purposes
17 of this act.

18 (2) The sum of one million two hundred thousand dollars, or as
19 much thereof as may be necessary, is appropriated for the fiscal year
20 ending June 30, 2019, from the general fund to the department of fish
21 and wildlife for the purposes of this act.

22 NEW SECTION. **Sec. 7.** Moneys provided under this act may not
23 supplant existing resources used by the department of fish and
24 wildlife for purposes of southern resident killer whale protection,
25 recovery, or associated hatchery production.

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