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**ENGROSSED SUBSTITUTE SENATE BILL 5886**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senator Ranker)

AN ACT Relating to creating the orca protection act; amending RCW 77.15.740; reenacting and amending RCW 46.17.220 and 46.68.425; adding a new section to chapter 77.15 RCW; creating new sections; and providing expiration dates.

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

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

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

(1) In order to facilitate the enforcement of RCW 77.15.740, provide extra protection to newborn calves, and protect critical feeding areas, and subject to the availability of amounts appropriated for this specific purpose, the department must conduct a minimum of one hundred patrols during the twenty-two most active weeks for southern resident killer whale viewing activity each year. In doing so, the department must prioritize Wednesday through Monday patrols when recreational whale watching activity is most active. In the event that orca whales are not present in the marine waters of Puget Sound, emphasis must be placed on patrols that protect living marine resources in northern Puget Sound.

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

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

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

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

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

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

(d) Feed a southern resident orca whale; or

(e) Cause a vessel to exceed a speed over ground of seven knots within four hundred yards of a southern resident orca whale.

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

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

(b) Operating a vessel in conjunction with a vessel traffic service established under 33 C.F.R. and following a traffic separation scheme, or complying with a vessel traffic service measure of direction. This also includes support vessels escorting ships in the traffic lanes, such as tug boats;

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

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

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

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

(g) Not aware of their proximity to a southern resident orca whale due to conditions in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms, or any other similar cases, in which case the fines and related statutory assessments under subsection (4) of this section must be waived; or

(h) Aware of their proximity to a southern resident orca whale and makes reasonable efforts to act in accordance with the distance requirements set forth in subsection (1) of this section, but is still approached by a southern resident orca whale.

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

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

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

NEW SECTION. **Sec.**  (1) Subject to the availability of amounts appropriated for this specific purpose, the department of fish and wildlife must coordinate with appropriate federal, tribal, county, and nongovernmental partners to identify research and management actions undertaken since the federal southern resident killer whale recovery plan adoption in 2008 that relate to impacts from human-generated marine noise. The department of fish and wildlife must identify any relevant research findings and management actions undertaken. Additionally, the department must identify options and recommendations on potential actions the state can take, through departmental or legislative action, to further killer whale recovery efforts by addressing impacts from noise.

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

(3) This section expires June 30, 2019.

NEW SECTION. **Sec.**  (1) The Salish Sea institute at Western Washington University must convene a meeting to improve the coordination of recovery strategies for southern resident killer whales between Washington and British Columbia, and to establish timelines for recovery actions. The meeting must occur by December 31, 2018. The institute must provide a summary of the meeting and outcomes to the appropriate committees of the legislature within thirty days of the conclusion of the meeting.

(2) This section expires June 30, 2019.

**Sec.**  RCW 46.17.220 and 2017 c 25 s 2 and 2017 c 11 s 3 are each reenacted and amended to read as follows:

(1) In addition to all fees and taxes required to be paid upon application for a vehicle registration in chapter 46.16A RCW, the holder of a special license plate shall pay the appropriate special license plate fee as listed in this section.

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| PLATE TYPE | INITIAL FEE | RENEWAL FEE | DISTRIBUTED UNDER |
| (a) 4-H | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (b) Amateur radio license | $ 5.00 | N/A | RCW 46.68.070 |
| (c) Armed forces | $ 40.00 | $ 30.00 | RCW 46.68.425 |
| (d) Baseball stadium | $ 40.00 | $ 30.00 | Subsection (2) of this section |
| (e) Breast cancer awareness | $ 40.00 | $ 30.00 | RCW 46.68.425 |
| (f) Collector vehicle | $ 35.00 | N/A | RCW 46.68.030 |
| (g) Collegiate | $ 40.00 | $ 30.00 | RCW 46.68.430 |
| (h) Endangered wildlife | ((~~$ 40.00~~)) $ 45.00 | ((~~$ 30.00~~)) $ 35.00 | RCW 46.68.425 |
| (i) Fred Hutch | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (j) Gonzaga University alumni association | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (k) Helping kids speak | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (l) Horseless carriage | $ 35.00 | N/A | RCW 46.68.030 |
| (m) Keep kids safe | $ 45.00 | $ 30.00 | RCW 46.68.425 |
| (n) Law enforcement memorial | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (o) Military affiliate radio system | $ 5.00 | N/A | RCW 46.68.070 |
| (p) Music matters | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (q) Purple Heart | $ 40.00 | $ 30.00 | RCW 46.68.425 |
| (r) Professional firefighters and paramedics | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (s) Ride share | $ 25.00 | N/A | RCW 46.68.030 |
| (t) Seattle Seahawks | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (u) Seattle Sounders FC | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (v) Seattle University | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (w) Share the road | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (x) Ski & ride Washington | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (y) Square dancer | $ 40.00 | N/A | RCW 46.68.070 |
| (z) State flower | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (aa) Volunteer firefighters | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (bb) Washington farmers and ranchers | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (cc) Washington lighthouses | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (dd) Washington state aviation | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (ee) Washington state parks | $ 40.00 | $ 30.00 | RCW 46.68.425 |
| (ff) Washington state wrestling | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (gg) Washington tennis | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (hh) Washington's fish collection | $ 40.00 | $ 30.00 | RCW 46.68.425 |
| (ii) Washington's national parks | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (jj) Washington's wildlife collection | $ 40.00 | $ 30.00 | RCW 46.68.425 |
| (kk) We love our pets | $ 40.00 | $ 30.00 | RCW 46.68.420 |
| (ll) Wild on Washington | $ 40.00 | $ 30.00 | RCW 46.68.425 |

(2) After deducting administration and collection expenses for the sale of baseball stadium license plates, the remaining proceeds must be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

**Sec.**  RCW 46.68.425 and 2016 c 31 s 3 and 2016 c 30 s 4 are each reenacted and amended to read as follows:

(1) The department shall:

(a) Collect special license plate fees established under RCW 46.17.220;

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the proceeds to the motor vehicle fund until the department determines that the state has been reimbursed for the cost of implementing the special license plate. Upon determination by the department that the state has been reimbursed, the state treasurer shall credit the remaining special license plate fees to the following accounts by special license plate type:

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| --- | --- | --- |
| SPECIAL LICENSE PLATE TYPE | ACCOUNT | CONDITIONS FOR USE OF FUNDS |
| Armed forces | RCW 43.60A.140 | As specified in RCW 43.60A.140(4) |
| Breast cancer awareness | RCW 43.70.327 | Must be used only by the department of health for efforts consistent with the breast, cervical, and colon health program |
| Endangered wildlife | RCW 77.12.170 | Must be used only for the department of fish and wildlife's endangered wildlife program activities, with at least five dollars of each initial or renewal plate used for orca-related activities |
| Keep kids safe | RCW 43.121.100 | As specified in RCW 43.121.100 |
| Purple Heart | RCW 43.60A.140 | As specified in RCW 43.60A.140(4) |
| Washington state parks | RCW 79A.05.059 | Provide public educational opportunities and enhancement of Washington state parks |
| Washington's fish collection | RCW 77.12.170 | Only for the department of fish and wildlife's use to support steelhead species management activities including, but not limited to, activities supporting conservation, recovery, and research to promote healthy, fishable steelhead |
| Washington's wildlife collection | RCW 77.12.170 | Only for the department of fish and wildlife's game species management activities |
| Wild on Washington | RCW 77.12.170 | Dedicated to the department of fish and wildlife's watchable wildlife activities, as defined in RCW 77.32.560 |

NEW SECTION. **Sec.**  Sections 6 and 7 of this act apply to registrations that are due or become due on or after April 1, 2019.

**--- END ---**