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HOUSE BILL 2514

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State of Washington                      60th Legislature                      2008 Regular Session

By Representatives Quall, Appleton, McCoy, Morris, McIntire, Nelson, Kagi, and Upthegrove

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1            AN ACT Relating to protecting southern resident orca whales from  
2 disturbances by vessels; adding a new section to chapter 77.15 RCW;  
3 adding a new section to chapter 77.12 RCW; creating new sections; and  
4 prescribing penalties.

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

6            NEW SECTION.    **Sec. 1.** The legislature finds that the resident  
7 population of orca whales in Washington waters (*Orcinus orca*), commonly  
8 referred to as the southern residents, are enormously significant to  
9 the state. These highly social, intelligent, and playful marine  
10 mammals, which the legislature designated as the official marine mammal  
11 of the state of Washington, serve as a symbol of the Pacific Northwest  
12 and illustrate the biological diversity and rich natural heritage that  
13 all Washington citizens and its visitors enjoy.

14            However, the legislature also finds that the southern resident  
15 orcas are currently in a serious decline. Southern residents  
16 experienced an almost twenty percent decline between 1996 and 2001.  
17 The federal government listed this orca population as depleted in 2003,  
18 and as an endangered species in 2005. The federal government has

1 identified impacts from vessels as a significant threat to these marine  
2 mammals.

3 In 2006, after listing the southern resident orcas as endangered,  
4 the federal government designated critical orca habitat and released a  
5 proposed recovery plan for the southern resident orcas. The federal  
6 government has initiated the process to adopt orca conservation rules,  
7 but this process may be lengthy. Additionally, although existing whale  
8 and wildlife viewing guidelines are an excellent educational resource,  
9 these guidelines are voluntary measures that cannot be enforced.

10 Therefore, the legislature intends to protect southern resident  
11 orca whales from impacts from vessels, and to educate the public on how  
12 to reduce the risk of disturbing these important marine mammals.

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

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

17 (a) Knowingly approach, by any means, within three hundred feet of  
18 a southern resident orca whale (*Orcinus orca*);

19 (b) Knowingly cause a vessel or other object to approach within  
20 three hundred feet of a southern resident orca whale;

21 (c) Knowingly intercept a southern resident orca whale. A person  
22 intercepts a southern resident orca whale when that person knowingly  
23 places a vessel or allows a vessel to remain in the path of a whale and  
24 the whale approaches within three hundred feet of that vessel;

25 (d) Fail to disengage the transmission of a vessel that is within  
26 three hundred feet of a southern resident orca whale, for which the  
27 vessel operator is strictly liable; or

28 (e) Feed a southern resident orca whale, for which any person  
29 feeding a southern resident orca whale is strictly liable.

30 (2) A person is exempt from subsection (1) of this section where:

31 (a) That person reasonably determines that compliance with the  
32 requirements of subsection (1) of this section will threaten the safety  
33 of the vessel, the vessel's crew or passengers, or is not feasible due  
34 to vessel design limitations, or because the vessel is restricted in  
35 its ability to maneuver due to wind, current, tide, or weather;

36 (b) That person is lawfully participating in a commercial fishery

1 and is engaged in actively setting, retrieving, or closely tending  
2 commercial fishing gear;

3 (c) That person is acting in the course of official duty for a  
4 state, federal, tribal, or local government agency; or

5 (d) That person is acting pursuant to and consistent with  
6 authorization from a state or federal government agency.

7 (3) For the purpose of this section, "vessel" means every  
8 description of watercraft on the water, including a seaplane, capable  
9 of being used as a means of transportation on the water.

10 (4) A violation of this section is a natural resource infraction  
11 punishable under chapter 7.84 RCW.

12 NEW SECTION. **Sec. 3.** The legislature encourages the state's law  
13 enforcement agencies to utilize existing statutes and regulations to  
14 protect southern resident orca whales from impacts from vessels,  
15 including the vessel operation and enforcement standards contained in  
16 chapter 79A.60 RCW.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 77.12 RCW  
18 to read as follows:

19 The department and the state parks and recreation commission shall  
20 disseminate information about section 2 of this act, whale and wildlife  
21 viewing guidelines, and other responsible wildlife viewing messages to  
22 educate the Washington's citizens on how to reduce the risk of  
23 disturbing southern resident orca whales. The department and the state  
24 parks and recreation commission must, at minimum, disseminate this  
25 information on their internet sites and through appropriate agency  
26 publications, brochures, and other information sources. The department  
27 and the state parks and recreation commission shall also attempt to  
28 reach the state's boating community by coordinating with appropriate  
29 state and nongovernmental entities to provide this information at  
30 marinas, boat shows, boat dealers, during boating safety training  
31 courses, and in conjunction with vessel registration or licensing.

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