H-0450.2

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**HOUSE BILL 1364**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Representatives Young, Kloba, Chase, and Jacobsen

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

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

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

(2) The majestic southern resident orca is gravely endangered in part due to lack of prey exacerbated by an over expansion of a California sea lion population in the United States, which has grown by 6.2 percent, on average, since 1983. The legislature recognizes recent work done by the state in cooperation with tribes and neighboring states using increased management authority from the federal government to address pinniped populations in the lower Columbia river. The legislature also recognizes the importance of not just continuing those efforts but also expanding the use of similar tools to manage predatory pinnipeds in Puget Sound, where southern resident orcas historically have been seen in the summer and fall.

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

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

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

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

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

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

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

(iv) Commercial fishers;

(v) Recreational fishers; and

(vi) Conservation organizations.

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

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

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

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