

SENATE BILL REPORT

2SHB 2514

As Reported By Senate Committee On:
Natural Resources, Ocean & Recreation, February 28, 2008

Title: An act relating to protecting southern resident orca whales from disturbances by vessels.

Brief Description: Protecting orca whales from the impacts from vessels.

Sponsors: House Committee on Apps Subcom GG (originally sponsored by Representatives Quall, Appleton, McCoy, Morris, McIntire, Nelson, Kagi and Upthegrove).

Brief History: Passed House: 2/15/08, 67-27.

Committee Activity: Natural Resources, Ocean & Recreation: 2/28/08 [DPA, w/oRec]

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: Do pass as amended.

Signed by Senators Jacobsen, Chair; Hatfield, Vice Chair; Morton, Ranking Minority Member; Fraser, Hargrove, Rockefeller and Spanel.

Minority Report: That it be referred without recommendation.

Signed by Senator Stevens.

Staff: Curt Gavigan (786-7437)

Background: By statute, the southern resident orca whale (orca) is the official marine mammal of the state of Washington. During the spring, summer, and fall the orca's range includes the Puget Sound.

The federal government listed the orca as endangered under the Endangered Species Act in November 2005. In January 2008 the federal government released a recovery plan for these orcas. The recovery plan identifies vessel effects as having potential detrimental impacts on the orca population. The federal government has also initiated a related rulemaking process, requesting public comment on whether and, if so, what type of regulations or other measures would be appropriate to protect orcas from vessel effects.

In 2007 San Juan County passed an ordinance prohibiting actions including approaching within 300 feet of an orca, remaining or placing a vessel in the path of an orca, failing to yield to an orca, and feeding an orca.

Natural resource infractions are civil, not criminal, offenses. An infraction is initiated by issuing a notice of infraction. Such notice represents a determination that an infraction has

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been committed. A person may contest the violation. If so, the state must demonstrate that the violation occurred by a preponderance of the evidence.

Summary of Bill (Recommended Amendments): Subject to a natural resource infraction, persons may not:

- approach within 300 feet of an orca;
- cause a vessel or other object to approach within 300 feet of an orca;
- intercept an orca, which involves placing or allowing a vessel to remain in the path of an orca and the whale approaching within 300 feet of the vessel;
- fail to disengage the transmission of a vessel that is within 300 feet of an orca; or
- feed an orca.

Exemptions exist for vessel safety, persons participating in specified commercial fishery activities, persons acting in a law enforcement capacity, or persons acting with authorization from the state or federal government.

Washington's law enforcement agencies are encouraged to utilize existing statutes and regulations, including current vessel operation requirements, to protect orcas from impacts from vessels.

The Department of Fish and Wildlife and the State Parks and Recreation Commission must disseminate information about the requirements of the bill, orca and wildlife viewing guidelines, and other responsible wildlife messages.

EFFECT OF CHANGES MADE BY NATURAL RESOURCES, OCEAN & RECREATION (Recommended Amendments): Specifies that the vessel safety exemption contained in the bill applies from the perspective of a "reasonably prudent person."

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed. However, the bill is null and void if not funded in the budget.

Staff Summary of Public Testimony: None.

Persons Testifying: No one.