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**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)**

READ FIRST TIME 02/23/18.

1            AN ACT Relating to creating the orca protection act; amending RCW  
2 77.15.740; reenacting and amending RCW 46.17.220 and 46.68.425;  
3 adding a new section to chapter 77.15 RCW; creating new sections;  
4 providing an effective date; and providing expiration dates.

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

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

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

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

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

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

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

23 (a) Cause a vessel, aircraft, remotely controlled aerial vehicle,  
24 or other object to approach, in any manner, within two hundred yards  
25 of a southern resident orca whale;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1        NEW SECTION.    **Sec. 4.**    (1) Subject to the availability of amounts  
2 appropriated for this specific purpose, the department of fish and  
3 wildlife must coordinate with appropriate federal, tribal, county,  
4 and nongovernmental partners to identify research and management  
5 actions undertaken since the federal southern resident killer whale  
6 recovery plan adoption in 2008 that relate to impacts from human-  
7 generated marine noise. The department of fish and wildlife must  
8 identify any relevant research findings and management actions  
9 undertaken. Additionally, the department must identify options and  
10 recommendations on potential actions the state can take, through  
11 departmental or legislative action, to further killer whale recovery  
12 efforts by addressing impacts from noise.

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

16        (3) This section expires June 30, 2019.

17        NEW SECTION.    **Sec. 5.**    (1) The Salish Sea institute at Western  
18 Washington University must convene a meeting to improve the  
19 coordination of recovery strategies for southern resident killer  
20 whales between Washington and British Columbia, and to establish  
21 timelines for recovery actions. The meeting must occur by December  
22 31, 2018. The institute must provide a summary of the meeting and  
23 outcomes to the appropriate committees of the legislature within  
24 thirty days of the conclusion of the meeting.

25        (2) This section expires June 30, 2019.

26        **Sec. 6.**    RCW 46.17.220 and 2017 c 25 s 2 and 2017 c 11 s 3 are  
27 each reenacted and amended to read as follows:

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

32	PLATE TYPE	INITIAL	RENEWAL	DISTRIBUTED
33		FEE	FEE	UNDER
34	(a) 4-H	\$ 40.00	\$ 30.00	RCW 46.68.420
35	(b) Amateur radio license	\$ 5.00	N/A	RCW 46.68.070
36	(c) Armed forces	\$ 40.00	\$ 30.00	RCW 46.68.425

1	(d) Baseball stadium	\$ 40.00	\$ 30.00	Subsection (2) of
2				this section
3	(e) Breast cancer awareness	\$ 40.00	\$ 30.00	RCW 46.68.425
4	(f) Collector vehicle	\$ 35.00	N/A	RCW 46.68.030
5	(g) Collegiate	\$ 40.00	\$ 30.00	RCW 46.68.430
6	(h) Endangered wildlife	<del>(\$ 40.00)</del>	<del>(\$ 30.00)</del>	RCW 46.68.425
7		<u>\$ 45.00</u>	<u>\$ 35.00</u>	
8	(i) Fred Hutch	\$ 40.00	\$ 30.00	RCW 46.68.420
9	(j) Gonzaga University	\$ 40.00	\$ 30.00	RCW 46.68.420
10	alumni association			
11	(k) Helping kids speak	\$ 40.00	\$ 30.00	RCW 46.68.420
12	(l) Horseless carriage	\$ 35.00	N/A	RCW 46.68.030
13	(m) Keep kids safe	\$ 45.00	\$ 30.00	RCW 46.68.425
14	(n) Law enforcement	\$ 40.00	\$ 30.00	RCW 46.68.420
15	memorial			
16	(o) Military affiliate radio	\$ 5.00	N/A	RCW 46.68.070
17	system			
18	(p) Music matters	\$ 40.00	\$ 30.00	RCW 46.68.420
19	(q) Purple Heart	\$ 40.00	\$ 30.00	RCW 46.68.425
20	(r) Professional firefighters	\$ 40.00	\$ 30.00	RCW 46.68.420
21	and paramedics			
22	(s) Ride share	\$ 25.00	N/A	RCW 46.68.030
23	(t) Seattle Seahawks	\$ 40.00	\$ 30.00	RCW 46.68.420
24	(u) Seattle Sounders FC	\$ 40.00	\$ 30.00	RCW 46.68.420
25	(v) Seattle University	\$ 40.00	\$ 30.00	RCW 46.68.420
26	(w) Share the road	\$ 40.00	\$ 30.00	RCW 46.68.420
27	(x) Ski & ride Washington	\$ 40.00	\$ 30.00	RCW 46.68.420
28	(y) Square dancer	\$ 40.00	N/A	RCW 46.68.070
29	(z) State flower	\$ 40.00	\$ 30.00	RCW 46.68.420
30	(aa) Volunteer firefighters	\$ 40.00	\$ 30.00	RCW 46.68.420
31	(bb) Washington farmers	\$ 40.00	\$ 30.00	RCW 46.68.420
32	and ranchers			
33	(cc) Washington	\$ 40.00	\$ 30.00	RCW 46.68.420
34	lighthouses			

1	(dd) Washington state	\$ 40.00	\$ 30.00	RCW 46.68.420
2	aviation			
3	(ee) Washington state parks	\$ 40.00	\$ 30.00	RCW 46.68.425
4	(ff) Washington state	\$ 40.00	\$ 30.00	RCW 46.68.420
5	wrestling			
6	(gg) Washington tennis	\$ 40.00	\$ 30.00	RCW 46.68.420
7	(hh) Washington's fish	\$ 40.00	\$ 30.00	RCW 46.68.425
8	collection			
9	(ii) Washington's national	\$ 40.00	\$ 30.00	RCW 46.68.420
10	parks			
11	(jj) Washington's wildlife	\$ 40.00	\$ 30.00	RCW 46.68.425
12	collection			
13	(kk) We love our pets	\$ 40.00	\$ 30.00	RCW 46.68.420
14	(ll) Wild on Washington	\$ 40.00	\$ 30.00	RCW 46.68.425

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

23 **Sec. 7.** RCW 46.68.425 and 2016 c 31 s 3 and 2016 c 30 s 4 are  
24 each reenacted and amended to read as follows:

25 (1) The department shall:

26 (a) Collect special license plate fees established under RCW  
27 46.17.220;

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

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

33 (2) The state treasurer shall credit the proceeds to the motor  
34 vehicle fund until the department determines that the state has been  
35 reimbursed for the cost of implementing the special license plate.

1 Upon determination by the department that the state has been  
2 reimbursed, the state treasurer shall credit the remaining special  
3 license plate fees to the following accounts by special license plate  
4 type:

5	SPECIAL LICENSE	ACCOUNT	CONDITIONS FOR
6	PLATE TYPE		USE OF FUNDS
7	Armed forces	RCW 43.60A.140	As specified in RCW
8			43.60A.140(4)
9	Breast cancer awareness	RCW 43.70.327	Must be used only by the
10			department of health for
11			efforts consistent with
12			the breast, cervical, and
13			colon health program
14	Endangered wildlife	RCW 77.12.170	Must be used only for
15			the department of fish
16			and wildlife's
17			endangered wildlife
18			program activities, <u>with</u>
19			<u>at least five dollars of</u>
20			<u>each initial or renewal</u>
21			<u>plate used for orca-</u>
22			<u>related activities</u>
23	Keep kids safe	RCW 43.121.100	As specified in RCW
24			43.121.100
25	Purple Heart	RCW 43.60A.140	As specified in RCW
26			43.60A.140(4)
27	Washington state parks	RCW 79A.05.059	Provide public
28			educational
29			opportunities and
30			enhancement of
31			Washington state parks

1	Washington's fish	RCW 77.12.170	Only for the department
2	collection		of fish and wildlife's use
3			to support steelhead
4			species management
5			activities including, but
6			not limited to, activities
7			supporting conservation,
8			recovery, and research to
9			promote healthy,
10			fishable steelhead
11	Washington's wildlife	RCW 77.12.170	Only for the department
12	collection		of fish and wildlife's
13			game species
14			management activities
15	Wild on Washington	RCW 77.12.170	Dedicated to the
16			department of fish and
17			wildlife's watchable
18			wildlife activities, as
19			defined in RCW
20			77.32.560

21        NEW SECTION.    **Sec. 8.**    Sections 6 and 7 of this act take effect  
22    January 1, 2019.

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