
SUBSTITUTE SENATE BILL 6268

State of Washington

65th Legislature

2018 Regular Session

By Senate Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Ranker, Rolfes, Chase, Van De Wege, Conway, Keiser, Lillas, Frockt, Hasegawa, Hunt, Palumbo, and Saldaña)

READ FIRST TIME 02/02/18.

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

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

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

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

19 In order to facilitate the enforcement of RCW 77.15.740, provide
20 extra protection to newborn calves, and protect critical feeding

1 areas, the department must conduct patrols during the twenty-two most
2 active weeks for southern resident killer whale viewing activity each
3 year. In doing so, the department must prioritize Wednesday through
4 Monday patrols when recreational whale watching activity is most
5 active.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 NEW SECTION. **Sec. 4.** (1) The department of fish and wildlife
25 must coordinate with appropriate federal, tribal, county, and
26 nongovernmental partners to identify research and management actions
27 undertaken since the federal southern resident killer whale recovery
28 plan adoption in 2008 that relate to impacts from human-generated
29 marine noise. The department of fish and wildlife must identify any
30 relevant research findings and management actions undertaken.
31 Additionally, the department must identify options and
32 recommendations on potential actions the state can take, through
33 departmental or legislative action, to further killer whale recovery
34 efforts by addressing impacts from noise.

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

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

1 NEW SECTION. **Sec. 5.** (1) The Salish Sea institute at Western
2 Washington University must convene a meeting to improve the
3 coordination of recovery strategies for southern resident killer
4 whales between Washington and British Columbia, and to establish
5 timelines for recovery actions. The meeting must occur by December
6 31, 2020. The institute must provide a summary of the meeting and
7 outcomes to the appropriate committees of the legislature within
8 thirty days of the conclusion of the meeting.
9 (2) This section expires December 31, 2020.

--- END ---