

HOUSE BILL REPORT

ESSB 5886

As Reported by House Committee On: Appropriations

Title: An act relating to creating the orca protection act.

Brief Description: Creating the orca protection act.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senator Ranker).

Brief History:

Committee Activity:

Appropriations: 3/7/18 [DP].

Brief Summary of Engrossed Substitute Bill

- Requires the Department of Fish and Wildlife, subject to appropriations, to conduct certain enforcement and research actions related to southern resident orca whales.
- Increases the fees for endangered wildlife special license plates by \$5 and dedicates the revenue to orca-related activities.
- Creates new infractions for certain behavior near orca whales, as well as new exemptions to the infractions.
- Requires Western Washington University to hold a meeting to coordinate orca whale recovery between Washington and British Columbia.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 17 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Bergquist, Cody, Fitzgibbon, Hansen, Hudgins, Jinkins, Kagi, Pettigrew, Pollet, Sawyer, Senn, Springer, Stanford, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 15 members: Representatives Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Buys, Caldier, Condotta, Graves, Haler, Lytton, Manweller, Schmick, Taylor, Vick, Volz and Wilcox.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Without recommendation. Signed by 1 member: Representative Harris.

Staff: Dan Jones (786-7118).

Background:

Southern Resident Orca Whales.

Southern resident orca whales are the only known resident population of orca whales in the United States, and are listed as an endangered species under federal and state law. According to the National Oceanic and Atmospheric Administration, the current population of southern resident orca whales is approximately 76.

Natural Resource Infractions.

Several actions involving close proximity to southern resident orca whales are considered natural resource infractions, including approaching with a vessel or other object within 200 yards. The fine for such infractions is \$500 plus any additional assessments required by statute. There are a number of exemptions to these infractions, such as vessels engaged in official government duties or vessels attempting to avoid an imminent threat.

Special License Plates.

The Department of Licensing (DOL) issues special vehicle license plates that may be used in place of standard plates. The DOL collects special license plate fees and, for administrative expenses, it deducts an amount not to exceed \$12 for new plate issuance and \$2 for renewal. Special license plates include the endangered wildlife plate. The initial fee is \$40 and renewal fee is \$30, in addition to other registration fees, with revenues used for the Department of Fish and Wildlife's endangered wildlife program activities.

Summary of Bill:

Department of Fish and Wildlife Responsibilities.

Subject to the availability of amounts appropriated, the Department of Fish and Wildlife (DFW) must conduct at least 100 patrols during the 22 most active weeks of southern resident orca whale viewing each year. The DFW must prioritize Wednesday through Monday patrols and focus on patrols that protect marine resources if orca whales are not present. If the required number of patrols are not completed, the DFW must report on the missed patrols to the Legislature.

Also subject to amounts appropriated, the DFW must identify research and management actions undertaken since the 2008 Recovery Plan for Southern Resident Killer Whales related to impacts from human-generated marine noise. The DFW must make recommendations on potential actions the state can take to address impacts on southern resident orca whales from noise. This work must be done in coordination with appropriate federal, tribal, county, and nongovernmental partners.

Natural Resource Infractions.

In addition to the current prohibition that applies to vessels, a person may not cause an aircraft to approach within 200 yards of a southern resident orca whale. Additionally, a person may not cause a vessel to exceed a speed over ground of 7 knots within 400 yards of a southern resident orca whale. In addition to existing exemptions, a person is exempt if they make reasonable efforts to meet the distance requirements and fines for a violation must be waived if a person is not aware of their proximity to a southern resident orca whale due to specified visibility conditions.

Special License Plates.

The fees for initial and renewal endangered wildlife special license plates are each increased by \$5 to \$45 and \$35, respectively. The authorized use of revenue from the endangered species license plates is modified to provide that the DFW must use at least \$5 from each plate to fund orca-related activities.

Salish Sea Institute.

The Salish Sea Institute (Institute) at Western Washington University must convene a meeting on coordination of southern resident orca whale recovery strategies between British Columbia and Washington. The meeting must occur by December 31, 2018, and the Institute must provide a meeting summary to the Legislature within 30 days of the meeting.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 6, 2018.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Southern resident orca whales are an important part of our culture, environment, and economy, and their population is at its lowest point in years. This bill would take meaningful steps towards recovering that population. Increasing enforcement of orca-related restrictions and reducing noise from vessels would help orca whales with their communication and feeding. The bill works well in combination with proposed budget items for orca whale recovery.

(Opposed) None.

Persons Testifying: Penny Becker, Washington Department of Fish and Wildlife; Danielle Shaw, Washington Environmental Council; Clifford Traisman, Washington Conservation Voters; Bruce Wishart, Sierra Club; Jeff Parsons, Puget Sound Partnership; James Rideout, Puyallup Tribe; and Craig Engelking, Lummi Nation.

Persons Signed In To Testify But Not Testifying: None.