
ENGROSSED SUBSTITUTE SENATE BILL 5886

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; and
4 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, or other object to approach, in any
24 manner, within two hundred yards of a southern resident orca whale;

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

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

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

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

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

38 (a) Operating a federal government vessel in the course of his or
39 her official duties, or operating a state, tribal, or local

1 government vessel when engaged in official duties involving law
2 enforcement, search and rescue, or public safety;

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

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

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

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

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

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

26 (h) Aware of their proximity to a southern resident orca whale
27 and makes reasonable efforts to act in accordance with the distance
28 requirements set forth in subsection (1) of this section, but is
29 still approached by a southern resident orca whale.

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

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

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

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

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

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

20 NEW SECTION. **Sec. 5.** (1) The Salish Sea institute at Western
21 Washington University must convene a meeting to improve the
22 coordination of recovery strategies for southern resident killer
23 whales between Washington and British Columbia, and to establish
24 timelines for recovery actions. The meeting must occur by December
25 31, 2018. The institute must provide a summary of the meeting and
26 outcomes to the appropriate committees of the legislature within
27 thirty days of the conclusion of the meeting.

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

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

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

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

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

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

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

- 29 (1) The department shall:
- 30 (a) Collect special license plate fees established under RCW
31 46.17.220;
- 32 (b) Deduct an amount not to exceed twelve dollars for initial
33 issue and two dollars for renewal issue for administration and
34 collection expenses incurred by it; and

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

3 (2) The state treasurer shall credit the proceeds to the motor
4 vehicle fund until the department determines that the state has been
5 reimbursed for the cost of implementing the special license plate.
6 Upon determination by the department that the state has been
7 reimbursed, the state treasurer shall credit the remaining special
8 license plate fees to the following accounts by special license plate
9 type:

SPECIAL LICENSE PLATE TYPE	ACCOUNT	CONDITIONS FOR USE OF FUNDS
Armed forces	RCW 43.60A.140	As specified in RCW 43.60A.140(4)
Breast cancer awareness	RCW 43.70.327	Must be used only by the department of health for efforts consistent with the breast, cervical, and colon health program
Endangered wildlife	RCW 77.12.170	Must be used only for the department of fish and wildlife's endangered wildlife program activities, <u>with</u> <u>at least five dollars of</u> <u>each initial or renewal</u> <u>plate used for orca-</u> <u>related activities</u>
Keep kids safe	RCW 43.121.100	As specified in RCW 43.121.100
Purple Heart	RCW 43.60A.140	As specified in RCW 43.60A.140(4)
Washington state parks	RCW 79A.05.059	Provide public educational opportunities and enhancement of 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 apply to
22 registrations that are due or become due on or after April 1, 2019.

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