

HB 1341 - S COMM AMD

By Committee on Environment, Energy & Technology

NOT CONSIDERED 12/23/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 "**Sec. 1.** RCW 77.15.740 and 2014 c 48 s 22 are each amended to
4 read as follows:

5 (1) Except as provided in subsection (~~((2))~~) (3) of this section,
6 it is unlawful to:

7 (a) Cause a vessel or other object to approach, in any manner,
8 within two hundred yards of a southern resident orca whale;

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

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

17 (d) Feed a southern resident orca whale.

18 (2)(a) Except as provided in subsection (3) of this section, it
19 is unlawful to cause an unmanned aerial system to approach, in any
20 manner, within two hundred yards as measured in any direction,
21 including vertically, of a southern resident orca whale.

22 (b) It is not a violation of this subsection for a person to
23 cause an unmanned aerial system to approach a southern resident orca
24 whale solely by virtue of the unmanned aerial system being in active
25 transit to an unrelated destination.

26 (c) This subsection does not affect the operation of subsection
27 (1) of this section or the application of that subsection to any
28 persons or circumstances.

29 (3) A person is exempt from subsections (1) and (2) of this
30 section if 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.

23 ~~((3))~~ (4) For the purpose of this section ~~((7))~~:

24 (a) "Unmanned aerial system" means an aircraft that is operated
25 without the possibility of human intervention from on or within the
26 aircraft, and any hardware or software associated with its operation;
27 and

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

34 ~~((4))~~ (5)(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
39 ~~((2))~~ (3) of this section may offer that exemption as an

1 affirmative defense, which that person must prove by a preponderance
2 of the evidence."

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3 On page 1, line 2 of the title, after "species;" strike the
4 remainder of the title and insert "and amending RCW 77.15.740."

EFFECT: Rewrites the distance limitation on unmanned aerial systems approaching within a certain distance of southern resident orca whales as its own subsection, rather than as an addition to the subsection prohibiting vessels and other objects from approaching within a certain distance of southern resident orca whales. Specifies that the subsection limiting unmanned aerial systems has no effect on the operation or application of the subsection limiting vessels and other objects.

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