
**Rural Development, Agriculture, &
Natural Resources Committee**

HB 1580

Brief Description: Concerning the protection of southern resident orca whales from vessels.

Sponsors: Representatives Blake, Kretz, Kirby, Peterson, Appleton, Shewmake, Morris, Cody and Jinkins; by request of Office of the Governor.

Brief Summary of Bill

- Increases the distance within which a vessel or other object may not approach a southern resident orca whale.
- Provides additional temporary approach limits for commercial whale watching vessels, and requires the Department of Fish and Wildlife (DFW) to report on the effectiveness of the approach limits.
- Establishes a limited-entry commercial whale watching license, sets fees for the license, and requires the DFW to report on the license program.

Hearing Date: 2/5/19

Staff: Rebecca Lewis (786-7339).

Background:

Southern resident orca whales are the only known resident population in the United States, and are listed as an endangered species under federal and state law.

Under state law, it is unlawful to cause a vessel or other object to approach within 200 yards of a southern resident orca whale, to fail to disengage the transmission of a vessel within 200 yards of a southern resident orca whale, and to position a vessel to be in the path of a southern resident orca whale at any point within 400 yards. A "vessel" includes aircraft on the water surface and watercraft capable of being used for transportation. It does not include inner tubes, air mattresses, sailboards, small rafts, or flotation devices or toys usually used by swimmers.

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.

Exemptions to the approach restrictions include conducting permitted scientific research activities, operating a government vessel when engaged in certain official duties, and lawfully engaging in a treaty Indian or commercial fishery that is actively setting, retrieving, or closely tending fishing gear. A violation of this provision is a natural resource infraction enforced by the Department of Fish and Wildlife, with a penalty of \$500 and statutory assessments.

Summary of Bill:

Vessel Speed and Distance.

The distance within which a vessel or other object may not approach a southern resident orca is increased from within 200 yards to within 400 yards. It is unlawful to fail to disengage the transmission of a vessel within 400 yards, instead of 200 yards, of a southern resident orca. A speed limit of 7 knots at any point located within one-half of a nautical mile of a southern resident orca is established. Commercial fishing vessels in transit are not exempt from the approach and speed restrictions.

Commercial Whale Watching.

Temporary Approach Restrictions.

Commercial whale watching is defined as the act of taking, or offering to take, passengers aboard a vessel in order to view marine mammals in their natural habitat for a fee, and includes operators of commercial vessels as well as kayak rentals. Commercial whale watching operators may not approach within 650 yards in any direction of a southern resident orca until January 1, 2023. The Department of Fish and Wildlife (DFW) must adopt rules, including emergency rules, if necessary, to implement the temporary approach restriction by August 1, 2019.

Limited-Entry Commercial Whale Watching License.

The DFW is directed to implement a limited-entry commercial whale watching license for the inland waters of Washington. Inland waters of Washington” means Puget Sound and related inland marine waters inside the international boundary line between Washington and British Columbia and east of the junction of the Pacific Ocean and Strait of Juan de Fuca, and the rivers and streams that flow into the Puget Sound. The license must be designed to both reduce the daily and cumulative impacts on orca whales and consider the economic viability of license holders. The DFW may only license those who have operated a commercial whale watching business for at least 45 trips in Washington waters over 2016, 2017, and 2018. License and application fees are established in the bill and are based upon the type of vessel and number of passengers. The application fee is \$75. The annual license fees are:

- for kayaks, \$425; and
- for motorized or sailing vessels:
 - \$425 for one to 24 passengers;
 - \$625 for 25 to 50 passengers;
 - \$925 for 51 to 100 passengers;
 - \$1,925 for 101 to 150 passengers; and
 - \$2,925 for 151 or more passengers.

Reporting.

The DFW must report on both the commercial whale watching approach restriction and the limited-entry whale watching license. Both reports are due to the Governor and the Legislature by November 30, 2022.

The report on the approach restriction must analyze its effectiveness and include the best available science on disturbance from commercial whale watching vessel noise and the current status of the population.

The report on the limited-entry whale watching license must contain an analysis of the effectiveness of the program and any recommendations for changes to the license fee structure. The DFW must continue to report every two years until 2026.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 1, relating to vessels approaching southern resident orca whales, and section 2, relating to commercial whale watching vessels approaching southern resident orca whales, which contain an emergency clause and take effect immediately.