

FINAL BILL REPORT

2SSB 5577

C 291 L 19

Synopsis as Enacted

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

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Rolfes, Frockt, Liias, McCoy, Dhingra, Hunt, Keiser, Kuderer, Saldaña and Wilson, C.; by request of Office of the Governor).

Senate Committee on Agriculture, Water, Natural Resources & Parks
Senate Committee on Ways & Means
House Committee on Rural Development, Agriculture, & Natural Resources
House Committee on Appropriations

Background: Role of the Department of Fish and Wildlife. The Department of Fish and Wildlife (DFW) serves as manager of the state's fish and wildlife resources. Among other duties, DFW must protect and manage fish and wildlife, including establishing the time, place, manner, and methods used to harvest or enjoy fish and wildlife.

Background on Orca Whales. The orca or killer whale is the official marine mammal of the state of Washington. Southern resident orca whales are the only known resident population of orcas in the United States. They spend the spring and summer months primarily in the inland marine waters of Washington and British Columbia, and spend the winter months primarily in the coastal waters of the Pacific Ocean between northern California and British Columbia. Southern resident orcas are listed as an endangered species under federal and state law.

Southern Resident Killer Whale Task Force. The Governor issued an executive order in 2018 convening the Southern Resident Killer Whale Task Force (Task Force). The Task Force was directed to identify, prioritize, and support implementing a plan to address three threats to southern resident orca whales identified in the following order: (1) prey availability; (2) contaminants; and (3) disturbance from vessel noise.

Vessel Distance Regulations. Current state law prohibits several actions in the vicinity of a southern resident orca whale including:

- causing a vessel or other object to approach within 200 yards of a southern resident orca;
- positioning a vessel to be in the path of a southern resident orca at any point located within 400 yards of a whale; and

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- failing to disengage the transmission of a vessel within 200 yards of a southern resident orca whale.

A violation of this law is a natural resources infraction with a fine of \$500. Several exemptions exist, including for government vessels on official duty, permitted scientific research, and for navigational safety.

Summary: Vessel Speed and Distance. It is unlawful for a person to cause a vessel to approach or fail to disengage the transmission of a vessel within 300 yards of a southern resident orca. It is unlawful to position a vessel behind a southern resident orca within 400 yards. Additionally, it is unlawful for a person to cause a vessel to exceed a speed of seven knots at any point located within one-half of a nautical mile of a southern resident orca. Commercial fishing vessels in transit are not exempt from the approach and speed restrictions.

Commercial Whale Watching. DFW must implement a commercial whale watching license. License and application fees are established and are based upon the type of vessel and number of passengers. The application fee is \$75. The annual license fee is \$200 and the annual per vessel fees are:

- for kayaks:
 1. \$125 for one to 10 kayaks;
 2. \$225 for 11 to 20 kayaks;
 3. \$425 for 21 to 30 kayaks; and
 4. \$625 for 31 or more kayaks.
- for motorized or sailing vessels:
 1. \$325 for one to 24 passengers;
 2. \$525 for 25 to 50 passengers;
 3. \$825 for 51 to 100 passengers;
 4. \$1,825 for 101 to 150 passengers; and
 5. \$2,825 for 151 or more passengers.

A person operating a commercial whale watching vessel who is not the license holder must hold an alternate operator license or be designated as an alternate operator on the commercial whale watch license. The annual fee for an alternate operator license is \$200.

Commercial whale watching without a permit, or violating DFW rules regarding commercial whale watching, is a misdemeanor, and doing so within one year of the date of a prior conviction is a gross misdemeanor. Upon conviction of a gross misdemeanor, DFW must deny applications for a commercial whale watching license or alternate operator license for up to two years from the conviction.

DFW must adopt rules for holders of a commercial whale watching license for the viewing of southern resident orca whales for the inland waters of Washington by January 1, 2021. The rules must be designed to reduce the daily and cumulative impacts on southern resident orca whales and consider the economic viability of license holders. DFW must consider protections for southern resident orca whales by establishing limitations on:

- the number of commercial whale watching operators;
- the number of days and hours that commercial whale watching operators can operate;

- the duration spent in the vicinity of southern resident orca whales; and
- the areas in which commercial whale watching operators may operate.

Before January 1, 2021, DFW must convene an independent panel of scientists to review the current body of best available science regarding impacts to southern resident orcas by small vessels and commercial whale watching due to disturbance and noise. DFW must report on the effectiveness of and any recommendations for changes to the whale watching rules, license fee structure, and approach distance regulations to the Governor and the Legislature by November 30, 2022. DFW must continue to report every two years until 2026. The tourism marketing plan must include sustainable whale watching as a focus in the plan.

Votes on Final Passage:

Senate	46	3	
House	84	13	(House amended)
Senate	44	5	(Senate concurred)

Effective: July 28, 2019
May 8, 2019 (Section 1)