
SUBSTITUTE SENATE BILL 5330

State of Washington

67th Legislature

2021 Regular Session

By Senate Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Van De Wege, Salomon, Warnick, and Wilson, C.)

READ FIRST TIME 02/12/21.

1 AN ACT Relating to commercial whale watching licenses; amending
2 RCW 77.65.615 and 77.65.620; and declaring an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 77.65.615 and 2019 c 291 s 2 are each amended to
5 read as follows:

6 (1) A commercial whale watching license is required for
7 commercial whale watching operators. The annual fee is two hundred
8 dollars in addition to the annual application fee of seventy-five
9 dollars.

10 (2) The annual fees for a commercial whale watching license as
11 described in subsection (1) of this section must include fees for
12 each motorized or sailing vessel or vessels as follows:

13 (a) One to twenty-four passengers, three hundred twenty-five
14 dollars;

15 (b) Twenty-five to fifty passengers, five hundred twenty-five
16 dollars;

17 (c) Fifty-one to one hundred passengers, eight hundred twenty-
18 five dollars;

19 (d) One hundred one to one hundred fifty passengers, one thousand
20 eight hundred twenty-five dollars; and

1 (e) One hundred fifty-one passengers or greater, two thousand
2 dollars.

3 (3) (a) The annual fees for a commercial whale watching license as
4 described in subsection (1) of this section must include fees for
5 each kayak as follows:

6 ~~((a))~~ (i) One to ten kayaks, one hundred twenty-five dollars;

7 ~~((b))~~ (ii) Eleven to twenty kayaks, two hundred twenty-five
8 dollars;

9 ~~((c))~~ (iii) Twenty-one to thirty kayaks, four hundred twenty-
10 five dollars; and

11 ~~((d))~~ (iv) Thirty-one or more kayaks, six hundred twenty-five
12 dollars.

13 (b) The annual fees in this subsection are waived during the 24-
14 month period beginning May 1, 2021.

15 (4) The holder of a commercial whale watching license for
16 motorized or sailing vessels required under subsection (2) of this
17 section may substitute the vessel designated on the license, or
18 designate a vessel if none has previously been designated, if the
19 license holder:

20 (a) Surrenders the previously issued license to the department;

21 (b) Submits to the department an application that identifies the
22 currently designated vessel, the vessel proposed to be designated,
23 and any other information required by the department; and

24 (c) Pays to the department a fee of thirty-five dollars and an
25 application fee of one hundred five dollars.

26 (5) Unless the license holder owns all vessels identified on the
27 application described in subsection (4)(b) of this section, the
28 department may not change the vessel designation on the license more
29 than once per calendar year.

30 (6) A person who is not the license holder may operate a
31 motorized or sailing commercial whale watching vessel designated on
32 the license only if:

33 (a) The person holds an alternate operator license issued by the
34 director; and

35 (b) The person is designated as an alternate operator on the
36 underlying commercial whale watching license.

37 (7) No individual may hold more than one alternate operator
38 license. An individual who holds an alternate operator license may be
39 designated as an alternate operator on an unlimited number of
40 commercial whale watching licenses.

1 (8) The annual fee for an alternate operator license is two
2 hundred dollars in addition to an annual application fee of seventy-
3 five dollars.

4 (9) The definitions in this subsection apply throughout this
5 section unless the context clearly requires otherwise.

6 (a) "Commercial whale watching" means the act of taking, or
7 offering to take, passengers aboard a vessel in order to view marine
8 mammals in their natural habitat for a fee.

9 (b) "Commercial whale watching operators" includes commercial
10 vessels and kayak rentals that are engaged in the business of whale
11 watching.

12 (c) "Commercial whale watching vessel" means any vessel that is
13 being used as a means of transportation for individuals to engage in
14 commercial whale watching.

15 **Sec. 2.** RCW 77.65.620 and 2019 c 291 s 3 are each amended to
16 read as follows:

17 (1) The department must adopt rules for holders of a commercial
18 whale watching license established in RCW 77.65.615 for the viewing
19 of southern resident orca whales for the inland waters of Washington
20 by January 1, 2021. The rules must be designed to reduce the daily
21 and cumulative impacts on southern resident orca whales and consider
22 the economic viability of license holders. The department shall at a
23 minimum consider protections for southern resident orca whales by
24 establishing limitations on:

25 (a) The number of commercial whale watching operators that may
26 view southern resident orca whales at one time;

27 (b) The number of days and hours that commercial whale watching
28 operators can operate;

29 (c) The duration spent in the vicinity of southern resident orca
30 whales; and

31 (d) The areas in which commercial whale watching operators may
32 operate.

33 (2) The department may phase in requirements, but must adopt
34 rules to implement this section. The department may consider the use
35 of an automatic identification system to enable effective monitoring
36 and compliance.

37 (3) (a) The department may phase in requirements, but must adopt
38 rules pursuant to chapter 34.05 RCW to implement this section
39 including public, industry, and interested party involvement.

1 (b) Until July 1, 2023, the prohibition in WAC 220-460-100 as it
2 existed on the effective date of this section applies only when
3 southern resident orca whales are present within the zone described
4 in that rule.

5 (4) Before January 1, 2021, the department shall convene an
6 independent panel of scientists to review the current body of best
7 available science regarding impacts to southern resident orcas by
8 small vessels and commercial whale watching due to disturbance and
9 noise. The department must use the best available science in the
10 establishment of the southern resident orca whale watching rules and
11 continue to adaptively manage the program using the most current and
12 best available science.

13 (5) The department shall complete an analysis and report to the
14 governor and the legislature on the effectiveness of and any
15 recommendations for changes to the whale watching rules, license fee
16 structure, and approach distance rules by November 30, 2022, and
17 every two years thereafter until 2026. This report must be in
18 compliance with RCW 43.01.036.

19 (6) The definitions in this subsection apply throughout this
20 section unless the context clearly requires otherwise.

21 (a) "Commercial whale watching" has the same meaning as defined
22 in RCW 77.65.615.

23 (b) "Commercial whale watching operators" has the same meaning as
24 defined in RCW 77.65.615.

25 (c) "Inland waters of Washington" means Puget Sound and related
26 inland marine waters, including all salt waters of the state of
27 Washington inside the international boundary line between Washington
28 and British Columbia, and lying east of the junction of the Pacific
29 Ocean and the Strait of Juan de Fuca, and the rivers and streams
30 draining to Puget Sound as mapped by water resource inventory areas 1
31 through 19 in WAC 173-500-040 as it exists on July 1, 2007.

32 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
33 preservation of the public peace, health, or safety, or support of
34 the state government and its existing public institutions, and takes
35 effect immediately.

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