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**SUBSTITUTE SENATE BILL 5885**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senate Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Salomon, Stanford, Hasegawa, Keiser, Lovelett, Nobles, and Rolfes)

READ FIRST TIME 02/03/22.

1 AN ACT Relating to marine shoreline habitat; amending RCW  
2 77.55.231; and adding a new section to chapter 43.21A RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.21A  
5 RCW to read as follows:

6 (1) The department must conduct a baseline survey of Puget Sound  
7 marine shorelines that renews oblique shoreline aerial imagery and  
8 incorporates the use of new technology to create a 360 degree on-the-  
9 water comprehensive view of the shoreline. The initial marine oblique  
10 aerial and on-the-water imagery must be completed by June 30, 2023,  
11 and updated on a regular two-year cycle thereafter. The initial  
12 marine shoreline survey must be completed by June 30, 2024, and  
13 updated on a regular two-year cycle thereafter. The survey must  
14 document and map existing shoreline conditions, structures, and  
15 structure conditions, including structures in disrepair and  
16 structures that potentially are derelict, and must be available to  
17 the public and incorporated into state geographic information system  
18 mapping.

19 (2) Upon completion of regular surveys, state and local  
20 permitting agencies shall consider survey results when exercising or  
21 considering whether to exercise enforcement authority.

1 (3) For the purposes of this section, "Puget Sound" means Puget  
2 Sound and related inland marine waters, including all salt waters of  
3 the state of Washington inside the international boundary line  
4 between Washington and British Columbia, and lying east of the Strait  
5 of Juan de Fuca, including Hood Canal and the San Juan Islands.

6 **Sec. 2.** RCW 77.55.231 and 2021 c 279 s 2 are each amended to  
7 read as follows:

8 (1)(a) Conditions imposed upon a permit must be reasonably  
9 related to the project. The permit conditions must ensure that the  
10 project provides proper protection for fish life, but the department  
11 may not impose conditions that attempt to optimize conditions for  
12 fish life that are out of proportion to the impact of the proposed  
13 project.

14 (b) In the event that any person desires to replace residential  
15 marine shoreline stabilization or armoring, a person must use the  
16 least impacting technically feasible bank protection alternative for  
17 the protection of fish life. Unless the department provides an  
18 exemption depending on the scale and nature of the project, a person  
19 that desires to replace residential marine shoreline stabilization or  
20 armoring must conduct a site assessment to consider the least  
21 impactful alternatives. A person should propose a hard armor  
22 technique only after considering site characteristics such as the  
23 threat to major improvements, wave energy, and other factors in an  
24 analysis of alternatives. The common alternatives identified in  
25 (b)(i) through (vii) of this subsection are in order from most  
26 preferred to least preferred:

27 (i) Remove the structure and restore the beach;

28 (ii) Remove the structure and install native vegetation;

29 (iii) Remove the structure and control upland drainage;

30 (iv) Remove the structure and replace it with a soft structure  
31 constructed of natural materials, including bioengineering;

32 (v) Remove the hard structure and construct upland retaining  
33 walls;

34 (vi) Remove the hard structure and replace it with a hard  
35 structure located landward of the existing structure, preferably at  
36 or above the ordinary high water line; or

37 (vii) Remove the hard structure and replace it with hard  
38 shoreline structure in the same footprint as the existing structure.

1 (c) For the purposes of this subsection, "feasible" means  
2 available and capable of being done after taking into consideration  
3 cost, existing technology, and logistics in light of overall project  
4 purposes.

5 (d)(i) Puget Sound shorelines are unique for their role in  
6 supporting the Puget Sound marine ecosystem, including the food web  
7 that includes marine vegetation, forage fish, Washington's listed  
8 salmon, steelhead, and southern resident orcas.

9 (ii) In the event that any person desires to replace a marine  
10 structure in the waters of Puget Sound, the marine replacement  
11 structure must meet the same design standards as a new structure.

12 (2) The permit must contain provisions allowing for minor  
13 modifications to the plans and specifications without requiring  
14 reissuance of the permit.

15 (3) The permit must contain provisions that allow for minor  
16 modifications to the required work timing without requiring the  
17 reissuance of the permit. "Minor modifications to the required work  
18 timing" means a minor deviation from the timing window set forth in  
19 the permit when there are no spawning or incubating fish present  
20 within the vicinity of the project.

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