
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5885

State of Washington

67th Legislature

2022 Regular Session

By Senate Ways & Means (originally sponsored by Senators Salomon, Stanford, Hasegawa, Keiser, Lovelett, Nobles, and Rolfes)

READ FIRST TIME 02/07/22.

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 five-year cycle thereafter. The initial
12 marine shoreline survey must be completed by June 30, 2024, and
13 updated on a regular five-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 and vessels that potentially are derelict, and must be
17 available to the public and incorporated into state geographic
18 information system 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) Any repair or replacement of a marine structure in the
10 waters of the Puget Sound must be assessed to consider the least
11 impactful alternatives that upgrade the structures to the most recent
12 code standards ensuring that the updates are technically feasible and
13 subject to the alternatives in (b) of this subsection.

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

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

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