

# FINAL BILL REPORT

## ESB 5330

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Synopsis as Enacted

**Brief Description:** Regarding commercial whale watching licenses.

**Sponsors:** Senators Van De Wege, Salomon, Warnick and Wilson, C..

### **Senate Committee on Agriculture, Water, Natural Resources & Parks**

**Background:** In 2019, the Legislature required the Department of Fish and Wildlife (DFW) to implement a commercial whale watching license. License and application fees are based on 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 vary based on the number of vessels and whether the vessels are motorized or human-powered.

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.

The Legislature directed DFW to adopt rules for holders of a commercial whale watching license for viewing 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.

The rules took effect on January 23, 2021 and establish licensing, training, reporting, and compliance monitoring procedures, including reporting of southern resident orca whale sightings. The training and reporting requirements go into effect May 1, 2021. The rules also set limitations on commercial whale watching operators viewing southern resident orca whales, including:

- making it unlawful for more than three motorized commercial whale watching vessels to be within the vicinity of a group of southern resident orca whales or for any operator to be in the vicinity of a group of southern resident orca whales that contains

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- a calf under one year of age or if there is a whale designated as sick or vulnerable;
- setting a no-go zone on the west side of San Juan Island for motorized commercial whale watching vessels, allowing a 100-yard corridor along the shore for commercial kayak tours;
- making it unlawful for motorized commercial whale watching vessels to approach within one-half nautical mile of a southern resident orca whale except during two, two-hour periods from July to September; and
- establishing, for human-powered vessels, a no launching requirement within one-half nautical mile of southern resident orca whales and a raft-up requirement if southern resident orca whales are encountered.

**Summary:** A commercial whale watching business license is required for businesses that engage in the activity of commercial whale watching. A person who operates a motorized or sailing vessel engaged in the business of whale watching must hold a commercial whale watching operator license. Fees for operator licenses are \$100 with a \$75 annual application fee.

A person conducting commercial whale watching via guided kayak tours must hold a kayak guide license issued by the DFW. The person must be designated as a kayak guide on the commercial whale watching business license. The fee for a kayak guide license is \$25 with annual application fee of \$25. Fees based on the number of kayaks owned by a commercial whale watching operation are deleted.

Residency and business requirements do not apply to Canadian individuals or corporations applying for and holding commercial whale watching licenses. Commercial whale watching licenses includes a commercial whale watching business license, a commercial whale watching operator license, or a kayak guide license.

All license and application fees for commercial whale watching businesses are waived for calendar years 2021 and 2022.

**Votes on Final Passage:**

Senate	45	2
House	98	0

**Effective:** May 12, 2021