

The Whale Safe Fishing Act

Section One: This Act may be referred to and cited as the "Whale Safe Fishing Act."

Section Two: Non-Discretionary Mandate for Whale Safe Commercial Fishing

1. Chapter 130 of the Massachusetts General Laws is amended and revised with the addition of the following text:
2. "Section 17B: Providing for Whale and Sea Turtle Safe Commercial Marine Fisheries"
 - (a). "The Secretary of the Executive Office of Energy and Environmental Affairs shall annually make a scientific determination fully justified in writing on whether or not any type of fishing gear to be licensed by the Director is "whale safe," meaning that a specific type of fishing gear to be permitted has not entangled any whale or sea turtle in the past nor it is likely to do so in the future under a reasonably expected set of circumstances. The Director shall then only license fishing gear for the coming year — regardless of any other provision of law — that has been so scientifically determined to be whale and sea turtle safe by the Secretary."
 - (b). "Above any other consideration of law, It is prohibited for the Director to authorize and/or annually license the use of any kind of fishing gear for commercial purposes that has not that same year been previously certified by the Secretary as whale safe."
 - (c). "The Director is prohibited from licensing under any circumstances the use of any kind of fishing gear using vertical buoy ropes and/or gill net or any other kind of gear that basically suspends a curtain of mesh material into the marine environment to passively take fish without it being actively towed."
 - (d). **Citizen Suits:**
 - (i) Any member of the Public may commence a civil action in a Massachusetts court to enforce any provision of the Act including its prohibitions. A court shall enjoin the licensing and/or future use of any fishing not so properly certified as whale and sea turtle safe without any consideration of the adverse impact on any fishermen or any commercial industry. Such an injunction will in all circumstances be considered to serve the Public Interest. A jury of citizens can be chosen by any of the parties to decide on the issuance of any said injunction by a court.
 - (ii). A member of the Public may seek an award of tort damages against the Commonwealth of Massachusetts to pay for efforts to reverse the accumulated injuries inflicted on the long term viability to a species of wildlife from any violation(s) of the Act.
 - (iii). A court shall award the plaintiff his costs of litigation against any defendant brought for violation of the Act's provisions — even if he brings the action *pro se* — if he prevails in any manner in the prosecution of his claims.