

By Mr. Nagle of Northampton (by request), petition of Max Strahan for legislation to regulate the exploitation of marine mammals. Natural Resources and Agriculture.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Ninety-Four.

AN ACT TO REGULATE THE EXPLOITATION OF MARINE MAMMALS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Massachusetts General Laws Chapter 131A is  
2 hereby amended by adding the following new sections: —

3 Section 7. Title.

4 Sections 7 through 12 of Chapter 131A of the General Laws of  
5 the Commonwealth of Massachusetts shall be known and cited as  
6 the "Massachusetts Marine Mammal Protection Act."

7 Section 8. Definitions.

8 As used in this Act, unless the context clearly indicates other-  
9 wise, the following words and phrases shall have the following  
10 meanings: —

11 (a) "Sight-for-cash whaling" or a means "sight-for-cash whal-  
12 ing operation," refers to the actions or conduct associated with the  
13 business of charging an amount of money or a fee to show mem-  
14 bers of the biological order Cetacea to persons who have paid a  
15 fee or consideration to provide themselves a sight of a whale.

16 Section 9. Licensing of Sight-For-Cash Whaling Operations.

17 (a) Any person who conducts or operates a sight-for-cash  
18 whaling operation within the Commonwealth and sells tickets or  
19 rights to allow or to assist others to view members of the biologi-  
20 cal order Cetacea off the Massachusetts coast in any marine  
21 waters navigatable to it, must first obtain a license to do such  
22 from the Division. The Director may, after public review and  
23 comment, issue these licenses to an individual only in considera-  
24 tion and support of the conservation and protection of the species

25 of whales involved. The Commissioner will set a limit on the  
26 number of licenses to be issued.

27 (b) In order to provide a basis for the support of the  
28 Commonwealth's marine mammal conservation program and its  
29 conservation efforts for other endangered species, a fee of \$1 is  
30 assessed upon the holder of a license for each passenger or indi-  
31 vidual paying customer of the license holder. In addition the  
32 Secretary of Administration and Finance may establish appropri-  
33 ate fees for the administrative costs of issuing a license or pro-  
34 cessing applications for a license issued under this section.

35 (c) A license will be valid for only one year. Any applicant for  
36 a license will possess no special right to be issued a license in any  
37 given year based on having been issued a license under this sec-  
38 tion in a previous year. The license may be issued without an ini-  
39 tial payment of the fee mentioned in paragraph (b) of this section.  
40 However, on the first day of each month thereafter and for the  
41 length of the license, the license holder shall pay to the  
42 Commonwealth, and the Commonwealth shall collect, the accu-  
43 mulated fees owed under this section of the act. Failure to pay the  
44 fee on time shall be cause for the immediate revocation of the  
45 license. All fees collected pursuant to this section of the act shall  
46 be deposited in the Commonwealth's Natural Heritage and  
47 Endangered Species Fund established pursuant to section 35D of  
48 chapter 10 of the General Laws to be used for the conservation of  
49 the Commonwealth's marine mammals and endangered wildlife.

50 (d) The Director shall promulgate and adopt regulations, upon  
51 the recommendation and approval of the Massachusetts Coastal  
52 Zone Management Office, to insure the conservation and protec-  
53 tion of Cetaceans through the conduct of sight-for-cash whaling  
54 operations and shall make and adopt rules for their operation  
55 under license. A license may be revoked for cause, which shall  
56 include, not exclusively, the violation of any statute or regulation  
57 of the Commonwealth or the conditions under which a permit has  
58 been issued, pending a review and final action by the Department.

59 (e) Anyone issued a permit under this section must collect and  
60 record information on a daily basis of the species of cetaceans  
61 seen in the course of their sight-for-cash whaling operations. Each  
62 license holder shall daily record for each trip of each vessel  
63 employed by the sight-for-cash whaling operation the distance the

64 license holders' vessels came to the whales, the reaction of the  
65 whales to the vessels, the number of whales seen on a trip, the  
66 number of vessels in the immediate vicinity to the whales and  
67 their reaction to these vessels. The license holders shall also  
68 record and immediately report if their vessels made contact with a  
69 whale or injured a whale in any way. The license holders shall  
70 photograph each observed whale for identification purposes and  
71 shall videotape its encounter with all whales seen during its sight-  
72 for-cash whaling operation. The Director in issuing a permit shall  
73 require that this and other information be collected and copies  
74 sent to the Division on a monthly basis during the course of the  
75 permit. The Director shall revoke the permit of any operator if  
76 such reports are not completed and made on time.

77 (f) Each license holder will allow, with the approval of the  
78 Director, individuals collecting information to support the conser-  
79 vation of marine mammals, and not associated with the license  
80 holder, free passage on their vessels during its sight-for-cash  
81 whaling operations. The Director will implement guidelines for  
82 the arrangement of these passage opportunities.

83 (g) No permit may be issued to allow the sight-for-cash  
84 whaling of any Northern Right whale.

85 Section 10. Prohibitions.

86 (a) No person shall engage in a sight-for-cash whaling opera-  
87 tion without a permit to do such, issued by the Director to them;

88 (b) No person or vessel during the course of a sight-for-cash  
89 whaling operation may approach or come closer than one hundred  
90 yards to any member of a species of cetacean. No operator of a  
91 sight-for-cash whaling vessel may operate his vessel in any  
92 manner that will encourage or result in a whale coming within one  
93 hundred yards of the vessel;

94 (c) No Northern Right whale may be made an object of any  
95 sight-for-cash whaling operation. No sight-for-cash whaling opera-  
96 tion shall approach any Northern Right whale at any distance nor  
97 follow it any distance. If a sight-for-cash whaling operation comes  
98 upon a Right whale, it shall immediately report its sighting to the  
99 Division and immediately leave the area to a distance of not less  
100 than 1000 yards from the sighted Right whale.

101 (d) The Director shall immediately revoke any permit for cause,  
102 until a hearing on the suspected violation has been held.

103 (e) It is prohibited for any person to fail to pay the fees legally  
104 owed to the Commonwealth pursuant to section 10(b) and 10(c) of  
105 this act.

106 Section 11. Penalties.

107 (a) Any person convicted of violating any prohibitions set forth  
108 in section 94 of this act in a district court of the Commonwealth  
109 shall be fined no more than twenty-five thousand dollars per  
110 violation of this act or sentenced to no more than two and one-half  
111 years to a county house of correction or both.

112 Section 12. Conservation of Marine Mammals.

113 The Director is authorized and shall adopt regulations to  
114 provide for the conservation and protection of marine mammals  
115 and their marine habitat in the Commonwealth of Massachusetts  
116 and shall institute a conservation program to restore depleted and  
117 endangered marine mammal populations in the Commonwealth.  
118 All state agencies shall make all practical use of their authorities  
119 to protect marine mammals from being taken and to increase their  
120 numbers to optimum ecological levels.

1 SECTION 2. Revision of Chapter 130.

2 The definition of "fish" found within Massachusetts General  
3 Laws Chapter 130 Section 1 is hereby revised to insert the phrase  
4 ", except for members of the biological order Mammalia and  
5 Aves," after "...any animal life."