NEW YORK STATE BAR ASSOCIATION

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COMMITTEE ON ANIMALS AND THE LAW

Memorandum in Support

Animals #37 June 26, 2026

S. 2292-B By: Senator Harckham
A. 8515-A By: M. of A. Kassay
Senate Committee: Passed
Assembly Committee: Passed
Effective Date: 180 days after becoming law

AN ACT to amend the environmental conservation law, the navigation law and the vehicle and traffic law, in relation to enacting the whale awareness act

LAW AND SECTIONS REFERRED TO: A new Title 9, Section 13-0901, is added to the Environmental Conservation Law; Section 75 of the Navigation Law is amended; and Section 2251 of the Vehicle and Traffic Law is amended.

THE COMMITTEE ON ANIMALS AND THE LAW SUPPORTS THIS LEGISLATION

S.2292B (Harckham) / A.8515A (Kassay) enacts the Whale Awareness Act, directing the Department of Environmental Conservation to establish recommendations and educational materials for reduction of marine mammal interactions.

The bill requires the Department of Environmental Conservation (DEC) to establish recommendations and educational materials for the reduction of marine mammal interactions with vessels, in consultation with the Port Authority, the Office of Parks, Recreation, and Historic Preservation (OPRHP), the U.S. Coast Guard, the National Oceanic and Atmospheric Administration (NOAA), the Marine Mammal Commission, and other relevant agencies. Such recommendations and educational materials will be posted on DEC's website.

We commend the Department of Environmental Conservation for the information that it has already developed and posted on the DEC website under the Division of Marine Resources, Marine Species Protection Unit. NOAA is the definitive source of information on marine mammal issues in ocean and coastal waters, and education of boat operators on ways to avoid interaction with all species of marine mammals. Along with the other agencies listed in the bill, NOAA will be able to provide DEC with additional information to fulfill the requirements in the legislation.

In addition to posting information on the DEC website, the bill also requires DEC to provide its recommendations and educational materials to owners and operators of licensed party and charter boats, persons participating in an OPRHP certified boating safety course, and, beginning December 31, 2028, to owners of vessels registered with the Department of Motor Vehicles (DMV). The bill requires OPRHP certified boating safety courses to provide persons participating in the course the marine mammal interaction prevention recommendations and educational materials developed by the DEC. And, beginning December 31, 2028, the DMV must provide the marine mammal interaction prevention recommendations and educational materials developed by the DEC to registrants of vessels in Suffolk, Nassau, Kings, Queens, New York, Richmond, Bronx, Westchester and Rockland counties, those counties in New York with access to waters where the marine

mammals that are the subject of the legislation have been found. In each instance, state agencies required to provide information on avoidance of marine mammal-vessel interactions will use existing relationships with members of the public through licenses, boat registrations and the required boating safety course to provide for a wider distribution of the information than is currently provided by the website postings. By using the contact information already maintained by these agencies for licensing, registration and the boating safety course, the information can be provided to individuals most likely to come into contact with marine mammals at minimal cost.

The legislation, although titled The Whale Awareness Act, applies to all marine mammals. Marine mammals impacted by vessels in New York waters include whales, seals, dolphins and porpoises; sea turtles are also impacted by vessel interactions although turtles are not considered marine mammals. Vessel strikes of the smaller marine mammals are not well documented because of the difficulty determining when, and how, those strikes may occur, but they do occur and, the recommendations and education required by this bill will help to avoid them.

This legislation's focus on whales brings to light the frequent and tragic interactions between whales and ships off the coast of New York. Even though whales are exceptionally intelligent, their evolutionary adaptations never prepared them for the speed, acoustics, and sheer volume of modern maritime traffic. As noted in the bill sponsors' Memorandum in Support, New York ranks among the highest states for whale mortality linked to vessel strikes, and between December 2023 and February 2024 twenty-three dead whales were reported, including twelve off the coasts of New York and New Jersey.

Whales rely heavily on sound to navigate and perceive their environment. Although boats, ships, and ferries are loud and would seem easy to avoid, most of the engine and propeller noise is directed backward because of a ship's hydrodynamics. As a ship moves forward, the bow creates an acoustic "shadow" or a zone of relative silence directly in front of it. By the time a whale hears the intense noise, the ship is already upon them.[1] Moreover, New York's waters are plagued by chronic underwater noise pollution (shipping, tugboats, construction). When the ocean is constantly loud, whales can experience habituation—they tune out background noise just as humans tune out highway traffic—and their ability to pinpoint the exact direction of an approaching vessel is masked.[2]

The Ports of New York and New Jersey are frequently ranked among the worst areas for vessel speeding compliance. According to multi-year tracking reports by the conservation group Oceana,[3] an average of 86% of vessels exceeded the mandatory 10-knot speed limit in the New York/New Jersey management area—the highest non-compliance rate on the East Coast. The likelihood that a strike is lethal exceeds 80% for speeds above 5 knots for large vessels.[4] Ships and ferries tend to cruise at high speeds yet whales do not have an

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[1] *See* Allen, J. K., Peterson, M. L., Sharrard, G. V., Wright, D. L., & Todd, S. K. (2012). Radiated noise from commercial ships in the Gulf of Maine: Implications for whale/vessel collisions. The Journal of the Acoustical Society of America, 132(3), EL229-EL235. https://doi.org/10.1121/1.4739251

[2] *See* Rice, A. N., Tielens, J. T., Shiu, Y., Muirhead, C. A., Clark, C. W., & Rosenbaum, H. C. (2014). Spatial and temporal trends in ambient noise levels in the New York Bight. The Journal of the Acoustical Society of America, 136(4), 2115–2115.

[3] *See* Oceana (2023): Vessel strikes continue to threaten North Atlantic right whales. Oceana Reports. https://oceana.org/wp-content/uploads/sites/18/2025 /03/NARW-23-0004-NARW-Ship-Report_Single-Page-Low-Res-1.pdf This report analyzed tracking data from the Automatic Identification System (AIS) to monitor vessel compliance with NOAA's mandatory Seasonal Management Areas (SMAs) and voluntary Dynamic Management Areas (DMAs) along the U.S. Atlantic coast.

[4] *See* Garrison, L. P., Lisi, N. E., Gahm, M., Patterson, E. M., Blondin, H., & Good, C. P. (2025). The effects of vessel speed and size on the lethality of strikes of large whales in U.S. waters. Frontiers in Marine Science, 11. https://doi.org/10.3389/fmars.2024.1467387

instinctual concept of a 100,000-ton object moving at 20+ knots;[5] thus, by the time the threat is perceived, whales are unable to quickly maneuver out of the way because of their size. The excessive speed of vessels in New York waters is a primary cause of mortality for all the marine mammals endangered by vessel interactions; including recommendations and education to boaters about compliance with existing speed limits and voluntary reductions in speed in areas where marine mammals are likely to be found fits within the intent of the bill, and is the action most likely to reduce marine mammal injuries and fatalities from vessel interactions.

Ironically, since the passage of the Clean Water Act in 1972, improved water quality[6] has resulted in a resurgence of menhaden (bunker fish), which are the primary prey for humpback and fin whales. As a result, more whales are remaining longer in New York's waters to feed and hunt, yet the distraction of feeding and hunting means less focus on surroundings. Other marine mammals such as seals also feed on menhaden, and can be found in New York waters where these food fish are plentiful. This legislation will result in raising awareness among vessel operators, promoting safer maritime practices, and reducing harm to whales and smaller marine mammals in New York waters – all compelling reasons to enact this bill.

Protecting whales and other marine mammals in New York waters could have an economic benefit; whale and seal and dolphin watching is becoming a popular part of the marine tourism industry, and, as the sponsors' Memo in Support notes, it has generated significant tourism revenue in states like Massachusetts. Those activities, also, should be addressed in the recommendations developed as a result of this bill. Some information on responsible viewing is already on the DEC website (see https://dec.ny.gov/nature/waterbodies/oceans-estuaries/stranding-response-responsible-viewing-marine-mammals-sea-turtles) but an expansion of it to specifically address anticipated viewing of these marine mammals by the public is needed if these activities will be promoted as a new form of marine tourism.

Based on the foregoing, and to provide more resources for the protection of whales and other marine mammals, the Committee on Animals and the Law supports the enactment of this legislation and urges the Governor to sign S.2292B/A.8515A into law.

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[5] *See* Vanderlaan, A. S. M., & Taggart, C. T. (2006). Vessel collisions with whales: The probability of lethal injury based on vessel speed. Marine Mammal Science, 23(1), 144–156. https://doi.org/10.1111/j.1748-7692.2006.00098.x

[6] *See* O'Neil, J. M., Taillie, D., Walsh, B., Dennison, W. C., Bone, E. K., Reid, D. J., Newton, R., Strayer, D. L., Boicourt, K., Birney, L. B., Janis, S., Malinowski, P., & Fisher, M. (2016). New York Harbor: Resilience in the face of four centuries of development. Regional Studies in Marine Science, 8, 274–286. https://doi.org /10.1016/j.rsma.2016.06.004（analyzing long-term datasets established by the New York Harbor surveys and detailing how investments in sewage treatment infrastructure and the reduction of organic pollutants successfully reversed centuries of environmental degradation, thereby restoring the ecological foundation and food webs of the New York-New Jersey Harbor Estuary). *See also* New York City Department of Environmental Protection (1909–present). New York City Harbor Water Quality Survey Data. Bureau of Wastewater Treatment.

STATE OF NEW YORK

2292--B

2025-2026 Regular Sessions

IN SENATE

January 16, 2025

Introduced by Sens. HARCKHAM, CANZONERI-FITZPATRICK, PALUMBO -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, the navigation law and the vehicle and traffic law, in relation to enacting the whale awareness act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "whale awareness act".

§ 2. Article 13 of the environmental conservation law is amended by adding a new title 9 to read as follows:

TITLE 9

WHALE AWARENESS ACT

Section 13-0901. Marine mammal interaction recommendations and educational materials.

§ 13-0901. Marine mammal interaction recommendations and educational materials.

1. The department shall establish recommendations and educational materials for the reduction of marine mammal interactions with vessels. In developing such recommendations and educational materials, the department shall consult with the port authority of New York and New Jersey, the office of parks, recreation and historic preservation, the United States coast guard, the national oceanic and atmospheric administration, the marine mammal commission, and any other relevant agencies. For purposes of this section, "marine mammal interaction" means any act

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

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of pursuit, torment, or annoyance of a marine mammal in the wild that has the potential to injure or disturb such mammal by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

2. Recommendations and educational materials developed pursuant to this section shall be posted publicly on the department's website and provided to owners and operators of a party boat or charter boat pursuant to section 13-0336 of this article, persons participating in a boating safety course required pursuant to section forty-nine of the navigation law, and on or after December thirty-first, two thousand twenty-eight, to registrants of vessels registered in the state in accordance with section twenty-two hundred fifty-one of the vehicle and traffic law.

§ 3. Section 75 of the navigation law, as amended by chapter 361 of the laws of 2013, is amended to read as follows:

§ 75. Educational program. In order to protect the public interest in the prudent and equitable use of the waters of the state and enhance the enjoyment of pleasure boating and other sports thereon, the commissioner shall initiate and put into effect a comprehensive educational program designed to advance boating safety, which provides for the training of all boat operators in the safe operation of vessels including personal watercraft and specialty prop-craft. **Such educational program shall include recommendations and educational materials for the reduction of marine mammal interactions with vessels developed pursuant section 13-0901 of the environmental conservation law.**

§ 4. Section 2251 of the vehicle and traffic law is amended by adding a new subdivision 10 to read as follows:

10. Marine mammal interaction prevention. In issuing a registration pursuant to this section with respect to any registration application where the address therein is in the county of Suffolk, Nassau, Kings, Queens, New York, Richmond, Bronx, Westchester, or Rockland, the commissioner shall also provide marine mammal interaction prevention recommendations and educational materials developed pursuant to section 13-0901 of the environmental conservation law.

§ 5. Severability. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 6. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, section four of this act shall take effect December 31, 2028.

NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1

BILL NUMBER: S2292B

SPONSOR: HARCKHAM

TITLE OF BILL:

An act to amend the environmental conservation law, the navigation law and the vehicle and traffic law, in relation to enacting the whale awareness act

PURPOSE:

The purpose of this bill is to reduce harmful interactions between marine mammals and vessels in the state.

SUMMARY OF PROVISIONS:

Section one provides the title of the bill.

Section two would require the Department of Environmental Conservation (DEC) to establish recommendations and educational materials for the reduction of marine mammal interactions with vessels, in consultation with the Port Authority, the Office of Parks, Recreation, and Historic Preservation (OPRHP), the U.S. Coast Guard, the National Oceanic and Atmospheric Administration (NOAA), the Marine Mammal Commission, and other relevant agencies. Such recommendations and educational materials would be posted on DEC's website and provided to owners and operators of licensed party and charter boats, persons participating in an OPRHP certified boating safety course, and, beginning December 31, 2028, owners of vessels registered with the Department of Motor Vehicles (DMV).

Section three would require OPRHP certified boating safety courses to provide persons participating in the course the marine mammal interaction prevention recommendations and educational materials developed by the DEC.

Section four would require, beginning December 31, 2028, the DMV to provide the marine mammal interaction prevention recommendations and educational materials developed by the DEC to registrants of vessels in Suffolk, Nassau, Kings, Queens, New York, Richmond, Bronx, Westchester or Rockland counties.

Section five provides a severability clause.

Section six provides the effective date.

JUSTIFICATION:

The growing frequency of whale fatalities along New York's coastlines signals an urgent need for action. Vessel strikes have become one of the leading causes of injury and death among marine mammals, particularly whales, undermining both ecological stability and species conservation efforts. According to the National Oceanic and Atmospheric Adminis-

tration, approximately 40 percent of necropsied humpback whales were found to have died from either vessel collisions or fishing gear entanglements. Endangered populations like the North Atlantic Right Whale, with fewer than 350 individuals remaining, are especially at risk.

Between December 2023 and February 2024, twenty-three dead whales were reported, including twelve off the coasts of New York and New Jersey. New York ranks among the highest states for whale mortality linked to vessel strikes. This legislation addresses the issue by directing the development and distribution of educational materials to reduce marine mammal interactions and by incorporating this guidance into existing boater safety programs. Raising awareness among vessel operators promotes safer practices that help prevent unintentional harm to whales and other marine mammals.

Beyond the ecological urgency, there is a clear economic rationale. Whale watching generates significant tourism revenue in states like Massachusetts, and New York is well positioned to expand its own marine tourism industry. Protecting whale populations supports sustainable economic growth and reduces the risk of costly vessel damage resulting from collisions. This legislation provides a practical solution that promotes both conservation and economic resilience.

PRIOR LEGISLATIVE HISTORY:

This is a new bill.

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS:

To be determined.

EFFECTIVE DATE:
This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, section four of this act shall take effect December 31, 2028.