

HOUSE BILL REPORT

ESHB 2078

As Amended by the Senate

Title: An act relating to fish and wildlife.

Brief Description: Concerning fish and wildlife statutes.

Sponsors: By House Committee on Natural Resources (Originally sponsored by Representatives Buck, Regala, Eickmeyer and Anderson).

Brief History:

Committee Activity:

Natural Resources: 2/26/99, 3/1/99 [DPS].

Floor Activity:

Passed House: 3/15/99, 97-0.

Senate Amended.

Passed Senate: 4/15/99, 47-0.

<p>Brief Summary of Substitute Bill</p> <ul style="list-style-type: none">· Merges Title 75 into Title 77 RCW to reflect the previous merger of two agencies into the Department of Fish and Wildlife.

HOUSE COMMITTEE ON NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Buck, Republican Co-Chair; Regala, Democratic Co-Chair; Anderson, Democratic Vice Chair; Sump, Republican Vice Chair; G. Chandler; Clements; Doumit; Eickmeyer; Ericksen; Pennington; Rockefeller and Stensen.

Staff: Bill Lynch (786-7092).

Background:

The Department of Fisheries and the Department of Wildlife were merged in 1993 into the Department of Fish and Wildlife. The laws generally governing food fish are

contained in Title 75, and the laws generally governing game and game fish are contained in Title 77. Although legislation passed during the 1998 legislative session to reconcile many of the laws concerning enforcement of these titles, they remain as separate titles.

The Fish and Wildlife Commission, the director of Fish and Wildlife, and the Department of Fish and Wildlife are all assigned various responsibilities under Titles 75 and 77. Both the commission and the director may adopt rules. The director is generally responsible for supervising the administration and operation of the department, and performing duties delegated by the commission. The commission is responsible for establishing policies to preserve, protect, and perpetuate wildlife, fish, and their habitat. The commission is authorized to delegate any of its powers to the director. There is some inconsistency concerning the areas of responsibility which may be exercised by the commission, the director, and the department.

A number of sections in Titles 75 and 77 contain language which is obsolete, confusing, or conflicts with some other section of law. A single title of law to reflect the merger of the two agencies into the Department of Fish and Wildlife would add clarity to the statutes.

If a person shoots another person or domestic livestock while hunting as a result of criminal negligence or reckless or intentional conduct, the person's hunting privileges are suspended for 10 years, but the suspension may be continued if damages owed to the victim or livestock owner have not been paid. If an employee of the department is assaulted, there is no similar provision for the suspension to be continued until damages owed the victim are repaid. Although a fish and wildlife officer or other enforcement officer must have been on duty and enforcing the provisions of the law when the assault occurred, there is no similar requirement for other personnel of the department.

Searches of tents and camps may be conducted by fish and wildlife officers without a warrant under certain circumstances. People may be stopped and asked to show their licenses and make their equipment available for inspection even if they have stopped hunting or fishing several hours earlier.

Proceeds from forfeited property, fines, the sale of property, rentals, and concessions are divided between the general fund and the wildlife fund, depending on how the property was used.

The pilot program for the Lower Columbia Steelhead Conservation Initiative did not contain a requirement for a report at the completion of the pilot.

Summary of Bill:

Changes in statutory responsibility for carrying out provisions under current law are made to reflect the Fish and Wildlife Commission's (commission) overall responsibility to establish policy and set seasons for hunting, fishing, and trapping. Other changes in responsibility are made to reflect the director's responsibility to supervise the administration and operation of the Department of Fish and Wildlife, including the management of real and personal property held by the department, and the authority to issue and revoke licenses.

The commission is provided the specific authority to: jointly establish with tribes the wild salmonid policy (Sec. 51); develop guidelines for providing funding to regional fisheries enhancement groups (Sec. 103); develop rules to reduce to private ownership fish and game raised in cooperative projects (Sec. 109); protect grizzly bears and develop management plans for them (Sec. 211); and establish a season or bag limit on Canadian geese (Sec. 258).

The director is provided the specific authority to: accept property or money in settlement of claims for damages to food fish and shell fish resources (Sec. 3); acquire lands where improvements are being carried on by the federal government (Sec. 4); keep inventories of oyster reserves and manage each category of oyster reserve land (Sec 21); establish dike cultivation of Olympia oysters (Sec. 22); prohibit a person from taking geoducks, and to regulate the gear type (Sec. 24); conserve, and protect reserves and beds on state lands (Sec. 25); waive the license requirement if there is no commercial fishing during a calendar year (Sec. 29); increase the number of alternate operators for a commercial fishery license, delivery license, or charter license (Sec. 34); evaluate the salmon fishery management strategies and gear types for salmon (Sec. 52); waive landing or poundage requirements if no harvest opportunity occurs (Sec. 54); order relief after an informal hearing before a review board (Sec. 55); authorize the total number of anglers (Sec. 59); issue additional herring licenses (Sec. 64); suspend or revoke a sea urchin dive fishery license (Sec. 67); suspend a sea cucumber dive fishery license (Sec. 69); suspend or revoke a geoduck fishery license (Sec. 71); and to revoke a trapper's license (Sec. 265).

If a person assaults an employee of the department, including fish and wildlife officers, all hunting, fishing, or other licenses are revoked, and all privileges suspended for a 10-year period. This 10-year period may be extended if damages to the victim have not been paid by the suspended person. The department employee must have been on duty at the time of the assault, and carrying out the provisions of the law (Sec. 256).

Fish and wildlife officers may not search without a warrant property used exclusively as a private domicile or transitory residences in which a person has a reasonable expectation of privacy. Search and seizure without a warrant under the state constitution.

In order to temporarily stop a person to check for valid licenses, tags, permits, stamps, or catch record cards, and to inspect all fish and wildlife and equipment in possession,

when the stop is based only upon articulable facts, the person must be actively engaged in hunting or fishing.

Proceeds from fines, forfeitures, the sale of property, rentals, and concessions are deposited into the wildlife fund. Proceeds from the sale of commercial licenses and moneys received from damages to food fish, shellfish, or department property continue to be deposited into the general fund (Sec. 7).

The pilot program authorized for the habitat portion of the Lower Columbia Steelhead Conservation Initiative must prepare a final report at the conclusion of the pilot program on July 1, 2000, and submit it to the appropriate legislative committees, participating counties, and the state natural resource-related agencies (Sec. 117).

Language is added to clarify that the recodification of sections pertaining to pension benefits of fisheries patrol officers does not affect who is eligible under those sections (Sec. 5 & 6).

Conflicting requirements under the law are reconciled. Obsolete language is deleted. The provisions of Title 75 are recodified into Title 77.

EFFECT OF SENATE AMENDMENT(S): The language which required a person to be actively engaged in hunting or fishing before they could be temporarily stopped based only upon articulable facts in order to check for valid licenses, tags, permits, stamps, or catch record cards is deleted. The definition of trafficking is deleted. The requirement for a department employee to have been on duty at the time the employee is assaulted in order for hunting, fishing, or other licenses to be revoked is deleted. The language which would have increased the penalty for assaulting department employees to the same level as the penalty for assaulting livestock is deleted. Several technical and clarifying amendments are deleted.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Substitute Bill) It is good to have these two titles reconciled.

Testimony Against: (Substitute Bill) There are concerns over the forfeiture, revenue deposits, and child support provisions. Some technical changes are also needed.

Testified: (Substitute Bill) (In support with concerns) Larry Peck and Bruce Bjork, Department of Fish and Wildlife.