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**SUBSTITUTE SENATE BILL 5404**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

**By** Senate Natural Resources, Ocean & Recreation (originally sponsored by Senator Jacobsen; by request of Department of Fish and Wildlife)

READ FIRST TIME 02/25/09.

1        AN ACT Relating to provisions regarding the department of fish and  
2 wildlife; amending RCW 77.15.050, 77.15.700, 77.15.310, 77.15.320,  
3 77.15.610, 77.32.470, 77.65.010, 77.65.370, 77.65.440, 77.15.510,  
4 77.65.480, 77.15.552, 77.08.010, 77.15.100, 77.15.370, 77.15.425,  
5 77.15.568, 77.15.620, and 77.12.879; reenacting and amending RCW  
6 77.12.170; adding new sections to chapter 77.15 RCW; adding a new  
7 section to chapter 77.32 RCW; adding a new chapter to Title 77 RCW;  
8 repealing RCW 77.12.065; and prescribing penalties.

9        BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10        **Sec. 1.** RCW 77.15.050 and 1998 c 190 s 6 are each amended to read  
11 as follows:

12        (1) Unless the context clearly requires otherwise, as used in this  
13 chapter, "conviction" means:

14        (a) A final conviction in a state or municipal court;

15        (b) A failure to appear at a hearing to contest an infraction or  
16 criminal citation; or

17        (c) An unvacated forfeiture of bail paid as a final disposition for  
18 an offense (~~or an unvacated forfeiture of bail or collateral deposited~~  
19 ~~to secure the defendant's appearance in court)).~~

1       (2) A plea of guilty, or a finding of guilt for a violation of this  
2 title or rule of the commission or director constitutes a conviction  
3 regardless of whether the imposition of sentence is deferred or the  
4 penalty is suspended.

5       **Sec. 2.** RCW 77.15.700 and 2007 c 163 s 2 are each amended to read  
6 as follows:

7       (1) The department shall impose revocation and suspension of  
8 privileges in the following circumstances:

9       ~~((1))~~ (a) Upon conviction, if directed by statute for an  
10 offense~~((+))~~.

11       ~~((2))~~ (b) Upon conviction of a violation not involving commercial  
12 fishing, if the department finds that actions of the defendant  
13 demonstrated a willful or wanton disregard for conservation of fish or  
14 wildlife. ~~((Such))~~ Suspension of privileges under this subsection may  
15 be permanent. ~~((This subsection (2) does not apply to violations~~  
16 ~~involving commercial fishing;~~

17       ~~(3))~~ (c) If a person is convicted twice within ten years for a  
18 violation involving unlawful hunting, killing, or possessing big  
19 game~~((, the department shall order))~~. Revocation and suspension ~~((of))~~  
20 under this subsection must be ordered for all hunting privileges for  
21 two years. ~~((RCW 77.12.722 or 77.16.050 as it existed before June 11,~~  
22 ~~1998, may comprise one of the convictions constituting the basis for~~  
23 ~~revocation and suspension under this subsection;~~

24       ~~(4)(a))~~ (d) If a person violates, three times or more in a ten-  
25 year period, recreational hunting or fishing laws or rules for which  
26 the person: (i) Is convicted of an offense~~((+))~~; (ii) has an  
27 uncontested notice of infraction~~((+))~~; (iii) fails to appear at a  
28 hearing to contest ~~((an))~~ a fish and wildlife infraction~~((+))~~; or (iv)  
29 is found to have committed an infraction ~~((three times in ten years~~  
30 ~~involving any violation of recreational hunting or fishing laws or~~  
31 ~~rules, the department shall order a))~~. Revocation and suspension  
32 this subsection must be ordered of all recreational hunting and fishing  
33 privileges for two years.

34       ~~((b))~~ (2)(a) A violation punishable as an infraction counts  
35 towards the revocation and suspension of recreational hunting and  
36 fishing privileges ~~((only where))~~ under this section if that violation  
37 is:

1 (i) Punishable as a crime on July 24, 2005, and is subsequently  
2 decriminalized; or

3 (ii) One of the following violations, as they exist on July 24,  
4 2005: RCW 77.15.160 (~~((1) or (2))~~); WAC 220-56-116; WAC 220-56-  
5 315(11); or WAC 220-56-355 (1) through (4).

6 (~~((e))~~) (b) The commission may, by rule, designate (~~((additional))~~)  
7 infractions that do not count towards the revocation and suspension of  
8 recreational hunting and fishing privileges.

9 (~~((5))~~) (3) If either the deferred education licensee or the  
10 required nondeferred accompanying person, hunting under the authority  
11 of RCW 77.32.155(2), is convicted of a violation of this title, except  
12 for a violation of RCW 77.15.400 (1) through (3), the department may  
13 revoke all hunting licenses and tags and may order a suspension of  
14 (~~((one))~~) either or both the deferred education licensee's and the  
15 nondeferred accompanying person's hunting privileges for one year.

16 **Sec. 3.** RCW 77.15.310 and 2003 c 39 s 38 are each amended to read  
17 as follows:

18 (1) A person is guilty of unlawful failure to use or maintain an  
19 approved fish guard on a diversion device if the person owns, controls,  
20 or operates a device used for diverting or conducting water from a  
21 lake, river, or stream and:

22 (a) The device is not equipped with a fish guard, screen, or bypass  
23 approved by the director as required by RCW (~~((77.55.040 or 77.55.320))~~)  
24 77.57.010 or 77.57.070; or

25 (b) The person knowingly fails to maintain or operate an approved  
26 fish guard, screen, or bypass so as to effectively screen or prevent  
27 fish from entering the intake.

28 (2) Unlawful failure to use or maintain an approved fish guard,  
29 screen, or bypass on a diversion device is a gross misdemeanor.  
30 Following written notification to the person from the department that  
31 there is a violation, each day that a diversion device is operated  
32 without an approved or maintained fish guard, screen, or bypass is a  
33 separate offense.

34 **Sec. 4.** RCW 77.15.320 and 2000 c 107 s 241 are each amended to  
35 read as follows:

36 (1) A person is guilty of unlawful failure to provide, maintain, or

1 operate a fishway for dam or other obstruction if the person owns,  
2 operates, or controls a dam or other obstruction to fish passage on a  
3 river or stream and:

4 (a) The dam or obstruction is not provided with a durable and  
5 efficient fishway approved by the director as required by RCW  
6 (~~77.55.060~~) 77.57.030;

7 (b) Fails to maintain a fishway in efficient operating condition;  
8 or

9 (c) Fails to continuously supply a fishway with a sufficient supply  
10 of water to allow the free passage of fish.

11 (2) Unlawful failure to provide, maintain, or operate a fishway for  
12 dam or other obstruction is a gross misdemeanor. Following written  
13 notification to the person from the department that there is a  
14 violation, each day of unlawful failure to provide, maintain, or  
15 operate a fishway is a separate offense.

16 **Sec. 5.** RCW 77.15.610 and 1998 c 190 s 33 are each amended to read  
17 as follows:

18 (1) A person who holds a fur buyer's license or taxidermy license  
19 is guilty of unlawful use of a commercial wildlife license if the  
20 person:

21 (a) Fails to have the license in possession while engaged in fur  
22 buying or practicing taxidermy for commercial purposes; or

23 (b) Violates any rule of the department regarding reporting  
24 requirements or the use, possession, display, or presentation of the  
25 taxidermy or fur buyer's license.

26 (2) Unlawful use of a commercial wildlife license is a misdemeanor.

27 **Sec. 6.** RCW 77.32.470 and 2008 c 35 s 1 are each amended to read  
28 as follows:

29 (1) A personal use saltwater, freshwater, combination, temporary,  
30 or family fishing weekend license is required for all persons fifteen  
31 years of age or older to fish for or possess fish taken for personal  
32 use from state waters or offshore waters.

33 (2) The fees for annual personal use saltwater, freshwater, or  
34 combination licenses are as follows:

35 (a) A combination license allows the holder to fish for or possess  
36 fish, shellfish, and seaweed from state waters or offshore waters. The

1 fee for this license is thirty-six dollars for residents, seventy-two  
2 dollars for nonresidents, and five dollars for youth. There is an  
3 additional fifty-cent surcharge for this license, to be deposited in  
4 the rockfish research account created in RCW 77.12.702.

5 (b) A saltwater license allows the holder to fish for or possess  
6 fish taken from saltwater areas. The fee for this license is eighteen  
7 dollars for residents, thirty-six dollars for nonresidents, and five  
8 dollars for resident seniors. There is an additional fifty-cent  
9 surcharge for this license, to be deposited in the rockfish research  
10 account created in RCW 77.12.702.

11 (c) A freshwater license allows the holder to fish for, take, or  
12 possess food fish or game fish species in all freshwater areas. The  
13 fee for this license is twenty dollars for residents, forty dollars for  
14 nonresidents, and five dollars for resident seniors.

15 (3)(a) A temporary combination fishing license is valid for one to  
16 five consecutive days and allows the holder to fish for or possess  
17 fish, shellfish, and seaweed taken from state waters or offshore  
18 waters. The fee for this temporary fishing license is:

19 (i) One day - Seven dollars for residents and fourteen dollars for  
20 nonresidents;

21 (ii) Two days - Ten dollars for residents and twenty dollars for  
22 nonresidents;

23 (iii) Three days - Thirteen dollars for residents and twenty-six  
24 dollars for nonresidents;

25 (iv) Four days - Fifteen dollars for residents and thirty dollars  
26 for nonresidents; and

27 (v) Five days - Seventeen dollars for residents and thirty-four  
28 dollars for nonresidents.

29 (b) The fee for a charter stamp is seven dollars for a one-day  
30 temporary combination fishing license for residents and nonresidents  
31 for use on a charter boat as defined in RCW 77.65.150.

32 (c) A transaction fee to support the automated licensing system  
33 will be taken from the amounts set forth in this subsection for  
34 temporary licenses.

35 (d) Except for active duty military personnel serving in any branch  
36 of the United States armed forces, the temporary combination fishing  
37 license is not valid on game fish species for an eight-consecutive-day

1 period beginning on the opening day of the lowland lake fishing season  
2 as defined by rule of the commission.

3 (e) The temporary combination fishing license fee for active duty  
4 military personnel serving in any branch of the United States armed  
5 forces is the resident rate as set forth in (a) of this subsection.  
6 Active duty military personnel must provide a valid military  
7 identification card at the time of purchase of the temporary license to  
8 qualify for the resident rate.

9 (f) There is an additional fifty-cent surcharge on the temporary  
10 combination fishing license and the associated charter stamp, to be  
11 deposited in the rockfish research account created in RCW 77.12.702.

12 (4) A family fishing weekend license allows for a maximum of six  
13 anglers: One resident and five youth; two residents and four youth; or  
14 one resident, one nonresident, and four youth. This license allows the  
15 holders to fish for or possess fish taken from state waters or offshore  
16 waters. The fee for this license is twenty dollars. This license is  
17 only valid during periods as specified by rule of the department.

18 (5) The commission may adopt rules to create and sell combination  
19 licenses for all hunting and fishing activities at or below a fee equal  
20 to the total cost of the individual license contained within any  
21 combination.

22 **Sec. 7.** RCW 77.65.010 and 2005 c 20 s 1 are each amended to read  
23 as follows:

24 (1) Except as otherwise provided by this title, a person (~~may~~  
25 ~~not~~) must have a license or permit issued by the director in order to  
26 engage in any of the following activities (~~(without a license or permit~~  
27 ~~issued by the director))~~):

28 (a) Commercially fish for or take food fish or shellfish;

29 (b) Deliver from a commercial fishing vessel food fish or shellfish  
30 taken for commercial purposes in offshore waters. As used in this  
31 subsection, "deliver" means arrival at a place or port, and includes  
32 arrivals from offshore waters to waters within the state and arrivals  
33 from state or offshore waters;

34 (c) Operate a charter boat or commercial fishing vessel engaged in  
35 a fishery;

36 (d) Engage in processing or wholesaling food fish or shellfish; or

1 (e) Act as a food fish guide (~~((for salmon))~~) for personal use in  
2 freshwater rivers and streams, (~~((other than that part of the Columbia~~  
3 ~~river below the bridge at Longview))~~) except that a charter boat license  
4 is required to operate a vessel from which a person may for a fee fish  
5 for food fish in state waters listed in RCW 77.65.150(4)(b).

6 (2) No person may engage in the activities described in subsection  
7 (1) of this section unless the licenses or permits required by this  
8 title are in the person's possession, and the person is the named  
9 license holder or an alternate operator designated on the license and  
10 the person's license is not suspended.

11 (3) A valid Oregon license that is equivalent to a license under  
12 this title is valid in the concurrent waters of the Columbia river if  
13 the state of Oregon recognizes as valid the equivalent Washington  
14 license. The director may identify by rule what Oregon licenses are  
15 equivalent.

16 (4) No license or permit is required for the production or  
17 harvesting of private sector cultured aquatic products as defined in  
18 RCW 15.85.020 or for the delivery, processing, or wholesaling of such  
19 aquatic products. However, if a means of identifying such products is  
20 required by rules adopted under RCW 15.85.060, the exemption from  
21 licensing or permit requirements established by this subsection applies  
22 only if the aquatic products are identified in conformance with those  
23 rules.

24 **Sec. 8.** RCW 77.65.370 and 1998 c 190 s 98 are each amended to read  
25 as follows:

26 (1) A person shall not offer or perform the services of a  
27 (~~((professional salmon))~~) food fish guide without a food fish guide  
28 license in the taking of (~~((salmon))~~) food fish for personal use in  
29 freshwater rivers and streams, (~~((other than in that part of the~~  
30 ~~Columbia river below the bridge at Longview, without a professional~~  
31 ~~salmon guide license))~~) except that a charter boat license is required  
32 to operate a vessel from which a person may for a fee fish for food  
33 fish in state waters listed in RCW 77.65.150(4)(b).

34 (2) Only an individual at least sixteen years of age may hold a  
35 (~~((professional salmon))~~) food fish guide license. No individual may  
36 hold more than one (~~((professional salmon))~~) food fish guide license.

1       **Sec. 9.** RCW 77.65.440 and 2000 c 107 s 55 are each amended to read  
2 as follows:

3       The director shall issue the personal licenses listed in this  
4 section according to the requirements of this title. The licenses and  
5 their annual fees are:

Personal License	Annual Fee		Governing Section
	Resident	Nonresident	
(1) Alternate Operator	\$ 35	\$ 35	RCW 77.65.130
(2) Geoduck Diver	\$185	\$295	RCW 77.65.410
(3) <del>((Salmon))</del> <u>Food Fish Guide</u>	\$130 (plus \$20)	\$630 (plus \$100)	RCW 77.65.370

14       **Sec. 10.** RCW 77.15.510 and 2001 c 253 s 43 are each amended to  
15 read as follows:

16       (1) A person is guilty of ~~((commercial))~~ acting as a game fish  
17 ~~((guiding))~~ guide, food fish guide, or chartering without a license  
18 if:

19       (a) The person operates a charter boat and does not hold the  
20 charter boat license required for the food fish taken;

21       (b) The person acts as a ~~((professional salmon))~~ food fish guide  
22 and does not hold a ~~((professional salmon))~~ food fish guide license; or

23       (c) The person acts as a game fish guide and does not hold a game  
24 fish guide license.

25       (2) ~~((Commercial))~~ Acting without a game fish ~~((guiding or~~  
26 ~~chartering without a))~~ guide license, food fish guide license, or  
27 charter license is a gross misdemeanor.

28       **Sec. 11.** RCW 77.65.480 and 1991 sp.s. c 7 s 4 are each amended to  
29 read as follows:

30       (1) A taxidermy license allows the holder to practice taxidermy for  
31 ~~((profit))~~ commercial purposes, as that term is defined in RCW  
32 77.15.110. The fee for this license is one hundred eighty dollars.

33       (2) A fur dealer's license allows the holder to purchase, receive,  
34 or resell raw furs for ~~((profit))~~ commercial purposes, as that term is  
35 defined in RCW 77.15.110. The fee for this license is one hundred  
36 eighty dollars.

1 (3) A (~~(fishing)~~) game fish guide license allows the holder to  
2 offer or perform the services of a (~~(professional)~~) game fish guide in  
3 the taking of game fish. The fee for this license is one hundred  
4 eighty dollars for a resident and six hundred dollars for a  
5 nonresident.

6 (4) A game farm license allows the holder to operate a game farm to  
7 acquire, breed, grow, keep, and sell wildlife under conditions  
8 prescribed by the rules adopted pursuant to this title. The fee for  
9 this license is seventy-two dollars for the first year and forty-eight  
10 dollars for each following year.

11 (5) A game fish stocking permit allows the holder to release game  
12 fish into the waters of the state as prescribed by rule of the  
13 commission. The fee for this permit is twenty-four dollars.

14 (6) A fishing or field trial permit allows the holder to promote,  
15 conduct, hold, or sponsor a fishing or field trial contest in  
16 accordance with rules of the commission. The fee for a fishing contest  
17 permit is twenty-four dollars. The fee for a field trial contest  
18 permit is twenty-four dollars.

19 (7)(a) An anadromous game fish buyer's license allows the holder to  
20 purchase or sell steelhead trout and other anadromous game fish  
21 harvested by Indian (~~(fishermen)~~) fishers lawfully exercising fishing  
22 rights reserved by federal statute, treaty, or executive order, under  
23 conditions prescribed by rule of the director. The fee for this  
24 license is one hundred eighty dollars.

25 (b) An anadromous game fish buyer's license is not required for  
26 those businesses that buy steelhead trout and other anadromous game  
27 fish from Washington licensed game fish dealers and sell solely at  
28 retail.

29 **Sec. 12.** RCW 77.15.552 and 2003 c 386 s 3 are each amended to read  
30 as follows:

31 (1) If a person is convicted of two or more qualifying commercial  
32 fishing violations within a three-year period, the person's commercial  
33 fishing license privileges (~~(to participate in the commercial fishery~~  
34 ~~to which the violations applied)) under chapter 77.65 RCW may be  
35 suspended by the director for up to one year. A commercial (~~(fishery)~~)  
36 fishing license that is (~~(suspended under this section)~~) impacted by  
37 this privilege suspension may not be transferred after the director~~

1 issues a notice of suspension, or used by an alternative operator or  
2 transferred during the period of suspension, if the person who is the  
3 subject of the suspension notice is the person who owns the commercial  
4 fishery license.

5 (2) For the purposes of this section only, "qualifying commercial  
6 fishing violation" means either:

7 (a) A conviction under RCW 77.15.500, 77.15.510, 77.15.520,  
8 77.15.530, 77.15.550(1)(a), 77.15.570, 77.15.580, or 77.15.590;

9 (b) A gross misdemeanor or felony involving commercial fish  
10 harvesting, buying, or selling that is unlawful under the terms of the  
11 license, this title, or the rules issued pursuant to this title, if the  
12 quantity of unlawfully harvested, possessed, bought, or sold fish,  
13 other than shellfish, groundfish, or coastal pelagic species of  
14 baitfish totals greater than six percent, by weight, of the harvest  
15 available for inspection at the time of citation and the cumulative  
16 value of the unlawfully harvested fish is more than two hundred fifty  
17 dollars at the time of citation;

18 (c) A gross misdemeanor or felony involving commercial groundfish  
19 or coastal pelagic baitfish harvest, buying, or selling that is  
20 unlawful under the terms of the license, this title, or the rules  
21 issued under this title, if: (i) The quantity of unlawfully harvested,  
22 possessed, bought, or sold groundfish or coastal pelagic baitfish  
23 totals greater than ten percent, by weight, of the harvest available  
24 for inspection at the time of citation and has a cumulative value  
25 greater than five hundred dollars; or (ii) the quantity, by weight, of  
26 the unlawfully commercially harvested groundfish or coastal pelagic  
27 baitfish is ten percent greater than the landing allowances provided  
28 under rules adopted by the department for species categorized as over-  
29 fished by the national marine fisheries service; or

30 (d) A gross misdemeanor or felony involving commercial shellfish  
31 harvesting, buying, or selling that is unlawful under the terms of the  
32 license, this title, or the rules issued pursuant to this title, if the  
33 quantity of unlawfully harvested, possessed, bought, or sold shellfish:  
34 (i) Totals greater than six percent of the harvest available for  
35 inspection at the time of citation; and (ii) totals fifty or more  
36 individual shellfish.

37 (3)(a) The director may refer a person convicted of one qualifying  
38 commercial fishing violation to the license suspension review committee

1 if the director feels that the qualifying commercial fishing violation  
2 was of a severe enough magnitude to justify suspension of the  
3 individual's license renewal privileges.

4 (b) The director may refer any person convicted of one egregious  
5 shellfish violation to the license suspension review committee.

6 (c) For the purposes of this section only, "egregious shellfish  
7 violation" means a gross misdemeanor or felony involving commercial  
8 shellfish harvesting, buying, or selling that is unlawful under the  
9 terms of the license, this title, or the rules issued pursuant to this  
10 title, if the quantity of unlawfully harvested, possessed, bought, or  
11 sold shellfish: (i) Totals more than twenty percent of the harvest  
12 available for inspection at the time of citation; (ii) totals five  
13 hundred or more individual shellfish; and (iii) is valued at two  
14 thousand five hundred dollars or more.

15 (4) A person who has a commercial fishing license suspended or  
16 revoked under this section may file an appeal with the license  
17 suspension review committee pursuant to RCW 77.15.554. An appeal must  
18 be filed within thirty-one days of notice of license suspension or  
19 revocation. If an appeal is filed, the suspension or revocation issued  
20 by the department does not take effect until after the license  
21 suspension review committee has delivered an opinion. If no appeal is  
22 filed within thirty-one days of notice of license suspension or  
23 revocation, the right to an appeal is considered waived. All  
24 suspensions ordered under this section take effect either thirty-one  
25 days following the conviction for the second qualifying commercial  
26 fishing violation, or upon a decision pursuant to RCW 77.15.554,  
27 whichever is later.

28 (5) A fishing privilege suspended under this section is in addition  
29 to the statutory penalties assigned to the underlying crime.

30 (6) For the purposes of this section only, the burden is on the  
31 state to show the dollar amount or the percent of a harvest that is  
32 comprised of unlawfully harvested, bought, or sold individual fish or  
33 shellfish.

34 **Sec. 13.** RCW 77.08.010 and 2008 c 277 s 2 are each amended to read  
35 as follows:

36 The definitions in this section apply throughout this title or

1 rules adopted under this title unless the context clearly requires  
2 otherwise.

3 (1) "Angling gear" means a line attached to a rod and reel capable  
4 of being held in hand while landing the fish or a hand-held line  
5 operated without rod or reel.

6 (2) "Aquatic invasive species" means any invasive, prohibited,  
7 regulated, unregulated, or unlisted aquatic animal or plant species as  
8 defined under subsections (~~((48) through (53))~~) (3), (28), (40), (44),  
9 (58), and (59) of this section, aquatic noxious weeds as defined under  
10 RCW 17.26.020(5)(c), and aquatic nuisance species as defined under RCW  
11 77.60.130(1).

12 (3) "Aquatic plant species" means an emergent, submersed, partially  
13 submersed, free-floating, or floating-leaving plant species that grows  
14 in or near a body of water or wetland.

15 (4) "Bag limit" means the maximum number of game animals, game  
16 birds, or game fish which may be taken, caught, killed, or possessed by  
17 a person, as specified by rule of the commission for a particular  
18 period of time, or as to size, sex, or species.

19 (5) "Closed area" means a place where the hunting of some or all  
20 species of wild animals or wild birds is prohibited.

21 (6) "Closed season" means all times, manners of taking, and places  
22 or waters other than those established by rule of the commission as an  
23 open season. "Closed season" also means all hunting, fishing, taking,  
24 or possession of game animals, game birds, game fish, food fish, or  
25 shellfish that do not conform to the special restrictions or physical  
26 descriptions established by rule of the commission as an open season or  
27 that have not otherwise been deemed legal to hunt, fish, take, harvest,  
28 or possess by rule of the commission as an open season.

29 (7) "Closed waters" means all or part of a lake, river, stream, or  
30 other body of water, where fishing or harvesting is prohibited.

31 (8) "Commercial" means related to or connected with buying,  
32 selling, or bartering.

33 (9) "Commission" means the state fish and wildlife commission.

34 (10) "Concurrent waters of the Columbia river" means those waters  
35 of the Columbia river that coincide with the Washington-Oregon state  
36 boundary.

37 (11) "Contraband" means any property that is unlawful to produce or  
38 possess.

1        (12) "Deleterious exotic wildlife" means species of the animal  
2 kingdom not native to Washington and designated as dangerous to the  
3 environment or wildlife of the state.

4        ~~((+12+))~~ (13) "Department" means the department of fish and  
5 wildlife.

6        ~~((+13+))~~ (14) "Director" means the director of fish and wildlife.

7        ~~((+14+))~~ (15) "Endangered species" means wildlife designated by the  
8 commission as seriously threatened with extinction.

9        ~~((+15+))~~ (16) "Ex officio fish and wildlife officer" means a  
10 commissioned officer of a municipal, county, state, or federal agency  
11 having as its primary function the enforcement of criminal laws in  
12 general, while the officer is in the appropriate jurisdiction. The  
13 term "ex officio fish and wildlife officer" includes special agents of  
14 the national marine fisheries service, state parks commissioned  
15 officers, United States fish and wildlife special agents, department of  
16 natural resources enforcement officers, and United States forest  
17 service officers, while the agents and officers are within their  
18 respective jurisdictions.

19        ~~((+16+))~~ (17) "Fish" includes all species classified as game fish  
20 or food fish by statute or rule, as well as all fin fish not currently  
21 classified as food fish or game fish if such species exist in state  
22 waters. The term "fish" includes all stages of development and the  
23 bodily parts of fish species.

24        ~~((+17+))~~ (18) "Fish and wildlife officer" means a person appointed  
25 and commissioned by the director, with authority to enforce this title  
26 and rules adopted pursuant to this title, and other statutes as  
27 prescribed by the legislature. Fish and wildlife officer includes a  
28 person commissioned before June 11, 1998, as a wildlife agent or a  
29 fisheries patrol officer.

30        ~~((+18+))~~ (19) "Fish broker" means a person whose business it is to  
31 bring a seller of fish and shellfish and a purchaser of those fish and  
32 shellfish together.

33        (20) "Fishery" means the taking of one or more particular species  
34 of fish or shellfish with particular gear in a particular geographical  
35 area.

36        ~~((+19+))~~ (21) "Freshwater" means all waters not defined as  
37 saltwater including, but not limited to, rivers upstream of the river  
38 mouth, lakes, ponds, and reservoirs.

1           ~~((+20+))~~ (22) "Fur-bearing animals" means game animals that shall  
2 not be trapped except as authorized by the commission.

3           ~~((+21+))~~ (23) "Game animals" means wild animals that shall not be  
4 hunted except as authorized by the commission.

5           ~~((+22+))~~ (24) "Game birds" means wild birds that shall not be  
6 hunted except as authorized by the commission.

7           ~~((+23+))~~ (25) "Game farm" means property on which wildlife is held  
8 or raised for commercial purposes, trade, or gift. The term "game  
9 farm" does not include publicly owned facilities.

10           ~~((+24+))~~ (26) "Game reserve" means a closed area where hunting for  
11 all wild animals and wild birds is prohibited.

12           ~~((+25+))~~ (27) "Illegal items" means those items unlawful to be  
13 possessed.

14           (28) "Invasive species" means a plant species or a nonnative animal  
15 species that either:

16           (a) Causes or may cause displacement of, or otherwise threatens,  
17 native species in their natural communities;

18           (b) Threatens or may threaten natural resources or their use in the  
19 state;

20           (c) Causes or may cause economic damage to commercial or  
21 recreational activities that are dependent upon state waters; or

22           (d) Threatens or harms human health.

23           ~~((+26+))~~ (29) "License year" means the period of time for which a  
24 recreational license is valid. The license year begins April 1st, and  
25 ends March 31st.

26           ~~((+27+))~~ (30) "Limited-entry license" means a license subject to a  
27 license limitation program established in chapter 77.70 RCW.

28           ~~((+28+))~~ (31) "Money" means all currency, script, personal checks,  
29 money orders, or other negotiable instruments.

30           (32) "Nonresident" means a person who has not fulfilled the  
31 qualifications of a resident.

32           ~~((+29+))~~ (33) "Offshore waters" means marine waters of the Pacific  
33 Ocean outside the territorial boundaries of the state, including the  
34 marine waters of other states and countries.

35           ~~((+30+))~~ (34) "Open season" means those times, manners of taking,  
36 and places or waters established by rule of the commission for the  
37 lawful hunting, fishing, taking, or possession of game animals, game  
38 birds, game fish, food fish, or shellfish that conform to the special

1 restrictions or physical descriptions established by rule of the  
2 commission or that have otherwise been deemed legal to hunt, fish,  
3 take, harvest, or possess by rule of the commission. "Open season"  
4 includes the first and last days of the established time.

5 ~~((+31+))~~ (35) "Owner" means the person in whom is vested the  
6 ownership dominion, or title of the property.

7 (36) "Person" means and includes an individual; a corporation; a  
8 public or private entity or organization; a local, state, or federal  
9 agency; all business organizations, including corporations and  
10 partnerships; or a group of two or more individuals acting with a  
11 common purpose whether acting in an individual, representative, or  
12 official capacity.

13 ~~((+32+))~~ (37) "Personal use" means for the private use of the  
14 individual taking the fish or shellfish and not for sale or barter.

15 ~~((+33+))~~ (38) "Personal property" or "property" includes both  
16 corporeal and incorporeal personal property and includes, among other  
17 property, contraband and money.

18 (39) "Predatory birds" means wild birds that may be hunted  
19 throughout the year as authorized by the commission.

20 ~~((+34+))~~ (40) "Prohibited aquatic animal species" means an invasive  
21 species of the animal kingdom that has been classified as a prohibited  
22 aquatic animal species by the commission.

23 ~~((+35+))~~ (41) "Protected wildlife" means wildlife designated by the  
24 commission that shall not be hunted or fished.

25 ~~((+36+))~~ (42) "Raffle" means an activity in which tickets bearing  
26 an individual number are sold for not more than twenty-five dollars  
27 each and in which a permit or permits are awarded to hunt or for access  
28 to hunt big game animals or wild turkeys on the basis of a drawing from  
29 the tickets by the person or persons conducting the raffle.

30 ~~((+37+))~~ (43) "Recreational and commercial watercraft" includes the  
31 boat, as well as equipment used to transport the boat, and any  
32 auxiliary equipment such as attached or detached outboard motors.

33 ~~((+38+))~~ (44) "Regulated aquatic animal species" means a  
34 potentially invasive species of the animal kingdom that has been  
35 classified as a regulated aquatic animal species by the commission.

36 ~~((+39+))~~ (45) "Resident" means:

37 (a) A person who has maintained a permanent place of abode within  
38 the state for at least ninety days immediately preceding an application

1 for a license, has established by formal evidence an intent to continue  
2 residing within the state, and who is not licensed to hunt or fish as  
3 a resident in another state; and

4 (b) A person age eighteen or younger who does not qualify as a  
5 resident under (a) of this subsection, but who has a parent that  
6 qualifies as a resident under (a) of this subsection.

7 ~~((40))~~ (46) "Retail-eligible species" means commercially  
8 harvested salmon, crab, and sturgeon.

9 ~~((41))~~ (47) "Saltwater" means those marine waters seaward of  
10 river mouths.

11 ~~((42))~~ (48) "Seaweed" means marine aquatic plant species that are  
12 dependent upon the marine aquatic or tidal environment, and exist in  
13 either an attached or free floating form, and includes but is not  
14 limited to marine aquatic plants in the classes Chlorophyta,  
15 Phaeophyta, and Rhodophyta.

16 ~~((43))~~ (49) "Senior" means a person seventy years old or older.

17 ~~((44))~~ (50) "Shellfish" means those species of marine and  
18 freshwater invertebrates that have been classified and that shall not  
19 be taken except as authorized by rule of the commission. The term  
20 "shellfish" includes all stages of development and the bodily parts of  
21 shellfish species.

22 ~~((45))~~ (51) "State waters" means all marine waters and fresh  
23 waters within ordinary high water lines and within the territorial  
24 boundaries of the state.

25 ~~((46))~~ (52) "To fish," "to harvest," and "to take," and their  
26 derivatives means an effort to kill, injure, harass, or catch a fish or  
27 shellfish.

28 ~~((47))~~ (53) "To hunt" and its derivatives means an effort to  
29 kill, injure, capture, or harass a wild animal or wild bird.

30 ~~((48))~~ (54) "To process" and its derivatives mean preparing or  
31 preserving fish, wildlife, or shellfish.

32 ~~((49))~~ (55) "To trap" and its derivatives means a method of  
33 hunting using devices to capture wild animals or wild birds.

34 ~~((50))~~ (56) "Trafficking" means offering, attempting to engage,  
35 or engaging in sale, barter, or purchase of fish, shellfish, wildlife,  
36 or deleterious exotic wildlife.

37 ~~((51))~~ (57) "Unclaimed" means that no owner of the property has  
38 been identified or has requested, in writing, the release of the

1 property to themselves nor has the owner of the property designated an  
2 individual to receive the property or paid the required postage to  
3 effect delivery of the property.

4 (58) "Unlisted aquatic animal species" means a nonnative animal  
5 species that has not been classified as a prohibited aquatic animal  
6 species, a regulated aquatic animal species, or an unregulated aquatic  
7 animal species by the commission.

8 ((+52+)) (59) "Unregulated aquatic animal species" means a  
9 nonnative animal species that has been classified as an unregulated  
10 aquatic animal species by the commission.

11 ((+53+)) (60) "Wholesale fish dealer" means a person who, acting  
12 for commercial purposes, takes possession or ownership of fish or  
13 shellfish and sells, barter, or exchanges or attempts to sell, barter,  
14 or exchange fish or shellfish that have been landed into the state of  
15 Washington or entered the state of Washington in interstate or foreign  
16 commerce.

17 (61) "Wild animals" means those species of the class Mammalia whose  
18 members exist in Washington in a wild state and the species *Rana*  
19 *catesbeiana* (bullfrog). The term "wild animal" does not include feral  
20 domestic mammals or old world rats and mice of the family Muridae of  
21 the order Rodentia.

22 ((+54+)) (62) "Wild birds" means those species of the class Aves  
23 whose members exist in Washington in a wild state.

24 ((+55+)) (63) "Wildlife" means all species of the animal kingdom  
25 whose members exist in Washington in a wild state. This includes but  
26 is not limited to mammals, birds, reptiles, amphibians, fish, and  
27 invertebrates. The term "wildlife" does not include feral domestic  
28 mammals, old world rats and mice of the family Muridae of the order  
29 Rodentia, or those fish, shellfish, and marine invertebrates classified  
30 as food fish or shellfish by the director. The term "wildlife"  
31 includes all stages of development and the bodily parts of wildlife  
32 members.

33 ((+56+)) (64) "Youth" means a person fifteen years old for fishing  
34 and under sixteen years old for hunting.

35 **Sec. 14.** RCW 77.12.170 and 2005 c 418 s 3, 2005 c 225 s 4, 2005 c  
36 224 s 4, and 2005 c 42 s 4 are each reenacted and amended to read as  
37 follows:

1 (1) There is established in the state treasury the state wildlife  
2 account which consists of moneys received from:

3 (a) Rentals or concessions of the department;

4 (b) The sale of real or personal property held for department  
5 purposes, unless the property is seized or recovered through a fish,  
6 shellfish, or wildlife enforcement action;

7 (c) The assessment of administrative penalties, and the sale of  
8 licenses, permits, tags, and stamps required by chapter 77.32 RCW and  
9 RCW 77.65.490, except annual resident adult saltwater and all annual  
10 razor clam and shellfish licenses, which shall be deposited into the  
11 state general fund;

12 (d) Fees for informational materials published by the department;

13 (e) Fees for personalized vehicle, Wild on Washington, and  
14 Endangered Wildlife license plates and Washington's Wildlife license  
15 plate collection as provided in chapter 46.16 RCW;

16 (f) Articles or wildlife sold by the director under this title;

17 (g) Compensation for damage to department property or wildlife  
18 losses or contributions, gifts, or grants received under RCW 77.12.320.  
19 However, this excludes fish and shellfish overages, and court-ordered  
20 restitution or donations associated with any fish, shellfish, or  
21 wildlife enforcement action, as such moneys must be deposited pursuant  
22 to RCW 77.15.425;

23 (h) Excise tax on anadromous game fish collected under chapter  
24 82.27 RCW;

25 ~~((The sale of personal property seized by the department for~~  
26 ~~fish, shellfish, or wildlife violations;~~

27 ~~(+j))~~ The department's share of revenues from auctions and raffles  
28 authorized by the commission; and

29 ~~((+k))~~ (j) The sale of watchable wildlife decals under RCW  
30 77.32.560.

31 (2) State and county officers receiving any moneys listed in  
32 subsection (1) of this section shall deposit them in the state treasury  
33 to be credited to the state wildlife account.

34 **Sec. 15.** RCW 77.15.100 and 2000 c 107 s 235 are each amended to  
35 read as follows:

36 (1) Unless otherwise provided in this title, fish, shellfish, or  
37 wildlife unlawfully taken or possessed, or involved in a violation

1 shall be forfeited to the state upon conviction. Unless already held  
2 by, sold, destroyed, or disposed of by the department, the court shall  
3 order such fish or wildlife to be delivered to the department. Where  
4 delay will cause loss to the value of the property and a ready  
5 wholesale buying market exists, the department may sell property to a  
6 wholesale buyer at a fair market value.

7 (2) When seized property is forfeited to the department, the  
8 department may retain it for official use unless the property is  
9 required to be destroyed, or upon application by any law enforcement  
10 agency of the state, release the property to the agency for the use of  
11 enforcing this title, or sell such property and deposit the proceeds  
12 into the (~~state wildlife fund~~) fish and wildlife enforcement reward  
13 account established under RCW (~~77.12.170~~) 77.15.425. Any sale of  
14 other property shall be at public auction or after public advertisement  
15 reasonably designed to obtain the highest price. The time, place, and  
16 manner of holding the sale shall be determined by the director. The  
17 director may contract for the sale to be through the department of  
18 general administration as state surplus property, or, except where not  
19 justifiable by the value of the property, the director shall publish  
20 notice of the sale once a week for at least two consecutive weeks  
21 before the sale in at least one newspaper of general circulation in the  
22 county in which the sale is to be held.

23 NEW SECTION. Sec. 16. A new section is added to chapter 77.15 RCW  
24 to read as follows:

25 (1) A person is guilty of unlawful use of a department permit if  
26 the person:

27 (a) Violates any terms or conditions of the permit issued by the  
28 department or the director; or

29 (b) Violates any rule of the commission or the director applicable  
30 to the requirement for, issuance of, or use of the permit.

31 (2) Permits covered under subsection (1) of this section include,  
32 but are not limited to, master hunter permits, depredation permits,  
33 landowner hunting permits, commercial carp license permits, permits to  
34 possess or dispense beer or malt liquor pursuant to RCW 66.28.210, and  
35 permits to hold, sponsor, or attend an event requiring a banquet permit  
36 from the liquor control board. Permits excluded from subsection (1) of  
37 this section include fish and wildlife lands vehicle use permits,

1 commercial use or activity permits, noncommercial use or activity  
2 permits, parking permits, experimental fishery permits, trial  
3 commercial fishery permits, and scientific collection permits.

4 (3) Unlawful use of a department permit is a misdemeanor.

5 (4) A person is guilty of unlawful use of an experimental fishery  
6 permit or a trial commercial fishery permit if the person:

7 (a) Violates any terms or conditions of the permit issued by the  
8 department or the director; or

9 (b) Violates any rule of the commission or the director applicable  
10 to the issuance or use of the permit.

11 (5) Unlawful use of an experimental fishery permit or a trial  
12 commercial fishery permit is a gross misdemeanor.

13 (6) The definitions in this subsection apply throughout this  
14 section unless the context clearly requires otherwise.

15 (a) "Experimental fishery permit" means a permit issued by the  
16 director for either:

17 (i) An "emerging commercial fishery," defined as a fishery for a  
18 newly classified species for which the department has determined that  
19 there is a need to limit participation; or

20 (ii) An "expanding commercial fishery," defined as a fishery for a  
21 previously classified species in a new area, by a new method, or at a  
22 new effort level, for which the department has determined that there is  
23 a need to limit participation.

24 (b) "Trial commercial fishery permit" means a permit issued by the  
25 department for trial harvest of a newly classified species or harvest  
26 of a previously classified species in a new area or by a new means.

27 NEW SECTION. **Sec. 17.** A new section is added to chapter 77.32 RCW  
28 to read as follows:

29 (1) In order to effectively manage wildlife in areas or at times  
30 when a higher proficiency and demonstrated skill level are needed for  
31 resource protection or public safety, the department establishes the  
32 master hunter permit program. The master hunter permit program  
33 emphasizes safe, ethical, responsible, and lawful hunting practices.  
34 Program goals include improving the public's perception of hunting and  
35 perpetuating the highest hunting standards.

36 (2) A master hunter permit is required to participate in controlled  
37 hunts to eliminate problem animals that damage property or threaten

1 public safety. The commission may establish by rule the requirements  
2 an applicant must comply with when applying for or renewing a master  
3 hunter permit, including but not limited to a criminal background  
4 check. The director may establish an advisory group to assist the  
5 department with administering the master hunter program.

6 (3) The fee for an initial master hunter permit may not exceed  
7 fifty dollars, and the cost of renewing a master hunter permit may not  
8 exceed twenty-five dollars. Funds generated under this section must be  
9 deposited into the fish and wildlife enforcement reward account  
10 established in RCW 77.15.425, and the funds must be used exclusively to  
11 administer the master hunter program.

12 NEW SECTION. **Sec. 18.** A new section is added to chapter 77.15 RCW  
13 to read as follows:

14 (1) The department may suspend a person's master hunter permit for  
15 the following reasons and corresponding lengths of time:

16 (a) If the person pays the required fine or is found to have  
17 committed an infraction under this chapter or the department's rules,  
18 the department shall suspend the person's master hunter permit for two  
19 years;

20 (b) If the person pays the required fine or is convicted of a  
21 misdemeanor, gross misdemeanor, or felony under this chapter, the  
22 department shall suspend the person's master hunter permit for life;

23 (c) If the person pays the required fine or is convicted of  
24 trespass, reckless endangerment, criminal conspiracy, or making a false  
25 statement to law enforcement while hunting, fishing, or engaging in any  
26 activity regulated by the department, the department shall suspend the  
27 person's master hunter permit for life;

28 (d) If the person pays the required fine or is convicted of a  
29 felony prohibiting the possession of firearms, unless firearm  
30 possession is reinstated, the department shall suspend the person's  
31 master hunter permit for life;

32 (e) If the person has a hunting or fishing license revoked or has  
33 hunting or fishing license privileges suspended in another state, the  
34 department shall suspend the person's master hunter permit for life;

35 (f) If the person is cited, or charged by complaint, for an offense  
36 under this chapter; or for trespass, reckless endangerment, criminal  
37 conspiracy, or making a false statement to law enforcement while

1 hunting, fishing, or engaging in any activity regulated by the  
2 department, the department may immediately suspend the person's master  
3 hunter permit until the offense has been adjudicated; or

4 (g) If the person submits fraudulent information to the department,  
5 the department shall suspend the person's master hunter permit for  
6 life.

7 (2) Any master hunter who is notified of an intended suspension may  
8 request an appeal hearing under chapter 34.05 RCW.

9 **Sec. 19.** RCW 77.15.370 and 2005 c 406 s 3 are each amended to read  
10 as follows:

11 (1) A person is guilty of unlawful recreational fishing in the  
12 first degree if:

13 (a) The person takes, possesses, or retains two times or more than  
14 the bag limit or possession limit of fish or shellfish allowed by any  
15 rule of the director or commission setting the amount of food fish,  
16 game fish, or shellfish that can be taken, possessed, or retained for  
17 noncommercial use;

18 (b) The person fishes in a fishway;

19 (c) The person shoots, gaffs, snags, snares, spears, dipnets, or  
20 stones fish or shellfish in state waters, or possesses fish or  
21 shellfish taken by such means, unless such means are authorized by  
22 express rule of the commission or director; (~~or~~)

23 (d) The person fishes for or possesses a fish listed as threatened  
24 or endangered in 50 C.F.R. Sec. 17.11 (2002), unless fishing for or  
25 possession of such fish is specifically allowed under federal or state  
26 law; or

27 (e) The person possesses a sturgeon measuring in excess of the  
28 maximum size limit as established by rules adopted by the department.

29 (2) Unlawful recreational fishing in the first degree is a gross  
30 misdemeanor.

31 **Sec. 20.** RCW 77.15.425 and 2006 c 148 s 2 are each amended to read  
32 as follows:

33 The fish and wildlife enforcement reward account is created in the  
34 custody of the state treasurer. (~~All receipts from criminal wildlife~~  
35 ~~penalty assessments under RCW 77.15.420 and 77.15.400 must be deposited~~  
36 ~~into the account.)) Deposits to the account include: Receipts from~~

1 fish and shellfish overages as a result of a department enforcement  
2 action; fees for hunter education deferral applications; fees for  
3 master hunter applications and master hunter certification renewals;  
4 all receipts from criminal wildlife penalty assessments under RCW  
5 77.15.400 and 77.15.420; all receipts of court-ordered restitution or  
6 donations associated with any fish, shellfish, or wildlife enforcement  
7 action; and proceeds from forfeitures and evidence pursuant to RCW  
8 77.15.070 and 77.15.100. The department may accept money or personal  
9 property from persons under conditions requiring the property or money  
10 to be used consistent with the intent of expenditures from the fish and  
11 wildlife enforcement reward account. Expenditures from the account may  
12 be used only for investigation and prosecution of fish and wildlife  
13 offenses, to provide rewards to persons informing the department about  
14 violations of this title and rules adopted under this title, to offset  
15 department-approved costs incurred to administer the hunter education  
16 deferral program and the master hunter program, and for other valid  
17 enforcement uses as determined by the commission. Only the director or  
18 the director's designee may authorize expenditures from the account.  
19 The account is subject to allotment procedures under chapter 43.88 RCW,  
20 but an appropriation is not required for expenditures.

21 **Sec. 21.** RCW 77.15.568 and 2007 c 337 s 4 are each amended to read  
22 as follows:

23 (1) A person is guilty of a secondary commercial fish receiver's  
24 failure to account for commercial harvest if:

25 (a) The person sells fish or shellfish at retail, stores or holds  
26 fish or shellfish for another in exchange for valuable consideration,  
27 ships fish or shellfish in exchange for valuable consideration, or  
28 brokers fish or shellfish in exchange for valuable consideration;

29 (b) The fish or shellfish were required to be entered on a  
30 Washington fish receiving ticket or a Washington aquatic farm  
31 production annual report; and

32 (c) The person fails to maintain records of each receipt of fish or  
33 shellfish, as required under subsections (3) through (5) of this  
34 section, at the location where the fish or shellfish are being sold, at  
35 the location where the fish or shellfish are being stored or held, or  
36 at the principal place of business of the shipper or broker.

1 (2) This section (~~does not apply~~) applies to a wholesale fish  
2 dealer(~~(7)~~) acting in the capacity of a broker. However, this section  
3 does not apply to a wholesale fish dealer acting in the capacity of a  
4 wholesale fish dealer, to a fisher selling under a direct retail sale  
5 endorsement, or to a registered aquatic farmer.

6 (3) Records of the receipt of fish or shellfish required to be kept  
7 under this section must be in the English language and be maintained  
8 for three years from the date fish or shellfish are received, shipped,  
9 or brokered.

10 (4) Records maintained by persons that retail or broker must  
11 include the following:

12 (a) The name, address, and phone number of the wholesale fish  
13 dealer, fisher selling under a direct retail sale endorsement, or  
14 aquatic farmer or shellstock shipper from whom the fish or shellfish  
15 were purchased or received;

16 (b) The Washington fish receiving ticket number documenting  
17 original receipt or aquatic farm production quarterly report  
18 documenting production, if available;

19 (c) The date of purchase or receipt; and

20 (d) The amount and species of fish or shellfish purchased or  
21 received.

22 (5) Records maintained by persons that store, hold, or ship fish or  
23 shellfish for others must state the following:

24 (a) The name, address, and phone number of the person and business  
25 from whom the fish or shellfish were received;

26 (b) The date of receipt; and

27 (c) The amount and species of fish or shellfish received.

28 (6) A secondary commercial fish receiver's failure to account for  
29 commercial harvest is a misdemeanor.

30 **Sec. 22.** RCW 77.15.620 and 2002 c 301 s 7 are each amended to read  
31 as follows:

32 (1) A person is guilty of engaging in fish dealing activity without  
33 a license in the second degree if the person:

34 (a) Engages in the commercial processing of fish or shellfish,  
35 including custom canning or processing of personal use fish or  
36 shellfish and does not hold a wholesale dealer's license required by

1 RCW 77.65.280(1) or 77.65.480 for anadromous game fish, or a direct  
2 retail endorsement under RCW 77.65.510;

3 (b) Engages in the wholesale selling, buying, or brokering of food  
4 fish or shellfish and does not hold a wholesale dealer's or buying  
5 license required by RCW 77.65.280(2) or 77.65.480 for anadromous game  
6 fish;

7 (c) Is a fisher who lands and sells his or her catch or harvest in  
8 the state to anyone other than a licensed wholesale dealer within or  
9 outside the state and does not hold a direct retail endorsement  
10 required by RCW 77.65.510; or

11 (d) Engages in the commercial manufacture or preparation of  
12 fertilizer, oil, meal, caviar, fish bait, or other byproducts from food  
13 fish or shellfish and does not hold a wholesale dealer's license  
14 required by RCW 77.65.280(4) or 77.65.480 for anadromous game fish.

15 (2) Engaging in fish dealing activity without a license in the  
16 second degree is a gross misdemeanor.

17 (3) A person is guilty of engaging in fish dealing activity without  
18 a license in the first degree if the person commits the act described  
19 by subsection (1) of this section and the violation involves: (a) Fish  
20 or shellfish worth two hundred fifty dollars or more; (b) a failure to  
21 document such fish or shellfish with a fish receiving ticket or other  
22 documentation required by statute or rule of the department; or (c)  
23 violates any other rule of the department regarding wholesale fish  
24 buying and dealing. Engaging in fish dealing activity without a  
25 license in the first degree is a class C felony.

26 **Sec. 23.** RCW 77.12.879 and 2007 c 350 s 3 are each amended to read  
27 as follows:

28 (1) The aquatic invasive species prevention account is created in  
29 the state treasury. Moneys directed to the account from RCW 88.02.050  
30 must be deposited in the account. Expenditures from the account may  
31 only be used as provided in this section. Moneys in the account may be  
32 spent only after appropriation.

33 (2) Funds in the aquatic invasive species prevention account may be  
34 appropriated to the department to develop an aquatic invasive species  
35 prevention program for recreational and commercial watercraft. Funds  
36 must be expended as follows:

37 (a) To inspect recreational and commercial watercraft;

1 (b) To educate general law enforcement officers on how to enforce  
2 state laws relating to preventing the spread of aquatic invasive  
3 species;

4 (c) To evaluate and survey the risk posed by recreational and  
5 commercial watercraft in spreading aquatic invasive species into  
6 Washington state waters;

7 (d) To evaluate the risk posed by float planes in spreading aquatic  
8 invasive species into Washington state waters; and

9 (e) To implement an aquatic invasive species early detection and  
10 rapid response plan. The plan must address the treatment and immediate  
11 response to the introduction to Washington waters of aquatic invasive  
12 species. Agency and public review of the plan must be conducted under  
13 chapter 43.21C RCW, the state environmental policy act. If the  
14 implementation measures or actions would have a probable significant  
15 adverse environmental impact, a detailed statement under chapter 43.21C  
16 RCW must be prepared on the plan.

17 (3) Funds in the aquatic invasive species enforcement account  
18 created in RCW 43.43.400 may be appropriated to the department and  
19 Washington state patrol to develop an aquatic invasive species  
20 enforcement program for recreational and commercial watercraft. The  
21 department shall provide training to Washington state patrol employees  
22 working at port of entry weigh stations, and other local law  
23 enforcement employees, on how to inspect recreational and commercial  
24 watercraft for the presence of aquatic invasive species. A person who  
25 enters Washington transporting any commercial or recreational  
26 watercraft that has been used in any designated aquatic invasive  
27 species state or foreign country as defined by rule of the department  
28 must have in his or her possession valid documentation that the  
29 watercraft has been inspected and found free of aquatic invasive  
30 species. The department is authorized to require persons transporting  
31 recreational and commercial watercraft to stop at check stations.  
32 Check stations must be plainly marked by signs, operated by at least  
33 one uniformed fish and wildlife officer, and operated in a safe manner.  
34 Any person stopped at a check station who possesses a recreational or  
35 commercial watercraft that has been used in any designated aquatic  
36 invasive species state or foreign country as defined by rule of the  
37 department, or that is contaminated with aquatic invasive species, must  
38 bear the expense for any necessary impoundment, transportation,

1 cleaning, and decontamination of the watercraft. Any person stopped at  
2 a check station who possesses a recreational or commercial watercraft  
3 that has been used in any designated aquatic invasive species state or  
4 foreign country as defined by rule of the department, or that is  
5 contaminated with aquatic invasive species, is exempt from the criminal  
6 penalties found in RCW 77.15.253 and 77.15.290, and forfeiture under  
7 RCW 77.15.070, if that person complies with all department directives  
8 for the proper decontamination of the watercraft and equipment.

9 (4) The department shall submit a biennial report to the  
10 appropriate legislative committees describing the actions taken to  
11 implement this section along with suggestions on how to better fulfill  
12 the intent of chapter 464, Laws of 2005. The first report is due  
13 December 1, 2007.

14 NEW SECTION. Sec. 24. Whenever any personal property comes into  
15 the possession of the officers of the department in connection with the  
16 official performance of their duties and the personal property remains  
17 unclaimed or not taken away for a period of sixty days from the date of  
18 written notice to the owner thereof, if known, which notice shall  
19 inform the owner of the disposition that may be made of the property  
20 under this section and the time that the owner has to claim the  
21 property and in all other cases for a period of sixty days from the  
22 time the property came into the possession of the department, unless  
23 the property has been held as evidence in any court, then, in that  
24 event, after sixty days from date when the case has been finally  
25 disposed of and the property released as evidence by order of the  
26 court, the department may:

27 (1) At any time thereafter sell the personal property at public  
28 auction to the highest and best bidder for cash in the manner  
29 hereinafter provided;

30 (2) Retain the property for the use of the department subject to  
31 giving notice in the manner prescribed in RCW 63.35.030 and the right  
32 of the owner, or the owner's legal representative, to reclaim the  
33 property within one year after receipt of notice, without compensation  
34 for ordinary wear and tear if, in the opinion of the director, the  
35 property consists of firearms or other items specifically usable in law  
36 enforcement work. At the end of each calendar year during which there

1 has been such a retention, the department shall provide the office of  
2 financial management and retain for public inspection a list of such  
3 retained items and an estimation of each item's replacement value;

4 (3) Destroy an item of personal property at the discretion of the  
5 director if the director determines that the following circumstances  
6 have occurred:

7 (a) The property has no substantial commercial value or the  
8 probable cost of sale exceeds the value of the property;

9 (b) The item has been unclaimed by any person after notice  
10 procedures have been met, as prescribed in this section; and

11 (c) The director has determined that the item is illegal to possess  
12 or sell or unsafe and unable to be made safe for use by any member of  
13 the general public;

14 (4) If the item is not unsafe or illegal to possess or sell, such  
15 item, after satisfying the notice requirements as prescribed in this  
16 section may be offered by the director to bona fide dealers, in trade  
17 for law enforcement equipment, which equipment must be treated as  
18 retained property for the purpose of annual listing requirements of  
19 subsection (2) of this section; or

20 (5) At the end of one year, any unclaimed firearm must be disposed  
21 of pursuant to RCW 9.41.098(2). Any other item that is not unsafe or  
22 illegal to possess or sell, but has been, or may be used, in the  
23 judgment of the director, in a manner that is illegal, may be  
24 destroyed.

25 NEW SECTION. **Sec. 25.** Before the personal property shall be sold,  
26 a notice of such a sale fixing the time and place thereof which shall  
27 be at a suitable place, which will be noted in the advertisement for  
28 sale, and containing a description of the property to be sold must be  
29 published at least once in a newspaper of general circulation in the  
30 county in which the property is to be sold at least ten days prior to  
31 the date fixed for the auction. The notice must be signed by the  
32 director. If the owner fails to reclaim the property prior to the time  
33 fixed for the sale in such a notice, the director shall conduct the  
34 sale and sell the property described in the notice at public auction to  
35 the highest and best bidder for cash, and upon payment of the amount of  
36 the bid shall deliver the property to the bidder.

1        NEW SECTION.    **Sec. 26.**    The moneys arising from sales under the  
2 provisions of this chapter must be first applied to the payment of the  
3 costs and expenses of the sale and then to the payment of lawful  
4 charges and expenses for the keep of the personal property and the  
5 balance, if any, must be forwarded to the state treasurer to be  
6 deposited into the fish and wildlife enforcement reward account under  
7 RCW 77.15.425.

8        NEW SECTION.    **Sec. 27.**    If the owner of the personal property so  
9 sold, or the owner's legal representative, shall, at any time within  
10 three years after the money has been deposited in the fish and wildlife  
11 enforcement reward account, furnish satisfactory evidence to the state  
12 treasurer of the ownership of the personal property, the owner or the  
13 owner's legal representative is entitled to receive from the fish and  
14 wildlife enforcement reward account the amount so deposited, with  
15 interest.

16        NEW SECTION.    **Sec. 28.**    (1) Chapter 63.24 RCW, unclaimed property  
17 in hands of bailee, does not apply to personal property in the  
18 possession of the department.

19        (2) The uniform unclaimed property act, chapter 63.29 RCW, does not  
20 apply to personal property in the possession of the department.

21        NEW SECTION.    **Sec. 29.**    In addition to any other method of  
22 disposition of unclaimed property provided under this chapter, the  
23 department may donate unclaimed personal property to nonprofit  
24 charitable organizations.    A nonprofit charitable organization  
25 receiving personal property donated under this section must use the  
26 property, or its proceeds, to benefit needy persons.    The charitable  
27 organization must qualify for tax-exempt status under 26 U.S.C. Sec.  
28 501(c)(3) of the federal internal revenue code.

29        NEW SECTION.    **Sec. 30.**    Sections 24 through 29 of this act  
30 constitute a new chapter in Title 77 RCW.

31        NEW SECTION.    **Sec. 31.**    RCW 77.12.065 (Wildlife viewing tourism)  
32 and 2003 c 183 s 1 are each repealed.

1        NEW SECTION.    **Sec. 32.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

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