

Chapter 77.15 RCW
FISH AND WILDLIFE ENFORCEMENT CODE

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RCW 77.15.005 Finding—Intent. The legislature finds that merger of the departments of fisheries and wildlife resulted in two criminal codes applicable to fish and wildlife, and that it has become increasingly difficult to administer and enforce the two criminal codes. Furthermore, laws defining crimes involving fish and wildlife have evolved over many years of changing uses and management objectives for fish and wildlife. The resulting two codes make it difficult for citizens to comply with the law and unnecessarily complicate enforcement of laws against violators.

The legislature intends by chapter 190, Laws of 1998 to revise and recodify the criminal laws governing fish and wildlife, ensuring that all people involved with fish and wildlife are able to know and understand the requirements of the laws and the risks of violation. Additionally, the legislature intends to create a more uniform approach to criminal laws governing fish and wildlife and to the laws authorizing prosecution, sentencing, and punishments, including repealing crimes that are redundant to other provisions of the criminal code.

Chapter 190, Laws of 1998 is not intended to alter existing powers of the commission or the director to adopt rules or exercise powers over fish and wildlife. In some places reference is made to violation of department rules, but this is intended to conform with current powers of the commission, director, or both, to adopt rules governing fish and wildlife activities. [1998 c 190 § 1.]

RCW 77.15.010 Exemption for department actions. A person is not guilty of a crime under this chapter if the person is an officer, employee, or agent of the department lawfully acting in the course of his or her authorized duties. [1998 c 190 § 2.]

RCW 77.15.020 Authority to define violation of rule as infraction—Agreement to enforce certain civil infractions. (1) If the commission or director has authority to adopt a rule that is punishable as a crime under this chapter, then the commission or director may provide that violation of the rule shall be punished with notice of infraction under RCW 7.84.030. Neither the commission nor

the director have the authority to adopt a rule providing that a violation punishable as an infraction shall be a crime.

(2) The director may, under the provisions of RCW 7.84.140, enter into an agreement allowing employees of the state parks and recreation commission and the department of natural resources to enforce certain civil infractions created under this title. [2011 c 320 § 17; 2005 c 321 § 2; 1998 c 190 § 3.]

Effective date—2011 c 320: See note following RCW 79A.80.005.

Findings—Intent—2011 c 320: See RCW 79A.80.005.

RCW 77.15.030 Individual animal unlawfully taken—Separate offense. Except as provided in RCW 77.15.260(2)(b), where it is unlawful to hunt, take, fish, possess, or traffic in big game or protected or endangered fish or wildlife, then each individual animal unlawfully taken or possessed is a separate offense. [2012 c 176 § 6; 1999 c 258 § 1; 1998 c 190 § 4.]

RCW 77.15.040 Jurisdiction. District courts have jurisdiction concurrent with superior courts for misdemeanors and gross misdemeanors committed in violation of this chapter and may impose the punishment provided for these offenses. Superior courts have jurisdiction over felonies committed in violation of this chapter. Venue for offenses occurring in offshore waters shall be in a county bordering on the Pacific Ocean, or the county where fish or wildlife from the offense are landed. [1998 c 190 § 5.]

RCW 77.15.050 "Conviction" defined. (1) Unless the context clearly requires otherwise, as used in this chapter, "conviction" means a final conviction in a state or municipal court.

(2) A plea of guilty or a finding of guilt for a violation of this title or department rule constitutes a conviction regardless of whether the imposition of sentence is deferred or the penalty is suspended. [2012 c 176 § 7; 2009 c 333 § 1; 1998 c 190 § 6.]

RCW 77.15.060 Reference to chapters 7.84 and 9A.20 RCW. Crimes defined by this chapter shall be punished as infractions, misdemeanors, gross misdemeanors, or felonies, based on the classification of crimes set out in chapters 7.84 and 9A.20 RCW. [1998 c 190 § 7.]

RCW 77.15.065 Authority of attorney general if prosecuting attorney defaults. If the prosecuting attorney of the county in which a violation of this title or rule of the department occurs fails to file an information against the alleged violator, the attorney general upon request of the commission may file an information in the superior court of the county and prosecute the case in place of the prosecuting attorney. The commission may request prosecution by the attorney general if thirty days have passed since the commission informed the county prosecuting attorney of the alleged violation. [1996 c 267 §

9; 1983 1st ex.s. c 46 § 41; 1949 c 112 § 24; Rem. Supp. 1949 § 5780-222. Formerly RCW 75.10.100, 75.08.275, 43.25.070.]

Intent—Effective date—1996 c 267: See notes following RCW 77.12.177.

RCW 77.15.070 Civil forfeiture of property used for violation of chapter.

(1) Fish and wildlife officers and ex officio fish and wildlife officers may seize without warrant boats, airplanes, vehicles, motorized implements, conveyances, gear, appliances, or other articles they have probable cause to believe have been held with intent to violate or used in violation of this title or rule of the commission or director. However, fish and wildlife officers or ex officio fish and wildlife officers may not seize any item or article, other than for evidence, if under the circumstances, it is reasonable to conclude that the violation was inadvertent. The property seized is subject to forfeiture to the state under this section regardless of ownership. Property seized may be recovered by its owner by depositing with the department or into court a cash bond or equivalent security equal to the value of the seized property but not more than one hundred thousand dollars. Such cash bond or security is subject to forfeiture in lieu of the property. Forfeiture of property seized under this section is a civil forfeiture against property and is intended to be a remedial civil sanction.

(2) In the event of a seizure of property under this section, jurisdiction to begin the forfeiture proceedings shall commence upon seizure. Within fifteen days following the seizure, the seizing authority shall serve a written notice of intent to forfeit property on the owner of the property seized and on any person having any known right or interest in the property seized. Notice may be served by any method authorized by law or court rule, including service by certified mail with return receipt requested. Service by mail is deemed complete upon mailing within the fifteen-day period following the seizure.

(3) Persons claiming a right of ownership or right to possession of property are entitled to a hearing to contest forfeiture. Such a claim shall specify the claim of ownership or possession and shall be made in writing and served on the director within forty-five days of the seizure. If the seizing authority has complied with notice requirements and there is no claim made within forty-five days, then the property shall be forfeited to the state.

(4) If any person timely serves the director with a claim to property, the person shall be afforded an opportunity to be heard as to the person's claim or right. The hearing shall be before the director or director's designee, or before an administrative law judge appointed under chapter 34.12 RCW, except that a person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the property seized is more than five thousand dollars. The department may settle a person's claim of ownership prior to the administrative hearing.

(5) The hearing to contest forfeiture and any subsequent appeal shall be as provided for in chapter 34.05 RCW, the administrative procedure act. The seizing authority has the burden to demonstrate that it had reason to believe the property was held with intent to violate or was used in violation of this title or rule of the commission or director. The person contesting forfeiture has the

burden of production and proof by a preponderance of evidence that the person owns or has a right to possess the property and:

(a) That the property was not held with intent to violate or used in violation of this title; or

(b) If the property is a boat, airplane, or vehicle, that the illegal use or planned illegal use of the boat, airplane, or vehicle occurred without the owner's knowledge or consent, and that the owner acted reasonably to prevent illegal uses of such boat, airplane, or vehicle.

(6) A forfeiture of a conveyance encumbered by a perfected security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission. No security interest in seized property may be perfected after seizure.

(7) If seized property is forfeited under this section the department may retain it for official use unless the property is required to be destroyed, or upon application by any law enforcement agency of the state, release such property to the agency for the use of enforcing this title, or sell such property, and deposit the proceeds to the fish and wildlife enforcement reward account created in RCW 77.15.425. [2005 c 406 § 2; 2000 c 107 § 231; 1998 c 190 § 69.]

RCW 77.15.075 Enforcement authority of fish and wildlife officers—Volunteer chaplain. (1) Fish and wildlife officers shall have and exercise, throughout the state, such police powers and duties as are vested in sheriffs and peace officers generally. Fish and wildlife officers are general authority Washington peace officers.

(2) An applicant for a fish and wildlife officer position must be a citizen of the United States of America or a lawful permanent resident who can read and write the English language. Before a person may be appointed to act as a fish and wildlife officer, the person shall meet the minimum standards for employment with the department, including successful completion of a psychological examination and polygraph examination or similar assessment procedure administered in accordance with the requirements of RCW 43.101.095(2).

(3) Any liability or claim of liability under chapter 4.92 RCW that arises out of the exercise or alleged exercise of authority by a fish and wildlife officer rests with the department unless the fish and wildlife officer acts under the direction and control of another agency or unless the liability is otherwise assumed under an agreement between the department and another agency.

(4) The department may utilize the services of a volunteer chaplain as provided under chapter 41.22 RCW. [2020 c 38 § 1; 2012 c 176 § 8; 2009 c 204 § 1; 2003 c 388 § 3; 2002 c 128 § 4; 2000 c 107 § 212; 1998 c 190 § 112; 1993 sp.s. c 2 § 67; 1988 c 36 § 50; 1987 c 506 § 16; 1985 c 155 § 2; 1980 c 78 § 17. Formerly RCW 77.12.055.]

Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79: See RCW 43.300.900.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980
c 78: See notes following RCW 77.04.010.

RCW 77.15.080 Fish and wildlife officers and ex officio fish and wildlife officers—Inspection authority. Based upon articulable facts that a person is engaged in fishing, harvesting, or hunting activities, fish and wildlife officers and ex officio fish and wildlife officers have the authority to temporarily stop the person and check for valid licenses, tags, permits, stamps, or catch record cards, and to inspect all fish, shellfish, seaweed, and wildlife in possession as well as the equipment being used to ensure compliance with the requirements of this title. Fish and wildlife officers and ex officio fish and wildlife officers also may request that the person write his or her signature for comparison with the signature on his or her fishing, harvesting, or hunting license. Failure to comply with the request is prima facie evidence that the person is not the person named on the license. Fish and wildlife officers and ex officio fish and wildlife officers may require the person, if age sixteen or older, to exhibit a driver's license or other photo identification. [2014 c 202 § 303; 2014 c 48 § 3; 2012 c 176 § 9; 2002 c 281 § 8. Prior: 2001 c 306 § 1; 2001 c 253 § 23; 2000 c 107 § 233; 1998 c 190 § 113.]

Reviser's note: This section was amended by 2014 c 48 § 3 and by 2014 c 202 § 303, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—2014 c 202: See note following RCW 77.135.010.

Purpose—2002 c 281: See note following RCW 77.08.010.

RCW 77.15.085 Seizure without warrant. Fish and wildlife officers and ex officio fish and wildlife officers may seize without a warrant wildlife, fish, shellfish, and covered animal species parts and products they have probable cause to believe have been taken, transported, or possessed in violation of this title or rule of the commission or director. [2016 c 2 § 4 (Initiative Measure No. 1401, approved November 3, 2015); 2000 c 107 § 232.]

Finding—2016 c 2 (Initiative Measure No. 1401): See note following RCW 77.15.135.

RCW 77.15.090 Search, arrest warrant—Issuance—Execution. On a showing of probable cause that there has been a violation of any fish, seaweed, shellfish, or wildlife law of the state of Washington, or upon a showing of probable cause to believe that evidence of such violation may be found at a place, a court shall issue a search warrant or arrest warrant. Fish and wildlife officers may execute any such arrest or search warrant reasonably necessary to their duties under this title and may seize fish, seaweed, shellfish, and wildlife or any evidence of a crime and the fruits or instrumentalities of a crime as provided by warrant. The court may have a building, enclosure, vehicle, vessel, container, or receptacle opened or entered and the contents examined. [2001 c 253 § 24; 2000 c 107 § 234; 1998 c

190 § 117; 1980 c 78 § 26; 1955 c 36 § 77.12.120. Prior: 1947 c 275 § 22; Rem. Supp. 1947 § 5992-32. Formerly RCW 77.12.120.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

RCW 77.15.092 Arrest without warrant. Fish and wildlife officers and ex officio fish and wildlife officers may arrest without warrant persons found violating the law or rules adopted pursuant to this title. [2000 c 107 § 213; 1998 c 190 § 114; 1987 c 506 § 19; 1980 c 78 § 20; 1971 ex.s. c 173 § 2; 1961 c 68 § 3; 1955 c 36 § 77.12.080. Prior: 1947 c 275 § 18; Rem. Supp. 1947 § 5992-28. Formerly RCW 77.12.080.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

RCW 77.15.094 Search without warrant—Seizure of evidence, property—Limitation. Fish and wildlife officers and ex officio fish and wildlife officers may make a reasonable search without warrant of a vessel, conveyances, vehicles, containers, packages, or other receptacles for fish, seaweed, shellfish, and wildlife which they have reason to believe contain evidence of a violation of law or rules adopted pursuant to this title and seize evidence as needed for law enforcement. This authority does not extend to quarters in a boat, building, or other property used exclusively as a private domicile, does not extend to transitory residences in which a person has a reasonable expectation of privacy, and does not allow search and seizure without a warrant if the thing or place is protected from search without warrant within the meaning of Article I, section 7 of the state Constitution. Seizure of property as evidence of a crime does not preclude seizure of the property for forfeiture as authorized by law. [2001 c 253 § 25; 2000 c 107 § 214; 1998 c 190 § 115; 1987 c 506 § 20; 1980 c 78 § 21; 1955 c 36 § 77.12.090. Prior: 1947 c 275 § 19; Rem. Supp. 1947 § 5992-29. Formerly RCW 77.12.090.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

RCW 77.15.096 Inspection without warrant—Commercial fish and wildlife entities—Limitations. (1) Fish and wildlife officers may inspect without warrant at reasonable times and in a reasonable manner:

(a) The premises, containers, fishing equipment, fish, seaweed, shellfish, and wildlife of any commercial fisher or wholesale dealer or fish dealer; and

(b) Records required by the department of any commercial fisher or wholesale fish buyer or fish dealer.

(2) Fish and wildlife officers and ex officio fish and wildlife officers may inspect without warrant at reasonable times and in a reasonable manner:

(a) The premises, containers, fishing equipment, fish, shellfish, wildlife, or covered animal species of any person trafficking or otherwise distributing or receiving fish, shellfish, wildlife, or covered animal species;

(b) Records required by the department of any person trafficking or otherwise distributing or receiving fish, shellfish, wildlife, or covered animal species;

(c) Any cold storage plant that a fish and wildlife officer has probable cause to believe contains fish, shellfish, or wildlife;

(d) The premises, containers, fish, shellfish, wildlife, or covered animal species of any taxidermist or fur buyer; or

(e) The records required by the department of any taxidermist or fur buyer.

(3) Fish and wildlife officers may inspect without warrant, at reasonable times and in a reasonable manner, the records required by the department of any retail outlet selling fish, shellfish, or wildlife, and, if the officers have probable cause to believe a violation of this title or rules of the commission has occurred, they may inspect without warrant the premises, containers, and fish, shellfish, and wildlife of any retail outlet selling fish, shellfish, or wildlife.

(4) Authority granted under this section does not extend to quarters in a boat, building, or other property used exclusively as a private domicile, does not extend to transitory residences in which a person has a reasonable expectation of privacy, and does not allow search and seizure without a warrant if the thing or place is protected from search without warrant within the meaning of Article I, section 7 of the state Constitution. [2017 3rd sp.s. c 8 § 5; 2002 c 128 § 5; 2001 c 253 § 26; 1998 c 190 § 116; 1982 c 152 § 1; 1980 c 78 § 22. Formerly RCW 77.12.095.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

RCW 77.15.098 Willful misconduct/gross negligence—Civil liability. (1) An authorized state, county, or municipal officer may be subject to civil liability under RCW 77.15.070 for willful misconduct or gross negligence in the performance of his or her duties.

(2) The director, the fish and wildlife commission, or the department may be subject to civil liability for their willful or reckless misconduct in matters involving the seizure and forfeiture of personal property involved with fish or wildlife offenses. [2000 c 107 § 215; 1993 sp.s. c 2 § 68; 1989 c 314 § 3. Formerly RCW 77.12.103.]

Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79: See RCW 43.300.900.

Finding—1989 c 314: "In order to improve the enforcement of wildlife laws it is important to increase the penalties upon poachers by seizing the conveyances and gear that are used in poaching activities and to cause forfeiture of those items to the department." [1989 c 314 § 1.]

RCW 77.15.100 Seized fish, shellfish, wildlife, and covered animal species part or product—Forfeiture—Sale—Disposition of sale.
(1) Fish, shellfish, and wildlife are property of the state under RCW 77.04.012. Fish and wildlife officers may sell seized, commercially taken or possessed fish and shellfish to a wholesale buyer and deposit the proceeds into the fish and wildlife enforcement reward account under RCW 77.15.425. Seized, recreationally taken or possessed fish, shellfish, and wildlife may be donated to nonprofit charitable organizations. The charitable organization must qualify for tax-exempt status under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code. Seized fish, shellfish, and wildlife may be returned to the environment or otherwise safely disposed of if storage is not practical under the circumstances, after the evidentiary value of the seized fish, shellfish, or wildlife has been preserved through photographs, measurements, biological samples, or other reasonable means. If an exculpatory value is clearly apparent in the seized fish, shellfish, or wildlife, and the exculpatory value is not otherwise reasonably obtainable, the fish, shellfish, or wildlife should be retained.

(2) Fish and wildlife officers may dispose of any covered animal species part or product seized through the enforcement of RCW 77.15.135 through a donation to a bona fide educational or scientific institution, solely for the purposes of raising awareness of the trafficking and threatened nature of endangered animals, as allowed under state, federal, and international law.

(3) Unless otherwise provided in this title, fish, shellfish, wildlife, or any covered animal species part or product taken or possessed in violation of this title or department rule shall be forfeited to the state upon:

(a) Conviction as defined in RCW 77.15.050;

(b) A finding of guilt or plea of guilty pursuant to an amended information for any violation that was originally charged as a violation of this title or department rule regardless of whether the imposition of sentence is deferred or the penalty is suspended;

(c) Any infraction adjudicated under this title, department rule, or chapter 7.84 RCW with a final disposition of committed, paid, or uncontested, regardless of whether the violation was originally charged as a criminal offense and regardless of whether the penalty is suspended or deferred; or

(d) Any disposition of a case arising from an act originally charged as a violation of this title or department rule, or an infraction cited or referred as a violation of this title, department rule, or chapter 7.84 RCW, whereby the offender enters into a disposition that continues or defers the case for dismissal upon the successful completion of specific terms or conditions. For cases resulting in other types of dispositions that are not defined in RCW

77.15.050, including findings of not guilty, not committed, or dismissal with prejudice due to a failure of proof or violation of law, the fish, shellfish, wildlife, or covered animal species part or product may be returned, or its equivalent value paid, if the fish, shellfish, wildlife, or covered animal species part or product have already been donated or sold. If a case is dismissed without prejudice and is subject to being refiled, the seized fish, shellfish, wildlife, or covered animal species part or product need not be returned until the statute of limitations for the violation has expired. Nothing in this section prevents the seizing authority from pursuing forfeiture under RCW 77.15.070 or any other statute or rule. [2020 c 38 § 2; 2016 c 2 § 5 (Initiative Measure No. 1401, approved November 3, 2015); 2014 c 48 § 4; 2012 c 176 § 10; 2009 c 333 § 39; 2000 c 107 § 235; 1998 c 190 § 63.]

Finding—2016 c 2 (Initiative Measure No. 1401): See note following RCW 77.15.135.

RCW 77.15.110 Acting for commercial purposes—When—Proof. (1)

For purposes of this chapter, a person acts for commercial purposes if the person engages in conduct that relates to commerce in fish, seaweed, shellfish, or wildlife or any parts thereof. Commercial conduct may include taking, delivering, selling, buying, brokering, or trading fish, seaweed, shellfish, or wildlife where there is present or future exchange of money, goods, or any valuable consideration. Evidence that a person acts for commercial purposes includes, but is not limited to, the following conduct:

- (a) Using gear typical of that used in commercial fisheries;
- (b) Exceeding the bag or possession limits for personal use by taking or possessing more than three times the amount of fish, seaweed, shellfish, or wildlife allowed;
- (c) Delivering or attempting to deliver fish, seaweed, shellfish, or wildlife to a person who sells or resells it;
- (d) Taking fish or shellfish using a vessel designated on a commercial fishery license or using gear not authorized in a personal use fishery;
- (e) Using a commercial fishery license;
- (f) Selling or dealing in raw furs for a fee or in exchange for goods or services;
- (g) Performing taxidermy service on fish, shellfish, or wildlife belonging to another person for a fee or receipt of goods or services; or
- (h) Packs, cuts, processes, or stores the meat of wildlife for consumption, for a fee or in exchange for goods or services.

(2) For purposes of this chapter, the value of any fish, seaweed, shellfish, or wildlife may be proved based on evidence of legal or illegal sales involving the person charged or any other person, of offers to sell or solicitation of offers to sell by the person charged or by any other person, or of any market price for the fish, seaweed, shellfish, or wildlife including market price for farm-raised game animals. The value assigned to specific fish, seaweed, shellfish, or wildlife by RCW 77.15.420 may be presumed to be the value of such fish, seaweed, shellfish, or wildlife. It is not relevant to proof of value that the person charged misrepresented that the fish, seaweed, shellfish, or wildlife was taken in compliance with law if the fish,

seaweed, shellfish, or wildlife was unlawfully taken and had no lawful market value. [2017 3rd sp.s. c 8 § 8; 2012 c 176 § 13; 2002 c 127 § 2; 2001 c 253 § 27; 1998 c 190 § 8.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Intent—2002 c 127: "The legislature intends to clarify that when a crime under chapter 77.15 RCW requires proof that a person acted for commercial purposes, that element refers to engaging in particular conduct that is commercial in nature and the element does not imply that a particular state of mind must exist. This act revises the existing definition of that element to confirm that the element is fulfilled by engaging in commercial conduct and to eliminate any implication that a particular mental state of mind must be shown. Examples are given of the type of conduct that may be considered as evidence that a person acts for a commercial purpose; however, these examples do not create a conclusive presumption that a person acts for a commercial purpose." [2002 c 127 § 1.]

RCW 77.15.120 Endangered fish or wildlife—Unlawful taking—Penalty. (1) A person is guilty of unlawful taking of endangered fish or wildlife in the second degree if:

(a) The person hunts for, fishes for, possesses, maliciously harasses, or kills fish or wildlife, or possesses or intentionally destroys the nests or eggs of fish or wildlife;

(b) The fish or wildlife is designated by the commission as endangered; and

(c) The taking of the fish or wildlife or the destruction of the nests or eggs has not been authorized by rule of the commission, a permit issued by the department, or a permit issued pursuant to the federal endangered species act.

(2) A person is guilty of unlawful taking of endangered fish or wildlife in the first degree if the person has been:

(a) Convicted under subsection (1) of this section or convicted of any crime under this title involving the taking, possessing, or malicious harassment of endangered fish or wildlife; and

(b) Within five years of the date of the prior conviction the person commits the act described by subsection (1) of this section.

(3)(a) Unlawful taking of endangered fish or wildlife in the second degree is a gross misdemeanor.

(b) Unlawful taking of endangered fish or wildlife in the first degree is a class C felony. The department shall revoke any licenses or tags used in connection with the crime and order the person's privileges to hunt, fish, trap, or obtain licenses under this title to be suspended for two years. [2014 c 48 § 5; 2000 c 107 § 236; 1998 c 190 § 13.]

RCW 77.15.130 Protected fish or wildlife—Unauthorized taking—Penalty—Criminal wildlife penalty assessment. (1) A person is guilty of unlawful taking of protected fish or wildlife if:

(a) The person hunts for, fishes for, maliciously takes, harasses, or possesses fish or wildlife, or the person possesses or maliciously destroys the eggs or nests of fish or wildlife designated

by the commission as protected, other than species designated as threatened or sensitive, and the taking has not been authorized by rule of the commission or by a permit issued by the department;

(b) The person violates any rule of the commission regarding the taking, harassing, possession, or transport of protected fish or wildlife; or

(c) (i) The person hunts for, fishes for, intentionally takes, harasses, or possesses fish or wildlife, or the person possesses or intentionally destroys the nests or eggs of fish or wildlife designated by the commission as threatened or sensitive; and

(ii) The taking of the fish or wildlife, or the destruction of the nests or eggs, has not been authorized by rule of the commission, a permit issued by the department, or a permit issued pursuant to the federal endangered species act.

(2) Unlawful taking of protected fish or wildlife is a misdemeanor.

(3) In addition to the penalties set forth in subsection (2) of this section, if a person is convicted of violating this section and the violation results in the death of protected wildlife listed in this subsection, the court shall require payment of the following amounts for each animal taken or possessed. This is a criminal wildlife penalty assessment that must be paid to the clerk of the court and distributed each month to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW 77.15.425:

- (a) Ferruginous hawk, two thousand dollars;
- (b) Common loon, two thousand dollars;
- (c) Bald eagle, two thousand dollars;
- (d) Golden eagle, two thousand dollars; and
- (e) Peregrine falcon, two thousand dollars.

(4) If two or more persons are convicted under subsection (1) of this section, and subsection (3) of this section is applicable, the criminal wildlife penalty assessment must be imposed against the persons jointly and severally.

(5) (a) The criminal wildlife penalty assessment under subsection (3) of this section must be imposed regardless of and in addition to any sentence, fines, or costs otherwise provided for violating any provision of this section. The criminal wildlife penalty assessment must be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect.

(b) This subsection may not be construed to abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

(6) A defaulted criminal wildlife penalty assessment authorized under subsection (3) of this section may be collected by any means authorized by law for the enforcement of orders of the court or collection of a fine or costs, including but not limited to vacation of a deferral of sentencing or vacation of a suspension of sentence.

(7) The department shall revoke the hunting license and suspend the hunting privileges of a person assessed a criminal wildlife penalty assessment under this section until the penalty assessment is paid through the registry of the court in which the penalty assessment was assessed.

(8) The criminal wildlife penalty assessments provided in subsection (3) of this section must be doubled in the following instances:

(a) When a person commits a violation that requires payment of a criminal wildlife penalty assessment within five years of a prior gross misdemeanor or felony conviction under this title; or

(b) When the trier of fact determines that the person took or possessed the protected wildlife in question with the intent of bartering, selling, or otherwise deriving economic profit from the wildlife or wildlife parts. [2014 c 48 § 6; 2012 c 176 § 14; 1998 c 190 § 14.]

RCW 77.15.135 Unlawful sale, purchase, trade, barter, or distribution of covered animal species part or product—Penalty—Report to the legislature—Adoption of rules. (1) Except as authorized in subsections (2) and (3) of this section, it is unlawful for a person to sell, offer to sell, purchase, trade, barter for, or distribute any covered animal species part or product.

(2) The prohibitions set forth in subsection (1) of this section do not apply if any of the following conditions is [are] satisfied:

(a) The covered animal species part or product is part of a bona fide antique, provided the antique status of such an antique is established by the owner or seller thereof with historical documentation evidencing provenance and showing the antique to be not less than one hundred years old, and the covered animal species part or product is less than fifteen percent by volume of such an antique;

(b) The distribution of the covered animal species part or product is for a bona fide educational or scientific purpose, or to or from a museum;

(c) The distribution of the covered animal species part or product is to a legal beneficiary of an estate, trust, or other inheritance, upon the death of the owner of the covered animal species part or product;

(d) The covered animal species part or product is less than fifteen percent by volume of a musical instrument, including, without limitation, string instruments and bows, wind and percussion instruments, and pianos; or

(e) The intrastate sale, offer for sale, purchase, trade, barter for, or distribution of the covered animal species part or product is expressly authorized by federal law or permit.

(3) The prohibitions set forth in subsection (1) of this section do not apply to an employee or agent of a federal, state, or local government undertaking any law enforcement activity pursuant to federal, state, or local law or any mandatory duty required by federal, state, or local law.

(4) (a) Except as otherwise provided in this section, a person is guilty of unlawful trafficking in species threatened with extinction in the second degree if the person commits the act described in subsection (1) of this section and the violation involves covered animal species parts or products with a total market value of less than two hundred fifty dollars.

(b) Except as otherwise provided in this section, a person is guilty of unlawful trafficking in species threatened with extinction in the first degree if the person commits the act described by subsection (1) of this section and the violation:

(i) Involves covered animal species parts or products with a total market value of two hundred fifty dollars or more;

(ii) Occurs after entry of a prior conviction under this section;

or

(iii) Occurs within five years of entry of a prior conviction for any other gross misdemeanor or felony under this chapter.

(c) Unlawful trafficking in species threatened with extinction in the second degree is a gross misdemeanor.

(d) Unlawful trafficking in species threatened with extinction in the first degree is a class C felony.

(e) If a person commits the act described by subsection (1) of this section and such an act also would be a violation of any other criminal provision of this title, the prosecuting authority has discretion as to which crime or crimes the person is charged as long as the charges are consistent with any limitations in the state and federal Constitutions.

(5) In addition to the penalties set forth in subsection (4) of this section, if a person is convicted of violating this section, the court shall require payment of a criminal wildlife penalty assessment in the amount of two thousand dollars that must be paid to the clerk of the court and distributed each month to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW 77.15.425.

(6) If two or more people are convicted under subsection (1) of this section, the criminal wildlife penalty assessment under this section must be imposed against each person jointly and severally.

(7) The criminal wildlife penalty assessment provided in this section must be doubled if the person is convicted of unlawful trafficking in species threatened with extinction in the first degree.

(8) By January 1, 2017, and thereafter annually, the director shall provide a comprehensive report outlining current and future enforcement activities and strategies related to chapter 2, Laws of 2016, including recommendations regarding any necessary changes, to the relevant policy and fiscal committees of the senate and house of representatives.

(9) The commission may adopt rules necessary for the implementation and enforcement of chapter 2, Laws of 2016. [2016 c 2 § 3 (Initiative Measure No. 1401, approved November 3, 2015).]

Finding—2016 c 2 (Initiative Measure No. 1401): "There is broad consensus that the trafficking of animals threatened with extinction continues to grow at an alarming pace, threatening an increasing variety of animal species including elephants, rhinoceroses, tigers, lions, leopards, cheetahs, pangolins, marine turtles, sharks, and rays, among others. These species are threatened with extinction in large part due to the trafficking of their parts and products. The national strategy for combating wildlife trafficking, released in February 2014, recognized the important role that states have in protecting species that are subject to illegal wildlife trade. Federal law regulates the transfer or importation of parts or products made from endangered animal species, but due to the increasing demand for these products around the world, state authority needs to be expanded to appropriately regulate these markets on a local level.

The most effective way to discourage illegal trafficking in animal species threatened with extinction is to eliminate markets and profits. The people find that it is in the public interest to protect animal species threatened with extinction by prohibiting within the state of Washington, with certain limited exceptions, the sale, offer for sale, purchase, trade, barter for, and distribution of any part or

product of any species of elephant, rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, shark, or ray identified as threatened with extinction by specified international conservation organizations. These animals represent some of the most trafficked species threatened with extinction according to illegal wildlife product seizure data gathered by the world wildlife fund-TRAFFIC, international union for conservation of nature, and other international conservation organizations." [2016 c 2 § 1 (Initiative Measure No. 1401, approved November 3, 2015).]

RCW 77.15.150 Poison or explosives—Unlawful use—Penalty. (1) A person is guilty of unlawful use of poison or explosives if:

(a) The person lays out, sets out, or uses a drug, poison, or other deleterious substance that kills, injures, harms, or endangers fish, shellfish, or wildlife, except if the person is using the substance in compliance with federal and state laws and label instructions; or

(b) The person lays out, sets out, or uses an explosive that kills, injures, harms, or endangers fish, shellfish, or wildlife, except if authorized by law or permit of the director.

(2) Unlawful use of poison or explosives is a gross misdemeanor. [2001 c 253 § 28; 1998 c 190 § 16.]

RCW 77.15.160 Infractions—Penalties. The following acts are infractions and may be cited and civil penalties imposed as provided under chapter 7.84 RCW, to include detentions for a reasonable period and investigations as provided in RCW 7.84.030. The civil provisions of this section are cumulative and nonexclusive and do not affect any criminal prosecution or investigatory authority over criminal offenses:

(1) Fishing and shellfishing infractions:

(a) Barbed hooks: Fishing for personal use with barbed hooks in violation of any department rule.

(b) Catch recording: Failing to immediately record a catch of fish or shellfish on a catch record card as required by RCW 77.32.430 or department rule.

(c) Catch reporting: Failing to return a catch record card to the department as required by department rule.

(d) Recreational fishing: Fishing for fish or shellfish and the person:

(i) Fails to have in the person's possession the license or the catch record card required by chapter 77.32 RCW for such an activity; or

(ii) Violates any department rule regarding seasons, closed areas, closed times, or any other rule addressing the manner or method of fishing for fish or shellfish and the violation involves:

(A) Salmon or steelhead;

(B) Sturgeon;

(C) Game fish;

(D) Food fish;

(E) Shellfish;

(F) Unclassified fish or shellfish;

(G) Waste of food fish, game fish or shellfish. This subsection

(1) (d) (ii) does not apply to use of a net to take fish under RCW

77.15.580 or unlawful recreational fishing in the first degree under RCW 77.15.370.

(e) Seaweed: Taking, possessing, or harvesting less than two times the daily possession limit of seaweed:

(i) While the person is not in possession of the license required by chapter 77.32 RCW; or

(ii) In violation of any rule of the department or the department of natural resources regarding seasons, closed areas, closed times, or any other rule addressing the manner or method of taking, possessing, or harvesting of seaweed.

(2) Hunting infractions:

(a) A person engages in an activity defined by chapter 77.32 RCW while not having in the person's possession or having failed to purchase the hunting license or tag required by that chapter, not including big game.

(b) Eggs or nests: Maliciously, and without permit authorization, destroying, taking, or harming the eggs or active nests of a wild bird not classified as endangered or protected. For purposes of this subsection, "active nests" means nests that contain eggs or fledglings.

(c) Hunting for wildlife not classified as big game and the person violates any department rule regarding seasons, closed areas, closed times, or any other rule defining the method or manner of hunting or taking wildlife and the violation involves:

(i) Unclassified wildlife;

(ii) Small game;

(iii) Furbearers;

(iv) Game birds;

(v) Wild birds;

(vi) Wild animals;

(vii) Waste of small game.

(3) Trapping, taxidermy, fur dealing, and wildlife meat cutting infractions:

(a) Recordkeeping and reporting: If a person is a taxidermist, fur dealer, or wildlife meat cutter who is processing, holding, or storing wildlife for commercial purposes, failing to:

(i) Maintain records as required by department rule; or

(ii) Report information from these records as required by department rule.

(b) Trapper's report: Failing to report trapping activity as required by department rule.

(4) Limited fish seller infraction: Failure of a holder of a limited fish seller endorsement to satisfy the food safety requirements to consumers under RCW 77.65.510(2).

(5) (a) Invasive species management infractions:

(i) Out-of-state certification: Entering Washington in possession of an aquatic conveyance that does not meet certificate of inspection requirements as provided under RCW 77.135.100;

(ii) Clean and drain requirements: Possessing an aquatic conveyance that does not meet clean and drain requirements under RCW 77.135.110;

(iii) Clean and drain orders: Possessing an aquatic conveyance and failing to obey a clean and drain order under RCW 77.135.110 or 77.135.120; and

(iv) Aquatic invasive species prevention permit requirements: Failing to possess a valid aquatic invasive species prevention permit as required under RCW 77.135.210, 77.135.220, or 77.135.230.

(b) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and 77.135.010 apply throughout this subsection (5).

(6) Other infractions:

(a) Contests: Unlawfully conducting, holding, or sponsoring a hunting contest, a fishing contest involving game fish, or a competitive field trial using live wildlife.

(b) Other rules: Violating any other department rule that is designated by rule as an infraction.

(c) Posting signs: Posting signs preventing hunting or fishing on any land not owned or leased by the person doing the posting, or without the permission of the person who owns, leases, or controls the land posted.

(d) Department permits: Except as provided in RCW 77.15.750, using a department permit issued by the department, and the person:

(i) Violates any terms or conditions of the permit;

(ii) Violates any department rule applicable to the issuance or use of permits; or

(iii) Violates any commercial use or activity permits, noncommercial use or activity permits, or parking permits.

(e) This subsection does not apply to discover pass, vehicle access pass, or day-use permit requirements or penalties pursuant to RCW 79A.80.080. [2020 c 38 § 3. Prior: 2017 3rd sp.s. c 17 § 303; 2017 3rd sp.s. c 8 § 42; prior: 2014 c 202 § 204; 2014 c 48 § 7; 2013 c 307 § 2; 2012 c 176 § 15; 2000 c 107 § 237; 1998 c 190 § 17.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Findings—2014 c 202: See note following RCW 77.135.010.

RCW 77.15.170 Waste of fish and wildlife—Penalty. (1) A person is guilty of waste of fish and wildlife if the person:

(a) Takes or possesses wildlife classified as food fish, game fish, shellfish, or game birds having a value of two hundred fifty dollars or more, or wildlife classified as big game; and

(b) Recklessly allows such fish, shellfish, or wildlife to be wasted.

(2) Waste of fish and wildlife is a gross misdemeanor. Upon conviction, the department shall revoke any license or tag used in the crime and shall order suspension of the person's privileges to engage in the activity in which the person committed waste of fish and wildlife for a period of one year.

(3) It is prima facie evidence of waste if:

(a) A fish dealer purchases or engages a quantity of food fish, shellfish, or game fish that cannot be processed within sixty hours after the food fish, game fish, or shellfish are taken from the water, unless the food fish, game fish, or shellfish are preserved in good marketable condition; or

(b) A person brings a big game animal to a wildlife meat cutter and then abandons the animal. For purposes of this subsection (3)(b), a big game animal is deemed to be abandoned when its carcass is placed in the custody of a wildlife meat cutter for butchering and processing and:

(i) Having been placed in such custody for an unspecified period of time, the meat is not removed within thirty days after the wildlife meat cutter gives notice to the person who brought in the carcass or, having been so notified, the person who brought in the carcass refuses or fails to pay the agreed upon or reasonable charges for the butchering or processing of the carcass; or

(ii) Having been placed in such custody for a specified period of time, the meat is not removed at the end of the specified period or the person who brought in the carcass refuses to pay the agreed upon or reasonable charges for the butchering or processing of the carcass. [2017 3rd sp.s. c 8 § 9; 2014 c 48 § 8; 2012 c 176 § 16; 1999 c 258 § 5; 1998 c 190 § 21.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

RCW 77.15.180 Unlawful interference with fishing or hunting gear—Penalty. (1) A person is guilty of unlawful interference with fishing or hunting gear in the second degree if the person:

(a) Removes or releases a wild animal from another person's trap without permission;

(b) Springs, pulls up, damages, possesses, or destroys another person's trap without the owner's permission; or

(c) Interferes with recreational gear used to take fish or shellfish.

(2) Unlawful interference with fishing or hunting gear in the second degree is a misdemeanor.

(3) A person is guilty of unlawful interference with fishing or hunting gear in the first degree if the person:

(a) Removes or releases fish or shellfish from commercial fishing gear without the owner's permission; or

(b) Intentionally destroys or interferes with commercial fishing gear.

(4) Unlawful interference with fishing or hunting gear in the first degree is a gross misdemeanor.

(5) A person is not in violation of unlawful interference with fishing or hunting gear if the person removes a trap placed on property owned, leased, or rented by the person. [2014 c 48 § 9; 2001 c 253 § 29; 1998 c 190 § 22.]

RCW 77.15.190 Unlawful trapping—Penalty. (1) A person is guilty of unlawful trapping if the person:

(a) Sets out traps that are capable of taking wild animals, wild birds, game animals, or furbearing mammals and does not possess the licenses, tags, or permits required under this title;

(b) Violates any department rule regarding seasons, bag, or possession limits, closed areas including game reserves, closed times, or any other rule governing the trapping of wild animals or wild birds, with the exception of reporting rules; or

(c) Fails to identify the owner of the traps or devices by neither (i) attaching a metal tag with the owner's department-assigned identification number or the name and address of the trapper legibly written in numbers or letters not less than one-eighth inch in height

nor (ii) inscribing into the metal of the trap such number or name and address.

(2) Unlawful trapping is a misdemeanor. [2014 c 48 § 10; 2012 c 176 § 17; 1999 c 258 § 9; 1998 c 190 § 34.]

RCW 77.15.191 Revocation of trapper's license—Placement of unauthorized traps. The director may revoke the trapper's license of a person placing unauthorized traps on private property and may remove those traps. [2000 c 107 § 268; 1987 c 372 § 4. Formerly RCW 77.65.470, 77.32.199.]

RCW 77.15.192 Definitions. The definitions in this section apply throughout RCW 77.15.194 through 77.15.198.

(1) "Animal" means any nonhuman vertebrate.

(2) "Body-gripping trap" means a trap that grips an animal's body or body part. Body-gripping trap includes, but is not limited to, steel-jawed leghold traps, padded-jaw leghold traps, Conibear traps, neck snares, and nonstrangling foot snares. Cage and box traps, suitcase-type live beaver traps, and common rat and mouse traps are not considered body-gripping traps.

(3) "Person" means a human being and, where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental instrumentality.

(4) "Raw fur" means a pelt that has not been processed for purposes of retail sale.

(5) "Animal problem" means any animal that threatens or damages timber or private property or threatens or injures livestock or any other domestic animal. [2001 c 1 § 2 (Initiative Measure No. 713, approved November 7, 2000).]

Finding—2001 c 1 (Initiative Measure No. 713): "The people of the state of Washington find that this act is necessary in order to protect people and domestic pets and to protect and conserve wildlife from the dangers of cruel and indiscriminate steel-jawed leghold traps and poisons, and to encourage the use of humane methods of trapping when trapping is necessary to ensure public health and safety, protect livestock or property, safeguard threatened and endangered species, or conduct field research on wildlife." [2001 c 1 § 1 (Initiative Measure No. 713, approved November 7, 2000).]

Severability—2001 c 1 (Initiative Measure No. 713): "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2001 c 1 § 6 (Initiative Measure No. 713, approved November 7, 2000).]

RCW 77.15.194 Unlawful traps—Penalty. (1) It is unlawful to use or authorize the use of any steel-jawed leghold trap, neck snare, or other body-gripping trap to capture any mammal for recreation or commerce in fur.

(2) It is unlawful to knowingly buy, sell, barter, or otherwise exchange, or offer to buy, sell, barter, or otherwise exchange the raw fur of a mammal or a mammal that has been trapped in this state with a

steel-jawed leghold trap or any other body-gripping trap, whether or not pursuant to permit.

(3) It is unlawful to use or authorize the use of any steel-jawed leghold trap or any other body-gripping trap to capture any animal, except as provided in subsections (4) through (6) of this section.

(4) Nothing in this section prohibits the use of a Conibear trap in water, a padded leghold trap, or a nonstrangling type foot snare with a special permit granted by the director under (a) through (d) of this subsection. Issuance of the special permits shall be governed by rules adopted by the department and in accordance with the requirements of this section. Every person granted a special permit to use a trap or device listed in this subsection shall check the trap or device at least every twenty-four hours.

(a) Nothing in this section prohibits the director, in consultation with the department of social and health services or the United States department of health and human services from granting a permit to use traps listed in this subsection for the purpose of protecting people from threats to their health and safety.

(b) Nothing in this section prohibits the director from granting a special permit to use traps listed in this subsection to a person who applies for such a permit in writing, and who establishes that there exists on a property an animal problem that has not been and cannot be reasonably abated by the use of nonlethal control tools, including but not limited to guard animals, electric fencing, or box and cage traps, or if such nonlethal means cannot be reasonably applied. Upon making a finding in writing that the animal problem has not been and cannot be reasonably abated by nonlethal control tools or if the tools cannot be reasonably applied, the director may authorize the use, setting, placing, or maintenance of the traps for a period not to exceed thirty days.

(c) Nothing in this section prohibits the director from granting a special permit to department employees or agents to use traps listed in this subsection where the use of the traps is the only practical means of protecting threatened or endangered species as designated under RCW 77.08.010.

(d) Nothing in this section prohibits the director from issuing a permit to use traps listed in this subsection, excluding Conibear traps, for the conduct of legitimate wildlife research.

(5) Nothing in this section prohibits the United States fish and wildlife service, its employees or agents, from using a trap listed in subsection (4) of this section where the fish and wildlife service determines, in consultation with the director, that the use of such traps is necessary to protect species listed as threatened or endangered under the federal endangered species act (16 U.S.C. Sec. 1531 et seq.).

(6) (a) An airport operator that uses a padded foot, leghold, or any other body-gripping trap for the protection of human and aviation security to secure an animal is exempt from the provisions of subsection (3) of this section if: (i) Once every three years, the airport operator obtains a special permit from the director for this purpose; and (ii) once each year, the airport operator submits a report to the director detailing the previous year's activities regulated under subsection (3) of this section.

(b) Nothing under this subsection (6) authorizes an airport operator to sell the raw fur of a mammal or otherwise violate the provisions of subsection (2) of this section.

(c) For the purposes of this subsection, "airport operator" has the same meaning as defined in RCW 14.08.015.

(7) A person violating this section is guilty of a gross misdemeanor. [2019 c 382 § 1; 2003 c 53 § 374; 2001 c 1 § 3 (Initiative Measure No. 713, approved November 7, 2000).]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Finding—Severability—2001 c 1 (Initiative Measure No. 713): See notes following RCW 77.15.192.

RCW 77.15.196 Unlawful poison—Penalty. (1) It is unlawful to poison or attempt to poison any animal using sodium fluoroacetate, also known as compound 1080, or sodium cyanide.

(2) A person violating this section is guilty of a gross misdemeanor. [2003 c 53 § 375; 2001 c 1 § 4 (Initiative Measure No. 713, approved November 7, 2000).]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Finding—Severability—2001 c 1 (Initiative Measure No. 713): See notes following RCW 77.15.192.

RCW 77.15.198 Violation of RCW 77.15.194 or 77.15.196—Penalty. In addition to appropriate criminal penalties, the director shall revoke the trapping license of any person convicted of a violation of RCW 77.15.194 or 77.15.196. The director shall not issue the violator a trapping license for a period of five years following the revocation. Following a subsequent conviction for a violation of RCW 77.15.194 or 77.15.196 by the same person, the director shall not issue a trapping license to the person at any time. [2003 c 53 § 376; 2001 c 1 § 5 (Initiative Measure No. 713, approved November 7, 2000).]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Finding—Severability—2001 c 1 (Initiative Measure No. 713): See notes following RCW 77.15.192.

RCW 77.15.210 Obstructing the taking of fish, shellfish, or wildlife—Penalty. (1) A person is guilty of obstructing the taking of fish[, shellfish,] or wildlife if the person:

(a) Harasses, drives, or disturbs fish, shellfish, or wildlife with the intent of disrupting lawful pursuit or taking thereof; or

(b) Harasses, intimidates, or interferes with an individual engaged in the lawful taking of fish, shellfish, or wildlife or lawful predator control with the intent of disrupting lawful pursuit or taking thereof.

(2) Obstructing the taking of fish, shellfish, or wildlife is a gross misdemeanor.

(3) It is an affirmative defense to a prosecution for obstructing the taking of fish, shellfish, or wildlife that the person charged was:

(a) Interfering with a person engaged in hunting outside the legally established hunting season; or

(b) Preventing or attempting to prevent unauthorized trespass on private property.

(4) The person raising a defense under subsection (3) of this section has the burden of proof by a preponderance of the evidence. [2001 c 253 § 30; 1998 c 190 § 24.]

RCW 77.15.212 Damages due to violation of RCW 77.15.210—Civil action. Any person who is damaged by any act prohibited in RCW 77.15.210 may bring a civil action to enjoin further violations, and recover damages sustained, including a reasonable attorneys' fee. The trial court may increase the award of damages to an amount not to exceed three times the damages sustained. A party seeking civil damages under this section may recover upon proof of a violation by a preponderance of the evidence. The state of Washington may bring a civil action to enjoin violations of this section. [2000 c 107 § 238.]

RCW 77.15.230 Department lands or facilities—Unlawful use—Penalty. (1) A person is guilty of unlawful use of department lands or facilities if the person enters upon, uses, or remains upon department-owned or department-controlled lands or facilities in violation of any rule of the department.

(2) Unlawful use of department lands or facilities is a misdemeanor. [1999 c 258 § 6; 1998 c 190 § 26.]

RCW 77.15.240 Unlawful use of dogs—Penalty—Authority to take or destroy a dog—Certain hazing activities permitted. (1)(a) A person is guilty of unlawful use of dogs if the person:

(i) Negligently fails to prevent a dog under the person's control from pursuing, harassing, attacking, or killing deer, elk, moose, caribou, mountain sheep, or animals classified as endangered under this title; or

(ii) Uses the dog to hunt deer or elk.

(b) For the purposes of this subsection, a dog is "under a person's control" if the dog is owned or possessed by, or in the custody of, a person.

(2) Unlawful use of dogs is a misdemeanor.

(3)(a) Based on a reasonable belief that a dog is pursuing, harassing, attacking, or killing a deer, elk, moose, caribou, mountain sheep, or animals classified as protected or endangered under this title, fish and wildlife officers and ex officio fish and wildlife officers may:

(i) Lawfully take a dog into custody; or

(ii) If necessary to avoid repeated harassment, injury, or death of wildlife under this section, destroy the dog.

(b) Fish and wildlife officers and ex officio fish and wildlife officers who destroy a dog pursuant to this section are immune from civil or criminal liability arising from their actions.

(4) (a) This section does not apply to a person using a dog to conduct a department-approved and controlled hazing activity, as long as the person prevents or minimizes physical contact between the dog and the wildlife, and the hazing is being done only for the purposes of wildlife control and the prevention of damage to commercial crops.

(b) For the purposes of this subsection, "hazing" means the act of chasing or herding wildlife in an effort to move them from one location to another. [2014 c 48 § 11; 2012 c 176 § 18; 1998 c 190 § 30.]

RCW 77.15.245 Unlawful practices—Black bear baiting—Exceptions—Illegal hunting—Use of dogs—Exceptions—Penalties. (1)

Notwithstanding the provisions of RCW 77.12.240, 77.36.030, or any other provisions of law, it is unlawful to take, hunt, or attract black bear with the aid of bait.

(a) Nothing in this subsection shall be construed to prohibit the killing of black bear with the aid of bait by employees or agents of county, state, or federal agencies while acting in their official capacities for the purpose of protecting livestock, domestic animals, private property, or the public safety.

(b) Nothing in this subsection shall be construed to prevent the establishment and operation of feeding stations for black bear in order to prevent damage to commercial timberland.

(c) Nothing in this subsection shall be construed to prohibit the director from issuing a permit or memorandum of understanding to a public agency, university, or scientific or educational institution for the use of bait to attract black bear for scientific purposes.

(d) As used in this subsection, "bait" means a substance placed, exposed, deposited, distributed, scattered, or otherwise used for the purpose of attracting black bears to an area where one or more persons hunt or intend to hunt them.

(2) Notwithstanding RCW 77.12.240, 77.36.030, or any other provisions of law, it is unlawful to hunt or pursue black bear, cougar, or bobcat with the aid of a dog or dogs.

(a) Nothing in this subsection shall be construed to prohibit the hunting of black bear, cougar, or bobcat with the aid of a dog or dogs by employees or agents of county, state, or federal agencies while acting in their official capacities for the purpose of protecting livestock, domestic animals, private property, or the public safety. A dog or dogs may be used by the owner or tenant of real property consistent with a permit issued and conditioned by the director.

(b) Nothing in this subsection shall be construed to prohibit the director from issuing a permit or memorandum of understanding to a public agency, university, or scientific or educational institution for the use of a dog or dogs for the pursuit, capture and relocation, of black bear, cougar, or bobcat for scientific purposes.

(c) Nothing in this subsection shall be construed to prohibit the director from issuing a permit or memorandum of understanding to a public agency, university, or scientific or educational institution for the use of a dog or dogs for the killing of black bear, cougar, or bobcat, for the protection of a state and/or federally listed threatened or endangered species.

(d) Nothing in this subsection may be construed to prohibit nonlethal pursuit training of dogs by persons selected through the process established in RCW 77.12.077 for future use for the purpose of

protecting livestock, domestic animals, private property, or the public safety.

(3) Notwithstanding subsection (2) of this section, the commission may authorize the use of dogs only in selected areas within a game management unit to address a public safety need presented by one or more cougar. This authority may only be exercised after the commission has determined that no other practical alternative to the use of dogs exists, and after the commission has adopted rules describing the conditions in which dogs may be used. Conditions that may warrant the use of dogs within a game management unit include, but are not limited to, confirmed cougar/human safety incidents, confirmed cougar/livestock and cougar/pet depredations, and the number of cougar capture attempts and relocations.

(4) A person who violates subsection (1) or (2) of this section is guilty of a gross misdemeanor. In addition to appropriate criminal penalties, the department shall revoke the hunting license of a person who violates subsection (1) or (2) of this section and order the suspension of wildlife hunting privileges for a period of five years following the revocation. Following a subsequent violation of subsection (1) or (2) of this section by the same person, a hunting license shall not be issued to the person at any time. [2019 c 226 § 2; 2005 c 107 § 1; 2001 c 253 § 31. Prior: 2000 c 248 § 1; 2000 c 107 § 260; 1997 c 1 § 1 (Initiative Measure No. 655, approved November 5, 1996). Formerly RCW 77.16.360.]

Effective date—2000 c 248: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 31, 2000]." [2000 c 248 § 2.]

Severability—1997 c 1 (Initiative Measure No. 655): "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1997 c 1 § 2 (Initiative Measure No. 655, approved November 5, 1996).]

RCW 77.15.250 Unlawful release or possession of fish, shellfish, or wildlife—Penalty—Unlawful release of deleterious exotic wildlife—Penalty. (1)(a) A person is guilty of unlawfully releasing, planting, possessing, or placing fish, shellfish, or wildlife if the person knowingly releases, plants, possesses, or places live fish, shellfish, wildlife, or aquatic plants within the state in violation of this title or rule of the department, and the fish, shellfish, or wildlife have not been classified as deleterious wildlife. This subsection does not apply to a release of game fish into private waters for which a game fish stocking permit has been obtained, or the planting of fish or shellfish by permit of the commission.

(b) A violation of this subsection is a gross misdemeanor. In addition, the department shall order the person to pay all costs the department incurred in capturing, killing, or controlling the fish, shellfish, aquatic plants, wildlife, or progeny unlawfully released, planted, possessed, or placed. This does not affect the existing authority of the department to bring a separate civil action to recover costs of capturing, killing, or controlling the fish, shellfish, aquatic plants, wildlife, or progeny unlawfully released,

planted, possessed, or placed, or the costs of habitat restoration necessitated by the unlawful release, planting, possession, or placing.

(2) (a) A person is guilty of unlawfully releasing, planting, possessing, or placing deleterious exotic wildlife if the person knowingly releases, plants, possesses, or places live fish, shellfish, or wildlife within the state in violation of this title or rule of the department, and the fish, shellfish, or wildlife have been classified as deleterious exotic wildlife by rule of the commission.

(b) A violation of this subsection is a class C felony. In addition, the department shall order the person to pay all costs the department incurred in capturing, killing, or controlling the fish, shellfish, wildlife, or progeny unlawfully released, planted, possessed, or placed. This does not affect the existing authority of the department to bring a separate civil action to recover costs of capturing, killing, or controlling the fish, shellfish, wildlife, or progeny unlawfully released, planted, possessed, or placed, or the costs of habitat restoration necessitated by the unlawful release, planting, possession, or placing. [2014 c 48 § 12; 2001 c 253 § 32; 1998 c 190 § 31.]

RCW 77.15.260 Unlawful trafficking in fish, shellfish, or wildlife—Penalty. (1) A person is guilty of unlawful trafficking in fish, shellfish, or wildlife in the second degree if the person traffics in fish, shellfish, or wildlife with a wholesale value of less than two hundred fifty dollars and:

(a) The fish, shellfish, or wildlife is classified as game, food fish, shellfish, game fish, or protected wildlife and the trafficking is not authorized by statute or department rule; or

(b) The fish, shellfish, or wildlife is unclassified and the trafficking violates any department rule.

(2) (a) A person is guilty of unlawful trafficking in fish, shellfish, or wildlife in the first degree if the person commits the act described by subsection (1) of this section and:

(i) The fish, shellfish, or wildlife has a value of two hundred fifty dollars or more; or

(ii) The fish, shellfish, or wildlife is designated as an endangered species or deleterious exotic wildlife and such trafficking is not authorized by any statute or department rule.

(b) For purposes of this subsection (2), whenever any series of transactions that constitute unlawful trafficking would, when considered separately, constitute unlawful trafficking in the second degree due to the value of the fish, shellfish, or wildlife, and the series of transactions are part of a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all the transactions considered when determining the degree of unlawful trafficking involved.

(3) (a) Unlawful trafficking in fish, shellfish, or wildlife in the second degree is a class C felony.

(b) Unlawful trafficking in fish, shellfish, or wildlife in the first degree is a class B felony. [2015 c 141 § 1; 2012 c 176 § 19; 2001 c 253 § 33; 1998 c 190 § 42.]

RCW 77.15.265 Unlawful possession of fish, shellfish, or wildlife knowingly taken in violation of another state's or country's laws—Penalty. (1) It is unlawful for any person to possess in Washington any fish, shellfish, or wildlife that the person knows was taken in another state or country in violation of that state's or country's laws or regulations relating to licenses or tags, seasons, areas, methods, or bag or possession limits.

(2) As used in this section, the terms "fish," "shellfish," and "wildlife" have the meaning ascribed to those terms in the applicable law or regulation of the state or country of the fish's, shellfish's, or wildlife's origin.

(3) Unlawful possession of fish, shellfish, or wildlife taken or possessed in violation of another state's or country's laws or regulations is a gross misdemeanor. [2014 c 48 § 24.]

RCW 77.15.270 Providing false information—Penalty. (1) A person is guilty of providing false information regarding fish, shellfish, or wildlife if the person knowingly provides false or misleading information required by any statute or rule to be provided to the department regarding the taking, delivery, possession, transportation, sale, transfer, or any other use of fish, shellfish, or wildlife.

(2) Providing false information regarding fish, shellfish, or wildlife is a gross misdemeanor. [2001 c 253 § 34; 1998 c 190 § 46.]

RCW 77.15.280 Reporting of fish or wildlife harvest—Rules violation—Penalty. (1) A person is guilty of violating rules requiring reporting of fish or wildlife harvest if the person:

(a) Fails to make a harvest log report of a commercial fish or shellfish catch in violation of any department rule; or

(b) Fails to submit any portion of a big game animal for an inspection as required by department rule.

(2) Violating rules requiring reporting of fish or wildlife harvest is a misdemeanor. [2012 c 176 § 20; 2008 c 244 § 2; 2005 c 418 § 2; 1998 c 190 § 47.]

RCW 77.15.290 Unlawful transportation of fish or wildlife—Penalty. (1) A person is guilty of unlawful transportation of fish or wildlife in the second degree if the person:

(a) Knowingly imports, moves within the state, or exports fish, shellfish, or wildlife in violation of any department rule governing the transportation or movement of fish, shellfish, or wildlife and the transportation does not involve big game, endangered fish or wildlife, deleterious exotic wildlife, or fish, shellfish, or wildlife having a value greater than two hundred fifty dollars; or

(b) Possesses but fails to affix or notch a big game transport tag as required by department rule.

(2) A person is guilty of unlawful transportation of fish or wildlife in the first degree if the person:

(a) Knowingly imports, moves within the state, or exports fish, shellfish, or wildlife in violation of any department rule governing the transportation or movement of fish, shellfish, or wildlife and the transportation involves big game, endangered fish or wildlife,

deleterious exotic wildlife, or fish, shellfish, or wildlife with a value of two hundred fifty dollars or more; or

(b) Knowingly transports shellfish, shellstock, or equipment used in commercial culturing, taking, handling, or processing shellfish without a permit required by authority of this title.

(3) (a) Unlawful transportation of fish or wildlife in the second degree is a misdemeanor.

(b) Unlawful transportation of fish or wildlife in the first degree is a gross misdemeanor.

(4) This section does not apply to invasive species. [2014 c 202 § 304; 2012 c 176 § 21; 2007 c 350 § 6; 2002 c 281 § 7; 2001 c 253 § 35; 1998 c 190 § 48.]

Findings—2014 c 202: See note following RCW 77.135.010.

Purpose—2002 c 281: See note following RCW 77.08.010.

RCW 77.15.300 Unlawful hydraulic project activities—Penalty.

(1) A person is guilty of unlawfully undertaking hydraulic project activities if the person constructs any form of hydraulic project or performs other work on a hydraulic project and:

(a) Fails to have a hydraulic project approval required under chapter 77.55 RCW for such construction or work; or

(b) Violates any requirements or conditions of the hydraulic project approval for such construction or work.

(2) Unlawfully undertaking hydraulic project activities is a gross misdemeanor. [2000 c 107 § 239; 1998 c 190 § 52.]

RCW 77.15.310 Unlawful failure to use or maintain approved fish guard on water diversion device—Penalty. (1) A person is guilty of unlawful failure to use or maintain an approved fish guard on a diversion device if the person owns, controls, or operates a device used for diverting or conducting water from a lake, river, or stream and:

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

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

(2) Unlawful failure to use or maintain an approved fish guard, screen, or bypass on a diversion device is a gross misdemeanor. Following written notification to the person from the department that there is a violation, each day that a diversion device is operated without an approved or maintained fish guard, screen, or bypass is a separate offense. [2009 c 333 § 3; 2003 c 39 § 38; 2000 c 107 § 240; 1998 c 190 § 53.]

RCW 77.15.320 Unlawful failure to provide, maintain, or operate fishway for dam or other obstruction—Penalty. (1) A person is guilty of unlawful failure to provide, maintain, or operate a fishway for dam or other obstruction if the person owns, operates, or controls a dam or other obstruction to fish passage on a river or stream and:

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

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

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

(2) Unlawful failure to provide, maintain, or operate a fishway for dam or other obstruction is a gross misdemeanor. Following written notification to the person from the department that there is a violation, each day of unlawful failure to provide, maintain, or operate a fishway is a separate offense. [2009 c 333 § 4; 2000 c 107 § 241; 1998 c 190 § 54.]

RCW 77.15.340 Unlawful operation of a game farm—Penalty. (1) A person is guilty of unlawful operation of a game farm if the person (a) operates a game farm without the license required by RCW 77.65.480; or (b) violates any rule of the commission or the director applicable to game farms under RCW 77.12.570, 77.12.580, and 77.12.590.

(2) Unlawful operation of a game farm is a gross misdemeanor. [2001 c 253 § 37; 1998 c 190 § 57.]

RCW 77.15.350 Inspection and disease control of aquatic farms—Rules violation—Penalty. (1) A person is guilty of violating a rule regarding inspection and disease control of aquatic farms if the person:

(a) Violates any rule adopted under chapter 77.115 RCW regarding the inspection and disease control program for an aquatic farm; or

(b) Fails to register or report production from an aquatic farm as required by chapter 77.115 RCW.

(2) A violation of a rule regarding inspection and disease control of aquatic farms is a misdemeanor. [2000 c 107 § 242; 1998 c 190 § 58.]

RCW 77.15.360 Unlawful interfering in department operations—Penalty. (1) A person is guilty of unlawful interfering in department operations if the person prevents department employees from carrying out duties authorized by this title, including but not limited to interfering:

(a) In the operation of department vehicles, vessels, or aircraft;

(b) With the collection of samples of tissue, fluids, or other bodily parts of fish, wildlife, and shellfish under RCW 77.12.071; or

(c) With actions authorized by a warrant issued under RCW 77.135.170 or 77.15.807.

(2) Unlawful interfering in department operations is a gross misdemeanor. [2014 c 202 § 308; 2007 c 337 § 3; 2000 c 107 § 243; 1998 c 190 § 61.]

Findings—2014 c 202: See note following RCW 77.135.010.

Intent—Finding—2007 c 337: See note following RCW 77.12.071.

RCW 77.15.370 Unlawful recreational fishing in the first degree

—Penalty—Criminal wildlife penalty assessment. (1) A person is guilty of unlawful recreational fishing in the first degree if:

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

(b) The person fishes in a fishway;

(c) The person shoots, gaffs, snags, snares, spears, dipnets, or stones fish or shellfish in state waters, or possesses fish or shellfish taken by such means, unless such means are authorized by express department rule;

(d) The person fishes for or possesses a fish listed as threatened or endangered in 50 C.F.R. Sec. 223.102 (2006) or Sec. 224.101 (2010), unless fishing for or possessing such fish is specifically allowed under federal or state law;

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

(f) The person possesses a green sturgeon of any size; or

(g) (i) The person possesses a wild salmon or wild steelhead during a season closed for wild salmon or wild steelhead.

(ii) For the purposes of this subsection:

(A) "Wild salmon" means a salmon with an unclipped adipose fin, regardless of whether the salmon's ventral fin is clipped. A salmon is considered to have an unclipped adipose fin if it does not have a healed scar at the location of the clipped adipose fin.

(B) "Wild steelhead" means a steelhead with no fins clipped.

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

(3) In addition to the penalties set forth in subsection (2) of this section, if a person is convicted of violating this section and the violation results in the death of fish listed in this subsection, the court shall require payment of the following amounts for each fish taken or possessed. This is a criminal wildlife penalty assessment that must be paid to the clerk of the court and distributed each month to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW 77.15.425:

(a) White sturgeon longer than fifty-five inches in fork length, two thousand dollars;

(b) Green sturgeon, two thousand dollars; and

(c) Wild salmon or wild steelhead, five hundred dollars.

(4) If two or more persons are convicted under subsection (1) of this section, and subsection (3) of this section is applicable, the criminal wildlife penalty assessment must be imposed against the persons jointly and severally.

(5) (a) The criminal wildlife penalty assessment under subsection (3) of this section must be imposed regardless of and in addition to any sentence, fines, or costs otherwise provided for violating any provision of this section. The criminal wildlife penalty assessment must be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect.

(b) This subsection may not be construed to abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

(6) A defaulted criminal wildlife penalty assessment authorized under subsection (3) of this section may be collected by any means authorized by law for the enforcement of orders of the court or collection of a fine or costs, including but not limited to vacation of a deferral of sentencing or vacation of a suspension of sentence.

(7) The department shall revoke the fishing license and suspend the fishing privileges of a person assessed a criminal wildlife penalty assessment under this section until the penalty assessment is paid through the registry of the court in which the penalty assessment was assessed.

(8) The criminal wildlife penalty assessments provided in subsection (3) of this section must be doubled in the following instances:

(a) When a person commits a violation that requires payment of a criminal wildlife penalty assessment within five years of a prior gross misdemeanor or felony conviction under this title; or

(b) When the trier of fact determines that the person took or possessed the fish in question with the intent of bartering, selling, or otherwise deriving economic profit from the fish or fish parts. [2016 c 64 § 1; 2014 c 48 § 13; 2012 c 176 § 22; 2009 c 333 § 17; 2005 c 406 § 3; 2001 c 253 § 38; 1998 c 190 § 19.]

RCW 77.15.380 Unlawful recreational fishing in the second degree

—**Penalty.** (1) A person is guilty of unlawful recreational fishing in the second degree if the person fishes for fish or shellfish and, whether or not the person possesses fish or shellfish, the person has not purchased the appropriate fishing or shellfishing license and catch record card issued to Washington residents or nonresidents under chapter 77.32 RCW.

(2) A person is guilty of unlawful recreational fishing in the second degree if the person takes or possesses fish or shellfish and:

(a) The person owns, but does not have in the person's possession, the license or the catch record card required by chapter 77.32 RCW for such activity; or

(b) The action violates any department rule regarding seasons, bag or possession limits but less than two times the bag or possession limit, closed areas, closed times, or any other rule addressing the manner or method of fishing for, taking, or possessing fish or shellfish. This section does not apply to use of a net to take fish under RCW 77.15.580 or the unlawful use of shellfish gear for personal use under RCW 77.15.382.

(3) Unlawful recreational fishing in the second degree is a misdemeanor. [2014 c 48 § 14; 2012 c 176 § 23; 2010 c 193 § 5; 2001 c 253 § 39; 2000 c 107 § 244; 1998 c 190 § 18.]

RCW 77.15.382 Unlawful use of shellfish gear for personal use purposes—Penalty. (1) A person is guilty of the unlawful use of shellfish gear for personal use purposes if the person:

(a) Takes, fishes for, or possesses crab, shrimp, or crawfish for personal use purposes with shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications; or

(b) Is found in possession of, upon any vessel located on the waters of the state, shellfish gear that is constructed or altered in

a manner that violates any rule of the commission relating to required gear design specifications, unless a person holds a valid crab pot removal permit under RCW 77.70.500 and is in the process of transporting removed crab pots as part of the Dungeness crab pot removal program.

(2) The unlawful use of shellfish gear for personal use purposes is a misdemeanor. [2010 c 193 § 2.]

RCW 77.15.390 Seaweed—Unlawful taking—Penalty. (1) A person is guilty of unlawful taking of seaweed if the person takes or possesses seaweed and:

(a) The person has not purchased a personal use shellfish and seaweed license issued to Washington residents or nonresidents under chapter 77.32 RCW; or

(b) The person takes or possesses seaweed in an amount that is two times or more of the daily possession limit of seaweed.

(2) Unlawful taking of seaweed is a misdemeanor. This does not affect rights of the state to recover civilly for trespass, conversion, or theft of state-owned valuable materials. [2014 c 48 § 15; 2012 c 176 § 24; 2001 c 253 § 40; 2000 c 107 § 245; 1998 c 190 § 20.]

RCW 77.15.395 Hunter safety—Visible clothing requirement—Penalty. (1) For the purpose of hunter safety, the commission must adopt rules determining the times and manner when a person hunting must wear either fluorescent orange or fluorescent pink clothing or both. The rules must allow a person hunting to wear either fluorescent orange or fluorescent pink clothing, or both, in order to meet a visible clothing requirement when hunting.

(2) A violation of this section is an infraction punishable under RCW 77.15.160. [2019 c 58 § 1.]

RCW 77.15.400 Unlawful hunting of wild birds—Violation of a rule requiring nontoxic shot—Penalty. (1) A person is guilty of unlawful hunting of wild birds in the second degree if the person hunts for wild birds and, whether or not the person possesses wild birds, the person has not purchased the appropriate hunting license, tags, stamps, and permits issued to Washington residents or nonresidents under chapter 77.32 RCW.

(2) A person is guilty of unlawful hunting of wild birds in the second degree if the person takes or possesses less than two times the bag or possession limit of wild birds and the person:

(a) Owns, but does not have in the person's possession, all licenses, tags, stamps, and permits required under this title; or

(b) Violates any department rule regarding seasons, bag or possession limits, closed areas, closed times, or the manner or method of hunting or possession of wild birds.

(3) A person is guilty of unlawful hunting of wild birds in the first degree if the person takes or possesses two times or more than the possession or bag limit for wild birds allowed by department rule.

(4)(a) Unlawful hunting of wild birds in the second degree is a misdemeanor.

(b) Unlawful hunting of wild birds in the first degree is a gross misdemeanor.

(5) In addition to the penalties set forth in this section, if a person, other than a youth as defined in RCW 77.08.010 for hunting purposes, violates a department rule that requires the use of nontoxic shot, upon conviction:

(a) The court shall require a payment of one thousand dollars as a criminal wildlife penalty assessment that must be paid to the clerk of the court and distributed to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW 77.15.425. The criminal wildlife penalty assessment must be imposed regardless of and in addition to any sentence, fine, or costs imposed for violating this section. The criminal wildlife penalty assessment must be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect; and

(b) The department shall revoke the hunting license of the person and order a suspension of small game hunting privileges for two years. [2016 c 64 § 2; 2012 c 176 § 25; 2006 c 148 § 1; 2001 c 253 § 41; 1999 c 258 § 2; 1998 c 190 § 9.]

RCW 77.15.410 Unlawful hunting of big game—Penalty. (1) A person is guilty of unlawful hunting of big game in the second degree if the person:

(a) Hunts for, takes, or possesses big game and the person does not have and possess all licenses, tags, or permits required under this title; or

(b) Violates any department rule regarding seasons, bag or possession limits, closed areas including game reserves, closed times, or any other rule governing the hunting, taking, or possession of big game.

(2) A person is guilty of unlawful hunting of big game in the first degree if the person commits the act described in subsection (1) of this section and:

(a) The person hunts for, takes, or possesses three or more big game animals within the same course of events; or

(b) The act occurs within five years of the date of a prior conviction under this title involving unlawful hunting, killing, possessing, or taking big game.

(3) (a) Unlawful hunting of big game in the second degree is a gross misdemeanor. Upon conviction of an offense involving killing or possession of big game taken during a closed season, closed area, without the proper license, tag, or permit using an unlawful method, or in excess of the bag or possession limit, the department shall revoke all of the person's hunting licenses and tags and order a suspension of the person's hunting privileges for two years.

(b) Unlawful hunting of big game in the first degree is a class C felony. Upon conviction, the department shall revoke all of the person's hunting licenses or tags and order the person's hunting privileges suspended for ten years.

(4) For the purposes of this section, "same course of events" means within one twenty-four hour period, or a pattern of conduct composed of a series of acts that are unlawful under subsection (1) of this section, over a period of time evidencing a continuity of purpose. [2012 c 176 § 26; 2011 c 133 § 1; 2005 c 406 § 4; 1999 c 258 § 3; 1998 c 190 § 10.]

RCW 77.15.420 Illegally taken or possessed wildlife—Criminal wildlife penalty assessed. (1) If an adult offender is convicted of violating RCW 77.15.410 and that violation results in the death of wildlife listed in this section, the court shall require payment of the following amounts for each animal taken or possessed. This shall be a criminal wildlife penalty assessment that shall be paid to the clerk of the court and distributed each month to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW 77.15.425.

- (a) Moose, mountain sheep, mountain goat, and all wildlife species classified as endangered by rule of the commission, except for mountain caribou and grizzly bear as listed under (d) of this subsection. \$4,000
- (b) Elk, deer, black bear, and cougar. . \$2,000
- (c) Trophy animal elk and deer. \$6,000
- (d) Mountain caribou, grizzly bear, and trophy animal mountain sheep. \$12,000

(2) (a) For the purpose of this section a "trophy animal" is:

(i) A buck deer with four or more antler points on both sides, not including eyeguards;

(ii) A bull elk with five or more antler points on both sides, not including eyeguards; or

(iii) A mountain sheep with a horn curl of three-quarter curl or greater.

(b) For purposes of this subsection, "eyeguard" means an antler protrusion on the main beam of the antler closest to the eye of the animal.

(3) If two or more persons are convicted of illegally possessing wildlife in subsection (1) of this section, the criminal wildlife penalty assessment shall be imposed on them jointly and severally.

(4) The criminal wildlife penalty assessment shall be imposed regardless of and in addition to any sentence, fines, or costs otherwise provided for violating any provision of this title. The criminal wildlife penalty assessment shall be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect. This section may not be construed to abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

(5) A defaulted criminal wildlife penalty assessment may be collected by any means authorized by law for the enforcement of orders of the court or collection of a fine or costs, including but not limited to vacation of a deferral of sentencing or vacation of a suspension of sentence.

(6) A person assessed a criminal wildlife penalty assessment under this section shall have his or her hunting license revoked and all hunting privileges suspended until the penalty assessment is paid through the registry of the court in which the penalty assessment was assessed. This revocation and suspension is in addition to and runs concurrently with any revocation and suspension required by law.

(7) The criminal wildlife penalty assessments provided in subsection (1) of this section shall be doubled in the following instances:

(a) When a person is convicted of spotlighting big game under RCW 77.15.450;

(b) When a person commits a violation that requires payment of a wildlife penalty assessment within five years of a prior gross misdemeanor or felony conviction under this title;

(c) When the trier of fact determines that the person took or possessed the animal in question with the intent of bartering, selling, or otherwise deriving economic profit from the animal or the animal's parts; or

(d) When the trier of fact determines that the person took the animal under the supervision of a licensed guide. [2016 c 64 § 3; 2015 c 265 § 38; 2014 c 48 § 16; 2005 c 406 § 5; 1998 c 190 § 62.]

Finding—Intent—2015 c 265: See note following RCW 13.50.010.

RCW 77.15.425 Fish and wildlife enforcement reward account. The fish and wildlife enforcement reward account is created in the custody of the state treasurer. Deposits to the account include: Receipts from fish and shellfish overages as a result of a department enforcement action; fees for hunter education deferral applications; fees for master hunter applications and master hunter certification renewals; all receipts from criminal wildlife penalty assessments under this chapter; all receipts of court-ordered restitution or donations associated with any fish, shellfish, or wildlife enforcement action; and proceeds from forfeitures and evidence pursuant to RCW 77.15.070 and 77.15.100. The department may accept money or personal property from persons under conditions requiring the property or money to be used consistent with the intent of expenditures from the fish and wildlife enforcement reward account. Expenditures from the account may be used only for investigation and prosecution of fish and wildlife offenses, to provide rewards to persons informing the department about violations of this title and rules adopted under this title, to offset department-approved costs incurred to administer the hunter education deferral program and the master hunter permit program, and for other valid enforcement uses as determined by the commission. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2016 c 2 § 6 (Initiative Measure No. 1401, approved November 3, 2015); 2014 c 48 § 17; 2009 c 333 § 18; 2006 c 148 § 2; 2005 c 406 § 1.]

Finding—2016 c 2 (Initiative Measure No. 1401): See note following RCW 77.15.135.

RCW 77.15.430 Unlawful hunting of wild animals—Penalty. (1) A person is guilty of unlawful hunting of wild animals in the second degree if the person hunts for wild animals not classified as big game and, whether or not the person possesses the wild animals, the person has not purchased the appropriate hunting license issued to Washington residents or nonresidents under chapter 77.32 RCW.

(2) A person is guilty of unlawful hunting of wild animals in the second degree if the person:

(a) Takes or possesses a wild animal that is not classified as big game, and owns, but does not have in the person's possession, all licenses, tags, or permits required by this title; or

(b) Violates any department rule regarding seasons, bag or possession limits but less than two times the bag or possession limit, closed areas including game reserves, closed times, or any other rule addressing the manner or method of hunting or possession of wild animals not classified as big game.

(3) A person is guilty of unlawful hunting of wild animals in the first degree if the person takes or possesses two times or more than the possession or bag limit for wild animals that are not classified as big game animals as allowed by department rule.

(4) (a) Unlawful hunting of wild animals in the second degree is a misdemeanor.

(b) Unlawful hunting of wild animals in the first degree is a gross misdemeanor. [2012 c 176 § 27; 1999 c 258 § 4; 1998 c 190 § 11.]

**RCW 77.15.435 Unlawful hunting on, retrieving hunted wildlife from, or collecting wildlife parts from the property of another—
Defense—Penalty—Forfeiture and disposition of wildlife.** (1) A person is guilty of unlawfully hunting on, retrieving hunted wildlife from, or collecting wildlife parts from the property of another if the person knowingly enters or remains unlawfully in or on the premises of another for the purpose of:

- (a) Hunting for wildlife;
- (b) Retrieving hunted wildlife; or
- (c) Collecting wildlife parts.

(2) In any prosecution under this section, it is a defense that:

- (a) The premises were at the time open to members of the public for the purpose of hunting, and the actor complied with all lawful conditions imposed on access to or remaining on the premises;
- (b) The actor reasonably believed that the owner of the premises, or other person empowered to license access to the premises, would have licensed him or her to enter or remain on the premises for the purpose of hunting, retrieving hunted wildlife, or collecting wildlife parts;

(c) The actor reasonably believed that the premises were not privately owned; or

(d) The actor, after making all reasonable attempts to contact the owner of the premises, entered the premises to retrieve the hunted wildlife for the sole purpose of avoiding a violation of the prohibition on the waste of fish and wildlife as provided in RCW 77.15.170. The defense in this subsection only applies to the retrieval of hunted wildlife and not to the actual act of hunting itself or the collecting of wildlife parts.

(3) Unlawfully hunting on, retrieving hunted wildlife from, or collecting wildlife parts from the property of another is a misdemeanor.

(4) If a person unlawfully hunts and kills wildlife, or retrieves hunted wildlife that he or she has killed, on the property of another, then, upon conviction under this section, the department shall revoke all hunting licenses and tags and order a suspension of the person's hunting privileges for two years. This subsection does not apply to a

person convicted under this section for unlawfully collecting wildlife parts from the property of another.

(5) Any wildlife or wildlife parts that are unlawfully hunted on, retrieved, or collected from the property of another must be seized by fish and wildlife officers. Forfeiture and disposition of the wildlife or wildlife parts is pursuant to RCW 77.15.100. [2015 c 154 § 1; 2012 c 176 § 11.]

RCW 77.15.440 Weapons, traps, or dogs on game reserves—Unlawful use—Penalty. (1) A person is guilty of unlawful use of weapons, traps, or dogs on game reserves if:

(a) The person uses firearms, other hunting weapons, or traps on a game reserve; or

(b) The person negligently allows a dog upon a game reserve.

(2) This section does not apply to persons on a public highway or if the conduct is authorized by rule of the department.

(3) This section does not apply to a person in possession of a handgun if the person in control of the handgun possesses a valid concealed pistol license and the handgun is concealed on the person.

(4) Unlawful use of weapons, traps, or dogs on game reserves is a misdemeanor. [1998 c 190 § 12.]

RCW 77.15.450 Spotlighting big game—Penalty. (1) A person is guilty of spotlighting big game in the second degree if the person hunts big game with the aid of a spotlight, other artificial light, or night vision equipment while in possession or control of a firearm, bow and arrow, or cross bow. For purposes of this section, "night vision equipment" includes electronic light amplification devices, thermal imaging devices, and other comparable equipment used to enhance night vision.

(2) A person is guilty of spotlighting big game in the first degree if:

(a) The person has any prior conviction for gross misdemeanor or felony for a crime under this title involving big game including but not limited to subsection (1) of this section or RCW 77.15.410; and

(b) Within ten years of the date that such prior conviction was entered the person commits the act described by subsection (1) of this section.

(3) (a) Spotlighting big game in the second degree is a gross misdemeanor. Upon conviction, the department shall revoke all hunting licenses and tags and order a suspension of the person's hunting privileges for two years.

(b) Spotlighting big game in the first degree is a class C felony. Upon conviction, the department shall order suspension of all privileges to hunt wildlife for a period of ten years.

(4) A person convicted under this section shall be assessed a criminal wildlife penalty assessment as provided in RCW 77.15.420. [2005 c 406 § 6; 1998 c 190 § 27.]

RCW 77.15.460 Loaded rifle or shotgun in vehicle—Unlawful use or possession—Unlawful use of a loaded firearm—Penalty. (1) A person is guilty of unlawful possession of a loaded rifle or shotgun in a

motor vehicle, as defined in RCW 46.04.320, or upon an off-road vehicle, as defined in RCW 46.04.365, if:

(a) The person carries, transports, conveys, possesses, or controls a rifle or shotgun in a motor vehicle, or upon an off-road vehicle, except as allowed by department rule; and

(b) The rifle or shotgun contains shells or cartridges in the magazine or chamber, or is a muzzle-loading firearm that is loaded and capped or primed.

(2) A person is guilty of unlawful use of a loaded firearm if:

(a) The person negligently discharges a firearm from, across, or along the maintained portion of a public highway; or

(b) The person discharges a firearm from within a moving motor vehicle or from upon a moving off-road vehicle.

(3) Unlawful possession of a loaded rifle or shotgun in a motor vehicle or upon an off-road vehicle, and unlawful use of a loaded firearm are misdemeanors.

(4) This section does not apply if the person:

(a) Is a law enforcement officer who is authorized to carry a firearm and is on duty within the officer's respective jurisdiction;

(b) Has been granted a disability designation as provided by RCW 77.32.237 and complies with all rules of the department concerning hunting by persons with disabilities; or

(c) Discharges the rifle or shotgun from upon a nonmoving motor vehicle, as long as the engine is turned off and the motor vehicle is not parked on or beside the maintained portion of a public road, except as authorized by the commission by rule. This subsection (4)(c) does not apply to off-road vehicles, which are unlawful to use for hunting under RCW 46.09.480, unless the person has a department permit issued under RCW 77.32.237.

(5) For purposes of subsection (1) of this section, a rifle or shotgun shall not be considered loaded if the detachable clip or magazine is not inserted in or attached to the rifle or shotgun. [2018 c 168 § 1; 2014 c 48 § 18; 2012 c 176 § 28; 1999 c 258 § 7; 1998 c 190 § 28.]

RCW 77.15.470 Wildlife check stations or field inspections—

Unlawful avoidance—Penalty. (1) A person is guilty of unlawfully avoiding wildlife check stations or field inspections if the person fails to:

(a) Obey check station signs;

(b) Stop and report at a check station if directed to do so by a uniformed fish and wildlife officer or if directed by an ex officio fish and wildlife officer participating in a department-authorized check station; or

(c) Produce for inspection upon request by a fish and wildlife officer or ex officio fish and wildlife officer: (i) Hunting or fishing equipment; (ii) seaweed, fish, shellfish, or wildlife; or (iii) licenses, permits, tags, stamps, or catch record cards required by this title.

(2) Unlawfully avoiding wildlife check stations or field inspections is a gross misdemeanor.

(3) Wildlife check stations may not be established upon interstate highways or state routes. [2014 c 48 § 19; 2000 c 107 § 246; 1998 c 190 § 29.]

RCW 77.15.480 Certain devices declared public nuisances.

Articles or devices unlawfully used, possessed, or maintained for taking, harassing, attracting, or decoying wildlife, fish, and shellfish are public nuisances. If necessary, fish and wildlife officers and ex officio fish and wildlife officers may seize, abate, or destroy these public nuisances without warrant or process. [2014 c 48 § 20; 2001 c 253 § 42; 2000 c 107 § 247; 1980 c 78 § 27; 1955 c 36 § 77.12.130. Prior: 1947 c 275 § 23; Rem. Supp. 1947 § 5992-33. Formerly RCW 77.12.130.]

Effective date—Intent, construction—Savings—Severability—1980

c 78: See notes following RCW 77.04.010.

RCW 77.15.500 Commercial fishing without a license—Penalty.

(1) A person is guilty of commercial fishing without a license in the second degree if the person fishes for, takes, or delivers fish or shellfish while acting for commercial purposes and:

(a) The person does not hold a fishery license or delivery license under chapter 77.65 RCW for the fish or shellfish;

(b) The person is not a licensed operator designated as an alternate operator on a fishery or delivery license under chapter 77.65 RCW for the fish or shellfish; or

(c) The person does not hold a crewmember license when required under RCW 77.65.610.

(2) A person is guilty of commercial fishing without a license in the first degree if the person commits the act described by subsection (1) of this section and:

(a) The violation involves taking, delivery, or possession of fish or shellfish with a value of two hundred fifty dollars or more; or

(b) The violation involves taking, delivery, or possession of fish or shellfish from an area that was closed to the taking of the fish or shellfish by any statute or rule.

(3) (a) Commercial fishing without a license in the second degree is a gross misdemeanor.

(b) Commercial fishing without a license in the first degree is a class C felony. [2017 3rd sp.s. c 8 § 10; 2000 c 107 § 248; 1998 c 190 § 35.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

RCW 77.15.510 Acting as a game fish guide, food fish guide, or chartering without a license—Penalty. (1) A person is guilty of acting as a game fish guide, food fish guide, or chartering without a license if:

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

(b) The person acts as a food fish guide and does not hold a food fish guide license; or

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

(2) Acting without a game fish guide license, food fish guide license, or charter license is a gross misdemeanor. Upon conviction,

the department may deny applications submitted by the person for a game fish guide license, food fish guide license, or charter boat license for up to one year from the date of conviction. [2015 c 97 § 1; 2009 c 333 § 10; 2001 c 253 § 43; 1998 c 190 § 36.]

RCW 77.15.520 Commercial fishing—Unlawful gear or methods—

Penalty. (1) Except for actions involving shellfish gear punishable under RCW 77.15.522, a person is guilty of commercial fishing using unlawful gear or methods if the person acts for commercial purposes and takes or fishes for any fish or shellfish using any gear or method in violation of a rule of the commission specifying, regulating, or limiting the gear or method for taking, fishing, or harvesting of such fish or shellfish.

(2) Commercial fishing using unlawful gear or methods is a gross misdemeanor. [2010 c 193 § 4; 1998 c 190 § 37.]

RCW 77.15.522 Unlawful use of shellfish gear for commercial purposes—Penalty. (1) A person is guilty of the unlawful use of shellfish gear for commercial purposes if the person:

(a) Takes, fishes for, or possesses crab, shrimp, or crawfish for commercial purposes with shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications; or

(b) Is found in possession of, upon any vessel located on the waters of the state, shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications, unless a person holds a valid crab pot removal permit under RCW 77.70.500 and is in the process of transporting removed crab pots as part of the Dungeness crab pot removal program.

(2) The unlawful use of shellfish gear for commercial purposes is a gross misdemeanor. [2010 c 193 § 1.]

RCW 77.15.530 Unlawful use of a nondesignated vessel—Penalty.

(1) A person who holds a fishery license required by chapter 77.65 RCW, or who holds an operator's license and is designated as an alternate operator on a fishery license required by chapter 77.65 RCW, is guilty of unlawful use of a nondesignated vessel if the person takes, fishes for, or delivers from that fishery using a vessel not designated on the person's license, when vessel designation is required by chapter 77.65 RCW.

(2) Unlawful use of a nondesignated vessel is a gross misdemeanor.

(3) A nondesignated vessel may be used, subject to appropriate notification to the department and in accordance with rules established by the commission, when a designated vessel is inoperative because of accidental damage or mechanical breakdown.

(4) If the person commits the act described by subsection (1) of this section and the vessel designated on the person's fishery license was used by any person in the fishery on the same day, then the violation for using a nondesignated vessel is a class C felony. Upon conviction the department shall order revocation and suspension of all

commercial fishing privileges under chapter 77.65 RCW for a period of one year. [2000 c 107 § 249; 1998 c 190 § 38.]

RCW 77.15.540 Unlawful use of a commercial fishery license—

Penalty. (1) A person who holds a fishery license required by chapter 77.65 RCW, or who holds an operator's license and is designated as an alternate operator on a fishery license required by chapter 77.65 RCW, is guilty of unlawful use of a commercial fishery license if the person:

(a) Does not have the commercial fishery license or operator's license in possession during fishing or delivery; or

(b) Violates any rule of the department regarding the use, possession, display, or presentation of the person's license, decals, or vessel numbers.

(2) Unlawful use of a commercial fishery license is a misdemeanor. [2000 c 107 § 250; 1998 c 190 § 39.]

RCW 77.15.550 Violation of commercial fishing area or time—

Penalty. (1) A person is guilty of violating commercial fishing area or time in the second degree if the person acts for commercial purposes and takes, fishes for, possesses, delivers, or receives fish or shellfish:

(a) At a time not authorized by statute or rule;

(b) From an area that was closed to the taking of such fish or shellfish for commercial purposes by statute or rule; or

(c) If such fish or shellfish do not conform to the special restrictions or physical descriptions established by rule of the department.

(2) A person is guilty of violating commercial fishing area or time in the first degree if the person commits the act described by subsection (1) of this section and:

(a) The person acted with knowledge that the area or time was not open to the taking or fishing of fish or shellfish for commercial purposes; and

(b) The violation involved two hundred fifty dollars or more worth of fish or shellfish.

(3)(a) Violating commercial fishing area or time in the second degree is a gross misdemeanor.

(b) Violating commercial fishing area or time in the first degree is a class C felony. [2001 c 253 § 44; 1999 c 258 § 10; 1998 c 190 § 40.]

RCW 77.15.552 Qualifying commercial fishing violations. (1) If

a person is convicted of two or more qualifying commercial fishing violations within a three-year period, the person's privileges to participate in the commercial fishery to which the violations applied may be suspended by the director for up to one year. A commercial fishery license that is suspended under this section may not be transferred after the director issues a notice of suspension, or used by an alternative operator or transferred during the period of suspension, if the person who is the subject of the suspension notice is the person who owns the commercial fishery license.

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

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

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

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

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

(3) (a) The director may refer a person convicted of one qualifying commercial fishing violation to the license suspension review committee if the director feels that the qualifying commercial fishing violation was of a severe enough magnitude to justify suspension of the individual's license renewal privileges.

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

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

(4) A person who has a commercial fishing license suspended or revoked under this section may file an appeal with the license suspension review committee pursuant to RCW 77.15.554. An appeal must be filed within thirty-one days of notice of license suspension or revocation. If an appeal is filed, the suspension or revocation issued by the department does not take effect until after the license suspension review committee has delivered an opinion. If no appeal is filed within thirty-one days of notice of license suspension or revocation, the right to an appeal is considered waived. All

suspensions ordered under this section take effect either thirty-one days following the conviction for the second qualifying commercial fishing violation, or upon a decision pursuant to RCW 77.15.554, whichever is later.

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

(6) For the purposes of this section only, the burden is on the state to show the dollar amount or the percent of a harvest that is comprised of unlawfully harvested, bought, or sold individual fish or shellfish. [2003 c 386 § 3.]

Findings—Intent—2003 c 386: See note following RCW 77.15.700.

RCW 77.15.554 License suspension review committee. (1) The license suspension review committee is created. The license suspension review committee may only hear appeals from commercial fishers who have had a license revoked or suspended pursuant to RCW 77.15.552.

(2) (a) The license suspension review committee is composed of five voting members and up to four alternates.

(b) Two of the members must be appointed by the director and may be department employees.

(c) Three members, and up to four alternates, must be peer-group members, who are individuals owning a commercial fishing license issued by the department. If a peer-group member appears before the license suspension review committee because of a qualifying commercial fishing violation, the member must recuse himself or herself from the proceedings relating to that violation. No two voting peer-group members may reside in the same county. All peer-group members must be appointed by the commission, who may accept recommendations from professional organizations that represent commercial fishing interests or from the legislative authority of any Washington county.

(d) All license suspension review committee members serve a two-year renewable term.

(e) The commission may develop minimum member standards for service on the license suspension review committee, and standards for terminating a member before the expiration of his or her term.

(3) The license suspension review committee must convene and deliver an opinion on a license renewal suspension within three months of appeal or of referral from the department. The director shall consider the committee's opinion and make a decision and may issue, not issue, or modify the license suspension.

(4) The license suspension review committee shall collect the information and hear the testimony that it feels necessary to deliver an opinion on the proper length, if any, of a suspension of a commercial license. The opinion may be based on extenuating circumstances presented by the individual convicted of the qualifying commercial fishing violation or considerations of the type and magnitude of violations that have been committed by the individual. The maximum length of any suspension may not exceed one year.

(5) All opinions of the license suspension review committee must be by a majority vote of all voting members. Alternate committee members may only vote when one of the voting members is unavailable, has been recused, or has decided not to vote on the case before the committee. Nonvoting alternates may be present and may participate at all license suspension review committee meetings.

(6) Members of the license suspension review committee serve as volunteers, and are not eligible for compensation other than travel expenses pursuant to RCW 43.03.050 and 43.03.060.

(7) Staff of the license suspension review committee must be provided by the department. [2003 c 386 § 4.]

Findings—Intent—2003 c 386: See note following RCW 77.15.700.

RCW 77.15.565 Wholesale fish buyer a limited fish seller—Accounting of commercial harvest—Penalties. Since violation of the rules of the department relating to the accounting of the commercial harvest of fish and shellfish results in damage to the resources of the state, liability for damage to fish and shellfish resources is imposed on a wholesale fish buyer or a limited fish seller for violation of a provision in chapters 77.65 and 77.70 RCW or a rule of the department related to the accounting of the commercial harvest of fish and shellfish and shall be for the actual damages or for damages imposed as follows:

(1) For violation of rules requiring the timely presentation to the department of documents relating to the accounting of commercial harvest, fifty dollars for each of the first fifteen documents in a series and ten dollars for each subsequent document in the same series. If documents relating to the accounting of commercial harvest of fish and shellfish are lost or destroyed and the wholesale fish buyer or limited fish seller notifies the department in writing within seven days of the loss or destruction, the director shall waive the requirement for timely presentation of the documents.

(2) For violation of rules requiring accurate and legible information relating to species, value, harvest area, or amount of harvest, twenty-five dollars for each of the first five violations of this subsection per calendar year, and fifty dollars for each violation after the first five violations.

(3) For violations of rules requiring certain signatures, fifty dollars for each of the first two violations and one hundred dollars for each subsequent violation. For the purposes of this subsection, each signature is a separate requirement.

(4) For other violations of rules relating to the accounting of the commercial harvest, fifty dollars for each separate violation. [2017 3rd sp.s. c 8 § 11; 2002 c 301 § 6; 2000 c 107 § 12; 1996 c 267 § 14; 1985 c 248 § 5. Formerly RCW 75.10.150.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Finding—Effective date—2002 c 301: See notes following RCW 77.65.510.

Intent—Effective date—1996 c 267: See notes following RCW 77.12.177.

Wholesale fish buyers and limited fish sellers—Documentation of commercial harvest: RCW 77.65.310.

RCW 77.15.568 Secondary commercial fish receiver's failure to account for commercial harvest—Penalty. (1) A person is guilty of a secondary commercial fish receiver's failure to account for commercial harvest if:

(a) The person sells fish or shellfish at retail, stores, holds, or processes fish or shellfish in exchange for valuable consideration, or brokers or ships fish or shellfish in exchange for valuable consideration;

(b) (i) The fish or shellfish were required to be entered on a Washington fish-receiving ticket or a Washington aquatic farm production annual report; or

(ii) The fish or shellfish are classified as fish or shellfish by the department; and

(c) The person fails to maintain records of each receipt of fish or shellfish, as required under subsections (3) through (5) of this section, at:

(i) The location where the fish or shellfish are being sold or at the location where the fish or shellfish are being stored or held; or

(ii) The principal place of business of the shipper or broker if the fish or shellfish are not in possession.

(2) Wholesale fish buyers, limited fish sellers, and registered aquatic farmers are not required to comply with this section for fish or shellfish documented on fish tickets or aquatic farm production reports.

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

(4) Records maintained by persons that retail or broker fish or shellfish, or that store, hold, or ship fish or shellfish for others must include the following:

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

(b) The date of purchase or receipt;

(c) The state or country of origin if received from interstate or foreign commerce; and

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

(5) A secondary commercial fish receiver's failure to account for commercial harvest is a misdemeanor. [2017 c 89 § 1; 2016 sp.s. c 21 § 1; 2009 c 333 § 19; 2007 c 337 § 4; 2003 c 336 § 1.]

Intent—Finding—2007 c 337: See note following RCW 77.12.071.

RCW 77.15.570 Participation of non-Indians in Indian fishery forbidden—Exceptions, definitions, penalty. (1) Except as provided in subsection (3) of this section, it is unlawful for a person who is not a treaty Indian fisher to participate in the taking of fish or shellfish in a treaty Indian fishery, or to be on board a vessel, or associated equipment, operating in a treaty Indian fishery. A violation of this subsection is a gross misdemeanor.

(2) A person who violates subsection (1) of this section with the intent of acting for commercial purposes, including any sale of catch, control of catch, profit from catch, or payment for fishing assistance, is guilty of a class C felony. Upon conviction, the

department shall order revocation of any license and a one-year suspension of all commercial fishing privileges requiring a license under chapter 77.65 or 77.70 RCW.

(3) (a) The spouse, forebears, siblings, children, and grandchildren of a treaty Indian fisher may assist the fisher in exercising treaty Indian fishing rights when the treaty Indian fisher is present at the fishing site.

(b) Other treaty Indian fishers with off-reservation treaty fishing rights in the same usual and accustomed places, whether or not the fishers are members of the same tribe or another treaty tribe, may assist a treaty Indian fisher in exercising treaty Indian fishing rights when the treaty Indian fisher is present at the fishing site.

(c) Biologists approved by the department may be on board a vessel operating in a treaty Indian fishery.

(4) For the purposes of this section:

(a) "Treaty Indian fisher" means a person who may exercise treaty Indian fishing rights as determined under *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon 1969), and post-trial orders of those courts;

(b) "Treaty Indian fishery" means a fishery open to only treaty Indian fishers by tribal or federal regulation;

(c) "To participate" and its derivatives mean an effort to operate a vessel or fishing equipment, provide immediate supervision in the operation of a vessel or fishing equipment, or otherwise assist in the fishing operation, to claim possession of a share of the catch, or to represent that the catch was lawfully taken in an Indian fishery.

(5) A violation of this section constitutes illegal fishing and is subject to the suspensions provided for commercial fishing violations. [2013 c 23 § 242; 2000 c 107 § 251; 1998 c 190 § 49; 1983 1st ex.s. c 46 § 63; 1982 c 197 § 1. Formerly RCW 75.12.320.]

RCW 77.15.580 Unlawful use of net to take fish—Penalty. (1) A person is guilty of unlawful use of a net to take fish in the second degree if the person:

(a) Lays, sets, uses, or controls a net or other device or equipment capable of taking fish from the waters of this state, except if the person has a valid license for such fishing gear from the director under this title and is acting in accordance with all rules of the commission and director; or

(b) Fails to return unauthorized fish to the water immediately while otherwise lawfully operating a net under a valid license.

(2) A person is guilty of unlawful use of a net to take fish in the first degree if the person:

(a) Commits the act described by subsection (1) of this section; and

(b) The violation occurs within five years of entry of a prior conviction for a gross misdemeanor or felony under this title involving fish, other than a recreational fishing violation, or involving unlawful use of nets.

(3) (a) Unlawful use of a net to take fish in the second degree is a gross misdemeanor. Upon conviction, the department shall revoke any license held under this title allowing commercial net fishing used in connection with the crime.

(b) Unlawful use of a net to take fish in the first degree is a class C felony. Upon conviction, the department shall order a one-year suspension of all commercial fishing privileges requiring a license under this title.

(4) Notwithstanding subsections (1) and (2) of this section, it is lawful to use a landing net to land fish otherwise legally hooked. [2000 c 107 § 252; 1998 c 190 § 50.]

RCW 77.15.590 Commercial fishing vessel—Unlawful use for recreational or charter fishing—Penalty. (1) A person is guilty of unlawful use of a commercial fishing vessel, except as may be authorized by rule of the commission, for recreational or charter fishing if the person uses, operates, or controls a vessel on the same day for both:

- (a) Charter or recreational fishing; and
- (b) Commercial fishing or shellfish harvesting.

(2) Unlawful use of a commercial fishing vessel for recreational or charter fishing is a gross misdemeanor. [1998 c 190 § 51.]

RCW 77.15.600 Engaging in commercial wildlife activity without a license—Penalty. (1) A person is guilty of engaging in commercial wildlife activity without a license if the person:

- (a) Deals in raw furs for commercial purposes and does not hold a fur dealer license required by chapter 77.65 RCW; or
- (b) Practices taxidermy for commercial purposes and does not hold a taxidermy license required by chapter 77.65 RCW.

(2) Engaging in commercial wildlife activities without a license is a gross misdemeanor. [2001 c 253 § 45; 1999 c 258 § 8; 1998 c 190 § 32.]

RCW 77.15.610 Unlawful use of a commercial wildlife license—Penalty. (1) A person who holds a fur dealer's license or taxidermy license is guilty of unlawful use of a commercial wildlife license if the person fails to purchase and have in the person's possession the required license while engaged in fur buying or practicing taxidermy for commercial purposes.

(2) Unlawful use of a commercial wildlife license is a misdemeanor. [2012 c 176 § 29; 2009 c 333 § 5; 1998 c 190 § 33.]

RCW 77.15.620 Engaging in fish dealing activity without a license—Penalty. (1) A person is guilty of engaging in fish dealing activity without a license in the second degree if the activity involves fish or shellfish worth less than two hundred fifty dollars and the person:

(a) Engages in any fish dealing activity requiring a fish dealer license under RCW 77.65.280 without first obtaining the license;

(b) Engages in any fish buying or selling activity requiring a wholesale fish buyer endorsement under RCW 77.65.340 without first obtaining the endorsement; or

(c) Engages in any fish selling activity as a fisher that requires a limited fish seller endorsement under RCW 77.65.510 without first obtaining the endorsement.

(2) A person is guilty of engaging in fish dealing activity without a license in the first degree if the person commits the act described by subsection (1) of this section and the violation involves fish or shellfish worth two hundred fifty dollars or more.

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

(b) Engaging in fish dealing activity without a license in the first degree is a class C felony. [2017 3rd sp.s. c 8 § 12; 2012 c 176 § 30; 2009 c 333 § 20; 2002 c 301 § 7; 2000 c 107 § 253; 1998 c 190 § 43.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Finding—Effective date—2002 c 301: See notes following RCW 77.65.510.

RCW 77.15.630 Unlawful fish and shellfish catch accounting—Penalty. (1) A person licensed as a commercial fisher, wholesale fish buyer, or limited fish seller, or a person not so licensed but acting in such a capacity, is guilty of unlawful fish and shellfish catch accounting in the second degree if he or she receives or delivers for commercial purposes fish or shellfish worth less than two hundred fifty dollars; and

(a) Fails to document such fish or shellfish with a fish-receiving ticket or other documentation required by statute or department rule;

(b) Fails to sign the fish-receiving ticket or other required documentation, fails to provide all of the information required by statute or department rule on the fish-receiving ticket or other documentation, or both; or

(c) Fails to submit the fish-receiving ticket to the department as required by statute or department rule.

(2) A person is guilty of unlawful fish and shellfish catch accounting in the first degree if the person commits an act described by subsection (1) of this section and:

(a) The violation involves fish or shellfish worth two hundred fifty dollars or more;

(b) The person acted with knowledge that the fish or shellfish were taken from a closed area, at a closed time, or by a person not licensed to take such fish or shellfish for commercial purposes; or

(c) The person acted with knowledge that the fish or shellfish were taken in violation of any tribal law.

(3) (a) Unlawful fish and shellfish catch accounting in the second degree is a gross misdemeanor.

(b) Unlawful fish and shellfish catch accounting in the first degree is a class C felony. Upon conviction, the department shall suspend all privileges to engage in wholesale fish buying or dealing for two years.

(4) For the purposes of this section:

(a) A person "receives" fish or shellfish when title or control of the fish or shellfish is transferred or conveyed to the person.

(b) A person "delivers" fish or shellfish when title or control of the fish or shellfish is transferred or conveyed from the person.

[2017 3rd sp.s. c 8 § 13; 2014 c 48 § 21; 2012 c 176 § 31; 2000 c 107 § 254; 1998 c 190 § 44.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

RCW 77.15.640 Unlawful wholesale fish buying and dealing—

Penalty. (1) A person who holds a fish dealer license required by RCW 77.65.280, a wholesale fish buyer endorsement required by RCW 77.65.340, or a limited fish seller endorsement under RCW 77.65.510 is guilty of unlawful wholesale fish buying and dealing if the person:

(a) Fails to possess or display his or her license when engaged in any act requiring the license; or

(b) Fails to display or uses the license in violation of any department rule.

(2) Unlawful wholesale fish buying and dealing is a gross misdemeanor. [2017 3rd sp.s. c 8 § 14; 2012 c 176 § 32; 2002 c 301 § 8; 2000 c 107 § 255; 1998 c 190 § 45.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Finding—Effective date—2002 c 301: See notes following RCW 77.65.510.

RCW 77.15.650 Unlawful purchase or use of a license—Penalty.

(1) A person is guilty of unlawful purchase or use of a license in the second degree if the person buys, holds, uses, displays, transfers, or obtains any license, tag, permit, or approval required by this title and the person:

(a) Uses false information to buy, hold, use, display, or obtain a license, permit, tag, or approval;

(b) Acquires, holds, or buys in excess of one license, permit, or tag for a license year if only one license, permit, or tag is allowed per license year;

(c) Except as authorized under RCW 77.32.565, uses or displays a license, permit, tag, or approval that was issued to another person;

(d) Except as authorized under RCW 77.32.565, permits or allows a license, permit, tag, or approval to be used or displayed by another person not named on the license, permit, tag, or approval;

(e) Acquires or holds a license while privileges for the license are revoked or suspended;

(f) Holds a resident license from another state or country. This subsection (1)(f) only applies if the Washington license, tag, permit, or approval that the person buys, holds, uses, displays, transfers, or obtains is a resident license. It is prima facie evidence of a violation of this section if any person who has a resident license from another state or country purchases a resident license, tag, permit, or approval in Washington. This subsection does not apply to individuals who meet the definition of "resident" in RCW 77.08.075 (2), (3), and (4).

(2) A person is guilty of unlawful purchase or use of a license in the first degree if the person commits the act described by subsection (1) of this section and the person was acting with intent

that the license, permit, tag, or approval be used for any commercial purpose. A person is presumed to be acting with such intent if the violation involved obtaining, holding, displaying, or using a license or permit for participation in any commercial fishery issued under this title or a license authorizing fish or wildlife buying, trafficking, or wholesaling.

(3) (a) Unlawful purchase or use of a license in the second degree is a gross misdemeanor. Upon conviction, the department shall revoke any unlawfully used or held licenses and order a two-year suspension of participation in the activities for which the person unlawfully obtained, held, or used a license, permit, tag, or approval.

(b) Unlawful purchase or use of a license in the first degree is a class C felony. Upon conviction, the department shall revoke any unlawfully used or held licenses and order a five-year suspension of participation in any activities for which the person unlawfully obtained, held, or used a license, permit, tag, or approval.

(4) For purposes of this section, a person "uses" a license, permit, tag, or approval if the person engages in any activity authorized by the license, permit, tag, or approval held or possessed by the person. Such uses include but are not limited to fishing, hunting, taking, trapping, delivery or landing fish or wildlife, and selling, buying, or wholesaling of fish or wildlife.

(5) Any license obtained in violation of this section is void upon issuance and is of no legal effect. [2012 c 176 § 33; 2008 c 10 § 2; 2000 c 107 § 256; 1998 c 190 § 59.]

Short title—2008 c 10: See note following RCW 77.32.565.

RCW 77.15.660 Unlawful use of scientific permit—Penalty. (1) A person is guilty of unlawful use of a scientific permit if the permit issued by the director is for big game or big game parts, and the person:

(a) Violates any terms or conditions of the scientific permit;

(b) Buys or sells big game or big game parts that were taken or acquired with a scientific permit; or

(c) Violates any department rule applicable to the issuance or use of scientific permits.

(2) Unlawful use of a scientific permit is a gross misdemeanor. [2012 c 176 § 34; 1998 c 190 § 55.]

RCW 77.15.670 Suspension of department privileges—Violation—Penalty—Violations of child support-based suspensions. (1) A person is guilty of violating a suspension of department privileges in the second degree if the person engages in any activity that is licensed by the department and the person's privileges to engage in that activity were revoked or suspended by any court or the department.

(2) A person is guilty of violating a suspension of department privileges in the first degree if the person commits the act described by subsection (1) of this section and:

(a) The suspension of privileges that was violated was a permanent suspension;

(b) The person takes or possesses more than two hundred fifty dollars' worth of unlawfully taken food fish, wildlife, game fish, seaweed, or shellfish; or

(c) The violation involves the hunting, taking, or possession of fish or wildlife classified as endangered or threatened or big game.

(3) (a) Violating a suspension of department privileges in the second degree is a gross misdemeanor. Except for violations of child support-based suspensions, which are covered in (c) of this subsection, a conviction under this subsection requires the department to order a permanent suspension of the person's privileges to engage in the hunting or fishing activities that he or she was engaged in when he or she violated a suspension of department privileges in the second degree.

(b) Violating a suspension of department privileges in the first degree is a class C felony. Except for violations of child support-based suspensions, which are covered in (c) of this subsection, a conviction under this subsection requires the department to order a permanent suspension of all of the person's privileges to hunt, fish, trap, or take wildlife, food fish, game fish, or shellfish.

(c) Suspension periods for violations of child support-based suspensions are as follows:

(i) If the suspension that the person violated in the second degree was based on noncompliance with child support and was ordered under RCW 74.20A.322 or 77.32.014, then the department must order a suspension of all of the person's privileges to hunt, fish, trap, or take wildlife, food fish, game fish, or shellfish for a period of two years. This suspension is in addition to any suspension required by the statute for the underlying fish or wildlife violation.

(ii) If the suspension that the person violated in the first degree was based on noncompliance with child support and was ordered under RCW 74.20A.322 or 77.32.014, then the department must order a suspension of all of the person's privileges to hunt, fish, trap, or take wildlife, food fish, game fish, or shellfish for a period of four years. This suspension is in addition to any suspension required by the statute for the underlying fish or wildlife violation.

(iii) Suspensions pursuant to (c) (i) and (ii) of this subsection do not affect any underlying hunting and fishing privilege suspensions based on noncompliance with child support and ordered under RCW 74.20A.322 or 77.32.014. If a person who is suspended pursuant to (c) (i) and (ii) of this subsection completes the period of suspension ordered under this section but is still suspended for child support noncompliance, the person is prohibited from hunting, fishing, or engaging in any activity regulated by the department until he or she obtains a release from the department of social and health services and provides a copy of the release to the department.

(4) As used in this section, hunting includes trapping with a trapping license. [2013 c 102 § 1; 1999 c 258 § 11; 1998 c 190 § 60.]

RCW 77.15.675 Hunting while intoxicated—Penalty. (1) A person is guilty of hunting while under the influence of intoxicating liquor or drugs if the person hunts wild animals or wild birds while under the influence of intoxicating liquor or drugs.

(2) Hunting while under the influence of intoxicating liquor or drugs is a gross misdemeanor. [1999 c 258 § 12; 1980 c 78 § 75; 1955 c 36 § 77.16.070. Prior: 1947 c 275 § 45a; Rem. Supp. 1947 § 5992-55. Formerly RCW 77.16.070.]

Effective date—Intent, construction—Savings—Severability—1980
c 78: See notes following RCW 77.04.010.

RCW 77.15.680 Department authority to suspend privileges—Form and procedure. (1) If any crime in this chapter is punishable by a suspension of privileges, then the department shall issue an order that specifies the privileges suspended and period when such suspension shall begin and end. The department has no authority to issue licenses, permits, tags, or stamps for the suspended activity until the suspension ends and any license, tag, stamp, or other permission obtained in violation of an order of suspension is void and ineffective.

(2) A court sentence may include a suspension of privileges only if grounds are provided by statute. There is no right to seek reinstatement of privileges from the department during a period of court-ordered suspension.

(3) If this chapter makes revocation or suspension of privileges mandatory, then the department shall impose the punishment in addition to any other punishments authorized by law. [1998 c 190 § 65.]

RCW 77.15.690 Department authority to revoke licenses. (1) Upon any conviction of any violation of this chapter, the department may revoke any license, tag, or stamp, or other permit involved in the violation or held by the person convicted, in addition to other penalties provided by law.

(2) If the department orders that a license, tag, stamp, or other permit be revoked, that order is effective upon entry of the order and any such revoked license, tag, stamp, or other permit is void as a result of such order of revocation. The department shall order such license, tag, stamp, or other permit turned over to the department, and shall order the person not to acquire a replacement or duplicate for the remainder of the period for which the revoked license, tag, stamp, or other permit would have been valid. During this period when a license is revoked, the person is subject to punishment under this chapter. If the person appeals the sentence by the court, the revocation shall be effective during the appeal.

(3) If an existing license, tag, stamp, or other permit is voided and revoked under this chapter, the department and its agents shall not be required to refund or restore any fees, costs, or money paid for the license, nor shall any person have any right to bring a collateral appeal under chapter 34.05 RCW to attack the department order. [1998 c 190 § 64.]

RCW 77.15.700 Grounds for department revocation and suspension of recreational license—Appeal. (1) The department shall revoke a person's recreational license or licenses and suspend a person's recreational license privileges in the following circumstances:

(a) Upon conviction, if directed by statute for an offense.

(b) Upon conviction, failure to appear at a hearing to contest an infraction or criminal charge, or an unvacated payment of a fine or a finding of committed as a final disposition for any infraction, if the department finds that actions of the defendant demonstrated a willful

or wanton disregard for conservation of fish or wildlife. Suspension of privileges under this subsection is permanent.

(c) If a person is convicted, fails to appear at a hearing to contest an infraction or criminal citation, or has an unvacated payment of a fine or a finding of committed as a final disposition for any infraction, twice within ten years for a violation involving unlawful hunting, killing, or possessing big game. Revocation and suspension under this subsection must be ordered for all hunting privileges for at least two years and up to ten years.

(d) If a person violates, three times or more in a ten-year period, recreational hunting or fishing laws or rules for which the person: (i) Is convicted of an offense; (ii) has an unvacated payment of a fine or a finding of committed as a final disposition for any infraction; or (iii) fails to appear at a hearing to contest an infraction or a criminal citation. Revocation and suspension under this subsection must be ordered of all recreational hunting and fishing privileges for at least two years and up to ten years.

(2) (a) A violation punishable as an infraction counts towards the revocation and suspension of recreational hunting and fishing privileges under this section if that violation is:

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

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

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

(3) If either the deferred education licensee or the required nondeferred accompanying person, hunting under the authority of RCW 77.32.155(2), is convicted of a violation of this title, fails to appear at a hearing to contest a fish and wildlife infraction or a criminal citation, or has an unvacated payment of a fine or a finding of committed as a final disposition for any fish and wildlife infraction, except for a violation of RCW 77.15.400 (1) through (4), the department may revoke all hunting licenses and tags and may order a suspension of either or both the deferred education licensee's and the nondeferred accompanying person's hunting privileges for one year.

(4) A person who has a recreational license revoked and privileges suspended under this section may file an appeal with the department pursuant to chapter 34.05 RCW. An appeal must be filed within twenty days of notice of license revocation and privilege suspension. If an appeal is filed, the revocation and suspension issued by the department do not take effect until twenty-one days after the department has delivered an opinion. If no appeal is filed within twenty days of notice of license revocation and suspension, the right to an appeal is waived, and the revocation and suspension take effect twenty-one days following the notice of revocation and suspension.

(5) A recreational license revoked and privilege suspended under this section is in addition to the statutory penalties assigned to the underlying violation. [2020 c 38 § 4; 2012 c 176 § 35; 2009 c 333 § 2; 2007 c 163 § 2; 2005 c 321 § 1; 2003 c 386 § 2; 2001 c 253 § 46; 1998 c 190 § 66.]

Findings—Intent—2003 c 386: "(1) (a) The legislature finds that existing law as it relates to the suspension of commercial fishing licenses does not take into account the real-life circumstances faced by the state's commercial fishing fleets. The nature of the commercial fishing industry, together with the complexity of fisheries regulations, is such that honest mistakes can be made by well-meaning and otherwise law-abiding fishers. Commercial fishing violations that occur within an acceptable margin of error should not result in the suspension of fishing privileges. Likewise, fishers facing the possibility of license suspension or revocation deserve the opportunity to explain any extenuating circumstances prior to having his or her professional privileges suspended.

(b) The legislature intends, by creating the license suspension review committee, to provide a fisher with the opportunity to explain any extenuating circumstances that led to a commercial fishing violation. The legislature intends for the license suspension review committee to give serious considerations to the case-specific facts and scenarios leading up to a violation, and for license suspensions to issue only when the facts indicate a willful act that undermines the conservation of fish stocks. Frivolous violations should not result in the suspension of privileges, and should be punished only by the criminal sanctions attached to the underlying crime.

(2) (a) The legislature further finds that gross abuses of fish stocks should not be tolerated. Individuals convicted of even one violation that is egregious in nature, causing serious detriment to a fishery or the competitive disposition of other fishers, should have his or her license suspended and revoked.

(b) The legislature intends for the license suspension review committee to take egregious fisheries' violations seriously. When dealing with individuals convicted of only one violation, the license suspension review committee should only consider suspension for individuals that are convicted of violations that are of a severe magnitude and show a wanton disregard for the public's resource." [2003 c 386 § 1.]

RCW 77.15.710 Conviction for assault—Revocation of licenses and suspension of privileges. (1) The commission shall revoke all hunting, fishing, or other licenses issued under this title and order a ten-year suspension of all privileges extended under the authority of the department of a person convicted of assault on a fish and wildlife officer, ex officio officer, employee, agent, or personnel acting for the department, if the employee assaulted was on duty at the time of the assault and carrying out the provisions of this title. The suspension shall be continued beyond this period if any damages to the victim have not been paid by the suspended person.

(2) For the purposes of this section, the definition of assault includes:

- (a) RCW 9A.32.030; murder in the first degree;
- (b) RCW 9A.32.050; murder in the second degree;
- (c) RCW 9A.32.060; manslaughter in the first degree;
- (d) RCW 9A.32.070; manslaughter in the second degree;
- (e) RCW 9A.36.011; assault in the first degree;
- (f) RCW 9A.36.021; assault in the second degree; and
- (g) RCW 9A.36.031; assault in the third degree. [2000 c 107 § 257; 1998 c 190 § 67; 1995 1st sp.s. c 2 § 43 (Referendum Bill No. 45,

approved November 7, 1995); 1993 sp.s. c 2 § 74; 1991 c 211 § 1. Formerly RCW 77.16.135.]

Referral to electorate—1995 1st sp.s. c 2: See note following RCW 77.04.013.

Effective date—1995 1st sp.s. c 2: See note following RCW 43.17.020.

Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79: See RCW 43.300.900.

RCW 77.15.720 Discharge of firearm, bow, or crossbow while hunting—In a manner that injures a person or that kills or causes substantial bodily harm to livestock—Suspension of hunting privileges—Appeal. (1) (a) If a person discharges a firearm, bow, or crossbow while hunting and in a manner that injures, or that a reasonable person would believe is likely to injure, another person, the director shall revoke all of the shooter's hunting licenses and suspend all hunting privileges for three years. If the shooting kills or results in the death of another person, then the director shall revoke all of the shooter's hunting licenses and suspend all of the person's hunting privileges for ten years.

(b) If a person, with malice, discharges a firearm, bow, or crossbow while hunting and in a manner that kills or causes substantial bodily harm to livestock belonging to another person, the director shall revoke all of the shooter's hunting licenses and suspend all hunting privileges for three years. For the purposes of this subsection (1) (b), "malice" has the same meaning as provided in RCW 9A.04.110 but applies to acts against livestock.

(2) A suspension under subsection (1) of this section shall be continued beyond the applicable periods if damages owed to the victim or livestock owner have not been paid by the suspended person. In such a case, no hunting license shall be reissued to the suspended person unless authorized by the director.

(3) A person who is notified of a license revocation under this section may request an appeal hearing under chapter 34.05 RCW.

(4) The commission may by rule authorize petitions for reinstatement of administrative suspensions and define circumstances under which such a reinstatement will be allowed. [2012 c 176 § 36; 2000 c 107 § 258; 1998 c 190 § 68.]

RCW 77.15.730 Wildlife violator compact citations and convictions. (1) Upon receipt of a report of failure to comply with the terms of a citation issued for a recreational violation from the licensing authority of a state that is a party to the wildlife violator compact under RCW 77.75.070, the department shall suspend the violator's recreational license privileges under this title until there is satisfactory evidence of compliance with the terms of the wildlife citation. The department shall adopt by rule procedures for the timely notification and administrative review of such suspension of recreational licensing privileges.

(2) Upon receipt of a report of a conviction for a recreational offense from the licensing authority of a state that is a party to the

wildlife violator compact under RCW 77.75.070, the department shall enter such conviction in its records and shall treat such conviction as if it occurred in the state of Washington for the purposes of suspension, revocation, or forfeiture of recreational license privileges. [2001 c 253 § 47; 1994 c 264 § 45; 1993 c 82 § 6. Formerly RCW 75.10.220.]

Revoked licenses—Application—1993 c 82: See note following RCW 77.75.070.

RCW 77.15.732 Citations from wildlife violator compact party state—Failure to comply. (1) Upon receipt of a report of failure to comply with the terms of a citation from the licensing authority of a state that is a party to the wildlife violator compact under RCW 77.75.070, the department shall suspend the violator's license privileges under this title until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the department. The department shall adopt by rule procedures for the timely notification and administrative review of such suspension of licensing privileges.

(2) Upon receipt of a report of a conviction from the licensing authority of a state that is a party to the wildlife violator compact under RCW 77.75.070, the department shall enter such conviction in its records and shall treat such conviction as if it occurred in the state of Washington for the purposes of suspension, revocation, or forfeiture of license privileges. [2000 c 107 § 263; 1993 c 82 § 5. Formerly RCW 77.21.090.]

Revoked licenses—Application—1993 c 82: See note following RCW 77.75.070.

RCW 77.15.740 Protection of southern resident orca whales—Unlawful activities—Penalty. (1) Except as provided in subsection (2) of this section, it is unlawful for a person to:

(a) Cause a vessel or other object to approach, in any manner, within three hundred yards of a southern resident orca whale;

(b) Position a vessel to be in the path of a southern resident orca whale at any point located within four hundred yards of the whale. This includes intercepting a southern resident orca whale by positioning a vessel so that the prevailing wind or water current carries the vessel into the path of the whale at any point located within four hundred yards of the whale;

(c) Position a vessel behind a southern resident orca whale at any point located within four hundred yards;

(d) Fail to disengage the transmission of a vessel that is within three hundred yards of a southern resident orca whale;

(e) Cause a vessel or other object to exceed a speed greater than seven knots over ground at any point located within one-half nautical mile (one thousand thirteen yards) of a southern resident orca whale; or

(f) Feed a southern resident orca whale.

(2) A person is exempt from subsection (1) of this section if that person is:

(a) Operating a federal government vessel in the course of official duties, or operating a state, tribal, or local government vessel when engaged in official duties involving law enforcement, search and rescue, or public safety;

(b) Operating a vessel in conjunction with a vessel traffic service established under 33 C.F.R. and following a traffic separation scheme, or complying with a vessel traffic service measure of direction. This also includes support vessels escorting ships in the traffic lanes, such as tug boats;

(c) Engaging in an activity, including scientific research, pursuant to a permit or other authorization from the national marine fisheries service and the department;

(d) Lawfully engaging in a treaty Indian or commercial fishery that is actively setting, retrieving, or closely tending fishing gear. Commercial fishing vessels in transit are not exempt from subsection (1) of this section;

(e) Conducting vessel operations necessary to avoid an imminent and serious threat to a person, vessel, or the environment, including when necessary for overall safety of navigation and to comply with state and federal navigation requirements; or

(f) Engaging in rescue or clean-up efforts of a beached southern resident orca whale overseen, coordinated, or authorized by a volunteer stranding network.

(3) For the purpose of this section, "vessel" includes aircraft while on the surface of the water, and every description of watercraft on the water that is used or capable of being used as a means of transportation on the water. However, "vessel" does not include inner tubes, air mattresses, sailboards, and small rafts, or flotation devices or toys customarily used by swimmers.

(4) (a) A violation of this section is a natural resource infraction punishable under chapter 7.84 RCW and carries a fine of five hundred dollars, not including statutory assessments added pursuant to RCW 3.62.090.

(b) A person who qualifies for an exemption under subsection (2) of this section may offer that exemption as an affirmative defense, which that person must prove by a preponderance of the evidence.

(5) The enforcement actions required of the department from this section are subject to the availability of amounts appropriated for this specific purpose. [2019 c 291 § 1; 2014 c 48 § 22; 2012 c 176 § 37; 2008 c 225 § 2.]

Effective date—2019 c 291 § 1: "Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 8, 2019]." [2019 c 291 § 6.]

Findings—Intent—2008 c 225: "The legislature finds that the resident population of orca whales in Washington waters (*Orcinus orca*), commonly referred to as the southern residents, are enormously significant to the state. These highly social, intelligent, and playful marine mammals, which the legislature designated as the official marine mammal of the state of Washington, serve as a symbol of the Pacific Northwest and illustrate the biological diversity and rich natural heritage that all Washington citizens and its visitors enjoy.

However, the legislature also finds that the southern resident orcas are currently in a serious decline. Southern residents experienced an almost twenty percent decline between 1996 and 2001. The federal government listed this orca population as depleted in 2003, and as an endangered species in 2005. The federal government has identified impacts from vessels as a significant threat to these marine mammals.

In 2006, after listing the southern resident orcas as endangered, the federal government designated critical orca habitat and released a proposed recovery plan for the southern resident orcas. The federal government has initiated the process to adopt orca conservation rules, but this process may be lengthy. Additionally, although existing whale and wildlife viewing guidelines are an excellent educational resource, these guidelines are voluntary measures that cannot be enforced.

Therefore, the legislature intends to protect southern resident orca whales from impacts from vessels, and to educate the public on how to reduce the risk of disturbing these important marine mammals." [2008 c 225 § 1.]

Intent—2008 c 225: "The legislature encourages the state's law enforcement agencies to utilize existing statutes and regulations to protect southern resident orca whales from impacts from vessels, including the vessel operation and enforcement standards contained in chapter 79A.60 RCW." [2008 c 225 § 3.]

RCW 77.15.750 Unlawful use of a department permit—Penalty. (1)

A person is guilty of unlawful use of a department permit if the person:

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

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

(2) (a) Permits covered under subsection (1) of this section include, but are not limited to, master hunter permits, crab pot removal permits and shellfish pot removal permits under RCW 77.70.500, depredation permits, landowner hunting permits, commercial carp license permits, permits to possess or dispense beer or malt liquor pursuant to RCW 66.28.210, and permits to hold, sponsor, or attend an event requiring a banquet permit from the *liquor control board.

(b) Permits excluded from subsection (1) of this section include the discover pass created in RCW 79A.80.020, the vehicle access pass created in RCW 79A.80.040, the day-use permit created in RCW 79A.80.030, commercial use or activity permits, noncommercial use or activity permits, parking permits, experimental fishery permits, trial commercial fishery permits, and scientific collection permits.

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

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

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

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

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

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

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

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

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

(b) "Trial commercial fishery permit" means a permit issued by the department for trial harvest of a newly classified species or harvest of a previously classified species in a new area or by a new means. [2011 c 320 § 20; 2010 c 193 § 9; 2009 c 333 § 14.]

***Reviser's note:** The "state liquor control board" was renamed the "state liquor and cannabis board" by 2015 c 70 § 3.

Effective date—2011 c 320: See note following RCW 79A.80.005.

Findings—Intent—2011 c 320: See RCW 79A.80.005.

RCW 77.15.760 Suspension of a master hunter permit—Appeal hearing.

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

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

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

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

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

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

(f) If the person is cited, or charged by complaint, for an offense under this chapter; or for trespass, reckless endangerment, criminal conspiracy, or making a false statement to law enforcement while hunting, fishing, or engaging in any activity regulated by the department, the department may immediately suspend the person's master hunter permit until the offense has been adjudicated; or

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

(2) Any master hunter who is notified of an intended suspension may request an appeal hearing under chapter 34.05 RCW. [2009 c 333 § 16.]

RCW 77.15.770 Unlawful trade in shark fins—Penalty. (1) Except as otherwise provided in this section, a person is guilty of unlawful trade in shark fins in the second degree if:

(a) The person sells, offers for sale, purchases, offers to purchase, or otherwise exchanges a shark fin or shark fin derivative product for commercial purposes; or

(b) The person prepares or processes a shark fin or shark fin derivative product for human or animal consumption for commercial purposes.

(2) Except as otherwise provided in this section, a person is guilty of unlawful trade in shark fins in the first degree if:

(a) The person commits the act described by subsection (1) of this section and the violation involves shark fins or a shark fin derivative product with a total market value of two hundred fifty dollars or more;

(b) The person commits the act described by subsection (1) of this section and acted with knowledge that the shark fin or shark fin derivative product originated from a shark that was harvested in an area or at a time where or when the harvest was not legally allowed or by a person not licensed to harvest the shark; or

(c) The person commits the act described by subsection (1) of this section and the violation occurs within five years of entry of a prior conviction under this section or a prior conviction for any other gross misdemeanor or felony under this title involving fish, other than a recreational fishing violation.

(3) (a) Unlawful trade in shark fins in the second degree is a gross misdemeanor. Upon conviction, the department shall suspend any commercial fishing privileges for the person that requires a license under this title for a period of one year.

(b) Unlawful trade in shark fins in the first degree is a class C felony. Upon conviction, the department shall suspend any commercial fishing privileges for the person that requires a license under this title for a period of one year.

(4) Any person who obtains a license or permit issued by the department to take or possess sharks or shark parts for bona fide research or educational purposes, and who sells, offers for sale, purchases, offers to purchase, or otherwise trades a shark fin or shark fin derivative product, exclusively for bona fide research or educational purposes, may not be held liable under or subject to the penalties of this section. [2014 c 48 § 23; 2011 c 324 § 2.]

Findings—2011 c 324: "The legislature finds and declares the following:

(1) The practice of shark finning, where a shark is caught, its fins are sliced off while it is still alive, and the animal returned to the sea severely and almost always fatally wounded, constitutes a serious threat to Washington's coastal ecosystem and biodiversity. Sharks are particularly susceptible to overfishing because they only reach sexual maturity between seven to twelve years of age and hatch or birth small litters. The destruction of the population of sharks,

which reside at the top of the marine food chain, is an urgent problem that upsets the balance of species in the ocean ecosystem.

(2) Shark finning condemns millions of sharks every year to slow, painful deaths. Returned to the water without their fins, the maimed sharks are attacked by other predators or drown, because most shark species must swim in order to push water through their gills. Shark finning is therefore a cruel practice contrary to the good morals of the citizens of the state of Washington.

(3) The market for shark fins drives the brutal practice of shark finning. Shark finning and trade in shark fins and shark fin derivative products are occurring all along the Pacific Coast, including the state of Washington.

(4) The consumption of shark fins and shark fin derivative products by humans may cause serious health risks, including risks from mercury." [2011 c 324 § 1.]

RCW 77.15.780 Disposition of judicially forfeited seized property. When seized property, other than fish, shellfish, and wildlife, is judicially forfeited to the department, the department may: (1) Retain it for official use unless the property is required to be destroyed; (2) upon application by any law enforcement agency of the state, release the property to the agency for use in enforcing this title; (3) donate the property as provided under RCW 77.130.060; or (4) sell the property and deposit the proceeds into the fish and wildlife enforcement reward account created in RCW 77.15.425. Any sale of the property must be done in accordance with RCW 77.130.010(1) and 77.130.020. However, the requirement in those sections for notice to owners does not apply. [2012 c 176 § 12.]

RCW 77.15.790 Negligently feeding, attempting to feed, or attracting large wild carnivores to land or a building—Infraction.

(1) A person may not negligently feed or attempt to feed large wild carnivores or negligently attract large wild carnivores to land or a building.

(2) If a fish and wildlife officer, ex officio fish and wildlife officer, or animal control authority, as defined in RCW 16.30.010, has probable cause to believe that a person is negligently feeding, attempting to feed, or attracting large wild carnivores to land or a building by placing or locating food, food waste, or other substance in, on, or about any land or building, and the food, food waste, or other substance poses a risk to the safety of any person, livestock, or pet because it is attracting or could attract large wild carnivores to the land or building, that person commits an infraction under chapter 7.84 RCW.

(3) Subsection (2) of this section does not apply to:

(a) A person who is engaging in forest practices in accordance with chapter 76.09 RCW or in hunting or trapping wildlife in accordance with all other applicable provisions of this title or rules of the commission or the director;

(b) A person who is engaging in a farming or ranching operation that is using generally accepted farming or ranching practices consistent with Titles 15 and 16 RCW;

(c) Waste disposal facilities that are operating in accordance with applicable federal, state, and municipal laws;

(d) Entities listed in RCW 16.30.020(1) (a) through (j) and scientific collection permit holders; or

(e) A fish and wildlife officer or employee or agent of the department operating under the authority of or upon request from an officer conducting authorized wildlife capture activities to address a threat to human safety or a wildlife interaction as defined in RCW 77.36.010.

(4) For persons and entities listed in subsection (3) of this section, a fish and wildlife officer, ex officio fish and wildlife officer, or animal control authority, as defined in RCW 16.30.010, may issue a written warning to the person or entity if:

(a) The officer or animal control authority can articulate facts to support that the person or entity has placed or is responsible for placing food, food waste, or other substance in, on, or about the person's or entity's land or buildings; and

(b) The food, food waste, or other substance poses a risk to the safety of any person, livestock, or pet because the food, food waste, or other substance is attracting or could attract large wild carnivores to the land or buildings.

(5)(a) Any written warning issued under subsection (4) of this section requires the person or entity placing or otherwise responsible for placing the food, food waste, or other substance to contain, move, or remove that food, food waste, or other substance within two days.

(b) If a person who is issued a written warning under (a) of this subsection fails to contain, move, or remove the food, food waste, or other substance as directed, the person commits an infraction under chapter 7.84 RCW. [2012 c 176 § 38.]

RCW 77.15.792 Intentionally feeding or attempting to feed large wild carnivores or intentionally attracting large wild carnivores to land or a building—Penalty. (1) A person may not intentionally feed or attempt to feed large wild carnivores or intentionally attract large wild carnivores to land or a building.

(2) A person who intentionally feeds, attempts to feed, or attracts large wild carnivores to land or a building is guilty of a misdemeanor.

(3) A person who is issued an infraction under RCW 77.15.790 for negligently feeding, attempting to feed, or attracting large wild carnivores to land or a building, and who fails to contain, move, or remove the food, food waste, or other substance within twenty-four hours of being issued the infraction, is guilty of a misdemeanor. [2012 c 176 § 39.]

RCW 77.15.800 Engaging in wildlife rehabilitation without a permit—Penalty. (1)(a) A person is guilty of engaging in wildlife rehabilitation without a permit if the person captures, transports, treats, feeds, houses, conditions, or trains injured, diseased, oiled, or abandoned wildlife without department authority for temporary actions or a wildlife rehabilitation permit issued by the department.

(b) The department must adopt rules for permissible temporary actions that include, at a minimum, the conditions under which a person may capture or transport wildlife to a primary permittee, subpermittee, or a rehabilitation facility.

(2) A person who is a primary permittee or subpermittee on a wildlife rehabilitation permit issued by the department is guilty of unlawful use of a wildlife rehabilitation permit if the person violates any permit provisions or department rules pertaining to wildlife rehabilitation other than those addressing recordkeeping and reporting requirements.

(3) A violation of this section is a misdemeanor. [2014 c 48 § 25.]

RCW 77.15.803 Inspection of aquatic conveyance. (1) Based upon reasonable suspicion that a person possesses an aquatic conveyance that has not been cleaned and drained or carries or contains aquatic invasive species in violation of this title, fish and wildlife officers or ex officio fish and wildlife officers may temporarily stop the person and inspect the aquatic conveyance for compliance with the requirements of this title.

(2) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and 77.135.010 apply throughout this section. [2014 c 202 § 201.]

Findings—2014 c 202: See note following RCW 77.135.010.

RCW 77.15.805 Violation of an invasive species law—Warrant.

(1) Upon a showing of probable cause that there has been a violation of an invasive species law of the state of Washington, or upon a showing of probable cause to believe that evidence of such a violation may be found at a place, a court must issue a search warrant or arrest warrant. Fish and wildlife officers or ex officio fish and wildlife officers may execute any such search or arrest warrant reasonably necessary to carry out their duties under this title with regard to an invasive species law and may seize invasive species or any evidence of a crime and the fruits or instrumentalities of a crime as provided by warrant. The court may have property opened or entered and the contents examined.

(2) Seizure of property as evidence of a crime does not preclude seizure of the property for forfeiture as authorized by law. [2014 c 202 § 202.]

Findings—2014 c 202: See note following RCW 77.135.010.

RCW 77.15.807 Invasive species in or on water body or property—Warrant.

(1) Upon a showing of probable cause that a water body or property has an invasive species in or on it, and the owner refuses permission to allow inspection of the water body or property, a court in the county in which the water body or property is located may, upon the request of the director or the director's designee, issue a warrant to the director or the director's designee authorizing the taking of specimens of invasive species, general inspection of the property or water body, and the performance of containment, eradication, or control work.

(2) Application for issuance, execution, and return of the warrant authorized by this section must be in accordance with the

applicable rules of the superior courts or the district courts. [2014 c 202 § 203.]

Findings—2014 c 202: See note following RCW 77.135.010.

RCW 77.15.809 Unlawful use of invasive species in the second degree—Penalty. (1) A person is guilty of unlawful use of invasive species in the second degree if the person:

(a) Fails to stop at a mandatory check station or to return to the mandatory check station for inspection if directed to do so by a fish and wildlife officer or ex officio fish and wildlife officer;

(b) Fails to allow an aquatic conveyance stopped at a mandatory check station to be inspected for clean and drain requirements or aquatic invasive species;

(c) Fails to comply with a decontamination order;

(d) Possesses, except in the case of trafficking, a prohibited level 1 or level 2 species without department authorization, a permit, or as otherwise provided by rule;

(e) Possesses, introduces on or into a water body or property, or traffics in a prohibited level 3 species without department authorization, a permit, or as otherwise provided by rule;

(f) Introduces on or into a water body or property a regulated type A, type B, or type C species without department authorization, a permit, or as otherwise provided by rule;

(g) Fails to readily and clearly identify in writing by taxonomic species name or subspecies name a regulated type B species used for commercial purposes; or

(h) Knowingly violates a quarantine declaration under RCW 77.135.050.

(2) A violation of subsection (1) of this section is a gross misdemeanor. In addition to criminal penalties, a court may order the person to pay all costs in capturing, killing, or controlling the invasive species, including its progeny. This subsection does not affect the authority of the department to bring a separate civil action to recover habitat restoration costs necessitated by the person's unlawful use of invasive species.

(3) This section does not apply to:

(a) A person who complies with the department directives pursuant to RCW 77.135.120 for mandatory check stations. Such a person is exempt from criminal penalties under this section or RCW 77.15.811, and forfeiture under this chapter, unless the person has a prior conviction under those sections within the past five years;

(b) A person who possesses an aquatic invasive species, if the person is in the process of:

(i) Removing it from the aquatic conveyance in a manner specified by the department; or

(ii) Releasing it if caught while fishing and immediately returning it to the water body from which it came;

(c) Possessing or introducing nonnative aquatic animal species by ballast water held or discharged by vessels regulated under chapter 77.120 RCW; or

(d) Possessing or introducing nonnative aquatic animal species through private sector shellfish aquaculture operations, transfers, or conveyances regulated under chapter 77.115 RCW.

(4) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and 77.135.010 apply throughout this section. [2014 c 202 § 205.]

Findings—2014 c 202: See note following RCW 77.135.010.

RCW 77.15.811 Unlawful use of invasive species in the first degree—Penalty. (1) A person is guilty of unlawful use of invasive species in the first degree if the person:

(a) Traffics or introduces on or into a water body or property a prohibited level 1 or level 2 species without department authorization, a permit, or as otherwise provided by rule; or

(b) Commits a subsequent violation of unlawful use of invasive species in the second degree within five years of the date of a prior conviction under RCW 77.15.809.

(2) A violation of this section is a class C felony. In addition to criminal penalties, a court may order the person to pay all costs in managing the invasive species, including the species' progeny. This subsection does not affect the authority of the department to bring a separate civil action to recover habitat restoration costs necessitated by the person's unlawful use of invasive species.

(3) This section does not apply to:

(a) A person who complies with department directives pursuant to RCW 77.135.120 for mandatory check stations, and who is exempt from criminal penalties under this section and forfeiture under this chapter, unless the person has a prior conviction under this section or RCW 77.15.809 within the past five years; or

(b) A person who possesses an aquatic invasive species, if the person is in the process of:

(i) Removing it from the aquatic conveyance in a manner specified by the department; or

(ii) Releasing it if caught while fishing and is immediately returning it to the water body from which it came.

(4) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and 77.135.010 apply throughout this section. [2014 c 202 § 206.]

Findings—2014 c 202: See note following RCW 77.135.010.

RCW 77.15.813 Unlawfully engaging in fishing guide activity—Penalty. (1) A person is guilty of unlawfully engaging in fishing guide activity if the person holds a game fish guide license issued under RCW 77.65.480 or has a license issued under RCW 77.65.010 to operate a charter boat or act as a food fish guide, and the person:

(a) Fails to perform any duty of a charter boat or guide operator established in RCW 77.32.430; or

(b) Violates any rule of the commission or director regarding the sale, possession, issuance, or reporting of temporary fishing licenses, temporary short-term charter stamps, or catch record cards.

(2) Unlawfully engaging in fishing guide activity is a gross misdemeanor. [2015 c 90 § 1.]

RCW 77.15.815 Unlawfully engaging in commercial whale watching—

Penalty. (1) A person is guilty of unlawfully engaging in commercial whale watching in the second degree if the person:

(a) Does not have and possess all licenses and permits required under this title; or

(b) Violates any department rule regarding the operation of a commercial whale watching vessel near a southern resident orca whale.

(2) A person is guilty of engaging in commercial whale watching in the first degree if the person commits the act described in subsection (1) of this section and the violation occurs within one year of the date of a prior conviction under this section.

(3) (a) Unlawful commercial whale watching in the second degree is a misdemeanor.

(b) Unlawful commercial whale watching in the first degree is a gross misdemeanor. Upon conviction, the director shall deny applications submitted by the person for a commercial whale watching license or alternate operator license for two years from the date of conviction. [2019 c 291 § 4.]

RCW 77.15.900 Short title. This chapter may be known and cited as the fish and wildlife enforcement code. [1998 c 190 § 126.]