
SUBSTITUTE HOUSE BILL 1540

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Natural Resources (originally sponsored by Representatives Fuhrman, Jacobsen, Buck, Campbell, Basich, Hargrove, L. Thomas, Chandler, Robertson, Honeyford, Johnson, Thompson, Dyer, Delvin, Elliot, Mielke, Blanton, McMorris, McMahan, Mulliken, Clements, Cooke, Brumsickle and Stevens)

Read first time 03/01/95.

1 AN ACT Relating to the role of the state commission on fish and
2 wildlife as recommended by the commission on fish and wildlife;
3 amending RCW 77.04.040, 77.04.055, 77.04.080, 75.08.011, 75.08.025,
4 75.08.055, 75.08.058, 75.08.070, 75.08.080, 75.08.090, 75.08.110,
5 75.08.120, 75.08.274, 75.08.285, 75.08.295, 75.08.460, 75.40.020,
6 75.40.040, 75.40.060, 75.08.014, 75.08.040, 75.08.045, 75.12.010,
7 75.12.015, 75.20.110, 75.24.030, 75.24.100, 75.24.130, 75.25.095,
8 75.30.060, 75.50.010, 75.50.020, 75.50.030, 75.50.040, 75.50.050,
9 75.50.070, 75.50.110, 75.50.130, 75.52.050, and 77.16.135; reenacting
10 and amending RCW 43.17.020 and 75.50.100; creating new sections; and
11 providing an effective date.

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

13 NEW SECTION. **Sec. 1.** The legislature supports the recommendations
14 of the state fish and wildlife commission with regard to the
15 commission's responsibilities in the merged department of fish and
16 wildlife. It is the intent of the legislature that, beginning July 1,
17 1996, the commission assume regulatory authority for food fish and
18 shellfish in addition to its existing authority for game fish and
19 wildlife. It is also the intent of the legislature to provide to the

1 commission the authority to review and approve department agreements,
2 to review and approve the department's budget proposals, to adopt rules
3 for the department, and to select commission staff and the director of
4 the department.

5 The legislature finds that all fish, shellfish, and wildlife
6 species should be managed under a single comprehensive set of goals,
7 policies, and objectives, and that the decision-making authority should
8 rest with the fish and wildlife commission. The commission acts in an
9 open and deliberative process that encourages public involvement and
10 increases public confidence in department decision-making.

11 **Sec. 2.** RCW 43.17.020 and 1993 sp.s. c 2 s 17, 1993 c 472 s 18,
12 and 1993 c 280 s 19 are each reenacted and amended to read as follows:

13 There shall be a chief executive officer of each department to be
14 known as: (1) The secretary of social and health services, (2) the
15 director of ecology, (3) the director of labor and industries, (4) the
16 director of agriculture, (5) the director of fish and wildlife, (6) the
17 secretary of transportation, (7) the director of licensing, (8) the
18 director of general administration, (9) the director of community,
19 trade, and economic development, (10) the director of veterans affairs,
20 (11) the director of revenue, (12) the director of retirement systems,
21 (13) the secretary of corrections, and (14) the secretary of health,
22 and (15) the director of financial institutions.

23 Such officers, except the secretary of transportation and the
24 director of fish and wildlife, shall be appointed by the governor, with
25 the consent of the senate, and hold office at the pleasure of the
26 governor. The secretary of transportation shall be appointed by the
27 transportation commission as prescribed by RCW 47.01.041. The director
28 of fish and wildlife shall be appointed by the fish and wildlife
29 commission as prescribed by RCW 77.04.055.

30 **Sec. 3.** RCW 77.04.040 and 1993 sp.s. c 2 s 61 are each amended to
31 read as follows:

32 Persons eligible for appointment as members of the commission shall
33 have general knowledge of the habits and distribution of ((game)) fish
34 and wildlife and shall not hold another state, county, or municipal
35 elective or appointive office. In making these appointments, the
36 governor shall seek to maintain a balance reflecting all aspects of
37 ((game)) fish and wildlife, including representation recommended by

1 organized groups representing sportfishers, commercial fishers,
2 hunters, private landowners, and environmentalists. Persons eligible
3 for appointment as fish and wildlife commissioners shall ((not have a
4 monetary interest in any private business that is involved with
5 consumptive or nonconsumptive use of game fish or wildlife)) comply
6 with the provisions of chapters 42.52 and 42.17 RCW.

7 **Sec. 4.** RCW 77.04.055 and 1993 sp.s. c 2 s 62 are each amended to
8 read as follows:

9 (1) In establishing policies to preserve, protect, and perpetuate
10 wildlife, ~~((game))~~ fish, and wildlife and ~~((game))~~ fish habitat, the
11 commission shall meet annually with the governor to:

12 (a) Review and prescribe basic goals and objectives related to
13 those policies; and

14 (b) Review the performance of the department in implementing
15 ~~((game))~~ fish and wildlife policies.

16 The commission shall maximize ~~((game fish))~~ fishing, hunting, and
17 outdoor recreational opportunities compatible with healthy and diverse
18 fish and wildlife populations.

19 (2) The commission shall establish hunting, trapping, and fishing
20 seasons and prescribe the time, place, manner, and methods that may be
21 used to harvest or enjoy game fish and wildlife.

22 (3) The commission shall establish provisions regulating food fish
23 and shellfish as provided in RCW 75.08.080.

24 (4) The commission shall have final approval authority for tribal,
25 interstate, international, and any other department agreements relating
26 to fish and wildlife.

27 (5) The commission shall adopt rules to implement the state's fish
28 and wildlife laws.

29 (6) The commission shall have final approval authority for the
30 department's budget proposals.

31 (7) The commission shall select its own staff and shall appoint the
32 director of the department. The director and commission staff shall
33 serve at the pleasure of the commission.

34 **Sec. 5.** RCW 77.04.080 and 1993 sp.s. c 2 s 64 are each amended to
35 read as follows:

36 Persons eligible for appointment ~~((by the governor))~~ as director
37 shall have practical knowledge of the habits and distribution of fish

1 and wildlife. (~~The governor shall seek recommendations from the~~
2 ~~commission on the qualifications, skills, and experience necessary to~~
3 ~~discharge the duties of the position. When considering and selecting~~
4 ~~the director, the governor shall consult with and be advised by the~~
5 ~~commission.~~) The director shall receive the salary fixed by the
6 governor under RCW 43.03.040.

7 The director is the ex officio secretary of the commission and
8 shall attend its meetings and keep a record of its business.

9 The director may appoint and employ necessary departmental
10 personnel. The director may delegate to department personnel the
11 duties and powers necessary for efficient operation and administration
12 of the department. (~~The department shall provide staff for the~~
13 ~~commission.~~)

14 **Sec. 6.** RCW 75.08.011 and 1994 c 255 s 2 are each amended to read
15 as follows:

16 As used in this title or rules of the director, unless the context
17 clearly requires otherwise:

18 (1) "Commission" means the fish and wildlife commission.

19 (2) "Director" means the director of fish and wildlife.

20 (~~(+2)~~) (3) "Department" means the department of fish and wildlife.

21 (~~(+3)~~) (4) "Person" means an individual or a public or private
22 entity or organization. The term "person" includes local, state, and
23 federal government agencies, and all business organizations, including
24 corporations and partnerships.

25 (~~(+4)~~) (5) "Fisheries patrol officer" means a person appointed and
26 commissioned by the (~~director~~) commission, with authority to enforce
27 this title, rules of the director, and other statutes as prescribed by
28 the legislature. Fisheries patrol officers are peace officers.

29 (~~(+5)~~) (6) "Ex officio fisheries patrol officer" means a
30 commissioned officer of a municipal, county, state, or federal agency
31 having as its primary function the enforcement of criminal laws in
32 general, while the officer is in the appropriate jurisdiction. The
33 term "ex officio fisheries patrol officer" also includes wildlife
34 agents, special agents of the national marine fisheries service, United
35 States fish and wildlife special agents, state parks commissioned
36 officers, department of natural resources enforcement officers, and
37 United States forest service officers, while the agents and officers
38 are within their respective jurisdictions.

1 (~~(6)~~) (7) "To fish," "to harvest," and "to take" and their
2 derivatives mean an effort to kill, injure, harass, or catch food fish
3 or shellfish.

4 (~~(7)~~) (8) "State waters" means all marine waters and fresh waters
5 within ordinary high water lines and within the territorial boundaries
6 of the state.

7 (~~(8)~~) (9) "Offshore waters" means marine waters of the Pacific
8 Ocean outside the territorial boundaries of the state, including the
9 marine waters of other states and countries.

10 (~~(9)~~) (10) "Concurrent waters of the Columbia river" means those
11 waters of the Columbia river that coincide with the Washington-Oregon
12 state boundary.

13 (~~(10)~~) (11) "Resident" means a person who has maintained a
14 permanent place of abode within the state for at least ninety days
15 immediately preceding an application for a license, has established by
16 formal evidence an intent to continue residing within the state, and
17 who is not licensed to hunt or fish as a resident in another state.

18 (~~(11)~~) (12) "Nonresident" means a person who has not fulfilled
19 the qualifications of a resident.

20 (~~(12)~~) (13) "Food fish" means those species of the classes
21 Osteichthyes, Agnatha, and Chondrichthyes that have been classified and
22 that shall not be fished for except as authorized by rule of the
23 (~~director~~) commission. The term "food fish" includes all stages of
24 development and the bodily parts of food fish species.

25 (~~(13)~~) (14) "Shellfish" means those species of marine and
26 freshwater invertebrates that have been classified and that shall not
27 be taken except as authorized by rule of the (~~director~~) commission.
28 The term "shellfish" includes all stages of development and the bodily
29 parts of shellfish species.

30 (~~(14)~~) (15) "Salmon" means all species of the genus *Oncorhynchus*,
31 except those classified as game fish in Title 77 RCW, and includes:

32	Scientific Name	Common Name
33	<i>Oncorhynchus tshawytscha</i>	Chinook salmon
34	<i>Oncorhynchus kisutch</i>	Coho salmon
35	<i>Oncorhynchus keta</i>	Chum salmon
36	<i>Oncorhynchus gorbuscha</i>	Pink salmon
37	<i>Oncorhynchus nerka</i>	Sockeye salmon

1 (~~(15)~~) (16) "Commercial" means related to or connected with
2 buying, selling, or bartering. Fishing for food fish or shellfish with
3 gear unlawful for fishing for personal use, or possessing food fish or
4 shellfish in excess of the limits permitted for personal use are
5 commercial activities.

6 (~~(16)~~) (17) "To process" and its derivatives mean preparing or
7 preserving food fish or shellfish.

8 (~~(17)~~) (18) "Personal use" means for the private use of the
9 individual taking the food fish or shellfish and not for sale or
10 barter.

11 (~~(18)~~) (19) "Angling gear" means a line attached to a rod and
12 reel capable of being held in hand while landing the fish or a hand-
13 held line operated without rod or reel.

14 (~~(19)~~) (20) "Open season" means those times, manners of taking,
15 and places or waters established by rule of the (~~(director)~~) commission
16 for the lawful fishing, taking, or possession of food fish or
17 shellfish. "Open season" includes the first and last days of the
18 established time.

19 (~~(20)~~) (21) "Fishery" means the taking of one or more particular
20 species of food fish or shellfish with particular gear in a particular
21 geographical area.

22 (~~(21)~~) (22) "Limited-entry license" means a license subject to a
23 license limitation program established in chapter 75.30 RCW.

24 (~~(22)~~) (23) "Seaweed" means marine aquatic plant species that are
25 dependent upon the marine aquatic or tidal environment, and exist in
26 either an attached or free floating form, and includes but is not
27 limited to marine aquatic plants in the classes Chlorophyta,
28 Phaeophyta, and Rhodophyta.

29 **Sec. 7.** RCW 75.08.025 and 1983 1st ex.s. c 46 s 8 are each amended
30 to read as follows:

31 The (~~(director)~~) commission may negotiate agreements with the
32 United States department of defense to coordinate fishing in state
33 waters over which the department of defense has assumed control.

34 **Sec. 8.** RCW 75.08.055 and 1993 sp.s. c 2 s 23 are each amended to
35 read as follows:

36 (1) The (~~(director)~~) commission may enter into agreements with and
37 receive funds from the United States for the construction, maintenance,

1 and operation of fish cultural stations, laboratories, and devices in
2 the Columbia River basin for improvement of feeding and spawning
3 conditions for fish, for the protection of migratory fish from
4 irrigation projects and for facilitating free migration of fish over
5 obstructions.

6 (2) The ((~~director~~)) commission and the department may acquire by
7 gift, purchase, lease, easement, or condemnation the use of lands where
8 the construction or improvement is to be carried on by the United
9 States.

10 **Sec. 9.** RCW 75.08.058 and 1993 sp.s. c 2 s 99 are each amended to
11 read as follows:

12 The ((~~department~~)) commission may adopt rules pertaining to harvest
13 of fish and wildlife in the federal exclusive economic zone by vessels
14 or individuals registered or licensed under the laws of this state.

15 **Sec. 10.** RCW 75.08.070 and 1989 c 130 s 1 are each amended to read
16 as follows:

17 Consistent with federal law, the ((~~director's~~)) commission's
18 authority extends to all areas and waters within the territorial
19 boundaries of the state, to the offshore waters, and to the concurrent
20 waters of the Columbia river.

21 Consistent with federal law, the ((~~director's~~)) commission's
22 authority extends to fishing in offshore waters by residents of this
23 state.

24 The ((~~director~~)) commission may adopt rules consistent with the
25 regulations adopted by the United States department of commerce for the
26 offshore waters. The ((~~director~~)) commission may adopt rules
27 consistent with the recommendations or regulations of the Pacific
28 marine fisheries commission, Columbia river compact, the Pacific salmon
29 commission as provided in chapter 75.40 RCW, or the international
30 Pacific halibut commission.

31 **Sec. 11.** RCW 75.08.080 and 1993 c 117 s 1 are each amended to read
32 as follows:

33 (1) The ((~~director~~)) commission may adopt, amend, or repeal rules
34 as follows:

35 (a) Specifying the times when the taking of food fish or shellfish
36 is lawful or unlawful.

1 (b) Specifying the areas and waters in which the taking and
2 possession of food fish or shellfish is lawful or unlawful.

3 (c) Specifying and defining the gear, appliances, or other
4 equipment and methods that may be used to take food fish or shellfish,
5 and specifying the times, places, and manner in which the equipment may
6 be used or possessed.

7 (d) Regulating the possession, disposal, landing, and sale of food
8 fish or shellfish within the state, whether acquired within or without
9 the state.

10 (e) Regulating the prevention and suppression of diseases and pests
11 affecting food fish or shellfish.

12 (f) Regulating the size, sex, species, and quantities of food fish
13 or shellfish that may be taken, possessed, sold, or disposed of.

14 (g) Specifying the statistical and biological reports required from
15 fishermen, dealers, boathouses, or processors of food fish or
16 shellfish.

17 (h) Classifying species of marine and freshwater life as food fish
18 or shellfish.

19 (i) Classifying the species of food fish and shellfish that may be
20 used for purposes other than human consumption.

21 (j) Other rules necessary to carry out this title and the purposes
22 and duties of the department.

23 (2) Subsections (1)(a), (b), (c), (d), and (f) of this section do
24 not apply to private tideland owners and lessees and the immediate
25 family members of the owners or lessees of state tidelands, when they
26 take or possess oysters, clams, cockles, borers, or mussels, excluding
27 razor clams, produced on their own private tidelands or their leased
28 state tidelands for personal use.

29 "Immediate family member" for the purposes of this section means a
30 spouse, brother, sister, grandparent, parent, child, or grandchild.

31 (3) Except for subsection (1)(g) of this section, this section does
32 not apply to private sector cultured aquatic products as defined in RCW
33 15.85.020. Subsection (1)(g) of this section does apply to such
34 products.

35 **Sec. 12.** RCW 75.08.090 and 1983 1st ex.s. c 46 s 16 are each
36 amended to read as follows:

1 (1) Rules of the ((~~director~~)) commission shall be adopted by the
2 ((~~director~~)) commission or a designee in accordance with chapter 34.05
3 RCW.

4 (2) Rules of the ((~~director~~)) commission shall be admitted as
5 evidence in the courts of the state when accompanied by an affidavit
6 from the ((~~director~~)) commission or a designee certifying that the rule
7 has been lawfully adopted and the affidavit is prima facie evidence of
8 the adoption of the rule.

9 (3) The ((~~director~~)) commission may designate department employees
10 to act on the ((~~director's~~)) commission's behalf in the adoption and
11 certification of rules.

12 **Sec. 13.** RCW 75.08.110 and 1983 1st ex.s. c 46 s 17 are each
13 amended to read as follows:

14 Provisions of this title or rules of the ((~~director~~)) commission
15 shall not be printed in a pamphlet unless the pamphlet is clearly
16 marked as an unofficial version. This section does not apply to
17 printings approved by the ((~~director~~)) commission.

18 **Sec. 14.** RCW 75.08.120 and 1983 1st ex.s. c 46 s 18 are each
19 amended to read as follows:

20 The ((~~director~~)) commission may designate the boundaries of fishing
21 areas by driving piling or by establishing monuments or by description
22 of landmarks or section lines and directional headings.

23 **Sec. 15.** RCW 75.08.274 and 1983 1st ex.s. c 46 s 28 are each
24 amended to read as follows:

25 Except by permit of the ((~~director~~)) commission, it is unlawful to
26 take food fish or shellfish for propagation or scientific purposes
27 within state waters.

28 **Sec. 16.** RCW 75.08.285 and 1983 1st ex.s. c 46 s 29 are each
29 amended to read as follows:

30 The ((~~director~~)) commission may prohibit the introduction,
31 transportation or transplanting of food fish, shellfish, organisms,
32 material, or other equipment which in the ((~~director's~~)) commission's
33 judgment may transmit any disease or pests affecting food fish or
34 shellfish.

1 **Sec. 17.** RCW 75.08.295 and 1983 1st ex.s. c 46 s 30 are each
2 amended to read as follows:

3 Except by permit of the ((~~director~~)) commission, it is unlawful to
4 release, plant, or place food fish or shellfish in state waters.

5 **Sec. 18.** RCW 75.08.460 and 1990 c 91 s 2 are each amended to read
6 as follows:

7 The ((~~director~~)) commission shall report to the governor and the
8 appropriate legislative committees regarding its progress on the
9 recreational fishery enhancement plan giving the following minimum
10 information:

11 (1) By July 1, 1990, and by July 1st each succeeding year a report
12 shall include:

13 (a) Progress on all programs within the plan that are referred to
14 as already underway; and

15 (b) Specific anticipated needs for additional FTE's, additional
16 capital funds or other needed resources, including whether or not
17 current budgetary dollars are sufficient.

18 (2) By November 1, 1990, and by November 1st each succeeding year
19 a report shall provide the many specificities omitted from the
20 recreational fishery enhancement plan. They include but are not
21 limited to the following:

22 (a) The name of the person assigned the responsibility and
23 accountability for over-all management of the recreational fishery
24 enhancement plan.

25 (b) The name of the person responsible and accountable for
26 management of each regional program.

27 (c) The anticipated yearly costs related to each regional program.

28 (d) The specific dates relative to attainment of the recreational
29 fishery enhancement plan goals, including a time-line program by
30 region.

31 (e) Criteria used for measurement of the successful attainment of
32 the recreational fishery enhancement plan.

33 **Sec. 19.** RCW 75.40.020 and 1983 1st ex.s. c 46 s 150 are each
34 amended to read as follows:

35 The ((~~director~~)) commission may give to the state of Oregon such
36 consent and approbation of the state of Washington as is necessary
37 under the compact set out in RCW 75.40.010. For the purposes of RCW

1 75.40.010, the states of Washington and Oregon have concurrent
2 jurisdiction in the concurrent waters of the Columbia river as defined
3 in RCW 75.08.011.

4 **Sec. 20.** RCW 75.40.040 and 1983 1st ex.s. c 46 s 152 are each
5 amended to read as follows:

6 ((The director)) A member selected by or a designee of the fish and
7 wildlife commission, ex officio, and two appointees of the governor
8 representing the fishing industry shall act as the representatives of
9 this state on the Pacific Marine Fisheries Commission. The appointees
10 of the governor are subject to confirmation by the state senate.

11 **Sec. 21.** RCW 75.40.060 and 1989 c 130 s 2 are each amended to read
12 as follows:

13 The ((director)) commission may adopt and enforce the provisions of
14 the treaty between the government of the United States and the
15 government of Canada concerning Pacific salmon, treaty document number
16 99-2, entered into force March 18, 1985, at Quebec City, Canada, and
17 the regulations of the commission adopted under authority of the
18 treaty.

19 **Sec. 22.** RCW 75.08.014 and 1993 sp.s. c 2 s 21 are each amended to
20 read as follows:

21 The director shall supervise the administration and operation of
22 the department and perform the duties prescribed by law and delegated
23 by the commission. The director may appoint and employ necessary
24 personnel. The director may delegate, in writing, to department
25 personnel the duties and powers necessary for efficient operation and
26 administration of the department.

27 Only persons having general knowledge of the fisheries and wildlife
28 resources and of the commercial and recreational fishing industry in
29 this state are eligible for appointment as director. The director
30 shall not have a financial interest in the fishing industry or a
31 directly related industry.

32 **Sec. 23.** RCW 75.08.040 and 1983 1st ex.s. c 46 s 9 are each
33 amended to read as follows:

34 The ((director)) commission may acquire by gift, easement,
35 purchase, lease, or condemnation lands, water rights, and rights of

1 way, and construct and maintain necessary facilities for purposes
2 consistent with this title.

3 The ((~~director~~)) commission may sell, lease, convey, or grant
4 concessions upon real or personal property under the control of the
5 department.

6 **Sec. 24.** RCW 75.08.045 and 1983 1st ex.s. c 46 s 11 are each
7 amended to read as follows:

8 The ((~~director~~)) commission may accept money or real property from
9 persons under conditions requiring the use of the property or money for
10 the protection, rehabilitation, preservation, or conservation of the
11 state food fish and shellfish resources, or in settlement of claims for
12 damages to food fish and shellfish resources. The ((~~director~~))
13 commission shall only accept real property useful for the protection,
14 rehabilitation, preservation, or conservation of these fisheries
15 resources.

16 **Sec. 25.** RCW 75.12.010 and 1983 1st ex.s. c 46 s 46 are each
17 amended to read as follows:

18 (1) Except as provided in this section, it is unlawful to fish
19 commercially for salmon within the waters described in subsection (2)
20 of this section.

21 (2) All waters east and south of a line commencing at a concrete
22 monument on Angeles Point in Clallam county near the mouth of the Elwha
23 River on which is inscribed "Angeles Point Monument" (latitude 48½ 9'
24 3"north, longitude 123½ 33' 01" west of Greenwich Meridian); thence
25 running east on a line 81½ 30' true across the flashlight and bell buoy
26 off Partridge Point and thence continued to longitude 122½ 40' west;
27 thence north to the southerly shore of Sinclair Island; thence along
28 the southerly shore of the island to the most easterly point of the
29 island; thence 46½ true to Carter Point, the most southerly point of
30 Lummi Island; thence northwesterly along the westerly shore line of
31 Lummi Island to where the shore line intersects line of longitude 122½
32 40' west; thence north to the mainland, including: The southerly
33 portion of Hale Passage, Bellingham Bay, Padilla Bay, Fidalgo Bay,
34 Guemes Channel, Skagit Bay, Similk Bay, Saratoga Passage, Holmes
35 Harbor, Possession Sound, Admiralty Inlet, Hood Canal, Puget Sound, and
36 their inlets, passages, waters, waterways, and tributaries.

1 (3) The ((~~director~~)) commission may authorize commercial fishing
2 for sockeye salmon within the waters described in subsection (2) of
3 this section during the period June 10 to July 25 and for other salmon
4 from the second Monday of September through November 30, except during
5 the hours between 4:00 p.m. of Friday and 4:00 p.m. of the following
6 Sunday.

7 (4) The ((~~director~~)) commission may authorize commercial fishing
8 for salmon with gill net gear prior to the second Monday in September
9 within the waters of Hale Passage, Bellingham Bay, Samish Bay, Padilla
10 Bay, Fidalgo Bay, Guemes Channel, Skagit Bay, and Similk Bay, to wit:
11 Those waters northerly and easterly of a line commencing at Stanwood,
12 thence along the south shore of Skagit Bay to Rocky Point on Camano
13 Island; thence northerly to Polnell Point on Whidbey Island.

14 (5) Whenever the ((~~director~~)) commission determines that a stock or
15 run of salmon cannot be harvested in the usual manner, and that the
16 stock or run of salmon may be in danger of being wasted and surplus to
17 natural or artificial spawning requirements, the ((~~director~~))
18 commission may authorize units of gill net and purse seine gear in any
19 number or equivalents, by time and area, to fully utilize the
20 harvestable portions of these salmon runs for the economic well being
21 of the citizens of this state. Gill net and purse seine gear other
22 than emergency and test gear authorized by the director shall not be
23 used in Lake Washington.

24 (6) The ((~~director~~)) commission may authorize commercial fishing
25 for pink salmon in each odd-numbered year from August 1 through
26 September 1 in the waters lying inside of a line commencing at the most
27 easterly point of Dungeness Spit and thence projected to Point
28 Partridge on Whidbey Island and a line commencing at Olele Point and
29 thence projected easterly to Bush Point on Whidbey Island.

30 **Sec. 26.** RCW 75.12.015 and 1983 1st ex.s. c 46 s 48 are each
31 amended to read as follows:

32 Except as provided in this section, it is unlawful to fish
33 commercially for chinook or coho salmon in the Pacific Ocean and the
34 Straits of Juan de Fuca.

35 (1) The ((~~director~~)) commission may authorize commercial fishing
36 for coho salmon from June 16 through October 31.

37 (2) The ((~~director~~)) commission may authorize commercial fishing
38 for chinook salmon from March 15 through October 31.

1 **Sec. 27.** RCW 75.20.110 and 1993 sp.s. c 2 s 36 are each amended to
2 read as follows:

3 (1) Except for the north fork of the Lewis river and the White
4 Salmon river, all streams and rivers tributary to the Columbia river
5 downstream from McNary dam are established as an anadromous fish
6 sanctuary. This sanctuary is created to preserve and develop the food
7 fish and game fish resources in these streams and rivers and to protect
8 them against undue industrial encroachment.

9 (2) Within the sanctuary area:

10 (a) It is unlawful to construct a dam greater than twenty-five feet
11 high within the migration range of anadromous fish as determined by the
12 (~~director~~) commission.

13 (b) Except by order of the (~~director~~) commission, it is unlawful
14 to divert water from rivers and streams in quantities that will reduce
15 the respective stream flow below the annual average low flow, based
16 upon data published in United States geological survey reports.

17 (3) The (~~director~~) commission may acquire and abate a dam or
18 other obstruction, or acquire any water right vested on a sanctuary
19 stream or river, which is in conflict with the provisions of subsection
20 (2) of this section.

21 (4) Subsection (2)(a) of this section does not apply to the
22 sediment retention structure to be built on the North Fork Toutle river
23 by the United States army corps of engineers.

24 **Sec. 28.** RCW 75.24.030 and 1983 1st ex.s. c 46 s 79 are each
25 amended to read as follows:

26 Only upon recommendation of the (~~director~~) commission may the
27 state oyster reserves be sold, leased, or otherwise disposed of by the
28 department of natural resources.

29 **Sec. 29.** RCW 75.24.100 and 1993 c 340 s 51 are each amended to
30 read as follows:

31 (1) It is unlawful to take geoduck clams for commercial purposes
32 outside the harvest area designated in a current department of natural
33 resources geoduck harvesting agreement issued under RCW 79.96.080. It
34 is unlawful to commercially harvest geoduck clams from bottoms that are
35 shallower than eighteen feet below mean lower low water (0.0. ft.), or
36 that lie in an area bounded by the line of ordinary high tide (mean
37 high tide) and a line two hundred yards seaward from and parallel to

1 the line of ordinary high tide. This section does not apply to the
2 harvest of private sector cultured aquatic products as defined in RCW
3 15.85.020.

4 (2) Commercial geoduck harvesting shall be done with a hand-held,
5 manually operated water jet or suction device guided and controlled
6 from under water by a diver. Periodically, the ~~((director))~~ commission
7 shall determine the effect of each type or unit of gear upon the
8 geoduck population or the substrate they inhabit. The ~~((director))~~
9 commission may require modification of the gear or stop its use if it
10 is being operated in a wasteful or destructive manner or if its
11 operation may cause permanent damage to the bottom or adjacent
12 shellfish populations.

13 **Sec. 30.** RCW 75.24.130 and 1983 1st ex.s. c 46 s 89 are each
14 amended to read as follows:

15 The ~~((director))~~ commission may examine the clam, mussel, and
16 oyster beds located on aquatic lands belonging to the state and request
17 the commissioner of public lands to withdraw these lands from sale and
18 lease for the purpose of establishing reserves or public beaches. The
19 ~~((director))~~ commission shall conserve, protect, and develop these
20 reserves and the oyster, shrimp, clam, and mussel beds on state lands.

21 **Sec. 31.** RCW 75.25.095 and 1990 c 34 s 2 are each amended to read
22 as follows:

23 ~~((Notwithstanding RCW 75.25.090,))~~ The ~~((director))~~ commission may
24 adopt rules designating times and places for the purposes of family
25 fishing days when a recreational fishing license is not required to
26 fish for food fish or shellfish. All other applicable laws and rules
27 shall remain in effect.

28 **Sec. 32.** RCW 75.30.060 and 1983 1st ex.s. c 46 s 139 are each
29 amended to read as follows:

30 A person aggrieved by a decision of the department under this
31 chapter may request administrative review under the informal procedure
32 established by this section.

33 In an informal hearing before a review board, the rules of evidence
34 do not apply. A record of the proceeding shall be kept as provided by
35 chapter 34.05 RCW. After hearing the case the review board shall
36 notify in writing the ~~((director))~~ commission and the initiating party

1 whether the review board agrees or disagrees with the department's
2 decision and the reasons for the board's findings. Upon receipt of the
3 board's findings the ((~~director~~)) commission may order such relief as
4 the ((~~director~~)) commission deems appropriate under the circumstances.

5 Nothing in this section: (1) Impairs an aggrieved person's right
6 to proceed under chapter 34.05 RCW; or (2) imposes a liability on
7 members of a review board for their actions under this section.

8 **Sec. 33.** RCW 75.50.010 and 1993 sp.s. c 2 s 45 are each amended to
9 read as follows:

10 Currently, many of the salmon stocks of Washington state are
11 critically reduced from their sustainable level. The best interests of
12 all fishing groups and the citizens as a whole are served by a stable
13 and productive salmon resource. Immediate action is needed to reverse
14 the severe decline of the resource and to insure its very survival.
15 The legislature finds a state of emergency exists and that immediate
16 action is required to restore its fishery.

17 Disagreement and strife have dominated the salmon fisheries for
18 many years. Conflicts among the various fishing interests have only
19 served to erode the resource. It is time for the state of Washington
20 to make a major commitment to increasing productivity of the resource
21 and to move forward with an effective rehabilitation and enhancement
22 program. The ((~~department~~)) commission is directed to dedicate its
23 efforts and the efforts of the department to seek resolution to the
24 many conflicts that involve the resource.

25 Success of the enhancement program can only occur if projects
26 efficiently produce salmon or restore habitat. The expectation of the
27 program is to optimize the efficient use of funding on projects that
28 will increase artificially and naturally produced salmon, restore and
29 improve habitat, or identify ways to increase the survival of salmon.
30 The full utilization of state resources and cooperative efforts with
31 interested groups are essential to the success of the program.

32 **Sec. 34.** RCW 75.50.020 and 1985 c 458 s 2 are each amended to read
33 as follows:

34 (1) The ((~~director~~)) commission shall develop long-term regional
35 policy statements regarding the salmon fishery resources before
36 December 1, 1985. The ((~~director~~)) commission shall consider the
37 following in formulating and updating regional policy statements:

- 1 (a) Existing resource needs;
2 (b) Potential for creation of new resources;
3 (c) Successful existing programs, both within and outside the
4 state;
5 (d) Balanced utilization of natural and hatchery production;
6 (e) Desires of the fishing interest;
7 (f) Need for additional data or research;
8 (g) Federal court orders; and
9 (h) Salmon advisory council recommendations.
10 (2) The ((~~director~~)) commission shall review and update each policy
11 statement at least once each year.

12 **Sec. 35.** RCW 75.50.030 and 1985 c 458 s 3 are each amended to read
13 as follows:

14 (1) The ((~~director~~)) commission shall develop a detailed salmon
15 enhancement plan with proposed enhancement projects. The plan and the
16 regional policy statements shall be submitted to the secretary of the
17 senate and chief clerk of the house of representatives for legislative
18 distribution by June 30, 1986. The enhancement plan and regional
19 policy statements shall be provided by June 30, 1986, to the natural
20 resources committees of the house of representatives and the senate.
21 The ((~~director~~)) commission shall provide a maximum opportunity for the
22 public to participate in the development of the salmon enhancement
23 plan. To insure full participation by all interested parties, the
24 ((~~director~~)) commission shall solicit and consider enhancement project
25 proposals from Indian tribes, sports fishermen, commercial fishermen,
26 private aquaculturists, and other interested groups or individuals for
27 potential inclusion in the salmon enhancement plan. Joint or
28 cooperative enhancement projects shall be considered for funding.

29 (2) The following criteria shall be used by the ((~~director~~))
30 commission in formulating the project proposals:

- 31 (a) Compatibility with the long-term policy statement;
32 (b) Benefit/cost analysis;
33 (c) Needs of all fishing interests;
34 (d) Compatibility with regional plans, including harvest management
35 plans;
36 (e) Likely increase in resource productivity;
37 (f) Direct applicability of any research;
38 (g) Salmon advisory council recommendations;

- 1 (h) Compatibility with federal court orders;
- 2 (i) Coordination with the salmon and steelhead advisory commission
- 3 program;
- 4 (j) Economic impact to the state;
- 5 (k) Technical feasibility; and
- 6 (l) Preservation of native salmon runs.

7 (3) The ((~~director~~)) commission shall not approve projects that
8 serve as replacement funding for projects that exist prior to May 21,
9 1985, unless no other sources of funds are available.

10 (4) The ((~~director~~)) commission shall prioritize various projects
11 and establish a recommended implementation time schedule.

12 **Sec. 36.** RCW 75.50.040 and 1985 c 458 s 4 are each amended to read
13 as follows:

14 Upon approval by the legislature of funds for its implementation,
15 the ((~~director~~)) commission shall monitor the progress of projects
16 detailed in the salmon enhancement plan.

17 The ((~~director~~)) commission shall be responsible for establishing
18 criteria which shall be used to measure the success of each project in
19 the salmon enhancement plan.

20 **Sec. 37.** RCW 75.50.050 and 1987 c 505 s 72 are each amended to
21 read as follows:

22 The ((~~director~~)) commission shall report to the legislature on or
23 before October 30th of each year ((~~through 1991~~)) on the progress and
24 performance of each project. The report shall contain an analysis of
25 the successes and failures of the program to enable optimum development
26 of the program. The report shall include estimates of funding levels
27 necessary to operate the projects in future years.

28 The ((~~director~~)) commission shall submit the reports and any
29 additional recommendations to the chairs of the committees on ways and
30 means and the committees on natural resources of the senate and house
31 of representatives.

32 **Sec. 38.** RCW 75.50.070 and 1993 sp.s. c 2 s 46 are each amended to
33 read as follows:

34 The legislature finds that it is in the best interest of the salmon
35 resource of the state to encourage the development of regional
36 fisheries enhancement groups. The accomplishments of one existing

1 group, the Grays Harbor fisheries enhancement task force, have been
2 widely recognized as being exemplary. The legislature recognizes the
3 potential benefits to the state that would occur if each region of the
4 state had a similar group of dedicated citizens working to enhance the
5 salmon resource.

6 The legislature authorizes the formation of regional fisheries
7 enhancement groups. These groups shall be eligible for state financial
8 support and shall be actively supported by the commission and the
9 department. The regional groups shall be operated on a strictly
10 nonprofit basis, and shall seek to maximize the efforts of volunteer
11 and private donations to improve the salmon resource for all citizens
12 of the state.

13 **Sec. 39.** RCW 75.50.100 and 1993 sp.s. c 17 s 11 and 1993 c 340 s
14 53 are each reenacted and amended to read as follows:

15 The dedicated regional fisheries enhancement group account is
16 created in the custody of the state treasurer. Only the ((~~director~~))
17 commission or the ((~~director's~~)) commission's designee may authorize
18 expenditures from the account. The account is subject to allotment
19 procedures under chapter 43.88 RCW, but no appropriation is required
20 for expenditures.

21 A surcharge of one dollar shall be collected on each recreational
22 personal use food fish license sold in the state. A surcharge of one
23 hundred dollars shall be collected on each commercial salmon fishery
24 license, each salmon delivery license, and each salmon charter license
25 sold in the state. The department shall study methods for collecting
26 and making available, an annual list, including names and addresses, of
27 all persons who obtain recreational and commercial salmon fishing
28 licenses. This list may be used to assist formation of the regional
29 fisheries enhancement groups and allow the broadest participation of
30 license holders in enhancement efforts. The results of the study shall
31 be reported to the house of representatives fisheries and wildlife
32 committee and the senate environment and natural resources committee by
33 October 1, 1990. All receipts shall be placed in the regional
34 fisheries enhancement group account and shall be used exclusively for
35 regional fisheries enhancement group projects for the purposes of RCW
36 75.50.110. Funds from the regional fisheries enhancement group account
37 shall not serve as replacement funding for department operated salmon
38 projects that exist on January 1, 1991.

1 All revenue from the department's sale of salmon carcasses and eggs
2 that return to group facilities shall be deposited in the regional
3 fisheries enhancement group account for use by the regional fisheries
4 enhancement group that produced the surplus. The ((~~director~~))
5 commission shall adopt rules to implement this section pursuant to
6 chapter 34.05 RCW.

7 **Sec. 40.** RCW 75.50.110 and 1990 c 58 s 4 are each amended to read
8 as follows:

9 A regional fisheries enhancement group advisory board is
10 established to make recommendations to the ((~~director~~)) commission.
11 The advisory board shall make recommendations regarding regional
12 enhancement group rearing project proposals and funding of those
13 proposals. The members shall be appointed by the ((~~director~~))
14 commission and consist of two commercial fishing representatives, two
15 recreational fishing representatives, and three at-large positions.
16 The advisory board membership shall include two members serving ex
17 officio to be nominated, one through the Northwest Indian fisheries
18 commission, and one through the Columbia river intertribal fish
19 commission.

20 The department may use account funds to provide agency assistance
21 to the groups. The level of account funds used by the department shall
22 be determined by the ((~~director~~)) commission after review and
23 recommendation by the regional fisheries enhancement group advisory
24 board and shall not exceed twenty percent of annual contributions to
25 the account.

26 **Sec. 41.** RCW 75.50.130 and 1993 sp.s. c 2 s 48 are each amended to
27 read as follows:

28 The ((~~director~~)) commission shall prepare a salmon recovery plan
29 for the Skagit river. The plan shall include strategies for employing
30 displaced timber workers to conduct salmon restoration and other tasks
31 identified in the plan. The plan shall incorporate the best available
32 technology in order to achieve maximum restoration of depressed salmon
33 stocks. The plan must encourage the restoration of natural spawning
34 areas and natural rearing of salmon but must not preclude the
35 development of an active hatchery program.

1 **Sec. 42.** RCW 75.52.050 and 1984 c 72 s 5 are each amended to read
2 as follows:

3 The (~~director of each department~~) commission shall establish by
4 rule:

5 (1) The procedure for entering a cooperative agreement and the
6 application forms for a permit to release fish or wildlife required by
7 RCW 75.08.295 or 77.16.150. The procedure shall indicate the
8 information required from the volunteer group as well as the process of
9 review by the department. The process of review shall include the
10 means to coordinate with other agencies and Indian tribes when
11 appropriate and to coordinate the review of any necessary hydraulic
12 permit approval applications.

13 (2) The procedure for providing within forty-five days of receipt
14 of a proposal a written response to the volunteer group indicating the
15 date by which an acceptance or rejection of the proposal can be
16 expected, the reason why the date was selected, and a written summary
17 of the process of review. The response should also include any
18 suggested modifications to the proposal which would increase its
19 likelihood of approval and the date by which such modified proposal
20 could be expected to be accepted. If the proposal is rejected, the
21 department must provide in writing the reasons for rejection. The
22 volunteer group may request the director or the director's designee to
23 review information provided in the response.

24 (3) The priority of the uses to which eggs, seed, juveniles, or
25 brood stock are put. Use by cooperative projects shall be second in
26 priority only to the needs of programs of the department or of other
27 public agencies within the territorial boundaries of the state. Sales
28 of eggs, seed, juveniles, or brood stock have a lower priority than use
29 for cooperative projects.

30 (4) The procedure for notice in writing to a volunteer group of
31 cause to revoke the agreement for the project and the procedure for
32 revocation. Revocation shall be documented in writing to the volunteer
33 group. Cause for revocation may include: (a) The unavailability of
34 adequate biological or financial resources; (b) the development of
35 unacceptable biological or resource management conflicts; or (c) a
36 violation of agreement provisions. Notice of cause to revoke for a
37 violation of agreement provisions may specify a reasonable period of
38 time within which the volunteer group must comply with any violated
39 provisions of the agreement.

1 (5) An appropriate method of distributing among volunteer groups
2 fish, bird, or animal food or other supplies available for the program.

3 **Sec. 43.** RCW 77.16.135 and 1993 sp.s. c 2 s 74 are each amended to
4 read as follows:

5 (1) The ((director)) commission shall revoke all licenses and
6 privileges extended under Title 77 RCW of a person convicted of assault
7 on a state wildlife agent or other law enforcement officer provided
8 that:

9 (a) The wildlife agent or other law enforcement officer was on duty
10 at the time of the assault; and

11 (b) The wildlife agent or other law enforcement officer was
12 enforcing the provisions of Title 77 RCW.

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

15 (a) RCW 9A.32.030; murder in the first degree;

16 (b) RCW 9A.32.050; murder in the second degree;

17 (c) RCW 9A.32.060; manslaughter in the first degree;

18 (d) RCW 9A.32.070; manslaughter in the second degree;

19 (e) RCW 9A.36.011; assault in the first degree;

20 (f) RCW 9A.36.021; assault in the second degree; and

21 (g) RCW 9A.36.031; assault in the third degree.

22 (3) For the purposes of this section, a conviction includes:

23 (a) A determination of guilt by the court;

24 (b) The entering of a guilty plea to the charge or charges by the
25 accused;

26 (c) A forfeiture of bail or a vacation of bail posted to the court;

27 or

28 (d) The imposition of a deferred or suspended sentence by the
29 court.

30 (4) No license described under Title 77 RCW shall be reissued to a
31 person violating this section for a minimum of ten years, at which time
32 a person may petition the director for a reinstatement of his or her
33 license or licenses. The ten-year period shall be tolled during any
34 time the convicted person is incarcerated in any state or local
35 correctional or penal institution, in community supervision, or home
36 detention for an offense under this section. Upon review by the
37 director, and if all provisions of the court that imposed sentencing

1 have been completed, the director may reinstate in whole or in part the
2 licenses and privileges under Title 77 RCW.

3 NEW SECTION. **Sec. 44.** By December 1, 1995, the fish and wildlife
4 commission shall submit to the committees on natural resources of the
5 house of representatives and the senate a report identifying other
6 statutory changes necessary for implementation of the commission's
7 recommendations regarding its responsibilities in the department of
8 fish and wildlife.

9 NEW SECTION. **Sec. 45.** Sections 2 through 43 of this act shall
10 take effect July 1, 1996.

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